



CITY OF MORRO BAY CITY COUNCIL AGENDA

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

Regular Meeting - Tuesday, July 11, 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 - None
CLOSED SESSION REPORT
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS
PRESENTATIONS

- Friends of the Fire Department Scholarship Presentation to 2 Firefighters

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 FOR THE JUNE 28, 2017 SPECIAL CLOSED SESSION CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 DESIGNATION OF VOTING DELEGATE AND ALTERNATE AT LEAGUE OF CALIFORNIA CITIES 2017 ANNUAL CONFERENCE BUSINESS MEETING; (ADMINISTRATION)

RECOMMENDATION: Council select Mayor Irons, as the voting delegate, and Mayor Pro Tem Heading, as the alternate voting delegate, for the upcoming annual business meeting to be held at the League of California Cities Annual Conference.

A-3 ADOPT RESOLUTION NO. 39-17 ESTABLISHING THE ANNUAL PROPOSITION 4 APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2017/18; (FINANCE)

RECOMMENDATION: Council adopt Resolution No. 39-17, which sets the FY 17/18 appropriations limit at \$25,915,210.

A-4 RECEIVE AND FILE THE QUARTERLY STATUS REPORT ON PARKING IN-LIEU FEE WAIVERS AND TAKE ANY ACTION DEEMED APPROPRIATE; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Receive and file and take any action deemed appropriate.

A-5 AUTHORIZATION FOR PARTICIPATION IN THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY (CEDA) AS AN ASSOCIATE MEMBER AND AUTHORIZING CEDA, THROUGH FIGTREE FINANCING, TO OFFER THEIR PROGRAM AND LEVY ASSESSMENTS WITHIN THE CITY OF MORRO BAY; (PUBLIC WORKS)

RECOMMENDATION: Council adopt Resolution No. 40-17 joining the California Enterprise Development Authority (CEDA) as an Associate Member and authorizing CEDA, through Figtree Financing, to offer their program and levy assessments within the City of Morro Bay, California.

A-6 ADOPTION OF RESOLUTION NO. 41-17 APPROVING THE SUMMARY VACATION (ABANDONMENT) OF A PORTION OF THE SEWER EASEMENT AT NORTHEAST PORTION OF PROPERTY AT 110 ORCAS STREET, USING THE AUTHORITY ESTABLISHED BY STREETS AND HIGHWAYS SECTION 8333 *ET SEQ.*; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Adopt City Council Resolution No. 41-17, finding the summary vacation of the public utility easement is consistent with the requirements established by the California Streets and Highways Code (SHC), section 8333 et seq.

A-7 UPDATE ON FY 16/17 PMP: PROJECT NO. MB2017-ST01: PAVEMENT PRESERVATION PROJECT; (PUBLIC WORKS)

RECOMMENDATION: Council receive and file this report.

A-8 ADOPTION OF RESOLUTION NO. 42-17, APPROVING TRANSFER OF 51.02% MEMBERSHIP INTEREST OF MORRO BAY OYSTER COMPANY, LLC, FROM DWIGHT K. MALONEY TO MORRO BAY OYSTER COMPANY, LLC, AND CONDITIONALLY AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS NECESSARY FOR A NEW LOAN FOR THE LEASE AGREEMENT AT LEASE SITE 144/144W AND ACCEPTING A DEED OF TRUST RELATED THERETO (MORRO BAY OYSTER COMPANY, 1287 EMBARCADERO); (HARBOR)

RECOMMENDATION: Council adopt Resolution No. 42-17 authorizing the Mayor to approve the transfer of membership interest of Morro Bay Oyster Company, LLC (MBOC) for Lease Site 144/144W from Dwight K. Maloney to MBOC, authorizing the Mayor to execute documents necessary for a new loan regarding the leasehold interest at 144/144W, subject to approval of the City Attorney and accepting a deed of trust related thereto.

A-9 APPROVAL OF REVISED SENIOR CIVIL ENGINEER JOB DESCRIPTION AND REVISED FY 17/18 COMBINED SALARY SCHEDULE; (ADMINISTRATION)

RECOMMENDATION: Council review and approve the revised Senior Civil Engineer Job Description and approve the Combined Salary Schedule which has been revised to include this position.

A-10 RECEIVE AND FILE UPDATE ON THE ONGOING PERMANENT CITY MANAGER RECRUITMENT PROCESS; (ADMINISTRATION)

RECOMMENDATION: Council receive and file an update on the ongoing permanent City Manager recruitment process and provide direction as deemed appropriate.

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

C-1 REVIEW OF THIS REPORT OF THE PUBLIC WORKS COST REVIEW WORKSHOP FOR THE WATER RECLAMATION FACILITY PROJECT AND PROVIDE COMMENTS AND DIRECTION AS DEEMED APPROPRIATE; (PUBLIC WORKS)

RECOMMENDATION: Staff recommends City Council:

1. Review and provide comments on the attached "Report on Public Works Cost Review Workshop" (Report);
2. Consider comments and recommendations from WRFCAC on the Report; and
3. Provide direction to staff, that could include, but not limited to, the following:
 - a. Move forward at the South Bay Boulevard site based on the revised cost estimates provided in this report;
 - b. Refine the community's goals, and direct staff to modify the project accordingly at the SBB site; or
 - c. Direct staff and the WRF program management team to take up to two months to prepare a preliminary site plan and cost estimate for building the new WRF that meets community goals at or near the existing WWTP site and meet with Coastal Commission and Regional Board Staff to determine if that is a feasible option. Depending on the outcome of that exercise, the City Council may want direct staff to take steps to clarify an appropriate site, and refine the draft FMP and MWRP to focus on that site, with necessary revisions to the EIR as required by the changed focus of examining the impacts associated with building at such a site; or
4. Provide other direction.

C-2 DISCUSSION AND DIRECTION REGARDING HARBOR ADVISORY BOARD REQUEST TO RESOLVE AMBIGUITIES IN MEASURE D, AND RECOMMENDATION ON MORRO BAY "WORKING WATERFRONT" INITIATIVE; (HARBOR/COMMUNITY DEVELOPMENT)

RECOMMENDATION: Council consider the Harbor Advisory Board's requests and recommendations regarding ambiguities in Measure D and the "Working Waterfront"

initiative, and approve the approach recommended by staff to address the issues identified by the Board.

C-3 APPROVAL OF A COMMUNITY BENEFIT AGREEMENT BETWEEN THE CITY OF MORRO BAY AND TRIDENT WINDS, LLC; (ADMINISTRATION)

RECOMMENDATION: Council review the staff report, receive the presentation by staff and Trident Winds, LLC (Trident), and approve the attached Community Benefit Agreement between the City of Morro Bay and Trident.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, August 8, 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.

AGENDA NO: A-1

MEETING DATE: July 11, 2017

MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
JUNE 28, 2017
CITY HALL CONFERENCE ROOM–8:00 A.M.

PRESENT: Jamie Irons Mayor
 Robert Davis Council Member
 John Headding Council Member
 Matt Makowetski Council Member
 Marlys McPherson Council Member

STAFF PRESENT: Martin Lomeli Interim City Manager
 Joe Pannone City Attorney
 Craig Schmollinger Finance Director

ESTABLISH QUORUM AND CALL TO ORDER – A quorum was established and the meeting was called to order at 8:05 a.m., with all members present.

SUMMARY OF CLOSED SESSION ITEM - The Mayor read a summary of the Closed Session item.

CLOSED SESSION PUBLIC COMMENT - Mayor Irons opened the meeting for public comment for items only on the agenda. Seeing none, the public comment period was closed.

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

CS-1 PUBLIC EMPLOYEE APPOINTMENT
Title: City Manager

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 9:07 a.m.

Recorded by:

Dana Swanson
City Clerk

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AGENDA NO: A-2

MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor and City Council

DATE: June 26, 2017

FROM: Dana Swanson, City Clerk

SUBJECT: Designation of Voting Delegate and Alternate at League of California Cities 2017 Annual Conference Business Meeting

RECOMMENDATION

Staff recommends the City Council select Mayor Irons, as the voting delegate, and Mayor Pro Tem Heading, as the alternate voting delegate, for the upcoming annual business meeting to be held at the League of California Cities Annual Conference.

ALTERNATIVES

1. In addition to Mayor Irons and Mayor Pro Tem Heading, the Council may choose a second alternate voting delegate.
2. The Council may choose other Council Members or the City Manager as the voting delegate or alternate(s).
3. The Council may choose not to select any delegates; however, the City would not have voting rights at the annual business meeting.

BACKGROUND

In order to conduct the annual business meeting held in conjunction with the League of California Cities Annual Conference, every represented city must have its City Council designate a voting representative who will be registered at the conference and present at the annual business meeting (the General Assembly). Each member city may also appoint up to two alternates, one of whom may vote in the event the designated voting is unable to serve in that capacity. A voting card will be issued to the designated city official at the conference.

Conference attendance provides an exceptional opportunity for elected officials to hear from leading experts, expand their knowledge regarding municipal government, and view innovative resources that could benefit the delivery of services, enhance resources, and strengthen the City.

DISCUSSION

The League of California Cities 2017 Annual Conference is scheduled for September 13-15, 2017, in Sacramento, California. The Opening General Session is tentatively scheduled at 1:30 p.m. on Wednesday, September 13, with education sessions Wednesday afternoon through noon Friday. **The voting delegate must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only.**

Once the League has determined the Resolutions to be considered by the General Assembly

Prepared By: DS Dept Review: MRL
City Manager Review: MRL City Attorney Review: JWP

(anticipated in early August), staff will schedule the matter for Council consideration and input for the City's designated voting delegate and alternate(s).

In order to vote at the League of California Cities 2017 Annual Conference Business Meeting, the City Council must select a voting delegate. In the event the designated voting delegate is unable to serve in this capacity, the City Council may appoint up to two alternate voting delegates.

CONCLUSION

Staff recommends the City Council select Mayor Irons, as the voting delegate, and Mayor Pro Tem Heading, as the alternate voting delegate, for the upcoming annual business meeting to be held at the League of California Cities Annual Conference.

ATTACHMENT

1. Informational materials from the League of California Cities regarding designation of voting delegate and alternate(s).

MAY 15 2017

Administration



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Council Action Advised by July 31, 2017

May 3, 2017

TO: Mayors, City Managers and City Clerks

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference – September 13 – 15, Sacramento**

The League's 2017 Annual Conference is scheduled for September 13 – 15 in Sacramento. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for 12:30 p.m. on Friday, September 15, at the Sacramento Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

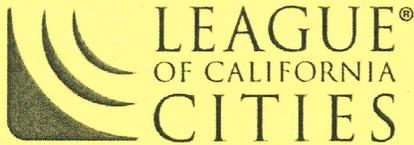
Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, September 1, 2017. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note the following procedures that are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: www.cacities.org. In order to cast a vote, at least one voter must be present at the

Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

2017 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM

Please complete this form and return it to the League office by Friday, September 1, 2017. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____ E-mail _____

Mayor or City Clerk _____ Phone: _____
(circle one) (signature)

Date: _____

Please complete and return by Friday, September 1, 2017

League of California Cities
ATTN: Carly Shelby
1400 K Street, 4th Floor
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: cshelby@cacities.org
(916) 658-8279

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AGENDA NO: A-3
MEETING DATE: July, 11 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 26, 2017
FROM: Craig Schmollinger, Finance Director/City Treasurer
SUBJECT: Adopt Resolution No. 39-17 Establishing the Annual Proposition 4 Appropriations Limit for the Fiscal Year 2017/18

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 39-17, which sets the FY 17/18 appropriations limit at \$25,915,210.

FISCAL IMPACT

None

SUMMARY

State law requires the adoption of an annual appropriations limit, which restricts the growth of tax-funded programs and services by limiting the appropriation of proceeds of taxes. As permitted by law, the City has chosen to use the most advantageous factor in calculating this limit for the City of Morro Bay, which for FY 17/18 is the County of San Luis Obispo population growth, and the California Per Capita Personal Income ("CPCPI"). For FY 17/18, the City of Morro Bay continues to remain well under its appropriations limit.

BACKGROUND:

Proposition 4, more commonly known as the Gann Initiative, was approved by the California electorate in November 1979. It is intended to restrict growth of tax-funded programs and services by limiting the appropriation of the proceeds of taxes to the 1978/79 base year limit, as adjusted annually for changes in population and inflation (Gann Limit). Proceeds of taxes, in excess of the Gann limit, with some exceptions, must be returned to the taxpayers by refund or reduction in tax rates, unless an increase to the Gann Limit is approved by majority popular vote. Proceeds of taxes include tax revenues and investment earnings, related to those tax revenues, proceeds from licenses and users/charges to the extent they exceed the cost to cover those services, and discretionary tax funds used for contingency, emergency, unemployment, reserve and retirement sinking funds, trust, or similar funds.

In June 1990, the California voters approved Proposition 111, amending the Gann Initiative to provide local agencies with the option of using either the city or county population change percentage (whichever is greater). Another provision of the amendment states the Gann Limit would be triggered only if tax proceeds exceed the limit for two consecutive fiscal years. Additionally, the proposition requires an annual review of the Gann Limit calculation by a qualified

Prepared By: CS Dept Review: CS
City Manager Review: ML City Attorney Review: JWP

independent auditor, in conjunction with the annual financial audit.

Government Code subdivision 7910(a) states: "Each year, the governing body of each local jurisdiction shall, by resolution, establish its appropriations limit and make other necessary determinations for the following fiscal year, pursuant to Article XIII B of the California Constitution, at a regularly scheduled meeting or noticed special meeting. Fifteen days prior to the meeting, documentation used in the determination of the appropriations limit and other necessary determinations shall be available to the public. The determinations made pursuant to this section are legislative acts."

Staff prepared the documentation on June 26, 2017, and it is available at City Hall, upon request.

DISCUSSION:

According to the estimates received from the California Department of Finance office, the population of Morro Bay increased by 0.45 percent between January 1, 2016 and January 1, 2017, while the San Luis Obispo County population increased by 0.59 percent for that same time period. It is most advantageous for the City to use the larger of the two percentages, which is the County population growth factor this year. The CPCPI increased by 3.69 percent. Applying these factors results in:

Prior year limit		\$24,846,376
Multiply by CPCPI change	x	1.0369
Multiply by SLO County in population	x	<u>1.0059</u>
Equals	=	<u>\$25,915,210</u>

The FY 17/18 budget estimate of revenues from the proceeds of taxes is \$12,706,041, which is well below the appropriations limit by \$13,209,169 or 51%.

The calculation of estimated proceeds of taxes for FY 17/18 is shown in detail in Attachment 2.

The calculation of FY 17/18 Gann Limit is shown in Attachment 3, along with a historical listing of prior year limits.

Attachment 4 is a copy of the California Department of Finance's change in population estimates between January 1, 2016, and January 1, 2017.

Attachment 5 is a copy of the California Department of Finance's cover letter and published CPCPI price factor.

ATTACHMENTS:

1. Resolution 39-17
2. Calculation of estimated proceeds of taxes for FY 17/18
3. Calculation of FY 17/18 Appropriations Limit
4. Copy of the California Department of Finance's change in population estimates between January 1, 2016, and January 1, 2017.
5. Copy of the California Department of Finance's cover letter and published CPCPI price factor

RESOLUTION NO. 39-17

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MORRO BAY, CALIFORNIA,
ESTABLISHING THE ANNUAL PROPOSITION 4
APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2017/18**

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

WHEREAS, Article XIII B of the California Constitution restricts the appropriation of tax proceeds that the City receives in any given fiscal year; and

WHEREAS, the City has calculated the FY 17/18 appropriations limit, in accordance with the provisions of Article XIII B of the California Constitution; and

WHEREAS, Proposition 111 of June 1990 requires an annual election of the methodology used in the calculation of the current year appropriations limit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, by adoption of this Resolution No. 39-17, the City Council:

1. accepts the calculation of the FY 17/18 appropriations limit, as prepared by the Morro Bay Finance Department, and
2. establishes the FY 17/18 appropriations limit at \$25,915,210.

PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 11th day of July 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

**CITY OF MORRO BAY
APPROPRIATION LIMIT DOCUMENTATION
FISCAL YEAR 2017/18**

	General	District Trans Tax	MTBID	CTMD	GFER	GF Fac Maint	Special Gas Tax	CDBG	Traffic Safety	SLESF COPS	Transit	LTF Roads	LTF Bikepaths	Water Ops
Property taxes	4,012,307	-	-	-	-	-	-	-	-	-	-	-	-	-
Other taxes:														
Sales tax	1,905,009	1,024,129	-	-	-	-	-	-	-	-	-	-	-	-
Franchies fees	527,484	-	-	-	-	-	-	-	-	-	-	-	-	-
Other	3,552,551	-	907,863	347,512	-	-	-	-	-	-	-	-	-	-
Licenses/permits	618,589	-	-	-	-	-	-	-	-	-	-	-	-	-
Revenue from other agencies:														
State	32,915	-	-	-	-	-	305,293	-	-	100,000	342,366	-	8,000	-
State/County grants	-	-	-	-	-	-	-	304,951	-	-	-	-	-	-
Federal grants	27,479	-	-	-	-	-	-	-	-	-	-	-	-	-
Use of money and property:														
Interest	-	-	-	-	20,000	-	-	-	-	-	-	-	-	-
Rent	443,927	-	-	-	-	36,000	-	-	-	-	-	-	-	-
Fines/Forfeitures	12,000	-	-	-	-	-	-	-	13,000	-	-	-	-	-
Charges for services	1,149,348	-	-	-	-	-	-	-	-	-	44,000	-	-	5,479,700
Other revenues	39,422	-	138,928	-	-	-	-	-	-	-	-	-	-	-
	12,321,031	1,024,129	1,046,791	347,512	20,000	36,000	305,293	304,951	13,000	100,000	386,366	-	8,000	5,479,700

	Sewer Ops	Harbor Ops	Risk Management	Special Assessmt LMD	Special Assessmt Cloisters	MB/CSD WWTF	Gov Impact	Unfunded Leaves	State Park Marina	Housing In-Lieu	Water Accum	Sewer Accum	Harbor Accum	TOTAL ESTIMATED REVENUES
Property taxes	-	-	-	-	-	-	-	-	-	-	-	-	-	4,012,307
Other taxes:														
Sales tax	-	-	-	-	-	-	-	-	-	-	-	-	-	2,929,138
Franchies fees	-	-	-	-	-	-	-	-	-	-	-	-	-	527,484
Other	-	-	-	8,619	148,944	-	-	-	-	-	-	-	-	4,965,489
Licenses/permits	-	-	-	-	-	-	-	-	-	-	-	-	-	618,589
Revenue from other agencies:														
State	-	-	-	-	-	-	-	-	-	-	-	-	-	788,574
State/County grants	-	-	-	-	-	-	-	-	-	-	-	-	-	304,951
Federal grants	-	343,000	-	-	-	-	-	-	-	-	-	-	-	370,479
Use of money and property:														
Interest	-	-	400	-	-	-	-	-	-	700	7,500	-	-	28,600
Rent	-	-	-	-	-	-	-	-	-	-	-	-	-	479,927
Fines/Forfeitures	-	-	-	-	-	-	-	-	-	-	-	-	-	25,000
Charges for services	6,266,000	2,041,658	1,385,778	-	-	2,491,530	161,731	-	86,500	-	63,200	41,115	11,624	19,222,184
Other revenues	-	-	-	-	-	-	-	50,000	-	-	-	-	-	228,350
	6,266,000	2,384,658	1,386,178	8,619	148,944	2,491,530	161,731	50,000	86,500	700	70,700	41,115	11,624	34,501,072

**CITY OF MORRO BAY
 APPROPRIATION LIMIT DOCUMENTATION
 FISCAL YEAR 2017/18**

PROCEEDS OF TAXES CALCULATION

APPROPRIATION LIMIT CALCULATION

	[1] PROCEEDS OF TAXES	PROCEEDS OTHER THAN TAXES	TOTAL ESTIMATED REVENUES	YEAR	[2] CALIFORNIA PCPI CHANGE	[3] POPULATION CHANGE	LIMIT
PROPERTY TAXES	\$ 4,012,307		\$ 4,012,307	1978-79	BASE YEAR		\$ 3,046,393
OTHER TAXES	7,894,627	527,484	8,422,111	1979-80	10.17%	1.38%	3,402,527
PERMITS		618,589	618,589	1980-81	10.53%	0.26%	3,770,591
REVENUE FROM AGENCIES				1981-82	9.12%	1.39%	4,171,660
STATE	788,574		788,574	1982-83	6.79%	2.04%	4,545,796
STATE/COUNTY GRANTS	-	304,951	304,951	1983-84	2.35%	1.81%	4,736,835
FEDERAL GRANTS	-	370,479	370,479	1984-85	4.74%	1.75%	5,048,185
USE OF MONEY & PROPERTY				1985-86	3.74%	1.62%	5,321,826
INTEREST	10,533	18,067	28,600	1986-87	2.30%	4.12%	5,668,530
RENT		479,927	479,927	1987-88	3.04%	2.93%	6,011,990
FINES & FORFIETURES		25,000	25,000	1988-89	3.93%	3.83%	6,487,570
CHARGES FOR SERVICES		19,222,184	19,222,184	1989-90	4.98%	3.92%	7,077,629
OTHER REVENUES		228,350	228,350	1990-91	4.21%	4.59%	7,714,137
	<u>\$ 12,706,041</u>	<u>\$ 21,795,031</u>	<u>\$ 34,501,072</u>	1991-92	4.14%	3.04%	8,277,721
				1992-93	-0.64%	1.00%	8,306,991
				1993-94	2.72%	1.86%	8,691,654
				1994-95	0.71%	1.40%	8,875,912
				1995-96	4.72%	1.60%	9,443,573
				1996-97	4.67%	2.31%	10,112,922
				1997-98	4.67%	2.06%	10,803,250
				1998-99	4.15%	2.70%	11,555,378
				1999-2000	4.53%	2.28%	12,354,234
				2000-01	4.91%	2.46%	13,279,663
				2001-02	7.82%	1.60%	14,547,223
				2002-03	-1.27%	1.80%	14,620,998
				2003-04	2.31%	1.32%	15,156,198
				2004-05	3.28%	1.15%	15,833,334
				2005-06	5.26%	1.19%	16,864,495
				2006-07	3.96%	0.73%	17,660,315
				2007-08	4.42%	0.96%	18,617,934
				2008-09	4.29%	1.12%	19,634,110
				2009-10	0.62%	1.01%	19,955,375
				2010-11	-2.54%	0.87%	19,617,710
				2011-12	2.51%	1.09%	20,329,315
				2012-13	3.77%	0.47%	21,194,880
				2013-14	5.12%	0.52%	22,395,914
				2014-15	-0.23%	0.09%	22,364,513
				2015-16	3.82%	0.78%	23,399,944
				2016-17	5.37%	0.77%	24,846,376
				2017-18	3.69%	0.59%	25,915,210
				PROCEEDS OF TAXES			<u>12,706,041</u>
				PROCEEDS OF TAXES UNDER APPROPRIATION LIMIT			<u>\$ 13,209,169</u>

[1] Per City of Morro Bay FY 17/18 Adopted Annual Budget, total *All Funds Revenues* less transfers.

[2] Per State Department of Finance (per capita personal income); FY 17/18 = 3.69%

[3] Per State Department of Finance (population growth of City or County, whichever is greater); FY 16/17 MB = 0.45%; SLO County = 0.59%

Fiscal Year 2017-18

Attachment B
Annual Percent Change in Population Minus Exclusions*
January 1, 2016 to January 1, 2017 and Total Population, January 1, 2017

County City	<u>Percent Change</u>	<u>--- Population Minus Exclusions ---</u>		<u>Total Population</u>
	2016-2017	1-1-16	1-1-17	1-1-2017
San Luis Obispo				
Arroyo Grande	0.09	17,720	17,736	17,736
Atascadero	0.91	29,447	29,714	30,900
El Paso De Robles	1.17	31,378	31,745	31,745
Grover Beach	0.35	13,391	13,438	13,438
Morro Bay	0.45	10,714	10,762	10,762
Pismo Beach	0.86	8,177	8,247	8,247
San Luis Obispo	0.92	46,298	46,724	46,724
Unincorporated	0.33	116,125	116,505	120,549
County Total	0.59	273,250	274,871	280,101

*Exclusions include residents on federal military installations and group quarters residents in state mental institutions, state and federal correctional institutions and veteran homes.



DEPARTMENT OF
FINANCE
OFFICE OF THE DIRECTOR

EDMUND G. BROWN JR. ■ GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

May 2017

Dear Fiscal Officer:

Subject: Price Factor and Population Information

Appropriations Limit

The California Revenue and Taxation Code, section 2227, requires the Department of Finance (Finance) to transmit an estimate of the percentage change in population to local governments. Each local jurisdiction must use their percentage change in population factor for January 1, 2017, in conjunction with a change in the cost of living, or price factor, to calculate their appropriations limit for fiscal year 2017-18. Attachment A provides the change in California's per capita personal income and an example for utilizing the price factor and population percentage change factor to calculate the 2017-18 appropriations limit. Attachment B provides the city and unincorporated county population percentage change. Attachment C provides the population percentage change for counties and their summed incorporated areas. The population percentage change data excludes federal and state institutionalized populations and military populations.

Population Percent Change for Special Districts

Some special districts must establish an annual appropriations limit. The Revenue and Taxation Code, section 2228 provides additional information regarding the appropriations limit. Article XIII B, section 9(C) of the California Constitution exempts certain special districts from the appropriations limit calculation mandate. The Code and the California Constitution can be accessed at the following website: <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

Special districts required by law to calculate their appropriations limit must present the calculation as part of their annual audit. Any questions special districts have on this requirement should be directed to their county, district legal counsel, or the law itself. No state agency reviews the local appropriations limits.

Population Certification

The population certification program applies only to cities and counties. Revenue and Taxation Code section 11005.6 mandates Finance to automatically certify any population estimate that exceeds the current certified population with the State Controller's Office. **Finance will certify the higher estimate to the State Controller by June 1, 2017.**

Please Note: Prior year's city population estimates may be revised.

If you have any questions regarding this data, please contact the Demographic Research Unit at (916) 323-4086.

MICHAEL COHEN
Director
By:

AMY M. COSTA
Chief Deputy Director

Attachment

- A. **Price Factor:** Article XIII B specifies that local jurisdictions select their cost of living factor to compute their appropriation limit by a vote of their governing body. The cost of living factor provided here is per capita personal income. If the percentage change in per capita personal income is selected, the percentage change to be used in setting the fiscal year 2017-18 appropriation limit is:

Per Capita Personal Income

Fiscal Year (FY)	Percentage change over prior year
2017-18	3.69

- B. Following is an example using sample population change and the change in California per capita personal income as growth factors in computing a 2017-18 appropriation limit.

2017-18:

Per Capita Cost of Living Change = 3.69 percent
 Population Change = 0.85 percent

Per Capita Cost of Living converted to a ratio: $\frac{3.69 + 100}{100} = 1.0369$

Population converted to a ratio: $\frac{0.85 + 100}{100} = 1.0085$

Calculation of factor for FY 2017-18: $1.0369 \times 1.0085 = 1.0457$



AGENDA NO: A-4

MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 23, 2017

FROM: Scot Graham, Community Development Director

SUBJECT: Receive and File the Quarterly Status Report on Parking In-Lieu Fee Waivers and Take Any Action Deemed Appropriate

RECOMMENDATION

Receive and file and take any action deemed appropriate.

BACKGROUND

The City Council, on June 28, 2016, adopted Resolution No. 54-16 suspending the \$15,000 In-Lieu parking fee for up to twenty-four months while the General Plan and Local Coastal Program update is underway (Resolution No. 54-16 provided in Attachment A). Resolution No. 54-16 applies to the Embarcadero and Downtown and serves not only to suspend the \$15,000 Parking In-Lieu Fee, but also to implement the following measures:

1. Use of historic parking credits along the Embarcadero is an acceptable practice for evaluation of parking requirements found Chapter 17.44 of the City of Morro Bay Municipal Code.
2. The Parking In-Lieu fee program, established by Resolution No. 37-05, shall be suspended, from the date of adoption of this Resolution, for a period of no more than 24 months, as an economic incentive for new or redevelopment/expansion of commercial properties within the City.
3. The parking in-lieu fee program, for the following 24 months, shall include the following parameters:
 - a. Parking in-lieu fees are waived for the first four (4) required parking spaces
 - b. In-Lieu fees in the amount of \$500.00 shall be paid for any additional in-lieu parking spaces required beyond the initial 4.

Prepared By: SG

Dept Review: SG

City Manager Review: MRL

City Attorney Review: JWP

- c. Community Development Department staff shall have the ability to administer the in-lieu fee program for all administrative approvals involving seven (7) or fewer in-lieu spaces.
- d. Projects involving a need for eight (8) to fifteen (15) in-lieu spaces shall require Planning Commission review.
- e. Projects requesting in-lieu parking spaces totaling sixteen (16) or greater shall require approval by the City Council.

The City Council may reduce or increase that period by adoption of another resolution.

4. Staff is directed to develop a comprehensive parking solution for the downtown and waterfront/Embarcadero areas of the City as part of the General Plan/Local Coastal Program update process, including recommending actions needed to rescind or revised this Resolution and Resolution No. 37-05. as needed.

DISCUSSION/CONCLUSION

The Council has requested regular updates on the number of parking space waivers issued by the City. ***No parking space waivers have been issued to date.*** Staff is aware of at least two potential projects that may come forward with requests for fee waivers, but as of the writing of this staff report, no such request has been submitted.

ATTACHMENT

- A. CC Resolution No. 54-16

Attachment A

RESOLUTION NO. 54-16

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
TO MEMORIALIZE HISTORIC PARKING CREDITS, SUSPEND PARKING IN-LIEU
FEES FOR THE EMBARCADERO AND DOWNTOWN AREAS, AND DIRECT THE
EVALUATION OF THE COMMERCIAL PARKING PROGRAM**

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

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on May 3, 2016, for the purpose of considering an interpretation of historic parking credits and to forward a recommendation to City Council for approval; and

WHEREAS, the City Council conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on June 28, 2016, for the purpose of considering the memorialization of historic parking credits, the suspension of parking in-lieu fees for the Embarcadero and Downtown areas for 18- 24 months, and directing the evaluation of the overall commercial parking program as part of the General Plan / Local Coastal Plan update process; and

WHEREAS, the City Council has duly considered all evidence, including the recommendations made by the Planning Commission, the testimony of interested parties, and the evaluation and recommendations by staff, presented at said hearing.

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

1. Use of historic parking credits along the Embarcadero is an acceptable practice for evaluation of parking requirements found Chapter 17.44 of the City of Morro Bay Municipal Code.
2. The Parking In-Lieu fee program, established by Resolution No. 37-05, shall be suspended, from the date of adoption of this Resolution, for a period of no more than 24 months, as an economic incentive for new or redevelopment/expansion of commercial properties within the City.
3. The parking in-lieu fee program, for the following 24 months, shall include the following parameters:
 - a. Parking in-lieu fees are waived for the first four (4) required parking spaces
 - b. In-Lieu fees in the amount of \$500.00 shall be paid for any additional in-lieu parking spaces required beyond the initial 4.

- c. Community Development Department staff shall have the ability to administer the in-lieu fee program for all administrative approvals involving seven (7) or fewer in-lieu spaces.
- d. Projects involving a need for eight (8) to fifteen (15) in-lieu spaces shall require Planning Commission review.
- e. Projects requesting in-lieu parking spaces totaling sixteen (16) or greater shall require approval by the City Council.

The City Council may reduce or increase that period by adoption of another resolution.

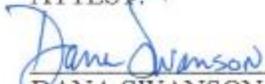
- 4. Staff is directed to develop a comprehensive parking solution for the downtown and waterfront/Embarcadero areas of the City as part of the General Plan/Local Coastal Program update process, including recommending actions needed to rescind or revised this Resolution and Resolution No. 37-05. as needed.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 28th day of June, 2016 on the following vote:

AYES: Makowetski, Johnson, Smukler
NOES: None
ABSENT: Heading
ABSTAIN: Irons



JAMIE L. IRONS, Mayor

ATTEST:


DANA SWANSON, City Clerk



AGENDA NO: A-5

MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 28, 2017

FROM: Rob Livick, PE/PLS – Public Works Director/City Engineer

SUBJECT: Authorization for Participation in the California Enterprise Development Authority (CEDA) as an Associate Member and authorizing CEDA, through Figtree Financing, to offer their program and levy assessments within the City of Morro Bay

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 40-17 joining the California Enterprise Development Authority (CEDA) as an Associate Member and authorizing CEDA, through Figtree Financing, to offer their program and levy assessments within the City of Morro Bay, California.

FISCAL IMPACT

The intent of the Figtree Program is to provide a “turn-key” operation with no City funds required and very limited staff time necessary. There will be no monetary impact to the City’s budget; however, minimal staff time will be required to assist with the implementation of the program.

BACKGROUND

Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California (“Chapter 29”) authorizes a legislative body to designate an area within which authorized public officials and free and willing property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources, energy efficiency, and water conservation improvements that are permanently fixed to real property, as specified. The financing for those improvements has come to be known as PACE, which stands for Property Assessed Clean Energy.

Figtree is one of the leading private PACE financing companies operating in the United States today. Over 100 municipalities throughout California have already joined the Figtree program, which is offered through its JPA partner the California Enterprise Development Authority (CEDA). Together Figtree and CEDA offer the program as a complete turn-key PACE solution without cost to the City. Furthermore, Figtree has agreed to provide indemnification to the City for its participation.

The Figtree PACE program provides 100% upfront financing to residential and commercial property owners for a wide range of eligible property improvements. Repayment is made through an owner’s annual property payment with flexible repayment terms ranging from 5 to 20 years. PACE may also allow payments to be passed on to a new property owner if the property is sold before the PACE financing is paid in full.

By encouraging City residents and business owners to use energy and water more efficiently, and by developing and supporting renewable energy to power buildings, the Figtree PACE program

Prepared By: ___RL___

Dept Review: ___RL___

City Manager Review: ___MRL___

City Attorney Review: ___JWP___

supports the City's ongoing efforts to bolster the local economy, create new green jobs, and improve quality of life. Adopting the Figtree PACE program also supports the City's climate action plan goals by helping our residents secure a more sustainable future.

On February 23, 2016, the City Council adopted Resolution No. 12-16 to participate in another PACE program, called the HERO program in conjunction with the joint powers authority, Western Riverside Council of Governments, which also allows for private property owners to finance energy saving improvements. At that same meeting, the Council agreed residents should have a choice of programs and directed staff to bring back agreements with other PACE providers as a consent item at future meetings.

The item before City Council tonight is to consider adopting the Figtree PACE Financing Program to allow both residential and commercial property owners in the City to voluntarily place assessment liens on their property for the purpose of installing energy efficiency and conservation, water efficiency and conservation and renewable energy generation upgrades.

DISCUSSION

The Figtree Program is being proposed to allow property owners in the City to finance renewable energy, energy and water efficiency improvements, and electric vehicle charging infrastructure on their property. The Figtree program is offered through the California Enterprise Development Authority (CEDA), created by the California Association for Local Economic Development (CALED). There are currently over 100 cities and counties participating in the Figtree PACE program.

If a property owner chooses to participate, then the installed improvements will be financed by the issuance of bonds by CEDA. The bonds are secured by a voluntary contractual assessment levied on such owner's property, with no recourse against the City. Participation in the program is 100% voluntary. Property owners who wish to participate in the program agree to repay the amount borrowed through the voluntary contractual assessment collected together with their property taxes.

Non-Exclusivity of the Figtree PACE Program

Another important factor to note regarding the proposed Figtree Program is it is completely non-exclusive; meaning other viable PACE programs would be allowed to operate in the City. There are other PACE programs currently being developed and in varying stages of implementation and it is important to note adoption of the Figtree Program would not preclude the City from implementing other programs. The inclusion of competing programs would provide greater options and potentially greater benefits to the property owners in the City. When these other viable programs are ready to be implemented, they may be brought before Council for consideration.

FHFA Issues

In July 2010, the Federal Housing Finance Agency (FHFA) announced its opposition to PACE financing programs. FHFA's rationale for opposing PACE programs is based on the senior lien status afforded by California law to PACE transactions. In the event of a default, borrowers could be required to repay PACE lenders prior to repaying their original mortgage lenders. FHFA fears that priority in repayment could make mortgages on properties participating in PACE more risky for mortgage lenders. Since 2010, the State of California in conjunction with PACE providers has taken several actions to ensure PACE does not pose a risk to the mortgage industry.

To address those concerns, Figtree incorporates the following measures and requirements into its residential PACE program:

- **Maintains a 15 Percent Equity Requirement:** Maintaining minimum equity requirements for participating property owners limits the risk lenders by ensuring there is sufficient equity in the property from which a PACE assessment can be paid in the event of default. This equity cushion ensures both lenders and PACE programs will be able to recover their investments.
- **Limits Assessments to 10 Percent of Property Value:** Limiting the assessment amount is another way to limit the risk to lenders. Combined with equity requirements, the 10% limitation provides a great deal of protection to lenders.
- **Evaluates Past Payment History:** Looking at a property owners past property tax payment history screens out many of the property owners who are likely to default on their property tax payments in the future. This screening also reduces the risk exposure to both PACE bondholders and mortgage lenders.
- **Checks Borrower Credit Histories for Bankruptcies:** Again, this type of screening eliminates from eligibility property owners who are likely to default on their property tax payments in the future.
- **Will Participate in California's Loan Loss Reserve Program:** The State's Loan Loss Reserve Program will provide additional protection to mortgage lenders for any lost cash outflows as a result of PACE assessment payments. Figtree will participate in the Loan Loss Reserve Program as soon as Figtree's statewide residential program launches in 2015. Figtree also suggest the County's PACE program join this reserve program.

CONCLUSION

Based on the foregoing, staff recommends the Council adopt the proposed Resolution to provide private property owners in Morro Bay additional opportunities to use cost effective means for the development of renewable energy sources, installation of energy and water efficiency improvements, reduction of greenhouse gases, and protection of the environment.

ATTACHMENT:

1. Resolution No. 40-17

RESOLUTION NO. 40-17

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING ASSOCIATE MEMBERSHIP BY THE CITY IN THE CALIFORNIA ENTERPRISE
DEVELOPMENT AUTHORITY; AUTHORIZING AND DIRECTING THE EXECUTION OF AN
ASSOCIATE MEMBERSHIP AGREEMENT RELATING TO ASSOCIATE MEMBERSHIP OF
THE CITY IN THE AUTHORITY; AUTHORIZING THE CITY TO JOIN THE FIGTREE PACE
PROGRAM; AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY
TO CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY
CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF MORRO
BAY; AND AUTHORIZING RELATED ACTIONS
City of Morro Bay, California**

WHEREAS, the City of Morro Bay, California (the "City"), a municipal corporation, duly organized and existing under the Constitution and the laws of the State of California; and

WHEREAS, the City, upon authorization of the City Council, may pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, commencing with Section 6500 (the "JPA Law") enter into a joint exercise of powers agreement with one or more other public agencies pursuant to which such contracting parties may jointly exercise any power common to them; and

WHEREAS, the City and other public agencies wish to participate, jointly, in economic development financing programs for the benefit of businesses and nonprofit entities within their jurisdictions offered by membership in the California Enterprise Development Authority (the "CEDA"), pursuant to an associate membership agreement (Exhibit C) and Joint Exercise of Powers Agreement Relating to the California Enterprise Development Authority (the "Agreement"); and

WHEREAS, under the JPA Law and the Agreement, CEDA is a public entity separate and apart from the parties to the Agreement and the debts, liabilities and obligations of CEDA will not be the debts, liabilities or obligations of the City or the other members of the Authority; and

WHEREAS, the form of Associate Membership Agreement (the "Associate Membership Agreement") between the City and CEDA is attached; and

WHEREAS, the City is willing to become an Associate Member of CEDA subject to the provisions of the Associate Membership Agreement.

WHEREAS, CEDA has adopted the Figtree Property Assessed Clean Energy (PACE) and Job Creation Program (the "Program" or "Figtree PACE"), to allow the financing of certain renewable energy, energy efficiency, seismic retrofits, electric vehicle charging infrastructure, and water efficiency improvements (the "Improvements") through the levy of contractual

assessments, pursuant to Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29"), and the issuance of improvement bonds or other evidences of indebtedness (the "Bonds") under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 et seq.) (the "1915 Act") upon the security of the unpaid contractual assessments; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow the owners of property ("Participating Parcel") within its jurisdiction ("Participating Property Owners") to participate in Figtree PACE, and to allow CEDA to conduct assessment proceedings under Chapter 29 and to issue Bonds under the 1915 Act to finance the Improvements; and

WHEREAS, CEDA will conduct assessment proceedings under Chapter 29 to establish an assessment district (the "District") and issue Bonds under the 1915 Act to finance Improvements; and

WHEREAS, there has been presented at the meeting at which this Resolution was adopted a proposed form of Resolution of Intention to be adopted by CEDA in connection with such assessment proceedings (the "ROI"), a copy of which is attached hereto as Exhibit A; and

WHEREAS, the ROI sets forth the territory within which assessments may be levied for Figtree PACE which territory shall be coterminous with the City's official boundaries of record at the time of adoption of the ROI (the "Boundaries"); and

WHEREAS, pursuant to Chapter 29, the City authorizes CEDA to conduct assessment proceedings, levy assessments, pursue remedies in the event of delinquencies, and issue bonds or other forms of indebtedness to finance the Improvements in connection with Figtree PACE; and

WHEREAS, to protect the City in connection with operation of the Figtree PACE program, Figtree Energy Financing, the program administrator, has agreed to defend and indemnify the City; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies, the issuance, sale or administration of the bonds or other indebtedness issued in connection with Figtree PACE.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Morro Bay, it hereby finds, determines and declares as follows:

Section 1. The City Council hereby specifically finds and declares the actions authorized hereby constitute public affairs of the City. The City Council further finds the statements, findings and determinations of the City set forth in the preambles above are true and correct.

Section 2. The Associate Membership Agreement presented to this meeting and on file

with the City Clerk is hereby approved. The Mayor of the City, the City Manager, the City Clerk and other officials of the City are each hereby authorized and directed, for and on behalf of the City, to execute and deliver the Associate Membership Agreement in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The officers and officials of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate, carry out, give effect to and comply with the terms and intent of this resolution and the Associate Membership Agreement. All such actions heretofore taken by such officers and officials are hereby confirmed, ratified and approved.

Section 4. Good Standing. The City is a municipal corporation and in good standing.

Section 5. Public Benefits. On the date hereof, the City Council hereby finds and determines the Program and issuance of Bonds by CEDA in connection with Figtree PACE will provide significant public benefits, including without limitation, savings in effective interest rates, bond preparation, bond underwriting and bond issuance costs and reductions in effective user charges levied by water and electricity providers within the boundaries of the City.

Section 6. Appointment of CEDA. The City hereby appoints CEDA as its representative to (i) record the assessment against the Participating Parcels, (ii) administer the District in accordance with the Improvement Act of 1915 (Chapter 29 Part 1 of Division 10 of the California Streets and Highways Code (commencing with Section 8500) (the "Law"), (iii) prepare program guidelines for the operations of the Program and (iv) proceed with any claims, proceedings or legal actions as shall be necessary to collect past due assessments on the properties within the District in accordance with the Law and Section 6509.6 of the California Government Code. The City is not and will not be deemed to be an agent of Figtree or CEDA as a result of this Resolution.

Section 7. Assessment Proceedings. In connection with Figtree PACE, the City hereby consents to the special assessment proceedings by CEDA pursuant to Chapter 29 on any property within the Boundaries and the issuance of Bonds under the 1915 Act, provided that:

- (1) Such proceedings are conducted pursuant to one or more Resolutions of Intention in substantially the form of the ROI;
- (2) The Participating Property Owners, who shall be the legal owners of such property, voluntarily execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and
- (3) The City will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies in such assessment payments, or the issuance, sale or administration of the Bonds in connection with Figtree PACE.

Section 8. Program Report. The City Council hereby acknowledges, pursuant to the requirements of Chapter 29, CEDA has prepared and will update from time to time the "Program Report" for Figtree PACE (the "Program Report") and associated documents, and CEDA will

undertake assessment proceedings and the financing of Improvements as set forth in the Program Report.

Section 9. Foreclosure. The City Council hereby acknowledges the Law permits foreclosure in the event there is a default in the payment of assessments due on a property. The City Council hereby designates CEDA as its representative to proceed with collection and foreclosure of the liens on the defaulting properties within the District, including accelerated foreclosure pursuant to the Program Report.

Section 10. Indemnification. The City Council acknowledges Figtree has provided the City with an indemnification agreement, as shown in Exhibit B, for the acts or omissions of Figtree, its officers, employees, subcontractors and agents relating to the Program. The City Council hereby authorizes the appropriate officials and staff of the City to execute and deliver the Indemnification Agreement to Figtree.

Section 11. City Contact Designation. The appropriate officials and staff of the City are hereby authorized and directed to make applications for Figtree PACE available to all property owners who wish to finance Improvements. The following staff persons, together with any other staff designated by the City Manager from time to time, are hereby designated as the contact persons for CEDA in connection with Figtree PACE: [Rob Livick, Director of Public Works, 805-772-6261, rlivick@morrobayca.gov].

Section 12. CEQA. The City Council hereby finds adoption of this Resolution is not a "project" under the California Environmental Quality Act ("CEQA"), because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

Section 13. Effective Date. This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to Figtree Energy Financing.

Section 14. Costs. Services related to the formation and administration of the assessment district will be provided by CEDA at no cost to the City.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of July 2017 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

**CERTIFICATE OF CLERK OF THE CITY COUNCIL
CITY OF MORRO BAY**

I, Dana Swanson, Clerk of the City of Morro Bay, hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted at the meeting of the City Council of the City of Morro Bay duly and regularly held in the Council Chambers, located at 209 Surf Street, Morro Bay California, on July 11, 2017, of which meeting all of the members of said City Council had due notice.

I further certify that I have carefully compared the foregoing copy with the original minutes of said meeting on file and of record in my office; that said copy is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes; and that said resolution has not been amended, modified, rescinded or revoked in any manner since the date of its adoption, and the same is now in full force and effect.

IN WITNESS WHEREOF, I have executed this certificate this ____ day of _____,
201_.

Dana Swanson
City Clerk
City of Morro Bay

EXHIBIT A

CEDA Resolution of Intention

**RESOLUTION OF THE CALIFORNIA ENTERPRISE DEVELOPMENT
AUTHORITY DECLARING INTENTION TO FINANCE INSTALLATION OF
DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES, ENERGY
EFFICIENCY, SEISMIC RETROFITS, ELECTRIC VEHICLE CHARGING
INFRASTRUCTURE, AND WATER EFFICIENCY IMPROVEMENTS IN THE
CITY OF MORRO BAY**

WHEREAS, the California Enterprise Development Authority (“CEDA”) is a joint powers authority authorized and existing pursuant to Joint Powers Act (Government Code Section 6500 et seq.) and that certain Joint Exercise of Powers Agreement (the “Agreement”) dated as of June 1, 2006, by and among the cities of Eureka, Lancaster and Selma; and

WHEREAS, CEDA is authorized under the Agreement and Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California and in accordance with Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California (“Chapter 29”) to authorize assessments to finance the installation of distributed generation renewable energy sources, energy efficiency, seismic retrofits, electric vehicle charging infrastructure, and water efficiency improvements that are permanently fixed to real property (“Authorized Improvements”); and

WHEREAS, CEDA has obtained authorization from the *City of Morro Bay* (the “City”) to enter into contractual assessments for the financing of the installation of Authorized Improvements in the City; and

WHEREAS, CEDA desires to declare its intention to establish a Figtree PACE program (“Figtree PACE”) in the City, pursuant to which CEDA, subject to certain conditions set forth herein, would enter into contractual assessments to finance the installation of Authorized Improvements in the City.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY, AS FOLLOWS:

Section 1. Findings. The Board of Directors hereby finds and determines the following:

- (a) The above recitals are true and correct and are incorporated herein by this reference.
- (b) Energy and water conservation efforts, including the promotion of Authorized Improvements to residential, commercial, industrial, or other real property, are necessary to address the issue of global climate change and the reduction of greenhouse gas emissions in the City.
- (c) The upfront cost of making residential, commercial, industrial, or other real property more energy and water efficient, along with the fact that most

commercial loans for that purpose are due on the sale of the property, prevents many property owners from installing Authorized Improvements.

- (d) A public purpose will be served by establishing a contractual assessment program, to be known as Figtree PACE, pursuant to which CEDA will finance the installation of Authorized Improvements to residential, commercial, industrial, or other real property in the City.

Section 2. Determination of Public Interest. The Board of Directors hereby determines that (a) it would be convenient, advantageous, and in the public interest to designate an area, which shall encompass the entire geographic territory within the boundaries of the City, within which CEDA and property owners within the City may enter into contractual assessments to finance the installation of Authorized Improvements pursuant to Chapter 29 and (b) it is in the public interest for CEDA to finance the installation of Authorized Improvements in the County pursuant to Chapter 29.

Section 3. Identification of Authorized Improvements. CEDA hereby declares its intention to make contractual assessment financing available to property owners to finance installation of Authorized Improvements, including but not limited to those improvements detailed in the Report described in Section 8 hereof (the “Report”), as that Report may be amended from time to time.

Section 4. Identification of Boundaries. Contractual assessments may be entered into by property owners located within the entire geographic territory of the City including unincorporated territory within City Boundaries. A property owner located within a City within the City may enter into contractual assessments with CEDA only after such City has adopted a resolution to authorize participation in the PACE Program.

Section 5. Proposed Financing Arrangements. Under Chapter 29, CEDA may issue bonds, notes or other forms of indebtedness (the “Bonds”) pursuant to Chapter 29 that are payable by contractual assessments. Division 10 (commencing with Section 8500) of the Streets & Highways Code of the State (the “Improvement Bond Act of 1915”) shall apply to any indebtedness issued pursuant to Chapter 29, insofar as the Improvement Bond Act of 1915 is not in conflict with Chapter 29. The creditworthiness of a property owner to participate in the financing of Authorized Improvements will be based on the criteria developed by Figtree Energy Financing (the “Program Administrator”) upon consultation with Figtree PACE Program underwriters or other financial representatives, CEDA general counsel and bond counsel, and as shall be approved by the Board of Directors of CEDA. In connection with indebtedness issued under the Improvement Bond Act of 1915 that are payable from contractual assessments, serial and/or term improvement bonds or other indebtedness shall be issued in such series and shall mature in such principal amounts and at such times (not to exceed 20 years from the second day of September next following their date) and at such rate or rates of interest (not to exceed the maximum rate permitted by applicable law) as shall be determined by the Board of Directors at the time of the issuance and sale of the indebtedness. The provisions of Part 11.1 of the Improvement Bond Act of 1915 shall apply to the calling of the bonds. It is the intention of the

Board of Directors to create a special reserve fund for the bonds under Part 16 of the Improvement Bond Act of 1915. Neither CEDA, nor any of its members participating in the Figtree PACE Program, shall advance available surplus funds from its treasury to cure any deficiency in the redemption fund to be created with respect to the indebtedness; provided, however, that this determination shall not prevent CEDA or any of its members from, in their sole discretion, so advancing funds. The Bonds may be refunded under Division 11.5 of the California Streets and Highways Code or other applicable laws permitting refunding, upon the conditions specified by and upon determination of CEDA.

CEDA hereby authorizes the Program Administrator, upon consultation with CEDA general counsel, bond counsel and the Figtree PACE underwriter, to commence preparation of documents and take necessary steps to prepare for the issuance of bonds, notes or other forms of indebtedness as authorized by Chapter 29.

In connection with the issuance of bonds payable from contractual assessments, CEDA expects to obligate itself, through a covenant with the owners of the bonds, to exercise its foreclosure rights with respect to delinquent contractual assessment installments under specified circumstances.

Section 6. Public Hearing. Pursuant to the Act, CEDA hereby orders that a public hearing be held before CEDA Board (the "Board"), at 550 Bercut Drive, Suite G, Sacramento, CA 95811, on _____, _____, at _____ A., for the purposes of allowing interested persons to object to, or inquire about, the proposed Figtree PACE Program. The public hearing may be continued from time to time as determined by the Board for a time not exceeding a total of 180 days.

At the time of the hearing, the Report described in Section 8 hereof shall be summarized, and the Board shall afford all persons who are present an opportunity to comment upon, object to, or present evidence with regard to the proposed Figtree PACE Program, the extent of the area proposed to be included within the boundaries of the assessment district, the terms and conditions of the draft assessment contract described in Section 8 hereof (the "Contract"), or the proposed financing provisions. Following the public hearing, CEDA may adopt a resolution confirming the Report (the "Resolution Confirming Report") or may direct the Report's modification in any respect, or may abandon the proceedings.

The Board hereby orders the publication of a notice of public hearing once a week for two successive weeks. Two publications in a newspaper published once a week or more often, with at least five days intervening between the respective publication dates not counting such publication dates are sufficient. The period of notice will commence upon the first day of publication and terminate at the end of the fourteenth day. The first publication shall occur not later than 20 days before the date of the public hearing.

Section 7. Notice to Water and Electric Providers. Pursuant to Section 5898.24 of the Streets & Highways Code, written notice of the proposed contractual assessment program within the City to all water and electric providers within the boundaries of the City has been provided.

Section 8. Report. The Board hereby directs the Program Administrator to prepare the Report and file said Report with the Board at or before the time of the public hearing described in Section 6 hereof containing all of the following:

- (a) A map showing the boundaries of the territory within which contractual assessments are proposed to be offered, as set forth in Section 4 hereof.
- (b) A draft contractual assessment contract (the “Contract”) specifying the terms and conditions of the agreement between CEDA and a property owner.
- (c) A statement of CEDA’s policies concerning contractual assessments including all of the following:
 - (1) Identification of types of Authorized Improvements that may be financed through the use of contractual assessments.
 - (2) Identification of the CEDA official authorized to enter into contractual assessments on behalf of CEDA.
 - (3) A maximum aggregate dollar amount of contractual assessments.
 - (4) A method for setting requests from property owners for financing through contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount.
- (d) A plan for raising a capital amount required to pay for work performed in connection with contractual assessments. The plan may include the sale of a bond or bonds or other financing relationship pursuant to Section 5898.28 of Chapter 29. The plan (i) shall include a statement of, or method for determining, the interest rate and time period during which contracting property owners would pay any assessment, (ii) shall provide for any reserve fund or funds, and (iii) shall provide for the apportionment of all or any portion of the costs incidental to financing, administration and collection of the contractual assessment program among the consenting property owners and CEDA.

A report on the results of the discussions with the County Auditor-Controller described in Section 10 hereof, concerning the additional fees, if any, that will be charged to CEDA for inclusion of the proposed contractual assessments on the general property tax roll of the City, and a plan for financing the payment of those fees.

Section 9. Nature of Assessments. Assessments levied pursuant to Chapter 29, and the interest and any penalties thereon, will constitute a lien against the lots and parcels of land on which they are made, until they are paid. Unless otherwise directed by CEDA, the assessments shall be collected in the same manner and at the same time as the general taxes of the City on real property are payable, and subject to the same penalties and remedies and lien priorities in the event of delinquency and default.

Section 10. Consultations with County Auditor-Controller. CEDA hereby directs the Program Administrator to enter into discussions with the County Auditor-Controller in order to reach agreement on what additional fees, if any, will be charged to CEDA for incorporating the proposed contractual assessments into the assessments of the general taxes of the County on real

property.

Section 11. Preparation of Current Roll of Assessment. Pursuant to Section 5898.24(c), CEDA hereby designates the Program Administrator as the responsible party for annually preparing the current roll of assessment obligations by assessor's parcel number on property subject to a voluntary contractual assessment.

Section 12. Procedures for Responding to Inquiries. The Program Administrator shall establish procedures to promptly respond to inquiries concerning current and future estimated liability for a voluntary contractual assessment.

Section 13. Effective Date. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 201_.

CALIFORNIA ENTERPRISE
DEVELOPMENT AUTHORITY

By: _____
Gurbax Sahota, Chair

ATTEST:

Helen Schaubmayer, Assistant Secretary

EXHIBIT B
Indemnification Agreement

INDEMNIFICATION AGREEMENT

BY AND BETWEEN

THE CITY OF MORRO BAY AND
FIGTREE COMPANY, INC.

This Indemnification Agreement (the “Agreement”) is entered into by and between the City of Morro Bay, a municipal corporation, duly organized and existing under the laws of the State of California (the “City”) and Figtree Company, Inc., a California corporation, the administrator of the Figtree Property Assessed Clean Energy and Job Creation Program (the “Administrator”), which is a program of the California Enterprise Development Authority, a California joint exercise of powers authority (the “Authority”).

RECITALS

WHEREAS, the Authority is a joint exercise of powers authority whose members include the City in addition to other cities and counties in the State of California; and

WHEREAS, the Authority established the Figtree Property Assessed Clean Energy and Job Creation Program (the “Figtree PACE Program”) to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements that are permanently affixed to real property through the levy of assessments voluntarily agreed to by the participating property owners pursuant to Chapter 29 of Division 7 of the Streets and Highways Code (“Chapter 29”) and the issuance of improvement bonds, or other forms of indebtedness, under the Improvement Bond Act of 1915 upon the security of the unpaid assessments; and

WHEREAS, the Authority has conducted or will conduct proceedings required by Chapter 29 with respect to the territory within the boundaries of the City; and

WHEREAS, the legislative body of the City adopted or will adopt a resolution authorizing the City to join the Figtree PACE Program; and

WHEREAS, the City will not be responsible for the formation, operation and administration of the Figtree PACE Program as well as the sale and issuance of any bonds or other forms of indebtedness in connection therewith, including the conducting of assessment proceedings, the levy and collection of assessments and any remedial action in the case of such assessment payments, and the offer, sale and administration of any bonds issued by the Authority on behalf of the Figtree PACE Program; and

WHEREAS, the Administrator is the administrator of the Figtree PACE Program and agrees to indemnify the City in connection with the operations of the Figtree PACE Program as set forth herein;

NOW, THEREFORE, in consideration of the above premises and of the City’s agreement to join the Figtree PACE Program, the parties agree as follows:

1. **Indemnification.** Figtree has provided the CEDA with an indemnification for negligence or malfeasance of any type as a result of the acts or omissions of Figtree, its officers, employees, subcontractors and agents, arising from or related to the Figtree PACE Program, the assessments, the assessment districts, the improvements or the financing and marketing thereof. Figtree agrees to defend, indemnify and hold harmless the City, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all actions, suits, proceedings, claims, demands, losses, costs and expenses, including legal costs and attorneys' fees, for injury or damage ("Damages") arising as a result of any act or omission of Figtree or any of its officers, employees, contractors or agents; provided, that the obligation to indemnify and hold harmless is only to the extent Figtree or any of its officers, employees, contractors or agents caused Damages. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by Figtree.

2. **Amendment/Interpretation of this Agreement.** This Agreement represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. This Agreement shall not be interpreted for or against any party by reason of the fact that such party may have drafted this Agreement or any of its provisions.

3. **Section Headings.** Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

4. **Waiver.** No waiver of any of the provisions of this Agreement shall be binding unless in the form of writing signed by the party against whom enforcement is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

5. **Severability, Governing Law and Venue.** If any provision or portion thereof of this Agreement shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to contracts made and to be performed in California. Venue for any action relating to this Agreement shall be the Superior Court of the County of San Luis Obispo.

6. **Notices.** All notices, demands and other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed certified or registered mail and addressed as follows:

If to the Administrator

Figtree Company, Inc.
9330 Scranton Road, Suite 600

San Diego, California 92121
Attn: Chief Executive Officer

If to the City:

City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
Attn: City Manager

7. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, which together shall constitute the same instrument.

8. **Effective Date.** This Agreement will be effective as of the date of the signature of City's representative as indicated below in the signature block.

IN WITNESS HEREOF, the parties hereto duly executed this Agreement as of the date below.

City of Morro Bay

By _____
Jamie L Irons, Mayor

Date: _____, 2017

APPROVED AS TO FORM:

Joseph W. Pannone, City Attorney

ATTEST:

Dana Swanson, City Clerk

Figtree Company, Inc., a California corp.

By _____
Peter Grabell, Senior Vice President

By _____
_____,
Its _____

Date: _____, 2017

EXHIBIT C
Associate Member Agreement

ASSOCIATE MEMBERSHIP AGREEMENT

by and between the

CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY

and the

CITY OF MORRO BAY, CALIFORNIA

THIS ASSOCIATE MEMBERSHIP AGREEMENT (this “Associate Membership Agreement”), dated as of _____ by and between CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY (the “Authority”) and the CITY OF Morro Bay, CALIFORNIA, a municipal corporation, duly organized and existing under the laws of the State of California (the “City”);

WITNESSETH:

WHEREAS, the Cities of Selma, Lancaster and Eureka (individually, a “Member” and collectively, the “Members”), have entered into a Joint Powers Agreement, dated as of June 1, 2006 (the “Agreement”), establishing the Authority and prescribing its purposes and powers; and

WHEREAS, the Agreement designates the Executive Committee of the Board of Directors and the President of the California Association for Local Economic Development as the initial Board of Directors of the Authority; and

WHEREAS, the Authority has been formed for the purpose, among others, to assist for profit and nonprofit corporations and other entities to obtain financing for projects and purposes serving the public interest; and

WHEREAS, the Agreement permits any other local agency in the State of California to join the Authority as an associate member (an “Associate Member”); and

WHEREAS, the City desires to become an Associate Member of the Authority;

WHEREAS, City Council of the City has adopted a resolution approving the Associate Membership Agreement and the execution and delivery thereof;

WHEREAS, the Board of Directors of the Authority has determined that the City should become an Associate Member of the Authority;

NOW, THEREFORE, in consideration of the above premises and of the mutual promises herein contained, the Authority and the City do hereby agree as follows:

Section 1. Associate Member Status. The City is hereby made an Associate Member of the Authority for all purposes of the Agreement and the Bylaws of the Authority, the provisions of which are hereby incorporated herein by reference. From and after the date of execution and delivery of this Associate Membership Agreement by the City and the Authority, the City shall be and remain an Associate Member of the Authority.

Section 2. Restrictions and Rights of Associate Members. The City shall not have the right, as an Associate Member of the Authority, to vote on any action taken by the Board of Directors or by the Voting Members of the Authority. In addition, no officer, employee or representative of the City shall have any right to become an officer or director of the Authority by virtue of the City being an Associate Member of the Authority.

Section 3. Effect of Prior Authority Actions. The City hereby agrees to be subject to and bound by all actions previously taken by the Members and the Board of Directors of the Authority to the same extent as the Members of the Authority are subject to and bound by such actions.

Section 4. No Obligations of Associate Members. The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the City.

Section 5. Execution of the Agreement. Execution of this Associate Membership Agreement and the Agreement shall satisfy the requirements of the Agreement and Article XII of the Bylaws of the Authority for participation by the City in all programs and other undertakings of the Authority.

IN WITNESS WHEREOF, the parties hereto have caused this Associate Membership Agreement to be executed and attested by their proper officers thereunto duly authorized, on the day and year first set forth above.

**CALIFORNIA ENTERPRISE DEVELOPMENT
AUTHORITY**

By: _____
Gurbax Sahota, Chair
Board of Directors

Attest:

Helen Schaubmayer, Asst. Secretary

CITY OF MORRO BAY CALIFORNIA

By: _____
Jamie L. Irons, Mayor

Attest:

Approved as to Form;

Dana Swanson, City Clerk

Joseph W. Pannone, City Attorney

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AGENDA NO: A-6
MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 28, 2017

FROM: Rob Livick, PE/PLS, Public Works Director/City Engineer
Rick Sauerwein, PE – Capital Projects/Engineering Division Manager

SUBJECT: Adoption of Resolution No. 41-17 approving the summary vacation (abandonment) of a portion of the sewer easement at northeast portion of property at 110 Orcas Street, using the authority established by Streets and Highways section 8333 *et seq.*

RECOMMENDATION

Adopt City Council Resolution No. 41-17, finding the summary vacation of the public utility easement is consistent with the requirements established by the California Streets and Highways Code (SHC), section 8333 *et seq.*

ALTERNATIVES

1. Continue the summary vacation if additional information is needed, with specific directions given to staff.
2. Deny the summary vacation.

APPLICANT/AGENT: Travis Robson

PROPERTY OWNER: Travis Robson

LEGAL DESCRIPTION/APN:
065-111-030

ZONING:
R-1/S.2A

GENERAL PLAN DESIGNATION:
Single Family Residential, Special Building Site & Yard Standards

COASTAL DESIGNATION:

Coastal Appeals Area (Summary Vacation is not Subject to a Coastal Permit)



Prepared By: PN/RS

Dept. Review: RL

City Manager Review: MRL

City Attorney Review: JWP

ENVIRONMENTAL STATUS:

Categorically exempt under Class 2, 4 and 5, Replacement or Reconstruction, Minor Alterations to Land and Minor Alterations in Land Use Limitations (Sections 15302, 15304 and 15305 of the State CEQA Guidelines)

SITE DESCRIPTION:

The easement is located at the southeast portion of the property at 110 Orcas Street. The total area of proposed abandonment is approximately 558 sf area. The area of proposed dedication for this public utility easement is 246 sf. Therefore, the net change in the size of this public utility easement is 312 sf. The project area is bounded by developed single- family residential parcels, open space and the State Park's campground.

PROJECT DESCRIPTION:

The proposed project is a summary vacation of an unused portion of the existing sewer easement.

DISCUSSION

The applicant has requested the City abandon a portion of the public sewer easement in return for dedication of a new public sewer easement at the southeast portion of the property. This action benefits the public because it is necessary to realign the easement to conform with the actual location of the sewer main line thereby allowing legal access by City forces to maintain the existing sewer infrastructure. The portion of this sewer easement proposed for abandonment has no existing sewer main line or proposed future utility use and the abandonment will allow for the development of the parcel consistent with the City's General Plan.

The SHC §8300 *et seq*, Public Streets, Highways, and Service Easements Vacation Law contains procedures under which a local agency can vacate (or abandon) its Rights-of-Ways.

The SHC requires a (public service easement) vacation (abandonment) be done in the interest of the public and not an individual property owner. Since this action, realigning the sewer easement, satisfies the requirement of SHC §8333, where the easement was never used for its intended purpose, the City Council may summarily vacate this parcel without a public hearing, General Plan consistency determination by the Planning Commission, or notification of neighboring property owners.

CONCLUSION

The abandonment of this unused sewer easement meets the requirements of SHC, section 8333. *et seq*. The property owner has dedicated a replacement sewer easement in the correct location to provide access to the sewer facilities, and staff recommends the City Council approve the abandonment.

ATTACHMENT

1. Resolution No. 41-17

RESOLUTION NO. 41-17

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
VACATING A PORTION OF THE PUBLIC UTILITY (SEWER) EASEMENT LOCATED
ON A PORTION OF PROPERTY AT 110 ORCAS STREET, USING THE AUTHORITY
ESTABLISHED BY THE CALIFORNIA STREETS AND HIGHWAYS CODE, SECTION
8335 ET SEQ.**

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

WHEREAS, the City Council of the City of Morro Bay (the "City") is agreeable to the relocation of a public utility easement to conform with the actual alignment of the existing sewer line on a portion of Lot 2, Block 6, Tract 81, as shown on the Map Recorded April 28, 1958, and filed in Book 5 at Page 111 in the office of the County Recorder of San Luis Obispo County, State of California; also known as 110 Orcas Street; APN: 065-111-030;

WHEREAS, pursuant to California Streets and Highways Code, section 8333, the City Council has the authority to summarily vacate said public utility easement sewer and utility easement since:

(a) The portion of the easement to be vacated has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation

(b) The easement has been superseded by relocation, and determined to be excess by the easement holder, and there are no other public facilities located within the easement;

WHEREAS, all entities having any potential right, title, or interest in the public service easement being vacated have been notified of this action and have responded they have no known future need for reservation of rights to that portion of the easement;

WHEREAS, from and after the date this Resolution is recorded, the vacated public easement no longer constitutes a public easement and is returned to the adjoining property owner in perpetuity, as fair and reasonable compensation for that new portion dedicated for public use; and

WHEREAS, the Mayor of the City of Morro Bay, under the authority granted in the adopted City Council Policies and Procedures, has accepted the dedication of a new portion of said public sewer easement to properly align said easement with the actual location of the existing sewer line.

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

Section 1: Findings. Based upon all the evidence, the Council makes the following findings:

California Environmental Quality Act (CEQA) Findings

1. Pursuant to the State CEQA Guidelines, sections 15302, 15304 and 15305, the project is categorically exempt from CEQA review.
2. The exceptions to the categorical exemptions identified in the State CEQA Guidelines, section 15300.2 do not apply.

Section 2. Finding. The Council of the City of Morro Bay has evaluated the suitability of this public utility relocation in relation to applicable provisions of California Streets and Highways Code, section 8333 *et seq.* and finds the easement can be summarily vacated consistent with the procedures outlined in Section 8335.

Section 3. Action. The City Council does hereby find the disposition of that portion of the sewer easement located on 110 Orcas Street as described in EXHIBIT A and shown on EXHIBIT B, is hereby vacated and orders the City Clerk to cause the recording of this Resolution together with dedication of the new easement in the Office of the County Clerk Recorder for the County of San Luis Obispo California.

PASSED AND ADOPTED by the Morro Bay City Council at a regular meeting thereof held on this 11th day of July, 2017 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jamie L. Irons, Mayor

ATTEST

Dana Swanson, City Clerk

**EXHIBIT "A" – LEGAL DESCRIPTION
SEWER EASEMENT QUITCLAIM**

SEWER EASEMENT TO BE ABANDONED IS DESCRIBED AS FOLLOWS:

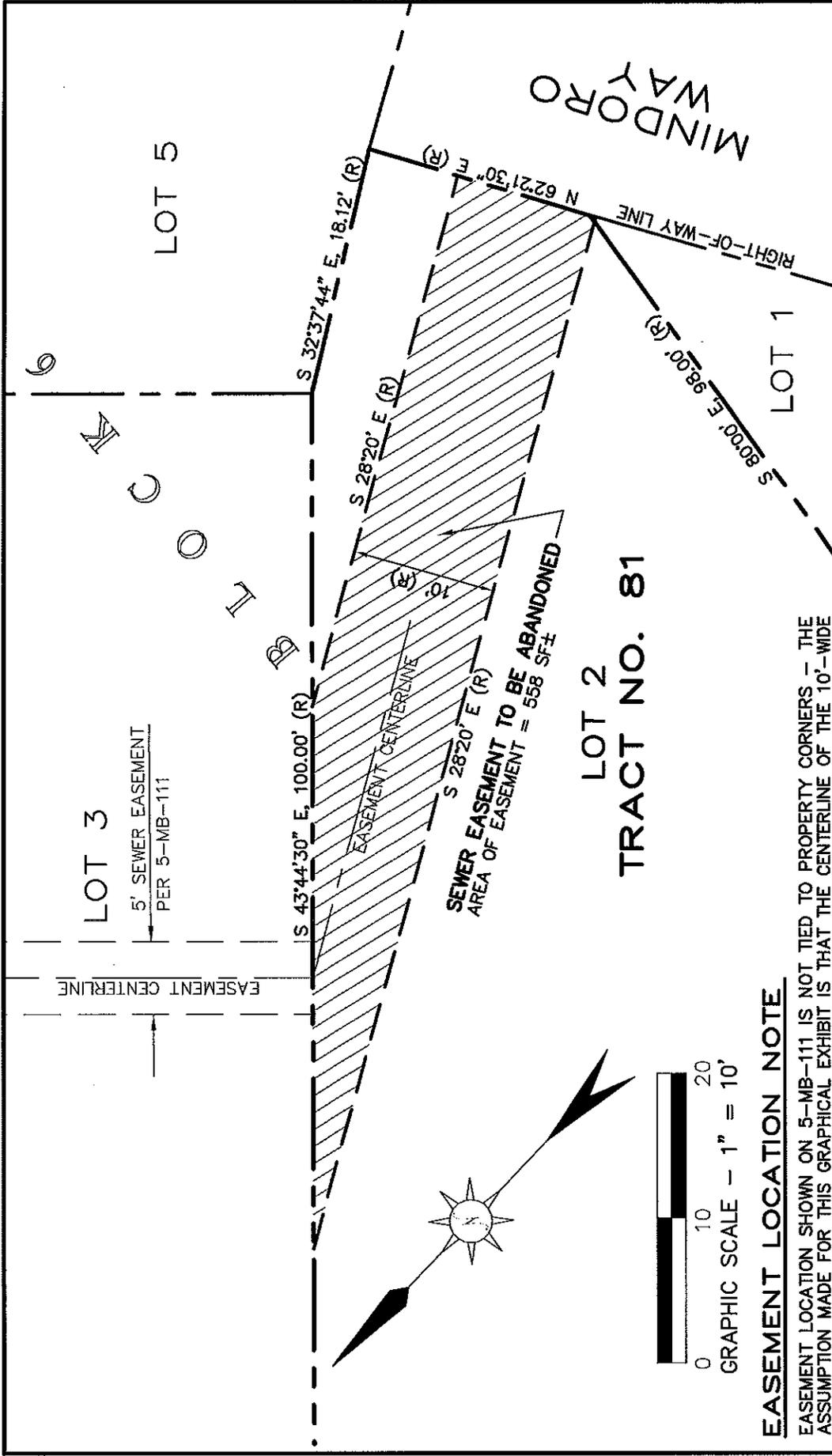
Situated in the City of Morro Bay, County of San Luis Obispo, State of California. Being a portion of Lot 2 in Block 6 of "Map of Tract No. 81", as shown on map recorded April 28, 1958, and filed in Book 5 of Maps at Page 111 in the office of the County Recorder of said County, described as follows:

All that portion of 10'-wide Sewer Easement shown on Lot 2 in Block 6 of said map.

End of Description

The above-described parcel of land contains 558 square feet, more or less, and is shown graphically on Exhibit "B", attached hereto and made a part hereof.

Matthew A. Beutz
P.L.S. No. 8557
April 28, 2017



**LOT 2
TRACT NO. 81**

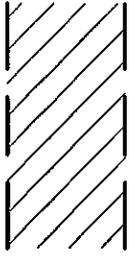
SEWER EASEMENT TO BE ABANDONED
AREA OF EASEMENT = 558 SF±

EASEMENT LOCATION NOTE

EASEMENT LOCATION SHOWN ON 5-MB-111 IS NOT TIED TO PROPERTY CORNERS - THE ASSUMPTION MADE FOR THIS GRAPHICAL EXHIBIT IS THAT THE CENTERLINE OF THE 10'-WIDE EASEMENT TO BE ABANDONED ON LOT 2 INTERSECTS WITH THE CENTERLINE OF THE 5'-WIDE EASEMENT ON LOT 3 AT THE COMMON LINE TO LOTS 2 AND 3.

LEGEND

- POB POINT OF BEGINNING
- (R) RECORD DATA PER 5-MB-111



CROSS-HATCHED AREA INDICATES EXISTING SEWER EASEMENT PER 5-MB-111 TO BE ABANDONED

EXHIBIT "B"

SEWER EASEMENT DIAGRAM

SHOWING A SEWER EASEMENT ABANDONMENT ON LOT 2 IN BLOCK 6 OF TRACT NO. 81, AS SHOWN ON MAP FILED IN BOOK 5 OF MAPS AT PAGE 111 IN THE OFFICE OF THE COUNTY RECORDER OF SAN LUIS OBISPO COUNTY CITY OF MORRO BAY, CA

BY: MATTHEW A. BEAUTZ, P.L.S. NO. 8557

SCALE: 1" = 10'

APRIL, 2017

CERTIFICATE OF ACCEPTANCE

(Government Code, Section 27281)

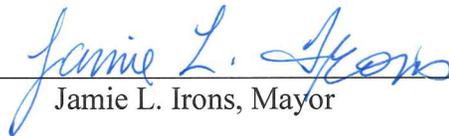
THIS IS TO CERTIFY the CITY OF MORRO BAY, a municipal corporation, Grantee herein, acting by authority adopted granted by City Council Policies and Procedures, Section 3.9, hereby accepts for public purposes the real property, or interest therein, conveyed by the within deed and consents to the recordation thereof by its duly authorized officer.

IN WITNESS WHEREOF, I have hereunto set my hand and the City's official seal has

been affixed, this 5 day of JULY, 2017.

THE CITY OF MORRO BAY, a municipal corporation

By: _____


Jamie L. Irons, Mayor

**RECORDING REQUESTED BY: and
WHEN RECORDED MAIL TO:**

City of Morro Bay
Public Works Dept.
595 Harbor Street
Morro Bay, CA 93442

OFFER OF DEDICATION

(for sewer easement purpose)

A.P.N. 065-111-030

For a valuable consideration, receipt of which is hereby acknowledged, Travis B. Robson (Owner), the undersigned, being present fee title owner of record of the herein described parcel of land, do hereby make an irrevocable offer of dedication to the City of Morro Bay and its successors or assigns, for right of way and utility purposes, the real property situated in the City of Morro Bay, County of San Luis Obispo, State of California, as described in Exhibit "A" and shown on Exhibit "B" attached hereto.

It is understood and agreed that the City of Morro Bay and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City of Morro Bay.

The provisions hereof shall insure to the benefit of and be binding upon heirs, successors, assigns and personal representatives of the respective parties hereto.

IN WITNESS WHEREOF, these presents have executed this instrument this 25 day of MAY 2017.

By: 

Printed Name/Title: Travis Robson

Date May 25 2017

By: _____

Printed Name/Title: _____

By: _____

Printed Name/Title: _____

NOTARY PUBLIC CERTIFICATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO

On 5/25/17 before me, CHRISTOPHER PETRUSKY,
personally appeared TRAVIS B ROBSON who proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that
by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of
California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



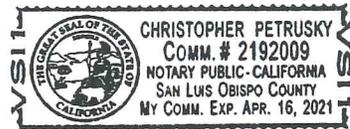


EXHIBIT "A" – LEGAL DESCRIPTION

SEWER EASEMENT TO BE DEDICATED IS DESCRIBED AS FOLLOWS:

Situated in the City of Morro Bay, County of San Luis Obispo, State of California. Being a portion of Lot 2 in Block 6 of "Map of Tract No. 81", as shown on map recorded April 28, 1958 and filed in Book 5 of Maps at Page 111 in the office of the County Recorder of said County, described as follows:

BEGINNING at the most easterly corner of said Lot 2, said corner being marked by a 5/8" rebar with yellow plastic cap "PLS 5702" as shown on map recorded January 8, 2016 and filed in Book 111 of Licensed Surveys at Page 83 in the office of the County Recorder of said County. Thence, from said POINT OF BEGINNING, the following five courses:

- 1) Along the southeast line of said Lot 2, South 63°00'04" West, a distance of 10.02 feet to a point lying 10.00 feet distant therefrom (measured at right angles thereto) the southerly segment of the northeast line of said Lot 2; thence,
- 2) Along a line parallel with and lying 10.00 feet distant therefrom (measured at right angles thereto) said southerly segment of the northeast line of said Lot 2, North 30°23'14" West, a distance of 25.13 feet; thence,
- 3) Along a line perpendicular to said southerly segment of the northeast line of said Lot 2, North 59°36'46" East, a distance of 7.99 feet to a point lying on the northerly segment of the northeast line of said Lot 2; thence,
- 4) Along the northeast line of said Lot 2, South 43°53'09" East, a distance of 8.63 feet to an angle point therein, said angle point being marked by a 5/8" rebar with yellow plastic cap "PLS 5702" as shown on map filed in Book 111 of Licensed Surveys at Page 83 in the office of the County Recorder of said County; thence,
- 5) Continuing along the northeast line of said Lot 2, South 30°23'14" East, a distance of 17.34 feet to the POINT OF BEGINNING.

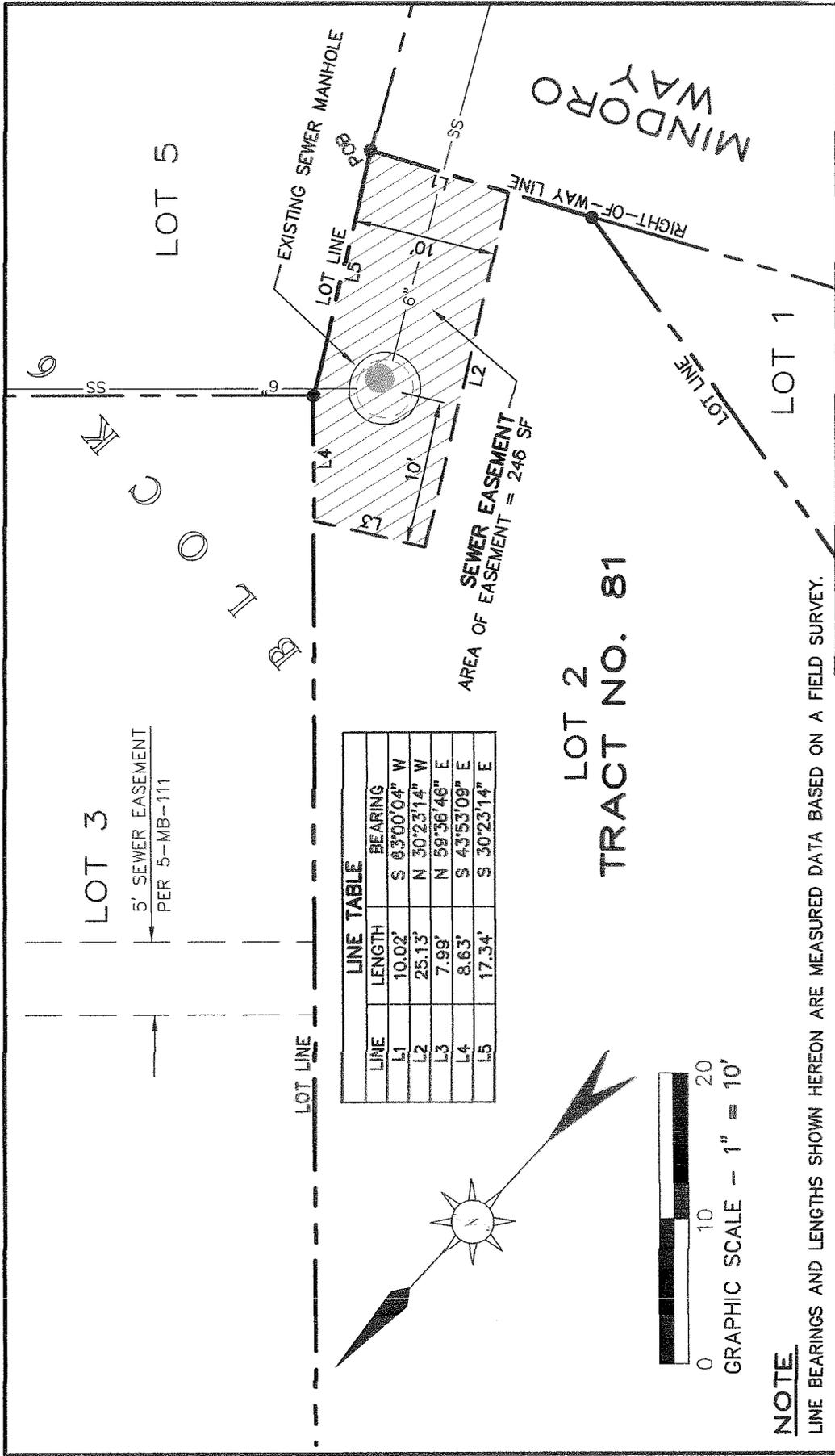
End of Description

Area of Described Easement = 246 square feet

This easement boundary description is based on a field survey made by me in January, 2016. The attached Exhibit "B" (Sewer Easement Diagram) should be used to assist in retracing the courses described herein.

Basis of Bearings for the line descriptions contained herein is the southeast line of Orcas Street, being established between a found Mag Nail with tag "PLS 5702" in the top of an old 2x2 Hub at the west corner of said Lot 2 and a found 1-1/4" Iron Pipe (no tag) at the north corner of Lot 4 in Block 6 of "Map of Tract No. 81". Bearing between said monuments is taken to be North 46°15'30" East as shown on 5-MB-111.

Matthew A. Beautz, PLS No. 8557



LOT 3

5' SEWER EASEMENT
PER 5-MB-111

LOT 5

LOT 1

LINE	LENGTH	BEARING
L1	10.02'	S 63°00'04" W
L2	25.13'	N 30°23'14" W
L3	7.99'	N 59°36'46" E
L4	8.63'	S 43°53'09" E
L5	17.34'	S 30°23'14" E

SEWER EASEMENT
AREA OF EASEMENT = 246 SF

LOT 2
TRACT NO. 81

MINDORO

NOTE

LINE BEARINGS AND LENGTHS SHOWN HEREON ARE MEASURED DATA BASED ON A FIELD SURVEY.

LEGEND

POB POINT OF BEGINNING

● FOUND 5/8" REBAR W/ CAP "PLS 5702" PER 111-LS-83

CROSS-HATCHED AREA INDICATES SEWER EASEMENT TO BE DEDICATED

—6"— SS — EXISTING 6" PVC SANITARY SEWER LINE

EXHIBIT "B"

SEWER EASEMENT DIAGRAM

SHOWING A SEWER EASEMENT DEDICATION ON LOT 2 IN BLOCK 6 OF TRACT NO. 81, AS SHOWN ON MAP FILED IN BOOK 5 OF MAPS AT PAGE 111 IN THE OFFICE OF THE COUNTY RECORDER OF SAN LUIS OBISPO COUNTY

CITY OF MORRO BAY, CA

BY: MATTHEW A. BEUTZ, P.L.S. NO. 8557

SCALE: 1" = 10'

APRIL, 2017

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AGENDA NO: A-7

MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 14, 2017

FROM: Richard Sauerwein, PE, Capital Projects Manager
Jarrod Whelan, PE, Associate Civil Engineer

SUBJECT: Update on FY16/17 PMP
Project No. MB2017-ST01: Pavement Preservation Project

RECOMMENDATION

Council receive and file this report.

ALTERNATIVES

Staff does not recommend any alternatives to the recommendation.

BACKGROUND and DISCUSSION

This project entailed furnishing and supplying labor, materials, tools, equipment, transportation, and services necessary to complete the treatment of existing pavement with slurry sealing, chip seal, and microsurfacing of approximately 9.9 centerline miles of road work or about 20-percent of the City's streets. The City engaged the civil engineering consulting firm of Rick Engineering Company to perform a City-wide street assessment to obtain current Pavement Condition Index (PCI) values prior to bidding the project.

The contract for this project was awarded to Pavement Coating Company of Jurupa Valley, CA, by City Council on October 25, 2016. The project was expected to begin before Thanksgiving 2016 and finish in approximately 3-weeks. However, an unexpected rainy winter delayed the project multiple times resulting in a mobilization in early March. Again, a wet spring weather delayed the multiple applications of slurry and chip seal. The final slurry application was applied at the end of April 2017.

FISCAL IMPACT

The budget for this project was funded with revenues generated in 2016 & 2017 by the City's local option sales tax (Measure Q), which typically generates approximately \$500,000 per year. The FY16/17 Budget allocated \$1,036,037 to the Pavement Management Plan. Finally, at the mid-year budget review, another \$55,448 of unallocated Measure Q surplus funds were added for a total amount of \$1,091,485.

Additionally, staff anticipates two grant reimbursements totaling \$38,424 from CalRecycle for the beneficial use of recycled tires in the rubber binder used for chip seal.

The project included striping revisions to San Jacinto Street, between Main Street and Cedar Avenue, to improve cycling and pedestrian safety at a cost of \$22,450. That portion of the project was funded separately by Council during the 2015/16 budget in the amount of \$25,000 and those

Prepared By: JW

Dept Review: RL

City Manager Review: ___MRL___

City Attorney Review: ___JWP___

funds were carried forward and included in this project.

The total construction project cost for this first delivery order with Pavement Coatings was \$1,068,784.

Rick Engineering provided construction inspection support when multiple contracting crews were working throughout Morro Bay. The total consultant engineering cost was \$29,081.

Other miscellaneous expenses incurred, in the amount \$2,900, for public advertising of bid, printing, and software.

The total FY16/17 PMP cost was \$1,078,337, thus providing a remaining balance of \$13,148, which will be utilized to prepare for the 2018 pavement preservation work in October/November 2017.

CONCLUSION

Pavement Coatings Company has completed the first delivery report. Staff accepts the Project and shall release the retention payment following satisfactory evidence that all subcontractors have been paid.

ATTACHMENTS

None.



AGENDA NO: A-8

MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 29, 2017

FROM: Eric Endersby, Harbor Director

SUBJECT: Adoption of Resolution No. 42-17, Approving Transfer of 51.02% Membership Interest of Morro Bay Oyster Company, LLC, From Dwight K. Maloney to Morro Bay Oyster Company, LLC, and Conditionally Authorizing the Mayor to Execute Documents Necessary for a New Loan for the Lease Agreement at Lease Site 144/144W and Accepting a Deed of Trust related thereto (Morro Bay Oyster Company, 1287 Embarcadero)

RECOMMENDATION

Staff recommend the City Council adopt Resolution No. 42-17 authorizing the Mayor to approve the transfer of membership interest of Morro Bay Oyster Company, LLC (MBOC) for Lease Site 144/144W from Dwight K. Maloney to MBOC, authorizing the Mayor to execute documents necessary for a new loan regarding the leasehold interest at 144/144W, subject to approval of the City Attorney and accepting a deed of trust related thereto.

ALTERNATIVES

Do not approve Resolution No. 42-17.

FISCAL IMPACT

There are no fiscal impacts to these actions.

BACKGROUND

On January 13, 2015, the City Council approved the Assignment and Assumption of Lease Site 144/144W to MBOC from M&M Refrigeration. MBOC operates commercial oyster lease tracts from the State of California in the back bay of Morro Bay, and utilizes lease site 144/144W as a base of operations.

Membership Transfer

MBOC is owned and operated by two members. Neal Maloney and Dwight K. Maloney (Neal's father). Dwight K. Maloney is selling his 51.02% membership interest to MBOC to his son Neal, who will then solely own and operate MBOC.

Section 10.01 of the master lease states;

TENANT shall not assign or otherwise transfer this Lease, any right or interest in this Lease, or any right or interest in the Premises or any of the improvements that may now or hereafter be constructed or installed on the Premises without the express written consent of

Prepared By: EE

Dept Review: EE

City Manager Review: MRL

City Attorney Review: JWP

CITY evidenced by resolution first had and obtained.

Additionally, Section 10.02 of the master lease states a change of ownership of an LLC is considered a lease assignment as follows:

If TENANT is a partnership or limited liability company: A change in ownership effected voluntarily, involuntarily, or by operation of law, within a twelve-month (12-month) period, of twenty-five percent (25%) or more of the partners or members or twenty-five percent (25%) or more of the partnership or membership interests.

Deed of Trust

Due to abnormally heavy rains last winter, MBOC was closed to selling product continuously through the wet season. In March of this year, MBOC requested and was approved by the City Council for a Deed of Trust as security for a small, short-term loan to cover its operating expenses during the prolonged rainfall closure. In addition, MBOC is carrying debt with the previous lease owners, M&M Refrigeration/Charles and Sandra Marciel, for the purchase of the lease.

MBOC has installed a “wet storage” tank system on the lease site where oyster product can be harvested prior to or during rainfall periods and stored in isolation from the bay, thus ensuring marketable product through rainy periods. In addition to the funds needed to cover ongoing payroll expenses, funding is needed for the final steps to get the “wet storage” tank system up and running.

DISCUSSION

Membership Transfer

With Mr. Maloney junior buying out Mr. Maloney senior for 100% ownership and control of MBOC and the lease site operation, an assignment of the lease is necessary to approve the ownership transfer within MBOC. MBOC is a tenant in good standing, and the City cannot unreasonably withhold approval of this assignment.

Deed of Trust

MBOC now wishes to consolidate both existing loans into one new loan with more advantageous terms, and are requesting approval of the deed of trust to collateralize an SBA loan with Umpqua Bank to enable this.

CONCLUSION

Staff recommends the City Council adopt Resolution No. 42-17, approving the transfer of membership interest in MBOC as-presented, and authorizing the Mayor to execute all necessary documents for the loan to MBOC from Umpqua Bank, as approved by the City Attorney.

ATTACHMENTS

1. Resolution No. 42-17

RESOLUTION NO. 42-17

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING TRANSFER OF 51.02% MEMBERSHIP INTEREST OF MORRO BAY
OYSTER COMPANY LLC, FROM DWIGHT K. MALONEY TO MORRO BAY OYSTER
COMPANY, LLC, AND CONDITIONALLY AUTHORIZING THE MAYOR TO EXECUTE
DOCUMENTS NECESSARY FOR A NEW LOAN FOR THE LEASE AGREEMENT AT
LEASE SITE 144/144W WITH MORRO BAY OYSTER COMPANY
LOCATED AT 1287 EMBARCADERO ROAD, MORRO BAY AND ACCEPTING A
DEED OF TRUST RELATED THERETO**

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

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

WHEREAS, since 2015, Morro Bay Oyster Company, LLC, (MBOC) has been the lessee of Lease Site 144/144W, located at 1287 Embarcadero; and

WHEREAS, Dwight K. Maloney is selling fifty-one and two hundredths percent (51.02%) membership interest in MBOC and MBOC desires to redeem that interest from the seller; and

WHEREAS, MBOC is refinancing existing approved loans on the lease site (the "Financing"); and

WHEREAS, MBOC's refinancing lender, Umpqua Bank, is requesting approval of a deed of trust to secure the Financing using the lease as security; and

WHEREAS, MBOC, has satisfactorily submitted the necessary documents for transfer of membership interest and is a tenant in good standing.

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

1. The City Council approves the subject transfer between Dwight K. Maloney and MBOC.
2. The Mayor is hereby authorized to execute said transfer, as approved by the City Attorney.
3. The Mayor is hereby directed to execute, as necessary, any and all documents, as approved by the City Attorney, necessary to consummate the refinancing desired by MBOC.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of July 2017 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jamie L. Irons, Mayor

ATTEST:

Dana Swanson, City Clerk



AGENDA NO: A-9
MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 28, 2017

FROM: Dana Swanson, City Clerk/Risk Manager
Rob Livick, PE/PLS, Public Works Director/City Engineer

SUBJECT: Approval of Revised Senior Civil Engineer Job Description and Revised FY 17/18 Combined Salary Schedule

RECOMMENDATION

Staff recommends the Council review and approve the revised Senior Civil Engineer Job Description and approve the Combined Salary Schedule which has been revised to include this position.

ALTERNATIVES

Retain the existing Organizational Structure with the Capital Projects Manager.

FISCAL IMPACT

There is no fiscal impact associated with the requested action. The proposed salary range for a Senior Civil Engineer is equal to that budgeted for the Capital Projects Manager.

BACKGROUND/DISCUSSION

On May 31, 2017, the City's Capital Projects Manager, Rick Sauerwein, announced his retirement effective July 31, 2017. Following the announcement, staff assessed the current Engineering Division needs and organizational structure to determine the best path forward, and found that compared to other similar size cities have either a Senior Engineer or Capital Projects Manager who reports directly to the Public Works Director. In effect the Senior Public Works Official, i.e. the Director is responsible for the preparation of the Capital improvement program and is designated as the Engineer in Responsible Charge of all Capital Projects. The duties and responsibilities of a Senior Civil Engineer are deemed appropriate for Morro Bay's project needs and in line with many of the current duties of the Capital Projects Manager position. Additionally, the duties and salary range of positions using the title "Capital Projects Manager" are generally higher in other cities.

The City commissioned 2016 Compensation Study, while incomplete for many positions, included six comparisons for the Capital Projects Manager position. According to that study, Morro Bay was 19.3% below median. Staff believes the continued use of that job title creates both an inaccurate vision for the position and potential compensation. Given the organizational needs do not support having a Capital Projects Manager, staff recommends the upcoming vacancy be filled with a Senior

Prepared By: DS/RL Dept Review: _____
City Manager Review: MRL City Attorney Review: JWP

Civil Engineer and are presenting a revised job description for Council review and approval. In addition, staff recommends the salary be equivalent to the current salary range for a Capital Projects Manager which given the City's current salary structure is appropriate for the level of responsibility and requirements. The position would be placed at a range that is equal to the recently activated Senior Planner in the Community Development Department. Once the job description and revised salary schedule is approved staff will begin recruiting for this position.

CONCLUSION

Staff recommends the Council review and approve the revised Senior Civil Engineer Job Description and Combined Salary Schedule which has been revised to include this position.

ATTACHMENTS

1. Senior Civil Engineer Job Description
2. Revised FY 17/18 Combined Salary Schedule

SENIOR CIVIL ENGINEER

CITY OF MORRO BAY

SENIOR CIVIL ENGINEER

DEFINITION

Under administrative direction of the Public Works Director/City Engineer, the Senior Civil Engineer performs professional engineering work for a variety of public works projects and private development proposals, ensuring technical competence and compliance with all current codes and criteria; assists in the selection and supervision of consultants; supervises technical and support staff; serves as project manager for capital improvement projects; provides support for the Director/City Engineer including development review engineering support and capital project program development.

ESSENTIAL DUTIES & RESPONSIBILITIES

1. Assists in the development of comprehensive community-wide resource and infrastructure capital improvement and replacement programs.
2. Prepares reports and presents oral and written presentations to the City Council, boards, commissions, other agencies, individuals, and groups.
3. Assists in the management/supervision of engineering division personnel including interviews, selection, training, evaluations, and discipline.
4. Analyzes budgeting needs and prepares budget submittals to the Director.
5. Determines applicable codes, regulations, and requirements for assigned projects.
6. Coordinates the preparation of, or develops, engineering plans and specifications; coordinates required advertising for bids; reviews construction bids and makes necessary recommendations based on lowest and best bids, competency of vendors and consultants, and the selection criteria.
7. Assists in and performs project management for the construction of municipal public works projects; oversees assigned projects to ensure contractor compliance with time and budget parameters for the project.
8. Assists in and prepares sanitary sewer, water, storm drainage, and street system improvement plans, maps, databases, and comprehensive plans.
9. Maintains the engineering library and infrastructure records.
10. Reviews or prepares record drawings for projects, and documents necessary changes for the operation and maintenance programs.
11. Responds to public or other inquiries relative to specific projects and other public works information.
12. Reviews utility permits, street use permits, franchise utility permits, etc.
13. Manages and maintains regular contact with consulting engineers, construction project engineers, City, County, State and Federal agencies, professional and technical groups and the general public regarding division activities and services.
14. Reviews private project development plans for compliance with codes,

SENIOR CIVIL ENGINEER

- regulations, and standards; ensures adequacy of applications for permits and compliance with approved plans in coordination with the Community Development Department.
15. Assists in the evaluation of transportation, traffic and utility impacts of development proposals, permits, rezones, plats, etc.; prepares and/or reviews traffic, utility and other studies and reports.
 16. Assists in the development and maintenance of pavement management systems.
 17. Monitors inter-governmental actions affecting public works operations.
 18. Assists in the training of other City personnel in public works design and construction techniques.
 19. May serve as the City's Americans with Disabilities Act (ADA) Coordinator
 20. Performs related duties as required.

QUALIFICATIONS

Knowledge of:

Thorough knowledge of civil engineering principles, practices and methods as applicable to a municipal setting; considerable knowledge of applicable City policies, laws, and regulations affecting Department activities; considerable skill in arriving at cost estimates on complex projects; skill in operating the listed tools and equipment.

Ability to:

Ability to communicate effectively, orally and in writing, with employees, consultants, other governmental agency representatives, City officials and the general public; ability to conduct necessary engineering research and compile comprehensive reports.

Education and Experience:

Graduation from a four-year college or university with a degree in civil engineering or closely related field and minimum of four years previous professional civil engineering experience; or any equivalent combination of education and experience.

Must be physically capable of moving about on construction work sites and under adverse field conditions.

Registration as a Registered Civil Engineer in the State of California is required.

Must possess a valid California driver's license.

TOOLS & EQUIPMENT USED

SENIOR CIVIL ENGINEER

Personal computer, including word processing, spreadsheet, and database and computer-aided-design software; standard drafting tools; surveying equipment including level, theodolite and total station; motor vehicle; telephone; mobile radio; fax and copy machine.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Work is performed mostly in office settings. Some outdoor work is required in the inspection of various land use developments, construction sites, or public works facilities. Hand-eye coordination is necessary to operate drafting instruments, computers and various pieces of office equipment.

While performing the duties of this job, the employee is occasionally required to stand; walk; use hands to finger, handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to sit; climb or balance; stoop, kneel, crouch, or crawl; talk or hear; and smell.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee may encounter while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee occasionally works in outside weather conditions. The employee occasionally works near moving mechanical parts and in high, precarious places and is occasionally exposed to wet and/or humid conditions, fumes or airborne particles, toxic or caustic chemicals, risk of electrical shock, and vibration.

The noise level in the work environment is usually quiet to moderate.

SELECTION GUIDELINES

Formal application, rating of education and experience, oral interview and reference check; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

SENIOR CIVIL ENGINEER

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Approved by the Morro Bay City Council on January 29, 2007.

Revised and approved by the Morro bay City Council on _____

City of Morro Bay, CA
Combined Salary Schedule

**CITY OF MORRO BAY
COMBINED SALARY SCHEDULE
FISCAL YEAR 2017-18**

TITLE	GROUP	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
ACCOUNT CLERK I	S	37,720	39,606	41,586	43,665	45,848	
COLLECTION SYSTEM OPERATOR I	S	37,720	39,606	41,586	43,665	45,848	
OFFICE ASST. III	S	37,720	39,606	41,586	43,665	45,848	
OFFICE ASST. IV	S	40,781	42,820	44,961	47,209	49,569	
ACCOUNT CLERK II	S	42,368	44,486	46,710	49,046	51,498	
COLLECTION SYS OPERATOR II	S	42,368	44,486	46,710	49,046	51,498	
CONSOLIDATED MAINTENANCE WRK II	S	42,368	44,486	46,710	49,046	51,498	
WATER SYSTEM OPERATOR I	S	42,368	44,486	46,710	49,046	51,498	
WASTEWATER SYSTEMS OIT	S	42,368	44,486	46,710	49,046	51,498	
WWTP OIT	S	42,368	44,486	46,710	49,046	51,498	
PERMIT TECHNICIAN	S	43,390	45,559	47,837	50,229	52,741	
ACCOUNT CLK III	S	45,377	47,646	50,028	52,529	55,156	
COLLECTION SYS OPERATOR III	S	45,377	47,646	50,028	52,529	55,156	
CONSOLIDATED MAINTENANCE WRK III	S	45,377	47,646	50,028	52,529	55,156	
WASTEWATER SYSTEM OP I	S	45,377	47,646	50,028	52,529	55,156	
WWTP OPR I	S	45,377	47,646	50,028	52,529	55,156	
ADMINISTRATIVE TECHNICIAN	S	46,178	48,487	50,912	53,457	56,130	
ADMINISTRATIVE UTILITIES TECH	S	46,178	48,487	50,912	53,457	56,130	
PERMIT TECHNICIAN - CERTIFIED	S	46,178	48,487	50,912	53,457	56,130	
SUPPORT SERVICES TECHNICIAN	S	46,178	48,487	50,912	53,457	56,130	
MECHANIC	S	47,655	50,038	52,540	55,167	57,925	
LEGAL ASSISTANT/DEPUTY CITY CLERK	C	50,061	52,564	55,192	57,951	60,849	
WATER SYSTEM OPERATOR II	S	50,478	53,002	55,652	58,434	61,356	
WASTEWATER SYSTEMS OP II	S	50,478	53,002	55,652	58,434	61,356	
WWTP OPERATOR II	S	50,478	53,002	55,652	58,434	61,356	
SUPPORT SERVICES COORDINATOR	C	52,567	55,195	57,955	60,853	63,895	
HARBOR PATROL OFFICER	S	52,650	55,283	58,047	60,949	63,997	
COLLECTIONS SYS LEADWORKER	S	52,802	55,442	58,215	61,125	64,182	

**CITY OF MORRO BAY
 COMBINED SALARY SCHEDULE
 FISCAL YEAR 2017-18**

TITLE	GROUP	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
CONSOLIDATED MAINT LW	S	52,802	55,442	58,215	61,125	64,182	
ENGINEERING TECHNICIAN III	S	52,802	55,442	58,215	61,125	64,182	
WATER SYSTEM OPERATOR III	S	53,001	55,651	58,434	61,356	64,423	
WASTEWATER SYSTEMS OP III	S	53,001	55,651	58,434	61,356	64,423	
WWTP OPERATOR II/LAB ANALYST	S	53,001	55,651	58,434	61,356	64,423	
RECREATION SUPERVISOR	S	53,977	56,676	59,510	62,486	65,610	
ASSISTANT PLANNER	S	54,314	57,030	59,881	62,875	66,019	
ASSISTANT CIVIL ENGINEER	S	56,484	59,308	62,273	65,387	68,656	
BUILDING INSPECTOR	S	56,484	59,308	62,273	65,387	68,656	
ENGINEERING TECHNICIAN IV	S	56,484	59,308	62,273	65,387	68,656	
WASTEWATER SYSTEMS LEADWORKER	S	56,484	59,308	62,273	65,387	68,656	
WWTP LEADWORKER	S	56,484	59,308	62,273	65,387	68,656	
FIREFIGHTER	F	56,771	59,610	62,590	65,720	69,006	
HUMAN RESOURCES ANALYST	C	58,715	61,651	64,734	67,970	71,369	
SENIOR ACCOUNTING TECHNICIAN	C	58,715	61,651	64,734	67,970	71,369	
POLICE SUPPORT SERVICES MANAGER	M	58,715	61,651	64,734	67,970	71,369	
HARBOR BUSINESS COORD	S	58,794	61,734	64,820	68,061	71,464	
RECREATION COORDINATOR	S	58,794	61,734	64,820	68,061	71,464	
POLICE OFFICER	P	60,184	63,193	66,353	69,671	73,154	76,812
HARBOR PATROL SUPERVISOR	S	62,017	65,118	68,374	71,792	75,382	
FIRE ENGINEER	F	62,066	65,169	68,428	71,849	75,442	
ASSOCIATE CIVIL ENGINEER	S	63,211	66,372	69,691	73,175	76,834	
ASSOCIATE PLANNER	S	63,211	66,372	69,691	73,175	76,834	
BUILDING INSPECTOR/PLANS EXAMINER	S	63,211	66,372	69,691	73,175	76,834	
COLLECTION SYSTEM SUPERVISOR	S	63,211	66,372	69,691	73,175	76,834	
CONSOLIDATED MAINT FIELD SUPV	S	63,211	66,372	69,691	73,175	76,834	
WATER SYSTEM SUPERVISOR	S	63,211	66,372	69,691	73,175	76,834	
WWTP SUPERVISOR	S	63,211	66,372	69,691	73,175	76,834	
MANAGEMENT ANALYST	M	64,541	67,768	71,156	74,714	78,449	

**CITY OF MORRO BAY
 COMBINED SALARY SCHEDULE
 FISCAL YEAR 2017-18**

TITLE	GROUP	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
POLICE DETECTIVE	P	63,194	66,354	69,671	73,155	76,813	80,653
POLICE SCHOOL RESOURCE OFFICER	P	63,194	66,354	69,671	73,155	76,813	80,653
POLICE SENIOR OFFICER	P	63,194	66,354	69,671	73,155	76,813	80,653
POLICE CORPORAL	P	63,781	66,970	70,318	73,834	77,526	81,402
FIRE CAPTAIN	F	71,345	74,912	78,658	82,591	86,720	
WASTEWATER SYSTEMS SUPV	S	72,692	76,327	80,143	84,150	88,358	
BUDGET/ACCOUNTING MANAGER	M	75,482	79,256	83,219	87,380	91,749	
SENIOR CIVIL ENGINEER	M	75,482	79,256	83,219	87,380	91,749	
CAPITAL PROJECTS MANAGER	M	75,482	79,256	83,219	87,380	91,749	
CONSOLIDATED MAINTENANCE SUPT	M	75,482	79,256	83,219	87,380	91,749	
ENVIRONMENTAL PROGRAMS MANAGER	M	75,482	79,256	83,219	87,380	91,749	
INFORMATION SERVICES TECHNICIAN	M	75,482	79,256	83,219	87,380	91,749	
RECREATION SERVICES MANAGER	M	75,482	79,256	83,219	87,380	91,749	
SENIOR PLANNER	M	75,482	79,256	83,219	87,380	91,749	
TOURISM MANAGER	M	75,482	79,256	83,219	87,380	91,749	
POLICE SERGEANT	P	75,057	78,810	82,750	86,888	91,232	95,793
PLANNING MANAGER	M	83,032	87,184	91,543	96,120	100,926	
CITY CLERK / RISK MANAGER	M	83,436	87,608	91,988	96,588	101,417	
FIRE MARSHAL	F	84,693	88,927	93,374	98,042	102,944	
COMMUNITY DEVELOPMENT MANAGER	M	97,855	102,747	107,885	113,279	118,943	
UTILITY DIVISION MANAGER	M	97,855	102,747	107,885	113,279	118,943	
WASTEWATER DIVISION MANAGER	M	97,855	102,747	107,885	113,279	118,943	
POLICE COMMANDER	M	109,861	115,354	121,122	127,178	133,537	
DEPUTY CITY MANAGER	E	119,940	125,937	132,234	138,845	145,788	
COMMUNITY DEVELOPMENT DIRECTOR	E	119,940	125,937	132,234	138,845	145,788	
FINANCE DIRECTOR	E	119,940	125,937	132,234	138,845	145,788	
PUBLIC WORKS DIRECTOR	E	124,412	130,633	137,165	144,023	151,224	
ADMINISTRATIVE SERVICES DIRECTOR	E	124,412	130,633	137,165	144,023	151,224	
HARBOR DIRECTOR	E	126,733	133,070	139,723	146,709	154,045	sworn

**CITY OF MORRO BAY
COMBINED SALARY SCHEDULE
FISCAL YEAR 2017-18**

TITLE	GROUP	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
FIRE CHIEF	E	126,733	133,070	139,723	146,709	154,045	sworn
POLICE CHIEF	E	126,733	133,070	139,723	146,709	154,045	sworn
ASSISTANT CITY MANAGER	E	129,326	135,792	142,582	149,711	157,196	
CITY MANAGER	E	160,000	160,000	160,000	160,000	160,000	



AGENDA NO: A-10

MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor & City Council **DATE:** July 3, 2017
FROM: Martin R. Lomeli, Interim City Manager
SUBJECT: Receive and File Update on the Ongoing Permanent City Manager Recruitment Process

RECOMMENDATION

Staff recommends the City Council receive and file an update on the ongoing permanent City Manager recruitment process and provide direction as deemed appropriate.

ALTERNATIVES

No alternatives are available for this item.

FISCAL IMPACT

The cost of the agreement for executive recruiting services is a fixed fee of \$26,800 (Attachment A). Given the dollar value, this agreement falls within the executing authority of the City Manager, who has finalized the agreement on June 30, 2017, with this attachment included as an informative item. Given the Interim City Manager is unbenefited at the same hourly salary rate as the most recent City Manager, savings on City Manager benefit cost for the position for the estimated 5-month recruitment process are \$21,500. This \$21,500 savings, coupled with other similar savings in the City Manager's department over that time, will provide sufficient available funding to cover the \$26,800 cost of this recruitment.

The agreement total of \$26,800 for executive recruitment services is in-line with the two most recent City Manager recruitments done by Arroyo Grande, one each for Paso Robles and Grover Beach, and recent Police Chief recruitment for Morro Bay.

BACKGROUND/DISCUSSION

On June 27th 2017 Council approved the appointment of Martin R. Lomeli as Interim City Manager. One of the major tasks for Mr. Lomeli, was seeing through the recruitment for a permanent City Manager. Following direction from Council, the attached agreement with Ralph Andersen & Associates was executed to begin recruitment of the next permanent City Manager.

CONCLUSION

Staff recommends the Council receive and file this update on the recruitment of a permanent City Manager. Future updates to the recruitment process will be brought forward through Council Agenda items in a similar fashion, including timing and progress updates. It is anticipated this project will conclude by November 1, 2017.

ATTACHMENTS

- A. Executed Ralph Andersen & Associates Executive Recruitment Agreement
- B. City Manager Recruitment Work Plan

Prepared By: <u>CS</u>	Dept Review: <u>CS</u>
City Manager Review: <u>MRL</u>	City Attorney Review: _____

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 Ralph Andersen & Associates, a California corporation (“Consultant”). In consideration of the mutual covenants and conditions set forth herein the parties agree as follows:

1. TERM

This Agreement shall be deemed effective as of June 28, 2017, and shall remain and continue in effect until tasks described herein are satisfactorily completed, but in no event later than December 31, 2017, 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, for the purposes of assisting City with finding a fully qualified and experienced candidate to fill the position of full-time City Manager for City (the “Search”). Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. PERFORMANCE

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.

4. CITY MANAGEMENT

City’s Interim City Manager 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 Interim City Manager shall 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 in accordance with the payment rates and terms, as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full. That amount shall be a fixed-fee of Twenty-six Thousand Eight Hundred Dollars and No Cents (\$26,800.00), including expenses for advertising, consultant travel (up to 3 trips to City),

clerical, graphics, research, printing and binding, postage and delivery, verifications and Internet and Lexis/Nexis searches on the top two candidates, and long-distance telephone charges, for the total term of the Agreement, 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 City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. Pursuant to Morro Bay Municipal Code section 3.08.170, the Interim City Manager may approve additional work not to exceed twenty-five percent of the amount of the Agreement. Any additional work in excess of this amount shall be approved by the City Council.

(c) Consultant will submit invoices monthly for the lump sum payments listed in Exhibit B for actual services performed. 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.

(d) If City requests any of the following additional services, then compensation for those services shall be as follows:

(1) If City requests Consultant's Project Director to make more than the three trips to City, which are included in the fixed-fee, then City and Consultant agree compensation to Consultant shall be One Thousand Eight Hundred Fifty Dollars and No Cents (\$1,850.00) for each day of each trip, plus travel expenses.

(2) If City chooses to have Consultant conduct an optional community meeting, then City and Consultant agree compensation to Consultant shall be One Thousand Eight Hundred Fifty Dollars and No Cents (\$1,850.00) that meeting, plus travel expenses. The City would also pay the full cost for any public announcements or advertisements to promote that community meetings.

(3) If requested by City, then Consultant would be compensated One Thousand Five Hundred Dollars and No Cents (\$1,500.00) to conduct an internet survey and summarized results.

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 5.

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 or 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 C 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: City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
Attention: Martin R. Lomeli

To Consultant: Ralph Andersen & Associates
5800 Stanford Ranch Road, Suite 410
Rocklin, California 95765
Attention: Heather Renschler

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.

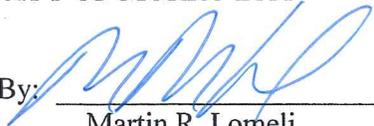
21. AUTHORITY TO EXECUTE THIS AGREEMENT

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.

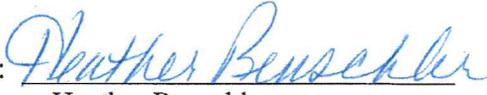
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the date noted below.

CITY OF MORRO BAY

CONSULTANT

By: 

Martin R. Lomeli,
Interim City Manager

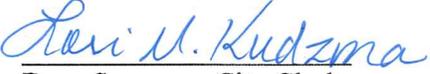
By: 

Heather Renschler,
President/CEO

Dated: June 30, 2017

Dated: June 30, 2017

Attest:


~~Dana Swanson, City Clerk~~
Lori M. Kudzma, Deputy City Clerk

Approved As To Form:



Joseph W. Pannone, City Attorney

Exhibit A

Scope of Services

Consultant shall perform services necessary for completion of the Search, which services shall include, without limitation, the following:

- a) Position Analysis
- b) Advertising Campaign
- c) Candidate Identification
- d) Resume Review and Screening
- e) Preliminary Interviews
- f) Detailed Reference Checks
- g) Recruitment Report
- h) Client/Finalist Interviews
- i) Final Interview Assistance
- j) Follow-up Correspondence

A complete description of the services to be provided for the Search is contained in a proposal from Consultant to City, dated May 17, 2017, which is incorporated herein by reference.

Exhibit B

Hourly Rates

For additional services, other than those listed in Subdivision 5 (d), compensation for work satisfactorily completed shall be based on the following hourly rates shall apply for the term of this Agreement:

Project Director	\$150/hr.
Executive Manager	\$125/hr.
Senior Consultant	\$110/hr.
Consultant	\$80/hr.
Graphics Designer	\$75/hr.
Researcher	\$60/hr.
Support Services	\$50/hr.

Lump Sum Payments

The City will be invoiced in 4 (four) payments as follows:

1. Upon contract execution – \$8,050 (Eight Thousand Fifty Dollars)
2. After the closing date – \$8,050 (Eight Thousand Fifty Dollars)
3. After finalist interviews – \$8,050 (Eight Thousand Fifty Dollars)
4. Upon placement – \$2,650 (Two Thousand Six Hundred Fifty Dollars)



City Manager Recruitment Work Plan

The proposed work plan for the firm the City would use per the Interim City Manager's authority is outlined below:

1. Meet with City Council and staff, as appropriate, to review project management approach.
2. Develop position profile and recruitment strategy.
3. Outreach and recruiting - placement of ads in Western City Magazine (online only), International City/County Management Assoc. (ICMA), Jobs Available and other professional publications. Specific internet sites related to government will be used as a method of extending the outreach in a short period of time. The advertisement and position profile will be placed on the Ralph Andersen & Assoc. website and they will use their extensive contacts to target individuals who meet the criteria set by the City.
4. Candidate evaluation – screening, preliminary research, internet search, and skype interviews are used to narrow the list of candidates for further consideration.
5. Search Report – The project manager reviews the list of proposed candidates with City to confirm the final list to be interviewed in person.
6. Selection – Coordinate the selection process, planning and preparing materials for interviews; facilitate follow up interviews; and obtain additional information, as needed.
7. Conduct a full background of top two candidates – education verification, credit report, DMV check, and civil and criminal litigation search.
8. Contract negotiation, including preparation of draft employment agreement, as needed.

existing consultant agreement with MKN Associates and others. This additional work will incur additional costs to peruse. Staff has estimated those costs of approximately \$26,000. That additional fee is within the amount budgeted for the project and it is anticipated, since the program management team will not be working on other aspects of the project, the additional amount will not exceed the authorized budgeted amount.

If that alternative proves viable and proceeds, then additional work and rework will be required to address project changes in the Facilities Master Plan and may require rescoping and revisions to the work already completed for the EIR. Those costs have yet to be determined.

DISCUSSION

In summary, the attached report responds to City Council direction to explore ways to reduce project costs and rate impacts compared to what was presented in the draft Water Reclamation Facility Master Plan (FMP) and draft Master Water Reclamation Plan (MWRP). The Council directed staff to convene an expert panel of local government public works officials with recent experience in the planning construction and operations of such facilities, and have them critically review cost assumptions and methodologies contained in the City's FMP and MWRP. The Council also directed staff to provide cost estimates on simplified versions of the project that eliminated or deferred some components.

The expert peer review panel consisted of:

- Matt Thompson, Wastewater Division Manager, City of Paso Robles
Mr. Thompson has been the Wastewater Division Manager for the City of Paso Robles for eight years, and was Project Manager for the Paso Robles Wastewater Treatment Plant Upgrade, which treats approximately 2.7 MGD and discharges to the Salinas River. The Upgrade was at the existing plant site and included new headworks, rehabilitation of primary clarifiers, a new secondary treatment process with nutrient removal, new secondary clarifiers, chlorine disinfection, and a cogeneration system. The project cost approximately \$47.2M, \$2.4M under budget, and was ASCE San Luis Obispo Section's 2015 Project of the Year. Prior to the City of Paso Robles, Mr. Thompson served as a Water Resource Control Engineer at the Central Coast Regional Water Quality Control Board for eight years.
- John Waddell, Construction Division Manager and Project Manager for the Los Osos Wastewater Project, Public Works Department, San Luis Obispo County
Mr. Waddell has been with the SLO County Public Works Department for 17 years and has worked on the Los Osos Wastewater Project since 2006. The Los Osos Wastewater Project included installation of a collection system and a water recycling facility, with a total project budget of \$183.4M. The collection system portion was constructed between August of 2012 and May of 2015. The collection system contracts included installation of 21 pump stations, 8 stand-by generators, and over 250,000 feet of pipe. The WRF portion of the project began construction in March of 2014 and startup phase began in March of 2016. The system is designed to treat and recycle up to 1.2 MGD for reuse throughout the Los Osos community.
- Russ Fleming, Utilities Manager, City of Pismo Beach
Mr. Fleming started work for the City of Pismo Beach in 2005 as a Wastewater Operator in training and left in 2012 after moving his way up to the Wastewater Operator Mechanic. In 2006 he was involved in the City of Pismo Beach Wastewater Treatment Plant upgrade to an Oxidation Ditch designed to treat a maximum

average flow of 1.9MGD. In 2012-2013 he was the plant supervisor in Grangeville, ID. This wastewater treatment plant was also an oxidation ditch with a design flow of .75 MGD. During this year, the City has been completing an upgrade to extend treatment for phosphorus removal using sand filters and ferric chloride. In 2013 he was brought back as the Wastewater Systems Supervisor and has since moved to his current position of Utilities Manager. The Utilities Manager position oversees Wastewater, Water and Stormwater personnel, operations and compliance. The City of Pismo is currently working on an indirect potable water reuse project with the surrounding communities.

- Dave Hix, Utilities Department Deputy Director for Wastewater, City of San Luis Obispo
Mr. Hix has been the Deputy Director of the wastewater division for the City of San Luis Obispo for 23 years and is the City's project manager for the Water Resources Recovery Facility (WRRF) upgrade. The overall goal of the WRRF project is to create a community asset that is recognized as supporting health, well-being and quality of life. The WRRF upgrade will replace aging infrastructure, meet new discharge limitations, provide a small increase in capacity to meet the City's future needs, incorporate interpretive features and public amenities, and maximize recycled water production; including configuration for future potable reuse. The project will increase treatment capacity to 5.4 MGD and is currently in the design phase. Total project cost is estimated at \$140M.

The Panel's key opinions, recommendations and findings were as follows:

1. *The biggest contributor to cost at the South Bay Boulevard (SBB) site is the site itself. Pipeline and earthwork costs there are very high. The most effective way to reduce construction cost is to go back to near or on the existing WWTP site.*
2. *Reliance on State Water is a paramount problem facing the City. If the City wants to achieve water independence cost effectively, and in a timely manner, then the most effective approach is to build a new compact plant at or near the current WWTP location. Developing a recycled water project will be cheaper and potentially more achievable than at the South Bay Boulevard site or any other relatively distant site. To do that, the City will need to work closely with the Coastal Commission and RWQCB, and gain buy-in from key community groups.*
3. *Due to the State's fiduciary responsibility, the high cost and rate and resultant controversy may impact the ability to receive low interest State Revolving Fund financing compared with less controversial projects. If the City had to rely on conventional municipal bond financing, the sewer rate would be even more unaffordable.*
4. *The cost estimates developed for the SBB site are reasonable as presented, and the underlying assumptions are appropriate, including for soft costs and contingency percentages, with a few minor changes recommended. Construction Management for the WRF might be reduced from 8% to about 6% of construction costs because of going to design-build. Design for the WRF might be reduced overall from 10% to 6 to 8% considering the design-build delivery concept, which needs less outside design. However, the 10% assumption for the design-bid-build component is appropriate.*
5. *Some cuts to the cost estimate for the SBB site could be made. Those could include:*

- a. Depending on the secondary treatment process, the proposed equalization basin could be reduced. An oxidation ditch would not require as much equalization as an MBR or SBR system.
 - b. Because of its relatively isolated location, minimize odor control to the extent possible, focusing on the headworks.
 - c. Locate the WRF on the portion of the site that requires less grading—where the corporation yard had been planned.
 - d. Remove the septage receiving station and reduce the size of fire pump facility.
 - e. If the City does not intend to go to full tertiary treatment, consider going to an oxidization ditch with secondary clarifiers.
 - f. Reduce masonry and architectural details, since the site won't be that visible from the highway, but it still has to be made of durable low-maintenance materials.
6. If the City is eventually going to full reclamation, then don't defer the development of onsite buildings and infrastructure related to recycled water. It will be much more expensive later on.
 7. The proposed combined water/sewer rate of \$250/month is untenable in the context of average Citywide household income of \$50K—about 6% of annual income, which is higher than the EPA's affordable index (4.5%) Note: The panel assumed the EPA AI was 3%. It is reasonable to expect a reduction will be required to make this project more palatable to the public.

The report also explored reducing costs at the South Bay Boulevard site, based on the Council's direction, and incorporating the expert panel's recommendations on costing methodology and assumptions. Cost reductions included removing space for future public facilities, reduced odor control, Key findings are as follows:

	Total Capital Cost Opinion	Comparative Capital Cost Savings to Recommended Project	Deferred Costs (for future recycled water)
Alt. 1: Full Secondary WRF; defer tertiary treatment and recycled water	\$98.2 million	\$27.3 million	\$44.6 million
Alt. 2: Tertiary Disinfected WRF; defer recycled water	\$114.7 million	\$8.6 million	\$40.7 million
<i>Note: Costs shown are in 2017 dollars and include total program costs – construction costs, 25% construction contingency, and soft costs, including engineering/design, administration and construction management, permitting, monitoring and mitigation</i>			

To address the Peer Review Panel's adamant recommendation to reconsider locating the new facility on or near the existing WWTP site, the team worked with Black & Veatch to estimate a rough cost savings potential for relocating the project adjacent to this location. Such a project would be based on similar assumptions as the one at the South Bay Boulevard site, and would be intended to meet community goals, including producing tertiary treated recycled water, and implementing the reclamation component (indirect potable reuse).

What follows is a very rough preliminary estimate, for comparison purposes only. If the City Council wishes to explore this option, then a more detailed estimate can be provided.

Preliminary estimates indicate a **cost savings potential between \$38M to \$43M**, for a total project

cost of approximately \$124M to \$129M, to construct the project on or near the existing WWTP site. That assumes a full advanced treatment facility on the existing WWTP property and a full indirect potable reuse reclamation program as described in the MWRP. Approximately 85% of the potential cost savings can be attributed to changes in the WRF costs (through tertiary treatment, but not including advanced treatment), and approximately 15% of the cost savings are associated with the recycled water project.

Table 2 provides a summary of the reviewed alternatives, the cost opinions, and the preliminary estimated rate impacts. The estimated rate impacts are rough, and based on a simplified comparison between rates for various alternatives previously analyzed. Those estimates are provided for comparison purposes only. **Revisions to the City’s Draft Financial and Rate Analysis for a New Water Reclamation Facility will be required to determine the rate impact.**

Table 2. Comparison of Alternatives, Cost Opinions, and Preliminary Estimated Rate Impacts				
	MWRP Recommended Project “Alt 4” IPR	“June 2017 Alt. 1” Secondary Only	“June 2017 Alt. 2” Tertiary WRF, Defer RW	“June 2017, Preliminary” IPR at/near Existing WWTP
Brief Description	<ul style="list-style-type: none"> • MBR plus Advanced Treatment • UV disinfection • SBB site • Extensive odor control • IPR, recharge all treated effluent • Space for future facilities 	<ul style="list-style-type: none"> • Oxidation Ditch, Secondary Treatment • Chlorination • SBB site • Moderate odor control • Defer recycled water, discharge to ocean • Smaller admin building • Don’t save space for future facilities 	<ul style="list-style-type: none"> • MBR, tertiary treatment • Chlorination • SBB site • Moderate odor control • Defer recycled water, discharge to ocean • Smaller admin building • Don’t save space for future facilities 	<ul style="list-style-type: none"> • MBR plus Advanced Treatment • UV disinfection • At/Near Existing WWTP site • Extensive odor control • IPR, recharge all treated effluent • Smaller admin building
Estimated Program Cost (2017 \$)				
Phase 1	\$167M	\$98.2M	\$114.7M	\$124M - \$129M
Phase 2 (recycled water)	Included in in Ph 1	\$44.6M	\$40.7M	Included in Ph. 1
Total (Ph1 + Ph2)	\$167M	\$142.8M	\$155.4M	\$124M - \$129M
Preliminary Estimated Water + Sewer Rate Impact (monthly, average residential)¹				
Phase 1	\$91 increase \$241 total	\$35 – 40 increase \$185 – 190 total	\$48 – 53 increase \$198 – 203 total	\$50 – 60 increase \$200 – 210 total
Phase 2	NA	\$40 – 45 increase \$225 – 235 total	\$35 – 40 increase \$233 – 243 total	NA
Total (Ph1 + Ph2)	\$91 increase \$241 total	\$75 – 85 increase \$225 – 235 total	\$83 – 93 increase \$233 – 243 total	\$50 – 60 increase \$200 – 210 total
<i>Notes:</i>				
¹ <i>Estimated rate impact is based on a simplified comparison between alternatives, considers difference in capital cost opinions only, and does not take difference in operating and maintenance (O&M) costs in to account. The O&M costs for the alternatives at/near the existing WWTP are estimated to be significantly lower than the O&M costs at the SBB site.</i>				
<u>Revisions to the City’s Draft Financial and Rate Analysis for a New Water Reclamation Facility will be required to determine the rate impact.</u>				

Comments and Recommendations from WRFCAC

The Program Management Team presented this report at the July 5th WRFCAC Meeting. Questions arose and discussions ensued during and after the presentation. Ultimately, a motion was passed unanimously to provide a recommendation to City Council regarding the report. Some of the main discussion points and the recommendation to City Council are summarized below.

Questions and Discussion

- The scope for the Peer Review Panel was limited to review of the cost estimating methodologies and assumptions, review of the reasonableness of the costs and project components overall, and consideration of potential ways to reduce costs. The Peer Review Panel did not review the City's Local Coastal Plan, the Coastal Act, or the staff report with the 2013 permit denial of the Coastal Development Permit for the previous WWTP Upgrade Project. The Peer Review Panel acknowledged the California Coastal Commission would need to be consulted to assess feasibility of constructing a Project at or near the existing WWTP, but they indicated that, due to the high costs and the goals of the project, it should be strongly considered.
- Questions were asked about the meaning of "at or near the existing WWTP." Staff clarified the meaning is within the area of the existing WWTP and where the collection system terminates, so an auxiliary lift station and transmission pipelines would not be required. That area is currently envisioned to be west of Highway 1, North of Morro Creek, and South of Atascadero Road.
- The WRFCAC members discussed the costs of the other projects that are discussed in the report and the differences from the City's project.
 - The City of San Luis Obispo's WRF Project is currently in design, is estimated at \$140M, and includes several upgrades to the existing WRRF and other community serving features.
 - The Los Osos Wastewater Project's total cost was closer to \$184 to \$187M, but included a sewer system. The cost cited in the report may have been for the WWTP only, which included an oxidation ditch and cloth disc filters, and a small amount of recycling.
 - The City of Paso Robles Project was an upgrade to an existing WWTP.
 - The main differences from the Morro Bay Project include the large amount of transmission piping to and from the site, construction of a completely new facility, demolition of an existing facility, advanced treatment, large peak flows (and equalization storage requirements), and injection wells and monitoring wells.

Motion from WRFCAC

- *Recommend City Council direct staff to take up to two months to talk with California Coastal Commission and Regional Water Quality Control Board about the feasibility of a project at or near the existing WWTP site. If it appears feasible, then report to WRFCAC and City Council. If not, then move forward with a project at South Bay Boulevard based on Alternative 2 in the Report (tertiary WRF with deferral of recycled water).*

Recommendations and Next Steps

1. The City Council should consider the report's recommendations, including WRFCAC's input, and provide clear direction that could include, but not be limited to, one of these options:
 - a. Move forward at the South Bay Boulevard site based on the revised cost estimates provided in this report;

- b. Refine the community's goals, and direct staff to modify the project accordingly at the SBB site;
- c. Direct staff and the WRF program management team to provide a refined cost estimate for building the new WRF that meets community goals at or near the existing WWTP site. Depending on the outcome of that exercise, the City Council may want direct staff to take steps to clarify an appropriate site, and refine the draft FMP and MWRP to focus on that site, with the EIR focused on examining the impacts associated with building at such a site. That would include working with the RWQCB and Coastal Commission to determine whether a project at such a location is supportable.

CONCLUSIONS

The peer review panel concluded the cost to relocate and construct a remote Water Reclamation Facility may not be affordable for the community and by pursuing that option the City risks moving forward in the process of removing the last 301 (H) waiver wastewater treatment plant from discharging partially treated wastewater into the Pacific Ocean. Additionally, the panel concluded there are smaller, yet not inconsequential, cost savings to be had through tweaking some assumptions for soft costs and focusing on the WRF alone and not including any ancillary facilities (such as a corporate yard or administration building) should the City still desire to construct a facility on the South Bay Boulevard site.

Council direction also included the desire to look at a phased approach to constructing a complete WRF by including only secondary or tertiary treatment as the first phase. Staff concludes that approach will reduce the impact in the short term to user rates, but if the City desires to develop an Indirect Potable Reuse project to supplement its water supply, staff opines the sewer/water rate will be higher with full reclamation plant implementation than if constructed in a single-phase due to the reality of the time value of money.

ATTACHMENTS

1. *Report on Public Works Cost Review Workshop*, MKN/JFR, June 29, 2017
2. Comments Received as of 6 July 2017

Report on Public Works Cost Review Workshop

Peer Review Panel: June 7, 2017



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June 29, 2017

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SECTION 1 PROJECT HISTORY

In 2013 and 2014, the City Council adopted a series of community goals for the new Water Reclamation Facility project, which were based on extensive community input resulting from public outreach. The central goal was to treat the wastewater, at a location that is in keeping with the Coastal Commission's 2013 denial, to tertiary standards, so that high quality water could be produced and reclaimed, in order to augment the City's existing water supplies. The intent of this and other key goals was to find a suitable site that minimized constraints, including potential land use conflicts, where such a facility could be built and operated cost-effectively.

In June 2016, after a lengthy public process, the City Council chose the South Bay Boulevard site as the focus for efforts related to planning the WRF. A draft Facilities Master Plan (FMP) that addressed adopted community goals was prepared for that site based on a series of technical workshops, and released in November 2016. A draft Master Water Reclamation Plan (MWRP) that addressed the most effective approach to water reuse was released in March 2017.

Following the release of these documents, the WRF program management team presented how the resulting cost estimates contained in those documents could translate into increased user rates. Both the City Council and many members of the general public expressed concern about the high project costs and their potential effect on user rates.

On April 25, 2017, the City Council explored this issue, seeking ways to reduce project costs, before committing to moving forward on the project described in the draft FMP and MWRP, including its analysis in the required Environmental Impact Report (EIR). As a result, the Council gave two key directions. The first was to explore two lower cost alternatives, including a project that met minimum permit requirements, and another that achieved tertiary disinfected treatment. The other direction was for City staff work to with other local public works departments, and convene a study session with key public works officials, for the purpose of reviewing the assumptions contained in the City's draft master planning documents. The effort was to provide an outside professional perspective on the City's project, its inherent assumptions, and methodologies used in developing the cost estimates. The intent was for such a review to be a candid assessment, based on the experience of these public works professionals. Their recommendations would then be presented in a report to the City Council, in order to help the Council potentially re-assess the overall project goals in the context of finding ways to reduce project costs.

SECTION 2 TECHNICAL REVIEW PANEL

City Public Works Director Rob Livick worked with the WRF program management team to assemble a peer expert panel, with recent experience in the development and construction of a major municipal wastewater/water reclamation infrastructure project, for the review. The panel included:

- Matt Thompson, Wastewater Division Manager, City of Paso Robles
- John Waddell, PE, Construction Division Manager and Project Manager for the Los Osos Wastewater Project, Public Works Department, San Luis Obispo County
- Russ Fleming, Utilities Manager, City of Pismo Beach
- Dave Hix, Utilities Department Deputy Director for Wastewater, City of San Luis Obispo

2.1 Review Process

The review workshop occurred on June 7, 2017, lasting from 9 AM to 4 PM. The review process was facilitated by Rob Livick and the City's Program Management team, including John Rickenbach, Mike Nunley, and Eileen Shields. The City's Utilities Division Manager, Joe Mueller, attended and provided information on current operations as questions came up. In addition, Matt Thomas and Mari Garza-Bird from Black & Veatch, the firm that prepared the FMP, were also available to provide information and answer questions.

During the workshop, the City's team presented the draft FMP and MWRP, focusing on key issues related to cost, assumptions, and methodologies developed for the South Bay Boulevard site. It was a highly interactive and productive discussion, and the four expert panelists frequently provided observations and asked questions along the way. Many of their observations ranged beyond the issue of cost, but were relevant to the overall intent to improve the project. They also recommended reconsideration of reducing costs by moving the project to another location.

As a result of this discussion, the panel made several important recommendations, which are listed below.

2.2 Expert Panel Recommendations

1. *The biggest contributor to cost at the South Bay Boulevard (SBB) site is the site itself. Pipeline and earthwork costs there are very high. The most effective way to reduce construction cost is to go back to near or on the existing WWTP site.*
2. *Reliance on State Water is a paramount problem facing the City. If the City wants to achieve water independence cost effectively, and in a timely manner, the most effective approach is to build a new compact plant at or near the current WWTP location. Developing a recycled water project will be cheaper and potentially more achievable than at the South Bay Boulevard site or any other relatively distant site. To do this, the City will need to work closely with the Coastal Commission and RWQCB, and gain buy-in from key community groups.*

3. *Due to the State’s fiduciary responsibility, the high cost and rate and resultant controversy may impact the ability to receive low interest State Revolving Fund financing compared with less controversial projects. If the City had to rely on conventional municipal bond financing, the sewer rate would be even more unaffordable.*
4. *The cost estimates developed for the SBB site are reasonable as presented, and the underlying assumptions are appropriate, including for soft costs and contingency percentages, with a few minor changes recommended. Construction Management for the WRF might be reduced from 8% to about 6% of construction costs because of going to design-build. Design for the WRF might be reduced overall from 10% to 6-8% considering the design-build delivery concept, which needs less outside design. However, the 10% assumption for the design-bid-build component is appropriate.*
5. *Some cuts to the cost estimate for the SBB site could be made. These could include:*
 - a. *Depending on the secondary treatment process, the proposed equalization basin could be reduced. An oxidation ditch would not require as much equalization as an MBR or SBR system.*
 - b. *Because of its relatively isolated location, minimize odor control to the extent possible, focusing on the headworks.*
 - c. *Locate the WRF on the portion of the site that requires less grading—where the corporation yard had been planned.*
 - d. *Remove the septage receiving station and reduce the size of fire pump facility.*
 - e. *If the City does not intend to go to full tertiary treatment, consider going to an oxidization ditch with secondary clarifiers.*
 - f. *Reduce masonry and architectural details, since the site won’t be that visible from the highway, but it still has to be made of durable low-maintenance materials.*
6. *If the City is eventually going to full reclamation, don’t defer the development of onsite buildings and infrastructure related to recycled water. It will be much more expensive later on.*
7. *The proposed combined water/sewer rate of \$250/month seems untenable in the context of average Citywide household income of \$50K—about 6% of annual income, which is approximately double the EPA’s affordable index. It is reasonable to expect a reduction will be required to make this project more palatable to the public.*

2.3 Other Key Observations from Reviewers

In developing their recommendations, the panel made many related observations and raised important points that the City Council may wish to consider as it moves forward on the project. These are grouped by topic and summarized below.

Cost Estimates and Assumptions

1. All agree with the way B&V has put together the cost estimate for the WRF—seems like a reasonable approach. Won't get a drastically different number if someone else put it together.
2. Could you lower planning contingency percentage if you didn't have the lengthy pipelines and potential complications of running through town? Some did not think this was true. Overall, the 25% contingency seemed appropriate to the group.
3. Lifecycle costs will be an important factor in addition to capital costs.
4. Engineering and Admin estimate of 30% of construction cost is reasonable, and possibly even a bit low on projects of this type. The engineering/admin costs for Paso Robles Tertiary Treatment Facilities Project ended up to be about 32% of construction costs. Assumptions about soft costs seem appropriate.
5. Escalation assumptions of 2-3% per year are good.
2. Procurements and Preliminary engineering estimate of 4% is good.
3. Permitting/CEQA estimate of 1% of construction cost is good.
4. Construction Management at 8% is a little high; some think it can be reduced, especially for design-build. (One reviewer uses 7.5% for design-bid-build. Another thinks 8 – 10% for design-bid-build, but with a smaller team on design-build, it might be reduced to maybe 6% for DB portion of project)
5. Contingency of 25% seems right at this stage of planning.
6. Decommissioning cost estimate seems reasonable.
7. Design as 10% of construction costs seems a bit high (maybe 6-8%), considering part of the project is design-build.
8. Move the WRF to the area on the proposed site that will require less grading, which will save \$0.8M + 50% for soft costs and contingency. No reason not to do it, especially if there is no corp yard planned.
9. Odor Control cost seems high at \$4.8M for a relatively remote site, like the South Bay Boulevard site. Refine the cost in some fashion.

10. Remove the septage receiving station as there are no large septage generators within the City's service area, and Los Osos and the Paso Robles facilities are satisfying the County demand and reduce size of fire pump facility. Saves \$1M.
11. The overall estimating is reasonable—this is a complicated project with lots of technical studies and coastal permitting.
12. Some pieces of the existing WWTP (headworks screens) might be reusable if the WRF is built at the existing WWTP site, but the group does not recommend it unless the EQ basin is collocated with the lift station.
13. The City of SLO's project is \$140M, but they are building it more central to the city and reusing some existing facilities, so there's less to build. Paso's \$47M plant benefited from being able to reuse some facilities on a compact footprint, with a bidding climate during the recession. Los Osos ox ditch plant for Title 22 tertiary was \$48M.
14. One reviewer: "You've got a really good team on this project, and they made good cost estimates with reasonable assumptions to implement community direction. To really reduce costs, Council should redirect to a new site closer to the existing WWTP."

WRF Delivery Method, Project Components, Design Issues and Technology

1. Design-Build is the way you want to go to save costs. It's also the right way to go if you want to speed delivery and have the city maintain control of the project. That's true at either greenfield site or even at the existing WWTP site, since that would be a new plant and not an upgrade.
2. There are no new technologies that will be more effective than the ones that are typically used.
3. The proposed treatment trains look very complicated—can't we simplify this somehow? Some on the panel acknowledge the desire to reduce the footprint as much as possible.
4. Odors can be addressed at the site or any site. If the sewer flows a long way, could it increase odors?
5. Contaminants of Emerging Concern haven't been a big concern to the other communities, and state regulations are adequately addressing this concern.
6. Operations/Admin building at 11,500 SF consolidated PW facility (versus 7,000 SF for WRF only) seems reasonable, but only if general fund can pay the difference. Strip out masonry and make it out of metal.
7. Don't waste the money on a septic receiving station.

8. The corp yard is never going to happen, so why prepare the SBB site for something that will never happen?
9. All agree the IPR approach for recycled water is appropriate and makes sense as opposed to ag exchange.
10. All encouraged the City to pursue IPR, some stating that diversification of water supply should be a main goal for the community.

Project Siting Issues and Options Related to Cost

1. Get Regional Water Quality Control Board (RWQCB) on board to go back to (or near) the existing WWTP site. Emphasize that the proposed project will be too expensive otherwise... and SRF loan might not happen if the state senses there is political uncertainty and controversy in moving this forward at the high costs. Not economically viable. How is it a town of 10,000 has a \$165 million sewer plant?
2. Why bother building at SBB, because the lift station at the current site will be vulnerable...still have raw sewage going into the ocean if the lift station fails...what is gained by doing this?
3. SBB site is another Los Osos in the making. Re-evaluate.
4. Maybe easier to accomplish recycled water goals on or near the current WWTP site, because you'll have funds to do this earlier. Perhaps be able to get CCC support for that kind of project when balanced with other coastal concerns. Will need to get Council support for this.
5. If a new plant is built at or near the current WWTP site, it will require working with CCC to explore the idea of balancing these competing goals: *More important to have water independence through recycled water? Or move the plant off the coast? What conditions could CCC explore to allow for a new plant at the current WWTP site?*
6. If a new WRF is built at the current WWTP site, you'll also need to make sure such a plant is consistent with long-range master plans for the waterfront. Could have a tie in to future waterfront development to recycled water in a more timely manner.
7. Could do effective odor control on or near the current WWTP site.
8. Could get a very small footprint for 1 mgd plant on or near the current site—could use the rest of the site for other coastal uses.

9. Was there much homegrown opposition to the existing site in 2011-12? Is there still now? Need to explore this in depth... Because if there's not, the only real hurdle might be CCC.
10. Need to emphasize this will be a drought-proof water supply, which you can guarantee at or near the existing WWTP site...which you will not be able to accomplish at SBB because you may not ever see the water recycling component happen...
11. Did you explore co-locating equalization basin with lift station at the current WWTP site—since you're already considering the lift station there, and that will need CCC permitting? *B&V RESPONDS: Yes, this was considered, but there was a concern this could interfere with long-range reuse opportunities of the existing WWTP site.*
12. Is CMC now a feasible option if there is capacity in the plant because they are cutting the prison population? Not sure. *NUNLEY RESPONDS: There are constraints to doing this...a lot of pipeline...high TDS...cost...lack of desire from California Department of Corrections and Rehabilitation (CDCR) to participate...at least a year for CDCR to determine legality of connecting a new service... the recycled water would not benefit the city.*
13. Los Osos plant does not have capacity to handle Morro Bay wastewater. Not an option.

Logistics, Timing and Financing

1. If the project is very expensive, and does not have community acceptance for the cost/rates, not sure city will be able to answer the SRF application questions ensuring certainty that there will be a long-term revenue stream...so may not get the loan.
2. SRF loan might not happen if the state senses there is political uncertainty and controversy in moving this forward at the SBB site.
3. Need to have a recycled water component if you hope to get grant funding.
4. Setting rates in advance and then reverse engineering the plant to get there won't work. They ran into this problem on the Nacimiento project. They need to see what they are getting before they raise the rates.
5. Present a project at or near the current WWTP site as a water plant, not a sewer plant...and work with CCC to convince them, framing it this way: More important to have water independence? Or move the current plant off the coast? Is it worth the delay in keeping a substandard WWTP near the coast while other questions are resolved, or moving forward with a safer, more efficient plant that produces water? Show how new plant will address all the other CCC concerns.

6. Have the city set the time schedule for compliance and removal of the 301h waiver; don't let the RWQCB dictate the time.
7. Are you sure you're asking all the right questions? How (and where) can the community best accomplish its goals?
8. What kind of liability are you getting from the RWQCB in not moving this forward?
LIVICK RESPONDS: There is a letter from them saying we need to be done by 2021 per former Executive Officer Ken Harris...
9. Don't go to conventional bond funding—it will kill you financially... Do whatever you can to ensure SRF financing – not only low interest, but not having to pay back until after construction helps reduce amount borrowed.
10. Cost of producing water includes the energy needed to produce it...and those costs will never go down.
11. Citizens are reasonably concerned if their combined sewer/water rates would go to \$250/month. That's 6% of the average median income in Morro Bay, which is \$50K per household. That's extremely high.
12. Recent sewer and water rate increases were critical to correct the revenue shortfalls in the water rate from long-time lack of steady rate increases. City should have done that much sooner. This will make additional increases, however reasonable they might be, politically difficult.
13. City demographics make moving a project forward anywhere very difficult, from three perspectives:
 - a. Many highly-educated retirees closely follow and actively influence the course of the project;
 - b. A relatively low average communitywide household income, and
 - c. A small population base that can't easily handle the spread of costs associated with a large capital project

SECTION 3 REFINED COST OPINIONS

3.1 Originally Recommended WRF Project

The recommended WRF project presented in the Draft Master Water Reclamation Plan (MWRP) incorporated the membrane bioreactor (MBR) WRF option presented in the Draft Facility Master Plan (FMP) with an indirect potable reuse recycled water program. The project took into account the community goals, costs, and recommendations presented in the Draft FMP and MWRP. Major components of the project included:

- Tertiary Treatment¹ – Membrane Bioreactor process
- Disinfection – UV process
- Full advanced treatment²– Reverse osmosis and advanced oxidation
- Space for future public facilities
- Extensive odor control system
- Recycled water program – Indirect potable reuse
 - Recycled water pump station and storage tank
 - Recycled water piping
 - Groundwater injection wells
 - Groundwater monitoring wells

The total estimated program costs for the WRF and recycled water project as presented was \$167 million. A breakdown of the project costs is provided in Table 1.

¹ A WRF with tertiary treatment includes primary, secondary, and tertiary treatment. Tertiary treatment consists of filtration.

² Advanced treatment includes reverse osmosis and advanced oxidation, and provides salts removal, additional pathogen and virus removal, and contaminants of emerging concern (CECs) destruction.

Table 1: Cost Opinion: FMP/MWRP Recommended Project	
Cost Category	Estimated Cost (2017 \$MM)
Influent Lift Station, Force Main, and Effluent Disposal	13.5
WRF Onsite Facilities	61.5
WRF Operations Facilities	12.5
WRF Construction Cost Subtotal	87.5
Engineering/Design (10%)	8.7
Procurement (4%)	3.5
Project Admin & CM (12%)	10.5
Permitting, Monitoring, and Mitigation (1%)	0.9
Existing WWTP Demolition	3.0
Property Acquisition (WRF)	0.3
Escalation (2.7%)	2.4
WRF Capital Cost Opinion Subtotal	116.8
Recycled Water Project Capital Construction Cost	18.1
Engineering/Admin/CM (30%)	5.3
Recycled Water Capital Cost Opinion Subtotal	23.4
Subtotal Program Capital Cost Opinion (WRF + RW)	140.2
Construction Contingency (25% WRF + RW)	26.4
Total Program Capital Cost Opinion	166.6
Notes:	
<ol style="list-style-type: none"> 1) Estimated WRF Capital Construction Cost includes the WRF Project (lift station, pipelines, and treatment plant) without any recycled water components, based on costs presented in the Draft FMP. WRF costs assume the MBR option from the Draft FMP. 2) Based on estimates in the Draft FMP, the total program capital cost opinion would be approximately \$2M less with the SBR option. 3) Recycled water project construction costs are based on Alternative 4, Indirect Potable Reuse as presented in the Draft MWRP. 4) Construction contingency consists of 25% of WRF plus Recycled water construction cost subtotals. 	

3.2 Cost Opinions for Council-Directed Project Alternatives

Per City Council direction, two main project alternatives were explored with the peer review panel. Preliminary opinions of probable cost for each alternative were prepared for the panel and costs were further refined using panel input. The first alternative explored was a Secondary Treated facility at the South Bay Boulevard site. The second alternative was a Tertiary Disinfected treatment facility at the South Bay Boulevard site at the lowest possible price.

Council also directed City staff to work with other public works departments, forming a Peer Review Panel to review the assumptions used in the City’s draft master planning documents.

The Peer Review Panel provided specific input on assumptions related to cost estimating categories and odor control savings. The Panel suggested that for Design Build (DB) projects

Engineering/Design could be closer to 8% of the construction costs than 10% as is typically used for Design Bid Build (DBB) projects. Similarly, Administration and Construction Management services could be estimated at 10% for DB projects instead of the 12% typically used for DBB projects. These changes to the estimating approach would incrementally reduce the overall cost estimate for WRF program costs, as the WRF facility itself is anticipated to be delivered as a DB pursuit, but it would not realize any savings for the influent lift station and force main project, which would be delivered by DBB. The Panel also noted that full odor control is costly and may not be needed for the South Bay Boulevard site, since it is some distance from the nearest neighbors who may be affected. Odor control costs could potentially be refined, and costs have been adjusted to consider an allowance for budgeting purposes.

Alternative 1: Full Secondary Treatment, defer tertiary treatment and recycled water

The first alternative assumes an oxidation ditch and secondary clarifiers as the treatment technology for Full Secondary Treatment, the minimum treatment level required to meet the permitting requirements for discharge to the ocean. Using this technology instead of a sequencing batch reactor as assumed in the Draft MWRP “Alternative 0, Secondary Only” option, allows for some potential cost savings mainly due to the ability to handle a larger range of flows (resulting in a smaller equalization basin). This alternative assumes construction of the treatment facility on the lowest portion of the originally proposed site plan from the FMP, as shown in the figure below. The FMP conceptual site plan included space reserved for potential future consolidated public works facilities, per community project goals.



Figure 1: Conceptual Site Plan from the Draft FMP (Black and Veatch, 2016). The alternatives explored per Council direction included moving to the lower section of the site, enclosed in red.

Major components of this alternative, the cost opinion, and description of changes from the MWRP recommended project are included in Tables 2 and 3 below.

Table 2: Alternative 1 - Full Secondary WRF Cost Opinion	
Cost Category	Estimated Cost (2017 \$MM)
Influent Lift Station, Force Main, and Effluent Disposal	13.5
WRF Onsite Facilities	38.4
WRF Operations Facilities	10.7
Subtotal Construction Cost Opinion	62.6
Construction Contingency (25%)	15.7
Engineering/Design (10% DBB, 8% DB))	5.3

Table 2: Alternative 1 - Full Secondary WRF Cost Opinion	
Cost Category	Estimated Cost (2017 \$MM)
Escalation (2.7%)	1.7
Procurement (4%)	2.5
Project Admin/CM (12% DBB, 10% DB)	6.5
Permitting, Monitoring, and Mitigation (1%)	0.6
Existing WWTP Demolition	3.0
Property Acquisition	0.3
Total Phase 1 Capital Cost Opinion	98.2

The main cost savings (for both alternatives) are due to reductions in project scope from the project recommended in the MWRP, including no space for future consolidated public works facilities or corporation yard, reduced odor control, removal or reduction of auxiliary facilities, and reduced level of treatment in the case of Alternative 1.

Possible savings based on the Peer Review Panel’s recommendation to reduce estimated Engineering/Design and Administration and Construction Management costs for the DB portions of the project were approximately \$2.0 million for Alternative 1 and \$2.4 million for Alternative 2.

Table 3 summarizes the main changes from the previously recommended project and the associated cost savings and estimated costs that can be deferred to a later phase. Cost savings and deferrals were identified by the program management team (based on Council direction) and by the Peer Review Panel in the June 7th meeting.

Table 3: Alternative 1 - Full Secondary WRF: Changes from FMP/MWRP Recommended Project and Estimated Impact to Construction Costs			
Category	Description	Estimated Construction Cost Savings (2017 \$MM)	Estimated Deferred Construction Cost (2017 \$MM)
Secondary Treatment	Oxidation Ditch/Secondary Clarifiers instead of MBR Reduced Equalization Basin Volume (3.3 MG to 1.5 MG)	12.42	
Disinfection	Defer UV Disinfection and use chlorine contact process instead Sufficient contact time in pipe for rapid mix tank, no contact basin needed		7.28
Full Advanced Treatment	Deferment of Microfiltration, Reverse Osmosis and Advanced Oxidation Process		12.69

Table 3: Alternative 1 - Full Secondary WRF: Changes from FMP/MWRP Recommended Project and Estimated Impact to Construction Costs			
Category	Description	Estimated Construction Cost Savings (2017 \$MM)	Estimated Deferred Construction Cost (2017 \$MM)
Future Public Facilities	No space allotted Reduced earthwork costs for site Smaller admin/operations building (Note any significant future construction will be more challenging)	2.3	
Auxiliary Facilities	Removed septage receiving station and remote operations facility. Reduced size and capacity of fire pump facility	1.64	
Odor Control System	Reduced from extensive to moderate	1.75	
Recycled Water Program	Deferment of recommended project recycled water program		9.64
Total Estimated Construction Cost Savings		18.1	
<i>Estimated Soft Costs</i>		4.7	
<i>Construction contingency (25%)</i>		4.5	
Total Estimated Capital Cost Savings		27.3	
Total Estimated Deferred Construction Costs			29.6
<i>Estimated Soft Costs</i>			7.6
<i>Construction contingency (25%)</i>			7.4
Total Estimated Capital Cost Deferment			44.6
Note: Estimated Soft Costs include: Engineering/design (8%), escalation (2.7%), procurement (4%), administration and construction management (10%), and permitting, monitoring, and mitigation (1%). Possible savings based on the Peer Review Panel's recommendation to reduce estimated Engineering/Design and Administration and Construction Management costs for the DB portions of the project represent approximately \$2.0 million.			

Deferred construction costs are not costs savings, and are estimated to increase over time with inflation (currently estimated at 2 to 3 percent per year), should the City move forward with increased treatment and/or a reclamation program at some time in the future.

Alternative 2: Tertiary Disinfected WRF, defer recycled water

The second alternative considered the recommended FMP treatment technology, MBR, with potential costs savings. The site planning assumes construction of the WRF at the lower portion of the South Bay Boulevard site as described for the first alternative. The equalization basin for this alternative did not change in size, but would be uncovered and with reduced odor control measures. A cost opinion is included below. Major components of the project alternative, and

description of changes from the MWRP recommended project are included in Tables 4 and 5 below.

Table 4: Alternative 2 - Tertiary Disinfection WRF without Recycled Water Cost Opinion	
Cost Category	Estimated Cost (2017 \$MM)
Influent Lift Station, Force Main, and Effluent Disposal	13.5
WRF Onsite Facilities	49.4
WRF Operations Facilities	10.7
Subtotal Construction Cost Opinion	73.6
Construction Contingency (25%)	18.4
Engineering/Design (10% DBB, 8% DB))	6.2
Escalation (2.7%)	2.0
Procurement (4%)	2.9
Project Admin/CM (12% DBB, 10% DB)	7.6
Permitting, Monitoring, and Mitigation (1%)	0.7
Existing WWTP Demolition	3.0
Property Acquisition	0.3
Total Phase 1 Capital Cost Opinion	114.7

Table 5 summarizes the main changes from the previously recommended design and the associated cost savings and estimated costs that can be deferred to a later phase. Cost savings and deferrals were identified by the program management team (based on Council direction) and by the Peer Review Panel in the June 7th meeting.

Table 5: Alternative 2 – Tertiary Disinfected WRF without Recycled Water: Changes from FMP/MWRP Recommended Project and Estimated Impact to Construction Costs			
Category	Description	Estimated Construction Cost Savings (2017 \$MM)	Estimated Deferred Construction Cost (2017 \$MM)
Tertiary Treatment	Membrane Bioreactor process No change to equalization basin	0	
Disinfection	Defer UV Disinfection and use chlorine contact process instead Sufficient contact time in pipe for rapid mix tank, no contact basin needed		7.28

Table 5: Alternative 2 – Tertiary Disinfected WRF without Recycled Water: Changes from FMP/MWRP Recommended Project and Estimated Impact to Construction Costs			
Category	Description	Estimated Construction Cost Savings (2017 \$MM)	Estimated Deferred Construction Cost (2017 \$MM)
Full Advanced Treatment	Deferment of Reverse Osmosis and Advanced Oxidation Process to recycled water program phase		10.08
Future Public Facilities	No space allotted Reduced earthwork costs for site Smaller admin/operations building Future construction will be on less constructible areas of the site	2.3	
Auxiliary Facilities	Removed septage receiving station and remote operations facility Reduced size and capacity of fire pump facility	1.64	
Odor Control System	Reduced from extensive to moderate	1.75	
Recycled Water Program	Deferment of recommended project recycled water program to later phase		9.64
Total Estimated Construction Cost Savings		5.7	
<i>Estimated Soft Costs</i>		<i>1.5</i>	
<i>Construction contingency (25%)</i>		<i>1.4</i>	
Total Estimated Capital Cost Savings		8.6	
Total Estimated Deferred Construction Costs			27.0
<i>Estimated Soft Costs</i>			<i>6.9</i>
<i>Construction contingency (25%)</i>			<i>6.8</i>
Total Estimated Capital Cost Deferment			40.7
Note: Estimated Soft Costs include: Engineering/design (8%), escalation (2.7%), procurement (4%), administration and construction management (10%), and permitting, monitoring, and mitigation (1%). Possible savings based on the Peer Review Panel’s recommendation to reduce estimated Engineering/Design and Administration and Construction Management costs for the DB portions of the project represent approximately \$2.4 million.			

Both alternatives result in a total cost savings for the treatment facilities over the previously recommended WRF project, generally due to reductions to the project scope. Since recycled water costs are deferred for both alternatives these costs will increase over time. No long-term savings can be realized from deferring the recommended recycled water project, if the City pursues recycled water at some point in the future.

Rough Cost Opinion for Building the WRF at or near the Existing WWTP Site

To address the Peer Review Panel's adamant recommendation to reconsider locating the new facility on or near the existing WWTP site, the team worked with Black & Veatch to estimate a rough cost savings potential for relocating the project adjacent to this location. Such a project would be based on similar assumptions as the one at SBB, and would be intended to meet community goals, including producing tertiary treated recycled water, and implementing the reclamation component (indirect potable reuse). However, this is a very rough preliminary estimate, for comparison purposes only. If the City Council wishes to explore this option, a more detailed estimate can be provided.

Preliminary estimates indicate a **cost savings potential between \$38M and \$43M**, for a total program cost of approximately \$124M to \$129M, to construct the project on or near the existing WWTP site. The cost savings potential includes construction and soft costs consistent with the other alternatives presented. This assumes a full advanced treatment facility on the existing WWTP property and a full indirect potable reuse reclamation program as described in the MWRP. Approximately 85% of the potential cost savings can be attributed to changes in the WRF costs (through tertiary treatment, but not including advanced treatment), and approximately 15% of the cost savings are associated with the recycled water project. The cost savings are generally due to the following attributes:

- *Site work: substantial reductions in the amount of site work that would be required.*
- *Yard piping: smaller site would result in some reduced yard piping*
- *Wall thicknesses: several WRF structures doubled as retaining walls, due to terracing of the site, which would not be required here.*
- *Reduced access road length*
- *Reduced offsite piping lengths*
- *Removed septage receiving station*
- *Removed fire protection facility (City's water system pressure would be sufficient at existing site)*
- *Removed remote operations facility*

It should be noted that if the Council wishes to consider moving the new WRF to a location on or near the existing WWTP site, the FMP and MWRP would need to be modified, with cost estimates refined as a result. This concept would also need to be vetted with the California Coastal Commission and RWQCB, since these agencies have until now assumed that the project will be re-located away from the existing WWTP site. The program management team would initiate these discussions if Council provides direction to pursue this approach.

SECTION 4 NEXT STEPS

1. The WRFCAC should review the report's recommendations, and provide additional input for City Council consideration
2. The City Council should consider the report's recommendations, including WRFCAC's input. Based on that, they should provide clear direction that could include, but not be limited to, one of these options:
 - a. Move forward at the South Bay Boulevard site based on the revised cost estimates provided in this report;
 - b. Refine the community's goals, and direct staff to modify the project accordingly at the SBB site;
 - c. Direct staff and the WRF program management team to provide a refined cost estimate for building the new WRF that meets community goals at or near the existing WWTP site. Depending on the outcome of this exercise, the City Council may want direct staff to take steps to clarify an appropriate site, and refine the draft FMP and MWRP to focus on that site, with the EIR focused on examining the impacts associated with building at such a site. This would include working with the RWQCB and Coastal Commission to determine whether a project at such a location is supportable.

Lori Kudzma

From: debbie highfil [REDACTED]
Sent: Thursday, June 29, 2017 11:54 AM
To: Council
Subject: Unaffordable sewer

Follow Up Flag: Follow up
Flag Status: Flagged

Dear city council, I really am surprised at the difference between the costs for the sewer in Cayucos and our sewer! This is been mis- managed and will impact lives here in a very negative way. We need to make this right!

Please do not go forward with this current plan.

Sincerely, Debbie Highfill

Lori Kudzma

From: Carol Ferioli-Moe [REDACTED]
Sent: Wednesday, July 05, 2017 12:16 PM
To: Council
Subject: Morro Bay Sewer proposal

I have owned the property at [REDACTED] in Morro Bay since the early 70's. The Morro Bay sewer project under current consideration will increase monthly costs significantly and unnecessarily.

I cannot support any proposal that will have such negative financial impact on the residents of Morro Bay and respectfully request that this Council continue to look for better and cheaper ways to meet the sewer needs of the city.

Sincerely,
Carol Ferioli-Moe

Lori Kudzma

From: Paula Radke [REDACTED]
Sent: Wednesday, July 05, 2017 11:12 AM
To: Council
Subject: 2015 raise in water and sewer rates

Mayor Irons and Council Members:

I have reviewed the 2015-218 vote information available on line from Public Works.. With all due respect, please respond so that I can respond to people asking me these questions.

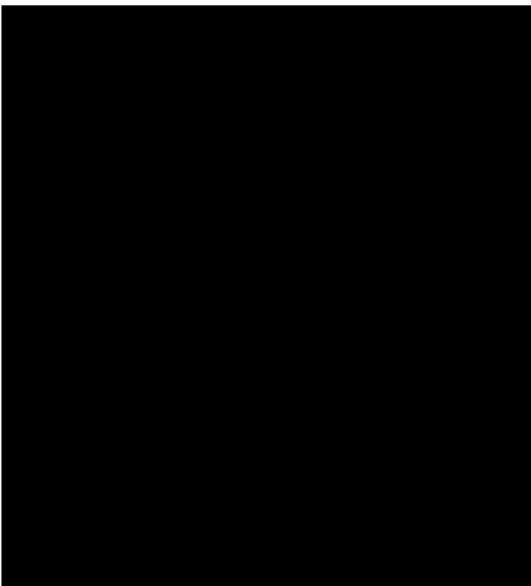
In 2015 (two years ago) you passed a 218 vote so you could get our water and sewer up to par and to build a \$75 mil new treatment facility.

That has almost three years left to raise rates for all that you described you would do. Now mid 2017, we have been told we can expect another 218 vote to raise rates even more. I have followed this for most of this year. In 2015, I wasn't even aware of the rate increase as I was fighting to raise two boys as a single parent and keep my head above water. No pun intended!

During the last 218 vote, we were told you would build a 75Mil new plant. Where is that money? How can you ask for another 218 vote when you have failed to provide what the last one promised?

I thank you in advance for an explanation.
Sincerely,

Paula Radke



Lori Kudzma

From: Dr. Joanne F. Smith [REDACTED]
Sent: Tuesday, July 04, 2017 9:59 AM
To: Council
Subject: Sewer and Water

Hello Morro Bay Council,
My husband and I live at [REDACTED] and we run a business out of [REDACTED] Street.

We are very concerned with the projected \$200+/-/mo rates of our water and sewer rates should the planned reclamation and sewer facility go in as planned.

We understand you are considering other options to our water/sewer needs and we urge you to find a solution that is much less costly to citizens than the current plan. Maybe we just need a new sewer? Maybe we need to keep the facility where it currently is and just update? We are not sure, as no option seems attractive but one thing we do know, the \$124 million projected cost of a new facility is prohibitive for the community as a whole and certainly for the individuals making up the citizenship of the Morro Bay community...many of whom are seniors living on a fixed income.

Thank you for your commitment of seeking a different and affordable solution for us and all the hard work you do for the community members of Morro Bay.

Dr. Joanne Smith, MFT and Evans Cowan, MA

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AGENDA NO: C-2

MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 29, 2017

FROM: Eric Endersby, Harbor Director
Scot Graham, Community Development Director

SUBJECT: Discussion and Direction Regarding Harbor Advisory Board Request to Resolve Ambiguities in Measure D, and Recommendations on Morro Bay “Working Waterfront” Initiative

RECOMMENDATION

Staff recommend the City Council consider the Harbor Advisory Board’s requests and recommendations regarding ambiguities in Measure D and the “Working Waterfront” initiative, and approve the approach recommended by staff to address the issues identified by the Board.

ALTERNATIVES

The City Council could direct measures, activities or actions taken other than, or additional to, those recommended in this staff report.

FISCAL IMPACT

There is no direct fiscal impact of the recommended actions in this report.

BACKGROUND

The issue of ambiguous language in “Measure D,” Ordinance No. 207, of the City of Morro Bay relating to the restriction of further non-commercial or non-recreational fishing land/water use development on City lease sites between Beach Street and Target Rock, is an ongoing issue the Harbor Advisory Board (HAB) has grappled with in recent years. Additionally, the General Plan Advisory Committee (GPAC) and Planning Commission (PC) are addressing Measure D in the General Plan (GP) and Local Coastal Plan (LCP) updates currently underway.

As part of its fiscal year 2016/2017 City Council Goal Objective Work Plans, the HAB has pursued the prospect of official “designation” or other possible recognition of Morro Bay as a “Working Waterfront.” That goal objective work plan item is also included in the 2017/2018 approved plans.

A summation of the requests, activities, actions, and recommendations made by the HAB regarding Measure D and Working Waterfronts is provided in a March 3, 2017, letter from HAB Chairman Ron Reisner to the City Council, and in an 11-page report by Mr. Reisner, dated June 11, 2017, included as Attachments 1 and 2 to this report. In addition, the text of Measure D is included with this staff report as Attachment 3.

DISCUSSION

Staff is seeking Council direction on how it wishes to proceed from a process standpoint with the

Prepared By: EE

Dept Review: EE

City Manager Review: _____

City Attorney Review: JWP

various HAB requests and recommendations on these two separate, but quite related, issues.

Measure D

The HAB requests its involvement in consideration of the two recognized ambiguities in the measure by way of the GP and LCP updates. That is to say, the HAB recommends a process by which the ambiguities in Measure D be addressed by the City, and requests it be involved in that process, and that process be incorporated into or somehow involve the GP/LCP update process. With Measure D on the docket for GP/LCP consideration, the latter should be accounted for.

The City Council Goal 4 Objective Work Plan Element regarding Measure D is:

HAB Working Waterfront Ad-Hoc Committee to work with staff, consultants and GPAC to provide input and review relative to clarification of Measure D and incorporation of clarifications into the GP/LCP.

Working Waterfront

The HAB approved a Working Waterfront Mission Statement, as outlined in Mr. Reisner's report, as-requested by the City Council for consideration of approval.

Additionally, the HAB recommended the GP/LCP update include consideration of Working Waterfront uses, and included a representative list of those uses for consideration of approval.

The City Council Goal 4 Objective Work Plan Element regarding working waterfronts is:

HAB Working Waterfront Ad-Hoc Committee to develop a "Working Waterfront" mission statement or policy for incorporation into the GP/LCP.

CONCLUSION

Given the PC and GPAC are also working on Measure D and Working Waterfront-type issues in their involvement with the GP/LCP updates, it makes sense HAB, PC and GPAC all work together, so their combined efforts are both harmonious and non-duplicative.

The Harbor Director and Community Development Director, therefore, recommend the City Council approve an approach where *ad hoc* committee of two members from the PC work with the existing HAB Working Waterfront Ad-Hoc Committee to combine their work efforts and product for a cohesive approach to addressing the issues. Their combined work product and recommendations would be brought to a joint HAB/PC meeting (to be determined), where additional public and other input could be taken, the end results being forwarded to the GPAC for inclusion in the GP/LCP update process. Additionally, on an as-needed basis, draft language, policy and other items could be routed back to the Ad-Hoc Committee and/or HAB/PC for further vetting.

Pursuant to the Brown Act, the new body made up of two PC Members and two HAB Ad-Hoc Committee Members would be a legislative body and only able to meet at duly noticed public meetings. Since the HAB Ad-Hoc Committee already exists, if the two members of the PC *ad hoc* committee were to attend one or more of the HAB Ad-Hoc Committee meetings to provide input to that Committee, but not participate in deciding actual recommendations of the HAB Ad-Hoc Committee, then that would not create a legislative body pursuant to the Brown Act. Alternatively, the two HAB Ad-Hoc Committee Members could similarly provide input to the PC *ad hoc* committee.

ATTACHMENTS

1. March 3, 2017 HAB Measure D request letter.
2. June 11, 2017 HAB Working Waterfront and Measure D recommendations document.
3. Measure D (Ordinance No. 207) text.



CITY OF MORRO BAY

HARBOR DEPARTMENT
1275 Embarcadero Road
Morro Bay, CA 93442

TO: MAYOR IRONS AND CITY COUNCIL

FROM: THE MORRO BAY HARBOR ADVISORY BOARD

MARCH 3, 2017

RE: HARBOR ADVISORY BOARD "MEASURE D" REQUEST

Dear Mayor Irons and City Council,

I am writing on behalf of the Harbor Advisory Board (HAB), which, during its March 2, 2017 meeting, determined to make the following request.

The HAB is aware that the City, with the assistance of consultant Michael Baker Int., is engaged in an update of the City's General Plan and Local Coastal Plan. Agenda item C-5 from the HAB's March 2, 2017 meeting included the following Staff Recommendation, "Consider whether clarification of Measure D's apparent ambiguities should be tied to the City's update of the General Plan and Local Coastal Plan, and make recommendations accordingly".

Over the past two years, the HAB has on several occasions identified and discussed apparent ambiguities in the text of Measure D. The two most apparent ambiguities revolve around: 1. the reference to "primarily" as it relates to uses of the Measure D waterfront for "purposes of serving or facilitating licensed commercial fishing activities or non-commercial recreational activities . . ."; and 2., the reference to "clearly incidental thereto" as it relates to consideration of waterfront land use in terms of being for "purposes of serving or facilitating licensed commercial fishing activities or non-commercial recreational activities . . .".

The HAB has carefully considered this Measure D language, its meaning, and its implications. Additionally, the HAB has on more than one occasion considered Measure D as it relates to usage of Tidelands Trust lands, i.e. Morro Bay's waterfront from Beach Street north to Target Rock.

Considering the above, the Harbor Advisory Board formally requests involvement in the consideration of Measure D, as it relates to the City's current update of the General Plan and Local Coastal Plan. Please advise us as to how we can best become involved to the benefit of the City, the Council, and the community.

Regards,

Ron Reisner, Chairman, Harbor Advisory Board

cc: Mr. Dave Buckingham, City Manager
Mr. Scot Graham, Community Development Director
Mr. Eric Endersby, Harbor Director

Morro Bay Working Waterfront Initiative and Measure D Harbor Advisory Board Recommendations

June 11, 2017

Eleven Pages

Executive Summary

In August 2016, the Morro Bay City Council tasked the Morro Bay Harbor Advisory Board (HAB) to, “. . . begin a “Working Waterfront” policy-making process for Morro Bay”. Per the relevant City Staff Report in August, the HAB was requested to address three Working Waterfront “Work Plan Elements” (WPE) to “. . . guide the process and help achieve the goal”.

The first of those WPE’s (WPE1) was addressed by the HAB during the first quarter (Q1) of the City’s FY 2016/2017. WPE1 called for the HAB and the Committee to, “Research ‘Working Waterfronts’, their designations, guidelines and other information pertinent to Morro Bay for consideration of a Morro Bay policy and possible designation”.

In September 2016, after considerable research into Working Waterfronts in the U.S., as well as research into and consideration of the Working Waterfront concept as it relates to Morro Bay, the HAB presented a written report highlighting a number of key points, as well as relevant data, and imperatives. This report was subsequently enhanced in an updated Committee reported dated November 10, 2016. Further, during its October 6, 2016 meeting, the HAB passed a formal recommendation to the City Council, stating, *“Recommended to the City Council that in order to ensure a vibrant waterfront, the City of Morro Bay self-designate a working waterfront area from Morro Rock to the State Park Marina, with follow-on policies, perhaps zoning, and other land and water use implementation strategies and/or measures.”*

In December 2016 and January 2017, the HAB addressed WPE2, which called for the development of a draft Morro Bay Working Waterfront policy, for consideration by the City Council. On January 26, 2017, the HAB published a report which stated in part that to achieve the goal of WPE2, the HAB concluded that development of a Morro Bay Working Waterfront Policy, including Morro Bay’s definition of “Working Waterfront”, best occurs in concert with the current update of the City’s General Plan and Local Coastal Plan. Further, the HAB concluded that Morro Bay is in a position to self-designate its Working Waterfront, and develop Working Waterfront definitions that are of greatest advantage and opportunity.

Additionally, the January 26, 2017 report commented on a December 12, 2016 meeting with the then City Manager, Councilman Makowetski, and at the beginning of the meeting Councilman-elect Davis. During that meeting, the City Manager discussed issues relative to the HAB’s October 6 recommendation, suggesting that the concept of a Working Waterfront in Morro Bay be concentrated on the area presently delineated by Measure D.

The HAB responded to the City Manager’s suggestion by reiterating its reasoning behind the October 6, 2016 recommendation to Council. However, toward the end of the meeting, HAB

representatives suggested the possibility of designating three separate Working Waterfront sectors for Morro Bay:

- A Working Waterfront Fisheries Sector, extending from Beach Street north to the exiting northern boundary of Measure D. This sector would also include the “Triangle Lot”, given that it is the most viable site identified for a boatyard/marine services facility.
- A Working Waterfront Visitors Sector, extending from Beach Street south to Mariner’s Park.
- A Working Waterfront Commercial Sector, extending from Mariner’s Park south to the State Park Marina.

Through its work relative to a Morro Bay Working Waterfront, the HAB clearly determined that such concept must be integrated into the City’s General Plan, the Local Coastal Plan, and the Waterfront Master Plan. Further, such integration must include the City’s Measure D. Additionally, development of a Morro Bay working waterfront policy should take place in light of waterfront related business and land use projects that are underway, or are being contemplated.

During an April 11, 2017 City Council and HAB joint meeting, the Mayor, speaking for the City Council, requested the HAB provide Council with a generalized “mission statement” regarding a Morro Bay Working Waterfront, and Measure D, for consideration by Council for possible inclusion in the current General Plan/Local Coastal Plan update.

This proposed generalized mission statement was to be sufficiently broad to facilitate the future generation of a Morro Bay Working Waterfront policy, and sufficiently broad to address Measure D, but not at this time be specific as to either a Working Waterfront definition or policy, or any clarification of Measure D.

Subsequently, during its June 1, 2017 meeting, the HAB passed the following motions relative to a Morro Bay Working Waterfront, and Measure D. Consistent with the request of Council, both motions are intended to inform and enhance the current GP/LCP/WMP updates, as they relate to a Morro Bay Working Waterfront and Measure D:

Motion A. – Working Waterfront Mission Statement:

The City of Morro Bay is uniquely located and situated to capitalize on the waters of Morro Bay and the adjacent Pacific Ocean in its General Plan and Local Coastal Plan. Further, the City of Morro Bay is dedicated to ensuring a vibrant Working Waterfront for the purposes of providing, promoting and supporting land uses and access in support of water-dependent commercial activities, water-dependent recreational activities, waterfront enhanced commercial activities, water-enhanced recreational activities, and for purposes related to providing public access to Tidelands Trust lands.

Therefore, the Morro Bay Harbor Advisory Board recommends to the Morro Bay City Council

that incorporated into the current Morro Bay General Plan and Local Coastal Plan update is a Morro Bay Working Waterfront land area and its uses, consistent with the requirements of the California Coastal Act. This Morro Bay Working Waterfront land area encompasses the Morro Bay waterfront from Target Rock in the North, to the southern boundary of the State Park Marina in the South, and encompass all waters of Morro Bay within the City limits, as well as all tidelands within the City limits, and all wetlands within the City limits (i.e. inclusive of City property from the West shore of the Sand Spit, to the bottom of the bluff along the east side of Embarcadero Road).

Motion B. – Working Waterfront Land Uses:

The Morro Bay Harbor Advisory Board recommends to the Morro Bay City Council that in the update of the Morro Bay General Plan, the Morro Bay Local Coastal Plan, and the Morro Bay Waterfront Master Plan, that consideration be given to Working Waterfront uses including, but not limited to: Harbor Tract lease sites and other City lands adjacent to Morro Bay; structures on, over, or adjacent to Morro Bay along the waterfront within the City limits; infrastructure, facilities and properties that provide access to Morro Bay; infrastructure, facilities and properties that are used for water-dependent or Harbor related private, commercial, industrial, or City activities including tourism, boating, commercial fishing, recreational fishing, mariculture, charter boat operations, boat repair and maintenance, boat building, marine supply services, marine construction, marine industry support services, seafood processing, seafood sales, aquariums, transportation, shipping, military activities, coastal-dependent energy production, boat marinas, boat moorage, boat dockage, wharfage, boat launching, and other water dependent uses. Further, that the designated Measure D area and its defined uses be incorporated into the City of Morro Bay’s Working Waterfront.

Background and Timeline

August 2016: In August 2016, the Morro Bay City Council tasked the HAB to, “. . . begin a “Working Waterfront” policy-making process for Morro Bay”. The HAB in turn created a Working Waterfront Ad-Hoc Committee (Committee) to pursue that task.

Per the relevant City Staff Report in August, the HAB and the Committee were requested to address three Working Waterfront “Work Plan Elements” (WPE) to “. . . guide the process and help achieve the goal”.

The first of those WPE’s (WPE1) was to be addressed by the HAB and the Committee during the first quarter (Q1) of the current City fiscal year – July 2016 through September 2016. WPE1 calls for the HAB and the Committee to, “Research ‘Working Waterfronts’, their designations, guidelines and other information pertinent to Morro Bay for consideration of a Morro Bay policy and possible designation”. During August and September 2016, the HAB conducted considerable research into the concept of Working Waterfronts around the U.S., and various implementations of Working Waterfront policies.

September 2016: Having conducted considerable research into Working Waterfronts around the U.S., as well as research into and consideration of the Working Waterfront concept as it relates to Morro Bay, the HAB published a written report, highlighting a number of key points, relevant data, and imperatives. This report was subsequently enhanced in an updated report dated November 10, 2016.

Through these reports and the HAB's subsequent deliberations related to a Morro Bay Working Waterfront, the HAB clearly determined that such a concept must be integrated into the City's General Plan, the Local Coastal Plan, and the Waterfront Master Plan. Further, such integration must include the City's Measure D. Additionally, development of a Morro Bay Working Waterfront policy should take place in light of waterfront related business and land use projects that are underway, or are being contemplated.

October 2016: During the regular October 6, 2016 HAB meeting, and in response to the Morro Bay City Council's WPE2 assignment relative to a Working Waterfront initiative in Morro Bay, the HAB voted unanimously to recommend the following to the City Council:

Recommended to the City Council that in order to ensure a vibrant waterfront, the City of Morro Bay self-designate a working waterfront area from Morro Rock to the State Park Marina with follow-on policies, perhaps zoning, and other land and water use implementation strategies and/or measures.

This recommendation was transmitted to the City Council in a letter from the HAB dated October 10, 2016.

December 2016: On December 12, 2016, HAB members met with the then City Manager, Councilman Makowetski, and at the beginning of the meeting Councilman-elect Davis. During that meeting, the City Manager discussed issues relative to the HAB's October 6 recommendation, suggesting that the concept of a Working Waterfront in Morro Bay be concentrated on the geographic area presently delineated by Measure D.

The Ad Hoc Committee responded to the City Manager's suggestion by reiterating its reasoning behind the October 6, 2016 recommendation. However, toward the end of the meeting, the Committee suggested the possibility of designating three separate Working Waterfront sectors for Morro Bay:

- A Working Waterfront Fisheries Sector, extending from Beach Street north to the exiting northern boundary of Measure D. This sector would also include the "Triangle Lot", given that it is the most viable site identified for a boatyard/marine services facility.
- A Working Waterfront Visitors Sector, extending from Beach Street south to Mariner's Park.
- A Working Waterfront Commercial Sector, extending from Mariner's Park south to the State Park Marina.

Delineating these three Working Waterfront sectors, should the City determine to self-designate a Working Waterfront, provides opportunity for each of the sectors to be defined separately.

- The Fisheries Sector incorporates the existing land use protections provided to commercial and recreational fisheries by Measure D, and provides: a discrete portion of the waterfront for fisheries related facilities and services; and a discrete portion of the waterfront for fisheries related commercial activities and opportunities – some of which could readily enhance tourism.
- The Visitors Sector allows the City to define this area in ways that optimize the existing Tidelands Trust enterprise zone to the advantage of enterprise zone lease holders and to the City. This in turn provides optimal opportunities and advantages for visitors, as well as for the community at large, and the City that exists to serve the community.
- The Commercial Sector allows the City to define this area to the advantage of existing commercial lease holders; to the advantage of existing and future commercial enterprise; to the advantage of the community; and to the potential advantage of the City’s management arrangement with the State of California for the State Park Marina.

Additionally, the HAB recognized the definition of working waterfront as adopted by the State of Florida:

Florida’s Working Waterfront Protection Act [Fla. Const. art. VII (amended 2008); Fla. Stat. § 342.201 (2009); and Fla. Stat. § 342.07 (2009)] incorporates a broad definition of working waterfront, a definition that may be useful in the development of a Morro Bay Working Waterfront policy. The Florida Act describes and protects “recreational and commercial working waterfront,” including boatyards, marinas, and, since 2006, resort hotels.

In Florida’s Act, the term “recreational and commercial working waterfront” means a parcel or parcels of real property that provide access for water-dependent commercial activities, including hotels and motels...or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water.

January 2017: The second WPE (WPE2) was to be addressed during the second quarter (Q2) of the current City fiscal year – October through December. WPE2 called for the HAB and the Ad Hoc Committee to: “Develop draft Morro Bay “Working Waterfront” policy for City Council consideration (FY Q2)”.

Toward that end, and as noted above, in December 2016 the HAB developed the three-sector Working Waterfront plan described in the Executive Summary.

March 2017: During its March 2, 2017 regular meeting, the HAB discussed the following agenda item, “Consider whether clarification of Measure D’s apparent ambiguities should be tied to the City’s update of the General Plan and Local Coastal Plan, and make recommendations accordingly”.

During the two-year period, the HAB carefully considered this Measure D language, its meaning, and its implications. Additionally, the HAB has on more than one occasion considered Measure D as it relates to usage of Tidelands Trust lands, i.e. Morro Bay’s waterfront from Beach Street north to Target Rock. During these considerations, the HAB on several occasions identified and discussed apparent ambiguities in the text of Measure D.

Following discussion on March 2, the HAB resolved to formally request that the City Council direct the HAB to further involve itself with Measure D, specifically as it related to the City’s current update of the General Plan and Local Coastal Plan. The HAB further requested, concerning Measure D, that the City Council advise the HAB as to how best it could become involved to the benefit of the City, the Council, and the community. On March 3, 2017, the HAB sent a letter to Council presenting those requests.

May - June 2017: During an April 11, 2017 City Council/HAB joint meeting, the Mayor, speaking for the City Council, requested the HAB provide Council with a generalized “mission statement” regarding a Morro Bay Working Waterfront, and Measure D, for consideration by Council for possible inclusion in the current General Plan/Local Coastal Plan update. This proposed generalized mission statement was to be sufficiently broad to facilitate the future generation of a Morro Bay Working Waterfront policy, and sufficiently broad to address Measure D, but not at this time be specific as to either a Working Waterfront definition or policy, or any clarification of Measure D.

Subsequently, during its June 1, 2017 regular meeting, the HAB passed two motions relative to a Morro Bay Working Waterfront, and Measure D. Consistent with the request of Council, both motions are intended to inform and enhance the current GP/LCP/WMP updates, as they relate to a Morro Bay Working Waterfront and Measure D. The two motions are documented in the above Executive Summary.

Developing a Working Waterfront Policy

To achieve the goal of WPE2, the HAB concluded that development of a Morro Bay Working Waterfront Policy best occurs in concert with the current update of the City’s General Plan and its Local Coastal Plan.

Borrowing from the *Sustainable Working Waterfronts Toolkit* developed by the Economic Development Administration division of the U.S. Department of Commerce, the following applies to the City of Morro Bay’s process of developing definitions for self-designated Working Waterfront Sectors:

Economics

In the economics element, consideration needs to be given to quantifying, to the greatest degree possible, the present financial contribution to Morro Bay, as well as the potential future contribution to Morro Bay economics, of: harboring vessels; marine service facilities; marine construction; coastal tourism and recreation; living marine resources and the marine environment; the commercial fishing industry; onshore and offshore energy production; marine transportation; etc.

Financing

The Financing element focuses on identifying economic resources that may be available to support a Working Waterfront in Morro Bay. Such resources include, but are not limited to: local taxation; State resources, Federal resources, foundations, etc. For instance, State resources are reported to include working waterfront funding mechanisms for thirty coastal states, and Federal resources are reported to include a compilation of federal programs and independent sources with national scope that qualify to be used on working waterfront issues. Additionally, there are reportedly philanthropic foundations that have either funded working waterfront projects or have focused on the economic aspects of coastal communities.

Law and Policy

Reportedly, with the exception of a few States such as Maine and Florida, working waterfronts have not been a primary focus for policymakers, and very few legal tools and policy approaches have reportedly been developed specifically with working waterfronts in mind. There reportedly are, however, tools available to help formulate working waterfront policy in the context of Morro Bay. These tools include: information on how local policymakers can apply water-dependent use definitions; addressing land use and tax policy; considerations of historic preservation laws; and addressing land conservation and acquisition programs relative to a Morro Bay working waterfront. Key components of Morro Bay developing a Working Waterfront policy include identifying existing policy-making tools, assessing those tools for relevance and sufficiency, developing and/or accessing additional tools as may be needed, and then developing and executing a policy-making plan utilizing appropriate tools.

Tools for Development of Working Waterfront Policy

Taken directly from the *Sustainable Working Waterfronts Toolkit*, the three tables below list a number of “Tools” useful to the development of Working Waterfront policy. It would be incumbent upon Morro Bay to use these tools, and to develop and apply any other tools necessary to the development of a well-conceived Working Waterfront policy.

Table 1. Working Waterfront Tools

Category	Tools
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Policy and Regulation	Building Code; Coastal Zone Management Program; Design Standards; Exaction; Historic Preservation; Litigation; Moratorium; No Net Loss Policy; Police Power; Public Trust Doctrine; Real Estate Disclosure; Special Purpose Political Subdivision; User Fee; Visual Access
Financing	Appropriation, Bond Financing, Dedicated Revenue, Economic Development Entity, Foundation, Grant, Loan, Loan Guarantee Subsidy, Tax Increment Financing, Trade Association
Planning	Action Planning, Business Recruitment Plan, Comprehensive Plan, Disaster Recovery Planning, Growth Management, Harbor Management Plans, Historic Resources Survey, Land Use Planning, Marine Spatial Planning, Six Hats Exercise, Smart Growth, Special Area Management Plan, SWOT Analysis; Waterfront Master Plan
Zoning	Contract Zoning, Form-based Code, Impact Fees, Incentive Zoning, Overlay Zoning, Private Zoning, Shoreland Zoning, Water Dependent Use, Water Dependent Use Zoning, Zoning, Zoning Ordinance
Taxation	Ad Valorem Tax, Current Use Taxation, Excise Tax, Income Tax, Property Tax, Real Estate Transfer Tax, Sales Tax; Special Assessment, Special Taxing Districts Tax, Tax Abatement/Deferral, Tax Incentives
Community/Stakeholder Engagement	Branding, Coalition, Conflict Resolution, Focus Group, Initiative, Partnerships, Stakeholder Analysis, Technical Assistance, Visioning Exercise
Mapping, Inventory, Study	Build Out Analysis, Coastal Access Site Inventory, Community Assets, Mapping/Inventory, Economic Analysis/Assessment, Force Field Analysis, Legal Tools Inventory, Legislative Task Force, Marketing Study, Natural Resource Inventory, Needs Assessment Repository, Visual Preference Survey, Working Waterfront Inventory
Land Conservation, Transfer, Acquisition	Acquisition; Compensation, Conservation Easement, Conveyance, Covenant, Deed Restriction, Easement, Eminent Domain, Land Bank, Land Trust, Lease, Liability Waiver, Purchase of Development Rights, Right-of-Way, Transferable Development Rights, Transferable Slip Rights, Working Waterfront Conservancy
Private Agreements	Consideration, Contracting for Access, Installment Contract, Lease-Option Contract, Private Use Agreements, Use Permitting

Table 2: Working Waterfront Tools for Decision and Policymakers

Category	Tools
Policy and Regulation	Decision and Policymakers may adopt formal policies or regulations to address discrete working waterfront issues. Building and development codes, for example, may impose water-dependent use requirements. Permitting programs can be designed to require consideration and mitigation of the impact of a working waterfront conversion on water-dependent business or uses.
Financing	Many states have created special funding programs to preserve working waterfront access. Money for such programs can come from a variety of sources, including grants, general fund revenue, and the issuance of state and municipal bonds. Indirectly, taxes can also be used by a government entity as a means of raising funds the public can invest in the acquisition of public access or working waterfronts. A land gains tax, real estate transfer tax, impact fees, or tax increment financing can all be explored for these purposes.
Planning	Local governments can use comprehensive plans, including waterfront master plans, harbor management plans, and special area management plans, to incorporate provisions to preserve and plan for the needs of working waterfronts.

Zoning	Zoning may be used to help fully realize any working waterfront goals, especially if those goals have been clearly articulated in local comprehensive plans. For example, zoning may help ensure that water-dependent uses, such as marinas, maintain priority and that other authorized uses, such as commercial spaces, are compatible. For example, Portland, Maine has worked hard to preserve its working waterfronts through zoning that ensures compatibility of uses located on the piers and the city waterfront, while being sensitive to the long-term operation and maintenance needs of pier owners as fishing in the Gulf of Maine has declined. (www.wateraccessus.case_study.cfm?ID=32)
Taxation	Impacts of high waterfront taxes can be mitigated through changes in tax policy that provide incentives for maintaining working waterfront access or protection. For example, a change in tax policy to an ad valorem, or "current use," tax that assesses working waterfront property based on the value of land as it is currently being used can help communities retain water-dependent business that may be struggling to pay property taxes assessed on the fair market value or "highest and best use" of the property.
Community/Stakeholder Engagement	Working waterfront stakeholders in any given community are those who are most affected by changes to the waterfront. As such, their engagement and participation is critical in visioning, planning, and implementing actions along the waterfront. Without the stakeholders at the table, initiatives are much less likely to succeed. The Middle Peninsula Planning District Commission in Virginia, for example, established the York River Use Conflict Committee to gain a better understanding of existing uses and conflicts along the York River and inform the development of policy recommendations.
Category	Tools
	(www.wateraccessus/case_study.cfm?ID=38)
Mapping, Inventory, Study	To clearly delineate their programs and policies, Decision and Policymakers must gather information about their working waterfronts. North Carolina and Alabama, for example, established legislative study committees in response to public concerns regarding loss of traditional working waterfronts. Maine and other states have inventoried and mapped working waterfront land (including ownership patterns), providing for the first time a comprehensive understanding of the status of working waterfront access and a baseline for tracking change.
Land Conservation, Transfer, Acquisition	Sometimes the most effective means of protecting or enhancing a working waterfront is to buy the property. A local government, for instance, may choose to purchase a dock or marina to ensure continued public use and access. Private owners, nonprofit organizations, and government agencies can form public/private partnerships to pursue the purchase and acquisition of working waterfront property and interests.
Private Agreements	Although a government decision-making body cannot require private entities to enter into contracts, policy can be crafted providing incentives for agreements that support working waterfronts. These can be implemented through other tools identified above, such as zoning. Additionally, local and state governments also own working waterfront infrastructure and can enter into private agreements like any other private land owner.

Table 3: Waterfront Users, and Working Waterfront Tools for Waterfront Users

Many who rely on access to working waterfronts for their livelihood or other activities do not have a guaranteed right to that access. Working waterfronts can be publicly owned, managed by a quasi-public entity like a port authority, or privately owned. Competing, and at times conflicting, demands on waterfront space can result in the loss of access for traditional waterfront activities and water-dependent uses. Loss of access frequently impacts the user more than the landowner.

Lacking ownership interest in their working waterfront and the direct ability to make laws, change zoning, or other regulatory decisions means that waterfront users have the fewest tools at their disposal. However, they are often key partners in the implementation of working waterfront initiatives. Displacement of waterfront users is frequently the catalyst for communities to come together and figure out how to protect land usage and access.

Category	Tools
Policy and Regulation	Working waterfront users can have considerable influence on local and state policies and regulations like tax or policy incentives for waterfront landowners that grant preferences to working waterfronts. In addition, many waterfront users are businesses that require access to the water, and often make important contributions to the local economy and character of coastal communities.
Financing	For many users of working waterfront infrastructure, tools for financing capital improvements or ongoing operations and maintenance costs are not directly applicable. Users, for instance, cannot get a loan or a grant to make an investment on somebody else's property. Working waterfront users, however, frequently help finance the ongoing viability of the infrastructure they use through the payments of taxes, fees, and rent. By entering into leases or other business arrangements, waterfront users may be able to help provide the financing needed to keep the infrastructure operational. In addition, many public financing programs require a commitment from the waterfront landowner to support water-dependent uses for a specific period of time. Users may also influence the funding for public financing through the provision of stakeholder input, or by advocating for a specific appropriation, bond financing, or dedicated revenue.
Planning	Waterfront users can be important participants in planning processes. This is true whether policymakers are developing comprehensive land use plans, harbor management plans, special area management plans, or engaging in marine spatial planning. Some strategies, like development of business recruitment and growth management plans, can be quite focused on the needs of working waterfront users. Concerns about losing a historic industry often drive these planning processes. For example, in Gloucester, Massachusetts, the comprehensive planning process helped identify issues facing waterfront users and provided a forum for negotiating compromises that allow continued access to the working waterfront.
Zoning	Waterfront users are often impacted by zoning decisions. Changes in the economic condition of the working waterfront can cause waterfront landowners to seek changes to or exemptions from zoning ordinances that may shift or displace traditional uses. The public process around zoning decisions gives waterfront users a chance to participate in the decision-making process and contribute to the development of solutions that work for the community, users, and landowners.
Taxation	Waterfront users often indirectly benefit from tax incentives for working waterfronts. Tax programs, including current use taxation, property tax abatement and other tax incentives,
Category	Tools
	can help landowners maintain working waterfronts on their property. This in turn ensures continued access for water-dependent uses. Waterfront users also support working waterfronts through tax payments, which are often the revenue source for public financing of working waterfront initiatives.

Community/Stakeholder Engagement	Waterfront users are often the most identifiable stakeholder in a community's working waterfront. Users can influence the local and state decision-making and policy processes by utilizing community and stakeholder engagement tools like coalition-building and forming partnerships.
Mapping, Inventory, Study	Some inventories, mapping projects, or studies may come from and be conducted by users or groups working closely with working waterfront users. Others may emerge as part of a public process. Participation in mapping, working waterfront inventories, and other studies can be an extremely important way to influence decisions being made by others about working waterfronts.
Land Conservation, Transfer, Acquisition	Waterfront users in some communities have purchased development rights, easements, covenants, or otherwise placed restrictions on properties they rely on to increase the likelihood of continued water access. Waterfront users are at a high risk for displacement around the time a working waterfront is being transferred or sold. They can work with the sellers, land trusts, and the community to acquire the property for the benefit of the broader community.
Private Agreements	Private arrangements between the landowner and user can help ensure that specific users or a community of working waterfront users maintains water access. Formal private agreements like leases, private use agreements, or other contracts, can provide revenue for the landowner and certainty for the user. Informal arrangements that allow access across private property can also be important; however, many coastal communities have seen that, as pressures on landowners increase, users of working waterfronts are likely to see changes to or the ending of these informal arrangements. Users with informal agreements are particularly at risk for displacement when a property is transferred, particularly if the new owner does not have a connection to those working waterfront users. In any private agreement, a tangible benefit to the landowner will help fortify the agreement, should it need to go before the court.

ORDINANCE NO. 207

AN ORDINANCE TO RESTRICT FURTHER DEVELOPMENTS
AND USES BETWEEN BEACH STREET AND TARGET ROCK
TO THOSE PRIMARILY SERVING LICENSED COMMERCIAL
FISHING OR RECREATIONAL FISHING

The people of the City of Morro Bay do ordain an ordinance relating to the restriction of further developments and uses between Beach Street and Target Rock to those primarily serving licensed commercial fishing or recreational fishing as follows:

Municipal Code Section 17.36.020C. The City shall not grant any permit, authorization or other approval of any state owned tidelands subject to city lease between Beach Street and Target Rock, unless such development or use is primarily for the purpose of serving or facilitating licensed commercial fishing activities or noncommercial recreational fishing activities, or is clearly incidental thereto. For purposes of illustration only, and not by way of limitation, no approval shall be granted for any new passenger for hire boats or supporting facilities, or for any new restaurant, cafe, gift shop or other retail establishments serving the general public, and any existing such uses shall hereafter be considered nonconforming and shall not be expanded or enlarged.

I, BONITA KAY MURRAY, Deputy City Clerk of the City of Morro Bay, do hereby certify that the foregoing is a true and correct copy of an ordinance adopted by a majority vote of the electors voting in the special municipal election held in the City of Morro Bay on the 2nd day of June, 1981.

DATED: June 8, 1981


BONITA KAY MURRAY, Deputy City Clerk



AGENDA NO: C-3

MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor & City Council **DATE:** July 3, 2017

FROM: Martin R. Lomeli, Interim City Manager
Joseph Pannone, City Attorney

SUBJECT: Approval of Community Benefit Agreement between City of Morro Bay and Trident Winds, LLC.

RECOMMENDATION

Staff recommends the City Council review the staff report, receive the presentation by staff and Trident Winds, LLC (Trident), and approve the attached Community Benefit Agreement (CBA) between the City of Morro Bay and Trident.

ALTERNATIVES

- The Council could opt not to approve the CBA as proposed, and direct changes as deemed appropriate (would require re-negotiation with Trident)
- Council could provide direction to discontinue working collaboratively with Trident on a wind farm proposal, including no further consideration of a CBA or other similar instrument memorializing such a partnership
- The Council may direct staff to take a different approach, as deemed appropriate for this or similar potential wind farm proposals

FISCAL IMPACT

There is no direct measurable Fiscal Impact associated with the CBA; however, long-term financial benefits from a wind farm based off the coast of Morro Bay would likely be realized (local jobs for residents, potential job training, local office for operations, and/or license fees, etc.).

BACKGROUND

The former Morro Bay Power Plant (the "MBPP") is an inoperable 650 MW gas and oil fired power operation owned by Dynegy Morro Bay, LLC, a Delaware limited liability company, a wholly-owned affiliate of the publicly traded independent power company known as Dynegy Inc. ("Dynegy"). Dynegy representatives have advised it is actively attempting to sell and otherwise dispose of its portfolio of California power plants, including the MBPP. The MBPP has been closed and rendered inoperable since January 2013. The City has experienced significant negative economic impacts as a result of expired MBPP operational agreements, including, but not limited to, because a vacant power plant on the City's waterfront is a visual and economic detriment to the future growth and prosperity of the City. Since the closure of the MBPP, various parties have suggested site re-use concepts to the City.

Staff and Trident understand the necessity to evaluate and address potential impacts to the marine ecosystem, specifically, water quality and migratory and resident species of concern, as well as other issues, such as visual resources, recreational opportunities, navigable channels, cultural resources and the commercial fishing industry for any proposed re-use of the MBPP. It is also well known, California

Prepared By: CS

Dept Review: CS

City Manager Review: MRL

City Attorney Review: JWP

has a public policy to increase, significantly, the use of renewable power in the State and to decrease, significantly, the emission of carbon in the power, industrial and transportation sectors of the California economy. Additional local economic and power generation concerns may exist given the impending closure of the Diablo Canyon Nuclear Power Plant near Avila Beach, which may compound both issues absent additional mitigating measures.

Noting those issues/public policy considerations, the City Council, on October 5, 2015, approved entering into a Memorandum of Cooperation (MOC) between the City of Morro Bay and Trident (see Attachment A). The MOC was for both parties to cooperate regarding a possible wind turbine project located off-shore for the production of electricity with access to the existing distribution facilities at the former MBPP.

DISCUSSION

Trident is a company formed to obtain permits for clean, renewable energy projects, and has advised the City it is engaged in the permitting of a utility scale, deep water, anchored wind project on the central coast of California in the general vicinity of Morro Bay. Part of that potential project would require a means of transmitting electricity created by the wind project. The City owns and controls the cooling water outfall structure formerly utilized by the MBPP, which structure may be effectively re-utilized by an offshore wind project to electrically connect a wind project to the PG&E electric substation located adjacent to the MBPP, and which substation provides for an interconnection to the high voltage transmission system operated by the California Independent System Operator located in Folsom, California.

Trident approached the City to cooperatively explore the possibility of the wind project and use of the City-owned outfall facility, with the MOC being authorized by Council to provide the parties a path for that cooperative effort. The MOC does not commit the City to any reuse of its outfall structure of the MBPP or position on the project.

Following execution of the MOC, the City and Trident have collaboratively negotiated the attached CBA, that meets the MOC intent:

- (i) to explore a long-term commercial relationship for the use of the City's outfall structure in order to interconnect an offshore wind project to the PG&E substation;*
- (ii) to consider supporting Trident's Plan of Permitting with respect to the federal, state and local permits it will need to construct an offshore wind project, and,*
- (iii) to work with Trident on such other activities as the Parties may wish to jointly consider.*

In staff's opinion, the benefits to each party from moving forward with this CBA warrant execution of the CBA.

City benefits include:

- promoting local hiring of City-residents
- hiring and retaining local fishery businesses and other local businesses for specified wind farm project activities
- future funding for job training activities (or direct training offerings)
- measurable goals/plans to increase the broad range of tourism-related businesses that can benefit from the development and operation of such a wind farm projects
- Community public meetings/input on the proposed projects, including likely impacts (positive and negative)

- Future developer (Trident) funding of above outlined benefits
- Local agreement with Morro Bay Commercial Fisherman's Organization to minimize/mitigate adverse impacts to Morro Bay's commercial fishing industry
- Local positive economic impacts if/when wind farm project commences

Trident benefits include:

- Collaborative approach with Morro Bay
- Increased possibility of the Bureau of Ocean Energy Management (BOEM) to awarding Trident with the exclusive opportunity to obtain areas proximate to Morro Bay controlled by BOEM for wind farm use
- Indication of the City's willingness to negotiate with Trident for a non-transferable, long-term lease, for conditional use of outflow conduit that is under City's control
- Exclusivity of agreement with Trident during the BOEM process and longer if Trident is successful

CONCLUSION

Trident Winds has proactively approached the City and community of Morro Bay in an open, transparent and collaborative fashion to present its wind farm proposal and gain community support for it by working with the community. As such, staff recommend the Council approve the attached CBA with Trident, noting the numerous mutual benefits of the agreement, and approach Trident is taking with regard to its project and the community.

ATTACHMENTS

- A. Community Benefit Agreement, City of Morro Bay and Trident Winds, LLC
- B. Memorandum of Understanding, City of Morro Bay and Trident Winds, LLC (October 5, 2015)

COMMUNITY BENEFITS AGREEMENT

TRIDENT WINDS MORRO BAY OFFSHORE WIND FARM PROJECT

This COMMUNITY BENEFIT AGREEMENT (this “Agreement”) is entered into as of July __, 2017 (the “Effective Date”), by and between THE CITY OF MORRO BAY, a California municipal corporation, (the “City”) and TRIDENT WINDS, LLC, a State of Washington limited liability company, (the “Developer”). Each of the City and the Developer are sometimes referred to below, individually as a “Party” or, collectively, as the “Parties.”

A. The Developer is in the process of developing an offshore wind project proximate to Morro Bay (the “Proposed Project”), which process shall include procuring various Federal, State and local permits, entitlements, and other approvals and entering into related commercial contracts, including the Option Agreement defined below; and

B. In recognition of the Memorandum or Cooperation executed between the Parties on October 5, 2015 (the “Memorandum”), which is, pursuant to this Agreement, superseded in its entirety and no longer of any effect, the Developer desires to receive from the City an initial favorable acknowledgement of the Proposed Project (the “Acknowledgement”) in exchange for the Community Benefits described herein (the “Community Benefits”); and

C. The Developer and the City desire to formalize the Acknowledgement by entering into this Agreement.

NOW, THEREFORE, the Parties have agreed to enter into this Agreement and to be bound by this Agreement’s terms and conditions set forth below.

Section 1. Purpose

The purpose of this Agreement is to formalize the Acknowledgement and Community Benefits to the City and its residents.

Section 2. Community Benefit Efforts

Among some of the Community Benefits the Developer shall actively assist the City with receiving are the following:

(a) Promotion of Local Economic Development: Achieving, to the extent reasonably viable and available, local economic development related to the development and long-term operations and maintenance of the Proposed Project, including, but not limited to:

(i) promoting local hiring of City-residents;

(ii) hiring and retaining local fishery-related businesses and their vessels and other local businesses for such things as, environmental surveys, monitoring, logistics, supplies, equipment, maintenance and activities related to the analysis, approval, installation, operation and maintenance of the Proposed Project, as applicable; provided, that such businesses can satisfy the relevant technical, commercial, and certification requirements;

(iii) when insufficient resources exist within the City to provide the services described in (ii), above, promoting establishment, within the City of new businesses for such services;

(iv) funding, at a level reasonably necessary for job training for the each of the objectives described in subparts (i), (ii) and (iii), above, whether through direct funding or through the Developer's contracts with its vendors; and

(v) developing measureable goals and plans to increase the broad range of tourism-related businesses that can benefit from the development and operation of the Proposed Project.

(b) Community Communications: In order to promote (i) open communications and (ii) accountability with the City's community, including scheduling, as reasonably requested by the City, a series of public meetings with residents and certain interests groups, including local business concerns (such as commercial and sports fishing and the broad range of tourism) to discuss all aspects of the Proposed Project, including environmental concerns, the Developer shall develop and implement a community communications plan, reasonably acceptable to the City Manager.

(c) Funding: The funding obligations relating to this Agreement shall be structured as follows:

(i) Subsequent to the Effective Date (as defined below), but within sixty (60) days after formal written notice from the Bureau of Ocean Energy Management ("BOEM") to Developer of Developer's exclusive site control needed for the Proposed Project, the Parties shall negotiate, in good faith, funding structures and priorities, legally enforceable against the Developer and its partners (if any) in the Proposed Project, based on which the developers/owners/operators of the Propose Project shall provide periodic funding to fund certain agreed activities directly and indirectly related to the matters related to Subsections 2(a) and (b); and

(ii) Prior to the commercial operation date of the Proposed Project, the Parties shall agree upon long-term funding commitments tied to the life of each power purchase agreement procured for the Proposed Project, pursuant to which Developer and its partners (if any) in the Proposed Project shall continue to be legally bound to fund certain objectives related to the matters related to Subsections 2(a) and (b), as mutually agreed to by the Parties.

(d) Fisherman Agreement: In addition, prior to the commercial operation date of the Proposed Project, the Developer shall, in good faith, collaborate with the Morro Bay Commercial Fisherman's Organization, a California Mutual Benefit Corporation, ("MBCFO") to best minimize and mitigate adverse impacts to the area's commercial fishing industry. The goal of that collaboration is for the Developer and MBCFO to agree to a formal memorialization of a plan to minimize and mitigate those adverse impacts.

Section 3. Option to Lease Conduit

(a) If the Developer receives all required governmental approvals for the Proposed Project exclusive to the Developer and only if the Developer and its partners (if any) in the Proposed Project have irrevocably committed to install, operate and maintain the Proposed Project, then the Developer shall have the option to enter into a non-transferable, long-term lease, as agreed to by the City, for the exclusive, conditional use of the outflow conduit that is under the City's control (the "Option Agreement").

(b) Notwithstanding the foregoing, the Parties understand and agree (i) this Agreement does not obligate the City to approve the Option Agreement or approve any aspect of the Proposed Project and (ii) any agreement and approval can only occur after all necessary environmental analysis has been properly completed, reviewed and certified by the City.

Section 4. Term

This Agreement shall become effective on the date of the City Council's formal approval of this Agreement at a duly notice public meeting (the "Effective Date") and shall terminate upon the earlier of the following (i) the December 31st of the full calendar year immediately following the date the Proposed Project is no longer providing energy or (ii) upon BOEM's determination not to approve the Developer as the developer of the Proposed Project.

Section 5. Exclusive Nature of Agreement

The Parties acknowledge and agree during the term of this Agreement (i) this Agreement is exclusive as between the Parties relating to the subject matter hereof and (ii) without the prior written consent of the Developer, the City shall not agree, with a developer of a competing offshore wind farm project, to enter into an agreement similar to this Agreement nor to any lease of the conduit described in Section 3. of this Agreement. The Parties expressly understand and agree, upon the Effective Date, the Memorandum is hereby superseded in its entirety and no longer of any effect.

Section 6. Miscellaneous

(a) Advice of Legal Counsel. Each Party acknowledges it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, has freely entered into this Agreement.

(b) Assignment; Successors. This Agreement shall inure to the benefit of, be binding upon, and be enforceable by and against the Parties and their respective successors and permitted assigns. The Developer shall be permitted to assign this Agreement to an affiliate or subsidiary without the prior consent of the City.

(c) Authority of Signatories. The individuals executing this Agreement represent and warrant that they have the authority to sign on behalf of their respective Parties.

(d) Controlling Law. This Agreement shall be enforced in accordance with the laws of the State of California and the United States. If any provision of this Agreement is held by a

court of law to be in conflict with law, then the applicable law shall prevail over the terms of this Agreement, and the conflicting provisions of this Agreement shall not be enforceable.

(e) Correspondence. All correspondence shall be in writing and shall be addressed to the affected Parties at the addresses set forth below. A Party may change its address by giving notice in compliance with this Section 6. The addresses of the Parties are:

If to the Developer:

Trident Winds, LLC
113 Cherry Street, #34912
Seattle, WA 98104-2205
Tel.: 206.300.7721
Facsimile: 425.988.1977
Attn: Alla Weinstein, Founder

Copy to:

Perkins Coie, LLP
10885 Fourth Street, Suite 700
Bellevue, WA 98004
Tel.: 425 635 1441
Facsimile: 425 635 2441
Attn.: John Pierce

If to the City:

City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
Tel.: 805.772.6205
Facsimile: 805.772.7329
Attn: City Manager

Copy to:

Joseph W. Pannone
Aleshire & Wynder, LLP
2361 Rosecrans Avenue, Suite
El Segundo, CA 90245-4916
Tel.: 310.527.6663
Facsimile: 310.532.7395

(f) Counterparts. This Agreement may be executed in two or more counterparts, each of which may be deemed an original, but all of which shall constitute one and the same document.

(g) Entire Agreement. The Agreement contains the entire agreement between the Parties and supersedes any prior agreements, discussions, or commitments, written or oral, between the Parties to this Agreement.

(h) Further Assurances. The Parties hereto agree to take such actions and execute such additional documents as are reasonably necessary to carry out the provisions of this Agreement.

(i) Modification. This Agreement may not be altered, amended or modified except by an instrument in writing signed by the Parties to this Agreement.

(j) Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall continue in full force and effect.

(k) Venue. Venue for all legal proceedings shall be in the Superior Court of California, County of San Luis Obispo or the Federal District Court for San Luis Obispo County, if the matter involves federal law.

(l) Waiver. A waiver by any Party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

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

CITY OF MORRO BAY

By: _____
Jamie Irons., Mayor

TRIDENT WINDS, LLC

By: _____
Alla Weinstein, Founder

OCTOBER 5, 2015

MEMORANDUM OF COOPERATION BY AND BETWEEN THE CITY OF MORRO BAY CALIFORNIA (the "City") AND TRIDENT WINDS LLC ("Trident"), AN OFFSHORE WIND DEVELOPMENT COMPANY ORGANIZED IN WASHINGTON STATE, collectively (the "Parties")

Whereas, The City of Morro Bay in San Luis Obispo County California is the location of an inoperable 650 MW gas and oil fired power plant (the "Plant") owned by Dynegy Morro Bay, LLC, a Delaware limited liability company, a wholly-owned affiliate of the publicly traded independent power company known as Dynegy Inc. ("Dynegy"), located in Houston Texas, that owns and operates a coal-fired dominated portfolio of power plants across the U.S.; and

Whereas, Dynegy representatives have advised the City Dynegy is actively attempting to sell and otherwise dispose of its portfolio of California power plants, including the Plant; and

Whereas, the Dynegy power plant located on the Morro Bay waterfront has been closed and rendered inoperable since January 2013, thereby producing significant negative economic impacts on the City's revenue streams as a result of expired plant operational agreements; and

Whereas, the Parties understand the necessity to evaluate and address potential impacts to the marine ecosystem, specifically, water quality and migratory and resident species of concern, as well as other issues, such as visual resources, recreational opportunities, navigable channels, cultural resources and the fishing industry; and

Whereas, a vacant power plant on the City's waterfront is a visual and economic detriment to the future growth and prosperity of a California coastal city; and

Whereas, since the Plant's closure, various parties have suggested Plant site re-use concepts to the City; and

Whereas, it is the public policy in the State of California to significantly increase the use of renewable power in the state and to significantly decrease the emission of carbon in the power, industrial and transportation sectors of the California economy; and

Whereas, Trident, an Offshore Wind Development ("OSD") company formed to permit clean, renewable energy projects, has advised the City that it is engaged in the permitting of a utility scale, deep water, anchored wind project on the central coast of California in the general vicinity of Morro Bay; and

Whereas, the City owns and controls the cooling water outfall structure formerly utilized by the closed and inoperable Plant which structure may be effectively re-utilized by an offshore wind project to electrically connect a wind project to the PG&E electric substation located adjacent to the Plant, and which substation provides for an interconnection to the high voltage transmission system operated by the California Independent System Operator located in Folsom, California; and

Whereas, the City may control or have influence over the use or re-use of other built infrastructure within its jurisdiction, that may be useful to facilitate the development of a renewable energy offshore wind project that could contribute to the economic prosperity and development opportunities for the City.

Now, in consideration of the mutual undertakings of the Parties set forth below, the Parties agree as follows:

1. Trident will, subject to any confidentiality agreements or applicable law and regulation, provide the City with progress reports concerning, among other matters:

- (i) its preparation of an application to the Bureau of Ocean Energy Management (“BOEM”) to lease certain areas of the ocean floor off the coast of central California;
- (ii) its engagement with environmental and other non-governmental organizations that may be parties in interest with respect to a proposed offshore wind project;
- (iii) its engagement with commercial and recreational fishing interests that may be affected by a proposed offshore wind project;
- (iv) its engagement with Native American interests that may be affected or that may participant in the development of an offshore wind project;
- (v) its engagement with the California Coastal and Lands Commissions;
- (vi) its engagement with the California Energy Commission;
- (vii) its engagement with the California Public Utilities Commission;
- (viii) its engagement with the California Air Resources Board;
- (ix) its engagement with the California Independent System Operator;
- (x) its engagement with other state and local elected officials, community at large and local businesses; and,
- (xi) its engagement with Dynegy and/or others with respect to Trident’s wind project development endeavors.

2, Trident will use its reasonable best efforts to help educate City representatives and the citizenry of Morro Bay about the technology of the proposed wind project, its various environmental impacts, its economic development attributes for the City and its ideas for the possible re-use of Plant facilities and property.

3. The City will, subject to its own rules and regulations and applicable law, and following significant public review and participation, cooperate with Trident to the extent it deems reasonable and in the public interest:

- (i) to explore a long-term commercial relationship for the use of the City's outfall structure in order to interconnect an offshore wind project to the PG&E substation;
- (ii) to consider supporting Trident's Plan of Permitting with respect to the federal, state and local permits it will need to construct an offshore wind project, and,
- (iii) to work with Trident on such other activities as the Parties may wish to jointly consider.

In witness thereto the below sign on behalf of their respective parties.

City of Morro Bay

Trident Winds LLC

By: Jamie L. Irons
Jamie Irons, Mayor

By: H. Weinstein
Its member

ATTEST:

Dana Swanson
Dana Swanson, City Clerk

APPROVED AS TO FORM:

Joseph W. Pannone
Joseph W. Pannone,
City Attorney