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, September 25, 2018
Veterans Memorial Hall - 6:00 P.M.
209 Surf St., Morro Bay, CA

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
RECOGNITION
CLOSED SESSION REPORT
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS
PRESENTATIONS

- Proclamation Recognizing Del Mar Elementary as 2018 California Distinguished School

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. <u>CONSENT AGENDA</u>

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 AUGUST 28, 2018 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE SEPTEMBER 10, 2018, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 PROCLAMATION RECOGNIZING DEL MAR ELEMENTARY AS 2018 CALIFORNIA DISTINGUISHED SCHOOL; (ADMINSTRATION)

RECOMMENDATION: Approve as submitted.

A-4 RECEIVE FOURTH QUARTER INVESTMENT REPORT (PERIOD ENDING JUNE 30, 2018) FOR FISCAL YEAR 2017/18 AND PROVIDE DIRECTION DEEMED APPROPRIATE, IF ANY; (FINANCE)

RECOMMENDATION: Receive and file.

A-5 ADOPTION OF RESOLUTION NO. 73-18 APPROVING AN INTERIM MASTER LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND EMBARCADERO 801 LLC FOR LEASE SITE 86/86W, LOCATED AT 801 EMBARCADERO, AND COMMONLY KNOWN AS "THE LIBERTINE PUB"; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 73-18, approving an Interim Master Lease Agreement for Lease Site 86/86W, as proposed.

A-6 ADOPTION OF RESOLUTION NO. 74-18 APPROVING A NEW MASTER LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND 725 EMBARCADERO LLC FOR LEASE SITE 82-82/82W-85W, LOCATED AT 725 EMBARCADERO, AND COMMONLY KNOWN AS "ROSE'S LANDING"; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 74-18, approving a new Master Lease Agreement for Lease Site 82-85/82W-85W, as proposed.

A-7 APPROVAL OF HARBOR ADVISORY BOARD MEMBER'S REQUEST FOR AN EXCUSED ABSENCE; (CITY CLERK)

RECOMMENDATION: Council consider the request submitted by Harbor Advisory Board Member and current Chair, Ron Reisner, to excuse his absence from the October 4, 2018 Regular Harbor Advisory Board meeting and allow him to continue serving through the scheduled term ending January 31, 2021.

A-8 ADOPTION OF RESOLUTION NO. 78-18 AUTHORIZATION TO PURCHASE TROLLEY REPLACEMENT VEHICLE; (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolution No. 78-18.

A-9 ADOPTION OF RESOLUTION NO. 79-18 APPROVING FISCAL YEAR 2017/18 FOURTH QUARTER YEAR-END BUDGET ADJUSTMENTS; (FINANCE)

RECOMMENDATION: Adopt Resolution No. 79-18.

A-10 PROCLAMATION DECLARING SEPTEMBER 23-29, 2018, AS THE 16TH ANNUAL SEA OTTER AWARENESS WEEK; (HARBOR)

RECOMMENDATION: Approve as submitted.

B. PUBLIC HEARINGS

B-1 DENIAL OF APPEAL OF PLANNING COMMISSION APPROVAL ON AUGUST 7, 2018, OF THE CONDITIONAL USE PERMIT (UP0-470), COASTAL DEVELOPMENT PERMIT (CP0-530), TENTATIVE VESTING MAP #2859 (S00-127) AND MITIGATED NEGATIVE DECLARATION FOR THE SITE AT 2783 CORAL AVE. TO ALLOW A 6-PARCEL SUBDIVISION ON A .99-ACRE SITE WITHIN THE CLOISTERS SUBDIVISION; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Adopt Resolution No. 72-18, making the necessary findings to deny the appeal and uphold the Planning Commission approval of Conditional Use Permit (UP0-470), Coastal Development Permit (CP0-530), Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration for the site at 2783 Coral Ave. to allow a 6-parcel subdivision on a .99-acre site within the Cloisters Subdivision.

C. BUSINESS ITEMS

C-1 CITY COUNCIL INPUT AND DIRECTION ON UPDATE OF THE HARBOR DEPARTMENT LEASE MANAGEMENT POLICY DOCUMENT; (HARBOR)

RECOMMENDATION: Provide input and direction on the Harbor Department Lease Management Policy update process being proposed.

C-2 COMMUNITY CHOICE ENERGY TECHNICAL STUDY, APPROVAL OF JPA AGREEMENT AND RESOLUTION, AND FIRST READING OF COMMUNITY CHOICE ENERGY ORDINANCE NO. 616; (CITY MANAGER)

RECOMMENDATION:

1. **Receive the CCE Technical Study (Attachment A) and presentation; and**
2. **Introduce, for first reading by title only with further reading waived, Ordinance No. 616 entitled, "An Ordinance of the City Council of the City of Morro Bay, California, Authorizing the Implementation of a Community Choice Aggregation Program" (Attachment B); and**
3. **Adopt Resolution No. 80-18 entitled, "A Resolution of the City Council of the City of Morro Bay, California, Approving the Joint Powers Agreement Establishing Central Coast Community Energy on behalf of the City of Morro Bay" (Attachment C); and**
4. **Appoint two Council members to serve as the City's representatives on Central Coast Community Energy's Board of Directors; and**
5. **Direct staff to continue to support Central Coast Community Energy implementation and program launch until such time that the new agency has hired staff and transitioned to an operational, independent agency.**

C-3 CONSIDERATION OF ADOPTION OF RESOLUTIONS NO. 75-18, 76-18 AND 77-18 NECESSARY TO SUBMIT THE STATE REVOLVING FUND FINANCIAL SECURITY PACKAGE TO THE STATE WATER RESOURCES CONTROL BOARD; (PUBLIC WORKS)

RECOMMENDATION:

1. **Adopt Resolution No. 75-18 authorizing staff to file a Financial Assistance Application for a financing agreement from the State Water Resources Control Board.**

2. **Adopt Resolution No. 76-18 authorizing the reimbursement of funds for expenditures paid prior to approval by the State Water Resources Control Board.**
3. **Adopt Resolution No. 77-18 pledging the payment of any and all Clean Water State Revolving Fund and/or Water Recycling Funding Program financing for the WRF Project.**

C-4 CONSIDERATION OF PROPOSAL FROM AND APPROVAL OF CONTRACT TO GSI WATER SOLUTIONS FOR GROUNDWATER FLOW MODELING AND INJECTION TESTING FOR FUTURE INDIRECT POTABLE REUSE IN MORRO VALLEY; (PUBLIC WORKS)

RECOMMENDATION:

1. **Review the recommendation from staff to award a contract to GSI Water Solutions for groundwater flow modeling of lower Morro Valley Basin and injection testing for future indirect potable reuse in lower Morro Valley Basin; and**
2. **Authorize the Public Works Director to execute an agreement for the amount of $351,000, with a fifteen percent contingency for a total authorization of $403,650.**

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday**, **October 9, 2018 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.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 28, 2018
VETERAN'S MEMORIAL HALL – 6:00 P.M.

AGENDA NO: A-1

MEETING DATE: September 25, 2018

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
ABSENT:	John Headding	Council Member
STAFF:	Scott Collins	City Manager
	Chris Neumeyer	Assistant City Attorney
	Dana Swanson	City Clerk
	Jennifer Callaway	Finance Director
	Rob Livick	Public Works Director
	Scot Graham	Community Development Director
	Steve Knuckles	Fire Chief
	Eric Endersby	Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER
The meeting was called to order at 6:03 p.m., with all but Council Member Headding present.

MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
RECOGNITION - None
CLOSED SESSION REPORT – No Closed Session meeting was held.

MAYOR AND COUNCIL MEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
https://youtu.be/AvrUd3l6UAw?t=2s

CITY MANAGER REPORTS, ANNOUNCEMENTS & PRESENTATIONS
https://youtu.be/AvrUd3l6UAw?t=1m19s

PRESENTATIONS

- OpenGov Presentation by Finance Director Callaway
  https://youtu.be/AvrUd3l6UAw?t=2m11s

PUBLIC COMMENT
https://youtu.be/AvrUd3l6UAw?t=17m1s

Dr. Jill Stearns introduced herself as the new Superintendent and President of Cuesta College. Classes are in session with more than 1,000 Promise students from San Luis Obispo County high schools attending fee free for two years. She looks forward to partnering with the City of Morro Bay.

John Weiss, Morro Bay resident, small business owner and candidate for Mayor, spoke regarding the importance of an affordable water reclamation facility project.

Janice Wolff, Healthy Community Work Group, announced an upcoming event "Health and Housing: Building the Connection" to be held Thursday, October 4, from 1:00 – 6:00 p.m. at the San Luis Obispo Veterans Hall. Admission is free but those wishing to attend are encouraged to register in advance at www.healslo.com.

Mary “Ginny” Garelick, Morro Bay, expressed support for the WRF project at the South Bay site and provided comments to encourage those on the fence to join her in supporting the proposed project.

Dawn Addis, Morro Bay resident, member of the Citizens Finance Advisory Committee and candidate for City Council, expressed appreciation to staff and the Council for efforts to make OpenGov available to residents.

Aaron Ochs, Save Morro Bay, expressed support for the Historical Society’s efforts to raise money to move and preserve Dockside 3. He shared concerns regarding the Proposition 218 process and suggested noticing requirements weren’t met.

Larry Truesdale, Morro Bay, commented on the Proposition 218 process and suggested establishing an oversight committee to observe the protest counting process.

Glenn Silloway, President of the Historical Society of Morro Bay, announced the possibility of relocating and preserving the Thai Boat / Tognazzini’s 3 (formerly “Finicky Fish 2”) as a potential Visitor Center site on the Embarcadero. They are seeking City support for the project.

Joan Solu, Historical Society of Morro Bay Board Member, shared her excitement about the opportunity for its first preservation project and also working with community to create a historic preservation ordinance. Visit www.historicalmorrobay.org for more information.

Jeff Heller, Morro Bay resident and candidate for City Council, supported efforts to save Dockside 3 and suggested the money recommended for allocation to fund a Boatyard financial feasibility study (Item C-2) be used to support the project.

Steve Stevens, Morro Bay, spoke in support of saving Dockside 3 and looks forward to the Proposition 218 public hearing on September 11.

The following spoke to Items C-1 and C-2:

Pandora Nash-Karner, Los Osos, spoke in support of a future boat haul out facility.

Maryann Stansfield, Atascadero resident and member of the Morro Bay Yacht Club, spoke in support of Items C-1 and C-2.

David Hensinger, San Luis Obispo resident and Commodore of the Morro Bay Yacht Club, spoke on behalf of its members stating strong support for Items C-1 and C-2.

Dana McClish, Morro Bay resident, business owner, and member of the Morro Bay Yacht Club spoke in support of Items C-1 and C-2.

The Public Comment period was closed.

At Council’s request, staff responded to issues raised during Public Comment.

At Council Member Makowetski’s request, Dana McClish spoke on behalf of the Harbor Advisory Board, providing additional information regarding outreach efforts related to Items C-1 and C-2.

A. CONSENT AGENDA
https://youtu.be/AvrUd3l6UAw?t=1h4m24s

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

A-1 APPROVAL OF MINUTES FOR THE JUNE 26, 2018 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE JUNE 28, 2018, CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE JULY 10, 2018, CITY COUNCIL MEETING; (ADMINSTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPROVAL OF MINUTES FOR THE AUGUST 15, 2018, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINSTRATION)

RECOMMENDATION: Approve as submitted.

A-5 APPROVAL OF TBID ADVISORY BOARD MEMBER'S REQUEST FOR AN EXCUSED ABSENCE; (CITY CLERK)

RECOMMENDATION: City Council consider the request submitted by Tourism Business Improvement District (TBID) Advisory Board Member, Maggie Juren, to excuse her absence from the September 20, 2018 Regular TBID Advisory Board Meeting and allow her to continue serving through the scheduled term ending January 31, 2019.

A-6 ADOPTION OF RESOLUTION NO. 67-18 APPROVING FISCAL YEAR 2018/19 COMBINED SALARY SCHEDULE; (FINANCE)

RECOMMENDATION: Council adopt Resolution No. 67-18.

A-7 ADOPTION OF RESOLUTION NO. 65-18 AUTHORIZATION FOR THE CITY OF MORRO BAY'S PROJECT LIST FOR FY 18/19 FOR THE CALIFORNIA STATE OF GOOD REPAIR PROGRAM; (PUBLIC WORKS)

RECOMMENDATION: City Council adopt Resolution No. 65-18.

A-8 APPROVAL OF RESOLUTION NO. 66-18 AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO A $25,584 2018/2019 BOATING SAFETY AND ENFORCEMENT GRANT CONTRACT WITH THE STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, DIVISION OF BOATING AND WATERWAYS FOR PURCHASE OF TWO RESCUE WATERCRAFT, RESCUE SLED AND TRAILER; (HARBOR)

RECOMMENDATION: City Council adopt Resolution No. 66-18.

A-9 APPROVAL OF AMENDMENT NO. 1 TO CITY'S CONTRACT WITH SWCA ENVIRONMENTAL CONSULTANTS FOR CEQA RELATED CONSULTING SERVICES FOR THE 3300 PANORAMA DRIVE PROJECT; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Authorize the City Manager to execute Amendment No. 1 to the agreement with SWCA Environmental Consultants, increasing the contract amount by an additional $4,260.00 for a total contract not to exceed amount of $11,094.00, for CEQA related services for the 3300 Panorama tank demolition project. This contract is reimbursable by the applicant in full.

A-10 ADOPTION OF RESOLUTION NO. 68-18 APPROVING AMENDMENT #3 TO THE NEW MASTER LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND BOATYARD LLC FOR LEASE SITE 89/89W, LOCATED AT 845 EMBARCADERO, AND COMMONLY KNOWN AS "THE BOATYARD," AND AMENDMENT #1 TO THE NEW MASTER LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND BOATYARD LLC AND FAIR SKY PROPERTIES FOR LEASE SITE 90/90W, LOCATED AT 885 EMBARCADERO, AND COMMONLY KNOWN AS "OTTER ROCK CAFÉ"; (HARBOR)

RECOMMENDATION: City Council adopt Resolution No. 68-18.

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

Council Member McPherson commented on Item A-7, noting the inconsistencies in the staff report and that the correct fiscal impact should be $478, not $540.

Mayor Irons pulled Items A-5 and A-9.

MOTION: Council Member McPherson moved the Council approve all items on the Consent Agenda with the exception of Items A-5 and A-9, with the correction as stated on Item A-7. The motion was seconded by Council Member Makowetski and carried 4-0-1 with Council Member Headding absent.

A-5 APPROVAL OF TBID ADVISORY BOARD MEMBER'S REQUEST FOR AN EXCUSED ABSENCE; (CITY CLERK)
https://youtu.be/AvrUd3l6UAw?t=1h6m42s

Mayor Irons pulled the item to state his support for Ms. Juren and recognize this is a new procedure that allows the Council to formally approve this type of request as a Consent item.

MOTION: Mayor Irons moved for approval of Item A-5. The motion was seconded by Council Member McPherson and carried 4-0-1 with Council Member Headding absent.

A-9 APPROVAL OF AMENDMENT NO. 1 TO CITY'S CONTRACT WITH SWCA ENVIRONMENTAL CONSULTANTS FOR CEQA RELATED CONSULTING SERVICES FOR THE 3300 PANORAMA DRIVE PROJECT; (COMMUNITY DEVELOPMENT)
https://youtu.be/AvrUd3l6UAw?t=1h7m41s

Mayor Irons sought clarification on City policy that required this item be brought to Council for approval. Community Development Director Graham explained current City policy allows the City Manager to approve contract amendments up to 25% of the original contract amount. This amendment exceeds 25% of the existing contract and therefore requires Council approval. He also commented the contract is entirely reimbursable, including administrative costs.

MOTION: Council Member Davis moved for approval of Item A-9. The motion was seconded by Council Member McPherson and carried 4-0-1 with Council Member Headding absent.

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

C-1 CITY COUNCIL RECONSIDERATION OF HARBOR ADVISORY BOARD COUNCIL GOAL OBJECTIVE WORK PLAN ELEMENT FOR GOAL 1, OBJECTIVE (D), WORK PROGRAM ELEMENT 6 REGARDING FEE-BASED BOAT/RV STORAGE IN THE "TRIANGLE" PARKING LOT; (HARBOR)
https://youtu.be/AvrUd3l6UAw?t=1h12m20s

Harbor Director Endersby presented the staff report and responded to Council inquiries.

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

There was Council consensus to relocate trash enclosures in the paved parking lot to the triangle lot, with those improvements paid for by the businesses that use them. Additionally, Council Member Davis wished to stop pursuing the proposed movement of Harbor Festival storage, a previously requested future agenda item.

Following discussion, it was agreed all revenues would be kept in a separate non-restricted fund. Related expenditures would be charged directly to this fund to the extent possible, and any other incurred costs not charged directly to the fund would be reimbursed to the Harbor Department. Excess revenues will be made available for Harbor or General Fund needs, as determined by the Council during the budget process.

MOTION: Council Member McPherson moved the Council approve staff recommendation for the triangle parking lot, with the expenditure of $15,000, designating an accumulation fund that will be managed through the budget process, also agreed to move trash enclosures and for those to be paid for by the user. The motion was seconded by Council Member Davis and carried 4-0-1 with Council Member Headding absent.

MOTION: Mayor Irons moved the Council approve proposed draft policies provided as Attachments 1 – 3, subject to approval as to form by the City Attorney in consultation with the Harbor Director and consistent with Council direction. The motion was seconded by Council Member Makowetski and carried 4-0-1 with Council Member Headding absent.

MOTION: Council Member Davis moved to approve a new master fee schedule item of $100/month for dry boat storage in the triangle parking lot and report back in a calendar year. The motion was seconded by Council Member McPherson and carried 4-0-1 with Council Member Headding absent.

The Council took a brief recess at 8:20 p.m. The meeting reconvened at 8:27 p.m. with all but Council Member Headding present.

C-2 APPROVAL OF ISSUANCE OF A REQUEST FOR PROPOSALS FOR MORRO BAY MARINE SERVICES FACILITY AND BOATYARD FINANCIAL FEASIBILITY STUDY, AND REAFFIRMATION OF FINANCIAL COMMITMENT TO COMPLETE IT; (HARBOR)
https://youtu.be/AvrUd3l6UAw?t=2h19m29s

Mr. Endersby presented the staff report and responded to Council inquiries. Based on questions received prior to the meeting, Mr. Endersby recommended the RFP project scope be revised to reflect a "phased" approach, where the first phase or phases consider the greatest financial or other impediments most likely to render a boatyard in the triangle lot infeasible, such as permitting and environmental compliance, before moving on to the next phase or phases.

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

The Council appreciated the suggested phased approach and supported staff recommendation.

MOTION: Council Member Makowetski moved the Council approve issuance of a request for proposals for preparation of the Morro Bay Marine Services Facility and Boatyard Financial Feasibility Study, using a phased approach to identify fatal flaws. The motion was seconded by Council Member McPherson and carried 4-0-1 with Council Member Headding absent.

Mr. Endersby confirmed if proposals come back higher than what is currently budgeted, staff will return to Council for further direction or authorization during award of contract.

C-3 DISCUSSION AND DIRECTION ON PROCESS FOR DEVELOPING FISCAL EMERGENCY/SUSTAINABILITY PLAN AND FINANCIAL POLICIES; (FINANCE)
https://youtu.be/AvrUd3l6UAw?t=3h40s

Mr. Collins and Ms. Callaway presented the staff report and responded to Council inquiries.

The Council discussed the proposed timeline and importance of community input. It was suggested and agreed the Long-Term Financial Planning Policy be reviewed by the new Council in January, rather than November, and that the Risk Management Reserve Policy be moved to November.

The Mayor opened public comment; seeing none, the public comment period was closed.

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

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
https://youtu.be/AvrUd3l6UAw?t=3h35m58s

Mayor Irons requested discussion of amending the City Council meeting calendar to allow for a second regular meeting in November, if needed. There was full support for this item.

E. ADJOURNMENT

The meeting adjourned at 9:46 p.m. The next Regular Meeting will be held on Tuesday, September 11, 2018, at 6:00 p.m. at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

Recorded by:

Dana Swanson
City Clerk

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
SEPTEMBER 10, 2018 – 4:30 P.M.
CITY HALL CONFERENCE ROOM

AGENDA NO: A-2

MEETING DATE: September 25, 2018

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Joseph Pannone	City Attorney
	Dana Swanson	City Clerk
	Eric Endersby	Harbor Director
	Scot Graham	Community Development Director
	Laurie Goforth	Human Resources Analyst

ESTABLISH QUORUM AND CALL TO ORDER
Mayor Irons called the meeting to order at 4:30 p.m. with all members present.

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

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

Christine Johnson, Central Coast Aquarium, provided a status update on short-term plans for the lease site and feasibility study.

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

CS-1 <u>CONFERENCE WITH LABOR NEGOTIATORS</u>
City Designated Representative: Colin Tanner, Special Labor Counsel
Employee Organizations: Service Employees' International Union – SEIU Local 620, Morro Bay Peace Officers' Association, Morro Bay Firefighters Association, and unrepresented Confidential, Management and Executive Employees

CS-2 <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8</u>
Property: Lease Sites 105.1W, 105.2W, and 102/102W (Giovanni's Central Coast Seafoods, 1001 Front Street)
Property Negotiators: Giovanni DeGarimore
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; and Joseph Pannone, City Attorney
Negotiation: Price and Terms of Payment

CS-3 <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8</u>
Property: Lease Sites 96/96W (House of JuJu, 945 Embarcadero)
Property Negotiators: Stan Van Beurden
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; and Joseph Pannone, City Attorney
Negotiation: Price and Terms of Payment

CS-4 <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8</u>
Property: Lease Sites 86/86W (Libertine Pub, 801 Embarcadero)
Property Negotiators: Burt Caldwell
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; and Joseph Pannone, City Attorney
Negotiation: Price and Terms of Payment

CS-5 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:
Property: Lease Sites 82-85/82W-85W (Rose's Landing, 725 Embarcadero)
Property Negotiators: Doug Redican
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; and Joseph Pannone, City Attorney
Negotiation: Price and Terms of Payment

CS-6 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:
Property: Lease Sites 69-70/69W-70W (Morro Bay Aquarium, 595 Embarcadero)
Property Negotiators: Central Coast Aquarium/Christine Johnson
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; Joseph Pannone, City Attorney; Scot Graham, Community Development Director
Negotiation: Price and Terms of Payment

CS-7 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:
Property: Lease Sites 63-64/63W-64W (Gray's Inn & Gallery, 561 Embarcadero)
Property Negotiators: Todd and Tamara Baston
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; Joseph Pannone, City Attorney; Scot Graham, Community Development Director
Negotiation: Price and Terms of Payment

CS-8 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:
Property: Lease Sites 50-51/50W-51W (Reg Whibley's, 451 Embarcadero)
Property Negotiators: Reg Whibley
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; Joseph Pannone, City Attorney; Scot Graham, Community Development Director
Negotiation: Price and Terms of Payment

CS-9 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8
Property: Lease Site 37W (Morro Bay Marina, Inc./Boatyard, 261 Main Street)
Property Negotiators: the Meyer Family
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; and Joseph Pannone, City Attorney
Negotiation: Price and Terms of Payment

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

ADJOURNMENT - The meeting adjourned at 6:44 P.M.

Recorded by:

Dana Swanson
City Clerk

A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
RECOGNIZING DEL MAR ELEMENTARY
AS A CALIFORNIA DISTINGUISHED SCHOOL 2018

WHEREAS, the California Department of Education created a Distinguished Schools Program, annually recognizing schools that apply and qualify in demonstrating significant gains in narrowing the achievement gap; and

WHEREAS, in 2018, California recognized outstanding education programs and practices in elementary schools, kindergarten thru eighth grade. Eligible schools were selected within the following three categories: 1) Outstanding Student Performance, 2) Outstanding Student Performance with High Poverty Rate, and 3) Outstanding Improvement and Equity Across Student Groups; and

WHEREAS, Del Mar Elementary School has been selected as one of 287 out of over 6,000 schools in the State of California to receive the Distinguished School Award 2018; and

WHEREAS, at the end of the school year the Distinguished School Award was presented at a ceremony at Del Mar Elementary whereby Del Mar Students proclaimed in their own words why their school, staff, and students are so special, and so will be read into this Proclamation; and

WHEREAS, Mrs. Nolan's TK class PROCLAIMS, "We are a special school because our school takes care of everyone and it makes them happy"; and

WHEREAS, Mrs. Cameli's Kindergarten class PROCLAIMS, "Del Mar is distinguished because we are kind and we take care of each other. When we fall down, we help each other up"; and

WHEREAS, Mr. Hernandez's Kindergarten class PROCLAIMS, "Del Mar is a magical place, we have free play and we have the best teachers. Del Mar is distinguished because we can play with Franklin and Jiji"; and

WHEREAS, Ms. Lab's Kindergarten class PROCLAIMS, "Del Mar is distinguished because we are kind friendly listeners and we help each other to work hard"; and

WHEREAS, Mrs. Harper's 1st grade class PROCLAIMS, "Del Mar is distinguished because the kids learn so much. The next year teachers are going to be so surprised at how much the kids know"; and

WHEREAS, Mrs. Jenison and Mrs. Wayment's 1st grade class PROCLAIMS, "Del Mar is distinguished because we celebrate uniqueness and care for each other! Also, you are guaranteed to have fun every day while learning!"; and

WHEREAS, Mrs. Montoya's 1st grade class PROCLAIMS, "We are a distinguished school because everyone is kind to one another and they follow the school rules. However, it IS ok to make mistakes here and learn from them"; and

WHEREAS, Mrs. Britton's 2nd grade class PROCLAIMS, "Del Mar is a DISTINGUISHED, safe and kind place to play and learn due to helpful staff and community that accepts all Scholars in their own unique ways"; and

WHEREAS, Mrs. Morin's 2nd grade class PROCLAIMS, "Del Mar is distinguished because our students are kind and helpful. Our students have a voice and make changes at our school. Del Mar is a safe place. We have lots of fun spirit days and special occasions. All the kids are super unique and we get along"; and

WHEREAS, Ms. Hantman's 1st and 2nd grade class PROCLAIMS, "Del Mar is a distinguished school because we have amazing teachers and staff who care about us and keep us safe. Kids are respectful to each other and the school is always kept clean"; and

WHEREAS, Ms. Michniuk's 3rd grade class PROCLAIMS, "Del Mar is distinguished because of the programs such as STEAM, intervention, field trips. Mostly we are distinguished because of the people-students, families, teachers, support staff, and the principal"; and

WHEREAS, Mr. Roski's 3rd grade class PROCLAIMS, "Del Mar is distinguished because of our amazing STEAM program. Students get to experience robotics, engineering and tour the world through technology"; and

WHEREAS, Miss Kennedy's 4th grade class PROCLAIMS, "Del Mar is distinguished because of our amazing staff, students, and community volunteers. All of the students at Del Mar have a growth mindset and are hard-working"; and

WHEREAS, Mr. Weitzen's 4th grade class PROCLAIMS, "Del Mar is a distinguished school because of the amazing teachers that always care for us no matter what. We are also distinguished because of the great things that we learn every day"; and

WHEREAS, Mrs. Potter's 5th grade class PROCLAIMS, "Del Mar is distinguished because we go on the best field trips. We go to amazing places, learn a lot, and have fun too. We are lucky because many other schools don't get to go on field trips"; and

WHEREAS, Mrs. Slavin's 5th grade class PROCLAIMS, "Del Mar is distinguished because our teachers always make learning fun, which encourages the students to pay attention and do their best. Our hard-working students and teachers make it safe and successful."

NOW THEREFORE BE IT RESOLVED, that the City of Morro Bay, recognizes, celebrates, and honors Del Mar Elementary School for their achievement as 2018 California Distinguished School recipient, and thanks the Del Mar Elementary School Principal Janet Gould, Faculty, Staff, School District, families, and awesome students for their distinct qualities of courage and character.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 25th day of September 2018

JAMIE L. IRONS, MAYOR
City of Morro Bay, California

AGENDA NO:	**A-4**
MEETING DATE:	**September 25, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 19, 2018**

FROM: **Jennifer Callaway, Finance Director**

SUBJECT: **Receive Fourth Quarter Investment Report (period ending June 30, 2018) for Fiscal Year 2017/18 and Provide Direction Deemed Appropriate, if any**

RECOMMENDATION

Council receive the attached Fourth Quarter Investment Report (period ending June 30, 2018) for Fiscal Year 2017/18.

FISCAL IMPACT

There is no fiscal impact associated with this recommendation.

BACKGROUND/DISCUSSION

Attached for your consideration is the Fourth Quarter Investment Report for FY 2017/18.

As of June 30, 2018, the City's weighted portfolio yield of 1.328% was below the Local Agency Investment Fund yield of 1.90%. With interest rates increasing, staff will work to remain more vigilant in monitoring rates closely and, as investments mature, replace those investments with an appropriate maturity and credit rating equivalent investment.

During the quarter, yields have generally been increasing anticipating continued economic growth. Staff's strategy will be to focus on the purchase of short-term (two years or less in maturity) investments as the rewards for longer-term investments in the three- to five-year maturity do not have adequate spreads to justify the risk of holding longer term maturities.

The Citizens Finance Advisory Committee received the FY 2017/18 4th Quarter Investment report on September 18, 2018 with no recommended changes.

CONCLUSION

Staff recommends the Council receive the Fourth Quarter Investment Report (period ending June 30, 2018) for Fiscal Year 2017/18 and provide direction deemed appropriate, if any.

ATTACHMENT

Fourth Quarter Investment Report for FY 2017/18 (period ending June 30, 2018)

Prepared By: ___JC_____	**Dept Review: _____**
City Manager Review: ___SC_____	**City Attorney Review: _JWP_____**

CITY OF MORRO BAY
QUARTERLY PORTFOLIO PERFORMANCE
6/30/2018

INVESTMENT OR CUSIP NUMBER	INSTITUTION	PURCHASE PRICE	MARKET VALUE	COUPON INTEREST RATE	PURCHASE DATE	MATURITY DATE	DAYS TO MATURITY
LAIF	LOCAL AGENCY INVESTMENT FUND	$ 9,772,005	$ 9,772,005	1.90%	DAILY	DAILY	1
MONEY MARKET ACCOUNT:							
MM	RABOBANK - MONEY MARKET	2,532,784	2,532,784	0.20%	DAILY	DAILY	1
SWEEP	RABOBANK - SWEEP	5,405,332	5,405,332	0.05%	DAILY	DAILY	1
MM	OPUS BANK	4,063,048	4,063,048	1.93%	DAILY	DAILY	1
Government Agency							
3134G8PD5	FHLM Corp	500,003	497,548	1.350%	3/30/2016	9/30/2019	
CERTIFICATES OF DEPOSIT:							
1404202A7	ZION BANK - CAPITAL ONE BANK	250,005	252,772	2.400%	4/12/2017	4/12/2022	1,382
902856	TBK BANK	250,000	250,000	2.050%	1/24/2017	1/11/2019	195
4100093030	LEADER BANK	250,000	250,000	1.551%	1/6/2014	1/6/2019	190
254671VW7	ZION BANK - DISCOVER BANK	250,001	251,224	2.000%	9/11/2013	9/11/2018	73
05568P5Y9	ZION BANK - BMW BANK	250,001	251,262	2.100%	10/25/2013	10/25/2018	117
36160NYZ6	ZION BANK - Synchrony Bank CD	250,001	251,661	2.150%	10/25/2013	10/25/2018	117
38148PGK7	ZION BANK - GOLDMAN SACHS BANK	250,003	245,243	1.550%	8/3/2016	8/3/2021	1,130
3090683803	STATE FARM BANK	250,000	250,000	1.980%	10/21/2013	10/21/2018	113
4923509568	PENTAGON FEDERAL CREDIT UNION	250,000	250,000	3.000%	2/5/2014	2/5/2019	220
		$ 24,523,183	$ 24,522,878				

% OF LIQUID PORTFOLIO HOLDINGS	WEIGHTED AVERAGE RATE OF EARNINGS	WEIGHTED AVERAGE MATURITY
88.786%	1.328%	37

Portfolio holdings as of the third quarter ended June 30, 2018, are in compliance with the current Investment Policy. With 88.786% of the portfolio held in liquid instruments, the City's portfolio is well above the 65% to 70% target liquidity rate approved by the City Council in March 2018.

AGENDA NO: A-5

MEETING DATE: September 25, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 11, 2018**

FROM: **Eric Endersby, Harbor Director**

SUBJECT: **Adoption of Resolution No. 73-18 Approving an Interim Master Lease Agreement Between the City of Morro Bay and Embarcadero 801 LLC for Lease Site 86/86W, located at 801 Embarcadero, and Commonly Known as "The Libertine Pub"**

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 73-18, approving an Interim Master Lease Agreement for Lease Site 86/86W, as proposed.

ALTERNATIVES

Council may elect not to approve Resolution No. 73-18 for the Interim Master Lease Agreement (IMLA) as-proposed, and direct staff accordingly.

FISCAL IMPACT

Under this proposal, the Harbor Fund will see a revenue increase of approximately $5,200 per year for up to a two-year period as the annual rent increases from $22,780 to $28,000.

BACKGROUND

Local developer Burt Caldwell, doing business as Embarcadero 801 LLC, has owned the Libertine Pub (formerly the Embarcadero Grill, and before that, Fish Bowl restaurant) lease site since 2006. It is one of the few remaining "Pipkin" leases, expiring September 30, 2018.

In the years following Caldwell's acquisition, he embarked on a City-supported joint redevelopment project proposal involving both the Libertine site and the Off the Hook site next door, where a mini conference center would be constructed on the joint sites. Although that proposal did get as far as receiving approvals from the City and Coastal Commission, for a variety of reasons it did not come to fruition.

As the lease was nearing its five-year expiration window, in September 2012, staff sought direction from Council on this site, and were directed to work with Caldwell on a redevelopment project proposal. Caldwell proposed a joint two-story redevelopment of mixed-use restaurant/retail/hotel with the adjacent former lessee of the Off the Hook site where certain building and site features would be shared, but the leases would remain under separate ownerships. Not being confident in such an arrangement, the Council moved to direct the two tenants to resubmit separate proposals for their respective sites.

Prepared By: ___EE_____ **Dept Review:** ___EE___

City Manager Review: ___SC_____ **City Attorney Review:** _JWP_____

On October 8, 2013, the Council considered a new proposal submitted by Caldwell, which consisted of a complete tear-down of the existing structure, and redevelopment of a single-story brew-pub style building in its place, and approved a Consent of Landowner (COL) for that project.

Late in 2014 then-City Manager Buckingham began working directly with Caldwell on a resubmittal of his proposal, consisting of a remodel to the existing building, adding transient occupancy tax-generating hotel rooms on the second story, with the brew pub theme remaining on the ground floor. Over time, the revised proposal was presented to the Council on March 22, 2016, for consideration, and a new COL approved.

As staff began working with Caldwell on the new project, the decision to put the adjacent Off the Hook site out to public bid was made and the request for proposals (RFP) was issued in June 2016. With that, Caldwell put his efforts into his Libertine hotel/brew pub project on hold while he worked on a RFP proposal to include the Libertine site with the Off the Hook site in a larger, joint boutique hotel/boatel development project. That project proposal was ultimately rejected by the City Council.

As the Off the Hook RFP future was still being considered, Caldwell requested and was granted an extension of the deadline dates in the 2016 COL. Those deadlines have now all passed.

On July 26, 2018, in closed session, Council directed staff to work with Caldwell on an interim two-year lease agreement for the site to enable Caldwell to continue operating it as he participates on a development team intending to present a proposal to the City regarding potential development of the "Market Plaza" project, which may include the Libertine Pub site as a component of the "Market Plaza" development.

DISCUSSION

The proposed new IMLA for the Libertine Pub lease site, modified from the City's standard lease template and included with this staff report as Attachment #1, contains the following significant lease section element highlights:

1. Section 1.01 Term: two-year term commencing October 1, 2018, with the City's right to terminate after 365 days should Caldwell's "Market Plaza" development team not be chosen. This will enable the City to retain control of the Libertine site and include it with the "Market Plaza" project should it opt to do so.

   Conversely, if the Caldwell team is chosen for the "Market Plaza" project, then the IMLA would remain in effect and the City could not terminate it without due cause under the normal default terms of the agreement.

2. Section 2.01 Minimum Rent: $28,000 per year; no percent gross rental requirements.

3. Section 3.01 Permitted Uses: unchanged from the current lease agreement.

4. Percentage Rent: with no percent gross requirements as in the current "Pipkin" lease, the percent gross section is struck.

5. Competition: the anti-competition clause is being struck as it's not-applicable to a lease without percent gross payment requirements.

CONCLUSION

Embarcadero 801 LLC is currently a lessee in good standing with regard to ownership and operation of the Libertine Pub site and has in good faith attempted to execute several redevelopment proposals for that site that have not, for several reasons, come to fruition. It is now advantageous to enter into an interim agreement with Embarcadero 801 LLC to enable continued operation of the site while Caldwell and his team prepare their “Market Plaza” project proposal.

As such, staff recommend the City Council approve Resolution No. 73-18, included with this staff report as Attachment #2, approving a new ILMA for the Libertine Pub lease site.

ATTACHMENTS

1. New Interim Master Lease Agreement for Lease Site 86/86W.
2. Resolution No. 73-18.

INTERIM LEASE

by and between

the CITY OF MORRO BAY

("CITY")

and

EMBARCADERO 801 LLC

("TENANT")

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LEASE

This INTERIM LEASE ("this Lease") is made and entered into by and between the CITY OF MORRO BAY, a municipal corporation of the State of California herein called CITY and Embarcadero 801 LLC, a California limited liability corporation, herein called TENANT (CITY and TENANT are sometimes collectively referred to as the Parties and individually as the Party).

WITNESSETH

WHEREAS, the State of California granted certain tide and submerged lands located within the CITY limits of CITY to the County of San Luis Obispo and to its successors, being Chapter 1076, Statutes of 1947, as amended by Chapter 413, Statutes of 1955, Chapter 1874, Statutes of 1957, and Chapter 70, Statutes of 1960, first extraordinary session; which Statutes may be amended from time to time by the Legislature of the State of California; all of which Statutes are expressly recognized and agreed to be in full force and effect by the Parties; and

WHEREAS, the Parties hereto recognize and agree that on July 17, 1964, the CITY of Morro Bay, Lessor herein, succeeded to all of the right, title and interest of the County of San Luis Obispo in and to all of the tide and submerged lands conveyed to said County by the State of California pursuant to the above-mentioned acts; and

WHEREAS, judgment has been entered on October 14, 1968, in the case of CITY of Morro Bay, Plaintiff, versus County of San Luis Obispo, and State of California, Defendants, by the Superior Court of the State of California in and for the County of San Luis Obispo, #30417, adjudging and decreeing, among other things, that the title to said tide and submerged lands so conveyed by the State of California to the County of San Luis Obispo in trust, as set forth above, passed automatically to the CITY of Morro Bay upon the date of its incorporation as a CITY on the 17th day of July, 1964; and

WHEREAS, TENANT accepts this Lease with full knowledge there is no warranty of title in and to the within described premises by CITY to TENANT; and

WHEREAS, in order to develop and improve Morro Bay Harbor and to assist in carrying out the provisions of the tideland grant as aforesaid, and in order to provide facilities for the accommodation of those using Morro Bay Harbor, CITY desires to lease to TENANT the within described property upon the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the covenants to be performed and the rental to be paid by TENANT to CITY, CITY leases to TENANT, and TENANT leases from CITY, all of the following premises (herein collectively referred to as the Premises) in the CITY of Morro Bay, County of San Luis Obispo, State of California, described as follows: Lease Site 86/86W.

The Premises is delineated on Parcel Map of the CITY of Morro Bay No. 68-30, which map was recorded on October 10, 1968, in Book 3, Page 10 of Parcel Maps in the Office of the County Recorder, San Luis Obispo County, California. A copy of said Map is attached hereto as Exhibit A and made a part hereof by reference.

Article 1 FIXED TERM

Section 1.01 Term.

The term of this Lease shall be deemed to be a period commencing as of October 1, 2018 (the "Commencement Date") and shall terminate, without notice, on September 30, 2020, unless sooner terminated, as herein provided or extended by mutual agreement of the Parties.

Notwithstanding the forgoing, after the first 365 days this Lease is effective and upon 120-days' written notice the City reserves the right to terminate this Lease if the City Council, at a public meeting, determines it is in the best interest of the City to incorporate the Premises into the development of the project known as "Market Plaza;" provided, that if John King has a controlling interest in the developer City, at its sole discretion, selects for Market Plaza and development proposed by the developer incorporates the Premises then this paragraph is null and void and of no effect.

Section 1.02 Hold Over.

If TENANT holds the Premises after the expiration of the term of this Lease with the consent of the CITY, express or implied, then such holding over (in the absence of a written agreement between CITY and TENANT with respect thereto) shall be deemed to create a tenancy from month-to-month, terminable on thirty-days' written notice from either Party to the other, at a monthly rental equal to two hundred percent (200%) of the total Rent for the month immediately preceding the expiration of this Lease, and otherwise subject to each and every term, covenant and condition of this Lease.

Section 1.03 Replacement.

As of the Commencement Date of this Lease, this Lease shall extinguish and replace every prior lease between CITY and TENANT respecting the Premises, if any. Any right or

interest held by the TENANT pursuant to any existing lease with respect to the Premises which is not granted pursuant to this Lease shall be extinguished as of the Commencement Date of this Lease.

Article 2 RENT

Section 2.01 Annual Minimum Rent.

TENANT agrees to pay to CITY a minimum guaranteed annual rental for the use and occupancy of the Premises in the amount of $28,000 per year (the "Minimum Rent"), payable in advance commencing on October 1, 2018 and then on the first day of each month during the term of this Lease. All Rent shall be paid in lawful money of the United States of America, without offset or deduction and shall be paid to CITY at the Harbor Department located at 1275 Embarcadero, Morro Bay, California, or at such other place or places CITY may from time to time designate by written notice delivered to TENANT.

Section 2.02 Reimbursements.

If TENANT fails to perform any term or covenant of this Lease, CITY may, but is not obligated to, perform such term or covenant, and TENANT shall reimburse CITY therefore as additional Rent hereunder. As an illustration and not as a limitation, if TENANT fails to procure the insurance required by this Lease, CITY may, but is not obligated to, obtain such insurance, with the cost of the premiums being due to CITY upon demand as additional Rent.

Section 2.03 Penalty and Interest.

(1) If any Rent is not received within ten (10) days following the date on which the Rent first became due, TENANT shall pay a late penalty of ten percent (10%) of the amount of the Rent in addition to the Rent.

(2) In addition to the penalty, TENANT shall pay interest at the rate of one percent (1%) per month or fraction thereof or the maximum amount permitted by law as of the date this Lease is signed, whichever is greater (the "Default Rate"), on the amount of the Rent, exclusive of the penalty, from the date on which Rent first became delinquent until paid. The term "Rent" includes any sums advanced by the CITY and any unpaid amounts due from TENANT to the CITY.

Article 3 USE OF PREMISES

Section 3.01 Permitted Uses.

The Premises shall, during the term of this Lease, be used for the purpose of operating and conducting thereon and therein the uses permitted by, and in compliance with, all Conditional Use Permits applicable to the Premises, as may be amended from time to time, and for no other purpose. At the commencement date of this Lease, such uses include restaurant and food service, bar and retail sales and allow for use of a, dock for commercial and pleasure vessels and including passenger-for-hire vessels.

Section 3.02 Unauthorized Use.

TENANT agrees to allow only those uses authorized in Section 3.01 hereinabove and any unauthorized use thereof shall constitute a breach of this Lease and shall, at the option of CITY, terminate this Lease.

Section 3.03 Operation of Business - Hours of Operation.

Failure to actively and diligently conduct the business authorized herein constitutes a breach of the agreement and shall, at the option of CITY, terminate this lease.

(1) TENANT shall during the term of this Lease conduct retail sales business of the nature specified in Section 3.01 of this Lease in an efficient and diligent manner and keep the Premises open for the conduct of business continuously and without interruption for at least six hours each day of the year except one day each week and legal holidays. This provision shall not apply if the Premises shall be closed and the business of TENANT is temporarily shut down for a period not to exceed fourteen (14) calendar days in any calendar year to make necessary repairs, maintenance or other construction deemed necessary by TENANT. This provision shall not apply if the Premises shall be closed and the business of TENANT is temporarily shut down as authorized or required by the CITY Manager or on account of strikes, walkouts, or causes beyond the control of TENANT or for not more than three (3) days out of respect to the memory of an officer, employee, or close relative of any officer or employee of TENANT.

(2) TENANT shall operate TENANT'S business on the Premises with due diligence and efficiency and in like manner as comparable businesses operated in the CITY or the coastal area of San Luis Obispo County, so as to produce the maximum amount of gross sales and gross receipts from services which may be produced from TENANT'S business; and TENANT at all times shall carry on Premises, a stock or merchandise of such size, character, and quality as is

reasonable, designed to produce the maximum return to TENANT, when the sale of merchandise is a permitted use under this Lease.

Section 3.04 Hazardous Materials.

(1) TENANT shall not transport, use, store, maintain, generate, dispose, release, treat or discharge any "Hazardous Material" (as defined below) upon or about the Premises (such activities being hereafter referred to as "Hazardous Materials Activities"), nor permit TENANT'S employees, agents, or contractors to engage in Hazardous Materials Activities upon or about the Premises, except as allowed by applicable law. The term "Hazardous Material" for purposes hereof shall mean any chemical, substance, material or waste or component thereof which is now or hereafter listed, defined or regulated as a hazardous or toxic chemical, substance, material or waste or component thereof by any federal, state or local governing or regulatory body having jurisdiction, or which would trigger any employee or community "right-to-know" requirements adopted by any such body. All Hazardous Materials Activities at the Premises shall be conducted strictly in accordance with all applicable laws and regulations. If TENANT shall transport any hazardous waste from the Premises, then such transportation shall be done only by a contractor duly licensed to haul hazardous waste and shall use only a duly licensed disposal site approved by TENANT'S liability insurer.

(2) TENANT shall promptly notify CITY of: (i) any enforcement, cleanup or other regulatory action taken or threatened by any governmental or regulatory authority with respect to the presence of any Hazardous Material on the Premises or the migration thereof from or to other property, (ii) any demands or claims made or threatened by any party against TENANT or the Premises relating to any loss or injury resulting from any Hazardous Material on or from the Premises, and (iii) any matters where TENANT is required by applicable law to give a notice to any governmental or regulatory authority respecting any Hazardous Material on the Premises. CITY shall have the right (but not the obligation) to inspect the Premises, to take such remedial action on the Premises, as CITY may deem appropriate, and to join and participate, as a party, in any legal proceedings or actions affecting the Premises initiated in connection with any environmental, health or safety law.

(3) If any Hazardous Material is released, discharged or disposed of by TENANT or its employees, agents or contractors, on or about the Premises in violation of the foregoing provisions, then TENANT shall immediately notify CITY. CITY may elect either to take such remedial action as CITY deems appropriate, in which event TENANT shall reimburse CITY for all costs thereof within ten (10) days after demand, or direct TENANT to perform such remediation. If CITY directs TENANT to perform the remediation, then TENANT shall

immediately take such remedial action, as CITY shall direct. TENANT shall, properly and in compliance with applicable laws clean up and remove the Hazardous Material from the Premises and any other affected property at TENANT'S expense. If CITY directs TENANT to perform remediation hereunder and if TENANT shall fail to comply with the provisions of this Section within five (5) days after written notice by CITY, or such shorter time as may be required by applicable law or in order to minimize any hazard to persons or property, then CITY may (but shall not be obligated to) arrange for such compliance directly or as TENANT'S agent through contractors or other parties selected by CITY at TENANT'S expense (without limiting CITY'S other remedies under this Lease or applicable law).

Section 3.05 Tidelands Trust.

TENANT shall use and occupy the Premises in strict compliance with the Tidelands Trust purposes under which the Premises or any portion thereof are held by CITY pursuant to the grants from the State of California as set forth in this Lease.

Section 3.06 Compliance with Law.

TENANT shall, at no cost to CITY, comply with all of the requirements of all local, municipal, county, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, and shall faithfully observe in the use of the Premises all local, municipal and county ordinances and state and federal statutes, rules, regulations and orders now in force or which may hereafter be in force (collectively, "Legal Requirements") provided that TENANT shall not be required to comply with any Legal Requirement imposed by the CITY that would substantially deprive TENANT of a material benefit under this lease unless such Legal Requirement has been imposed or required by a county, state or federal authority. The judgment of any court of competent jurisdiction, or the admission of TENANT in any action or proceeding against TENANT, whether CITY is a party thereto or not, TENANT has violated any such Legal Requirement in the use of the Premises shall be conclusive of that fact as between CITY and TENANT.

Section 3.07 Waste or Nuisance.

TENANT shall not commit or permit the commission by others of any waste on the Premises; TENANT shall not maintain, commit, or permit the maintenance or commission of any nuisance as defined by law on the Premises; and TENANT shall not use or permit the use of the Premises for any unlawful purpose.

Section 3.08 Use by CITY.

(1) Subject to TENANT's rights hereunder to possession of the Premises, CITY may grant licenses to, or otherwise authorize, other persons and entities permitting uses of the Morro Bay Harbor.

(2) CITY also retains and reserves for itself, its successors and assigns, all oil, gas, petroleum and other mineral or hydrocarbon substances in and under the lands leased hereby together with right to prospect and extract all such substances.

Article 4 CONSTRUCTION, ALTERATION AND REPAIRS

Section 4.01 Construction Approval.

(1) TENANT shall not make or permit any other person to make any alterations or structural additions or structural modifications to the Premises or to any structure thereon or facility appurtenant thereto if the cost thereof shall exceed ten thousand dollars ($10,000), without the prior written consent of CITY. The consent to be obtained pursuant to this Section 4.01(1) shall be requested from the Harbor Director, or the City's designee, for CITY. If the Harbor Director or any future successor to the duties of the City's Harbor Director, or the City's designee, gives such consent to proceed, it is understood that such consent is given by CITY only in its capacity as the landlord under this Lease and not as the permit-issuing authority. TENANT remains obligated to obtain any needed building permits and comply with all applicable planning processes.

(2) Where required by the Morro Bay Municipal Code, California Coastal Act, Corps of Engineers or any other state or federal agency having authority over the proposed project, then all Conditional Use Permits, Concept Plans, Precise Plans, Coastal Development Plans, and any other required plans or permits shall be applied for and approved prior to any construction, alteration or repairs.

Section 4.02 Construction Bond.

(1) Prior to the commencement of any construction the cost of which is greater than the amount of one hundred thousand dollars ($100,000), TENANT shall file with the Morro Bay CITY Clerk a final detailed Civil Engineer's, Registered Architect's or Licensed and Bonded General Contractor's estimate of the cost of construction and installation of improvements on the Premises. Said estimate must be submitted to the CITY Engineer for approval. TENANT shall file with the Morro Bay CITY Clerk a faithful performance bond, in a form and issued by a corporate surety company satisfactory to CITY, in an amount satisfactory to CITY but not in

excess of one hundred percent (100%) of the final detailed cost estimate, securing the faithful performance of TENANT or its contractor in the completion of said construction.

(2) TENANT shall also file with the Morro Bay CITY Clerk a labor and materials bond, in a form and issued by a corporate surety company satisfactory to CITY, in an amount satisfactory to CITY but not in excess of one hundred percent (100%) of the final detailed cost estimate, securing the payment of all claims for the performance of labor or services on, or the furnishing of materials for, the performance of said construction.

(3) In lieu of the above referenced bonds, TENANT may post cash deposits or may make other mutually satisfactory arrangements to guarantee the completion of construction projects. In the event the contractor bonds the project, CITY may be named as additional indemnitee to comply with these requirements.

Section 4.03 Mechanics' Liens.

At all times during the term of this Lease, TENANT shall keep the Premises and all buildings, installations and other improvements now or hereafter located on the Premises free and clear of all liens and claims of liens for labor, services, materials, supplies, or equipment performed on or furnished to the Premises. TENANT further agrees to at all times, save CITY free and harmless and indemnify CITY against all claims for labor or materials in connection with any improvement, repairs, or alterations on the Premises, and the cost of defending against such claims, including reasonable attorneys' fees. Should TENANT fail to pay and discharge or cause the Premises to be released from such liens or claim of liens within ten (10) days after the filing of such lien or levy, TENANT shall upon written notification be required to immediately deposit with CITY a bond conditioned for payment in full of all claims on which said lien or levy has been filed. Such bond shall be acknowledged by TENANT as principal and by a company or corporation, licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety. The beneficiary of any security instrument which instrument is on record with CITY, shall have the right to file such a bond on behalf of TENANT. CITY shall have right to post and keep posted on the Premises notices of non-responsibility and any other notices that may be provided by law or which CITY may deem proper for the protection of CITY and Premises from such liens. TENANT shall give CITY notice at least twenty (20) days prior to commencement of any work on the Premises to afford CITY the opportunity to post such notices.

Section 4.04 Ownership of Improvements.

The Parties agree title to all buildings, structures, installations and improvements of any kind or other property on the Premises, however occurring, vests in CITY, with the exception of trade fixtures, appliances, machines or other personal property (i) installed on Premises by TENANT and (ii) to which CITY and TENANT, agree to in writing prior to installation, title is vested in TENANT. The Parties agree, at the termination of this Lease, however occurring, TENANT shall have sixty (60) days thereafter to remove from the Premises all trade fixtures, appliances and machines installed on Premises by TENANT and other personal property title of which is vested in TENANT, as provided hereunder, (TENANT Property). If TENANT fails to remove from the Premises any TENANT Property as required by the previous sentence, then title to the TENANT Property not so removed shall vest in CITY and TENANT shall not remove same.

Article 5 LEASEHOLD MORTGAGES

TENANT shall not mortgage, securitize or hypothecate this leasehold interest in whole or any part without the prior written approval of CITY as evidenced by a resolution of the City Council of CITY.

Article 6 REPAIRS, MAINTENANCE AND RESTORATION

Section 6.01 Maintenance by TENANT.

At all times during the term of this Lease, TENANT shall, at TENANT'S own cost and expense, keep and maintain all improvements now or hereafter on the Premises in good order and repair and in a safe and clean condition; provided, that CITY shall be responsible for repair, CITY determines are necessary, of any seawalls, revetments or bulkheads on the Premises. Furthermore, TENANT shall, at TENANT'S own cost and expense, maintain at all times during the term of this Lease the whole of the Premises in a clean, sanitary, neat and orderly condition. CITY may, at the sole option of CITY, clean and clear the Premises, at TENANT'S cost and expense, in the event TENANT fails to clean and clear the Premises in accordance with this Section to the satisfaction of CITY after fifteen (15) days' written notice to TENANT from CITY of CITY'S intent to exercise this option.

Section 6.02 Legal Requirements.

At all times during the term of this Lease, TENANT, at no cost to CITY, shall:

(1) Make all alterations, additions, or repairs to the Premises or the improvements or facilities on the Premises required by any Legal Requirements (as defined in Section 3.07 above) now or hereafter made or issued;

(2) Observe and comply with all Legal Requirements now or hereafter made or issued respecting the Premises or the improvements or facilities located thereon;

(3) Obtain all required permits pursuant to the Morro Bay Municipal Code or State law prior to the initiation of any repair or maintenance activity; and

(4) Indemnify and hold CITY and the property of CITY, including the Premises, free and harmless from any and all liability, loss, damages, fines, penalties, claims and actions resulting from TENANT'S failure to comply with and perform the requirements of this section.

Section 6.03 Failure to Repair.

In the event failure to repair results in a hazardous or unsafe condition, CITY shall have the right and option but not the obligation to close and prohibit access to the unsafe portion of the Premises until such repairs are completed and accomplished and the Premises rendered safe for public use. In addition, if TENANT fails to repair any hazardous or unsafe condition within ten (10) days of written notice thereof from CITY, CITY shall have the right, but not the obligation, to perform such repair at TENANT'S expense. TENANT shall reimburse CITY for any such repair undertaken by CITY, promptly upon CITY'S demand, as additional Rent. Failure by CITY to enforce any of the provisions of this Article shall not constitute a waiver of these provisions and CITY may at any time enforce all of the provisions of this Article, requiring all necessary repairs, rebuilding or replacement.

Section 6.04 Inspection by CITY.

CITY or CITY'S agents, representatives, or employees may enter the Premises at all reasonable times for the purpose of inspecting the Premises to determine whether TENANT is complying with the terms of this Lease and for the purpose of doing other lawful acts that may be necessary to protect CITY'S interest in the Premises under this Lease or to perform CITY'S duties under this Lease.

Section 6.05 TENANT'S Duty to Restore Premises.

(1) If at any time during this Lease, any improvements now or hereafter on the Premises are damaged or destroyed in whole or in part by the elements, or any other cause not the fault of TENANT or CITY and such destruction makes uninhabitable, any portion of the

Premises at which TENANT or its sublessees are located, as reasonably determined by CITY'S Building Official, then this Lease shall terminate upon written notice from either Party.

(2) Any and all insurance proceeds that become payable at any time during the term of this Lease because of damage to or destruction of any improvements on the Premises shall be paid to CITY, except for those proceeds payable for TENANT Property.

Article 7 INDEMNITY AND INSURANCE

Section 7.01 Indemnity Agreement.

(1) TENANT shall indemnify and hold CITY, and the property of CITY (including the Premises and any improvements now or hereafter on the Premises), and the CITY'S officers, officials, employees and volunteers harmless from any and all liability, claims, loss, damages, and expenses, including attorney fees and litigation expenses, resulting from TENANT'S occupation and use of the Premises or any negligent act or omission of the TENANT or any of its subtenants, employees, contractors or anyone for whom TENANT may be liable, specifically including, without limitation, any liability, claim, loss, damage, or expense arising by reason of:

(a) The death or injury of any person, including TENANT or any person who is an employee or agent of TENANT, or by reason of the damage to or destruction of any property, including property owned by TENANT or by any person who is an employee or agent of TENANT, from any cause whatever while such person or property is in or on the Premises or in any way connected with the Premises or with any of the improvements or personal property on the Premises;

(b) The death or injury of any person, including TENANT or any person who is an employee or agent of TENANT, or by reason of the damage to or destruction of any property, including property owned by TENANT or any person who is an employee or agent of TENANT, caused or allegedly caused by either (i) the condition of the Premises or any improvement placed on the Premises by TENANT, or (ii) any act or omission on the Premises by TENANT or any person in, on, or about the Premises with or without the permission and consent of TENANT;

(c) Any work performed on the Premises or materials furnished to the Premises at the instance or request of TENANT or any person or entity acting for or on behalf of TENANT;

(d) TENANT'S failure to perform any provision of this Lease or to comply with any Legal Requirement imposed on TENANT or the Premises.

(2) TENANT'S obligations pursuant to this Section to indemnify and hold harmless do not extend to any liability, claim, loss, damage or expense arising from CITY'S active negligence or willful misconduct.

Section 7.02 Liability Insurance.

During the term of this Lease, TENANT shall maintain at its cost Commercial General Liability insurance with coverages at least as broad as ISO Forms labeled "City of Morro Bay Insurance requirements for Lessees", Certificate of Insurance – City of Morro Bay", and "Additional Insureds – Managers or Lessors of Premises" attached hereto as Exhibit B and made a part hereof as may be updated or changed from time to time at the sole discretion of the CITY, insuring against claims for bodily injury (including death), property damage, contractual liability, personal injury and advertising injury occurring on the Premises or from operations located in any part of the Premises. Such insurance shall afford protection in amounts no less than One Million Dollars ($1,000,000) per occurrence for bodily injury, personal injury and property damage, provided that if insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Premises or the general aggregate limit shall be twice the occurrence limit stated in this Section. All liability insurance carried by TENANT hereunder shall name CITY, its officers, officials, employees and volunteers as additional insureds, and shall be primary insurance with respect to such additional insureds. TENANT shall include all its subtenants as insureds under TENANT's liability policies or shall furnish separate certificates and endorsements for each subtenant. All coverages for subtenants shall comply with all requirements of this Article Seven.

Section 7.03 Worker's Compensation.

TENANT shall maintain at TENANT'S own expense and keep in full force and effect during the term of this Lease, Worker's Compensation Insurance as provided by law. Said insurance shall contain a waiver of subrogation rights against CITY. TENANT shall also maintain employer's liability insurance with minimum coverage of $1,000,000 per accident for bodily injury or disease.

Section 7.04 Property Insurance.

TENANT shall, at its cost, at all times during the term of this Lease keep all improvements and other structures on the Premises, as well as any and all additions, improvements and betterments thereto, insured for one hundred percent (100%) of their full replacement cost with no co-insurance provision against loss or destruction by the perils covered by "all risk" (excluding earthquake) property damage insurance policies. Any loss payable under

such insurance shall be payable to TENANT, CITY, and any Lender under a Leasehold Encumbrance pursuant to Article 5 of this Lease, as their interests may appear, and such proceeds shall be used and applied in the manner required by Article 6 of this Lease.

Section 7.05 Additional Coverage.

TENANT shall also maintain, at its expense, the insurance described in this Section 7.05.

(1) If TENANT has (or is required by any Legal Requirement to have) a liquor license and is selling or distributing alcoholic beverages on the Premises, then TENANT shall maintain liquor liability coverage in appropriate amounts. TENANT shall require any subtenant who has (or is required by any Legal Requirement to have) a liquor license and who is selling or distributing alcoholic beverages on the Premises, to maintain such coverage.

(2) TENANT shall maintain "all risk" (excluding earthquake) property damage insurance covering TENANT's personal property located at the Premises, in amounts not less than the full replacement value of such personal property. CITY shall have no interest in the proceeds of such insurance.

(3) TENANT shall, at TENANT's own expense, obtain and maintain any additional insurance coverages that CITY may reasonably require. As illustration only and not as a limitation, in appropriate circumstances such additional insurance may include increased general liability limits, business interruption coverage, business automobile liability, boiler and machinery insurance and/or builder's risk insurance. However, TENANT shall not be required to maintain additional coverages that are in excess of those typically maintained by similarly situated tenants in the Morro Bay area.

Section 7.06 General Requirements.

Except as specifically provided to the contrary, all the insurance required pursuant to this Article Seven shall be subject to the requirements of this Section 7.06.

(1) Maintenance of proper insurance coverage is a material element of this Lease and failure to maintain or renew coverage or to provide evidence of coverage and/or renewal may be treated by the CITY as a material breach of contract. TENANT shall forward the CITY specifications and forms to TENANT'S insurance agent for compliance.

(2) CITY may at any time require TENANT to increase the minimum coverage limits for insurance required by this Lease, but every such increase shall be reasonable under the circumstances.

(3) All policies shall be issued by insurance companies authorized to issue such insurance in California, with an A.M. Best's rating of no less than A: VII.

(4) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees and volunteers; or the TENANT shall provide a financial guarantee satisfactory to CITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(5) Each insurance policy required by this Lease shall be endorsed to state that coverage shall not be cancelled or reduced, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to CITY.

(6) TENANT shall furnish CITY with certificates and amendatory endorsements effecting the coverage required by this Lease. The endorsements shall be on forms provided by CITY or on other than CITY's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by CITY before use of the Premises, and promptly following any renewal or replacement. CITY reserves the right at any time to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

(7) TENANT's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers shall be excess of TENANT's insurance and shall not contribute with it.

Section 7.07 <u>No Subrogation</u>.

TENANT agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, TENANT shall look solely to its insurance for recovery. TENANT hereby grants to the CITY, on behalf of any insurer providing insurance to either TENANT or CITY with respect to TENANT'S occupancy of the Premises, a waiver of any rights to subrogation which any such insurer of said TENANT may acquire against the CITY by virtue of the payment of any loss under such insurance. Each insurance policy required under this Lease including those insuring TENANT against claims, expense, or liability for injury to persons or property shall provide that the insurer shall not acquire by subrogation any right to recovery which TENANT has expressly waived in writing prior to the occurrence of the loss.

Section 7.08 TENANT'S Waiver.

TENANT hereby waives any right of recovery against CITY for each claim, expense, liability, or business interruption, or other loss, except where caused by CITY'S active negligence or willful misconduct. TENANT agrees that to the extent that TENANT fails to acquire insurance, TENANT shall not have any claim against CITY for any loss that results from a risk or peril that would have been included in such insurance.

Section 7.09 Insurance Not a Limit.

The insurance requirements of this Article Seven are independent of, and do not limit or modify, TENANT'S indemnification and other obligations pursuant to this Lease.

Article 8 TAXES AND FEES

Section 8.01 TENANT to Pay Taxes.

TENANT shall pay, before delinquency, all taxes and assessments levied upon or assessed to TENANT on the Premises by reason of this Lease or of any equipment, appliances, improvement, or other development of any nature whatsoever, erected, installed, or maintained by TENANT or by reason of the business or other activity of TENANT upon or in connection with the Premises. TENANT shall pay all possessory interest taxes applicable to the Premises.

Section 8.02 TENANT to Pay License and Permit Fees.

TENANT shall pay any fees imposed by law for licenses or permits for any business or activities including construction by TENANT upon the Premises.

Section 8.03 Utilities.

TENANT shall pay, or cause to be paid, and hold CITY and the property of CITY, including the Premises, free and harmless from all charges for the furnishing of gas, water, electricity, telephone service, and for other public utilities to the Premises during the term of this Lease and for the removal of garbage and rubbish from the Premises during the term of this Lease.

Article 9 CONDEMNATION

Section 9.01 Total Condemnation.

If title and possession to all of the Premises is permanently taken for any public or quasi-public use under any statute, or by the right of eminent domain, then this Lease shall terminate on the date that possession of the Premises is taken, and both CITY and TENANT shall

thereafter be released from all obligations, including Rent, all of which shall be prorated to the date of termination, except those specified in Section 9.02 of this Lease.

Section 9.02 Condemnation Award.

Any compensation or damages awarded or payable because of the permanent taking of all or any portion of the Premises by eminent domain shall be allocated between CITY and TENANT as follows:

(1) All compensation or damages awarded or payable for the taking by eminent domain of any land that is part of the Premises shall be paid to and be the sole property of CITY free and clear of any claim of TENANT or any person claiming rights to the Premises through or under TENANT.

(2) All compensation or damages awarded or payable which is specifically attributed by the taking party to the "good will" of TENANT'S business shall be paid to and be the sole property of TENANT.

(3) All compensation or damages awarded or payable because of any improvements constructed or located on the portion of the Premises taken by eminent domain where only a portion of the Premises is taken by eminent domain, and TENANT is not entitled to or does not terminate this Lease, shall be applied in the manner specified in Section 9.04 toward the replacement of such improvements with equivalent new improvements on the remaining portions of the Premises.

(4) All compensation or damages awarded or payable because of any improvements constructed or located on the portion of the Premises taken by eminent domain where this Lease is terminated because of the taking by eminent domain, whether all or only a portion of the Premises is taken by eminent domain, shall be allocated between CITY and TENANT as follows:

(a) That percentage of the compensation or damages awarded or payable because of the improvements that equals the percentage of the full term of this Lease that has, at the time of the taking, not expired shall belong to and be the sole property of TENANT.

(b) That percentage of the compensation or damages awarded or payable because of the improvements that equals the percentage of the full term of this Lease that has, at the time of the taking, expired shall belong to and be the sole property of CITY.

(c) The term "time of taking" as used in this Section shall mean 12:01 a.m. of the date that the agency or entity exercising the eminent domain power, takes, title, or the date that it takes physical possession of the portion of the Premises, whichever shall first occur.

(5) Any severance damages awarded or payable because only a portion of the Premises is taken by eminent domain shall be the sole and separate property of CITY.

Section 9.03 Termination for Partial Taking.

If, during the term of this Lease, title and possession of only a portion of the Premises is taken for any public or quasi-public use under any statute, or by right of eminent domain, then TENANT may, at TENANT'S option, terminate this Lease by serving written notice of termination on CITY within ninety (90) days after TENANT has been deprived of actual physical possession of the portion of the Premises taken for such public use. This Lease shall terminate on the first day of the calendar month following the calendar month in which the notice of termination described in this section is served on CITY. On termination of this Lease pursuant to this Article, all subleases and subtenancies in or on the Premises or any portion of the Premises created by TENANT under this Lease shall also terminate and the Premises shall be delivered to CITY free and clear of all such subleases and subtenancies, provided, however, that CITY may, at CITY'S option, by mailing written notice to a subtenant allow any subtenant to attorn to CITY and continue such subtenant's occupancy on the Premises as a TENANT of CITY. On termination of this Lease pursuant to this section, however, both CITY and TENANT shall be released from all obligations under this Lease, except those specified in Section 9.02 of this Lease.

Section 9.04 Rent Abatement for Partial Taking.

If, during the term of this Lease, title and possession of only a portion of the Premises is taken under the power of eminent domain by any public or quasi-public agency or entity and TENANT does not terminate this Lease, then this Lease shall terminate as to the portion of the Premises taken under eminent domain on the date actual physical possession of the portion taken by eminent domain is taken by the agency or entity exercising the eminent domain power. Furthermore, the Rent payable under this Lease shall, as of that time be reduced in the same proportion of the Premises taken by eminent domain bears to the full value of the Premises at that time; provided however, that TENANT shall make a good faith effort to replace any improvements or facilities with equivalent new facilities on the remaining portion of the Premises and do all other acts at TENANT'S own cost and expense required by the eminent domain taking to make the remaining portion of the Premises fit for the use specified in this Lease.

Section 9.05 Conveyance in Lieu of Eminent Domain.

A voluntary conveyance by CITY, with the consent of TENANT, of title to all or a portion of the Premises to a public or quasi-public agency or entity in lieu of and under threat by such agency or entity to take the same by eminent domain proceedings shall be considered a taking of title to all or such portion of the Premises under the power of eminent domain subject to the provisions of this Article.

Section 9.06 Temporary Taking.

If the possession of the Premises or any portion thereof should be taken under the power of eminent domain by any public or quasi-public agency or entity for a limited period not extending beyond the term of this Lease, then this Lease shall not terminate (except as provided in this Section 9.06) and TENANT shall continue to perform all its obligations hereunder, except only to the extent that TENANT is prevented from performing such obligations by reason of such taking. TENANT shall be entitled to receive the entire amount of compensation or damages awarded because of such temporary taking. If a temporary taking extends for more than thirty-six (36) months, then TENANT shall have the right to terminate this Lease, and TENANT shall be entitled to receive, out of the compensation or damages awarded because of such temporary taking, the amount that is attributable to the period of time up until the effective date of TENANT'S termination of this Lease.

Article 10 ASSIGNMENT AND SUBLEASING

Section 10.01 No Assignment Without CITY'S Consent.

Except as provided in this Article 10, 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 CITY evidenced by resolution first had and obtained. Any assignment or transfer by TENANT without the prior written consent of CITY, whether it be voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of CITY, terminate this Lease. A consent by CITY to one assignment shall not be deemed to be a consent to any subsequent assignment of this Lease by TENANT. CITY shall not unreasonably nor arbitrarily withhold its approval to the assignment or transfer of this Lease to an assignee who is financially reliable and qualified to conduct the business for which this Lease was granted. It is mutually agreed TENANT'S qualifications are a part of the consideration for granting of this Lease and TENANT does hereby agree to maintain active control and supervision of the operation conducted on the Premises.

Section 10.02 Change of Ownership as Assignment.

For purposes of this Article 10, the following transactions will be deemed to be assignments or transfers:

(1) If TENANT is a partnership or limited liability company:

(a) 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; or

(b) The dissolution of the partnership or limited liability company without its immediate reconstitution.

(2) If TENANT is a closely held corporation (i.e., one whose stock is not publicly held and not traded through an exchange or over the counter):

(a) The sale or other transfer, within a twelve-month (12-month) period, of more than an aggregate of twenty-five percent (25%) of the voting shares of TENANT (other than to immediate family members by reason of gift or death); or

(b) The dissolution, merger, consolidation, or other reorganization of TENANT.

Section 10.03 Application for Assignment.

A condition of an assignment shall be that TENANT shall file with the CITY an application to assign the leasehold prepared by the prospective assignee. Concurrently with filing the application, TENANT shall pay a reasonable fee associated with the cost pf processing said application, in cash or certified or cashier's check to enable CITY adequately to investigate the proposed assignee's qualifications as a permitted assignee. CITY shall not be required to account for the use of the sum paid. If the proposed assignee's net worth on the date of assignment is not sufficient to reasonably guarantee successful operation of the Premises in compliance with all applicable CITY, County, State and federal requirements, CITY may withhold approval of the assignment or condition it upon TENANT'S guarantee of such assignee's obligations hereunder for such period as CITY deems advisable. Net worth shall mean the amount by which the total of all assets shall exceed the total of all liabilities as determined in accordance with general accepted accounting principles as approved by CITY'S auditor, or other authorized representative or agent.

Section 10.04 Probate Transfer of Assignment.

If TENANT is an individual, nothing herein contained will prevent the transfer of this Lease by will, or by operation of law under the intestacy provisions of the California Probate Code as it may be amended from time to time. Probate sale of the leasehold interest will not be permitted without the consent of the CITY, evidenced by resolution, first had and obtained.

Section 10.05 No Sublease Without CITY'S Consent.

TENANT shall not sublease the whole nor any part of the Premises, or license, permit, or otherwise allow any other person (the employees of TENANT excepted) to occupy or use the Premises, or any portion thereof, without the prior written consent of CITY's Harbor Director, or any future successor to the duties of the City's Harbor Director. A consent to one subletting, occupation, licensing or use shall not be deemed to be a consent to any subsequent subletting, occupation, licensing or use by another person. Any sublease or license without CITY'S written consent shall be void, and shall at CITY'S option, terminate this Lease. CITY shall not unreasonably nor arbitrarily withhold its consent to sublet to one who is qualified and financially reliable. CITY'S consent to any occupation, use, or licensing shall be in CITY'S sole and absolute discretion. Notwithstanding any provisions herein to the contrary, the terms "assignment," "subletting," "occupation," or "use," shall not be construed or interpreted to mean or include the temporary, short term renting or leasing of boat slips, motel, hotel, or apartment accommodations on the premises.

Section 10.06 Subtenant Subject to Lease Terms.

Any and all subleases shall be expressly made subject to all the terms, covenants, and conditions of this Lease. Subject to Section 1.01, the term of any sublease shall not extend beyond the term of this Lease. Subject to Sections 1.01 and 10.09, termination of this Lease prior to the expiration of this Lease term shall also terminate any and all subleases. A breach of the terms of this Lease by a subtenant shall constitute a breach on the part of TENANT and shall subject both the subtenant and TENANT to all the remedies provided to CITY herein and by law. Failure by any subtenant to report Gross Sales or to pay Percentage Rent due from subtenant shall constitute a breach of this lease. TENANT hereby agrees to and does guarantee payment of such Percentage Rent due by a subtenant under the terms of this lease.

Section 10.07 Consent Form Agreement.

Prior to any consent by CITY'S Harbor Director to any sublease hereof, TENANT shall cause to be executed between TENANT and any subtenant an agreement making the CITY a third-party beneficiary, in a form acceptable to CITY'S Harbor Director, whereby the subtenant

agrees to be bound by all of the terms, covenants and conditions of this Lease. Further, it is agreed by TENANT any default by the subtenant of any of the terms, covenants and conditions of this Lease shall be deemed to be violations by TENANT of this Lease and that all remedies of CITY for such violation, including termination of this Lease, shall immediately be enforceable by CITY against TENANT. TENANT shall apply any and all monies received from any subtenant first to the payment of obligations of the subtenant to CITY.

Section 10.08 TENANT and Guarantor Remain Liable.

Prior to approval by CITY to any sublease hereof, TENANT shall agree to be primarily and jointly and severally liable to CITY for all obligations due CITY by any subtenant, including the payment of rents, and TENANT shall agree that CITY may proceed directly against TENANT for any obligation owing CITY by the subtenant. If this Lease is guaranteed, neither the sublease nor CITY'S approval thereof shall release the guarantor from its obligations pursuant to the guaranty.

Section 10.09 Nondisturbance.

On the terms set forth below, CITY may enter into agreements with subtenants providing that in the event of any termination of this Lease prior to the expiration date, CITY will not terminate or otherwise disturb the rights of the subtenant under such sublease, but will instead honor such sublease as if such agreement had been entered into directly between Landlord and such subtenant, conditioned upon such subtenant's agreement to attorn to Landlord and full performance of all obligations under the sublease in question ("Non-Disturbance Agreement"). CITY agrees to execute a Non-Disturbance Agreement in connection with a particular sublease provided that Tenant provides CITY with a copy of the sublease, and the Non-Disturbance Agreement is customary in form and substance and otherwise reasonably acceptable to CITY.

Article 11 DEFAULT AND TERMINATION

Section 11.01 Abandonment by TENANT.

If TENANT breaches this Lease and abandons all or any part of the Premises prior to the scheduled expiration of the term of this Lease, CITY may continue this Lease in effect by not terminating TENANT'S right to possession of the Premises, in which event CITY shall be entitled to enforce all CITY'S rights and remedies under this Lease including the right to recover the Rent specified in this Lease as it becomes due under this Lease.

Section 11.02 Termination for Breach by TENANT.

All covenants and agreements contained in this Lease are declared to be conditions to this Lease and to the term hereby demised to TENANT. Should TENANT fail to perform any covenant, condition, or agreement contained in this Lease, except for payment of any Rent or other monetary amount due, and such failure is not cured within thirty (30) days after written notice thereof is served on TENANT, then CITY may terminate this Lease immediately, and in the event of such termination, TENANT shall have no further rights hereunder and TENANT shall thereupon forthwith remove from the Premises and shall have no further right or claim thereto and CITY shall immediately thereupon have the right to re-enter and take possession of the Premises, subject only to appropriate legal process.

Section 11.03 Termination for Failure to Pay Rent.

If any payment of Rent is not made as herein provided and such failure to pay is not cured within three (3) days after written notice thereof is served on the TENANT, CITY shall have the option to immediately terminate this Lease; and in the event of such termination, TENANT shall have no further right or claim thereto and CITY shall immediately thereupon have the right to re-enter and take possession of the Premises, subject only to appropriate legal process.

Section 11.04 Lender May Cure Default.

CITY shall afford the Lender under any Leasehold Encumbrance of record with CITY the right to cure any default by TENANT of the covenants, conditions, or agreements hereof, as provided in Article 5 of this Lease.

Section 11.05 Attorneys' Fees.

In the event the CITY finds it necessary to retain an attorney in connection with the default by the TENANT or enforcement of any of the terms, conditions, and covenants of this Lease, even though litigation is not instituted, TENANT shall pay to CITY its reasonable attorneys' fees. Non-payment of attorneys' fees by TENANT within three (3) days after written notice is served on TENANT shall give rise to an independent legal action by CITY to collect same. If CITY is successful in such legal action, CITY shall also be entitled to attorney fees and costs for the collection action. To the extent that CITY is represented by the City Attorney, a reasonable sum for such attorneys' services will be included as attorneys' fees.

Section 11.06 Damages for Breach.

If TENANT defaults in the performance of any covenant, condition or agreement contained in this Lease and the default be incurable or not be cured within the time period set forth hereinabove, then CITY may terminate this Lease and:

(1) Bring an action to recover from TENANT:

(a) The worth at the time of award of the unpaid rent which had been earned at the time of termination of this Lease;

(b) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination of this Lease until the time of award exceeds the amount of rental loss that TENANT proves could have been reasonably avoided;

(c) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss that TENANT proves could be reasonably avoided; and

(d) Any other amount necessary to compensate CITY for all detriment proximately caused by TENANT'S failure to perform its obligations under this Lease; and

(2) Bring an action, in addition to or in lieu of the action described in subparagraph (1) of this Section, to re-enter and regain possession of the Premises in the manner provided by the laws of unlawful detainer of the State of California then in effect.

Section 11.07 Cumulative Remedies.

The remedies available to CITY in this Article shall not be exclusive but shall be cumulative with and in addition to all remedies now or hereafter allowed by law or elsewhere provided in this Lease.

Section 11.08 Waiver of Breach.

The waiver by CITY of any breach by TENANT of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by TENANT either of the same or a different provision of this Lease.

Section 11.09 Surrender of Premises.

On expiration or sooner termination of this Lease, TENANT shall surrender the Premises, and, subject to Section 4.04, all improvements in or on the Premises, and all facilities in any way

appertaining to the Premises, to CITY in good, safe, and clean condition, reasonable wear and tear excepted.

Article 12 MISCELLANEOUS

Section 12.01 Attorneys' Fees.

If any litigation is commenced between the Parties concerning the Premises, this Lease, or the rights and duties of either in relation thereto, then the Party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in the litigation, to a reasonable sum as and for its attorneys' fees and court costs in such litigation, which shall be determined by the court in such litigation or in a separate action brought for that purpose. The "prevailing" party shall mean the Party who obtains substantially the relief sought by that Party.

Section 12.02 Notices.

Any and all notice or demands by or from CITY to TENANT, or TENANT to CITY, shall be in writing. They shall be served either personally, or by registered or certified mail. Any notice or demand to CITY may be given to:

City of Morro Bay
Attn: Harbor Director
1275 Embarcadero
Morro Bay, CA 93442

with a copy to:

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

Any notice or demand to TENANT may be given at:

Embarcadero 801 LLC
1342 Garden St.
San Luis Obispo, CA 93401

Such addresses may be changed by written notice by either party to the other Party.

Section 12.03 Governing Law and Jurisdiction.

This Lease, and all matters relating to this Lease, shall be governed by the laws of the State of California in force at the time any need for interpretation of this Lease or any decision concerning this Lease arises. CITY and TENANT consent to exclusive personal and subject matter jurisdiction in the Superior Court of the State of California in and for the county where the Premises are located, and each Party waives any claim that such court is not a convenient forum. Each Party hereby specifically waives the provisions of California Code of Civil Procedure Section 394, and any successor statute thereto.

Section 12.04 Binding on Successors.

Subject to the provisions herein relating to assignment and subletting each and all of the terms, conditions, and agreements herein contained shall be binding upon and inure to the benefit of the successors and assigns of any and all of the Parties; and all of the Parties shall be jointly and severally liable hereunder.

Section 12.05 Partial Invalidity.

Should any provision of this Lease be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.

Section 12.06 Sole and Only Agreement.

This Lease and the COL, including all exhibits incorporated by reference, constitutes the sole and only agreements between CITY and TENANT respecting the Premises and the leasing of the Premises to TENANT. Any other agreements or representations respecting the Premises and their leasing to TENANT by CITY, which are not expressly set forth in this Lease, are null and void. This lease terms herein specified correctly set forth the obligations of CITY and TENANT as of the date of this Lease. No modification, amendment, or alteration of this Lease shall be valid unless it is in writing and signed by the Parties.

Section 12.07 Modification.

This agreement shall not be modified except pursuant to a written agreement executed by the MAYOR and CITY CLERK pursuant to prior CITY Council approval. Notwithstanding CITY Council approval, no agreement shall become effective until such agreement is in fact executed by the MAYOR and CITY CLERK. TENANT understands that this agreement may not be modified by oral statements by any person representing the CITY including the MAYOR and CITY CLERK. TENANT specifically agrees not to rely on oral statements, purported oral

waivers, or purported oral modifications and agrees not to rely upon purported written modifications unless they meet the requirements of this paragraph and are approved in writing pursuant to formal City Council action and a subsequent written modification signed by the MAYOR and CITY CLERK. If the title of any person authorized to act for CITY under this Lease shall be changed during the term of this Lease, then the person who succeeds to substantially the same responsibilities with respect to the CITY shall have the authority to act for CITY under this Lease.

Section 12.08 Time of Essence.

Time is expressly declared to be the essence of this Lease.

Section 12.09 Memorandum of Lease for Recording.

CITY and TENANT shall, at the request of either at any time during the term of this Lease, execute a memorandum or "short form" of this Lease, which shall describe the Parties, set forth a description of the leased premises, specify the term of this Lease, and incorporate this Lease by reference.

EXECUTED on _____, 2018, at Morro Bay, San Luis Obispo County, California.

CITY OF MORRO BAY

_____
Jamie L. Irons, MAYOR

EMBARCADERO 801 LLC, a California Limited Liability Corporation

By: _____
Burt Caldwell, Managing Member

By: _____

ATTEST:

_____
Dana Swanson, CITY CLERK

APPROVED AS TO FORM:

_____
Joseph W. Pannone, CITY ATTORNEY

EXHIBIT A

COPY OF PARCEL MAP

EXHIBIT A

See Sheet 6 of 13

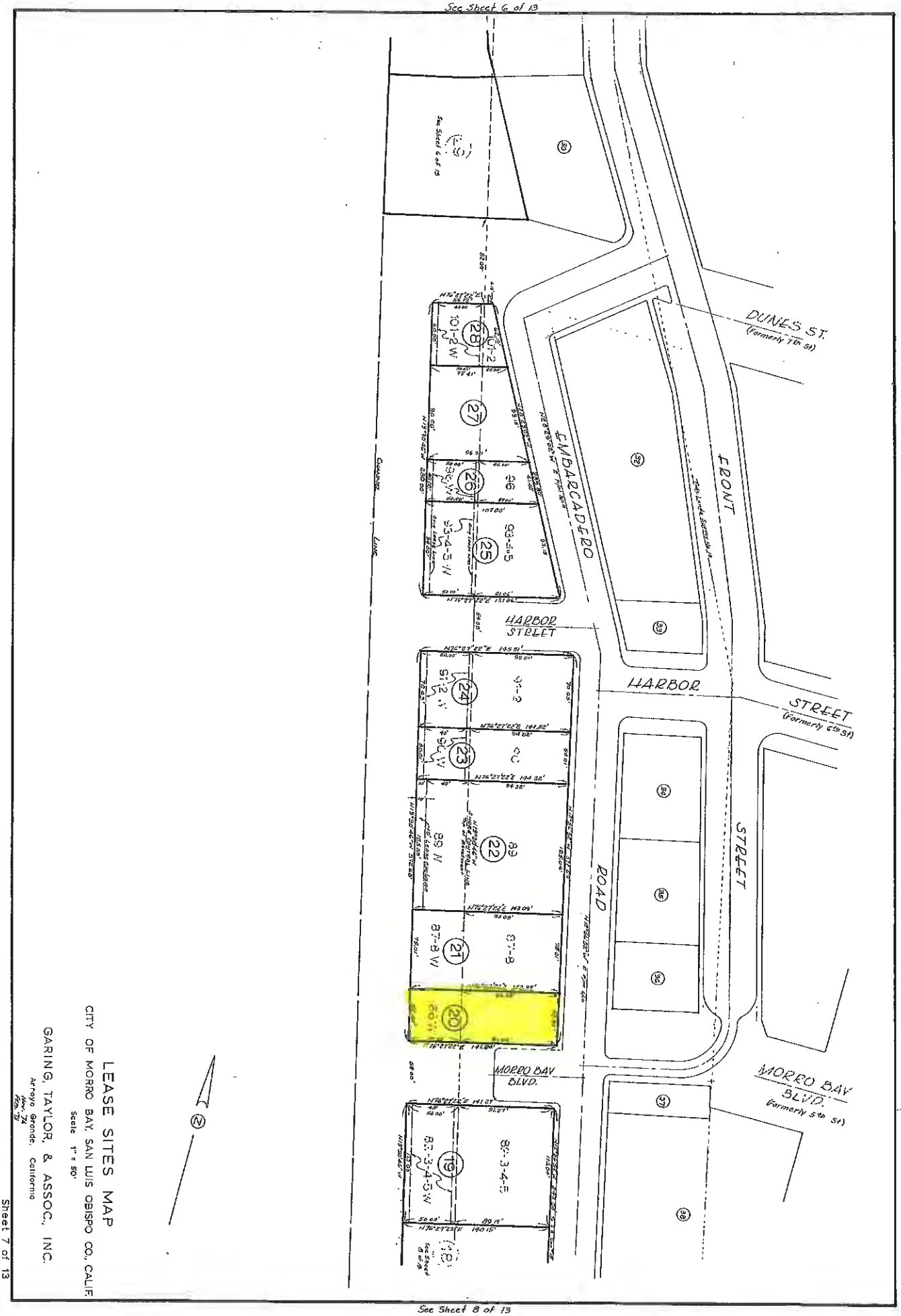

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EXHIBIT B

CITY OF MORRO BAY

595 Harbor St.
Morro Bay, CA 93442
(805) 772-6200
FAX (805) 772-7329

INSURANCE REQUIREMENTS FOR LESSEES
(NO AUTO RISKS)

Lessee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the leased premises. The cost of such insurance shall be borne by the Lessee.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance (for lessees with employees).
3. Property insurance against all risks of loss to any tenant improvements or betterments.

Minimum Limits of Insurance

Lessee shall maintain limits no less than:

1.	General Liability:	**$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2.	Employer's Liability:	**$1,000,000** per accident for bodily injury or disease.
3.	Property Insurance:	Full replacement cost with no coinsurance penalty provision.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Lessee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The general liability policy is to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of ownership, maintenance or use of that part of the premises leased to the Lessee.
2. The Lessee's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

Verification of Coverage

Lessee shall furnish the City with original certificates and amendatory **endorsements** effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the City **before** use of City premises. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

Sub-lessee

Lessee shall include all sub-lessees as insureds under its policies or shall furnish separate certificates and endorsements for each sub-lessee. All coverages for sub-lessees shall be subject to all of the requirements stated herein.

Insurance\SpecC
Rev. 8/01

Reproduction of Insurance Services Office, Inc. Form

INSURER: ISO Form CG 20 11 11 85 (Modified)
POLICY NUMBER: Commercial General Liability
ENDORSEMENT NUMBER:

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED -- MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

1. Designation of Premises (Part Leased to You):
2. Name of Person or Organization (Additional Insured): City of Morro Bay
3. Additional Premium:

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:
1. Any "occurrence" which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization shown in the schedule.

Modifications to ISO form CG 20 11 11 85:
1. The Insured scheduled above includes the Insured's elected or appointed officers, officials, employees and volunteers. 2. This insurance shall be primary as respects the Insured shown in the schedule above, or if excess, shall stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Insured scheduled above shall be in excess of this insurance and shall not be called upon to contribute with it. 3. The insurance afforded by this policy shall not be canceled except after thirty days prior written notice by certified mail return receipt requested has been given to the City.

_____
Signature-Authorized Representative

_____

_____
Address

CG 20 11 11 85 Insurance Services Office, Inc. Form (Modified)
Insurance\Form#3
Rev. 8/01

RESOLUTION NO. 73-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
APPROVING AN INTERIM MASTER LEASE AGREEMENT
FOR LEASE SITE 86/86W, LOCATED AT 801 EMBARCADERO,
AND COMMONLY KNOWN AS "LIBERTINE PUB"**

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

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

WHEREAS, Embarcadero 801 LLC ("Tenant") has been the lessee of Lease Site 86/86W since 2006 and is a tenant in good standing; and

WHEREAS, City and Tenant desire to provide for the opportunity to incorporate redevelopment of the Lease Site with the development of the future project known as "Market Plaza"; and

WHEREAS, the existing Master Lease Agreement for the Lease Site expires on September 30, 2018; and

WHEREAS, it is in the City and Tenant's mutual best interest to enter into an Interim Master Lease Agreement for the Lease Site to enable continued operation of the Lease Site by the Tenant while Tenant prepares their "Market Plaza" project proposal.

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

1. The attached Interim Master Lease Agreement for Lease Site 86/86W is hereby approved.

2. The Mayor is hereby authorized to execute the Interim Master Lease Agreement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of September 2018 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

AGENDA NO: A-6

MEETING DATE: September 25, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 12, 2018**

FROM: **Eric Endersby, Harbor Director**

SUBJECT: **Adoption of Resolution No. 74-18 Approving a New Master Lease Agreement Between the City of Morro Bay and 725 Embarcadero LLC for Lease Site 82-82/82W-85W, located at 725 Embarcadero, and Commonly Known as "Rose's Landing"**

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 74-18, approving a new Master Lease Agreement for Lease Site 82-85/82W-85W, as proposed.

ALTERNATIVES

Council may elect not to approve Resolution No. 74-18 for the new Master Lease Agreement (MLA) as-proposed, and direct staff accordingly.

FISCAL IMPACT

Under this proposal, the revenues to the Harbor Fund should remain relatively flat or dip slightly initially, then increase moderately as the new hotel rooms increase in occupancy over time.

In addition, assuming the lease concession for hotel valet parking is implemented as-proposed, the Harbor Fund could experience a temporary decrease in revenues up to $25,000 maximum per year for up to five years.

Under this proposal, the General Fund should see an increase in Transient Occupancy Tax of approximately $85,000/year, and an increase in Tourism Business Improvement District revenues of approximately $25,500/year if the new hotel rooms perform, as anticipated. In addition, the General Fund will receive $4,262.50 annually for ten parking spaces being leased by the tenant in the City's public parking lot at Pacific Street and Market Avenue.

BACKGROUND

Doug Redican has owned and operated the Rose's Landing lease site since 1988, when the site was on an antiquated "County" lease. In exchange for early retirement of that lease, in 2002, Mr. Redican proposed and completed a major site redevelopment project, in exchange for a new long-term lease under modern terms and rents. That redevelopment was completed in the mid-2000's. The current lease on the site expires on December 31, 2062.

Mr. Redican has pursued two major redevelopment projects for his site over the past ~2-3 years, including build-out of the water lease with slips and docks where none exist today, Harborwalk and other public improvements, and conversion of the entire second story of his building, currently a restaurant, to hotel rooms. Due to significant eelgrass growth in the water portion of his lease site,

Prepared By: ___EE_____ **Dept Review:** ___EE___

City Manager Review: ___SC_____ **City Attorney Review:** __JWP_____

and the current impediment it presents to development on or near the water, Mr. Redican has shelved the slip project for the time being to focus on the hotel room conversion project, with additional public improvements consisting of improved bayside and vertical access.

Mr. Redican recently received Concept Plan approval from the Planning Commission and City Council for the hotel room conversion and public improvement project, including approval of a certain number of public parking spaces to be dedicated to Rose's hotel customer users from afternoon to morning hours. Although the initial Council approval for the dedicated parking spaces was in the public lot below the former DeStasio's Restaurant, the Coastal Commission prohibited that use in that area, and the City and Mr. Redican identified an alternate parking location at the City's public lot at the northeast corner of Market Avenue and Pacific Street. Staff reached out to Coastal Commission staff and obtained their concurrence related to leasing 10 parking spaces within that lot.

Over the past several months, staff and Mr. Redican have negotiated a new MLA for the site to enable the hotel room conversion redevelopment project, including taking negotiations to the Council in closed session on several occasions for input and direction.

DISCUSSION

The proposed new MLA for the Rose's Landing lease site, included with this staff report as Attachment #1 and based on the City's standard lease template, contains the following significant lease section element highlights:

1. Section 1.01 Term: 50-year lease term commencing October 1, 2018 based on the 44 years left on the current lease and adding six years (the maximum allowed) for a minimum $1.25M investment in the proposed project.

2. Section 1.04 Replacement: As is typical, the new lease replaces the existing lease for this subject lease site. If Mr. Redican, is, for any reason, unable to obtain financing for the hotel project on or before March 31, 2019, then the new lease will become null and void and that existing lease will once again become operative.

3. Section 2.01 Minimum Rent: annual minimum rent unchanged from current rate of $63,065.67, and subject to standard annual CPI adjustments and five-year reappraisals.

   Minimum annual rent will be based on 8% of the appraised value of the property only, as opposed to the higher of 8% of the appraised value or 75% of the average last five years of total rent paid. This is in recognition the minimum rent calculation using the 75% method having a negative effect on the prospects of Mr. Redican's needed lending to accomplish the hotel room project. Since the Rose's Landing site has historically and universally generated significant percent gross rents well above the annual minimum rent, which will only increase with time as the hotel rooms increase in occupancy, the annual minimum rent is essentially a moot point, and thus striking the 75% rent calculation method from this lease will have no effect on revenues.

4. Section 2.04 Percentage Rent: 3% for all food service, including the current Kellie's Candy shop, and all beer and wine sales; 10% for all liquor at the bar; 5% for retail (excluding Kellie's Candy); 5% for hotel.

5. Section 3.01 Permitted Uses: transient occupancy will be added to this lease agreement.

6. Section 13.02 Construction of Improvements: memorialization of the approved concept plan for hotel room conversion and other public improvements, including timeline performance parameters and minimum investment (expenditure) requirements for the project.

   Section 13.04 Valet Parking Rent Credit and Hotel Parking Spaces: because this lease site has no on-site parking for hotel guests, this lease includes a rent credit in the amount necessary to offset the actual, documented valet costs necessary for hotel operations, up to a maximum of $25,000 annually (50% of what is estimated at the high end a valet parking program will cost for the proposed hotel operation), and offset by any valet parking revenues charged by the tenant. Because the additional estimated annual cost of $45,000-$50,000 for a valet system is a significant financial burden for one small 10-room hotel to shoulder, a City incentive (rent credit) is necessary and justified to ensure the project's viability and success.

   This credit will be subject to annual review and has a phase-out or sunset clause based on review and determination by the City the credit is no longer needed or justified, or five years, whichever occurs first.

   By way of a separate agreement, lease or licensing to use up to ten parking spaces in the City's public parking lot at Market and Pacific streets, between the hours of 3:00 p.m. and 11:00 a.m., for $4,262.50/year.

CONCLUSION

Mr. Redican is currently a lessee in good standing with regard to ownership and operation of the Rose's Landing site and is one of the highest revenue generators on the waterfront for the Harbor Fund. It behooves the City for Mr. Redican to complete this hotel room conversion and public improvement project, as it will ultimately result in increased revenues to the City in both the Harbor and General Funds and enhanced public access to the waterfront.

Finally, Mr. Redican has not abandoned the slip project altogether. Rather, he intends to go forward with that project if a Morro Bay eelgrass management and mitigation plan is eventually enacted that will provide for lesser cost and more certainty in eelgrass mitigation. The Harbor Advisory Board is working to develop such a plan. That eelgrass plan, however, is still prospective and in the future; therefore, Mr. Redican's slip project is similarly prospective and in the future.

In sum, staff recommends the City Council approve Resolution No. 74-18, included with this staff report as Attachment #2, approving a new LMA for the Rose's Landing lease site as-proposed.

ATTACHMENTS

1. New Master Lease Agreement for Lease Site 82-85/82W-85W.
2. Resolution No. 74-18.

L E A S E

by and between

the CITY OF MORRO BAY

("CITY")

and

725 EMBARCADERO LLC

("TENANT")

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LEASE

This LEASE is made and entered into by and between the CITY OF MORRO BAY, a municipal corporation of the State of California herein called CITY, and 725 Embarcadero LLC, a limited liability company, currently doing business as Rose's Landing (Doug Redican), herein called TENANT.

WITNESSETH

WHEREAS, the State of California granted certain tide and submerged lands located within the CITY limits of CITY to the County of San Luis Obispo and to its successors, being Chapter 1076, Statutes of 1947, as amended by Chapter 413, Statutes of 1955, Chapter 1874, Statutes of 1957, and Chapter 70, Statutes of 1960, first extraordinary session; which Statutes may be amended from time to time by the Legislature of the State of California; all of which Statutes are expressly recognized and agreed to be in full force and effect by the parties hereto; and

WHEREAS, the parties hereto recognize and agree that on July 17, 1964, the CITY of Morro Bay, Lessor herein, succeeded to all of the right, title and interest of the County of San Luis Obispo in and to all of the tide and submerged lands conveyed to said County by the State of California pursuant to the above mentioned acts; and

WHEREAS, judgment has been entered on October 14, 1968, in the case of CITY of Morro Bay, Plaintiff, versus County of San Luis Obispo, and State of California, Defendants, by the Superior Court of the State of California in and for the County of San Luis Obispo, #30417, adjudging and decreeing, among other things, that the title to said tide and submerged lands so conveyed by the State of California to the County of San Luis Obispo in trust, as set forth above, passed automatically to the CITY of Morro Bay upon the date of its incorporation as a CITY on the 17th day of July, 1964; and

WHEREAS, TENANT accepts the within Lease with full knowledge that there is no warranty of title in and to the within described premises by CITY to TENANT; and

WHEREAS, in order to develop and improve Morro Bay Harbor and to assist in carrying out the provisions of the tideland grant as aforesaid, and in order to provide facilities for the accommodation of those using Morro Bay Harbor, CITY desires to lease to TENANT the within described property upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the covenants to be performed and the rental to be paid by TENANT to CITY, CITY leases to TENANT, and TENANT leases from CITY, all of the following premises (herein collectively referred to as the "Premises") in the CITY of Morro Bay, County of San Luis Obispo, State of California, described as follows:

Lease Site 82-85/82W-85W

This property is delineated on Parcel Map of the CITY of Morro Bay No. 68-30, which map was recorded on October 10, 1968, in Book 3, Page 10 of Parcel Maps in the Office of the County Recorder, San Luis Obispo County, California. A copy of said Map is attached hereto as Exhibit A and made a part hereof by reference.

Article 1 FIXED TERM

Section 1.01 Term.

The term of this Lease shall be a period of 50 years, commencing October 1, 2018 (the "Commencement Date"). The term of this Lease shall terminate without notice on September 30, 2068, unless sooner terminated as herein provided.

Section 1.02 No Extensions.

The term of this Lease shall not be extended nor shall this Lease be renewed. Requests for continued use of the Premises shall be treated as an application for a new lease and shall require appropriate application to the CITY with all required supporting information and documents, CITY Council approval and the execution of a new CITY lease, containing the then most current terms, covenants, conditions and rent schedules.

Section 1.03 Hold Over.

If TENANT holds the demised Premises after the expiration of the term of this Lease with the consent of the CITY, express or implied, then such holding over (in the absence of a written agreement between CITY and TENANT with respect thereto) shall be deemed to create a tenancy from month to month, terminable on 30-days' written notice from either party to the other, at a monthly rental equal to two hundred percent (200%) of the average total Rent per month for the twelve (12) months immediately preceding the expiration of the Lease, and otherwise subject to each and every term, covenant and condition of this Lease.

Section 1.04 Replacement.

Subject to the next paragraph, as of the Commencement Date, this Lease shall extinguish and replace every prior lease between CITY and TENANT respecting the Premises, if any. Any right or interest held by the TENANT pursuant to any existing lease with respect to the Premises, which is not granted pursuant to this Lease, shall be extinguished as of the Commencement Date of this Lease.

If on or before March 31, 2019, TENANT does not provide satisfactory evidence, as approved by CITY'S Harbor Director and City Attorney, TENANT has obtained all the financing necessary to commence and complete the Project (as defined in Section 13.02), then (i) this Lease shall automatically terminate, without any notice to TENANT, and be of no force and effect and (ii) the lease between CITY and TENANT for the Premises that was in effect prior to this Lease, shall be reinstituted and remain in full force and effect subject to all of that lease's terms and conditions.

Article 2 RENT

Section 2.01 Annual Minimum Rent.

TENANT agrees to pay to CITY a minimum guaranteed annual rental for the use and occupancy of the Premises, in an initial amount of $63,065.67 per year (the "Minimum Rent"), payable in advance in equal semiannual installments on January 1 and July 1 each year during the term of the Lease. If the Commencement Date is other than January 1 or July 1, then TENANT shall pay, on the Commencement Date, the proportionate amount of the Minimum Rent payable for the period from the Commencement Date until the next payment date of January 1 or July 1, as the case may be. If the term of the Lease expires on a date other than December 31 or June 30, then TENANT'S final installment of Minimum Rent shall be proportionate to the time remaining in the term. All Rent, including the Minimum Rent and the Percentage Rent, shall be paid in lawful money of the United States of America, without offset or deduction and shall be paid to CITY at City Hall located at 595 Harbor Street, Morro Bay, California, or at such other place or places CITY may from time to time designate by written notice delivered to TENANT.

Section 2.02 CPI Adjustment to Annual Minimum Rent.

(1) The parties agree, as of every July 1 following the Commencement Date (each, a "CPI Adjustment Date"), except as outlined in section 2.03 hereof, the annual Minimum Rent shall be adjusted in direct proportion to any upward or downward movement in the Consumer

Price Index for January 1, 2018, which is hereby agreed to be 261.235 (Base Index). The percentage adjustment for any given year shall be based on the monthly average Index for the calendar year immediately preceding the CPI Adjustment Date as compared with the Base Index. The Consumer Price Index referred to herein is the Consumer Price Index (all items indexes, all urban consumers) for Los Angeles – Long Beach – Anaheim, California, compiled and published by the United States Department of Labor, Bureau of Labor Statistics, 1982-84 Base Year = 100 (the "Index")

(2) The Annual Minimum Rent shall be adjusted as of each CPI Adjustment Date, and will remain in effect as adjusted until the next CPI Adjustment Date. As an illustration only, if the Base Index (Jan. 1, 1999 CPI) is 166.1 and the monthly average CPI for 2000 is 171.6, then the percentage increase is equal to 3.31%. Therefore, the Minimum Rent would be increased by 3.31% as of July 1, 2001, and would continue at that rate through June 30, 2002.

(3) If the United States Department of Labor, Bureau of Labor Statistics, shall cease to compile and make public the Index as now constituted and issued, but shall substitute another index in its place, then said substituted index shall be used for the purpose of adjusting the Minimum Rent for the Premises. If the Index is changed so that the base year differs from that in effect on the Lease Commencement Date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics.

Section 2.03 Calculation of New Minimum Rent.

At the end of the initial five (5) years and of each five-year period thereafter, a new Minimum Rent shall be calculated for the following five (5) year period (each, a "Subsequent Rental Period") as follows:

A. The Minimum Rent shall be subject to adjustment by appraisal as of the fifth anniversary of the Commencement Date and every five years thereafter (each, an "Appraisal Adjustment Date"). CITY, at its own cost and expense, shall retain an independent qualified appraiser for determination of the fair market value of said premises. Not more than nine (9) months prior to each Appraisal Adjustment Date, CITY shall provide written notice to TENANT of the pending appraisal and the appraiser selected by the CITY to determine the fair market value of the Premises, excluding fixtures and improvements unless such are expressly included in the description of the leasehold hereinabove. If TENANT does not reject CITY's appraiser in writing and within thirty (30) days after CITY's notice of its determination, then the Minimum Rent for the Subsequent Rental Period shall be in the amount determined by CITY as outlined in

this Section 2.03. If TENANT rejects CITY's appraiser within thirty (30) days following CITY's notice to TENANT, then within fifteen (15) days after such 30-day period, each party, at its own cost, shall select an independent professionally designated appraiser who is a member of the American Institute of Real Estate Appraisers, or the Society of Real Estate Appraisers with a designation of MAI (Member of American Institute), SRPA (Senior Real Estate Analysis), to appraise the fair market value of the Premises. CITY may rely on its original appraisal, or select a new appraiser, at its cost. If a party does not appoint an appraiser within fifteen (15) days after the other party has given notice of the name of its appraiser, then the single appraiser appointed shall be the sole appraiser. Each appraiser shall conduct an independent appraisal within thirty (30) days after appointment. If the parties are unable to agree on the Minimum Rent for the Subsequent Rental Period within thirty (30) days after receiving the appraisal(s), then each party shall select one member of a three-member committee. The two so selected members shall select the third member, and this committee shall by majority vote select one or the other of the appraisals. The Minimum Rent determined on the basis of the selected appraisal shall be final and binding and all costs associated with the three-member committee shall be paid equally by CITY and TENANT.

B. In the event the appraisal process is not concluded on or before the Appraisal Adjustment Date, the Minimum Rent shall be adjusted retroactively to such Appraisal Adjustment Date as set out hereinbelow when said appraisal process is completed.

C. The total Rent payable, including both the Minimum Rent and the Percentage Rent for each year within the applicable previous five-year period, shall be averaged to produce the average annual total Rent payable for such previous period.

D. The new Minimum Rent for the five-year period commencing on each Appraisal Adjustment Date shall be eight percent (8%) of the fair market value of the Premises (as established in paragraph A. above.) The new Minimum Rent shall be divided by two to determine the semiannual payments and shall be paid by TENANT to CITY on the first of each January and July thereafter, or paid monthly at the option of TENANT. This new Minimum Rent shall be adjusted each following year in proportion to any increase in the Consumer Price Index as set out in Section 2.02 of this Lease. The Base Index shall be adjusted upon each Calculation of new Minimum Rent as set out in this section so that the Base Index for CPI adjustment shall be the Consumer Price Index for January 1 of the year of the calculation of new Minimum Rent.

Section 2.04 <u>Percentage Rent</u>.

A. In addition to the Minimum Rent, TENANT agrees to pay to CITY at the time and in the manner hereinafter specified, as additional Rent for the use and occupancy of the Premises, a

sum equal to the following for all TENANT'S Gross Sales as hereinafter defined: three percent (3%) for all restaurant/food service, beer and wine and sales from the "Kellie's Candy" retail shop; ten percent (10%) for all liquor sales at the bar; five percent (5%) for all retail sales (excepting those from "Kellie's Candy"); five percent (5%) from transient occupancy/hotel use; and ten percent (10%) for vessel slip and tie-up fees, less the amount of the Minimum Rent paid pursuant to this Lease (the "Percentage Rent").

B. The term "Gross Sales," as used herein, shall mean (subject to the exceptions and authorized deductions as hereinafter set forth), the total selling price and the total gross amount received by TENANT from all rentals, merchandise sold and services rendered in, on or from the Premises by TENANT, its sublessees, licensees, or concessionaires, both for cash and on credit including, but not limited to, rentals of dockage space, leasing and servicing operations and ticket sales, and if on credit whether or not payment be actually made therefore, all charges for services, alterations or repairs made in or upon the Premises; the gross amount received by TENANT for merchandise sold pursuant to orders received in the Premises, though filled elsewhere; and the gross amount received by TENANT from any and all other sources of income derived from the business conducted upon the Premises.

C. Notwithstanding the other provisions of Section 2.04, the term "Gross Sales" shall not include the following items, and such items may be deducted from Gross Sales to the extent they have been included therein or have been included in a prior computation of Gross Sales or for which a Percentage Rent has been paid under this Lease to CITY:

(1) Credits and refunds made to customers for merchandise returned or exchanged;

(2) Any sales or excise taxes otherwise includable in Gross Sales as defined in this Section because such taxes are part of the total selling price of merchandise or services rendered in, from, or on the Premises, where TENANT must account for and remit the taxes to the government entity or entities by which they are imposed; and

(3) With respect to credit card sales, fees retained or withheld by the issuer and/or merchant bank pursuant to TENANT'S credit card acceptance agreement, and

(4) Rental payments to TENANT from sublessees whose total gross sales are included in gross sales computations.

D. TENANT shall keep or cause to be kept full, complete, and accurate records, and books of account in accordance with accepted accounting practices showing the total amount of Gross Sales, as defined herein, made each calendar month in, on or from the Premises. TENANT shall keep said records and books of account within San Luis Obispo County and shall notify CITY in advance of their location at all times. Furthermore, TENANT shall at the time of sale and in the presence of the customer cause the full selling price of each piece of merchandise, each rental received and each service rendered in, on or from the Premises to be recorded in a

cash register or cash registers that have cumulative totals and are sealed in accordance with standard commercial practices. Said records, books of account and cash register tapes, including any sales tax reports that TENANT may be required to furnish any government or governmental agency shall at all reasonable times be open to the inspection of CITY, CITY'S auditor, or other authorized representative or agent of CITY. TENANT consents to the release of sales tax information to CITY and on demand will furnish to CITY a copy of the sales tax reports, quarterly reports and any audit reports of sales for confidential internal use of the CITY in determining Gross Sales for TENANT. TENANT consents and authorizes CITY to request such information directly from the State Board of Equalization or other state agency with which sales tax information is filed.

E. By July 31 of each year, TENANT shall furnish CITY with a statement, to be certified by TENANT as current, true and accurate, which shall set forth the Gross Sales of each department, sublessee, licensee and concession operating in, on or from the Premises for the previous twelve (12) calendar months, ending June 30, just concluded, and the authorized deductions, if any, therefrom; and with it TENANT shall pay to CITY the amount of the Percentage Rent which is due to CITY as shown thereby. If TENANT shall at any time cause an audit of sales of TENANT'S business to be made by a public accountant, then TENANT shall furnish CITY with a copy of said audit without cost or expense to CITY. CITY may, once in any twelve-month period, cause an audit of the business of TENANT to be made by a public accountant of CITY'S own selection. TENANT shall, upon receiving written notice of CITY'S desire for such an audit deliver and make available all such books, records and cash register tapes to the public or certified public accountant selected by CITY. Furthermore, TENANT shall promptly on demand reimburse CITY for the full cost and expense of said audit, should the audit disclose that the questioned statement or statements understated Gross Sales by five percent (5%) or more but less than ten percent (10%). In the event that an audit performed at CITY'S request discloses that TENANT understated Gross Sales by less than 5%, the cost of such audit shall be paid by CITY. In the event any audit or other review of records discloses that the amounts reported as Gross Sales was understated by TENANT by ten percent (10%) or more, CITY shall not only be entitled to recover from TENANT all costs of audit and review, but shall also be entitled to recover from TENANT a penalty equal to two times the Percentage Rent due pursuant to this Lease on such unreported amounts. Whenever any audit discloses that Gross Sales were understated by any amount, TENANT shall immediately pay the additional Percentage Rent therein shown to be payable by TENANT to CITY, together with interest at the Default Rate thereon, from the date the Percentage Rent was payable until the date paid.

F. CITY shall be entitled at any time within five (5) years after the receipt of any such Percentage Rent payment, to question the sufficiency of the amount thereof and/or the accuracy

of the statement or statements furnished by TENANT to justify the same. For the purpose of enabling CITY to check the accuracy of any such statement or statements, TENANT shall for said period of five (5) years after submission to CITY of any such statement keep all of TENANT'S records, including sales tax returns, all cash register tapes and other data which in any way bear upon or are required to establish in detail TENANT'S Gross Sales and any authorized deductions therefrom as shown by any such statements and shall upon request make the same available to CITY for examination.

Section 2.05 Reimbursements.

If TENANT fails to perform any term or covenant of this Lease, then CITY may, but is not obligated to, perform such term or covenant, and TENANT shall reimburse CITY therefore as additional Rent hereunder. As an illustration and not as a limitation, if TENANT fails to procure the insurance required by this Lease, then CITY may, but is not obligated to, obtain such insurance, with the cost of the premiums being due to CITY upon demand as additional Rent.

Section 2.06 Penalty and Interest.

(1) If any Rent is not received within ten (10) days following the date on which the Rent first became due, then TENANT shall pay a late penalty of ten percent (10%) of the amount of the Rent in addition to the Rent.

(2) In addition to the penalty, TENANT shall pay interest at the rate of one percent (1%) per month or fraction thereof or the maximum amount permitted by law as of the date this Lease is signed, whichever is greater (the "Default Rate"), on the amount of the Rent, exclusive of the penalty, from the date on which Rent first became delinquent until paid. The term "Rent" includes any sums advanced by the CITY and any unpaid amounts due from TENANT to the CITY.

Article 3 USE OF PREMISES

Section 3.01 Permitted Uses.

The Premises shall, during the term of this Lease, be used for the purpose of operating and conducting thereon and therein the uses permitted by, and in compliance with, Conditional Use Permit Nos. 72-00 and UPO-359, as it may be amended from time to time, and for no other purpose. At the Commencement Date, such uses include mixed-use retail, bar and restaurant, vessel slips/tie-up and transient occupancy (hotel).

Section 3.02 Unauthorized Use.

TENANT agrees to allow only those uses authorized in Section 3.01, hereinaboveand any unauthorized use thereof shall constitute a breach of this Lease and shall, at the option of CITY, terminate this Lease.

Section 3.03 Operation of Business - Hours of Operation.

Failure to actively and diligently conduct the business authorized herein constitutes a breach of the agreement and shall, at the option of CITY, terminate this lease.

(1) TENANT shall during the term of this Lease conduct business of the nature specified in Section 3.01 of this Lease on the Premises in an efficient and diligent manner and keep the Premises open for the conduct of business continuously and without interruption for at least six hours each day of the year except one day each week and legal holidays. This provision shall not apply if the Premises shall be closed and the business of TENANT is temporarily shut down for a period not to exceed fourteen (14) calendar days in any calendar year to make necessary repairs, maintenance or other construction deemed necessary by TENANT. This provision shall not apply if the Premises shall be closed and the business of TENANT is temporarily shut down as authorized or required by the CITY Manager or on account of strikes, walkouts, or causes beyond the control of TENANT or for not more than three (3) days out of respect to the memory of an officer, employee, or close relative of any officer or employee of TENANT.

(2) TENANT shall operate TENANT'S business on the Premises with due diligence and efficiency and in like manner as comparable businesses operated in the CITY or the coastal area of San Luis Obispo County, so as to produce the maximum amount of Gross Sales and gross receipts from services which may be produced from TENANT'S business; and TENANT at all times shall carry on Premises, a stock or merchandise of such size, character, and quality as is reasonable, designed to produce the maximum return to TENANT, when the sale of merchandise is a permitted use under this Lease.

Section 3.04 Competition.

During the term of this Lease, TENANT shall not directly nor indirectly acquire or establish any similar or competing business within a radius of five (5) miles from the location of the Premises, provided, however, that TENANT may, with prior written approval from CITY, own or operate more than one business, whether or not competing and similar along the Embarcadero upon CITY lease sites. The purpose of this section is to prevent and prohibit TENANT from reducing revenue to CITY by diverting business from the operation at the

Premises to another similar business owned by TENANT within the CITY but not upon a CITY lease site from which CITY is paid rent based on Gross Sales.

Section 3.05 Hazardous Materials.

(1) TENANT shall not transport, use, store, maintain, generate, dispose, release, treat or discharge any "Hazardous Material" (as defined below) upon or about the Premises (such activities being hereafter referred to as "Hazardous Materials Activities"), nor permit TENANT'S employees, agents, or contractors to engage in Hazardous Materials Activities upon or about the Premises, except as allowed by applicable law. The term "Hazardous Material" for purposes hereof shall mean any chemical, substance, material or waste or component thereof which is now or hereafter listed, defined or regulated as a hazardous or toxic chemical, substance, material or waste or component thereof by any federal, state or local governing or regulatory body having jurisdiction, or which would trigger any employee or community "right-to-know" requirements adopted by any such body. All Hazardous Materials Activities at the Premises shall be conducted strictly in accordance with all applicable laws and regulations. If TENANT shall transport any hazardous waste from the Premises, such transportation shall be done only by a contractor duly licensed to haul hazardous waste and shall use only a duly licensed disposal site approved by TENANT'S liability insurer.

(2) TENANT shall promptly notify CITY of: (i) any enforcement, cleanup or other regulatory action taken or threatened by any governmental or regulatory authority with respect to the presence of any Hazardous Material on the Premises or the migration thereof from or to other property, (ii) any demands or claims made or threatened by any party against TENANT or the Premises relating to any loss or injury resulting from any Hazardous Material on or from the Premises, and (iii) any matters where TENANT is required by applicable law to give a notice to any governmental or regulatory authority respecting any Hazardous Material on the Premises. CITY shall have the right (but not the obligation) to inspect the Premises, to take such remedial action on the Premises, as CITY may deem appropriate, and to join and participate, as a party, in any legal proceedings or actions affecting the Premises initiated in connection with any environmental, health or safety law.

(3) If any Hazardous Material is released, discharged or disposed of by TENANT or its employees, agents or contractors, on or about the Premises in violation of the foregoing provisions, TENANT shall immediately notify CITY. CITY may elect either to take such remedial action as CITY deems appropriate, in which event TENANT shall reimburse CITY for all costs thereof within ten (10) days after demand, or direct TENANT to perform such remediation. If CITY directs TENANT to perform the remediation, TENANT shall immediately

take such remedial action, as CITY shall direct. TENANT shall, properly and in compliance with applicable laws clean up and remove the Hazardous Material from the Premises and any other affected property at TENANT'S expense. If CITY directs TENANT to perform remediation hereunder and if TENANT shall fail to comply with the provisions of this Section within five (5) days after written notice by CITY, or such shorter time as may be required by applicable law or in order to minimize any hazard to persons or property, CITY may (but shall not be obligated to) arrange for such compliance directly or as TENANT'S agent through contractors or other parties selected by CITY at TENANT'S expense (without limiting CITY'S other remedies under this Lease or applicable law).

Section 3.06 Tidelands Trust.

TENANT shall use and occupy the Premises in strict compliance with the Tidelands Trust purposes under which the Premises or any portion thereof are held by CITY pursuant to the grants from the State of California as set forth in this Lease.

Section 3.07 Compliance with Law.

TENANT shall, at no cost to CITY, comply with all of the requirements of all local, municipal, county, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, and shall faithfully observe in the use of the Premises all local, municipal and county ordinances and state and federal statutes, rules, regulations and orders now in force or which may hereafter be in force (collectively, "Legal Requirements") provided that TENANT shall not be required to comply with any Legal Requirement imposed by the CITY that would substantially deprive TENANT of a material benefit under this lease unless such Legal Requirement has been imposed or required by a county, state or federal authority. The judgment of any court of competent jurisdiction, or the admission of TENANT in any action or proceeding against TENANT, whether CITY be a party thereto or not, that TENANT has violated any such Legal Requirement in the use of the Premises shall be conclusive of that fact as between CITY and TENANT.

Section 3.08 Waste or Nuisance.

TENANT shall not commit or permit the commission by others of any waste on the Premises; TENANT shall not maintain, commit, or permit the maintenance or commission of any nuisance as defined by law on the Premises; and TENANT shall not use or permit the use of the Premises for any unlawful purpose.

Section 3.09 Use by CITY.

(1) Subject to TENANT's rights hereunder to possession of the Premises, CITY may grant licenses to, or otherwise authorize, other persons and entities permitting uses of the Morro Bay Harbor.

(2) CITY also retains and reserves for itself, its successors and assigns, all oil, gas, petroleum and other mineral or hydrocarbon substances in and under the lands leased hereby together with right to prospect and extract all such substances.

Article 4 CONSTRUCTION, ALTERATION AND REPAIRS

Section 4.01 Construction Approval.

(1) TENANT shall not make or permit any other person to make any alterations or structural additions or structural modifications to the Premises or to any structure thereon or facility appurtenant thereto if the cost thereof shall exceed ten thousand dollars ($10,000), without the prior written consent of CITY. The consent to be obtained pursuant to this Section 4.01(1) shall be requested from the Harbor Director, or the City's designee, for CITY. If the Harbor Director or any future successor to the duties of the City's Harbor Director, or the City's designee, gives such consent to proceed, it is understood that such consent is given by CITY only in its capacity as the landlord under this Lease and not as the permit-issuing authority. TENANT remains obligated to obtain any needed building permits and comply with all applicable planning processes.

(2) Where required by the Morro Bay Municipal Code, California Coastal Act, Corps of Engineers or any other state or federal agency having authority over the proposed project, then all Conditional Use Permits, Concept Plans, Precise Plans, Coastal Development Plans, and any other required plans or permits shall be applied for and approved prior to any construction, alteration or repairs.

Section 4.02 Construction Bond.

(1) Prior to the commencement of any construction the cost of which is greater than the amount of one hundred thousand dollars ($100,000), TENANT shall file with the Morro Bay CITY Clerk a final detailed Civil Engineer's, Registered Architect's or Licensed and Bonded General Contractor's estimate of the cost of construction and installation of improvements on the Premises. Said estimate must be submitted to the CITY Engineer for approval. TENANT shall file with the Morro Bay CITY Clerk a faithful performance bond, in a form and issued by a corporate surety company satisfactory to CITY, in an amount satisfactory to CITY but not in

excess of one hundred percent (100%) of the final detailed cost estimate, securing the faithful performance of TENANT or its contractor in the completion of said construction.

(2) TENANT shall also file with the Morro Bay CITY Clerk a labor and materials bond, in a form and issued by a corporate surety company satisfactory to CITY, in an amount satisfactory to CITY but not in excess of one hundred percent (100%) of the final detailed cost estimate, securing the payment of all claims for the performance of labor or services on, or the furnishing of materials for, the performance of said construction.

(3) In lieu of the above referenced bonds, TENANT may post cash deposits or may make other mutually satisfactory arrangements to guarantee the completion of construction projects. In the event the contractor bonds the project, CITY may be named as additional indemnitee to comply with these requirements.

Section 4.03 Mechanics' Liens.

At all times during the term of this Lease, TENANT shall keep the Premises and all buildings, installations and other improvements now or hereafter located on the Premises free and clear of all liens and claims of liens for labor, services, materials, supplies, or equipment performed on or furnished to the Premises. TENANT further agrees to at all times, save CITY free and harmless and indemnify CITY against all claims for labor or materials in connection with any improvement, repairs, or alterations on the Premises, and the cost of defending against such claims, including reasonable attorneys' fees. Should TENANT fail to pay and discharge or cause the Premises to be released from such liens or claim of liens within ten (10) days after the filing of such lien or levy, TENANT shall upon written notification be required to immediately deposit with CITY a bond conditioned for payment in full of all claims on which said lien or levy has been filed. Such bond shall be acknowledged by TENANT as principal and by a company or corporation, licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety. The beneficiary of any security instrument which instrument is on record with CITY, shall have the right to file such a bond on behalf of TENANT. CITY shall have right to post and keep posted on the Premises notices of non-responsibility and any other notices that may be provided by law or which CITY may deem proper for the protection of CITY and Premises from such liens. TENANT shall give CITY notice at least twenty (20) days prior to commencement of any work on the Premises to afford CITY the opportunity to post such notices.

Section 4.04 Ownership of Improvements.

The parties agree CITY has the option and right to require TENANT to remove all buildings, structures, installations, improvements of any kind or other property belonging to or placed upon the Premises by TENANT at the termination of this Lease, however occurring, providing CITY gives notice, in writing, no later than thirty (30) days prior to the termination of the Lease, of its decision to require that such improvements be removed. The parties agree that if the CITY exercises its option, then at the termination of this Lease, however occurring, TENANT shall have sixty (60) days thereafter to remove all buildings, structures, facilities, installations, improvements and other property belonging to TENANT from the Premises. If CITY exercises such option and TENANT fails to remove all such improvements and other property within sixty (60) days after the termination of this Lease, then CITY shall have the right to have any or all such improvements and other property removed at the expense of TENANT. If CITY does not exercise its option to remove (or require the removal of) the improvements and other property, then title to such improvements and other property shall vest in CITY and TENANT shall not remove same.

Article 5 LEASEHOLD MORTGAGES

Tenant shall not mortgage, securitize or hypothecate the leasehold interest in whole or any part without the prior written approval of City as evidenced by a resolution of the City Council of the City of Morro Bay.

Article 6 REPAIRS, MAINTENANCE AND RESTORATION

Section 6.01 Maintenance by TENANT.

At all times during the term of this Lease, TENANT shall, at TENANT'S own cost and expense, keep and maintain all improvements now or hereafter on the Premises in good order and repair and in a safe and clean condition. Furthermore, TENANT shall, at TENANT'S own cost and expense, maintain at all times during the term of this Lease the whole of the Premises in a clean, sanitary, neat and orderly condition. CITY may, at the sole option of CITY, clean and clear the Premises, at TENANT'S cost and expense, in the event TENANT fails to clean and clear the Premises in accordance with this Section to the satisfaction of CITY after 15-days' written notice to TENANT from CITY of CITY'S intent to exercise this option.

Section 6.02 Seawalls and Revetment.

At all times during the term of this Lease, TENANT shall at TENANT'S own cost and expense repair, maintain, replace and rebuild as necessary, the improvements, pilings, bulkheads, seawalls, revetment, piers, posts and any structures or other improvements located in the water portion of the Premises. Further, TENANT shall at TENANT'S own cost and expense conduct maintenance surveys at reasonable intervals to locate and determine needed repairs.

Section 6.03 Legal Requirements.

At all times during the term of this Lease, TENANT, at no cost to CITY, shall:

(1) Make all alterations, additions, or repairs to the Premises or the improvements or facilities on the Premises required by any Legal Requirements (as defined in Section 3.07 above) now or hereafter made or issued;

(2) Observe and comply with all Legal Requirements now or hereafter made or issued respecting the Premises or the improvements or facilities located thereon;

(3) Obtain all required permits pursuant to the Morro Bay Municipal Code or State law prior to the initiation of any repair or maintenance activity; and

(4) Indemnify and hold CITY and the property of CITY, including the Premises, free and harmless from any and all liability, loss, damages, fines, penalties, claims and actions resulting from TENANT'S failure to comply with and perform the requirements of this section.

Section 6.04 Failure to Repair.

In the event failure to repair results in a hazardous or unsafe condition, CITY shall have the right and option but not the obligation to close and prohibit access to the unsafe portion of the Premises until such repairs are completed and accomplished and the Premises rendered safe for public use. In addition, if TENANT fails to repair any hazardous or unsafe condition within ten (10) days after written notice thereof from CITY, CITY shall have the right, but not the obligation, to perform such repair at TENANT'S expense. TENANT shall reimburse CITY for any such repair undertaken by CITY, promptly upon CITY'S demand, as additional Rent. Failure by CITY to enforce any of the provisions of this Article shall not constitute a waiver of these provisions and CITY may at any time enforce all of the provisions of this Article, requiring all necessary repairs, rebuilding or replacement.

Section 6.05 Inspection by CITY.

CITY or CITY'S agents, representatives, or employees may enter the Premises at all reasonable times for the purpose of inspecting the Premises to determine whether TENANT is

complying with the terms of this Lease and for the purpose of doing other lawful acts that may be necessary to protect CITY'S interest in the Premises under this Lease or to perform CITY'S duties under this Lease.

Section 6.06 TENANT'S Duty to Restore Premises.

(1) Except as provided in Section 6.07 below, if at any time during this Lease, any improvements now or hereafter on the Premises are destroyed in whole or in part by the elements, or any other cause not the fault of TENANT or CITY, this Lease shall continue in full force and effect and TENANT, at TENANT'S own cost and expense, shall repair and restore the damaged or destroyed improvement(s) according to the original plan thereof or according to such modified plans therefore as shall be approved in writing by CITY. The work of permitting, repair and restoration shall be commenced by TENANT within one hundred eighty (180) days after the damage or destruction occurs shall be pursued with due diligence, and shall be completed not later than one year after the work is commenced, unless the parties hereto mutually agree, in writing, to an extension. In all other respects, the work of repair and restoration shall be done in accordance with the requirements for construction work on the Premises set forth in Article 4 of this Lease. Any failure by TENANT either to commence or to complete repair and restoration as required by this Section 6.06 shall be a material default under this Lease.

(2) Any and all insurance proceeds that become payable at any time during the term of this Lease because of damage to or destruction of any improvements on the Premises shall be paid to TENANT and applied by TENANT toward the cost of repairing and restoring the damaged or destroyed improvements in the manner required by this Section 6.06, or, if this Lease is terminated, then applied as provided in Section 6.07. Except as set forth in Section 6.08 below, TENANT'S obligation to restore pursuant to this Section shall exist whether or not funds are available from insurance proceeds.

Section 6.07 Termination of Lease for Destruction.

(1) Notwithstanding the provisions of Section 6.06 of this Lease, TENANT shall have the option of terminating this Lease as provided in this Section 6.07 if:

(a) During the last fifteen (15) years of the term of this Lease, any improvements now or hereafter on the Premises are so damaged or destroyed by the elements or any cause not the fault of TENANT or CITY, that they cannot be repaired and restored as required by Section 6.06 of this Lease at a cost not exceeding thirty-five percent (35%) of the cost of replacing all improvements if they had been totally destroyed at the time of such damage; or

(b) During the last ten (10) years of the term of this Lease, any improvements now or hereafter on the Premises are so damaged or destroyed by the elements or any cause not the fault of TENANT or CITY, that they cannot be repaired and restored as required by Section 6.06 of this Lease at a cost not exceeding fifteen percent (15%) of the cost of replacing all improvements if they had been totally destroyed at the time of such damage.

(2) TENANT may exercise its right to terminate pursuant to this Section 6.07 by providing written notice to CITY within one hundred eighty (180) days following damage or destruction as described herein. Such termination shall be effective on the last day of the calendar month following the month in which TENANT provides its notice.

(3) If TENANT fails to commence or complete repair and restoration as required by Section 6.06, CITY shall have all rights and remedies with respect to TENANT's default, including but not limited to termination of this Lease pursuant to Article 11.

(4) If this Lease is terminated as a result of damage or destruction, then any insurance proceeds received with respect to the improvements shall be applied or distributed in the following order:

(a) first, to the demolition of the improvements and removal of all demolition debris; then

(b) to any accrued and unpaid Rent as of the effective date of the termination; then

(c) to each Lender under a Leasehold Encumbrance, in order of lien priority, an amount not to exceed the amount due under such Leasehold Encumbrance; then

(d) to CITY, an amount equal to the present value, as of the date of termination, of the total Minimum Rent for the remainder of the Term; then

(e) the remaining proceeds, if any, to TENANT.

Section 6.08 <u>Destruction Due to Risk Not Covered by Insurance</u>.

Notwithstanding anything to the contrary in Section 6.06 of this Lease, TENANT shall have the right to terminate this Lease at any time if the improvements on the Premises are damaged or destroyed by a casualty for which TENANT is not required under this Lease to carry insurance and the cost to repair or restore such improvements exceeds fifty percent (50%) of the fair market value of all the improvements on the Premises immediately prior to the damage or destruction.

Article 7 INDEMNITY AND INSURANCE

Section 7.01 Indemnity Agreement.

(1) TENANT shall indemnify and hold CITY, and the property of CITY (including the Premises and any improvements now or hereafter on the Premises), and the CITY'S officers, officials, employees and volunteers harmless from any and all liability, claims, loss, damages, and expenses, including attorney fees and litigation expenses, resulting from TENANT'S occupation and use of the Premises or any negligent act or omission of the TENANT or any of its subtenants, employees, contractors or anyone for whom TENANT may be liable, specifically including, without limitation, any liability, claim, loss, damage, or expense arising by reason of:

(a) The death or injury of any person, including TENANT or any person who is an employee or agent of TENANT, or by reason of the damage to or destruction of any property, including property owned by TENANT or by any person who is an employee or agent of TENANT, from any cause whatever while such person or property is in or on the Premises or in any way connected with the Premises or with any of the improvements or personal property on the Premises;

(b) The death or injury of any person, including TENANT or any person who is an employee or agent of TENANT, or by reason of the damage to or destruction of any property, including property owned by TENANT or any person who is an employee or agent of TENANT, caused or allegedly caused by either (i) the condition of the Premises or any improvement placed on the Premises by TENANT, or (ii) any act or omission on the Premises by TENANT or any person in, on, or about the Premises with or without the permission and consent of TENANT;

(c) Any work performed on the Premises or materials furnished to the Premises at the instance or request of TENANT or any person or entity acting for or on behalf of TENANT;

(d) TENANT'S failure to perform any provision of this Lease or to comply with any Legal Requirement imposed on TENANT or the Premises.

(2) TENANT'S obligations pursuant to this Section to indemnify and hold harmless do not extend to any liability, claim, loss, damage or expense arising from CITY'S active negligence or willful misconduct.

Section 7.02 Liability Insurance.

During the term of this Lease, TENANT shall maintain at its cost Commercial General Liability insurance with coverages at least as broad as ISO Forms labeled "City of Morro Bay Insurance requirements for Lessees", Certificate of Insurance – City of Morro Bay", and "Additional Insureds – Managers or Lessors of Premises" attached hereto as Exhibit B and made a part hereof as may be updated or changed from time to time at the sole discretion of the CITY, insuring against claims for bodily injury (including death), property damage, contractual liability, personal injury and advertising injury occurring on the Premises or from operations located in any part of the Premises. Such insurance shall afford protection in amounts no less than One Million Dollars ($1,000,000) per occurrence for bodily injury, personal injury and property damage, provided that if insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Premises or the general aggregate limit shall be twice the occurrence limit stated in this Section. All liability insurance carried by TENANT hereunder shall name CITY, its officers, officials, employees and volunteers as additional insureds, and shall be primary insurance with respect to such additional insureds. TENANT shall include all its subtenants as insureds under TENANT's liability policies or shall furnish separate certificates and endorsements for each subtenant. All coverages for subtenants shall comply with all requirements of this Article Seven.

Section 7.03 Worker's Compensation.

TENANT shall maintain at TENANT'S own expense and keep in full force and effect during the term of this Lease, Worker's Compensation Insurance as provided by law. Said insurance shall contain a waiver of subrogation rights against CITY. TENANT shall also maintain employer's liability insurance with minimum coverage of $1,000,000 per accident for bodily injury or disease.

Section 7.04 Property Insurance.

TENANT shall, at its cost, at all times during the term of this Lease keep all improvements and other structures on the Premises, as well as any and all additions, improvements and betterments thereto, insured for one hundred percent (100%) of their full replacement cost with no co-insurance provision against loss or destruction by the perils covered by "all risk" (excluding earthquake) property damage insurance policies. Any loss payable under such insurance shall be payable to TENANT, CITY, and any Lender under a Leasehold Encumbrance pursuant to Article 5 of this Lease, as their interests may appear, and such proceeds shall be used and applied in the manner required by Article 6 of this Lease.

Section 7.05 Additional Coverage.

TENANT shall also maintain, at its expense, the insurance described in this Section 7.05.

(1) If TENANT has (or is required by any Legal Requirement to have) a liquor license and is selling or distributing alcoholic beverages on the Premises, then TENANT shall maintain liquor liability coverage in appropriate amounts. TENANT shall require any subtenant who has (or is required by any Legal Requirement to have) a liquor license and who is selling or distributing alcoholic beverages on the Premises, to maintain such coverage.

(2) TENANT shall maintain "all risk" (excluding earthquake) property damage insurance covering TENANT's personal property located at the Premises, in amounts not less than the full replacement value of such personal property. CITY shall have no interest in the proceeds of such insurance.

(3) TENANT shall, at TENANT's own expense, obtain and maintain any additional insurance coverages that CITY may reasonably require. As illustration only and not as a limitation, in appropriate circumstances such additional insurance may include increased general liability limits, business interruption coverage, business automobile liability, boiler and machinery insurance and/or builder's risk insurance. However, TENANT shall not be required to maintain additional coverages that are in excess of those typically maintained by similarly situated tenants in the Morro Bay area.

Section 7.06 General Requirements.

Except as specifically provided to the contrary, all the insurance required pursuant to this Article Seven shall be subject to the requirements of this Section 7.06.

(1) Maintenance of proper insurance coverage is a material element of this Lease and failure to maintain or renew coverage or to provide evidence of coverage and/or renewal may be treated by the CITY as a material breach of contract. TENANT shall forward the CITY specifications and forms to TENANT'S insurance agent for compliance.

(2) CITY may at any time require TENANT to increase the minimum coverage limits for insurance required by this Lease, but every such increase shall be reasonable under the circumstances.

(3) All policies shall be issued by insurance companies authorized to issue such insurance in California, with an A.M. Best's rating of no less than A:VII.

(4) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or

self-insured retentions as respects CITY, its officers, officials, employees and volunteers; or the TENANT shall provide a financial guarantee satisfactory to CITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(5) Each insurance policy required by this Lease shall be endorsed to state that coverage shall not be cancelled or reduced, except after thirty-30-days' prior written notice by certified mail, return receipt requested, has been given to CITY.

(6) TENANT shall furnish CITY with certificates and amendatory endorsements effecting the coverage required by this Lease. The endorsements shall be on forms provided by CITY or on other than CITY's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by CITY before use of the Premises, and promptly following any renewal or replacement. CITY reserves the right at any time to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

(7) TENANT's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers shall be excess of TENANT's insurance and shall not contribute with it.

Section 7.07 No Subrogation.

TENANT agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, TENANT shall look solely to its insurance for recovery. TENANT hereby grants to the CITY, on behalf of any insurer providing insurance to either TENANT or CITY with respect to TENANT'S occupancy of the Premises, a waiver of any rights to subrogation which any such insurer of said TENANT may acquire against the CITY by virtue of the payment of any loss under such insurance. Each insurance policy required under this Lease including those insuring TENANT against claims, expense, or liability for injury to persons or property shall provide that the insurer shall not acquire by subrogation any right to recovery which TENANT has expressly waived in writing prior to the occurrence of the loss.

Section 7.08 TENANT'S Waiver.

TENANT hereby waives any right of recovery against CITY for each claim, expense, liability, or business interruption, or other loss, except where caused by CITY'S active negligence or willful misconduct. TENANT agrees that to the extent that TENANT fails to acquire insurance, TENANT shall not have any claim against CITY for any loss that results from a risk or peril that would have been included in such insurance.

Section 7.09 Insurance Not a Limit.

The insurance requirements of this Article Seven are independent of, and do not limit or modify, TENANT'S indemnification and other obligations pursuant to this Lease.

Article 8 TAXES AND FEES

Section 8.01 TENANT to Pay Taxes.

TENANT shall pay, before delinquency, all taxes and assessments levied upon or assessed to TENANT on the Premises by reason of this Lease or of any equipment, appliances, improvement, or other development of any nature whatsoever, erected, installed, or maintained by TENANT or by reason of the business or other activity of TENANT upon or in connection with the Premises. TENANT shall pay all possessory interest taxes applicable to the Premises.

Section 8.02 TENANT to Pay License and Permit Fees.

TENANT shall pay any fees imposed by law for licenses or permits for any business or activities including construction by TENANT upon the Premises.

Section 8.03 Utilities.

TENANT shall pay, or cause to be paid, and hold CITY and the property of CITY, including the Premises, free and harmless from all charges for the furnishing of gas, water, electricity, telephone service, and for other public utilities to the Premises during the term of this Lease and for the removal of garbage and rubbish from the Premises during the term of this Lease.

Article 9 CONDEMNATION

Section 9.01 Total Condemnation.

If title and possession to all of the Premises is permanently taken for any public or quasi-public use under any statute, or by the right of eminent domain, then this Lease shall terminate on the date that possession of the Premises is taken, and both CITY and TENANT shall thereafter be released from all obligations, including Rent, all of which shall be prorated to the date of termination, except those specified in Section 9.02 of this Lease.

Section 9.02 Condemnation Award.

Any compensation or damages awarded or payable because of the permanent taking of all or any portion of the Premises by eminent domain shall be allocated between CITY and TENANT as follows:

(1) All compensation or damages awarded or payable for the taking by eminent domain of any land that is part of the Premises shall be paid to and be the sole property of CITY free and clear of any claim of TENANT or any person claiming rights to the Premises through or under TENANT.

(2) All compensation or damages awarded or payable which is specifically attributed by the taking party to the "good will" of TENANT'S business shall be paid to and be the sole property of TENANT.

(3) All compensation or damages awarded or payable because of any improvements constructed or located on the portion of the Premises taken by eminent domain where only a portion of the Premises is taken by eminent domain, and TENANT is not entitled to or does not terminate this Lease, shall be applied in the manner specified in Section 9.04 toward the replacement of such improvements with equivalent new improvements on the remaining portions of the Premises.

(4) All compensation or damages awarded or payable because of any improvements constructed or located on the portion of the Premises taken by eminent domain where this Lease is terminated because of the taking by eminent domain, whether all or only a portion of the Premises is taken by eminent domain, shall be allocated between CITY and TENANT as follows:

(a) That percentage of the compensation or damages awarded or payable because of the improvements that equals the percentage of the full term of this Lease that has, at the time of the taking, not expired shall belong to and be the sole property of TENANT.

(b) That percentage of the compensation or damages awarded or payable because of the improvements that equals the percentage of the full term of this Lease that has, at the time of the taking, expired shall belong to and be the sole property of CITY.

(c) The term "time of taking" as used in this Section shall mean 12:01 a.m. of the date that the agency or entity exercising the eminent domain power, takes, title, or the date that it takes physical possession of the portion of the Premises, whichever shall first occur.

(5) Any severance damages awarded or payable because only a portion of the Premises is taken by eminent domain shall be the sole and separate property of CITY.

Section 9.03 Termination for Partial Taking.

Should, during the term of this Lease, title and possession of only a portion of the Premises be taken for any public or quasi-public use under any statute, or by right of eminent domain, TENANT may, at TENANT'S option, terminate this Lease by serving written notice of termination on CITY within ninety (90) days after TENANT has been deprived of actual physical possession of the portion of the Premises taken for such public use. This Lease shall terminate on the first day of the calendar month following the calendar month in which the notice of termination described in this section is served on CITY. On termination of this Lease pursuant to this Article, all subleases and subtenancies in or on the Premises or any portion of the Premises created by TENANT under this Lease shall also terminate and the Premises shall be delivered to CITY free and clear of all such subleases and subtenancies, provided, however, that CITY may, at CITY'S option, by mailing written notice to a subtenant allow any subtenant to attorn to CITY and continue such subtenant's occupancy on the Premises as a TENANT of CITY. On termination of this Lease pursuant to this section, however, both CITY and TENANT shall be released from all obligations under this Lease, except those specified in Section 9.02 of this Lease.

Section 9.04 Rent Abatement for Partial Taking.

Should, during the term of this Lease, title and possession of only a portion of the Premises be taken under the power of eminent domain by any public or quasi-public agency or entity and TENANT does not terminate this Lease, then this Lease shall terminate as to the portion of the Premises taken under eminent domain on the date actual physical possession of the portion taken by eminent domain is taken by the agency or entity exercising the eminent domain power. Furthermore, the Rent payable under this Lease shall, as of that time be reduced in the same proportion of the Premises taken by eminent domain bears to the full value of the Premises at that time; provided however, that TENANT shall make a good faith effort to replace any improvements or facilities with equivalent new facilities on the remaining portion of the Premises and do all other acts at TENANT'S own cost and expense required by the eminent domain taking to make the remaining portion of the Premises fit for the use specified in this Lease.

Section 9.05 Conveyance in Lieu of Eminent Domain.

A voluntary conveyance by CITY, with the consent of TENANT, of title to all or a portion of the Premises to a public or quasi-public agency or entity in lieu of and under threat by such agency or entity to take the same by eminent domain proceedings shall be considered a taking of title to all or such portion of the Premises under the power of eminent domain subject to the provisions of this Article.

Section 9.06 Temporary Taking.

If the possession of the Premises or any portion thereof should be taken under the power of eminent domain by any public or quasi-public agency or entity for a limited period not extending beyond the term of this Lease, then this Lease shall not terminate (except as provided in this Section 9.06) and TENANT shall continue to perform all its obligations hereunder, except only to the extent that TENANT is prevented from performing such obligations by reason of such taking. TENANT shall be entitled to receive the entire amount of compensation or damages awarded because of such temporary taking. If a temporary taking extends for more than thirty-six (36) months, then TENANT shall have the right to terminate this Lease, and TENANT shall be entitled to receive, out of the compensation or damages awarded because of such temporary taking, the amount that is attributable to the period of time up until the effective date of TENANT'S termination of this Lease.

Article 10 ASSIGNMENT AND SUBLEASING

Section 10.01 No Assignment Without CITY'S Consent.

Except as provided in this Article 10, 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 CITY evidenced by resolution first had and obtained. Any assignment or transfer by TENANT without the prior written consent of CITY, whether it be voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of CITY, terminate this Lease. A consent by CITY to one assignment shall not be deemed to be a consent to any subsequent assignment of this Lease by TENANT. CITY shall not unreasonably nor arbitrarily withhold its approval to the assignment or transfer of this Lease to an assignee who is financially reliable and qualified to conduct the business for which this Lease was granted. It is mutually agreed that the TENANT'S qualifications are a part of the consideration

for granting of this Lease and said party does hereby agree to maintain active control and supervision of the operation conducted on the Premises.

Section 10.02 Change of Ownership as Assignment.

For purposes of this Article 10, the following transactions will be deemed to be assignments or transfers:

(1) If TENANT is a partnership or limited liability company:

(a) 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; or

(b) The dissolution of the partnership or limited liability company without its immediate reconstitution.

(2) If TENANT is a closely held corporation (i.e., one whose stock is not publicly held and not traded through an exchange or over the counter):

(a) The sale or other transfer, within a twelve-month (12-month) period, of more than an aggregate of twenty-five percent (25%) of the voting shares of TENANT (other than to immediate family members by reason of gift or death); or

(b) The dissolution, merger, consolidation, or other reorganization of TENANT.

Section 10.03 Application for Assignment.

A condition of an assignment shall be that TENANT shall file with the CITY an application to assign the leasehold prepared by the prospective assignee. Concurrently with filing the application, TENANT shall pay a reasonable fee associated with the cost pf processing said application, in cash or certified or cashier's check to enable CITY adequately to investigate the proposed assignee's qualifications as a permitted assignee. CITY shall not be required to account for the use of the sum paid. If the proposed assignee's net worth on the date of assignment is not sufficient to reasonably guarantee successful operation of the Premises in compliance with all applicable CITY, County, State and federal requirements, CITY may withhold approval of the assignment or condition it upon TENANT'S guarantee of such assignee's obligations hereunder for such period as CITY deems advisable. Net worth shall mean the amount by which the total of all assets shall exceed the total of all liabilities as

determined in accordance with general accepted accounting principles as approved by CITY'S auditor, or other authorized representative or agent.

Section 10.04 Probate Transfer of Assignment.

If TENANT is an individual, nothing herein contained will prevent the transfer of this Lease by will, or by operation of law under the intestacy provisions of the California Probate Code as it may be amended from time to time. Probate sale of the leasehold interest will not be permitted without the consent of the CITY, evidenced by resolution, first had and obtained.

Section 10.05 No Sublease Without CITY'S Consent.

TENANT shall not sublease the whole nor any part of the Premises, or license, permit, or otherwise allow any other person (the employees of TENANT excepted) to occupy or use the Premises, or any portion thereof, without the prior written consent of CITY's Harbor Director, or any future successor to the duties of the City's Harbor Director. A consent to one subletting, occupation, licensing or use shall not be deemed to be a consent to any subsequent subletting, occupation, licensing or use by another person. Any sublease or license without CITY'S written consent shall be void, and shall at CITY'S option, terminate this Lease. CITY shall not unreasonably nor arbitrarily withhold its consent to sublet to one who is qualified and financially reliable. CITY'S consent to any occupation, use, or licensing shall be in CITY'S sole and absolute discretion. Notwithstanding any provisions herein to the contrary, the terms "assignment," "subletting," "occupation," or "use," shall not be construed or interpreted to mean or include the temporary, short term renting or leasing of boat slips, motel, hotel, or apartment accommodations on the premises.

Section 10.06 Subtenant Subject to Lease Terms.

Any and all subleases shall be expressly made subject to all the terms, covenants, and conditions of this Lease. In no event shall the term of any sublease extend beyond the term of this Lease. Subject to Section 10.09, termination of this Lease prior to the expiration of this Lease term shall also terminate any and all subleases. A breach of the terms of this Lease by a subtenant shall constitute a breach on the part of TENANT and shall subject both the subtenant and TENANT to all the remedies provided to CITY herein and by law. Failure by any subtenant to report Gross Sales or to pay Percentage Rent due from subtenant shall constitute a breach of this lease. TENANT hereby agrees to and does guarantee payment of such Percentage Rent due by a subtenant under the terms of this lease.

Section 10.07 Consent Form Agreement.

Prior to any consent by CITY to any sublease hereof, TENANT shall cause to be executed between TENANT and any subtenant an agreement making the CITY a third party beneficiary, in a form acceptable to CITY, whereby the subtenant agrees to be bound by all of the terms, covenants and conditions of this Lease. Further, it is agreed by TENANT that any default by the subtenant of any of the terms, covenants and conditions of this Lease shall be deemed to be violations by TENANT of this Lease and that all remedies of CITY for such violation, including termination of this Lease, shall immediately be enforceable by CITY against TENANT. TENANT shall apply any and all monies received from any subtenant first to the payment of obligations of the subtenant to CITY.

Section 10.08 TENANT and Guarantor Remain Liable.

Prior to approval by CITY to any sublease hereof, TENANT shall agree to be primarily and jointly and severally liable to CITY for all obligations due CITY by any subtenant, including the payment of rents, and TENANT shall agree that CITY may proceed directly against TENANT for any obligation owing CITY by the subtenant. If this Lease is guaranteed, neither the sublease nor CITY'S approval thereof shall release the guarantor from its obligations pursuant to the guaranty.

Section 10.09 Nondisturbance.

On the terms set forth below, CITY may enter into agreements with subtenants providing that in the event of any termination of this Lease prior to the expiration date, CITY will not terminate or otherwise disturb the rights of the subtenant under such sublease, but will instead honor such sublease as if such agreement had been entered into directly between Landlord and such subtenant, conditioned upon such subtenant's agreement to attorn to Landlord and full performance of all obligations under the sublease in question ("Non-Disturbance Agreement"). CITY agrees to execute a Non-Disturbance Agreement in connection with a particular sublease provided that Tenant provides CITY with a copy of the sublease, and the Non-Disturbance Agreement is customary in form and substance and otherwise reasonably acceptable to CITY.

Article 11 DEFAULT AND TERMINATION

Section 11.01 Abandonment by TENANT.

Should TENANT breach this Lease and abandon all or any part of the Premises prior to the scheduled expiration of the term of this Lease, CITY may continue this Lease in effect by not

terminating TENANT'S right to possession of the Premises, in which event CITY shall be entitled to enforce all CITY'S rights and remedies under this Lease including the right to recover the Rent specified in this Lease as it becomes due under this Lease.

Section 11.02 Termination for Breach by TENANT.

All covenants and agreements contained in this Lease are declared to be conditions to this Lease and to the term hereby demised to TENANT. Should TENANT fail to perform any covenant, condition, or agreement contained in this Lease, except for payment of any Rent or other monetary amount due, and such failure is not cured within thirty (30) days after written notice thereof is served on TENANT, then CITY may terminate this Lease immediately, and in the event of such termination, TENANT shall have no further rights hereunder and TENANT shall thereupon forthwith remove from the Premises and shall have no further right or claim thereto and CITY shall immediately thereupon have the right to re-enter and take possession of the Premises, subject only to appropriate legal process.

Section 11.03 Termination for Failure to Pay Rent.

If any payment of Rent is not made as herein provided and such failure to pay is not cured within three (3) days after written notice thereof is served on the TENANT, CITY shall have the option to immediately terminate this Lease; and in the event of such termination, TENANT shall have no further right or claim thereto and CITY shall immediately thereupon have the right to re-enter and take possession of the Premises, subject only to appropriate legal process.

Section 11.04 Lender May Cure Default.

CITY shall afford the Lender under any Leasehold Encumbrance of record with CITY the right to cure any default by TENANT of the covenants, conditions, or agreements hereof, as provided in Article 5 of this Lease.

Section 11.05 Attorneys' Fees.

In the event the CITY finds it necessary to retain an attorney in connection with the default by the TENANT or enforcement of any of the terms, conditions, and covenants of this Lease, even though litigation is not instituted, TENANT shall pay to CITY its reasonable attorneys' fees. Non-payment of attorneys' fees by TENANT within three (3) days after written notice is served on TENANT shall give rise to an independent legal action by CITY to collect same. If CITY is successful in such legal action, CITY shall also be entitled to attorney

fees and costs for the collection action. To the extent that CITY is represented by the City Attorney, a reasonable sum for such attorneys' services will be included as attorneys' fees.

Section 11.06 Damages for Breach.

If TENANT defaults in the performance of any covenant, condition or agreement contained in this Lease and the default be incurable or not be cured within the time period set forth hereinabove, then CITY may terminate this Lease and:

(1) Bring an action to recover from TENANT:

(a) The worth at the time of award of the unpaid rent which had been earned at the time of termination of the Lease;

(b) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination of the Lease until the time of award exceeds the amount of rental loss that TENANT proves could have been reasonably avoided;

(c) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss that TENANT proves could be reasonably avoided; and

(d) Any other amount necessary to compensate CITY for all detriment proximately caused by TENANT'S failure to perform its obligations under this Lease; and

(2) Bring an action, in addition to or in lieu of the action described in subparagraph (1) of this Section, to re-enter and regain possession of the Premises in the manner provided by the laws of unlawful detainer of the State of California then in effect.

Section 11.07 Cumulative Remedies.

The remedies available to CITY in this Article shall not be exclusive but shall be cumulative with and in addition to all remedies now or hereafter allowed by law or elsewhere provided in this Lease.

Section 11.08 Waiver of Breach.

The waiver by CITY of any breach by TENANT of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by TENANT either of the same or a different provision of this Lease.

Section 11.09 Surrender of Premises.

On expiration or sooner termination of this Lease, TENANT shall surrender the Premises, and, subject to Section 4.04, all improvements in or on the Premises, and all facilities in any way appertaining to the Premises, to CITY in good, safe, and clean condition, reasonable wear and tear excepted.

Article 12 MISCELLANEOUS

Section 12.01 Attorneys' Fees.

Should any litigation be commenced between the parties to this Lease concerning the Premises, this Lease, or the rights and duties of either in relation thereto, the party, CITY or TENANT, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in the litigation, to a reasonable sum as and for its attorneys' fees in such litigation, which shall be determined by the court in such litigation or in a separate action brought for that purpose. The "prevailing" party shall mean the party who obtains substantially the relief sought by that party. To the extent that CITY is represented by the CITY Attorney, a reasonable sum for such attorneys' services will be included as attorneys' fees.

Section 12.02 Notices.

Any and all notice or demands by or from CITY to TENANT, or TENANT to CITY, shall be in writing. They shall be served either personally, or by registered or certified mail. Any notice or demand to CITY may be given to:

Harbor Director
1275 Embarcadero
Morro Bay, California 93442

with a copy to:

City Manager of the City of Morro Bay
City Hall
595 Harbor Street
Morro Bay, CA 93442

Any notice or demand to TENANT may be given at:

Doug Redican
725 Embarcadero LLC
1427 Doral Ct.
San Luis Obispo, CA 93401

Such addresses may be changed by written notice by either party to the other party.

Section 12.03 Governing Law and Jurisdiction.

This Lease, and all matters relating to this Lease, shall be governed by the laws of the State of California in force at the time any need for interpretation of this Lease or any decision concerning this Lease arises. CITY and TENANT consent to exclusive personal and subject matter jurisdiction in the Superior Court of the State of California in and for the county where the Premises are located, and each party waives any claim that such court is not a convenient forum. Each party hereby specifically waives the provisions of California Code of Civil Procedure Section 394, and any successor statute thereto.

Section 12.04 Binding on Successors.

Subject to the provisions herein relating to assignment and subletting each and all of the terms, conditions, and agreements herein contained shall be binding upon and inure to the benefit of the successors and assigns of any and all of the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

Section 12.05 Partial Invalidity.

Should any provision of this Lease be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.

Section 12.06 Sole and Only Agreement.

Subject to the provisions of the second paragraph of Section 1.04, (i) this Lease, including all exhibits incorporated by reference, constitutes the sole and only agreement between CITY and TENANT respecting the Premises and the leasing of the Premises to TENANT and (ii) any other agreements or representations respecting the Premises and their leasing to TENANT by CITY, which are not expressly set forth in this Lease, are null and void. The lease terms herein specified correctly set forth the obligations of CITY and TENANT as of the date of this Lease. No modification, amendment, or alteration of this Lease shall be valid unless it is in writing and signed by both parties.

Section 12.07 Modification.

This Lease shall not be modified except pursuant to a written agreement executed by the MAYOR and CITY CLERK pursuant to prior CITY Council approval. Notwithstanding CITY Council approval, no agreement shall become effective until such agreement is in fact executed by the MAYOR and CITY CLERK. TENANT understands this Lease may not be modified by oral statements by any person representing the CITY including the MAYOR and CITY CLERK. TENANT specifically agrees not to rely on oral statements, purported oral waivers, or purported oral modifications and agrees not to rely upon purported written modifications unless they meet the requirements of this paragraph and are approved in writing pursuant to formal City Council action and a subsequent written modification signed by the MAYOR and CITY CLERK. If the title of any person authorized to act for CITY under this Lease shall be changed during the term of this Lease, then the person who succeeds to substantially the same responsibilities with respect to CITY shall have the authority to act for CITY under this Lease.

Section 12.08 Time of Essence.

Time is expressly declared to be the essence of this Lease.

Section 12.09 Memorandum of Lease for Recording.

CITY and TENANT shall, at the request of either at any time during the term of this Lease, execute a memorandum or "short form" of this Lease, which shall describe the parties, set forth a description of the leased premises, specify the term of this Lease, and incorporate this Lease by reference.

Article 13 SPECIAL PROVISIONS PECULIAR TO THIS LEASE SITE

The following provisions apply to this Lease site only:

Section 13.01 Public Restrooms

Restrooms completed per CUP #UP0-342 shall be made available to the public during business hours and TENANT shall maintain signage in prominent locations, which clearly identifies the restrooms are available to the general public. In the case of a dispute over location and design of signage, the Harbor Director may designate two locations for "public restroom" signs of a type and design to be determined by the CITY. Furthermore, said restrooms shall be made available after business hours to slipholders on TENANT'S Lease Site.

Section 13.02 Construction of Improvements

CITY and TENANT agree TENANT will construct improvements to the Premises as outlined in Conditional Use Permit No. UP0-359 (CUP) consisting of conversion of the second floor restaurant use to a ten-room boutique hotel with a hotel lobby on the south side of the first floor, building façade alterations, addition of three outdoor decks for hotel use, three hotel unit patios partial dedicated public view deck and improved public bayside and vertical access (Project) and valued at a minimum of $1,250,000. Failure to complete the Project and to comply with all conditions of the CUP, as evidenced by a final building permit inspection as required by CITY in its governmental capacity, in addition to providing proof of expenses as evidenced by copies of invoices by the proscribed timeline shall be a material default of the Lease Agreement and subject to any remedies outlined in Article 11 herein, including termination of the Lease.

TENANT acknowledges construction of the Project on the premises as outlined in the CUP requires, but may not be limited to, obtaining a permit from the California Coastal Commission, a City Precise Plan, and a City Building Permit. It is TENANT'S obligation to fully investigate the issues and costs in obtaining those approvals. Failure to obtain any and all required permits and approvals for the Project shall not be a reason for failure to comply with this section. TENANT further acknowledges the CUP and construction of the Project may require repair or replacement of all of portions of the docks, existing buildings, revetments, access ways, sidewalks, drainage systems and other current improvements on the Premises to the standards of the City Engineer and TENANT agrees to meet those standards through review and revision of the final Building Plans prior to issuance of a Building Permit for the construction of improvements on the Premises.

TENANT further agrees to:

A. Obtain Building Permits for the Project no later than March 31, 2019.

B. Commence construction of the Project no later than June 30, 2019.

C. Completion of all components of the Project no later than June 30, 2020.

During construction of the Project, TENANT shall take all measures to:

A. Avoid any pollution of the atmosphere or littering of land or water by or originating in or about the Premises or caused by TENANT'S construction activities.

B. Keep the noise level on the Premises to a minimum so that persons in the neighborhood will be able to comfortably enjoy business and facilities in the area.

C. Prevent any pollutants, including but not limited to petroleum products, from entering Morro Bay waters.

D. Avoid negative impacts on surrounding businesses.

E. Prohibit storage of materials or equipment on public property and avoid parking or traffic delays or impairment without prior consent of CITY.

F. Keep the construction site in a slightly, orderly, and safe manner at all times.

Section 13.04 Valet Parking Rent Credit and Hotel Parking Spaces

A. Rent Credit for Valet Services. CITY agrees to credit up to $25,000, annually, against Rent otherwise due to assist TENANT with paying for parking valet services for Parking Patrons' vehicles to be parked in the Parking Spaces (Rent Credit). The Rent Credit shall be reduced by any revenues received by TENANT for valet parking fees or charges to hotel customers. TENANT shall, on a regular basis as reasonably requested by CITY'S Harbor Director, provide reports, financial data and other information for CITY'S Financial Director to determine the total amount of Rent Credit to be allowed for that current year. CITY'S City Council shall also annually review this provision. That review will be to determine if changes are warranted and required. If after consultation with TENANT, CITY determines changes are required and TENANT does not agree with those changes, then CITY may impose the changes, including rescission of some of all of the rent credit, upon 120-days' written notice to TENANT.

Unless extended by an amendment to this Lease, the provisions of this Paragraph A. shall terminate on the fifth full calendar year after the Commencement Date.

B. Parking Spaces. CITY shall reserve ten spaces at CITY'S parking lot located at the northeast corner of Pacific Street and Market Avenue (Parking Spaces) exclusively for overnight parking of vehicles of patrons staying at the hotel on the Premises (Parking Patrons) during the hours of 3:00 p.m. and 11:00 a.m. TENANT shall pay CITY $4,262.50 per year for that exclusive use of the Parking Spaces. The Parking Spaces shall be designated by signs (and standards/poles to attach the signs), all provided by TENANT, at its costs, indicating the Parking Spaces are so reserved for Parking Patrons. The signage and standards shall be approved by CITY'S Community Development Director and installed by CITY employees at no additional cost to TENANT. Annually, CITY'S City Council shall review this provision and determine if changes are required to best serve the general public and TENANT. If after consultation with TENANT, CITY determines changes are warranted and required and TENANT does not agree with those changes, then CITY may impose the changes, including rescission of permission to use the Parking Spaces, upon 120-days' written notice to TENANT.

EXECUTED on _____, 20___, at_____ County, California.

CITY OF MORRO BAY

_____
Jamie L. Irons, MAYOR

725 Embarcadero LLC
a Limited Liability Company

By: _____
Doug Redican, Manager

By: _____

ATTEST:

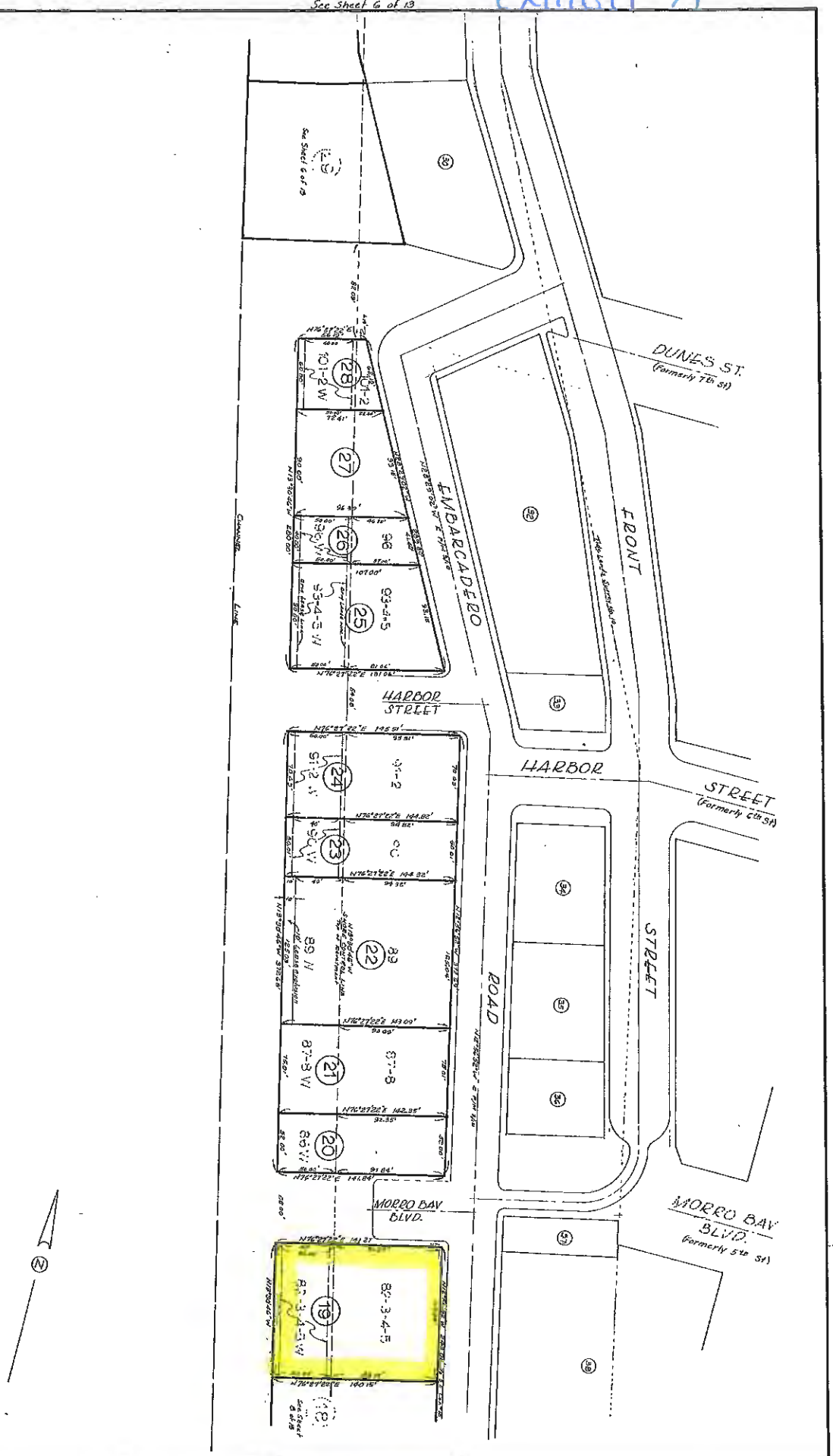
_____
Dana Swanson, CITY CLERK

EXHIBIT A

COPY OF PARCEL MAP

EXHIBIT A

See Sheet 6 of 13



LEASE SITES MAP

CITY OF MORRO BAY, SAN LUIS OBISPO CO., CALIF.

Scale 1" = 50'

GARING, TAYLOR, & ASSOC., INC.

Arroyo Grande, California

Nov. '74

Rev. '79

Sheet 7 of 13

See Sheet 8 of 13

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EXHIBIT B

CITY OF MORRO BAY

595 Harbor St.
Morro Bay, CA 93442
(805) 772-6200
FAX (805) 772-7329

INSURANCE REQUIREMENTS FOR LESSEES
(NO AUTO RISKS)

Lessee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the leased premises. The cost of such insurance shall be borne by the Lessee.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance (for lessees with employees).
3. Property insurance against all risks of loss to any tenant improvements or betterments.

Minimum Limits of Insurance

Lessee shall maintain limits no less than:

1.	General Liability:	**$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2.	Employer's Liability:	**$1,000,000** per accident for bodily injury or disease.
3.	Property Insurance:	Full replacement cost with no coinsurance penalty provision.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Lessee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The general liability policy is to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of ownership, maintenance or use of that part of the premises leased to the Lessee.
2. The Lessee's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after 30-days' prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

Verification of Coverage

Lessee shall furnish the City with original certificates and amendatory **endorsements** effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the City **before** use of City premises. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

Sub-lessee

Lessee shall include all sub-lessees as insureds under its policies or shall furnish separate certificates and endorsements for each sub-lessee. All coverages for sub-lessees shall be subject to all of the requirements stated herein.

Insurance\SpecC
Rev. 8/01

Reproduction of Insurance Services Office, Inc. Form

INSURER: ISO Form CG 20 11 11 85 (Modified)
POLICY NUMBER: Commercial General Liability
ENDORSEMENT NUMBER:

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED -- MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

1. Designation of Premises (Part Leased to You):
2. Name of Person or Organization (Additional Insured): City of Morro Bay
3. Additional Premium:

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:
1. Any "occurrence" which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization shown in the schedule.

Modifications to ISO form CG 20 11 11 85:
1. The Insured scheduled above includes the Insured's elected or appointed officers, officials, employees and volunteers. 2. This insurance shall be primary as respects the Insured shown in the schedule above, or if excess, shall stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Insured scheduled above shall be in excess of this insurance and shall not be called upon to contribute with it. 3. The insurance afforded by this policy shall not be canceled except after thirty days prior written notice by certified mail return receipt requested has been given to the City.

_____
Signature-Authorized Representative

_____

_____
Address

CG 20 11 11 85 Insurance Services Office, Inc. Form (Modified)
Insurance\Form#3
Rev. 8/01

RESOLUTION NO. 74-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
APPROVING A NEW MASTER LEASE AGREEMENT
FOR LEASE SITE 82-85/82W-85W, LOCATED AT 725 EMBARCADERO,
AND COMMONLY KNOWN AS "ROSE'S LANDING"**

**T H E C I T Y C O U N C I L
City of Morro Bay, California**

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

WHEREAS, 725 Embarcadero LLC ("Tenant") has been the lessee of Lease Site 82-85/82W-85W since 1988 and is a tenant in good standing; and

WHEREAS, Tenant has received Concept Plan approval from the Planning Commission and City Council for conversion of the second story restaurant space to ten transient occupancy hotel units, and including other public access improvements as-proposed; and

WHEREAS, Tenant desires to complete the hotel room conversion project in exchange for a new 50-year master lease agreement; and

WHEREAS, it is in the City and Tenant's mutual best interest the hotel room conversion project and other improvements are timely completed.

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

1. The attached new Master Lease Agreement for Lease Site 82-85/82W-85W is hereby approved.

2. The Mayor is hereby authorized to execute said Master Lease Agreement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of September 2018 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

AGENDA NO:	**A-7**
MEETING DATE:	**September 25, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 18, 2018**

FROM: **Dana Swanson, City Clerk**

SUBJECT: **Approval of Harbor Advisory Board Member's Request for an Excused Absence**

RECOMMENDATION

Staff recommends the City Council consider the request submitted by Harbor Advisory Board Member and current Chair, Ron Reisner, to excuse his absence from the October 4, 2018 Regular Harbor Advisory Board meeting and allow him to continue serving through the scheduled term ending January 31, 2021.

ALTERNATIVES

The Council may choose not to excuse Mr. Reisner's absence and direct staff to begin recruitment to fill the vacancy.

BACKGROUND/DISCUSSION

In November 2016, the Council adopted Resolution No. 74-16 amending the By-Laws for all standing advisory bodies to establish a policy regarding absences. That policy, which is included in the current Advisory Bodies Handbook and By-Laws, states:

> *"Absence from three consecutive regular meetings or twenty-five (25) percent of the regular meetings during any 12-month period, without the formal consent of the City Council, shall constitute the resignation of such absent member and the position will be declared vacant. Requests for extended excused absences of three consecutive regular meetings or twenty-five (25) percent of the regular meetings must be submitted to the City Council in writing prior to the extended absence to allow sufficient time for review and approval at a regular Council meeting."*

Staff received a request from Harbor Advisory Board Chair, Ron Reisner, for Council consideration to excuse his absence from the October 4, 2018, regular meeting so he can remain on the Board through his term, which ends January 31, 2021. Mr. Reisner missed the February 2018 and June 2018 regular meetings, so absence from the October 2018 meeting would constitute his voluntary resignation from the Board. Mr. Reisner represents marine-oriented businesses and is requesting this absence be excused so he can present seminars at the International Boat Builders Exposition in Tampa, Florida.

CONCLUSION

In accordance with established policy, staff recommends the Council approve Harbor Advisory Board Chair Reiner's request for an excused absence from the October 4, 2018 Regular Meeting.

ATTACHMENTS

1. Request for Excused Absence submitted by Mr. Reisner
2. Link to Advisory Bodies Handbook and By-Laws

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

Dana Swanson

From: Ron Reisner
Sent: Saturday, August 25, 2018 2:46 PM
To: Dana Swanson
Subject: Fw: Permission to Miss a HAB Meeting

Dana, Marlys pointed out to me I should have sent the message below to you for administrtion, which of course makes perfect sense.

Additionally, I should have made clear in my message that I missed two prior HAB meetings this year, hence the request. Also, unless aliens swoop down and take me away, I will indeed be present for the November and the December HAB meetings.

Thank you, Ron

From: Ron Reisner
Sent: Friday, August 24, 2018 8:51 AM
To: Jamie Irons; John Headding; Matt Makowetski; Marlys McPherson; Robert Davis
Cc: Eric Endersby
Subject: Permission to Miss a HAB Meeting

I am requesting Council permission to miss the October 4, 2018 Harbor Advisory Board meeting.

I have been invited to present seminars at the International Boat Builders Exposition in Tampa, Florida at that time.

I will ensure the October HAB meeting agenda is properly arranged, and as is our custom, will include the Vice Chair in the generation of that agenda. Additionally, the Vice Chair has experience running HAB meetings, and is more than competent to do so.

Additionally, in anticipation of there being two new HAB members appointed by Council, I will meet with those members in September after their appointment, and provide them with an orientation to HAB participation.

Thank you in advance for your consideration.

Ron Reisner, Chairman
Morro Bay Harbor Advisory Board

AGENDA NO: A-8

MEETING DATE: September 25, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 18, 2018**

FROM: **Janeen Burlingame, Management Analyst**

SUBJECT: **Adoption of Resolution No. 78-18 Authorization to Purchase Trolley Replacement Vehicle**

RECOMMENDATION
Staff recommends the City Council adopt Resolution No. 78-18.

FISCAL IMPACT
There is no fiscal impact to the City's General Fund. The trolley vehicle purchase will be funded from an awarded Federal Transit Administration Section 5339 grant, Rural Transit Fund grant, State of Good Repair grant, and State Local Transportation Fund monies. The purchase cost is estimated to be $195,300. The vehicle procurement project is included in the City's adopted FY18/19 Operating and Capital budget.

SUMMARY
The trolley vehicle being replaced is fifteen years old and will be more than sixteen years old when the new vehicle is placed in service. The vehicle is beyond the useful life criteria set by the Federal Transit Administration and replacement will reduce fuel and maintenance costs. The most current updated Short Range Transit Plan was adopted in 2007. There were no specific recommendations related to capital purchases in the adopted SRTP; however, the SRTP included a capital plan for vehicle replacements that was based on a ten-year cycle.

DISCUSSION
For the vehicle purchase, the City will piggyback on the CalACT/Morongo Basin Transit Authority (CalACT/MBTA) Purchasing Cooperative Agreement. CalACT/MBTA went through a Request for Proposals process for the procurement of various vehicles types and assignment options so other agencies could piggyback on this contract for a variety of vehicle needs. For trolley vehicles, only one vendor was awarded the contract, Creative Bus Sales.

Attached is the City's Assignment to Purchase Agreement from CalACT/MBTA.

This vehicle purchase is included in the City's adopted FY 18/19 Operating and Capital Budget; however, per the City's Purchasing Policy regarding purchasing price limits, the City Manager is required to obtain City Council authorization to purchase the trolley replacement vehicle.

CONCLUSION
Staff recommends the City Council adopt Resolution No. 78-18.

ATTACHMENTS
1. CalACT Assignment to Purchase Agreement
2. Resolution No. 78-18 – Authorization to Purchase Trolley Replacement Vehicle

Prepared By: J Burlingame **Dept Review:** RL

City Manager Review: SC **City Attorney Review:** _____

CALACT CALIFORNIA ASSOCIATION FOR COORDINATED TRANSPORTATION

9/5/2018

Janeen Burlingame
595 Harbor Street
Morro Bay, CA 93442

Dear Janeen:

The CALACT-MBTA Purchasing Cooperative is pleased to assign an option to purchase a transit vehicle as detailed in the Assignment to Purchase Agreement.

Additional information is available on the CALACT website at www.calact.org/coop that documents the procurement process used by the Cooperative to solicit and award Contract No. 15-03. Prior to acceptance of the vehicles you order, a Post-Delivery Audit must be conducted by your agency if you are using Federal Transit Administration funding to purchase the vehicle.

Thank you for purchasing your vehicles through the Cooperative. Please don't hesitate to contact me if you have any questions at 916-920-9018 or email dan@calact.org.

Sincerely,

Daniel Mundy

Daniel Mundy
Deputy Executive Director

CALACT

4632 Duckhorn Drive • Sacramento, CA 95834 • Phone (916) 920-8018 • Fax (916) 920-8021

CALACT CALIFORNIA ASSOCIATION FOR COORDINATED TRANSPORTATION

Assignment to Purchase Agreement

The CALACT-MBTA Purchasing Cooperative, "Assignor", hereby assigns to Morro Bay, City of, "Assignee", 1 option to purchase Transit Vehicles ("Vehicles") from the Joint Procurement Cooperative at a price and under the terms and conditions contained in Assignor's Contract No 15-03 with the Contractors awarded to on the Procurement. Only the vehicle and optional features may be purchased using the Solicitation and the purchase may only be from a Seller listed on the Schedule. Specifically, the Assignment shall have the right to purchase:

Quantity and Type of Vehicle(s):

(1) Hometown Tolley Class T-FE Gas

Total # of Vehicles: 1

Such ability to purchase commenced, per terms of Contract, on 9/5/2018, and may be exercised at any time on or before 4/28/2019. Pricing for this assignment is valid for Purchase Orders until 4/28/2019, the expiration date of the base period of the contract. Assignee must communicate any changes in the order in particular cancellation to the Cooperative as soon as possible.

With respect to the Vehicles assigned hereunder and this Assignment, Assignee agrees to perform all covenants, conditions and obligations required of Assignor under said Contract and agrees to defend, indemnify and hold Assignor harmless from any liability or obligation under said Contract. Assignee further agrees to hold Assignor harmless from any deficiency or defect in the legality or enforcement of the terms of said Contract or option to purchase thereunder. Assignee agrees and understands that Assignor is not acting as a broker or agent in this transaction and is not representing Seller or Assignee, but rather is acting as a principal in assigning its interest in the above-referenced assignment to purchase the Vehicles under the Contract to Assignee.

Please be advised that assignment of said vehicle does not constitute a recommendation or endorsement of this product by the Cooperative. The Assignee is responsible for its choice of vehicle product and options selected. Assignee is responsible for vehicle inspection, acceptance and enforcement of any contract provisions. Assignee agrees that any inspections necessary for delivery and acceptance of the vehicle are to be accomplished by their own qualified staff, firms on the CALACT Vehicle Inspectors list or other independent inspector pre-approved in writing and in advance by the CALACT Cooperative. While PreAward verifications of Buy America, FMVSS and Purchaser's Requirements have been accomplished, Assignee is responsible for Post Award due diligence in this regard.

Purchasing agencies are responsible for and are to exercise due diligence in evaluating the suitability of the vehicle for their operating environment and are responsible for determining their eligibility for funding. In particular, the Cooperative urges you to review the Altoona test report for the vehicle you are purchasing.

Supporting documents for your records will be sent to your attention. Please retain these for any reviews or audits your agency will be subject to. Additional copies may be downloaded from our secure website, please contact CALACT staff for access to this.

Assignee hereby unconditionally releases and covenants not to sue Assignor upon any claims, liabilities, damages, obligations or judgments whatsoever, in law or in equity, whether known or unknown, or claimed, which they or either of them have or claim to have or which they or either of them may have or claim to have in the future against Assignor, with respect to the Vehicles or any rights whatsoever assigned hereunder.

Daniel Mundy

Daniel Mundy
Deputy Executive Director
CALACT
"Assignor"

RESOLUTION NO. 78-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AUTHORIZATION TO PURCHASE REPLACEMENT TROLLEY**

**T H E C I T Y C O U N C I L
City of Morro Bay, California**

WHEREAS, the City of Morro Bay has a trolley vehicle beyond the useful life criteria set by the Federal Transit Administration and needs to be replaced; and

WHEREAS, the trolley to be purchased will be funded from an awarded Federal Transit Administration (FTA) Section 5339 grant, Rural Transit Fund grant, State of Good Repair grant, and State Local Transportation Fund monies; and

WHEREAS, the trolley replacement project is included in the City's adopted FY18/19 Operating and Capital budget; and

WHEREAS, the City will piggyback on the CalACT/Morongo Basin Transit Authority Purchasing Cooperative (CalACT/MBTA) agreement; and

WHEREAS, the CalACT/MBTA went through a FTA approved Request for Proposals process for the procurement of various vehicles types and assignment options so other agencies could piggyback on this contract for a variety of vehicle needs; and

WHEREAS, for trolley vehicles, only one vendor was awarded the CalACT/MBTA purchasing contract, Creative Bus Sales; and

WHEREAS, the City has received an Assignment to Purchase Agreement from the CalACT/MBTA.

NOW, THEREFORE, BE IT RESOLVED that the City of Morro Bay does hereby authorize the City Manager to purchase the replacement trolley and execute any and all documents necessary related to the vehicle's purchase.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of September 2018 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

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AGENDA NO:	**A-9**
MEETING DATE:	**September 25, 2018**

Staff Report

TO: **Mayor and City Council** **DATE: September 19, 2018**

FROM: **Jennifer Callaway, Finance Director**

SUBJECT: **Adopt Resolution No. 79-18 approving Fiscal Year 2017/18 Fourth Quarter Year-End Budget Adjustments**

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 79-18.

DISCUSSION

As staff is preparing year-end entries to close out Fiscal Year 2017/18 books, budget variances were identified. Staff is recommending that the City Council adopt Resolution No. 79-18 authorizing staff to proceed with Fiscal Year 2017/18 Fourth Quarter year-end budget adjustments. With approval of staff's recommendation, the year-end close out process can continue in preparation for the auditor's field work scheduled for the week of October 15, 2018.

The proposed budget adjustments are generally minor, truing up revenues and expenditures to actual expenses. The proposed adjustments are summarized below:

General Fund Expenditures:

- Funding for City Works software implementation ($38,933)
- Administrative Fee for ADA Sidewalk Gap ($1,738)
- Labor costs for Curbside Recycling Program ($23,920)

Enterprise Fund Revenues:

- Transfer of Revenues Over Expenditures from the Sewer Revenue Fund to Sewer Accumulation Fund ($221,683) – transfer of excess revenues from FY 2016/17
- Budget Transfer between accounts within the Wastewater Treatment Plant Fund (599) for the City of Morro Bay's share of operating expenditures ($1,870,530)
- Cash Transfer to Sewer Accumulation Fund from FY 2016/17 residual cash in Sewer Accumulation Fund ($85,766)

Other Funds Revenues:

- CDBG ADA Sidewalk Project Funding ($1,738)
- In Kind Admin Fees Reimbursement from FY 2016/17 ($5,514)

Other Funds Expenditures:

- In Kind Admin Fee Reimbursement from FY 2016/17 ($5,514)

Prepared By: ___JC_____	**Dept Review:** ___JC___
City Manager Review: __SC_____	**City Attorney Review:** _____

Capital Projects Revenues:

- Fund City Works software implementation expenditures ($38,933)

CONCLUSION

Staff recommends that the City Council adopt Resolution No. 79-18 approving Fiscal Year 2017/18 Fourth Quarter Year-End Budget adjustments, allowing staff to continue preparing for the annual year-end audit and closure of FY 2017/18 financial records.

ATTACHMENT

Resolution No. 79-18 Approving Fiscal Year 2017/18 Fourth Quarter Year-End Budget Adjustments

RESOLUTION NO. 79-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
APPROVING FISCAL YEAR 2017/18 FOURTH QUARTER
YEAR-END BUDGET ADJUSTMENTS**

T H E C I T Y C O U N C I L
City of Morro Bay, California

WHEREAS, City staff is preparing year-end accounting entries to close out the City's Fiscal Year 2017/18 financial records; and

WHEREAS, in preparing year-end accounting entries staff have identified necessary budget adjustments.

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

1. The operating budgets of the City are amended by the additional revenues and expenditures, as shown on the attached Exhibit 1, to finalize Fiscal Year 2017/18 accounting records.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of September 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

Enterprise Funds Revenues				
Fund	Prog	Acct	Description	Adjustment
321	7710	8410	Transfer of revenues over expenditures to accumulation fund	221,683
599	7710	3802	Transfers for City portion of WWTP Costs reclassed Fr Trfr	(1,870,530)
952	7710	3802	Incr for Residual Cash Transfer at 06/30/17 made in FY 17/18	85,766
599	5255	3499	Transfers for City portion of WWTP Costs reclassed to Rev	1,870,530
			Total Other Funds	**307,449**

Other Funds Revenues				
Fund	Prog	Acct	Description	Adjustment
200	7710	3801	CDBG - ADA Sidewalk Gap Project Funding for CD Admin Fees	1,738
200	3630	3306	In Kind Admin Fees CD Reimb in 16/17	(5,514)
			Total Other Funds	**(3,776)**

Capital Projects Revenues				
Fund	Prog	Acct	Capital Project Funds	Adjustment
915	7710	3801	Fund City Works Software Implementation Exp in FY 17/18	38,933
			Total Other Funds	**38,933**

Grand Total: Revenues **342,605.38**

General Fund Expenditures				
Fund	Prog	Acct	Description	Adjustment
001	7710	8501	Fund City Works Software Implementation Exp in FY 17/18	38,933
001	7710	8501	Fund Admin Fee from CD for ADA Sidewalk Gap Project	1,738
001	5270	4999	J. Burlingame 30% Salary Alloc up to Rev	23,920
			Total General Fund	**64,591**

Other Funds Expenditures				
Fund	Prog	Acct	Description	Adjustment
200	3630	4999	In Kind Admin Fees CD Reimb in 16/17	(5,514)
			Total Other Funds	**(5,514)**

Grand Total: Expenditures **59,076.56**

AGENDA NO: A-10

MEETING DATE: September 25, 2018

A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING SEPTEMBER 23 – SEPTEMBER 29, 2018 AS THE 16TH ANNUAL SEA OTTER AWARENESS WEEK

CITY COUNCIL
City of Morro Bay, California

WHEREAS, the sea otter is a symbol of wildness, an integral part of California's natural ecosystem and serves as an indicator for the overall health of California's nearshore marine environment; and

WHEREAS, a growing awareness of the benefits of maintaining the health of the nearshore marine environment has raised public awareness in the sea otter; and

WHEREAS, disease from a variety of sources, including land-based biological pathogens, accounts for a significant amount of the mortality of California sea otters in a given year; and

WHEREAS, increased human viewing and other interactions with sea otters can have a detrimental effect on sea otter health; and

WHEREAS, the survival of the sea otter in California remains dependent upon continued public support and increased understanding of the essential role sea otters play in nature.

NOW, THEREFORE, BE IT RESOLVED, that the Morro Bay City Council does hereby proclaim September 23 – September 29, 2018 to be the 16th Annual "Sea Otter Awareness Week."

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 25th day of September 2018

_____
Jamie L. Irons, Mayor
City of Morro Bay, California

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AGENDA NO: B-1
MEETING DATE: September 25, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 14, 2018**

FROM: **Nancy Hubbard, Contract Planner**

SUBJECT: **Denial of Appeal of Planning Commission Approval on August 7, 2018, of the Conditional Use Permit (UP0-470), Coastal Development Permit (CP0-530), Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration for the site at 2783 Coral Ave. to allow a 6-parcel subdivision on a .99-acre site within the Cloisters Subdivision**

RECOMMENDATION

Council adopt Resolution No. 72-18, making the necessary findings to deny the appeal and uphold the Planning Commission approval of Conditional Use Permit (UP0-470), Coastal Development Permit (CP0-530), Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration for the site at 2783 Coral Ave. to allow a 6-parcel subdivision on a .99-acre site within the Cloisters Subdivision.

ALTERNATIVE

The City Council could move to uphold the appeal and remand the project back to the Planning Commission for review of revised project as directed by Council. Staff would return to Council with a new Resolution formalizing those actions.

FISCAL IMPACT

The project is in the Coastal Appeals Jurisdiction and, therefore, there is no fee required to file an appeal for land use decisions. Cost for staff time necessary to evaluate the appeal, meet with the Appellant, prepare the staff report, conduct noticing and attend Council hearing are paid by the City's General Fund. Those unreimbursed costs create a negligible fiscal impact to the overall City economy. The fiscal impact to the applicants for a 2-month delay in the project is unknown at this time.

BACKGROUND

The proposed project, as further described in the Planning Commission (PC) staff report (online link below), would allow development of a 6-parcel subdivision on the .99-acre parcel located at 2783 Coral Ave., originally dedicated to the City for use as a Fire Station (SW Corner of Highway 1 and San Jacinto). The subdivision tentative vesting map approved by PC on August 7, 2018, was very similar in layout, function and design to the previously approved tentative map submitted in 2007 by the City and approved by the PC. The 2007 PC approval was also appealed and in 2007, the City Council denied the appeal and upheld the PC approval. The tentative map approved in 2007 was never finalized and, as such, the approval expired. In 2016, the City approved the sale of the site to the current applicants. The applicants applied for a Vesting Tentative Map and related conditional use permit, and coastal development permit in February 2017. Their application was deemed complete in March 2018 and the City began the preparation of an initial study, which resulted in a Mitigated Negative Declaration being finalized in July 2018, following the 30-day public review

Prepared By: ___NH____	**Dept Review: _____**
City Manager Review: ___SC_____	**City Attorney Review: ___JWP____**

period.

On August 7, 2018, the PC held a duly noticed public hearing to consider the Conditional Use Permit (UP0-470), Coastal Development Permit (CP0-530), Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration for the site at 2783 Coral Ave. that would allow a 6-parcel subdivision on a .99-acre site within the Cloisters Subdivision. The PC's review considered the proposed project, the relevant history (*i.e.*, previous approval of a 6-parcel cluster subdivision within the Cloisters Subdivision Tract 1996, the allowed alternative use of the site as residential and the City's right to sell the land), the potential impacts from the additional 6 homes on the surrounding neighborhoods and the conceptual designs submitted.

At the end of the public hearing, the PC approved the project with conditions (Attachment C). The PC modified one of the conditions (Planning Condition #11) to require the applicant to work with the City to find an off-site location where they can plant some of the required replacement trees to enhance raptor habitat.

APPEAL:

On August 14, 2018, the City received one appeal of the PC approval of Conditional Use Permit (UP0-470), Coastal Development Permit (CP0-530), Tentative Vesting Map (S00-127) and Mitigated Negative Declaration filed by Dawn Beattie (Attachment B), which requests the PC decision be overturned and the project returned to PC. The appeal claims are paraphrased below with corresponding staff response.

Appeal filed by Dawn Beattie:

This appeal requests a continuance to allow all residents in the Cloisters Subdivision and the Cloisters architectural review committee a chance to weigh in, as well as ensure the Cloister's history and its effect on this subdivision submittal is represented.

Staff met with the Appellant and several other residents from the Cloisters who identified themselves as members of the Cloisters Architectural Review Committee, on August 16, 2018, and again on September 6, 2018, to discuss the project, the Planning Commission role in approval and the independent review process required by the Cloisters Subdivision CC&R's. Because of those meetings, staff provided the Appellant an opportunity to clarify or add to her appeal claims if the information provided in the meetings resulted in new concerns she wanted to include in the appeal. On September 12, 2018, staff received a letter from Steve Stevens on behalf of Dawn Beattie (confirmed with Ms. Beattie September 13, 2018) with a list of additional concerns. Those concerns are summarized and addressed below the original Appeal Claims under *Supplemental Appeal Information*.

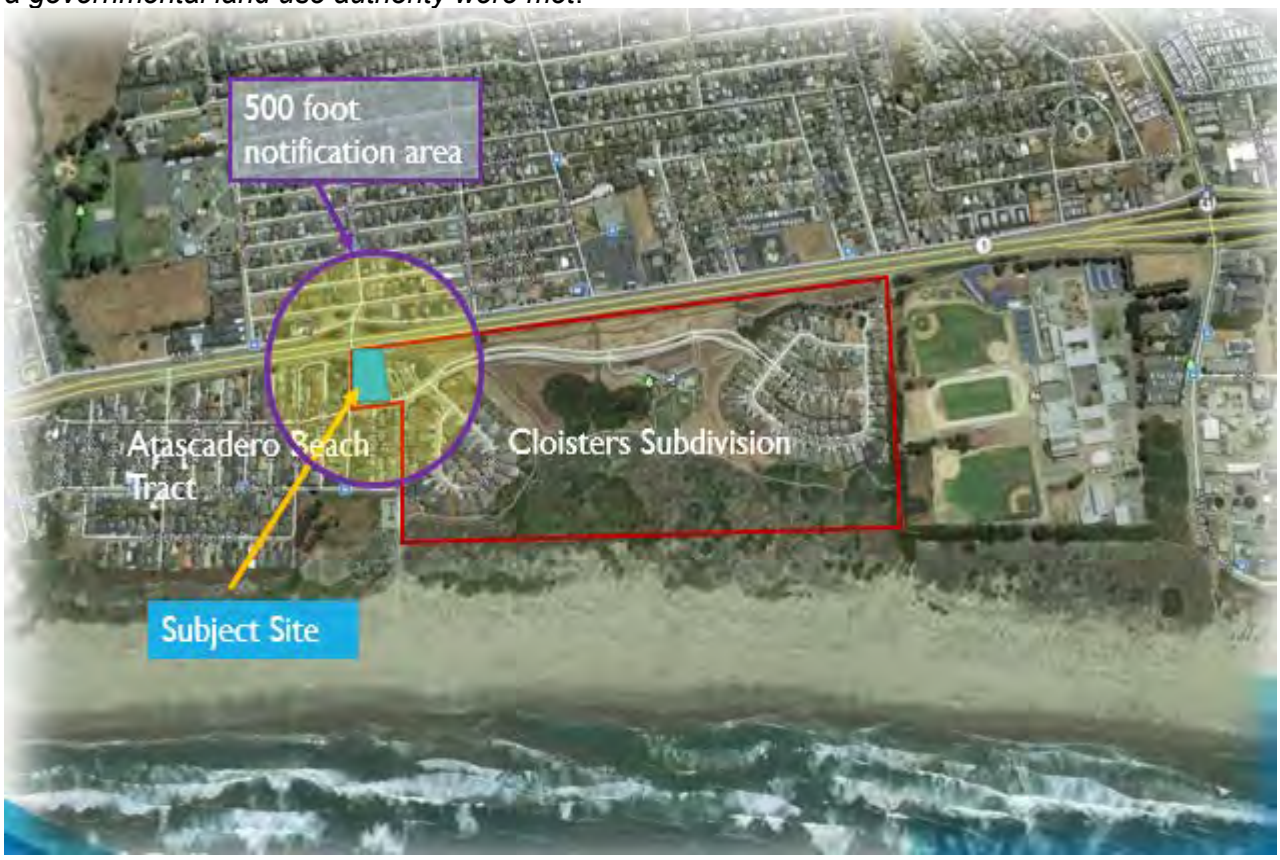
Appellant Claim #1: The Appellant claims the Cloister's long, complicated history was not adequately represented in the staff report and the history influences the decisions such as this one.

Staff response: *Although this claim is not very specific, similar issues were raised during public comment related to how Cloister residents are all affected by a new subdivision.* The staff report, and the staff presentation included the history of the site related to the original intent, the dedication to the City as a site for a fire station; the City decision to submit (and subsequently receive approval for) its application for a 6-parcel subdivision; and the City's decision to sell the site in 2013. The staff report, and Resolution made it clear the 6-parcels created by this approval and documented in the approved vesting tentative map would be subject to all the Cloister's requirements, including architectural design review and approvals, CC&R's and any financial assessments applicable to residential lots within the Cloister's Subdivision. *Specific items raised in public comment were addressed by staff or PC during the hearing. H*owever, it *is not clear what* <u>*other history*</u> *of the*

Cloisters is relevant to the proposed project and related PC consideration and resultant approval.

Appellant Claim #2: The PC Hearing notification was not mailed to every Cloister's homeowner (and they are financially impacted).

Staff response: *This concern was part of public comment and was discussed and addressed by the PC.* Notification for the PC hearing on August 7, 2018, was properly noticed in accordance with Government Code 65091, through the following means: Notifications were mailed July 27, 2018, to the applicant, all (total of 123) owners and occupants with a 500-foot radius of the subject site (exceeding the requirement for notification within 300 feet), posted in the three City kiosks, advertised in the Tribune and two large yellow notifications signs were posted on the site the afternoon of July 27, 2018. Additionally, the staff report, and related project documents and plans were posted on the City website, available for the public to view or download. The public notification provided exceeded legal requirements. The Appellant claims all residents in the Cloisters should have been notified. However, the subject site is at the northerly most portion of the Cloisters Subdivision and is bounded by the Atascadero Beach Tract on the west and north, Highway 1 on the east and the Cloisters Subdivision on the south. In order to notice all residents of the Cloisters, the notification range would need to be extended to 3000 feet to the south of the site. However, that would not have included other residents in other residential tracts/neighborhoods who are in closer proximity and who may be more impacted by the proposed project. Requiring other than established noticing requirements and compelling any applicant to pay for the costs of that additional noticing could be considered lacking in legal authority. The Cloisters Architectural Review guidelines grant the Cloister Architectural Design Committee the authority to require the applicants to notify all residents in the subdivision of the project, if desired. The Architectural Review Committee for the Cloisters did not, to staff's knowledge, require the applicants to provide the aforementioned notice. *The legally required notification requirements applicable to the City as a governmental land use authority were met*.



Appellant Claim #3: The Cloister's architectural/design committee did not see or approve the plans.

Staff response: *This issue was raised in public comment at the PC hearing and was discussed by the PC.* The applicants followed the correct process in submitting the subdivision and conceptual design plans to the Cloisters Architectural Review Committee representative, Craig Smith, and received a letter dated July 23, 2018, from Craig Smith (Attachment E), in his role as architectural design consultant to the Cloister Architectural Review committee stating the plans had been reviewed and schematically approved with conditions. That submittal process and resulting letter from Craig Smith on behalf of the Cloisters Architectural Review Committee followed the standard process that has been acceptable to other projects within the Cloisters. The Appellant claims, although that was the standard process in the past, this project should have received more attention and discussion within the Cloister's Architectural Review Committee prior to Craig Smith sending a letter as the committee representative providing schematic approval. The Appellant has identified a possible breakdown in the internal operations of the Cloister's Architectural Review Committee process, which is not the fault of the applicants who submitted the plans, or the City staff report that stated the applicants received the letter of schematic approval. It should also be noted City approval of the CUP, UPO, Vesting Tentative Map and Mitigation Negative Declaration does not require a letter of approval by the Cloisters Architectural Review Committee. *That approval is not required as part of the PC review and approval process and, therefore, not grounds for an appeal.*

Supplemental Appeal Information: The Appellant provided the following additional items to be included in her appeal. That request, in the form of a letter submitted to staff on September 12, 2018, and approved by the Appellant, is attached as Supplemental Exhibit 1. The additional claims are paraphrased below and addressed through a Staff Response following each item.

Supplemental Claim #1: Appellant claims the project should have been noticed to all residents who live in the Cloisters. Additionally, the Appellant states the Cloisters Design Committee has the authority to determine the notification parameters that should have been utilized for this project and that information should have been included in the PC staff report.

Staff Response: See Appellant Claim #1 Staff Response, above, regarding notification for this project. Mr. Stevens came to the Planning counter prior to completion of the staff report and stated his belief all residents of the Cloisters should have been notified. That issue was discussed by staff and was discussed during the PC hearing with the determination proper legal notification had occurred. The Cloisters Architectural Review Committee can request an applicant to provide notice to some or all of the residents in the Cloisters, but did not make that request of the applicants. Additionally, the notification for the Cloisters Architectural Review Committee is not determined or managed by the City. *Proper legal notification was achieved and discussion regarding this objection was heard and discussed in the PC hearing.*

Supplemental Claim #2: Appellant claims the Cloisters Design Committee (Architectural Review Committee) did not properly circulate the plans submitted by the project applicant to the members of the committee and, as a result, the Committee wanted to be sure the City was aware the Schematic Approval letter provided to the applicant on behalf of the Committee was preliminary and did not reflect the intention of the Committee.

Staff Response: See Staff Response to Appellant Claim #3 above. The Cloisters Architectural Review Committee process is not under the purview of the City and the City does not require the Cloisters Architectural Review Committee approval letter to process the subject applications for this project. The City does, as a courtesy and in recognition of the Cloisters Architectural Review

Committee, request applicants within the Cloisters furnish an approval/review letter from the Committee as part of any application. The City acknowledges the applicants are subject to the Cloisters CC&R's, and they will need approval of the Cloisters Architectural Review Committee prior to construction to be in compliance with the CC&R's. The City does not manage or have any authority related to the internal Cloisters review processes.

Supplemental Claim #3: Appellant does not believe the City's right to sell the subject property (Lot 124) and the related supporting documents related to the determination of the value of the property were addressed adequately in the PC hearing on August 7, 2018.

Staff Response: Sale price and terms is not something under the purview of the PC. The authority to sell, lease or otherwise encumber City-owned property is solely under the discretion of the City Council. The City decision to sell Parcel 124 was made by Council at the July 12, 2016, City Council meeting through adoption of Resolution 59-16 (see Resolution 59-16 provided as Exhibit 2). The City had an appraisal of the property prepared in 2013 and a Brokers Price Opinion prepared in 2017, by Ciano Real Estate, to be sure the sale price was not a gift of public funds (see Broker's Price Opinion, Provided as Exhibit 5). Pursuant to Government Code section 64502, on April 19, 2016, the PC provided a report on whether that sale conforms with the City's General Plan.

Supplemental Claim #4: Appellant wants to know how the subject property can legally be added to the Special Lighting and Landscaping Assessment District without a vote of all the existing participants in that Assessment District. Appellant also wants to know why the assessment was not previously imposed on the current property owner.

Staff Response: The PC Resolution, Subdivision Map Act Findings Item W states the project will be subject to compliance with the Cloister's CC&R's and Cloisters Design Guidelines. The Cloisters CC&R's include the requirement for residential lots to participate in the Cloisters Landscape and Lighting District (Assessment Districts in CC&R's Section 3.3.3). Lot 124 is not currently part of the Assessment District and will need to be annexed into the district at some point after project approval (see Assessment District map attached as Exhibit 4). The Cloisters CC&R's will also need to be amended to include Lot 124 in the definition of Lots, which currently includes only parcels 1-120. The financial effect of including the future 6-lot subdivision will be a reduction in the overall assessment to each existing Lot owner of approximately $59 per year.

Supplemental Claim #5: Appellant has questions about the 6-parcel subdivisions lot size and design compatibility with the governing documents of the Cloisters Subdivision. Appellant specifically mentions a minimum lot size of 6,000 for the Cloisters residential lots and the fact none of the existing residential lots include private roads. Appellant is also concerned about the lack of parking available within the proposed 6-parcel subdivision and the possible effects on fire and safety from residents parking on the street.

Staff Response: The Cloisters existing residential lots, as well as the proposed 6-parcel subdivision are all compliant with the MBMC (Section 17.24.080 (E)(ii)) requirement for a minimum residential interior lot size of 6,000 square feet and 7,000 square feet for corner lots. The proposed 6 parcels meet the size criterion of the zoning code. However, the 6-parcel subdivision lots each include a portion of the shared private driveway and excess parking spaces, which they are required to be jointly owned and maintained by the 6 parcel owners. Each home includes the required 2-car parking within their private garages. The project is not required to provide guest parking; however, the proposed 6-parcel subdivision does provide parking for six additional vehicles, two in driveways that can accommodate the full length of a car, and four in designated parking spaces along the shared driveway. To accommodate fire and emergency access within the proposed subdivision, no parking is allowed along the shared driveway, other than the six

designated spaces. The residents of and visitors to the new 6-parcel subdivision will have the same rights to park on public streets as all other residents in the area.

Supplemental Claim #6: Appellant claims Planning staff said the City still owned the site proposed for the 6-parcel subdivision.

Staff Response: The City's right to sell and the existing status of the sale was reviewed and discussed in the PC hearing. It was clarified the City sold the property through a purchase agreement with a $50,000 deposit. Title was transferred, and the remainder of the purchase price is due at the earlier of 3 years after the close of that escrow or when 30 days after the subject project is approved, if at all. See purchase agreement attached as Exhibit 3.

Supplemental Claim #7: Appellant states the City incorrectly responded to the question regarding the Vacation Rental policy and its effect on the proposed new 6-parcel subdivision.

Staff Response: PC asked staff how the Vacation Rental policy would apply to the new 6-parcel subdivision and staff responded the new residential lots would be subject to the same Vacation Rental policy as any other residential property within the City. The new 6-parcel subdivision would also be subject to any specific requirements of the Cloisters CC&R's, which prohibit short-term rentals (defined as less than 30 days).

Supplemental Claim #8: Appellant states the Raptor habitat issue was not fully answered. They requested information on the most recent professional opinion regarding this issue.

Staff Response: The environmental review, resulting in a Mitigated Negative Declaration dated July 2018, included a report from Sage Institute dated September 2017 that provided findings from a site visit – stating there was no evidence of nesting. The study also concluded the existing small grove of trees, that has an open structure, is not conducive to 'secretive bird' nesting (*i.e.,* raptor species). As a result, the PC conditioned the project to provide some of the tree removal mitigation in an off-site location that can benefit from expansion of a suitable nesting area for raptors (PC condition #11).

CONCLUSION

The PC review, discussion and resulting approval with conditions of the Conditional Use Permit (UP0-470), Coastal Development Permit (CP0-530), Tentative Vesting Map approval (S00-127) and Mitigated Negative Declaration with mitigating measures and monitoring program for the site at 2783 Coral Ave. to allow a 6-parcel subdivision on a .99-acre site within the Cloisters Subdivision was properly noticed, included discussion and consideration of the relevant history of the subject site and the related impacts on the surrounding neighborhoods, including the Cloisters, and although an approval letter was provided, the City review and approval of the above mentioned submittals does not require a letter from the Cloisters Architectural Review Committee.

The PC made findings for approval of the CUP, UP0, Vesting Tentative Map #2859 and MND via PC Resolution 20-18 as conditioned (Attachment C) and staff supports this conditional approval.

Staff recommends the City Council deny the appeal and adopt Resolution 72-18.

ATTACHMENTS

A – Council Resolution No. 72-18
B – Appeal filed by Dawn Beattie on August 14, 2018
C – PC Resolution No. 20-18
D – Approved VESTING TENTATIVE MAP plans dated July 24, 2018

E – Cloisters Architectural Review Schematic approval letter.

SUPPLEMENTAL CLAIM ATTACHMENTS:

Exhibit 1 - Letter from Steve Stevens submitted to staff September 12, 2018, with email authorization from Dawn Beattie.
Exhibit 2 – Council Resolution 59-16 approving sale of Lot 124
Exhibit 3 – Lot 124 Purchase Agreement Amendment 1
Exhibit 4 – Landscape and Lighting Assessment District Map
Exhibit 5 – 2016 Brokers Price Opinion

Online documents:

8-7-18 Planning Commission meeting, Staff report & attachments for 2783 CORAL AVE, Agenda Item B-1 http://www.morrobayca.gov/ArchiveCenter/ViewFile/Item/4708

RESOLUTION NO. 72-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
DENYING AN APPEAL OF THE PLANNING COMMISSION APPROVAL
OF CONDITIONAL USE PERMIT (UP0-470), COASTAL DEVELOPMENT PERMIT (CP0-530),
TENTATIVE VESTING MAP #2859 (S00-127) AND APPROVAL OF A MITIGATED NEGATIVE
DECLARATION FOR A 6-PARCEL SUBDIVISION ON A .99 ACRE PARCEL WITHIN THE
CLOISTERS SUBDIVISION**

**T H E C I T Y C O U N C I L
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 August 7, 2018, for the purpose of considering approval of Conditional Use Permit #UP0-284, Coastal Development Permit (CP0-530), Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration for the site located at 2783 Coral Ave ("the Project"); and

WHEREAS, on August 7, 2018, the Planning Commission of the City of Morro Bay adopted Resolution 20-18 to approve Conditional Use Permit #UP0-284, Coastal Development Permit (CP0-530), Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration; and

WHEREAS, on August 14, 2018, an appeal of the Planning Commission action to approve the project was filed with the City of Morro Bay by Dawn Beattie specifically requesting the City Council overturn the Planning Commission's approval and remand the project back to Planning Commission for review; and

WHEREAS, on September 12, 2018, Steve Stevens filed a supplement to the appeal, which was approved by the appellant; and

WHEREAS, the City Council conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on September 25, 2018, to consider an appeal of the Planning Commission's approval of the project, located in an area within the original jurisdiction of the California Coastal Commission; and

WHEREAS, notices of said public hearing were made at the time and in the manner required by law; and

WHEREAS, the City Council has duly considered all evidence, including the recommendations made by the Planning Commission, the testimony of the Appellants, the testimony of the business owner, 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:

Section 1: Findings upholding the Planning Commission Approval

Based upon all the written and oral testimony and evidence presented to the Council at and for the above public hearing, the City Council makes the following findings:

A. The Conditional Use Permit #UP0-284, Coastal Development Permit (CP0-530), Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration were approved in a manner consistent with the City's General Plan, Local Coastal Program and Zoning Ordinance.

B. The Planning Commission Hearing was adequately noticed in accordance with Government Code 65091.

C. The Cloisters Architectural Review Committee approval was received by the applicant, but is not required by the City to render a land use decision.

Section 2: Action. Based on the foregoing findings, the City Council does hereby deny the appeal filed on August 14, 2018 by Dawn Beattie, and supplement filed on her behalf by Steve Stevens on September 12, 2018, and uphold the Planning Commission approval of Conditional Use Permit #UP0-284, Coastal Development Permit (CP0-530), Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration for the property located at 2783 Coral Avenue, subject to the conditions as included in Planning Commission Resolution 20-18.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 25th day of September 2018, on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

ATTACHMENT B - APPEAL

CITY OF MORRO BAY

Public Services Department
Planning Division

955 Shasta Avenue
Morro Bay, CA 93442
(805) 772-6577

APPEAL FORM

In CCC Appeals Jurisdiction?

☐ YES – *No Fee*
☐ NO – *Fee Paid:* ☐Yes ☐No

Project Address being appealed: 2783 Coral Avenue

Appeal from the decision or action of (governing body or City officer):

☐ Administrative Decision ■ Planning Commission ☐ City Council

Appeal of action or specific condition of approval:

CONDITIONALLY APPROVED THE Project Application for cluster subdivision to create 6 new residential parcels on a .99-acre site located at 2783 Coral Avenue as part of the Cloister's Subdivision Tract 1996 by adopting Planning Commission Resolution 20-18 which includes findings for CP0-530, UP0-470, S00-127 and adoption of the July 2018 Mitigated Negative Declaration with conditions and mitigation measures for approval of the project. A condition was added to replace removed trees at a 1 to 1 ratio with similar size and species.

Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision):
Planning Commission Resolution 20-18

Date decision or action rendered: 8-7-18

Grounds for the appeal (attach additional sheets as necessary):

The Cloisters has a long, complicated history that was not adequately represented in the staff report (this history has an effect on decisions such as this);

Proper notification to every Cloisters homeowner (who is financially impacted) was NOT made;

Cloisters Architectural/Design Review Committee has NOT seen nor approved the plans (only Craig Smith, who weighed in as an individual architect)

Requested relief or action:

Continuance to allow ALL Cloisters homeowners AND the Architectural Review Committee a chance to weigh in, as well as time to ensure the Cloisters history and its effect on this subdivision is represented

Appellant (please print):	Phone:
Dawn Beattie	805-771-8170

Address: 2760 Indigo Circle

Appellant Signature: Dawn Beattie **Date:** 8-14-18

FOR OFFICE USE ONLY

Accepted by: Dana Swanson	Date appeal filed: 8/14/18
Appeal body:	Date of appeal hearing:

ATTACHMENT C

RESOLUTION NO. PC 20-18

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION ADOPTING A MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND APPROVING COASTAL DEVELOPMENT PERMIT (CP0-530) AND CONDITIONAL USE PERMIT (UP0-470) AND VESTING TENTATIVE TRACT MAP No. 2859 APPROVAL FOR A 6 LOT RESIDENTIAL SUBDIVISION WITHIN THE EXISTING CLOISTER'S TRACT 1996 LOCATED IN THE CRR/GC/PD ZONE WHICH IS WITHIN THE COASTAL APPEALS JURISDICTION AT 2783 CORAL AVENUE

WHEREAS, the Planning Commission of the City of Morro Bay (the "City") conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on August 7, 2018 for considering Coastal Development Permit CP0-530, Conditional Use Permit UP0-470, Vesting Tentative Tract Map No. 2859 and the associated Mitigated Negative Declaration for a 6-lot residential subdivision within the existing Cloister's Subdivision Tract 1996 ("Project"); and

WHEREAS, the City required an Mitigated Negative Declaration of Environmental Impact which was prepared in May 2018 and finalized in July 2018 and is the document included in this Resolution; and

WHEREAS, the Project will to retain all healthy Eucalyptus trees along San Jacinto, but is anticipated to require removal of an estimated 17 Eucalyptus trees on the site, which will be replaced pursuant to the City of Morro Bay Major Vegetation requirements; and

WHEREAS, the Project site is surrounded by existing residential development ("residential area"); and as part of the Vesting Tentative Map requirements has provided the required proposed residential floor plans and elevations for Conceptual Review and Approval: and

WHEREAS, the applicant for the Project's Coastal Development Permit CP0-530, Conditional Use Permit UP0-470, and Vesting Tentative Map No. 2859 has agreed to the recommended mitigation measures determined through the Mitigated Negative Declaration; and

WHEREAS, notice of the public hearing was provided at the time and in the manner required by law; and

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

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

Section 1: The foregoing recitals are all true, correct and incorporated herein by this reference.

Section 2: Findings. Based upon all the evidence, the Commission makes the following findings:

California Environmental Quality Act (CEQA) Finding

A. For purposes of the California Environmental Quality Act, an Initial Study was prepared for the project, which resulted in a Mitigated Negative Declaration (the "MND") (SCH#2018051020), which was routed to the State Clearinghouse for the required 30-day

review. All other legal noticing and review requirements have been met. The final MND, dated July 2018, outlines mitigation measures to be incorporated into the project to ensure the project will have a less than significant impact on the environment, the project applicants agreed to all mitigations, and such mitigations are provided for in a Mitigation and Monitoring Program which is attached hereto.

B. Revisions to mitigation measures, proposed in response to comments made by Commissioners and members of the public at duly noticed public hearings to consider the Vesting Tentative Map and Concept Review of the proposed three home designs for the project located at 2783 Coral Ave (UP0-470, CP0-530, S00-127), provide equivalent or more effective means of avoiding or reducing the identified potentially significant effects than the original measures and it has been determined that they will not create more adverse effects of their own.

Conditional Use Permit (UP0-470) and Coastal Development Permit (CPO-530).

C. That the project is an allowable use in its zoning district and is also in accordance with the certified Local Coastal Program and the General Plan for the City of Morro Bay based on the analysis; and

D. The establishment, maintenance, or operation of the use applied for will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working about such proposed use as the project is consistent with all applicable zoning and planning requirements; and

E. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project, as conditioned, will be consistent with all applicable City regulations; and

F. The Planning Commission has reviewed the single family residential project and considered the following criteria in that review. Provisions for residential development standards, shared access requirements and the compatibility of use, effects on the environment, design and function compatibility with the surrounding neighborhood.

G. The submittal includes proposed home floor plans for three different homes, together with elevations and design details as part of the Vesting Tenatative Map No. 2859 submittal. These proposed plans have been reviewed and have been found to meet the zoning development standards and the requirements of the previously approved Cloisters Subdivision Tract 1996, as modified on December 10, 2007 related to removal of Condition #18 (which previously prohibited residential development) for Lot 124.

H. The applicants have provided a letter from the Architectural Design Committee of the Cloisters stating that the design as submitted, appears to meet the design guideline criteria of the Cloisters Subdivision.

Land Use and Zoning Development Standards Findings

I. All provisions of the Subdivision Map Act and the Zoning Ordinance have been met. The project as conditioned and after approval of all minor deviations noted below will meet the

provisions of the Zoning Ordinance including Section 17.50 "Affordable Housing, Density Bonuses and Incentives".

J. The proposed project is consistent with the General Plan and the Coastal Land Use Plan. The project has been provided conditions of approval and with the inclusion of these conditions will be consistent with the General Plan and Local Coastal Plan. Development of the 6 residential single family lots will be reviewed and approved at the staff level consistent with the requirements established by this approval.

K. Adequate facts and project information is available to make the findings required under Government Code Sections 66473.5 and 66474. The project's Vesting tentative map is consistent with the General Plan, Local Coastal Plan and the development standards pursuant to the Coastal Resource Residential District specific to development within the Cloister's approved Final Map for Track 1996.

L. Project characteristics requirements are met: the overall design and physical condition of the subdivision arrangement and the position of the proposed future homes will result in a project which is aesthetically attractive, safe, and meets the design criteria for the Coister's Subdivision and all minimum requirements for construction.

M. Affordable housing (Section 17.50.020) requirements are met: The City requirements for the provision of affordable housing contained in Section 17.50.020 have been identified and will be met through one of the options available.

Cluster Subdivision

N. The Cloister's Subdivision is a cluster development that meets the intent of the Conservation Subdivision provisions (Section 16.44.010) through its connection to public open space, protected areas and active recreational opportunities. The Coral Avenue Vesting Tentative Map No. 2859 submittal provides new housing opportunities that have met this criterion by inclusion in the previously approved lot within the originally approved Cloister's Final Tract Map 1996.

O. Meeting the cluster development standards minimizes the environmental and visual impacts of new development and will connect to the existing walking/biking trails and public open spaces available within the existing Cloisters Subdivision. The project, as designed, will provide six new home ownership opportunities within the existing design and development standards established for the Cloister Subdivision while reducing the impacts for necessary area dedicated to infrastructure.

P. The proposed development of the site upon approval of the tentative tract map will require removal of 17 Eucalyptus trees within the area of the shared access roadway and the future new homes. The trees removed will be mitigated by replacing each tree removed with 2 five-gallon trees or 1 fifteen-gallon sized tree. Tree replacement will be in conformance with the City of Morro Bay Major Vegitation requirements as well as the development standards of the Cloister's subdivision.

Subdivision Map Act Findings – Vesting Tentative Map

Q. The proposed Vesting Tentative Map No. 2859 to create 6 residential lots and one common lot is consistent with submittal requirements for Subdivisions, General Plan, Local Coastal Plan and the existing Cloisters Final Track Map 1996.

R. The proposed project is consistent with and will be required to meet all conditions of approval for the original subdivision of the Cloister's, as amended.

S. The site is physically suitable for the type and density of development proposed because the site is zoned for CRR/GC/PD, which allows for up to 6 parcels on the .99-acre site, together with the required common areas for access. The project, as proposed, meets the density allowed both for the zoning development standards as well as the requirements of the Cloisters Final Tract Map 1996.

T. The design of the subdivision and related improvements (three submitted home floor plans and designs) will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because all precautions will be implemented in accordance with the Mitigation and Monitoring Program.

U. The submittal of the three floor plan options, elevations and design details provides the site owner with a vested right to proceed with development in substantial conformance with ordinances, policies and standards in effect at the time the Vesting Tentative Map is approved. Administrative review and a building permit are required prior to any work on the residential homes.

V. The design of the subdivision and related improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because no new easements are required for the public.

W. As conditioned, the design, architectural treatment, and general appearance of all homes and open space areas will be in keeping with the character of the surrounding area pursuant to 17.48.190, and will be compatible with the uses permitted in the surrounding areas and zoning district because the residential design and development is subject to compliance with the Cloister's CC&Rs and Cloister's Design Guidelines.

X. The City has available adequate water to serve the proposed subdivision based upon the water regulations and the annual water report, enforced at the time of approval of the Vesting Tentative Parcel Map pursuant to the certified Water Management Plan and General Plan LU-22.1.

Section 3. Action. The Planning Commission does hereby adopt the July 2018 Mitigated Negative Declaration (SCH#2018051020) with the Mitigation and Monitoring Program and approve Coastal Development Permit CP0-530, Conditional Use Permit UP0-470 and Vesting Tentative Map No. 2859 for the property located at 2783 Coral Avenue subject to the following conditions:

CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated August 7, 2018, for the project at 2783 Coral Avenue (the "Property"), as depicted on plans received by the City on January 26, 2018 and an updated version received on July 24, 2018, as part of Coastal Development Permit CP0-530, Conditional Use Permit UP0-470 and Vesting Tentative Map No. 2859, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Residential subdivision for 6 single family homes within the Cloister's Subdivision Tract 1996 and subject to all Cloister's CC&R's and Design criteria.

2. Inaugurate Within Two Years: Unless the demolition is commenced not later than two (2) years after the effective date of this Resolution and is diligently pursued, thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Any extension may be granted by the City's Community Development Director (the "Director"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified Local Coastal Program (LCP) in effect at the time of the extension request.

2. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Community Development Director. Any changes to this approved permit determined, by the Director, not to be minor shall require the filing of an application for a permit amendment subject to Planning Commission review.

3. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, the City, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.

5. Hold Harmless and Indemnification:

(a) The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City resulting from the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.

(b) The applicant, as a condition of approval, shall indemnify, defend, and hold harmless the City, its officers, employees, and agents from any and all losses, costs, expenses, claims, liabilities, actions, or damages, including liability for injuries to any person or persons or damage to property, arising at any time during or arising out of, or in any way connected with the actions or omissions of applicant, its officers, employees, agents, subcontractors, or

invitees, or any individual or entity for which applicant is legally liable, under the terms of this permit, unless solely caused by the gross negligence or willful misconduct of City, its officers, employees, or agents.

6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director or as authorized by the Planning Commission. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.

7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.

PLANNING CONDITIONS

1. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. Monday through Friday and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Community Development Director pursuant to the terms of this regulation.

2. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and windblown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.

3. Affordable Housing Requirement: Prior to issuance of a Building Permit, applicant shall identify the method of compliance with the affordable housing requirement for residential developments of 5 or more units (MBMC 17.50.020) and provide appropriate deed restriction or payment of in-lieu fees.

4. Archaeology: See Mitigation Measures and Monitoring section incorporated as part of this Resolution. The applicant shall be liable for costs associated with the professional investigation and implementation of any protective measures as determined by the Community Development Director.

5. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

6. Filing of Environmental Document: The applicant is required to pay appropriate Fish and Game and County Clerk fees necessary for the filing of the Notice of Determination for the Final Mitigated Negative Declaration with the County Clerk following project approval.

7. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be determined and marked and property line setbacks certified by a licensed surveyor.

8. Maximum Height: The maximum permissible height of any residential units constructed on the project site is 14 feet above finished grade, however finished grade can only exceed natural grade by the minimum fill necessary to meet the floodplain elevation requirements. The finished grade elevation must be verified by a licensed surveyor prior to construction of the home and a certificate provided to the Planning Department. The height restrictions must meet the Architectural Design Guidelines of the Cloister's Subdivision Tract 1996.

9. Access Road: The access road to the lots shall be maintained as a private drive and maintained by the property owners within the subdivision documented by a shared reciprocal access and maintenance agreement for all the common areas within the newly created subdivision.

10. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.

11. Trees to be preserved: The trees along San Jacinto Road shall be preserved to the maximum extent feasible. To facilitate this, any tree removal proposed along San Jacinto Road must be approved by the Community Development Director, unless the trees are an immediate hazard. Trees identified for removal shall be mitigated as required in the Mitigation and Monitoring Program as part of the MND. ***Added by Planning Commission August 7, 2018: Trees removed from the subject site to accommodate the development shall be replaced, at a minimum, at a 1:1 ratio in an off-site location with a species of tree suitable to replace or enhance Raptor habitat areas, as approved by the Community Development Director.***

12. Color and Materials: Colors and materials shall be as shown on Plan Sheet A8 which shows three options for exterior colors and materials, are approved by the Planning Commission. Any minor changes in colors or materials must be reviewed and approved by the Community Development Director.

13. Landscaping and Irrigation Plans: Landscaping and irrigation plans for each residential lot shall be submitted by the project applicant to the City for review and approval as part of the building permit submittal.

14. No Parking. The applicant shall provide appropriate signage indicating that parking is not permitted on the internal private road, other than in designated parking spaces. Type and location of signage shall be submitted to the Community Development Director for review and approval.

15. Outdoor Lighting. The applicant shall submit an outdoor lighting plan for both the exterior of the homes and for any lighting proposed in common areas. The Proposed lighting shall be decorative in nature, low level pedestrian oriented and street and parking area lights shall be shielded from above. Lighting plan shall be submitted to the Planning Division for review and approval.

FIRE CONDITIONS

1. Automatic fire sprinklers: An automatic fire sprinkler system, in accordance with NFPA 13-D, California Fire Code (Section 903), California Residential Code (Section R313), and Morro Bay Municipal Code (Section 14.08.090 (L)(1) is required prior to issuance of building permits for Residential Plans submitted for Conceptual Review as required for Vesting Tentative Map submittals.

2. Fire Safety during construction and demolition, if required, shall be in accordance with 2016 California Fire Code Chapter 33. This chapter prescribes minimum safeguards for construction, alteration and demolition operations to provide reasonable safety to life and property from fire during such operations.

3. Carbon monoxide alarms are required in proposed new dwelling units and sleeping areas. An approved carbon monoxide alarm shall be installed in all dwellings having a fossil fuel-burning heater or appliance, fireplace or attached garage. Carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions (CRC R315.2)

PUBLIC WORKS CONDITIONS

The following will be required prior to Final Map recordation:

1. Parkland In-lieu Fee: Prior to recordation of the Final Map requirements of the City of Morro Bay for dedication of land for park purposes and/or payment of fee-in-lieu thereof shall be met (MBMC Section 16.52.050). Based on 6 proposed dwellings, the fee-in-lieu is estimated to be $43,146.

2. Maintenance Agreement: Prior to recordation of the Final Map a maintenance agreement shall be created to allow for timely maintenance of all on-site storm water control measures and other commonly owned improvements.

The following will be required prior to Building Permit issuance.

3. Sewer Impact: The applicant shall conduct an engineering assessment to determine potential impacts of the proposed 6 Lots on the existing sewage collection line. Since the developer will be adding additional impacts to water and sewer line segments which have deficiencies identified in the 2006 Sewer Collections System Master Plan, the applicant shall either construct improvements or propose payment of a prorate fair share Development Impact Fee based on the results of the engineering assessment. Note: A new sewer master plan is in preparation by the City's One Water Consultant.

4. Water Meter: Water meters shall be in the City right of way.

5. Encroachment Permits: The Applicant/Developer is responsible for acquiring encroachment permits. The permits are required and issued by the Public Works Department prior to any construction in or use of land in the City right-of-way including traffic and erosion control plans.

6. Repair & Replacement of Public Improvements: Prior to project completion the Applicant/Developer shall repair curb, street, sewer line, water line, or any public improvements which were damaged because of construction operations for this project.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 7th day of August 2018 on the following vote:

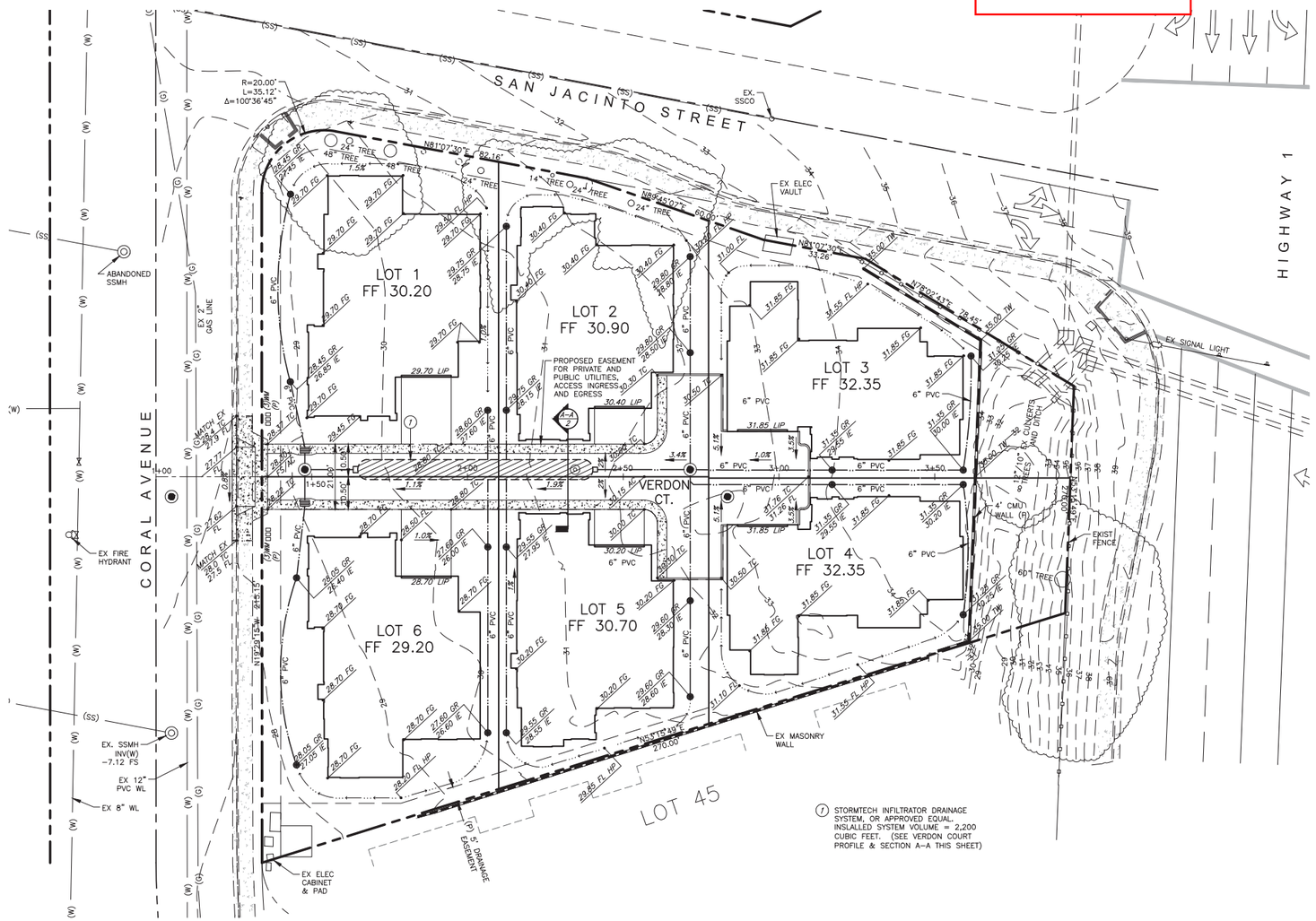
AYES: Chairperson Luhr, Commissioners Lucas, Barron and Ingraffia
NOES: Commissioner Sadowski
ABSENT:
ABSTAIN:

Chairperson Gerald Luhr

ATTEST

Scot Graham, Community Development Director
The foregoing resolution was passed and adopted this 7th day of August 2018.

ATTACHMENT D



PRELIMINARY GRADING & DRAINAGE PLAN

EXISTING CONDITIONS AND PROPOSED IMPROVEMENTS

0 10 20 40

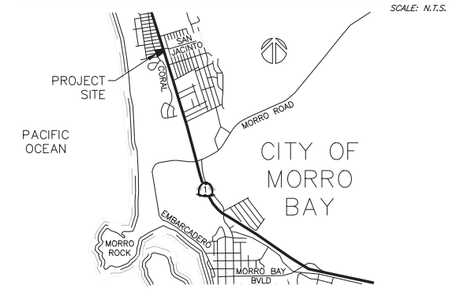
SCALE: 1" = 20'

LEGEND

PROPERTY LINE / RIGHT-OF-WAY	
EASEMENT	
EXISTING CONTOUR	100
STREET CENTERLINE	
EXISTING CURB	
EXISTING GAS	
EXISTING SANITARY SEWER	
EXISTING WATER LINE	
PROPOSED ROLLED CURB	
PROPOSED JOINT TRENCH	
PROPOSED SANITARY SEWER	
PROPOSED STORM DRAIN	
PROPOSED WATER LINE	
PROPOSED FLOW LINE	
SAWCUT LINE	
EXISTING MASONRY WALL	
PROPOSED MASONRY WALL	
EXISTING SPOT ELEVATION	+ 250.00
NEW SPOT ELEVATION	250.00 FS
EXISTING FIRE HYDRANT	FH
EXISTING SS MANHOLE	
PROPOSED SS MANHOLE	
PROPOSED WATER METER	WM
EXISTING WATER VALVE	WV
CONCRETE – EXISTING	
CONCRETE – PROPOSED	

VICINITY MAP

SCALE: N.T.S.



PROJECT DATA

1.	PROJECT ADDRESS:	SE CORNER OF CORAL & SAN JACINTO
2.	TRACT SIZE:	43,099 SQFT (0.99 AC)
3.	ASSESSOR'S PARCEL NO.:	065-386-015
4.	ZONING:	COASTAL RESOURCE RESIDENTIAL/ GOLF PLANNED DEVELOPMENT
5.	PROPOSED USE:	SINGLE FAMILY RESIDENTIAL
6.	WATER SUPPLY:	CITY OF MORRO BAY
7.	SEWAGE DISPOSAL:	CITY OF MORRO BAY
8.	GAS:	SOUTHERN CALIFORNIA GAS CO.
9.	ELECTRICITY:	PACIFIC GAS & ELECTRIC
10.	TELEPHONE:	AT&T
11.	CABLE	CHARTER CABLE
12.	FEMA FLOOD ZONE:	X ZONE (500 YEAR FLOOD)

STATISTICS

LOT #	GROSS AREA	NET AREA
LOT 1	8,093 SQFT (0.19 ACRE)	7,295 SQFT (0.17 ACRE)
LOT 2	6,266 SQFT (0.14 ACRE)	5,187 SQFT (0.12 ACRE)
LOT 3	7,129 SQFT (0.16 ACRE)	6,565 SQFT (0.15 ACRE)
LOT 4	7,032 SQFT (0.16 ACRE)	6,479 SQFT (0.15 ACRE)
LOT 5	6,058 SQFT (0.14 ACRE)	4,973 SQFT (0.11 ACRE)
LOT 6	8,521 SQFT (0.20 ACRE)	7,722 SQFT (0.18 ACRE)
TOTAL	43,099 SQFT (0.99 ACRE)	38,221 SQFT (0.88 ACRE)

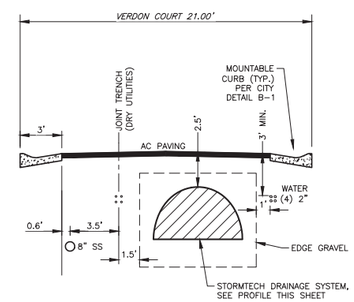
PROJECT NOTES

1. ALL RESIDENCES SHALL BE EQUIPPED WITH SPRINKLERS.
2. A COMMON ROAD AGREEMENT SHALL BE CREATED TO MAINTAIN PRIVATE ROAD.
3. ADDITIONAL TREE REMOVAL AND SITE GRADING TO BE DETERMINED AT TIME OF DEVELOPMENT.
4. ALL RESIDENCES CONSTRUCTED SHALL COMPLY WITH CLOISTER'S CC&R'S AND THE CLOISTERS DESIGN GUIDELINES.
5. TOPOGRAPHIC INFORMATION SHOWN ON THIS MAP IS BASED ON A SURVEY PERFORMED BY GARING TAYLOR & ASSOCIATES IN JANUARY 2017
6. EUCALYPTUS TREE REMOVAL (17) DENOTED WITH

ABBREVIATIONS

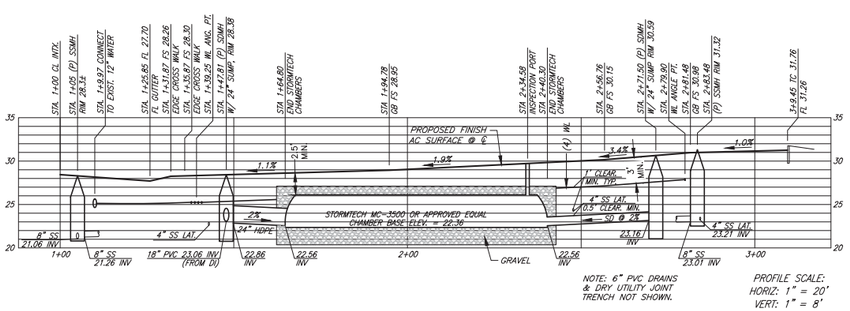
ABAN	ABANDONED	PUE	PUBLIC UTILITY EASEMENT
AC	ASPHALT CONCRETE	P	PROPOSED
CL	CENTERLINE	PVC	POLYVINYL CHLORIDE
ELEC	ELECTRIC	S	SLOPE
ESMT	EASEMENT	SD	STORM DRAIN
EX	EXISTING	SDMH	STORM DRAIN MANHOLE
FF	FINISHED FLOOR	SS	SANITARY SEWER
FG	FINISHED GRADE	SSCO	SANITARY SEWER CLEANOUT
FL	FLOW LINE	SSMH	SANITARY SEWER MANHOLE
FS	FINISHED SURFACE	S/W	SIDEWALK
GR	GRATE	TC	TOP OF CURB
HP	HIGH POINT	TW	TOP OF WALL
IE	INVERT ELEVATION	TYP	TYPICAL
LAT	LATERAL	WL	WATER LINE

SECTION A-A



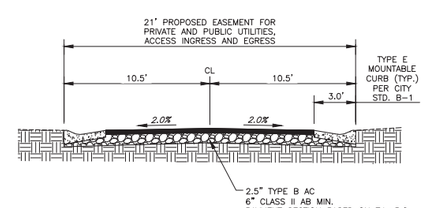
SCALE: 1" = 5'

VERDON COURT PROFILE



SCALE: 1" = 20'

TYPICAL ROAD SECTION VERDON COURT



N.T.S.

VESTING TENTATIVE MAP

FOR

TRACT No. 2859

BEING A SUBDIVISION OF LOT 124 OF TRACT NO. 1996, PER THE MAP RECORDED IN BOOK 17 OF MAPS AT PAGE 83, INTO SIX RESIDENTIAL PARCELS RANGING IN SIZE FROM 6058 SQ. FT. TO 8521 SQ. FT.

MORRO BAY, CALIFORNIA

PREPARED FOR:
Owners/Applicant:

Kevin Huber
Morro Bay Ventures, LLC
3255 W. March Lane, Suite 400
Stockton, Ca. 95219

PREPARED BY:
Engineer:

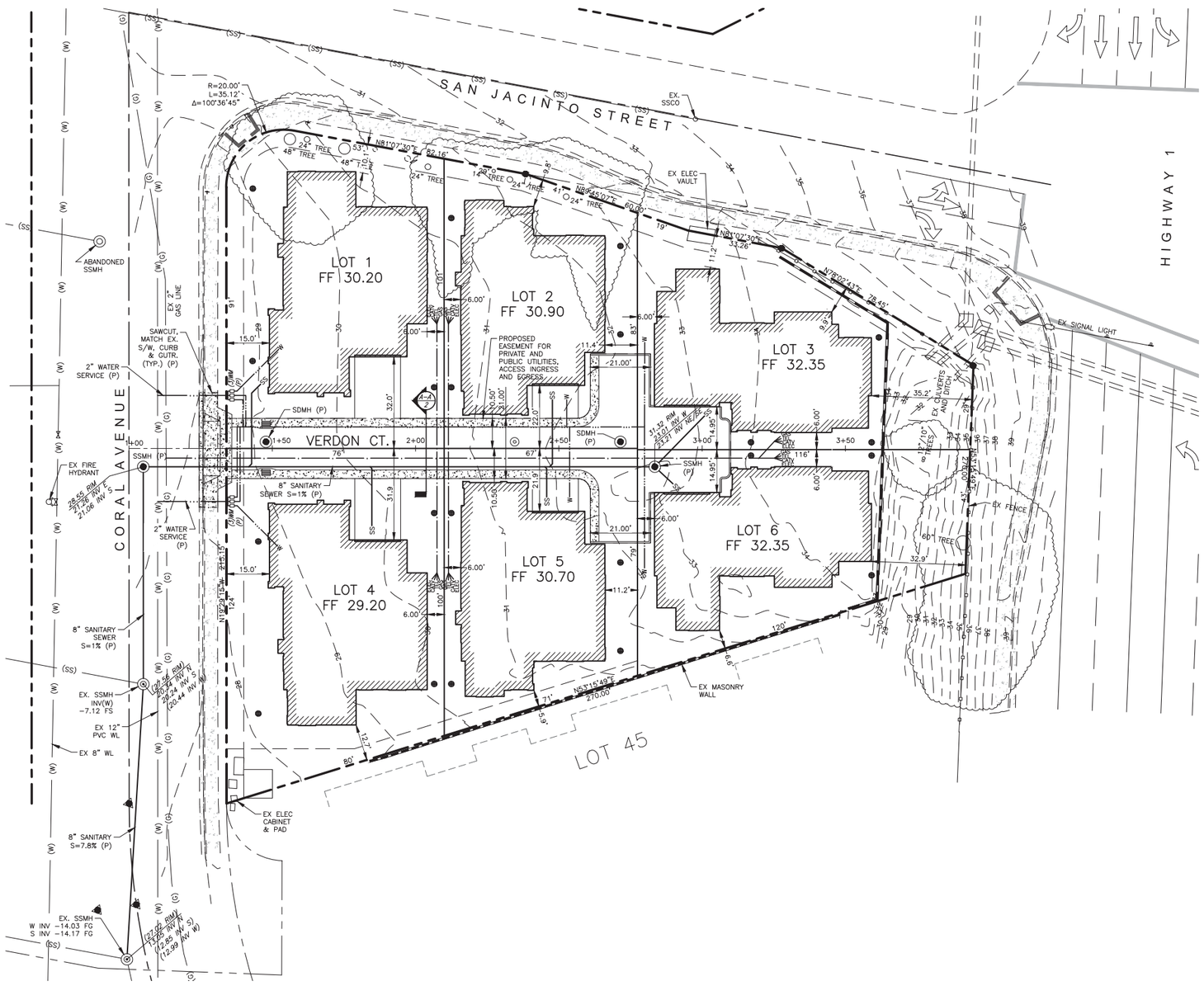
Garing Taylor & Associates
141 S. Elm Street
Arroyo Grande, CA 93420
(805) 489-1321
Jeffrey J. Emrick, P.E.

GTA No.: 16-628.000
Plot Date: 7/20/18
File Name: 16-628-BASE.DWG

Sheet 2 of 3

GARING, TAYLOR & ASSOCIATES, INC.
CIVIL ENGINEERS SURVEYORS PLANNERS
141 SOUTH ELM STREET · ARROYO GRANDE, CA 93420 · (805) 489-1321

ATTACHMENT D



PRELIMINARY SITE & UTILITY PLAN

EXISTING CONDITIONS AND PROPOSED IMPROVEMENTS

0 10 20 40

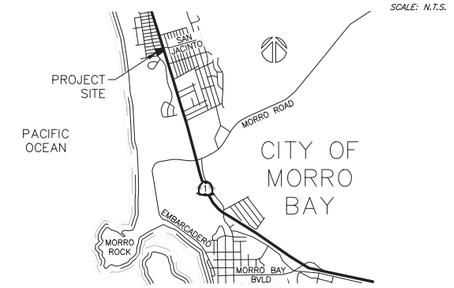
SCALE: 1" = 20'

LEGEND

- PROPERTY LINE / RIGHT-OF-WAY
- EASEMENT
- EXISTING CONTOUR (100)
- STREET CENTERLINE
- EXISTING CURB
- EXISTING GAS
- EXISTING SANITARY SEWER
- EXISTING WATER LINE
- PROPOSED ROLLED CURB
- PROPOSED JOINT TRENCH
- PROPOSED SANITARY SEWER
- PROPOSED STORM DRAIN
- PROPOSED WATER LINE
- PROPOSED FLOW LINE
- SAWCUT LINE
- EXISTING MASONRY WALL
- PROPOSED MASONRY WALL
- EXISTING SPOT ELEVATION +250.00
- NEW SPOT ELEVATION 250.00 FS
- EXISTING FIRE HYDRANT FH
- EXISTING SS MANHOLE
- PROPOSED SS MANHOLE
- PROPOSED WATER METER WM
- EXISTING WATER VALVE WV
- CONCRETE – EXISTING
- CONCRETE – PROPOSED

VICINITY MAP

SCALE: N.T.S.



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5.	PROPOSED USE:	SINGLE FAMILY RESIDENTIAL
6.	WATER SUPPLY:	CITY OF MORRO BAY
7.	SEWAGE DISPOSAL:	CITY OF MORRO BAY
8.	GAS:	SOUTHERN CALIFORNIA GAS CO.
9.	ELECTRICITY:	PACIFIC GAS & ELECTRIC
10.	TELEPHONE:	AT&T
11.	CABLE	CHARTER CABLE
12.	FEMA FLOOD ZONE:	X ZONE (500 YEAR FLOOD)

STATISTICS

LOT #	GROSS AREA	NET AREA
LOT 1	8,093 SQFT (0.19 ACRE)	7,295 SQFT (0.17 ACRE)
LOT 2	6,266 SQFT (0.14 ACRE)	5,187 SQFT (0.12 ACRE)
LOT 3	7,129 SQFT (0.16 ACRE)	6,565 SQFT (0.15 ACRE)
LOT 4	7,032 SQFT (0.16 ACRE)	6,479 SQFT (0.15 ACRE)
LOT 5	6,058 SQFT (0.14 ACRE)	4,973 SQFT (0.11 ACRE)
LOT 6	8,521 SQFT (0.20 ACRE)	7,722 SQFT (0.18 ACRE)
TOTAL	43,099 SQFT (0.99 ACRE)	38,221 SQFT (0.88 ACRE)

PROJECT NOTES

1. ALL RESIDENCES SHALL BE EQUIPPED WITH SPRINKLERS.
2. A COMMON ROAD AGREEMENT SHALL BE CREATED TO MAINTAIN PRIVATE ROAD.
3. ADDITIONAL TREE REMOVAL AND SITE GRADING TO BE DETERMINED AT TIME OF DEVELOPMENT.
4. ALL RESIDENCES CONSTRUCTED SHALL COMPLY WITH CLOISTER'S CC&R'S AND THE CLOISTERS DESIGN GUIDELINES.
5. TOPOGRAPHIC INFORMATION SHOWN ON THIS MAP IS BASED ON A SURVEY PERFORMED BY GARING TAYLOR & ASSOCIATES IN JANUARY 2017
6. EUCALYPTUS TREE REMOVAL (17) DENOTED WITH

ABBREVIATIONS

ABAN	ABANDONED	PUE	PUBLIC UTILITY EASEMENT
AC	ASPHALT CONCRETE	P	PROPOSED
CL	CENTERLINE	PVC	POLYVINYL CHLORIDE
ELEC	ELECTRIC	S	SLOPE
ESMT	EASEMENT	SD	STORM DRAIN
EX	EXISTING	SDMH	STORM DRAIN MANHOLE
FF	FINISHED FLOOR	SS	SANITARY SEWER
FG	FINISHED GRADE	SSCO	SANITARY SEWER CLEANOUT
FL	FLOW LINE	SSMH	SANITARY SEWER MANHOLE
FS	FINISHED SURFACE	S/W	SIDEWALK
GR	GRATE	TC	TOP OF CURB
HP	HIGH POINT	TW	TOP OF WALL
IE	INVERT ELEVATION	TYP	TYPICAL
LAT	LATERAL	WL	WATER LINE

VESTING TENTATIVE MAP

FOR

TRACT No. 2859

BEING A SUBDIVISION OF LOT 124 OF TRACT NO. 1996, PER THE MAP RECORDED IN BOOK 17 OF MAPS AT PAGE 83, INTO SIX RESIDENTIAL PARCELS RANGING IN SIZE FROM 6058 SQ. FT. TO 8521 SQ. FT.

MORRO BAY, CALIFORNIA

PREPARED FOR:
Owners/Applicant:

Kevin Huber
Morro Bay Ventures, LLC
3255 W. March Lane, Suite 400
Stockton, Ca. 95219

PREPARED BY:
Engineer:

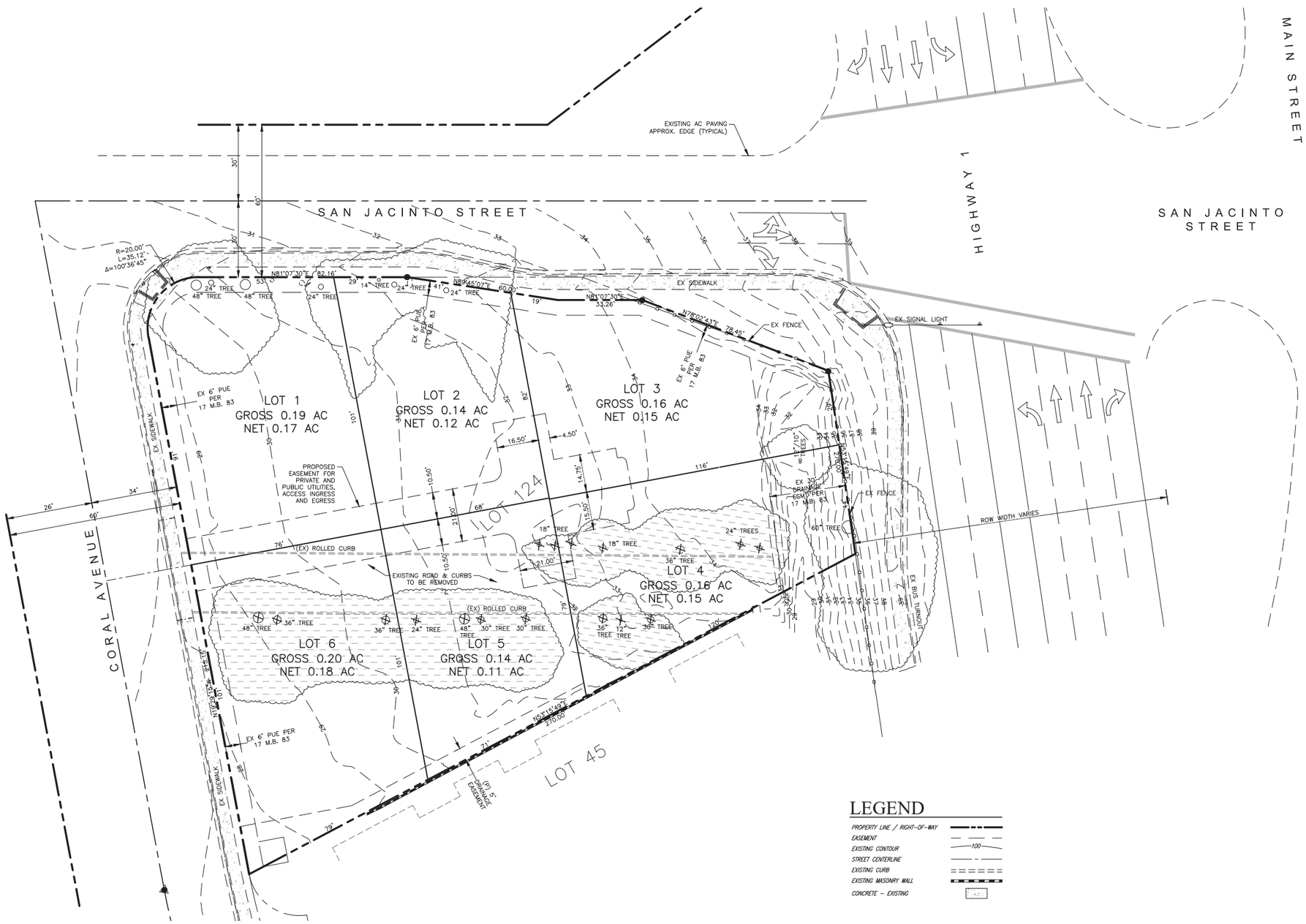
Garing Taylor & Associates
141 S. Elm Street
Arroyo Grande, CA 93420
(805) 489-1321
Jeffrey J. Emrick, P.E.

GTA No.: 16-628.000
Plot Date: 7/20/18
File Name: 16-628-BASE.DWG

Sheet 3 of 3

GARING, TAYLOR & ASSOCIATES, INC.
CIVIL ENGINEERS SURVEYORS PLANNERS
141 SOUTH ELM STREET · ARROYO GRANDE, CA 93420 · (805) 489-1321

ATTACHMENT D



LEGEND

- PROPERTY LINE / RIGHT-OF-WAY
- EASEMENT
- EXISTING CONTOUR (100)
- STREET CENTERLINE
- EXISTING CURB
- EXISTING MASONRY WALL
- CONCRETE - EXISTING

VESTING TENTATIVE MAP

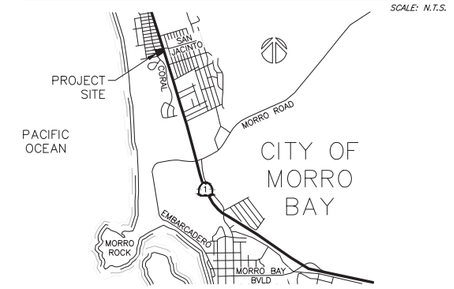
EXISTING CONDITIONS

0 10 20 40

SCALE: 1" = 20'

VICINITY MAP

SCALE: N.T.S.



PROJECT DATA

1.	PROJECT ADDRESS:	SE CORNER OF CORAL & SAN JACINTO
2.	TRACT SIZE:	43,099 SQFT (0.99 AC)
3.	ASSESSOR'S PARCEL NO.:	065-386-015
4.	ZONING:	COASTAL RESOURCE RESIDENTIAL/ GOLF PLANNED DEVELOPMENT
5.	PROPOSED USE:	SINGLE FAMILY RESIDENTIAL
6.	WATER SUPPLY:	CITY OF MORRO BAY
7.	SEWAGE DISPOSAL:	CITY OF MORRO BAY
8.	GAS:	SOUTHERN CALIFORNIA GAS CO.
9.	ELECTRICITY:	PACIFIC GAS & ELECTRIC
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FL	FLOW LINE	SSMH	SANITARY SEWER MANHOLE
FS	FINISHED SURFACE	S/W	SIDEWALK
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VESTING TENTATIVE MAP

FOR

TRACT No. 2859

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PER THE MAP RECORDED IN BOOK 17 OF MAPS AT PAGE 83,
INTO SIX RESIDENTIAL PARCELS RANGING IN SIZE
FROM 6058 SQ. FT. TO 8521 SQ. FT.

MORRO BAY, CALIFORNIA

PREPARED FOR:
Owners/Applicant:

Kevin Huber
Morro Bay Ventures, LLC
3255 W. March Lane, Suite 400
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PREPARED BY:
Engineer:

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141 S. Elm Street
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(805) 489-1321
Jeffrey J. Emrick, P.E.

GTA No.: 16-628.000
Plot Date: 7/20/18
File Name: 16-628-BASE.DWG

Sheet 1 of 3

GARING, TAYLOR & ASSOCIATES, INC.
CIVIL ENGINEERS SURVEYORS PLANNERS
141 SOUTH ELM STREET · ARROYO GRANDE, CA 93420 · (805) 489-1321

ATTACHMENT E

Cloisters of Morro Bay - Architectural Review Committee

July 23, 2018

To: Kevin and Fritz Huber of the Grupe Commercial Company
& Morro Bay Ventures, LLC
c/o Mr. David Watson, AICP
Watson Planning Consultants
P.O. Box 385
Pismo Beach, CA. 93448

RE: Six Lot, New, Single Family Residental Development
Corner of Coral Ave. and San Jacinto St.
Lot 124, Tract 1996
The Cloistes of Morro Bay
Morro Bay, CA. 93442

Dear Mr. Watson,

Please accept this letter as the offical, and required, architectural review notification for the six proposed new single family residences, in the Cloisters of Morro Bay, at the above mentioned location.

We have reviewed the plan set, as prepared by the RRM Design Group (project # 0949-01-RS17) and dated 11/13/2017, with the proposed schematic landscape plan (dated 1/18/2018), and have found that the project is in satisfactory compliance to the standing and approved Cloisters Design Guidelines and is schematically approved with the following conditions:

1. This project is to be in conformance with the City of Morro Bay development standards, ordinances, and land use policies. There shall be no variation, modification or change to the intent, or design of the proposed work, without the expressed and written approval of the Cloister's Architectural Review Committee.

2. Please include all landscape and exterior lighting (type and location of fixture) for all proposed residences and lots.

Please submit your final, construction plans for final review prior to making application for building permits.

Should you have any questions, regarding this review or approval, please contact me at your convenience.

Sincerely,

Craig R. Smith

Craig R. Smith, AIA
Architectural Design Consultant to the Cloisters Architectural Review Committee
c/o CRSA Architecture
890 Monterey Street, Suite A, San Luis Obispo, CA. 93401
805 544-3380 x 202 | crsa@craigrsmithaia.com

SUPPLEMENTAL CLAIMS - EXHIBIT 1

Thank you for the opportunity to appeal the approval given by the Planning Commission regarding 2783 Coral Avenue, lot 124 of the Cloisters. Per the agreement with the original owner(s) and approval of the Coastal Commission and City of Morro Bay regards the restrictive covenant, **Lot 124 is subject to the Governing Documents, the CC&R's and Design Guidelines.**
Some of the issues, though not all, relative to this appeal are:

Proper notification: Several points here:

Claim 1

This is not simply an add-on to a house, not impacting anyone. This is an entirely new subdivision under the purview of the Cloisters with a tie in to each and every parcel owner, via GOVERNING DOCUMENTS and a common special lighting and landscaping district, subject to a shared fee. No one was notified in regards to their common financial interest. The only notification given to all at the Cloisters was a sign going up ten days prior to the hearing.

Claim 1

Prior to the staff report being completed, the Cloisters Design Committee via Steve Stevens (Dawn Beattie,) communicated to the City of Morro Bay Planning Department that per their authority in the Governing Documents, all parcel owners of the Cloisters need be notified to allow their voices to be heard. Per the Governing Documents, granted by the Coastal Commission and the City, the Committee has the "absolute and sole discretion" to determine the need for notification. The City failed to put that objection in the Staff Report. This omission to the Planning Commission gave an absolutely false impression.

Claim 2

Furthermore, Steve Stevens, upon being made aware of the project via the sign, on being behalf of the Design Committee, contacted the architect of the Design Committee to communicate to the City that the preliminary schematic review was to be solely in regards to materials, and a very narrow acknowledgement. The architect was directed to communicate to the City that any approval would be limited to materials and subject to Design Committee approval in order to allow parcel owners of the Cloisters an opportunity for input. The letter submitted by the architect regarding the Approval does not reflect the intention of the Design Committee. Beyond that, the City ignored the directions of the Design Committee regarding need for notification and the limited scope of the architect's review. Again, to reiterate, this false impression lingers. The City staff report had an opportunity to clearly convey this direction to the Planning Commission. The architect has resigned and is no longer communicating.

Land use

Claim 3

One of the questions asked at the Hearing, not addressed by the City, pertains to how the City is able to proceed with approval of the submitted tract when in 2013 the then temporary City Attorney, unilaterally squashed a pending escrow of a sale to a private party at $935,000, on the basis of the Cloisters not having proper entitlements beyond the original 120 parcels. What has changed from 2013 to now?

The then City Attorney was absolute in her legal opinion that the City could not proceed and would not allow the prospective buyer the opportunity to pursue.

Claim 4

Special Lighting and Landscaping Assessment District Fees. This is one impacting everyone. Can an existing Lighting and Landscaping District be blown up and expanded without a vote? What is the legal foundation for that opinion? Did the City Attorney write an opinion regarding said district if this property is no longer a fire station site owned by the City? Why, as a privately owned lot, has it not been part of the Special Assessment? Accordingly, Why was every parcel owner not notified?

Claim 5

The Coastal Commission via the Governing Documents calls for **Compatibility** within the Cloisters? The minimum square footage of lots within the Cloisters is 6,000 square feet. There are no private roads in the Cloisters. There are sidewalks throughout the Cloisters. The Design Committee has never had an opportunity to review, or have input from the parcel owners of the Cloisters regarding compatibility. The City and the applicant are obligated to the Governing Documents, the covenants, and restrictions per Lot 124.

Claim 5

Parking is a prime concern. Because of this current configuration and submission of 6 lots, two of the properties have only 12 foot driveways. Parking considerations will only encourage increased parking on Coral and can impact visibility concerns with beach access on Azure, traffic on Verdon, traffic on Coral, traffic turning off San Jacinto, all within a very compact and already congested area. Fire and safety considerations come into play.

Sale of Public Property, including offering City carry back financing without an appraisal

As noted in the e-mail sent prior to the hearing to the City and individual Planning Commissioners, extensive discussions took place previously with Rob Schultz, at the time, the City Attorney. On a publicly owned property, in 2013, the City of Morro Bay, walked away from a $935,000 all cash buyer after securing an independent professional appraisal of $900,000. The basis of the Appraisal was on the behest of protecting public interests. The temporary City Attorney subsequently blocked the sale relative to City Liability.

Claim 3

In 2016, in a vastly improved real estate market, the City declined to order an appraisal of this publically owned property, but instead used a <u>one year old</u> B.P.O. created by the same broker representing both the prospective buyer and the City in **dual representation, to establish value.**

Then the City behind closed doors, to the exclusion of any other prospective buyers, offered new terms and conditions of the sale of the publically owned property, exclusive to this buyer, offering to carry City financing of over 90%, again without a new appraisal, though public policy in regards to protecting public interest dictates

Claim 3

an independent **current** appraisal in regards to residential mortgage loans secured by the property, an analogous protection of public funds. The net result is this lack of a fair and competitive offering negated any other higher bids, and did not serve the public interest, and suppressed the opportunity in a competitive market for higher bids, especially with the City offered financing of over 90%. There are obvious conflict of interest issues, failure to disclose considerations effecting the value, and now a glaring and compelling self-interest that the City has in getting the over 90% note paid off through approval of this submission.

Further Project issues needing deliberation

Claim 6

In response to a question regarding ownership, the City Planner answered that the City still is the owner of the Property. That is not the case and that was never made clear to the Planning Commissioners.

Claim 4

If the property is converted to residential use, how is it that the **engineer's report of the past 3 years** does not acknowledge that? What has the status of the lot been relative to the Cloisters? Why was this not discussed with the parcel owners of the Cloisters?

Claim 7

The City responded incorrectly to the question of **Vacation Rentals** allowance.

Claim 8

The issue of **Raptor habitat** was not fully answered. When was the last professional opinion written regards the raptor habitat concerns? This consideration absolutely needs to be clarified.

On behalf of Dawn Beattie
and the Cloisters Design Committee.

Nancy Hubbard

From: Dawn_Beattie <Dawn_Beattie@charter.net>
Sent: Thursday, September 13, 2018 9:17 AM
To: Scot Graham
Cc: Nancy Hubbard
Subject: Re: additional appeal letter

Yes, I agree you can add it to the appeal.

-------- Original message --------
From: Scot Graham <sgraham@morrobayca.gov>
Date: 9/13/18 8:05 AM (GMT-08:00)
To: Dawn Beattie <Dawn_Beattie@charter.net>
Cc: Nancy Hubbard <nhubbard@morrobayca.gov>
Subject: additional appeal letter

Hi Dawn,

Can you confirm that you agree to add the attached letter to your appeal of the Cloister 6 lot subdivision? Letter seems to raise mostly the same issues that we have already addressed with both you and Steve. Letter was submitted at the end of business yesterday by Steve Stevens.

Thanks,

Scot Graham

Community Development Director

City of Morro Bay

(805) 772-6291

sgraham@morrobayca.gov

SUPPLEMENTAL CLAIMS - EXHIBIT 2

RESOLUTION NO. 59-16

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA AUTHORIZING THE SALE OF CITY OWNED PROPERTY LOCATED AT 2783 CORAL AVENUE APN: 065-386-015

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, the City of Morro Bay desires to sell certain City-owned property located at 2783 Coral Avenue in the City of Morro Bay, with APN: 065-386-015 (the "Sale Property"), bounded to the West by Coral Avenue, North by San Jacinto and East by State Highway 1; and

WHEREAS, Jeff Mayer has submitted an offer in the amount of $799,000.00 to the City for purchase of the Sale Property; and

WHEREAS, the Planning Commission, on April 19, 2016, adopted Resolution No. 13-16 finding the sale of the vacant City-owned property consistent with the City of Morro Bay General Plan; and

WHEREAS, the Council finds there is no present or anticipated future use of the Sale Property, for public purposes; and

WHEREAS, the sale of the Sale Property is both consistent with the City's General Plan and is for the benefit of the City's citizens;

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

1. The City Council hereby finds the sale of the Sale Property is in the public interest.
2. The City Council hereby finds the sale of the Sale Property for the amount of $799,000.00 is in the public interest for the common benefit of the City's citizens and is not below the fair market value of the Sale Property.
3. The City Council approves the sale of the Sale Property to Jeff Mayer in the amount of $799,000.00 less sales commission, escrow and closing costs.
4. The City Manager or his designee is authorized to execute the Purchase Sale Agreement and all other documents to effectuate the sale of the Sale Property.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 12th day of July, 2016 on the following vote:

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

Jamie L. Irons
JAMIE L. IRONS, Mayor

ATTEST:

Dana Swanson
DANA SWANSON, City Clerk

FIRST AMENDMENT TO VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS
(2783 Coral Avenue, Morro Bay, CA)

This FIRST AMENDMENT TO VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS ("First Amendment"), dated for reference purposes only September 14, 2016, is entered by and between the CITY OF MORRO BAY, a municipal corporation ("Seller"), and JEFF MAYER and/or his assignee ("Buyer").

RECITALS

A. Seller and Buyer entered into that certain Vacant Land Purchase Agreement and Joint Escrow Instructions dated for reference purposes on or about July 1, 2016 (as amended, the "Purchase Agreement"), pursuant to which Seller agreed to sell to Buyer, and Buyer agreed to purchase from Seller, upon the terms and conditions of the Purchase Agreement, certain real property owned by Seller and located at 2783 Coral Avenue, Morro Bay, San Luis Obispo County, California 93442 (Assessor's Parcel No. 065-386-015) and more particularly described in the Purchase Agreement;

B. Buyer's has completed his preliminary study and investigation of the Property and has determined completing the land use entitlement process necessary for the subdivision of the Property into six (6) single-family home sites, as contemplated by Buyer, (the "Project") will require a greater amount of time and the expenditure of a significantly greater amount of money. Accordingly, pursuant to the Purchase Agreement, Buyer notified Seller Buyer is currently unwilling to proceed with the Close of Escrow;

C. The parties have determined it is in their mutual interest to expedite a Close of Escrow by restructuring the financing terms set forth in the Purchase Agreement to provide for, among other things, an additional deposit and increased Seller financing; and

D. The parties now desire to amend the Purchase Agreement as hereinafter set forth.

AMENDMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements in this First Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

1. Definitions and Recitals. Capitalized terms that are not defined in this First Amendment shall have the meanings given to them in the Purchase Agreement. The parties acknowledge and agree to the truthfulness of the foregoing recitals, which are hereby incorporated into this First Amendment.

2. Increased Deposit. Buyer shall deliver to Escrow Holder an increased deposit in the amount of $30,000.00, for a total down payment amount of $50,000.00 ("Down Payment") within five (5) business days after the complete execution and delivery of this First Amendment.

The Down Payment shall be non-refundable and is intended to serve as liquidated damages pursuant to paragraph 27B, except in the event of Seller's default or failure of a material condition to Closing.

3. Seller Financing. Buyer agrees to deliver to Seller through Escrow at Closing Buyer's promissory note ("Note") secured by a deed of trust ("Deed of Trust") encumbering the Property in favor of Seller for the balance of the purchase price ($749,000.00), bearing interest at the rate of five percent (5%) per annum, compounded monthly, from the Close of Escrow, payable in monthly installments of interest only (in arrears) beginning on October 1, 2016, and continuing until maturity, unless paid sooner. The forms of Note and Deed of Trust shall be as reasonably agreed to by the parties at least three (3) business days prior to the Close of Escrow, but shall contain the following terms and conditions:

(a) Maturity of the Note: Upon the earlier to occur of:

(i) 36 months following the Close of Escrow;

(ii) 30 days following (1) Buyer's receipt of all necessary and final/non-appealable land use entitlements and approvals for the Project (from all governmental agencies, commissions or authorities having jurisdiction over the Project) (collectively the "Entitlements") and (2) the running of any applicable statutes of limitation relating to initiating legal action to challenge the Entitlements or the Project; or

(iii) 30 days following Seller's written notice to Buyer after Seller, acting reasonably and in good faith, determines Buyer has failed to either pursue the Entitlements for the Project or defend any legal action relating to the Entitlements or the Project; provided, that if the latter occurs Seller shall have no obligation to defend that legal action.

(b) Suspension of Monthly Note Payments: In the event Buyer is a party to or is otherwise forced to defend (or commence) legal action related to the Entitlements, monthly payments due pursuant to the terms of the Note shall be suspended for so long as Buyer is involved in such legal action. Notwithstanding the suspension of payments, interest shall continue to accrue on the outstanding balance of the Note.

(c) Indemnification Related to Entitlement Litigation. Buyer shall defend and indemnify Seller from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, reasonable attorney's fees, disbursements and court costs) which may arise from the Project and/or the Project's approval, whether based on Seller's CEQA determination or other governmental decision; provided that Buyer's obligation to indemnify does not apply to the extent Seller is found liable for gross negligence or willful misconduct.

4. Close of Escrow. Close of Escrow shall occur on or before September 30, 2016.

5. Commission. Notwithstanding anything to the contrary contained in the Purchase Agreement or any listing or other representation agreement between Seller and Ciano Real Estate Inc. ("Agent") regarding the Property, Agent and Seller agree any commission or compensation otherwise payable by Seller upon the Close of Escrow shall be paid when and only to the extent of cash received by Seller on account of the Purchase Price.

6. Further Assurances; Cooperation. Each of the parties shall execute such other and further documents and do such further acts as may be reasonably required to effectuate the intent of the parties and carry out the terms of this First Amendment. Without limiting the foregoing, the parties shall execute and deliver such instructions as necessary to transfer the escrow and Buyer's deposit to the Escrow Holder designated herein and to cause the Preliminary Report to be issued expeditiously.

7. No Further Amendment. Except as expressly provided in this First Amendment, the Purchase Agreement remains unmodified and in full force and effect. Further, all the terms and provisions of the Purchase Agreement apply to this First Amendment except as modified by this First Amendment.

8. Interpretation. The provisions of this First Amendment shall be construed as to the fair meaning and not for or against any party based upon any attribution of such party as the sole source of the language in question. In the event of any inconsistency between this First Amendment and the Purchase Agreement, the terms of this First Amendment shall prevail.

9. Counterparts. This First Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument. To facilitate execution of this Agreement, the parties may execute and exchange by electronic mail or telephone facsimile counterparts of the signature pages.

IN WITNESS WHEREOF, the parties have executed this First Amendment on the dates below written.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)

BUYER:

Jeff Mayer

Dated: September 9, 2016.

SELLER:

CITY OF MORRO BAY, a
municipal corporation

By: _____
Jamie Irons, Mayor

Dated: September 14, 2016.

ATTEST:

Dana Swanson, City Clerk

APPROVED AS TO FORM:

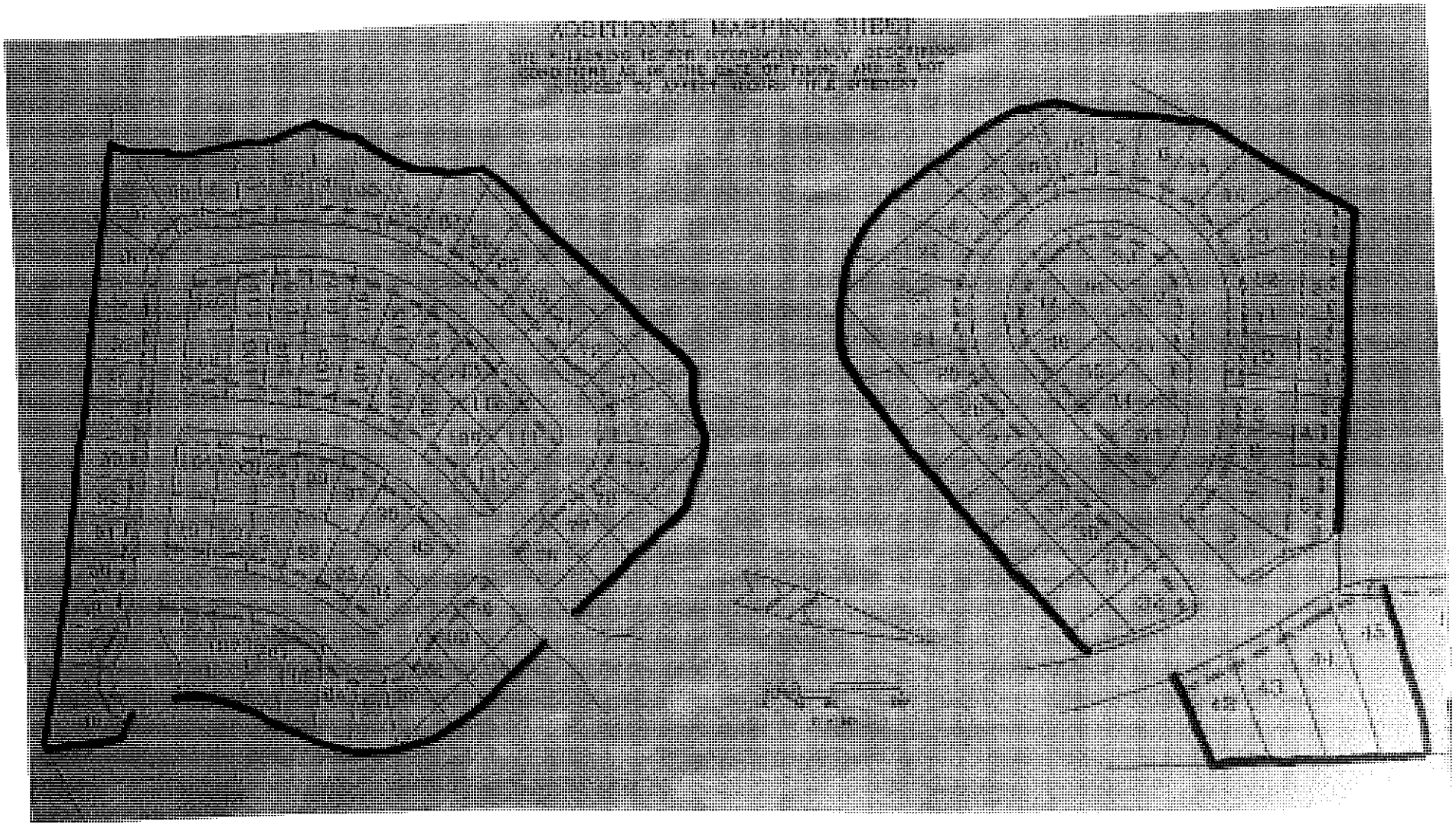
Joseph W. Pannone,
City Attorney

Agreed as to Paragraph 5:

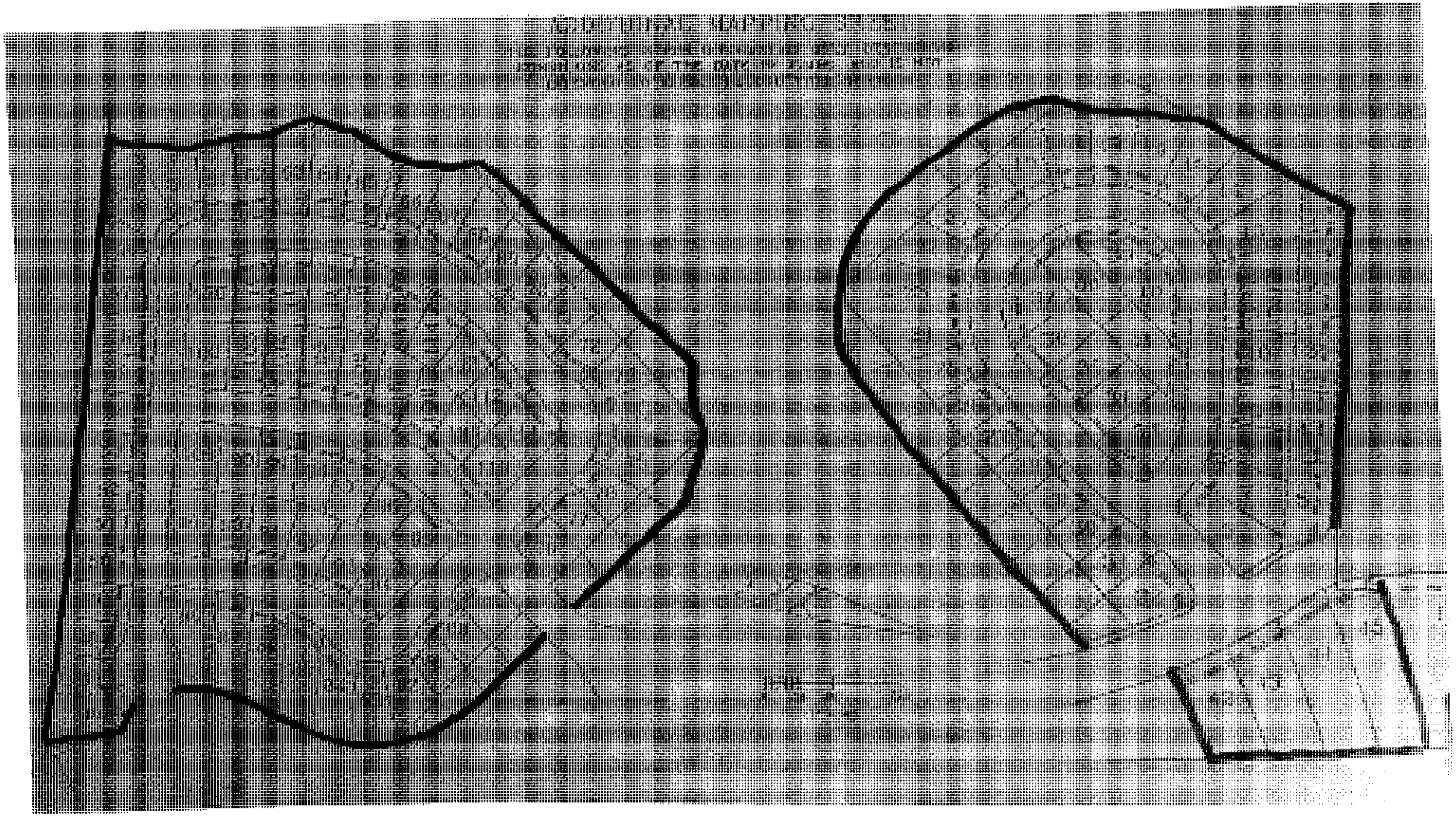
Ciano Real Estate, Inc., a
California corporation

By: _____
Frank M. Ciano, President

SUPPLEMENTAL CLAIM – EXHIBIT 4



SUPPLEMENTAL CLAIM – EXHIBIT 4



ciano REAL ESTATE

"The finest in real estate service.

Frankie M. Ciano
Broker/Owner
Direct: (805) 748-1026
E-mail: frankie@cianorealestate.com
CA BRE #01412309

Steve Stevens
Broker/Associate
Direct: (805) 801-0613
E-mail: steve@cianorealestate.com

BROKER VALUE OPINION: $ 799,000
SUBJECT PROPERTY: 2783 Coral Ave, Morro Bay, CA 93442
ASSESSOR'S PARCEL NUMBER: 065-386-015

➢ OVERVIEW

This broker value opinion letter is generated for the purpose of establishing the foundation for an asking price of the subject city owned lot at the corner of San Jacinto Street and Highway 1. Accordingly this review was completed on May 8, 2015 and is a comprehensive evaluation of the property, including a desk review, taking into account tax records indicating a 1.0660 acre/46,435 square foot lot.

➢ PROPERTY LOCATION

The subject property is in the beachside custom residential area of Morro Bay commonly known as the Cloisters, located west side of Highway 1, and south of San Jacinto Street. The Cloisters, has two beach entry points and offers a one acre community park, with over two miles of pathway walking and bicycling trails adjacent to dunes, ponds, and wetlands, with extended trails allowing access to the harbor, with it's quaint fishing village allure and restaurants and shops of the downtown area. It is conveniently situated within walking distance of Del Mar Elementary and Morro Bay High School.

➢ BACKGROUND

The lot, granted to the city of Morro Bay as part of the original agreement between the city of Morro Bay and the developer of the Cloisters, was dedicated as a site for a fire station. When it was decided that alternatives existed in that vein, the city of Morro Bay took a different direction and subsequently approved a vested tentative tract map for a six lot subdivision in November of 2007. Through the years, discussions took place between the city and various prospective buyers. In early 2013, the city had an offer submitted in the mid six hundred thousand dollar range, through negotiations led to no resolution. Consequently the city decided to formerly place the property on the market and after awarding the privilege of representation to Ciano Real Estate Inc. the property was marketed and a prospective buyer was found. An agreed upon sales price of $935,000 (Nine hundred thirty five thousand dollars), was accepted, and validated by a professional appraiser, hired by the city in November of 2013. Prior to consummation of the agreed upon terms and conditions, the city attorney determined deficiencies relative to authority of the Coastal Commissions per the tentative tract map, and that it could not deliver as originally indicated. The escrow was canceled upon the city's initiative.

➢ PRICE ANALYSIS

In November 2013, the professional property appraisal validated the agreed upon sales price with a ready, willing, and able buyer. The established figure of $935,000 also indicated a ready to break ground project, including a vested tentative tract map for a six lot subdivision. While the economy has improved, there still is a sluggish response to whole sale land spec development, though it would not be unreasonable to plug-in 2% annual appreciation, or roughly $25,000 addition to suggested value. While the city is receptive to considering any number of possible uses for the property, this analysis of value assumes the same six lot subdivision as highest and best use. In doing so a number of variables come into play for any prospective buyer with the inherent risks:

1) Can the property still proceed as originally approved?
2) What is the holding period and costs involved? Being subject to Coastal Commission approval, it is also vulnerable to no-cost appeals and possible lengthy delays.
3) How is the current water restriction and cutback approach going to impact any development? At a minimum, the cost to secure entitlements, runs approximately $150,000 to $175,000, along with the aforementioned risks to be considered.

➢ CONCLUSION

The Broker Value Opinion: **$799,000** was generated by taking the last professional appraisal, adding appreciation, and backing off the cost to secure entitlements, and factoring in the holding and risk considerations, as well as weighing comparable properties.

➢ COMPARABLE PROPERTIES

ACTIVE COMPARABLE #1

Listing Price:	$ 439,000
Type:	Multi Family
Lot Sq Ft:	16,335
Lot Acres:	0.3750
Listing #:	200783

535 Atascadero Rd., Morro Bay

Zoned R-4 in Planned Development Overlay area in Morro Bay. Walking distance to the beach. Great development potential for many residential uses. This area has several Townhome/Condo/PUD projects already built out. Check with the City regarding density for this type of residential project. There is an old home and garage structure on the property that is not habitable but could be rehabbed and or used as a remodel. Information not verified.

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ACTIVE COMPARABLE #1

Listing Price: $ 495,000
Type: Multi Family
Lot Sq Ft: 24699
Lot Acres: 0.5670
Listing #: 1054336

Highway 41, Morro Bay

R-4 lot on Hwy 41 close to intersection of Hwy 41 and Hwy 1. Easy build, slight slope. Hwy 41 East to Hill St. Turn left on Hill then take dirt road immediately to right. Lot is on the left side a short distance down the road

ACTIVE COMPARABLE #2

Listing Price: $ 780,000
Type: Sng/Multi Fam
Lot Sq Ft: 16265
Lot Acres: 0.3734
Listing #: 1053103

1899 Sunset, Morro Bay

6 Townhouse PUD project, approved by City of Morro Bay with plans, ready to pick up permits in 2008. This turn-key development for a 6 PUD's was 3 legal lots split into a 6 lot PUD by City of Morro Bay. The Project is ready to start. Bring Developers, Builders and All Offers.

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PENDING COMPARABLE #1

401 Atascadero, Morro Bay

Listing Price: $ 675,000
Type: Multi /Commin
Lot Sq Ft: 29621
Lot Acres: 0.6800
Listing #: 1052746

Optimal 40,770 square foot vacant land for development, zoned R-4/Mixed Use. Some ocean and rock views from highest point. Located in the Main Street Specific Plan Overlay, which allows for many potential uses, including commercial or mixed use. There are 7 legal lots, 3 with APNs. Other APNs included are 068-323-035 and 068-323-036. Some Archaeological has been completed. Talk to the City regarding uses here. Information is not verified or guaranteed.

PENDING COMPARABLE #2

1111 Main St, Morro Bay

Listing Price: $ 593,000
Type: Sng/Multi Fam/Commin
Lot Sq Ft: 22956
Lot Acres: 0.5270
Listing #: 1048522

Corner lot with ingress/egress on both Main St and Beach St. Mixed commercial/residential development opportunity in a prime Morro Bay location that offers high traffic, high visibility and panoramic views of the ocean, rock, bay and Embarcadero. 1/2 + acre corner lot with a multitude of options for building. Close distance to a highway on ramp. Conveniently located in downtown Morro Bay. This is a commercial lot with mixed use opportunities. Verify with city and planning but it has been said condos/res are possible. If you have a dream to develop, you can make it come true here at the corner of Beach and Main!

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➢ BROKER RESUME – FRANKIE CIANO

Frankie Ciano has been in the California real estate business for over 13 years, and been licensed as a Real Estate Broker 10 years. In 1998, he relocated to the Central Coast of California, and prior to operating Ciano Real Estate Inc. Frank received a bachelor's degree from California Polytechnic University, became an Associate for a real estate group where he received top sales Associate three consecutive years, until he decided to create his own venture. In addition to representing a wide variety of clients from Sellers, to investors, and developers, in 2013 his firm was selected through a competitive multi firm submission process as the exclusive representative by the City of Morro Bay in the sale of a city owned property. A similar achievement was accomplished by his firm when a five star resort located in Shell Beach CA interviewed several brokerages throughout the state and selected Ciano Real Estate Inc. as their exclusive Broker. Frankie has been working diligently on The Dolphin Bay Resort contract now for over 3 year with great success. Most recently, Frankie Ciano and Ciano Real Estate Inc. was awarded exclusive representation of a new cutting edge, multi-unit, Avila Beach development, again through a competitive marketing and presentation process. Mr. Ciano is optimistic about the future real estate market on the Central Coast of California, and looks forward to the opportunity of working with you to create amazing results!

➢ BROKER RESUME – STEVE STEVENS

Steve has been in business since 1971, California real estate broker since 1982. He was the original exclusive broker of the "The Cloisters" beachside development, sold all original 120 lots: has participated in more sales in the Cloisters from the approval of the subdivision than any other sales agent, worked with a substantial number of principals and builders throughout the construction process, and has established good relationships and contacts, which can help facilitate a successful sale of the development. Steve has through the years brokered independent and corporate offices in Southern California, and trained countless agents in the business of real estate. Prior to moving to Morro Bay, Steve worked as the exclusive representative of developers of the Cloisters on a number of transactions in Southern California, including facilitating the sale of a 45 unit residential condominium conversion project in Brentwood Village, his last hurrah to Los Angeles. Subsequently he has represented the real estate needs and wants of clients throughout the county of San Luis Obispo.

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AGENDA NO: C-1

MEETING DATE: September 25, 2018

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 18, 2018

FROM: Eric Endersby, Harbor Director

SUBJECT: City Council Input and Direction on Update of the Harbor Department Lease Management Policy Document

This item was continued from the September 11, 2018 City Council Meeting. The original staff report and all supporting documents are included for reference.

Prepared By: __DS_____ **Dept Review:** _____

City Manager Review: _____ **City Attorney Review:** _____

AGENDA NO:	**C-2**
MEETING DATE:	**September 11, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: August 27, 2018**

FROM: **Eric Endersby, Harbor Director**

SUBJECT: **City Council Input and Direction on Update of the Harbor Department Lease Management Policy Document**

RECOMMENDATION
Staff recommend the Council provide input and direction on the Harbor Department Lease Management Policy update process being proposed.

ALTERNATIVES
No alternatives are being presented at this time.

FISCAL IMPACT
There is no direct fiscal impact to this action.

BACKGROUND
The City's current Lease Management Policy (LMP) was created in the early 2000's, and adopted by the City Council in October 2001. It was created to provide a guidance document for management of the City's Tidelands Trust lease sites to ensure protection of the public interest and benefit, while at the same time promoting good site development and redevelopment in partnership with tenants willing to invest and do business on the waterfront.

According to the LMP: "*The purpose of this document is an attempt to integrate existing policy with a broader statement of public leasing policy to enhance public understanding and provide a framework for future actions.*"

While the LMP is a good "mission statement" of sorts and has done a good job of achieving its stated purposes, it is lacking in many respects with regard to providing the Council and staff more detailed and specific policy process, methodology, standards and criteria by and with which to achieve those purposes. Recognizing that, the City Council established updating the LMP as a Council objective item for 2018

Staff has begun soliciting input from some Morro Bay waterfront leaseholders, in addition to researching the leasing policies and documents of other public port and harbor agencies. Enough progress was made on those fronts and good information and insight garnered to enable staff to propose a draft path and process forward for Council input and direction, at this time.

DISCUSSION
Staff are seeking input and direction on three primary actions of a proposed LMP update process:

Prepared By: ___EE_____	**Dept Review:** ___EE___
City Manager Review: ___SC_____	**City Attorney Review:** ___JWP___

Action 1: The LMP document itself, and what we want it to be?

In staff's estimation the current LMP is a solid base document and should be retained, albeit revised and restructured, to best provide the over-arching leasing policy and procedures from the "30,000-foot altitude" perspective. In areas where more policy, procedure or criteria detail is warranted (the "10,000-foot altitude" perspective), such as how to conduct the periodic percent gross audits, undertake lease negotiations or financial partnership policy and parameters, longer and more in-depth follow-on "policy directive" or "policy implementation" documents would be created. Those documents would be more nimble, that is, updateable and modifiable, than periodically revising the whole LMP document.

Is Council in concurrence with that approach?

Action 2: What areas of the LMP warrant "policy directive" or "policy implementation" documents?

Staff have identified a preliminary list of areas they believe should have directive or implementation documents (in no particular order or degree of priority):

A. Lease sale, assignment and assumption
B. Subleasing
C. Lease negotiations
D. Lease renewal and extension
E. Lease term
F. Fair market rent
G. Percent gross rental rates
H. Percent gross auditing
I. Site inspection and compliance monitoring
J. Site redevelopment
K. Financial partnership criteria and financing
L. License agreements
M. Approved uses

Is the Council in concurrence with that list or does Council, wish to add, remove or combine any items on that list?

Action 3: The process by which to undertake this LMP update?

It is staff's recommendation a stakeholder advisory group approach take place to assist in the LMP update, such as an ad-hoc committee or task force. Such a group could consist two Council Members, two Harbor Advisory Board (HAB) Members and two waterfront leaseholders assisted by key City staff, working in a collaborative approach, and also tapping such sources as the Chamber of Commerce, local lenders or developers to ensure good input and opinion from many aspects of the various issues. Such an ad-hoc committee must comply with the Brown Act, since it would be created by Council action and include members of both the Council and HAB.

Another approach could be for the City Manager, in consultation with the Harbor Director, to seek input from an ad-hoc committee consisting of two HAB Members, selected by the HAB, and two waterfront leaseholders, selected by staff, whose comments, suggestions, recommendations and input could be provided to a subcommittee of two Council Members, selected by the Council, which would then make recommendations to the entire Council.

Which approach does the Council prefer? Further, if the chosen approach includes a Council subcommittee, then does Council, at this time, wish to appoint the two Council subcommittee members?

CONCLUSION

Once staff receive input and direction on the action areas outlined, or other areas or topics the Council wishes to address, staff will continue implementing the LMP update process. A proposed timeline for the update is as follows:

September 11, 2018 – City Council approves a process and approach.

September and October, 2018 – staff seek suggestions and recommendations from the ad-hoc committee/stakeholder group and propose a draft LMP (including follow-up documents, as needed), for presentation to the City Council or Council subcommittee, as appropriate, for input.

October 23, 2018 – staff bring a first draft of the updated LMP to the Council or Council subcommittee, as appropriate, for input.

November 13, 2018 – final draft brought to Council for approval.

If one or more special Council meetings are scheduled in the timeline above, then the LMP update could be added to the agenda for additional Council and public input.

ATTACHMENTS

1. Current City of Morro Bay Harbor Department Lease Management Policy

CITY OF MORRO BAY
HARBOR DEPARTMENT LEASE MANAGEMENT POLICY

BACKGROUND

Tracing back to English Common law the Public Trust Doctrine establishes that navigable water or lands subject to tidal influence are "sovereign", held open to the public for commerce, fisheries or navigation. In 1942-44, the federal government constructed a revetment along the Morro Bay waterfront and filled most of the area now known as the commercial strip along the Embarcadero. The State of California claimed ownership of the newly created land as at least a portion of it had previously been below the high tide line. After many years of dispute with private property owners, who also claimed an interest in the land, most title issues were settled in the 1950s-1960s by designating those lands west of Embarcadero Road as public trust lands owned by the State, and those lands east of Embarcadero Road as privately owned. Attached is a map of the tidelands grant in Morro Bay.

In 1947, the State of California granted those public trust lands in Morro Bay to the County of San Luis Obispo. The City of Morro Bay assumed trusteeship of the granted lands upon incorporation in 1964-1965. The tidelands grant in Morro Bay is in perpetuity, provided the City conforms to the terms of the legislative grant. The granted lands must be used for commerce, fisheries, navigation, recreational purposes, parklands, public access, public parking and environmental protection or enhancement. Residential use of these public lands is specifically prohibited. The City may lease out these lands to private businesses for a period up to 50 years and all revenues from such leases must be expended within the area of the granted lands for the purposes of the public trust. Much of the granted lands were leased to established businesses in the 1960s on long-term leases that provided low rental rates in exchange for tenant investment in the business on the sites or settlement of previous land ownership or county lease disputes. Some of these old long-term leases have accrued significant "bonus" value to the benefit of the private party because waterfront property values have increased far in excess of the contractual rental return to the City.

Over the years, the City has changed its leasing practices and policies to better protect the public interest by adopting modern lease formats and standards for fair market rent and periodic rental adjustments. There has been some resistance on the part of existing tenants to changes in the City's leasing practices and many issues regarding granted land use and City policy have been difficult to make clear to the general public because of their complexity. In 1985, the City created the Harbor Department to focus property management efforts in the tidelands and to assure the State that tidelands revenues were properly accounted for. The Harbor Department is operated through a City enterprise fund known as the Harbor Fund. Similar to the Water and Wastewater enterprise funds, all Harbor services are funded with either users fees or property management income (no tax revenues). In FY88-89 Harbor Fund lease revenues were $427,634 increasing to $777,784 in lease revenues in FY98-99. The aggressive modernization of the City's property management practices over the last 15 years have allowed the Harbor Department to expand services to the boating public and improve existing harbor/park facilities.

While many coastal cities in California manage tidelands grants similar to that in Morro Bay, such a property management role is not necessarily a natural fit for local government. Familiarity with the history and terms of the various contract forms allows for resolution on contract interpretation issues before they become problems.

The Harbor Department routinely handles five to ten lease "questions" a week. If these questions were put through a political or bureaucratic process, the result would replicate the situation in Morro Bay in the mid-1980s when the Harbor Commission reviewed all lease actions. The City Council reorganized the Harbor Commission into the current Harbor Advisory Board and took lease management issues out of the Board's purview to streamline City responsiveness and improve lease management. Inability to answer contract interpretation questions, or to process City required contractual approvals in a timely manner could cripple tenants' ability to succeed on the tidelands lease sites.

On the one hand, the purpose of the tidelands grant is to develop harbor facilities and with percentage rents, the City is essentially a partner with the lessees along the tidelands. On the other hand, facility development and the desire to increase harbor lease revenues through tidelands lease improvement and business success must be balanced with City planning and land use policies requiring public benefit on sites and good community projects. In the 1990s the City demonstrated it can successfully achieve that balance by working cooperatively with tenants to renegotiate long-term leases (with increased rental revenues) for commercial redevelopment.

The City Manager coordinates the various interests by delegating lease management to the Harbor Director with the understanding that planning, zoning and land use issues shall be determined in accordance with adopted City Plans and Policies administered by the City Planning Staff, legal issues by the City Attorney and insurance issues by the City Risk Manager. The City has previously adopted a lease negotiation policy and a master lease format as policy but has never attempted a more comprehensive statement of management policy. The purpose of this document is an attempt to integrate existing policy with broader statement of public leasing policy to enhance public understanding and provide a framework for future actions.

The City of Morro Bay will use the following policy guidelines in management of the tidelands and Harbor Fee leases in the Harbor Department lease management program.

GENERAL POLICY

The City will manage the tidelands leases to provide and support harbor facilities and enhancement.

The City shall appropriately account for tidelands revenues and expenses in compliance the state law and the tidelands grant.

The Harbor Department will actively work with and attempt to enhance marine dependent or marine related uses in compliance with the adopted City Plans and Policies, and the City's goals of maintaining a small commercial fishing harbor and working waterfront.

The City shall at all times be governed in its management of the tidelands properties by the granting statutes as interpreted and managed by the State Lands Commission.

The Harbor Department will manage leases in a way that will strive to support tidelands visitor serving lease businesses to increase revenues consistent with adopted City Plans and Policies, and coordinated with City planning and land use policies.

Many property management functions of the City such as: lease assignment, sublease approval, lease renewal, extension or renegotiations contractually require City Council review and approval. The City Council approval process can sometimes be misconstrued by the public or the lessees to mean the City Council approves other issues, required permits or plans for the site. The Harbor Department will process lease contract administration issues requiring City Council approval in a timely fashion so lessees are not unduly burdened in their business operations. Any such approval shall not waive any and all other permits, approvals or governmental regulations such as planning and land use permits, building permits, etc.

SPECIFIC POLICIES FOR CONTRACT ADMINISTRATION

Master Lease Format: The City has developed a master lease format based on modern leasing practices and similar formats used by other public agencies. The City master lease format adopted in 1986 is hereby amended and attached to this policy statement. Any lease agreements in the future will be in the approved master lease format. The City may use a license agreement for temporary, interim or non-exclusive use of property when appropriate.

Approved Uses: Uses on the lease sites shall be in conformance with the Tidelands Trust and the City Conditional Use Permit for the site. Proposed new uses for lease sites must be in conformance with the then planning, zoning and land use policies of the City. Lessees proposing or considering new uses for a site will be referred to the Planning Division or Department of the City for review and approval.

Negotiation: Following is the lease negotiation policy adopted by the City Council July 10, 1987:

"It is the policy of the City Council of the City of Morro Bay that negotiations relative to leasing public tidelands shall commence and remain at the appropriate staff level, as managed by the City Administrator. The City Administrator is to serve as the initial level of negotiation appeal, with the City Attorney participating when legal issues arise. Differences of opinion shall be resolved to the maximum extent possible between the parties at the staff level, *prior* to any City Council consideration of the lease.

In the event certain lease issues remain unresolved upon exhaustion of administrative review, the lessee (tenant) may submit a written document to the City Council outlining their points and perspectives concerning the outstanding lease issues. Upon City receipt of the written report, the City Clerk shall cause the item to be placed on the City Council agenda, and the lessee or his/her representative may provide a brief verbal summary of their perspectives to the City Council during a public meeting. It is the policy of the City Council to receive under advisement any written or verbal report at that time, but not to comment on or negotiate in public.

Following receipt of this input from the lessee, the City Council will exercise its authority under California Government Code Section 54956.8, to meet in Closed Session to give instructions to the City's negotiator(s) regarding negotiations for lease of real property (public tidelands). Upon conclusion of the Closed Session considering the points submitted by the tenant, the City's negotiators will be properly instructed and authorized to finalize negotiations and the lease with the tenant."

The following two sub paragraphs are added for clarification on the negotiation process:

A. In many cases parties who are considering buying a tidelands leasehold interest desire to renegotiate the lease (to extend the term, change rent or uses) prior to completing the sale/assignment of the lease. Normally, City staff will not negotiate with prospective tenants due to limited staff time and the potential impact on the "sale" price of a lease. **Prospective buyers of leasehold interest are buying the existing lease agreement only.**

B. All lease sites eventually need to be reconstructed or significantly remodeled. In general, the City desires such reconstruction to bring improvements up to modern building codes, design criteria, and market conditions. The City acknowledges that tenants will need to renegotiate leases to new longer terms to amortize and collateralize their investment on the public property. The normal stage for lease negotiation to commence in a reconstruction redevelopment situation is when the tenant has received Planning Commission and/or City Council approval of a Concept Plan for a Conditional Use Permit to redevelop the site. The project will therefore be at a stage when the CUP can be attached to a new lease and the tenant can be required to construct improvements in compliance with the CUP in a given period of time. The appropriate term for the new lease will be determined by the size of the lease site and the level of private investment proposed for the public property.

Lease Renewal: The practice of the City in the past has been to automatically renew or renegotiate a lease with an existing tenant. This has led to a false sense of private ownership of the lease site and sometimes leads to tenants not maintaining lease or reconstructing prior to the expiration of a given lease term. The City should set some standards for renewing a lease. Lease expiration dates should be encouraged to coincide where adjoining sites may have mutual planning benefits. In some cases, the City should not renew a lease, either for the purpose of consolidating sites or to pursue other extenuating public benefit.

The City will use the following standards for determining whether it should negotiate a new lease with a tenant:

A. The tenant has a good history of performance and lease compliance and the improvements on the site are well maintained. Example standards for determining "good history" of lessee performance are:

1. The tenant's record with respect to the prompt and accurate payment of rent due the City;
2. The tenant's record of compliance with existing lease conditions;
3. The appropriateness of the proposed tenant business with respect to the total mix of uses and services available to the public and with respect to the long-term planning goals of the City;
4. The tenant's financial and personal investment in tenant business and the leasehold improvements;
5. The contribution to the surrounding business community made by the tenant's business;
6. The quality of direct services to the public provided by the tenant and its business;
7. The value received by the public in goods or services.
8. The total financial return to City from the leasehold;
9. Other pertinent considerations as may be appropriate as determined by the City Council.

B. In addition to the above, the City recognizes that there are three distinct zoning areas on the waterfront that require different considerations in lease renewals issues. As follows:

1. Tidelands Park south water area only leases. In this area the City leases only the water areas as the upland property and access to the water areas is owned and controlled by private parties. The City will encourage continuation/enhancement of marine dependent uses such as boats slips and boat repair facilities where feasible. However, this area is not suitable for large redevelopment projects and in most cases the City will negotiate a new 10 to 30 year lease extension with existing tenants when they meet the above criteria.

2. Embarcadero from Beach Street to Tidelands Park. In this area, the City controls land and water areas. In this area tenants are encouraged to propose redevelopments of lease sites to improve public benefits on these sites, enhance the Embarcadero business environment, and renegotiate leases to modern terms. To help accomplish this, and to provide tenants motivation not to let long-term leases run to the very end of their terms with degraded building/improvements, and under market lease terms, the City will generally not renew leases with existing tenants in this area if they allow their leases to run to a term of less than five years remaining.

3. Embarcadero from Beach Street north. This area is designated with zoning to preserve commercial fishing/marine dependent uses. In addition, existing restaurants or retail uses are grandfathered in. The City will strongly encourage tenants who propose enhancement of commercial fishing uses or marine dependent uses by considering new long-term leases that facilitate these types of projects. Existing restaurant/retail sites shall be extended or renewed if the tenant can develop plans for enhancement of the site within the constraints of CF District zoning. Within the general outlines of this policy the City Council will provide specific direction to the City's designated negotiator on the Morro Bay Power Plant outfall lease.

In general, leases that are not renewed should be put out to public bid or kept in short-term interim lease arrangements until adjacent sites become available for consolidation. In addition, the City has many long-term ground leases (known as the County or Pipkin leases), which provide low rent in exchange for tenant investment or settlement of previous disputes. These long-term leases provide that the tenant-constructed improvements revert to City ownership upon lease termination and this was a critical part of the consideration in allowing the tenant such a long-term lease at the specified rents. The County and Pipkin leases were 50-year leases (the maximum term set by the tidelands grant) and may not be extended or renewed. The City shall encourage tenants to renegotiate these leases into the new City master lease format well before the termination date of that lease.

In the CF District the City should attempt to consolidate leases in the area between the T-Piers to facilitate marine dependent redevelopment such as a seafood processing plant.

Fair Market Rent: State Law requires that fair market rent be charged for use of the granted tidelands. Fair market rental shall be determined through the use of an independent appraiser to appraise the fair market value of the property and the City will set a minimum annual rent equal to 8% of the appraised value of the land or improvements if the improvements have reverted to the City. The lease rent will be structured to provide for a minimum annual rent as outlined above or a percentage of gross sales rent as shown on the attached Schedules entitled Standard City percentage of gross sales rent.

In cases where the tenant is proposing complete redevelopment of a site to eminent modern design criteria at significant private investment the City may allow both temporary reductions in the outlined minimum rent to offset tenants period of reduced revenues during construction and reduction in the standard retail percentage of gross sales to 3% for the first 10 years of a new long-term lease agreement.

Maintenance of Improvements: The City has a paramount interest in ensuring that the improvements on the lease site are being properly maintained and are in a safe and secure condition. The City shall contract to have the lease sites inspected and a report made on such inspections every five years. City staff will require significant deficiencies noted in the lease site inspection reports to be repaired or cured by the tenants. As long-term leases draw close to expiration tenants tend to defer maintenance and the City must carefully monitor and strictly enforce lease maintenance provisions to protect the reversionary interest in the lease site improvements.

Percentage of Gross Sales Audits: Where tenants are subject to percentage of gross sales rent, the City will contract to have the business accounting records examined for lease compliance at least every five years. City staff will require tenants to comply with or cure any deficiencies noted in the accounting records examinations.

Lease Assignment/Sale: All City leases require City Council approval of the sale or assignment of a lease agreement. Any tenant requesting such approval will be required to pay fees noted in the master fee schedule, to submit financial documentation to indicate qualifications to the satisfaction of the Finance Director, and be in full compliance with the terms and conditions of their lease agreement. If the proposed assignment or sale includes a change in use of the site, then the change in use will be reviewed by the Public Services Department of the City for conformance with planning and zoning regulations. Proposed changes in uses for lease sites must comply with City planning and zoning ordinances, the City's adopted Local Coastal Plan and Measure D limitations for properties north of Beach Street. Where zoning allows a variety of uses, preference will be given to coastal related uses whenever possible.

Sublease Approval: All leases require City approval of sublease agreements. Prior to approval of the sublease, the tenant shall pay any fees noted in the master fee schedule; submit a properly executed copy of the City standard Consent to Sublease form and a copy of the Sublease Agreement. Future lease agreements may provide for the City Manager or designee to approve sublease agreements which meet the stated qualifications for approval and which comply with the terms and conditions of the lease agreements.

Financing: The City will not approve financing related to or using the lease site, or leasehold interest as collateral unless such financing is for sole investment upon the lease site or for City requested public improvements.

SCHEDULE A

PERCENTAGE RENT FOR GROUND LEASES

		% GROSS SALES
FOOD SERVICE:	Restaurant, Dining Room	3
	Snack Bar, Delicatessen,	5
	Fast Food, Convenience Food	5
	Bar/Lounge, Beer & Wine Sales	5
RETAIL SALES & SERVICE:	Tenant	3-5
FISH & SEAFOOD:	Retail Sales	3-5
	Wholesale Sales	0
MOORINGS, TIES & SLIPS:	Pier/Fixed Piles	10
	Pier/Floating	10
BOAT REPAIR & SALES:	Boat & Marine Repair	3
	New Boat Sales	1
	Used Boat Sales	2
FUEL:	Gasoline	$0.02/gal.
	Diesel	$0.015/gal.
MOTEL:		5
ALL OTHER USES:		5

Percentage Rental is to be based on the gross amount received from any and all sources of income derived from the lease site.

SCHEDULE B

PERCENTAGE RENT FOR BUILDING LEASES

		% GROSS SALES
FOOD SERVICE:	Restaurant, Dining Room	5
	Snack Bar, Delicatessen,	7
	Fast Food, Convenience Food	7
	Bar/Lounge, Beer & Wine Sales	10
RETAIL SALES & SERVICE:	Tenant	7
	Sublease	7
FISH & SEAFOOD:	Retail Sales	5
	Wholesale Sales	0.5
MOORINGS, TIES & SLIPS:	Pier/Fixed Piles	20
	Pier/Floating	20
BOAT REPAIR & SALES:	Boat & Marine Repair	5
	New & Used Boat Sales	2
FUEL:	Gasoline	.02/gal.
	Diesel	$0.015/gal.
MOTEL:		10
RV PARK:		25
ALL OTHER USES:		10

Percentage Rental is to be based on the gross amount received from any and all sources of income derived from the lease site.

AGENDA NO: C-2

MEETING DATE: September 25, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 19, 2018**

FROM: **Scott Collins, City Manager**

SUBJECT: **Community Choice Energy Technical Study, Approval of JPA Agreement and Resolution, and First Reading of Community Choice Energy Ordinance No. 616**

RECOMMENDATION

City Council:

1. Receive the CCE Technical Study (Attachment A) and presentation; and
2. Introduce, for first reading by title only with further reading waived, Ordinance No. 616 entitled, "An Ordinance of the City Council of the City of Morro Bay, California, Authorizing the Implementation of a Community Choice Aggregation Program" (Attachment B); and
3. Adopt Resolution No. 80-18 entitled, "A Resolution of the City Council of the City of Morro Bay, California, Approving the Joint Powers Agreement Establishing Central Coast Community Energy on behalf of the City of Morro Bay" (Attachment C); and
4. Appoint two Council members to serve as the City's representatives on Central Coast Community Energy's Board of Directors; and
5. Direct staff to continue to support Central Coast Community Energy implementation and program launch until such time that the new agency has hired staff and transitioned to an operational, independent agency.

ALTERNATIVES

1. The City Council could direct staff to join an existing Community Choice Energy (CCE) program. Monterey Bay Community Power, which operates in Monterey, Santa Cruz, and San Benito counties. Joining an existing program would limit initial exposure to financial risk. However, the local economic development, program implementation, and local control components of the program would be constrained.
2. The City Council could request additional information. Staff has been working on an accelerated timeline to ensure program operation can begin in 2020. If the City Council feels significant additional information is required to proceed, then it can direct staff to gather that information and return at a later date. That would delay program initiation until 2021.
3. The City Council could elect not to proceed with any CCE program at this time. Not developing a CCE program would eliminate financial risk exposure and would free staff time to pursue other initiatives. However, not having a CCE program would substantially constrain the City's ability to achieve greenhouse gas emissions and economic development objectives.

FISCAL IMPACT

The approach taken to date by Morro Bay and the City of San Luis Obispo (SLO) is to establish a program with nearly no net cost to the cities and a limited exposure to risk by creating deferred compensation contracts that are transferable to the JPA. Staff has so far been successful in this approach, however fiscal risks exist as described later in this report including one-time risk (upfront debt requirements of approximately $1,100,000 for working capital and requirements to pay up to

Prepared By: ___SC_____ **Dept Review:** _____

City Manager Review: _____ **City Attorney Review:** __JWP____

$250,000 in deferred costs to The Energy Authority (TEA) in the event the program does not launch) and ongoing risk (e.g., energy market and regulatory uncertainty), with the City of Morro Bay assuming up to 20% of that risk (SLO City Council is agreeable, as of their September 18, 2018 meeting, to assume 80% of the risk).

BACKGROUND/DISCUSSION

Background on Community Choice Energy

This report provides an overview and high-level explanation of CCE, also known as Community Choice Aggregation, as well as a summary of City Council direction and work completed to date. The recommendation is for the City Council to approve an implementing ordinance and resolution to establish a CCE program, or to cease work on the effort.

This report describes and provides four attachments to assist with City Council's decision: 1) the draft Technical Study assessing program feasibility (Attachment A), 2) the draft CCE implementing Ordinance (Attachment B) and 3) the draft Resolution and JPA Agreement (Attachment C).

About Community Choice Energy

CCE, authorized by Assembly Bill 117, is a state law that allows cities, counties and other authorized entities to aggregate electricity demand within their jurisdictions to purchase and/or generate electricity supplies for residents and businesses within their jurisdiction while maintaining the existing electricity provider for physical transmission and distribution services. CCEs are typically created to provide a higher percentage of renewable energy electricity, such as wind and solar, at competitive and potentially cheaper rates than existing Investor Owned Utilities (IOUs), while giving consumers local choices and promoting the development of renewable power sources and local economic development. The City Council has been supportive of the research and development of a viable regional CCE program for the City of San Luis Obispo (SLO) and surrounding communities for the last several years.

Previous Council Direction

City Council received a presentation in 2013 from SLO Clean Energy, which is a coalition of San Luis Obispo (SLO) County leaders and volunteers, committed to local clean energy for communities within SLO County. SLO Clean Energy requested City Council consider joining with other local jurisdictions to explore the economic benefits, risks, and feasibility of creating a CCE in SLO County. City Council adopted Resolution No. 47-13 which states the City's general interest in exploring a CCE and appointed a Council sub-committee. In December 8, 2015, City Council incorporated the decision whether to pursue a CCE into the 2016-2018 City Goals (report attached). Staff was further directed to reach out to SLO County to advise of the City's interest in pursuing a CCE.

More recently, City Council reaffirmed its desire to pursue a CCE as a City-objective for 2018 during its annual goals and objectives process.

Since that time, SLO's Mayor sent a letter to City jurisdictions within SLO County to determine if there is interest among Morro Bay and other regional partners to participate in a joint CCE. They requested City Council formally consider joining that effort to explore formation of a CCE program to start as soon as 2019. SLO offered to provide primary initial staffing resources for pursuit of a CCE. Initial steps include conducting and contracting for formation and operational support using existing models and a multi-vendor services RFP, wherein vendors are sought that will defer compensation, until the program generates revenue and then forming a Joint Powers Authority (JPA) amongst the participating cities. The key milestone, is to develop an agreed upon CCE Implementation Plan and submit to the California Public Utilities Commission (CPUC) for review by December 31, 2018.

Following receipt of that letter from SLO, and discussions between SLO and Morro Bay staff, City

Council on its April 24, 2018 meeting, directed staff to work with the City of SLO to develop an RFP to conduct the formal study and develop an implementation plan for a regional CCE program. Council further directed staff to provide regular updates to City Council with a deadline of September 2018 to provide recommendations on creating a JPA agreement with SLO for the formation of a regional CCE program.

Shortly thereafter, SLO released an RFP for a technical and energy services vendor to refresh feasibility assessment assumptions, draft the CPUC required Implementation Plan, provide credit solutions to financing initial power purchases, and provide power procurement-related operational services (*e.g.*, purchasing power on the cites' behalf, interacting with the California Independent System Operator (CAISO), assisting with regulatory findings, *etc.*). The SLO City Council authorized its City Manager to enter into an agreement with the selected vendor.

SLO Council discussed this item in great detail during a study session on September 4, 2018, followed by a Morro Bay Council discussion on September 11, 2018. At the September 11 meeting, Council reviewed initial results from the draft Technical study assessing the feasibility of the a CCE program to provide GHG benefits and rate competitiveness, while being a fiscally healthy organization. Council provided feedback to staff, and suggested changes to the draft JPA agreement (discussed below) as well as a proposal for sharing risk with SLO. Discussion of SLO Council actions taken on September 18, 2018 are discussed below.

CCE Technical Study

The Technical Study, awarded to The Energy Authority (TEA), evaluates the feasibility of implementing a CCE program in three groupings of the cities of SLO, Morro Bay, Paso Robles, and Grover Beach. The findings presented in this report focus exclusively on the participation scenario that includes only SLO and Morro Bay.

The Technical Study evaluates three power supply scenarios. Each scenario contains a different amount of California Renewable Portfolio Standard (RPS) compliant power. RPS compliant power includes power sources such as solar, wind, small-hydroelectric, and bio-mass. Additional power sources exist that do not generate GHG emissions but are not legally defined as "renewable" in California (*e.g.*, large hydroelectric and nuclear). The Technical Study's financial *pro forma* assumes each scenario is 100 percent greenhouse-gas (GHG) free.

TEA concludes, under base-case market and regulatory conditions, all three presented supply scenarios would be feasible while offering customers a rate-discount relative to PG&E. Table 1 shows cumulative net revenues in the third year of operations as a total and as a percent of annual operating expenses assuming the CCA offers a 3% rate discount relative to PG&E. The draft Technical Study is provided as Attachment A.

Table 1. Draft Technical Study Summary Findings

Metric	Supply Scenario 1	Supply Scenario 2	Supply Scenario 3
Renewable Portfolio Standard Percentage	RPS-Compliant (33% in 2020, increasing to 50% by 2030)	50%	75%
GHG Free Percentage	100%	100%	100%
Average Rate Savings	3%	3%	3%
Cumulative Net Revenues at End of Year 3	$12.3 million	$11.3 million	$9.7 million
Cumulative Net Revenues at End of Year 3 as a Percentage of Annual Operating Expenses	68%	61%	51%

Generating cumulative net revenues at the levels shown in Table 1 is an indication that adequate funds should be available for the CCE program to meet critical financial needs such as:

- Self-funding working capital requirements;
- Establishing a rate stabilization fund;
- Demonstrating the creditworthiness needed to enter into long-term contracts; and
- Investing in local programs critical to meeting the goals of the CCA.

TEA also conducted a stress-test analysis on the results assuming 75th percentile energy market prices (an approximately $5 per MWh increase above current forward prices), a 40-percent increase in the Power Charge Indifference Adjustment (PCIA) rate, and lower than expected generation rates for PG&E. Under those stress-test conditions, all three supply scenarios resulted in negative net revenues year-over-year. Rate premiums would be required to generate a similar level of cumulative net revenues to what is shown in the base case scenario. It is important to note a four-city CCE scenario, that also includes Grover Beach and Paso Robles, is the most resilient to the stress-test scenario, which is consistent with the greater economies of scale provided by that alternative.

PCIA Proceeding

Ahead of the September 13, 2018 CPUC meeting, Commissioner Peterman held the PCIA items (#31 and #31A) until the September 27, 2018 meeting. Given this timeline, staff has worked with the with TEA, and outside counsel to develop contingencies, should the outcome of the ruling render a local CCE program financially infeasible. The following contingencies provide a path for continuing with the program's forward momentum on the current timeline, while allowing for no cost and no risk "offramps" should the CPUC PCIA ruling render the program financially infeasible:

1. TEA has agreed to "pause" transitioning to Phase II of the work program until the CPUC has issued a ruling on the PCIA. This means that the "go/no go" decision point triggering City responsibility for deferred time and material costs to TEA would be not occur until after the ruling. Should the City elect to not move forward based on the PCIA ruling, it would not be responsible for repaying TEA for work completed to date.
2. If the CPUC further delays the PCIA ruling beyond September 27, then the City will formally request a waiver from the CPUC allowing for submittal of the Implementation Plan after January 1, 2019, while still being allowed to begin service in 2020. It is not known if the CPUC would grant the waiver.
3. Staff has conferred with outside counsel regarding the ability to cancel the CCE ordinance. If a negative PCIA decision occurs on September 27, staff could alert Council, who could then "pull" the second reading of the Ordinance from the October 9, 2018 Consent Agenda and

not adopt it. If a negative PCIA decision occurs after the Ordinance is adopted at the October 9, 2018, meeting, then Council could simply adopt an Ordinance in the future rescinding the CCA Ordinance.

4. Staff has conferred with outside counsel regarding the ability to dissolve Central Coast Community Energy (CCCE) joint powers authority (JPA). To dissolve CCCE, consistent with Section 6.4 (Mutual Termination) of the agreement (Council Agenda Report Attachment C), the Board of Directors could vote unanimously to dissolve the agency.

TEA advises SLO and Morro Bay view the results of the Technical Study as supportive of continuing to move forward with CCE program development, including preparation of an Implementation Plan. However, CCE viability should continue to be assessed on an ongoing basis at each critical step of program development.

CCE Implementing Ordinance and Joint Powers Agreement

Section 366.2(c)(12)(B) of the Public Utilities Code expressly contemplates the creation of a JPA so counties and cities can "participate as a group in a community choice aggregation program." California cities and counties can exercise that option by doing two things: 1) entering into a Joint Powers Agreement forming a JPA under Section 6500, *et seq*. of the Government Code; and 2) adopting an Ordinance electing to implement a community choice program within its jurisdiction as required by Section 366.2(c)(12)(A).

Implementing Ordinance

An Ordinance that complies with the requirements of Section 366.2(c)(12)(A) is included as Attachment B. If introduced, then staff will present the Ordinance for a second reading at the October 9, 2018 meeting.

JPA Agreement

The draft JPA Agreement and supporting resolution establishing the JPA are provided as Attachment C and Attachment D. The draft language is recommended by the joint Morro Bay and SLO planning team that has been meeting on this topic for several months. The planning team, with support from the SLO and Morro Bay city attorneys, and outside legal support from Greg Stepanicich of Richards, Watsons, & Gershon (RWG), drafted the JPA document working from discussions with key stakeholders, the SLO Climate Coalition Task Force, and existing documents provided by other jurisdictions that formed similar CCE programs (e.g. Valley Clean Energy Alliance, Peninsula Clean Energy, East Bay Community Energy).

The JPA document establishes the framework for operation of the CCE program. Key provisions of the JPA document address:

- Governance and Internal Organization (Article 3)
- Roles and responsibilities of the Board of Directors and Operations Board (Section 3.1)
- Recovery of initial funding by founding cities (Section 5.3)
- Addition of new member jurisdictions and withdrawal of existing members (Section 2.5)

Adoption of the Resolution approving the JPA Agreement also requires the City to appoint two members to the Board of Directors (Section 3.1). Staff is recommending the Council appoint two members to the Board of Directors at the September 25, 2018, meeting to facilitate scheduling of the first JPA Board meeting in November.

Proposed Agency Name

The JPA document requires an agency name to be identified. After discussions with the SLO Climate Coalition Task Force, the Morro Bay, and internal discussions, staff proposes the name "Central Coast Community Energy." The name is selected to resonate with all potential regional

growth partners and intentionally focuses on the "community" aspect of community choice energy.

Operating Capital and Shared Resource Needs

If the City Council votes to proceed with the CCE program at the September 25, 2018, meeting, then the operation of the JPA will require operating capital support in the amount of approximately $1,000,000 prior to the program launch in 2020. The operating capital requirements for the JPA will vary depending on the level of staffing needed and the capacity for member cities to lend staff, office, and service resources.

Many existing CCE JPAs limited pre-launch costs through shared resources with its member agencies. For example, some CCE programs have shared office space, IT support, HR support, meeting space, accounting and back office systems, and JPA management staffing with member agency facilities and staff. If the cities seek to share resources in that manner with the JPA, then the costs associated with those resources will be closely tracked and reimbursed in the manner agreed to upon by all parties through a shared services agreement or cost allocation plan. Any arrangement of that nature would require additional approval by the City Council. Regardless of shared resources, the JPA will need working capital to hire a General Manager and conduct pre-launch activities. The amount, which is approximately $1,000,000, could be loaned by the participating cities at their preferred interest rate, or could be obtained through a bank loan backed by SLO's credit via cash collateral or a credit guarantee agreement between the City or cities and the selected bank partner. The pre-launch working capital in the total of $1.1 Million ($1,000,000, plus an additional $100,000 contingency) has been incorporated into TEA's Technical Study financial *pro forma* and is projected to be reimbursed in the first 24 months of operations. If Morro Bay proceeds with the partnership with SLO, its share of a credit guarantee would be in the amount of $220,000. Morro Bay could meet that obligation by holding funds in that amount in reserve in the General Fund balance until the pre-launch working capital is reimbursed.

SLO Coordination and Next Steps

SLO staff attended the September 11, 2018 meeting of the Morro Bay City Council, which included the same information that was provided to the SLO City Council at its study session on September 4, 2018. Morro Bay Council unanimously expressed support for the proposed path of creating a JPA with the City of San Luis Obispo and submitting in Implementation Plan by the end of 2018 to begin serving customers in 2020. Council provided feedback, which included a request for a minor edit to the JPA agreement and a proposal for sharing exposure to start-up credit risk.

SLO Council met on September 18, 2018 and introduced, by first reading, the required ordinance, and approved the JPA resolution, accepting the following suggested edits to the JPA agreements submitted by Morro Bay Council:

- *Edit Request 1 (Recital C).* C: Carrying out programs to increase energy efficiency ~~reduce energy consumption~~
- *Edit Request 2 (Section 2.4)* The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to establish and operate a CCE Program that achieves long-term GHG emission reductions by offering clean, cost effective and price stable electricity to residents, businesses, and agricultural producers, while carrying out innovative programs to increase customer energy efficiency ~~reduce customer energy use~~, substantially increase local renewable energy production, and power the local transportation system. To that end, CCCE will study, promote, develop, conduct, operate, and manage energy, energy efficiency and conservation, and other energy-related programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used as a contractual mechanism by which the Parties are authorized to participate in the CCE Program, as

further described in Section 4.1. The Parties intend other agreements shall define the terms and conditions associated with the implementation of the CCE Program and any other energy programs approved by CCCE.

SLO Council also accepted Morro Bay Council's proposal for shared financing and responsibility for deferred compensation risk. The proposal discussed provided for Morro Bay providing credit backing for 20 percent of the financing based on Morro Bay's electricity load relative to the SLO's electricity load. Under an "80/20" split, and assuming the $1,100,000 startup capital need included in the TEA technical study *pro forma*, SLO would provide credit backing for $880,000 and Morro Bay for $220,000. Specifics around potential financing approaches and packages will be brought before Council in late 2018 or early 2019.

Project Schedule

The following is an outline of the project schedule through 2020:

Activity	Date
Public meeting to present Technical Study to City of San Luis Obispo City Council. If Council chooses to proceed, pass resolution to create and join the JPA and conduct first reading of the CCE ordinance	9/18/18
Public meeting to present Technical Study to City of Morro Bay City Council. If Council chooses to proceed, pass resolution to create and join the JPA and conduct first reading of the CCE ordinance	9/25/18
Public meeting to conduct second reading of the CCE ordinance (City of San Luis Obispo)	10/2/18
Public meeting to conduct second reading of the CCE ordinance (City of Morro Bay)	10/9/18
City of San Luis Obispo City Council meeting to authorize operating capital loan or provide backing for a third-party loan.	Fall 2018 / Winter 2019
City of Morro Bay City Council meeting to authorize operating capital loan or provide backing for a third-party loan.	Fall 2018 / Winter 2019
First JPA Board Meeting to seat the Board of Directors and establish initial policies	Week of 11/6/18
Second JPA Board Meeting to adopt Implementation Plan for submittal to the California Public Utilities Commission	Week of 11/20/18
Program Implementation and Operations Preparation	2019
Begin CCE Program Operation	Early 2020

Potential Community Impact

The CCE program seeks to be rate competitive with PG&E and to build reserves to ensure a stable program that can deliver local benefits to ratepayers. The updated Technical Study indicates GHG free electricity, competitive rates, and a financially healthy organization are possible under base case and forecast market conditions, with the exception of the "stress test" case. If the City pursues the CCE program, then the intended outcomes would be energy-related local economic development opportunities and a competitively priced cleaner electricity source.

As mentioned above, under the technical study's "stress test" case (a scenario including unexpected market volatility, slow PG&E rate growth, and a rapid increase in the PCIA, the program would not be financially viable. In an ongoing environment with those conditions, or in a worst-case scenario of

energy market collapse, severe agency mismanagement, or other unlikely scenarios, the JPA could fail and go bankrupt. In that scenario, customers would be returned to PG&E service without service interruption and the financial obligations of the JPA would be limited exclusively to the JPA and would not affect the community nor the member agencies.

Potential Agency Impact

In the unlikely scenario where Morro Bay and SLO proceed forward, but the program fails to launch, Morro Bay would be exposed to up to $50,000 in deferred costs owed to TEA.

Consistent with the approach taken by operating CCE programs and noted above, the JPA will require short-term resource sharing and working capital to complete the start-up phase and begin serving customers. If the program moves forward, then the participating cities will be asked to consider options to provide credit support for this bridge funding later this Fall/early Winter.

Although the required working capital prior to program launch will vary widely as mentioned above, staff expects a need for approximately $1,100,000 (up to $220,000 for Morro Bay's share of that working capital), based on member-city capacity to provide shared resources. This debt is usually short term (e.g., a one to two-year line of credit) and is often provided by a third-party lender, although it can be municipally financed as well. The amount of pre-revenue credit needed to support the program will require a credit guaranty, which is usually provided by one or more members of the CCE Agency. The JPA's guaranty requirement, would be released soon after receiving operational revenues (usually within 12 months or program launch). That basic structure of third-party financing (generally a line of credit) with a credit guarantee to support the pre-revenue portion of the credit has been used in successful CCE launches, including Valley Clean Energy Alliance, Marin Clean Energy, Sonoma Clean Power, and Silicon Valley Clean Energy. If the JPA forms and receives operating capital, and/or lines of credit from the cities, and if JPA operations fail to launch, then the cities would not be reimbursed, and/or would be responsible for any remaining debt.

ATTACHMENTS

A. **Technical Study**
B. **CCE Implementing Ordinance No. 616**
C. **JPA Resolution and Joint Exercise of Power Agreement**

City of San Luis Obispo
Draft CCE Technical Study

Prepared by:

TEA
THE EnergyAuthority

September 19, 2018

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DRAFT

1 Executive Summary

This study evaluates the feasibility of implementing a Community Choice Energy (CCE, also referred to as Community Choice Aggregation, or CCA) program in three groupings of the Cities of San Luis Obispo, Morro Bay, Paso Robles, and Grover Beach. For each city participation scenario, the study evaluates three power supply options for a total of nine scenarios. The power supply scenarios are illustrative of potential supply options and should not be considered prescriptive. They vary the amount of California Renewable Portfolio Standard (RPS) compliant power in the CCE's portfolio while maintaining a 100% greenhouse-gas (GHG) free and non-nuclear power supply in all scenarios.

TEA concludes that under base-case market and regulatory conditions, all nine scenarios would be feasible while offering customers a rate-discount relative to PG&E. Table ES1 shows cumulative net revenues in the third year[1] of operations as a total and as a percent of annual operating expenses. These scenarios assume the CCE offers a 3% rate discount relative to PG&E, which is the average discount currently being offered by operating CCE programs.

Table ES1: Cumulative net revenues in the third year of operations as a total and a percent of annual operating expenses.

City Participation Scenario	Power Supply Scenario		
	RPS-Compliant, 100% GHG-Free	**50% RPS, 100% GHG-Free**	**75% RPS, 100% GHG-Free**
San Luis Obispo	$.9.9 million 63% of op. exp	$9.1 million 57% of op. exp	$7.6 million 47% of op. exp
San Luis Obispo and Morro Bay	$12.3 million 68% of op. exp	$11.3 million 61% of op. exp	$9.7 million 51% of op. exp
San Luis Obispo, Morro Bay, Paso Roble, and Grover Beach*	$23.9 million 80% of op. exp	$22.4 million 74% of op. exp	$20.1 million 64% of op. exp

* Paso Robles and Grover Beach are not joining the potential CCE in 2020, but may join in 2021. TEA modeled these cities' loads ramping up in 2021 in the 4-city scenario, which impacts 3rd year cumulative net revenues as a share of annual revenue requirement.

Generating cumulative net revenues at the levels shown is an indication that adequate funds should be available for the CCE to meet critical financial needs such as:

[1] In these scenarios, net revenues are positive in all operating years modeled. Third year cumulative net revenues are presented because it reflects a time point after which the CCE has paid off its startup loan and phased in all loads.

- Self-funding working capital requirements;
- Establishing a rate stabilization fund;
- Demonstrating the creditworthiness needed to enter into long-term contracts;
- Investing in local programs to meet the long-term goals of the CCE.

TEA also conducted a sensitivity analysis in which these scenarios were tested under less favorable market and regulatory conditions referred to as the alternative prices scenario. In that scenario, TEA assumed 75th percentile energy market prices (an approximately $5.5 per MWh increase above current forward prices), a 40% increase in the Power Charge Indifference Adjustment (PCIA) rate, and lower than expected generation rates for PG&E.[2] Under these conditions, all three city grouping scenarios resulted in negative net revenues year-over-year without a 0%-2% rate premium over PG&E. Even higher rate premiums would be required to generate a similar level of cumulative net revenues to what is shown in the base case scenario. Of the three city-grouping scenarios, the 4-city CCE scenario was the most resilient to the adverse market conditions, which is consistent with the greater economies of scale provided by a program with more customers.

It is important to note that the PCIA Rulemaking Proceeding R.17-06-026 is currently underway. The final outcome of this proceeding is expected on September 13th, but could be delayed. TEA has attempted to analyze the possible range of outcomes that may result from this proceeding. While this study ultimately concludes the CCE would be feasible under most market and regulatory conditions, these findings are sensitive to changes in market and regulatory conditions. As such, it will be critical to continually re-evaluate program feasibility throughout the implementation process.

TEA advises SLO to view the results of this study as supportive of continuing to move forward with CCE development, including preparation of an Implementation Plan. However, CCE viability should continue to be assessed on an ongoing basis at each critical step.

2 Introduction

On December 12, 2017, the City of San Luis Obispo City Council directed staff to "pursue forming a new CCE in conjunction with other interested jurisdictions in San Luis Obispo County and/or in PG&E territory of Santa Barbara County." On April 24, 2018, the City of Morro Bay City Council expressed formal interest in participating in the creation of a new CCE program. Other jurisdictions, most notably the Cities of Paso Robles and Grover Beach, provided access to their data to understand the potential of joining a CCE program in the future.

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[2] The PCIA is an exit fee charged by investor-owned utilities (IOUs) to customers that switch to another provider of electricity generation service through direct access or community choice energy programs. The fee is designed to cover above-market costs from contracts that the utilities entered into but no longer need and cannot sell in the market for the price they paid.

To support the potential for a regional CCE program over time, the preferred governance structure is the development of a new Joint Powers Authority similar to the operational and governance approach of many currently operational CCE programs in California.

The purpose of this analysis is to assess the potential benefits and risks associated with forming a CCE program under a few illustrative scenarios considering different configurations of community participation and power supply portfolios. It is important to note that the prospective scenarios evaluated in this study do not obligate an eventual CCE program to implement a particular scenario outlined in this study. Rather, the scenarios evaluated are intended to demonstrate program viability under a range of options and reasonable outcomes.

3 Prospective CCE Member Communities

Three alternative levels of community participation were evaluated in this study:

- Scenario 1: City of San Luis Obispo only
- Scenario 2: Cities of San Luis Obispo and Morro Bay
- Scenario 3: Cities of San Luis Obispo, Morro Bay, Paso Robles and Grover Beach

In Scenario 3, we model the customers in the Cities of Paso Robles and Grover Beach being migrated in 2021, while customers from the Cities of San Luis Obispo and Morro Bay ramp up in 2020.

3.1 Number of Customers and Retail Load Forecast

To create a load forecast for each scenario described above, Item 16 load data provided by PG&E for each city was aggregated by customer type by first shifting the monthly billing data from billing cycles to calendar months. Next, TEA applied PG&E load profiles for each customer class. The resulting hourly historical data set was summed to monthly values and then smoothed to account for weather effects. Growth rates were applied to each customer class using customer class growth forecasts assumed in the California Energy Commission's California Demand Forecast for 2018 – 2030[3]. Total number of customers and annual load for each scenario are shown in Table 1. Figure 1 summarizes monthly energy and peak demands for each load scenario.

[3] https://efiling.energy.ca.gov/getdocument.aspx?tn=223244

Table 1a: CCE Scenario 1 Load Forecast: City of San Luis Obispo Only

	Annual Load Forecast (MWh)										*2016/17*
Rate Class	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	***Avg # of Accts***
Residential	63,255	62,877	62,806	62,591	62,854	62,739	62,704	62,681	62,659	62,636	*16,730*
Low Income Res	12,729	12,652	12,637	12,595	12,649	12,624	12,618	12,614	12,610	12,605	*2,463*
Agriculture	111	110	110	110	110	109	109	109	108	108	*10*
Small Commercial	59,053	59,350	59,907	60,343	61,209	61,694	62,297	62,896	63,495	64,094	*3,628*
Med Commercial	50,754	51,015	51,495	51,870	52,614	53,028	53,548	54,062	54,577	55,091	*293*
Lg Commercial	58,552	58,846	59,397	59,836	60,689	61,178	61,776	62,372	62,968	63,564	*127*
Industrial	-	-	-	-	-	-	-	-	-	-	-
Street Lighting	653	651	652	653	657	658	659	661	663	664	*161*
Total Retail Sales	**245,107**	**245,501**	**247,005**	**247,998**	**250,781**	**252,030**	**253,713**	**255,396**	**257,079**	**258,763**	*23,411*
Total Wholesale Requirements	**257,362**	**257,776**	**259,355**	**260,398**	**263,320**	**264,631**	**266,398**	**268,166**	**269,933**	**271,701**	

Table 1b: CCE Scenario 2 Load Forecast: Cities of San Luis Obispo and Morro Bay

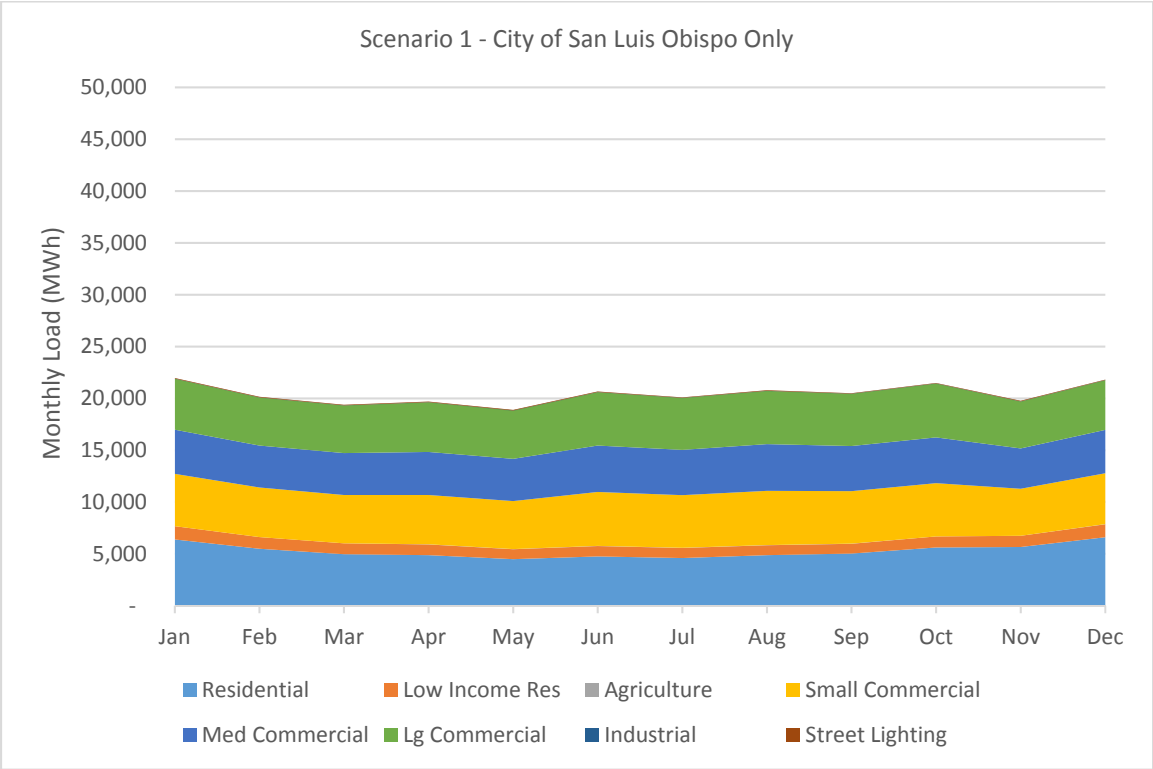
	Annual Load Forecast (MWh)										*2016/17*
Rate Class	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	***Avg # of Accts***
Residential	81,336	80,857	80,766	80,488	80,819	80,671	80,625	80,593	80,561	80,529	*21,712*
Low Income Res	17,293	17,190	17,170	17,113	17,185	17,150	17,142	17,136	17,129	17,123	*3,306*
Agriculture	132	131	131	130	130	130	130	129	129	129	*13*
Small Commercial	71,139	71,497	72,168	72,691	73,735	74,320	75,046	75,768	76,489	77,211	*4,401*
Med Commercial	54,295	54,574	55,088	55,488	56,285	56,727	57,283	57,834	58,384	58,935	*329*
Lg Commercial	64,850	65,176	65,787	66,273	67,217	67,758	68,420	69,080	69,739	70,399	*150*
Industrial	-	-	-	-	-	-	-	-	-	-	-
Street Lighting	821	818	820	820	824	826	827	829	831	833	*194*
Total Retail Sales	**289,866**	**290,243**	**291,929**	**293,004**	**296,196**	**297,582**	**299,474**	**301,369**	**303,263**	**305,158**	*30,105*
Total Wholesale Requirements	**304,359**	**304,755**	**306,526**	**307,654**	**311,005**	**312,461**	**314,448**	**316,437**	**318,427**	**320,416**	

Table 1c: CCE Scenario 3 Load Forecast: Cities of San Luis Obispo, Morro Bay, Paso Robles, and Grover Beach4

	Annual Load Forecast (MWh)										*2016/17*
Rate Class	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	***Avg # of Accts***
Residential	81,336	148,354	148,175	147,697	148,244	147,973	147,880	147,811	147,742	147,672	*35,088*
Low Income Res	17,293	38,488	38,441	38,321	38,463	38,388	38,366	38,349	38,331	38,313	*7,617*
Agriculture	132	1,424	1,421	1,417	1,416	1,411	1,408	1,405	1,402	1,399	*41*
Small Commercial	71,139	117,192	118,289	119,165	120,842	121,807	122,994	124,172	125,351	126,529	*7,224*
Med Commercial	54,295	108,169	109,184	109,989	111,560	112,430	113,536	114,626	115,715	116,805	*379*
Lg Commercial	64,850	98,080	98,999	99,730	101,148	101,961	102,957	103,948	104,939	105,930	*231*
Industrial	-	-	-	-	-	-	-	-	-	-	-
Street Lighting	821	1,959	1,962	1,961	1,972	1,974	1,978	1,982	1,986	1,991	*278*
Total Retail Sales	**289,866**	**513,667**	**516,469**	**518,280**	**523,646**	**525,943**	**529,120**	**532,292**	**535,465**	**538,638**	*50,858*
Total Wholesale Requirements	**304,359**	**539,351**	**542,293**	**544,194**	**549,828**	**552,240**	**555,576**	**558,907**	**562,238**	**565,570**	

[4] Note that the loads in 2020 are only for the Cities and San Luis Obispo and Morro Bay because the Cities of Paso Robles and Grover Beach are modeled as joining the CCE in 2021 in this scenario.

Figure 1a: City of San Luis Obispo Monthly Energy and Peak Demand



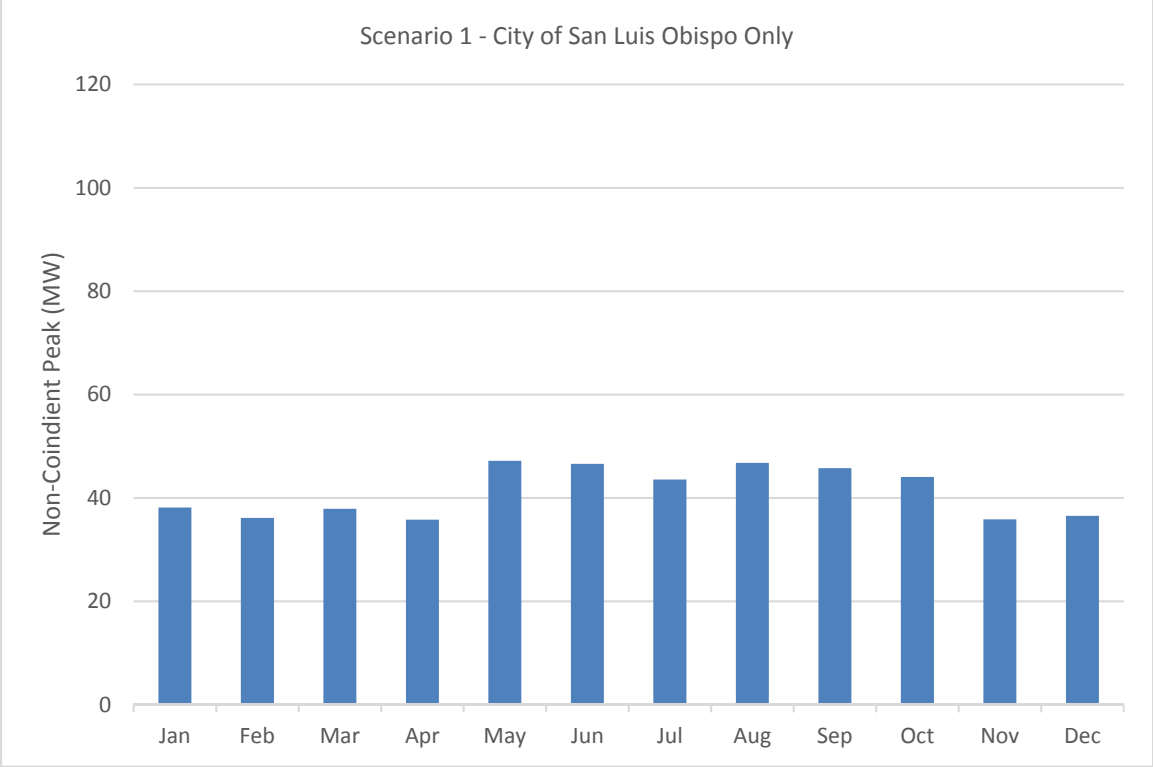
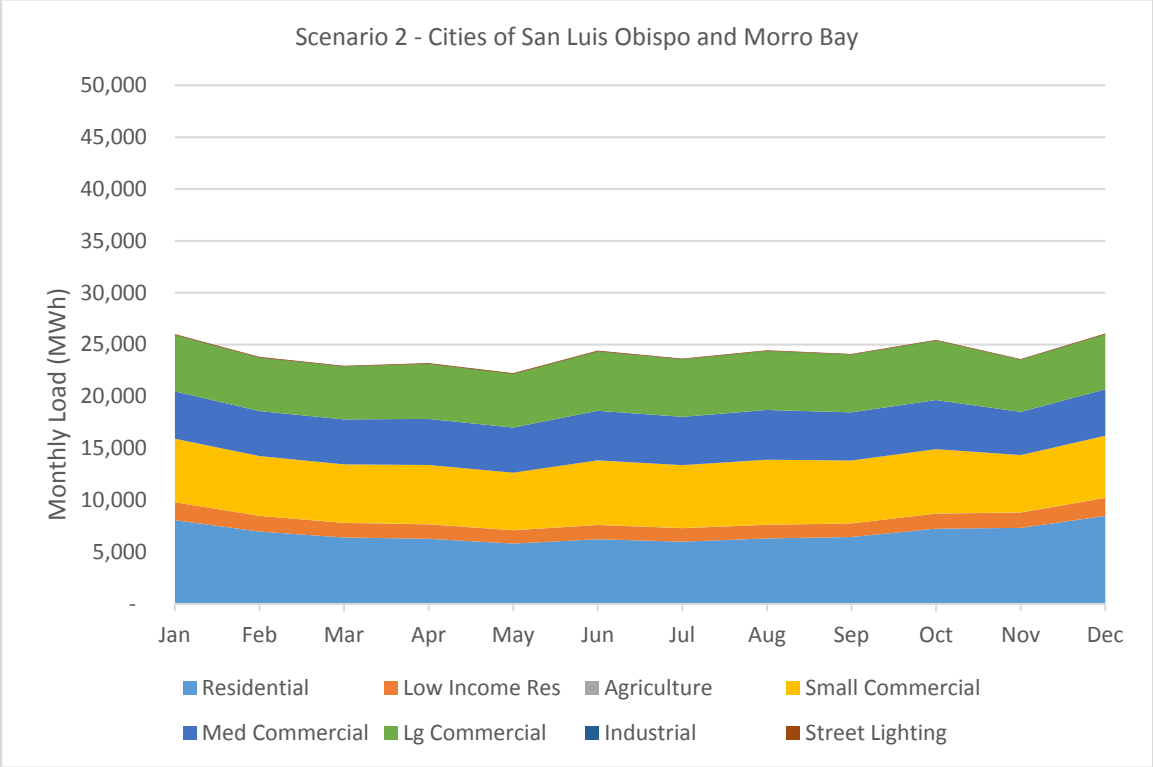


Figure 1b: City of San Luis Obispo and Morro Bay Monthly Energy and Peak Demand



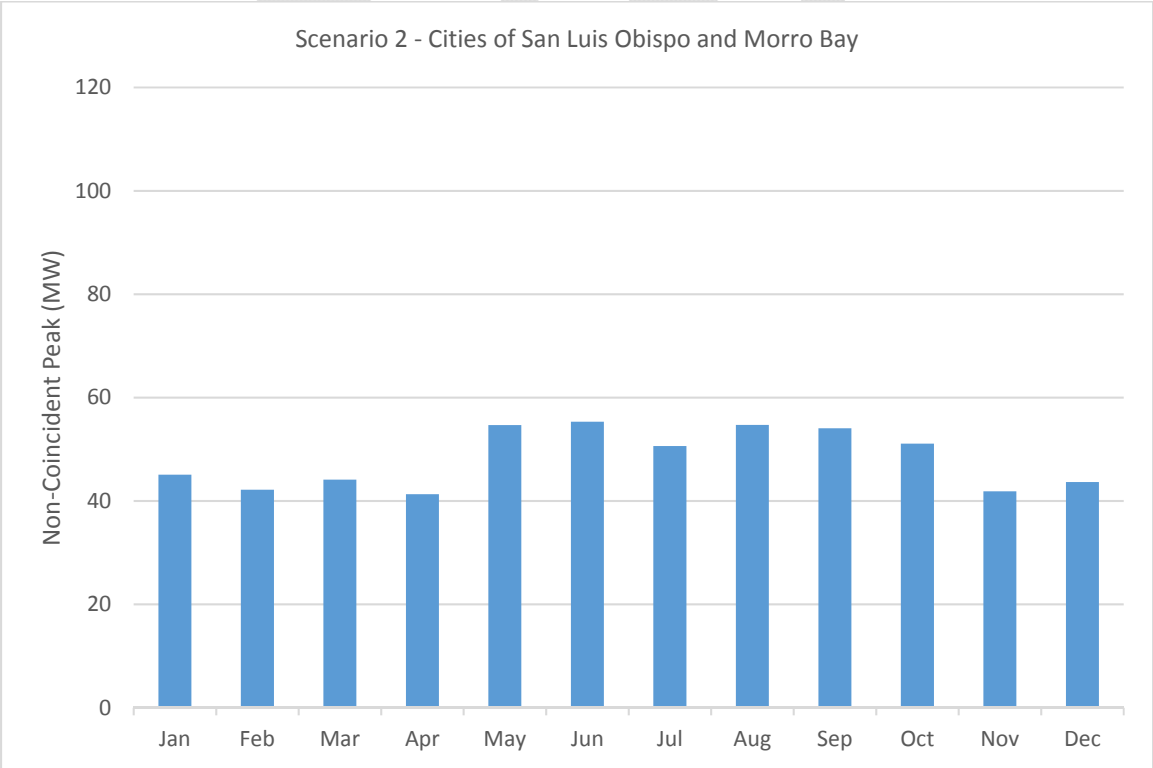
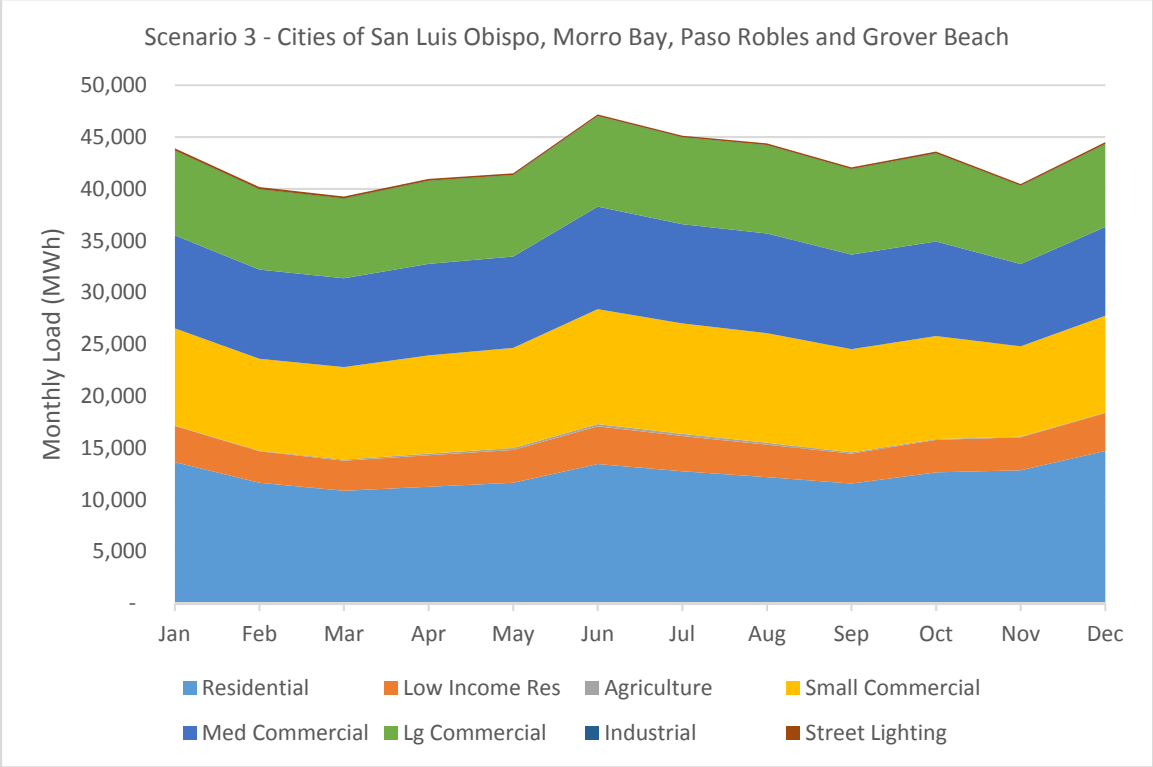
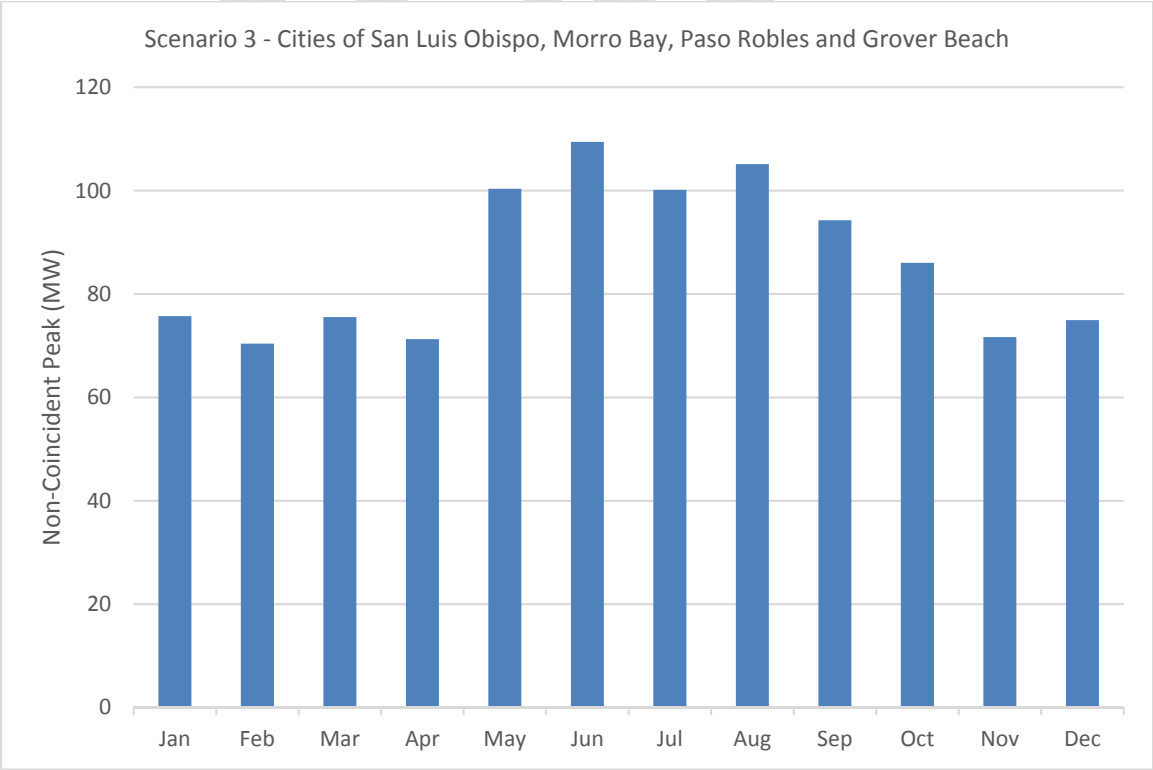


Figure 1c: City of San Luis Obispo, Morro Bay, Grover Beach, & Paso Robles Monthly Energy and Peak Demand





4 Indicative Power Supply Portfolio Scenarios

Three indicative supply scenarios were created to assess the viability of a CCE program.

- **Supply Scenario 1:** Compliance with California Renewable Portfolio Standard (33% RPS in 2020 increasing to 50% RPS requirement in 2030).
- **Supply Scenario 2**: Constant 50% renewable energy portfolio content throughout the study period.
- **Supply Scenario 3**: Constant 75% renewable energy portfolio content throughout the study period.

This study presumes that the new CCE would want to meet, and ideally exceed, the renewable and GHG-free generation component of the PG&E portfolio. However, it is difficult to estimate PG&E's future renewable energy and GHG-free content given uncertainty in how CCE load migration and retirement of Diablo Canyon generation will impact PG&E's future renewable procurement and overall GHG-free content.

To address this uncertainty, a range of scenarios were evaluated to test financial viability under a likely range of future outcomes that may be implemented to meet CCE program goals, as well as to ensure that a new CCE has a renewable and GHG-free portfolio content equal to, or greater than, that of PG&E. To meet this objective, TEA also included procurement of incremental carbon-free supply in excess of renewable energy to achieve a projected overall 100% GHG-free emissions level in each program year. The scenarios also assume that the CCE will not procure nuclear power as part of its clean power portfolio.

Discussion of PG&E's future portfolio is discussed in greater detail in Section 4.1.

It is important to note that the prospective supply scenarios evaluated in this study do not obligate an eventual CCE to implement a particular scenario outlined in this study. Rather, the scenarios evaluated are intended to demonstrate program viability under a range of reasonable outcomes.

4.1 Portfolio Composition

4.1.1 CCE Resource Alternatives

The following supply sources were considered in the analysis:

- **Portfolio Content Category 1 ("Bucket 1") Renewable Energy**: renewable energy produced by generating resources located inside a California Balancing Authority Area or that is directly delivered to a California Balancing Authority Area
- **Portfolio Content Category 2 ("Bucket 2") Renewable Energy**: renewable energy produced by generating resources located outside the state of California that is "stored and shaped" prior to redelivery to a California Balancing Authority Area.

- **Carbon Free Energy**: GHG energy supply, typically large hydroelectric generation, that does not meet the renewable eligibility requirements of California's RPS program, which caps RPS-eligible hydroelectric generation at 30 MW.

4.1.2 PG&E Power Content Label

Table 2 shows PG&E's proportionate use of various power sources during the two most recent historical years – 2015 and 2016 - for which data Power Content Label data is available.

Table 2: PG&E 2015 and 2016 Power Content Labels[5]

Energy Resources	2015 PG&E Power Mix	2016 PG&E Power Mix	2016 California Power Mix
Eligible Renewable	30%	33%	25%
Biomass & biowaste	4%	4%	2%
Geothermal	5%	5%	4%
Eligible hydroelectric	1%	3%	2%
Solar	11%	13%	8%
Wind	8%	8%	9%
Coal	0%	0%	4%
Large Hydroelectric	6%	12%	10%
Natural Gas	25%	17%	37%
Nuclear	23%	24%	9%
Other	0%	0%	0%
Unspecified sources of power	17%	14%	15%
Total	100%	100%	100%

Key takeaways from this data:

- Eligible renewable generation supplied 30% and 33%, respectively, of PG&E's energy requirements in 2015 and 2016;
- GHG-free generation supplied 59% and 69%, respectively, of PG&E's total energy requirements in 2015 and 2016.

PG&E's 2017 Power Content Label will be published in the fall of 2018, but PG&E has publically stated that its 2017 energy requirements were sourced 33% from eligible renewable generation and approximately 79% from GHG free generation[6], with 25% of this total coming from nuclear power.

The challenge for this study is forecasting future PG&E energy requirements met by eligible renewables and GHG-free generation. Forecasting PG&E's future portfolio content requires adjustments for load migration to CCEs, the shutdown of Diablo Canyon in 2024-2025 and

[5] https://www.energy.ca.gov/pcl/labels/2016_labels/Pacific_Gas__and__Electric.pdf; https://www.energy.ca.gov/pcl/labels/2015_labels/Pacific_Gas_and_Electric_(PGandE).pdf;.
[6] http://www.pgecurrents.com/2018/02/20/pge-clean-energy-deliveries-already-meet-future-goals/

potential variability in hydroelectric generation. Each of these adjustments is described in further detail below.

4.1.2.1 CCE Load Migration (2019-2020)

Relative to 2017 data, PG&E's load is expected to decrease by roughly 36% in future years because of load migration to CCEs. Five new CCEs have, or are expected to, launch in 2018. The most notable of these new CCEs are East Bay Community Energy, San Jose Clean Energy, Monterey Bay Community Power, and the addition of Contra Costa County to Marin Clean Energy. The projected amount of CCE load migration is taken from the CEC's California Demand Forecast for 2018 – 2030.

4.1.2.2 Forecasting PG&E Power Content (2020-2030)

There are three components to PG&E's portfolio that need to be considered to forecast future portfolio content: nuclear, hydro and renewables.

- Nuclear: Historically, Diablo Canyon has met between 23% - 24% of PG&E's demand in the last two years (see Power Content Labels for 2015 and 2016 respectively). Accounting for departing load, and assuming Diablo Canyon will continue to generate around its capacity over the remainder of its life, it could deliver over 40% of PG&E's needs between 2020 and 2024. Even if PG&E did not replace Diablo Canyon with preferred resources (an unlikely scenario), expected CCE load migration will more than offset the loss of Diablo Canyon in the second half of the evaluation period.

- Hydro: 2016 was celebrated at the time as a "wet" water year because it was significantly better than the previous 3 years that were critical or drought years; however, 2016 was actually a below-normal/dry water year. In contrast, 2017 was classified as "wet" according to the California Department of Water Resources report. Strong hydroelectric generation in 2017 helps explain PG&E's reported 10% increase in GHG-free power in 2017 over 2016. It also suggests that 2016 could be more the norm than the high. Assuming 2015 hydro generation from 2020-2029 (a critical water year), hydro would supply over 10% of PG&E's annual energy requirements during that time due to departing load. Assuming 2016 hydro generation from 2020-2029, hydro would supply over 20% of PG&E's demand during that period. Of these, 2016 appears to be closer to the mean as well as the more conservative assumption for evaluation purposes in this study.

- Renewables: PG&E's existing renewable portfolio (based on deliveries in 2017) is large enough to exceed 50% of their total power needs starting in 2019 due to departing load. However, PG&E may continue to procure at least some RPS-eligible resources and exceed the requirements.

Accounting for all these factors, it is highly probable that PG&E will be able to serve close to 100% of the energy requirements of bundled customers with GHG-free resources from 2020-2025. After the retirement of Diablo, the share of GHG-free power may drop as low as 70% in

the most critical water years and would likely be between 85% and 90% in typical years, assuming PG&E acquired no preferred resources to replace Diablo Canyon, which seems unlikely.

4.1.3 CCE Portfolio Assumptions

To be conservative, this study assumes all CCE power supply portfolios will be comprised of 100% GHG-free, non-nuclear power supply throughout all years of the study period to ensure the new CCE meets or exceeds the GHG-free content of PG&E's portfolio. Table 3 summarizes the portfolios evaluated in this study.

Table 3: CCE Portfolio Assumptions

	RPS Target	GHG-Free Target
Scenario 1	RPS Compliant: 30% in 2020 ramping up to 50% by 2030	100%
Scenario 2	50%	100%
Scenario 3	75%	100%

4.1.4 Renewable Energy and Storage Procurement Requirements

As the CCE builds its portfolio, it will need to also plan to meet several mandatory requirements, which are described below.

- **Renewable Portfolio Standard (RPS)**: current RPS requirements are mandated by Senate Bill 2 (1X) passed in 2011. This bill mandated RPS procurement requirements within multi-year compliance periods. During the current 10-year forecast period, a minimum of 75% of required RPS procurement must be sourced from PCC 1 resources and a maximum of 10% can be sourced from PCC 3 resources. The difference can be sourced from PCC 2. For purposes of this analysis, no PCC3 resources were included.
- **SB 350:** In October 2015, Senate Bill 350 (SB 350) was signed into law establishing new clean energy, clean air and greenhouse gas reduction goals for 2030 and beyond. SB 350 established California's 2030 GHG reduction target of 40% below 1990 levels. To accomplish this, SB 350 set ambitious targets for renewable energy and energy efficiency. In particular, SB 350 increases California's RPS goal from 33% by 2020 to 50% by 2030. The corresponding CPUC regulations require that transitions from the previous mandate will be implemented gradually with straight line increases during each year of the compliance regime. Additionally, SB 350 established that CCEs must have at least 65% of their RPS procurement under contracts of 10 years or longer beginning in 2021. Table 4 summarizes the CCE's annual RPS requirements, as well as the amount of renewable energy that will need to be procured under a 10-year or longer agreement.

Table 4: Annual RPS Compliance Requirements[7,8]

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Annual RPS Requirements	*33.0%*	*34.8%*	*36.5%*	*38.3%*	*40.0%*	*41.7%*	*43.3%*	*45.0%*	*46.7%*	*48.3%*
Scenario 1 - City of San Luis Obispo Only:										
Total RPS Requirements (MWh)	80,885	85,434	90,157	94,983	100,312	105,096	109,858	114,928	120,056	124,982
Total RPS Requirements (aMW)	9.2	9.8	10.3	10.8	11.5	12.0	12.5	13.1	13.7	14.3
Long-Term RPS Requirement (MWh)	-	55,532	58,602	61,739	65,203	68,313	71,407	74,703	78,036	81,239
Long-Term RPS Requirement (aMW)	-	6.3	6.7	7.0	7.4	7.8	8.2	8.5	8.9	9.3
Scenario 2 - Cities of San Luis Obispo and Morro Bay:										
Total RPS Requirements (MWh)	95,656	101,005	106,554	112,220	118,478	124,092	129,672	135,616	141,624	147,391
Total RPS Requirements (aMW)	10.9	11.5	12.2	12.8	13.5	14.2	14.8	15.5	16.2	16.8
Long-Term RPS Requirement (MWh)	-	65,653	69,260	72,943	77,011	80,660	84,287	88,150	92,056	95,804
Long-Term RPS Requirement (aMW)	-	7.5	7.9	8.3	8.8	9.2	9.6	10.1	10.5	10.9
Scenario 3 - Cities of San Luis Obispo, Morro Bay, Paso Robles and Grover Beach:										
Total RPS Requirements (MWh)	95,656	178,756	188,511	198,501	209,458	219,318	229,109	239,532	250,062	260,162
Total RPS Requirements (aMW)	10.9	20.4	21.5	22.7	23.9	25.0	26.2	27.3	28.5	29.7
Long-Term RPS Requirement (MWh)	-	116,192	122,532	129,026	136,148	142,557	148,921	155,696	162,540	169,105
Long-Term RPS Requirement (aMW)	-	13.3	14.0	14.7	15.5	16.3	17.0	17.8	18.6	19.3

[7] In Scenario 3, RPS requirements in 2020 are only for the Cities and San Luis Obispo and Morro Bay because the Cities of Paso Robles and Grover Beach are modeled as joining the CCE in 2021.

[8] Long-term RPS refers to contracts for renewable energy of 10-years or longer that contribute to the CCE's long-term procurement obligation defined in SB350.

- **AB 2514:** The California Energy Storage Bill, AB 2514, was signed into law in September 2010 and established energy storage targets for IOUs, CCEs, and other LSEs in September 2013. The applicable CPUC decision established an energy storage procurement target for CCEs and other LSEs equal to 1 percent of their forecasted 2020 peak load. The decision requires that contracts be in place by 2020 and projects be installed by 2024. Beginning on January 1, 2018, and every two years thereafter, LSEs must file an advice letter demonstrating progress toward meeting this target and a description of the methodologies for insuring projects are cost effective. Depending on the particular load scenario, the prospective CCE's storage requirement will be between 0.5 and 1.0 MW.

5 Findings and Conclusions

The major findings of this study are summarized in Table 5 below.

Table 5a: City of San Luis Obispo Only CCE Program

Metric	Supply Scenario 1	Supply Scenario 2	Supply Scenario 3
RPS Percentage	RPS-Compliant	50%	75%
Annual GHG emissions (MT CO_2e)	0	0	0
Average Rate Savings:	3%	3%	3%
Residential Customers: Average rate savings in 2020 Average 5-yr rate savings	 $1.10/month $1.15/month	 $1.10/month $1.15/month	 $1.10/month $1.15/month
Commercial Customers: Average rate savings in 2020 Average 5-yr rate savings	 $50.00/month $54.88/month	 $50.00/month $54.88/month	 $50.00/month $54.88/month
Cumulative net revenues at end of year 3: Total $ % of Annual Op. Expenses	 $.9.9 million 63% of op. exp	 $9.1 million 57% of op. exp	 $7.6 million 47% of op. exp

Table 5b: Two-City CCE Program (San Luis Obispo and Morro Bay)

Metric	Supply Scenario 1	Supply Scenario 2	Supply Scenario 3
RPS Percentage	RPS-Compliant	50%	75%
Annual GHG emissions (MT CO_2e)	0	0	0
Average Rate Savings	3%	3%	3%
Residential Customers:			

Average rate savings in 2020 Average 5-yr rate savings	$1.09/month $1.15/month	$1.09/month $1.15/month	$1.09/month $1.15/month
Commercial Customers: Average rate savings in 2020 Average 5-yr rate savings	$47.65/month $52.30/month	$47.65/month $52.30/month	$47.65/month $52.30/month
Cumulative net revenues at end of year 3: Total $ % of Annual Op. Expenses	$12.3 million 68% of op. exp	$11.3 million 61% of op. exp	$9.7 million 51% of op. exp

Table 5c: Four-City CCE (San Luis Obispo, Morro Bay, Paso Robles and Grover Beach)

Metric	Supply Scenario 1	Supply Scenario 2	Supply Scenario 3
RPS Percentage	RPS-Compliant	50%	75%
Annual GHG emissions (MT CO_2e)	0	0	0
Average Rate Savings: 2020 Average Rate Savings: 5-yr	3% 3%	3% 3%	3% 3%
Residential Customers: Average rate savings in 2020 Average 5-yr rate savings	$1.09/month $1.28/month	$1.09/month $1.28/month	$1.09/month $1.28/month
Commercial Customers: Average rate savings in 2020 Average 5-yr rate savings	$47.65/month $62.65/month	$47.65/month $62.65/month	$47.65/month $62.65/month
Cumulative net revenues at end of year 3: Total $ % of Annual Op. Expenses	$23.9 million 80% of op. exp	$22.4 million 74% of op. exp	$20.1 million 64% of op. exp

In all nine scenarios, net revenues are positive in all modeled years while offering customers a 3% rate discount relative to PG&E, which is the average discount currently being offered by operating CCE programs. Moreover, all scenarios show that the CCE would be able to accumulate net revenues in excess of 150 days of expenses over three years of operations under these scenarios. Based on these findings, TEA concludes that under base-case market and regulatory conditions, all nine scenarios would be feasible.

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6 Financial Projections

A detailed summary of key assumptions is provided in Appendix A. Below are a few key assumptions:

- January 2020 launch for customers in the Cities of San Luis Obispo and Morro Bay, and January 2021 launch for customers in the Cities of Paso Robles and Grover Beach
- Customer opt-out rate of 10%
- CCE electric generation rates are assumed to be set 3% below PG&E, inclusive/net of PCIA exit and franchise fees.
- The PCIA charge reflects the existing PCIA rate setting structure using the market-price benchmark mechanism described in both the Administrative Law Judges' Proposed Decision in the PCIA Rulemaking Proceeding and the Alternative Proposed Decision.

6.1 Projected Results

Table 6a: Financial Projections for City of San Luis Obispo assuming Minimum RPS Compliance

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Costs										
Power Supply	$ 12,051,583	$ 12,943,149	$ 13,458,921	$ 13,954,627	$ 14,555,244	$ 15,079,528	$ 15,579,292	$ 16,114,000	$ 16,674,750	$ 17,239,420
Portfolio & Data Management	$ 625,906	$ 644,683	$ 664,023	$ 683,944	$ 704,462	$ 725,596	$ 747,364	$ 769,785	$ 792,879	$ 816,665
General and Administrative	$ 1,042,628	$ 1,150,686	$ 1,204,491	$ 1,254,843	$ 1,319,580	$ 1,372,791	$ 1,421,860	$ 1,475,262	$ 1,531,706	$ 1,588,011
Cost of Credit for Procurement	$ 231,626	$ 231,999	$ 233,420	$ 234,358	$ 236,988	$ -	$ -	$ -	$ -	$ -
PG&E Billing Services	$ 53,121	$ 53,652	$ 54,189	$ 54,731	$ 55,278	$ 55,831	$ 56,389	$ 56,953	$ 57,523	$ 58,098
Startup Loan Repayment	$ 697,000	$ 550,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Revenue Requirement	$ 14,701,864	$ 15,574,169	$ 15,615,044	$ 16,182,504	$ 16,871,553	$ 17,233,747	$ 17,804,905	$ 18,416,000	$ 19,056,858	$ 19,702,195
Revenues	$ 18,352,836	$ 18,596,535	$ 19,182,468	$ 19,293,856	$ 19,701,118	$ 20,095,001	$ 21,096,339	$ 22,212,092	$ 23,437,774	$ 24,696,996
Net Revenue										
Annual	$ 3,541,185	$ 2,911,120	$ 3,452,674	$ 2,995,936	$ 2,711,712	$ 2,741,045	$ 3,165,235	$ 3,663,218	$ 4,240,710	$ 4,847,062
Cumulative ($)	$ 3,541,185	$ 6,452,305	$ 9,904,979	$ 12,900,915	$ 15,612,627	$ 18,353,672	$ 21,518,907	$ 25,182,125	$ 29,422,835	$ 34,269,897
Cumulative (% of Tot. Rev. Req.)	24%	41%	63%	80%	93%	106%	121%	137%	154%	174%

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Table 6b: Financial Projections for City of San Luis Obispo assuming 50% RPS

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Costs										
Power Supply	$ 12,314,092	$ 13,188,239	$ 13,685,671	$ 14,160,472	$ 14,739,418	$ 15,238,591	$ 15,711,010	$ 16,216,318	$ 16,745,398	$ 17,275,932
Portfolio & Data Management	$ 625,906	$ 644,683	$ 664,023	$ 683,944	$ 704,462	$ 725,596	$ 747,364	$ 769,785	$ 792,879	$ 816,665
General and Administrative	$ 1,080,129	$ 1,185,699	$ 1,236,884	$ 1,284,250	$ 1,345,891	$ 1,395,514	$ 1,440,677	$ 1,489,879	$ 1,541,798	$ 1,593,227
Cost of Credit for Procurement	$ 231,626	$ 231,999	$ 233,420	$ 234,358	$ 236,988	$ -	$ -	$ -	$ -	$ -
PG&E Billing Services	$ 53,121	$ 53,652	$ 54,189	$ 54,731	$ 55,278	$ 55,831	$ 56,389	$ 56,953	$ 57,523	$ 58,098
Startup Loan Repayment	$ 697,000	$ 550,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Revenue Requirement	$ 15,001,874	$ 15,854,272	$ 15,874,187	$ 16,417,754	$ 17,082,037	$ 17,415,532	$ 17,955,440	$ 18,532,935	$ 19,137,598	$ 19,743,923
Revenues	$ 18,352,836	$ 18,596,535	$ 19,182,468	$ 19,293,856	$ 19,701,118	$ 20,095,001	$ 21,096,339	$ 22,212,092	$ 23,437,774	$ 24,696,996
Net Revenue										
Annual	$ 3,241,174	$ 2,631,017	$ 3,193,531	$ 2,760,685	$ 2,501,228	$ 2,559,260	$ 3,014,700	$ 3,546,283	$ 4,159,969	$ 4,805,334
Cumulative ($)	$ 3,241,174	$ 5,872,191	$ 9,065,722	$ 11,826,407	$ 14,327,635	$ 16,886,895	$ 19,901,594	$ 23,447,877	$ 27,607,847	$ 32,413,181
Cumulative (% of Tot. Rev. Req.)	22%	37%	57%	72%	84%	97%	111%	127%	144%	164%

Table 6c: Financial Projections for City of San Luis Obispo assuming 75% RPS

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Costs										
Power Supply	$ 12,700,136	$ 13,588,713	$ 14,102,493	$ 14,592,918	$ 15,190,823	$ 15,706,421	$ 16,195,268	$ 16,717,878	$ 17,264,869	$ 17,812,871
Portfolio & Data Management	$ 625,906	$ 644,683	$ 664,023	$ 683,944	$ 704,462	$ 725,596	$ 747,364	$ 769,785	$ 792,879	$ 816,665
General and Administrative	$ 1,135,278	$ 1,242,909	$ 1,296,429	$ 1,346,028	$ 1,410,377	$ 1,462,347	$ 1,509,856	$ 1,561,530	$ 1,616,009	$ 1,669,933
Cost of Credit for Procurement	$ 231,626	$ 231,999	$ 233,420	$ 234,358	$ 236,988	$ -	$ -	$ -	$ -	$ -
PG&E Billing Services	$ 53,121	$ 53,652	$ 54,189	$ 54,731	$ 55,278	$ 55,831	$ 56,389	$ 56,953	$ 57,523	$ 58,098
Startup Loan Repayment	$ 697,000	$ 550,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Revenue Requirement	$ 15,443,067	$ 16,311,956	$ 16,350,554	$ 16,911,979	$ 17,597,929	$ 17,950,195	$ 18,508,877	$ 19,106,146	$ 19,731,279	$ 20,357,567
Revenues	$ 18,352,836	$ 18,596,535	$ 19,182,468	$ 19,293,856	$ 19,701,118	$ 20,095,001	$ 21,096,339	$ 22,212,092	$ 23,437,774	$ 24,696,996
Net Revenue										
Annual	$ 2,799,982	$ 2,173,333	$ 2,717,164	$ 2,266,461	$ 1,985,336	$ 2,024,597	$ 2,461,262	$ 2,973,072	$ 3,566,288	$ 4,191,690
Cumulative ($)	$ 2,799,982	$ 4,973,314	$ 7,690,478	$ 9,956,939	$ 11,942,275	$ 13,966,871	$ 16,428,134	$ 19,401,206	$ 22,967,495	$ 27,159,185
Cumulative (% of Tot. Rev. Req.)	18%	30%	47%	59%	68%	78%	89%	102%	116%	133%

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Table 6d: Financial Projections for Cities of San Luis Obispo & Morro Bay assuming Minimum RPS Compliance

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Costs										
Power Supply	$ 14,039,695	$ 15,093,064	$ 15,694,712	$ 16,271,514	$ 16,971,219	$ 17,580,921	$ 18,160,779	$ 18,781,744	$ 19,432,229	$ 20,087,585
Portfolio & Data Management	$ 709,199	$ 730,475	$ 752,390	$ 774,961	$ 798,210	$ 822,157	$ 846,821	$ 872,226	$ 898,393	$ 925,344
General and Administrative	$ 1,228,140	$ 1,356,662	$ 1,420,007	$ 1,479,139	$ 1,555,144	$ 1,617,587	$ 1,675,041	$ 1,737,620	$ 1,803,647	$ 1,869,578
Cost of Credit for Procurement	$ 273,923	$ 274,280	$ 275,873	$ 276,889	$ 279,905	$ -	$ -	$ -	$ -	$ -
PG&E Billing Services	$ 68,331	$ 69,015	$ 69,705	$ 70,402	$ 71,106	$ 71,817	$ 72,535	$ 73,260	$ 73,993	$ 74,733
Startup Loan Repayment	$ 697,000	$ 550,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Revenue Requirement	$ 17,016,290	$ 18,073,496	$ 18,212,686	$ 18,872,905	$ 19,675,583	$ 20,092,481	$ 20,755,176	$ 21,464,850	$ 22,208,262	$ 22,957,241
Revenues	$ 21,599,097	$ 21,877,993	$ 22,566,097	$ 22,682,240	$ 23,152,444	$ 23,607,888	$ 24,779,429	$ 26,085,643	$ 27,517,689	$ 28,989,458
Net Revenue										
Annual	$ 4,453,601	$ 3,673,622	$ 4,218,419	$ 3,673,648	$ 3,338,362	$ 3,374,183	$ 3,876,020	$ 4,464,748	$ 5,144,815	$ 5,858,801
Cumulative ($)	$ 4,453,601	$ 8,127,222	$ 12,345,642	$ 16,019,290	$ 19,357,652	$ 22,731,834	$ 26,607,855	$ 31,072,602	$ 36,217,418	$ 42,076,218
Cumulative (% of Tot. Rev. Req.)	26%	45%	68%	85%	98%	113%	128%	145%	163%	183%

Table 6e: Financial Projections for Cities of San Luis Obispo & Morro Bay assuming 50% RPS

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Costs										
Power Supply	$ 14,350,142	$ 15,382,821	$ 15,962,702	$ 16,514,715	$ 17,188,745	$ 17,768,733	$ 18,316,257	$ 18,902,482	$ 19,515,568	$ 20,130,644
Portfolio & Data Management	$ 709,199	$ 730,475	$ 752,390	$ 774,961	$ 798,210	$ 822,157	$ 846,821	$ 872,226	$ 898,393	$ 925,344
General and Administrative	$ 1,272,489	$ 1,398,056	$ 1,458,292	$ 1,513,882	$ 1,586,219	$ 1,644,417	$ 1,697,252	$ 1,754,868	$ 1,815,553	$ 1,875,729
Cost of Credit for Procurement	$ 273,923	$ 274,280	$ 275,873	$ 276,889	$ 279,905	$ -	$ -	$ -	$ -	$ -
PG&E Billing Services	$ 68,331	$ 69,015	$ 69,705	$ 70,402	$ 71,106	$ 71,817	$ 72,535	$ 73,260	$ 73,993	$ 74,733
Startup Loan Repayment	$ 697,000	$ 550,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Revenue Requirement	$ 17,371,086	$ 18,404,646	$ 18,518,962	$ 19,150,848	$ 19,924,185	$ 20,307,123	$ 20,932,865	$ 21,602,837	$ 22,303,507	$ 23,006,450
Revenues	$ 21,599,097	$ 21,877,993	$ 22,566,097	$ 22,682,240	$ 23,152,444	$ 23,607,888	$ 24,779,429	$ 26,085,643	$ 27,517,689	$ 28,989,458
Net Revenue										
Annual	$ 4,098,805	$ 3,342,471	$ 3,912,144	$ 3,395,705	$ 3,089,761	$ 3,159,541	$ 3,698,332	$ 4,326,760	$ 5,049,571	$ 5,809,591
Cumulative ($)	$ 4,098,805	$ 7,441,276	$ 11,353,420	$ 14,749,125	$ 17,838,885	$ 20,998,426	$ 24,696,758	$ 29,023,518	$ 34,073,089	$ 39,882,680
Cumulative (% of Tot. Rev. Req.)	24%	40%	61%	77%	90%	103%	118%	134%	153%	173%

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Table 6f: Financial Projections for Cities of San Luis Obispo & Morro Bay assuming 75% RPS

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Costs										
Power Supply	$ 14,806,681	$ 15,856,280	$ 16,455,333	$ 17,025,640	$ 17,721,897	$ 18,321,120	$ 18,887,864	$ 19,494,339	$ 20,128,357	$ 20,763,851
Portfolio & Data Management	$ 709,199	$ 730,475	$ 752,390	$ 774,961	$ 798,210	$ 822,157	$ 846,821	$ 872,226	$ 898,393	$ 925,344
General and Administrative	$ 1,337,709	$ 1,465,693	$ 1,528,667	$ 1,586,871	$ 1,662,383	$ 1,723,329	$ 1,778,910	$ 1,839,419	$ 1,903,094	$ 1,966,187
Cost of Credit for Procurement	$ 273,923	$ 274,280	$ 275,873	$ 276,889	$ 279,905	$ -	$ -	$ -	$ -	$ -
PG&E Billing Services	$ 68,331	$ 69,015	$ 69,705	$ 70,402	$ 71,106	$ 71,817	$ 72,535	$ 73,260	$ 73,993	$ 74,733
Startup Loan Repayment	$ 697,000	$ 550,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Revenue Requirement	$ 17,892,844	$ 18,945,742	$ 19,081,968	$ 19,734,763	$ 20,533,501	$ 20,938,423	$ 21,586,131	$ 22,279,245	$ 23,003,837	$ 23,730,116
Revenues	$ 21,599,097	$ 21,877,993	$ 22,566,097	$ 22,682,240	$ 23,152,444	$ 23,607,888	$ 24,779,429	$ 26,085,643	$ 27,517,689	$ 28,989,458
Net Revenue										
Annual	$ 3,577,046	$ 2,801,375	$ 3,349,138	$ 2,811,790	$ 2,480,444	$ 2,528,241	$ 3,045,066	$ 3,650,352	$ 4,349,240	$ 5,085,925
Cumulative ($)	$ 3,577,046	$ 6,378,421	$ 9,727,559	$ 12,539,349	$ 15,019,793	$ 17,548,034	$ 20,593,100	$ 24,243,453	$ 28,592,693	$ 33,678,618
Cumulative (% of Tot. Rev. Req.)	20%	34%	51%	64%	73%	84%	95%	109%	124%	142%

Table 6g: Financial Projections for Cities of San Luis Obispo, Morro Bay, Paso Robles, and Grover Beach assuming Minimum RPS Compliance

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Costs										
Power Supply	$ 14,018,186	$ 25,692,345	$ 26,719,867	$ 27,707,315	$ 28,905,050	$ 29,949,112	$ 30,943,800	$ 32,005,432	$ 33,116,933	$ 34,235,972
Portfolio & Data Management	$ 709,199	$ 999,287	$ 1,029,266	$ 1,060,144	$ 1,091,948	$ 1,124,707	$ 1,158,448	$ 1,193,201	$ 1,228,997	$ 1,265,867
General and Administrative	$ 608,883	$ 1,424,565	$ 1,495,038	$ 1,560,636	$ 1,646,094	$ 1,715,388	$ 1,778,803	$ 1,847,815	$ 1,920,704	$ 1,993,252
Cost of Credit for Procurement	$ 273,923	$ 485,416	$ 488,064	$ 489,775	$ 494,845	$ -	$ -	$ -	$ -	$ -
PG&E Billing Services	$ 68,331	$ 117,149	$ 118,320	$ 119,504	$ 120,699	$ 121,906	$ 123,125	$ 124,356	$ 125,599	$ 126,855
Startup Loan Repayment	$ 847,000	$ 700,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Revenue Requirement	$ 16,525,523	$ 29,418,762	$ 29,850,555	$ 30,937,374	$ 32,258,636	$ 32,911,112	$ 34,004,176	$ 35,170,804	$ 36,392,234	$ 37,621,947
Revenues	$ 21,599,097	$ 38,728,023	$ 39,941,554	$ 40,129,417	$ 40,937,892	$ 41,730,837	$ 43,800,579	$ 46,101,461	$ 48,619,664	$ 51,206,014
Net Revenue										
Annual	$ 4,944,367	$ 9,077,588	$ 9,852,067	$ 8,951,987	$ 8,434,363	$ 8,570,088	$ 9,534,386	$ 10,654,875	$ 11,936,585	$ 13,277,749
Cumulative ($)	$ 4,944,367	$ 14,021,955	$ 23,874,021	$ 32,826,008	$ 41,260,371	$ 49,830,460	$ 59,364,845	$ 70,019,720	$ 81,956,305	$ 95,234,055
Cumulative (% of Tot. Rev. Req.)	30%	48%	80%	106%	128%	151%	175%	199%	225%	253%

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Table 6h: Financial Projections for Cities of San Luis Obispo, Morro Bay, Paso Robles, and Grover Beach assuming 50% RPS

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Costs										
Power Supply	$ 14,328,632	$ 26,205,152	$ 27,193,986	$ 28,137,501	$ 29,289,615	$ 30,281,048	$ 31,218,552	$ 32,218,726	$ 33,264,109	$ 34,311,988
Portfolio & Data Management	$ 709,199	$ 999,287	$ 1,029,266	$ 1,060,144	$ 1,091,948	$ 1,124,707	$ 1,158,448	$ 1,193,201	$ 1,228,997	$ 1,265,867
General and Administrative	$ 639,587	$ 1,475,282	$ 1,541,929	$ 1,603,182	$ 1,684,128	$ 1,748,217	$ 1,805,976	$ 1,868,910	$ 1,935,260	$ 2,000,770
Cost of Credit for Procurement	$ 273,923	$ 485,416	$ 488,064	$ 489,775	$ 494,845	$ -	$ -	$ -	$ -	$ -
PG&E Billing Services	$ 68,331	$ 117,149	$ 118,320	$ 119,504	$ 120,699	$ 121,906	$ 123,125	$ 124,356	$ 125,599	$ 126,855
Startup Loan Repayment	$ 847,000	$ 700,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Revenue Requirement	$ 16,866,673	$ 29,982,287	$ 30,371,564	$ 31,410,105	$ 32,681,235	$ 33,275,877	$ 34,306,101	$ 35,405,193	$ 36,553,966	$ 37,705,481
Revenues	$ 21,599,097	$ 38,728,023	$ 39,941,554	$ 40,129,417	$ 40,937,892	$ 41,730,837	$ 43,800,579	$ 46,101,461	$ 48,619,664	$ 51,206,014
Net Revenue										
Annual	$ 4,603,217	$ 8,514,063	$ 9,331,057	$ 8,479,255	$ 8,011,764	$ 8,205,324	$ 9,232,461	$ 10,420,486	$ 11,774,853	$ 13,194,216
Cumulative ($)	$ 4,603,217	$ 13,117,281	$ 22,448,337	$ 30,927,593	$ 38,939,356	$ 47,144,680	$ 56,377,141	$ 66,797,627	$ 78,572,480	$ 91,766,696
Cumulative (% of Tot. Rev. Req.)	27%	44%	74%	98%	119%	142%	164%	189%	215%	243%

Table 6i: Financial Projections for Cities of San Luis Obispo, Morro Bay, Paso Robles, and Grover Beach assuming 75% RPS

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Costs										
Power Supply	$ 14,785,171	$ 27,043,072	$ 28,065,528	$ 29,041,252	$ 30,232,177	$ 31,257,330	$ 32,228,669	$ 33,264,284	$ 34,346,283	$ 35,429,865
Portfolio & Data Management	$ 709,199	$ 999,287	$ 1,029,266	$ 1,060,144	$ 1,091,948	$ 1,124,707	$ 1,158,448	$ 1,193,201	$ 1,228,997	$ 1,265,867
General and Administrative	$ 684,739	$ 1,558,153	$ 1,628,125	$ 1,692,564	$ 1,777,349	$ 1,844,772	$ 1,905,878	$ 1,972,317	$ 2,042,288	$ 2,111,330
Cost of Credit for Procurement	$ 273,923	$ 485,416	$ 488,064	$ 489,775	$ 494,845	$ -	$ -	$ -	$ -	$ -
PG&E Billing Services	$ 68,331	$ 117,149	$ 118,320	$ 119,504	$ 120,699	$ 121,906	$ 123,125	$ 124,356	$ 125,599	$ 126,855
Startup Loan Repayment	$ 847,000	$ 700,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Revenue Requirement	$ 17,368,364	$ 30,903,078	$ 31,329,303	$ 32,403,238	$ 33,717,018	$ 34,348,715	$ 35,416,120	$ 36,554,158	$ 37,743,168	$ 38,933,917
Revenues	$ 21,599,097	$ 38,728,023	$ 39,941,554	$ 40,129,417	$ 40,937,892	$ 41,730,837	$ 43,800,579	$ 46,101,461	$ 48,619,664	$ 51,206,014
Net Revenue										
Annual	$ 4,101,526	$ 7,593,272	$ 8,373,318	$ 7,486,123	$ 6,975,981	$ 7,132,486	$ 8,122,442	$ 9,271,521	$ 10,585,651	$ 11,965,780
Cumulative ($)	$ 4,101,526	$ 11,694,798	$ 20,068,116	$ 27,554,239	$ 34,530,220	$ 41,662,706	$ 49,785,148	$ 59,056,668	$ 69,642,319	$ 81,608,099
Cumulative (% of Tot. Rev. Req.)	24%	38%	64%	85%	102%	121%	141%	162%	185%	210%

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6.2 Sensitivity Analysis

TEA created an alternative price scenario to test the financial viability of the CCE program. The alternative price scenario modified three key assumptions and was applied to each community participation scenario assuming a 50% RPS power portfolio. The three variables modified in the sensitivity scenario are:

1) **Market Prices** were increased by an average of $5.57/MWh over base-case forward prices for the study horizon. Based on current market price volatility, there is a 75% chance that market prices will be lower than those assumed in this alternative scenario but a 25% chance that actual market prices will be higher.
2) **Power Charge Indifference Adjustment (PCIA)** rates were increased 40% relative to the base case. This higher PCIA estimate is representative of the possible impact if the CPUC adopts the Alternative Proposed Decision in Rulemaking Proceeding R.17-06-026. It is difficult to assign a probability to this scenario, but it is important to remember that the Alternative Proposed Decision was proposed by Commissioner Peterman.
3) **PG&E Generation Rates** were decreased by an average of 10% over the study horizon relative to the base-case scenario – equivalent to PG&E generation rates increasing at 2% annually from 2019 through the study period. This is in contrast to current rate forecasts, which show a significant PG&E rate increase in 2020 due to large departing load. Like the PCIA increase, it is difficult to assign a probability to this decreased generation rate scenario. However, this scenario is consistent with the assumption above regarding a larger PCIA, which would offset some of PG&E's generation costs.

TEA views this alternative price scenario as a plausible outcome that the CCE should be prepared to address. Results of the alternative price scenario are presented in Table 7 below.

Table 7: Alternative price scenario results for all three community participation scenarios assuming 50% RPS under two rate discount scenarios

Community Participation Scenario	Cumulative net revenues at end of year 3:			
	3% Generation Rate Discount to PG&E		0% Generation Rate Discount to PG&E	
	Total ($ Million)	% of Annual Expenses	Total ($ Million)	% of Annual Expenses
City of San Luis Obispo	($3.2M)	(18%)	($1.0M)	(6%)
Cities of San Luis Obispo and Morro Bay	($3.2M)	(16%)	($0.6M)	(3%)
Cities of San Luis Obispo, Morro Bay, Paso Roble, and Grover Beach	$0.6M	2%	$4.5M	13%

Under the alternative prices, the 1 and 2-city scenarios result in negative net revenues year-over-year when maintaining the 3% rate discount relative to PG&E, while the 4-city scenario presents slightly positive results. If the rate discount is set at zero, only the 4-city scenario yields positive net revenue, while the 1 and 2-city scenarios require between a 1% and 2% rate premium over PG&E in order to achieve positive net revenues. However, it's important to note that these scenarios do not take into account some mitigating factors such as the CCE's ability to make more conservative policy and budgeting decisions than were assumed for this study.

These results demonstrate the need for the potential CCE member communities to continue to reevaluate market and regulatory conditions throughout the CCE planning and implementation process. The participating communities will be able to adjust program design if these adverse conditions begin to develop.

7 CCE Risk Analysis

While there are many benefits to a CCE, there are also risks that need to be identified, monitored, and mitigated. A detailed risk assessment is beyond the scope of this study, but there are a few primary risks associated with power supply procurement and legal/regulatory changes that need to be considered as part of the decision to launch a CCE program.

If the new CCE's rates become significantly higher than PG&E's, there is a risk that customers may revert to PG&E service, which could potentially threaten the CCE's financial viability. It will therefore be important for the CCE to follow industry best practices including:

- ***Financial Reserves*** – Building financial reserves as a buffer against unexpected cost increases, as well as to serve as a means of demonstrating creditworthiness for long-term contracting. A key measure considered in this study is how quickly the new CCE will build financial reserves to a level equivalent to 150 to 180 days of annual operating expenses. A financial buffer of this magnitude can help mitigate unexpected changes in procurement costs, PG&E rates and/or other unexpected cost shocks.
- ***Risk Management*** – Implementing an energy risk management program consistent with industry best practices, including spreading procurement over time, across counterparties and among different generation technologies, as well as continually monitoring open positions and the expected cost of the same.
- ***Qualified Staff*** – Employing competent and experienced staff and third-party service providers that can enable a new CCE to quickly launch and implement best practices.
- ***Regulatory and Legislative Monitoring*** – Coordinating with Cal-CCE, other CCEs and other interested parties to understand and influence legislative and regulatory decisions, as well as actively monitor proceedings.
- ***Demonstrating Customer and Community Value Beyond Rate Savings*** – Implementing customer and community-based programs and having a positive reputation in the community will help mitigate customer opt-outs as has been demonstrated by other

CCE programs that have been through periodic cycles of higher rates than PG&E as a result of fluctuating PCIA charges.

7.1 PCIA Rulemaking

Arguably, the single largest risk currently facing a new CCE is the outcome of the current PCIA Rulemaking proceeding. A final ruling in this proceeding is not expected until after completion of this study, sometime in mid/late September. Updates that have material impact on this report's current analysis will be provided right away.

To test financial viability under a range of future possible scenarios, TEA has created a sensitivity scenario that increases the PCIA charge 40% above the base case scenario. The assumed customer class weighted PCIA charge for both base and stressed scenarios is provided in Appendix A: Key Assumptions. Prior to submitting its Implementation Plan, TEA also recommends updating the financial analysis after the final PCIA ruling is available.

7.2 Long-term Contracting

A unique challenge facing all CCEs launching in 2020 is the need to immediately enter into long-term contracts to satisfy the requirement to procure 65% of renewable supply under a 10-year or longer contract. While the long-term contract requirement is not unique, having to satisfy the creditworthiness standards of potential generators without the benefit of accumulating financial reserves and establishing an operating track record is a unique challenge.

For the purposes of this study, TEA has assumed base PCC1 prices are sufficient to cover the mid-point of expected long-term renewable contracting costs (see Appendix). However, the implied REC premium of long-term contracts must be assessed on a case-by-case basis as these costs can vary widely depending on generation profile and congestion at the point the generator connects with the CAISO grid. Fortunately, the extended timeline prior to implementation in 2020 gives the prospective CCE time to explore with other CCEs, as well as potential generators, the requirements for long-term contracting that a new CCE will face. This inquiry will enable the new CCE to incorporate these requirements into financial and operating plans and policies established at program launch.

Possible direct and indirect means of addressing long-term contract requirements may include, but are not limited to:

- Contracting with economically-priced local generators that are likely to be have greater interest in establishing a mutually beneficial, long-term, relationship with a local CCE;
- Partnering with established CCEs in their procurement activities for a portion of long-term requirements;
- Being disciplined in executing rate and financial policies to achieve and maintain a strong liquidity positon and generate the required levels of free cash flow;
- Building a strong relationship with the local community to help ensure commitment to the CCE program, even during a period when rates may need to be set above PG&E to meet the procurement goals of the CCE.

Appendix A: Key Assumptions

- Customer Opt-out rate of 10% for all scenarios
- Startup costs equal $1.25 million for the 1 and 2-city scenarios and $1.55 million for the 4-city scenario, including the $147,000 CPUC bond.
- The $500,000 posting to CAISO needed to satisfy the credit requirements for the CCE to be a Candidate Congestion Revenue Rights (CRR) Holder is not included at this time, nor has the revenue associated with CRRs been included. Historically, CRR revenues have provided $0.50 to $1.50 per MWh.
- Accumulated Net Revenues
    - Target by end of 2024 equal to 5-6 months of operating expenses (including power supply expenses)
    - Annual target equal to 8.3 to 10% of projected operating expenses in year 5
- Forward Power Supply Costs ($/MWh)

Table 8: Forward Power Supply Cost Assumptions

	Energy (ATC)	PCC1	PCC2[9]	CF
2020	$34.16	$17.50	$7.00	$3.00
2021	$37.11	$18.00	$7.25	$3.25
2022	$38.35	$18.50	$7.50	$3.50
2023	$39.54	$19.00	$7.75	$3.75
2024	$40.68	$19.50	$8.00	$4.00
2025	$41.78	$20.00	$8.25	$4.25
2026	$42.87	$20.50	$8.50	$4.50
2027	$43.99	$21.00	$8.75	$4.75
2028	$45.14	$21.50	$9.00	$5.00
2029	$46.32	$22.00	$9.25	$5.25

- Miscellaneous Power Supply Costs
    - CAISO: $1.44/MWh
    - Distribution losses: 5%

[9] Due to the passage of California Assembly Bill 1110, PCC2 purchases are not considered carbon-free. Accordingly, TEA assumed carbon-free power would need to be purchased in addition to all PCC2 purchases in order to achieve the CCE goal of zero GHG emissions.

- Portfolio Management and Scheduling Coordination consistent with TEA's proposal

- Non-power supply costs
  - Internal staffing, overhead and administration: $90,000 per month for the City of San Luis Obispo only; $109,000 per month for the City of San Luis Obispo and Morro Bay; and $126,000 for the City of San Luis Obispo, Morro Bay, Paso Robles, and Grover Beach
  - Data management fees: $1.15 per customer per month in 2020, escalating at 3% per year
  - PG&E service fees: $0.21 per customer per month
- PG&E Generation and PCIA Rate Forecast (Load Weighted Average)

Table 9: Forward Power Supply Cost Assumptions

	PG&E Gen Rate ($/MWh)	PG&E PCIA ($/MWh)
2020	$110.92	$24.71
2021	$112.55	$25.18
2022	$113.74	$25.66
2023	$115.64	$26.15
2024	$117.42	$26.65
2025	$119.23	$27.16
2026	$123.72	$27.67
2027	$128.83	$28.20
2028	$134.29	$28.74
2029	$139.99	$29.29

- Uncollected debt equals 0.3% of revenues based on the historic collection rates at public utilities throughout California.

DRAFT

ORDINANCE NO. 616

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, On April 24, 2018, the City Council directed staff to investigate the feasibility and formation of a Community Choice Aggregation program under the provisions of the Public Utilities Code section 366.2 (referred to locally as Community Choice Energy, or CCE) in order to provide electric service to customers within the City of San Luis Obispo with the intent of providing local electric service, reduced greenhouse gas emissions, local renewable power development, competitive electric rates, and the implementation of energy conservation and other energy programs; and

WHEREAS, the City of San Luis Obispo, in partnership with the City of Morro Bay (City), commissioned a technical study that indicated a CCE program serving both cities and surrounding communities would provide several benefits, including:

- Providing customers a choice of power providers and power supply options;
- Increasing local control and involvement in energy rates and other energy-related matters;
- Providing stable electric rates that are competitive with those provided by the incumbent utility;
- Reducing greenhouse gas emissions arising from electricity use within the City and surrounding region;
- Increasing local renewable generation capacity;
- Increasing energy conservation and efficiency projects and programs;
- Increasing regional energy self-sufficiency;
- Improving the local economy resulting from the implementation of a CCE program and local renewable and energy efficiency projects over time; and

WHEREAS, the cities of Morro Bay and San Luis Obispo formed a Joint Powers Agency creating the Central Coast Community Energy Authority ("Authority"). Under the Joint Powers Agreement, cities and towns within San Luis Obispo County and adjoining counties may participate in the Central Coast Community Energy CCA program by adopting the JPA resolution and ordinance required by Public Utilities Code section 366.2. Cities and towns choosing to participate in the CCE program will have membership on the Board of Directors of the Authority as provided in the Joint Powers Agreement; and

WHEREAS, the Authority will enter into agreements with electric power suppliers and other service providers, and based upon those agreements the Authority will be able to provide power to residents and business at rates that are competitive with those of the incumbent utility ("PG&E"). Once the California Public Utilities Commission certifies the Implementation Plan adopted by the Authority, the Authority will provide service to customers within the City of San Luis Obispo and the jurisdictions of those cities and Counties that have chosen to participate in the Central Coast Community Energy CCE program; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the incumbent utility. Customers who wish to continue to receive service from the incumbent utility will be able to do so at any time; and

WHEREAS, on September 25 and October 9, the City Council held public meetings on the topic of CCE at which time interested persons had an opportunity to testify either in support of or opposition to the implementation of a CCE program serving the City; and

WHEREAS, this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, as it is not a "project" as it has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (14 Cal. Code Regs. § 15378(a)). Further, this Ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)). This Ordinance is also categorically exempt because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment. (14 Cal. Code Regs. § 15308).

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

SECTION 1. The above recitations are true and correct and material to this Ordinance.

SECTION 2. Authorization to Implement a Community Choice Energy Program. Based upon the forgoing, and in order to provide business and residents within the City of Morro Bay with a choice of power providers and with the benefits described above, the City Council ordains that it shall implement a community choice aggregation program for their City by participating as a group with other cities and towns as described above in the Central Coast Community Energy Authority, as generally described in the Joint Powers Agreement.

SECTION 3. This Ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be published and posted in the manner required by law.

INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the 25th day of September 2018, by motion of Council Member _____, seconded by Council Member _____.

PASSED AND ADOPTED on the ____ day of ____, 2018, by the following vote:

AYES:
NOES:
ABSENT:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

APPROVED AS TO FORM:

_____
JOSEPH W. PANNONE, City Attorney

RESOLUTION NO. 80-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, APPROVING THE JOINT POWERS AGREEMENT ESTABLISHING CENTRAL COAST COMMUNITY ENERGY ON BEHALF OF THE CITY OF MORRO BAY

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, AB 117, adopted as California state law in 2002, permits cities, counties, or city and county Joint Power Authorities to aggregate residential, commercial, industrial, municipal and institutional electric loads through Community Choice Aggregation (CCA); and

WHEREAS, the City of San Luis Obispo, in partnership with the City of Morro Bay, commissioned a technical study to analyze the feasibility of a CCA program serving the city and the San Luis Obispo region; and

WHEREAS, the City of Morro Bay wishes to be a community choice aggregator and has introduced the Ordinance as required by Public Utilities Code Section 366.2 in order to do so; and

WHEREAS, the City of San Luis Obispo also wishes to be a community choice aggregator and will also introduced the Ordinance as required by Public Utilities Code Section 366.2 in order to do so; and

WHEREAS, pursuant to Section 366.2 two or more entities authorized to be a community choice aggregator, may participate as a group in a community choice aggregation program through a joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts the aforementioned ordinance; and

WHEREAS, the City Council has considered the proposed Joint Exercise of Powers Agreement, a draft of which is attached hereto as Exhibit A, under which the City of San Luis Obispo and City of Morro Bay will become the initial members of Central Coast Community Energy (CCCE) Authority; and

WHEREAS, once the California Public Utilities Commission certifies the Implementation Plan created by CCCE, it will provide service to customers within the cities and counties that choose to join CCCE and to participate in the CCA program; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt-out of the CCE program and continue to receive service from the incumbent utility. Customers who wish to continue to receive service from the incumbent utility will be able to do so.

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

SECTION 1. The City Council hereby approves the Joint Exercise of Powers Agreement attached hereto as Exhibit A to form the Central Coast Community Energy (CCCE) Authority.

SECTION 2. That_____ and _____ are hereby appointed as the initial Directors on the CCCE Board representing the City of Morro Bay.

SECTION 3. This resolution and the establishment of the Central Coast Community Energy Authority is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, as it is not a "project" since this action involves organizational and administrative activities of government that will not result in direct or indirect physical changes in the environment. (14 Cal. Code Regs. § 15378(b)(5)). Further, the ordinance is exempt from CEQA as there is no possibility that the ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs.§ 15061(b)(3)). A Notice of Exemption shall be filed as authorized by CEQA and the State CEQA guidelines.

SECTION 4. This resolution shall be effective upon the adoption of Ordinance No. 614, an Ordinance of the City of Morro Bay authorizing the implementation of a Community Choice Aggregation (CCA) Program.

BE IT FURTHER RESOLVED that the Mayor and/or City Manager is hereby authorized and directed to execute the Joint Exercise of Powers Agreement on behalf of the City of Morro Bay, which will establish CCCE with the City as a founding member.

Upon motion of _____, seconded by _____, and on the following roll call vote:

AYES:
NOES:
ABSENT:

The foregoing resolution was adopted this _____ day of _____ 2018.

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

APPROVED AS TO FORM:

_____
JOSEPH W. PANNONE, City Attorney

Exhibit A

JOINT EXERCISE OF POWER AGREEMENT
RELATING TO AND CREATING CENTRAL COAST COMMUNITY ENERGY

This Joint Exercise of Powers Agreement, effective as of _____, 2018 is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 *et seq*.) of the California Government Code among the Parties.

RECITALS

A. The Parties share various powers under California law, including, but not limited to, the power to purchase, supply, and aggregate electricity for themselves and customers within their jurisdictions.

B. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. In 2016, the State Legislature adopted SB 32, which mandates statewide greenhouse gas emissions be reduced to 40 percent below the 1990 level by 2030. The California Air Resources Board is promulgating regulations to implement the greenhouse gas reduction targets, which will require local governments to develop programs to reduce greenhouse gas emissions.

C. The purposes for entering into this Agreement include:

a. Reducing greenhouse gas emissions;

b. Providing electric power to customers at a competitive cost;

c. Carrying out programs to increase energy efficiency;

d. Stimulating and sustaining the local economy by developing local jobs in renewable energy and energy efficiency; and

e. Promoting long-term electric rate stability and energy security and reliability for residents through local control of electric generation resources.

D. It is the mission and purpose of this Agreement to build a strong Community Choice Energy (CCE) program that is locally controlled and delivers greenhouse gas emission reductions, cost-competitive clean electricity, product choice, price stability, and energy efficiency.

E. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar, wind, and biomass energy production. The purchase of renewable power and greenhouse gas-free energy sources will decrease regional greenhouse gas emissions and accelerate the State's transition to clean power resources to the extent feasible. Implementing a CCE program pursuant to this Agreement also will add increasing levels of locally generated renewable resources.

F. The Parties desire to establish a separate public agency, known as Central Coast Community Energy, a California joint powers authority, or CCCE, under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") in order to collectively study, promote, develop, conduct, operate, and manage energy programs.

G. The Parties have each adopted an ordinance electing to implement, through the CCCE, a common CCE program (also known as a Community Choice Aggregation

(CCA) program) hereinafter called the CCE Program, pursuant to California Public Utilities Code, sections 331.1(b) and 366.2. The first priority of the CCCE will be the consideration of those actions necessary to implement the CCE Program.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

ARTICLE 1.
DEFINITIONS AND EXHIBITS

1.1 Definitions. Capitalized terms used in this Agreement shall have the meanings specified in Exhibit A, unless the context requires otherwise.

1.2 Documents Included. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement:

Exhibit A: Definitions
Exhibit B: List of the Parties
Exhibit C: Annual Energy Use
Exhibit D: Voting Shares
Exhibit E: Signatures

ARTICLE 2.
FORMATION OF CENTRAL COAST COMMUNITY ENERGY

2.1 Effective Date and Term. This Agreement shall become effective and CCCE shall exist as a separate public agency on [insert date], or when both the cities of San Luis Obispo and Morro Bay have executed this Agreement, whichever occurs later. The CCCE shall provide notice to the Parties of the Effective Date. CCCE shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 6.4, subject to the rights of the Parties to withdraw from CCCE.

2.2 Formation. There is formed, as of the Effective Date, a public agency named Central Coast Community Energy. Pursuant to Sections 6506 and 6507 of the Act, CCCE is a public agency separate from the Parties. Pursuant to Sections 6508.1 of the Act, the debts, liabilities or obligations of CCCE shall not be debts, liabilities or obligations of the individual Parties unless the governing body of a Party agrees in writing to assume any of the debts, liabilities or obligations of CCCE. A Party who has not agreed to assume an CCCE debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of CCCE. Notwithstanding Section 7.4 of this Agreement, this Section 2.2 may not be amended, unless such amendment is approved by the governing body of each Party.

2.3 Name. CCCE may change its name at any time through adoption of a resolution of the Board of Directors.

2.4 Purpose. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to establish and operate a CCE Program that achieves long-term GHG emission reductions by offering clean, cost effective and price stable electricity to residents, businesses, and agricultural producers, while carrying out innovative programs to increase customer energy efficiency, substantially increase local renewable energy production, and power the local transportation system. To that end, CCCE will study, promote, develop, conduct, operate, and manage energy, energy efficiency and conservation, and other energy-related programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used as a contractual mechanism by which the Parties are authorized to participate in the CCE Program, as further described in Section 4.1. The Parties intend other agreements shall define the terms and conditions associated with the implementation of the CCE Program and any other energy programs approved by CCCE.

2.5 Membership in CCCE

2.5.1 The initial members of CCCE are the City of San Luis Obispo and the City of Morro Bay. Additional cities or counties may also become initial members of CCCE by executing this Agreement and delivering an executed copy of this Agreement and a copy of the adopted ordinance required by Public Utilities Code Section 366.2(c)(12) prior to the Effective Date.

2.5.2 Any city or county that is not an initial member may request to become a member of CCCE by submitting a resolution adopted by its City Council or Board of Supervisors to the Board of CCCE. The Board shall review the request and shall vote to approve or disapprove the request by resolution. The Board may establish conditions, including, but not limited, to financial conditions, under which the city or county may become a member of CCCE. The Board shall notify the existing members of CCCE of that request and the date the request will be on the Board's meeting agenda for action. The date set for Board action shall be at least forty-five (45) days after the date the notice is mailed to the members. If the request is approved by a two-thirds vote of the entire Board, then the city or county shall become a member of CCCE under the terms and conditions set forth by the Board and upon the adoption of an ordinance required by Public Utilities Code, section 366.2(c)(12) and the approval and execution of this Agreement by the city or county.

2.6 Powers. CCCE shall have all powers common to the Parties and such additional powers accorded to it by law. CCCE is authorized, in its own name, to exercise

all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following powers, subject to the voting requirements set forth in Section 3.8:

2.6.1 Make and enter into contracts;

2.6.2 Employ agents and employees, including but not limited to an Executive Officer and General Counsel;

2.6.3 Acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property;

2.6.4 Lease any property;

2.6.5 Sue and be sued in its own name;

2.6.6 Incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code, section 53850 *et seq.* or any legal authority under the Act or other laws;

2.6.7 Form other entities if necessary, to carry out energy supply and energy conservation programs or conduct other programs or activities within the powers of CCCE;

2.6.8 Issue revenue bonds and other forms of indebtedness;

2.6.9 Apply for, accept, and receive all licenses, permits, grants, loans or other assistance from any federal, state, or local public agency;

2.6.10 Submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCE Program and other energy programs;

2.6.11 Adopt policies, rules and regulations governing the operation of CCCE;

2.6.12 Make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCE Program and other energy programs;

2.6.13 Designate another entity authorized to be a community choice aggregator to act as the community choice energy aggregator on behalf of CCCE.

2.7 Limitation on Powers. As required by Government Code, section 6509, the power of CCCE is subject to the restrictions upon the manner of exercising power possessed by City of San Luis Obispo.

2.8 Compliance with Local Zoning and Building Laws. Notwithstanding any other provisions of this Agreement or state law, any facilities, buildings or structures located, constructed or caused to be constructed by CCCE within the territory of CCCE shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities are constructed .

ARTICLE 3.
GOVERNANCE AND INTERNAL ORGANIZATION

3.1 Board of Directors. CCCE shall be governed by a legislative body known as the a Board of Directors. The initial Board shall consist of two Directors appointed by the governing body of each of the initial Parties. For example, if the initial Parties are the City of San Luis Obispo and the City of Morro Bay, the Board shall consist of four Directors with two Directors appointed by the City Council of San Luis Obispo and two Directors appointed by the City Council of Morro Bay. Each Director shall serve at the pleasure of the governing body of the Party whom appointed such Director, and may be removed as Director by such governing body at any time. If at any time a vacancy occurs on the Board, then a replacement shall be appointed to fill the position of the previous Director within 45 days after the date that position becomes vacant. Directors must be members of the City Council or Board of Supervisors of a Party to this Agreement. Each Party shall appoint an alternate(s) to serve in the absence of its Director(s). Alternates may be members of the City Council or Board of Supervisors of the Party or a staff member of the Party.

If additional cities or counties join CCCE, as provided in Section 2.5.2, each city or county that becomes a member of CCCE shall be entitled to two Directors who shall be appointed as set forth above. When the fifth member joins CCCE, the number of Directors per Party shall be reduced to one Director per Party; and each Party shall determine which Director shall continue as that Party's representative on the Board.

3.2 Quorum. A majority of the appointed Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law.

3.3 Powers and Functions of the Board. The Board shall exercise the general governance and legislative powers of CCCE, consistent with this Agreement and applicable law. The Board shall provide general policy guidance on the CCE Program and other energy programs. This Agreement delegates contracting powers and administrative powers and oversight over the operations and activities of SLO to the Operations Board as further described in Section 3.5. Board of Director approval shall be required for any of the following actions in addition to any other actions specified by this Agreement or required by law:

3.3.1 The issuance of bonds or any other financing even if program revenues are expected to pay for such financing.

3.3.2 The appointment or termination of the Executive Officer and General Counsel.

3.3.3 The appointment or removal of officers described in Section 3.10.

3.3.4 Any decision to provide retirement or post-retirement benefits.

3.3.5 The adoption of the annual budget.

3.3.6 The adoption of an ordinance.

3.3.7 The initiation or resolution of claims and litigation where CCCE will be the plaintiff, petitioner, cross complainant or cross petitioner, or intervenor; provided, however, that the Executive Officer or General Counsel, on behalf of CCCE, may intervene in, become a party to, or file comments with respect to any proceeding pending at the California Public Utilities Commission, the Federal Energy Regulatory Commission, or any other administrative agency, without approval of the Board as long as such action is consistent with any adopted Board policies.

3.3.8 The adoption of the Implementation Plan.

3.3.9 The approval of major capital expenditures, excluding power purchases, as defined by Board resolution.

3.3.10 The setting of rates for power sold by CCCE and the setting of charges for any other category of service provided by CCCE.

3.3.11 The approval of new members pursuant to Section 2.5.2.

3.3.12 Termination of the CCE Program.

3.4 Executive Officer. The Board of Directors shall appoint an Executive Officer for CCCE, who shall be responsible for the day-to-day operation and management of CCCE and the CCE Program. The Executive Officer may be retained under contract with CCCE, be an employee of CCCE, or be an employee of one of the Parties. The Executive Officer shall report directly to the Board of Directors and serve as staff to CCCE. The Executive Officer also shall report to and work with the Operations Board on those matters within the jurisdiction of the Operations Board. Except as otherwise set forth in this Agreement, the Executive Officer may exercise all powers of CCCE, including the power to hire, discipline and terminate employees, as well as the power to approve any agreement if the total amount payable under the agreement is less than $100,000 in any fiscal year, or such higher amount as established by the Board from time to time, by resolution of the Board, except the powers specifically set forth in Section 3.3 or those powers, which by law, must be exercised by the Board of Directors. The Executive Officer shall be responsible for coordinating the actions of the Board of

Directors and the Operations Board. The Executive Officer shall serve at the pleasure of the Board of Directors.

3.5 Operations Board. The Operations Board shall consist of the City Manager of each city Party and the Chief Administrative Office or Chief Executive Officer of each county Party. Each Party also may appoint an alternate Director to the Operations Board who shall be a management level employee of the Party. The Operations Board shall provide direction to the Chief Executive Officer on the day-to-day operations of CCCE and shall have the authority to approve and take action on the following matters:

3.5.1 The approval of all contracts and contract amendments except as provided by Section 3.3.9, including, but not limited to, power purchase agreements.

3.5.2 The adoption of personnel rules and regulations.

3.5.3 The adoption of administrative rules and regulations except as provided otherwise by this Agreement.

3.5.4 Any matters referred to the Operations Board by the Board of Directors for study, review, recommendation or final action.

3.6 Commissions, Boards, and Committees. The Board of Directors may establish commissions, boards or committees, including, but not limited to, a standing executive committee and community advisory committee, as the Board deems appropriate, to advise and assist the Board in carrying out its authority and functions under this Agreement and may delegate authority to such commission, board or committee as set forth in a Board resolution. Such delegation may be modified, amended or revoked at any time as the Board may deem appropriate. The Board may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees, and shall determine whether members shall be compensated or entitled to reimbursement for expenses. Any commission, board or committee established by the Board of Directors shall comply with the applicable requirements of the Ralph M. Brown Act.

3.7 Director Compensation. Directors shall serve without compensation from CCCE. However, Directors may be compensated by their respective appointing authorities. The Board, however, may adopt by resolution a policy relating to the reimbursement by CCCE of expenses incurred by Directors.

3.8 Board Voting. Except when a supermajority vote is required by Section 3.8.4, action by the Board of Directors or the Operations Board shall require a majority vote of the total number of Directors of the entire Board; provided, however, that so long as CCCE consists of three or less members, all actions of the Board shall require the affirmative vote of at least one Director appointed by each Party. In addition, as described below in Section 3.8.3, upon request of two Directors, each

from a different Party, a weighted vote by shares also will be conducted. When such a request is made, an action must be approved by both a majority vote of Directors present and a majority of the voting shares of the entire Board. No action may be approved solely by a vote by shares. The voting shares of Directors and the requirements for voting by shares shall be as follows:

3.8.1 Voting Shares.

Each Party shall have a voting share as determined by the following formula: (Annual Energy Use/Total Annual Energy) multiplied by 100, where

(a) "Annual Energy Use" means, (i) with respect to the first two years following the Effective Date, the annual electricity usage, expressed in kilowatt hours ("kWh"), within the Party's respective jurisdiction and (ii) with respect to the period after the second anniversary of the Effective Date, the annual electricity usage during the prior Fiscal Year, expressed in kWh, of accounts within a Party's respective jurisdiction that are served by CCCE; and

(b) "Total Annual Energy" means the sum of all Parties' Annual Energy Use. The initial values for Annual Energy Use will be designated in Exhibit C, and shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year. Those adjustments shall be approved by the Board of Directors.

(c) The combined voting share of all Directors representing a Party shall be based upon the annual electricity usage within the Party's jurisdiction; the combined voting share of a county shall be based upon the annual electricity usage within the unincorporated area of the county.

For the purposes of weighted voting by shares, if a Party has more than one Director on the Board of Directors present and voting, then the voting shares allocated to the entity shall be equally divided amongst its Directors that are present and voting.

3.8.2 Exhibit Showing Voting Shares. The initial voting shares will be set forth in Exhibit D. Exhibit D shall be revised no less than annually, as necessary to account for changes in the number of Parties and changes in the Parties' Annual Energy Use. Adjustments to Exhibit D shall be approved by the Board of Directors.

3.8.3 Option for Approval by Voting Shares. Any two Directors, each appointed from a different Party, present at a meeting may demand approval of any matter related to the CCE Program shall be determined on the basis of both voting shares and by the affirmative vote of a majority of Directors present at the meeting. If two Directors, each appointed from a

different Party, make such a demand with respect to approval of any such matter, then approval of such matter shall require the affirmative vote of a majority of Directors present at the meeting and the affirmative vote of Directors having a majority of the voting shares of the entire Boardt. In the event any one Party has a voting share that equals or exceeds that which is necessary to disapprove the matter being voted on by the Board, at least one other Party shall be required to vote in the negative in order to disapprove such matter.

3.8.4 Special Voting Requirements for Certain Matters.

(a) Two-Thirds and Weighted Voting Approval Requirements Relating to Specified Actions. Action of the Board on the matters set forth in Section 2.5.2 (approval of new members), 6.2 (involuntary termination of a Party), or Section 7.4 (amendment of this Agreement) or the approval of any bonds, loans or other indebtedness shall require the affirmative vote of at least two-thirds of the Directors of the entire Board. Notwithstanding the foregoing, any two Directors present at the meeting, each appointed from a different Party, may demand that the vote be determined on the basis of both voting shares and by the affirmative vote of Directors, and if any two Directors, each appointed from a different Party, makes such a demand, then approval shall require the affirmative vote of both at least two-thirds of the Directors on the entire Board and the affirmative vote of Directors having at least two-thirds of the voting shares of the entire Board, as determined by Section 3.8; but, Directors from at least two Parties must vote against a matter for the vote to fail. On votes to involuntarily terminate a Party under Section 6.2, the Director(s) for the Party subject to involuntary termination may not vote, and the number of Directors constituting two-thirds of all Directors, and the weighted vote of each Party shall be recalculated as if the Party subject to possible termination were not a Party.

(b) Seventy-Five Percent Special Voting Requirement for Eminent Domain .

(i) A decision to exercise the power of eminent domain on behalf of CCCE to acquire any property interest other than an easement, right-of-way, or temporary construction easement shall require a vote of at least 75% of all the members of the Board of Directors.

(ii) Notwithstanding the foregoing, any two Directors present at the meeting, each appointed by a different Party, may demand a vote under subsection (i) be determined on the basis of voting shares and by the affirmative vote of

Directors, and if any two Directors, each appointed from a different Party, makes such a demand, then approval shall require both the affirmative vote of at least 75% of the entire Directors on the Board and the affirmative vote of Directors having at least 75% of the voting shares of the entire Board, but Directors from at least two Parties must vote against a matter for the vote to fail.

3.9 Regular and Special Meetings of the Boards. The Board of Directors and Operations Board shall hold the number of regular meetings provided by resolution of each Board. The date, hour and place of each regular meeting shall be fixed by resolution of each Board. Regular meetings may be adjourned to another meeting time. Special and emergency meetings of the Boards may be called in accordance with the provisions of California Government Code, sections 54956 and 54956.5. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. All meetings shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code, sections 54950 *et seq.*).

3.10 Selection of Board Officers.

3.10.1 Chair and Vice Chair. The Directors shall select, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The Chair and Vice Chair shall each serve for a one-year term at the pleasure of the Board. There shall be no limit on the number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if:

(a) the person serving dies, resigns, or the Party the person represents removes the person as its representative on the Board, or

(b) the Party that he or she represents withdraws from CCCE pursuant to the provisions of this Agreement.

3.10.2 Secretary. The Board of Directors shall appoint a Secretary who shall be responsible for keeping the minutes of all meetings of the Board and all other official records of CCCE.

3.10.3 Treasurer and Auditor. The Board of Directors shall appoint a Treasurer who shall function as the combined offices of Treasurer and Auditor pursuant to Government Code section 6505.6 and shall strictly comply with the statutes related to the duties and responsibilities specified in Section 6505.5 of the Act. The Treasurer for CCCE shall be the depository and have custody of all money of CCCE from whatever source and shall draw all warrants and pay demands against CCCE as approved by the Board. The Treasurer shall cause an independent audit(s) of the

finances of CCCE to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall report directly to the Board of Directors and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time. The duties and obligations of the Treasurer are further specified in Article 5. The Treasurer shall serve at the pleasure of the Board of Directors.

3.11 Administrative Services Provider. The Operations Board may appoint one or more administrative services providers to serve as CCCE's agent for planning, implementing, operating and administering the CCE Program, and any other program approved by the Board, in accordance with the provisions of an Administrative Services Agreement. The appointed administrative services provider may be one of the Parties. One or more of the Parties may agree to provide all or a portion of the services in the manner set forth in an Administrative Services Agreement. Employees of the Parties utilized to perform such services shall remain employees of the Parties and subject to the employing Party's control and supervision. An Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all or enumerated tasks necessary for planning, implementing, operating and administering the CCE Program and other approved programs. The Administrative Services Agreement shall set forth the term of this Agreement, the services to be provided, and the circumstances under which the Administrative Services Agreement may be terminated by CCCE. This section shall not in any way be construed to limit the discretion of CCCE to hire its own employees to administer the CCE Program or any other program.

ARTICLE 4.
IMPLEMENTATION ACTION AND CCCE DOCUMENTS

4.1 Preliminary Implementation of the CCE Program.

4.1.1 Enabling ordinance. To be eligible to participate in the CCE Program, each Party must adopt an ordinance in accordance with Public Utilities Code section 366.2(c)(12) for the purpose of specifying the Party intends to implement a CCE program by and through its participation in CCCE.

4.1.2 Implementation Plan. CCCE shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code, section 366.2 and any applicable Public Utilities Commission regulations, as soon after the Effective Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Board of Directors.

4.1.3 Integrated Resource Plan. CCCE shall cause to be prepared an Integrated Resource Plan in accordance with CPUC regulations that will ensure the long-term development and administration of a variety of power resources in compliance with the State Renewable Portfolio Standard and other statutory and regulatory requirements of the State of California.

4.1.4 Termination of CCE Program. Nothing contained in this Article or this Agreement shall be construed to limit the discretion of CCCE to terminate the implementation or operation of the CCE Program at any time in accordance with any applicable requirements of state law.

4.2 CCCE Documents. The Parties acknowledge and agree the affairs of CCCE will be implemented through various documents duly adopted by the Board of Directors or Operations Board through Board resolution or minute action; provided, that any Operations Board actions must be consistent with the polices established by the Board of Directors. The Parties agree to abide by and comply with the terms and conditions of all such documents that may be adopted by the Board, subject to the Parties' right to withdraw from CCCE as described in Article 6.

ARTICLE 5.
FINANCIAL PROVISIONS

5.1 Fiscal Year. CCCE's fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by resolution of the Board of Directors .

5.2 Depository.

5.2.1 All funds of CCCE shall be held in separate accounts in the name of CCCE and not commingled with funds of any Party or any other person or entity.

5.2.2 All funds of CCCE shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of CCCE shall be open to inspection by the Parties at all reasonable times. The Board of Directors shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of CCCE, which shall be conducted in accordance with the requirements of Section 6505 of the Act.

5.2.3 All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its policies, rules and regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board.

5.3 Budget and Recovery of Costs.

5.3.1 Budget. The initial budget shall be approved by the Board of Directors. The Board may revise the budget from time to time as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of CCCE shall be approved by the Board of Directors.

5.3.2 Funding of Initial Costs. In the event the CCE Program becomes operational, any Initial Costs paid by the Parties shall be included in the customer charges for electric services as provided by Section 5.3.3 to the extent recovery of such costs is permitted by law, and the Parties shall be reimbursed from the payment of such charges by customers of CCCE. Prior to such reimbursement, the Parties shall provide such documentation of costs paid as the Board may request. CCCE may establish a reasonable time period over which such costs are recovered. In the event the CCE Program does not become operational, the Parties who had contributed Initial Costs shall not be entitled to any reimbursement from CCCE or any other Party. If any Party assists in funding initial costs, then that Party shall also be entitled to reimbursement pursuant to this section.

5.3.3 CCE Program Costs. The Parties desire all costs incurred by CCCE that are directly or indirectly attributable to the provision of electric, conservation, efficiency, incentives, financing, or other services provided under the CCE Program, including, but not limited to, the establishment and maintenance of various reserves and performance funds and administrative, accounting, legal, consulting, and other similar costs, shall be recovered through charges to CCE customers receiving such electric services, or from revenues from grants or other third-party sources.

5.3.4 Additional Contributions and Advances. Pursuant to Government Code section 6504, the Parties may, in their sole discretion, make financial contributions, loans or advances to CCCE for the purposes of CCCE set forth in this Agreement. The repayment of such contributions, loans or advances will be on the written terms agreed to by the Party making the contribution, loan or advance to the CCCE.

ARTICLE 6.
WITHDRAWAL AND TERMINATION

6.1 Withdrawal Provisions.

6.1.1 General Right to Withdraw. A Party may withdraw its membership in CCCE, effective as of the beginning of CCCE's fiscal year, by giving no less than 6-months' advance written notice of its election to do so, which notice shall be given to CCCE and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing body.

6.1.2 Right to Withdraw After Amendment. Notwithstanding Section 6.1.1, a Party may withdraw its membership in CCCE following an amendment to this Agreement adopted by the Board of Directors which the Party's Director(s) voted against; provided,that such notice is given in writing within thirty (30) days following the date of the vote. Withdrawal of a Party under this section shall require an affirmative vote of the Party's governing body and shall not be subject to the six-month advance notice provided in Section 6.1.1. In the event of such withdrawal, the Party shall be subject to the provisions of Section 6.3.

6.1.3 The Right to Withdraw Prior to Program Launch. After receiving bids from power suppliers before the CCE Program launch, CCCE shall provide to the Parties a report from the consultant retained by CCCE that compares the total estimated electrical rates that CCCE will be charging to customers as well as the estimated greenhouse gas emissions rate and the amount of estimated renewable energy used with that of the incumbent utility. If the report finds that any one of the following conditions exists, then a Party may immediately withdraw its membership in CCCE without any financial obligation, as long as the Party provides written notice of its intent to withdraw to CCCE Board of Directors no more than fifteen (15) days after receiving the report. Those conditions include: 1) the CCCE is unable to provide total electrical rates that are equal to or less than the incumbent utility at time of program launch, 2) the CCCE is unable to provide electricity that has equal or lower greenhouse gas emissions than the incumbent utility, and 3) the CCCE is not able to match or exceed the incumbent utility's renewable energy performance pursuant to the State Renewable Portfolio Standard. Any Party that withdraws from CCCE pursuant to this section shall not be entitled to any refund of the Initial Costs it has paid to CCCE prior to the date of withdrawal unless CCCE is later terminated pursuant to Section 6.4. In such event, any Initial Costs not expended by CCCE shall be returned to all Parties, including any Party that has withdrawn pursuant to this section, in proportion to the contribution that each made. Notwithstanding anything to the contrary in this Agreement, any Party that withdraws pursuant to this section shall not be responsible for any liabilities or obligations of CCCE after the date of withdrawal, including without limitation any liability arising from power purchase agreements entered into by CCCE.

6.1.4 Withdrawal Documents. Except as provided by Section 6.1.3, a Party that withdraws its participation in the CCE Program may be subject to certain continuing financial obligations, as described in Section 6.3. Each withdrawing Party and CCCE shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from participation in the CCE Program.

6.2 Involuntary Termination of a Party. Participation of a Party in the CCE Program may be terminated for material non-compliance with provisions of this Agreement or any other agreement relating to the Party's participation in the CCE Program upon a vote of Board members as provided in Section 3.8.4(a). Prior to any vote to terminate participation with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least thirty (30) days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or other agreement that the Party has allegedly violated. The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its participation in the CCE Program terminated shall be subject to in the provisions of Section 6.3.

6.3 Continuing Financial Obligations; Refund. Except as provided by Section 6.1.3, upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or other financial obligations arising from the Party membership or participation in the CCE Program through the date of its withdrawal or involuntary termination, subject to the provisions of Section 2.2. Thereafter, notwithstanding Section 2.2, the withdrawing or terminated Party shall be responsible and liable for any damages, losses or costs incurred by CCCE resulting from the Party's withdrawal including, but are not limited to, losses from the resale of power contracted for by CCCE to serve the Party's load. With respect to such financial obligations, upon notice by a Party that it wishes to withdraw from the CCE Program, CCCE shall notify the Party of the minimum waiting period under which the Party would have no costs for withdrawal if the Party agrees to stay in the CCE Program for such period. The waiting period will be set to the minimum duration required so no costs are transferred to remaining ratepayers. If the Party elects to withdraw before the end of the minimum waiting period, then the charge for withdrawal shall be set at a dollar amount that would offset the estimated losses to CCCE and costs to the remaining ratepayers, and may not include punitive charges that exceed actual costs. For the purposes of this section, actual costs shall include not only any financial losses or increased operating costs incurred by CCCE, but also all staff time and consultant costs related to the withdrawal. CCCE may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with CCCE, as reasonably determined by and approved by the Board of Directors, to cover the Party's financial obligations for the costs described above. Any amount of the Party's funds held on deposit with CCCE above that which is required to pay any financial obligations shall be returned to the Party. If there is a disagreement related to the charge(s) for withdrawal or exiting, then the Parties shall attempt to settle the amount through mediation or other dispute resolution process as authorized by Section 7.1. If the dispute is not resolved, then the Parties may agree in writing to proceed to arbitration, or any party may seek judicial review.

6.4 Mutual Termination. This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its participation in the CCE Program, as described in Section 6.1.

6.5 Disposition of Property upon Termination of CCCE. Upon termination of this Agreement, any surplus money or assets in possession of CCCE for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 7.
MISCELLANEOUS PROVISIONS

7.1 Dispute Resolution. The Parties and CCCE shall make reasonable efforts to informally settle all disputes arising out of or in connection with this Agreement. Before exercising any remedy provided by law, a Party or Parties and CCCE shall engage in nonbinding mediation or arbitration in the manner agreed upon by the Party or Parties and CCCE. In the event nonbinding mediation or arbitration is not commenced or does not result in the settlement of a dispute within 120 days after the demand for nonbinding mediation or arbitration is made, the Party or Parties and CCCE may pursue any remedy provided by law.

7.2 Liability of Directors, Officers, and Employees. The Directors, officers, and employees of CCCE shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. CCCE shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment or duties in the manner provided by Government Code section 995 *et seq*. Nothing in this section shall be construed to limit the defenses and immunities available under the law, to the Parties, CCCE, or its Directors, officers, or employees.

7.3 Indemnification of Parties. CCCE shall acquire such insurance coverage as is necessary to protect the interests of CCCE, the Parties, and the public. CCCE shall defend, indemnify, and hold harmless the Parties and each of their respective Council and Board of Supervisors Members, officers, officials, agents and employees, from any and all claims, losses, damages, costs, injuries, and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of CCCE under this Agreement.

7.4 Amendment of this Agreement. This Agreement may not be amended except by a written amendment approved by the Board of Directors as provided in Section 3.8.4(a). CCCE shall provide written notice to all Parties of amendments

to this Agreement, including the effective date of such amendments, at least 30 days prior to the date upon which the Board votes on such amendments.

7.5 Assignment. Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 7.5 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 7.5 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to CCCE, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of CCCE or the Parties under this Agreement.

7.6 Severability. If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, then it is hereby agreed by the Parties, the remainder of this Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

7.7 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.

7.8 Execution by Counterparts. This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

7.9 Parties to be Served Notice. Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 48 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of CCCE or Party, as the case may be, or such other person designated in writing by CCCE or Party. Notices given to one Party shall be copied to all other Parties. Notices given to CCCE shall be copied to all Parties.

CITY OF SAN LUIS OBISPO, a California municipal corporation

By: _____
(Insert name), Mayor

ATTEST

By: _____
(Insert name), City Clerk

APPROVED AS TO FORM:

By: _____
(Insert name), City Attorney

CITY OF MORRO BAY, a California municipal corporation

By: _____
(Insert name), Mayor

ATTEST

_____
(Insert name), City Clerk

APPROVED AS TO FORM

_____
(Insert Name), City Attorney

EXHIBIT A
DEFINITIONS

"Act" means the Joint Exercise of Powers Act of the State of California (Government Code section 6500 *et seq.*)

"Administrative Services Agreement" means an agreement or agreements entered into after the Effective Date by CCCE with an entity that will perform tasks necessary for planning, implementing, operating and/or administering the CCE Program, or any portion of the CCE Program or any other energy programs adopted by CCCE.

"Agreement" means this Joint Powers Agreement.

"Annual Energy Use" has the meaning given in Section 3.7.1.

"Board" means the Board of Directors of CCCE unless the context indicates that the use of the word "Board" also is intended to include the Operations Board.

"CCE" or "Community Choice Energy" or "CCA" or "Community Choice Aggregation" means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.

"CCE Program" or "CCA Program" means CCCE's program relating to CCE that is principally described in Sections 2.3, 2.4, and 4.1.

"Director" means a member of the Board of Directors or the Operations Board representing a Party.

"Effective Date" means the date on which this Agreement shall become effective and CCCE shall exist as a separate public agency, as described in Section 2.1.

"Implementation Plan" means the plan generally described in Section 4.1.2 of this Agreement that is required under Public Utilities Code section 366.2 to be filed with the California Public Utilities Commission for the purpose of describing a proposed CCE Program.

"Initial Costs" means all costs incurred by Parties and/or CCCE relating to the establishment and initial operation of CCCE, such as the hiring of an Executive Officer and any administrative staff, and any required accounting, administrative, technical, or legal services in support of CCCE's initial activities or in support of the negotiation, preparation, and approval of one or more Administrative Services Agreements, Power Purchase Agreements, or financing transactions.

Operations Board means the Board established by Section 3.5.

"Parties" or "Members" means, collectively, the City of San Luis Obispo and the City of Morro Bay and any other city or county which timely executes this Agreement pursuant to Section 2.5.1 or is added to this Agreement pursuant to Section 2.5.2 and is listed in Exhibit B.

"Party," "Member" or "Member Agency" means a signatory to this Agreement.

"Total Annual Energy" has the meaning given in Section 3.7.1.

"CCCE Document(s)" means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions, and activities of CCCE, including but not limited to the annual budget, rules, regulations, plans and policies.

EXHIBIT B
LIST OF PARTIES

EXHIBIT C
ANNUAL ENERGY USE/VOTING SHARES (as of 2015)

City of San Luis Obispo	237,472 MWh
City of Morro Bay	45,882 MWh

EXHIBIT D
VOTING SHARES (as of _____)

EXHIBIT E
SIGNATURE PAGES

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AGENDA NO:	**C-3**
MEETING DATE:	**September 25, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 18, 2018**

FROM: **Eric Casares, Carollo Engineering – WRF Program Manager**
Rob Livick, PE/PLS – Public Works Director/City Engineer

SUBJECT: **Consideration of Adoption of Resolutions No. 75-18, 76-18 and 77-18 Necessary to Submit the State Revolving Fund Financial Security Package to the State Water Resources Control Board**

RECOMMENDATION

Staff recommends the City Council:

1. Adopt Resolution No. 75-18 authorizing staff to file a Financial Assistance Application for a financing agreement from the State Water Resources Control Board.
2. Adopt Resolution No. 76-18 authorizing the reimbursement of funds for expenditures paid prior to approval by the State Water Resources Control Board.
3. Adopt Resolution No. 77-18 pledging the payment of any and all Clean Water State Revolving Fund and/or Water Recycling Funding Program financing for the WRF Project.

FISCAL IMPACT

No additional fiscal impact is proposed within this update. All work is proceeding within the City's current fiscal year budget for the WRF. However, some of the proposed actions and options presented within this report, if adopted by Council, may result in overall reduced financing costs for the WRF Project.

BACKGROUND/DISCUSSION

The Federal Clean Water Act established the Clean Water State Revolving Fund (CWSRF) program to finance protection and improvement of water quality. Proposition 1, the Water Quality Supply and Infrastructure Improvement Act of 2014 (AB 1471, Rendon), authorized $7.5 Billion in general obligation bonds for water projects that are dispersed under the CWSRF program. The CWSRF program supports the following goals of the California Water Action Plan:

- more reliable water supplies,
- restoration of important species/habitat, and
- resilient managed water resources system to withstand inevitable/unforeseen pressure in the coming decades.

The City has received over $10 Million to date from the State for the WRF project. In 2015, the City received a $75,000 planning grant from the State Water Board to support the development of the Master Water Reclamation Plan (MKN, March 2017). In 2016, the City

Prepared By: __EC____	**Dept Review: _RL___**
City Manager Review: SC	**City Attorney Review: JWP**

received a $10.3 Million CWSRF low-interest planning loan, which helped position the WRF project for a competitive CWSRF low-interest construction loan. Over the last several years, the City has met regularly with staff from the State Water Resources Control Board to discuss the project status and funding needs.

The benefits of CWSRF funding for the WRF project have been presented numerous times to the community and the City Council. The interest rate on a CWSRF construction loan is equal to half of the General Obligation bond rate for the State of California on the day the loan agreement is signed, and the term may be up to 30 years. Funding from CWSRF was considered during preparation of the City's recent Financial Plan and Rate Analysis for a New Water Reclamation Facility (Bartle Wells Associates, July 2018). Because of the timing of the CWSRF process, the rates that were proposed during the recent Proposition 218 process assumed the project would be funded through a combination of conventional bonds and the EPA WIFIA program (*i.e.*, no additional State low-interest funding beyond the $10.4 Million already received). The resulting combined surcharge for water and wastewater is $41/month for single-family residents. However, the rate study did consider several scenarios that included funding with CWSRF. The rate study determined the $41 surcharge could be reduced by as much as $7/month if the City were to receive CWSRF funding. With the establishment of the Annual Rate Review Policy (to be brought forward to Council soon), the City Council would have the ability to potentially reduce the maximum surcharge needed to fund the WRF project to approximately $34 in the future.

Critical milestones, including certification of the Final Environment Impact Report (EIR) (Resolution No. 61-18) and adoption of the water and wastewater surcharges (Resolution No. 71-18) have been reached. Those actions were needed prior to submitting the final CWSRF application. While City staff has already submitted many deliverables for the application, the three resolutions attached to this staff report are also required before a final application can be submitted. No other items will need to come before the City Council before the CWSRF application can be submitted to the State.

The City must submit a complete application by December 31, 2018 to receive funding in 2019.

CONCLUSION

Staff recommends adoption of the three proposed resolutions that will allow the City to complete an application for funding by the State Water Resources Control Board under the Clean Water State Revolving Fund and/or Water Recycling Funding Program.

ATTACHMENTS

1. Proposed Resolution No. 75-18
2. Proposed Resolution No. 76-18
3. Proposed Resolution No. 77-18

RESOLUTION NO. 75-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO APPLY FOR
STATE REVOLVING FUND FINANCIAL ASSISTANCE FOR THE CONSTRUCTION
OF THE WATER RECLAMATION FACILITY FROM THE STATE WATER QUALITY CONTROL
BOARD AND AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT, AND ANY OTHER
ACTION REQUIRED,
FOR THE PURPOSES OF THE LOAN**

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

WHEREAS, the City of Morro Bay ("City") is actively pursuing development of a Water Reclamation Facility (the "Project") that will provide treated disinfected recycled water to supplement the City's water portfolio; and

WHEREAS, the State of California State Water Resources Control Board (SWRCB) has State Revolving Fund (SRF) loan funding available for the construction of the Project; and

WHEREAS, it is in the public interest to pursue SRF loan funding for the Project; and

WHEREAS, the SWRCB requires the City to authorize a designated representative to sign and file on behalf of the City an SRF Loan Application to obtain a loan to fund construction efforts for the Water Reclamation Facility; and

WHEREAS, the SWRCB requires the City to provide the assurances, certifications and commitments required for the SRF Loan Application, including executing an SRF Loan Agreement with the SWRCB and any amendment or changes thereto; and

WHEREAS, SWRCB requires the City to designate a representative of the City to carry out the City's responsibilities under the Loan Agreement, including certifying disbursement requests on behalf of the City and compliance with applicable state and federal laws.

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

1. The Public Works Director/City Engineer is hereby authorized and directed to sign and file, for and on behalf of the City, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of Water Reclamation Facility (the "Project"); and

2. If funding is approved, the Public Works Director/City Engineer is hereby authorized to sign the loan agreement, subject to approval by the City Attorney, and take other actions as required by the agreement; and

3. The Public Works Director/City Engineer is hereby designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto. The Public Works Director/City Engineer is hereby designated to represent the City in carrying out the City's responsibilities under the financing agreement, including certifying disbursement requests on behalf of the City and compliance with applicable state and federal laws.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of September 2018 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

RESOLUTION NO. 76-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
REIMBURSEMENT RESOLUTION FOR THE WATER RECLAMATION FACILITY
FROM THE STATE WATER QUALITY CONTROL BOARD**

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

WHEREAS, the City of Morro Bay (the "Agency") desires to finance the costs of constructing and/or reconstructing certain public facilities and improvements relating to its water and wastewater system, including certain treatment facilities, pipelines and other infrastructure (the "Project"); and

WHEREAS, the Agency intends to finance the construction and/or reconstruction of the Project or portions of the Project with moneys ("Project Funds") provided by the State of California, acting by and through the State Water Resources Control Board (State Water Board); and

WHEREAS, the State Water Board may fund the Project Funds with proceeds from the sale of obligations the interest upon which is excluded from gross income for federal income tax purpose (the "obligations"); and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Board of the Project Funds the Agency desires to incur certain capital expenditures (the "Expenditures") with respect to the Project from available moneys of the Agency; and

WHEREAS, the Agency has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Agency for the Expenditures from the proceeds of the Obligations.

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

1. The Agency hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State Water Board of the Project Funds.
2. The reasonably expected maximum principal amount of the Project Funds is $126,000,000).
3. This resolution is being adopted no later than 60 days after the date on which the Agency will expend moneys for the construction portion of the Project costs to be reimbursed with Project Funds.
4. Each Agency expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.
5. To the best of our knowledge, this Agency is not aware of the previous adoption of official intents by the Agency that have been made as matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.
6. This resolution is adopted as official intent of the Agency in order to comply with Treasure Regulation Section 1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

7. All recitals in this Resolution are true and correct and this Agency so finds, determines and represents.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of September 2018 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

RESOLUTION NO. 77-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
PLEDGE OF REVENUES AND FUNDS FOR A STATE REVOLVING FUND
CONSTRUCTION LOAN FOR THE WATER RECLAMATION FACILITY
FROM THE STATE WATER QUALITY CONTROL BOARD**

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

WHEREAS, the City of Morro Bay ("City") is actively pursuing development of a Water Reclamation Facility (the "Project") that will provide advanced treated recycled water for indirect potable reuse to supplement the City's water portfolio; and

WHEREAS, the State of California State Water Resources Control Board (SWRCB) has State Revolving Fund (SRF) loan funding available for the construction of the Project; and

WHEREAS, it is in the public interest to pursue design and construction loan funding for the Project; and

WHEREAS, on September 11, 2018 the City Council adopted water and sewer rates sufficient to fund the project, and

WHEREAS, on August 14, 2018 the City Council adopted Resolution No. 61-18 certifying the Environmental Impact Report and directed staff to proceed with the project, and

WHEREAS, the City's authorized representative is submitting an SRF Loan Application to the SWRCB to request such funding as necessary to construction efforts for the Water Reclamation Facility, resulting in a loan agreement with the SWRCB for project financing; and

WHEREAS, the SWRCB requires the City to provide commitment to maintain revenues and funds to satisfy the repayment obligation for such planning loan agreement to fund planning and design efforts for the Project.

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

1. The City of Morro Bay hereby dedicates and pledges Net Revenues of the Water and Sewer Rates from the City's Water and Sewer Operating Funds (Funds 311 and 321) and Sewer and Water Accumulation Funds (Funds 951 and 952) to payment of any and all Clean Water State Revolving Fund and/or Water Recycling Funding Program financing for the Morro Bay Water Reclamation Facility Project – CWSRF #_____.
2. The City of Morro Bay commits to collecting such revenues and maintaining such fund(s) throughout the term of such financing and until the City of Morro Bay has satisfied its repayment obligation thereunder unless modification or change is approved in writing by the State Water Resources Control Board.
3. So long as the financing agreement(s) are outstanding, the City of Morro Bay's pledge hereunder shall constitute a lien in favor of the State Water Resources Control Board on the foregoing fund(s) and revenues(s) without any further action necessary. So long as the financing agreement(s) are outstanding, the

City of Morro Bay commits to maintaining the fund(s) and revenues(s) at levels sufficient to meet its obligations under the financing agreement(s).

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of September 2018 by the following vote:

AYES:
NOES:
ABSENT:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

AGENDA NO:	**C-4**
MEETING DATE:	**September 25, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 18, 2018**

FROM: **Eric Casares, Carollo Engineering – WRF Program Manager**
Rob Livick, PE/PLS – Public Works Director/City Engineer

SUBJECT: **Consideration of Proposal from and Approval of Contract to GSI Water Solutions for Groundwater Flow Modeling and Injection Testing for Future Indirect Potable Reuse in Morro Valley**

RECOMMENDATION

Staff recommends the City Council:

1. Review the recommendation from staff to award a contract to GSI Water Solutions for groundwater flow modeling of lower Morro Valley Basin and injection testing for future indirect potable reuse in lower Morro Valley Basin; and
2. Authorize the Public Works Director to execute an agreement for the amount of $351,000, with a fifteen percent contingency for a total authorization of $403,650.

ALTERNATIVES

Review the proposed scope, budget, and schedule and provide any direction to staff for revision.

FISCAL IMPACT

GSI Water Solutions proposes to complete all work under the contract on a time and materials basis with a budget that will not be exceeded without receiving written authorization from the City. That amount is $351,000 with a contingency in place of 15%, for a total authorization of $403,650.

The City budgeted $120,000 in FY 2017/18 to initiate groundwater modeling services and pilot injection testing as part of the Water Reclamation Facility (WRF) Capital Project Budget. The attached GSI proposal includes that budgeted work, as well as future phases that were planned to be performed in FY 2018/19. A total of $9,353,776 has been budgeted in FY 2018/19 for the overall WRF program and as of the end of August 2018, $94,588.37 has been expended.

In addition to the work outlined in this report, the City will need to construct monitoring wells for use in the pilot study. The construction of those wells will be procured under the City's procedures for Public Works construction projects; and it has been estimated the construction of the monitoring wells will cost approximately $150,000 (which is in addition to the proposed amount to be authorized for GSI to perform the work identified in this report). The pilot well construction project will be competitively bid and is subject to paying prevailing wage rates as stipulated in the California Public Contracts Code as a public project. Once

Prepared By: __EC/RL____	**Dept Review: ____**
City Manager Review: _SC___	**City Attorney Review: _JWP___**

installed, GSI Water Solutions will operate the monitoring wells to determine the amount of treatment that would be needed at the WRF treatment facility, as well as the design of the permanent injection wells.

The proposed outcomes from the work outlined in this report will help the City determine the amount of treated effluent that should undergo advanced treatment at the WRF. That determination will allow the City to right-size those facilities and potentially reduce the overall costs for the WRF program.

BACKGROUND/DISCUSSION

The WRF project includes the construction of a new advanced treatment facility at the South Bay Boulevard site, which was selected as the preferred site for planning and permitting at the September 26, 2017, City Council meeting, and a lift station and pipeline to transport wastewater from the City's collection system to the new WRF.

One of Council's goals for the WRF project is to provide a drought resistant secure water supply to enable water security and reduce the City's reliance on the State Water Project particularly in the face of repetitive and ongoing drought conditions in California. To facilitate the goal of water security the WRF project includes a recycled water pipeline and injection wells in the lower Morro Valley to use the highly treated water to replenish the groundwater basin, and a discharge pipe, which would connect to the existing ocean outfall for discharge of brine from the advanced treatment system and/or treated effluent during high flow events or when the advanced treatment system would be offline.

As presented in past reports, the Morro Valley was chosen for groundwater recharge and the resultant water supply benefit over the Chorro Valley for a variety of reasons including:

- better production wells,
- the Morro Valley below the "Narrows" has no other users, as opposed to the Chorro Valley where there are many riparian users, and, therefore, all the injected water is available to the City; and
- proximity to the water treatment and distribution systems resulting in more available water at a lower cost.

GSI Water Solutions previously completed a screening-level groundwater flow model of the lower Morro Valley groundwater basin, which assessed the feasibility of using injection and subsequent recovery of recycled water (indirect potable reuse) to augment the City's water supply. That work was documented in the May 16, 2017, report titled *Lower Morro Valley Basin Screening-Level Groundwater Modeling for Injection Feasibility.* Two possible injection and extraction well layouts were evaluated. The analysis from the report concluded:

1. It is likely feasible for the aquifer to accept the recycled water available for injection;
2. A minimum of four injection wells would likely be needed to achieve the desired recycled water injection capacity;
3. Depending on the injection well locations, up to approximately 1,200 acre-feet-per-year (AFY) of groundwater could potentially be produced for potable water supply without the model indicating seawater intrusion would occur (the City currently uses between 900 and 1000 AFY of potable water); and
4. The 2-month minimum subsurface recycled water response retention time required under Title 22 will likely be met.

Based on the screening evaluation, the following tasks were recommended in the May 2017 report:

1. Conduct a preliminary consultation with the California State Water Board Division of Drinking Water regarding permitting considerations; and
2. Implement a pilot injection program, including construction of pilot injection well and monitoring wells, baseline groundwater monitoring and long-term injection pilot tests. The purpose of the pilot test program would be to validate the screening modeling results and provide a design basis for the full-scale project and permitting.

The City released a request for proposals for groundwater modeling and pilot injection well testing services on March 30, 2018 with proposals due on April 20, 2018. The City received two proposals, one from GSI Water Solutions, and one from Geoscience. City staff reviewed each proposal in depth. The proposed scopes were similar, following the RFP and varying in places by approach and emphasis. The fees were also similar, with Geoscience about ten percent higher than GSI Water Solutions. While both firms displayed good technical ability and related experience, the proposal from GSI Water Solutions reveals a long-standing history and knowledge of the project and the area. The two proposals also differed in their approach to refining the groundwater model. GSI Water's proposal included physical testing to gather additional aquifer data to update and calibrate the existing groundwater model, while Geoscience proposed to construct a new 3D hydraulic model. For those reasons, staff recommends contracting with GSI Water Solutions for this work.

The main tasks are summarized below and proposed to be completed on a time and materials basis with a budget not to exceed $351,000 without written authorization. The proposed scope of work consists of the following tasks:

1. Groundwater modeling of Lower Morro Basin
    a. Investigate pumping of the City's full permitted allotment of 581 AFY without contribution of recycled water.
    b. Analysis of possible groundwater nitrate levels under different injection scenarios.
    c. Analysis of potential changes in groundwater chemistry due to potential salt water intrusion.
2. Pilot Injection Testing
    a. Prepare test well design and permitting
    b. Evaluate two potential injection well locations and recommend preferred area for testing
    c. Secure permitting for injection testing
    d. Conduct pilot injection testing
    e. Update groundwater model
    f. Perform travel time analysis and clogging analysis
    g. Perform seawater intrusion monitoring
    h. Perform groundwater level monitoring

The work tasks described herein will take place over the next three annual budget cycles, a period of 21 months, from the issuance of the Notice to Proceed. The results from the first phase of this work will be used to inform the design of the injection wells, which will be completed six months after the notice to proceed. This schedule will coordinate well with the design phase of the design-build contract for the WRF onsite improvements. The work contemplated in GSI's proposal will be used to meet the permitting requirements of the State Water Board Division of Drinking Water. Additionally, that work will help staff determine

whether groundwater extracted from the Morro Valley aquifer will need treatment through the city's existing water treatment plant prior to being distributed to customers.

Installation of pilot injection wells is not included in this contract but will be required to complete this scope of work. The well installation will not take place for six months after this proposal is authorized and will be authorized as a construction contract. In their proposal, GSI Water Solutions has estimated the well construction to cost $150,000. Well construction costs can vary depending on prevailing bid climate (including amount of other similar projects competing for attention from bidders, availability of local well drillers, and cost of materials) at the time the work is performed. The construction will be competitively bid later this fiscal year and contracted directly with the City.

CONCLUSION

Staff recommends award of a contract to GSI Water Solutions for groundwater flow modeling and injection testing for possible future indirect potable reuse in the Morro Valley.

ATTACHMENTS

1. Proposal for Groundwater Modeling and Injection Testing, including Scope and Budget from GSI Water Solutions, Inc.
2. *Lower Morro Valley Basin Screening-Level Groundwater Modeling for Injection Feasibility (Report)*

GSI Water Solutions, Inc.

Proposal for Professional Services for Groundwater Modeling and Injection Testing

Presented to the City of Morro Bay

APRIL 2018

Submitted by:

GSI Water Solutions, Inc.
5855 Capistrano Avenue, Suite C
Atascadero, CA 93422
www.gsiws.com
805.460.4622

Section 1
Cover Letter and Executive Summary

April 20, 2018

Rob Livick, PE/PLS
Public Works Director/City Engineer
City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

RE: Request for Proposal for Professional Services for Groundwater Modeling and Injection Testing

Dear Mr. Livick,

GSI Water Solutions, Inc. (GSI), is pleased to provide this proposal to the City of Morro Bay (City) to conduct groundwater flow modeling, injection testing, groundwater monitoring, permitting, and well design in the lower portion of the Morro Valley Groundwater Basin to support an indirect potable reuse (IPR) project that will use highly treated recycled water from the City's planned Water Reclamation Facility (WRF).

For the past several months, we have been involved in various aspects of the City's OneWater Morro Bay program and understand many of the technical, institutional, and regulatory challenges that need to be addressed to make this program a success. GSI personnel have been supporting the City on this IPR project since 2015, and we bring a wealth of background understanding and experience. We offer the following benefits to the City:

- **Direct experience on this project.** GSI has been heavily involved in the initial phases of this effort for the City. We understand the project goals, history, and constraints. Because we have already completed preliminary groundwater flow modeling for this project, we are deeply familiar with the existing groundwater conditions and we understand the background and context of the next phase of work.
- **Recharge and modeling expertise.** GSI is a leading firm in groundwater recharge projects—specifically in projects that involve the recharge of highly treated recycled water for subsequent potable use (i.e., IPR projects). We have worked on more than 2 dozen aquifer storage and recovery (ASR) and recharge projects across California and the Pacific Northwest, many of which have been operating for 10 years or more. We also are known for our groundwater modeling expertise and have several skilled modelers on our staff.
- **Unparalleled knowledge of local hydrogeology.** Our groundwater experts have been working in and around the San Luis Obispo area for 2 decades. We have a long history of conducting successful groundwater investigations throughout San Luis Obispo County.

The request for proposals (RFP) identifies the need for technical support for the preparation of the Title 22 Engineering Report. We endorse the need for this support, but suggest that the effort be conducted in a future task, separate from the scope of work outlined in this proposal. We recommend that the support task for the Title 22 Engineering Report be scoped and budgeted at a later date, based largely on the results of the work conducted in the Phase 1 and Phase 2 efforts discussed in this proposal, which will inform the level of effort needed to develop the Title 22 Engineering Report. In case this proposed change is viewed as non-responsive to the RFP, we would allocate a budget of $25,000 and provide the technical services as identified on p. 19 of this proposal (Phase 3).

Additionally, in many of the tasks in our proposal, we have outlined a work effort that is more comprehensive and detailed than some firms may assume based on the RFP descriptions. We recommend this approach because of our detailed understanding of the overall needs of the project and we believe this will provide the level of accuracy and technical documentation that is needed for the success of this project.

We are excited about the opportunity to strengthen our partnership with you, and to continue to support the City's goal of achieving water independence by reducing reliance on imported water from the State Water Project. Thank you for your consideration of our proposal.

Sincerely,
GSI Water Solutions, Inc.

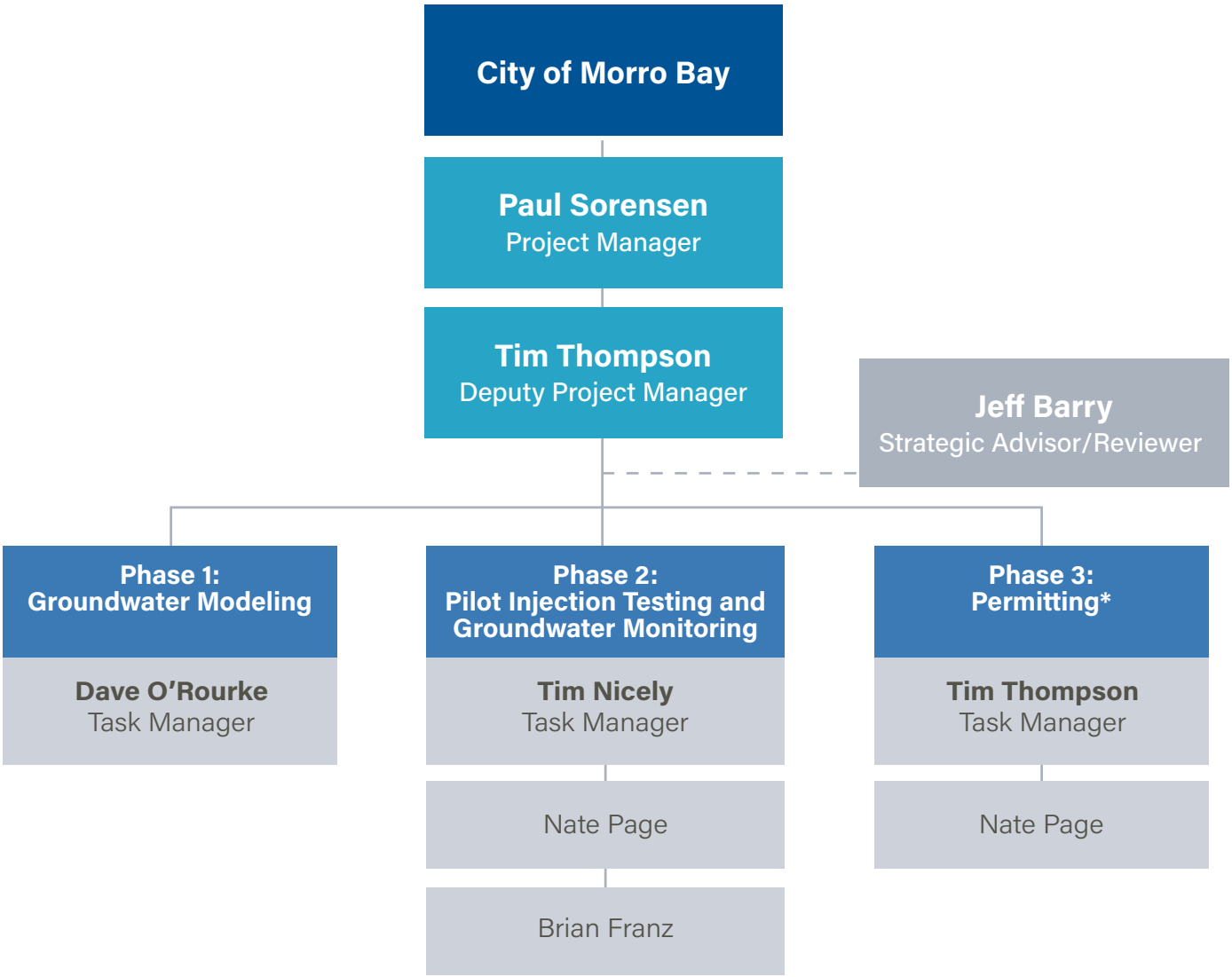
Paul Sorensen, PG, CHG, CEG
Principal Water Resources Consultant

Tim Thompson, PG, CHG
Principal Water Resources Consultant

Section 2
Project Team Organization

GSI Water Solutions, Inc. (GSI), is a specialized groundwater and water resources consulting firm. We help our clients develop and manage their groundwater supplies using cost-effective solutions that ensure the long-term sustainability and reliability of this valuable resource. We are an employee-owned firm with offices in San Luis Obispo and Santa Barbara, California, as well as Portland, Corvallis, and Bend, Oregon. We have 60 staff members, 50 of whom are hydrogeologists, environmental scientists, water resources consultants, and GIS and data management specialists.

For this project, we have assembled a team with extensive experience working throughout the Central Coast, with deep expertise in groundwater flow and quality modeling, injection well design, indirect potable reuse (IPR) technological and regulatory considerations, water quality evaluations, and the development of monitoring programs for recharge projects.



*As discussed later, the scope of Phase 3 may be refined following the results of Phases 1 and 2, and may be conducted as a separate project.

Project Team

Paul Sorensen, PG, CHG, CEG
Principal Water Resources Consultant

Role: Project Manager
Experience: 30+ years
California Registrations: Professional Geologist; Certified Hydrogeologist; Certified Engineering Geologist
Office: San Luis Obispo

Paul has decades of experience in groundwater supply, basin analysis, and water resource management throughout California, particularly in San Luis Obispo County. His technical expertise includes regional groundwater basin analyses, perennial yield and basin water balance calculations, groundwater quality studies, aquifer test analyses, and water well and monitoring well design and construction. An expert in groundwater supply planning, Paul has conducted many groundwater and aquifer studies along the Central Coast. He served as project manager for GSI's efforts to support the City's recycled water alternatives analysis, screening-level investigations, and feasibility studies.

Tim Thompson, PG, CHG
Principal Water Resources Consultant

Role: Deputy Project Manager; Permitting and Injection Wells
Experience: 30+ years
California Registrations: Professional Geologist; Certified Hydrogeologist
Office: Santa Barbara

Tim has 32 years of experience in water resources consulting, primarily in California, Nevada, and Arizona. He combines his technical knowledge with his knowledge of local, state, and federal regulations and policies to support his clients. He is an expert in groundwater basin characterization, groundwater management, production and monitoring well design and installation, development and implementation of long-term monitoring programs, water quality issues, water rights disputes, water resource planning, water quantity/quality analysis and modeling, reclaimed water use, conjunctive use and artificial recharge, and regulatory compliance.

Jeff Barry
Principal Hydrogeologist

Role: Strategic Advisor/Reviewer
Experience: 30+ years
Office: San Luis Obispo and Santa Barbara

Jeff is an experienced hydrogeologist with a long career in conducting groundwater resource development projects and groundwater management programs in California and the Pacific Northwest. He is a recognized leader in the development and sustainable operation of aquifer storage and recovery (ASR) projects and aquifer recharge projects in the western U.S. and Korea. He is an expert in aquifer characterization, groundwater monitoring, and groundwater/surface water interaction assessment. He is a founding principal at GSI.

Dave O'Rourke, PG, CHG
Supervising Hydrogeologist

Role: Groundwater Modeling
Experience: 27 years
California Registrations: Professional Geologist; Certified Hydrogeologist
Office: San Luis Obispo

Dave's technical expertise includes groundwater modeling, surface water hydrology, and engineering analysis, with extensive experience in regional groundwater modeling for water supply evaluation, basin analysis, aquifer characterization, yield analysis, ASR, collector well yield analysis, groundwater/surface water interaction, wellfield design, construction dewatering, and all aspects of hydrogeologic field investigations.

Tim Nicely, PG, CHG
Supervising Hydrogeologist

Role: Task Manager, Pilot Injection Testing and Groundwater Monitoring
Experience: 18 years
California Registrations: Professional Geologist; Certified Hydrogeologist
Office: Santa Barbara

Tim is an expert in groundwater supply, groundwater basin analysis, and water resource management. His experience includes managing and strategizing projects related to analyzing regional groundwater basins and groundwater quality studies, assessing seawater intrusion, calculating perennial yield and basin water balance components, and designing pumping tests and analyzing data.

Nate Page
Consulting Hydrogeologist

Role: Field Support
Experience: 10 years
Office: San Luis Obispo

Nate specializes in groundwater supply development, aquifer testing analysis, data compilation and analysis, and numerical modeling. He has managed domestic water well siting projects and field operations for subsurface investigations, drilling, and installation and testing of monitoring wells and water wells.

Brian Franz
Consulting Hydrogeologist

Role: Field Support
Experience: 6 years
Office: Santa Barbara

Brian is experienced in conducting field efforts, groundwater sampling, data analysis, and reporting. He provides essential field support, conducts aquifer testing, and provides contractor oversight for our projects in southern California. Brian also is experienced in well siting and design, and drilling and construction oversight for well installation projects.

Section 3
Experience and References

GSI is an industry leader in developing and permitting groundwater recharge projects involving infiltration basins, injection wells, and dual-purpose ASR wells. We have developed recharge projects in a variety of geologic environments, including infiltration of surface water and stormwater in alluvial groundwater basins, injection of advanced treated recycled water in alluvial basins, and injection and recovery (ASR) of treated surface water in both alluvial and bedrock aquifer systems. We are very familiar with the detailed technical components that need to be included in the Title 22 Engineering Report required by the Division of Drinking Water (DDW) for this project. The following similar projects illustrate our expertise and experience:

Water Reuse Feasibility Analysis Support

City of Morro Bay, California

GSI provided technical support to the City to evaluate potential alternatives to its brine disposal pipeline for the reuse of recycled water to augment the municipal water supply. Potential alternatives considered included: recharging into upstream infiltration basins; delivering treated effluent to growers in the Morro or Chorro Valleys in exchange for reduced groundwater pumping or for direct sale; injection and recovery at City wells; and injection into a seawater intrusion barrier. GSI has contributed to a number of efforts in support of the City's evaluation of alternative concepts for the use of recycled water, including:

- A screening analysis of recycled water use alternatives
- A multiple-well aquifer test to characterize the Lower Morro Valley aquifer
- A technical analysis of the upper portion of the Morro Valley Groundwater Basin
- A technical analysis of the Chorro Valley Groundwater Basin
- An assessment of the City's idle desalination intake wells
- A modeling analysis of the feasibility of injecting and recovering recycled water in the Lower Morro Valley to enhance water supply

Reference: Michael Nunley, MKN & Associates, 805.904.6530
Project team: Paul Sorensen, Tim Nicely, Nate Page

Recycled Water Storage Feasibility Study and Work Plan

Water Replenishment District of Southern California (WRD), Pico Rivera, California

GSI is assisting WRD with developing its Groundwater Reliability Improvement Program (GRIP), which involves conducting advanced treatment (reverse osmosis, microfiltration, and advanced oxidation) on a large stream of recycled water before using the water for aquifer replenishment. GSI provided flow modeling, injection well design, well construction monitoring, and permitting support as part of a team of specialists. GSI's initial work involved modeling of the estimated travel time of the injected water to the nearest existing water wells. The model also was used to estimate the magnitude of groundwater mounding and to evaluate if the potential exists to lose water to the nearby San Gabriel River. This initial work also included geochemical modeling to assess potential reactions that could cause clogging or arsenic mobilization within the aquifer sediments. As part of the owner's representative team, GSI prepared well designs, site locations, drilling oversight, and well construction advice for the project's three injection wells and three multiple-completion monitoring wells. GSI also assisted with preparing several hydrogeologic and water quality portions of the project's Title 22 Engineering Report, which was submitted to and approved by the Los Angeles Regional Water Quality Control Board (RWQCB) and DDW as part of the required permitting application for the project.

Reference: Ken Ortega, WRD Assistant General Manager, 562.921.5521
Project team: Tim Thompson, Nate Page, Brian Franz

IPR Feasibility Study

City of Santa Barbara, California

Working with Carollo Engineers, GSI evaluated the feasibility of IPR of advanced treated recycled water through groundwater recharge and recovery. The City's goal was to determine whether IPR could replace a portion of its planned desalination facility's capacity to reduce the potential impacts from the facility's seawater intake. GSI conducted technical evaluations of the recharge alternatives by collaborating with the U.S. Geological Survey (USGS) to run simulations using an existing USGS groundwater model. Simulations included various combinations of surface infiltration, injection, and recovery of both native groundwater and recycled water. Our evaluation of the modeling results indicated that IPR using a series of injection wells, coupled with dedicated recovery wells, would be capable of storing and transmitting up to 8,500 acre-feet per year of advanced treated recycled water and meeting sufficient retention times before recovery at the nearest production wells.

Reference: Joshua Haggmark, Water Resources Manager, 805.963.0611
Project team: Tim Thompson, Jeff Barry, Paul Sorensen, Nate Page, Brian Franz

ASR Well Design and Installation

City of Woodland, California

In response to a series of water quality issues, the City is converting its primary potable water supply source from groundwater to surface water from the nearby Sacramento River. During the winter months, unused treated surface water will be injected into the aquifer for storage. In the summer, the recharged water will be extracted from the same wells, chlorinated, and conveyed into the City's distribution system. Working with Carollo, GSI has provided hydrogeologic services for design and installation of two ASR wells, two sets of nested monitoring wells, a core hole, and two well abandonments. The objective of the project is to provide a reservoir of stored water available to meet summer peak demands. Concerns regarding naturally occurring hexavalent chromium in the aquifer sediments led to an ongoing evaluation of water quality considerations, cycle testing using the ASR wells, and development of geochemical recommendations for the project. A future phase of the project will include pilot testing and expansion of the ASR program.

Reference: Tim Busch, Utilities Manager, 530.661.5820
Project team: Tim Thompson, Jeff Barry, Nate Page, Brian Franz

Santa Maria Basin Fringe Area Characterization and Boundary Modifications

San Luis Obispo County, California

GSI is conducting a characterization of the fringe areas of the Santa Maria Groundwater Basin. The project involves the hydrogeologic characterization of five geographically distinct areas that are within basin boundaries defined by the California Department of Water Resources (DWR), but were not included in the adjudicated basin area and thus are subject to the state's Sustainable Groundwater Management Act (SGMA) management requirements. For each fringe area, GSI generated calculations of groundwater flow direction, Darcy groundwater flux from the fringe area into the adjudicated portion of the basin as subsurface inflow, well construction details, aquifer test results, and irrigated acreage and demand. GSI developed geologic cross sections to understand the extent of hydraulic communication between the fringe areas and the adjudicated basin. As a result of the characterization work, GSI is working with the County (as the Groundwater Sustainability Agency for each of the fringe areas) to submit basin boundary modification requests to DWR for each fringe area.

Reference: Dick Tzou, Water Resources Engineer, 805.781.4473
Project team: Dave O'Rourke, Paul Sorensen, Tim Nicely, Nate Page, Brian Franz

The following projects demonstrate the breadth of GSI's experience in conducting related work:

	Indirect Potable Reuse	Well Siting	Injection or ASR Well Design/Installation	Groundwater Modeling	Hydrogeologic Analysis	Regulatory/Permitting Support
IPR Project *Water Replenishment District of Southern California*	●	●	●	●	●	●
IPR Feasibility Evaluation *City of Morro Bay, California*	●	●	●	●	●	●
IPR Response Retention Time (Travel Time) Evaluation *Goleta Water District, Goleta, California*	●	●		●	●	●
Well Siting Evaluation *Goleta Water District, Goleta, California*		●	●	●	●	
IPR Feasibility Study *City of Santa Barbara, California*	●		●	●	●	●
Injection Optimization Evaluation *Goleta Water District, Goleta, California*			●	●	●	●
Goleta Basin Groundwater Management Plan Update/Salt and Nutrient Management Plan *Goleta Water District, Santa Barbara, California*				●	●	●
ASR Wellfield Clogging Assessment *Calleguas Municipal Water District, Thousand Oaks, California*			●			
ASR Well Design and Installation *City of Woodland, California*		●	●		●	●
Regional Groundwater Model Peer Review *United Water Conservation District, Santa Paula, California*				●	●	
Well Production Evaluations and Technical Specifications *Goleta Water District, Santa Barbara, California*		●	●	●	●	●
Groundwater Modeling Analysis of Pumping Redistribution *Valencia Water Company, Santa Clarita Valley, California*		●		●	●	●
Groundwater Modeling Analyses of Future Saugus Formation Water Supply Wells *Castaic Lake Water Agency and Valencia Water Company, Santa Clarita Valley, California*		●		●	●	●

Section 4
Project Understanding

The City has conducted a series of investigations that have identified and analyzed several recycled water reuse alternatives capable of cost-effectively enhancing the City's water supply. One of the assessments involved an evaluation of the injection and subsequent recovery of recycled water (i.e., IPR). GSI has supported the City throughout this process by conducting these investigations, including the development of a screening-level numerical groundwater flow model of the lower portion of the Morro Valley Groundwater Basin (referred to here as the Lower Morro Basin) to evaluate the feasibility of recycled water injection and estimate the associated benefit to the City's water supply.

The study that evaluated the feasibility of injecting recycled water into the Lower Morro Basin assumed that the water that potentially could be used for IPR would consist of up to approximately 825 acre-feet per year (AFY) of advanced treated recycled water from the proposed Morro Bay Water Reclamation Facility (WRF) that would be injected into the Lower Morro Basin, followed by subsequent recovery at City-owned wells after the requisite DDW permit subsurface retention time has been satisfied. The feasibility of IPR under this proposed project assumes the following criteria:

1. Ability of the aquifer to accept an injection of 825 AFY of recycled water (which requires concurrent pumping of the aquifer from the City's municipal production wells)
2. Annual production capacity of the City wells that can be sustained without causing significant seawater intrusion
3. Ability to satisfy DDW permit minimum retention time requirements for the injected recycled water

Because of groundwater level responses, we believe that the primary source of recharge to the Lower Morro Basin is from Morro Creek streambed percolation. GSI's modeling results identified that Morro Creek flow is mostly a 'losing stream' (i.e., losing water by downward percolation from the streambed to the underlying aquifer), but can become a 'gaining' stream (i.e., gaining water from the aquifer) during wet periods. The volume of Morro Creek percolation is affected by the volume of City pumping.

The primary discharge component under non-pumping conditions is subsurface underflow to the ocean. However, under the proposed IPR project conditions, the primary discharge component would be groundwater pumping.

Based on GSI's previous work in the development of the feasibility-level modeling efforts, we concluded the following:

- **Recycled water injection –** The aquifer likely can accept 800 to 825 AFY of recycled water within a framework of various injection configurations. A minimum of four injection wells likely are required, based on estimated injection rates. Additional wells may be needed depending on the rate of injection well clogging.
- **Groundwater pumping volumes –** The City's existing wells may be capable of producing up to 1,200 AFY with concurrent recycled water injection without inducing deleterious seawater intrusion. The risk of seawater intrusion increases significantly with higher pumping rates.
- **Recycled water residence time –** The modeling results suggest that it may be possible to meet the minimum required retention time of 2 months. However, because the travel times are less than 4 months, groundwater modeling alone may not be sufficient for permitting.

The results of the study described above were developed using available data, and the model is tuned qualitatively with respect to observed groundwater elevation data, but is not rigorously calibrated (which

would require data not currently available). Thus, there are some key data limitations, some of which will be addressed within the scope outlined in the RFP. Some of these data uncertainties are:

- **Groundwater levels –** Groundwater level data are important for model calibration, but there is a limited record of groundwater levels in the basin.
- **Aquifer properties –** Data concerning the aquifer properties are limited.
- **Streambed percolation rates –** Streambed permeability has not been measured and there is insufficient surface water gauging to otherwise estimate percolation rates.
- **Nature of the aquifer geometry and ocean interface –** The offshore aquifer geometry and connection to the ocean are not known. If short-circuit pathways for seawater exist, seawater intrusion could occur much more quickly and severely than predicted by the model.
- **Aquifer geometry –** The northwesterly extent of the aquifer is not well understood.
- **Underflow –** Underflow through the Narrows Area is not well constrained and was assumed on the basis of a conceptual understanding of the hydrogeology and water level responses.

The tasks previously suggested by GSI, which are outlined in the RFP and detailed in this proposal, will reduce data uncertainties and help us more confidently determine if the full 825 AFY (or a slightly lesser amount) can be reliably recharged.

The proposed work is divided into three phases: (1) groundwater modeling of the Lower Morro Basin, (2) pilot injection testing and monitoring, and (3) injection well basis of system design and initial DDW permitting. The first two phases are separate but related tasks that can proceed simultaneously. The work includes the following key components:

- **Phase 1: Groundwater Modeling.** The first task is to conduct groundwater modeling of the Lower Morro Basin using the existing screening-level numerical flow model. This task includes analysis of:
  - » Groundwater flow field in the local aquifer if the City exercises its right to pump its full permitted allotment of 581 AFY, with no representation or contribution of recycled water
  - » Volume of water that can be injected into the Lower Morro Basin without extraction from the City wells (i.e., assessment of the volume of available storage in the aquifer in the Lower Morro Basin)
  - » Potential effect on nitrate concentration levels in the aquifer from an such an injection program
  - » Possible level of nitrates in the groundwater pumped from the City's supply wells under two different injection and recovery (extraction) scenarios
  - » Potential changes in groundwater chemistry in the water supply wells as a result of potential seawater intrusion under specific scenarios to be determined by the City and its OneWater Morro Bay consultant (Carollo)
- **Phase 2: Pilot Injection Testing and Groundwater Monitoring.** This task includes:
  - » Determination of whether injection can be conducted in the Narrows Area or if the area west of Highway 1 is more favorable
  - » Testing to determine expected injection rates at the preferred project area
  - » Collection of monitoring data from existing production and seawater wells
  - » Refinement of groundwater modeling and assessment of water quality considerations. Based on the predicted injection rates, the total number of injection wells needed to meet the project's overall design injection capacity of 825 AFY will be determined.
- **Phase 3: Basis of Design and Permitting for Full-Scale Injection Well System.** The components of this phase, which will be fully scoped and budgeted at a later date, will include preparing for the injection wells and supporting the City's engineering consultant in preparation of the documents required for project permitting.

We firmly believe that GSI is best suited to work with the City to tackle these key issues that must be addressed if the City is to develop a successful IPR project. We have been involved in the technical investigations of the WRF project as well as various aspects of the City's OneWater Morro Bay program, and understand the technical, institutional, and regulatory challenges that need to be addressed to make this project a success. We have a thorough understanding of the technical issues of the project, and we understand the project goals, history, and constraints. Because we have already performed the preliminary groundwater flow modeling for this project, we are deeply familiar with the existing groundwater conditions.

The GSI team offers:

The ability to hit the ground running. Our team has been heavily involved in the first phase of this IPR project. We understand the project goals, history, and constraints. Because we have completed preliminary groundwater modeling for this project, we are already deeply familiar with the model and what needs to be honed.

Recharge and modeling expertise. GSI is a leading firm in groundwater recharge technology and implementation. We have worked on more than 2 dozen recharge projects across California and the Pacific Northwest, most of which involved implementation of ASR technology. We are also known for our groundwater modeling expertise and have several modelers on our staff.

Local hydrogeologic knowledge. Our groundwater experts have been working in the San Luis Obispo area for 2 decades. We have a long history of conducting successful groundwater investigations in San Luis Obispo County.

IPR permitting expertise. GSI is actively involved in other IPR projects and is familiar with the highly technical permitting process for these types of projects.

Section 5
Proposed Scope of Work

Phase 1: Groundwater Modeling of Lower Morro Basin

GSI previously developed a screening-level groundwater model flow model of the Lower Morro Basin, including the City's water supply wells and desalination wells, using MODFLOW and Groundwater Vistas. This work was documented in a report for the City (*Lower Morro Valley Basin Screening-Level Groundwater Modeling for Injection Feasibility*, GSI Water Solutions, May 16, 2017). The MODFLOW model was used to conduct simulations of groundwater hydraulics and flow to examine the feasibility of using injection wells to inject advanced treated recycled water into the aquifer to expand the City's water supply options.

Based on our involvement with the City's ongoing OneWater Morro Bay initiative, we identified the need for further MODFLOW hydraulic and flow simulations. Additionally, there is potential to incorporate improvements to the MODFLOW model to allow water quality modeling capabilities (including MT3D, SEAWAT, or equivalent).

As outlined in the previous section, the screening-level model will evaluate these issues: (1) the groundwater flow field in the local aquifer should the City pump its full permitted allotment of 581 AFY with no contribution of recycled water, (2) the volume of water that can be injected into the basin without extraction from City wells, (3) the effect of such injection on nitrate concentration levels in the aquifer, (4) nitrate levels in groundwater under different injection and recovery scenarios, and (5) potential changes in groundwater chemistry resulting from potential seawater intrusion.

Water quality data are available for the City's pumping wells and brackish water wells, including data for nitrates, total dissolved solids (TDS), and chlorides. It is unclear what data are available to characterize nitrate distributions in the aquifer upgradient of the City's pumping wells (upstream of the Narrows Area). Given this understanding of the data constraints involved in the current study, and those associated with the original development of the MODFLOW model, GSI proposes the following Phase 1 tasks:

Task 1 – Groundwater Modeling

Task 1A. MODFLOW Model Runs

To address the issue of the potential intrusion of seawater into the flow field under a full pumping scenario of 581 AFY, GSI will perform a MODFLOW model run in which the full allotment of the City's permitted groundwater pumpage is simulated, with no simulation of injection. Pumpage will be distributed throughout the City's wells in accordance with existing data on each well's production capacity. The time-step discretization of the model will be changed such that an extended simulation, to be determined in consultation with Carollo and the City, can be performed. Particle tracking will be performed to analyze the potential for seawater intrusion. Results will be analyzed in terms of examination of the hydraulic gradient and presentation of particle tracking results using particles starting at or near the Morro Bay shoreline.

Scenarios also will be run using the model to analyze the volume of water that can be injected into the Lower Morro Basin without simultaneous extraction (pumping) of the City wells. This simulation will be performed at both of the possible injection sites.

Task 1B. Solute Transport Modeling

GSI proposes the following approach to address the issues regarding future nitrate concentrations (1) in the aquifer during and following an active injection-only program and (2) in the City's wells during the operation of an injection and recovery well program. A solute transport model (anticipated to be MT3DMS or potentially the newly released MT3D-USGS code) will be developed to run in concert with the existing MODFLOW groundwater flow model. Nitrate data from the City's wells will be used in the preparation of these

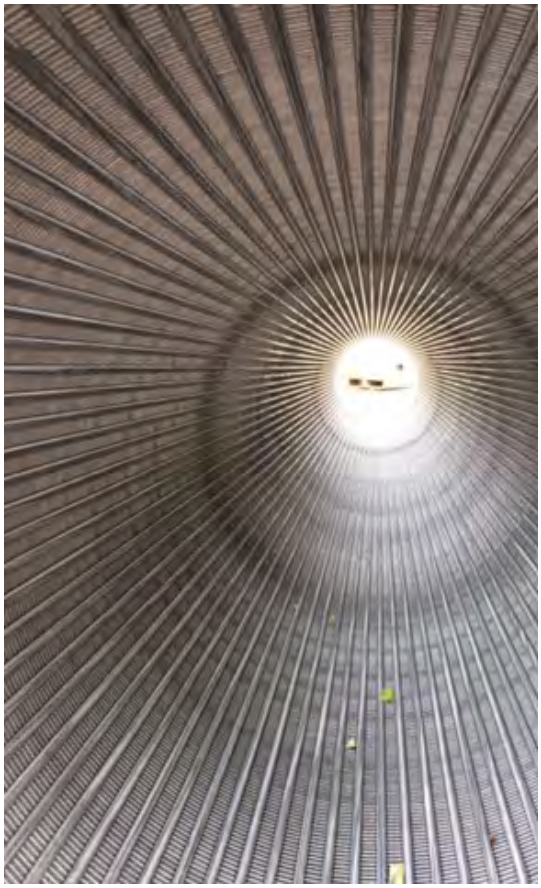
simulations. Any data of ambient nitrate conditions upgradient from the City's wells also will be incorporated as appropriate. The two injection scenarios from the May 2017 GSI report, labeled 1A and 2A, using different injection well layouts, will be simulated. It is assumed that Carollo will provide the necessary water quality data for the injected water. Simulations will be run to assess the effects on nitrate concentration levels in the aquifer from an injection-only program, and during the operation of an injection and recovery well program. Following model development and refinement, we will evaluate whether to conduct several sensitivity runs in which a reasonable range of the primary parameters is changed, such as transmissivity +/- 25 percent and advection/dispersion coefficients +/- 25 percent. These runs would generate a range of reasonably expected changes in nitrate concentrations.

Task 1C. Scenarios

To address the issues regarding potential changes in salinity in the pumped groundwater under the injection scenarios, there are a number of possible approaches.

- The scenarios could be run and evaluated with the same solute transport model developed for nitrates, but using chloride as a proxy parameter for TDS or salinity.
- The scenarios could be run using SEAWAT, a USGS numerical variable-density model specifically designed to examine the potential for seawater intrusion.
- The new version of Groundwater Vistas 7 includes a feature called Density Driven Flow (DDF), which purports to model some of the same processes as SEAWAT without needing to use another outside model.

GSI believes that the SEAWAT option likely would be cost-prohibitive. Using the new DDF feature in Groundwater Vistas (the new version has been available only for a few months) appears feasible, but it should be noted that this is a new model feature that is currently in development and hence is only available as a beta version, subject to further testing by the authors. Thus, the robustness of the results is not certain. It is also unclear at this time if this approach would require re-discretizing the vertical layers of the model. Therefore, the approach using MT3D may be the most straightforward, but this will be evaluated at the time.



As with any modeling analysis, the results are a function of the data used in the model formulation. The flow model is a screening-level tool. It was calibrated to aquifer test results; data did not exist to perform a long-term calibration to historical conditions. A robust representation of the nitrate distribution in the aquifer upgradient of the pumping wells may not be available. And, as always with transport modeling, there is inherent uncertainty with respect to advection and dispersion parameters. As such, a rigorous calibration of groundwater chemical results likely is not possible. Nonetheless, because these numerical modeling tools can account for spatial variability in aquifer and contaminant characteristics, they are useful for understanding the likely ranges of nitrate and chloride concentrations under the general subsurface conditions that are known to exist in the vicinity of the City's water supply and desalination wells. Given the available knowledge, GSI will be able to use these modeling tools to provide an understanding of the potential for water quality changes at these wells and the significance of uncertainties on these general estimates of future seawater intrusion and nitrate concentrations.

Task 1D. Summary Report

Following the analyses, GSI will prepare a summary report detailing the assumptions, methods, and results of our analyses.

Phase 2: Pilot Injection Testing and Groundwater Monitoring

Based on results of recent groundwater modeling (as documented in GSI's May 2017 report), injection testing was recommended to more accurately assess potential injection rates that could be achieved. Specifically, the screening-level groundwater model predicted that injection of 800 to 825 AFY could be possible during times when the City's wells are being simultaneously pumped at rates between 940 and 1,300 AFY. The injection testing will allow for calculation of expected injection rates and travel times, and thereby determine the number and location of injection wells needed to meet the goals of the program.

The first step is to determine which of two areas identified in GSI's screening-level groundwater model is more favorable for injection. This decision will guide the alignment of the pipeline from the WRF and, importantly, identify whether the pipeline needs to cross Highway 1. The first area for consideration, the Narrows Area, is an upgradient location (relative to the City's pumping wells) near the "narrows" of the Morro Valley east of Highway 1. The second area, the West Area, is downgradient of the City's pumping wells, and south of Little Morro Creek on the west side of Highway 1.

The hydrogeology of the Narrows Area must be better characterized to determine the degree to which injection would be feasible. If the area is considered hydrogeologically feasible for siting of four to six injection wells, portions of the area would need to be repurposed from current uses, which currently include both residential and agricultural uses. The area is located approximately 30 to 40 feet above sea level and is characterized as a "water gap" or "narrows" approximately 300 to 400 feet wide. The aquifer is believed to consist of a combination of interbedded sand and clay, which may extend as deep as 80 feet. The vertical and lateral geometry of bedrock may significantly limit injection operations. Within the Narrows Area, there is also a potential of daylighting injected water because of high groundwater levels—this consideration will be assessed during the revision of the groundwater model based on the aquifer testing conducted during Phase 2.

Unlike the Narrows Area, the West Area, located west of Highway 1, is less constrained by geologic conditions and cultural development. The West Area is a large, undeveloped area located at a relatively low elevation of between 20 and 25 feet above sea level between the recently closed Morro Bay Power Plant and the southern bank of Morro Creek. The aquifer materials in the area extend to 80 to 120 feet deep and are laterally extensive. The lower 20 feet of this material consist of the coarsest portion of the aquifer; this is the principal aquifer target for injection. The West Area is characterized by a much greater area potentially available to site four to six injection wells spread along 2,000 linear feet at the northern property line of the Morro Bay Power Plant property.

Task 1 – Characterize and Select Preferred Project Area

Task 1A. Prepare Test Well Design and Permitting

The first step will be to develop a program to include cone penetration testing (CPT), test well drilling, and an aquifer testing program for each area. As part of this task, we will design test and monitoring wells, develop a specifications package, solicit bids from drillers, and oversee construction of the wells in both the Narrows Area and West Area in accordance with the specifications and permitting requirements.

The test well design will be similar to nearby production wells with added features to support the ability to conduct injection testing. GSI has designed many wells for these types of operations for the past several years and has a series of criteria and a specifications package that can be modified to accommodate the specific needs of the proposed wells.

Permitting for the test and monitoring wells will require a County well permit, which the driller will obtain. We will assist the City in complying with California Environmental Quality Act (CEQA) requirements. As described below, a separate permit from the Central Coast RWQCB will be required for the well(s) chosen for pilot injection testing with City water.

All characterization work described below will be conducted by GSI personnel; work will include our oversight of drilling and well construction to ensure that the wells are appropriately installed to meet all specifications. Drilling contractors will be contracted directly with the City, and overseen by GSI personnel. The work will be coordinated with the City. We anticipate that the City will provide support related to site logistics, construction notifications, temporary connection to City distribution pipeline, and appropriate locations to discharge the pumped water in accordance with National Pollutant Discharge Elimination System (NPDES) discharge requirements.

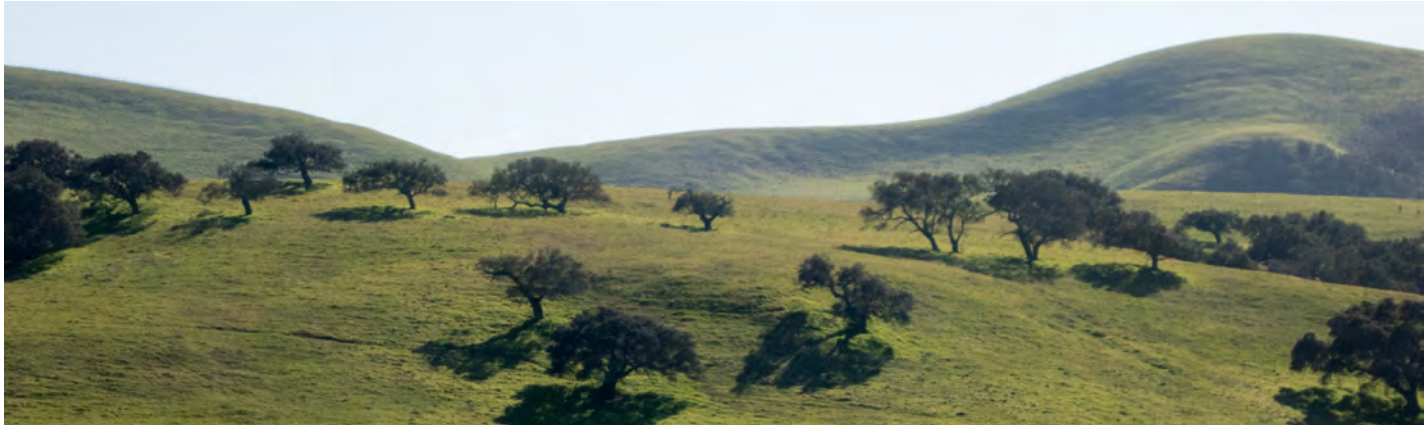
Task 1B. Characterize Narrows Area

To characterize the hydrogeology in the Narrows Area, data will be collected by conducting a series of CPT borings, and, if warranted, followed by the installation of a test well and a monitoring well. The CPT borings will be particularly valuable to determine the geometry of the bedrock contact and to define the lateral extent of the target aquifer. If the results of the CPT testing are favorable, indicating that there is sufficient aquifer material and width of the target aquifer, a test well and a monitoring well will be installed. The test well will be installed using reverse-circulation drilling methods; the monitoring well will be drilled with the sonic drilling method. The sonic drilling method will be employed to allow the collection of core samples of the aquifer sediments and overlying material to support future geochemical evaluations.[1] The test well, monitoring well and CPT explorations will be logged by an onsite geologist to determine the depth to bedrock and nature of the aquifer materials.

After test well construction and development, a pumping test within the test well will be conducted for a period of 5 to 7 days. The pumping test will be designed to provide an estimate of the hydraulic conductivity of the local aquifer and, with the monitoring well, further evaluate the geometry of the bedrock contact. The pumping test also will assess the well's maximum yield, drawdown characteristics (specific capacity), and native water quality. Appropriate instrumentation will be deployed to support the testing efforts and data collection. The test and monitoring wells will be completed for potential future use as a pilot injection well and monitoring well for the future basin monitoring. If the wells are not needed for future monitoring, they will be abandoned per County well permit requirements.

Task 1C. Characterize West Area

At the West Area, a similar sequence of site-specific aquifer characterization will be conducted, including installation of a test well and a monitoring well (but not any CPT work). The test well will be installed using reverse-circulation drilling methods; the monitoring well will be drilled with the sonic drilling method to allow for collection of undisturbed core samples. The monitoring well will be constructed with two separate completion intervals (i.e., a nested monitoring well) in the upper and lower portions of the aquifer near the test well to allow for collection of depth-specific water level and water quality data. A pumping test will be conducted using the test well, similar to the approach conducted at the Narrows Area.



[1] The geochemical analysis was not specified as a required task in the RFP and is included in this proposal as an optional task; the cost for that analysis is not included in the project budget in Section 6 of this proposal, but could be accommodated by a contingency allocation for the overall project effort.

Task 1D. Evaluate Results and Select Preferred Area for Injection Testing

Based on the results of the pumping tests and associated work at the two areas, the aquifer properties and logistical considerations for the areas will be compared to determine the preferred area for injection. This will guide the decision for the tentative alignment of the pipeline from the WRF. The selection will take into account many factors, including:

- Local aquifer geometry
- Hydraulic conductivity
- Estimated injection rates (calculated both with and without concurrent pumping at City production wells)
- Area constraints including existing land use, power lines, and land ownership
- Permitting constraints, including California Coastal Commission
- Ultimate area constructability for up to six injection wells
- Recycled water pipeline alignment requirements

Task 1E. Summary Technical Memorandum

GSI will prepare a technical memorandum summarizing the work conducted, results, and recommendations.

Task 2 – Pilot Injection Testing

Task 2A. Permitting for Injection Testing

The Central Coast RWQCB will require a permit for the injection testing program. There are several means by which the Central Coast RWQCB may choose to regulate this effort, the most likely being the following:

1. Individual (project-specific) waste discharge requirements
2. General water discharge requirements (State Water Resources Control Board [SWRCB] Water Quality Order 2012-0010)

Discussions and meetings with RWQCB and DDW will be conducted to secure the appropriate permit.

Task 2B. Conduct Pilot Injection Testing

Pilot injection testing will be conducted at either the Narrows Area test well or the West Area test well. Injection testing will be conducted by injecting water from the local municipal water supply into the test well for a variety of short- and longer-term periods for a total duration of up to 2 weeks. During that period, the injection rates will be varied to assess the acceptance rates and variability of the specific capacity during injection. All testing will be conducted in compliance with permitting requirements.

To accommodate the injection, we will prepare specifications and oversee installation by the driller of the injection equipment, including piping injection tube, controls, and valves. A small pump also will need to be installed into the monitoring well during injection for collection of water samples.

During the injection testing, water level data will be measured and recorded by pressure transducers installed in the test well and the adjacent monitoring well. Injection testing will include the following:

- Injection at various rates during short periods (days) and a longer period (1 week)
- Comparison of water quality before and after injection, which will be used in future geochemical modeling efforts
- A tracer test (described below)[2]
- Travel time analysis (described below)
- Clogging analysis (described below)

[2] The tracer testing as specified in the RFP is included in this proposal but as an optional task, the need and extent of the tracer test will be evaluated during the course of the investigation. The cost for tracer testing is not included in the project budget in Section 6 of this proposal, but could be accommodated by a contingency allocation for the overall project effort.

The analysis of travel time between the injection well and the monitoring well will be measured by conducting a tracer test (employing either an intrinsic or an introduced tracer) during injection testing. Because the injected water will be quite similar in chemistry to the native groundwater, the use of an intrinsic tracer may not be feasible for this testing, which therefore would require the use of an introduced tracer. Introduced tracer testing would involve introducing a tracer compound, such as Xenon or Rhodamine WT, into the pumping well and performing regular sampling of a downgradient well until breakthrough of the tracer is observed.

Results of the pilot injection testing will be used to guide (1) the refinement of the groundwater model (which will help determine the injection capacity a full-scale program), and (2) the design of the full-scale injection well system (see Phase 3). As part of a later phase associated with system startup, coordination will occur with the City to seek project funding, and initiate the permitting process for the full-scale system including support of the preparation of a Title 22 Engineering Report.

Task 3 – Injection Test Groundwater Modeling

The screening-level groundwater model developed in 2016 by GSI simulated seasonal variations in pumping patterns on a monthly basis based on historical data for 43 years and associated historical seasonal water level fluctuations. The model predicted that the aquifer may be able to accept 800 to 825 AFY of recycled water in an injection and recovery program. The model indicated that a minimum of four injection wells would be needed assuming an 80 percent runtime factor for the overall injection well system. Additional wells could be needed depending on ultimate injection rates and issues such as clogging.

Task 3A. Update Groundwater Model

Based on the results of the pilot injection testing, the model will be revised with updated data of aquifer properties, geometry, and predicted well performance. The newly installed test wells and monitoring wells will provide valuable new data on the physical (thickness and composition) and hydrogeologic (transmissivity, hydraulic conductivity) characteristics of the aquifer in the proposed injection wellfield area. These data will be incorporated into the groundwater model, providing field-verified parameters to more accurately identify the characteristics and variations inherent in the aquifer system.

Using the updated refined groundwater flow model, baseline scenarios will be run to analyze the volume of water that can be injected into the receiving aquifer of the Lower Morro Basin at the preferred injection site without a concurrent recovery (pumping) program.

Task 3B. Travel Time Analysis

The updated model will be used to estimate travel time between the injection wells and nearest pumping wells, and the retention time to assess whether a 4-month minimum retention time can be maintained (see discussion in next section). The revised analysis also will determine which existing City wells will need to be pumped during dry and/or wet periods. This analysis also will benefit from improved water level data from the proposed groundwater monitoring instrumentation discussed below.

The initial travel time analysis will use particle tracking analysis (MODPATH) in conjunction with the updated MODFLOW model to simulate anticipated project operational scenarios to refine the travel time between the injection wellfield and the City's pumping wells.

After reviewing the updated particle tracking analysis, a more rigorous modeling evaluation of travel time is proposed. A solute transport model (anticipated to be MT3DMS or potentially

the newly released MT3D-USGS code) will be developed to run in concert with the existing MODFLOW groundwater flow model. This approach will produce a more robust estimate of the movement of specific chemicals through the subsurface environment. MT3D works in conjunction with the MODFLOW flow model. It incorporates transport modeling capabilities to accommodate flow terms calculated by MODFLOW packages and provides greater flexibility in the simulation of solute transport and reactive solute transport.

Task 3C. Clogging Analysis

The potential of the wells to become clogged by reactions between injected water, native groundwater, and the aquifer matrix in the vicinity of the injection wells will be assessed with a desktop analysis. This analysis will assess the potential geochemical reactions that may occur both through reactions associated with the mixing of two different waters (native groundwater and the injected advanced treated recycled water), and through the chemical reactions of the injected water with the rocks and minerals comprising the aquifer.

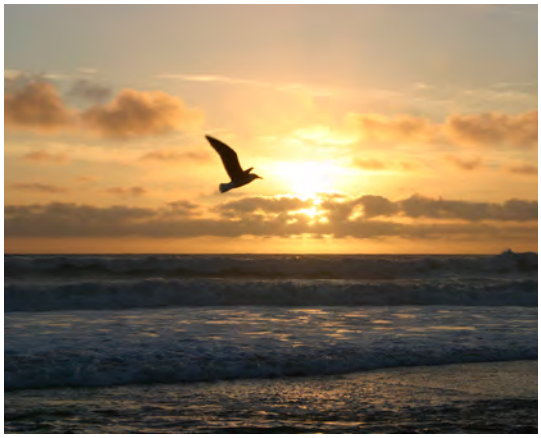
To assess the potential for chemical reactions that could be problematic for injection well operations, GSI intends to use the USGS geochemical modeling package PHREEQC, which is designed to perform a wide variety of aqueous geochemical calculations. PHREEQC is based on an ion-association aqueous model and has capabilities for speciation and saturation-index calculations, reaction-path and advective-transport calculations, mixing of solutions, mineral and gas equilibria, and numerous other geochemical calculations. If the chemistry of the injected advanced treated recycled water and the in situ groundwater are known, and the minerology of the aquifer is characterized, PHREEQC allows a detailed chemical analysis of the expected reaction products between the mixed waters and with the minerals comprising the aquifer sediments. For a PHREEQC analysis to be most accurate, correct chemical characterization of all components should be understood.

The chemistry of the in situ groundwater will be characterized through existing water quality data from the City's production wells, and chemical analysis of the newly installed test and monitoring wells. The expected chemistry of the water to be injected will be based on estimates from the WRF design engineer. To characterize the aquifer materials, mineralogical analysis will be conducted on the core samples collected during drilling of the monitoring wells. The results of this analysis will allow GSI to assess the potential for dissolution or precipitation of minerals through geochemical reactions, which can cause clogging in both the well screen and the pore space of the aquifer skeleton itself.

Task 4 – Seawater Intrusion Monitoring

In advance of the characterization and testing of the Narrows Area and West Area, we will purchase and install five continuous monitoring devices in the City's seawater wells in a similar manner as conducted previously by GSI on these same wells during full-scale testing of the seawater wells in January 2017 (*Assessment of the Operational and Hydrogeologic Characteristics of the City of Morro Bay Desalination Intake* Wells, GSI, 2017). Pressure transducers capable of recording water level, temperature, and electrical conductivity devices will be installed to collect important pre-project baseline groundwater level and quality data in each of the five wells.

Data will be collected at regular intervals for the next several years, providing water level data and tidal water level influence information. Tidal water level information will be compiled from published water level data from a nearby National Oceanic and Atmospheric Administration (NOAA) gauge to determine whether observed changes in groundwater levels are influenced by tidal effects. Changes in electrical conductivity, an indication of changing salinity, will be measured and recorded by the transducers.



The devices will be incorporated into the City's supervisory control and data acquisition (SCADA) system as coordinated with the City's SCADA master planner.

Task 5 – Groundwater Level Monitoring

In advance of characterization and testing, we will purchase and install six continuous monitoring water level recording devices in selected City's production wells in a similar manner as conducted previously by GSI on these same wells during aquifer testing of the wells in November 2016 during a temporary State Water Project maintenance shutdown. The groundwater monitoring devices allowed the calculation of aquifer properties integral to the groundwater modeling effort.

Pressure transducers capable of recording water level, temperature, and electrical conductivity will be purchased and installed in six of the City's wells (MB-1, MB-3, MB-4, HS-1, HS-2, and Flippos). The monitoring devices will collect important pre-project baseline groundwater level and quality data. The devices will be programmed to collect data at regular intervals for the next several years. Any changes in electrical conductivity during testing associated with seawater/freshwater interactions or other changes will be measured and recorded by the transducers. The devices will be incorporated into City's SCADA system as coordinated with the City's SCADA master planner.

Task 6 – Project Summary Report

A project summary report will be prepared that documents the efforts described in the various phases and tasks outlined above, along with final findings, conclusions, and recommendations. A draft report will be prepared and submitted to the City; following a review and comments on the draft report, a final report will be prepared and submitted.

Task 7 – Project Management/Meetings

Paul Sorensen will be the overall project manager, assuming primary responsibility for project administration, supported by Tim Thompson as deputy project manager. Paul and Tim understand the importance of communication, reporting, and delivering a final product that reflects the City's goals and objectives. Because of his experience in the area and with the previous studies, Paul will take the lead on the geology and hydrogeology aspects of the technical studies. Dave O'Rourke will conduct groundwater modeling efforts; Tim Nicely will manage field investigations; and Tim Thompson will lead permitting activities. We have conducted numerous investigations and complex studies with this team structure and find it to be effective and efficient.

We are prepared to participate in five project team meetings to discuss study objectives and data collection efforts.

Phase 3: Basis of Design and Permitting for Full-Scale Injection Well System (to be fully scoped and budgeted at a later date)

Task 1 – Basis of Design of Full-Scale Injection Well System

Based on the results of the pilot injection testing, we will develop the basis of design for the injection well system, including the number of injection wells, additional monitoring wells, well locations, and instrumentation. Preliminary operational requirements also will be suggested on the basis of seasonal variability of water levels and anticipated effects on injection rates. The configuration of the proposed wellfield will take into consideration the results of the pilot injection testing, availability of property for siting of up to six injection wells, proximity to existing wells, and other logistical constraints. An updated cost estimate of the injection well program will be provided.

Task 2 – Permitting Support

We will provide technical support to the project permitting effort that will be led by the engineer contracted by the City. This support will include coordination with RWQCB and DDW, and preparation of several sections of the Title 22 Engineering Report, including description of the groundwater basin and existing wells, impacts associated with the injection, water quality, anti-degradation considerations, and response retention time. GSI has been involved and provided similar support with recent projects for other communities implementing similar programs.

Appendix A

Project Schedule

The following table presents our assumed schedule for completing this scope of services. We have assumed that the City is prepared to move quickly in preparation of the Title 22 engineering report in the summer of 2019 and completion of the WRF in 2021. We are prepared to start work within 3 weeks of Notice to Proceed. Phases 1 and 2 will proceed concurrently.

	Duration
Phase 1 – Groundwater Modeling of Lower Morro Basin	
Task 1 – Groundwater Modeling	
Task 1A – MODFLOW Model Runs	3 – 4 Weeks
Task 1B – Solute Transport Modeling	3 – 4 Weeks
Task 1C – Scenarios	1 – 2 Weeks
Task 1D – Summary Report	2 – 3 Weeks
PHASE 1 TOTAL DURATION	**9 – 12 Weeks**
Phase 2 – Pilot Injection Testing and Groundwater Monitoring	
Task 1 – Characterize and Select Preferred Project Area	
Task 1A – Prepare Test Well Design and Permitting	2 – 3 Months
Task 1B – Characterize Narrows Area	2 – 3 Weeks
Task 1C – Characterize West Area	2 – 3 Weeks
Task 1D – Evaluate Results and Select Preferred Area for Injection Testing	2 Weeks
Task 1E – Summary Technical Memorandum	2 Weeks
Task 2 – Pilot Injection Testing	
Task 2A – Permitting for Injection Testing	2 Months
Task 2B – Conduct Pilot Injection Testing	3 Months
Task 3 – Injection Test Groundwater Modeling	
Task 3A – Update Groundwater Model	1 Week
Task 3B – Travel Time Analysis	2 Months
Task 3C – Clogging Analysis	1 Months
Task 4 – Seawater Intrusion Monitoring	NTP to 2021
Task 5 – Groundwater Level Monitoring	NTP to 2021
Task 6 – Project Summary Report	3 – 4 Weeks
Task 7 – Project Management/Meetings	Duration of Project
PHASE 2 TOTAL DURATION	**12 – 18 Months**
Phase 3 – Basis of Design and Permitting for Full-Scale Injection Well System	
Tasks to be fully scoped and budgeted at a later date, based on the results of work conducted in Phases 1 and 2.	
Task 1 – Basis of Design of Full-Scale Injection Wells	2 Months
Task 2 – Permitting Support	3 Months, Mid-2019

Appendix B

Proposed Compensation

The following table presents an estimated budget for the scope of services presented in this proposal. We propose to conduct this work on a time-and-materials basis in accordance with the rate schedule below. We will not exceed this budget without prior approval. Please note that the contractor costs shown in the table below are costs for a well drilling contractor; these services are typically contracted directly to the City with GSI providing frequent oversight and approvals.

	GSI Labor and Expenses	Contractor Costs*
Phase 1 – Groundwater Modeling of Lower Morro Basin		
Task 1 – Groundwater Modeling		
Task 1A – MODFLOW Model Runs	$15,000	--
Task 1B – Solute Transport Modeling	$26,000	--
Task 1C – Scenarios	$20,000	--
Task 1D – Summary Report	$12,000	--
PHASE 1 TOTAL	**$73,000**	
Phase 2 – Pilot Injection Testing and Groundwater Monitoring		
Task 1 – Characterize and Select Preferred Project Area	$85,000	$130,000
Task 2 – Pilot Injection Testing	$60,000	$20,000
Task 3 – Injection Test Groundwater Modeling	$65,000	--
Task 4 – Seawater Intrusion Monitoring	$15,000	--
Task 5 – Groundwater Level Monitoring	$15,000	--
Task 6 – Project Summary Report	$20,000	--
Task 7 – Project Management/Meetings	$18,000	--
PHASE 2 TOTAL	**$278,000**	**$150,000**
Phase 3 – Basis of Design and Permitting for Full-Scale Injection Well System		
Tasks to be fully scoped and budgeted at a later date, based on the results of work conducted in Phases 1 and 2.		
PROJECT TOTAL	**$351,000**	**$150,000**
Optional Task 1** – Geochemistry Analyses	$20,000	--
Optional Task 2** – Tracer Testing	$20,000	--

*Drilling contractor will be contracted directly with the City

**Need and viability of conducting these two optional tasks will be assessed during the course of the project work.

Expenses

Mileage: IRS authorized rate/mile plus 10 percent markup

Direct expenses and outside services: Cost plus 10 percent markup

Team Member	Hourly Rate
Paul Sorensen, Principal Water Resources Consultant	$245
Tim Thompson, Principal Water Resources Consultant	$250
Jeff Barry, Principal Hydrogeologist	$250
Tim Nicely, Supervising Hydrogeologist	$190
Dave O'Rourke, Supervising Hydrogeologist	$215
Nate Page, Consulting Hydrogeologist	$155
Brian Franz, Consulting Hydrogeologist	$145

Appendix C

Resumes

Paul Sorensen
Tim Thompson
Jeff Barry
Dave O'Rourke
Tim Nicely
Nate Page
Brian Franz

Paul Sorensen, PG, CEG, CHG

Principal Water Resources Consultant

EDUCATION

MA, Geology, University of California, Santa Barbara

BS, Geological Sciences, University of Washington

PROFESSIONAL REGISTRATIONS

Professional Geologist: California

Certified Engineering Geologist: California

Certified Hydrogeologist: California

SAFETY TRAINING

First Aid/CPR/AED

DISTINGUISHING QUALIFICATIONS

- ✓ Expertise in western U.S. water resource issues: supply, quality, and management
- ✓ Expertise in assessment of groundwater basin yield, water quality, natural recharge, and sustainability
- ✓ Experience in well design, construction, and maintenance
- ✓ Experience in groundwater exploration, development, and management
- ✓ Expertise in basinwide numerical modeling

Paul has more than 30 years of experience managing projects related to hydrogeology and geology with specific expertise in groundwater supply, basin analysis, and water resource management. His technical expertise includes regional groundwater basin analyses, perennial yield and basin-wide water balance calculations, groundwater quality studies, aquifer test analyses, and water well and monitoring well design and construction. Paul is part of GSI's team of groundwater specialists that addresses the complex issues arising from California's Sustainable Groundwater Management Act (SGMA). He has been at the forefront of SGMA legislation, helping with early efforts to comply with the new regulations. He was instrumental in leading the successful effort to separate the Atascadero Subbasin from the critically overdrafted Paso Robles Basin—one of the few scientific basin boundary modifications approved by DWR.

REPRESENTATIVE PROJECTS

Groundwater Sustainability Agency (GSA) Formation, Templeton Community Services District (CSD), Atascadero Mutual Water Company (AMWC), Atascadero, San Luis Obispo County, California. Working with a public agency, mutual water company, and municipality, Paul is providing the key technical analyses and support to create a GSA, formally define the basin boundaries and management area, and prepare a Groundwater Sustainability Plan (GSP). The work includes developing the geologic and hydrogeologic framework and justification for the agency boundaries, compiling and calculating the hydrologic budget (basin water balance), working with the adjacent basin interests to develop a collaborative management strategy across the basin boundary, and working with the California Department of Water Resources (DWR) to ensure a compelling, defensible GSP.

Characterization and Planning Activities, San Luis Obispo Valley (Edna) Groundwater Basin, San Luis Obispo County Flood Control and Water Conservation District, San Luis Obispo County, California. Paul is project principal for the San Luis Obispo Valley Groundwater Basin Characterization project that will provide a foundation for future SGMA efforts by the County and local stakeholders, as well as serve as the basis for development of a groundwater model. The work effort includes compilation of available hydrogeologic data and developing a comprehensive database, analysis of geologic cross sections, aquifer tests, streamflow infiltration, enhanced recharge areas, and monitoring well installation.

Groundwater Basin Key Well Index Analysis, County of San Luis Obispo Public Works Department, San Luis Obispo County, California. As the responsible agency for programs such as the California Statewide Groundwater Elevation Monitoring (CASGEM) and the Sustainable Groundwater Management Act (SGMA), the County of San Luis Obispo Public Works Department is working to establish a representative well index for each of the County's five medium or high-priority basins. Paul is managing the effort on behalf of GSI to evaluate the County's water elevation monitoring program, establish data collection criteria and analytical techniques to be used to understand and present the groundwater conditions and changes in groundwater supplies, and document and effectively communicate information related to aquifer conditions and threats to groundwater supplies. The result of the work will be to select key representative wells within each basin that can efficiently represent the relative health of each basin, without compromising the confidentiality of the well owners.

Adjudicated Groundwater Basin Annual Report Preparation, Northern Cities Management Area Technical Group, Santa Maria Groundwater Basin, San Luis Obispo County, California. Paul manages the preparation and submittal of the Court-mandated annual reports for the Northern Cities Management Area (composed of the Cities of Pismo Beach, Arroyo Grande, and Grover Beach, and the Oceano CSD). Tasks include sampling and monitoring key sentry wells in the Northern Cities area to assess potential seawater intrusion, and technical support and report preparation of quarterly and annual reporting required by the Superior Court as a result of the Santa Maria Basin litigation solution.

Basin Modification and Delineation/Definition of the Atascadero Subbasin, Templeton CSD, AMWC, San Luis Obispo, California. Paul directed a detailed geologic and hydrogeologic investigation to formally define the boundaries of a groundwater basin through extensive geologic and hydrogeologic mapping and analysis and well log review. Working with DWR in advance of the issuance of the Basin Boundary Revisions regulations, he prepared a technical report and attendant maps to formally modify and redefine the DWR Bulletin 118 basin boundaries and

worked with the clients to submit the request to DWR. The submittal, based on scientific evidence, was one of the few successful scientific applications approved by DWR.

Staff Extension Services and Various Investigations, Templeton CSD, Templeton, San Luis Obispo County, California. As district hydrogeologist, Paul is involved in all water supply evaluation and development projects for the CSD. Investigations include evaluation of presence and distribution of Salinas River underflow to identify the CSD's legal rights to groundwater; groundwater flow modeling and calculation of basin yield; feasibility investigations of riparian water supplies; and design and construction management of new groundwater production wells.

Groundwater Recharge, Water Supply Enhancement, and Effluent Disposal, City of Morro Bay, San Luis Obispo County, California. Paul directed a detailed aquifer characterization and basin-wide investigation to evaluate the potential to develop an effluent disposal program and groundwater recharge program in Morro Valley with a primary intention to enhance the City's water supply. The project included compilation of well logs throughout the valley, development of numerous detailed cross sections, cone penetrometer and hollow-stem auger drilling, and laboratory testing of samples to characterize the valley alluvium system and assess the potential for active disposal of effluent.

(Before joining GSI, Paul worked on the following projects for another firm.)

Characterization and Planning Activities, Santa Maria Groundwater Basin, San Luis Obispo County Flood Control and Water Conservation District, San Luis Obispo County, California. Paul was project principal for the Santa Maria Groundwater Basin Characterization (SMBC) effort that will provide a foundation for future development of a Salt and Nutrient Management Plan and a groundwater model. The first two tasks summarized available hydrogeologic studies and databases previously developed. The third task was the basin characterization that includes: analysis of geologic cross sections, aquifer tests, streamflow infiltration, enhanced recharge areas, seawater intrusion, and transducer installation in seawater intrusion sentry wells. The SMBC project is an important component of the Regional Integrated Regional Water Management (IRWM) Plan Update. The SMBC includes the Northern Cities and Nipomo Mesa Management Areas, and a limited assessment of the Santa Maria Valley Area to demonstrate its hydrogeologic relationships with the Nipomo Mesa.

Groundwater Basin Management Plan, GEI Consultants (on behalf of the City of Paso Robles and San Luis Obispo County), San Luis Obispo County, California. Paul assisted GEI Consultants in preparing a plan to develop a common understanding of the issues and management opportunities in the basin, and identify and support projects, such as conjunctive use, recycled wastewater, and demand management. The project included collection and analysis of groundwater level and other data, establishing groundwater management goals and objectives, and development of a groundwater monitoring plan. The plan was needed because parts of the basin were experiencing continued and steady decline of water levels.

Paso Robles Groundwater Basin Study, County of San Luis Obispo Flood Control and Water Conservation District, Paso Robles, San Luis Obispo County, California. Paul managed the efforts to conduct a basin analysis, safe yield study, numerical modeling, and simulation of potential basin-wide buildout scenarios of the Paso Robles Groundwater Basin. The project included compilation and collection of extensive database of water wells and water quality analyses, characterization of aquifer conditions, definition of the lateral and vertical extent of the basin, and basin definition. Pumping test data were analyzed to ascertain aquifer characteristics, water level data compiled, water level and change in water level contour maps were prepared, and aquifer storage volumes and change in storage volumes were calculated. A hydrologic budget (water balance) for the basin was calculated using both change in storage method and inventory method, and the perennial yield was calculated. Development of the numerical model refined the calculated perennial yield figure, and simulated the impacts to the basin from several potential buildout scenarios.

Tim Thompson, PG, CHG

Principal Water Resources Consultant

EDUCATION

MS, Geology, University of California, Santa Barbara

BS, Geology, University of California, Los Angeles

PROFESSIONAL REGISTRATIONS

Professional Geologist: California

Certified Hydrogeologist: California

Registered Geologist: Arizona

DISTINGUISHING QUALIFICATIONS

- ✓ Expertise in western U.S. water resource issues: supply, quality, and management
- ✓ Expertise in assessment of groundwater basin yield, water quality, natural recharge, and sustainability
- ✓ Experience in well design, construction, and maintenance
- ✓ Expertise in stormwater treatment, water quality compliance, and TMDLs
- ✓ Experience in groundwater exploration, development, and management
- ✓ Litigation support and expert testimony

Tim has 32 years of experience in water resource and environmental sciences, regulatory issues, litigation support, and project management for both public-sector and private-sector clients, primarily in California, Nevada, and Arizona. His technical knowledge along with awareness of local, state, and federal regulations and policies benefit his technical assignments that include the following range of activities: groundwater basin characterization, groundwater management, production and monitoring well design and installation, development and implementation of long-term monitoring programs, water quality degradation, water rights disputes, water resource planning, water quantity/quality analysis and modeling, reclaimed water use, conjunctive use and artificial recharge, stormwater and surface water quality modeling and monitoring, stormwater treatment, and regulatory compliance. Tim is also a key member of GSI's team of groundwater specialists that helps our clients navigate the technical requirements of California's Sustainable Groundwater Management Act (SGMA).

GROUNDWATER SUPPLY

Injection Well Design, Permitting and Testing, Water Replenishment District of Southern California, Los Angeles County, California. As part of the Groundwater Reliability Improvement Project (GRIP), Tim and the GSI team are providing technical design, permitting, and implementation support for the installation of several dedicated injection wells to recharge local aquifers with highly treated wastewater from an advanced water purification facility. A component of this work included participation in the preparation of the comprehensive Title 22 Engineering Report required for project permitting.

ASR Well Design/Installation, City of Woodland, California. Tim directs the overall development of well design and specifications package, driller selection, well construction, permitting and well testing effort. His extensive experience in these duties represents a key factor in GSI being chosen for this project work. Water quality and well yield are significant considerations in this effort.

Los Osos Creek Groundwater Replenishment Reuse Project (GRRP), Los Osos Basin Management Committee, Los Osos, CA. As part of a technical team including MKN and Associates, Tim and GSI staff conducted technical assessments of feasibility and permitting considerations for a proposed Indirect Potable Reuse (IPR) program which will employ spreading basins to recharge underlying aquifers with highly treated wastewater to support stabilization of this small basins groundwater resource. Key aspects evaluated include hydrogeologic characterization, coordination with Department of Drinking Water staff on required permitting elements, preliminary assessment of Soil Aquifer Treatment benefits, and overall project budget and schedule forecasting.

Subsurface Ocean Intake/Indirect Potable Reuse Evaluations, City of Santa Barbara, California. In coordination with the City's engineering consultant (Carollo Engineers), Tim provides technical leadership to the team analyzing alternative subsurface intake methods for the proposed re-construction of the City's desalination facility. Also part of this effort was a feasibility evaluation of implementing indirect potable reuse (IPR) to maximize use of local water resources by using the City's groundwater basins for storage of highly treated wastewater.

Aquifer Investigation and Groundwater/Surface Water Interaction, PG&E/Diablo Canyon, San Luis Obispo County, California. Tim provided comprehensive aquifer investigation, groundwater/surface water interaction assessment, well testing and rehabilitation, and regulatory consulting services. Projects included (1) bedrock aquifer evaluation, installation of deep bedrock wells, aquifer and water quality testing, and groundwater/surface water interaction evaluation; and (2) groundwater analysis and monitoring well installation at the reactor site to characterize groundwater flow orientation and water quality in compliance with the nationwide Groundwater Protection Initiative.

Indirect Potable Reuse Evaluation, Shea Homes, Oxnard, California. Tim conducted a detailed Indirect Potable Reuse (IPR) assessment of hydrogeologic, permitting and water quality considerations regarding the use of highly treated wastewater from the City of Oxnard's GREAT project that would comply with GRRP permitting requirements. Future implementation is under consideration in coordination with adjacent agencies.

Tim Thompson, PG, CHG

Principal Water Resources Consultant

PUBLICATIONS

Available by request.

SAFETY TRAINING

First Aid/CPR/AED

Aquifer Recharge, Goleta Water District, Goleta, California. Tim managed the feasibility study, design, and grant funding application for well injection of potable water into six existing District wells for this aquifer recharge project. The grant was fully funded and was one of the two highest scoring applications submitted statewide for the early 2002 round of Proposition 13 water bond funding.

Well Installation Options and Water Rights Support, City of Solvang, California. Tim provides technical services to the City of Solvang related to site selection and drilling methods and overall program management for future installation of wells within the Santa Ynez River alluvial gravels. Support also provided in association with the City's effort to secure the associated water rights through the California Water Resources Control Board.

Wetlands and Groundwater Recharge, City of Avondale, Arizona. Tim oversaw the design, permitting, and construction of a 15,000-acre-feet per year constructed wetlands and groundwater recharge project. The 75-acre constructed wetlands facility includes more than 20 lakes that collectively treat nitrate-rich surface water from agricultural runoff and recycled water collected by the SRP canal system to standards acceptable for groundwater recharge and subsequent potable reuse. This project included project management, groundwater modeling, facility design, technical work for permit acquisition, installation (including design, logging, sampling and testing of monitoring wells), system start-up, preparation of comprehensive operations and maintenance manual, and ongoing technical support services.

ASR Well Design/Testing, City of Santa Barbara, California. Tim directed implementation of a well injection recharge project, including testing of City well performance for conversion to injection wells, and evaluation of geochemical issues of remixing of surface water and groundwater.

Stormwater and Groundwater Support, Shea Homes, Oxnard, California. Tim provides stormwater and groundwater support for the RiverPark Development. Work includes groundwater modeling, stormwater quality modeling, California Environmental Quality Act (CEQA) documentation, water rights assessments, groundwater/surface water interaction, evaluation of nitrate and future water quality issues, re-abandonment of numerous oil wells, total maximum daily load (TMDL) issues, large-scale groundwater dewatering plan/Regional Board permitting, monitoring well installation, and water quality analysis of groundwater/surface water interactions.

Groundwater and Potable Water Monitoring, NRG Energy, San Bernardino County, California. At the NRG/BrightSource Ivanpah Solar Electric Generating Station, Tim manages the long-term groundwater and potable water system monitoring program required for permit compliance. Work involves regular data collection and preparation of annual reports that meet requirements established in California Energy Commission (CEC) site permit (2013 to present).

Alternative Water Supply Evaluations, Middle River Power, Victorville, California. Tim provides services to the High Desert Power Project to evaluate reliability and water quality aspects of various water supplies, including recycled water and banked groundwater to ensure compliance with CEC permit requirements and adjudicated Mojave Basin considerations. (2014 to present)

Groundwater Adjudication, Antelope Valley, Los Angeles and Kern Counties, California. Tim is a court-appointed expert witness retained to calculate and report typical water use of the 3,500+ Small Pumper Class (2009 to present). He provided testimony at trial in August 2015.

Groundwater Management and Well Installation, City of Fillmore, California. Tim directs groundwater basin analysis; safe yield evaluations; municipal well site selection; basin-wide water quality and water supply modeling; analysis of depth-related groundwater water quality changes; water quality considerations regarding recycled water use; and well design, installation oversight, and permitting evaluation of a new water supply wellfield. Project work is ongoing. (2002 to present).

Stormwater Quality Analysis, East Area One Project, Santa Paula, California. Tim managed a team effort to evaluate potential of effects on fishery habitat conditions in the Santa Clara River that could result from the proposed development of the East Area One residential development. Tim was retained by Meridian Consultants to provide technical analyses in support of several detailed comment letters submitted on the Draft Environmental Impact Report (EIR) for this project.

Jeff Barry
Principal Hydrogeologist

EDUCATION

MS, Hydrogeology/ Hydrology, University of Nevada at Reno

BS, Resource Management, Humboldt State University

PROFESSIONAL REGISTRATIONS

Registered Geologist: Oregon

Licensed Geologist/ Hydrogeologist: Washington

Certified Water Rights Examiner: Oregon

DISTINGUISHING QUALIFICATIONS

- ✓ More than 30 years of experience conducting water resources investigations
- ✓ Leader in ASR and Injection Program Development
- ✓ Experienced with monitoring program and groundwater management plan development and implementation
- ✓ Experienced in production well and collector well siting, design, installation, rehabilitation, and testing
- ✓ Strong working knowledge of state and

Jeff has 33 years of experience conducting groundwater resource development projects and groundwater management programs in California and the Pacific Northwest. He brings substantial expertise in aquifer characterization, production well design and rehabilitation, groundwater monitoring, groundwater/surface water interaction assessment, indirect potable reuse projects, and aquifer storage and recovery (ASR). Jeff is a recognized leader in the development and sustainable operation of ASR projects and aquifer recharge projects in the U.S. and Korea. Throughout his career, he has managed multi-disciplinary projects that have included critical analysis of a range of data types, successful coordination and negotiation with multiple stakeholders, communicating complex technical information to decision makers, and working within budgetary and timeline constraints. Jeff is a key member of GSI's team of groundwater specialists that helps our clients navigate the complexities of California's Sustainable Groundwater Management Act (SGMA). He is a founding principal at GSI.

REPRESENTATIVE PROJECTS

Indirect Potable Reuse Feasibility Study, City of Santa Barbara, CA. Jeff was senior reviewer for a project to assess the feasibility of infiltrating and injecting advanced treated wastewater to increase groundwater supply capacity and reliability for the City. Working with the USGS and its numerical groundwater model of the basin, the amount of advanced treated wastewater that could be recharged and the potential for negative impacts was evaluated under a number of climactic conditions. A number of different scenarios were evaluated, including simulations of injection wells along the coast as a seawater intrusion barrier. It was determined that up to 8,500 AFY could be stored in the basin annually with concomitant recovery pumping in order to create adequate storage space in the basin and to meet the minimum retention time requirement.

Indirect Potable Reuse Injection Feasibility Study, Water Replenishment District of Southern California. Jeff was project manager for a study to determine if there are fatal flaws associated with injection of highly treated wastewater in the Montebello Forebay of Southern California. The project includes the design and oversight of the construction of three injection wells and three sets of nested monitoring wells, as well as testing of the injection wells. A groundwater model, developed by Todd Groundwater, was used to estimate mounding and the potential to lose water to the San Gabriel River. The model was also used to confirm that there is at least 4 months of travel time to the nearest production wells. The study includes geochemical modeling to assess potential reactions that could cause clogging or arsenic mobilization. GSI personnel are representing the owner on this design-build project.

Recharge Feasibility Assessment, Newhall County Water District, CA. Jeff was senior reviewer for a project designed to investigate the operational feasibility of recharging reclaimed water and captured stormwater into a surficial alluvial aquifer at two sites along the Santa Clara River in the Santa Clarita Valley of southern California. The alluvial aquifer is an important source of groundwater supply to the valley, yet some alluvial production wells cannot meet production targets during years of below-normal rainfall and natural groundwater recharge. GSI evaluated the hydrogeology at several potential sites and is conducting numerical model simulations to evaluate the feasibility of proposed recharge volumes and monthly operating schedules, the amount of diluent water (native groundwater) available for mixing with the recharged water, and the potential to recharge stormwater flows diverted from the river. Retention times also are being evaluated with the model to determine pathogen removal credits and the impact to any nearby drinking water wells.

Subsurface Intake Study for Desalinization, City of Santa Barbara, CA. In coordination with the City of Santa Barbara's engineering consultant, Jeff provided technical leadership to the team analyzing alternative subsurface intake methods for the proposed re-construction of the City's desalination facility. The study included characterizing the hydrogeology along the shoreline and evaluating yield, water quality, potential for contamination, impacts on groundwater resources, and impacts on nearshore ecosystems. Subsurface intake alternatives that were evaluated included vertical wells, collector wells, slant wells, directionally drilled wells, beach infiltration galleries, and near shore infiltration galleries. It was determined that none of the SSI methods would produce a sufficient amount of water to meet the City's target yield.

ASR Well Design and Installation, City of Woodland, California. Jeff is lead hydrogeologist on a project involving design and installation of two ASR wells, two nested monitoring wells, and two well abandonments. The objective of the project is to store treated surface water in order to

federal regulatory programs relating to groundwater/surface water influence and water quality protection

- ✓ Particularly experienced in groundwater recharge projects

improve the reliability of summer pumping and to improve the quality of pumped water. Jeff is leading the design, permitting, construction oversight, and testing of the wells. Each well is expected to be drilled to approximately 600 feet and will have a recovery capacity of 2 mgd. A future phase of the project will include pilot testing and possible expansion of the ASR program.

Supply Alternatives and Safe Yield Reconnaissance Study, Castaic Lake Water Agency (CLWA), California. GSI, teamed with an engineering firm, is conducting a study to identify options for improving the reliability and capacity of local water supplies in the upper Santa Clara River Basin for diversifying CLWA's current water supply portfolio. CLWA (like other California water providers) is facing pressure to rely more heavily on local water supplies because of the drought and shifting statewide water policy that will affect the future availability and use of SWP water. Options being investigated include expanded use of recycled water, indirect potable reuse, additional groundwater pumping, and ASR using SWP water.

ASR Well Geochemical Evaluation, Clogging Assessment, and Operations/Monitoring Plan, Calleguas Municipal Water District, Moorpark, California. Jeff is project manager for a project to assess ASR well performance and clogging and to develop a monitoring plan for the Calleguas ASR wellfield. A detailed geochemical analysis was performed and the project team assessed the amount of clogging and the clogging mechanisms at each of the District's 18 ASR wells. Recommendations were developed for preventative measures to limit or manage well clogging for future ASR operations. Because this groundwater basin has many faults and folds that affect groundwater movement, GSI has been analyzing historical pumping and injection events, and interpreting associated water level changes in District monitoring wells to provide a better understanding of aquifer boundary conditions that affect storage potential, draw up and drawdown, well efficiency, recoverability of stored water, and the impacts to neighboring non-District wells that can be used to develop recharge and recovery strategies.

ASR Program, City of Beaverton, Oregon. Since 1993, Jeff has worked with the City to develop its ASR program and assisted with obtaining the second ASR limited license permit issued in Oregon. He is now senior advisor to the City and GSI team regarding expansion of the project. The City has 6 mgd of ASR capacity and has drilled its fourth ASR well. During the past 14 years of operation, the ASR system has become an important element of the City's overall supply (up to 25 percent of the peak supply) and has saved the City significant money because a new water transmission line was deferred and the City has not had to purchase water from the City of Portland to meet peak demands.

ASR Feasibility and Pilot Program, City of Baker City, Oregon. Jeff was project manager and lead hydrogeologist for an ASR project for the City, which relies primarily on surface water from high mountain spring sources. During the spring, the surface water source periodically contains turbidity and so the City must rely on a backup water supply well. The basalt aquifer tapped by this well cannot support long-term pumping and pumping rates drop off significantly in the late summer. ASR has been implemented by the City as a means of augmenting natural recharge to the aquifer so the well can sustain pumping through the peak summer months or in case it is needed in an emergency. GSI completed a feasibility study that showed ASR could meet the City's objectives. Jeff also assisted the City with permitting, design, and testing of an ASR system using the City's backup water supply well. Pilot testing has shown that ASR has significantly improved the production and quality from the City's well with no adverse impacts. The City is applying for a permanent ASR permit (the first in Oregon). This project won a Grand Award from the Associated Consulting Engineers Council in 2006.

ASR Feasibility Study, City of Portland, Water Bureau, Oregon. Jeff managed a multidisciplinary team that looked at the feasibility of a 50-mgd ASR system in the Columbia South Shore Wellfield. The study focused on whether ASR could improve the quality of water pumped from the wellfield, mitigate water level declines in deep aquifers, and maintain upward gradients in deeper aquifers so that VOC contamination present in shallow aquifers would not migrate downward. The study included a drilling program to sample and chemically test the aquifer material and a detailed geochemical evaluation to assess potential chemical reactions that could cause well clogging. Other elements of the study included an evaluation of existing well suitability for ASR, aquifer modeling and ASR simulations, permitting, conceptual level design for wellhead improvements, estimated injection rates, pilot project scope, and project cost estimate.

Dave O'Rourke, PG, PE, CHG

Supervising Hydrogeologist

EDUCATION

MS, Environmental Systems Engineering, Humboldt State University

BA, Geology, University of California, Santa Barbara

PROFESSIONAL REGISTRATIONS

Professional Geologist: California

Certified Hydrogeologist: California

Professional Geologist: Texas

Professional Engineer: Texas

SAFETY TRAINING

First Aid/CPR/AED

DISTINGUISHING QUALIFICATIONS

- ✓ Experienced in groundwater availability modeling and basin characterization
- ✓ Knowledgeable about surface water groundwater interaction
- ✓ Proficient in MODFLOW, SWMM, and HEC Series of models.
- ✓ Experienced in aquifer testing
- ✓ Experienced in field data collection

Dave has nearly 30 years of experience managing water resources projects in California, Texas, and several states in the Midwest. His technical expertise includes extensive experience in regional groundwater modeling for water supply evaluation, groundwater/surface water interaction, surface water hydrology, hydraulic modeling, and engineering analysis, with basin analysis, aquifer characterization, yield analysis, aquifer storage and recovery (ASR), collector well yield analysis, wellfield design, construction dewatering, and all aspects of hydrogeologic field investigations. Before joining GSI, he worked on the development of a groundwater regulatory framework in Texas. Dave is part of GSI's team of groundwater specialists that addresses the complex issues arising from California's Sustainable Groundwater Management Act (SGMA).

REPRESENTATIVE PROJECTS

Fringe Area Basin Characterization, San Luis Obispo County Flood Control and Water Conservation District, San Luis Obispo County, California. Dave is project manager for a characterization of the fringe areas of the Santa Maria Groundwater Basin. The project involves the hydrogeologic characterization of five geographically distinct areas that are within basin boundaries defined by the California Department of Water Resources (DWR), but were not included in the adjudicated basin area and thus are subject to SGMA management requirements. For each fringe area, GSI generated calculations of groundwater flow direction, Darcy groundwater flow quantities, well construction details, aquifer test results, and irrigated acreage. GSI developed geologic cross sections to understand the extent of hydraulic communication between the fringe areas and the adjudicated basin, and made recommendations based on the results of the characterization whether or not to pursue a basin boundary modification request to DWR.

San Luis Obispo Basin Characterization, County of San Luis Obispo, California. Dave collected and summarized all available geologic and hydrogeologic data describing the San Luis Obispo Valley Groundwater Basin. He generated cross sections, hydrographs, and water level maps, and summarized all aquifer test data available from stakeholders. Dave led a program to perform pumping tests on third-party private wells, and the installation of new monitoring wells. He then summarized all data in a technical report.

Grading Plan Hydrogeologic Reviews, County of San Luis Obispo, California. Dave performed a third-party peer review of hydrogeologic technical reports submitted to County as part of grading plans for agricultural pond developments.

Hydrogeologic Technical Support, Northern Cities Management Area, San Luis Obispo County, California. Dave performed various technical support tasks for the NCMA Technical Group, including data review and compilation, groundwater model review, and stakeholder interaction.

Aquifer Testing and Groundwater Modeling, Nacimiento Pipeline Dewatering Project, Paso Robles, California. Dave performed well design, aquifer test design and analysis, and construction oversight of well installations for a construction dewatering effort in support of a conveyance pipeline crossing the Salinas River, a seasonally dry riverbed. After data evaluation, he developed and applied a localized MODFLOW groundwater model of the Salinas River alluvium to estimate the number and location of wells necessary to dewater the construction zone to the desired depth. Twelve wells were temporarily installed and operated for the project.

Groundwater Availability Modeling, SAWS, San Antonio, Texas. Dave developed and applied a numerical groundwater model of the South Central Carrizo-Wilcox System between the Colorado River and the Nueces River as part of the development of SAWS Gonzales wellfield project. He led public meetings with affected stakeholders to communicate technical information. Dave used 50-year predictive runs under various pumping scenarios to estimate (1) expected drawdowns at various third-party well locations and (2) groundwater/surface water interaction as a result of proposed projects by SAWS and others.

ASR Modeling, San Antonio Water System (SAWS), San Antonio, Texas.

- **2014-2015. ASR Model Updates.** With expanded production wells planned for area updip of the ASR field, Dave reviewed and updated the structural representation of outcrop areas to more accurately represent the area of the expanded production wellfield. New production wells will tap the lower Carrizo Aquifer. He performed operational simulations to evaluate the effect

PUBLICATIONS AND PRESENTATIONS

A Conceptual Approach to Harvesting Flood Flows for ASR Supply, American Groundwater Trust ASR Conference, June 2014.

Aquifer Storage and Recovery in Texas: Past, Present, and Future, TCEQ Public Drinking Water Conference, August 2014, 2015. Also presented to Interagency Texas Groundwater Protection Committee, September 2014.

Water Well Construction and Evaluation, Texas Commission on Environmental Quality water permitting staff, May 2014.

Emerging Issues in Water Resources in the Midwest, presented to Illinois AWWA Section Meeting conference, March 2007.

GIS as Tool in Basin Scale Modeling, Groundwater District Managers Association Annual Conference, Durango, Colorado, September 2004.

Development and Application of the South Central Carrizo System Groundwater Model for Water Resources Planning, presented to Texas Groundwater Association Conference, Austin, Texas, November 2004.

Utilizing the Storm Water Management Model (SWMM) to Analyze Hydraulic Barrier Conditions to Fish Passage on a Watershed Scale, Master's Thesis, Humboldt State University, 2001 and at AWRA 2003 Annual Water Resources Conference, San Diego, CA, November 2003.

of new production wells with deeper screened sections on conditions in the outcrop and in the ASR wellfield.

- **2011-2013. ASR Model Updates.** Dave incorporated 7 years of operational pumping and water level data for 29 ASR wells, 7 Carrizo Aquifer production wells, and monitoring wells into the South Bexar County (SBASR model) for long-term calibration using weekly stress periods, resulting in updating of hydrogeologic parameters. He identified data collection deficiencies, and used MT3D and MODFLOW to evaluate the extent of in situ water quality mixing between the Edwards Aquifer source water and Carrizo Aquifer water. Dave evaluated simulations with only local Carrizo Aquifer pumping, only ASR pumping, and combined operations of both.
- **2003-2006. ASR Groundwater Modeling.** Dave designed and constructed a MODFLOW groundwater model to simulate operation of the ASR wellfield in the Carrizo Aquifer (SBASR model). He (1) collected and analyzed geologic and hydrologic data in preparation for model design; (2) performed steady-state calibration to match present-day conditions, and performed transient calibration to match field response of aquifer pumping tests; (3) performed predictive simulations of wellfield production, as well as ASR operational cycles; and (4) performed numerous application simulations to analyze various operational strategies as the original concept of plant operation evolved over time.

Groundwater Availability Modeling, SAWS, West Texas. Dave developed a MODFLOW groundwater model to analyze the proposed wellfield in the Edwards-Trinity Aquifer in west Texas. He calibrated the model to historical conditions and performed simulations to analyze the future response of the aquifer to various pumping scenarios. Of particular significance was the interaction of the aquifer system with surface water features in the model domain, including major rivers, large springs, and Amistad Reservoir. Results from this model indicated that the desired production was achievable, but ultimately led to rejection of the proposed project by SAWS because of anticipated water budget changes involving Amistad Reservoir, which is operated jointly with Mexico.

ASR Feasibility Study, City of Austin, Texas. Evaluated potential storage zone aquifers, source water alternatives, infrastructure constraints, and geochemical mixing issues in desktop study evaluating feasibility an ASR project.

Well Installation and Testing, Bastrop, Texas. Directed field work, technical reporting, client and regulatory interaction during installation of 700-foot-deep well in Simsboro Aquifer, including boring log, geophysical log, aquifer testing, and water quality evaluation. Provided technical support for permit application.

Water Resources Planning, Texas Water Development Board, Austin, Texas. Performed technical evaluations of multiple water management strategies associated with Texas aquifers for various regional water planning groups. Conducted multiple comparative groundwater model simulations and analyzed hydrographs, drawdown, and water budgets associated with various strategies. Evaluated groundwater/surface water interaction and cumulative effects associated with multiple groundwater development projects, including effects on reduced stream and spring flow.

Hydrogeologic Exploration Program and Well Installation, City of Borger, Texas. Developed and executed a hydrogeologic exploration program involving exploratory test holes and surface geophysical surveys to identify buried channel features most favorable to high-yield wells in the Ogallala Aquifer in Hutchinson County to support an increase in municipal production necessary for a significant industrial expansion in the area. Used surface geophysical methods to identify deep channel features, confirmed locations with test borings, and recommended locations for high-yield production wells.

Groundwater Model and Yield Analysis, City of Fountain, Colorado. Dave evaluated historical irrigation, pumpage, ditch delivery, and climate data near the City. He developed and applied a MODFLOW groundwater model of the Fountain Creek Alluvial Aquifer to perform yield analysis and determine ability of the aquifer to sustain proposed development plans within the strictly regulated framework of Colorado water law.

Tim Nicely, PG, CHG

Supervising Hydrogeologist

EDUCATION

BS, Soil Science, California Polytechnic State University

PROFESSIONAL REGISTRATIONS

Professional Geologist: California

Certified Hydrogeologist: California

SAFETY TRAINING

First Aid/CPR/AED

OSHA 40-hr HAZWOPER

DISTINGUISHING QUALIFICATIONS

- ✓ Expertise in water resource management
- ✓ Expertise in assessment of groundwater basin yield, water quality, natural recharge, and sustainability
- ✓ Experience in well design, construction oversight, and maintenance
- ✓ Experience in groundwater monitoring and developing groundwater models
- ✓ Experience conducting desalination feasibility studies

Tim has 18 years of experience working with clients throughout California to manage valuable water resources. His expertise includes all aspects of hydrogeology and geology, specifically related to groundwater supply, groundwater basin analysis, and water resource management. Tim's experience includes managing and strategizing projects related to analyzing regional groundwater basins and groundwater quality studies; assessing seawater intrusion, desalination intake options, and surface water/groundwater studies; calculating perennial yield and basin water balance components; designing and overseeing construction of wellfields and monitoring wells; designing pumping tests and analyzing data; evaluating aquifer recharge options; and groundwater modeling.

REPRESENTATIVE PROJECTS

WASTEWATER AND WATER RECYCLING FACILITY STUDIES

Groundwater Recharge, Water Supply Enhancement, and Water Re-Use Feasibility Alternatives Studies, City of Morro Bay. Tim conducted a detailed aquifer characterization and basin-wide investigation to evaluate the potential alternatives to the City's brine disposal pipeline for the re-use of recycled water to augment the City's water resource. Potential alternatives considered include: recharging into upstream infiltration basins; delivering treated effluent to growers in the Morro or Chorro valleys in exchange for reduced groundwater pumping or for direct sale; injection and recovery at City wells; and injection into a seawater intrusion barrier.

Los Osos Creek Groundwater Replenishment Reuse Project (GRRP), Los Osos Basin Management Committee, Los Osos. As part of a technical team including MKN and Associates, Tim and GSI staff conducted technical assessments of feasibility and permitting considerations for a proposed Indirect Potable Reuse (IPR) program which will employ in-stream recharge to underlying aquifers with highly treated wastewater to support stabilization of this small basin's groundwater resource. Key aspects evaluated include hydrogeologic characterization, coordination with Department of Drinking Water staff on required permitting elements, preliminary assessment of Soil Aquifer Treatment benefits, and overall project budget and schedule forecasting.

Wastewater Disposal Feasibility Study, Price Canyon Oil Field, San Luis Obispo County. Tim performed all project planning and field work related to the exploration and assessment of two areas for the proposed disposal of treated wastewater permeate in San Luis Obispo County. The study included exploratory drilling, monitoring well installation, aquifer analyses, construction and testing of a large pilot disposal basin, the interaction of groundwater and surface water and an analysis of thermal interaction between creek water and local groundwater.

Santa Paula Water Recycling Facility Groundwater Modeling, City of Santa Paula, Ventura County. Tim assisted in the development of a groundwater flow model to simulate the local mounding impacts of discharging treated wastewater into a system of percolation ponds in the vicinity of the Santa Clara River, including all aspects of monitoring well installation, development, transducer installation, monthly and quarterly water quality sampling, hydrogeologic assessment, impacts analysis, and reporting related to the effluent. Tim currently serves as the City of Santa Paula's hydrogeologist for all aspects of compliance with groundwater monitoring requirements including ongoing maintenance of dedicated groundwater level transducers for monitoring wells, monthly creation of groundwater contours using Surfer and ArcGIS 10.2.1 software, water level hydrograph creation, quarterly sample collection, and monthly WDR/MRP compliance reporting.

Wastewater Treatment Facility Discharge Study, Nipomo Community Services District, San Luis Obispo County. Tim coordinated and performed all field activities related to the determination of saturated hydraluic conductivities, and groundwater mounding issues related to the expansion of a water treatment facility. Tim compiled all data for construction of a numerical groundwater model.

Percolation Pond Characterization, Santa Maria Wastewater Treatment Plant, Santa Barbara County. Tim performed all work related to the characterization of near-surface sediments below percolation ponds to estimate soil excavation and replacement depths for rehabilitation of the ponds.

DESALINATION FACILITY STUDIES

Desalination Facility Hydrogeology Studies, USACE, Cambria, San Luis Obispo County. Tim performed hydrogeological feasibility studies of potential sites for a proposed desalination

PRESENTATIONS

"Subsurface Seawater Intake Alternatives for Desalination Facilities in California," Groundwater Resources Association, 2010.

"Hydrogeologic Studies Related to Effluent Disposal for the Expansion of a Proposed Wastewater Treatment Plant, Nipomo, California," Association of Environmental and Engineering Geologists, 2010.

facility as a subcontractor to the USACE. Tim developed a detailed exploratory program at San Simeon Creek beach to evaluate depth, lithology, and hydrogeologic characteristics of the aquifer to assess feasibility of using beach wells, collector well systems, or slant well sea water intake facilities using an exploratory program of CPT soundings, and sonic core drilling, and provided technical assistance during the regulatory permitting process.

Desalination Subsurface Intake and Indirect Potable Reuse Feasibility Study, City of Santa Barbara, Santa Barbara County. Tim was a key member of the project team that conducted a study to evaluate the feasibility of several subsurface intake technologies that could be alternatives to the City's existing direct ocean intake for a desalination plant. Alternatives being evaluated included conventional wells, slant wells, collector wells, beach infiltration galleries, seawater infiltration galleries, and directionally drilled wells (HDD). The study estimated yield, spacing, number of facilities required, and evaluated water quality and potential impacts to surface water.

AQUIFER STORAGE AND RECOVERY PROJECTS

Aquifer Storage and Recovery Pilot Project, East Bay Municipal Utility District, Alameda County. Tim performed field activities associated with the installation and testing of a large-diameter pilot ASR (injection and extraction) well and three related monitoring wells to determine the feasibility of ASR. Tim performed contractor observation of drilling, development and pumping and injection cycles, lithologic logging, water sample collection and interpretation; analysis of lithologic and water quality data for well design; and analysis of aquifer test data.

GROUNDWATER BASIN STUDIES AND MONITORING

Santa Maria Groundwater Basin Investigation, San Luis Obispo County Flood Control and Water Conservation District. Tim performed a series of eight multiple-well pumping tests throughout the Northern Cities and Nipomo Mesa areas of southern San Luis Obispo County for the Santa Maria Groundwater Basin (SMGB) characterization effort, which provided a foundation for future development of a Salt and Nutrient Management Plan and a groundwater model. The study was an important component of the Regional Integrated Regional Water Management (IRWM) Plan Update. The SMGB includes the Northern Cities and Nipomo Mesa Management Areas, and a limited assessment of the Santa Maria Valley Area to demonstrate its hydrogeologic relationships with the Nipomo Mesa.

Adjudicated Groundwater Basin Annual Report Preparation, Northern Cities Management Area Technical Group, Santa Maria Groundwater Basin, San Luis Obispo County. Tim serves as the technical lead for the preparation and submittal of the Court-mandated annual reports for the Northern Cities Management Area (composed of the Cities of Pismo Beach, Arroyo Grande, and Grover Beach, and the Oceano CSD). Tim manages tasks including sampling and monitoring of key sentry wells in the Northern Cities area to assess potential seawater intrusion, and technical support and report preparation of quarterly and annual reporting required by the Superior Court as a result of the Santa Maria Basin litigation solution.

Ongoing Hydrogeologic Services, Yerba Buena Water Company, Ventura County. As the company's hydrogeologist, Tim currently performs all hydrogeologic services for a small water company in Ventura County including installation of three bedrock water supply wells, groundwater supply management, water level and quality data collection, interpretation, planning, and pumping management.

MUNICIPAL AND TEST WELLS

Municipal and Test Well Installation Clients throughout San Luis Obispo County and throughout California. Tim has designed, created plans and specifications, managed staff and himself performed field observation related to dozens of water supply wells throughout the Central Coast of California. The well installation projects have included contractor observation of drilling; lithologic sample collection and logging; evaluation of downhole geophysical data; and depth-specific zone water quality testing step and constant rate flow testing, zone well sampling, well design and installation for wells as deep as 1,000 feet. All work has been performed in accordance with well specifications, AWA and State of California standards.

Nathan Page, PG
Consulting Hydrogeologist

EDUCATION

MS, Hydrogeophysics, Colorado State University

BS, Geology, St. Lawrence University

PROFESSIONAL REGISTRATIONS

Professional Geologist: Utah

SAFETY TRAINING

First Aid/CPR/AED

24-hour MSHA certification

DISTINGUISHING QUALIFICATIONS

- ✓ Groundwater supply development and water resource management
- ✓ Groundwater basin analyses
- ✓ Sustainable Groundwater Management Act (SGMA) studies
- ✓ Aquifer testing and analysis
- ✓ GIS spatial analysis and 3D geologic modeling
- ✓ Water quality database management

Nathan has 10 years of experience working with clients to manage water resources. His expertise includes aspects of hydrogeology and geographic information system (GIS) analysis, specifically related to groundwater supply development, groundwater basin analysis, and water resource management. Nathan's experience includes aquifer storage and recovery (ASR) and indirect potable reuse (IPR); analyzing regional groundwater basins and groundwater quality studies; developing salt and nutrient management plans; Sustainable Groundwater Management Act studies, assessing seawater intrusion, desalination intake options, and surface water/groundwater studies; calculating perennial yield and basin water balance components; siting, designing and overseeing construction of wellfields and monitoring wells; and designing pumping tests. He is experienced in analyzing aquifer testing, data compilation and analysis, and numerical modeling, as well as groundwater and surface water sampling, laboratory water quality data quality control analysis, and water quality database management. He has written or co-authored several technical memorandums, reports, and National Environmental Policy Act (NEPA) Affected Environments and Environmental Consequences sections for Environmental Assessment (EA) and Environmental Impact Statement (EIS) documents. Nathan also has experience in land surveying.

REPRESENTATIVE PROJECTS

Desalination Intake Wells Hydrogeologic Evaluation, City of Morro Bay, California. Nathan was a key member of the project team conducting a hydrogeologic evaluation of the existing Morro Bay desalination wells. Nathan provided field oversight for instrumentation and coordination with City personnel for several long-term pumping tests and water quality sample collection. Nathan also performed data reduction, including tidal response corrections, and aquifer testing analysis.

San Luis Obispo Basin Characterization, County of San Luis Obispo, California. Nathan was part of the project team that collected and summarized all available geologic and hydrogeologic data describing the San Luis Obispo Valley Groundwater Basin. GSI generated cross sections, hydrographs, and water level maps, and summarized all aquifer test data available from stakeholders.

Groundwater Basin Key Well Index Analysis and Data Gap Analysis, San Luis Obispo County, Public Works Department, California. As the responsible agency for programs such as the California Statewide Groundwater Elevation Monitoring (CASGEM) and SGMA, the Public Works Department needed to establish a representative well index for each of the County's five medium- or high-priority basins. Nathan supported GSI's effort to evaluate the County's water elevation monitoring program, establish data collection criteria and analytical techniques to be used to understand and present the groundwater conditions and changes in groundwater supplies, document and effectively communicate information related to aquifer conditions and threats to groundwater supplies, and to evaluate data gaps in the monitoring network.

Fringe Area Basin Characterization, San Luis Obispo County Flood Control and Water Conservation District, San Luis Obispo County, California. Nathan is part of the project team working to characterize the fringe areas of the Santa Maria Groundwater Basin. The project involves the hydrogeologic characterization of five geographically distinct areas that are within basin boundaries defined by the California Department of Water Resources (DWR), but were not included in the adjudicated basin area and thus are subject to SGMA management requirements. For each fringe area, GSI generated calculations of groundwater flow direction, Darcy groundwater flow quantities, well construction details, aquifer test results, and irrigated acreage. GSI developed geologic cross sections to understand the extent of hydraulic communication between the fringe areas and the adjudicated basin. If determined necessary based on the results of the characterization, the project will involve the preparation of a basin boundary modification request to DWR.

Santa Maria Groundwater Basin Fringe Area Boundary Modification, County of San Luis Obispo, California. Nathan was part of the project team that completed characterization of five "fringe areas" in the Santa Maria Groundwater Basin to determine if San Luis Obispo County should pursue SGMA basin boundary modification process with the California Department of Water Resources.

Desalination Subsurface Intake and Indirect Potable Reuse Feasibility Study, City of Santa Barbara, California. Nathan was part of the project team conducting a study to evaluate the feasibility of several subsurface intake technologies that could be alternatives to the City's existing direct ocean intake for the desalination plant. Alternatives evaluated included conventional wells, slant wells, collector wells, beach infiltration galleries, seawater infiltration galleries, and directionally drilled

wells. The study estimated yield, spacing, number of facilities required, and evaluated water quality and potential impacts. In addition, Nathan helped to determine whether it is feasible to store highly treated wastewater within Santa Barbara's production aquifers through infiltration basins and injection wells, as part of an indirect potable reuse feasibility study.

Basin Management Plan Updates, Goleta Water District, California. Nathan was part of the project team to help the District with the Basin Management Plan update. Nathan was responsible for the source assessment in the Salt and Nutrient Management Plan as well as providing GIS analysis and figure production for the 2016 Groundwater Management Plan Update.

Alternative Well Construction Technical Memorandum and Hydrogeologic Evaluation Report, Solvang River Wells, City of Solvang, California. Nathan helped the City to evaluate the potential for installation of new wells along the Santa Ynez River corridor. He helped to conduct a hydrogeologic evaluation, which included a review of existing hydrogeologic studies performed at the site and a presentation of preliminary well locations, design, and a planning-level cost estimate for proposed new wells.

Groundwater Sustainability Plan Development, Fox Canyon Groundwater Management Agency (FCGMA), Ventura County, California. Nathan was a member of the team that prepared groundwater sustainability plans (GSPs) for four basins in the County. Nathan helped to draft the GSPs and worked on the development of water budgets for each subbasin. This is one of the first set of GSPs that will be submitted in 2017 in response to the Sustainable Groundwater Management Act (SGMA).

Groundwater Basin Boundary Modifications, Castaic Lake Water Agency (CLWA), Santa Clarita Valley, California. GSI helped CLWA identify the type and location of groundwater basin boundary adjustments to meet SGMA regulations for boundary modification. Nathan provided groundwater level and quality data research and analysis, GIS analysis, and figure production.

Recycled Water Storage Feasibility Study and Work Plan for the Groundwater Reliability Improvement Project (GRIP), Water Replenishment District of Southern California (WRD). GSI helped WRD assess the feasibility of storing recycled water in specially designed wells to be used to replenish the groundwater basin. Nathan supported this effort by compiling and analyzing groundwater quality data, writing sections of the work plan and the Title 22 Engineering Report, and providing GIS analysis and figure production.

SGMA Support Services, Mid-Kaweah Groundwater Sustainability Agency (GSA), Tulare, California. As a sub-consultant to GEI Consultants, GSI provided SGMA support services to the Mid-Kaweah GSA. Nathan provided hydrogeologic support for the effort, which included coordination with and outreach to other GSAs in the Kaweah Subbasin to develop a framework for agreement regarding data and analysis techniques for assessing groundwater elevation, groundwater extraction, surface water supply, total water use, change in storage, water budget, and sustainable yield. GSI identified data needed for SGMA GSP compliance and provided additional data collection, and performed subbasin-wide groundwater modeling services to provide predictive scenarios and future water budgets. GSI then conducted a sustainability analysis, consisting of a basin characterization, water budget, and identification of strategies for achieving groundwater sustainability, and provided a review of the draft Mid-Kaweah GSA-GSP outline.

(Before joining GSI, Nathan worked on the following projects.)

3D Geologic Modeling, Husky 1 – North Dry Ridge EIS, Soda Springs, Idaho. Three-dimensional geologic modeling using Leapfrog® Geo of a highly folded and faulted terrain for a large-scale MODFLOW groundwater model, compilation and statistical analysis of all available hydrologic testing and water level data for groundwater model calibration.

Environmental Management Support, Coeur the Precious Metals Company, Rochester Mine, Lovelock, Nevada. Field manager to implement Corrective Action Plan (CAP) for groundwater quality degradation near mine processing facilities, oversight of drilling/core logging of several test boreholes to determine extent of contaminant plume, installation and hydrologic testing of monitoring wells, analysis of field data and preparation of CAP update reports and final report.

Brian Franz
Consulting Hydrogeologist

EDUCATION

MS, Earth Sciences, University of California – San Diego

BS, Environmental Systems – Earth Sciences, University of California – San Diego

SAFETY TRAINING

OSHA 40-hr HAZWOPER

First Aid/CPR/AED

DISTINGUISHING QUALIFICATIONS

- ✓ Experienced in well siting, well design, and drilling oversight
- ✓ Detailed knowledge of local geology
- ✓ Experienced in aquifer testing, field data collection, groundwater sampling, and reporting

THESIS TOPIC

Franz, B.P. 2012. Helium-Carbon Dioxide Systematics in Groundwaters at Mount Lassen Volcano, Northern California. Graduate Thesis, University of California, San Diego.

Brian has 5 years of experience working as a hydrogeologist in southern California. His work experience and expertise include well siting and design, drilling oversight and well construction, conducting field efforts, groundwater sampling, data analysis, reporting, and technical report writing. He provides essential support to project managers in our Santa Barbara, California, office.

REPRESENTATIVE PROJECTS

Indirect Potable Reuse Project, Water Replenishment District, Pico Rivera, California. Brian is providing field management and oversight services for the design, construction, and testing of three large-diameter recharge wells and three sets of nested monitoring wells for an indirect potable reuse project. As the owner's agent, GSI is providing contractor oversight, detailed documentation, quality assurance inspection, and aquifer test analysis to develop operational criteria for each well. The recharge wells will be used to inject highly treated recycled water into deep aquifers to replenish the groundwater basin. Brian also has been providing project support for the siting, design, and future installation of four or more large-diameter injection wells. The injection wells will deliver increased storage capacity during peak treatment plant production and will play a role in replenishing aquifers in the LA basin. His responsibilities for this part of the project include well site evaluation, hydrogeologic interpretation, well design, and estimation.

Indirect Potable Reuse Feasibility Study, City of Santa Barbara, California. In response to environmental concerns, the City was conducting a feasibility study of alternative desalination intake technologies and water treatment strategies. Brian supported GSI project managers in researching and understanding the local hydrogeology for the feasibility analysis.

Groundwater Management Plan Update, Goleta Water District, Goleta, California. Goleta Water District's Groundwater Management Plan (GMP) recommends 5-year updates in order to comply with state-funded groundwater grants. GSI completed the first of such updates. Work included assessing current groundwater levels, groundwater quality, pumping rates, and groundwater storage, and making modifications to groundwater operating plans and any other necessary updates to comply with state law. Brian provided writing and technical support to the project managers to revise the GMP.

Adjudicated Groundwater Basin Annual Report Preparation, Northern Cities Management Area Technical Group, Santa Maria Groundwater Basin, San Luis Obispo County, California. Brian is providing technical support for the preparation and submittal of the Court-mandated annual reports for the Northern Cities Management Area (composed of the Cities of Pismo Beach, Arroyo Grande, and Grover Beach, and the Oceano CSD). Tasks include sampling and monitoring key sentry wells in the Northern Cities area to assess potential seawater intrusion, and technical support and report preparation of quarterly and annual reporting required by the Superior Court as a result of the Santa Maria Basin litigation solution.

Characterization and Planning Activities, San Luis Obispo Valley (Edna) Groundwater Basin, San Luis Obispo County Flood Control and Water Conservation District, San Luis Obispo County, California. Brian is providing hydrogeologic and field support for the San Luis Obispo Valley Groundwater Basin Characterization project. This effort will provide a foundation for future SGMA efforts by the County and local stakeholders, as well as serve as the basis for development of a groundwater model. Work includes compilation of available hydrogeologic data and developing a comprehensive database, analysis of geologic cross sections, aquifer tests, streamflow infiltration, enhanced recharge areas, and monitoring well installation.

Fringe Area Basin Characterization, San Luis Obispo County Flood Control and Water Conservation District, San Luis Obispo County, California. Brian is providing hydrogeologic and field support, engaging with property owners, and managing field data collection efforts to characterize the fringe areas of the Santa Maria Groundwater Basin. The project involves the hydrogeologic characterization of five geographically distinct areas that are within basin boundaries defined by the California Department of Water Resources (DWR), but were not included in the adjudicated basin area and thus are subject to SGMA management requirements. For each fringe area, GSI generated calculations of groundwater flow direction, Darcy groundwater flow quantities, well construction details, aquifer test results, and irrigated acreage. GSI developed geologic cross sections to understand the extent of hydraulic communication between the fringe areas and the adjudicated basin. If determined necessary based on the results of the characterization, the project will involve the preparation of a basin boundary modification request to DWR.

Aquifer Storage and Recovery (ASR) Cycle Testing, City of Woodland, California. Brian is providing management of field operations and technical support for the cycle testing of the City's ASR well operations. The objective of the project is to assess the target aquifers injection capacity and geochemical compatibility with treated surface water. Brian is currently working with City staff to successfully inject 1.4 million gallons per day of treated surface water while collecting data from a network of monitoring wells. Multiple cycles will be performed to understand the target storage volumes required to improve the reliability of summer pumping and the quality of pumped water.

ASR Well Design and Installation, City of Woodland, California. Brian provided management of field operations and technical support for the design and installation of two ASR wells, two monitoring wells, and two well abandonments. The objective of the project was to store treated surface water to improve the reliability of summer pumping and the quality of pumped water. Each well was drilled to approximately 600 feet, with an expected recovery capacity of 2 million gallons per day. A future phase of the project will include pilot testing and possible expansion of the ASR program.

Well Siting, Design, and Construction, Goleta Water District, Santa Barbara, California. Brian is providing project support for the siting, design, and installation of a municipal production well. The well is intended improve the District's water supply after 4 years of drought. His responsibilities include well site evaluation, hydrogeologic interpretation, well design, estimation, and contract technical specifications.

Well Installation, The Nature Conservancy, Ventura County. Brian participated in field activities for drilling and construction of a groundwater supply well. He also assisted in well design, well installation, well development, a well pumping aquifer test, and water quality sampling.

Well No. 9 Evaluation, City of Fillmore, Ventura County. Brian was part of the team that provided oversight of the contractor who installed a temporary pump in the well, operated the pump, conducted dynamic water quality sampling, and performed a brief constant rate flow test. He participated in preparing the final report, which recommended the City provide water treatment at the wellhead due to elevated manganese concentrations found in the well.

Groundwater Monitoring and Reporting, Ivanpah Solar Electric Generating Station, Ivanpah Valley, San Bernardino County, California. Brian organizes and conducts quarterly groundwater sampling in compliance with state and federal regulatory requirements. The groundwater wells provide potable drinking water to the facility's staff, and water to drive the steam turbines in the centralized solar towers. Additionally, Brian provides data analysis and coordinates the Groundwater Monitoring Annual Report.

(Before joining GSI, Brian worked on the following projects.)

Crystal Geyser, Olancha, Inyo County, California. Brian conducted hydrogeologic site investigations, drilling oversight and groundwater monitoring to support the increased production at the client's bottling facility. His responsibilities included field preparation, contractor oversight, logging boreholes, well installation, global positioning system (GPS) surveying, spring flow monitoring, and groundwater sampling. Brian also assisted in preparing project reports for multiples phases of the project.

San Gabriel Valley Superfund Site, Los Angeles, Los Angeles County, California. Brian performed field operations and oversight in the El Monte Operable Unit of the San Gabriel Valley Superfund Site. Project tasks included mud rotary well installation, well development, aquifer testing, groundwater sampling, and contractor oversight. He created and managed the project tracking schedule to monitor subcontractor and field staff daily activities, analyzed injection testing water level data, and assisted in the preparation and implementation of the 97-005 drinking water permit.

Appendix D

Submittal Forms and Requirements

Exceptions Statement
Certificate of Liability Insurance
Workers' Compensation Certificate of Insurance
Subconsultant List
References
Statement of Past Contract Disqualifications

Exceptions

GSI takes no exceptions to the RFP or to the provisions in the City's Standard Agreement, although as indicated in the cover letter, we respectfully recommend that the work on the Title 22 Engineering Report be conducted as part of a subsequent phase of this project. If the City prefers to keep the Title 22 Engineering Report work on this contract, we recommend a budget of $25,000 for GSI's services to provide selected components of the report.

Client#: 23155 GROUNSOLU1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/16/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Dealey, Renton & Associates
P. O. Box 12675
Oakland, CA 94604-2675
510 465-3090

CONTACT NAME: Dealey Renton Certificates
PHONE (A/C, No, Ext): 510 465-3090 FAX (A/C, No): 510 452-2193
E-MAIL ADDRESS: Insurance.Certificates@Dealeyrenton.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Admiral Insurance Company	24856
INSURER B : Sentinel Insurance Co. LTD	11000
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Groundwater Solutions, Inc.
dba GSI Water Solutions, Inc.
55 SW Yamhill Street, Suite 300
Portland, OR 97204

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	Y	Y	FEIECC1124905	11/01/2017	11/01/2018	EACH OCCURRENCE	$2,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$50,000
	X WA Stop Gap						MED EXP (Any one person)	$5,000
							PERSONAL & ADV INJURY	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY	Y	Y	72UECVK6212	11/01/2017	11/01/2018	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS / X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			FEIEXS1125005	11/01/2017	11/01/2018	EACH OCCURRENCE	$1,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$1,000,000
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?	N / A					E.L. EACH ACCIDENT	$
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Professional Liability			FEIECC1124905	11/01/2017	11/01/2018	$1,000,000 per Claim $2,000,000 Annl Aggr.	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Re: FOR PROPOSALS. An Actual Certificate will be issued upon the request of the Named Insured.

CERTIFICATE HOLDER

SAMPLE CERTIFICATE FOR PROPOSALS

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Stefanie Fuller

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ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS

This endorsement, effective 11/1/17 attaches to and forms a part of Policy Number FEIECC1124905. This endorsement changes the Policy. Please read it carefully.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
CONTRACTORS POLLUTION LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:
SAMPLE CERTIFICATE FOR PROPOSALS

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

The person or organization shown in this Schedule is included as an insured, but only with respect to that person's or organization's vicarious liability arising out of your ongoing operations performed for that insured.

ECC-319-0712

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

(1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.

(2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:

(a) That is a partnership or joint venture,

(b) That is an "insured" under any other policy,

(c) That has exhausted its Limit of Insurance under any other policy, or

(d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:

(1) The agreement requires you to provide direct primary insurance for the lessor and

(2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

D. Additional Insured if Required by Contract

(1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

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The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

(1) During the policy period, and

(2) Subsequent to the execution of such written contract, and

(3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

(a) The limits of insurance specified in the written contract or written agreement; or

(b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM , SUIT OR LOSS – OF SECTION IV – BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(3)** and **(4)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

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If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

3. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

4. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

(1) $100,000;

(2) The actual cash value of the damaged or stolen property at the time of the "loss"; or

(3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of $1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of $50 per day and a maximum limit of $1,000.

6. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life Insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

7. AIRBAG COVERAGE

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions **4.c.** and **4.d.** do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

(1) Permanently installed in or upon the covered "auto";

(2) Removable from a housing unit which is permanently installed in or upon the covered "auto";

(3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

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(4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III – Version CA 00 01 03 10 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 and Version CA 00 01 10 01 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C are each amended to add the following:

$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

(1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;

(2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or

(3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or $250, whichever deductible is less.

9. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

10. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

11. TWO OR MORE DEDUCTIBLES

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

(1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;

(2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT,CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

(1) You, if you are an individual;

(2) A partner, if you are a partnership;

(3) A member, if you are a limited liability company; or

(4) An executive officer or insurance manager, if you are a corporation.

13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

14. HIRED AUTO - COVERAGE TERRITORY

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

15. WAIVER OF SUBROGATION

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

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We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

16. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

17. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

18. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of $2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,

b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is $10,000.

For the purposes of the coverage provision,

a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.

b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

19. VEHICLE WRAP COVERAGE

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to $1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is $5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

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Workers' Compensation Certificate of Insurance

Mail to:

GROUNDWATER SOLUTIONS INC
55 SW YAMHILL ST STE 300
PORTLAND, OR 97204-3331

Certificate holder:

GROUNDWATER SOLUTIONS INC
GSI WATER SOLUTIONS INC
55 SW YAMHILL ST STE 300
PORTLAND, OR 97204-3331

The policy of insurance listed below has been issued to the insured named below for the policy period indicated. The insurance afforded by this policy is subject to all the terms, exclusions and conditions of such policy; this policy is subject to change or cancellation at any time.

Insured

Groundwater Solutions Inc
55 SW Yamhill St Ste 300
Portland, Or 97204-3331

Producer/contact

USIS
c/o SAIF Corporation
SAIF Corp - Northern
Laurie Dieringer
971.242.5775 laudie@saif.com

Insurer	Zurich American Insurance Company	**Limits of liability**	
Issued	04/16/2018	Bodily Injury by Accident	$1,000,000 each accident
Policy	1656163	Bodily Injury by Disease	$1,000,000 each employee
Period	11/01/2017 to 11/01/2018	Body Injury by Disease	$1,000,000 policy limit

☐ Any Proprietor/Partner/Executive Officer/Member Excluded ☐ Subrogation waived

Description of operations/locations/special items
This certificate includes GSI employees working in CA

Important
This certificate is issued as a matter of information only and confers no rights to the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies above. This
certificate does not constitute a contract between the issuing insurer, authorized representative or producer and the certificate holder.

Cancellation
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

Authorized representative

Drew Moreton
Vice President, USIS

400 High Street SE
Salem, OR 97312
P: 800.285.8525
F: 503.584.9812

SUBCONSULTANT LISTING

Describe briefly the work scope of each sub-consultant. Attach additional pages if required.
GSI will not use any subconsultants on this project. The driller will be contracted directly with the City.

Sub-consultant

Company Name	N/A
Contact Individual	
Telephone & FAX number	
Street Address	
City, State, Zip Code	
Description of services to be provided.	

Sub-consultant

Company Name	N/A
Contact Individual	
Telephone & FAX number	
Street Address	
City, State, Zip Code	
Description of services to be provided	

Sub-consultant

Company Name	N/A
Contact Individual	
Telephone & FAX number	
Street Address	
City, State, Zip Code	
Description of services to be provided	

REFERENCES

Number of years engaged in providing the services included within the scope of the consultant services under the present business name: **GSI Water Solutions, Inc.** (**GSI**)

Describe fully the last three contracts performed by your firm that demonstrate your ability to provide the services included with the scope of the consultant services. Attach additional pages if required. The City reserve the right to contact each of the references listed for additional information regarding your firm's qualifications.

Customer Name	Water Replenishment District of Southern California (WRD) – Recycled Water Storage Feasibility Study and Work Plan
Contact Individual	Ken Ortega, WRD Assistant General Manager
Telephone & FAX number	562.921.5521
Street Address	4040 Paramount Boulevard
City, State, Zip Code	Lakewood, CA 90712
Description of services provided including contract amount, when provided and project outcome	GSI is providing hydrogeologic services, flow modeling, geochemical modeling, injection well design, well construction monitoring, and permitting support for a recycled water project. The project began in August 2015; work is ongoing. Work billed to date totals $699,084.

Reference No. 2

Customer Name	City of Woodland, California – Aquifer Storage and Recovery Well Design and Installation
Contact Individual	Tim Busch, Utilities Manager
Telephone & FAX number	503.661.5820
Street Address	300 First Street
City, State, Zip Code	Woodland, CA 95695
Description of services provided including contract amount, when provided and project outcome	GSI is providing hydrogeologic services, well design, well construction monitoring, water quality evaluations, ASR cycle testing, and development of geochemical recommendations for an ASR project. The project began in February 2015 and installation was completed in August 2017; cycle testing work is ongoing. Work billed to date totals $506,852.

Reference No. 3

Customer Name	City of Santa Barbara, California – IPR Feasibility Study
Contact Individual	Joshua Haggmark, Water Resources Manager
Telephone & FAX number	805.963.0611
Street Address	PO Box 1990
City, State, Zip Code	Santa Barbara, CA 93102
Description of services provided including contract amount, when provided and project outcome	GSI evaluated the feasibility of indirect potable reuse of advanced treated recycled water through groundwater recharge and recovery. The project ran from May 2015 through October 2016. Total billed was $229,190.

STATEMENT OF PAST CONTRACT DISQUALIFICATIONS

The consultant shall state whether it or any of its officers or employees who have a proprietary interest in it, has ever been disqualified, removed, or otherwise prevented from proposing on, or completing a federal, state, or local government project because of the violation of law, a safety regulation, or for any other reason, including but not limited to financial difficulties, project delays, or disputes regarding work or product quality, and if so to explain the circumstances.

- ***Do you have any disqualification as described in the above paragraph to declare?***
  Yes ❑ No ☒

- ***If Yes, explain the circumstances.***

Executed on April 17, 2018 at 5855 Capistrano Ave., Suite C, Atascadero, CA 93422 under penalty of perjury of the laws of the State of California, that the foregoing is true and correct.

Paul A. Brenner

Signature of Authorized Consultant Representative

Portland Office
55 SW Yamhill Street
Suite 300
Portland, OR 97204
Phone: 503.239.8799
Fax: 503.239.8940

Corvallis Office
1600 SW Western Boulevard
Suite 240
Corvallis, OR 97333
Phone: 541.753.0745
Fax: 541.754.4211

Bend Office
147 SW Shevlin Hixon Drive
Suite 201
Bend, OR 97702
Phone: 503.239.8799 ext. 141

Santa Barbara Office
418 Chapala Street
Suite H
Santa Barbara, CA 93101
Phone: 805.895.3956

San Luis Obispo Office
5855 Capistrano Avenue
Suite C
Atascadero, CA 93101
Phone: 805.460.4622

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