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, November 13, 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

- Service Pin Presentation

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 SEPTEMBER 25, 2018 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE OCTOBER 23, 2018 CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF AMENDMENT NO. 4 TO THE LEGAL SERVICES AGREEMENT WITH ALESHIRE & WYNDER, LLP, TO APPOINT CHRIS NEUMEYER AS CITY ATTORNEY; (CITY MANAGER)

RECOMMENDATION: City Council approval of Amendment No. 4 to the legal services agreement with Aleshire & Wynder, LLP, to appoint Chris Neumeyer as City Attorney, effective January 1, 2019.

A-4 ADOPTION OF RESOLUTION NO. 88-18 RESCINDING RESOLUTION NO. 62-17 AND COMMITTING TO UPDATE THE CITY'S GENERAL PLAN AND LOCAL COASTAL PLAN BY SUMMER OF 2019; (MAYOR)

RECOMMENDATION: Adopt Resolution No. 88-18.

A-5 APPROVAL OF CITIZENS FINANCE ADVISORY COMMITTEE AND PUBLIC WORKS ADVISORY BOARD MEMBER'S REQUEST FOR AN EXCUSED ABSENCE; (CITY CLERK)

RECOMMENDATION: City Council consider the request submitted by Citizens Finance Advisory Committee (CFAC) and Public Works Advisory Board (PWAB) Member, John Erwin, to excuse his absence from regular meetings through January 2019 to attend FEMA Training and during his 90-day deployment to North Carolina.

A-6 APPROVAL OF AMENDMENT NO. 2 TO PAVEMENT MANAGEMENT PROJECT CONTRACT NO. MB-2017-ST01 FOR FY 2018/19 PAVEMENT MANAGEMENT PROJECT; (PUBLIC WORKS)

RECOMMENDATION: City Council:

1. **Approve Amendment No. 2, in the amount of $701,259.44, as an additional option period to the City Council awarded Indefinite Delivery, Indefinite Quantity (IDIQ) contract to Pavement Coatings Co and one or more work orders not exceeding that aggregate amount, plus the contingency described in 2., below; and**
2. **Authorize a 5-percent contingency for the project in the amount of $35,063 to be used to account for differences in material quantities; and**
3. **Authorize the Public Works Director to execute Amendment No. 2.**

A-7 ADOPTION OF RESOLUTION NO. 90-18 AMENDING RESOLUTION NO. 02-18 ESTABLISHING THE 2018 CITY COUNCIL MEETING CALENDAR; (CITY CLERK)

RECOMMENDATION: Adopt Resolution No. 90-18.

B. PUBLIC HEARINGS

B-1 CONTINUANCE OF APPEAL OF PLANNING COMMISSION APPROVAL ON AUGUST 7, 2018 OF THE CONDITIONAL USE PERMIT (UP0-470), 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 ACRES SITE WITHIN THE CLOISTERS SUBDIVISION.
NOTE: THROUGH A RECENT ACTION BY THE CALIFORNIA COASTAL COMMISSION, THE APPLICANT IS NOW REQUIRED TO APPLY FOR AN IMMATERIAL AMENDMENT TO THE ORIGINAL CDP AND AS SUCH THE CITY OF MORRO BAY WILL VOID CDP-530.; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Council adopt Resolution No. 87-18, making the necessary findings to deny the appeal and uphold the Planning Commission (PC) approval of Conditional Use Permit (UP0-470), Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration (MND) for the site at 2783 Coral Ave to allow a 6-parcel subdivision on a .99-acre site within the Cloisters Subdivision (Project).

C. BUSINESS ITEMS

C-1 APPROVAL OF JOINING MONTEREY BAY COMMUNITY POWER AUTHORITY AND FIRST READING OF COMMUNITY CHOICE ENERGY ORDINANCE; (CITY MANAGER)

RECOMMENDATION:

1. **Receive and file the Financial Update memo (Attachment A); and**
2. **Introduce, by first reading by title only with further reading waived, Ordinance No. 618, "An Ordinance of the City Council of the City of Morro Bay, California, Repealing the Existing Community Choice Aggregation Ordinance (Ordinance No. 616) and Authorizing the Implementation of a Community Choice Aggregation Program By Participating in Monterey Bay Community Power Authority's Community Choice Aggregation Program" (Attachment B); and**
3. **Adopt a Resolution No. 91-18, "A Resolution of the City Council of the City of Morro Bay, California, Requesting Membership In The Monterey Bay Community Power Authority (MBCPA) and Authorizing the City Manager to Execute the Joint Powers Authority Agreement as amended with MBCPA" (Attachment C); and**
4. **Identify one City Councilmember to represent the City as the initial Policy Board Director; and**
5. **Direct staff to negotiate a Memorandum of Understanding with City of San Luis Obispo (SLO) staff to provide a collaborative and fair strategy for MBCPA representation and return to Council for final approval.**

C-2 ONEWATER PLAN APPROVAL; (PUBLIC WORKS)

RECOMMENDATION: City Council:

1. **Approve the OneWater Plan; and**
2. **Provide direction to staff to incorporate the OneWater Capital Improvement Program (CIP), for consideration, in the City's annual budgets; and**
3. **Use the recommendations for water supply options section of the Plan as guidance in the consideration, development and implementation regarding the composition of the City's future water supply portfolio.**

C-3 CITY COUNCIL INPUT AND DIRECTION ON HARBOR DEPARTMENT LEASE MANAGEMENT POLICY DOCUMENT UPDATE PROPOSED TIMELINE AND USE OF A FACILITATOR FOR THE UPDATE PROCESS; (HARBOR)

RECOMMENDATION: Council provide input and direction on the Harbor Department Lease Management Policy update timeline being proposed, as well as provide direction on usage of a facilitator or moderator to assist in managing the process.

C-4 DIRECTION REGARDING POTENTIAL REUSE OF SOON TO BE DECOMMISSIONED TROLLEY AS A MOBILE VISITOR CENTER; (CITY MANAGER/PUBLIC WORKS)

RECOMMENDATION: City Council

1) **Direct staff to sell the Trolley that is set for decommissioning and replacement, sending all sale proceeds to the City's Transportation Fund and pursue further review of the option to locate the City's visitor center at the old aquarium building, or**
2) **Direct staff to conduct further review of reusing the old trolley as a mobile visitor center; or**
3) **Provide other direction to staff as appropriate.**

C-5 RECEIVE AND FILE FISCAL YEAR (FY) 2017/18 STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES; (FINANCE/PUBLIC WORKS/COMMUNITY DEVELOPMENT)

RECOMMENDATION: Receive and file.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday**, **December 11, 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 – SEPTEMBER 25, 2018
VETERAN'S MEMORIAL HALL – 6:00 P.M.

AGENDA NO: A-1

MEETING DATE: November 13, 2018

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
ABSENT:	Scott Collins	City Manager
STAFF:	Jennifer Callaway	Finance Director/Acting City Manager
	Chris Neumeyer	Assistant City Attorney
	Dana Swanson	City Clerk
	Rob Livick	Public Works Director
	Scot Graham	Community Development Director
	Eric Endersby	Harbor Director
	Nancy Hubbard	Planner
	Eric Casares	WRF Program Manager (Carollo Engineering)

ESTABLISH QUORUM AND CALL TO ORDER
The meeting was called to order at 6:02 p.m., with all but Council Member Davis present. Council Member Davis joined the meeting at 6:03 p.m.

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/eUS1KoOT5dE?t=152

CITY MANAGER REPORTS, ANNOUNCEMENTS & PRESENTATIONS - None

PRESENTATIONS
- Proclamation Recognizing Del Mar Elementary as 2018 California Distinguished School
  https://youtu.be/eUS1KoOT5dE?t=616

PUBLIC COMMENT
https://youtu.be/eUS1KoOT5dE?t=1328

Wee from the Wee Shack provided the business spot. Wee Shack opened seven years ago and was ranked 36th for best hamburgers in America two years ago. Wee Shack is located at 1698 Main Street and is open 11:00 a.m. to 8:00 p.m. Tuesday through Sunday.

Carolyn Brinkman, Morro Bay, spoke regarding the GSI contract being considered in Item C-3 and stated the City's reclamation plan is based on uncertainties and aspects of the reclamation process are unproven.

Ken Vesterfelt, Morro Bay, expressed concern the Morro Bay Police Department is understaffed and underpaid.

Linda Wingert, Grover Beach resident and Director of Community Engagement for the United Way, spoke regarding The Real Cost Measure in California 2018 report that outlines cost of living issues in California. Visit www.unitedslo.org to read the full report which will be presented at French Hospital Copeland Health Education Pavilion on Tuesday, October 16, from 2:00 – 4:00 p.m.

Bart Beckman, Morro Bay, restated a question posed at the candidate forum regarding past budget documents which showed a growing budget gap, and expressed concern regarding WRF project funding.

Janice Peters, Morro Bay, announced By the Sea Productions, a live theater company, will be presenting The Devil and Daniel Webster October 5 - 7 at 7:00 p.m. Friday/Saturday and 3:00 p.m. on Sunday. Visit www.bytheseaproductions.org for more information.

Terry Simons, Morro Bay, questioned statements made at the candidate's forum regarding the WRF accumulation fund balance and suggested the Council direct staff to validate all Prop 218 protests received.

Dan Sedley, Morro Bay, discussed the Code of Civility and suggested Mr. Ochs was personally attacked at the August 14 City Council Meeting.

John Weiss, Morro Bay resident, business owner and candidate for Mayor, congratulated Del Mar School and thanked the Chamber and League of Women Voters for hosting the candidate forum. He hopes the community will come together on a water / sewer reclamation project everyone can support.

Bob Keller, Morro Bay, thanked the Council and staff for their efforts on the Proposition 218 and urged the Council to explore all funding options and avoid delays.

Barbara Doerr, Morro Bay, suggested the future agenda section on Council and advisory board agendas include a brief title and explanation to allow the public to participate in those discussions. Regarding Community Choice Energy, she recommended Council Members not be allowed to serve on the standing committee. She also urged the Council to count all Prop 218 protests received.

Kerrigan Mahan, Morro Bay, suggested the Proposition 218 protest was mishandled and the 1,000 ballots should have been counted by the City Clerk.

Dawn Addis, Morro Bay, thanked the League of Women Voters and Chamber for hosting the candidate forum and the Council for honoring Del Mar School and Sea Otter Week. She stated her support for Items C-2, C-3 and C-4. With regard to PERS concerns, she suggested cuts to employee salaries be a last resort.

Carole Truesdale, Morro Bay, spoke to Item C-4 and, referring to the 2012 Dudek Recycled Water Feasibility Study, suggested a new study of implementing groundwater recharge reuse was unwarranted.

The Public Comment period was closed.

Council Members responded to issues raised during the public comment period.

A. CONSENT AGENDA
https://youtu.be/eUS1KoOT5dE?t=4437

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 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.

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

Mayor Irons pulled Items A-8 and A-9.

MOTION: Council Member Headding moved the Council approve all items on the Consent Agenda with the exception of Items A-8 and A-9. The motion was seconded by Council Member Makowetski and carried unanimously, 5-0.

A-8 ADOPTION OF RESOLUTION NO. 78-18 AUTHORIZATION TO PURCHASE TROLLEY REPLACEMENT VEHICLE; (PUBLIC WORKS)
https://youtu.be/eUS1KoOT5dE?t=4477

Mayor Irons asked Public Works Director Livick to explain the process of disposing of the existing trolley and whether it could be considered for use by the City as a mobile visitor center kiosk. Mr. Livick explained grant funds require the vehicle be auctioned or sold at fair market value but the City could choose to purchase the vehicle from the Transportation Enterprise Fund.

MOTION: Council Member Headding moved for approval of Item A-8. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

A-9 ADOPTION OF RESOLUTION NO. 79-18 APPROVING FISCAL YEAR 2017/18 FOURTH QUARTER YEAR-END BUDGET ADJUSTMENTS; (FINANCE)
https://youtu.be/eUS1KoOT5dE?t=4648

Finance Director Callaway explained in the future, projects that aren't complete and have remaining funds at the end of the fiscal year will be considered by the Council at year-end to seek authorization for continued funding. If approved, staff would set up a capital project to fund ongoing costs until that project was completed.

MOTION: Mayor Irons moved for approval of Item A-9. The motion was seconded by Council Member Davis and carried unanimously, 5-0.

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)
https://youtu.be/eUS1KoOT5dE?t=4913

Nancy Hubbard, Contract Planner, provided the staff report.

The Mayor invited the Appellant to speak to the project.

Steve Stevens, Morro Bay, spoke regarding the Cloisters Architectural Design Review Committee's role and approval process and suggested the letter submitted by Craig Smith did not constitute

Design Committee approval. He listed a number of issues to be explored and resolved prior to Council approval.

Dawn Beattie, Morro Bay, stated the approval letter from Craig Smith provided schematic approval only and requested the Architectural Design Review Committee be allowed time to review the project for items Mr. Smith did not review or approve, and notify all Cloisters homeowners of the project. She expressed concern about parking, driveway lengths and lot sizes.

Staff and the Appellant responded to questions raised by the Council.

The Public Comment period for Item B-1 was opened.

Barbara Doerr, Morro Bay, recommended the City maintain ownership of the land for future park space. Noting concerns regarding lot size, inadequate driveways and on-street guest parking, she suggested the project was poorly designed.

Melanie Williams Mahan, Morro Bay resident and member of the Cloisters Design Committee read portions of Section 4.4 of the Cloisters design manual and stated Committee approval is required for any project in the Cloisters.

Kerrigan Mahan, Morro Bay, opposed the project based on procedural issues, parking concerns and lot size.

Barry Branin, Morro Bay, asked if the money from this project will be used to pay down the Fire Station debt and expressed concern about lot sizes and parking issues.

Terry Simons, Morro Bay, asked the project applicant be identified and was concerned Council Members asked about the financial status of payments on the property.

Dave Watson, Planner with Watson Planning Consultants, spoke on behalf of the applicant, Morro Bay Ventures LLC. He supported the staff recommendation and requested the Council deny the appeal and uphold Planning Commission approval. He reviewed Cloisters' coastal development permit, CC&R's and suggested the role of design review committee was to provide their opinion and comments on issues of design and compatibility, not dictate a project's approval or denial. He stated the project was attractive and compatible with the Cloisters subdivision and other parts of Morro Bay.

The Public Comment period for Item B-1 was closed.

Council Members Headding, Makowetski and McPherson agreed it was appropriate to allow a limited amount of time for the Cloisters Architectural Review Committee to review the project. Mayor Irons and Council Member Davis agreed the correct process had been followed and supported staff recommendation to deny the appeal and uphold Planning Commission approval.

MOTION: Council Member McPherson moved the Council uphold the appeal and remand the project back to the Planning Commission for review of a revised project after it is reviewed by the Architectural Review Committee of the Cloisters and return to Council in 45 days. The motion was seconded by Council Member Headding for discussion.

Staff sought clarification from Council and there was further discussion of the desired next steps.

Council Member McPherson withdrew her motion and Council Member Headding withdrew the second.

Staff offered the Council decision could be delayed up to 40 days and brought back at either the October 23 Regular Meeting or a special meeting within the 40-day requirement. Following discussion regarding the feasibility of bringing the item back to Council within 40 days, the Applicant and Appellant agreed to waive the 40-day requirement and continue the item to November 13.

MOTION: Council Member McPherson moved to continue this public hearing to November 13 with further information submitted from the Architectural Review Design Committee of the Cloisters and the Applicant. The motion was seconded by Council Member Headding and carried unanimously,5-0.

The Council took a brief recess at 9:06 p.m. The meeting reconvened at 9:16 p.m. with all members present.

C. BUSINESS ITEMS

C-1 CITY COUNCIL INPUT AND DIRECTION ON UPDATE OF THE HARBOR DEPARTMENT LEASE MANAGEMENT POLICY DOCUMENT; (HARBOR)
https://youtu.be/eUS1KoOT5dE?t=11068

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 open public comment for Item C-2 prior to Council discussion of Item C-1.

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)
https://youtu.be/eUS1KoOT5dE?t=11988

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

Teddy Lovett, Morro Bay, stated she was proponent of renewable energy and favored moving ahead with a resolution that would combine Morro Bay's efforts with the City of SLO.

Justin Bradshaw, San Luis Obispo resident and member of SLO Climate Coalition, spoke in support of this option for cleaner, more efficient energy. He appreciated there would be a financial incentive to install solar panels.

Jason Riley, Morro Bay, supported Community Choice Energy and looked forward to seeing lower rates and higher percentages of renewable energy in our portfolio.

Eric Veium, San Luis Obispo resident and Chair of SLO Climate Coalition, was excited about the opportunity to work together.

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

C-1 CITY COUNCIL INPUT AND DIRECTION ON UPDATE OF THE HARBOR DEPARTMENT LEASE MANAGEMENT POLICY DOCUMENT; (HARBOR)
https://youtu.be/eUS1KoOT5dE?t=12332

The Council continued its discussion of Item C-1.

The Council agreed with the approach recommended by staff but requested a more realistic timeline. Stakeholder input and the importance of understanding loan requirements was discussed, along with the potential benefit of using an outside facilitator to help lead the discussion. The Council began its discussion of appointing members to a sub-committee then agreed to take action on Item C-2 first.

The Council recessed Item C-1 at 9:58 p.m.

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)
https://youtu.be/eUS1KoOT5dE?t=13680

Ms. Callaway introduced Chris Reed, City of San Luis Obispo, who presented the staff report and responded to Council inquiries.

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

MOTION: Council Member Headding moved to receive the CCE technical study and presentation; 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," which is Attachment B; 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 the Central Coast Community Energy on behalf of the City of Morro Bay," which is Attachment C; and 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; and 5) authorize the Mayor to sign the ex parte document. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

Council Members Davis and McPherson volunteered to serve as the City's representatives on Central Coast Community Energy's Board of Directors.

MOTION: Council Member Headding moved the appointment of Council Members Davis and McPherson as the two council members to serve as the City's representatives on Central Coast Community Energy's Board of Directors. The motion was seconded by Council Member Makowetski and carried unanimously, 5-0.

C-1 CITY COUNCIL INPUT AND DIRECTION ON UPDATE OF THE HARBOR DEPARTMENT LEASE MANAGEMENT POLICY DOCUMENT; (HARBOR)
https://youtu.be/eUS1KoOT5dE?t=14696

The Council continued its discussion of the Council subcommittee appointments for the Harbor Lease Management Policy update. As the current Harbor Advisory Board liaison, Council Member Makowetski offered to participate on the subcommittee until his term on the Council ends. Council Members Davis and McPherson also expressed willingness to participate.

MOTION: Mayor Irons moved the Council appoint Council Members Davis and McPherson to the task force. The motion was seconded by Council Member Headding and carried unanimously, 5-0.

Mr. Endersby confirmed he would bring back information regarding potential cost of facilitators and a proposed timeline.

There was Council consensus to hear Item C-4 next.

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)
https://youtu.be/eUS1KoOT5dE?t=15151

WRF Program Manager Eric Casares provided the staff report and responded to Council inquiries.

The public comment period for Item C-4 was opened.

Barry Branin, Morro Bay, read a letter from Howard Jarvis Taxpayers' Association dated September 24, 2018, and submitted as agenda correspondence into the record and suggested the City not award a contract or apply for a loan until the matter is cleared up.

Terry Simons, Morro Bay, spoke in opposition to the contract and referred to previous studies on the feasibility of groundwater injection that concluded the geology was not practical.

Dan Sedley, Morro Bay, opposed the award of contract and suggested not counting the 1,000 protests puts the City's ability to pay contracts and loans at risk.

The public comment period for Item C-4 was closed.

Assistant City Attorney Neumeyer offered his opinion the Howard Jarvis Taxpayers Association did not provide any specifics as to why the City's Proposition 218 process might be suspect and stated the City's process was in compliance with Article XIII D of the California Constitution.

MOTION: Council Member Davis moved the Council 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 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. The motion was seconded by Council Member Headding and carried unanimously, 5-0.

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)
https://youtu.be/eUS1KoOT5dE?t=16127

Mr. Casares provided the staff report and responded to Council inquiries. Mr. Livick commented Resolution No. 77-18 was modified to include the Project No. CWSRF #8185-210. Copies of the revised resolution were provided to the Council and made available to the public.

Mayor Irons opened public comment for Item C-3.

Dan Sedley, Morro Bay, spoke to the Public Records Act request submitted by the Howard Jarvis Taxpayers' Association and encouraged the Council to reverse course and count all protests submitted.

Steve Stevens, Morro Bay, asked how the threat of litigation or actual litigation impacts the City's application.

The Mayor closed public comment for Item C-3.

Mr. Neumeyer responded to questions raised during public comment, stating the letter received by the City states an opinion with no legal basis for a lawsuit. The Proposition 218 process was followed and there should be no impact on the creditworthiness of the City.

MOTION: Council Member Headding moved the Council approve staff recommendation to adopt Resolution Nos. 75-18, 76-18 and 77-18. The motion was seconded by Council Member McPherson and carried unanimously, 5-0.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
https://youtu.be/eUS1KoOT5dE?t=16851

Mayor Irons requested future discussion and consideration of using the trolley as a mobile Visitors' Center. All Council Members supported this item.

E. ADJOURNMENT

The meeting adjourned at 10:54 p.m. 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.

Recorded by:

Dana Swanson
City Clerk

This Page Intentionally Left Blank

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
OCTOBER 23, 2018 – 4:30 P.M.
CITY HALL CONFERENCE ROOM

AGENDA NO: A-2

MEETING DATE: November 13, 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 *(via teleconference)*
	Chris Neumeyer	Assistant City Attorney
	Dana Swanson	City Clerk
	Eric Endersby	Harbor Director
	Scot Graham	Community Development Director

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.

Cliff Branch provided statements in support of his request for lease amendments.

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

CS-1 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:
Property: Lease Sites 89/89W & 90/90W, Boatyard/Otter Rock, 845/885 Embarcadero
Property Negotiators: Cliff Branch and Paul Parker
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; Joseph Pannone, City Attorney
Negotiation: Price and Terms of Payment

CS-2 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: Two Matters relating to Lease Sites 89/89W and 90/90W.

CS-3 PUBLIC EMPLOYMENT
Title: City Attorney

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

ADJOURNMENT - The meeting adjourned at 5:39 p.m.

Recorded by:

Dana Swanson
City Clerk

This Page Intentionally Left Blank

AGENDA NO: A-3

MEETING DATE: November 13, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 6, 2018**

FROM: **Scott Collins, City Manager**

SUBJECT: **Approval of Amendment No. 4 to the Legal Services Agreement with Aleshire & Wynder, LLP, to Appoint Chris Neumeyer as City Attorney**

RECOMMENDATION

Staff recommends the City Council approval of Amendment No. 4 to the legal services agreement with Aleshire & Wynder, LLP, to appoint Chris Neumeyer as City Attorney, effective January 1, 2019 (Attachment 1).

ALTERNATIVES

Council may elect not to approve this amendment and seek proposals from other law firms to provide legal services to the City. If that is done, then due to the current City Attorney's decision to reduce his work efforts, the City Council needs to appoint an Interim City Attorney while that request for proposal (RFP) process goes forward.

FISCAL IMPACT

No fiscal impact would result from this appointment. If the City Council were to pursue an RFP for city attorney services, then that effort would cost time and resources, as would a new firm coming up to speed on Morro Bay and its legal needs, community and environment.

BACKGROUND/DISCUSSION

Joseph W. Pannone has served as the City's City Attorney since March 1, 2014. Mr. Pannone advised the Council of his decision to reduce his work efforts and no longer serve as City Attorney for Morro Bay (or Lompoc) at the end of this year. Mr. Pannone has expressed his appreciation for the opportunity to serve the Morro Bay community as its City Attorney. During that period, Aleshire & Wynder LLP (Firm) guided the City while it transitioned from an in-house City Attorney and Assistant City Attorney and several separate law firms to being served by one firm with comprehensive municipal law experience and expertise. Since being selected, the City has experienced competitive legal costs, as well as having been provided responsiveness and accountability for all its legal services, because of the Firm's broad range of legal services that meet the City's needs. The Firm not only has expertise and experience with general, everyday legal services needed by local government (Brown Act, Public Records Act, purchasing and contracting), but also handles City legal matters related to personnel, labor negotiations, ethics, public financing (bonds, business improvement districts, taxes, community facility districts), police and fire, property acquisition and sale, code enforcement, water, wastewater, storm water and public works. Due to the number of years the Firm has served the City, its attorneys have gained knowledge regarding the City and its activities and needs, which is of great benefit to the community.

01181.0001/519305.1

Prepared By: SC **Dept Review:** _____

City Manager Review: _____ **City Attorney Review:** JWP

Chris Neumeyer (who started with the Firm as an associate in April, 2015, and a non-equity partner since December, 2017), has been an attorney since 2008 and practiced municipal law during that entire period. He has served as the City's Assistant City Attorney since April, 2016, is integrally involved with the City's cannabis regulations and provides the City Council and Commission Members with the biennial ethics training required by State law. Mr. Neumeyer provides legal services to the City in many areas, including election law, mobile home park issues, purchasing compliance, tourism, TBID and vacation rental issues. He also provided services as City Attorney in Mr. Pannone's absence and has been working more frequently with Council Members and various staff during the current transition period.

Colin Tanner, an equity partner of the Firm and one of the founding members, as well as Michael Huston, have handled the City's personnel and labor negotiations since March, 2010. Christine Carson, another non-equity partner, assists the City in the area of water law. Lona Lyman, non-equity partner, advises the City on telecommunication matters. Gina Chung assists the Police Department with requests and legal actions seeking public records, including personnel information and has served as City Prosecutor. During the next several years, Mr. Pannone will remain engaged with the Firm, which will make him available to continue to assist the Harbor Department with leasing and related issues and the City regarding the Water Reclamation Facility, as well as assist Mr. Neumeyer and City staff on matters, as needed.

The Firm continues to provide all those services at very competitive hourly rates. Since July, 1, 2018, the hourly rates for all the Firm's legal services range from $175 to $215 and up to $260 if the City is reimbursed by a private party.

The current agreement with the Firm allows the City to terminate it, at any time. Therefore, the Council can also consider appointing Mr. Neumeyer as City Attorney and still decide, now or in the future, to seek proposals from other firms to provide those comprehensive legal services the Firm competently, responsively and efficiently now provides.

CONCLUSION

To help ensure the City's operations continue smoothly, effectively and efficiently, the City Council is requested to approve the amendment to the agreement with Aleshire & Wynder, LLP, appointing Chris Neumeyer as City Attorney.

ATTACHMENT

1. Amendment No. 4 to Legal Services Agreement

01181.0001/519305.1

CITY OF MORRO BAY

AMENDMENT NO. 4 TO CONTRACT SERVICES AGREEMENT

ALESHIRE & WYNDER, LLP
City Attorney Services

This Amendment No. 4 is made and entered into by and between the CITY OF MORRO BAY, a municipal corporation, hereinafter referred to as "City," and ALESHIRE & WYNDER, LLP, a California limited liability partnership, hereinafter referred to as "Firm."

WHEREAS, as of March 1, 2014, the parties entered into a contract for the provision of city attorney legal services, which was amended (i) effective December 9, 2014, to delete the references to "Interim," (ii) effective June 9, 2015, to reduce evaluations to once annually and (iii) effective June 30, 2018, to increase the hourly rates by $10.00 (the "Amended Agreement"); and

WHEREAS, Joseph W. Pannone has served the City as City Attorney since March. 2014;

WHEREAS, Mr. Pannone has indicated, at the first of the 2019 he will be reducing his work efforts and no longer serve as the City's City Attorney; and

WHEREAS, Chris Neumeyer was admitted to practice law in California in 2008, has 11 years of municipal law experience, started with the Firm as an associate in 2015 and in December, 2017, became a non-equity partner with the Firm, has served as the City's Assistant City Attorney since April, 2016, and provides legal assistance to the City on various matters, including land use issues, cannabis and other municipal law matters.

NOW THEREFORE, in consideration of the foregoing, City and Firm mutually agree as follows:

1. Effective January 1, 2019, the first sentence of Section 1. of the Amended Agreement is amended to appoint Chris Neumeyer as City Attorney

2. Except as expressly set forth herein, all terms and conditions of the Amended Agreement shall remain in full force and effect.

3. This Amendment No. 4 shall be effective on the date it is signed on behalf of City, as long as it has also been signed on behalf of the Firm.

ALESHIRE & WYNDER, LLP

Dated:_____, 2018 By_____
Joseph W. Pannone
Equity Partner

CITY OF MORRO BAY

Dated:_____, 2018 By_____
Jamie L. Irons,
Mayor

AGENDA NO:	**A-4**
MEETING DATE:	**November 13, 2018**

Council Report

TO: **Honorable City Council** **DATE: November 1, 2018**

FROM: **Jamie L. Irons, Mayor**

SUBJECT: **Adoption of Resolution 88-18 Rescinding Resolution No. 62-17 and Committing to Update the City's General Plan and Local Coastal Plan by Summer of 2019**

RECOMMENDATION

Council adopt Resolution No. 88-18, rescinding Resolution No. 62-17 to commit to updating the City's General Plan and Local Coastal Plan by Summer of 2019.

ALTERNATIVES

None

FISCAL IMPACT

None

BACKGROUND/DISCUSSION

The City of Morro Bay's General Plan/Local Coastal Program are the blueprint for planning the City's future. The current General Plan (GP) was certified in 1988 and the Local Coastal Plan (LCP) in 1982. Both documents are out of date considering that long-range plans generally look no more than 20 or 30 years into the future.

The City updated both plans in 2004 after seven years of public workshops and hearings. The adopted plans were submitted to the California Coastal Commission (CCC) for certification in February of that year. Due to lack of activity, the City was notified by CCC its application for certification was deemed withdrawn.

In April 2013, the City adopted a goal of updating the GP/LCP and passed Resolutions 18-15 and 62-17 in support of that goal. A citizens' advisory board, General Plan Advisory Committee, was formed to work with a consultant to update both plans as well as the City's zoning code. GPAC has met 32 times and the City has conducted three public workshops to gather and organize input to the plans. Draft sections of the plans have been reviewed numerous times by the Planning Commission, Harbor Advisory Board, Public Works Advisory Board and Recreation and Parks Commission, as well as several joint meetings of Council and Planning Commission.

CONCLUSION

Draft forms of the Plan updates have been submitted to Coastal Commission staff for review and City staff has informed the Council the final review process is likely to take more time than originally thought. That being the case, I recommend Council rescind the previous Resolution No. 62-17 that established a completion date of September 2018 and adopt Resolution No. 88-18 establishing a new completion date of Summer 2019.

ATTACHMENTS

1. Proposed Resolution No. 88-18
2. Staff report from December 12, 2017 Council Meeting and Resolution 62-17
3. Staff report from April 14, 2015 Council Meeting and Resolution No. 18-15

RESOLUTION NO. 88-18

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
COMMITTING TO UPDATING THE CITY'S GENERAL PLAN
AND LOCAL COASTAL PLAN BY SUMMER 2019**

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

WHEREAS, the General Plan (GP) and Local Coastal Plan (LCP) are the blueprints for the City; they serve as the foundation for planning Morro Bay's future and are the basis for the preparation of measures and the initiation of actions, which guide proper development of the City; and

WHEREAS, the City's current GP was certified in 1988, and the City's current LCP was certified in 1982, both documents are sorely overdue for an update; and

WHEREAS, in 1997 the City embarked on updating both plans over the course of seven years, and on February 23, 2004, adopted an updated GP/LCP that was submitted to the California Coastal Commission (CCC) for their review and certification; and

WHEREAS, in 2008 a City Assessment performed by Management Partners made the number one recommendation to lobby the CCC for an expeditious approval of the City's GP/LCP, suggesting the City explain its grave financial position to the CCC and the need for certainty surrounding land use issues in order to attract investment to the community; and

WHEREAS, on February 28, 2011, the City received a letter from the CCC stating the City's 2004 GP/LCP application for certification was deemed withdrawn for lack of activity; and

WHEREAS, on April 23, 2013, City Council adopted a goal to update the City's GP/LCP; and

WHEREAS, on November 21, 2013, the City was awarded a $250,000 grant from the Ocean Protection Council, and a $147,000 grant from the CCC to assist with the necessary updates to the GP/LCP; and

WHEREAS, on February 24, 2015, the City Council reaffirmed the goal to update the City's GP/LCP including development and implementation of neighborhood design guidelines, by December 2017; and

WHEREAS, on March 24, 2015 a joint meeting between the City Council and Planning Commission reviewed the draft work plan performed by PMC Consulting to update the GP/LCP, with an estimated cost to complete the update of between $806,250 and $1,590,800; and

WHEREAS, the work plan identifies Neighborhood Compatibility as a key issue in Morro Bay and calls for the formation of a citizens advisory committee to play a key role in the GP/LCP update including the development of Neighborhood Compatibility Standards; and

WHEREAS, the City Council established the General Plan Advisory Committee (GPAC) to participate in the update to the GP/LCP; and

WHEREAS, the work plan lays out a timeline, cost, and the necessary steps to update the City's GP/LCP and it informs the public and City Council of the commitment required to achieve an updated GP/LCP; and

WHEREAS, the City Council adopted Resolution No. 18-15 on April 14, 2015, committing to update and adopt the GP/LCP by December 2017 committing a minimum of $806,250, through all sources, including grants; and

WHEREAS, in 2016, the City was awarded a $200,000 grant from the round three California Coastal Commission Local Coastal Program update grant program; and

WHEREAS, the City Council on April 11, 2017 allocated additional funds in the amount of $29,340 to add twelve additional GPAC meetings and six Planning Commission and/or City Council meetings necessary to complete the GP/LCP update; and

WHEREAS, the City Council commits to working collaboratively with the CCC and all agencies to accomplish the update of the GP/LCP; and

WHEREAS, the City Council recognizes additional time has been required beyond the committed December 2017 deadline to update the GP/LCP set by Resolution No. 18-15 and committed September 2018 deadline set by Resolution No. 62-17; and

WHEREAS, the City Council understands the negative effects an outdated GP/LCP has on the City and a new updated GP/LCP would address continued concerns regarding maintaining and improving the quality of life of residents and visitors for the future.

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

SECTION 1: Rescinds Resolution No. 62-17.

SECTION 2: Affirms its desire to commit adequate resources to achieve meeting the City's goal of updating the City's General Plan and Local Coastal Plan by Summer of 2019.

SECTION 3: Recognizes the GP/LCP update is the single most important planning priority for the City.

SECTION 4: Directs staff to provide monthly progress updates to Council at regular City Council meetings until the completed updated GP/LCP is adopted in Summer of 2019.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13th day of November 2018 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

_____
DANA SWANSON, City Clerk

AGENDA NO: A-6

MEETING DATE: December 12, 2017

Council Report

TO: **City Council** **DATE: November 29, 2017**

FROM: **Jamie L. Irons, Mayor**

SUBJECT: **Adoption of Resolution No. 62-17 Rescinding Resolution No. 18-15 and Committing to Update the City's General Plan and Local Coastal Plan by September 2018**

RECOMMENDATION
Council adopt Resolution No. 62-17, rescinding Resolution No. 18-15 and committing to update the City's General Plan and Local Coastal Plan by September 2018.

ALTERNATIVES
None

FISCAL IMPACT
None

BACKGROUND/DISCUSSION
On April 14, 2015, at a regular City Council meeting, the Council adopted Resolution No. 18-15, committing to update the City's General Plan and Local Coastal Plan (GP/LCP) by December 2017. Recognizing this commitment, on April 11, 2017, the Council allocated additional funds in the amount of $29,340 to add twelve additional General Plan Advisory Committee meetings and up to six Planning Commission and/or City Council meetings with the understanding this additional commitment in time and funds will extend the timeline to update our GP/LCP beyond the December 2017 deadline. By adopting Resolution No. 62-17, the Council will honor its commitment to update the City's GP/LCP and set a new completion date of September 2018.

CONCLUSION
Recommend adoption of Resolution No. 62-17.

ATTACHMENTS
1. Proposed Resolution No. 62-17
2. Staff report from the April 14, 2015 Council Meeting
3. Resolution No. 18-15

Prepared By: ___JLIrons___ **Dept Review:_____**

City Manager Review: ___SJC_____ **City Attorney Review: _____**

RESOLUTION NO. 62-17

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
COMMITTING TO UPDATING THE CITY'S GENERAL PLAN AND
LOCAL COASTAL PLAN BY SEPTEMBER 2018**

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

WHEREAS, the General Plan (GP) and Local Coastal Plan (LCP) are the blueprints for the City, they serve as the foundation for planning Morro Bay's future, they are the basis for the preparation of measures and the initiation of actions which guide proper development of the City; and

WHEREAS, the City's current GP was certified in 1988, and the City's current LCP was certified in 1982, both documents are sorely overdue for an update; and

WHEREAS, in 1997 the City embarked on updating both plans over the course of seven years, and on February 23, 2004 adopted an updated GP/LCP that was submitted to the California Coastal Commission (CCC) for their review and certification; and

WHEREAS, in 2008 a City Assessment performed by Management Partners made the number one recommendation to lobby the CCC for an expeditious approval of the City's GP/LCP, suggesting the City explain its grave financial position to the CCC and the need for certainty surrounding land use issues in order to attract investment to the community; and

WHEREAS, on February 28, 2011, the City received a letter from the CCC stating the City's 2004 GP/LCP application for certification was deemed withdrawn for lack of activity; and

WHEREAS, on April 23, 2013, City Council adopted a goal to update the City's GP/LCP; and

WHEREAS, on November 21, 2013, the City was awarded a $250,000 grant from the Ocean Protection Council, and a $147,000 grant from the CCC; and

WHEREAS, on February 24, 2015, the City Council reaffirmed the goal to update the City's GP/LCP including development and implementation of neighborhood design guidelines, by December 2017; and

WHEREAS, on March 24, 2015 a joint meeting between the City Council and Planning Commission reviewed the draft work plan performed by PMC Consulting to update the GP/LCP, with an estimated cost to complete the update of between $806,250 and $1,590,800; and

WHEREAS, the work plan identifies Neighborhood Compatibility as a key issue in Morro Bay and calls for the formation of a citizens advisory committee to play a key role in the GP/LCP update including the development of Neighborhood Compatibility Standards; and

WHEREAS, the work plan lays out a timeline, cost, and the necessary steps to update the City's GP/LCP and it informs the public and City Council of the commitment required to achieve an updated GP/LCP; and

WHEREAS, the City Council adopted Resolution No. 18-15 on April 14, 2015, committing to update and adopt the GP/LCP by December 2017 committing a minimum of $806,250, through all sources, including grants; and

WHEREAS, in 2016, the City was awarded a $200,000 grant from the round three California Coastal Commission Local Coastal Program update grant program; and

WHEREAS, the City Council on April 11, 2017 allocated additional funds in the amount of $29,340 to add twelve additional General Plan Advisory Committee (GPAC) meetings and six Planning Commission and/or City Council meetings necessary to complete the GP/LCP update; and

WHEREAS, the City Council recognizes additional time will be required beyond the committed December 2017 deadline to update the GP/LCP set by Resolution No. 18-15 and the GP/LCP update is anticipated to be complete by September 2018; and

WHEREAS, the City Council commits to working collaboratively with the CCC and all agencies to accomplish the update of the GP/LCP; and

WHEREAS, the City Council understands the negative effects an outdated GP/LCP has on the City and a new updated GP/LCP would address continued concerns regarding maintaining and improving the quality of life of residents and visitors for the future.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City Morro Bay hereby rescinds Resolution No. 18-15 and affirms its desire to commit adequate resources to achieve meeting the City's goal of updating the City's General Plan and Local Coastal Plan by September 2018.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, at a regular City Council meeting thereof held on the 12th day of December 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

_____
DANA SWANSON, City Clerk

AGENDA NO: D-1

MEETING DATE: April 14, 2015

Council Report

TO: **City Council** **DATE: April 10, 2015**

FROM: **Jamie L. Irons, Mayor**

SUBJECT: **Council Consideration of Citizen Request for a 45 day Building Moratorium and Council Consideration of other actions related to Neighborhood Compatibility**

RECOMMENDATION

Deny the request for a building moratorium and adopt Resolution No. 18-15 committing to completing the General Plan/Local Coastal Program (GP/LCP) update in three years.

ALTERNATIVES

Direct staff to start the process to enact a 45 day building moratorium.

FISCAL IMPACT

The fiscal impact of a 45-day building moratorium includes the potential loss of development impact and permit fees, loss of sales tax due to reduced or no building, and the loss of incidental spending from the loss of building in the City.

BACKGROUND/DISCUSSION

Discuss citizen request to consider a 45 day building moratorium on new building permits. The consideration was presented due to the concern of the Neighborhood Compatibility Coalition (NECCO) over the development of homes larger in size, bulk, and scale, than the surrounding homes in the neighborhood and their desire to protect views. Also, discuss current status of interim design guidelines, status of GP/LCP update and RFP, Neighborhood Compatibility City Goal and consider adopting Resolution No. 18-15.

On March 25, a community meeting was held at the Community Center organized by a citizen group called Neighborhood Compatibility Coalition (NECCO). The discussion was centered around neighborhood compatibility, design guidelines, and view protection. At the conclusion of the meeting the question was asked if a building moratorium should be enacted until design guidelines could be implemented. The response from the 80 some people in attendance was overwhelmingly in support of a moratorium. Following the meeting, one of the organizers, KC Caldwell, sent an email to the Mayor and City Council with the request to

Prepared By: ___JI_____

City Manager Review: _____

City Attorney Review: _____

place an urgency item on the April 14th City Council agenda. The same request was followed by many others who attended the meeting expressing the need for urgency in this matter.

Process to enact a 45 day urgency ordinance

In order to implement a 45-day moratorium on development, the City Council must adopt an urgency ordinance outlining the reasons for the moratorium and defining which types of development applications are subject to the moratorium. Pursuant to California Government Code Section 65858, the City Council may, in order to protect public safety, health and welfare, adopt an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, Planning Commission or planning department is considering or studying, or intends to study within a reasonable time. Legislative findings are required to be made that there is a current and immediate threat to the public health, safety and welfare. A four-fifths vote of the Council is necessary and the interim ordinance may be in effect for 45 days. The legislative body may, after proper notice and public hearing, extend the interim ordinance for a 10 month and 15 day period, and extend again with proper notice and a public hearing for another one year period (also requires a four-fifths vote), for a total of two years. The findings that are necessary in support of a moratorium must relate to specific, adverse impacts to health, and safety, and the absence of a feasible alternative.

Council Policies and Procedures 1.2.2;

Pursuant to Policy 1.2., the Mayor is responsible for establishing the agenda and may place an item on the agenda without Council support. In such situation, the Mayor, or Council Member who the Mayor is accommodating, shall be responsible for providing a Mayor or Council report. (Reso. 11-11)

Additionally, an individual Council Member may place an urgency item on an agenda with a minimum of 72 hours legal notice and a memorandum from the Council Member to the Council and Staff setting forth the substantive issues of the item. For the purposes of this paragraph, urgency shall arise in those limited situations where an item requires immediate action, and the need to take immediate action came to the attention of the Council Member subsequent to the distribution of the agenda.

Initially, upon receipt of the request to agendize this matter, I suggested NECCO could speak at public comment and Council as a whole could discuss whether or not it should be agendized. I did not receive a request to agendize this matter from any other Council Member. However, in preparation for making comments on this topic I decided it was appropriate to agendize it because the issue is intertwined with several other topics currently being addressed by this Council.

History and understanding of neighborhood compatibility and the City's planning documents.

Neighborhood compatibility and neighborhood character have been discussed for some time in the City of Morro Bay and there have been more meetings and discussions around this topic than outlined in this report. Our General Plan, Local Coastal Plan, and Zoning Ordinance have language and policy that outlines ***Protection of visual resource and compatible design,***

and Protection of Neighborhood Character. As a City, we have experienced much debate about how some residential projects have met the criteria of our policy documents and ordinance. The most recent significant project appealed to City Council was 1000 Ridgeway which the City Council ultimately upheld the appeal and denied the project. In addition to denying the project, Council directed Planning staff to develop interim design guidelines with stronger and clearer language for applicants and the community. The request for interim design guidelines was to address conflicting interpretation of our policy documents for the near term with the understanding that the long term fix would take place during our GP/LCP update that has been initiated and will go out for RFP shortly.

To date there have been five public meetings at Planning Commission and the interim design guidelines are slated to come to Council for adoption in the near future. It is fair to say various projects in Morro Bay over the years have been met with conflicting interpretation of the City's policy on neighborhood character. This conflict has made it difficult for staff, applicants, and our residents.

The following is a brief summary of the City's existing documents that address Neighborhood Compatibility, views, and a brief history of the City's planning documents, including our General Plan and Local Coastal Plan update that took place from 1997 to 2004 (**Attachment 1 includes timeline and correspondence)**. That update was adopted by City Council in 2004 but failed to get certified by the California Coastal Commission (CCC). This is an important and timely discussion considering the City will be embarking on updating our GP/LCP once again.

The City of Morro Bay has three development documents: a General Plan, Local Coastal Plan and Zoning Ordinances. The GP and LCP are the blueprints to the City. They are the vision that shapes the future of how we grow. The zoning ordinances are tools for implementing these two documents. The GP/LCP has chapters or elements that are specific such as Land Use, Circulation, Housing Element, Visual Recourses, etc. Within those chapters are policy statements that are directives in how we implement the GP and LCP. In addition, as required by State law, the Housing Element in our General Plan is required to be updated every five years, and includes neighborhood compatibility language and programs.

In October of 1982, the CCC certified the City of Morro Bay's Local Coastal Plan. A Local Coastal Program is a local government's land use plan, zoning ordinances, zoning district maps, and implementing actions which, when taken together, meet the requirements of and implement the provisions of the Coastal Act at the local level. Our LCP has thirteen parts.

Chapter XIII. of our LCP pertains to Visual Recourses. Section 6. of chapter XIII outlines <u>Protection of Neighborhood Character</u>. It states, "***One of the priorities of the Coastal Act is the protection of the character of the community and its neighborhoods. Morro Bay recognizes the need to preserve the unique character of its varied neighborhoods and to create a higher quality visual environment within them. Among some of the issues that predicate the establishment of policy to preserve neighborhood character are the following".***
Attachment 2 has the entire section and includes the policy statement 12.06.

In 1988, the City of Morro Bay's General Plan was adopted. State law requires that each city prepare and adopt a comprehensive, long-term General Plan for the physical development of the city. The plan must also include any area outside of the community which in the City's judgment bears a relation to its planning. The General Plan must be internally consistent and it must contain implementation measures to ensure its compliance. Our GP has eight Elements.

Our GP element IV Visual Resources and Scenic Highway Element outlines Protection of Neighborhood Character which is identical in language and policy as our LCP **(Attachment 3*)***. Our GP has a Housing Element that also has language and programs that address Neighborhood Compatibility. A Housing Element is required by California law to establish policies and programs that will support the provision of an adequate housing supply for citizens of all income levels. The intent of state law is to ensure that all jurisdictions in the state provide adequate housing to all members of the community. Our Housing Element was approved and adopted in June of 2014. **Attachment 4** lists community comments from the adopted Housing Element pertaining to Neighborhood Compatibility and a program with strengthened and revised language committing the City to adopt neighborhood compatibility standards.

The City Council made a strong statement to adopt neighborhood compatibility standards in program H-13.1 of our Housing Element. However, clear guidelines must be adopted as an ordinance for guidelines to be enforceable. The Zoning Ordinance is the tool that implements the GP and LCP. **Attachment 5** explains provisions and titles from our Zoning Ordinance that implement the policies and programs from our GP/LCP.

In 2008, the City contracted with a consultant group, Management Partners to perform a City assessment. The City just now completed another city assessment by the same firm. The Management Partners Report 2008 was presented to City Council in May of 2008. The number 1 recommendation stated: ***Use this report to lobby the Coastal Commission for an expeditious approval of the City's General Plan. The City must explain its grave financial position to the Commission and the need for certainty surrounding land use issues in order to attract investment to the community*** **(Attachment 6).**

In February of 2011, the City received a letter from the CCC stating the 2004 Application to Certify the City's GP/LCP was deemed withdrawn for lack of activity (**Attachment 7**). Eleven years after the GP/LCP was approved and adopted by City Council we are faced with undertaking this process all over again at an estimated cost of $800,000 to $1,000,000. The 2004 GP/LCP also included neighborhood compatibility titled ***Residential areas consistent with the city's character*** (**Attachment 8**).

CONCLUSION

My recommendation is to deny the request for a 45 day building moratorium and instead, stay the course on development of interim guidelines and updating and certifying the City's GP/LCP. Adopt Resolution No. 18-15 committing to completing the GP/LCP update in three years. While the lack of clear neighborhood compatibility guidelines is a concern, Council has recognized that with their request for interim design guidelines and setting a goal for

Neighborhood Compatibility Standards. In addition, to adopting Resolution No. 18-15, I recommend that Council gives direction to staff and the Planning Commission that we remain focused on completing on Neighborhood Design Guidelines, that we do not layer this process with Commercial Design guidelines and view protection at this time. I do not believe there is a level of urgency to warrant a building moratorium and the City is currently on course to undertake the development of a new GP/LCP and Design Controls that address Neighborhood Compatibility.

RESOLUTION NO. 18-15

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
COMMITTING TO UPDATING THE CITY'S GENERAL PLAN AND LOCAL
COASTAL PLAN BY DECEMBER 2017**

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

WHEREAS, the General Plan (GP) and Local Coastal Plan (LCP) are the blueprints for the City, they serve as the foundation for planning Morro Bay's future, they are the basis for the preparation of measures and the initiation of actions which guide proper development of the City; and

WHEREAS, the City's current GP was certified in 1988, and the City's current LCP was certified in 1982, both documents are sorely overdue for an update; and

WHEREAS, in 1997 the City embarked on updating both plans over the course of seven years, and on February 23, 2004 adopted an updated GP/LCP that was submitted to the California Coastal Commission (CCC) for their review and certification; and

WHEREAS, in 2008 a City Assessment performed by Management Partners made the number one recommendation to lobby the CCC for an expeditious approval of the City's GP/LCP, suggesting the City explain its grave financial position to the CCC and the need for certainty surrounding land use issues in order to attract investment to the community; and

WHEREAS, on February 28, 2011, the City received a letter from the CCC stating the City's 2004 GP/LCP application for certification was deemed withdrawn for lack of activity; and

WHEREAS, on April 23, 2013, City Council adopted a goal to update the City's GP/LCP; and

WHEREAS, on November 21, 2013, the City was awarded a $250,000 grant from the Ocean Protection Council, and a $147,000 grant from the CCC; and

WHEREAS, on February 24, 2015, the City Council reaffirmed the goal to update the City's GP/LCP including development and implementation of neighborhood design guidelines, by December 2017; and

WHEREAS, on March 24, 2015 a joint meeting between the City Council and Planning Commission reviewed the draft work plan performed by PMC consulting to update the GP/LCP, with an estimated cost to complete the update of between $806,250 and $1,590,800; and

WHEREAS, the work plan identifies Neighborhood Compatibility as a key issue in Morro Bay and calls for the formation of a citizens advisory committee to play a key role in the GP/LCP update including the development of Neighborhood Compatibility Standards; and

WHEREAS, the work plan lays out a timeline, cost, and the necessary steps to update the City's GP/LCP and it informs the public and City Council of the commitment required to achieve a updated GP/LCP; and

WHEREAS, the City Council understands in order to meet the City's goal of updating the GP/LCP by December of 2017 it must commit a minimum $806,250, through all sources, including grants; and

WHEREAS, the City Council commits to working collaboratively with the CCC and all agencies to accomplish the update of the GP/LCP; and

WHEREAS, the City Council understands the negative effects an outdated GP/LCP has on the City and a new updated GP/LCP would address continued concerns regarding maintaining and improving the quality of life of residents and visitors for the future.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City Morro Bay affirms its desire to commit adequate resources to achieve meeting the City's goal of updating the City's General Plan and Local Coastal Plan by December 2017.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, at a regular city council meeting thereof held on the 14th day of April 2015, by the following vote:

AYES:
NOES:
ABSENT:

_____
JAMIE L. IRONS, Mayor

_____
DANA SWANSON, City Clerk

AGENDA NO:	**A-5**
MEETING DATE:	**November 13, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 29, 2018**

FROM: **Dana Swanson, City Clerk**

SUBJECT: **Approval of Citizens Finance Advisory Committee and Public Works Advisory Board Member's Request for an Excused Absence**

RECOMMENDATION

Staff recommends the City Council consider the request submitted by Citizens Finance Advisory Committee (CFAC) and Public Works Advisory Board (PWAB) Member, John Erwin, to excuse his absence from regular meetings through January 2019 to attend FEMA Training and during his 90-day deployment to North Carolina.

ALTERNATIVES

The Council may choose not to excuse Mr. Erwin's absence and direct staff to begin recruitment to fill the resulting vacancies.

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 CFAC and PWAB member, John Erwin, for excused absences from regular meetings during FEMA training and deployment, which is anticipated to continue through January 2019. Mr. Erwin's term on the CFAC ends January 31, 2019 and his term on the PWAB ends January 31, 2021. The City will conduct a recruitment in late November – December to fill upcoming vacancies on all advisory boards (including Mr. Erwin's term on the CFAC) for positions with a term ending January 31, 2019. Should the Council approve Mr. Erwin's request, his term on the PWAB will continue through 2021.

CONCLUSION

In accordance with established policy, staff recommends the Council approve Mr. Erwin's request for an excused absence from regular meetings through January 2019.

ATTACHMENTS

1. Request for Excused Absence submitted by Mr. Erwin
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: Jennifer Callaway
Sent: Wednesday, October 17, 2018 9:39 AM
To: Dana Swanson
Cc: Rob Livick
Subject: FW: FEMA Deployment

FYI

-----Original Message-----
From: Barbara Spagnola
Sent: Tuesday, October 16, 2018 7:04 PM
To: John Erwin <jerwin@morrobayca.gov>; Ric Deschler <rdeschler@morrobayca.gov>
Cc: Jennifer Callaway <jcallaway@morrobayca.gov>; Rob Livick <rlivick@morrobayca.gov>
Subject: Re: FEMA Deployment

Thanks John for the advance notice and for your service. Safe travels !

Jen, can you please request City Council excuse John Erwin's absence from the CFAC and Public Works Advisory Committees (assuming Ric agrees) for now through January 2019 ? Thank you.

Barbara Spagnola, Chair
Citizens Finance Advisory Committee

On 10/16/18, 3:31 PM, "John Erwin" <jerwin@morrobayca.gov> wrote:

Barbara and Ric, I'm deploying for two week FEMA Training and then for 90 days to North Carolina. I expect to be back by the end of January

Sent from my iPad

AGENDA NO: A-6

MEETING DATE: November 13, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 1, 2018**

FROM: **Rob Livick, PE/PLS – Public Works Director/City Engineer**
Pamela Newman, Assistant Engineer

SUBJECT: **Approval of Amendment No. 2 to Pavement Management Project Contract No. MB-2017-ST01 for FY2018/2019 Pavement Management Project**

RECOMMENDATION

Staff recommends the City Council:

1. Approve Amendment No. 2, in the amount of $701,259.44, as an additional option period to the City Council awarded Indefinite Delivery, Indefinite Quantity (IDIQ) contract to Pavement Coatings Co and one or more work orders not exceeding that aggregate amount, plus the contingency described in 2., below; and
2. Authorize a 5-percent contingency for the project in the amount of $35,063 to be used to account for differences in material quantities; and
3. Authorize the Public Works Director to execute Amendment No. 2.

ALTERNATIVES

Reject Amendment 2 and direct staff to rebid the Pavement Management Project.

FISCAL IMPACT

The Council approved FY2018/2019 budget for this project was estimated at $728,672 and is currently funded with revenues generated by the City's Measure Q sales tax, which accounts for $501,687; the SB1-RMRA fund, which accounts for $191,000; and the CalRecycle Grant program remaining from last year's unused portion at $35,984.55. The CalRecycle Grant amount is based on the quantity of cape seal that is performed. Additionally, the City has Local Transportation Funds (LTF) exceeding the amount required to operate the transit system in the amount of $73,292. In addition to transit services, the LTF can only be used for street and road maintenance. The total funding available for FY 2018/2019 Pavement Management is $801,936.55 The total estimated project costs from Pavement Coatings is $701,259.44. An estimated 5-percent contingency for the project in the amount of $35,063 will be used to account for differences between contractor estimate in quantities and material quantities actually placed.

In addition to the construction cost, staff will be awarding a "time and materials" consultant

Prepared By:___pn_____	Department Review: __RL_____
City Attorney Review:_____	City Manager Review: __JWP____

contract in the amount not to exceed $44,726.00 for inspection and resident engineering services for oversight of this project.

That results in a total FY 2018/2019 Pavement Management Project cost of $781,048.44 and a balance of $20,888.11 to be carried over or allocated at mid-year.

BACKGROUND/ DISCUSSION

In November 2016, the City entered into a two-year IDIQ contract with Pavement Coatings Company (Contractor) for two years with a not to exceed cost, for the first year of this IDIQ contract, of $971,574.60. The Contractor successfully completed the work required per that contract. The contract allowed the City to extend it for two additional two-year terms with Council approval up to a total aggregate of $6,000,000. That contract was amended by Amendment No. 1 in October 2017 to provide labor and materials necessary to complete slurry and sealing, chip/cape sealing, and micro/macro- surfacing of 7 centerline miles of road work or approximately 13 percent of the City's streets for $808,395.31

City staff has continued to identify the streets that would best benefit from the pavement preservation techniques (slurry and sealing, chip/cape sealing, and micro/macro-surfacing) that are included in the current Indefinite Delivery, Indefinite Quantity (IDIQ) contract with the Contractor.

This current project, Amendment No. 2, is the final amendment to the 2016 IDIQ contract. This amendment entails furnishing and supplying labor, materials, tools, equipment, transportation, and services necessary to complete the work anticipated by Amendment No. 2 to the subject IDIQ contract. That work would include treatment of existing pavement with slurry and sealing, chip/cape sealing, and micro/macro-surfacing of 5 centerline miles of road work or approximately 10-percent of the City's streets.

All work performed will be conducted in conformance to applicable federal, state, and local safety regulations. Payment will be made in accordance with Caltrans Payment specifications using actual field quantities. Unit prices for this delivery order is based on the unit prices established by the initial bid and adjusted as allowed by the contract. This work in this Amendment No.2 shall be completed within ninety (90) calendar days after issuance of the "Notice to Proceed," although the majority of the work will conclude within two weeks of commencement.

CONCLUSION

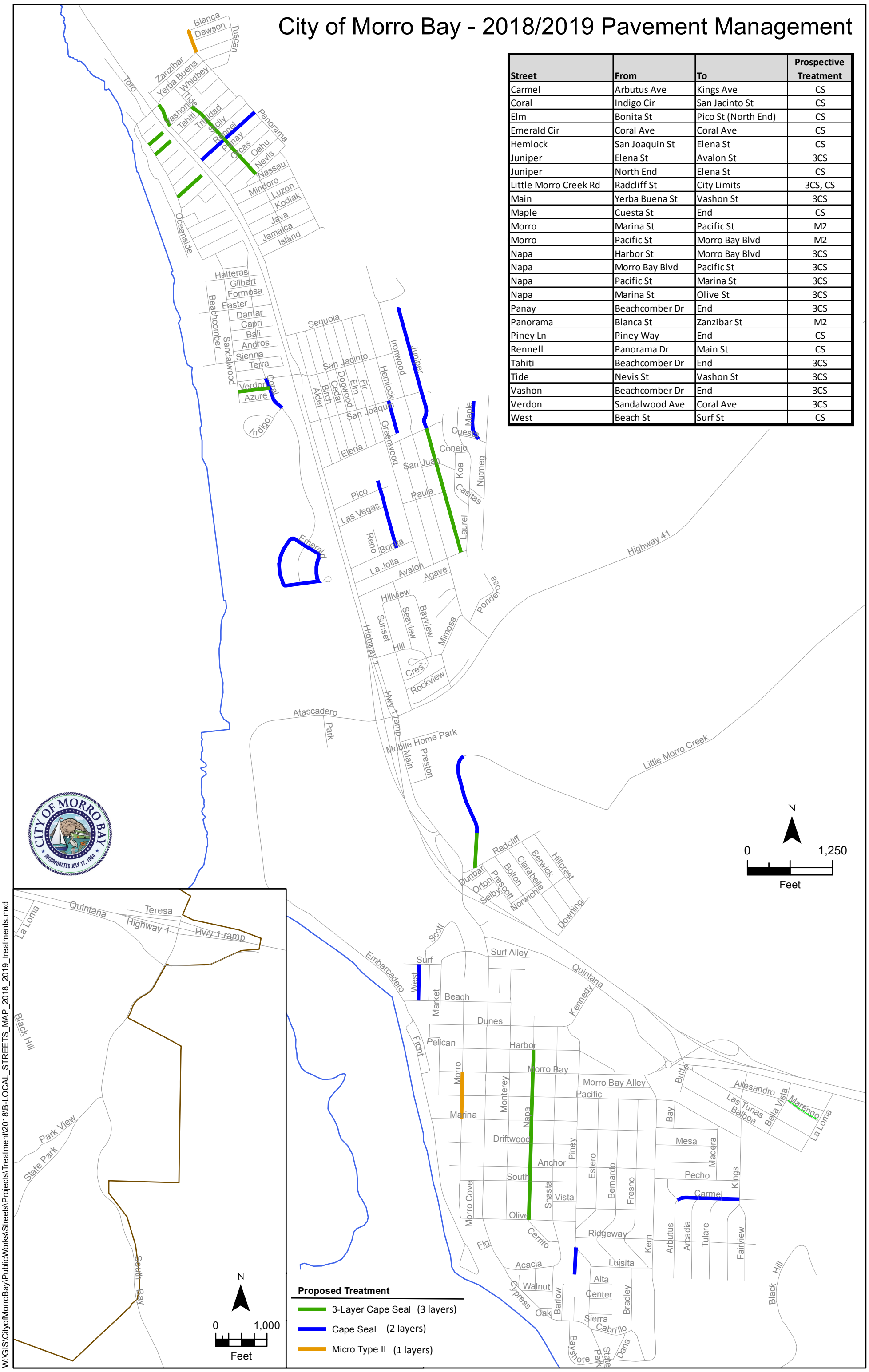
Staff recommends the City Council authorize, subject to approval as to form by the City Attorney, Amendment No. 2 in the amount of $701,259.44 to Pavement Coatings Co. as an addition to the Multi-Year IDIQ contract and additionally authorize a 5-percent contingency for the project in the amount of $35,063 to be used to account for differences in material quantities.

ATTACHMENT

1. List of Streets included as part of Amendment No. 2, and recommended surface treatment.
2. Proposal from Pavement Coatings.

City of Morro Bay - 2018/2019 Pavement Management

Street	From	To	Prospective Treatment
Carmel	Arbutus Ave	Kings Ave	CS
Coral	Indigo Cir	San Jacinto St	CS
Elm	Bonita St	Pico St (North End)	CS
Emerald Cir	Coral Ave	Coral Ave	CS
Hemlock	San Joaquin St	Elena St	CS
Juniper	Elena St	Avalon St	3CS
Juniper	North End	Elena St	CS
Little Morro Creek Rd	Radcliff St	City Limits	3CS, CS
Main	Yerba Buena St	Vashon St	3CS
Maple	Cuesta St	End	CS
Morro	Marina St	Pacific St	M2
Morro	Pacific St	Morro Bay Blvd	M2
Napa	Harbor St	Morro Bay Blvd	3CS
Napa	Morro Bay Blvd	Pacific St	3CS
Napa	Pacific St	Marina St	3CS
Napa	Marina St	Olive St	3CS
Panay	Beachcomber Dr	End	3CS
Panorama	Blanca St	Zanzibar St	M2
Piney Ln	Piney Way	End	CS
Rennell	Panorama Dr	Main St	CS
Tahiti	Beachcomber Dr	End	3CS
Tide	Nevis St	Vashon St	3CS
Vashon	Beachcomber Dr	End	3CS
Verdon	Sandalwood Ave	Coral Ave	3CS
West	Beach St	Surf St	CS



W:\GIS\CityofMorroBay\PublicWorks\Streets\Projects\Treatment\2018\B-LOCAL_STREETS_MAP_2018_2019_treatments.mxd

ATTN: Pamela Newman
Dept. of Public Works
City of Morro Bay
955 Shasta Ave
Morro Bay, CA 93422

November 2nd, 2018

RE: Proposal for:
City of Morro Bay 2018/2019 Street Preservation Project
Contract No MB2018-ST04

Ms. Newman,

Pavement Coatings Co. (Contractor) will be performing work under contract with the **City of Morro Bay** (Owner) for the **2018/2019 Street Preservation Project** (Contract No MB2018-ST04) based on the mutually agreed upon quantities (attached) and in accordance with the Project Specifications and Contract Documents.

It is our (Pavement Coatings Co.) intent to perform and complete this work prior to the end of the 2018 construction season barring inclement weather or circumstances that may prevent the performance of the work in accordance with the Project Specifications and Contract Documents that are beyond our control.

We look forward to working with the City of Morro Bay.

Regards,

Dillon Pile, Project Manager

10240 San Sevaine Way, Jurupa Valley, CA 91752
Phone: 916.642.1751 Fax: 916.313.3438
CA Contractors License 303609
NV Contractors License 79452 A

City of
Morro Bay

Public Works

Application for Progress Payment

Contract Name: 2018/2019 Street Preservation Project
Contract No: MB2018-ST04
Progress Payment No: 1
Payment Date: XXXX XX, 2018

Send Payment to:

Pavement Coatings Co
10240 San Sevaine Way
Jurupa Valley, CA 91752

		Contract Price			Totals to Date		Previous Payments		Pay This Estimate	
No.	Description	Est. Qty	Unit Price	Price	Completed	$	Completed	$	Completed	$
BID ITEMS										
1	Mobilization, Demobilization and Cleanup (10% or 50k Max., whichever is less)	1 LS	$71,000.00	$71,000.00	0% LS	$0.00	0% LS	$0.00	0% LS	$0.00
2	Traffic Control Plan (3% or 20k Max., whichever is less)	1 LS	$21,000.00	$21,000.00	0% LS	$0.00	0% LS	$0.00	0% LS	$0.00
3*	Pulverizing (Mill) & Compact	0 SF	$1.30	$0.00						
4*	Cement Soil Stabilization (2%) (Min. 30,000 SF Surface Area)	0 TN	$163.00	$0.00						
5	Asphalt Rubber Binder Chip Seal	60,793 SY	$5.98	$363,542.14	0 SY	$0.00	0 SY	$0.00	0 SY	$0.00
6	Microsurface (Type II)	599 TN	$247.00	$147,953.00	0 TN	$0.00	0 TN	$0.00	0 TN	$0.00
7	Microsurface (Type III)	359 TN	$234.00	$84,006.00	0 TN	$0.00	0 TN	$0.00	0 TN	$0.00
8	Fiberized Microsurface (Type III)	0 TN	$240.00	$0.00	0 TN	$0.00	0 TN	$0.00	0 TN	$0.00
9	Install Blue RPM	52 EA	$11.50	$598.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
10	Stripe 6" White Dashed Line	0 LF	$2.00	$0.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
11	Thermoplastic 12" White Stripe	720 LF	$3.15	$2,268.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
12	Thermoplastic 12" Yellow Stripe	0 LF	$3.15	$0.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
13	Thermoplastic Stripe Detail 1	EA	$0.50	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
14	Thermoplastic Stripe Detail 21	1,430 LF	$1.16	$1,658.80	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
15	Thermoplastic Stripe Detail 22	145 LF	$1.60	$232.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
16	Thermoplastic Stripe Detail 38A	0 LF	$1.60	$0.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
17	Thermoplastic Stripe Detail 38B	0 LF	$2.10	$0.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
18	Thermoplastic Stripe Detail 39	1,020 LF	$1.05	$1,071.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
19	Thermoplastic Stripe Detail 39A	580 LF	$1.05	$609.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
20	Thermoplastic Legend - "STOP"	21 EA	$115.00	$2,415.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
21	Thermoplastic Legend - "AHEAD"	0 EA	$140.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
22	Thermoplastic Legend - "DIP"	0 EA	$100.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
23	Thermoplastic Legend - "XING"	0 EA	$100.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
24	Thermoplastic Legend - "SCHOOL"	0 EA	$160.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
25	Thermoplastic Legend - "25"	0 EA	$100.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
26	Thermoplastic Legend - "SLOW"	0 EA	$130.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
27	Thermoplastic Legend - Parking "+" or "L"	0 EA	$25.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
28	Thermoplastic Arrow - Type I 10'-0"	0 EA	$100.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
29	Thermoplastic Arrow - Type IV	0 EA	$100.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
30	Thermoplastic Arrow - Type VII	0 EA	$100.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
31	Traffic Paint Legend - Bicycle w/ Arrow	2 EA	$70.00	$140.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
32	Green Pavement Marking (Bike Lane)	0 SF	$2.50	$0.00	0 SF	$0.00	0 SF	$0.00	0 SF	$0.00
33	ADA Street Pavement Marking	0 EA	$100.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
34	International Crosswalk (2' x 11')	0 EA	$60.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00

City of
Morro Bay

Public Works

Application for Progress Payment

Contract Name: 2018/2019 Street Preservation Project
Contract No: MB2018-ST04
Progress Payment No: 1
Payment Date: XXXX XX, 2018

Send Payment to:

Pavement Coatings Co
10240 San Sevaine Way
Jurupa Valley, CA 91752

		Contract Price			Totals to Date		Previous Payments		Pay This Estimate	
No.	Description	Est. Qty	Unit Price	Price	Completed	$	Completed	$	Completed	$
BID ITEMS										
35	6" Buffer Striping (Bike Lane & Parking Buffer)	1,130 LF	$1.05	$1,186.50	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
36*	Thermoplastic Stripe Detail 2	0 LF	$0.60	$0.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
37*	Thermoplastic Legend - "PED"	0 EA	$110.00	$0.00	0 EA	$0.00	0 EA	$0.00	0 EA	$0.00
37*	Traffic Paint - Angled Parking Stalls	0 EA	$25.00	$0.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
39*	Traffic Paint - ADA Angled Parking	0 EA	$55.00	$0.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
40	Thermoplastic Stripe Detail 4	420 LF	$2.50	$1,050.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
41	Traffic Paint Shared Lane Chevron 9C-9	23 EA	$110.00	$2,530.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
42	Thermoplastic Legend - "Yield"	1 EA	$115.00	$115.00	0 LF	$0.00	0 LF	$0.00	0 LF	$0.00
Bid Item Totals				**$701,259.44**		**$0.00**		**$0.00**		**$0.00**
CONTRACT CHANGE ORDERS										
			$0.00	$0.00	0 SF	$0.00	0 SF	$0.00	0 SF	$0.00
Contract Change Order Totals				**$0.00**		**$0.00**		**$0.00**		**$0.00**
EARNED TO DATE				**$701,259.44**		**$0.00**		**$0.00**		**$0.00**
				LESS: **5% RETENTION**		$0.00		$0.00		$0.00
				PAYMENT TOTALS		$0.00		$0.00		$0.00

Contractor, Pavement Coatings Co — Date

Project Manager, City of Morro Bay — Date

Sr. Civil Engineer, City of Morro Bay — Date

Public Works Director, City of Morro Bay — Date

PAYMENT THIS APPLICATION **$0.00**

Contract Time

Contract Start Date:	11/14/2018
Original Contract Days:	90
Adjusted Contract Days:	0
Adjusted Contract End Date:	2/11/2019

City of
Morro Bay

Public Works

Application for Progress Payment

Contract Name: 2018/2019 Street Preservation Project
Contract No: MB2018-ST04
Progress Payment No: 1
Payment Date: XXXX XX, 2018

Send Payment to:

Pavement Coatings Co
10240 San Sevaine Way
Jurupa Valley, CA 91752

		Contract Price			Totals to Date		Previous Payments		Pay This Estimate	
No.	*Description*	*Est. Qty*	*Unit Price*	*Price*	*Completed*	*$*	*Completed*	*$*	*Completed*	*$*
BID ITEMS										

PAY THIS AMOUNT **$0.00**

This Page Intentionally Left Blank

AGENDA NO:	**A-7**
MEETING DATE:	**November 13, 2018**

RESOLUTION NO. 90-18

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA AMENDING RESOLUTION NO. 02-18 ESTABLISHING THE 2018 CITY COUNCIL MEETING CALENDAR

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

WHEREAS, the City Council Policies & Procedures Section 1.1.2.1 establishes the second and fourth Tuesday of each month beginning at 6:00 p.m. as Regular Meetings; and

WHEREAS, for the orderly course of business and to provide transparency and accountability to the public, in January of each year, the City Council adopts an annual calendar establishing a schedule for the development of goals and annual objectives, advisory board work plans, and the annual budget; and

WHEREAS, on January 9, 2018, the City Council adopted Resolution No. 02-18 establishing the 2018 City Council Meeting Calendar, and designating breaks on the fourth Tuesdays in July, November and December; and

WHEREAS, certain actions by the City Council can only occur at Regular Meetings; and

WHEREAS, the City Council has determined there is a need to amend the 2018 Meeting Calendar to reestablish the fourth Tuesday in November as a Regular Meeting date.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, the 2018 City Council Meeting Calendar is hereby amended to establish Tuesday, November 27, 2018 at 6:00 p.m. as a Regular Meeting.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 13th day of November 2018 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

This Page Intentionally Left Blank

AGENDA NO: B-1
MEETING DATE: November 13, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 29, 2018**

FROM: **Nancy Hubbard, Contract Planner**

SUBJECT: **Continuance of Appeal of Planning Commission Approval on August 7, 2018 of the Conditional Use Permit (UP0-470), 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 acres site within the Cloisters Subdivision. NOTE: Through a recent action by the California Coastal Commission, the Applicant is now required to apply for an Immaterial Amendment to the original CDP and as such the City of Morro Bay will void CDP-530.**

RECOMMENDATION

Council adopt Resolution No. 87-18, making the necessary findings to deny the appeal and uphold the Planning Commission (PC) approval of Conditional Use Permit (UP0-470), Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration (MND) for the site at 2783 Coral Ave to allow a 6-parcel subdivision on a .99-acre site within the Cloisters Subdivision (Project).

ALTERNATIVES

Alternative 1. The City Council could move to uphold the appeal and remand the project back to the PC with direction on desired changes.

Alternative 2. The City Council could uphold the appeal and approve the project based on a revision to the plans previously approved by PC.

FISCAL IMPACT

The Project is in the Coastal Appeals Jurisdiction and, therefore, no fee was paid to file an appeal for a land use decision. Cost for staff time necessary to evaluate the appeal, meet with the Appellant, prepare the staff reports, conduct public notification for each hearing and attend Council hearings 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 applicant for a 4-month delay in commencing construction of the Project is unknown currently.

CITY COUNCIL CONTINUANCE

In the September 25, 2018, City Council hearing, the Appellant and members of the public voiced many concerns, but the primary concern appeared to be the Cloister's Architectural Review Committee's (ARC) lack of opportunity to provide review and input on the proposed Vesting Tentative Map plan. City Council voted to continue the hearing to a date certain to allow the Appellant and Applicant the opportunity to meet and discuss the proposed Vesting Tentative Map plans and the proposed home designs.

SUMMARY OF APPEAL CLAIMS

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

The Appellant had 8 primary claims, summarized below.

1. Notification Process. *Staff Response: The notification process used exceeded the legal notification requirements.*

2. Vacation Rental misconception. *Staff Response: The vacation rental policy, as stated in the PC hearing, will apply to the homes in the Cloisters (same as any residential property), but the Cloisters also have their own rental restrictions in the Cloisters' Covenants, Conditions and Restrictions (CC&R's).*

3. Raptor Habitat. *Staff Response: The MND and the supporting studies found the site is not suitable habitat for Raptors; however, the PC conditioned the Project to mitigate that concern by planting replacement trees in an off-site location that provides suitable Raptor habitat that can benefit from expansion.*

4. City's right to sell the subject property and supporting valuation. *Staff Response: This claim relates to a legal process addressed in previous public hearings (2005, 2013 and 2015). The Appellant is welcome to continue to discuss their concerns with the City, but it is a separate legal issue and not related to this Applicant's planning submittal*

5. *Special Lighting and Landscape Assessment District (District). Staff Response: The Applicant has stated the Project is subject to the District and those parcels will be included in future years' assessments. Since the total assessment imposed by the District cannot be increased without approval of all the current property owners in the Cloisters, the current owners' annual assessments will be reduced due to the Project's additional 6 parcels that will be assessed. In addition, those new parcels are conditioned to participate in the District as part of the PC approval.*

6. The ARC did not see or approve plans. *Staff Response: The ARC's lack of opportunity to review and consider this submittal was not due to a failure of the Applicant to follow the prescribed ARC submittal process. Based on instructions from the ARC designated architect representative, the Applicant applied for ARC review and paid the fee for each of the 6 proposed schematic home designs on July 18, 2018. The Cloister ARC's designated representative, Craig Smith (see, Exhibit 2 Declaration establishing Craig Smith as the ARC representative and attorney-in-fact), provided a letter with schematic approval of the conceptual design on July 23, 2018. The Applicant provided a copy of the letter to the City, which is customary, but not a required component for subdivision and planning approval. The ARC did not mention anything about their lack of involvement until 10 days before the PC hearing when the public notification for the hearing was made.*

7. Questions the suitability of a 6-lot subdivision – lots size and compatibility with other Cloisters homes. *Staff Response: The Appellant and the ARC claim the proposed new 6 parcel subdivision is too "different" from the other homes in the Cloisters because it has a*

shared driveway and parking within the shared driveway is limited. However, the proposed new parcels meet the Morro Bay Municipal Code (MBMC) standards for residential lots related to lot size and setbacks in Section 17.24.080, which specifically states the standards residential lots from the California Coastal Commissions original 1992 approval of the subdivision. The ARC is concerned the proposed site layout of the new subdivision does not include parking in the driveways or provide off-street guest parking. However, the MBMC does not mandate single-family residential property include anything other than 2 parking spaces in a covered and enclosed space (i.e. garage). All the homes in this proposal meet that criterion. Additionally, some of the homes have space for parking in their driveways and the design includes 4 additional parking spaces for the homes that do not have space to park cars outside their garage in the driveway. The City's parking requirements, found in Chapter 17.44 of the MBMC, do not require guest parking in association with single family standalone residential development. The Appellant is concerned if the residents have a party, then their guests will park in the street. That is no different than any other residential property in the City; the streets offer public parking, which is available for anyone to use on a temporary basis. The new proposed development will be subject to all the provisions of the Cloisters CC&R's, which include restrictions on parking for large vehicles (RV's, trailers, etc.) and commercial vehicles, but does not have specific requirements or restrictions for cars and non-commercial trucks.

8. Cloisters ARC notification requirements were not met. *Staff Response: The Cloisters ARC has its own stated notification requirements that are not the responsibility of the City or the Applicant. Section 4.7 of the Cloister's CC&R's state "the [ARC] shall mail, not less than 14 days prior to the date of the Design Committee meeting, written notice of the [ARC] hearing to the applicant and the owners of Lots which are contiguous to the Lot in issue, plus those Lots which are across the street affronting the subject Lot and which fall wholly or partially within the boundary lines of the subject Lot extending across the street, plus those Lots, which in the sole opinion of the [ARC] may be significantly affected". In the Cloister's Design Guidelines, the Applicant can also be responsible for providing notification to the immediate Lot owners once notified of the [ARC] hearing date. In this case, there was no [ARC] hearing, but rather, as was the customary process, previously accepted by the ARC members, the designated representative, Craig Smith, had authority to complete the schematic review of the 6 applications and provide the resulting conditional approval letter. It should be noted the Lot owners specified above for ARC notification, were noticed through the City's notification process. In fact, only one Cloister's Lot meets the notification requirements of the ARC as stated above, and that Lot owner was aware of the pending application and spoke with staff about the submittal. They did not raise any objections.*

CLOISTERS ARC MEETING WITH APPLICANT

At the September 25, 2018 Hearing, City Council continued the hearing to allow the Applicant and the Appellant the opportunity to meet to review the proposed vesting tentative map and related home designs. It should be noted the Applicant has been offering to meet and discuss the plans with the Appellant and ARC since the evening of August 7, 2018, when the Applicant first became

aware the ARC felt it did not get a chance to review the plans. During the period of time between the PC approval (August 7, 2018) and the City Council hearing (September 25, 2018), neither the ARC nor the Appellant responded to the Applicant's offer to meet and review the plans. The City staff also met with the Appellant and ARC members at which time, they were provided with a copy of the plans (the plans also have been available online since August 2, 2018).

As directed by City Council, the Appellant and the ARC met on October 9, 2018. It should be noted the official membership of the ARC is not clear, and the designated representative Craig Smith is no longer representing the ARC. As such, the Applicant met with the Appellant, and three confirmed members of the ARC. Attached are the meeting notes provided by the ARC. The Appellant specifically requested City Staff not attend the meeting. See ARC meeting minutes attached as Exhibit 1.

In summary, the content of the meeting is as follows:

1. <u>The ARC & Appellant think this project should be required to provide off-street guest parking</u>. *Staff response: Guest parking is not required for any single-family development and is not a requirement in the Cloisters CC&R or Design Guidelines. The proposed design submitted meets the requirements of the MBMC and the Cloister's CC&R's and Design Guidelines.*
2. <u>Issues with the private driveway</u>. *Staff response: The private driveway allows efficiencies in design and function, resulting in one access point to a public street for the proposed 6 homes. The shared driveway will be owned and maintained by the 6 parcel owners pursuant to a Common Access and Maintenance Agreement. The proposed design meets the requirements of the MBMC and the CC&R's and Design Guidelines do not address a shared driveway design.*
3. <u>Concern about providing open space.</u> *Staff Response: Lot 124 was created as part of the original Cloister's subdivision and as a result, benefits from the open space provided in the formation of the original 1992 subdivision, the same as every other lot in the subdivision. Additionally, the subject parcel has a large utility easement and right of way along the east property line, which provides additional landscaping, trees and buffer between the highway and the proposed homes, much like the buffer design for the original Cloisters homes that are also adjacent to Highway 1.*

Other items discussed (Assessment District, 2007 subdivision process, City's right to sell the property) do not directly relate to the Applicant's submittal, or the purview of the ARC. Those items have been addressed in the Appellant Claim summary above.

<u>CONCLUSION:</u>

The Appellant claims primarily do not relate to the Applicant's submittal or the PC's purview in its review and consideration of the Applicant's submittal. The Appellant has issues with previous legal processes related to the 2007 subdivision process and the City's right to sell the property. Staff has addressed those concerns in multiple meetings and provided supporting documentation requested by the Appellant. The ARC has maintained a review process that is documented through their 2006 designation of Craig Smith as the ARC representative and attorney-in-fact with the authority to designate ARC members when replacements are required. Mr. Smith has dutifully followed the

prescribed process for review and approval of pending home designs for 12 years without issue, and he followed the same process in providing review and schematic approval for the Project's 6 proposed homes and sites. The Cloister's Design Guidelines within the CC&R's specifically state "all guidelines must follow all applicable laws and regulations of any governmental entity having jurisdiction over the improvements in the project".

The PC review, discussion and resulting approval with conditions of the Conditional Use Permit (UP0-470), 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 acres site within the Cloisters Subdivision were made with appropriate consideration of the relevant history of the subject site and the related impacts on the surrounding neighborhoods. The PC decision being appealed meets the development standards, conditions and intent of the MBMC, the Local Coastal Plan and General Plan.

Staff recommends the City Council deny the appeal and adopt Resolution No. 87-18.

ATTACHMENTS:
A – Council Resolution No. 87-18
B – Appeal filed by Dawn Beattie on August 14, 2018
C – Approved VESTING TENTATIVE MAP plans dated July 24, 2018

APPEAL CLAIM ATTACHMENTS:
Exhibit 1 - October 9, 2018 Cloisters ARC meeting minutes.
Exhibit 2 – Supplemental Declaration appointing Craig Smith as ARC representative.

Online documents:
9-25-18 City Council Hearing meeting, Staff report and attachments for Item B-1
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

ATTACHMENT A

RESOLUTION NO. 87-18

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA DENYING AN APPEAL OF THE PLANNING COMMISSION APPROVAL OF A CONDITIONAL USE PERMIT (UP0-470), A 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.

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, Tentative Vesting Map #2859 (S00-127) and Mitigated Negative Declaration for the site located at 2783 Coral Ave ("the Project"); and

WHEREAS, the Project originally included Coastal Development Permit (CPO-530), but the City has subsequently voided that at the request of the California Coastal Commission (CCC) due to the CCC revising its position regarding that permit and deciding it must be reviewed and issued, if at all, by the CCC, as an Immaterial Amendment to the coastal permit issued by the CCC to the Cloisters development in 1992; and

WHEREAS, on August 7, 2018, the Planning Commission of the City of Morro Bay adopted Resolution 20-18 to approve the Project; and

WHEREAS, on August 14, 2018, an appeal of the Planning Commission action approving the Project was filed with the City of Morro Bay by Dawn Beattie (Appellant) 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, on September 25, 2018, the City Council conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, and continued the hearing to a date certain, November 13, 2018, to allow the Appellant and Applicant to meet; and

WHEREAS, the City Council conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on November 13, 2018, to continue consideration of an appeal of the Planning Commission's approval of the Project, located in an area within the appeal 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 decision made by the Planning Commission, the testimony of the Appellants, the testimony of the

Applicant (property 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

A. All the foregoing recitals are accurate, accepted and incorporated into this Section.

B. The Project was approved in a manner consistent with the City's General Plan, and Zoning Ordinance.

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

D. The Cloisters Architectural Review Committee application was submitted by the Applicant in accordance with the prescribed submittal process and received schematic approval by the designated ARC representative and attorney-in-fact, but is not required by the City to render a land use decision.

E. The Cloisters ARC design guidelines must follow the applicable laws and regulations of the governing jurisdiction with authority over the improvements in the Subdivision.

F. The Appellant and Applicant met on October 9, 2018, to review and discuss the proposed plans.

Section 2: Findings. Based upon all the written and oral testimony and evidence presented to the Council at and for the above public hearings, the City Council makes the above findings.

Section 3. **Action**. 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 the Project

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 13th day of November 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:

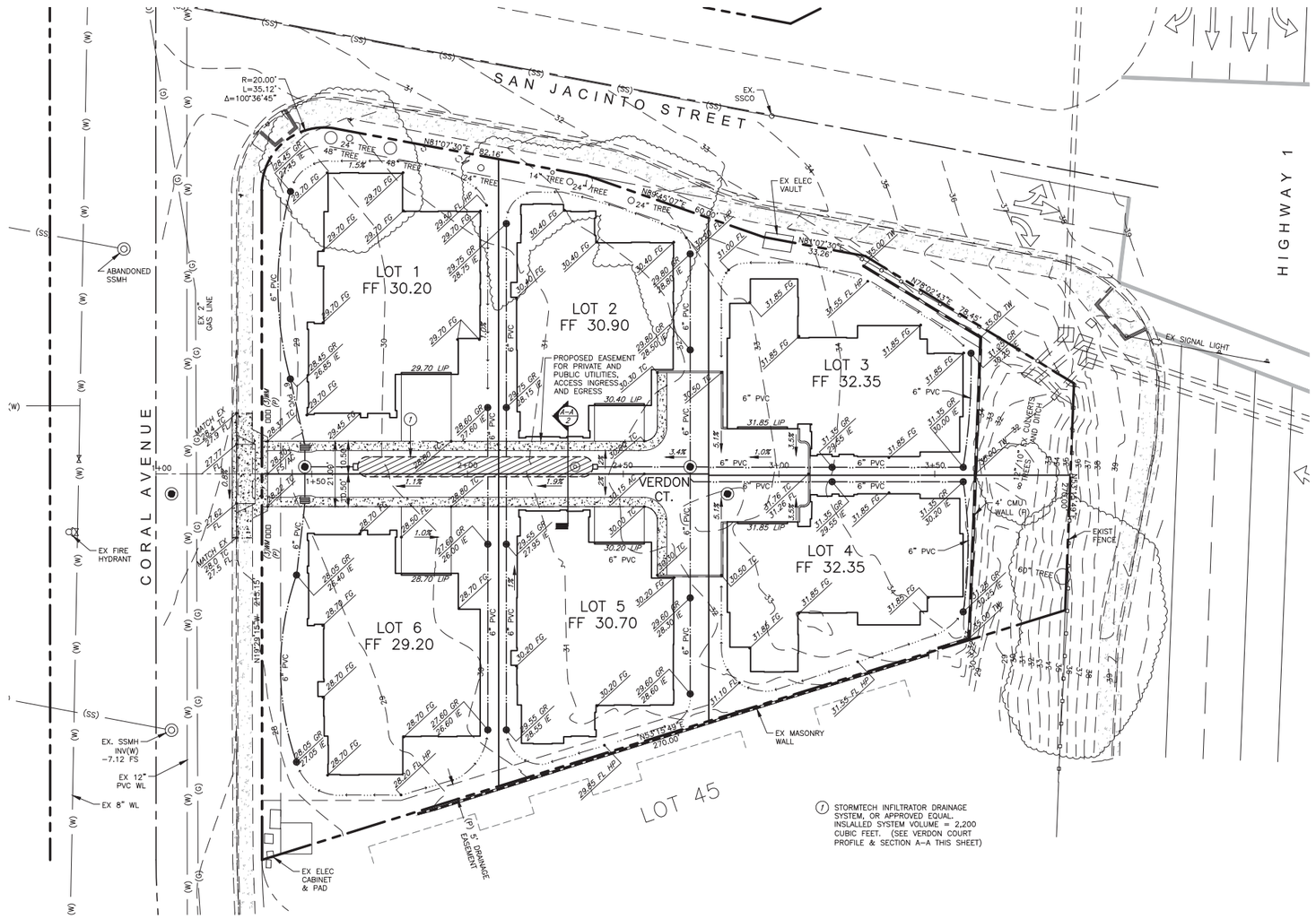
Continuance to allow ALL Cloisters homeowners AND the Architectural Review Committee a chance to weigh in, as well as time to ensure the Cloisters history and its effect on this subdivision is represented

Appellant (please print): Dawn Beattie	Phone:
Address:	

Appellant Signature: _____ **Date:** 8-14-18

FOR OFFICE USE ONLY	
Accepted by: Jane Swanson	Date appeal filed: 8/14/18
Appeal body:	Date of appeal hearing:

ATTACHMENT C



PRELIMINARY GRADING & DRAINAGE PLAN

EXISTING CONDITIONS AND PROPOSED IMPROVEMENTS

0 10 20 40

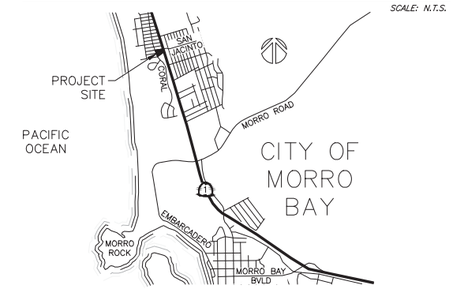
SCALE: 1" = 20'

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

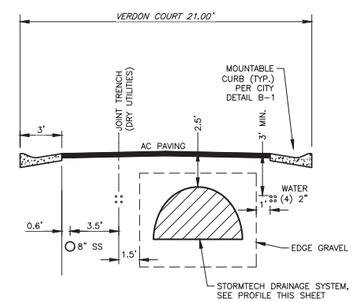
1. ALL RESIDENCES SHALL BE EQUIPPED WITH SPRINKLERS.
2. A COMMON ROAD AGREEMENT SHALL BE CREATED TO MAINTAIN PRIVATE ROAD.
3. ADDITIONAL TREE REMOVAL AND SITE GRADING TO BE DETERMINED AT TIME OF DEVELOPMENT.
4. ALL RESIDENCES CONSTRUCTED SHALL COMPLY WITH CLOISTER'S CC&R'S AND THE CLOISTERS DESIGN GUIDELINES.
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

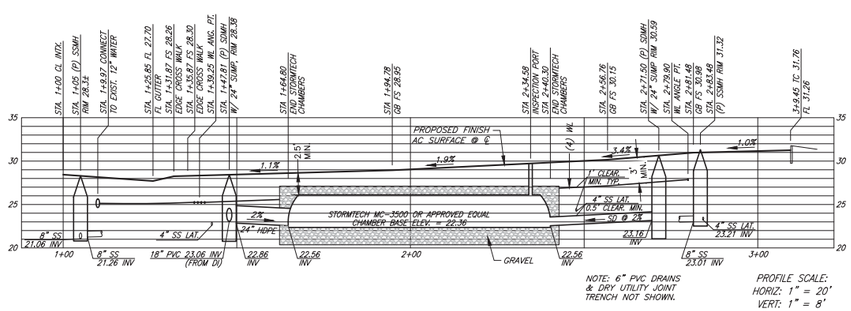
ABBREVIATIONS

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

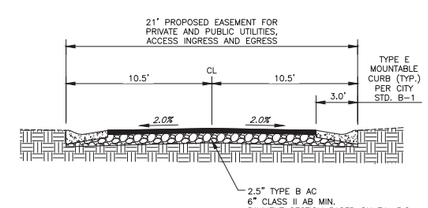
SCALE: 1" = 5'





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.

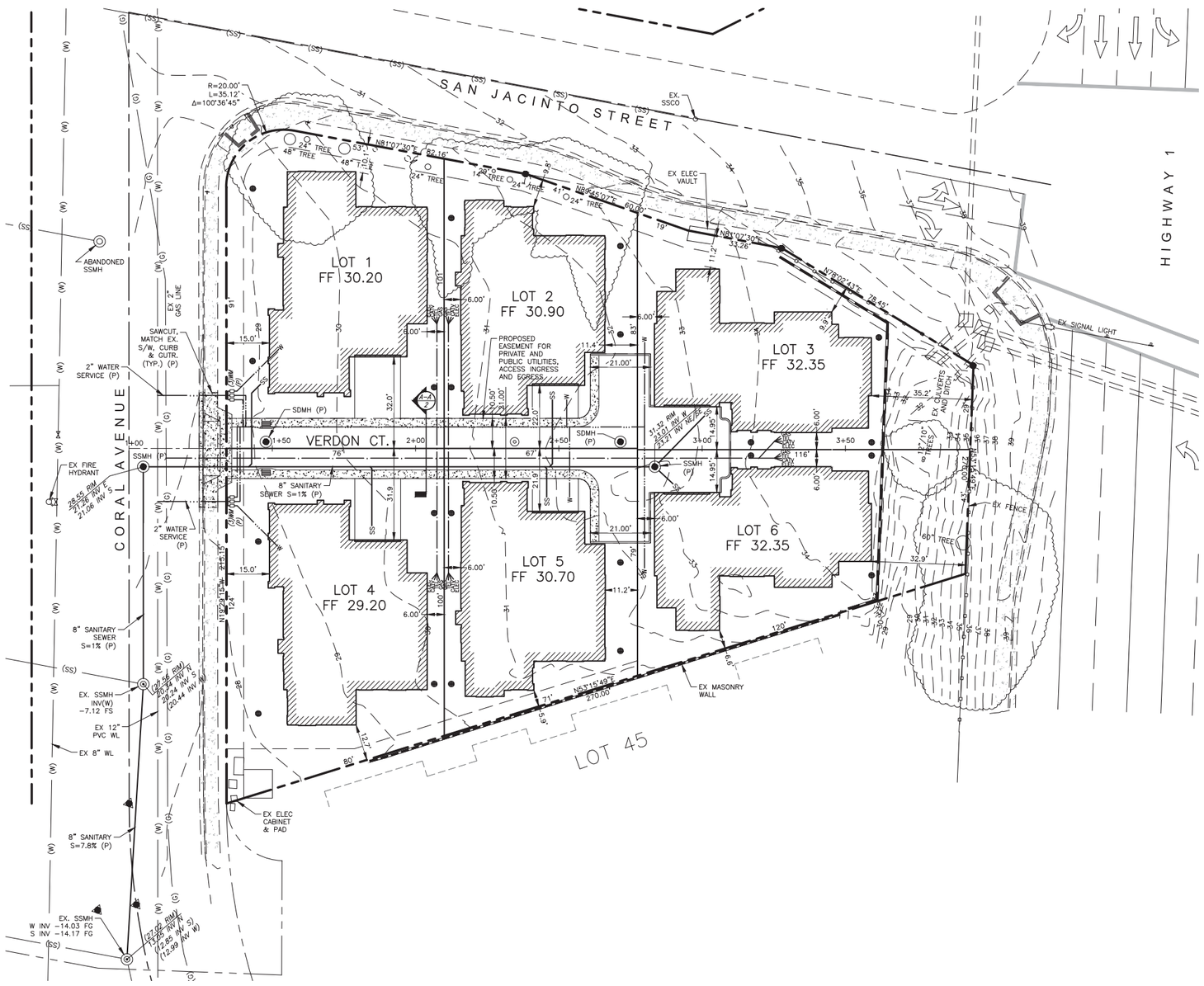
GTA No.: 16-628.000
Plot Date: 7/20/18
File Name: 16-628-BASE.DWG

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

TC



PRELIMINARY SITE & UTILITY PLAN

EXISTING CONDITIONS AND PROPOSED IMPROVEMENTS

0 10 20 40

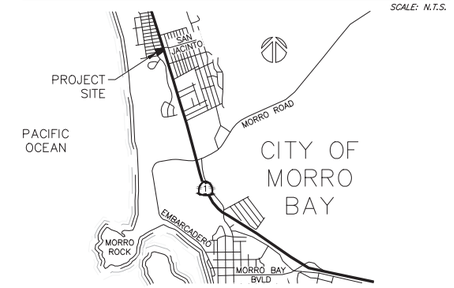
SCALE: 1" = 20'

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.



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

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:

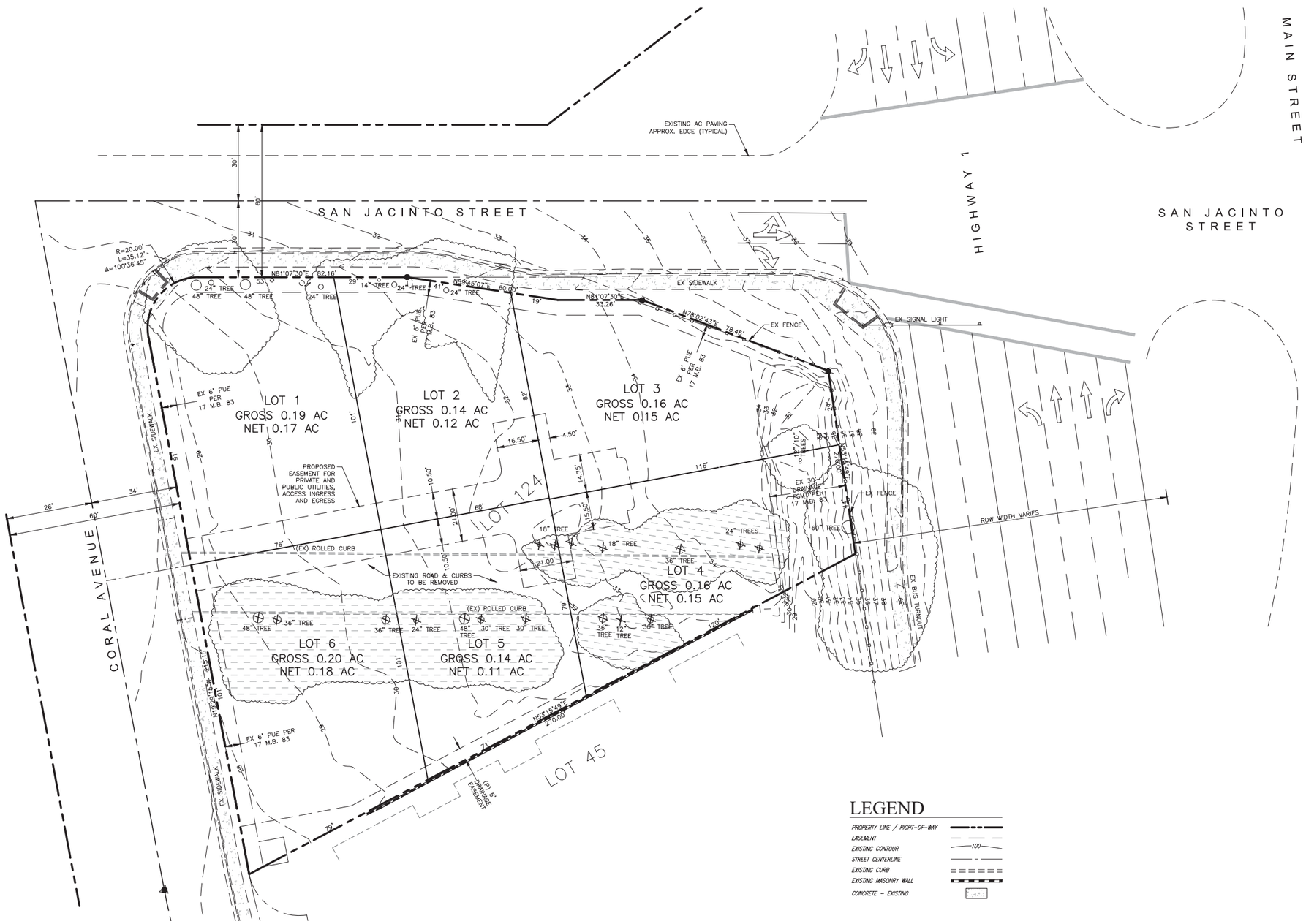
Garing Taylor & Associates
141 S. Elm Street
Arroyo Grande, CA 93420
(805) 489–1321
Jeffrey J. Emrick, P.E.

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



VESTING TENTATIVE MAP

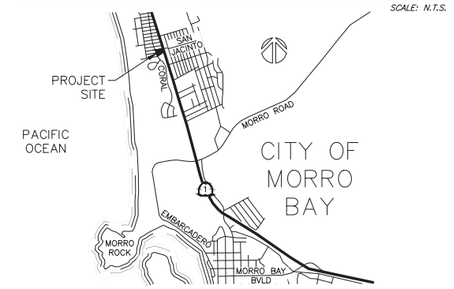
EXISTING CONDITIONS

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
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 1 of 3

GARING, TAYLOR & ASSOCIATES, INC.
CIVIL ENGINEERS SURVEYORS PLANNERS
141 SOUTH ELM STREET · ARROYO GRANDE, CA 93420 · (805) 489-1321

EXHIBIT 1

Nancy Hubbard

From:	Dawn Beattie <
Sent:	Tuesday, October 16, 2018 6:22 PM
To:	Kevin Huber; Fritz Huber; Dave Watson; Scott Martin; Steve Stevens; Kerrigan Mahan; Melanie Mahan
Cc:	Nancy Hubbard; Scot Graham; Vicki McDonald
Subject:	Minutes of Unofficial meeting of the Cloisters Architectural Design Review Committee (ARC) and the Applicant at 2783 Coral Avenue, October 9, 2018
Attachments:	Homeowner concerns with corner lot project.pdf

Attendees: Kevin Huber, Grupe Commercial Company
Fritz Huber, Grupe Commercial Company
Dave Watson, Watson Planning
Scott Martin, RRM Design Group
Dawn Beattie, Cloisters ARC
Steve Stevens, Cloisters ARC
Kerrigan Mahan, Cloisters ARC
Melanie Williams Mahan, Cloisters ARC

Steve welcomed all of us and stated the ARC wanted to see a preliminary presentation of the application, allowing an opportunity to discuss some of the comments from parcel owners (which were provided to all attendees and are attached here as part of the record).

Kevin started:

- Gave an overview of the Applicant?s involvement with the project culminating in the purchase, and their vision of using a similar concept as previously approved as a 6 lot subdivision in 2007, which at the time went no further, given no Coastal Development Permit (CDP) was pursued.
- While pursuing purchase of the property from the City of Morro Bay, the Applicant contacted the Coastal Commission who said a CDP needed to be processed.
- Coastal was not going to hold jurisdiction over the process unless it was appealed to them. They were going to allow for the local agency (City of Morro Bay) to take care of CDP.

Dave added:

- He thinks they were ultimately OK to allow the City to take care of the CDP and retain appeal jurisdiction once they learned that the lot was zoned residential.

Steve shared:

- That the parcel has gone through so many stages and so many hands doing things differently - inconsistent message - no consistency in players - parcel owners are confused, which is why the ARC keeps asking for documentation.

Melanie shared:

- The only documentation anyone at the City could find relative to the Coastal Commission is a letter Melanie passed copies around of. It didn't really answer anything. There is still so much ambiguity.

Lots of discussion:

- Applicants want to know what are we looking for? Inquiry why a sale of the property in 2012 didn't go through? Discussion that City didn't finish the process with Coastal in 2007.
- Applicant shared that they followed what they thought was the process and feel blindsided by our appeal.
- Design Committee and parcel owners left out of process.
- Applicant said issues are not insurmountable.
- ARC made it clear, parcel owners have not been given a chance to see what's going on or to raise their issues on what they've heard.

Coastal Commission:

- Dave and Melanie both shared they've spoken with Sarah at Coastal about where do we go from here. Dave said they should continue to ask Sarah if they're following the right process. **ACTION**: Dave/Melanie

Scott from RRM then gave a presentation on the design.

Kerrigan:

- Discussed parking compatibility as the big issue on the minds of the parcel owners of the Cloisters.
- All houses in the Cloisters have driveways for two cars.
- Kevin said the CC&Rs contemplate owners using their garage (for cars), so then the question involves is there enough guest parking?
- Lots of discussion on neighborhood compatibility with respect to driveways and brainstorming on how to increase homeowner and guest parking in this project.
- Scott explores tandem guest parking

Dave said the environmental report (regarding raptors in the eucalyptus trees) needed an update, so Sage did one; Dave agreed to send it to the ARC **ACTION**: Dave, plus contingencies from Planning Commission

Kevin brought up his confusion about why in 2007 the ARC was not as involved with City's approval.

Legal:

- Dave said homeowners will have to vote to annex them in, an internal decision.
- Question was raised by ARC as to why someone hasn't paid into the Assessment District the last three years (since parcel was sold as a non-fire station). Question needs to be asked of the City. **ACTION**: ARC
- Kevin stated that if you're in a district and not benefiting, maybe there's a standby charge.
- Steve asked if there would be separate CC&Rs for the subdivision. Kevin stated no, that there'd be a Common Ownership Agreement (basically a maintenance agreement for the 6 lots) for maintenance of and reserves for the private driveway and any other common areas, separate and above the Cloisters Assessment
- City annually reviews the Assessment District (Engineer's Report) and Applicant stated this issue needed clarity **ACTION**: City
- Is there a subdivision of a subdivision issue?
- Steve reiterated that we didn't really want to appear to be shutting things down, but that this was in the Applicants interest - dealing with these issues now rather than lots of delays down the road.
- Kevin stated he has an attorney who has looked at the CC&Rs and he has offered to have him review the Special Assessment issues relative to Prop. 218. **ACTION**: Applicant with additional input from Steve

Back to parcel owner comments:

- Neighborhood compatibility - what else can be done? especially of the private drive?

- The Applicant offered to use pavers on the entire driveway.
- Lots of discussion of Applicant suggesting the sidewalk compatibility could be helped with the creation of a distinct pedestrian walkway **ACTION**: Applicant to provide new site plan
- Is there any open space? No public open space, per Applicant.

All in all, everyone thought there was productive discussion.
Dawn

Thank you for the opportunity to allow us to give you preliminary feedback from a number of parcel owners in the Cloisters.

In no particular order

Coastal Commission... did they approve? Can they (subdivide)? Who approved? Please get feedback from the Coastal Commission. Is the idea of using all the land with no allowance for open space or sidewalks okay with the Coastal Commission? Is the Coastal Commission in touch with the builder so they know what they can or can not do?
Didn't the Coastal Commission say "No" before? What changed? Didn't the City Attorney say "No," what changed and when? Where is the paperwork?

Neighborhood Compatibility and Conformity .... It is entirely different than the rest of the Cloisters. Why does that lot not have an allowance for any open space? It has no sidewalks in front of the homes like the rest of the Cloisters? The garages seem to be very prominent. Are there different setbacks (varying) so the look is not like a developer tract plan 1,2,3? A developer tract look hurts the many custom homes in the Cloisters and diminishes value. What about the driveways that are nothing like the Cloisters? The lots and lot sizes are not compatible with the rest of the Cloisters. Will they have their own CCR's? Is it the builder's intention to have the City maintain?

Parking... I don't understand where people park? Is there room to park two cars all of the driveways? What about guest parking? Isn't that going to create parking problems if a couple of the houses have guests at the same time... or especially during holidays when all the houses are being used for families? Where do they park? What happens with a fire truck? What about additional red curbs on Coral? Will this parking overflow not effect visibility? Are there really 12 foot driveways? Are cars going to be halfway into the street? What does that mean "private driveway?" That small area seems like it will be very congested. What about curbs?

Emergency services... has this been approved? Don't they need an alternative access? Is there room to turn around? Will there be curbs that are painted red to restrict parking?

Special Lighting and Landscaping Assessment District Fees... why do they not have their own open space to pay for? If it was already sold how come they never contributed before as part of the Assessment? Does this create a new one with new rules? Why hasn't the City discussed this with us over the past three years?

Raptor Habitat... Doesn't this harm the Raptor habitat? Were all the studies done properly? The City's policies to be in compliance with the Coastal Act requires an environmental impact assessment to determine whether or not these habitats exist, even if they are simply suspected but not designated as sensitive habitat now. Was that done?

EXHIBIT 2

RECORDING REQUESTED BY:
Craig Smith

When Recorded Mail Document To:
Craig Smith
890 Monterey Street
San Luis Obispo, CA 93401

JULIE RODEWALD
San Luis Obispo County – Clerk/Recorder

SC
8/31/2006
3:33 PM

Recorded at the request of
Public

DOC#: 2006062262

Titles: 1 Pages: 2

Fees	10.00
Taxes	0.00
Others	0.00
PAID	$10.00

SUPPLEMENTAL DECLARATION OF THE CLOISTERS

This supplemental declaration is executed this August 28, 2006, on behalf of The Cloisters of Morro Bay, California, by CRAIG SMITH.

THIS SUPPLEMENTAL DECLARATION is executed with reference to the following facts:

A. On or about September 10, 1996, KEYOTO-MORRO BAY, INC., and MORRO BAY-NATALIE, INC., executed a Declaration of Covenants, Conditions and Restrictions for The Cloisters of Morro Bay, California, which was duly recorded in official records of San Luis Obispo County, California, on October 8, 1996, as Document No. 1996-050337 (hereinafter referred to as "the CC&Rs").

B. Section 4.3 of the CC&Rs provides for the appointment of a design committee composed of five members which is authorized under Section 4.3.3 to create a design guideline manual to govern construction and maintenance of The Cloisters.

C. Under Section 4.3.1 of the CC&Rs, declarants had the power to appoint the design committee for a period of five years from the date on which the declaration was recorded and after the initial five year period, the design committee was to be appointed by a majority of the then record owners of lots in The Cloisters subdivision.

D. More than five years have elapsed since the date on which the CC&Rs were recorded.

E. From and after April 24, 2006, a majority of the owners of lots in the Cloisters Subdivision executed instruments in writing appointing CRAIG SMITH, an architect with offices in San Luis Obispo County, as their attorney in fact to appoint five members of the design committee for The Cloisters. Copies of the instruments signed by a majority of the owners of lots are NOW in the custody of CRAIG SMITH, 890 Monterey Street, San Luis Obispo, California, telephone (805) 544-3380, and can be examined by any lot owner of The cloisters Subdivision who requests an inspection.

NOW, THEREFORE, in consideration of the premises, and acting under the power conferred on him by the CC&Rs under Section 4.3 and the vote of the majority of owners of record of lots in The Cloisters Subdivision, CRAIG SMITH has designated KERRIGAN MAHAN, JOHN LAUFFER, SANDRA FORSYTHE, MARCIA EDWARDS and CAROL DI NOLFO as members of the design committee of The Cloisters Subdivision to act in that capacity effective immediately.

ATTACHMENT

Attached is the document you (or someone on your behalf) requested. As required by Section 12956.1(b)(1) of the California Government Code, please take note of the following:

"If the document contains any restriction based on race, color, religion, sex, sexual orientation, familial status, disability, handicap, national origin, genetic information, gender, gender identity, gender expression, source of income (as defined in California Government Code § 12955(p)) or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status."

If this cover page is a copy which has been transmitted to you by facsimile, email or other form of electronic transmission, please note that the notice above appears in the original cover page in 14-point bold face type.

IN WITNESS WHEREOF, the undersigned has executed this instrument at San Luis Obispo, California, on the day and date set forth above.

Craig Smith

ON BEHALF OF THE CLOISTERS OF MORRO BAY, CALIFORNIA

STATE OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

ON AUG. 31, 2006 before me, B. BEVAN, NOTARY PUBLIC personally appeared

Craig Smith personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

MGC1 B. BEVAN COMM. # 1568073 NOTARY PUBLIC-CALIFORNIA SAN LUIS OBISPO COUNTY COMM. EXP. APRIL 10, 2009 MGC1

END OF DOCUMENT

This Page Intentionally Left Blank

AGENDA NO: C-1

MEETING DATE: November 13, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 8, 2018**

FROM: **Scott Collins, City Manager**

SUBJECT: **Approval of Joining Monterey Bay Community Power Authority and First Reading of Community Choice Energy Ordinance**

RECOMMENDATION

1. Receive and file the Financial Update memo (Attachment A); and
2. Introduce, by first reading by title only with further reading waived, Ordinance No. 618, "An Ordinance of the City Council of the City of Morro Bay, California, Repealing the Existing Community Choice Aggregation Ordinance (Ordinance No. 616) and Authorizing the Implementation of a Community Choice Aggregation Program By Participating in Monterey Bay Community Power Authority's Community Choice Aggregation Program" (Attachment B); and
3. Adopt a Resolution No. 91-18, "A Resolution of the City Council of the City of Morro Bay, California, Requesting Membership In The Monterey Bay Community Power Authority (MBCPA) and Authorizing the City Manager to Execute the Joint Powers Authority Agreement as amended with MBCPA" (Attachment C); and
4. Identify one City Councilmember to represent the City as the initial Policy Board Director; and
5. Direct staff to negotiate a Memorandum of Understanding with City of San Luis Obispo (SLO) staff to provide a collaborative and fair strategy for MBCPA representation and return to Council for final approval.

ALTERNATIVES

1. The City Council could direct staff to return to the Central Coast Community Energy (CCCE) Board meeting to reconsider creating a regional program launching in 2021. By January of 2019, the 2019 Power Charge Indifference Adjustment (PCIA) rate and PG&E's generation rates will be known factors. Unexpected positive outcomes of those items could potentially result in improved financial projections, although it is staff's understanding dramatic changes are not expected. Additionally, the legislature could act to improve the conditions created by the California Public Utilities Commission (CPUC) PCIA decision, or other appeals or legal proceedings could occur, although that is speculative with unknown timing and outcomes. As noted above, a larger program performs better financially than a two-city program. Under this scenario, staff could spend 2019 recruiting additional cities to enhance the financial viability of CCCE. It should be noted those potential outcomes are hypotheticals that are speculative and there is no guarantee that market conditions will change or improve, nor is there any guarantee that additional cities will join. The risk of pausing is that delay could slow down project momentum, cause a delay in early implementation of carbon reduction goals, and that a longer planning horizon would add additional pre-launch project costs.

2. The City Council could elect not to proceed with Community Choice Energy at this time.

Prepared By: ___SC/RL/JC/EC___

City Manager Review: __SC_____ **City Attorney Review: ___JWP__**

FISCAL IMPACT

The City's share of the costs to complete the tasks required to join the MBCPA are approximately $12,000 (with SLO assuming 80%, and Morro Bay 20% of costs). Staff has identified expenditure savings in the FY 18/19 Budget sufficient to support this one-time cost.

SUMMARY

On November 7, 2018, the CCCE Board of Directors unanimously voted to direct staff to return to their respective city councils with a recommendation to join the existing MBCPA. This report provides an overview of the CPUC decision and the updated financial projections that led the CCCE Board to their decision. City Council now has an opportunity to introduce an implementing ordinance and adopt a resolution to join MBCPA for the purpose of participating in an existing community choice energy program. If Council decides to proceed, then it must adopt and approve two documents: 1) the implementing CCE Ordinance (Attachment B); and 2) a Resolution approving joining MBCPA (Attachment C).

BACKGROUND/DISCUSSION

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, 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 Morro Bay and SLO and surrounding communities for the last several years.

Previous Council Direction and Milestones

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 (attached) 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. In addition, at its December 12, 2017, Study Session, SLO City Council directed its staff to purse forming a new CCE, in conjunction with other interested jurisdictions in SLO County and/or in PG&E territory of Santa Barbara County.

Since that time, SLO's Mayor sent a letter to City jurisdictions within SLO County (attachment) 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 included 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.

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 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 and review other options, such as joining an existing CCE program.

In February of 2018, the CPUC issued Resolution E-4907, which requires new CCE programs to have one full calendar year elapse prior to serving customers. This issue has altered timing considerations and presents the following timelines:

1. If an Implementation Plan is submitted by January 1, 2019, customers can begin service on January 1, 2020
2. If an Implementation Plan is submitted after January 1, 2019, but before January 1, 2020, customers can begin service on January 1, 2021

Between April and June of 2018, staff met with representatives from operational CCE programs, trade groups, service providers, local experts, and the SLO Climate Coalition Task Force to vet potential approaches and understand timing and cost issues for each. At the time, the City's preferred approach was to operate the program through a JPA with SLO with the intention of inviting other regional jurisdictions to participate in future years.

In May of 2018, in partnership with Morro Bay, the SLO City Council authorized the release of 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. The City selected The Energy Authority (TEA).

In September of 2018, the SLO and Morro Bay each held a series of City Council meetings to review the refreshed feasibility assessment, pass uncodified ordinances establishing local community choice energy programs, and adopt resolutions to create a joint-powers authority (JPA) named Central Coast Community Energy (CCCE) for hosting the community choice energy program. In October of 2018, paperwork was filed with the California Secretary of State establishing CCCE as an independent legal entity.

On November 7, 2018, the CCCE Board of Directors met to review updated financial information (as described below), and unanimously voted to direct staff to return to the individual City Councils to join Monterey Bay Community Power.

<u>CCE Technical Study Update</u>

At the September 25, 2018, City Council meeting, staff presented TEA's technical study, which concluded that under base-case market and regulatory conditions, a carbon free power supply scenario would be feasible while offering customers a rate-discount relative to PG&E. Depending on power portfolio characteristics, the report projects a cumulative net revenue at year three of $9.7

million to $12.3 Million. That cumulative net revenue range represented 68% to 51% of annual operating revenues. The report provided a “stress test,” which demonstrated that the program would be sensitive to significant market changes and regulatory conditions. The report also noted the findings were dynamic and require continued monitoring, especially since the PCIA is a key risk factor.

As noted in September 25, 2018, Council Agenda Report, the PCIA is one of the most critical variables in projecting future CCE program financial viability. The PCIA is an ongoing exit fee charged by investor-owned utilities (i.e. PG&E) to customers that switch to another provider of electricity generation service through direct access or community choice aggregation. The ongoing fee is designed to reimburse incumbent utilities for above-market costs and liabilities from power generation assets and forward contracts that the utilities entered into on behalf of now-departing customers, but no longer need and cannot sell in the market for the price they paid.

As of the September City Council meeting, the California Public Utilities Commission (CPUC) was considering two alternative decisions in the PCIA Rulemaking Proceeding R.17-06-026. In the Proceeding, the Commission was evaluating two options to amend the PCIA, a Proposed Decision (PD) which was favored by the CCE community and an Alternate Proposed Decision (APD), which was favored by the incumbent utilities. On October 11th, the Commission ruled in favor of the APD.

As anticipated, the APD has had a significant impact on CCCE’s financial projections. Since October 11, the team from TEA has been working to amend CCCE’s financial proformas based on adjusted rate assumptions (price parity), a significantly leaner administrative budget, and lower levels of clean energy than originally anticipated. The updated financial information is provided as Attachment A.

As noted in Attachment A, using the base case assumptions, it was found CCCE would be unable to accumulate financial reserves at the pace and to the levels required under the conditions of the contract held with TEA. That would prevent CCCE from accessing the credit solutions provided by TEA for power procurement and upfront power related operational costs associated with program creation, as originally envisioned.

Because the financial projections indicated CCCE would not meet TEA’s credit underwriting guidelines, staff engaged in conversations with River City Bank, which provides financing to several community choice energy programs in California, in order to assess the viability of third-party credit to cover initial start-up costs, as well as to replace TEA’s credit solution for power procurement. Those early discussions indicate an alternative credit solution was likely available, and the cost of such a solution would potentially be less expensive than TEA’s credit solution.

The updated financial results presented as Table 1 are based on preliminary indicative terms provided by River City Bank. Under Scenario A, which includes SLO and Morro Bay, minimum debt requirements would be recovered, and the program would be cash flow positive. The industry standard for financial reserve policy is to develop reserves that cover between 90 and 180 days of operation. As noted in Table 1, the program would only have approximately 60 days (17% of annual) of operating cost in reserves and it would take approximately 8 years to achieve approximately 150 days (40% of annual) of operating reserves within the two-city JPA.

Table 1. Updated CCCE Financial Feasibility – Base Case

Scenario	A	B	C	D
Cities Participating	2	2	4	4
Rate Discount vs. PG&E	0%	0%	0%	0%
RPS	40%	40%	40%	40%
Carbon-Free Power	80%	100%	80%	100%
Internal Admin	$500,000	$500,000	$500,000	$500,000
Startup Loan	$2,100,000	$2,100,000	$2,300,000	$2,300,000
PG&E Avg. Gen Rate 2020 ($/MWh)	$104.75	$104.75	$104.75	$104.75
PG&E Avg. PCIA 2020 ($/MWh)	$32.97	$32.97	$32.97	$32.97
Cumulative Net Revenue (Yr. 3)	**$3,132,480**	**$2,474,175**	**$5,812,608**	**$4,799,650**
Meet 1.25x Debt Service Coverage on Startup Loan[1]	**Yes**	**No**	**Yes**	**Yes**
Year 3 Cumulative Net Revenue as % of Annual Costs	**17%**	**13%**	**18%**	**15%**
Years to Cumulative Net Revenue > 40% of Annual Costs	**8**	**9**	**7**	**8**

[1]The debt service coverage test assumes CCCE rate parity with PG&E. In each instance, the debt service coverage covenant could be met by increasing CCCE rates. Each scenario is unique, but in most instances, a rate premium to PG&E of 3-5% was enough to meet the debt service coverage requirement. The exact amount varies by year.

The original agreement with TEA included interest-free credit to cover the California Independent System Operator (CAISO) credit requirement and to post the CPUC bond. That amount, as well as additional upfront power related costs, would be added to the initial startup loan (also referred to as bridge loan, for a total of $2,100,000 that would have to be supported by a credit guarantee from CCCE member cities).

It is important to note the program performs better with scale. Scenarios C and D presented in Table 1 include a modest growth model with two additional cities. In each scenario, minimum debt requirements are met, and as discussed below, are more resilient to changes in the regulatory environment and energy markets. However, it would still likely take seven years to build reserves that are 40% of annual operating costs.

Although the PCIA decision has been issued by the CPUC, there is still some uncertainty around where PG&E's generation and PCIA rates will be set for 2019 and beyond. Considering this uncertainty, TEA tested the same four low-cost operating scenarios but with a 2.5% decrease in PG&E's generation rates and a 2.5% increase in PG&E's PCIA rates relative to base-case assumptions. This scenario is intended to illustrate how even relatively small movement in rates could jeopardize the viability of the program. As illustrated in Table 2, although the outcomes show positive net revenue in three out of four scenarios, all four scenarios fail the annual net revenue to debt service coverage ratio requirement without raising customer rates to a level that would be higher than PG&E's.

Table 2. Updated CCCE Financial Feasibility – Sensitivity Analysis

Scenario	A - stress	B - stress	C - stress	D - stress
Cities Participating	2	2	4	4
Rate Discount vs. PG&E	0%	0%	0%	0%
RPS	40%	40%	40%	40%
Carbon-Free Power	80%	100%	80%	100%
Internal Admin	$500,000	$500,000	$500,000	$500,000
Startup Loan	$2,100,000	$2,100,000	$2,300,000	$2,300,000
PG&E Avg. Gen Rate 2020 ($/MWh)	$102.13	$102.13	$102.13	$102.13
PG&E Avg. PCIA 2020 ($/MWh)	$33.80	$33.80	$33.80	$33.80
Cumulative Net Revenue (Yr. 3)	**$612,172**	**-$67,744**	**$1,871,781**	**$836,613**
Meet 1.25x Debt Service Coverage on Startup Loan[1]	**No**	**No**	**No**	**No**
Year 3 Cumulative Net Revenue as % of Annual Costs	**3%**	**0%**	**6%**	**3%**
Years to Cumulative Net Revenue > 40% of Annual Costs	**>10**	**>10**	**10**	**>10**

In summary, the base case scenario projections do not indicate enough revenue to meet TEA's credit requirements (Table 1), and the Sensitivity Analysis (Table 2) does not indicate enough revenue to meet River City Bank's debt service coverage ratio requirements.

Monterey Bay Community Power

Monterey Bay Community Power Authority (MBCPA) is an existing community choice energy program that began service in early 2018 and serves the counties of Santa Cruz, San Benito, and Monterey, as well as 16 incorporated cities therein. Key components of MBCP are described below.

1. Rate Structure: The basic product provided by MBCPA is carbon free and comes with a 3 percent rebate for all customers. Customers may choose to opt up to "MB Prime", which is also carbon free, but does not include electricity from large hydroelectric generation sources. MB Prime is set at 1 cent/kWh above MBCPA default rates Additional options include "MBgreen+" and "MBshare" which allow customers to donate their 3 percent rebate to local renewable generation projects or to regional non-profits that lower greenhouse gas emissions and support low income rate-payers.

2. Governance and Representation: Of the 19 jurisdictions currently enrolled in MBCPA, the three counties and three jurisdictions with 50,000 or more residents hold six Board seats. An additional five Board seats are shared by multiple jurisdictions based on geography. Based on initial discussions with MBCPA management, if the cities wish to join, then the SLO and Morro Bay would share a new Board seat. Similar to CCCE, MBCPA has a Policy Board that meets quarterly and is comprised of elected officials and an Operations Board that meets at least eight times per year and is comprised of city managers and county administrative officers. MBCPA also has a Community Advisory Council. SLO and Morro Bay would share a seat in each of the three bodies; that would require additional discussion between the two cities about how to fairly share those seats in order to represent the interests of both

communities adequately.

3. Programs and Local Benefit: In addition to the ability to donate rebates to local projects, MBCPA offers several initial programs that are expected to expand over time. For homes and businesses with rooftop solar, MBCPA offers a net energy metering (NEM) rate that is more than double the standard PG&E rate. Additionally, MBCPA recently teamed with Silicon Valley Clean Energy to sign contracts for California's largest solar-plus-storage project, as well as a joint-procurement project from a 200-megawatt wind farm.

4. Financial Health: Due to good management and being able to launch in the pre-PCIA update environment, MBCP has been able to pay off initial debt and build reserves of approximately $40 million as of September 30, 2018.

Considering the PCIA decision's negative financial implications on CCCE and the unmitigable financial risks, the benefits of joining a large operational community choice energy program are compelling. As mentioned above, an existing program has existing governance, staff, vendors and operations, credit and reserves, and has already covered initial startup costs. The program has similar goals and governance structures to those contemplated by CCCE. Joining MBCPA provides the lowest cost, lowest risk path forward. Additionally, the size of MBCPA allows it to be more resilient to fluctuations in the regulatory and market environments.

There are some opportunity costs, however, with joining MBCPA. First, joining MBCPA would result in some loss of local control as compared to the CCCE model. Instead of equal representation on the Board, SLO and Morro Bay would share one of twelve seats on the Board. That means less direct control of finances, rate design, and program design. Additionally, although MBCPA staff expressed interest in eventually rebranding around a Central Coast identity, the program branding would remain focused around the Monterey Bay Community Power name for the foreseeable future.

Given the updated financial projections, staff re-engaged with management at MBCPA to gain an updated understanding of potential to join its existing community choice energy program. Joining MBCPA has been an alternative in every Council Agenda Report regarding CCE this year.

In light of the updated financial information, as well as the highly compelling opportunity provided by joining MBCPA, the CCCE Board voted 4-0 to refer this issue back to the CCCE member cities. If the Council chooses to join MBCPA, then the following immediate steps would need to be accomplished:

1. The City Council would need to adopt a new CCE ordinance that references MBCPA rather than CCCE and to adopt a resolution joining MBCPA and authorizing enter into its JPA Agreement.
2. Staff will work with MBCPA and their energy consultants to update their Implementation Plan for submittal to the CPUC by January 1, 2019 via MBCPA's December 5, 2018 Policy Board meeting.
3. Identify a process for the City of San Luis Obispo and the City of Morro Bay to share a seat on MBCPA's Policy Board, Operations Board, and Community Advisory Council in order to adequately and fairly represent the interests of both communities.

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 this 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

Ordinance No. 618 repeals the existing CCE ordinance and complies with the requirements of Section 366.2(c)(12)(B) is included as Attachment B. If approved and introduced, then staff will present the Ordinance for a second reading at the November 27, 2018 meeting.

JPA Agreement

The amended MBCPA JPA agreement and supporting resolution to join the JPA are provided as Attachment C and Attachment D. The JPA agreement is closely aligned in form and in mission with the JPA Council approved for CCCE.

SLO Coordination and Next Steps
SLO City Council is meeting at the same time as the Morro Bay City Council (November 13, 2018) to consider the same staff recommendations. If the cities proceed with joining MBCPA, then the two cities would share a seat on MBCPA's Policy Board, Operations Board, and Community Advisory Committee. Staff requests the Council present their preference for the initial Policy Board member and direct staff to negotiate a Memorandum of Understanding with SLO in order to memorialize a process for the two cities to fairly share these seats so as to adequately represent the interests of both communities.

Project Schedule
The following is an outline of the project schedule through 2020:

Activity	Date
Present the MBCPA option to Morro Bay City Council. If Council chooses to proceed, then pass resolution join MBCPA and conduct first reading of the CCE ordinance.	11/13/18
SLO meeting to present the MBCPA option to City Council. If Council chooses to proceed, then pass resolution join MBCPA and conduct first reading of the CCE ordinance.	11/13/18
MBCPA Joint Operations and Policy Board Meeting to accept SLO and Morro Bay into the program.	11/14/18
Conduct second reading of the CCE ordinance (City of Morro Bay).	11/27/18
MBCPA Policy Board Meeting to approve and submit the Implementation Plan to the CPUC.	12/5/18
Program Implementation and Operations Preparation	2019
Begin MBCPA Service	Early 2020

01181.0025/246663.1

ATTACHMENTS

A. CCCE Financial Update
B. CCE Implementing Ordinance No. 618
C. Resolution No. 91-18 to Join MBCPA
D. MBCPA JPA Agreement as Amended

01181.0025/246663.1

Memorandum

To: Robert Hill and Chris Read/City of San Luis Obispo

From: Jeff Fuller/TEA

Cc: Shawn Marshall/LEAN Energy
Colin Cameron and John Putz/TEA

Date: November 1, 2018

Subject: Updated Financial Analysis with River City Bank Credit Facility

Introduction

On October 17th, 2018, TEA provided an updated financial projection for Central Coast Community Energy (CCCE). An unstated assumption in the updated projections was the continued use of TEA's credit solution to fund the working capital requirements needed for initial power procurement, satisfying CAISO credit requirements, and posting of CPUC performance bond. However, as discussed with SLO staff subsequent to submitting this analysis, the expected PCIA rates beginning in 2019 under the Alternative Proposed Decision are likely to render TEA's credit solution infeasible due to tighter margins and the inability of CCCE to accumulate financial reserves at the pace, and to the levels, required under the Resource Management Agreement with TEA.

In response to the changing circumstances, TEA held preliminary discussions with River City Bank to explore the availability and indicative cost of a bank provided credit solution. These early discussions indicate that an alternative credit solution is likely available, and the cost of such a solution is expected to be less expensive than TEA's credit solution. The updated financial results presented herein are based on indicative terms provided by River City Bank. If CCCE wishes to further explore this option, the next step would be for TEA to share its detailed financial projections with River City Bank over the next 1-2 weeks to explore in more detail the availability and cost of an alternative credit solution.

Refresh of October 17, 2018 Financial Projection

This memo updates the analysis originally presented on October 17th by incorporating two changes:

- Replace TEA's credit solution with River City Bank's provided credit solution;
- Change the presumed launch date for CCCE from January 1, 2020 to April 1, 2020. This change in start date better aligns the CCE launch with the implementation of PG&E's summer rates, which yield higher margins than winter rates thereby reducing the total financing requirement.

All other assumptions from the October 17th analysis are unchanged at this time.

On Thursday, October 11th, 2018, the CPUC ruled in favor of the Alternative Proposed Decision in the PCIA proceeding (R.17-06-026). In response to that ruling, this memo explores financial outcomes for the CCCE under four low-cost operating scenarios.

Key Assumption Changed

1. **Rate Discount:** reduced from a 3% rate savings to rate parity with PG&E
2. **RPS Share:** the share of CCCE's power portfolio sourced from renewable portfolio standard-eligible resources was reduced to 40%.
3. **Carbon-Free Power (CF)**: the share of power sourced from carbon-free resources was reduced from 100% carbon-free power to 80% carbon-free power, while kept at 100% in other scenarios.
4. **Internal Admin:** internal admin costs were reduced from over $800,000 to $500,000 per year
5. **Startup Loan (Non-Revolving Line of Credit):** the portion of the startup loan unrelated to wholesale procurement, CPUC bond posting and CAISO credit requirements is unchanged from October 17th when TEA reduced the amount from $1,100,000 and $1,400,000 for the 2- and 4-city scenarios respectively to $900,000 and $1,100,000 respectively.

   Additionally, the startup loan amount was increased by $1.2 million to fund the initial capital requirement associated with power procurement, meeting CAISO credit requirements and posting the CPUC bond. These elements of the startup requirements were previously provided under TEA's credit solution.

   Additionally, the payback period for this loan was extended to 4-years, and the interest rate (4.00%) was updated to reflect the indicative interest rate quote provided by River City Bank. TEA had previously assumed an interest-free loan and two-year payback period for the startup loan. A requirement of this loan will be maintaining net revenues equal to, or greater than, 1.25x the annual debt service payment amount. In some scenarios, CCCE would be unable to meet this requirement without increasing rates.

   It should also be noted that this Non-Revolving Line of Credit will need to be guaranteed by the Cities of San Luis Obispo and Morro Bay.

6. **Revolving Line of Credit:** to fund payments to power suppliers in advance of receiving program revenues, the financial forecast now includes a revolving line of credit based on indicative terms provided by River City Bank. The assumed interest rate is 4.50%.

Results

Key assumptions and results are presented for four scenarios in Table 1:

Table 1. SLO CCA Feasibility Scenario Analysis

Scenario	A	B	C	D
Cities Participating	2	2	4	4
Rate Discount vs. PG&E	0%	0%	0%	0%
RPS	40%	40%	40%	40%
Carbon-Free Power	80%	100%	80%	100%
Internal Admin	$500,000	$500,000	$500,000	$500,000
Startup Loan	$2,100,000	$2,100,000	$2,300,000	$2,300,000
PG&E Avg. Gen Rate 2020 ($/MWh)	$104.75	$104.75	$104.75	$104.75
PG&E Avg. PCIA 2020 ($/MWh)	$32.97	$32.97	$32.97	$32.97
Cumulative Net Revenue (Yr. 3)	**$3,132,480**	**$2,474,175**	**$5,812,608**	**$4,799,650**
Meet 1.25x DSC on Startup Loan[1]	**Yes**	**No**	**Yes**	**Yes**
Year 3 C.N.R. as % of Annual Costs	**17%**	**13%**	**18%**	**15%**
Years to C.N.R. > 40% of Annual Costs	**8**	**9**	**7**	**8**

[1]The debt service coverage test assumes CCCE rate parity with PG&E. In each instance, the debt service coverage covenant could be met by increasing CCCE rates. Each scenario is unique, but in most instances, a rate premium to PG&E of 3-5% was sufficient to meet the debt service coverage requirement. The exact amount varies by year.

Sensitivity Analysis

Although the CPUC decided on the APD in the PCIA proceeding, there is still significant uncertainty around where PG&E's generation and PCIA rates will be set for 2019 and beyond. In light of this uncertainty, TEA tested the same four low-cost operating scenarios but with a 2.5% decrease in PG&E's generation rates and a 2.5% increase in PG&E's PCIA rates relative to our base-case assumptions. This scenario is not intended to be worst-case, but rather to illustrate how much movement in rates would be needed to jeopardize the viability of the program. The assumed change in rates is unexpected, but well within the realm of possibility. Although the outcomes show positive net revenue in three out of four scenarios, all four scenarios fail the annual net revenue to debt service payment ratio requirement without raising rates to a level resulting in a premium to PG&E.

Table 2. SLO CCA Feasibility Scenario Analysis Sensitivity Analysis

Scenario	A - stress	B - stress	C - stress	D - stress
Cities Participating	2	2	4	4
Rate Discount vs. PG&E	0%	0%	0%	0%
RPS	40%	40%	40%	40%
Carbon-Free Power	80%	100%	80%	100%
Internal Admin	$500,000	$500,000	$500,000	$500,000
Startup Loan	$2,100,000	$2,100,000	$2,300,000	$2,300,000
PG&E Avg. Gen Rate 2020 ($/MWh)	$102.13	$102.13	$102.13	$102.13
PG&E Avg. PCIA 2020 ($/MWh)	$33.80	$33.80	$33.80	$33.80
Cumulative Net Revenue (Yr. 3)	**$612,172**	**-$67,744**	**$1,871,781**	**$836,613**
Meet 1.25x DSC on Startup Loan[1]	**No**	**No**	**No**	**No**
Year 3 C.N.R. as % of Annual Costs	**3%**	**0%**	**6%**	**3%**
Years to C.N.R. > 40% of Annual Costs	**>10**	**>10**	**10**	**>10**

[1]The debt service coverage test assumes CCCE rate parity with PG&E. In each instance, the debt service coverage covenant could be met by increasing CCCE rates. Each scenario is unique, but in most instances, a rate premium to PG&E of 3-5% was sufficient to meet the debt service coverage requirement. The exact amount varies by year.

Next Steps

The uncertainty around PG&E's generation and PCIA rates will be somewhat reduced in the first half of November 2018 when PG&E issues the "November Update" to their 2019 Energy Resource Recovery Account (ERRA) forecast. At that time, these results will be reevaluated in time to decide whether or not to proceed with an implementation plan.

As noted above, if CCCE is interested in further exploring a credit solution provided by River City Bank, the next step is to share detailed financial projections with River City Bank to further explore the cost and availability of a bank sourced credit solution.

ORDINANCE NO. 618

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, REPEALING THE EXISTING COMMUNITY CHOICE AGGREGATION ORDINANCE (ORDINANCE NO. 616) AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM BY PARTICIPATING IN MONTEREY BAY COMMUNITY POWER'S COMMUNITY CHOICE AGGREGATION PROGRAM

WHEREAS, the City Council has previously directed staff to investigate the feasibility and formation of a Community Choice Aggregation (CCA) program under the provisions of the Public Utilities Code section 366.2 in order to provide electric service to customers within the City of Morro Bay (City) with the intent of achieving 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, in cooperation with the City of San Luis Obispo commissioned a technical study showing a CCA program serving the City 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 CCA program and local renewable and energy efficiency projects over time; and

WHEREAS, on September 18, 2018 the cities of San Luis Obispo and Morro Bay, formed a Joint Powers Authority called Central Coast Community Energy ("CCCE.") to host a CCA program; and

WHEREAS, on October 9, 2018, the City adopted Ordinance No. 616, as required by Public Utilities Code section 366.2 authorizing the implementation of a Community Choice Aggregation program through CCCE; and

WHEREAS, on October 11, 2018 the California Public Utilities Commission amended the Power Charge Indifference Adjustment, which negatively impacted CCCE's ability to develop a program with the desired financial and environmental benefit; and

WHEREAS, Monterey Bay Community Power Authority (MBCPA) is an established CCA program capable of providing the desired financial and environmental benefits, and

WHEREAS, MBCPA will enter into agreements with electric power suppliers and other service providers and, based upon those agreements, MBCPA will be able to provide power to residents and businesses at rates that are competitive with those of the incumbent utility ("PG&E"). Once the California Public Utilities Commission certifies the amended Implementation Plan adopted by MBCPA, MBCPA will be able to provide service to customers within the City; 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 receive service from the incumbent utility will be able to do so; and

WHEREAS, on November 13 and November 27, the City Council held public meetings on the manner in which the City will participate in a CCA program at which time interested persons had an opportunity to testify either in support of or opposition to the implementation of a CCA program serving the City through MBCPA; 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, the 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)). The 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 City 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. Based upon the forgoing, the City Council hereby repeals Ordinance No. 616.

SECTION 3. Based upon the forgoing, and in order to provide businesses and residents within the City with a choice of power providers and with the benefits described above, the City Council hereby elects to implement a community choice aggregation program within the jurisdiction of the City by participating as a group in the Community Choice Aggregation Program of MBCPA, as generally described in its Joint Powers Agreement.

SECTION 2. 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 ___ day of November, 2018, by motion of Council Member _____, seconded by Council Member _____.

PASSED AND ADOPTED on the ___ day of November 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. 91-18

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, REQUESTING MEMBERSHIP IN THE MONTEREY BAY COMMUNITY POWER JOINT POWERS AUTHORITY (MBCPA) AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE JOINT POWERS AUTHORITY AGREEMENT AS AMENDED WITH MBCPA

WHEREAS, AB 117, adopted as California state law in 2002, permits cities, counties, or Joint Power Authorities comprised of cities and counties to aggregate residential, commercial, industrial, municipal and institutional electric loads through Community Choice Aggregation (CCA); and

WHEREAS, pursuant to Section 366.2 of the Public Utilities Code, 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, in March 2017, MBCPA was established as a joint powers agency pursuant to a joint powers agreement; and

WHEREAS, the purpose of MBCPA is to address climate change by providing locally controlled carbon-free electricity at affordable rates; and

WHEREAS, the City Council supports the mission of MBCPA and its intent to promote the development and use of a wide range of carbon free and renewable energy sources and energy efficiency programs, including solar and wind energy production at competitive rates for customers; and

WHEREAS, in order for the City of Morro Bay (City) to become a member of MBCPA, the MBCPA Joint Powers Agreement (JPA) must be amended to permit the City join as a party; and

WHEREAS, MBCPA also has requested the City adopt a resolution requesting membership in MBCPA and authorizing its City Manager to execute the JPA as amended, as well as an ordinance authorizing Community Choice Aggregation (CCA) within its jurisdiction; and

WHEREAS, the City wishes to be a community choice aggregator pursuant to the JPA and has introduced the Ordinance required by Public Utilities Code Section 366.2 in order to do so; 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.

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

SECTION 1. The City Council of requests the Board of Directors of MBCPA approve the City as a member of MBCPA.

SECTION 2. The City Manager is hereby authorized and directed to execute the JPA on behalf of the City after the JPA is amended, which will establish the City's membership in MBCPA.

SECTION 3. This Resolution and the subsequent joining of MBCPA 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 immediately upon passage and adoption.

PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 13th day of November 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
JAMIE L. IRONS, Mayor

ATTEST:

_____
DANA SWANSON, City Clerk

JOINT EXERCISE OF POWERS AGREEMENT RELATING TO AND CREATING THE

Monterey Bay Community Power Authority

OF

Monterey, Santa Cruz, and San Benito Counties and Certain Cities in San Luis Obispo County

This Joint Exercise of Powers Agreement, effective on the date determined by Section 2.1, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Sections 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the Parties set forth in Exhibit B, establishes the Monterey Bay Community Power Authority ("Authority"), and is by and among the Counties of Monterey, Santa Cruz, and San Benito who become signatories to this Agreement ("Counties") ~~and~~ those cities and towns within the Counties of Monterey, Santa Cruz, and San Benito who become signatories to this Agreement and the Cities of San Luis Obispo and Morro Bay who become signatories to this Agreement, and relates to the joint exercise of powers among the signatories hereto.

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. The California Air Resources Board is promulgating regulations to implement AB 32 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 related to the use of power in Monterey, Santa Cruz, and San Benito Counties and neighboring regions;

b. Providing electric power and other forms of energy to customers at affordable rates that are competitive with the incumbent utility;

c. Carrying out programs to reduce energy consumption;

d. Stimulating and sustaining the local economy by lowering electric rates and creating local jobs as a result of MBCP's CCE program.

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 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 geothermal energy production. The purchase of renewable power and greenhouse gas-free energy sources will be the desired approach to decrease regional greenhouse gas emissions and accelerate the State's transition to clean power resources to the extent feasible.

a. It is further desired to establish a short term and long-term energy portfolio that prioritizes the use and development of State, local and regional renewable resources and carbon free resources.

b. In compliance with State law and in alignment with the Authority's desire to stimulate the development of local renewable power, the Authority shall draft an Integrated Resource Plan that includes a range of local renewable development potential in the Monterey Bay Region and plans to incorporate local power into its energy portfolio as quickly as is possible and economically feasible.

E. The Parties desire to establish a separate public Authority, known as the Monterey Bay Community Power Authority, 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.

F. The Parties anticipate adopting an ordinance electing to implement through the Authority a common Community Choice Aggregation (CCA) program, an electric service enterprise available to cities and counties pursuant to California Public Utilities Code Sections 331.1(c) and 366.2. The first priority of the Authority will be the consideration of those actions necessary to implement the CCA 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 the 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: Regional Allocations

ARTICLE 2: FORMATION OF MONTEREY BAY COMMUNITY POWER AUTHORITY

2.1 Effective Date and Term. This Agreement shall become effective and "Monterey Bay Community Power Authority" shall exist as a separate public Authority on the date that this Agreement is executed by at least three Initial Participants from the Counties of Monterey, Santa Cruz, and San Benito and the municipalities within those counties, after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(12). The Authority shall provide notice to the Parties of the Effective Date. The Authority 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 the Authority.

2.2 Formation. There is formed as of the Effective Date a public Authority named the Monterey Bay Community Power Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public Authority separate from the Parties. Pursuant to Sections 6508.1 of the Act, the debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A Party who has not agreed to assume an Authority 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 the Authority. Notwithstanding Section 7.4 of this Agreement, this Section 2.2 may not be amended unless such amendment is approved by the governing board of each Party.

2.3 Purpose. The purpose of this Agreement is to establish an independent public Authority in order to exercise powers common to each Party to 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 CCA Program, as further described in Section 4.1. The Parties intend that other agreements shall define the terms and conditions associated with the implementation of the CCA Program and any other energy programs approved by the Authority.

2.4 Powers. The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority 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 3.7 through 3.7.1:

. 2.4.1 to make and enter into contracts;

. 2.4.2 to employ agents and employees, including but not limited to a Chief Executive Officer;

. 2.4.3 to acquire, contract, manage, maintain, and operate any buildings, infrastructure, works, or improvements;

. 2.4.4 to acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property; however, the Authority shall not exercise the power of eminent domain within the jurisdiction of a Party without approval of the affected Party's governing board;

. 2.4.5 to lease any property;

. 2.4.6 to sue and be sued in its own name;

. 2.4.7 to 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 Sections 53850 et seq. and authority under the Act;

. 2.4.8 to form subsidiary or independent corporations or entities if necessary, to carry out energy supply and energy conservation programs at the lowest possible cost or to take advantage of legislative or regulatory changes;

. 2.4.9 to issue revenue bonds and other forms of indebtedness;

. 2.4.10 to apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state, or local public agency;

. 2.4.11 to submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;

. 2.4.12 to adopt Operating Rules and Regulations;

. 2.4.13 to make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services; and

. 2.4.14 to permit additional Parties to enter into this Agreement after the Effective Date and to permit another entity authorized to be a community choice aggregator to designate the Authority to act as the community choice aggregator on its behalf.

2.5 Limitation on Powers. As required by Government Code Section 6509, the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by the City of Santa Cruz and any other restrictions on exercising the powers of the authority that may be adopted by the board.

2.6 Compliance with Local Zoning and Building Laws and CEQA. Unless state or federal law provides otherwise, any facilities, buildings or structures located, constructed, or caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed and comply with the California Environmental Quality Act ("CEQA").

ARTICLE 3: GOVERNANCE AND INTERNAL ORGANIZATION

3.1 Boards of Directors. The governing bodies of the Authority shall consist of a Policy Board of Directors ("Policy Board") and an Operations Board of Directors ("Operations Board").

. 3.1.1 Both Boards shall consist of Directors representing any of the three Counties of Monterey, Santa Cruz, or San Benito that become a signatory to the Agreement, ~~and~~ Directors representing any of the Cities or Towns within those counties that becomes a signatory to the Agreement, and Directors representing the Cities of San Luis Obispo and Morro Bay ("Directors"). Each Director shall serve at the pleasure of the governing board of the Party who appointed such Director, and may be removed as Director by such governing board at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director within 90 days of the date that such position becomes vacant.

. 3.1.2 Policy Board Directors must be elected members of the Board of Supervisors or elected members of the City or Town Council of the municipality that is the signatory to this Agreement. Jurisdictions may appoint an alternate to serve in the absence of its Director on the Policy Board. Alternates for the Policy

Board must be members of the Board of Supervisors or members of the governing board of the municipality that is the signatory to this Agreement.

. 3.1.3 Operations Board Directors must be the senior executive/CountyAdministrative Officer of any County that is the signatory to this Agreement, or senior executive/City Manager from any municipality that is the signatory to this Agreement. Jurisdictions may appoint an alternate to serve in the absence of its Director on the Operations Board. Alternates for the Operations Board must be administrative managers of the County or administrative managers of the governing board of the municipality that is the signatory to this Agreement.

. 3.1.4 Board seats will be allocated under the following formulas. Policy and Operations Board seats for founding JPA members (i.e. those jurisdictions that pass a CCA ordinance by February 28, 2017) will be allocated on a one jurisdiction, one seat basis until such time as the number of member jurisdictions exceeds eleven. Once the JPA reaches more than eleven member agencies, the Policy and Operations Boards' composition shall shift to a regional allocation based on population size. This allocation shall be one seat for each jurisdiction with a population of 50,000 and above, and shared seats for jurisdictions with populations below 50,000 allocated on a sub-regional basis, as set forth in Exhibit C. Notwithstanding the above, the County of San Benito shall be allotted one seat.

. 3.1.5 Shared board seats will be determined through the Mayors and Councilmembers' city selection process in their respective counties, with a term of two years except that the Cities of San Luis Obispo and Morro Bay shall determine the manner in which their shared seats shall be allocated. Directors may be reappointed, following the Mayors and Councilmembers' city selection process in their respective counties, or as determined by the Cities of San Luis Obispo and Morro Bay for their shared seats and serve multiple terms. In the event of an established board seat transitioning to a shared seat due to the addition of a new party, the sitting Director will automatically be the first representative for that shared seat to ensure continuity and maintain experience.

3.2 Quorum. A majority of the appointed Directors shall constitute a quorum, except that less than a quorum may adjourn in accordance with law.

3.3 Powers and Functions of the Boards. The Boards shall exercise general governance and oversight over the business and activities of the Authority, consistent with this Agreement and applicable law. The Boards shall provide general policy guidance to the CCA Program.

. 3.3.1 The Policy Board will provide guidance/approval in the areas of strategic planning and goal setting, passage of Authority budget and customer rates, and large capital expenditures outside the typical power procurement required to provide electrical service.

. 3.3.2 The Operations Board will provide oversight and support to the Chief Executive Officer on matters pertaining to the provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of the Authority.

. 3.3.3 Policy Board approval shall be required for any of the following actions, including but not limited to:

(a) The issuance of bonds, major capital expenditures, or any other financing even if program revenues are expected to pay for such financing;

(b) The appointment or removal of officers described in Section 3.9, subject to Section 3.9.3;

(c) The appointment and termination of the Chief Executive Officer;

(d) The adoption of the Annual Budget;

(e) The adoption of an ordinance;

(f) The setting of rates for power sold by the Authority and the setting of charges for any other category of service provided by the Authority;

(g) The adoption of the Implementation Plan;

(h) The selection of General Counsel, Treasurer and Auditor;

(i) The amending of this Joint Exercise of Powers Agreement; and

(j) Termination of the CCA Program.

. 3.3.4 Operations Board approval shall be required for the following actions, including but not limited to:

(a) The approval of Authority contracts and agreements, except as provided by Section 3.4.

(b) Approval of Authority operating policies and other matters necessary to ensure successful program operations.

3.3.5 Joint approval of the Policy and Operations Boards shall be required for the initiation or resolution of claims and litigation where the Authority will be the defendant, plaintiff, petitioner, respondent, cross complainant or cross petitioner, or intervenor; provided, however, that the Chief Executive Officer or General Counsel, on behalf of the Authority, 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 authority, without approval of the Boards as long as such action is consistent with any adopted Board policies.

3.4 Chief Executive Officer. The Authority shall have a Chief Executive Officer ("CEO"). The Operations Board shall present nomination(s) of qualified candidates to the Policy Board. The Policy Board shall make the selection and appointment of the CEO who will be an employee of the Authority and serve at will and at the pleasure of the Policy Board.

The CEO shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The CEO may exercise all powers of the Authority, 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 falls within the Authority's fiscal policies to be set by the Policy Board, except the powers specifically set forth in Section 3.3 or those powers which by law must be exercised by the Board(s) of Directors. The CEO shall report to the Policy Board on matters related to strategic planning and goal setting, passage of Authority budget and customer rates, and large capital expenditures outside the typical power procurement required to provide electrical service. The CEO shall report to the Operations Board on matters related to Authority policy and the

provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of the Authority. It shall be the responsibility of the CEO to keep both Board(s) appropriately informed and engaged in the discussions and actions of each to ensure cooperation and unity within the Authority.

3.5 Commissions, Boards, and Committees. The Boards may establish any advisory committees they deem appropriate to assist in carrying out the CCA Program, other energy programs, and the provisions of this Agreement which shall comply with the requirements of the Ralph M. Brown Act. The Boards may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees if the Board(s) deem it appropriate to appoint such commissions, boards or committees, and shall determine whether members shall be compensated or entitled to reimbursement for expenses.

3.6 Director Compensation. Directors shall serve without compensation from the Authority. However, Directors may be compensated by their respective appointing authorities. The Boards, however, may adopt by resolution a policy relating to the reimbursement by the Authority of expenses incurred by their respective Directors.

3.7 Voting. Except as provided in Section 3.7.1 below, actions of the Boards shall require the affirmative vote of a majority of Directors present at the meeting.

3.7.1. Special Voting Requirements for Certain Matters.

(a) Two-Thirds Voting Approval Requirements Relating to Sections 6.2 and 7.4. Action of the Board on the matters set forth in Section 6.2 (involuntary termination of a Party), or Section 7.4 (amendment of this Agreement) shall require the affirmative vote of at least two-thirds of Directors present.

(b) Seventy Five Percent Special Voting Requirements for Eminent Domain and Contributions or Pledge of Assets.

(i) A decision to exercise the power of eminent domain on behalf of the Authority 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 Directors present.

(ii) The imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the CCA Program shall require a vote of at least 75% of all Directors and the approval of the governing boards of the Parties who are being asked to make such contribution or pledge.

(iii) For purposes of this section, "imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the CCA Program" does not include any obligations of a withdrawing or terminated party imposed under Section 6.3.

3.8 Meetings and Special Meetings of the Board. The Policy Board shall hold up to three regular meetings per year, with the option for additional or special meetings as determined by the Chief Executive Officer or Chair of the Policy Board after consultation with the Chief Executive Officer. The Operations Board shall hold at least eight meetings per year, with the option for additional or special meetings. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the 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.).

3.9 Selection of Board Officers.

. 3.9.1 Policy Board Chair and Vice Chair. The Policy Board shall select, from among themselves, a Chair, who shall be the presiding officer of all Policy Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The Policy Board Chair and Vice Chair shall act as the overall Chair and Vice Chair for Monterey Bay Community Power Authority. The term of office of the Chair and Vice Chair shall continue for one year, but 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, is no longer holding a qualifying public office, or the Party that the person represents removes the person as its representative on the Board or;

(b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement

. 3.9.2 Operations Board Chair and Vice Chair. The Operations Board shall select, from among themselves, a Chair, who shall be the presiding officer of all Operations Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office of the Chair and Vice Chair shall continue for one year, but 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 is no longer the senior executive of the Party that the person represents or;

(b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

. 3.9.3 Secretary. Each Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of each Board and all other official records of the Authority. If the Secretary appointed is an employee of the Authority, that employee may serve as Secretary to both Boards.

. 3.9.4 The Policy Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom needs to be be a member of the Board. If the Board so designates, and in accordance with the provisions of applicable law, a qualified person may hold both the office of Treasurer and the office of Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit 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 Policy Board 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.

3.10 Administrative Services Provider. The Board(s) may appoint one or more administrative services providers to serve as the Authority's agent for planning, implementing, operating and administering the CCA 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. 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 tasks necessary for planning, implementing, operating and administering the CCA Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement and the circumstances under which the Administrative Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to hire its own employees to administer the CCA Program or any other program. The Administrative Services Provider shall be either an employee or a contractor of the Authority unless a member agency is providing the service.

ARTICLE 4: IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

4.1 Preliminary Implementation of the CCA Program.

. 4.1.1 Enabling Ordinance. To be eligible to participate in the CCA Program, each Party must adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(12) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.

. 4.1.2 Implementation Plan. The Policy Board 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 Policy Board in the manner provided by Section 3.7.

. 4.1.3 Termination of CCA Program. Nothing contained in this Article or this Agreement shall be construed to limit the discretion of the Authority to terminate

the implementation or operation of the CCA Program at any time in accordance with any applicable requirements of state law.

4.2 Authority Documents. The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board(s) through resolution, including but not limited to the MBCP Implementation Plan and Operating Policies. The Parties agree to abide by and comply with the terms and conditions of all such documents that may be adopted by the Board(s), subject to the Parties' right to withdraw from the Authority as described in Article 6.

ARTICLE 5: FINANCIAL PROVISIONS

5.1 Fiscal Year. The Authority's fiscal year shall be 12 months commencing April 1 or the date selected by the Authority. The fiscal year may be changed by Policy Board resolution.

5.2 Depository.

5.2.1 All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.

5.2.2 All funds of the Authority 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 the Authority shall be open to inspection by the Parties at all reasonable times. The Board(s) shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, 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(s) in accordance with its Operating 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(s).

5.3 Budget and Recovery of Costs.

5.3.1 Budget. The initial budget shall be approved by the Policy Board. 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 the Authority shall be approved by the Policy Board in accordance with the Operating Rules and Regulations.

5.3.2 Funding of Initial Costs. The County of Santa Cruz has funded certain activities necessary to implement the CCA Program. If the CCA Program becomes operational, these Initial Costs paid by the County of Santa Cruz shall be included in the customer charges for electric services as provided by Section 5.3.3 to the extent permitted by law, and the County of Santa Cruz shall be reimbursed from the payment of such charges by customers of the Authority. Prior to such reimbursement, the County of Santa Cruz shall provide such documentation of costs paid as the Board may request. The Authority may establish a reasonable time period over which such costs are recovered. In the event that the CCA Program does not become operational, the County of Santa Cruz shall not be entitled to any reimbursement of the Initial Costs it has paid from the Authority or any Party.

5.3.3 CCA Program Costs. The Parties desire that all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric, conservation, efficiency, incentives, financing, or other services provided under the CCA 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 CCA customers receiving such electric services, or from revenues from grants or other third-party sources.

5.3.4 Credit Guarantee Requirement. The Parties acknowledge that there will be a shared responsibility to provide some level of credit support (in the form of a letter of credit, cash collateral or interagency agreement) for Authority start-up and initial working capital as may be required by a third party lender. Guarantee requirements shall be released after program launch and as soon as possible under the terms of the third-party credit agreement(s). The credit guarantee will be distributed on a per-seat basis. Shared seat members will divide the credit guarantee among the cities sharing those seats. The term of the credit guarantee shall be the same term as specified in the banking agreement. Once a Party has

made a credit guarantee, that guarantee shall remain in place until released, even if that Party withdraws from the Authority.

. 5.3.5 The County of Santa Cruz has agreed to provide initial administrative support on a cost reimbursement basis to the JPA once formed. This includes, but is not limited to, personnel, payroll, legal, risk management.

ARTICLE SIX: WITHDRAWAL

6.1 Withdrawal.

. 6.1.1 Right to Withdraw. A Party may withdraw its participation in the CCA Program, effective as of the beginning of the Authority'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 the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing board.

. 6.1.2 Right to Withdraw After Amendment. Notwithstanding Section 6.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement adopted by the Policy Board which the Party's Director voted against provided such notice is given in writing within thirty (30) days following the date of the vote. Withdrawal of a Party shall require an affirmative vote of the Party's governing board 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, the Authority must provide to the Parties the report from the electrical utility consultant retained by the Authority that compares the total estimated electrical rates that the Authority 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 provides that the Authority is unable to provide total electrical rates, as part of its baseline offering, to the customers that are equal to or lower than the incumbent utility or to

provide power in a manner that has a lower greenhouse gas emissions rate or uses more renewable energy than the incumbent utility, a Party may, immediately after an affirmative vote of the Party's governing board, withdraw its membership in the Authority without any financial obligation, except those financial obligations incurred through the Party's share of the credit guarantee described in 5.3.4, as long as the Party provides written notice of its intent to withdraw to the Authority Board no more than fifteen business days after receiving the report. Costs incurred prior to withdrawal will be calculated as a pro-rata share of start-up costs expended to the date of the Party's withdrawal, and it shall be the responsibility of the withdrawing Party to pay its share of said costs if they have a material/adverse impact on remaining Authority members or ratepayers.

. 6.1.4 Continuing Financial Obligation; Further Assurances. Except as provided by Section 6.1.3, a Party that withdraws its participation in the CCA Program may be subject to certain continuing financial obligations, as described in Section 6.3. Each withdrawing Party and the Authority 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 CCA Program.

6.2 Involuntary Termination of a Party. Participation of a Party in the CCA 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 CCA Program upon a vote of the Policy Board as provided in Section 3.7.1. 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 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 CCA Program terminated may be subject to certain continuing liabilities, as described in 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 CCA Program through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any financial obligations arising after the date of the Party's withdrawal or involuntary termination. Claims, demands, damages, or other financial obligations for which a withdrawing or terminated Party may remain liable include, but are not limited to, losses from the resale of power contracted for by the Authority to serve the Party's load. With respect to such financial obligations, upon notice by a Party that it wishes to withdraw from the CCA Program, the Authority 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 CCA Program for such period. The waiting period will be set to the minimum duration such that there are no costs transferred to remaining ratepayers. If the Party elects to withdraw before the end of the minimum waiting period, the charge for exiting shall be set at a dollar amount that would offset actual costs to the remaining ratepayers, and may not include punitive charges that exceed actual costs. In addition, such Party shall also be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority and approved by a vote of the Policy Board, to cover the Party's financial obligations for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any financial obligations shall be returned to the Party. The liability of any Party under this section 6.3 is subject and subordinate to the provisions of Section 2.2, and nothing in this section 6.3 shall reduce, impair, or eliminate any immunity from liability provided by Section 2.2.

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 CCA Program, as described in Section 6.1.

6.5 Disposition of Property upon Termination of Authority. Upon termination of this Agreement, any surplus money or assets in possession of the Authority 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 the Authority shall make reasonable efforts to informally settle all disputes arising out of or in connection with this Agreement. Should such informal efforts to settle a dispute, after reasonable efforts, fail, the dispute shall be mediated in accordance with policies and procedures established by the Authority. The costs of any such mediation shall be shared equally among the Parties participating in the mediation.

7.2 Liability of Directors, Officers, and Employees. The Directors, officers, and employees of the Authority 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. The Authority 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 Sections 995 et seq. Nothing in this section shall be construed to limit the defenses available under the law, to the Parties, the Authority, or its Directors, officers, or employees.

7.3 Indemnification of Parties. The Authority shall acquire such insurance coverage as is necessary to protect the interests of the Authority and the Parties. The Authority shall defend, indemnify, and hold harmless the Parties and each of their respective Boards of Supervisors or City Councils, officers, 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 the Authority under this Agreement.

7.4 Amendment of this Agreement. This Agreement may not be amended except by a written amendment approved by a vote of Policy Board members as provided in Section 3.7.1. The Authority shall provide written notice to all Parties of proposed 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 the Authority, 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 the Authority 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, it is hereby agreed by the Parties, that the remainder of the 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 the Authority or Party, as the

case may be, or such other person designated in writing by the Authority or Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties.

Monterey Bay Community Power Authority
Of
Monterey, Santa Cruz and San Benito Counties and Certain Cities in San Luis Obispo County

Signature Page

COUNTY OF SANTA CRUZ

_____ _____
Chairperson of the Board of Supervisors Date

APPROVED AS TO FORM:

_____
Office of the County Counsel

CITY OF MORRO BAY

_____
Scott Collins, City Manager

ATTEST:

_____
Dana Swanson, City Clerk, City of Morro Bay

APPROVED AS TO FORM:

_____
City of Morro Bay, 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 the Authority with an entity that will perform tasks necessary for planning, implementing, operating and administering the CCA Program or any other energy programs adopted by the Authority.

"Agreement" means this Joint Powers Agreement.

"Annual Energy Use" has the meaning given in Section 3.7.1.

"Authority" means the Monterey Bay Community Power Authority.

"Authority Document(s)" means document(s) duly adopted by one or both Boards by resolution or motion implementing the powers, functions, and activities of the Authority, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.

"Board" means the Policy Board of Directors of the Authority and/or the Operations Board of Directors of the Authority unless one or the other is specified in this Agreement.

"CCA" or "Community Choice Aggregation" means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.

"CCA Program" means the Authority's program relating to CCA that is principally described in this Agreement.

"Director" means a member of the Policy Board of Directors or Operations Board of Directors representing a Party.

"Effective Date" means the date that this Agreement is executed by at least three Initial Participants from the Counties of Monterey, Santa Cruz, and San Benito and the municipalities within those counties, as further 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 CCA Program.

"Initial Costs" means all costs incurred by the County of Santa Cruz and/or Authority relating to the establishment and initial operation of the Authority, such as the hiring of a Chief Executive Officer and any administrative staff, and any required accounting, administrative, technical, or legal services in support of the Authority's initial activities or in support of the negotiation, preparation, and approval of one or more Administrative Services Agreements.

"Initial Participants" means those initial founding JPA members whose jurisdictions pass a CCA ordinance, whose Board seats will be allocated on a one jurisdiction, one seat basis (in addition to one seat for San Benito County) until such time as the number of member jurisdictions exceeds eleven, as described in Section 3.1.4.

"Operating Rules and Regulations" means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

"Operations Board" means the board composed of City Managers and CAOs representing their respective jurisdictions as provided in section 3.1.4 who will provide oversight and support to the Chief Executive Officer on matters pertaining to the provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of the Authority, as further set forth in section 3.3..

"Parties" means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 2.1 or 4.1.1 such that it is considered a member of the Authority.

"Party" means singularly, a signatory to this Agreement that has satisfied the conditions in Sections 2.1 or 4.1.1 such that it is considered a member of the Authority.

"Policy Board" means the board composed of elected officials representing their respective jurisdictions as provided in section 3.1.4 who will provide guidance/approval in the areas of strategic planning and goal setting, passage of Authority budget and customer rates, large capital expenditures outside the typical power procurement required to provide electrical service, and such other functions as set forth in section 3.3.

Exhibit B

List of Parties

Exhibit C

Regional Allocation

Board seats in the Monterey Bay Community Power Authority will be allocated as follows:

i. One seat for Santa Cruz County

ii. One seat for Monterey County

iii. One seat for San Benito County

iv. One seat for the City of Santa Cruz

v. One seat for the City of Salinas

vi. One seat for the City of Watsonville

vii. One shared seat for remaining Santa Cruz cities including Capitola and Scotts Valley selected by the City Selection Committee

viii. One shared seat for Monterey Peninsula cities including Monterey, Pacific Grove, and Carmel selected by the City Selection Committee

ix. One shared seat for Monterey Coastal cities including Marina, Seaside, Del Rey Oaks, and Sand City selected by the City Selection Committee

x. One shared seat for Salinas Valley cities including King City, Greenfield, Soledad, Gonzales selected by the City Selection Committee

xi. One shared seat for San Benito County cities selected by the City Selection Committee

xii. One shared seat for the Cities of San Luis Obispo and Morro Bay selected by the agreement of these two cities.

AGENDA NO: C-2

MEETING DATE: November 13, 2018

Staff Report

TO: **Honorable Mayor and City Council** **DATE:** **October 25, 2018**

FROM: **Rob Livick, PE/PLS – Public Works Director/City Engineer**
Damaris Hanson, CPESC – Environmental Programs Manager
Eric Casares, PE (Carollo Engineers) – OneWater Plan Program Manager

SUBJECT: **OneWater Plan Approval**

RECOMMENDATION

Staff recommends the City Council:

1. Approve the OneWater Plan; and
2. Provide direction to staff to incorporate the OneWater Capital Improvement Program (CIP), for consideration, in the City's annual budgets; and
3. Use the recommendations for water supply options section of the Plan as guidance in the consideration, development and implementation regarding the composition of the City's future water supply portfolio.

BACKGROUND/ DISCUSSION

The OneWater planning effort has continued as a City Goal since 2016 and the following was included in the 2018 Council's approved Goal and Objectives document:

> *Goal 2: Water Reclamation Facility (WRF) and OneWater Review and Implementation…The City is also working on a comprehensive plan looking at all the city's systems that address water, from sewer to potable water to stormwater. The OneWater Plan establishes a plan to secure our water future and establish a long-term capital improvement plan to improve water and sewer infrastructure.*

Specific components of the Plan have been reviewed in November 2017, May 2018, September 2018 and October 2018. Additionally, the Capital Improvement Costs were reviewed and refined by the "Blue Ribbon Commission" and as part of the Water and Sewer Rate study during the joint meeting between Public Works Advisory Board (PWAB), Citizens Finance Adivsory Committee (CFAC) and Water Reclamation Facility Citizens Advisory Committee (WRFCAC). This final draft plan is being presented to City Council for final adoption. The attached document represents the final report for the Plan.

Since the Plan will not commit the City to taking specific actions, it is not a project as defined by CEQA and no environmental review is needed at this time. Future actions that rely on the Plan may require such review.

Prepared By: __DH, RL,EC___ **Dept Review:** __RL__

City Manager Review: _SC__ **City Attorney Review:** ___

Comments received from City Council, PWAB, and staff have been incorporated into the Plan. No major revisions have been made. However, the Plan now includes an "Executive Summary" in the final document.

CONCLUSION

The Plan is critical in determining the necessary capital and maintenance improvements for the water, wastewater and storm drain systems, along with recommending the make-up of the City's future water supply portfolio to meet goals adopted by City Council since 2016. Additionally, the Plan has informed the General Plan and Local Coastal Plan update regarding water and wastewater resources to accommodate future growth anticipated in the General Plan and as allowed by Morro Bay City Ordinance Number 266. Finally, the costs in the water and collection system CIP have been incorporated into the rate study that was presented to the City Council at their July 10, 2018, meeting. The OneWater plan includes all the final chapters, including the Stormdrain CIP and Modeling efforts.

ATTACHMENT (LINK)

1. ONEWATER MORRO BAY PLAN, Carollo Engineers

AGENDA NO:	**C-3**
MEETING DATE:	**November 13, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 29, 2018**

FROM: **Eric Endersby, Harbor Director**

SUBJECT: **City Council Input and Direction on Harbor Department Lease Management Policy Document Update Proposed Timeline and Use of a Facilitator for the Update Process**

RECOMMENDATION

Staff recommend the Council provide input and direction on the Harbor Department Lease Management Policy update timeline being proposed, as well as provide direction on usage of a facilitator or moderator to assist in managing the process.

ALTERNATIVES

No alternatives are being presented at this time.

FISCAL IMPACT

If a paid professional facilitator/moderator is retained to manage the Harbor Department Lease Management Policy (LMP) update process, then an expense of approximately $10,500 to $14,000 would be realized, depending on how long the process takes.

As this item is not currently budgeted in the Harbor Operating Fund, a budget amendment will be necessary. While the Harbor Operating Fund budget is balanced as-adopted, there is currently insufficient budgeted revenues over expenses to support this expense; therefore, either equivalent cuts to expenses would need to be made, or the funds taken out of the Harbor Accumulation Fund.

BACKGROUND

On September 25, 2018, staff brought to Council for input and direction a draft process to update the LMP, focusing on three aspects of the update: the LMP itself, and what we want it to be; what areas of the LMP warrant more detailed “policy directive” or “policy implementation” documents; and the process by which to implement the LMP update, including a proposed timeline?

While supportive of staff’s proposal in general, the Council felt the proposed timeline was rushed and would not be sufficient to fully and properly carry out the process, in addition to directing staff to research and bring back for Council consideration utilizing a facilitator or moderator to assist in implementing the update process.

DISCUSSION

New Timeline

Staff are now proposing the following draft timeline for carrying out the LMP update:

Prepared By: ___EE_____	**Dept Review: ___EE___**
City Manager Review: __SC_____	**City Attorney Review: __JWP__**

A. November 2018 – staff and working group (and facilitator/moderator, if one is retained) determine roles, responsibilities and process execution logistics.
B. November-December 2018 – research and fact-finding.
C. By January 7, 2019 – working group evaluate results of research and fact finding in preparation for development of general policy outline structure.
D. By January 14, 2019 – create general outline of policy structure and determine work products to be produced.
E. January 22, 2019 – proposed general outline of policy structure and work products brought to City Council for input and direction.
F. February-April, 2019 – policy update performed and work products created.
G. May 2, 2019 – draft updated policy, including all add-on or follow-on documents to-date brought to HAB for input and recommendation.
H. May 14, 2019 – draft updated policy, including all add-on or follow-on documents brought to City Council for input and consideration of adoption.
I. As-needed – bring draft work products, questions and decision points to HAB for consideration and input.

Facilitator/Moderator

Staff identified local area consultants who assist with process facilitation, and received one proposal from Brad Britton of Britton Coaching & Consulting. Mr. Britton moderated Trident Wind's recent public information forum at the Community Center on October 11.

Mr. Britton estimates a cost of approximately $10,500 to $14,000 for initial start-up meetings, ongoing task meetings and final work product preparation and presentation to the City Council based on the general timeline proposed above, with the cost variance depending on how many meetings.

In addition, Harbor Advisory Board Chairman, marine surveyor/development consultant and Morro Bay resident Ron Reisner, and retired La Verne City Manager, ex-Interim Morro Bay City Manager and Morro Bay resident Marty Lomeli have both offered their services to manage the process free of charge.

CONCLUSION

Staff seek Council input and concurrence on the proposed new LMP update timeline presented, as well as direction on how to pursue a facilitator/moderator to assist in executing the update process. Once direction is received, staff will assemble the working group and get the project underway.

In addition, if a paid professional facilitator/moderator will be engaged, then staff require direction on how Council prefers to fund it; either by cutting equivalent expenses in the Harbor Operating Fund, or drawing it from the Harbor Accumulation Fund. Since the Harbor Accumulation Fund balance is currently fully budgeted for several items, that amount would need to be taken from one of those items. Depending on Council direction, staff may need to return with a resolution approving a budget amendment.

AGENDA NO:	**C-4**
MEETING DATE:	**November 13, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: November 5, 2018**

FROM: **Scott Collins, City Manager**
Rob Livick, Public Works Director
Janeen Burlingame, Senior Analyst

SUBJECT: **Direction Regarding Potential Reuse of Soon to be Decommissioned Trolley as a Mobile Visitor Center**

RECOMMENDATION

City Council

1) Direct staff to sell the Trolley that is set for decommissioning and replacement, sending all sale proceeds to the City's Transportation Fund and pursue further review of the option to locate the City's visitor center at the old aquarium building, or
2) Direct staff to conduct further review of reusing the old trolley as a mobile visitor center; or
3) Provide other direction to staff as appropriate.

ALTERNATIVES

1) Maintain status quo for the visitor center, and sell the trolley with all sale proceeds going to the City's Transportation Fund.

FISCAL IMPACT

If the City Council elects to sell the old City trolley slated for decommissioning and replacement in 2019, then proceeds from the sale (estimated to be between $40,000 to $50,000) would be directed to the City's Transportation Fund. If the Council elects not to sell the old trolley and reuse it as a mobile visitor center or other City purpose, then the City would need to reimburse the Transportation Fund from the General Fund or other qualifying funding source in the amount equal to the resale value of the old trolley, approximately $40,000 to $50,000.

The City may experience additional fiscal impacts if it pursues an alternative visitor center option than the current approach. Those costs would be determined upon further study should City Council direct staff to conduct that review.

BACKGROUND/DISCUSSION

At the September 25, 2018, City Council meeting, Council received a report from staff indicating one of the City's existing trolleys has reached the end of its useful life and a replacement trolley is required. In approving the purchase of a new trolley, Council directed staff to explore the option of using the trolley set for decommissioning and replacement as a mobile visitor center and bring back an item for discussion by the Council.

Since that time, staff has conducted a very cursory review of the option to use the old trolley as a mobile visitor center. In addition, staff has reviewed the performance of the existing visitor center,

Prepared By: ___JB/RL_____	**Dept Review: _____**
City Manager Review: __SC_____	**City Attorney Review: __JWP__**

which is not ideally located for visitors to Morro Bay. Finally, staff has reviewed other options for locating the visitor center in the tourist serving areas of the City. The report below provides a summary of that staff review.

Current Visitor Center

The visitor center provides a vital link between visitors to Morro Bay and our hotels, restaurants and services. Even in the age of ubiquitous use of smartphones in America, with the yellow pages at your disposal by a push of your finger, visitor centers are critical in connecting tourists to what they are seeking. Positive and useful interactions with visitor center staff leaves a positive and lasting mark in the visitor's mind, while keeping their spending local in Morro Bay. Also, as a result of a positive visitor center experience, they are more likely to return to Morro Bay in the future.

The current Morro Bay visitor center is located at 695 Harbor Street and is operated by the Chamber of Commerce (Chamber) via a contract with the City. The City pays the Chamber $50,000 a year to operate the visitor center. The visitor center was previously located closer to the heart of downtown just a few blocks from the Embarcadero. Prior to that, it was located on the Embarcadero.

Unfortunately, as the visitor center has moved further away from the main tourist serving areas, the number of visitor drop-ins to the center has declined. That drop has occurred over the same period of time where the number of visitors to Morro Bay overall have increased, as evidenced by an incremental increase in hotel occupancy rates and increases in transient occupancy tax receipts. The main contributing factor to the decline in visits to the visitor center is the poor location. It is not a reflection on the Chamber's management of the visitor center; in fact, the Chamber has been complimented regularly for the excellent customer service. Ultimately, however, the visitor center should be in an easy to find location, and where tourists already are. The current visitor center does not meet either of those criteria. Thus, a review of options to consider moving the visitor center to a more suitable location is warranted.

Mobile Visitor Center Option

Staff envision the trolley would be parked in the heavier trafficked visitor serving areas, such as the Embarcadero and downtown. The trolley would be parked in popular areas to gain the greatest visibility and visitation possible. That would remove 1 to 2 public parking spaces when the trolley would be in use as the visitor center and would require a permit for that use.

In order to make that option work, the City would need to reimburse the Transportation Fund in the amount equal to the resale value of the trolley. Staff estimates the reimbursement would impact the General Fund or other funding source approximately $40,000 to $50,000. Other considerations include staffing the mobile visitor center and understanding if that would replace the visitor center or just serve as an auxiliary to the existing visitor center and what it would cost to outfit the vehicle to accommodate the visitor center use.

Other Option for Visitor Center

Another option for the Council to consider is placing the visitor center in the old aquarium store front, which is currently vacant, on a temporary basis as the future of the building is under examination. That location is one of the most highly trafficked visitor serving areas of the City, a natural location for a visitor center. That building could likely accommodate a visitor center alongside another use. Some questions that need to be vetted before the City has sufficient information to recommend that option to Council include, but are not limited to, oversight/staffing the visitor center, costs to improve the building to serve as a visitor center, compatibility with other uses

in the building and rent structure, if any. In addition, the City would likely need to pay some rent to host the visitor center there because it is part of the tidelands trust. Finally, the City would need to determine who would operate the visitor center. The most sensible staffing option includes moving the Tourism staff to that building and having them operate the visitor center. Under that scenario, the City would no longer pay the Chamber to operate the visitor center, and those funds could be used to pay the annual rent and upfront costs of improving the facility.

Of course there may be other options the City could pursue, such as downtown locations, like the vacant Bank of America building, or other Embarcadero facilities, as they become available.

Status Quo Option
As an alternative to the mobile visitor center or relocation to the old aquarium building, the City Council may wish to maintain the status quo for the visitor center and pursue sale of the old trolley, directing all sale proceeds to the City's Transportation Fund.

ATTACHMENTS
None.

This Page Intentionally Left Blank

AGENDA NO:	**C-5**
MEETING DATE:	**November 13, 2018**

Staff Report

TO: **Honorable Mayor and City Council** **DATE:** **October 25, 2018**

FROM: **Jennifer Callaway, Finance Director**
Rob Livick, Public Works Director
Scot Graham, Community Development Director

SUBJECT: **Receive and File Fiscal Year (FY) 2017/18 Status Report on Receipt and Use of Development Impact Fees**

RECOMMENDATION:
Staff recommends Council r**eceive and File** Fiscal Year (FY) 2017/18 status report on receipt and use of Development Impact Fees.

FISCAL IMPACT:
There is no fiscal impact associated with the requested action.

BACKGROUND/DISCUSSION:
To ensure certain mitigation fees associated with development are spent in a timely manner and on projects for which they were being collected, the State Legislature passed a bill known as AB 1600. That bill was codified as Government Code section 66000 *et seq.* (Mitigation Fee Act) and applies to developer fees which were increased or imposed on or after January 1, 1989.

The Mitigation Fee Act requires local agencies that impose Development Impact Fees[1] to present an annual, consolidated report showing the receipt and use of those fees. The Annual Status Report (Attachment 1) must be reviewed by Council within 180 days after the close of the fiscal year represented. The Mitigation Fee Act report is required to be accessible to the pubic for viewing at least 15 days prior to the public hearing. The report was available at City Hall on October 26, 2018, 17 days in advance of the November 13, 2018, Council discussion of this item.

The City collects the following Development Impact Fees that meet the Mitigation Fee Act reporting requirements:

- Government Impact Fees (Fund 900)
  - Administration
  - Police
  - Fire
  - Street
  - Storm Drain
  - Parks Fees
- Affordable Housing In-Lieu Fees (Fund 941)
- Water Impact Fees (Fund 951)
- Sewer Impact Fees (Fund 952)
- Miscellaneous Impact Fees (Fund 515)

1 Development Impact Fees do not include Park In Lieu Fees (Quimby Fees), those fees charged if parklands are not dedicated as part of a new residential development, or Parking In Lieu Fees, an alternative developers can chose for certain developments rather than providing required parking.

- Highway 41/Main Impact Fees
- Traffic Impact
- Sewer Master Plan Impact
- Flood Hazard Plan Impact

Separate balances exist for each of those fees either as individual accounts or separate funds. As required by the Mitigation Fee Act, as of June 30, 2018, all accounts or funds with unspent balances have been credited interest revenue at the City's current interest rate earned on its total investment portfolio.

The Mitigation Fee Act requires a status report be prepared annually which must include the following:

- A brief description of the fee and the fund into which the fee was deposited;
- The amount of the fee;
- The associated fund's beginning and ending balances for the fiscal year;
- The total amount of the fees collected, and interest earned;
- Identification of each public improvement on which impact fees were expended and amount of the expenditure on each improvement, including the total percentage of the cost of the public improvement that was funded with impact fees;
- Identification of approximate date by which construction of a public improvement will begin;
- Determination that sufficient funds have been collected to complete financing on an incomplete public improvement;
- Description of each inter-fund transfer or loan made from the account or fund, including the public improvement on which the loaned funds will be expended, and in the case of an inter-fund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan, and
- Amount of any refunds made due to inability to expend impact fees once a determination is made that sufficient impact fees have been collected to finance a public improvement, the improvement remains incomplete, and the City has not determined an approximate date by which the construction will begin.

The information is presented in the attached FY 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees.

CONCLUSION

Staff recommends Council receive and file the FY 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees as required under the Mitigation Fee Act.

ATTACHMENTS

1. FY 2017/18 Annual Status Report on Receipt and Use of Development Impact Fees.

Prepared By: __JC, RL, SG___	**Dept Review: _JC, RL, SG__**
City Manager Review: __SC_	**City Attorney Review: JWP**

CITY OF MORRO BAY
ANNUAL STATUS REPORT ON RECEIPT AND USE OF DEVELOPMENT IMPACT FEES
JUNE 30, 2018

Government Impact Fees:
Government Impact Fees are collected to ensure that new development pays the cost of infrastructure expansion required to meet the needs of that new development, effectively transferring the cost burden of growth from the existing rate and tax payers.

The collected fees are held in fund 940, Government Impact Fees Accumulation Fund and are permitted to be used for capital projects for new facilities, vehicles, and rehabilitation and/or renovation of existing facilities, so long as the rehabilitation or renovation is needed to serve the new development that has paid the fee.

Fund 900		**FY 17/18**
Beginning Fund Cash Balance (07/01/2017)	$	727,576
Source of Funds		
Administration Fees Collected FY 17/18	$	71,128
Interest Earned FY 17/18	$	2,978
Police Fees Collected FY 17/18	$	2,744
Interest Earned FY 17/18	$	115
Fire Fees Collected FY 17/18	$	3,373
Interest Earned FY 17/18	$	141
Street Fees Collected FY 17/18	$	14,127
Interest Earned FY 17/18	$	591
Storm Drain Fees Collected FY 17/18	$	614
Interest Earned FY 17/18	$	26
Parks Fees Collected FY 17/18	$	120,093
Interest Earned FY 17/18	$	5,027
Transfers In		
Total Source of Funds	$	220,957
Use of Funds		
Interfund Transfer to Facilities for Del Mar Restroom	$	25,500
Interfund Transfer to fund ADA Sidewalk Gap Work	$	42,818
Total Use of Funds	$	68,318
Ending Fund Cash Balance (06/30/2018) Pre-Final Audit	$	880,214

	Cash Balance Per Category FY 17/18	
Administration Fees	$	472,437
Police Fees	$	60,778
Fire Fees	$	77,008
Street Fees	$	115,748
Storm Drain Fees	$	10,777
Parks Fees	$	143,467
Total Impact Fees	$	880,214

*The City's Fee Schedule with Development Impact Fees is included as Exhibit A and potential future funded projects are provided below. These are potential projects and may or may not be approved in the City's current budget. Any expenditures from these funds would require Council authorization and approval prior to expenditure.

Fund 900

Potential Future Projects				**Total Funds Available**
Administration Fees	$	-		
Council Chambers Improvements	$	300,000		
Phone System Upgrades and Improvements	$	50,000		
Security Improvements and Upgrades	$	150,000		
Total Potential Admin Projects	$	500,000	$	472,437
Police Fees	$	-		
Police Facility Improvements and Upgrades	$	75,000		
Total Potential Police Projects	$	75,000	$	60,778
Fire Fees				
Fire Engine Upgrade	$	77,008		
Total Potential Fire Projects	$	77,008	$	77,008
Street Fees				
ADA Transition Plan Improve	$	5,657,072		
Total Potential Street Projects	$	5,657,072	$	115,748
Storm Drain Fees	$	-		
Laurel Ave Easement Rehabilitation	$	97,000		
Total Potential Storm Drain Projects	$	97,000	$	10,777
Parks Fees	$	-		
Bocce Ball Court	$	20,000		
City Park Playground Equipment Upgrade	$	150,000		
Total Potential Parks Projects	$	170,000	$	143,467
Total Potential Future Projects	$	6,576,080	$	880,214

Affordable Housing In-Lieu Fee:
Affordable Housing In-Lieu Fees are collected from residential development projects when the construction of affordable housing units is impractical. The required in-lieu fee is to be paid to the City prior to the issuance of a building permit (where square footage is added) or a final tract map. The Affordable Housing In-Lieu Fee is $0.35 per square foot.

The collected fees are held in the 941 fund and are restricted to be used solely for the affordable housing program activities, including projects such as the Housing Element or General Plan Update, or transfer to another public agency for providing affordable housing in the City.

AFFORDABLE HOUSING IN-LIEU FEES

Fund 941		**FY 17/18**	
Beginning Cash Balance (07/01/2017)	$	116,874	
Source of Funds			
Fees Collected FY 17/18	$	175,200	
Interest Earned FY 17/18	$	2,175	
Total Source of Funds	$	177,375	*
Use of Funds			
Bequeathment for Home Share SLO	$	1,000	
SLO County Housing Trust Fund	$	5,000	
Total Use of Funds	$	6,000	
Ending Cash Balance (06/30/2018) Pre-Final Audit	$	288,249	
Potential Future Projects			
Home Share SLO (5 year total - pending appropriation)	$	25,000	
Housing Element Update	$	70,000	
Housing Element Implementation	$	200,000	
Total Potential Future Projects	$	295,000	

*Amount reported is net an interest adjustment of $64

Sewer Impact Fee:

Pursuant to Government Code, revenues derived from the City's impact fees can only be used for the purpose for which the charges are collected. Wastewater impact fee recover costs for buying in to existing facilities and assets. As such, this share of each fee represents a reimbursement to the City's existing customer base for previously-funded facilities and therefore, may potentially be used for any purpose. However, the City's practice is conservative and uses these fees to exclusively fund capital improvements.

The collected fees are held in the 952 fund and are restricted to be used solely for wastewater capital improvements.

Fund 952-5251-3950	**FY 17/18**
Beginning Cash Balance (07/01/2017)	$ 389,993
Source of Funds	
Impact Fees FY 17/18	$ 18,150
Interest Earned FY 17/18	$ 354
Total Source of Funds	$ 18,504
Use of Funds	
Interfund Transfer to	
Total Use of Funds	$ -
Ending Cash Balance (06/30/2018) Pre-Final Audit	$ 408,497
Potential Future Projects	
One Water Capital Improvements	$ 500,000
Total Potential Projects	$ 500,000

Water Impact Fee:

Pursuant to Government Code, revenues derived from the City's impact fees can only be used for the purpose for which the charges are collected. Water impact fees are designed to recover the cost of existing water system facilities and assets as well as the cost of system upgrades and expansion needed to serve the City.

The collected fees are held in the 951 fund and are restricted to be used solely for water system facilities, assets and system upgrades and expansion.

Fund 951-5240-3950	**FY 17/18**
Beginning Cash Balance (07/01/2017)	$ 137,065
Source of Funds	
Impact Fees FY 17/18	$ 101,596
Interest Earned FY 17/18	$ 2,247
Total Source of Funds	$ 103,843
Use of Funds	
Nutmeg Tank	
Nutmeg St. Trench Repair	
Desale Plant Upgrade	
Desale Plant, Permit Upgrade	
Nitrate Study	
One WaterPlan	$ 221,425
WRF Project	$ 559,342
Total Use of Funds	$ 780,767
Ending Cash Balance (06/30/2018) Pre-Final Audit	$ 0
Potential Future Projects	
OneWater Capital Improvements	$ 500,000
Total Potential Projects	$ 500,000

Trust & Agency

The Trust & Agency fund (fund 515) has historically been used by the city to hold funds with restricted purposes. There are three impact fees that remain in the Trust & Agency fund, traffic impact, sewer master plan impact and flood hazard plan impact. In addition, previous years balances exist for the Highway 41/Main Impact, Storm Drain Impact and Calvary Baptist Drain Impact. These funds are restricted to use of related projects and improvements.

Fund 515	**FY 17/18**
Beginning Cash Balance (07/01/2017)	$140,213
Source of Funds	
Highway 41/Main Impact Fee (2600)	$ -
Traffic Impact/All Sources (2607)	$ 18,981
Storm Drain Impact (2613)	$ -
Calvary Baptist Drain Impact (2616)	$ -
Sewer Master Plan Impact (2622)	$108,834
Flood Hazard Plan Impact (2740)	$ 620
Total Source of Funds	$128,435
Use of Funds	
Interfund Transfer to	
Total Use of Funds	
Highway 41/Main Impact Fee (2600)	$ (14,811)
Ending Cash Balance (06/30/2018) Pre-Final Audit	$253,837

	Cash Balance Per Category FY 17/18	
Highway 41/Main Impact Fee	$	50,878
Traffic Impact/All Sources	$	49,973
Storm Drain Impact	$	4,208
Calvary Baptist Drain Impact	$	314
Sewer Master Plan Impact	$	146,073
Flood Hazard Plan Impact	$	2,391
Total Cash Balance	$	253,837

Fund 515

Potential Future Projects				Total Funds Available
Highway 41/Main Impact Fee				
State Rt (SR) 1/SR 41 Interchange Improvement	$	620,000		
Total Potential Projects	$	620,000	$	50,878
Traffic Impact/All Sources				
State Rt (SR) 1/SR 41 Interchange Improvement	$	620,000		
Total Potential Projects	$	620,000	$	49,973
Storm Drain Impact				
Laurel Ave Easement Rehabilitation	$	97,000		
Total Potential Projects	$	97,000	$	4,208
Calvary Baptist Drain Impact				
Laurel Ave Easement Rehabilitation	$	97,000		
Total Potential Projects	$	97,000	$	314
Sewer Master Plan Impact				
OneWater Plan	$	691,150		
Total Potential Projects	$	691,150	$	146,073
Flood Hazard Plan Impact				
OneWater Plan	$	691,150		
Total Potential Projects	$	691,150	$	2,391
Total Potential Future Projects	$	2,816,300	$	253,837

RESOLUTION NO. 37-18

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, AMENDING THE FISCAL YEAR 2018/19 MASTER FEE SCHEDULE ADOPTED BY RESOLUTION 17-18 TO INCLUDE A COMMERCIAL MEDICAL CANNABIS LICENSE APPLICATION FEE

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, the City Council finds fees and charges for City services are annually in need of review for possible updating to reflect changes in the cost of providing those services; and

WHEREAS, pursuant to the California Constitution, with certain expectations, if a City Fee exceeds the City's cost for providing the service covered by that fee, that fee is considered a tax; and

WHEREAS, the City has reviewed the new Commercial Medical Cannabis Operation License fee, and finds it does not exceed the actual costs of providing related services; and

WHEREAS, the City Council, November 14, 2017 adopted Ordinance No. 612 adding a Commercial Medical Cannabis Operation Regulatory Program to the Morro Bay Municipal Code; and

WHEREAS, the establishment of a new Commercial Medical Cannabis Operation License Fee is necessary to cover the cost of City administration of new regulatory program; and

WHEREAS, pursuant to government Code section 66016, et seq., specific fees to be charged for services must be adopted by City Council resolution or ordinance, after providing notice and holding a public hearing; and

WHEREAS, the City's Municipal Code Section 3.34.020 Fee revisions and reviews, states: *Any fees, included in the Master Fee Schedule, may be reviewed and revised annually by the city council. The City's cost of providing the services shall be completed and reflected in these fees. The fees shall then be enumerated, and the revised Master Fee Schedule adopted by resolution of the City Council)*; and

WHEREAS, on April 10, 2018, City Council adopted Resolution No. 17-18, adopting the FY 18/19 Master Fee Schedule.

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

SECTION 1. the Fiscal Year 2018/19 Master Fee Schedule, adopted by Resolution No. 17-18 is amended to incorporate a new Commercial Medical Cannabis Operation License Fee.

SECTION 2. the Amended Fiscal Year 2018/19 Master Fee Schedule, attached hereto and incorporated herein, shall be adopted.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 12th day of June 2018, by the following vote:

AYES: Irons, Davis, Headding, Makowetski, McPherson
NOES: None
ABSENT: None
ABSTAIN: None

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

CITY OF MORRO BAY
FEE SCHEDULE
FOR THE FISCAL YEAR 2018/19

All fees adjust annually by either the December Consumer Price Index (CPI = 2.9%) or Construction Cost Index (ENR = 3.5%). The CPI used is for the San Francisco-Oakland-San Jose area.

Table of Contents

Category	Page Number
General	2
Finance	3
Community Development	4
Public Works	12
Police	16
Fire	18
Harbor	23
Recreation	27
Transit	31

GENERAL FEES	
FEE NAME	**ADOPTED FEE**
Photocopies (unless otherwise defined)	$0.40 per page $0.70 per 11 x 17” page
Print material mailed	Cost of copying/printing and postage
Refundable appeal fee for non-land use administrative decisions	$250 per appeal*
Elections filing fee - Notice of intention to circulate petition; this amount is refundable under Elections Code Section 9202(b), with conditions	$200

*Estimated Cost of Appeal is $1,000. The $250 appeal fee denotes 25% cost recovery.

FINANCE	
FEE NAME	**ADOPTED FEE**
Budget document, per copy	Per page cost for photocopying
City audit document, per copy	Per page cost for photocopying
Master Fee Schedule	Per page cost for photocopying
Business Tax Schedule	Per page cost for photocopying
Returned check charge, per CA Civil Code Section 1719	$25 for the first check $35 for each subsequent check
UTILITY BILLING	
Water service application fee	$29
Physical posting of shut-off notice at customer location	$62.27
Refundable/transferable deposit - residential tenants only on signup (MC 13.04.220)	$100
Deposit required for service termination for delinquent non-payment (residential tenants only, if a deposit has not previously been collected)	$100
Reconnection (MC 13.040.310)	$52.48

COMMUNITY DEVELOPMENT	
BUILDING DIVISION	
FEE NAME	**ADOPTED FEE**
Valuation of from 0 - $3,000 (including electrical service less than 600 amp, and minor plumbing alternatives)	$94
$3,001 and up	.025 x total valuation as determined by the Building Official (50% submittal/50% at issuance)
Construction Operation After Hours	$36
Building Re-Address Processing	$35
Demo Commercial	$514
Demo Residential	$309
In-lieu Housing Fee (if unit not affordable housing) - per square foot	$0.37
General Plan Maintenance	6% surcharge on all Building Permits
I.T. Service Fee	.0075 x valuation
SMIP Category I (Residential)	.00013 x valuation
SMIP Category II (Commercial)	.00028 x valuation
Unsafe Building repair, demolition or moving structure	Charged at cost
Inspection Fees - outside of normal work hours - per hour, 2 hour minimum	$173
Re-Inspection Fees - per hour	$129
Property condition report for Condominium Conversions (Review/Inspection)	$206
Inspection for which no fee is otherwise indicated - per hour, 1 hour minimum – Use for Certificate of Occupancy	$129
Additional Plan Review required by changes, additions, revisions to the approved plans - per hour, 1hour minimum	$129

Use of outside consultants for special plan checking and inspection	Charged at cost + 25% Administration Fee
Permits – Change Ownership/Add Contractor	$129
Permit Extension of Time	$129
Residential Solar Permit 1kW to 15 kW	$360
Residential Solar over 15kW	$360 + $15 per kW above 15kW
Commercial Solar Permit below 50kW	$772
Commercial Solar Permit 50kW – 250kW	$772 + 5$ per kW above 50kW
SPECIAL INSPECTION & PLAN REVIEW FEES	
Penalty for commencing construction without permit(s). This is in addition to the standard building permit fees.	$120 + 2 times the permit fee
DEVELOPMENT IMPACT FEES	
Building fees per square foot, including garages (enclosed spaces). Single family residential additions of 500 square feet or less are exempt. Water and Wastewater fees are additional. An increase in meter size resulting from the need to comply with the hydraulic demand associated with Fire Sprinklers is exempt.	
Residential, Single Family	$4.43
Residential, Multi-family	$7.10
Accessory Dwelling Unit	$1.08
Non-residential, commercial	$4.50
Non-residential, office	$3.17
Non-residential, industrial	$1.63

Park fees for residential in-fill lots, per square foot	
Single-family	$1.38
Single-Family, Detached Accessory Structure	$0.34
Accessory Dwelling Unit	$0.34
Multi-family	$2.29
Public Facilities Fees, per square foot.	
Single-family residential:	
General Government	$1.32
Police	$0.44
Parks	$1.38
Fire	$0.48
Storm Drain	$0.06
Traffic	$2.13
Multi-family residential:	
General Government	$2.18
Police	$0.72
Parks	$2.29
Fire	$0.81
Storm Drain	$0.07
Traffic	$3.31
Public Facilities Fees, per square foot	
Non-residential, commercial:	
General Government	$0.28
Police	$0.07
Parks	$0.02
Fire	$0.25
Storm Drain	$0.04
Traffic	$3.78

Public Facilities Fees, per square foot (continued)	
Non-residential, office:	
General Government	$0.36
Police	$.09
Parks	$0.02
Fire	$0.35
Storm Drain	$0.04
Traffic	$2.30
Non-residential, industrial:	
General Government	$0.10
Police	$0.04
Parks	$0.02
Fire	$0.09
Storm Drain	$0.04
Traffic	$1.33
PLANNING DIVISION	
Affordable Housing In-Lieu:	
Funding assistance application fee	$620
Reasonable Accommodation (ADA) fee (no fee required if in conjunction with other discretionary permit)	$120
Coastal Permits (may be billed at direct cost):	
Coastal Permit in combination with Conditional Use Permit	No fee
Coastal Permit (Administrative)	$806
Regular CDP Without CUP - New single family and single family additions over 25%, Multiple Dwelling, Office, Commercial, Convention, Industrial & Institutional	$5,653
Additions between 10% and 25% to a Single Family Dwelling in Coastal Appeals area (Planning Commission)	$2,174
Emergency Permit (excluding required regular CDP)	$726
Other administrative – Tree Removal, private	$277

Environmental (may be billed at direct cost):	
Categorical Exemption	$98
Negative Declaration	$1,575
Mitigated Negative Declaration If contracted = contract amount + 25% administrative fee	$3,844, if done in house or as a deposit for outside consultant
Filing Fee - for environmental document	$200
Environmental Impact Report - Contract Amount + 25% administrative fee	$5,000 deposit
Archaeology Research Fee – Santa Barbara Central Coast Information Services	$100
Miscellaneous:	
Letter regarding land use confirmation or other research – per hour cost	$98
Development Agreement – charged at fully allocated hourly rates for all personnel involved, plus any outside costs	$10,000 deposit
Applicant Requested Continuance	$127
Fine, in addition to permit fee	$100 + two times the permit fee + plus $50 per day – after notice.
Appeal of City decision, excluding Coastal Permits in the appeal jurisdiction – refundable if appellant prevails	$250*
Copy of Planning Commission DVD	$13
Street name/Rename Processing	$461
Conceptual Review Fee – Fee is credited toward any future discretionary permit application	$1,543
Notification fees:	
Planning Commission Hearing	$326
Administrative Permit Noticing	$163
Special Events	Actual staff cost

Sign Permits:	
Sign Permit	$217
Sign Exception (CUP)	$979
Pole Sign (CUP)	$979
Fines – Temporary, beyond time allowed by Ordinance – per day after notice given	$55
Fines – Permanently attached sign w/o permit – per day after notice	$55

*Estimated Cost of Appeal is $1,000. The $250 appeal fee denotes 25% cost recovery.

Subdivisions: all Subdivisions may be billed at direct cost	
Tentative Parcel Map Application	$7066
Tentative Tract Map 0 to 10 lots, add $100.00 per lot over 10 lots	$7066
Amendments to Existing Tract or Parcel Maps	$3,261
Lot Line Adjustment	$1,088
Certificate of compliance (legal determination) – initial fee covers up to 4 lots. Add $250 per lot over 4 lots	$2,130 + $250 per lot for every lot over 4
Lot Mergers	$1,088
Text Amendments & Annexations (May be billed at direct cost)	
Zone Ord. Changes/LCP - Minor (single section revisions/additions) - Major (multiple sections revised/added) If contracted – contract amount + 25% administrative fee. Fee amount becomes an initial deposit.	Minor = $7,610 Major = $10,871
Specific Plan (Billed as deposit with charges at the fully allocated hourly rates for all personnel involved + any outside costs). If contracted = cost + 25% administration fee. Fee amount becomes an initial deposit.	$5,000 deposit

General Plan/Local Coastal Plan Amendment: - Minor (single section revisions/additions) - Major (multiple sections revised/added) If contracted – cost + 25% administrative fee. Fee amount becomes an initial deposit.	$7,610 $10,871
Annexations – Deposit to be determined by staff. Billed at fully allocated staff cost. If contracted – contract amount + 25% administrative fee.	$5,355
Time Extensions	
Time extension for CUP, regular Coastal Permits and variance (Planning Commission)	$979
Time Extensions for Tract Maps and Parcel Maps	$979
Time Extension - Administrative	$272
Use Permits - All use permits may be billed at direct cost at the discretion of the Community Development Manager and the scheduled fee would then be deemed as a deposit. - All Projects in the Planned Development Overlay require a Use Permit	
Conditional Use Permit (CUP)	$5,653
CUP Concept Plan	$8,697
CUP Precise Plan	$3,261
CUP Combined Concept/Precise Plan	$8,697
Conditional Use Permit for an SFR addition of 25% or less of the existing floor area. (appeals area only)	$2,174
One SFR in a Planned Development Zone or Bluff Area	$1,6315
Occupancy Change in Commercial/Industrial Zones	$871
Additions to non-conforming structures, not adding units or new uses	$2,130
Minor Use Permit (Residential & Industrial Uses)	$619
Temporary Use Permit – Longer than 10 days	$1,088
Outdoor display and sales and outdoor dining	$988
Administrative Temporary Use Permit – 7 consecutive days or 10 non-consecutive days	$163

Amendments to Existing Permits (Planning Commission)	$2,827
Major modification while processing	$1,672
Minor amendments to existing permits (Administrative)	$211
Special Use Permit (Minor – PC Review)	$2,174
Special Use Permit (Major – PC Review)	$5,653
Variances	
Variance	$2,174
Variance processed with other permits	$830
Minor Variance	$457
Parking Exception (will always be accompanied by a Conditional Use Permit, Minor Use Permit or Coastal Development Permit)	$213
Laserfiche Applies to all Planning and Building Permits	
Laserfiche of planning and building documents, including scanning and storage. Fee based on plan set pages only.	$15 for first page of plan set, and $7 for each additional page.
Cannabis License	
Commercial Medical Cannabis Operation License application	$18,000.00 Deposit meant to cover staff and consultant costs associated with processing of the application (Amount is a deposit and will be drawn down based on Staff Fully Loaded hourly rates, plus any 3rd party Consultant cost). Applicant is responsible for 100% of the costs associated with processing the application. Additional deposit fees may be requested once deposit amount is drawn down below $5,000.00. Any unused funds will be returned to the applicant.

PUBLIC WORKS	
FEE NAME	**AMOUNT**
IMPACT FEES	
Water Impact fee (Capacity Credit is given for existing meter) Based on Water & Wastewater Impact Fee Update, Bartle Wells Associates, 3/17/15	
Less than 1-inch meter	$5,581
1 inch meter	$7,487
1-1/2 inch meter	$14,972
2 inch meter	$23,956
3 inch meter	$44,918
Wastewater fee (Capacity Credit is given based on existing water meter size) Based on Water & Wastewater Impact Fee Update, Bartle Wells Associates, 3/17/15	
Less than 1-inch meter	$5,636
1 inch meter	$7,514
1-1/2 inch meter	$15,062
2 inch meter	$24,047
3 inch meter	$45,087
ENGINEERING DEVELOPMENT REVIEW FEES	
Flood Hazard Development Permit (MC 14.72.040) - time and materials costs may be added to minimum, when actual cost exceeds the minimum fee (PW):	
Permit, minimum fee	$219
Flood plain letter	$110
City Engineer Map Review Fees Subdivisions - (PW):	
Final Map - Tract, minimum fee (MC 16.24.040J)	$5,167
Final Map – Tract, Per lot for every lot over 4 lots	$136
Final Parcel Maps	$5,167
Final Maps Amendment Review, minimum fee	$1,176

Public Improvement Plans **Inspections/Plan Review - time and materials costs may be added to minimum, when actual cost exceeds the minimum fee:**	
Public/Subdivision Improvement Plan Check, and Inspection as a Percentage of the Engineer's estimate for Subdivision Improvements	5 - Percent
Abandonment Process:	
Street/R-O-W Abandonment Process	$6,359
Encroachment Permits (MC 13.16.140) - time and materials costs may be added to minimum, when actual cost exceeds the minimum fee (PW):	
Regular – Surface Improvements	$201
Regular – Underground Improvements	$440
Special - Private Encroachments into the Public R/W, Landscaping plant materials and exempt.	$1,542
Traffic Control Plan Review, in Addition to Encroachment Permit.	$114
Annual Utility Encroachment Permit	$1,922
Wide Load Permit with Traffic Control Plans - Per Year (Set by State of California)	$90
Wide Load Permit with Traffic Control Plans - One Time (Set by State of California)	$16
Street & Sidewalks:	
Exception Application Exception Application (Sidewalk Deferral)	$184
PLANNING AND ENGINEERING DEVELOPMENT REVIEW FEES	
Storm Water Fees (PW):	
Single Family; **Other than Single Family (per 6,000 square foot lot area, or fraction thereof):**	
Planning review of preliminary stormwater plan	$165
Building permit review of stormwater plan	$215
Inspection of stormwater facility/erosion control	$115

Trees (PW):	
Removal Permit (to trim, brace or remove, MC 12.08.110)	$297
WATER	
Water Service:	
Application (MC 13.04.07)	$29
Connection - Outside City), only by Council Resolution (MC 13.04.100)	2 x Fee
Meter Installations/Connections:	
3/4 inch Meter/Service (Only installed where Fire sprinklers are not required)	$1,565
1 inch meter Meter/Service	$2,099
1" Meter/1-1/2" Service (for residential fire sprinklers)	$2,656
1" Meter/2" Service (for residential fire sprinklers)	$3,323
1-1/2" inch meter and above	T&M ($3,625 deposit)
Meter Box Installation	$253
Water Meter Re-Read	$53
Reconnection (MC 13.04.310)	$53
After - Hours Water Meter Turn Off/On	$226
"Drop in" meter fee, up to 2 inches	0.75 x Reg Meter Fee
Relocation of water meter for customer convenience	0.5 x Reg Meter Fee
Water meter lock and any other damage. Subject to Police investigation and potential prosecution for theft of water and tampering with City Property	T&M ($53 minimum)

Meter Installations/Connections (continued):	
Water Meter Testing (Remove, test and replace meter); fee refunded if meter test indicates an overage of greater than 2%	$165
Water Equivalency Unit (WEU) "In-Lieu" Fee - **per WEU required**. In-lieu fee is an alternative for an applicant that does not provide the WEU offset, as required and set by Council Resolution	2 x $3,139/WEU required = $6,278
Fire Hydrants/Non-Potable - Meter Installation and Removal for Contractor Use (MC 13.04.360):	$53 Installation; $53 Removal
Hydrant Meter Rental, per day plus cost of water at current rate structure.	$5 + $1,500 Refundable Deposit, will be read and billed on a monthly basis
Certificate of Compliance – Water Retrofit	$28
Water Service Refundable Deposit - residential tenants only	$104
WASTEWATER	
Connection Permit - This is in addition to an Encroachment Permit.	$88
Discharge Fee - Recreational Vehicles and Campers	$26 + 0.25/gal or fraction there of
Discharge Fee - Tank Trucks and Commercial per truck, for gallon. No septage allowed	$104 + $0.25/gal or fraction there of
Raising Manhole to Grade	T&M ($776 min)
Sewage Spill Cleanup - cost of providing service Sewage spill clean up	T&M ($776 min)
OTHER FEES	
Dedication 15 Gallon Tree and Plaque	Actual cost plus time & materials
Dedication Bench and 1 Plaque Space	Actual cost plus time & materials
Dedication Whole Bench with 3 Plaque Spaces	Actual cost plus time & materials
Other Park Amenity Dedication	To Be Determined on an individual basis

POLICE SERVICES	
FEE NAME	**ADOPTED FEE**
Permits and Licenses:	
Tow/Taxi Service Provider Application Fee	$673
Taxi Operator Permit Application Fee	$428
Taxi Operator Permit Application Renewal Fee	$71
Second Hand Dealer Permit - City Application Fee (does not include Department of Justice fee) (MBMC 5.40.330)	$358
Second Hand Dealer Permit renewal - City Application Fee (does not include Department of Justice fee) (MBMC 5.40.330)	$178
Massage Therapist/Parlor Permit Application Fee (MBMC 5.40.330)	$149
Support Services Activity:	
Digital Photo Reproduction to CD - per hour, 1 hour minimum	$60
Audio/Video Tape Reproduction - per hour, 1 hour minimum	$60
Record Searches/Reviews/Clearance/Responses - per hour, 1 hour minimum	$60
Officer Activity:	
Equipment Citation Sign Off	$17
Vehicle Impound Fee Administrative Costs (CVD 22850.5)	$178
Abandoned Vehicle Removal (junk vehicles/parts)	$358
Other Police Services:	
Firearms-seizure/storage (PC 33880)	$60

State Mandated Costs	
Concealed Weapons Permit (does not include DOJ or other fees (PC25455)	$119
Renewal of Concealed Weapons Permit (does not include cost of ID card	$29
Subpoena Duces Tecum (does not include costs of report, etc) (EC 1563(b)(1))	$17
Delinquent Parking Citation Copy (VC 40206.5)	$2
Repossessed Vehicle (GC 41612)	$17
Booking Fees (current cost-cost is dependent on charges by County) (GC 53150) & (GC 29550.1)	$130
Live scan Fingerprint Fees (PC 13300(e))	$23
Criminal History Review (PC13322)	$29
Cost Recovery:	
DUI Emergency Response (MBMC 3.40.030)	Actual Cost
False Alarm Response (after 3rd false alarm in a year) (MBMC 9.22.020)	$239

FIRE	
FEE NAME	**ADOPTED FEE**
Permits:	
Permit Inspection Fees:	
Any single permit identified in Title 24 CFC and not specifically addressed in the Master Fee Schedule	$146
Any combination of permits shall not exceed	$438
Special Occurrence or Use Permit (equipment & personnel charges additional)	$146
Special Permits:	
Marine Welding Permit: Vessel, Pier, Wharf, Waterfront	$73
Aircraft Landing Permit, per occurrence (required Fire standby equipment & personnel charges additional)	$146
Equipment & Personnel Charges:	
Engine or Truck: per hour, per vehicle (personnel charges additional)	$129
Squad/Rescue: per hour, per vehicle (personnel charges additional)	$94
Utility/Command Vehicle: per hour, per vehicle (personnel charges additional)	$45
Personnel charges	Per hour, per person - 2 hour minimum, unless otherwise specified, at current productive hourly rate

Plan Review Fees:	
Fire Plan Concept Review	Personnel charges, as specified in Equipment and Personnel Charges
Plan Review	0.9% of total valuation plus use of outside consultant for Plan Review & Inspection is based on actual cost plus $67 fee
Additional Plan Review required by changes, additions or revisions to approved plans	Personnel charges, as specified in Equipment & Personnel Charges, on an hourly basis, plus actual cost of outside consultant for Plan Review
Fire Protection:	
System & Equipment Fees:	
Fire Sprinkler System Installation Inspection - (above ground):	
Residential	$146 + $0.55 per head
Commercial	$219 + $0.55 per head
Commercial projects or tenant improvements under 1,000 sq. ft.	$146 + $0.55 per head
Underground water line inspection	$146
Fire Alarm System Installation Inspection:	
0 - 15 devices	$146
16 - 50 devices	$219
51 - 100 devices	$292
101 - 500 devices	$365
501 and up	$365 + $292 for each additional 100 devices or portion thereof
Specialized Fire Protection System Inspection, e.g., Halon, Dry Chemical Commercial Kitchen Hood System	$146
Flammable or Combustible Tank Installation Inspection	$73
On-site Hydrant System Installation Inspection	$146
Use of Outside Consultants for Plan Review & and/or Inspection	$146 + actual cost
Request for Building Fire Flow Calculations	$73
Request for Hydrant Flow Information	$73

Fire Protection (continued):	
Request for Hydrant Flow Test	$73 fee plus personnel & equipment as specified in Personnel and Equipment Charges, 1 hr min
Engine company business inspection:	
1st and 2nd inspections	No charge
3rd and subsequent inspections	$219
Fire Prevention:	
New and annual business/facility inspection fees:	
1st and 2nd inspections	No charge
3rd and subsequent inspections	$146
Administrative citation for failure to correct a violation shall be charged per 1.03.050 of the Municipal Code	$146
Administrative citation for second violation of the same ordinance in the same year shall be charged per 1.03.050 of the Municipal Code	$292
Administrative citation for third and each additional violation of the same ordinance in the same year shall be charged per 1.03.050 of the Municipal Code	$584
Annual weed and hazard abatement inspection fees:	
1st inspection for compliance	No charge
2nd and subsequent inspections	$146
Administrative citation for failure to correct a violation shall be charged per 1.03.050 of the Municipal Code	$146
Administrative citation for second violation of the same ordinance in the same year shall be charged per 1.03.050 of the Municipal Code	$292
Administrative citation for third and each additional violation of the same ordinance in the same year shall be charged per 1.03.050 of the Municipal Code	$584

Incident Response Fees:	
Hazardous Material/Chemical Incident	No charge first half-hour (excluding negligent/intentional acts) Each additional hour, or fraction thereof, will be charged as specified in the Personnel and Equipment Charges plus the cost of any materials and contract services used
Negligent Incidents	Response due to negligent/malicious act (e.g., DUI traffic accident, climber on Morro Rock, incendiary fire, negligent hazardous material incident, negligent confined space incident, etc.) Two hour minimum to be charged as specified by Personnel & Equipment Charges plus any material costs and contract services used.
Excessive or Malicious False Alarms	Emergency response due to "Failure to Notify" when working on or testing fire/alarm system 0.5 hours minimum to be charged as specified by Personnel & Equipment Charges.
Malicious False Alarms	.5 hour minimum to be charged as specified by Personnel & Equipment Charges plus any material costs.
Alarm system malfunction resulting in 2 in 30 days or 3 in 12 months	Charged as specified by Personnel & Equipment Charges plus any material costs
Other Fire Services:	
Copy of response report, per report	$28
Additional copies, per page	See General Fees for copy charges
Cause & Origin investigation reports, per report	$116
Non-renewal of required annual permit	Charge double permit fee rate
Failure to obtain permit	Charge double permit fee rate
Missed site inspection appointment	$73
Failure to meet permit requirements/requiring re-inspection	$73

Permits - California Fire Code:	
See operational and construction permits identified in the California Fire Code, Section 105	
Special Occurrence or Use Permit includes 1 inspection	
Plan Review Fees:	
Plan Review Fees	Total valuation to recover the cost of providing service
Use of outside consultant for Plan Review and/or Inspection	$73 plus actual cost of consultant
All Plan Review Fees shown are minimum amounts, based on average processing. Large or complex projects may be subject to increased fees based upon time, costs, or equipment costs as shown per Equipment & Personnel Charges.	

HARBOR DEPARTMENT

1. All fees are due in advance. At the Harbor Department's discretion, billing in arrears for qualified and registered vessels with current account status may be allowed.

2. Any account past due over 10 days will be charged a $35 late fee on a monthly basis. Accounts are due and payable by the 10th of every month.

VESSEL FEES

1. All vessel fees based on the length of the vessel or the length of the slip, whichever is greater, with a 36-foot minimum.

2. The Harbor Director may waive dockage fees for "tall ships" visiting Morro Bay Harbor for any period less than 30 days with written notice.

3. Transient Slip fees will be charged by the day or by the month, whichever is less.

4. Transient Slip monthly subleases shall be limited to 3 months in any slip as long as there are vessels appropriate to the slip size on the sublease waiting list.

5. Floating Dock and Anchorage stay limited to 30 days in any 6 month period.

6. A 10% discount is available for assigned Commercial Fishing Vessel slips when paid one full year in advance during the first month of the fiscal year after adoption of the Master Fee Schedule for that fiscal year.

Commercial Fishing Slips – monthly rate per foot	$5.10
Commercial Fishing Slip Waiting List Deposit	$435
Head Float Berth – monthly rate	$205
Transient Slips – monthly sublease rate per foot	$10
Transient Slips – daily rate per foot	$1
T-Piers – daily rate per foot	$0.30
Floating Dock	$0.30
A1-5 Anchorage Area – first 5 days	$0.00
A1-5 Anchorage Area – daily rate/foot over 5 days	$0.25

Vessel Fees (continued)	
Temporary Moorage – large vessels or equipment requiring special accommodation – daily rate	$182
Impound Fee	$213
Impounded Vessels – daily storage rate per foot	$1.50
MOORING FEES **1. A 10% discount is available for Private and City mooring fees when paid one full year in advance during the first month of the fiscal year after adoption of the Master Fee Schedule for that fiscal year.** **2. Guest Mooring stay limited to 30 days in any 6 month period without prior approval of the Harbor Department.**	
City Moorings – monthly rate	$260
Private Moorings – monthly rate	$90
Guest Moorings – daily rate per foot	$0.30
Mooring Ownership Transfer – private moorings	$1,205
SERVICE FEES **1. South T-Pier Hoist may only be used for fish unloading in certain cases; see Harbor Department Rules and Regulations.** **2. Dry Storage fee for use of each designated approximate 9-foot by 20-foot space, minimum monthly increments.**	
T-Pier Electrical – daily rate	$2.85
South T-Pier Hoist – rate per use	$15.40
South T-Pier Hoist Fish Unloading – per hour	$80.50
Wharfage – rate per ton	$1.05
Loaned Electric Cord or Adaptor Replacement	$175
Dry Storage – monthly rate	$97

LIVEABOARD FEES	
1. Liveaboard permits are valid for 2 fiscal years. Any Liveaboard application, submitted during the period January 1 through June 30, is valid only for that fiscal year and the following fiscal year, but will be prorated by reducing the Liveaboard application fee, stated herein, by 25%. Any Liveaboard application, submitted July 1 through December 31, will not be prorated. **2. Liveaboard Permit Inspections may be conducted by the Harbor Patrol or by a qualified Marine Surveyor acceptable to the City.**	
Liveaboard Permit Administration - biennial	$184
Liveaboard Permit Inspection – biennial (if done by Harbor Patrol)	$88
Service Fee, Moorings - monthly	$17.40
Service Fee, City Slips - monthly	$35.80
EQUIPMENT & PERSONNEL CHARGES **1. Vessels requiring non-emergency assistance more than once in any 12-month period may be charged at the rates established herein.** **2. Officers and vessels charged on an hourly basis with a 1-hour minimum.** **3. Officers and vehicles charged on an hourly basis with a 1-hour minimum.**	
One Patrol Officer + Patrol Vessel – per hour	$213
Each Additional Patrol Officer – per hour	$88
One Patrol Officer + Vehicle – per hour	$130
Lifeguard	$25
LAUNCH RAMP PARKING FEES **1. Launch Ramp Parking fees apply to the extended yellow-striped truck and trailer parking spaces at the Launch Ramp parking lot and Tidelands Park.** **2. Annual Parking Permits are valid for one calendar year and may be prorated to the nearest month.**	
Daily (or any part thereof)	$5
Annual Permit	$115
Failure to Pay Established Fee	$60
Failure to Visibly Display Receipt	$60

LEASE ADMINISTRATION FEES	
Master Lease Approval	$2,200
Actions Requiring City Council Approval	$700
Actions Requiring Administrative Approval	$265

RECREATION		
FACILITY RENTALS:		
COMMUNITY CENTER		
	Resident/Non-Profit Groups	**Non-Resident/For-Profit Groups**
Auditorium – Per Hour	$82	$121
Auditorium, one-half – Per Hour	$50	$72
Multi-Purpose Room – Per Hour	$45	$67
Lounge – Per Hour	$36	$54
Studio – Per Hour	$28	$41
Kitchen – Per Hour Note: Kitchen only rentals permitted Monday – Friday; weekend rentals must be combined with room rental.	$22	$27
Kitchen – 8 Hours	$109	$136
VETERAN'S MEMORIAL BUILDING		
	Resident/Non-Profit Groups	**Non-Resident/For-Profit Groups**
Assembly, w/o kitchen – Per Hour	$36	$48
Complete, w/o kitchen – Per Hour	$41	$54
Meeting, w/o kitchen – Per Hour	$30	$40
Kitchen & barbeque – Per Hour Note: Kitchen only rentals permitted Monday – Friday; weekend rentals must be combined with room rental.	$22	$27
Kitchen – 8 hours	$109	$136

RECREATION FACILITY RENTALS (continued)

TEEN CENTER

	Resident/Non-Profit Groups	Non-Resident/For-Profit Groups
Per hour – up to 50 participants, includes one staff	$75	$75
Per hour - over 50 participants, includes two staff	$90	$90

ADDITIONAL FEES

Processing Fee: $10, non-refundable
Public Special Event/Festival Processing Fee: $30, non-refundable

Security Deposit: $150, no alcohol or live music $500, alcohol and/or live music $750, alcohol and/or live music over 200 people The City reserves the right to require additional security deposit limits at its discretion.	Facility Impact fee, non-refundable, per event based on group size: 100-200 participants: $153 201 or more participants: $306
Event set-up: $50 per hour Event breakdown: $50per hour Veteran's Memorial Building stage use, set-up and breakdown: $100 flat rate	Facility Attendant(s): $16 per hour each Security Guard(s): $31 per hour each (Required for events with alcohol and/or dancing) Unscheduled overtime: $75 per hour
Insurance: cost based on event size/type	Cancellations: 20% charge of invoiced costs

PARK and OPEN SPACE RENTALS

	Resident/Non-Profit Groups	Non-Resident/For-Profit Groups
Anchor Memorial Park Open Area Bayshore Bluffs Open Area Centennial Parkway Open Area City Park Open Area Cloisters Park Open Area General Open Area Monte Young Open Area Morro Rock Open Area Tidelands Park Open Area	**Single Area:** $54 Rental Fee/Area **Multi-Area, Entire Park, Multi-Day Event:** $107/Day + Rental Fee	**Single Area:** $80 Rental Fee/Area **Multi-Area, Entire Park, Multi-Day Event:** $160/Day + Rental Fee

Park and Open Space Rentals (continued)		
	Resident/Non-Profit Groups	**Non-Resident/For-Profit Groups**
City Park Basketball Courts Coleman Park Coleman Basketball Courts Del Mar Park Hillside or Meadow Del Mar Park Basketball Courts Del Mar Pickleball Courts Del Mar Tennis Courts Lila Keiser Park BBQ (Excluding Tournament Use) Monte Young Tennis Courts North Point Overlook	**Single Area:** $54 Rental Fee/Area **Multi-Area, Entire Park, Multi-Day Event:** $213/Day + Rental Fee **Note:** See courts/rink hourly rental charges below, which are in addition to area rental fee.	**Single Area:** $80 Rental Fee/Area **Multi-Area, Entire Park, Multi-Day Event:** $319/Day + Rental Fee
Lila Keiser Park Tournament Use (does not include field prep, or hourly use rates)	$533	$1,066
Public Special Event/Festival	$533	$1,066
HOURLY and PARK USE FEES		
	Resident/Non-Profit Groups	**Non-Resident/For-Profit Groups**
Giant Chessboard – Wooden Pieces	$43	$116
Giant Chessboard – Plastic Pieces	$12	$14
Basketball Courts, Pickleball Court & Tennis Court Hourly	$7	$8
Lila Keiser hourly field rental w/o lights Lila Keiser hourly field rental w/ lights	$7 $19	$8 $21
Lila Keiser field preparation	$30	$33
City Park Banner Placement	$107/wk	$159/wk

ADDITIONAL FEES	
Processing Fee: $10, non-refundable Public Special Event/Festival Processing Fee: $30, non-refundable	
Security Deposit: $50, Bounce House $150, no alcohol or live music $500, alcohol and/or live music $500 Organized Sporting Event (tournaments) $500 Public Special Event/Festival The City reserves the right to require additional security deposit limits at its discretion	Lila Keiser Support Services: $27 per hour Insurance: cost based on event size/type Cancellations: 20% of invoiced costs

MISCELLANEOUS PROPERTY USE		
	Resident/Non-Profit Groups	**Non-Resident/For-Profit Groups**
Recreation equipment rental, per bag Includes one: Horseshoes, Badminton, Volleyball, Bocce Ball	$12	$14
Skate Park - Per Hour (2 hour minimum)	$115	$172
Photography/Filming – Per Day	$533	$1,065

ADDITIONAL FEES
Equipment Rental Deposit: $50 Photography/Filming Deposit: $1,000

MORRO BAY TRANSIT AND TROLLEY	
Morro Bay Transit - Fixed Route	
Regular fare, per ride	$1.50
Discount fare, per ride	$0.75
Regular punch pass (11 rides for the price of 10)	$15
Discount punch pass (11 rides for the price of 10)	$7.50
Regular day pass	$4
Discount day pass	$2
Morro Bay Transit - Call-a-Ride:	
Fare, per ride	$2.50
Call-A-Ride punch pass (11 rides for the price of 10)	$25
Morro Bay Trolley Fares (Ages 12 and up):	
Per ride (Children, under 12 years old ride free, but must be accompanied by a fare-paying adult)	$1
All day pass	$3
Morro Bay Trolley Advertising:	
Exterior Side of Trolley (approx. 36"x20") - with supplied sign	$401
Exterior Side of Trolley (approx. 36"x20") - MB Community Foundation supplied sign	$468
Exterior Rear of Trolley (approx. 24"x20") - with supplied sign	$365
Exterior Rear of Trolley (approx. 24"x20") - MB Community Foundation supplied sign	$401
Interior (approx. 26"x12") - with supplied sign	$172
Interior (approx. 26"x12") - MB Community Foundation supplied sign	$208

Morro Bay Trolley Rental Rates: **Hourly rate includes driver, fuel, cleaning, standby mechanic and administration, unless otherwise noted.**	
One day, within City Limits, per hour (2 hour minimum):	
Transportation of passengers to and from one location to another or continuous loop with multiple stops; plus cost of fuel	$114
One day, outside City limits, per hour (3 hour minimum)	
Transportation of passengers to and from one location to another or continuous loop with multiple stops; plus cost of fuel	$114