



CITY OF MORRO BAY CITY COUNCIL AGENDA

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

Regular Meeting - Tuesday, February 28, 2017 Veterans Memorial Hall - 6:00 P.M. 209 Surf St., Morro Bay, CA

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

RECOGNITION - None

CLOSED SESSION REPORT

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

PRESENTATIONS - None

PUBLIC COMMENT PERIOD

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

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

- When recognized by the Mayor, please come forward to the podium and state your name and city of residence for the record. Comments are to be limited to three minutes.
- All remarks shall be addressed to Council, as a whole, and not to any individual member thereof.
- The Council respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in City Council meetings is welcome and your courtesy will be appreciated.

A. CONSENT AGENDA

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

A-1 APPROVAL OF MINUTES FROM THE JANUARY 30, 2017 JOINT MEETINGS (ETHICS TRAINING); (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FROM THE JANUARY 31, 2017 SPECIAL CITY COUNCIL MEETING – GOALS FORUM; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FROM THE FEBRUARY 14, 2017 SPECIAL CLOSED SESSION CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 ADOPTION OF 2017-18 CITY GOALS AND PROGRAM OBJECTIVES; (CITY MANAGER)

RECOMMENDATION: Council adopt the 2017-18 City Goals and Objectives, as presented.

A-5 FY17 GOALS STATUS UPDATE; (CITY MANAGER)

RECOMMENDATION: Council receive and file this update.

A-6 APPROVAL OF LICENSE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND SAAP TRUST FOR 1150 FRONT STREET (BAYFRONT INN) AND 1154 FRONT STREET (FRANKIE & LOLA'S FRONT STREET CAFÉ) FOR USE OF PUBLIC PROPERTY IN THE FRONT STREET PARKING LOT AREA FOR TRASH ENCLOSURES; (PUBLIC WORKS)

RECOMMENDATION: Council approve the license agreement for use of public property for a trash enclosure at 1196 Front Street, as proposed.

A-7 ADOPTION OF RESOLUTION NO. 07-17 AMENDING THE COUNCIL POLICIES AND PROCEDURES REGARDING THE COUNCIL OUTREACH AND STAFF SUPPORT; (CITY ATTORNEY)

RECOMMENDATION: Council adopt Resolution No. 07-17 amending the Council Policies and Procedures regarding Council outreach and staff support.

A-8 APPOINTMENT OF COUNCIL LIAISON TO THE ESTERO BAY ALLIANCE OF CARE (EBAC) AND CONFIRMATION OF COUNCIL SUB-COMMITTEES; (MAYOR)

RECOMMENDATION: Council approve the appointment of Mayor Irons and Council Member McPherson as liaisons to the Estero Bay Alliance of Care (EBAC) and affirm Council sub-committees for the Aquarium project, Morro Bay Power Plant, and Chevron properties.

A-9 AUTHORIZATION FOR CITY MANAGER TO EXECUTE DOCUMENTS RELATED TO A RURAL TRANSIT FUND GRANT AWARD FOR PURCHASE OF A NEW MORRO BAY TRANSIT VEHICLE; (PUBLIC WORKS)

RECOMMENDATION: Council authorize the City Manager to execute all necessary documents related to the Rural Transit Fund (RTF) grant awarded by the San Luis Obispo Council of Governments on April 6, 2016, for the purchase of a new replacement Morro Bay Transit vehicle.

- A-10 ADOPTION OF RESOLUTION NO. 05-17 APPROVING AMENDMENT NO. 1 TO THE LEASE FOR LEASE SITE 53-56/53W-56W (ESTERO LANDING, LOCATED AT 501 EMBARCADERO) BETWEEN THE CITY OF MORRO BAY AND ESTERO LANDING, INC.; (HARBOR)

RECOMMENDATION: Council adopt Resolution No. 05-17, approving Amendment No. 1 to the current lease for Lease Site 53-56/53W-56W, providing ten additional years of lease term for substantial tenant improvement investment completed.

- A-11 DISCUSSION OF AGENDA FOR THE CALIFORNIA MARINE AFFAIRS AND NAVIGATION CONFERENCE (C-MANC) ANNUAL "WASHINGTON WEEK" MEETINGS IN WASHINGTON, D.C.; (HARBOR)

RECOMMENDATION: Council receive this report and provide any desired input on the elements herein.

- A-12 APPROVAL OF EXTENSION OF THE CENTRAL COAST AQUARIUM CONSENT OF LANDOWNER AGREEMENT FOR REDEVELOPMENT OF THE MORRO BAY AQUARIUM LEASE SITE 69-70/69W-70W; (HARBOR)

RECOMMENDATION: Council approve extensions of all performance compliance dates by one year each on Central Coast Aquarium's (CCA) current Consent of Landowner (COL) agreement to facilitate CCA's continued pursuance of funding and intent to redevelop lease site 69-70/69W-70W. Staff further recommends the compliance dates be extended to 9 months after loan approval if such approval is granted by the USDA before December 31, 2017.

- A-13 AUTHORIZATION TO ENTER INTO AN AGREEMENT FOR ALLOCATION OF CONSTRUCTION AND FINANCING COSTS FOR AN ANIMAL SERVICES SHELTER; (CITY MANAGER/POLICE)

RECOMMENDATION: Council authorize the City Manager to execute an Agreement for Allocation of Construction and Financing Costs for an Animal Services Shelter at 865 Oklahoma Avenue in San Luis Obispo, California, between the Cities of Atascadero, Arroyo Grande, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, San Luis Obispo, and the County of San Luis Obispo.

- A-14 RECEIVE DRAFT PERSONNEL RULES & REGULATIONS; EMPLOYER-EMPLOYEE RELATIONS POLICY; POLICY PROHIBITING HARASSMENT, DISCRIMINATION AND RETALIATION; AND DRUG-FREE WORKPLACE POLICY FOR CONSIDERATION AT THE MARCH 14, 2017, CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Staff has prepared the report and attached documentation as a Consent item to allow the Council adequate time to review the materials in preparation for presentation and adoption at the March 14, 2017, City Council meeting.

On March 14, the Council will be asked to approve the Personnel Rules & Regulations ("Personnel Rules") and other related policies by adopting the following:

1. Resolution rescinding Resolutions No. 46-74, 34-83, 127-89, 46-95, 90-98, 21-04, 58-04 and 26-05 and establishing Personnel Rules & Regulations for full-time City Employees,
2. Resolution rescinding Resolution No. 74-69 and establishing Employer-Employee Relations,
3. Resolution adopting a Policy Prohibiting Harassment, Discrimination, and Retaliation, and
4. Resolution adopting a Drug-Free Workplace Policy

A-15 ADOPTION OF CITY MISSION STATEMENT; (CITY MANAGER)

RECOMMENDATION: Council adopt the following mission statement for the City of Morro Bay: "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."

B. PUBLIC HEARINGS - NONE

C. BUSINESS ITEMS

C-1 APPROVE THE ANNUAL CONTRACT AUTHORIZATION FOR PROGRAM MANAGEMENT SERVICES FOR THE WATER RECLAMATION FACILITY AS CONTEMPLATED BY THE AGREEMENT BETWEEN THE CITY AND MICHAEL K. NUNLEY & ASSOCIATES, INC.; (PUBLIC WORKS)

RECOMMENDATION: Council authorize the City Manager to execute Amendment No. 2 to the Water Reclamation Facility Program Management agreement with Michael K. Nunley & Associates, Inc.

C-2 DIRECTION ON MARKET PLAZA REQUEST FOR QUALIFICATIONS; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Council review the staff report and associated materials, receive the presentation by staff and provide direction in relation to going out with a Request for Qualifications (RFQ) to identify firms that are interested and qualified to develop plans for the improvement of the Market Plaza and Centennial Parkway area.

C-3 CONSIDERATION OF AND DIRECTION REGARDING A REQUEST FROM *BY THE SEA PRODUCTIONS* FOR A REDUCTION OR WAIVER OF APPLICATION FEES FOR SPECIAL USE PERMIT (UP0-446) ALLOWING COLOCATION OF A LIVE THEATER IN AN EXISTING CHURCH IN A RESIDENTIAL ZONE AT 545 SHASTA AVENUE; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Council review the staff report and presentation by staff and provide direction regarding the fee waiver/reduction request.

C-4 DISCUSSION AND DIRECTION OF WASHINGTON DC REPRESENTATION FOR WATER RECLAMATION FACILITY (WRF) PROJECT; (CITY MANAGER)

RECOMMENDATION: Council consider directing staff to negotiate a low-cost contract with The Ferguson Group to develop a federal agenda and work plan to support efforts to gain federal grant and loan support for the Wastewater Reclamation Facility (WRF) project.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

There will be a Special City Council Work Session (Marijuana) on **Wednesday, March 1, 2017 at 4:00 p.m.** at the Community Center in the Multi-Purpose Room.

The next Regular Meeting will be held on **Tuesday, March 14, 2017 at 6:00 p.m.** at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6205 FOR FURTHER INFORMATION.

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

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

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MINUTES – JANUARY 30, 2017
REGULAR JOINT MEETING
COMMUNITY CENTER MULTI-PURPOSE ROOM
1001 KENNEDY WAY

AGENDA NO: A-1

MEETING DATE: February 28, 2017

On January 30, 2017, Open Joint Meetings of the City Council, Planning Commission, Harbor Advisory Board, Recreation & Parks Commission, Tourism Business Improvement District Advisory Board, Citizens Oversight / Finance Advisory Committee, Public Works Advisory Board, Water Reclamation Facility Citizens Advisory Committee, and General Plan Advisory Committee were held for the purpose of providing Ethics and Brown Act Training designed to meet the State Ethics Requirements for Local Officials (AB1234).

<https://youtu.be/VkWXQPRHiGs?t=5s>

Session I began at 3:08 p.m. and concluded at 5:15 p.m.

Session II began at 6:00 p.m. and concluded at 8:05 p.m.

Recorded by:

Dana Swanson,
City Clerk

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MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING – JANUARY 31, 2017
VETERANS MEMORIAL HALL
209 SURF STREET – 6:00 P.M.

AGENDA NO: A-2

MEETING DATE: February 28, 2017

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Ikani Taumoepeau	Deputy City Manager
	Dana Swanson	City Clerk
	Craig Schmollinger	Finance Director
	Rob Livick	Public Works Director
	Eric Endersby	Harbor Director
	Steve Knuckles	Fire Chief
	Cindy Jacinth	Associate Planner
	Jennifer Little	Tourism Manager
	Kirk Carmichael	Recreation Services Division Coordinator

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Irons established a quorum and called the meeting to order at 6:00 p.m. with all members present.

SPECIAL MEETING AGENDA ITEM:

I. COMMUNITY GOALS FORUM OVERVIEW

Mayor Irons welcomed community members and Deputy City Manager Taumoepeau provided an overview of the current draft Mission Statement, Goals and Objectives. Those attending were invited to review and provide input for each of the four draft Goals and Objectives, as well as email input received to date.

<https://youtu.be/EidP6Df1YjU>

II. OPEN HOUSE STYLE FORMAT

- o Engage directly with Council and staff
- o Provide specific input on draft goals
- o Help prioritize draft Council objectives
- o “Vote” on community-proposed objectives
- o Add your own objectives

III. SUMMARY & WRAP UP

<https://youtu.be/EidP6Df1YjU?t=1h4m53s>

Council Members and staff provided a summary of community input received at each station.

ADJOURNMENT

The meeting adjourned at 7:25 p.m.

Recorded by:

Dana Swanson
City Clerk

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MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
FEBRUARY 14, 2017
CITY HALL CONFERENCE ROOM–3:30 P.M.

AGENDA NO: A-3

MEETING DATE: February 28, 2017

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF PRESENT:	Dave Buckingham	City Manager
	Joe Pannone	City Attorney
	Colin Tanner	Special Labor Counsel
	Eric Endersby	Harbor Director
	Ikani Taumoepeau	Deputy City Manager
	Scot Graham	Community Development Director
	Craig Schmollinger	Finance Director
	Dana Swanson	City Clerk / Risk Manager

ESTABLISH QUORUM AND CALL TO ORDER – A quorum was established and the meeting was called to order 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 the meeting for public comment for items only on the agenda; seeing none, the public comment period was closed.

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

CS-1 CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representative: Colin Tanner, Special Labor Counsel
Employee Organizations: Morro Bay Firefighters' Association; Morro Bay Police Officers' Association; Service Employee's International Union - SEIU Local 620

CS-2 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8

Property: Lease Site 53-56/53W-56W, 501 Embarcadero
Property Negotiators: Ken Scott, Estero Inn
Agency Negotiators: Eric Endersby, Harbor Director and David Buckingham, City Manager
Under Negotiation: Price and Terms of Payment

CS-3 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:

Property: Outfall Facilities Previously Used by Dynegy, located adjacent to the easterly side of Morro Rock.
Negotiating Parties: Alla Weinstein, Trident Winds, LLC
Agency Negotiators: David Buckingham, City Manager and Joseph Pannone, City Attorney
Negotiations: Price and Terms of Payment

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

ADJOURNMENT

The meeting adjourned at 5:42 p.m.

Recorded by:

Dana Swanson
City Clerk



AGENDA NO: A-4

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor & City Council

DATE: February 22, 2017

FROM: David W. Buckingham, City Manager

SUBJECT: Adoption of 2017-18 City Goals and Program Objectives

RECOMMENDATION

Staff recommends the City Council adopt the 2017-18 City Goals and Objectives, as presented.

FISCAL IMPACT

The fiscal impact of approval of the City Goals and Program Objectives will be discussed in the 2017-18 budget process.

BACKGROUND/ DISCUSSION

On December 8, 2015, the City Council adopted Resolution No. 72-15 outlining the Strategic Planning Framework, which directs the timing for development of City Goals and Objectives.

In accordance with that policy, study sessions were held on January 10 and 24, 2017, for initial discussion and reprioritization of the City's goals and program objectives.

On January 31, 2017, the City conducted a well-attended Community Goals Forum during which members of the community interacted with Council and staff to provide input to the goal setting process.

Based on discussion at those study sessions, staff presented updated City Goals and Program Objectives for FY 2017-18 for discussion at the February 14, 2017, City Council meeting. At that meeting, Council discussed the updated goals and objectives in detail and directed a few changes to the final draft. Those changes are reflected in the attached final FY 2017-18 goals and objectives which are presented now for formal adoption.

When adopted, the attached goal and objectives memo will be signed by the Mayor and City Manager.

ATTACHMENT

1. Memorandum dated February 28, 2017 re: 2017-2018 City Goals and Objectives

Prepared By: DWB

Dept Review: _____

City Manager Review: DWB

City Attorney Review: _____



CITY OF MORRO BAY

CITY HALL
595 Harbor Street
Morro Bay, CA 93442

AGENDA NO: A-4
ATTACHMENT: 1
MEETING DATE: February 28, 2017

Memorandum For City Council, Staff and the Public

Date: February 28, 2017

Subject: FY2017-2018 Goals and Objectives

1. **Purpose.** The purpose of this document is to identify City of Morro Bay Goals and Objectives for the Budget Year July 2017 – June 2018.
 - a) The City of Morro Bay strategic planning framework, adopted by the City Council on December 8, 2015, directs the timing for development of City Goals and Objectives.
 - b) In accordance with that policy, the City conducted a goal setting process in January and February 2017 that included Council Study Sessions, a Community Goals Forums and a Council meeting discussion to develop a new set of long term goals and budget year objectives. The 2017-18 Goals and Objectives were approved by Council on February 28, 2017.
 - c) The objectives under each goal identify a number of specific objectives the City intends to accomplish in the July 2017 to June 2018 budget year. Accomplishing these objectives, however, is dependent on adequate resourcing – both staff time and money. Thus, some objectives may not be completed if adequate resources are not allocated during the fiscal year 2017/2018 budget process.
2. **Goals and Objectives.** Following are the City of Morro Bay's four long-term goals and subordinate program objectives for budget year 2017-18:

Goal #1 (Essential Goal) – Achieve Economic and Fiscal Sustainability

Description: This essential goal recognizes the City is not currently able to fund all basic services and requirements at the level our community expects, along with the importance of strengthening and maintaining strong financial management practices. As of January 2017, our General Fund revenues are around 25% below requirements to deliver services the community deserves. This goal centers around economic development and fiscal actions (revenue enhancement, public funding measures, cost control, and sound fiscal practices) that target a 25% increase in revenues, while ensuring sound fiscal management practices are in place.

Duration: This is an 8-year goal - the City intends to achieve fiscal sustainability by 2025.

Focus: This goal includes objectives related to revenue enhancement, general economic development, cost control, and assurance that sound financial management practices are in place.

- a. Working with local and regional businesses and groups, promote a balanced economic development approach consistent with our Economic Development Strategic Plan that retains, expands, and attracts businesses for a strong, stable, complementary, and diverse business environment, including tourism, coastal resources, development, redevelopment, and conservation that honors the character of our community and is consistent with our Community Vision.
- b. Pursue opportunities and relationships that may result in building demolition/reuse, remediation and complete redevelopment of the Morro Bay Power Plant in a way that will increase TOT, property tax, and sales tax revenue, while converting a portion of the existing property for public use such as recreation areas, cultural and educational amenities, parks, and paths. Advocate for appropriate specialty uses such as an ambulatory medical plaza.
- c. Take appropriate action, including implementation of specific programs, to increase shoulder-season and off-season TOT-producing visitor nights by 10 % over FY17 levels.
- d. Research and bring to Council for decision incentive programs, including a TOT rebate program, that would reasonably result in the renovation of some existing hotel stock and deliver higher average daily rates and thus higher TOT revenues.
- e. Facilitate private revitalization / redevelopment activities that will result in planning approval for a 3% increase in number of hotel rooms in the City, with priority placed on 3 and 4-star properties to better balance our hotel stock.
- f. Take proactive action to facilitate the revitalization of underused and vacant parcels in commercial districts, including encouraging ~~sales-tax-producing~~ digital or other “green” industries and businesses providing multiple head of household jobs.
- g. Research and bring to Council consideration of various approaches for parking management, including paid parking, in downtown and/or Embarcadero areas; include consideration of one or more parking districts.
- h. Evaluate opportunities for new revenue sources and present to Council for consideration; include possible marijuana tax measures, other tax measures, and cost control approaches that include a staffing review.

Goal #2 (Essential Goal) – Complete WRF Project and “OneWater” Program

Description: This essential City goal centers around completion of the City’s Water Reclamation Facility (WRF) and includes implementation of a fiscally conservative, comprehensive water resource policy, program and infrastructure to ensure a sustainable water future. Key items include building the WRF and associated reclamation system, developing a “OneWater” policy, and diversifying our water supply toward achieving water independence.

Duration: This is a 6-year goal that we intend to complete by July 2023.

Focus: This goal includes objectives related to the Water Reclamation Facility, and “OneWater” planning and implementation.

- a. Complete water/sewer rate study and bring to Council for Prop 218 process consideration any rate increase requirements to fund the proposed WRF.
- b. Following CEQA guidelines, bring the WRF Environmental Impact Report (EIR) to Council for approval and certification.
- c. Complete and submit the State Revolving Fund loan application with the State Water Control Board for the WRF project, to secure funding for the project.
- d. Complete the acquisition of the preferred site for the WRF project.
- e. Take appropriate selection action and bring to Council for approval, a contract for the design-build construction delivery of the new WRF.
- f. Take all appropriate actions, and bring to Council for information/approval, as required, information that will allow the City to make a decision to achieve water independence - including weaning off State Water and appropriately disposing of (likely leasing) our State water allocation.
- g. Budget for, select a consultant, complete, and bring to Council for initial consideration, a “OneWater” plan for the City that considers all water resources - from storm water to groundwater to waste water - as a single “water resource.”

Goal #3 (Important Goal) - Improve Infrastructure and Public Spaces

Description: This important goal centers around substantially improving the City’s streets, multi-modal transportation infrastructure, facilities and public spaces. The City does not currently have sufficient revenues to fund the capital improvement program required to make substantial and necessary infrastructure improvements and, therefore, this goal is contingent on making significant progress on Goal #1 – Achieve Fiscal Sustainability.

Duration: This is, at minimum, an 8-year goal.

Focus: This goal includes objectives related to streets, bike / pedestrian / parking improvements, City facilities, and beautification of public spaces.

- a. Bring to Council for decision an item to consider adding a street improvement tax measure to the November 2018 ballot.
- b. Budget for and complete planning for rebuilding of the City-owned access alley to the commercial fish dock between the USCG station and Morro Bay Landing (ex-Virg’s) lease site, work toward synchronizing City improvements with possible USCG station and Morro Bay Landing lease site development.
- c. Bring to Council for information, consideration and possible implementation a review of parking management plans and options in the downtown and waterfront districts; seek, and bring to Council for consideration, partnerships that will result in the construction of one or two moderately sized parking facilities in waterfront / downtown areas of the City.

- d. Bring to Council for decision proposals that result in a public/private partnership redevelopment of the City-owned “Market Plaza” property consisting of the DiStasios’s parcel, and, if appropriate to be included in redevelopment, the “Front Street” parking lot (below DiStasio’s), and the parking lot at Pacific and Market.
- e. Complete the approved RFQ process and, if required, a feasibility study, for a marine services facility (boatyard) and bring to Council for information and consideration of next steps.
- f. Inventory, evaluate and refresh existing programs for volunteer groups to provide routine maintenance in the City (such as adopt-a-park programs); while soliciting and facilitating additional volunteer group support for routine maintenance (such as park beautification) and small capital projects (such as park bathroom reconstruction).

Goal #4 (Important Goal) - Review and Update Significant City Land Use Plans

Description: This important goal centers around completion of the City’s General Plan (GP) / Local Coastal Program(LCP) rewrite, and update of other essential land use documents. While the General Plan is the important task, update of other essential land use plans and master plans is also priority.

Duration: This is a 2-year goal that should be complete by summer 2019.

Focus: This goal includes objectives related to completion of the GP/ LCP and other important planning documents.

- a. Complete the GP/ LCP rewrite approved and started in FY16.
- b. Complete the zoning code update approved and started in FY17.
- c. Ensure affordable housing and vacation rental challenges are addressed in the GP/LCP process and all land use planning.
- d. Bring to Council for consideration the results of Code Enforcement outreach on existing codes related to fences and hedges, and boat, RV and trailer parking / storage on City streets and neighborhoods to determine whether to keep, or modify, related existing ordinances.
- e. Bring to Council for adoption a rewrite of the secondary unit ordinance (updated in FY16) based on changes in State law.
- f. Begin community outreach and Council discussion on future use of the 26-acre Atascadero Road site (location of the existing WWTP) to be prepared to begin master planning that site in FY19.

Jamie Irons
Mayor

David W. Buckingham
City Manager

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AGENDA NO: A-5

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor & City Council

DATE: February 22, 2017

FROM: David W. Buckingham, City Manager

SUBJECT: FY17 Goals Status Update

RECOMMENDATION

Staff recommends the City Council receive and file this update.

FISCAL IMPACT

None

BACKGROUND

On February 23, 2016, the City Council adopted FY16/17 Goals and Objectives which consisted of 10 long-term City Goals and 88 supporting budget-year objectives.

On August 25, 2016, the City Council updated the FY16/17 objectives, making moderate changes to 6 objectives (primarily due to a several-month pause in siting decision for the new Water Reclamation Facility) and adding one objective for a total of 89.

DISCUSSION

The attached goals status tracker is an internal staff management tool used to track our progress through the fiscal year on the Council's directed work plan.

This tracker is a working document and is provided to Council at this time simply as a reference on the status of staff efforts to date through FY16/17.

Of the 88 objectives identified by Council:

- 25 28% Are complete
- 33 37% Are on track toward completion (much staff effort is complete)
- 12 13% Have been begun / required continued effort
- 12 15% Have not been started / require significant effort
- 6 7% Were unfunded / removed by Council or otherwise delayed

CONCLUSION

Staff is making good progress toward completion of most Council directed FY17 objectives. Staff will present Council a review of FY17 objectives after the end of this fiscal year.

ATTACHMENT

1. Staff goals tracker as of February 22, 2017

Prepared By: DWB

Dept Review: _____

City Manager Review: DWB

City Attorney Review: _____

City of Morro Bay
Goals and Objectives Status

as of Feb 22, 17

<u>Obj #</u>	<u>OPR</u>	<u>Status</u>	<u>Goal</u>	<u>Objective</u>	<u>Status</u>	<u>Next Step</u>	<u>Completion Date</u>
1.a	PM	OG	WRF	Public Participartion	Ongoing.	Outreach plan approved Aug 16.	Jun-17
1.b	PM	C	WRF	Property Acquisition	MOU Complete	Complete.	Sep-16
1.c	PM	C	WRF	Facility Master Plan	FMP complete.	Complete.	Dec-16
1.d	PM	C	WRF	Master Reclamation Plan	Ongoing.	To Council for approval Mar 2017	Mar-17
1.e	PM	OG	WRF	EIR	EIR Process ongoing.	To be approved by Council in Nov 2017	Nov-17
1.f	PM	OG	WRF	SRF Loan Application	Preparation of Loan Applicaion to begin in Q4 for submission in Dec 2017.	Certify EIR in Nov 17.	Dec-17
1.g	PM	OG	WRF	Grant Funding	Staff initial meetings with key granting agencies compelted in Jan 17. Grant funding opportunities primarily following EIR Certification.	Primary effort in FY18.	Q4
1.h	PM		WRF	Annexation	Ongoing in GP/LCP process.	To Council in FY18	FY18
1.i	PM		WRF	Construction Delivery Decision	Decision for Design Build made in Feb 17 with approval of Fy17/18 Goals		Complete
1.j	PM	OG	WRF	Construction RFP	RFQ to be issued in Q4.		FY18
1.k	PM	OG	WRF	Construction Contract	Objective removed by Council. Deferred to FY 17/18		Removed
1.l	PM		WRF	Cayucos Decision	Decision required in late 2017	Bring to Counil in fall 2017.	FY18
1.m	PW		WRF	Existing WWTP Site Future	Beginning this discussion with CSD in Mar 17.		Q3
1.n	PW	OG	WRF	Corp Yard Transition	Based on Council general intent, staff recommends Council remove this objective from FY17 work plan.		Removed
1.o	PW	OG	WRF	Influent Quality	Bring strategies to council in Q4		May-17

Goals and Objectives Status

2.a	AS	C	Streets	Street Summitt	Two street summits completed.	Complete.	Sep-16
2.b	PW	IP	Streets	Traffic Calming	SJ and Main to be completed in Jan 17 by street paving contract and consumed all funding approved by Council. No other projects planned.	Will be complete when SJ and Main is complete.	Mar-17
2.c	PW	IP	Streets	41/Main Funding	Based on failure of measure J, staff recommends Council remove this objective from FY17 work plan.		
2.d	PW	OG	Streets	Traffic Signs	Ongoing		Jun-17
2.e	PW	C	Streets	Traffic Markings	Ongoing		Jun-17
2.f	PW	C	Streets	Bike Needs	Planned improvements at SJ and Main will complete this objective.	Project to be executed in Q3 with paving work.	Mar-16
2.g	PW	C	Streets	Bike Lane Painting	To be completed with Jan - Apr 17 street work.		Q4
2.h	PW	C	Streets	Construction Timing	Complete		Complete

Goals and Objectives Status

3.a	CD	OG	Land Use Plans	GP/LCP update	Ongoing.	Ongoing	Jun-16
3.b	CD	OG	Land Use Plans	Zoning Option for GP/LCP	Complete. Approved by Council.	Complete	Complete
3.c	CD	IP	Land Use Plans	Property Master Plan	Complete. Not required for new SBB WRF Site.	Complete.	Complete
3.d	CD	C	Land Use Plans	Wireless Ordinance	To be worked on through the GP/LCP / zoning code update.	Starting work in Jan 17.	Q4
3.e	CD	FY17	Land Use Plans	DWSP	DWSP ongoing as part of GP/LCP and expected complete in Q3. Branding decisions in Q3.	Q3 project.	Mar-17
3.f	CD	FY17	Land Use Plans	2016 Building Code	Approved by council in Dec 16	Complete.	Complete

Goals and Objectives Status

4.a	PW		Public Safety	Speed Survey	PW to write extension letter. PD to purchase new speed guns. PW to hire intern in summer 2017 and complete task with intern and police VIPs.	Awaiting intern hiring. Will not be complete until FY18.	FY18
4.b	DCM		Public Safety	Marijuana Ordinances	With passage of Prop 64, initial presentaiton to Council conducted in Jan 17. Next step is Council Study Session then begin robust Public Outreach.	Council Work session in Mar 17.	FY18
4.c	PD	C	Public Safety	Good Neighbor Campaign	On hold pending selection, arrival and settling in of new permanant police chief. Recommend delay until FY18.	Delayed to FY17/18.	FY18
4.d	PD/FD	C	Public Safety	Public Safety MBMC Scrub	On hold pending selction, arrival and settling in of new permanant police chief. Recommend delay until FY18.	Delayed to FY17/18.	FY18
4.e	PD/FD	C	Public Safety	Strategic Plan Implementation	Police - on hold. Fire - to be completed in Q4		Jun-17
4.f	FD	C	Public Safety	Public Education	CERT and CPR training ongoing. 400+ CERT trained.	Complete.	Dec-16

Goals and Objectives Status

5.a	FIN	C	Fiscal Sustain	2017 Budget Forecast	Staff review completed Jan 5, presentation Feb 28.	On schedule.	Feb 17
5.b	AS	C	Fiscal Sustain	Budget Transparency	CFAC completed "public friendly" budget, released to community.	Produce draft FY18 budget in "public friendly" format.	Q4
5.c	AS	C	Fiscal Sustain	CFAC Review	To be completed by CFAC.	Q4	May-17
5.d	PW	C	Fiscal Sustain	CCA	Awaiting completion of tri-county feasibility assessment.	None Planned.	Jun-17
5.e	AS	C	Fiscal Sustain	Budget Policies	In progress. To be adopted with FY17/18 Budget.		Jun-17
5.f	PD	C	Fiscal Sustain	Vehicle Replacement	Study concluded ~150K annual requirement for lifecycle replacement of all City vehicles including fire, police, public works and administration.	Complete	Feb-17
5.g	DCM	IP	Fiscal Sustain	Recreation Programming	DCM working this issue. Met with YMCA in Dec. Met with Coast Little League Baseball and we are partnering w/ them for T-Ball.	DCM to continue developing ideas.	Jun-17

Goals and Objectives Status

6.a	CM	C	Econ Dev.	Lease Management Policy	Working group to begin work in Q3 and complete in Q4 for Council approval in Jun 2017.		Jun-17
6.b	CM	OG	Econ Dev.	EDSP Implementation	Chabin presentation of completed EDSP to Council in Apr 17. Implementation referenced in FY18 goals.	To Council in Apr 17	Apr-17
6.c	CM	OG	Econ Dev.	MBPP	Ongoing. Staff working closely with parties involved.	Ongoing	Dec-16
6.d	DCM	C	Econ Dev.	Biz Info on Website	Q4 project.		Jun-17
6.e	DCM	C	Econ Dev.	Biz Incentives	Q4 project.		Jun-17
6.f	DCM	C	Econ Dev.	Commercial Real Estate Inventory	Q4 project.		Jun-17
6.g	CD	C	Econ Dev.	Aquarium Project	Ongoing. CCA USDA loan looks positive. CCA raising funds for feasibility study.	Awaiting feasibility study. Update to Council in Q3.	Q3
6.h	DCM	FY17	Econ Dev.	New BIDs	Ongoing. Staff available to support business efforts as appropriate.		Jun-17
6.i	DCM	C	Econ Dev.	Economic Development Code Scrub	Q4 project.		Jun-17
6.j	HD	C	Econ Dev.	Maritime Museum	Ongoing. To be complete in Q3. Staff/CCMMA finalizing and approving license agmt.	Negotiate new MOU w/CCMMA and bring to Council for approval Q4.	Q4
6.k	HD	FY17	Econ Dev.	Marine Services Facility	Moving forward with RFQ for feasibility study.	RFQ being released in Mar 17.	Jun-17
6.l	TM	C	Econ Dev.	Tourism Integration	Ongoing. New Tourism Manager on board. Re-forming staff. Making progress.	To be complete in May 17	May-17
6.m	TM	FY17	Econ Dev.	Food Trucks	Further review of MBMC revealed this change is not required. City staff has authority to allow food trucks for approved events.	Recommend council remove this objective.	Removed

Goals and Objectives Status

7.a	CD	OG	Facilities	Market Plaza	Ongoing. Next step to Council Mar 17.	Take to Council in Mar 17	Mar-17
7.b	CD	OG	Facilities	Implement Parkway and Promenade	Ongoing. Centennial Parkway concept approved by Council Jan 17. Next steps staff begins steps toward implementation.	Final parkway concept approve by Council in Jan 2017	Jan-17
7.c	PW	C	Facilities	ADA Compliance Improvements	Multiple compliance improvements underway around the city.	Will be complete when ongoing projects completed.	Mar-17
7.d	PW	PW	Facilities	Signs and Branding	Awaiting approval of new branding in early 2017.	Complete in Q4	Apr-17
7.e	PW	C	Facilities	Trash and Restrooms	Complete. 3 x increase included in Fy16/17 budget.		Complete
7.f	PW	C	Facilities	Tree Trimming	Complete. 50% increase included in FY16/17 budget		Compelte
7.g	PW	C	Facilities	Community Beautification	City to contract to install tree lighting in 29 downtown trees.	PW to let contract.	Apr-17
7.h	PW	CR	Facilities	ESH Fencing	Ongoing. Maintenance staff has repaired old fencing and is letting contract to add new fencing.	PW Maintenance to let contract.	Apr-17
7.i	PW	C	Facilities	City Hall Functional Improvements	Complete assessment and planning and secure funding in Q4, execute in FY18. Delayed by Fiber project.	Move city servers to fire station.	Jun-17
7.j	PW	C	Facilities	Facility Maintenance Program	Ongoing. PW developing priority list for city manager brief in Mar 17	Ongoing	Apr-17

Goals and Objectives Status

8.a	RC	C	QOL	Community Pool Planning	Ongoing. Dec meeting with Rec Division Supervisor/DCM/CM and School District officials. Rec working community program for opening around Christmas 2017.		Jun-17
8.b	TM	OG	QOL	City Sponsored Events	4th of July, Halloween and Tree Lighting complete.	Complete.	Complete
8.c	HD	OG	QOL	Sea Otter Awareness	Sea Otter week recognized.	Complete. Staff to incorporate SOAW efforts into annual course of duties.	Complete
8.d	DCM	OG	QOL	Pickleball Court Space	Complete.		Complete.
8.e	DCM	OG	QOL	Recreation Guide	First issue published in Jan 17.	Complete	Complete
8.f	PW	C	QOL	Vet's Hall Renovation Planning	Goal is a 5-year sprucing up of vets hall to improve for public meetings and events. Aesthetic improvements, chairs, A/V in support of meetings. Plan in Q3 for council approval in Q4. Due to funding challenges renovations will be modest.		Q4
8.g	DCM	C	QOL	Public Meeting Broadcast Improvements	Unfunded. Making modest improvements with available funds.		Jun-16
8.h	FD	C	QOL	Community Paramedicine	Ongoing.		Q4
8.i	DCM	C	QOL	Skate Park	Several meetings with community members supporting Skate Park complete. Meeting with PGE determined PGE will not allow skate park on their property adjacent to BMX park.	Identify best location for future skate park.	Q4

Goals and Objectives Status

9.a	PW	IP	Water	State Water Planning	Initial discussion with council complete. Next steps to be completed under 1-water plan.	Complete	Complete
9.b	PW	OG	Water	Desal Permit	Temp permit approved. Also to be completed in 1-water plan.	Application to Coastal Commission.	Jun-16
9.c	PW	C	Water	Desal Location	Intent is to leave Desal facility in place and allow future to be determined by future use of the WWTP property.	Complete	
9.d	PW	OG	Water	"One Water Planning"	RFP for One Water planning released in Jan 17.	Receive proposals.	Q3
9.e	PW	C	Water	CMC Emergency Exchange Agreement	CMB proposed agreement submitted to CMC. Awaiting CDCR action w/ state AG Office.		Jun-17

Goals and Objectives Status

10.a	DCM	C	City Ops	IT Support	Complete. Existing staffing arranging both sufficient and efficient.	Complete.	Complete
10.b	DCM	IP	City Ops	IT Disaster Protection	Tied to Fiber network install in Q4 (delayed) by installer. Server move to be complete Jun 2017.		Q4
10.c	CC	C	City Ops	Records Management	Retention Policy to be complete Mar 19		Q3
10.d	AS	C	City Ops	Compensation Study	Complete. Council received study and filed for future use.	Complete	Complete
10.e	HD	C	City Ops	Lease Management Office Reorg	Q3 project.		Q3
10.f	CM	C	City Ops	MBMC and City Org	Complete.		Complete
10.g	CM	C	City Ops	Succession Planning	Due to size of city, succession planning is limited. Thus, on review, staff recommends developing a workforce development policy.	Workforce development policy to be completed.	Q4
10.h	HD	C	City Ops	Harbor Maintenance	Q4 project		Q4
10.i	PW	C	City Ops	GIS	Funding for GIS position to be considered in FY18 budget process.		Q4
10.j	PD	C	City Ops	Community Resource Connections	Initial discussion with council completed in Nov 16. Staff to return to Council with options.		Q4

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AGENDA NO: A-6

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** February 2, 2017

FROM: Janeen Burlingame – Management Analyst

SUBJECT: Approval of License Agreement Between the City of Morro Bay and The SAAP Trust for 1150 Front Street (Bayfront Inn) and 1154 Front Street (Frankie & Lola's Front Street Cafe) for Use of Public Property in the Front Street Parking Lot Area for Trash Enclosure

STAFF RECOMMENDATION

Staff recommends the Council approve the license agreement for use of public property for a trash enclosure at 1196 Front Street, as proposed.

ALTERNATIVES

Council may elect not to approve the proposed license agreement, and direct staff accordingly.

FISCAL IMPACT

If approved, there will be a small increase in revenue to the General Fund of \$15 per month for the license fee.

BACKGROUND

The Bayfront Inn and Frankie & Lola's share garbage and recycling dumpsters for their respective businesses. Said dumpsters have historically been located in the Front Street Parking Lot under the tree at the back of the lot, on public property as there was not enough space at 1150 or 1154 Front Street to house the dumpsters on site.

Over the past couple of years, the City received complaints off and on about illegally dumped trash on the ground by the dumpsters. While the owner began a concerted effort to keep the area tidy and pick up trash when illegal dumping around the containers occurred, the City still would receive the occasional complaint. Per Morro Bay Municipal Code §8.16.160, dumpsters are to be placed in an enclosure so the container is out of public view. Additionally, the dumpsters are on public property and the City has no record of the dumpsters being approved for use at this location.

DISCUSSION

In late 2015, staff previously determined a license agreement was necessary to allow Harbor Hut and Great American Fish Company to use public property at the Front Street parking lot for their private business use, specifically for storage of their trash, recycling, ash and cooking oil as there was not enough space at those locations to house the dumpsters for each restaurant.

As this is a similar circumstance to that for Harbor Hut and Great American Fish Company, a license agreement is necessary to allow the Bayfront Inn and Frankie & Lola's to use public property at the Front Street parking lot for their private business use, specifically for storage of their trash, recycling and cooking oil as there is no space available at these locations to house the dumpsters for the restaurant and motel. The license agreement also authorizes those

Prepared By: JB

Dept Review: RL

City Manager Review: _____

City Attorney Review: JWP

business owners to install the appropriate enclosure at their costs. If the City terminates the license agreement, then an amortized share of those costs would be reimbursed to those business owners since the City would then have use and control that enclosure. In addition, since the use of the area is not exclusive for those businesses, if the City authorizes another user of that area for trash storage, then that other user will be required to pay a share of those installation costs.

CONCLUSION

Staff recommends approval of the attached license agreement to allow the Bayfront Inn (1150 Front St.) and Frankie and Lola's (1154 Front St.) to utilize public property off-site of their properties to house their trash, recycling and cooking oil storage needs. The agreement proposed provides adequate flexibility for the City and Licensee to investigate other potential locations for the use, including on the Licensee's own property, or reconfiguration or relocation of the enclosure to best serve the public good. A small amount of revenue will be realized and the use will be covered by the Licensee's insurance with the City named as additionally insured.

ATTACHMENTS

1. Draft License Agreement

TEMPORARY LICENSE AGREEMENT
FOR USE OF PUBLIC PROPERTY

The City of Morro Bay, a municipal corporation, ("Licensor") hereby grants to **The SAAP Trust** ("Licensee") a license ("this License") for use of the real property located on the Front Street Parking Lot at 1196 Front Street, Morro Bay, CA, illustrated on the attached Exhibit A (the "Premises"), subject to all the following terms and conditions:

1. USE: Subject to all the provisions of this License and only in recognition of the purpose set forth in this Paragraph, Licensee shall have permission to non-exclusive use of a 205 square-foot area for a trash enclosure on the Premises (the "Licensed Area") solely for temporary and proper storage of trash, recycling and cooking oil until properly disposed of on behalf of Licensee by a qualified hauling company. The Licensed Area is also noted on Exhibit A.

Only trash, recycling and cooking oil derived from the businesses located at 1150 and 1154 Front Street will be allowed to be temporarily and properly stored in the Licensed Area.

Outdoor storage of Fat Oils, and Grease (FOG) shall be stored in a 55-gallon labeled container, kept securely closed, equipped with secondary containment, and inspected and emptied on a regular basis to assure the containers are in good shape and no leakage has occurred.

No storage of hazardous materials of any sort will be allowed on the Premises, including, but not limited to, such materials as fuels, chemicals, paints and oils.

Licensee shall have the obligation, at its cost, to cause the installation of the fencing and screening to create the trash enclosure on the Premises (the "Work"). Such installation shall be commenced and completed in accordance with (i) all applicable laws and regulations, including the Morro Bay Municipal Code, and (ii) the reasonable approval of the Public Works Director. The installation shall be commenced on or before March 15, 2017, and completed on or before May 15, 2017. For purposes of this License Agreement, (i) commenced shall mean the date of issuance of a building permit, if required, or final approval to commence the Work from Licensor, acting in its governmental capacity not as a property owner and (ii) Completed shall mean the date of the approval of the final inspection of the Work, from Licensor, acting in its governmental capacity not as a property owner.

The foregoing shall be defined as the "Permitted Uses."

Licensee understands and agrees it is Licensor's desire Licensee determine a long-term permanent solution for storing Licensee's garbage, recycling and cooking oil on Licensee's property, if feasible. Licensor and Licensee also understand the importance to Licensee to have a reasonable location for storing Licensee's garbage, recycling and cooking oil and with that understanding in mind Licensor and Licensee agree to work together to find a reasonable relocation site, as each may determine necessary for that storage, as each may determine feasible.

2. LICENSOR REQUIREMENTS: In connection with the Permitted Uses, Licensee shall comply with all applicable Federal, State and local laws rules and regulations, including payment of local business taxes, if applicable.
3. EFFECTIVE DATE OF LICENSE: This License shall be effective upon the date it is signed on behalf of Licensor, as long as it has also been signed on behalf of Licensee (the "Effective Date").
4. TERM: The term of this License shall be for 365 days from the Effective Date (the "Term") or termination pursuant to Paragraph 16, below.
5. RENEWAL: Licensor's Public Works Director may, at his/her sole discretion, administratively execute successive one-year renewals of this License (the "Extended Term"). The Extended Term shall be effective only if an amendment to this License is signed by Licensor's Public Works Director, or designee, and Licensee.
6. FEES: Licensee shall pay to Licensor Fifteen Dollars and No cents (\$15.00) per month payable on the first of each month commencing on the first full calendar month after the date of this License (the "License Fee").

On each January 1, commencing with January 2018, the License Fee shall be increased in an amount equal to the increase in the Consumer Price Index (the "CPI") for the 12-month Index average of the immediate preceding calendar year. The CPI referred to herein is the CPI (all items indexes, all urban consumers) for Los Angeles - Riverside - Orange County, California, compiled and published by the United States Department of Labor, Bureau of Labor Statistics, 1982-84 Base Year = 100. A decrease in the CPI shall have no effect on the License Fee. If the CPI is discontinued, then another similar established method for determining increases in costs shall be used instead.

7. MAINTENANCE: Licensee shall be responsible to maintain the Premises and the fencing and screening installed pursuant to Paragraph 1. in a clean, repaired, operational and presentable manner and keep the Premises and area abutting the Premises free from waste, debris, trash and other rubbish. Upon termination of this License for any reason, Licensee shall leave the Premises free from waste, debris, trash, pollution/spills and other rubbish and in a good condition, subject to normal wear and tear.
8. SIGNS: Licensee shall not allow any signs to be posted on the Premises unless required by law and not without the prior written approval of Licensor's Public Works Director, and subject to all applicable Licensor zoning laws, rules and regulations and all required land use Licensor approvals and permits shall be obtained.
9. IMPROVEMENTS: Licensee shall not make any improvements to the Premises without prior approval from Licensor's Public Works Director. Upon termination of this License for any reason, any improvements of any kind installed by or on behalf of Licensee and left on Premises shall become the property of Licensor at no cost whatsoever, including any damages for condemnation, inverse condemnation or relocation benefits or loss of goodwill; however, Licensee and Licensor further agree Licensor has the option and right to require Licensee to remove any improvements of any kind installed by or on behalf of Licensee upon the Premises at the termination of this License, however

occurring, providing Licensor gives Licensee notice, in writing, no later than thirty days prior to termination of License. If Licensor exercises such option and Licensee fails to remove such improvements within sixty days after termination of License, then Licensor shall have the right to have such improvements removed at expense of Licensee.

10. Reimbursement of Installation Costs: If, pursuant to the non-exclusive rights granted by this License City allows another private user to use the Premises, then City shall cause that other user(s) to pay Licensee a percentage share of the actual costs incurred by Licensee for the Work. (For purposes of example only, if one additional user is allowed, then that share would be 50%. If two additional users are allowed, then the that share would be 33.3% each.) In addition, if City terminates this Agreement, without cause, then City shall reimburse Licensee for the cost Licensee actually incurs for the Work in a pro rata amount based on the following: the total costs of the Work divided by 1825 (365 X 5 to provide a 5-year amortization of costs of the Work) times the difference resulting from subtracting the number of days which this License was in effect after the Effective Date from 1825, rounded up to the nearest cent. For purposes of example only, if the Work costs \$2,000 and the License was effective for 3 full years, then the amount the City would reimburse Licensee would be \$800.00 ($\$2,000 \div 1825 \times 730 [1825 - 1095 = 730]$).
11. LICENSEE OBLIGATIONS: Termination of this License shall not terminate Licensee's obligations pursuant to Paragraphs 10, 12, 13, 14, 15, 16, 17 and 18.
12. TAXABLE INTEREST: This License is not intended to create any interest in real property. If it is determined, by a governmental agency dually authorized to make such decision, this License creates any taxable interest, including, but not limited to, a possessory interest, then Licensee shall be solely responsible to pay such taxes to the extent such taxes are required by law to be paid.
13. HOLD HARMLESS: Licensee agrees to and hereby does hold harmless, indemnify and defend Licensor and its officers, agents and employees ("Indemnitees") from any claim, judgment, liability, award, damages, loss or expense, including reasonable attorney's fees and court costs, arising out of or related to the use of the Premises by Licensee, including, but not limited to, any hazardous materials releases; provided, that Licensee's obligation to indemnify and hold harmless shall apply only to the extent Licensee, its officers, employees or agents caused the claim, loss or expense. For purposes of this License, hazardous materials shall mean any materials as defined by State or Federal laws.
14. INSURANCE: Without limiting the obligation set forth in the immediately preceding sentence, during the term of this License Licensee shall provide evidence of insurance as provided in Exhibit B.
15. NO LIENS ON PREMISES: Licensee shall not permit or suffer any mechanic's or materialman's or other lien of any kind or nature to be recorded or enforced against the Premises for any work done or materials furnished thereon at the instance of requirement of or on behalf of Licensee; and Licensee agrees to indemnify and hold harmless Licensor and the Premises against and from any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with such work done, labor performed or material furnished in connection with Licensee's use of the Premises.

16. RIGHT TO TERMINATE/NO DISPLACEMENT LIABILITY: Either party shall have the right to terminate this License, with or without cause, upon thirty-days' (30-days') written notice to the non-terminating party. Licensors shall not be liable (i) for any displacement or relocation benefits or expenses experienced by Licensee, (ii) for reimbursement for any improvements installed by Licensee, except as provided in Paragraph 10, above, or (iii) for any damages in condemnation, inverse condemnation, loss of goodwill or other legal or equitable bases resulting, directly or indirectly, from any action or inaction of or on behalf of Licensors that may be in any way connected with any termination of this License for any reason or any relocation of Licensee from the Premises for any reason. Upon termination of this License, Licensee shall no longer be responsible for any fees under this License, as specified in Paragraph 6 of this License.
17. GOVERNING LAW: The terms of this License shall be interpreted according to the laws of the State of California. If arises out of this License, then venue shall be in the Superior Court of San Luis Obispo County.
18. LITIGATION FEES: If either party commences action against the other party arising out of or in connection with this License, then the prevailing party shall be entitled to have and recover from the other party reasonable attorneys' fees and costs of suit.
19. LICENSOR USE OF PREMISES: Licensors may use the Premises for trash/recycling/cooking oil storage; provided, that such use shall not unreasonably interfere with or prevent in any substantial way Licensee's ability to utilize the Premises for the purposes set forth herein. In addition, without any implied or expressed limitation on Licensors' authority and right to access and inspect the Premises in its governmental capacity, Licensors shall have the right to access at any time to the Premises for inspections.
- At any time during the Term or any Extended Term, Licensors reserves the right to have Licensee relocate its trash/recycling/cooking oil storage to an alternate location at sole discretion of Licensors. The costs for that relocation and any repairs required on the Premises due to Licensee's use of the Premises shall be borne solely by Licensee.
20. TRANSFERABILITY AND ASSIGNABILITY: The License is neither transferable nor assignable by Licensee without the written consent of Licensors.
21. NOTICES: All notices given or required to be given pursuant to this License shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:

To Licensors:

City of Morro Bay
Attn: Public Works Director
595 Harbor Street
Morro Bay, CA 93442

With copy to:

Joseph W. Pannone
Aleshire & Wynder, LLP
2361 Rosecrans Avenue, Suite 475

El Segundo, CA 90245

To Licensee:

The SAAP Trust
Jayne Behman
1150 Front Street
Morro Bay, CA 93442

22. ENTIRE AGREEMENT: This License (i) constitutes the entire agreement of the parties hereto relating to the use, operation and maintenance of the Premises and (ii) shall supersede prospectively from the date it is entered into any and all prior written or oral negotiations or agreements of the parties relating to the Premises. This License shall not be modified in any particular except by a written amendment duly executed by the parties.

LICENSEE

Dated: _____

Jayne Behman

LICENSOR

Dated: _____

By: _____
David Buckingham, City Manager

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

By: _____
Joseph W. Pannone, City Attorney

EXHIBIT A
AERIAL OF PREMISES



Trash enclosure location (not to scale)

EXHIBIT B

CITY OF MORRO BAY INSURANCE REQUIREMENTS

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

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

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

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

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

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to Licensor for injury to employees of Licensee, subcontractors or others

involved in the Work. The scope of coverage provided is subject to approval of Licensor following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

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

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

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

7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Licensee's general liability policy, shall be delivered to Licensor at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, Licensor has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by Licensor shall be charged to and promptly paid by Licensee or deducted from sums due Licensee, at Licensor's option.
8. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Licensee or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self insurance available to Licensor.
9. Licensee agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Licensee, provide the same minimum insurance coverage required of Licensee. Licensee agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Licensee agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to Licensor for review.
10. Licensee agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Licensee, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to Licensor. If Licensee's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to Licensor. At the time Licensor shall review options with the Licensee, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
11. Licensor reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Licensee ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Licensee, Licensor will negotiate additional compensation proportional to the increase benefit to Licensor.
12. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
13. Licensee acknowledges and agrees that any actual or alleged failure on the part of Licensor to inform Licensee of non-compliance with any insurance requirements in no

way imposes any additional obligations on Licensor nor does it waive any rights hereunder in this or any other regard.

14. Licensee will renew the required coverage annually as long as Licensor, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until Licensor executes a written statement to that effect.
15. Licensee shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Licensee's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to Licensor within five days of the expiration of the coverages.
16. The provisions of any workers' compensation or similar act will not limit the obligations of Licensee under this agreement. Licensee expressly agrees not to use any statutory immunity defenses under such laws with respect to Licensor, its employees, officials and agents.
17. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.
18. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
19. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

20. Licensee agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge Licensor or Licensee for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to Licensor. It is not the intent of Licensor to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against Licensor for payment of premiums or other amounts with respect thereto.
21. Licensee agrees to provide immediate notice to Licensor of any claim or loss against Licensee arising out of the work performed under this agreement. Licensor assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve Licensor.

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AGENDA NO: A-7
MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** February 13, 2017
FROM: Joseph W. Pannone, City Attorney
SUBJECT: Adoption of Resolution No. 07-17 Amending the Council Policies and Procedures regarding the Council Outreach and Staff Support

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 07-17 amending the Council Policies and Procedures regarding Council outreach and staff support.

ALTERNATIVES

1. The Council may choose not to adopt Resolution No. 07-17 and not amend the Council Policies and Procedures.
2. The Council may choose to adopt Resolution No. 07-17 with different language for the proposed new section to the Council Policies and Procedures.

FISCAL IMPACT

There may be some minimal staff time and costs for some of the outreach requested by a Council Member. However, that would be funded through an authorized budget appropriation.

BACKGROUND/DISCUSSION

At the Council meeting of January 24, 2017, the Council discussed issues regarding different Council outreach options and staff support for that outreach. With a 5-0 vote, the Council directed staff to return with an amendment to the Council Policies and Procedures Manual to address those matters. Resolution No. 07-17 has been prepared pursuant to the direction. That direction also included authority to expend up to \$3,500 for a Council retreat, but that action does not need to be included in the Council Policies and Procedures.

CONCLUSION

Resolution No. 07-17, amending the Council Policies and Procedures regarding Council outreach and staff support, implements the Council's decision at its January 24th meeting.

ATTACHMENTS

1. Proposed Resolution No. 07-17
2. Minutes from the January 24, 2017, meeting relating to this subject.

Prepared By: _____ JWP

City Manager Review: _____

RESOLUTION NO. 07-17

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING COUNCIL POLICIES AND PROCEDURES MANUAL
REGARDING COUNCIL OUTREACH AND STAFF SUPPORT**

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

WHEREAS, the Council Policies and Procedures Manual for the City of Morro Bay is a combination of City Council actions, policies, references, and information regarding the City Council; and

WHEREAS, to ensure all Councilmembers are familiar with and understand the City of Morro Bay's philosophies and policies regarding serving on the City Council, the City Council adopted its Council Policies and Procedures Manual, which have been amended on various occasions; and

WHEREAS, the City again desires to amend certain Sections of the Council Policies and Procedures Manual related to Council outreach and staff support.

NOW, THEREFORE, be it resolved, the City Council of the City of Morro Bay does hereby amend the Council Policies and Procedures Manual by adding a new Section 3.13, thereto, to read, as follows:

3.13 COUNCIL MEMBER OUTREACH AND STAFF SUPPORT

From time to time, outside of duly noticed meetings, subject to full compliance with the Brown Act and except during the six months prior to any City election, in order to (i) make it easier for constituents to talk directly with their Council Members about matters of public interest and (ii) improve Council/City Manager/Staff teamwork:

- 1) individual Councilmembers and advisory board members may participate in community outreach events that utilize minimal City staff and resources, and
- 2) the City Manager and each Department Head, after advising the City Manager, are hereby authorized to invite one or two Council Members to attend/participate in certain staff organized meetings and activities.

PASSED AND ADOPTED by the City Council, City of Morro Bay at a regular meeting thereof held on the 28th day of February, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

C-4 COUNCIL MEMBER OUTREACH AND STAFF SUPPORT DISCUSSION AND DIRECTION; (CITY MANAGER/CITY ATTORNEY)
<https://youtu.be/ZDbGKc2bDFM?t=3h52m7s>

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

The public comment period for Item C-4 was opened; seeing none, the public comment period was closed.

Councilmember Davis requested discussion of a Council retreat for teambuilding purposes.

There was Council support for coordinated and targeted community outreach to bring topics to neighborhoods for improved one-on-one interaction. It was pointed out that any comments made in that venue are made on behalf of the individual Councilmember, not the Council as a whole. The Council agreed all Members should receive similar levels of staff support and resources. Further discussion of how to implement Council outreach could be discussed at the Council retreat.

Mr. Pannone clarified a Council retreat would be a noticed Brown Act meeting but may be held at another site. The public may choose to attend and listen.

MOTION: Councilmember Heading moved, that in order to make it easier for constituents to talk directly to their Councilmembers about matters of public interest, and improve Council / City Manager / staff teamwork, to direct staff to add language to

6

MINUTES - MORRO BAY CITY COUNCIL – JANUARY 24, 2017

the Council Policies and Procedures that will, from time to time and except during the six months prior to a municipal election: 1) allow individual Councilmembers and advisory board members, within the confines of the Brown Act, to participate in community outreach events that utilize minimal City staff or resources, outside of duly noticed meetings, and 2) provide staff latitude to, from time to time as staff determines is appropriate, invite one or two Councilmembers to attend / participate in certain staff organized meetings and activities, and 3) arrange for Council retreat off site at a cost not to exceed \$1,000 as soon as possible. The motion was seconded by Councilmember McPherson.

Mayor Irons was concerned the proposed \$1,000 would be too limiting and suggested \$3,000 - \$4,000 is a more reasonable amount. Regarding the second part of the motion, he wanted to ensure equal information is provided to all Councilmembers and clarify these types of organized meetings are not working meetings and are not creating subcommittees.

Councilmember Heading amended the motion to include the Mayor's comments clarifying the types of organized meetings, as stated, and increase allowance for a retreat not to exceed \$3,500. Councilmember McPherson seconded the amendment and the motion carried unanimously, 5-0.



AGENDA NO: A-8

MEETING DATE: February 28, 2017

Council Report

TO: City Council

DATE: February 21, 2017

FROM: Jamie L. Irons, Mayor

SUBJECT: Appointment of Council Liaison to the Estero Bay Alliance of Care ("EBAC") and Confirmation of Council Sub-Committees

RECOMMENDATION

Approve the appointment of Mayor Irons and Council Member McPherson as liaisons to the Estero Bay Alliance of Care ("EBAC") and affirm Council sub-committees for the Aquarium project, Morro Bay Power Plant, and Chevron properties.

BACKGROUND/DISCUSSION

At the January 10, 2017, City Council meeting, the Council affirmed appointments to a variety of County and/or regional committees and boards, as well as liaisons to each of the City's advisory boards. In addition to their regular assignments, Council Members Johnson and Smukler served informally as liaisons to EBAC during their term on the Council and it is important the City's involvement in that program continue. I recommend Council Member McPherson and myself be assigned as liaisons to the EBAC.

The City Council Policies and Procedures Section 6.2.2 States:

"Council may establish several sub-committees of no more than two members to address areas of concern and/or study."

The City Council previously established sub-committees for the Aquarium project and Morro Bay Power Plant. I recommend the Council affirm those sub-committees and establish a sub-committee for the Chevron property and Amgen event. The suggested sub-committee members are as follows:

Aquarium – Mayor Irons and Council Member Headding
Morro Bay Power Plant – Mayor Irons and Council Member Headding
Chevron property – Mayor Irons and Council Member Davis
Amgen – Mayor Irons and Council Member Davis

CONCLUSION

This report is being presented on the Consent calendar but may be pulled to briefly discuss the recommendations and make any necessary adjustments.

Prepared By: JI

Dept Review: _____

City Manager Review: DWB

City Attorney Review: JWP

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AGENDA NO: A-9

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor and City Council

DATE: February 7, 2017

FROM: Janeen Burlingame, Management Analyst

SUBJECT: Authorization for City Manager to Execute Documents Related to a Rural Transit Fund Grant Award for Purchase of a New Morro Bay Transit Vehicle

RECOMMENDATION

Staff recommends the City Council authorize the City Manager to execute all necessary documents related to the Rural Transit Fund (RTF) grant awarded by the San Luis Obispo Council of Governments on April 6, 2016 for the purchase of a new replacement Morro Bay Transit vehicle.

ALTERNATIVES

There is no alternative if the Council wants to receive the grant.

FISCAL IMPACT

There is no fiscal impact to the general fund as the \$81,000 estimated cost for the project would be paid for with the previously awarded RTF grant funds and Local Transportation Fund monies.

SUMMARY

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

At the beginning of each year, the SLOCOG accepts grant applications from eligible recipients for the upcoming fiscal year cycle of RTF funding.

DISCUSSION

For the FY17 cycle, the City applied for and was awarded an RTF grant for the purchase of a new replacement vehicle for Morro Bay Transit. The City intends to purchase the vehicle from the California Association for Coordinated Transit (CalACT)/Morongo Basin Transit Authority (MBTA) Purchasing Cooperative. To proceed, the City Manager will need to execute documents with CalACT/MBTA related to the vehicle procurement assignment as well as ordering the vehicle from the selected vendor. The Council resolution to apply for the grant only gave authorization to submit the grant. Since the resolution was adopted, City policy has changed, requiring Council authorization for the City Manager to sign contracts of this nature.

CONCLUSION:

Staff recommends the City Council authorize the City Manager to execute all necessary documents related to the RTF grant awarded by the SLOCOG on April 2016 for the purchase of a new Morro Bay Transit vehicle.

Prepared By: J Burlingame

Dept Review: _____

City Manager Review: _____

City Attorney Review: ___JWP___

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AGENDA NO: A-10

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor and City Council

DATE: February 15, 2017

FROM: Eric Endersby, Harbor Director

SUBJECT: Adoption of Resolution No. 05-17 Approving Amendment No. 1 to the Lease for Lease Site 53-56/53W-56W (Estero Landing, Located at 501 Embarcadero) Between the City of Morro Bay and Estero Landing, Inc.

RECOMMENDATION

Staff recommend the City Council adopt Resolution No. 05-17, approving Amendment No. 1 to the current lease for Lease Site 53-56/53W-56W, providing ten additional years of lease term for substantial tenant improvement investment completed.

ALTERNATIVES

Council may elect not to approve Resolution No. 05-17 for the proposed lease amendment, and direct staff accordingly.

FISCAL IMPACT

There is no fiscal impact to this lease amendment.

BACKGROUND

This site originally operated as a base for tugboat operations since the 1950's, initially as Sylvester's Tug Service, and then was assigned to Estero Landing in February, 2003. The site consisted of a small one-story office and shop building, storage space and a wharf to serve the tugboat landing.

Ken Scott, President of Estero Landing, Inc., received Concept Plan approval for a proposed redevelopment project from the City in 2006, and Precise Plan approval in February, 2008, under UPO-020. Based on significant private investment for complete redevelopment of the site, Estero Landing was granted a 40-year lease with an inauguration date of July 1, 2008, and expiring on June 30, 2048. The redevelopment consisted of a complete site tear-down, saving of the wharf, and construction of a new two-story mixed hotel/retail complex to modern code and Waterfront Master Plan standards.

Last year, Mr. Scott requested a lease extension based on ~\$306,000 of additional lease site improvement investment completed since 2009 that were not a part of the previous site redevelopment, which redevelopment was completed in late 2009. That work consisted of a new dock, gangway and associated equipment, piling replacements, and significant wharf maintenance, repair and upgrades.

DISCUSSION

With input from the City Council regarding those additional lease site improvements, staff have

Prepared By: EE

Dept Review: EE

City Manager Review: _____

City Attorney Review: JWP

negotiated with Estero Landing, Inc., owner Ken Scott, Amendment No. 1 to the lease agreement. Highlights of this amendment are:

1. Ten years added to the lease term in consideration of documented improvement expenses of ~\$306,000 on the improvements described, with a new expiration of June 30, 2058.
2. All other terms and conditions in the lease remain in full force and effect.

Those additional ten years are commensurate with other lease terms and term amendments for similar investment scopes approved by the City Council in recent years.

CONCLUSION

Mr. Scott is a tenant in good standing, with a quality redevelopment project that resulted in significant additional revenue to the City in terms of base and percent rents, and TOT over what the site was generating previously. Approval of the proposed resolution and lease amendment will memorialize the City's commitment to encouraging private investment on our waterfront to the mutual benefit of the tenants, community and City. The lease years granted in consideration of those additional improvement investments are consistent with other recent lease activities, and staff recommend approval of the proposed resolution and lease amendment.

ATTACHMENTS

1. Resolution No. 05-17
2. Amendment No. 1 to the current Master Lease Agreement
3. Photo of lease site

RESOLUTION NO. 05-17

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING AMENDMENT #1 TO THE LEASE AGREEMENT FOR
LEASE SITE 53-56/53W-56W BETWEEN THE CITY OF MORRO BAY AND
ESTERO LANDING, INC., LOCATED AT 501 EMBARCADERO**

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

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

WHEREAS, Estero Landing, Inc. is the lessee of Lease Site 53-56/53W-56W, a site completely redeveloped by Tenant in 2007-2009, and is a tenant in good standing; and

WHEREAS, since redevelopment Tenant has completed significant lease site real property improvements with approximate documented costs of \$306,000; and

WHEREAS, in accordance with the City's Master Lease Policy and in consideration of said improvements, Tenant and City agree to extend the lease term for an additional ten years.

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

1. The Amendment #1 for Lease Site 53-56/53W-56W is hereby approved.
2. The Mayor is hereby directed to execute said Lease Agreement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th day of February, 2017 on the following vote:

AYES:
NOES:
ABSENT:

Jamie L. Irons, Mayor

ATTEST:

Dana Swanson, City Clerk

AMENDMENT #1
TO LEASE AGREEMENT FOR LEASE SITE 53-56/53W-56W

This Amendment is made and entered into as of this _____ day of _____, 2017 by and between the City of Morro Bay, a municipal corporation of the State of California (hereinafter "CITY") and Estero Landing Incorporated, a California corporation (hereinafter "TENANT").

Whereas, on June 30, 2008, CITY and TENANT executed that certain lease agreement for Lease Site 53-56/53W-56W (hereinafter "Lease"); and

Whereas, the Lease currently terminates on June 30, 2048; and

Whereas, TENANT executed a complete redevelopment of the Lease Site pursuant to CUP# UPO-020, completed in 2009; and

Whereas, since 2009 TENANT invested approximately \$306,000 in additional lease site real property improvements to the water portion of the Lease Site, including installation of new docks, a new gangway, new pilings, and significant structural repair, maintenance and upgrades to the site's wharf and dock pilings.

NOW THEREFORE, in consideration of said real property improvements, CITY and TENANT do mutually agree, as follows:

1. **Section 1.01, Term**, of the Lease is amended so the term of the Lease (i) is hereby extended for a period of ten years for real property improvements completed to the water portion of the Lease Site, including documentation of expenses for said improvements, and (ii) shall terminate, without notice, on June 30, 2058, unless sooner terminated as provided in the Lease.
2. Except as expressly stated herein, all terms and conditions of the Lease shall remain in full force and effect.
3. The effective date of this Amendment is the date first written above.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date written above.

CITY OF MORRO BAY
a municipal corporation

By: _____
Jamie L. Irons, Mayor

Attest:

Dana Swanson, City Clerk

APPROVED AS TO FORM:

Joseph W. Pannone, City Attorney

TENANT
Estero Landing, Inc.,
a California corporation

By _____
Ken Scott, President

By: _____

Its _____





AGENDA NO: A-11

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor & City Council

DATE: February 16, 2017

FROM: Eric Endersby, Harbor Director

SUBJECT: Discussion of Agenda for the California Marine Affairs and Navigation Conference (C-MANC) Annual "Washington Week" Meetings In Washington, D.C.

RECOMMENDATION

Council receive this report and provide any desired input on the elements herein.

ALTERNATIVES

Not applicable.

FISCAL IMPACT

As previously brought before the Council, the total costs for airfare, hotel, and monetary contribution to the Golden State Reception for the "Washington Week" meetings are estimated at \$12,000 for the approved three-person Morro Bay Delegation (Mayor, City Manager and Harbor Director), including approximately \$2,000 in staff time in preparatory meeting attendance, grant preparation, and travel/meeting logistics. Staff expenses will be assumed by the Harbor Fund. The City will be applying for a grant from the Central Coast Joint Cable Fisheries Liaison Committee, which will be used for reimbursement of actual travel, attendance and associated costs of attendance. Unlike past years, this year the Cable Committee grant application and award process is two to three months behind schedule, with the Cable board of director's meeting to set the grant cycle tentatively slated for early March. The City has been successful in obtaining the Cable Committee Grant for the last several years, and staff has contacted the Committee's Executive Director, who indicated applying for reimbursement funds "in arrears" of our trip would be acceptable. If, however, we are not successful in obtaining the grant, then staff will come back to Council for a budget adjustment as those funds are not currently budgeted.

BACKGROUND

C-MANC annually hosts "Washington Week" meetings, where representatives of California Ports and Harbors have the opportunity to remind Congress and various other agencies of the importance of dredging projects, commercial fishing and other coastal-related legislation in California and nationwide. The City of Morro Bay is a long-standing member of C-MANC, and for the past 25+ years, has sent representatives to the "Washington Week" meetings.

On January 10, 2017, the City Council again authorized a three-person delegation including the Mayor, City Manager and Harbor Director as this year's Morro Bay delegation. This year's

Prepared By: EE

Dept Review: EE

City Manager Review: _____

City Attorney Review: JWP

proceedings are March 6-8.

Continued dredging of our Federally-authorized and funded channel remains our top priority with C-MANC and our work with the Army Corps of Engineers and Washington D.C. visits. That ensures our harbor remains not only safe for passage, but fully navigable from a commerce and operational standpoint. We work most closely with the Army Corps' Los Angeles District to coordinate our channel status and dredging needs, who, in turn, prioritize their district projects for consideration at the South Pacific Division level. Division then prioritizes and sends their work plan to Headquarters in Washington D.C., who in turn prioritize and send budget requests to the Office of Management of the Budget (OMB) for the nation's civil works projects, including dredging of Morro Bay harbor.

Nationally, the Army Corps is the Nation's number one federal provider of outdoor recreation, (i) owns and operates more than 600 dams, (ii) operates and maintains 12,000 miles of commercial inland navigation channels, (iii) dredges more than 200 million cubic yards of construction and maintenance dredge material annually, (iv) maintains 926 coastal, Great Lakes and inland harbors, (v) restores, creates, enhances or preserves tens of thousands of acres of wetlands annually under the Corps' Regulatory Program, (vi) provides a total water supply storage capacity of 329.2 million acre-feet in major Corps lakes, (vii) owns and operates 24 percent of the U.S. hydropower capacity or 3 percent of the total U.S. electric capacity, and (viii) supports Army and Air Force installations and construction world-wide.

Therefore, it is vitally important Morro Bay maintain its relationships at all levels of the Corps' organization, and Morro Bay's membership and involvement with C-MANC is one key to our and other California ports and harbors' voices being heard and needs being met. Primarily because of our strategic location between Monterey and Santa Barbara, our Coast Guard station's presence and our historically dangerous harbor entrance, annually we have received approximately \$3M for the Army Corps' dredge ship *Yaquina* to dredge our harbor entrance to help reduce the severity of large winter swells breaking there and making the entrance impassable. On the larger scale, historically our harbor has received dredging of the entire Federal channel from the entrance to approximately the Inn at Morro Bay about every 5-7 years.

In addition, C-MANC and our Washington D.C. trip are not only about dredging; we also make various legislator, regulator and other agency contacts to bring forth issues and matters of concern such as fisheries, ocean and coastal management and coastal governance.

DISCUSSION

In addition to the C-MANC organized meetings where all members generally attend en masse, we set-up separate Morro Bay-only meetings with key legislators and others, including the Army Corps, to discuss specific Morro Bay and Central Coast regional issues. Last year's Morro Bay meeting agenda is included with this staff report at Attachment 1.

Dredging. Largely due to our C-MANC and D.C. efforts, this year (FY17) Morro Bay received not only \$3.07M for the *Yaquina* this spring, but we also received an additional "plus-up" of \$4.37M from the Corps' work plan. Those two amounts are adequate to dredge our entire harbor this year, and the contractor Ahtna Design-Build is currently dredging everything except the harbor entrance, which the *Yaquina* will take care of in May.

Our goal this year is to continue our message of the importance of Morro Bay dredging to our community, the region and state, and to ensure we maintain our important Corps relationships, including thanking those involved with securing our recent funding.

For FY18, we are again requesting \$3M for the *Yaquina*, and don't anticipate needing funding to dredge the remainder of our harbor until ~2021. We will, however, continue to request ~\$3M annually for the *Yaquina*.

Fisheries. This year, as in recent past years, Morro Bay's focus will be on the Individually Transferrable Quota (ITQ) system in the groundfish fisheries, and the continued burden under the current groundfish management scheme where 100% human observers are required to participate in the fishery. That impediment has seriously hampered the Morro Bay Community Quota Fund's ability to get better participation in leasing quota, particularly among the small boat fleet. A recent analysis by fisheries managers determined only 20.2% of the total allowable West Coast groundfish catch was harvested in 2015; a dismal statistic that highlights the need for important management changes, including the problems with observers.

Marine Sanctuaries. Last year we were unable to meet with any National Oceanic and Atmospheric Administration personnel as all significant administrators were on the road at their annual conferences. This year C-MANC is requesting to have a Q&A session with John Armor, the Director of Office of National Marine Sanctuaries. We have also requested a Morro Bay delegation visit with Mr. Armor personally, with the status and intent for the Chumash Heritage National Marine Sanctuary nomination being the primary topic of consideration, and to bring the City of Morro Bay's primary concerns with sanctuary governance – conflicts with the commercial fishing industry and working harbor uses, and lack of local control in sanctuary governance – to Armor's attention.

Water Reclamation Facility and Desalination. In past D.C. visits we have sought possible Federal grant or funding opportunities, as well as meeting with Council on Environmental Quality staffers to discuss policy and guidance issues, drought and sea level rise issues, EPA and other topics germane to our WRF project. This year we intend make visits to several Federal agencies, and to our legislators, to continue to raise awareness and to further prepare the ground for possible Federal funding assistance.

Legislators. Each year we meet personally with our Congressional and Senatorial representatives, and/or their key staffers. Those meetings are generally of a more general nature, but do focus on specific projects and issues and recent news and happenings of a noteworthy nature. This year's meetings will be particularly important to get our new representatives, Senator Harris and Congressman Carbajal, oriented and up to speed with our issues and needs. Those personal meetings are important and do make a difference in matters and funding important to Morro Bay.

Included with this staff report as Attachment 2 are our proposed "leave behind" papers for our legislators and the Corps. Staff is seeking input and concurrence with those papers.

CONCLUSION

It is important for the California C-MANC delegation, as well as for the City of Morro Bay, to maintain its many relationships in Washington D.C., in addition to bringing a unified voice of the importance of all of California's ports and harbors as an integrated "system" to the national economy and security. As evidenced by our recent Corps funding "plus-up" and other events such as national and international recognition of our groundbreaking Community Quota Fund, Morro Bay's concerns and voice do matter and do make a difference in legislation, funding and other issues important to our community.

ATTACHMENTS

1. 2016 City of Morro Bay Washington D.C. agenda of meetings
2. "Leave behind" papers for Senators Feinstein and Harris, Congressman Carbajal and the Army Corps of Engineers
3. C-MANC's Washington meeting talking points

CALIFORNIA'S PORTS AND HARBORS

2016 MEETINGS

WASHINGTON, DC

Agenda: To discuss international trade through California, contributions to the National Economy, benefits of civil works to the environment and recognition of California ports and harbors in budgeting priorities.

Wednesday, March 16, 2016

Mr. Jim Walker	American Association of Port Authorities
Mr. Derek Brockbank	American Shore and Beach Preservation
Mr. Barry Holliday	Dredging Contractors of America
Honorable Julia Brownley	Member of Congress
Ms. Betsy Southerland	EPA, Office of Water
Ms. Donna Downing	EPA, Office of Water
Mr. Stuart Hazlett	U.S. Army, Corps of Engineers
Mr. Jeffrey McKee	U.S. Army, Corps of Engineers
Mr. Bradd Schwichtenberg	U.S. Army, Corps of Engineers
Honorable Barbara Boxer	U. S. Senate
Ms. Jen Armstrong	Senate Appropriations Staff
Mr. Tim Dykstra	Senate Appropriations Staff
Ms. Samantha Nelson	Senate Appropriations Staff
Ms. Angie Giancarlo	House Appropriations Staff
Ms. Taunja Berquam	House Appropriations Staff

GOLDEN STATE RECEPTION

Thursday, March 17, 2016

Mr. John Pasquantino	Office of Management and Budget
Mr. Gary Waxman	Office of Management and Budget
Mr. Nadir Nadal	Office of Management and Budget
Mr. Trevor Higgins	Office of Senator Feinstein
Mr. Joshua Esquivel	Office of Senator Feinstein
Mr. Lowry Crook	Department of the Army
Mr. William Ball	Subcommittee on Water, Power & Oceans



**City of Morro Bay
Washington, D.C. Meetings
March 15, 2016**

Tuesday, March 15

11:00a.m.

**Whitley Saumweber, Ph.D., Deputy Associate Director
Oceans and Coasts
Council on Environmental Quality**
734 Jackson Place, 2nd floor conference room
Washington, DC
Please enter through 730 Jackson Place entrance.
POC: Judith Fong, Judith_L_Fong@ceq.eop.gov
(202) 456-3257
(202) 456-3892

1:30p.m.

**Bradd Schwichtenberg, Civil Deputy
Department of Civil Works
U.S. Army Corps of Engineers**
441 G Street NW Office 3T61
Office: (202) 761-1367
Cell: (202) 573- 1644
Bradd.R.Schwichtenberg@usace.army.mil

2:30p.m.

Rep. Lois Capps
2231 Rayburn House Office Building
POC: Erin Sandlin
(202) 225-3601
Erin.Sandlin@mail.house.gov

3:30p.m.

**Anne Clement, Legislative Assistant
Office of Senator Barbara Boxer**
112 Hart Senate Office Building
(202) 224-3553
Anne_Clement@boxer.senate.gov

4:00p.m. **Alexis Segal, Legislative Assistant for Water and Environment**
Ken Rooney, Legislative Assistant
Office of Senator Dianne Feinstein
331 Hart Senate Office Building
(202) 224-3831
Alexis_Segal@feinstein.senate.gov

4:30p.m. **Jen Armstrong, Professional Staff**
Tim Dykstra, Professional Staff
Samantha Nelson, Professional Staff
Senate Appropriations Subcommittee on Energy & Water
116 Dirksen Senate Office Building
Jen_Armstrong@appro.senate.gov
Timothy_Dykstra@appro.senate.gov

5:00p.m. **CMANC Welcome Reception**
7:00p.m. Phoenix Park Hotel

Meeting requests in progress:

Coast Guard

Attendees:

Jamie L. Irons, Mayor (805) 550-6595 (Cell)
Eric Endersby, Harbor Director
David Walter Buckingham, City Manager

Carpi & Clay:

Julie Minerva (202) 361-5564



CITY OF MORRO BAY

CITY HALL
595 Harbor Street
Morro Bay, CA 93442

AGENDA NO:	A-11
ATTACHMENT:	2
MEETING DATE:	February 28, 2017

February 28, 2017

Senator Dianne Feinstein
331 Hart Senate Office Building
Washington D.C. 20510

RE: MORRO BAY FEDERAL CONCERNS AND PRIORITIES

Dear Senator Feinstein,

Thank you for your continued leadership in the United States Senate. We look forward to working with you and your staff again this year.

On behalf of the City of Morro Bay we respectfully communicate to you our Federal concerns and priorities. Below is a detailed explanation of these priorities:

Morro Bay Harbor Dredging and Army Corps of Engineers Funding: Due to a significant Congressional “plus-up” of the Army Corps’ FY16 work plan funding, Morro Bay received an additional \$4.09M to augment the President’s FY16 \$3.07M budget. In addition to the Morro Bay funding under the current FY17 CR, these amounts are sufficient to dredge the entirety of our Federal channel this current winter and spring, a project which is now underway.

These budgeted amounts are indicators of the importance of Morro Bay harbor to this nation’s infrastructure and economy. We request your support in the Corps budgeting process under the Energy and Water Appropriation, and urge legislative support for fuller expenditure of Harbor Maintenance and Trust Fund revenues collected each year to go toward the nation’s dredging and other maritime infrastructure needs, an expenditure level highlighted in the 2014 Water Resources Development Act (WRDA). Thank you for your support last year in this regard.

Based on the dredging work being done now, and the infill likely because of this winter’s continuing storms, we are recommending and request the Corps’ work plan for FY18 include \$3.0M for dredging Morro Bay, and ask your support of this appropriation.

Lastly, we urge Congress to pass whatever vehicle is necessary to fund the Corps of Engineers’ Civil Works Program for the remainder of the current fiscal year, preferably at or above the \$6.0B passed by the Senate back in May in their version of the Energy and Water Development Appropriations bill for the Corps’ Civil Works Program.



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AGENDA NO:	A-11
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Fishery Issues: Morro Bay continues to pursue the number one recommendation of the Morro Bay Fishing Community Sustainability Plan – potential establishment of a full-service boatyard/haulout facility in Morro Bay. These efforts and others are part of a long-term strategy to retain our family-owned fishing businesses and working waterfront in an environmentally sound manner.

The requirement of 100% human observers or electronic monitoring on any vessel participating in the groundfish Individual Fishing Quota (IFQ) system continues to hamper the growth of participation in the Morro Bay Community Quota Fund. The Quota Fund was created in part to get greater access to IFQ stocks, particularly for smaller vessels, and to anchor the effort and landings in the Morro Bay/Port San Luis region. We continue to urge NOAA for a cost-effective and viable alternative to observers such as audited electronic monitoring. Nowhere in the world is the scrutiny and oversight as high as it is in the West Coast IFQ, and some reasonable degree of regulatory relief is necessary to help this fishery realize more than the current coast-wide sub-30% landing of the “total allowable catch.”

National Estuary Program Funding: The City of Morro Bay continues to request that America invest in the stewardship of our nation’s coast by ensuring each of the nation’s 28 NEPs receive \$600,000 in FY18 funding. The Morro Bay NEP has worked collaboratively and effectively with the City of Morro Bay and other agencies and entities since its inception over 20 years ago with the common goal of protecting and enhancing the Morro Bay Estuary and surrounding watershed. From providing grant funding to remove derelict vessels that are a threat to pollute, to supporting research and science to determine why Morro Bay’s eelgrass is in decline, the Morro Bay NEP is an effective and important partner in the health of our estuary. For every federal dollar invested by the EPA, collectively the nation’s NEPs leverage more than \$15 from other private and public sources for local priorities.

Marine Sanctuaries: With the acceptance of the Chumash Heritage National Marine Sanctuary to NOAA’s Sanctuary Inventory list for possible future designation, while supportive of the Sanctuary program’s overall goals and objectives, the City of Morro Bay, in addition to other ports and harbors and the commercial and recreational fishing industries, continues to have concerns with certain aspects of Sanctuary governance, specifically, conflicts with the commercial fishing industry relative to sanctuary “mission creep” into fishery management, conflicts with working harbor uses, primarily over dredged material disposal, and lack of any true local oversight or authority over sanctuary governance.

The City of Morro Bay continues to urge Congress and NOAA to address and resolve these issues before this, or any, sanctuary nomination moves forward.

Water Reclamation Facility: The City of Morro Bay is currently in the process of relocating its 50+ year old wastewater treatment plant away from its beach location to a location further inland for the dual purposes of “managed retreat” from sea level rise and to enable the new facility to inject reclaimed water into the City’s primary aquifer, with the overarching goal of achieving “water independence” from State Water. This effort has significant siting, design, environmental and



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Thank you for considering our input and requests. If you have any specific questions or concerns on the issues outlined herein, or others, please let us know. We look forward to working through these priorities with you and your staff.

Sincerely,

Jamie L. Irons
Mayor

David W. Buckingham
City Manager

Eric Endersby
Harbor Director

DRAFT



CITY OF MORRO BAY

CITY HALL
595 Harbor Street
Morro Bay, CA 93442

February 28, 2017

Senator Kamala Harris
112 Hart Senate Office Building
Washington D.C. 20510

RE: MORRO BAY FEDERAL CONCERNS AND PRIORITIES

Dear Senator Harris,

Congratulations on your successful election to the United States Senate. We look forward to working with you and your staff.

On behalf of the City of Morro Bay we respectfully communicate to you our Federal concerns and priorities. Below is a detailed explanation of these priorities:

Morro Bay Harbor Dredging and Army Corps of Engineers Funding: Due to a significant Congressional “plus-up” of the Army Corps’ FY16 work plan funding, Morro Bay received an additional \$4.09M to augment the President’s FY16 \$3.07M budget. In addition to the Morro Bay funding under the current FY17 CR, these amounts are sufficient to dredge the entirety of our Federal channel this current winter and spring, a project which is now underway.

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Based on the dredging work being done now, and the infill likely because of this winter’s continuing storms, we are recommending and request the Corps’ work plan for FY18 include \$3.0M for dredging Morro Bay, and ask your support of this appropriation.

Lastly, we urge Congress to pass whatever vehicle is necessary to fund the Corps of Engineers’ Civil Works Program for the remainder of the current fiscal year, preferably at or above the \$6.0B passed by the Senate back in May in their version of the Energy and Water Development Appropriations bill for the Corps’ Civil Works Program.



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Fishery Issues: Morro Bay continues to pursue the number one recommendation of the Morro Bay Fishing Community Sustainability Plan – potential establishment of a full-service boatyard/haulout facility in Morro Bay. These efforts and others are part of a long-term strategy to retain our family-owned fishing businesses and working waterfront in an environmentally sound manner.

The requirement of 100% human observers or electronic monitoring on any vessel participating in the groundfish Individual Fishing Quota (IFQ) system continues to hamper the growth of participation in the Morro Bay Community Quota Fund. The Quota Fund was created in part to get greater access to IFQ stocks, particularly for smaller vessels, and to anchor the effort and landings in the Morro Bay/Port San Luis region. We continue to urge NOAA for a cost-effective and viable alternative to observers such as audited electronic monitoring. Nowhere in the world is the scrutiny and oversight as high as it is in the West Coast IFQ, and some reasonable degree of regulatory relief is necessary to help this fishery realize more than the current coast-wide sub-30% landing of the “total allowable catch.”

National Estuary Program Funding: The City of Morro Bay continues to request that America invest in the stewardship of our nation’s coast by ensuring each of the nation’s 28 NEPs receive \$600,000 in FY18 funding. The Morro Bay NEP has worked collaboratively and effectively with the City of Morro Bay and other agencies and entities since its inception over 20 years ago with the common goal of protecting and enhancing the Morro Bay Estuary and surrounding watershed. From providing grant funding to remove derelict vessels that are a threat to pollute, to supporting research and science to determine why Morro Bay’s eelgrass is in decline, the Morro Bay NEP is an effective and important partner in the health of our estuary. For every federal dollar invested by the EPA, collectively the nation’s NEPs leverage more than \$15 from other private and public sources for local priorities.

Marine Sanctuaries: With the acceptance of the Chumash Heritage National Marine Sanctuary to NOAA’s Sanctuary Inventory list for possible future designation, while supportive of the Sanctuary program’s overall goals and objectives, the City of Morro Bay, in addition to other ports and harbors and the commercial and recreational fishing industries, continues to have concerns with certain aspects of Sanctuary governance, specifically, conflicts with the commercial fishing industry relative to sanctuary “mission creep” into fishery management, conflicts with working harbor uses, primarily over dredged material disposal, and lack of any true local oversight or authority over sanctuary governance.

The City of Morro Bay continues to urge Congress and NOAA to address and resolve these issues before this, or any, sanctuary nomination moves forward.

Water Reclamation Facility: The City of Morro Bay is currently in the process of relocating its 50+ year old wastewater treatment plant away from its beach location to a location further inland for the dual purposes of “managed retreat” from sea level rise and to enable the new facility to inject reclaimed water into the City’s primary aquifer, with the overarching goal of achieving “water independence” from State Water. This effort has significant siting, design, environmental and



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funding challenges for which the City continues to look toward the Federal government for policy, guidance and possible funding assistance.

Thank you for considering our input and requests. If you have any specific questions or concerns on the issues outlined herein, or others, please let us know. We look forward to working through these priorities with you and your staff.

Sincerely,

Jamie L. Irons
Mayor

David W. Buckingham
City Manager

Eric Endersby
Harbor Director

DRAFT



CITY OF MORRO BAY

CITY HALL
595 Harbor Street
Morro Bay, CA 93442

February 28, 2017

Honorable Congressman Salud Carbajal
2231 Rayburn House Office Building
Washington D.C. 20515

RE: MORRO BAY FEDERAL CONCERNS AND PRIORITIES

Dear Congressman Carbajal,

Again, congratulations on your successful election to the 24th Congressional District. We look forward to working with you and your staff.

On behalf of the City of Morro Bay we respectfully communicate to you our Federal concerns and priorities. Below is a detailed explanation of these priorities:

Morro Bay Harbor Dredging and Army Corps of Engineers Funding: Due to a significant Congressional “plus-up” of the Army Corps’ FY16 work plan funding, Morro Bay received an additional \$4.09M to augment the President’s FY16 \$3.07M budget. In addition to the Morro Bay funding under the current FY17 CR, these amounts are sufficient to dredge the entirety of our Federal channel this current winter and spring, a project which is now underway.

These budgeted amounts are indicators of the importance of Morro Bay harbor to this nation’s infrastructure and economy. We request your support in the Corps budgeting process under the Energy and Water Appropriation, and urge your membership in the bi-partisan Congressional PORTS Caucus. This caucus was formed to both raise awareness about America’s ports, and to generate legislative support for fuller expenditure of Harbor Maintenance and Trust Fund revenues collected each year to go toward the nation’s dredging and other maritime infrastructure needs, an expenditure level highlighted in the 2014 Water Resources Development Act (WRDA).

Based on the dredging work being done now, and the infill likely because of this winter’s continuing storms, we are recommending and request the Corps’ work plan for FY18 include \$3.0M for dredging Morro Bay, and ask your support of this appropriation at the House Appropriations Subcommittee for Energy and Water Development.

Lastly, we urge Congress to pass whatever vehicle is necessary to fund the Corps of Engineers’ Civil Works Program for the remainder of the current fiscal year, preferably at or above the \$6.1B passed by the House Appropriations Committee. Back in May, the Senate passed their version of the Energy and Water Development Appropriations bill with \$6.0B for the Corps’ Civil Works Program.



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Thank you for considering our input and requests. If you have any specific questions or concerns on the issues outlined herein, or others, please let us know. We look forward to working through these priorities with you and your staff.

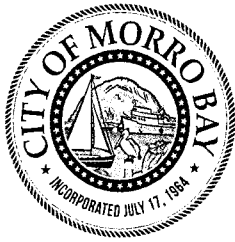
Sincerely,

Jamie L. Irons
Mayor

David W. Buckingham
City Manager

Eric Endersby
Harbor Director

DRAFT



CITY OF MORRO BAY

CITY HALL
595 Harbor Street
Morro Bay, CA 93442

February 28, 2017

Bradd Schwichtenberg, Civil Deputy
Department of Civil Works
U.S. Army Corps of Engineers
441 G Street NW, Office 3T61
Washington DC 20314-0002

RE: MORRO BAY DREDGING APPROPRIATIONS

Dear Deputy Schwichtenberg,

As this letter is being written, the Corps' dredging contractor is working in Morro Bay harbor to dredge the areas of our channels not dredged since 2009/2010, and not normally attended to by the *Yaquina*. In addition, the *Yaquina* is slated to arrive in May to dredge our critical harbor entrance areas. It is with deep gratitude to the Corps and our legislators that "plus-up" funding was made available for Morro Bay, in addition to the annual appropriation to enable the *Yaquina* to return again this year.

Based on the dredging work being done now, and the infill likely because of this winter's continuing storms, we are requesting the Corps' work plan for FY18 to include \$3.0M for dredging Morro Bay harbor entrance, again with the *Yaquina*.

With these funding amounts, Morro Bay will be in a good safe and navigable condition going into the next five years, provided continued annual appropriations are made to enable the *Yaquina* to return each year. To this end we continue to be active in urging our legislators to adequately fund the Corps' Civil Works Programs for the nation's necessary maritime infrastructure needs.

We thank you for your leadership and continued support of Morro Bay. If you have any specific questions or concerns, please let us know. As always, we look forward to working with you and your staff. Closer to home, we wish to convey our pleasure and satisfaction with working with your Los Angeles District command and staff. You have a great team there.

Sincerely,

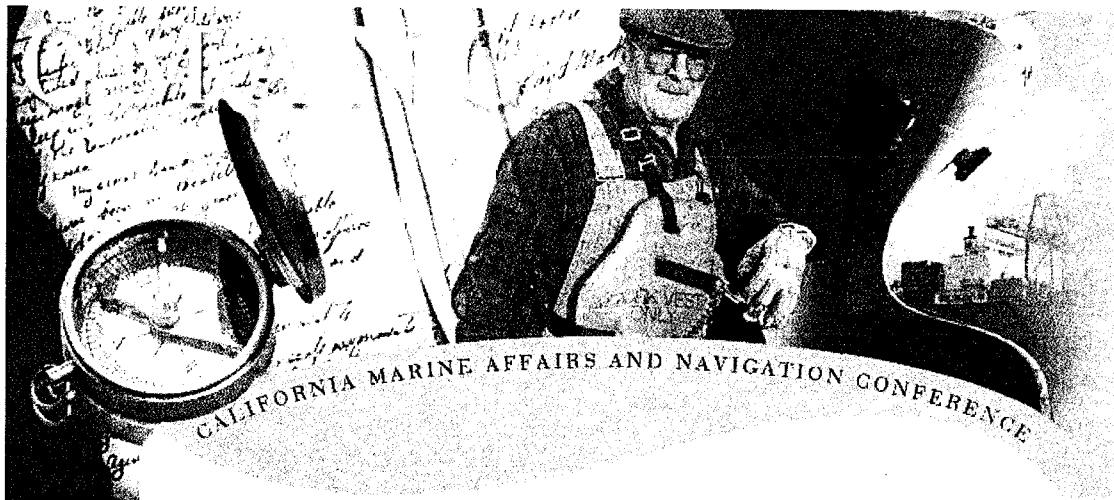
Jamie L. Irons
Mayor

David W. Buckingham
City Manager

Eric Endersby
Harbor Director

Eric Endersby

From: James Haussener <jim@cmanc.com>
Sent: Monday, February 06, 2017 9:09 AM
To: James Haussener
Subject: Washington Week, Talking Points



Monday March 6,
2017 to Thursday,
March 9, 2017.

A) Welcome
Reception on
Monday evening.

B) Meetings all day
on Tuesday.

C) Golden State
Reception on
Tuesday.

CMANC's Washington Meeting

Our Annual Meeting is educate Congress and the Administration on the value of the system of ports and harbors in California to the Nation and to advocate for full funding in Federal Fiscal Year 2018.

This is the year to go to Washington. There are and will be numerous changes in Members of Congress, their personal and committee staff, as well as through out the Administration, both those nominated or appointed by the President and in the civil service.

D) Meetings all day
on Wednesday.

E) Depart
Wednesday night or
Thursday morning.

Washington D.C.
Hotel
525 New Jersey
Ave., NW
Washington,
DC 2001
(202) 628-2100

The priorities for our Washington calls are:

- Achieve appropriation recommendations for FY 2018 Energy and Water Development Appropriations to meet the needs of California navigation projects
- Increase Presidential Budget Request to the needs of California projects and to the capability of the Corps of Engineers
- Increase, on a long-term basis, Harbor Maintenance Trust Fund expenditures in California to the targets established in WRDA 2014
- Create a set-aside program for low (emerging) and moderate use facilities
- Increase efficiencies in Corps of Engineers processes to ensure timely completion and maintenance of mandated and funded projects
- Be proactive in the development of transportation funding options

The meetings we want to have and the issues for each of those meetings are:

Executive Office of the President

Office of Management and Budget

- Provide facts Get these from our Members
- Systems perspective of need
- Maintenance of all California ports and harbors
- Development of a base funding level for California equal to 30% of Harbor Maintenance Tax Revenue

Council on Environmental Quality

- Sediment Management
- Marine Sanctuaries: dredging and material placement, growth in

- Marine Sanctuary expansion to bypass Marine Spatial Planning
- Marine Sanctuary Site Evaluation List and Proposed Expansions
- Marine Protected Areas
- Implementation of the President's Ocean Action Plan
- Coastal and Marine Spatial Planning

Congress of the United States

Appropriations Committees

- FY 2018 Appropriations
- How well "pots of money" are working
- Make the "pots" bigger
- Hit the Target
- TIGER Grants

Congressional Budget Office

Understanding the scoring methodology used for HMT expenditures, alternatives to the current methodology, and projected revenue to the General Fund in "out-years."

Transportation & Infrastructure and Environment and Public Works Committees

- Educate their staff, due to turnover, about California issues
- Beneficial Reuse
- H.M.T.
- Intermodal & goods movement funding, What do we want here as a result of FAST Act?
- National Freight Policy
- 2-year WRRDA cycle - implementation of WRDA

Natural Resources and Commerce, Science & Transportation Committees

- Sediment Management Policy: Near shore placement and 20% fines

- Issues with requiring beneficial re-use without regard to cost
- Clean Water Act issues, EPA, etc.
- Magnuson Stevens Reauthorization: Essential Fish Habitat (Eel Grass and Z-layer); Marine Protected Areas
- National Marine Sanctuary Program
- Coastal and Marine Spatial Planning
- Marine Mammal Protection Act
- Intermodal & goods movement funding,
- National Freight Policy

Departments and Agencies within the Administration

U.S. Army Corps of Engineers and the Assistant Secretary of the Army for Civil Works

- Do the dredging in a timely and efficient manner including develop a schedule and keeping it
- Streamlining of project approval process, including reducing the number of people who have to individually review and sign off on design, engineering and the like for annual and recurring maintenance projects
- Project Management
- Contracting!
- Corps' process improvements to meet the needs of the customers such as Six Sigma and the Chief's 12 action items
- Improving/increasing communications with local sponsors
- Establishing appropriate performance measures for analysis and budgeting for the various business lines, not just the Navigation Business Line.
- (VE Update on Sessions with SPN and SPD)
- Regionalization

National Oceanographic and Atmospheric Administration and Department of Commerce

- Sediment Management
- Marine Sanctuaries: dredging and material placement
- Proposed changes to National Marine Sanctuary Act regulations
- Magnuson Stevens Reauthorization
- Essential Fish Habitat
- Marine Mammals Act
- Implementation of the President's Ocean Action Plan
- Coastal and Marine Spatial Planning
- New and expanded Sanctuaries

Department of Transportation

- Increase FAST Act dollars to ports and TIGER Grants to ports
- Development of a federal freight policy
- Intermodal & goods movement financing
- Railroad-Shipper Transportation Advisory Board (RSTAC)

U.S. Maritime Administration

- Strategic Plan
- TIGER Grants
- Shipyard grant program
- Marine Highways and Advisory Board
- Port security and security grants

Environmental Protection Agency

- California Toxic Rule
- Sediment Management Policy: Near shore placement and 20% fines





AGENDA NO: A-12

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor and City Council

DATE: February 15, 2017

FROM: Eric Endersby, Harbor Director

SUBJECT: Approval of Extension of the Central Coast Aquarium Consent of Landowner Agreement for Redevelopment of the Morro Bay Aquarium Lease Site 69-70/69W-70W

RECOMMENDATION

Council approve extensions of all performance compliance dates by one year each on Central Coast Aquarium's (CCA) current Consent of Landowner (COL) agreement to facilitate CCA's continued pursuance of funding and intent to redevelop lease site 69-70/69W-70W. Staff further recommends the compliance dates be extended to 9 months after loan approval if such approval is granted by the USDA before December 31, 2017.

ALTERNATIVES

Council may elect to allow the current COL to expire for lack of performance and direct staff to develop a new Request for Proposals (RFP) process for any future use on the lease site after the current lease expires.

FISCAL IMPACT

There is no fiscal impact to this action.

BACKGROUND

The "Pipkin" lease for this site expires on September 30, 2018. In fall of 2013, the City issued a RFP for redevelopment of the site, with an express requirement in the RFP for the new development to be an aquarium and/or marine educational in nature. While CCA was the only party to express interest in the RFP, at the time they were unable to meet the RFP submission deadlines and thus did not submit.

In April, 2015, the Council directed staff to work exclusively with the CCA on a public private partnership that would result in a new Aquarium in Morro Bay. Staff worked closely and successfully with CCA toward that end.

In May, 2016, the City Council approved a COL with CCA with the following date compliance requirements:

1. CCA must file a complete Conditional Use Permit (CUP) application by December 31, 2016.
2. CCA must provide proof of sufficient financial and organizational capacity to fund and complete the project by December 31, 2016.

Prepared By: EE

Dept Review: EE

City Manager Review: _____

City Attorney Review: JWP

3. A CUP must be approved by the Planning Commission by December 31, 2017.

According to the COL, failure to meet these compliance dates could cause its revocation. The Council resolution also, however, noted the Council retained the authority to extend the COL if in the best interest of the City.

DISCUSSION

CCA, as evidenced by their recent letter to the City Manager, and included with this staff report as Attachment 1, is well along in a process to secure \$20M in USDA loan funding for the “immediate” construction of a new Aquarium. While “immediate” in this case means likely 2019 or 2020, the initial COL was granted on the supposition CCA would likely acquire the Aquarium lease in 2018 and then begin a lengthy fundraising project for an \$8-10M facility. Opportunities changed in a significant and positive way when CCA identified the potential of securing a Federally-backed USDA loan for the cost of the entire project (up to \$20M), thereby actually accelerating the likely date of new construction since the loan will obviate a lengthy fundraising period.

In October, the USDA informed CCA they were favorably disposed to approving the loan guarantee, and asked CCA to complete a study to demonstrate the feasibility of the project. CCA has a qualified consultant ready to begin work on the feasibility study, and since CCA is operating a successful aquarium in Avila Beach, and since Morro Bay has been home to a successful aquarium for over 50 years, initial assessment is quite positive.

The cost of the feasibility study is around \$40,000. CCA has raised \$20,000 (of which the City of Morro Bay committed \$10,000) and is working to raise the balance of the funds needed for the study.

Thus, the primary reason CCA has not completed the CUP, as required by the COL, is the opportunity to be approved for a USDA loan that will move the project along much faster than initially projected.

If CCA gains loan approval by summer, then completing a CUP / Concept Plan by December 31, 2017, is possible.

If CCA gains loan approval any time before December 31, 2017, then staff recommends Council indicate its intention to extend the deadline for planning document to no more than nine months after loan approval.

CONCLUSION

The existing COL stipulates extension to the compliance dates may be granted by the City Council. Staff recommends the three compliance dates, as indicated above, be granted one-year extensions in each case, retroactive to the existing dates, to ensure the City’s continued commitment to CCA’s proposal, and to enable CCA to continue pursuing funding and submitting for the necessary entitlements to complete the project. Staff further recommends the compliance dates be extended to 9 months after loan approval if such approval is granted by the USDA before December 31, 2017. Those modifications to the CCA would be memorialized in a letter from the City Manager to the CCA and would require a signature on behalf of CCA to acknowledge its agreement with those changes.

ATTACHMENTS

1. Recent update letter from CCA to City Manager
2. Existing Consent of Landowner agreement with CCA



Dear David Buckingham,

The Central Coast Aquarium is happy to report that the USDA has approved our pre-application and has invited us to submit a complete and final application for a Rural Development Loan to finance the construction of a new aquarium in Morro Bay. At this point our application has been determined eligible but does not constitute a commitment of funds to the project until a financial feasibility study, conducted by a qualified 3rd party, with a CPA examination opinion is completed.

The Central Coast Aquarium has reached out to ConsultEcon, whose areas of expertise are feasibility studies for aquariums, zoos, nature centers, museums, and other not for profit attractions. The time required to complete this study, will be approximately 12 weeks. The total professional fee budget is \$40,000. Once the feasibility study is complete it will be submitted to the USDA for formal approval.

If the application is accepted by the USDA the Central Coast Aquarium will move forward with developing a concept plan in conjunction with Scot Graham, community development director. Once the concept plan is developed the Central Coast Aquarium will be ready to enter the next steps and approval processes with the City of Morro Bay, City Council, Planning Commission and Coastal Commission.

If the CCA is able to secure the funds needed to conduct the feasibility study we suspect the results to be ready to submit to the USDA by April 2017. The CCA will continue to work closely with the City of Morro Bay for any updates.

Sincerely,

Tara Kasarjian
Executive Director
Central Coast Aquarium

**City of Morro Bay
Tidelands Trust Grant Properties
Consent of Landowner Agreement Form**

Consent For:

Redevelopment of Lease Site 69-70/69W-70W, commonly known as the Morro Bay Aquarium, by Central Coast Aquarium, as proposed in attached site plan and negotiation of new lease.

Site Location: Lease Site 69-70/69W-70W, 595 Embarcadero, Morro Bay, CA 93442

Property Owner: City of Morro Bay Telephone: 805-772-6254

Address: 595 Harbor St. City: Morro Bay State: CA Zip: 93442

Applicant: Central Coast Aquarium Telephone: 805-595-7280

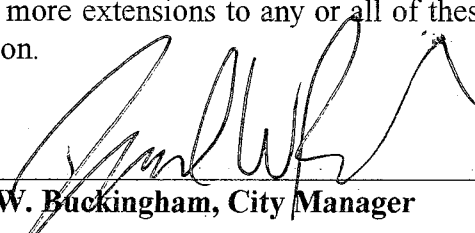
Address: PO Box 460 City: Avila Beach State: CA Zip: 93424

I, as representative of the City of Morro Bay, the owner of record of the fee interest in the above noted land for which an application for a Conditional Use Permit is being requested by the Applicant, do certify Consent of Landowner is given for the preliminary site plans presented to the City Council on January 12, 2016 and to be submitted to the City of Morro Bay Community Development Department for processing.

The Applicant must file a complete application for a Conditional Use Permit for the project as-proposed, per the City Planned Development Overlay Zone and Concept Plan Submittal Requirements, with the Community Development Department by December 31, 2016 at 4:00 p.m. or this Consent of Landowner Agreement will expire on January 1, 2017. Also, if due to any reason within the control of Applicant, as reasonably determined by the City Manager, a Concept Plan has not been approved by the Planning Commission on or before December 31, 2017, then this Consent of Landowner Agreement will expire on January 1, 2018.

In addition, unless sufficient financial and organizational capacity to fund and complete the project as proposed, as evidenced by either documentation from an established and accredited financial institution said institution's commitment to funding the applicant's proposed project, or proof of sufficient cash reserves are available to fund the proposed project, is provided to the City Manager or their designee on or before December 31, 2016, at 4:00 p.m., the City Council may revoke this Consent of Landowner Agreement at its sole discretion.

One or more extensions to any or all of these compliance dates may be granted by the City Council in its sole discretion.



David W. Buckingham, City Manager

5/6/16

Date



AGENDA NO: A-13

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor & City Council

DATE: February 21, 2017

FROM: Dave Buckingham, City Manager
Jody Cox, Acting Police Chief

SUBJECT: Authorization to Enter into an Agreement for Allocation of Construction and Financing Costs for an Animal Services Shelter

RECOMMENDATION

Council authorize the City Manager to execute an Agreement for Allocation of Construction and Financing Costs for an Animal Services Shelter at 865 Oklahoma Avenue in San Luis Obispo, California, between the Cities of Atascadero, Arroyo Grande, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, San Luis Obispo, and the County of San Luis Obispo.

ALTERNATIVES

The City Council could opt not to approve the contract with San Luis Obispo County and build a City owned/operated Animal Services Shelter to provide its own sheltering and field services, as required by State law and at its sole expense. That project would need to be completed before the expiration of current contract. That is not likely and those costs are estimated to be significantly higher than partnering with the six other cities and County, and would mean the City would not benefit from the economies of scale of sharing both capital and service costs. Staff has determined the City cannot provide its own animal field services or shelter costs for less than the County's proposal and in a timely manner.

FISCAL IMPACT

The proposed agreement apportions the estimated contracting agency costs of between \$13.176 Million and \$14.494 Million based on the average use of the shelter for a rolling three-year period. Participation in the Animal Services Shelter Agreement is estimated to cost the City of Morro Bay approximately \$27-\$34K per year in addition to the \$50,074 as noted below. That is currently estimated at 3.23% of the estimated total costs based on average use of shelter for July 2013 – June 2016, but would adjust upward or downward based on Morro Bay shelter usage over the financing period. With financing costs variables, coupled with a range for construction costs, total estimated payments are anticipated to be approximately \$17,000-\$40,000 per year over the next 25 years (in addition to the annual contract fees currently in place). That amount would adjust upward or downward based on Morro Bay shelter usage over the financing period.

Additionally, the agreement contains cost containment provisions with respect to actual costs and provides a mechanism to reduce costs or allow a participating City to terminate the agreement if costs exceed the estimated capital budget of \$14.5 Million. If the Agreement is approved, then the annual payments to the County will be incorporated into the FY 17/18 budget and budget forecast.

BACKGROUND/DISCUSSION

Prepared By: JC/DS

Dept Review: _____

City Manager Review: DWB

City Attorney Review: JWP

Under State law, each incorporated City has the option of contracting with the County or providing their own animal services consistent with State standards. The City of Morro Bay approved a three-year contract for field and shelter services in September 2016. Services provided under that contract include: 1) Emergency and non-emergency response of Animal Services Officers for injured or stray animals, 2) Investigative services for animal bites, abuse, and neglect, 3) Sheltering and Quarantine services, 4) Dog licensing and 5) Animal adoption and other services required by State law or City Municipal Code. Capital costs for the replacement of the shelter are not included in the costs charged to cities for field services or shelter services.

The County Animal Services Division (Division) provides animal field services/ care and shelter services throughout the unincorporated regions of the County, as well as within each of the seven incorporated communities. Each city contracting with the Division is assessed an annual service fee based upon their proportionate use of both field services and animal sheltering together with the operational costs associated with each of these functions. The City's current contract for those services expires on June 30, 2019. Current contract costs charged to the City are \$45,425 for the first year of the agreement, July 1 2016-June 30 2017. However, we have recently been informed administrative overhead was not taken into account with that amount, so for next fiscal year's fees (FY 2017-18), the annual contract costs are anticipated to rise to \$50,074.

The Division operates a single animal shelter to house and care for stray and owner relinquished animals. That shelter, located at 885 Oklahoma Avenue in San Luis Obispo, is the County's only open intake animal shelter and receives approximately 4,500 animals annually. Dogs and cats account for roughly 92% of the animals handled at the shelter with the remainder comprised of a wide variety of animals ranging from rabbits, alligators, and emus to guinea pigs, monkeys, and snakes.

Existing Shelter

The Animal Services shelter was constructed in approximately 1975 on a site which had formerly been a landfill utilized in the 1940's by the US Army and Camp San Luis Obispo. As initially designed, the structure totaled 6,600 square feet and was intended primarily for the kenneling of dogs, with less than 38 square feet dedicated to the care and housing of cats; no accommodations were made for other types of animals. Since then, additional building modifications were constructed to accommodate dog runs adjacent to the kennels, corrals for ranch animals, a small structure for cats, night drop-off kennels, an expansion for staff administration, and renovation for the public lobby.

Current industry standards and public expectations of animal shelters have shifted substantially and many of the shelter's original design features and characteristics are now outdated or inconsistent with the current understanding of humane animal sheltering. The consequences of those design issues relative to their impact on humane animal care are further compounded by the effects of deferred maintenance. Over time, roofing leaks have developed, walls and door frames have begun to deteriorate, and the capacity of electrical and drainage systems have been overloaded. A report released by the County cites the lack of heating, poor ventilation, and the general facility as promoting stress, illness, and behavioral problems in sheltered animals.

In 2010, the County contracted with Ravatt Albrecht & Associates to develop design plans for Phase I of the remodel. Quickly, it became apparent the scope of that project exceeded the available funding and the dog kennel remodel component of the remodel was dropped. The ability to design a remodel, which could be constructed within budget, was further complicated by soil stability and potential methane off-gassing issues resulting from the shelter's location on an abandoned landfill. During the environmental permitting process, it was determined a permit was required through CalRecycle 1, adding additional time and cost to the development process. Since then, the project received a post

1 CalRecycle oversees the permitting of land use or other activities on active or abandoned land fill sites.

landfill closure permit through CalRecycle, and a permit from the Air and Water Quality Control Boards.

Proposed Shelter and Agreement

In April 2015, after exploring alternatives such as rehabilitating the current animal shelter facility and the possibility of partnering with Woods Humane Society, the County Board of Supervisors directed staff to pursue the construction of a new facility. At approximately 15,000 square feet, that building will be able to fully address the facility needs, as well as implement many of the recommendations contained in the Humane Society of the United States ("HSUS") and Shelter Planners of America Needs Assessment (Attachment 2).

The proposed animal service shelter facility will serve the County and each of the seven cities. Shortly after the County's decision to build a new facility, the County reached out to the cities and advised the County would require contracting cities to pay a proportionate share of the costs associated with the County Animal Shelter Project ("Project"). Preliminary budget estimates for the Project were \$12 - \$14 Million.

After some starts and stops in 2016, the County and cities began negotiations regarding scope, cost, governance and construction cost containment for the Project. Staff representatives from three of the contracting cities worked with the County on behalf of all the contracting cities to incorporate some protections and sureties to the Project for the contracting cities. The result of those negotiations is the attached agreement, which will be brought to the governing boards of each of the participating jurisdictions.

The proposed agreement provides for the following:

- The total budgeted cost of the Project (\$14.5 Million) and the portion that the County will exclusively pay (\$1.45 Million). The County will be paying 100% of the land costs, the demolition costs for the existing facility and the remaining depreciation value of the existing facility. The County will also pay for a larger portion of the utility extension along Oklahoma Avenue (see Exhibit D of the Agreement for project budget details).
- A procedure for authorization of excess construction costs. Any projected costs that would bring the Project in 10% or more above the budget must be approved by all cities.
- The County to provide competitive long-term financing for the Project.
- Allocation of costs based on a rolling three-year proportionate use calculation. As shown in Exhibit C of the agreement, the City of Morro Bay has averaged 3.23% of total shelter use over the last three years. That percentage will change each year based on the average of the previous three years.
- Governance of animal shelter operations. An operations committee comprised of a County representative and 2-3 contracting city representatives will review significant policy and budget decisions for the shelter.
- A city may opt out of service contracts; however, each City is still responsible for their proportionate share of the Project costs.
- A committee comprised of three contracting city representatives and two County representatives shall participate in an ad-hoc value engineering team tasked with investigating and identifying the most effective and efficient methods to construct a shelter.
- Exhibit A to the agreement outlines the general scope of the Project. After the initial direction of the County Board of Supervisors, additional programming was required to define the proper size for the facility. The scope of the Project was derived from a review of the existing needs of the facility and a needs assessment study.

CONCLUSION

Staff is recommending the approval of the proposed agreement, as it provides a mechanism to:1)

share costs based on proportionate use, 2) clarifies service and shelter governance, 3) contains mechanisms to control construction costs and is a most efficient way to construct a shelter consistent with State law and local service preferences and standards, and 4) is the most cost effective way of providing required animal shelter services.

The agreement must be approved by each of the seven City Councils in the County along with the Board of Supervisors.

It is expected the final approved agreement will be in conformance with the draft agreement attached to this report (Attachment 1). Due to the compressed time frame for approval, there may be minor clarifications and small changes made to the final agreement prior to execution. Those changes would be subject to approval as to form by the City Attorney. Any financial or substantive changes to the Agreement would be brought back to Council for approval prior to execution.

ATTACHMENTS

1. County of San Luis Obispo agreement for Allocation of Construction and Financing Costs
2. Shelter Planners of America Needs Assessment, Feasibility & Building Program Study for the County of San Luis Obispo Animal Services Division

AGREEMENT FOR ALLOCATION OF CONSTRUCTION AND FINANCING COSTS FOR AN
ANIMAL SERVICES SHELTER AT 865 OKLAHOMA AVENUE IN SAN LUIS OBISPO,
CALIFORNIA, BETWEEN THE CITIES OF ATASCADERO, ARROYO GRANDE, GROVER
BEACH, MORRO BAY, PASO ROBLES, PISMO BEACH, AND SAN LUIS OBISPO AND THE
COUNTY OF SAN LUIS OBISPO

THIS AGREEMENT, dated for reference as of February 1, 2017 (the "Agreement"), is entered into by and between the COUNTY OF SAN LUIS OBISPO (the "County"), and the cities of ATASCADERO, ARROYO GRANDE, GROVER BEACH, MORRO BAY, PASO ROBLES, PISMO BEACH, AND SAN LUIS OBISPO (each, a "City," and collectively, the "Cities," and, together with the County, the "Parties", or individually "Party").

RECITALS

The County and each of the Cities are parties to a separate but similar Contract for Animal Care and Control Services ("Services Contract") effective as of July 1, 2016 and expiring, unless sooner terminated, on June 30, 2019, pursuant to which the County provides animal control services throughout San Luis Obispo County, including within the jurisdictional boundaries of each of the Cities.

In conjunction with and pursuant to the Services Contract, the County operates an existing Animal Services Shelter located at 885 Oklahoma Avenue in San Luis Obispo, California. Owing to the obsolescence of the existing shelter, it is necessary to construct a new Animal Services Shelter ("Shelter" or "Project") as generally described in Exhibit A, at an address preliminarily identified as 865 Oklahoma Avenue, and as generally depicted in Exhibit B ("Shelter Property").

The Parties acknowledge the benefit of collaborative and joint efforts in constructing the Shelter.

The Parties enter into this Agreement to memorialize their participation and corresponding obligations with regards to the allocation and repayment of the construction and financing costs for the Shelter.

NOW, THEREFORE, the Parties agree as follows:

1. Recitals.

The above Recitals are true and correct.

2. Estimated Project Construction Costs.

- a) The Project construction costs, excluding the portion of the Oklahoma Ave./Utility Extension costs to be borne solely by the County, and excluding the County-only costs of the remaining depreciation value of the existing facility, demolition of the existing facility, and land costs, and excluding costs to be shared proportionally only by the Cities, for the Shelter are estimated at this time to be Thirteen Million One Hundred Seventy Six Thousand Five Hundred Dollars (\$13,176,500) as shown in Exhibit D (the "Estimated Project Construction Costs"). The Estimated Project Construction Costs include expenses for soft costs, such as architectural and engineering services; County costs for administration, project management service, environmental review, planning and building fees, and inspections; and hard costs, such as actual construction costs.
- b) The Estimated Project Construction Costs shall only include those expenses and costs generally described above, which are incurred by the County specifically for the Shelter construction project. Notwithstanding anything to the contrary below, the total Project Costs, as defined in Paragraph 5(a) below shall not exceed Fourteen Million Five Hundred Thousand Dollars (\$14,500,000) without a written amendment to this agreement signed by all Parties.

- c) The Project will be managed as a “Design / Build” project, as approved by the County of San Luis Obispo Board of Supervisors on April 12, 2016.

3. Excess Construction Costs

- a) Prior to Authorization for Construction to Begin (“Construction Contract”).
 - (i) If the County receives information in the design or bidding process indicating that the Estimated Project Construction Costs for the Shelter will exceed \$13,176,500 by less than ten percent (10%), the County shall provide written notice to each member of the Executive Board (as defined in Section 9(b) below) of the revised estimated construction costs within a reasonable period of time before such additional construction costs are incurred. The Executive Board shall either approve or disapprove the additional construction costs, if any, by written notice to the County, delivered within ninety (90) days after receipt of the County’s notice of the revised construction costs. If any Executive Board member fails to timely approve in writing, the Executive Board shall be deemed to have not approved and the County shall promptly confer with all Cities regarding the additional construction costs and any means by which such additional construction costs may be minimized.
 - (ii) If the County receives information as part of the design or bidding process indicating that the Estimated Project Construction Costs for the Shelter will exceed \$14,500,000, the County shall immediately provide written notice to each City of the revised estimated construction costs (“Excess Construction Costs”) and confer with the Cities as to whether to authorize the Construction Contract or reject all bids. Each City shall either approve or disapprove the Excess Construction Costs resulting in Estimated Project Construction Costs exceeding \$14,500,000 by written amendment delivered to the County within ninety (90) days after receipt of the County’s written amendment. If the decision is to authorize the contract, the County shall prepare and deliver to the Cities a written amendment to this Agreement amending Section 2(b) to increase the not-to-exceed amount. If any City fails to timely approve in writing, the City shall be deemed to have disapproved. Should a City(ies) disapprove the Excess Construction Costs, the County will immediately confer with all Cities in an attempt to reconcile the disagreement. Should the Parties be unable to reach agreement, the measures shall be taken to reduce the costs below \$14,500,000 and in no such event shall the Parties be liable for Excess Construction Costs absent a written amendment to this agreement.
 - (iii) If a City chooses to not participate in the shelter construction at that time, the City is allowed to withdraw from this agreement and pay its proportionate share of all costs incurred as of the date of withdrawal. The date of withdrawal shall be defined as the date that written notice is received by the County of the City’s desire to withdraw due to Excess Construction Costs beyond amounts previously agreed. The County will recalculate future payments of the remaining Parties using revised percentages of shelter use with the methodology in Section 6(a).
- b) Authorization for Construction to Begin
 - (i) Upon County’s authorization for Construction to begin, total costs for the Project including any incurred or future hard costs, soft costs, contingencies, and other miscellaneous costs related to Shelter construction will be added to the estimated final construction costs (“Estimated Final Construction Costs”). The Estimated Final Construction Costs will not exceed the Estimated Project Construction Costs (or Excess Construction Costs), unless agreed to in writing by all of the Parties in a written amendment to this Agreement. Should the Parties be unable to reach agreement, measures shall be taken to reduce the costs below

\$14,500,000 and in no such event shall the Parties be liable for Excess Construction Costs absent a written amendment to this agreement.

- (ii) If a City chooses to not participate in the shelter construction at that time, the City is allowed to withdraw from this agreement and pay its proportionate share of all costs incurred as of the date of withdrawal. The date of withdrawal shall be defined as the date that written notice is received by the County of the City's desire to withdraw due to Excess Construction Costs beyond amounts previously agreed. The County will recalculate future payments of the remaining Parties using revised percentages of shelter use with the methodology in Section 6(a).

c) After Authorization for Construction to Begin

- (i) If the County becomes aware, after its authorization for Construction to begin, that the costs of construction will exceed the Estimated Final Construction Costs due to unforeseen or other conditions, the County shall provide written notice, to each City of the revised estimated construction costs within a reasonable period of time before such additional construction costs are incurred. Each City shall either approve or disapprove the additional construction costs, if any, by written notice to the County, delivered within ninety (90) days after receipt of the County's notice of the revised construction costs. If any City fails to timely approve in writing, the City shall be deemed to have not approved and the County shall promptly confer with all Cities regarding the additional construction costs and any means by which such additional construction costs may be minimized. No additional construction costs shall be incurred that exceed \$14,500,000 without a written amendment signed by all the Parties. Should the Parties be unable to reach agreement, measures shall be taken to reduce the costs below \$14,500,000 and in no such event shall the Parties be liable for Excess Construction Costs absent a written amendment to this agreement.
- (ii) If a City chooses to not participate in the shelter construction at that time, the City is allowed to withdraw from this agreement and pay its proportionate share of all costs incurred as of the date of withdrawal. The date of withdrawal shall be defined as the date that written notice is received by the County of the City's desire to withdraw due to Excess Construction Costs beyond amounts previously agreed. The County will recalculate future payments of the remaining Parties using revised percentages of shelter use with the methodology in Section 6(a).

4. Financing

- a) County Advance of Funds. The County shall advance funds required to pay for the costs of construction of the Shelter. The County intends to finance the funds it advances, including County in-house soft costs.
- i) County Sole Discretion as to Financing Terms. The County, at its sole discretion, shall determine financing terms based on market rates and terms available at the time of financing. The anticipated financing interest rate is estimated to be between 3.5%-5%, based on a 25-year term, see Exhibit D. The County may finance the Estimated Final Construction Costs (hard, soft, design, etc.) for the Shelter in addition to customary out-of-pocket costs to obtain financing, if any. The County may choose to provide in-house financing, provided the interest rate charged to the Cities does not exceed commercially available rates for like projects and terms of financing are equal to or more favorable to Cities than terms otherwise available to the County.
- (1) The County will provide notification to the Shelter Executive Board of its intentions regarding external or in-house financing at least 30 days prior to taking action on

financing. Said notification will include final estimates of financing costs and anticipated interest rates.

- (2) Should the Cities desire to have costs identified as “Costs Shared Proportionally by Cities Only” in Exhibit D included in any financing, the Cities shall provide written notification to the County by October 31, 2017. Should all Cities fail to provide written notice, the “Costs Shared Proportionally by Cities Only” will be proportionally allocated to each of the Cities as shown in Exhibit C and billed accordingly, with a payment due date of January 1, 2018.
 - ii) Estimated Project Financing Costs. The financing costs are estimated to range from \$7,556,392 to \$11,618,328, as shown in Exhibit D, depending on the applicable interest rate and whether there are out of pocket costs to obtain financing (collectively “Estimated Project Financing Costs”). If the actual interest rate is higher or lower than that estimated on Exhibit D, the actual financing costs will vary.
5. Total Estimated Project Costs/Total Project Costs.
 - a) The Estimated Final Construction Costs and the Estimated Project Financing Costs are jointly referred to as the Total Estimated Project Costs. Once the Shelter has been constructed and financed, the County will prepare a final cost summary of the actual construction and financing costs incurred by County in connection with the Shelter, excluding any costs that this Agreement expressly provides shall be excluded from the calculation, to establish the total project costs and annual repayment schedule based on the financing. Upon request, a City may review back up material for the summary. After review and adjustment (if any) of the final cost summary by all Parties, the approved final cost summary shall be known as the Total Project Costs. No City shall unreasonably delay or disapprove the Total Project Costs.
 6. Allocation of Total Project Costs.
 - (a) Allocation Based on Percentage of Shelter Use. Each Party shall pay its share of the Total Project Costs, based on the annual repayment schedule associated with the financing. Each Party’s share shall be based upon that individual Party’s percentage of shelter use. Shelter use is defined as the number of shelter services (impounds, quarantines, animal surrenders, confiscations, euthanasia requests, etc.) originating from, or requested by, an individual Party’s jurisdiction and/or its residents. Each Party’s share shall be determined annually by the County as part of their normal record keeping processes. The individual Party’s shelter use percentage shall be calculated using the total number of shelter services allocated to an individual Party over the preceding three full fiscal year periods, divided by the total number of all shelter services provided to all Parties over the same preceding three full fiscal year periods.

$$\%Shelter\ Use = \frac{(Party\#\textit{Shelter Services}_{year1} + Party\#\textit{Shelter Services}_{year2} + Party\#\textit{Shelter Services}_{year3})}{(Total\#\textit{Shelter Services}_{year1} + Total\#\textit{Shelter Services}_{year2} + Total\#\textit{Shelter Services}_{year3})}$$

Exhibit C indicates the percentage of each Party's actual use of the existing Animal Services shelter for the Fiscal Years 2013-14, 2014-15, and 2015-16. Adjustments to each Party’s annual allocation of Total Project Costs shall be adjusted annually based on the previous 3-year trailing average of the percentages of shelter use.

- b) Reallocation in the Event of Withdrawal or Termination. In the event that a Party withdraws or terminates under Section 8 below, the allocation of each Party’s share of Total Project Costs shall be adjusted upward for the remaining parties for the subsequent calendar year. The annual calculation and any associated adjustments shall be made by December 31st of each year and shall be due on July 1st of the next fiscal year.

7. Use of Shelter
 - a) The Shelter shall only be used as an Animal Services facility. No other County department or agency or other person or entity shall use any portion of the Shelter without the prior written consent of the Operations Committee (as defined in Section 9 (a) below). Such use shall be accompanied by the payment of an appropriate rental charge.
8. Termination and Withdrawal
 - a) Withdrawal Prior to Authorization of Construction/Payment of Allocation of Soft Costs.
 - i) Any Party may withdraw from this Agreement prior to County's authorization of the Construction to begin by giving a minimum of one (1) year's written notice to all Parties and by payment of its share, based on the allocation set forth in Section 6, above, of costs incurred by County prior to date of receipt of notice of withdrawal. Notice shall be deemed received on the date of personal delivery, or if mailed by U.S. mail, five (5) days after date of mailing. Such costs shall be reasonably determined by County and a majority of the Parties of the Executive Board, excluding any Party(ies) electing to withdraw. Any withdrawing Party shall pay its share by the effective date of its withdrawal. A withdrawing Party who withdraws prior to October 31, 2017 shall not be required to pay any portion of financing costs, regardless of whether outside financing or in-house County financing is ultimately provided. Any payment of soft or hard costs by a withdrawing Party shall be deleted from the amount to be financed. The County will recalculate future payments of the remaining Parties using revised percentages of shelter use with the methodology in Section 6(a).
 - b) Withdrawal After Construction Begins /Payment of Allocation.
 - i) Any Party may withdraw from this Agreement after the County's authorization of construction begin, by providing a minimum of one (1) year's written notice to all of the other Parties and prepaying its entire allocation of the Total Project Costs by the effective date of its withdrawal. If a Party withdraws from this Agreement prior to October 31, 2017, any estimated financing costs shall be deducted from the Total Project Costs before calculating the withdrawing Party's Total Project Costs share. If County provides in-house financing, any finance or interest charge accruing or payable after the withdrawal shall be deducted from the Total Project Costs before calculating the withdrawing Party's share of the Total Project Costs. Withdrawal from the Agreement shall be effective as of December 31 of the year stated in the written notice. The County will recalculate future payments of the remaining Parties using revised percentages of shelter use with the methodology in Section 6(a).
 - c) The County shall not terminate a City's access to or use of the Shelter if the City is not in default of its payment obligations. For the purposes of this Agreement, a City shall be deemed to be in default if said City is sixty (60) calendar days or more in arrears on any payment required under this Agreement.
 - (i) Should the County desire to terminate a City's access or use of the Shelter for default of its payment obligations, the County shall include any non-defaulted Cities, at the non-defaulted Cities' sole discretion, in negotiations with the defaulted City, prior to their termination.
 - (ii) The County shall retain final decision authority to terminate any City's access to or use of the Shelter for default of said City's payment obligations.
9. Termination for Government Non-appropriation
 - a) For each annual payment any City may owe related to repayment of the Total Project Costs as defined herein, whether a proportionate annual payment or lump sum payment pursuant to, but not limited to, provisions 4, 5, 6 and 8 of this Agreement, Cities represent and

warrant: that they have appropriated and budgeted the necessary funds to make all necessary payments required pursuant to this Agreement for the remainder of the fiscal year in which this Agreement commences, if any; and that it currently intends to make further payments for the full term of this Agreement as scheduled in the above enumerated provisions if funds are appropriated for such payments in each succeeding fiscal year by its governing body. Without contractually committing itself to do so, Cities reasonably believe that moneys in an amount sufficient to make all payments can and will lawfully be appropriated therefor. Cities will direct the persons in charge of their budget requests to include the subject payments required under this Agreement payable during each fiscal year in the budget request presented to Cities' governing body for such fiscal year; provided, that Cities' governing body retains authority within their sole discretion to approve or reject any such budget request. All payments shall be payable out of legally available revenues of Cities appropriated therefore. County agrees that no payment or obligation under this Agreement will be a general obligation of Cities and no payment herein shall constitute a pledge of either the full faith and credit of Cities or the taxing power of Cities.

- b) If Cities' governing body fails to appropriate sufficient funds in any fiscal year for annual payments under this Agreement, then a "Non-Appropriation Event" shall be deemed to have occurred. If a Non-Appropriation Event occurs, then the Non-Appropriating City shall give County immediate notice of such Non-Appropriation Event and provide written evidence of such failure by the City's Governing Body; and this Agreement shall terminate as to the City giving notice of a Non-Appropriation Event without penalty or costs to that City, provided that the City shall pay all payments and other amounts payable under this Agreement for which funds have been appropriated by the City's governing body.

10. Animal Shelter Operations

- a) An Operations Committee comprised of the County's Health Agency Director or his/her designee and a subset of City Managers or their designees shall be formed. At their sole discretion, all Parties may be represented on the Operations Committee.
- b) An Executive Board composed of the County Administrative Officer (CAO) and a subset of the City Managers (2-3) for each of the Cities, or their designees, shall consider significant policy or budget changes and make recommendations prior to policy implementation or budget adoption for the Shelter.
- c) The Executive Board meetings shall be held as needed and in conjunction with the existing monthly City Manager/CAO meeting. At a minimum, "*Animal Services*" shall be a standing item that is considered twice in a calendar year. While any Party may request that "*Animal Services*" be added to the agenda of any City Manager/CAO monthly meeting, it will be the responsibility of the chair of the meeting to ensure *Animal Services* is placed on the agenda and satisfies the minimum number of meetings required by this Agreement.
- d) If the City Managers' recommendation is different from that of the CAO on budget or policy matters, the County shall include the City Managers' recommendation in any related staff report to the Board of Supervisors and provide a summary of the nature of any disagreement.
- e) Final policy and budgetary authority for Shelter operations reside with the County Board of Supervisors.
- f) Future Services Contracts shall be for 3-year terms.
- g) If a City chooses to provide its own field services, it must provide to all Parties, a one (1) year's written notice of its intent to provide its own services and to terminate, or (if applicable) not to

renew, its Services Contract with the County, except as otherwise expressly provided in its Services Contract with the County,

- h) Service Contracts shall be separate from the Parties' obligations to finance and pay their proportional and allocated shares of Total Project Costs for the Shelter.
- i) The County's repayment obligation of its share of the Total Project Costs shall not be included in the calculation of the Shelter's operating costs. The County shall charge no rent for the Shelter or Shelter Property or otherwise attempt to obtain compensation from the Cities for those items identified in Appendix D as "County Only Costs".
- j) Any City shall have the ability to provide its own separate field services. The costs for accessing the Shelter shall be reasonably determined by the County after consulting with the Executive Board and shall only be for the fair share reasonable operating costs for Shelter operations.
- k) Any City that elects to not participate in Shelter Total Project Costs shall immediately cease as a Party to this Agreement and the County shall not be required to provide any animal services to such City. Such City shall be required to provide its own animal services and shelter, in accordance with all applicable laws and statutes, effective on a date mutually agreed to by the City and the County. If the City and the County are unable to mutually agree to a date, termination will be effective upon the expiration of the City's existing Service Contract or the date a Certificate of Occupancy is issued for the new Shelter, whichever occurs first.

11. Animal Shelter Planning

- a) The Parties agree to form an ad-hoc value engineering team consisting of up to three (3) City representatives and a minimum of two (2) County representatives. City representatives shall fully participate with the County to assist with investigating and identifying the most effective and efficient methods to construct a Shelter that meets all Parties' existing and future animal service's needs. The value engineering team shall meet as needed and provide input with architects, designers, construction managers, and engineers during the development of plans and specifications for the Shelter.
- b) Prior to the authorization of the Construction Contract, the Executive Board shall be presented project plans and estimated budgets, and provide a recommendation that will be included in the CAO staff report to approve the contract by the Board of Supervisors.

12. Effective Date

- a) Except as set forth above, this Agreement shall be effective for the period from January 5, 2017 until each Party has made the last payment required under Section 6 or, if applicable, Section 8, of this Agreement

13. Entire Agreement

- a) This is the entire agreement among the Parties with respect to the Project and supersedes any prior written or oral agreements with respect to the Project. In the event of a conflict between the terms of this Agreement and the Services Contract, the terms of this Agreement shall prevail.

14. Assignability

- a) Except as otherwise expressly provided for herein, no Party shall assign any of its obligations or rights hereunder without the written consent of all Parties.

15. Notices

- a) Any notices required to be given pursuant to this Agreement shall be given in writing and shall be mailed to all Parties to the Agreement, directed to the County Administrative Officer and County Counsel, and to the City Manager or City Administrative Officer and City Attorney of each City.

16. Audit

- a) The Cities may inspect and/or audit all records and other written materials used by County in preparing the Total Project Costs and annual invoices to each City.

17. Good Faith Efforts

- a) The Parties shall each act in good faith in performing their respective obligations as set forth in this Agreement and shall work diligently to maintain their longstanding cooperative relationships.

18. Amendment

- a) This Agreement may only be amended in writing, signed by all Parties.

IN WITNESS WHEREOF, by their execution below, the Parties agree to be bound to the obligations stated herein, and the Board of Supervisors of the COUNTY OF SAN LUIS OBISPO has authorized and directed the Chairperson of the Board of Supervisors to execute this Agreement for and on behalf of the County, and the Cities of ATASCADERO, ARROYO GRANDE, GROVER BEACH, MORRO BAY, PASO ROBLES, PISMO BEACH, AND SAN LUIS OBISPO have caused this Agreement to be subscribed by each of their duly authorized officers and attested by their Clerks.

Dated: _____

COUNTY OF SAN LUIS OBISPO

Clerk of the Board

Dated: _____

CITY OF ATASCADERO

City Clerk

By:

Dated: _____

CITY OF ARROYO GRANDE

City Clerk

By:

Dated: _____

CITY OF GROVER BEACH

City Clerk

By:

Dated: _____

CITY OF MORRO BAY

City Clerk

By:

Dated: _____

CITY OF PASO ROBLES

City Clerk

Dated: _____

City Clerk

Dated: _____

City Clerk

By:

CITY OF PISMO BEACH

By:

CITY OF SAN LUIS OBISPO

By:

EXHIBIT A

Animal Services Facility

The quantities listed below were derived from a review of the existing Animal Services facility, the 2010 "Needs Assessment, Feasibility, and Building Program Study" by Shelter Planners of America, and meetings with Animal Services Manager Eric Anderson.

Building Floor Area:	16,000 square feet
Outdoor Runs:	3,000
Incinerator, Cold Storage:	2,000
Sally Port, Truck Wash, Truck Parking (8 trucks):	4,200
Disaster Response Equipment:	1,200
Visitor Parking (15 spaces):	5,300
Staff Parking (20 spaces):	7,000
Large Animal Pens:	27,000
Subtotal:	65,700
Additional 20% for Circulation, Landscaping:	13,140

TOTAL: 78,840 square feet

EXHIBIT B



LEGEND
SITE BOUNDARY

SAN LUIS OBISPO COUNTY OPERATIONS CENTER
PHASE 1 MASTER PLAN

EXHIBIT C

Cities	City Name	(Number of Shelter Service Provided)						Total	Percent
		2013-14		2014-15		2015-16			
		Full Yr.		Full Yr.		Full Yr.			
1	Arroyo Grande	286	7%	427	11%	291	8%	1,004	8.39%
2	Atascadero	476	12%	600	15%	643	17%	1,719	14.37%
3	Grover Beach	167	4%	142	4%	135	4%	444	3.71%
4	Morro Bay	126	3%	143	4%	118	3%	387	3.23%
5	Paso Robles	724	18%	734	18%	792	21%	2,250	18.81%
6	Pismo Beach	57	1%	61	2%	54	1%	172	1.44%
	San Luis								
7	Obispo	482	12%	486	12%	479	12%	1,447	12.09%
99	Unincorporated	1,745	43%	1,464	36%	1,332	35%	4,541	37.96%
		4,063		4,057		3,844		11,964	100.00%

EXHIBIT D

	Initial Estimate (a)	County-Only Costs (b)	Estimated Costs after County-Only costs (a-b)	Costs Shared Proportionally by Cities Only (c)	"Estimated Project Construction Costs" (a-b-c)
BUILDING & SITE HARD COSTS					
Construction (Building & Site Improvements)	\$ 7,840,000		\$ 7,840,000		\$ 7,840,000
Construction Contingency	836,500		836,500		836,500
Oklahoma Ave./ Utility Extension	525,000	348,967	176,033	176,033	
BLDG & SITE HARD COSTS SUBTOTAL:	9,201,500	348,967	8,852,533	176,033	8,676,500
INTERIOR HARD COSTS					
Fixtures, Furniture & Equipment	400,000		400,000		400,000
Telephone/Data/Security	160,000		160,000		160,000
INTERIOR HARD COSTS SUBTOTAL:	560,000		560,000		560,000
HARD COSTS SUBTOTAL:	9,761,500	348,967	9,412,533	176,033	9,236,500
SOFT COSTS					
ADMINISTRATION					
County Administration & Project Management	500,000		500,000		500,000
PROFESSIONAL SERVICES					
Architectural/Engineering Design Consultants	920,000		920,000		920,000
Construction Management	450,000		450,000		450,000
Testing & Inspection	310,000		310,000		310,000
Surveys, Geotech., Env. Mitigation	250,000		250,000		250,000
Permits & Fees	105,000		105,000		105,000
Storm Water Pollution Prevention Plan	170,000		170,000		170,000
MISCELLANEOUS					
Project Development Contingency	650,000		650,000		650,000
Escalation	585,000		585,000		585,000
SOFT COSTS SUBTOTAL:	3,940,000		3,940,000		3,940,000
OTHER COSTS					
Remaining depreciation value of existing facility	168,800	168,800			
Demolition of existing facility	200,000	200,000			
Land Cost (2 acres)	737,500	737,500			
OTHER COSTS SUBTOTAL:	1,106,300	1,106,300			
	\$ 14,807,800	\$ 1,455,267	\$ 13,352,533	\$ 176,033	\$ 13,176,500
Financing Costs- Low end estimate					
Estimated Project Construction Costs					\$ 13,176,500
Estimated Project Financing Costs @ 3.5%					\$ 7,556,392
Annual Debt Service					\$ 829,316
Financing Costs- High end estimate					
Estimated Project Construction Costs plus 10%					\$ 14,494,150
Estimated Project Financing Costs @ 5.0%					\$ 11,618,328
Annual Debt Service					\$ 1,044,499



Needs Assessment, Feasibility, &
Building Program Study for
**The County of San Luis
Obispo**

Animal Service Division

**855 Oklahoma Ave
San Luis Obispo, CA 93406**



County of San Luis Obispo, CA

Table of Content

I	Scope of Study	3
II	Demographics	5
	A. People population and animal levels	5
	B. Current Number of Staff and Operating Budget	7
III	Current Building Status	9
	A. Conditions and Capacities	9
IV	Recommendations for New Shelter	14
	A. Proposed Site	14
	B. Design Concept	17
	C. Interior Features	21
	D. Animal Capacity	29
	E. Proposed Spaces & Square Footage	30
	F. Preliminary Estimated Construction Budget	32
	G. Facility Staffing	34
V	Operational Considerations	35
	A. Will holding more animals longer help?	35
	B. Closed Stray Kennels Increase Euthanasia and Reduce Adoptions	38
	C. How To Prevent The Euthanasia of Any Lost Pet That Comes To The Shelter	43
	D. Emergency After Hours Animal Rescue and Care	44
	E. Humane Euthanasia Methods Used Exclusively	45
	F. Responsible Pet Owner Education Program to Solve Future Problems	45
VI	Summary & Recommendation	46

I. Scope of Study

This study was authorized by the County of San Luis Obispo in order to accurately examine the current status of the present facility and operations and future shelter building needs for the County . The study takes into account demographic trends, the number of animals handled in recent years, the proposed construction budget, operating budget, operational programs, human population level served, current and future staffing levels and agency objectives and goals.



Front View of Existing Shelter at 885 Oklahoma Ave. It is In urgent need of renovation, expansion and improvement of the animal holding areas.

Because this Needs Assessment, Feasibility & Building Program Study focuses on the requirements of a expanded and remodeled building, many factors are examined in detail, including: existing shelter status, site considerations, size of the needed additions, size of the needed facility expansion, type of construction, layout, materials, finishes, areas of program expansion, and construction and operating costs. A complete listing is made of all spaces needed, square footage, special features, special equipment needed, animal capacities, and a projected operating and construction budget for the bigger facility.

The Study will examine the most pressing remodel needs in the current shelter. We will also examine what building additions could be made within the present budget and what other additions may be made at a later date when additional funds are available. A pressing need is to enlarge and improve cat adoption and holding areas and to improve the dog kennels.

A complete listing is made of all spaces needed and square footage based on our discussions with staff and management. Also covered are special features, special equipment needed, animal capacities, a projected operating budget, construction budget and operational considerations. The goal of this Needs Assessment, Feasibility & Building Program Study is to provide the County of San Luis Obispo with all the critical considerations and recommended approaches needed to define the future direction and shelter remodel needs. From this study, a complete long-term building program can be developed in a timely and cost effective manner.

It should be understood this study is the first step in planning the shelter remodel and additions. The second step will be to develop the building floor plan based on this approved Building Program. The third and final step will be development of the working drawings and specifications for competitive bidding.

II. Demographics

A. Population, Animal Levels & Programs

The County of San Luis Obispo Shelter serves a people population of approximately 265,000. This includes the City of San Luis Obispo plus six other cities. The number of stray and owner released unwanted dogs and cats currently handled yearly by the County of San Luis Obispo Shelter is approximately 4,826. This total is composed of approximately 2,346 dogs and 2,480 cats. People population is estimated to grow to approximately 330,000 by the year 2030 which could increase shelter animal numbers to 8,250 for all local shelters.

We estimate the number of animals normally generated yearly from the area population of 265,000 to be 2.5% of the human population. (Nationally the proportion runs between 3% and 4%.) This would translate into potentially 6,625 animals turned into all of the local shelters annually. Since the County of San Luis Obispo Shelter handles about 4,826 animals yearly it means the other shelters and organizations in the County are handling approximately 1,799 animals per year. This would include the Woods Humane Society, the North County Humane Society (cats only) in Atascadero and HART in Cambria.

The underlying overpopulation of pets is caused by irresponsible pet ownership and uncontrolled breeding of pets. Although animal overpopulation is beginning to come down nationwide due to remedial programs, it can be countered by increasing human population in San Luis Obispo and a public not acting as responsible pet owners.



As cute as these puppies are, irresponsible pet ownership and uncontrolled breeding results in about 589 animals being euthanized each year at the County of San Luis Obispo shelter.

Of the animals presently received by the County of San Luis Obispo Shelter, approximately 57% (2,751) are adopted directly or turned over to Woods Humane Society for adoption, 17% (838) are returned to their owners and 12% (589) are euthanized of the total number of animals received. It should be noted that the above figures total 4,178 animals rather than the stated animal intake of 4,826. This difference of 648 animals should be examined by the shelter management to determine where the discrepancy occurs. The number of adoptions is very good (with the help of Woods Humane Society), the number of returns to owners is about average when compared to other similar sized shelters. Many modern, visitor friendly shelters around the country today have adoption rates of 40 - 60%, return to owner rates of 10 - 20% and euthanasia rates of 20 - 45%.

With a remodeled, more visitor friendly facility, the County of San Luis Obispo will be able to strengthen its programs to increase visitors and adoptions to higher levels, increase returns of lost dogs and cats to owners and strengthen its preventative and remedial programs.

Examples of important critical preventative programs are: strict follow through on spay/neuter for adopted pets, low cost spay neuter programs for the general public, free collar and ID tag program for all pets, owner education, foster pet homes, pet health and behavior rehabilitation, counselling for pet owners with problems keeping their pets, progressive, responsible owner ordinances, a well designed local web-site for animal adoptions and lost animal identification, use of web based adoptions such as Petfinders.com and ongoing, well promoted, shelter adoption programs including expanded evening and weekend hours.

B. Current Number of Staff & Operating Budget

The present animal shelter and animal control staff consists of twenty one staff positions as follows:

ANIMAL SHELTER STAFFING:

1. Animal Service Manager
2. Shelter Supervisor
3. Registered Vet Technician
4. Kennel Worker
5. Kennel Worker
6. Kennel Worker

- 7. Humane Education
- 8. ACO Supervisor
- 9. Lead ACO
- 10-15 ACO
- 16. Administrative Service Officer
- 17. Senior Account Clerk
- 18-21 Administrative Assistants

The full time staffing level is average levels compared to most shelters across the Country handling approximately the same number of animals. Normal staffing levels would be between 20 and 25 positions for a shelter handling 4,826 animals per year (including animal control).

The present annual total operating budget is \$2,600,000. The average cost per animal handled is \$539 based on 4,826 animals and the \$2,600,000 total operational budget. Nationally, most animal shelter operational budgets range between \$250 and \$500 per animal . The County of San Luis Obispo shelter budget is presently in the upper range.

III. Current Building Status

A. Conditions and Capacities



View of the front public receiving lobby showing a very cramped and limited area for the public and transactions

The present original shelter was built in 1972 and is approximately 37 years old. The present facility contains approximately 9,925 square feet. The administrative areas of the building are in generally good condition although the public reception area is minimum. The entrance for the public into the dog kennels is problematic in that they must go back outside (from reception desk) and then ask for the kennel door to be unlocked before entering the kennels. Kennels should be open and easily accessed by the public during business hours.

The shelter currently has 48 dog runs plus 8 quarantine runs and 2 isolation runs. The kennels are built as an indoor/outdoor design.

In the cat areas there are a total of 3 cat rooms plus isolation and quarantine areas. Total cat cages number about 75. Unfortunately, when these rooms were built in 1996, there was little concern about making them visitor friendly. For instance, no windows were put in

these spaces and no cat community areas were included.



The cat rooms are not very inviting to the public.

The dog kennels are built with little provision for noise control, there is also an undesirable gutter style drainage design, plus poor floor and wall finishes. The kennels have the look of an industrial

warehouse. This is exactly the opposite of the welcoming, pleasant look needed to encourage the public to visit for adoptions and returns.



Kennels are noisy and unpleasant for the public to visit.

Generally, the building was not very well laid out for its purpose as an animal shelter. The dog kennels were not designed for ease of cleaning and maintaining the animals. Staff are making every effort to maintain and operate the shelter in the best way possibly. They should be congratulated for a good job being done with an older, inadequate building.

The building lacks good circulation and flow patterns for the staff and public. The entrances for public visitors and animal receiving are not well defined and create additional work for staff and confusion for the public. The shelter was built with average quality materials and finishes.

The cooling, heating and ventilation systems are outdated and are not providing the needed fresh air exchange and air purification for the animal's health protection. Typically, unless a shelter is designed by specialists, the HVAC systems will not be engineered for the special health needs of animals.

Another area of concern with the present facility is the night drop boxes for animals. Most new shelters today do not use night drops as they encourage the public to leave animals without discussing with the shelter staff why they are disposing of the animal and what alternate solutions they might consider. Additionally, animals are

often dropped off without adequate information about recent bites, health or behavior conditions.



The present night drop box is located on the left of the building. This type of system is not used by most new shelters being built today.

A better solution is to have one staff person on duty in the evening until 10 or 12 p.m. This staff position can be rotated each week among shelter staff. The person would come in around 4 p.m. and be responsible for feeding any infant animals at night, some night time kennel pick-up of feces, monitoring any sick animal, receiving any pets being brought in at night, answering phone calls and responding to any injured animal emergency. (To respond to emergencies, they would lock up and leave a sign on the door stating their return time.)

The kennels are at present generally locked to the public. In a remodelled building, we would urge allowing the public to view all kennels to maximize identification of lost animals by friends or neighbors and to facilitate the possible adoption of strays after their holding period. In the expanded building, isolation kennels will protect the public but still allow the animals to be viewed through windows for identification.

Cat adoption and stray cat holding rooms should allow the public to view and interact with the cats. Disease is spread more by contaminated air and surfaces than by human touch. Even if a shelter prohibits the public from touching animals, the staff must handle the animals throughout the day, eliminating any benefit from preventing the public from interacting. The animals need touch and attention from people and the public wants to interact and fall in love with the pets.

Part of the challenge and difficulty in expanding the current building is to develop a layout that will provide the spaces the shelter needs in such a way that everything works together as if the building was designed as a whole. With the long experience of Shelter Planners of America, we can resolve many of the problems with the present layout.



This view shows the public corridor. New cat condos and exotic built in displays can be remodelled along the left wall with new ceiling and finishes to improve appearance.

IV. Recommendations for an Expanded Shelter

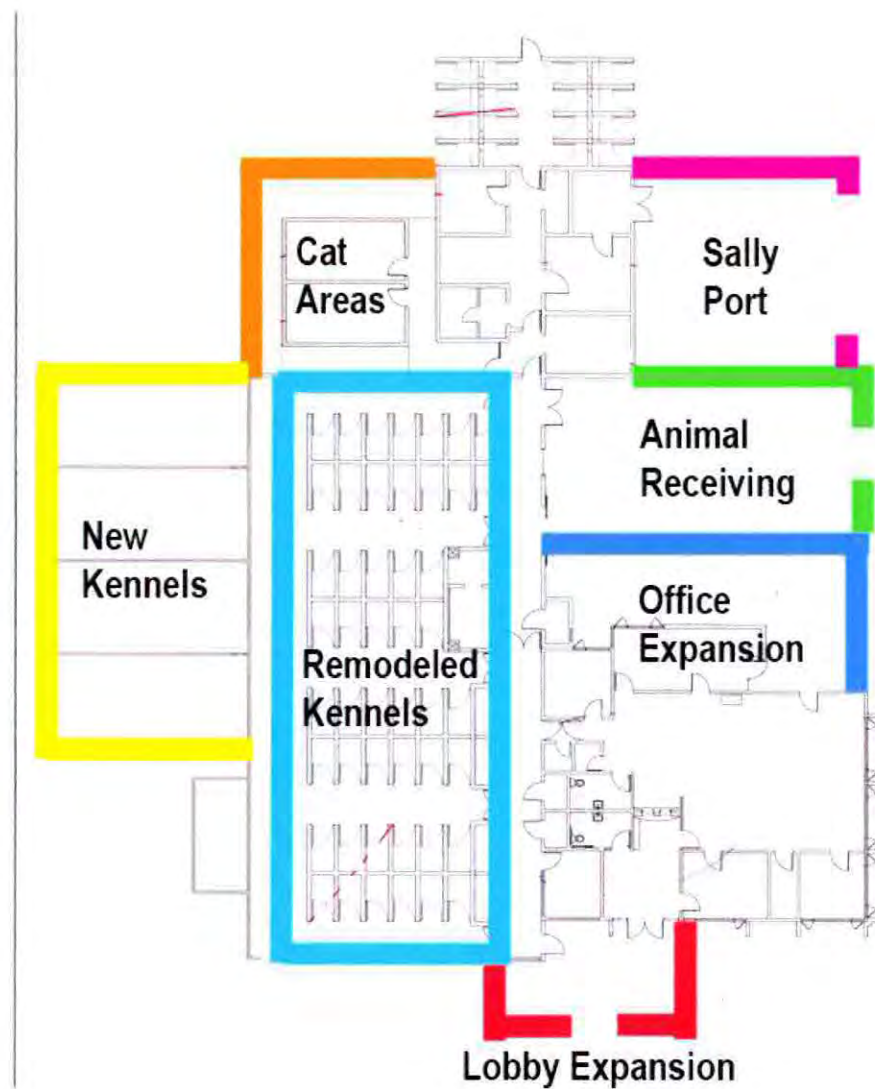
A. Site Considerations

The suggested additions to the County of San Luis Obispo animal control shelter will be attached to the present structures and utilize the present site. We are suggesting a new kennel addition on the left of the building. There is also a suggested new cat wing on the left, holding the new cat community rooms and cage adoption rooms. The driveway to the rear of the building will need to be retained. The new cat wing will allow the front office and public lobby to be expanded and have natural window light and a view.



The suggested new animal intake area can be created in the right side area that presently contains the sally port.

The County of San Luis Obispo has a relatively large site but limited in building area due to poor soil conditions. Nearly military installation behind the site also limits expansion to the rear. Because of the shelter location off the highway, we would suggest new larger highway signs be installed at appropriate intersections to help identify the shelter.



Building plan showing proposed expansion of the Public Lobby, Cat Adoption Rooms, new Dog Kennels and remodeling of the old original dog kennel

B. Design Concept

We are suggesting seven separate remodeling phases for the County of San Luis Obispo to consider. This will allow the County to examine and select each area that needs remodeling and factor in the estimated related costs. The desired remodeled areas can either be combined into one project that falls within the current building budget, or remodeled areas can be done one at a time as money is available. We are listing the phases in order of what we feel is the highest priority.

1. The first phase is a 694 square foot expansion and remodel of the Front Public Lobby. We have given this phase the number one priority, not because it is more important than the cat and dog areas remodel, but because this area is a significant flaw in the present building design and need to be corrected to maximize the number of visitors and adoptors. This addition would extend the front lobby outwardly and enclose the current exterior entrance door to the kennel and cat rooms thereby allowing it to remain unlocked, accessible and welcoming to the visiting public. It will also expand the public waiting area and will have space to accommodate a pet supply sales alcove. The staff/public work counter will expand from the present 8' long to to 18' long. Moving the counter location forward 24 feet will create an additional 312 square feet of usable open office area.



This photo shows a similar 18 foot long counter and how the new longer public transaction counter can look once the expanded front lobby is completed.

2. The second phase will be a complete demolition and rebuild of the two present cat rooms added 12 years ago. This new addition will be enlarged from the present 598 square feet to a new cat wing of 1,400 square feet. This cat adoption wing will house 2 large cat community rooms with sun porches, 1 kitten community room with sun porch, stray cat cage room, cat adoption cage room, cat isolation room, feral cat room, support spaces and a cat get acquainted room. This new cat wing will be open and airy with glass store fronts looking into the rooms plus large glass windows to bring in sunlight and natural views.



A view into a cat community room similar to what is proposed. The room has a glass storefront plus large windows for plenty of sunlight. Cats have furniture, plants and play toys to make their shelter stay healthy and homelike.

A second, more extensive option for the new cat wing would be to relocate it where the present sally port is now. In this option, a new animal intake and receiving area and additional offices would be combined with the cat wing for a new addition of approximately 2,100 square feet. The crematorium, freezer and sally port intake areas would be moved further to the back of the building on the same right side.

3. A third phase will be the remodeling of the present 4,500 square foot dog kennels and corridor. This updating will include new, water resistant acoustical tile ceilings to quiet the kennels. The clearstory skylights will remain as they are. New, flush fluorescent lighting installed in the ceiling to keep the kennels bright even on cloudy days. New epoxy floor and wall finishes will be installed in each dog kennel, new automatic waterers installed in each kennel plus new

stone look, porcelain tile kennel corridor floors, for ease of cleaning, sanitation and a fresh, welcoming look. Three new large windows will be installed in the front kennel wall to bring in a nice outdoor view for the public as they first enter the dog kennels. The present heavy wooden sliding barn doors will be removed and replaced with glass store front walls and self closing glass doors (or sliding glass doors if preferred). New sliding aluminum kennel gates will be installed and a new central HVAC duct system to provide needed air exchange, cooling and heat. (The kennel presently has no effective heat and no cooling.)



Example of new kennels in a remodeled shelter. Notice the sliding aluminum gates, the high lighting levels and sound absorbing ceiling.

The main public corridor leading by the kennels to the cat areas will also be updated with a new acoustical tile ceiling, new wall finishes and new stone look tile floor, new lighting and new aluminum

framed glass store front doors leading into the kennels. These doors will reduce barking noise coming from the kennels. With the corridor isolated from barking noise, the small rooms along the left of the corridor can be remodeled as cat condos (which can hold 2 to 4 cats each), small mammals cages and reptile holding cages.

4. The forth phase is a new indoor/outdoor dog kennel addition on the left side of the building. This new kennel will consist of two kennel wings (holding 12 kennels each) approximately 880 square feet each for a total of 1,760 square feet. These new indoor/outdoor kennels will occupy the outdoor area that now holds the exercise yards thereby requiring relocating the exercise yards to the opposite side of the building. There will be a new fresh air HVAC system to serve each kennel wing. The new addition will have "natural stone look" tile corridor floors, new epoxy floors within each dog pen, new sound absorbing ceilings and high level lighting and new aluminum sliding gate kenneling.



This view shows how the new indoor/outdoor kennels could look. There would be a raised outdoor planter rather than the lawn area shown in this photo.

5. Phase five will be a new animal intake/receiving addition.

This addition will be located in half of what is currently the sally port. The addition will be approximately 1,050 square feet and will include a public intake lobby and office, a dog receiving room, a cat receiving room, clinic room, temperament testing room and support spaces.

6. Phase six will be a new administrative addition. This phase will logically connect with phase five, the animal intake/receiving phase. The addition will be approximately 1,050 square feet and will include four new offices (Shelter Supervisor, Vet Tech, ACO Supervisors Office, Volunteer Coordinator).

7. Phase seven includes relocating the sally port. This phase will logically connect with phase five and six, the animal intake/receiving and administrative addition phases. The new sally port area will be approximately 1,925 square feet and will include the present crematorium and freezer.

C. Interior Features

Shelters built in the past did not have the advantage of using many of the new innovative materials and equipment available only in recent years. Animal shelters of today are no longer just "warehouse structures" with cages lined down the walls. Shelters are very specialized buildings which are more like shopping malls than warehouses in construction. A high level of quality is needed

if the facility is to be able to keep animals healthy, display them in attractive settings and hold up under heavy daily cleaning and wear.

The overall goal is to make the shelter a place where employees feel positive and the public enjoys visiting for pet adoption, pet retrieval and other animal services. Most importantly, the shelter must house animals in the healthiest, least stressful manner possible.

The County of San Luis Obispo shelter remodel should be planned to include central washing equipment, central animal watering systems, flushing floor drains, air purification systems, heated kennel floors, noise control systems and long-lasting, easily cleaned and disinfected wall and floor finishes. Following are examples of some of the special equipment that will be used in the new remodeled shelter:



A System You Can Count On

This washing stand alone wall mounted system is designed for small to medium sized operations and is perfect for high volume cleaning jobs.

Versatile, economical and powerful, this system can be customized to fit your sanitizing needs via a wide range of accessories. Plus, because this washing wall mounted station is attached directly to the wall, it is a very secure system to use in a wide variety of locations.

Each wall-mount system features sturdy, non-corrosive stainless steel construction, and the vacuum formed ABS covers come solid (for pump fed chemicals) or indented (for gravity fed chemicals). The stainless steel hose reel can hold up to 75 feet (22.9 m) of hose.



Central pressure washing equipment allows the animal areas to be cleaned and disinfected in one very rapid process.

KENNEL FLOOR FINISH

DESCRIPTION

Fine, colored quartz aggregates are encapsulated in crystal clear epoxy resins to produce the decorative Ceramic Carpet flooring systems. During installation clear resins flood over firmly bonded, multi-colored granules filling depressions and glazing peaks providing a rich "depth" to the speckled finished appearance. A textured surface profile offering excellent skid-inhibiting properties while remaining easy to clean and maintain.

Ceramic Carpet is available in two basic types #400 which may be installed at $\frac{1}{16}"$ to $\frac{1}{8}"$ and #425 which is always $\frac{1}{8}"$ but allows for faster project turnaround.

USE

The textured finish of the Ceramic Carpet systems make them ideal for showers, restrooms, lockers where skid-inhibition under wet conditions is essential. Other such areas include kitchens, food service, laboratories, animal housing or laundry facilities. Ceramic Carpet is also well suited for any number of other "people" areas in commercial, institutional or industrial facilities. These include lobbies, corridors, showrooms, classrooms, vending areas and even manufacturing where an aesthetically pleasing flooring system is desired.

KEY BENEFITS

- Multi-colored, speckled look of fine, granular quartz aggregate in clear resins that won't show soil.
- High wear and abrasion resistance.
- Uniform skid-inhibiting surface.
- Seamless, easy to clean and maintain.
- Simple installation for fast project turnaround.



The special trowel on kennel floor finish comes in an attractive array of earth tone colors to make kennels cheerful and bright. It also halts bacteria growth.



Insulated Pet Doors GUILLOTINE COMBO

**The Only Insulated Pet Door/Guillotine Combo On The Market
PERIOD.....**

**Simply the best Pet Door
on the Market!**



HEAVILY INSULATED FOR ALL EXTREME WEATHER CONDITIONS Pet Doors are insulated with high-density polystyrene and faced with .050 satin anodized aluminum. The 6.49 R Factor in the Combo Unit will maintain a 40° temperature difference in extreme weather conditions.

HEAVY-DUTY FRAME CONSTRUCTION WITH DOUBLE ACTING HINGE Heavy duty extruded aluminum frame that will not rust, crack or chip. Door closes automatically with a double acting concealed hinge.

COMPETITIVE ATTRACTIVE FUNCTIONAL Competitively priced with other Pet doors and Guillotines on the market; however, the purchaser is receiving 200-300% more in value. The Pet Door/Guillotine Combo will improve the appearance of the kennel and is maintenance free.

Shelter Planners of America uses special Guillotine doors that prevent loss of heated or cooled air from the kennel.

MODEL 1200 AUTOMATIC KENNEL WATERER

Provides a constant supply of fresh water. Eliminates the time-consuming task of refilling water bowls. Saves on the expense of replacing damaged water bowls. Conserves water.

DRINKING BOWL CLEANS FAST AND EASY



1. A quick 1/4 turn of optional water line valve shuts off water flow.



2. Slide latch bar with thumb to release the stainless steel drinking bowl.



3. The drinking bowl disconnects from the wall bracket and lifts out from under the float valve. Takes less than 10 seconds.

Each animal Kennel is equipped with an automatic waterer so that animals always have fresh water available with no staff time required refilling bowls.

THE "WET" SHOWERBATH



**CITED THROUGHOUT THE INDUSTRY
AS A MAJOR GROOMING BREAKTHROUGH**

Our Most Popular Tub

Now you can have a free-standing tub, walk-up ramp, and backslash in one. The roll-in/roll-out ramp with sure footing provides easy access to tub. From the bottom of the ramp the animal has a good view inside, so they have a good idea where they are going. This tub will accommodate breeds up to 300 lbs. Now made with a full 16 gauge stainless steel liner. Standard features include an easy removable plexiglass door, roll-in/roll-out walk-in ramp, four eye-hooks installed in backplash, built-in hair strainer, stopper, faucet, sprayer, hose and hose hook. Outside surface is finished in your color choice of 8 easy-to-care-for laminates. (See color chart on back cover.)

OPTIONAL EQUIPMENT

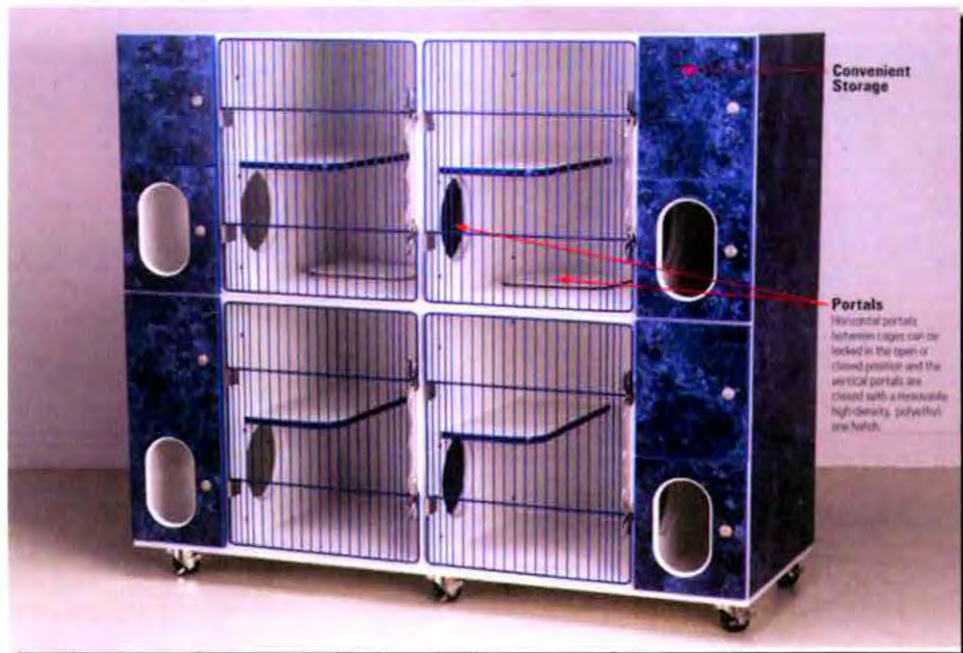
Upper and lower cabinets with sliding doors, upgrade hair trap, floor hydro, tub rack and upgrade faucet. (See pages 6, 7, 8)

MODEL NO.	DIMENSIONS
WET	TUB ONLY 58" H x 48" L x 24" W x 15" D Ramp extends 41" off front edge of tub
480W	OPTIONAL OVERHEAD and LOWER CABINETS 16" H x 48" W x 12" D

The Shelter will have a professional grooming tub that animals can be walked into through a swinging door.



Dog Kennels with upper half in tempered glass allows a clear view of the dogs as the public walks through.



These new style cat cages have individual litter box compartments and positive air exhaust from each cage.

There are a number of design considerations which must be incorporated into the County of San Luis Obispo shelter remodel and additions in order for it to be a success. These concern how animals are received and housed, how the building is cleaned and disinfected, how heat, ventilation and air exchange are provided, and how public circulation and work traffic patterns are organized. Some specific decisions that must be addressed by the County of San Luis Obispo are:

A. Kennel function - It must be decided whether the kennels are to be joint or single occupancy and how the animals will be moved to allow daily cleaning. In the present kennels, animals must be individually moved to outdoor exercise runs during cleaning. The floor drainage system is also an important owner decision. In the new kennel addition, we recommend new floors sloped to individual drains and elimination of shared drains which are difficult to clean and cause sanitation and animal health concerns. In the existing kennels, we would install new sound absorbing ceiling, new high level recessed lighting, install the new sliding gates, and new epoxy flooring in each dog kennel and natural "stone look" tile flooring finishes in the kennel walkways.



New Cat Condo adoption rooms can be opened up with view windows from public corridors.

B. Cat Quarters - We have found that cat community display areas (cat community rooms or condos) can greatly increase cat adoptions. However, cats housed together must have been health checked and vaccinated prior to being placed together. Cat cages can have special air exhaust in each cage to control odors and stop spread of air borne disease.

C. Small Breed & Puppy areas - It is normally desirable to have some puppy and small breed holding separate from the adult kennels for improved disease control. The present shelter has no separate puppy holding. If phases 5 & 6 are undertaken, this could be an opportunity to include a puppy room.

D. Animal Capacity

Currently about 2,346 dogs are handled per year with 48 indoor runs, 8 quarantine runs and 2 isolation runs. This present holding number results in an average 7 to 8 day stay per dog (1 dog per run, not counting quarantine and isolation). With the remodeling being suggested and the new 24 kennel wing added, the shelter would have a new total of 72 holding for an average stay of 10 to 11 days. These added pens would allow the shelter to hold more animals and maintain a less crowded condition in the kennels. It is advisable to maintain a few empty runs in the kennels each day to accommodate new incoming animals.

Currently about 2,480 cats are handled per year with a 75 total holding capacity. The present Cat housing room 1 holds 18 cats, housing room 2 holds 24, cat housing room 3 holds 21 cats, 6 in isolation, 6 in quarantine. This capacity results in a 9 to 10 day average stay per cat (1 cat per cage) not including isolation and quarantine. The new cat wing will expand holding to 85-95 cats resulting in an average of 13 day stay.

One concern we have is whether lost cats are being viewed by the general public? If the public is allowed to view all lost cats, sometimes a neighbor will identify someone else's cat allowing the owner to be notified. Having open stray rooms and kennels means a greater possibility that someone visiting the shelter will see their lost cat.

E. Proposed Spaces for New & Remodeled Areas

Following are the suggested square footage the remodeled animal control shelter designed to meet the needs of the County of San Luis Obispo (*Spaces shown in red are totally new addition square footage. *Spaces shown in green are remodeled or relocated.

PHASE ONE, FRONT PUBLIC LOBBY:

* Addition to front Public Lobby	694 sf
* Remodeled Front Office (behind counter)	<u>312sf</u>
Sub Total	1,006 sf

PHASE TWO, NEW CAT WING:

* New Cat Wing to include 2 cat community rooms,	
* kitten community room, stray cat room,	
* cat adoption room, cat observation room,	
* cat get acquainted room, support spaces	
	<u>1400 sf</u>
Sub Total	1,400 sf

PHASE THREE, DOG KENNEL REMODEL:

*Remodeled Dog Kennel (48 kennels)	3,630 sf
*Remodeled exotic display and cat condos in corridor	170 sf
*Remodeled Public Corridor	<u>700 sf</u>
Sub Total	4,500 sf

PHASE FOUR, NEW INDOOR/OUTDOOR DOG KENNEL:

* New indoor/outdoor dog kennel - 2 wings (24 runs),	1,760 sf
(exterior runs)	(960) sf
*cleaning equipment storage	60 sf
* mechanical equipment rooms (2)	120 sf
* get acquainted room	<u>60 sf</u>
Sub Total	2,000 sf
(exterior)	(960) sf

PHASE FIVE, NEW ANIMAL INTAKE/RECEIVING:

* new public intake lobby and receiving,	
* dog receiving, cat receiving,	
* clinic, temperment testing, support spaces,	
	<u>1,050 sf</u>
Sub Total	1,050 sf

PHASE SIX, NEW ADMINISTRATION ADDITION:

* new offices: Shelter Supervisor, Vet Tech,	
* ACO Supervisor, Volunteer Coordinator,	
	<u>1,050 sf</u>
Sub Total	1,050 sf

PHASE SEVEN, NEW SALLY PORT:

- * covered parking for two vehicles,
- * relocated crematorium and freezer

	(1,925 sf)
Sub Total	(1,925 sf)

TOTAL NEW ADDITION INTERIOR SQUARE FOOTAGE	6,194 SF
TOTAL NEW EXTERIOR SQUARE FOOTAGE (RUNS)	(2,885) SF
TOTAL REMODELED SQUARE FOOTAGE	4,812 SF

F. Preliminary Estimated Construction Budget for a Remodeled and Expanded Shelter

Following are construction estimates for an expanded and remodeled shelter facility of approximately 4,812 sf existing remodeled, 6,194 sf new additions, plus 2,885 sf of new exterior areas. These estimates are based on costs we are seeing in other similar areas around the Country.

Phase One, New Front Public Lobby -

694 sf @ \$245 sf Addition to Public Lobby	\$170,275
312 sf @ \$20 sf Remodel area behind counter	\$6,240

Phase Two, New Cat Wing -

1,400 sf @ \$265 sf Cat & Kitten Community Rooms stray cats, adoption
cats, observation, get acquainted and support spaces \$371,000

Phase Three, Remodel Dog Kennel -

3,630 sf @ \$60 sf Remodeling of 48 dog kennel \$217,800
170 sf @ \$50 sf Remodel exotic and cat condos \$8,500
700 sf @ 50 sf Remodel of Public Corridor \$28,000

Phase Four, New Indoor/Outdoor Dog Kennel -

1,760 sf @ \$275 sf 24 new dog kennels \$484,000
(960 sf) @ \$55 sf (exterior) 24 runs (\$52,800)

Phase Five, New Animal Intake/Receiving-

1,050 sf @ \$265 new intake lobby, dog & cat receiving, clinic, temperament
testing and support spaces \$278,250

Phase Six, New Administrative Addition -

1,050 sf @ \$245 sf Four new offices \$257,250

Phase Seven, New Sally Port-

1,925 sf @ \$55 sf (exterior) New covered parking, relocate crematorium
and freezer (\$101,875)

TOTAL ESTIMATED CONSTRUCTION FOR PHASE 1 THROUGH 3 : \$801,818

Site work, permits, A&E Fees add 20% \$160,363

TOTAL ESTIMATED CONSTRUCTION FOR PHASE 4 THROUGH 7: \$1,174,175

Site work, permits, A&E Fees add 20% \$234,835

G. Facility Staffing

For an expanded shelter operation (phase 1 through 3) of 12,019 square feet, handling 4,800 to 6,000 animals per year, there will be a need to employ sufficient staff to operate the additional 2,094 sq. ft. larger shelter and maintain the animals in a proper manner.

The most important job for any shelter, is to provide the very best care for the animals in its possession. Because of this, we feel the animal care staff should be well trained employees who have the greatest concern for the animal's welfare as their overriding motivation rather than serving court ordered time. We feel inmate assistance should be used (if at all) for backup to trained kennel staff and under immediate, continued supervision.

Recommended staffing for the shelter facility based on average staffing levels of similar sized shelters around the Country. This listing is to allow shelter management to review a typical staffing level for shelters of this size, not to suggest specific changes in staffing:

POSITIONS:

1. Director
2. Director's Assistant
2. Office Manager
3. Bookkeeping
4. - 6. Receptionist, Animal Returns and Adoptions
7. Humane Educator

- 8. Kennel Manager
- 9. Veterinarian
- 10. Vet Technician
- 11. - 15. Animal Care Staff
- 16. ACO Supervisor
- 17. - 22. ACO positions
- 23. Building Maintenance

V. Operational Considerations

With any proposed remodeled shelter there are a number of operational considerations which can impact the design of the building. These considerations include policies about how many and how long to hold animals, how animals are displayed, spay neuter programs, pet ID programs, temperament testing programs, shelter hours and adoption programs, night drop boxes, satellite adoption locations, return to owner procedures, education programs, etc. All of these and other operational programs will require certain size and type spaces and rooms. Therefore, it is worthwhile to consider the impact of present operational procedures as well as alternate approaches as the building remodel is being planned. Some of these relevant topics are discussed in the following section.

A. Will Holding More Animals, For Longer Periods Of Time, Increase Adoptions?

The question is often asked, "If we hold more animals for longer times won't more be adopted?" The two following examples can

help shelter staff, the public and management understand this frequently misunderstood question.

Before we examine the questions however, we want to emphasize the importance of all healthy animals being provided as long a stay as is reasonable. As long as animals are emotionally and physically healthy, it is reasonable to extend their stay. However, dogs (or cats) should not be kenneled so long that it adversely affects their behavior, causing emotional depression, withdrawal, pacing, spinning, barking and aggression (can frequently occur if held beyond about 4 weeks).

NOTE:

(A shelter may hold a selected animal an extended period of time and finally get it adopted, but other animals are being euthanized to allow that one animal to occupy its cage longer. This is the scenario that causes people to think incorrectly, "If we could just hold all animals longer, they would all eventually be adopted".)

This issue often becomes confusing for many people when trying to understand the value (or lack thereof) of building bigger and bigger shelters and holding more animals for longer periods. The following examples will help facilitate understanding:

1. In the first example, assume the shelter holds animals an average of TWO weeks each during a one year period. During the year, 175 people per month visit with the intention to adopt a pet. How many animals could be adopted in that year? If every visitor adopted, you would adopt 2,100 animals.

Now, assume the shelter kept every animal FOUR weeks (twice as long) during a one year period. The same 175 people per month visited with the intention to adopt a pet. How many animals could be adopted in a year? If every visitor adopted, the shelter would still adopt 2,100 animals. As can clearly be seen, holding animals longer, by itself, does not affect the number adopted.



It is important that shelter staff make an informed decision of how many animals to hold at any given time and how long to hold each animal.

2. In this second example, the shelter holds about 100 animals available for adoption at all times. The same 175 people visit per month with the intention to adopt a pet. How many will be adopted in one year? If every visitor adopts, the shelter will have 2,100 adoptions in one year.

Now, assume the County of San Luis Obispo builds a shelter with twice as many kennels, holding about 200 animals at all times, how many will then be adopted? If all of the 175 visitors adopted, the shelter would still adopt 2,100 animals. As can be seen, holding twice as many animals does not affect the number adopted.

The conclusion of these examples is this: The only factor that truly affects the number of animals the shelter adopts is the number of people who visit your shelter with the intention of adopting. Holding animals longer and holding many more animals does not significantly increase adoptions.

TO INCREASE ADOPTIONS, YOU MUST INCREASE THE NUMBER OF VISITORS (WHO WANT TO ADOPT). This is done through a good visible shelter location, visibility of all animals in the shelter, expanded weekend and evening hours, assistance from pet adoption organizations, web-site pet listings, an attractive welcoming shelter, well groomed and healthy animals, friendly staff, adoption requirements that are not too restrictive, reasonably low adoption fees, promotion of adoptions in all local media, satellite adoption locations, special adoption events, etc.

A certain percentage (about 40%) of homes in the San Luis Obispo County area will always own pets, no shelter can appreciably lower or raise that number. Euthanasia of surplus animals will never reduce that number as more animals will be acquired. The goal is to have as many locally owned pets be adopted from the shelter as possible (spayed and neutered) which will reduce the future number of surplus, and unwanted animals.

B. Closed Stray Kennels Increase Euthanasia and Reduce Adoptions.

The San Luis Obispo County shelter has a return to owner rate of about 17% of total animals received. Many new shelters are able to reach 20% return to owner rates.

The public should have free access to all stray holding areas (except isolation or quarantine). Some shelters don't allow this because of concern that illness may be conveyed or the animals have not been temperament tested and someone might be bitten, or a person may claim an animal that is not theirs or become interested in adopting an animal that will not be qualified for adoption. Although these are valid issues, there will be ways (in a remodeled building) to deal with these issues and still allow lost animals the benefits of being seen by the general public.

Consider the following points:

Often, when the general public is looking through stray animal areas, they will identify a neighbor's or friend's pet and be able to advise the shelter staff as to whom the pet belongs. Eliminating that possibility can lead to the euthanasia of the owned pet rather than the return to its owner.

Sometimes an owner of a lost animal will visit the shelter without explaining they lost an animal, or they tell the staff that they "just want to look at the animals". They walk through the open kennels looking for their animal, not knowing the strays are isolated out of view. They will leave, thinking their pet is not there and the animal may be euthanized as a result.

When an animal shelter prevents any stray animal from being seen by the general public, this also reduces the number of opportunities that could lead to an animal's adoption. Failing to give each animal the maximum exposure to the adopting public can lead to that animal being euthanized rather than finding a good, new home.

The attention and human touch the animals need and the opportunity the public wants most, is to interact and fall in love with a new pet. The animals, of course, benefit from receiving attention, a kind word and a caring touch. An example of this problem is seen in pet stores (where pets are isolated behind glass, not allowing the public to touch them) they often have depressed animals who lay in a cage corner not even responding to tapping on the glass.

Several reasons are given by shelters for the procedure of keeping the general public restricted from stray kennels. Lets examine each stated reason and consider an better alternate solution.

Situation: Shelter staff are concerned that someone may claim an animal that is not theirs.

Solution: No animal should be returned to an owner without proof of ownership in the form of one of the following: dog license, vet confirmation or records, photographs or bill of sale. In absence of these (or in addition to them) the shelter staff can observe how the animal responds to the person claiming to be the owner. Usually, the animal will react excitedly when they see their owner. Finally, if need be, the shelter staff could require the person claiming the pet to obtain a notarized statement, signed by two witnesses, stating they have knowledge the dog belongs to the person claiming the pet.

Situation: The animals may have illness or have not been temperament tested and the public may be bitten by an animal in the stray kennel causing problems obtaining liability insurance.

Solution: Any animal that is ill, frightened or aggressive should be placed in an isolation kennel (where the public can see through

view windows for identification) but not come in contact with the animal. Rarely do friendly animals bite visitors in shelters. Competent staff can usually tell, as soon as an animal arrives, if it is friendly or frightened and aggressive. This first observation does not require more extensive temperament testing. If the insurance company is advised that bite cases and aggressive animals are kept out of contact with the public, the insurer is normally satisfied.



These type of Observation kennels, viewable by the public through glass corridor windows, allows ill dogs, bite cases and unfriendly animals to be seen but not touched by the public.

Situation: The staff may be burdened with having to tell the public a certain animal is not ready for adoption.

Solution: The staff can list the possible adopters name and phone on the animal's record. The prospective adopter can be told if the animal is not returned to its owner, and is in good health, it will be available on a certain day. If the interested party returns on that day they can apply for the animal and, if approved, adopt the animal.

The shelter tells the adopters they reserve the right to place the animal with whoever they feel can provide the best home rather than "first come first served". This procedure is a little more work for the staff, but its important to allow every opportunity for a good adoption.

Situation: If the animal is euthanized before being made available for adoption, the staff may find it uncomfortable to explain what happened to the animal.

Solution: If the animal must be euthanized for health or behavior reasons before it can be made available for adoption, the public should be told the truth.

Situation: The shelter staff hopes to reduce the spread of disease by preventing people from touching the animals.

Solution: The major causes of disease in shelters are poor air quality, lack of daily sanitation and poor animal health care, including lack of daily observation. Keeping the public from touching an animal does not solve the problem of disease transfer because the staff is constantly handling all animals each day during cleaning and feeding procedures.

We urge all shelters to keep their stray cat and dog kennels open to the public. To be able to have safe, viewable stray kennels, the shelter should also have isolation and quarantine kennels for unfriendly dogs and bite cases and rooms for cat isolation. These kennels and rooms can be viewed by the public for identification through glass windows but they cannot touch the animals. In addition, there should be some isolation kennels for sick or injured animals completely out of public view.

C. How To Prevent The Euthanasia of Any Lost Pet Coming Into The Shelter

Another extremely important area of preventative programming is ID tags. There should be an organized effort to get all animals in the San Luis Obispo Co. area tagged with a owner ID tag or dog license. Microchip ID's are also a terrific owner ID system, but a collar and tag can get the animal back to its owner without the need for the animal going to the shelter.



Animals with owner ID tags will always be safe if they are lost. It is sad to know that many pets are destroyed because they had no identification.

A free tag and collar program for the general public should be considered by the County of San Luis Obispo. This program would be implemented by volunteer school age children and adult volunteers setting up tables at their schools and in shopping malls and giving away free ID tags in a "Save our Pets" campaign.

A donor could probably be found to finance the modest cost of the numbered tags. (The tag should contain either the shelter phone, plus an identifying number or, better yet, the owners name, address and phone. There are free engraving machines available with the purchase of tags.) Certificates for a free collar at the shelter can also be given away with the tag. This certificate encourages people to visit the new shelter and see the animals for adoption.

For this program to succeed, a well planned campaign conducted by motivated volunteers is necessary. A half hearted attempt will not come close to getting all pets tagged. Every animal adopted at the shelter should also be fitted with a collar and tag before it walks out the door of the shelter.

The simple fact is, If every pet in the community is wearing an owner ID tag, no lost animal would need to be euthanized.

Additionally, these pet owners names can go into a data base and they can be mailed annual dog license renewals (plus newsletters).

D. Emergency After Hours Animal Receiving, Rescue and Care

The shelter presently has night drop-off cages for after hours. These are not satisfactory because complete background information is not usually received. The animal could have recently bitten or have temperment problems that are not revealed. For these reasons, we recommend shelters have a staff person on duty until about 10 p.m. to handle incoming strays or injured animals. All shelters should also have immediate and assured night and weekend emergency rescue and pickup service available for injured animals. This can be handled by the same staff person who is on night duty. This position should be rotated among day staff.

E. Humane Euthanasia Methods Used Exclusively

The goal of every shelter is to return lost animals to their owners and find good homes for the balance of the animals. Unfortunately, there will be a surplus of animals that are not adopted for health or behavior reasons or a simple surplus caused by uncontrolled breeding.

For the animals that must be euthanized, it must be performed by a veterinarian or veterinarian trained individual using injection of sodium pentobarbital. This is the only truly humane method and it is important this procedure be verified and re-verified on a regular basis as being handled correctly.

F. Responsible Pet Owner Education Program to Solve Future Problems.

The remodeled shelter for San Luis Obispo County should continue to expand its education programs to reach out into the community promoting a message of responsible pet ownership along with humane treatment of all animals. One very beneficial education program is obedience classes for pet owners.

The basic underlying message the education program promotes is the importance of all pet owners spaying and neutering all family pets. The other component of the program is to educate in basic, proper and humane animal care, feeding, housing and health care.

V. Summary and Recommendations

The County of San Luis Obispo is faced with the need to expand and remodel its present animal control shelter so as to better serve the needs of the citizen population and their animals. The present shelter, located at 855 Oklahoma Ave. is inadequate in cat holding areas and outdated dog holding areas. The building was constructed in 1972 and had expansions in the 1997 and 2002. Unfortunately, the expansion did not address all of the needs and some original building design decisions were not the best.

The cat quarters are the most in need of improving. Presently there are three windowless rooms for cat cages. These are unappealing to the visiting public and have no provisions for cat community adoption rooms.

An entirely new cat wing could be built on the left side replacing the existing two cat cage rooms. This addition would give the cats two

large community rooms, a kitten community room plus new larger caged cat stray and adoption rooms.



New Cat Community rooms with lots of natural window light will allow cats to be displayed in a home setting.

There is also a real need to improve the dog kennels. The present kennels are noseey, difficult to clean and have no central HVAC system to exchange inside air with fresh outside air .



This is a remodeled "Jumbo Size" dog kennel to house two compatible dogs together. It has heated floors and germicidal floor finishes.

The present kennels do not have all of the latest equipment and finishes available for shelters built today. These new finishes such as sound absorbing waterproof ceilings, better lighting, epoxy bacteria proof floor coverings, new kennel gates, automatic waterers, air purification systems and porcelain "stone look" tile floors in the kennel walkways would be installed during the remodel of the present kennels and the new kennel additions.

We are suggesting that the old kennels be completely updated including new HVAC systems. If the suggested new dog kennel wing is built, it would then allow vacating part of the old kennel area for remodeling without having to reduce animal numbers or disrupt

the ability of the shelter to function. If the new kennel wing is not built, the existing kennel will need to be remodeled one group of runs at a time to avoid greatly reducing holding capacity.

Another area that could benefit from remodeling and expansion would be the public lobby and intake area. The exterior entrance to the kennels with its locked door and need to summon someone to the window to let a visitor in, is a very poor design. We have included this space as having priority in our proposal because it adversely affects the number of visitors and potential adoptions.

The County of San Luis Obispo has a present site that will allow for the planned expanded public reception on the building front and the suggested cat room additions to be located on the left side.

The present site is located near a thoroughfare and passing traffic but cannot be seen from the highway. Visibility to passing traffic is one qualification that has great impact on a shelter's ability to increase visitors and increase adoptions. For that reason we suggest installing large signs at the highway turnoff to help identify the shelter location. Also, improving night lighting for the building, along with lighted front signage will help identify the shelter.

We believe the County of San Luis Obispo should plan for an expanded, remodeled building of approximately 12,019 square feet (phase 1-3) in order to provide expanded and updated cat holding and adoption facilities and remodeled dog kennels. The larger building will allow County of San Luis Obispo to present animals to

the public in the most attractive, healthy and appealing manner to increase adoptions.

Animal shelter remodeling today is quite different from how buildings were completed just ten years ago. Today a remodeled shelter is a specialized structure that includes disease control provisions, special air purification systems, specialized plumbing designs and well-designed, long-lasting kenneling equipment. A well-designed shelter is no longer a bare warehouse structure with chain link cages that may have been considered acceptable in the past.

The expanded building for San Luis Obispo should be built of long-lasting, easy to maintain materials. The design should include the latest in equipment and finishes to allow it to be easily cleaned and disinfected for the health of the animals. There should be sound control and sound deadening materials used to keep the building quiet inside and to keep noise from disturbing surrounding homes.

Based on the remodeling of similar buildings in comparable cost areas around the country, we estimate the recommended expanded and remodeled (phases 1 -3) will cost \$801,818. Once site work, walks, A&E fees, and permits are added, the final construction budget for phases 1 - 3 will be approximately \$962,181.

In the future as funds are available, phases 4 - 7 can be constructed to add new indoor/outdoor dog kennels, new animal intake, new administrative addition and new sally port. The costs for these additions is estimated at \$1,174,175. Site work, walks, A&E fees and permits will bring the total to \$1,409,010. These costs

projections are early estimate and will need to be adjusted as the project scope is fully defined.

The advantage of a remodeling project is that the project scope can be adjusted to meet the available budget. If this budget is too large, we can eliminate or downsize some of the planned spaces to



reduce costs.

New attractive kennels and play yards will present the animals attractively to help assure finding homes for all adoptable animals.

There is a strong feeling among the general public and people who support humanely run animal control shelters that facilities need to be designed to address irresponsible animal ownership problems and irresponsible pet breeding. It is felt these problems should be countered with remedial programs of spay and neuter requirements, education, enforcement of progressive ordinances and well promoted adoption programs, rather than shelters being forced to destroy many of the animals received.

The County of San Luis Obispo already has many of these important programs underway and is to be commended for doing an excellent job. The proposed remodel will allow the shelter to function much more efficiently and do an even better job for the

citizens and animals. The planning and design of the remodeled building will be critical for the shelter to succeed in its future goals.

If the building is attractive and enjoyable for the public to visit, it will encourage visitors and increase adoptions and returns of lost animals. Also, if the building is designed to keep the animals healthy and displayed in an attractive manner, it will mean increased satisfied adoptions and a public that will support and be proud of the County of San Luis Obispo animal control program .

If we can answer any questions in relation to this study, please call directly at 831-722-3253. Once the Study is reviewed and the County staff have decided on the desired budget level and scope of the expanded and remodeled building, we will be able to proceed with the floor plan layout of the building based on the recommendations in this Study.

Respectfully submitted,



Bill Meade

Director of Planning and Design

"Shelter Planners of America"



AGENDA NO: A-14

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor and City Council

DATE: February 21, 2017

FROM: Dana Swanson, City Clerk/Risk Manager

SUBJECT: Receive Draft Personnel Rules & Regulations; Employer-Employee Relations Policy; Policy Prohibiting Harassment, Discrimination and Retaliation; and Drug-Free Workplace Policy for Consideration at the March 14, 2017, City Council Meeting

RECOMMENDATION

Staff has prepared this report and attached documentation as a Consent item to allow the Council adequate time to review the materials in preparation for presentation and adoption at the March 14, 2017, City Council meeting.

On March 14, the Council will be asked to approve the Personnel Rules & Regulations ("Personnel Rules") and other related policies by adopting the following:

1. Resolution rescinding Resolutions No. 46-74, 34-83, 127-89, 46-95, 90-98, 21-04, 58-04 and 26-05 and establishing Personnel Rules & Regulations for full-time City Employees,
2. Resolution rescinding Resolution No. 74-69 and establishing Employer-Employee Relations,
3. Resolution adopting a Policy Prohibiting Harassment, Discrimination, and Retaliation, and
4. Resolution adopting a Drug-Free Workplace Policy

ALTERNATIVES

No alternatives are being recommended at this time.

FISCAL IMPACT

None

BACKGROUND

In 1969, the City adopted Resolution 74-69 establishing Employer-Employee Relations between the City and its employee organizations and a process for resolving disputes regarding wages, hours and other terms and conditions of employment. During staff review of the Personnel Rules, it was determined this policy should be updated to reflect changes in legislation.

A series of resolutions were adopted from 1965 through 1976 establishing Personnel Rules. In 1983, Resolution 34-83 rescinded most of the previous policies and established a new set of Personnel Rules for all full-time employees, except at-will employees, including the City Manager, City Attorney, Department Heads; part-time or temporary employees; volunteers; and consultants. That resolution remains largely in place; however, there are seven other resolutions that are also in effect. Unfortunately, those amendments did not result in a consolidated policy to follow (i.e. the Council Policies & Procedures), but rather, resulted in separate stand-alone documents that must

Prepared By: DS

Dept Review: _____

City Manager Review: DWB

City Attorney Review: JWP

be reconciled and interpreted based on the issue at hand. Here is a list of the current active Personnel Rules and their basic content, which are included as Attachment 4.

1. Resolution No. 46-74 (June 1974) established Grievance Procedures
2. Resolution No. 34-83 (March 1983) revised and established a full set of Personnel Rules, but did not include the Grievance Procedures established by Reso. 46-74
3. Resolution No.127-89 (October 1989) established a Family Sick Leave and Bereavement Policy
4. Resolution No. 46-95 (April 1995) established a Catastrophic Leave Policy
5. Resolution 90-98 (September 1998) amended the Catastrophic Leave Policy
6. Resolution 21-04 (April 2004) adopted Equal Employment Opportunity Policies, including a Harassment Prevention Policy, Family Medical Leave Act (FMLA), Americans with Disabilities Leave Act, Pregnancy and Military Leave
7. Resolution No. 58-04 (August 2004) revised sections related to employment, classification, recruitment, selection and appointment, and employment status
8. Resolution No. 26-05 (June 2005) adopted a Layoff and Seniority Policy

In 2014, staff began working with Liebert, Cassidy & Whitmore, a firm who specializes in public employment law, to perform a comprehensive review and update of the existing Personnel Rules to clarify existing practices and ensure compliance with changes in State and Federal law. The project was set aside for a time in favor of other priorities, but in June 2016, the draft set of Personnel Rules were sent to the represented employee groups and all full-time employees for review and comment. Following that 3-month employee review period, staff received comments and questions from SEIU and the Management group that resulted in some minor changes and points of clarification. The draft set of Personnel Rules; Policy Prohibiting Harassment, Discrimination, and Retaliation; and Drug-Free Workplace were then sent to the City Attorney's office for a final legal review.

On February 1, 2017, the final set of draft Personnel Rules, Policy Prohibiting Harassment and Discrimination, and Drug-Free Workplace Policies were provided to all full-time employees, along with an invitation to meet and discuss any questions or concerns. One employee attended and provided feedback that resulted in additional fine-tuning, but no policy changes.

DISCUSSION

The City's Personnel Rules & Regulations were last revised in June 2005. Human Resources staff, in coordination with Liebert Cassidy Whitmore and the City Attorney's office has reviewed and revised the rules to comply with updates and changes to legislation and to ensure practices are in line with supporting employee morale and a productive work environment. The City's employer-employee relations resolution was also reviewed and updated appropriately. Human Resources staff provided opportunities to meet and confer with all bargaining groups and continues to encourage feedback and discussion of any questions that remain.

In addition to the Personnel Rules, two separate policies are being presented for Council review and approval, a Policy Prohibiting Harassment, Discrimination, and Retaliation and Drug-Free Workplace Policy. While these policies are referred to within the Personnel Rules, it is recommended they remain separate documents as those policies apply to all City employees, including part-time and temporary, as well as appointed and elected officials.

Drug-Free Workplace Policy. A Drug-Free Workplace Policy was implemented administratively in 2012, but not adopted by the City Council. Given recent changes in State law, including the passage of Proposition 64 legalizing recreational use of marijuana, it is recommended the attached

Policy be adopted by Resolution. The proposed Policy also meets Federal regulations governing workplace anti-drug and alcohol programs in the transit industry.

Policy Prohibiting Harassment and Discrimination. The policy contained in the current Personnel Rules is out of date and lacks a clear process for reporting and responding to harassment and discrimination complaints. The proposed stand-alone Policy applies to all full-time employees, part-time and temporary employees, appointed and elected officials, contractors and volunteers. The City offers Harassment and Discrimination Prevention training to all supervisors, as required by State law. The recent adoption of Assembly Bill 1661 extended that training requirement to all local agency officials (elected and appointed).

Workplace Violence Prevention Policy. The City has demonstrated its support for anti-bullying efforts with the adoption of proclamations, but currently lacks a clear policy regarding Workplace Violence. The language proposed in Section 15 (F) of the Personnel Rules establishes a zero-tolerance policy for any acts of intimidation, threats, actual or perceived, or any form of violence against an employee, a member of the public or the property of either, even if it was intended to be harmless, humorous, a prank or venting. Workplace violence can be confused with Harassment and Discrimination so it is necessary to have clear policies addressing both issues.

Catastrophic Leave Policy. The City established a Catastrophic Leave Policy in 1995 and later amended that policy in 1998 to allow employees to support one another in times of extreme stress resulting from the catastrophic illness or injury to the employee or an immediate family member. Employees voluntarily donate vacation or sick leave hours to a leave bank which can be accessed by an eligible employee who has been determined to meet policy requirements. Over the years, the policy has provided continuing income and healthcare coverage to a young mother to care for her husband with a life-threatening illness, allowed employees to provide end-of-life care to parents, and relieved the financial stress for employees facing their own catastrophic illness. The proposed changes to this policy tighten the provisions somewhat by requiring employees to make a donation to the leave bank in order to be eligible, and reduce the maximum allowed from 720 hours per year during any 12-month period to 360 hours during any 24-month period.

Following the adoption of the updated policies, staff recommends annual review and updates when changes in policies are needed to ensure compliance and/or when a business change warrants review.

RECOMMENDATION

Staff welcomes and encourages questions and comments regarding the proposed policies prior to the March 14, 2017, City Council meeting, at which time the Council will be asked to adopt the proposed policies provided herein.

ATTACHMENTS

1. Proposed City of Morro Bay Personnel Rules & Regulations
2. Proposed Resolution Establishing Employer-Employee Relations
3. Proposed Policy Prohibiting Harassment, Discrimination, and Retaliation
4. Proposed Drug-Free Workplace Policy
5. Current Personnel Rules & Regulations

PERSONNEL RULES AND REGULATIONS
CITY OF MORRO BAY

-TABLE OF CONTENTS-

<u>SECTION</u>	<u>PAGE</u>
1. Merit Personnel System	2
2. Administrative Policy	3
3. Definition of Terms.....	4
4. General Provisions	9
5. Classification Plan	11
6. Compensation Plan	13
7. Recruitment, Selection and Appointment.....	19
8. Employment Status	27
9. Formal Performance Evaluations.....	30
10. Leaves	32
11. Attendance and Leaves	42
12. Grievance Procedures	51
13. Transfer, Promotion, Demotion, Suspension, and Reinstatement	53
14. Separation from the Service.....	55
15. Miscellaneous Rules	59
16. Training of Employees.....	65
17. Reports and Records	66
18. Disciplinary and Appeals Procedures	67

SECTION 1
MERIT PERSONNEL SYSTEM

A. Merit Personnel System Established.

1. By adopting this resolution, the City Council hereby establishes a civil service system in accordance with the provisions of the Municipal Code Chapter 2.32.
2. The City Council intends that the personnel system will establish an equitable and uniform procedure for dealing with personnel matters; attract to municipal service the best and most competent persons available; assure that appointments and promotions of employees will be based on merit and fitness; and provide a reasonable degree of security for qualified employees.

SECTION 2 ADMINISTRATIVE POLICY

A. Authority of City Manager

In accordance with Morro Bay Municipal Code Section 2.32, Personnel System, the City Manager shall have general control and supervision over the affairs of the city; the authority to establish, when not in conflict these Rules and Regulations, such other procedures as the city manager deems necessary for the control and supervision of the affairs of the City; and the power to appoint, to make transfers, promotions, demotions, reinstatements, and layoffs, and to discipline City employees for whom the City Manager is the appointing authority. The City Manager may delegate any of these powers and duties to any other employee of the city.

SECTION 3 DEFINITION OF TERMS

- A. Definitions. The following terms whenever used in these rules shall be defined as follows, unless a different meaning is clearly defined in a separate policy or rule:

Acting Appointment: unless otherwise provided in a current Memorandum of Understanding, the temporary appointment of a probationary or regular employee to a higher class or position occupied by a person on temporary leave, vacation, or disability, or until an eligibility list can be created for a vacant position, during which, the appointed employee performs all of the duties of the higher-level classification. A person in an acting appointment shall not acquire regular status in such appointment and, at the end of the acting appointment, will return to the classification from which they are appointed.

Advancement: a salary increase of one or more steps within the limits of the salary range established for a class.

Allocation: the official assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

Anniversary Date: the first day of continuous service used to determine seniority and benefit accrual rate for applicable benefits in accordance with the continuity of service requirements of these Rules.

Applicant: an individual who has completed and submitted a written application for employment with the City, unless otherwise permitted by the Human Resources Director or his/her designated personnel officer.

Appointing Authority: the City Manager, or designee(s), who, in their individual capacities, have the final authority to make the appointment to or from a position in accordance with the Municipal Code Chapter 2.32.

Appointment: the offer to and acceptance by a person of a position in the City service, either on a regular or temporary basis.

At-Will: employees, including but not limited to probationary, temporary, provisional, seasonal, contract, and Department Head employees, who do not hold “regular” status and serve at the pleasure of the City without any right to future employment. An at-will employee may be disciplined, or otherwise terminated, at any time without cause and without the opportunity to an appeal or hearing.

Business Day: any calendar day exclusive of Saturdays, Sundays, and legal holidays as defined by these Rules and Regulations.

Calendar Day: a continuous twenty-four (24) hour period commencing at 12:00 Midnight. Any use of the terms “day” or “days” shall refer to calendar days.

Class (Classification): a position or group of positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title and the equitable application of common standards of selection, transfer, promotion and salary.

Class Specifications (Job Description): a written description of a class, setting forth factors and conditions which are essential characteristics of positions in the class.

Compensation Plan: the assignment by the City Manager of salary ranges to each class, normally established by Resolution.

Compensatory Time: time off work in lieu of monetary payment for overtime work.

Classified Service: all positions of employment in the competitive service of the City except those specifically excluded by Municipal Code or these Rules.

Construction of Genders: for the purposes of these rules and regulations, the masculine form of pronouns shall include the feminine and feminine forms of pronouns shall include the masculine.

Continuous Service: the employment without a break or interruption of service of an employee in a probationary or regular status.

Demotion: the voluntary or involuntary reduction of a regular employee from a position in one class to a position in another class having a lower maximum rate of pay, unless it is part of a general plan to reduce salaries and wages or to eliminate position.

Discharge: the involuntary separation of an employee from City service.

Eligible: a person whose name is on a current employment list.

Employee: an individual in the classified service who is legally employed by the City and is compensated through the City payroll for services rendered, but not including elected officials, members of boards or commissions, or a person under contract as an independent contractor.

Eligibility (Employment) List:

- (a) Open eligibility list: a list of names of persons who have taken an open competitive examination for a class and have qualified.
- (b) Promotional eligibility list: a list of names of persons who have taken a promotional examination for a class and have qualified.
- (c) Re-employment list: a list of names of qualified regular and probationary employees who have been laid off.

Examination: any test or group of tests to determine the fitness and relative ability of persons seeking employment or promotion in the classified service.

- (a) Open-competitive examination: an examination for a particular class which is open to all persons meeting the qualifications for the class.
- (b) Promotional examination: an examination for a particular class, admission to the examination being limited to regular and probationary employees in the classified service who meet the qualifications for the class.
- (c) Continuous examination: an open-competitive examination which is administered periodically and as a result of which names are merged on an eligibility list, in order of final scores, for a period of not more than one year.

Full-Time Position: a position in the classified service of the City normally scheduled for at least 40 hours of work per week.

Human Resources Office: the office charged with monitoring compliance with these rules and regulations. A personnel officer will carry out the day-to-day operations of the human resources office and will be designated by the City Manager.

Immediate Family: spouse, registered domestic partner, children, biological, adopted, foster, stepchild, ward, or child to whom the employee stands in loco parentis, regardless of age or dependency, parents, brothers, sisters, grandparents, grandchildren of the employee; and the corresponding relationships as required by law.

Leave: An approved absence from work as provided for by these rules.

May and Should: the use of “may” and “should” indicates the permissive nature of the applicable provision.

Memorandum of Understanding: a separate agreement between recognized employee representatives and the City concerning hours, working conditions, benefits and rates of pay.

Municipal Code: The Municipal Code of the City of Morro Bay.

Must and Shall: the use of “must” and “shall” indicates the mandatory nature of the applicable provision.

Out-of-Class Assignment: the short-term performance of the full range of duties of a higher regular position in one classification by an individual in a position of lower classification.

Part-Time Employee: an individual in a part-time position that is having fewer work hours than the work week established for a full-time position in the class. A part-time position may be temporary, regular, or provisional.

Personnel Board: the City Council shall act as the personnel board in accordance with the Municipal Code Chapter 2.32 creating a personnel system for the City.

Position: a combination of duties and responsibilities assigned to a single employee and performed on either a full-time or part-time basis.

Probationary Employee: an employee who has been appointed to a position but has not completed the probationary period.

Probationary Period: a specified working test period during which an employee serves at will (see Section 8).

Promotion: the movement of an employee from one class to another class resulting in a salary increase (excluding reclassification) and having a higher maximum rate of pay.

Provisional Appointment: an appointment of a person who possesses the minimum qualifications established for a particular class and who has been temporarily appointed to a position in that class for a specified period in the absence of available eligibles, pending an examination for said position. Provisional appointments may be terminated at any time without notice or right of appeal and the appointee obtains no right or property interest in the position to which he/she is provisionally appointed.

Reclassification: a change in classification of an individual position by raising it to a higher salary range, reducing it to a lower salary range, or allocating it to another classification at the same pay range, on the basis of significant and substantive changes in the type or difficulty of duties and responsibilities in that position.

Reemployment: the appointment, as provided in these Rules, of a former employee who was laid-off.

Regular Employee: an employee who has successfully completed a probationary period and has been retained as hereafter provided in these Rules.

Regular Position: a full-time or part-time position that is individually authorized in the budget and which is expected to exist indefinitely.

Reinstatement: the appointment, as provided in these Rules, of a former employee who resigned in good standing, or an employee who was rejected during a promotional probation unless he is discharged in a manner consistent with the Municipal Code and these Rules.

Rejection: the involuntary separation from the City service of an employee who does not successfully complete the probation period in a position and who did not have regular status in another position in a different class; or, the return of an employee who did not successfully complete the probation period in a position to another position in a different class in which regular status was previously acquired.

Reprimand:

(a) Oral Warning: a verbal statement to an employee pointing out an unsatisfactory element of job performance. An oral warning is intended to be corrective or cautionary only and is not disciplinary in nature.

(b) Written Reprimand: A written notice to an employee with a copy to his/her personnel file informing the employee of an action on his/her part which is the cause for disciplinary action.

Resignation: the voluntary separation of an employee from the City service.

Salary Range: the minimum through maximum salary increments of a salary range.

Salary Rate: dollar amount of each step in a salary range or the flat dollar amount for a class not having a salary range.

Salary Review Date: the date on which a probationary or regular employee is eligible, on the basis of satisfactory job performance for a prescribed period, for a merit salary advance within the salary range established for the class of position occupied.

Salary Step: one or more specific salary rates having a percentage relationship to one another, assigned to a class of positions as the compensation for that class.

Separation: a break in classified service without pay.

Suspension: the temporary separation from the classified service of an employee for disciplinary purposes.

Temporary Position: a full-time or part-time position of fixed duration.

Termination: the separation of an employee from the City service because of retirement, resignation, death or discharge.

Transfer: a change of an employee from one position to another position in the same class or in another class having the same maximum salary rate, involving the performance of basically similar duties and requiring substantially the same minimum qualifications.

Vacancy: an authorized position that is not occupied by an employee.

SECTION 4 GENERAL PROVISIONS

- A. Purpose. These rules establish the personnel system for the City of Morro Bay. These rules shall apply to all employees of the City of Morro Bay except those employees who are specifically excluded herein.
- B. Equal Employment Opportunity Employer. It is the City's policy to ensure equal employment opportunity for all persons seeking employment or promotion to assure equal employment opportunity based upon ability and fitness to all persons regardless of race, religious creed, color, national origin, ancestry, sex, childbirth, breast-feeding, age, physical or mental disability, medical condition, sexual orientation, marital status, gender identity, gender expression, genetic characteristics or information, military or veteran's status, and/or any other category protected by federal and/or state law.

Employees who believe they have experienced any form of employment discrimination are encouraged to report this immediately using the complaint procedure provided in the City's policy prohibiting harassment, discrimination, and retaliation.

- C. Policy Against Harassment, Discrimination, and Retaliation. City policy prohibits unlawful harassment and discrimination based on an employee's race, religious creed, color, national origin, ancestry, sex, childbirth, breast-feeding, age, physical or mental disability, medical condition, sexual orientation, marital status, gender identity, gender expression, genetic characteristics or information, military or veteran status, and/or any other category protected by federal and/or state law. In addition, City policy prohibits retaliation because of the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination or harassment or because of the employee's participation in an employment investigation, proceeding, or hearing. Employees who believe they have been harassed, discriminated against, or retaliated against, should report that conduct to the City, and the City will investigate those complaints. For more information regarding the policy and complaint procedures, employees should review the City's policy against harassment, discrimination, and retaliation.
- D. Conflict with Collective Bargaining Agreements. If a provision of these rules conflicts with any provision of an applicable Memorandum of Understanding ("MOU") entered into by the City and a recognized employee organization, or Resolution of the City Council establishing compensation and benefits for unrepresented employees ("Resolution"), to the extent of such conflict, the provision of the MOU or Resolution shall be deemed controlling. City shall comply the provisions of Government Code §3505 to meet with employee organizations.
- E. Department Rules and Regulations. Subject to the approval of the appointing authority, Department Heads may create rules and regulations more specific to the department's operation. None of the department rules, regulations, or directives shall conflict with or supersede any provisions of a Resolution adopted by the City Council, including but not

limited to the Personnel Rules and Regulations, or current Memorandum of Understanding. In the event of any conflict, the same shall be resolved in favor of these Rules and Regulations and/or bargaining agreement. All departmental rules and regulations established by the Department Head shall respect the meet and confer process and be reviewed by the City Manager.

- F. Conditions of Employment. The tenure of every employee in the City service shall be based upon continued satisfactory work performance, good conduct, continuing mental and physical fitness for their position as determined by the appointing power, existence of the need for the work performed, and the availability of funds. In accepting employment with the City of Morro Bay, each employee agrees to be governed by and to comply with these Rules and Regulations, the Morro Bay Ordinances and Resolutions, administrative rules and procedures established by the City Manager pursuant thereto, and rules, regulations and directives of the department in which the employee is employed. Violation of the provisions of these rules shall be grounds for disciplinary actions, up to and including dismissal.
- G. Legal Residency of Employees and Applicants for Employment. Employment is open to all qualified persons authorized to work in the United States. Authorization will be determined upon an applicant's completion and submission of Department of Homeland Security, U.S. Citizenship and Immigration Services Form I-9. Applicants who fail to complete and submit Form I-9 will not be employed by the City.
- H. Exceptions to the Application of the Rules and Regulations. These rules establish the City's personnel system for the classified service. Except as otherwise provided, these rules shall apply to all City employees and positions except:
1. Elected officers;
 2. The City Manager, City Attorney, and Department Heads;
 3. Persons engaged under contract to supply expert, professional, technical, or other services for a definite period of time;
 4. Persons designated as volunteer, temporary, provisional or seasonal;
 5. Appointed members of boards, commissions, or committees;
 6. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property;
 7. Any position primarily funded under a state or federal employment program;
- I. Non-Contract Provision. THESE RULES DO NOT CREATE ANY CONTRACT OF EMPLOYMENT, EXPRESS OR IMPLIED, OR ANY RIGHTS IN THE NATURE OF A CONTRACT.

SECTION 5 CLASSIFICATION PLAN

- A. Preparation of the Classification Plan. The City Manager, or his/her assignee, shall ascertain and record the duties and responsibilities of all positions in the City service and develop a classification plan for all positions in the City service. The classification plan shall consist of classes of positions defined by class specifications (or job descriptions) and job titles. The classification plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class, and that similar schedules of compensation apply to all positions in the same class.
- B. Class Specifications. A class specification, also referred to as a Job Description, shall be a written record providing the title and definition of a class, a listing of illustrative examples of duties to be performed, and the qualifications necessary for consideration for appointment. Qualifications may be stated as a minimum that is acceptable or desirable, and shall be revised as the need arises. A class specification may include other pertinent information as deemed necessary by the City Manager.

All employees must be able to perform the essential functions of their job position, with or without a reasonable accommodation, in accordance with the requisite class specification and as provided in these rules and any other applicable City policies and procedures.

Where a position requires an employee to drive either a City-owned or privately-owned vehicle on official City business, such employee must possess and maintain a current certificate, license, permit or registration.

- C. Interpretation of Class Specifications. Class specifications shall be descriptive and explanatory, and not restrictive. They shall not be construed as limiting the assignment of duties of any position, nor as limiting or modifying the power of appointing authority to direct and control the work of employees under the appointing authority's supervision. The use of a particular expression or an illustration as to duties should not be interpreted to exclude others not mentioned that are of similar kind or level of responsibility. Consideration should be given to the general duties, specific tasks, responsibilities, qualifications desired and relation to other positions.
- D. Official Use of Class Titles. A position shall be identified by class title in all official personnel, accounting, budget, appropriation and financial records. Working job titles may be used in the course of departmental routine to indicate authority, status in the organization, or administrative rank
- E. Amendment and Revision of Plan. The City Manager has the power and authority to prepare, modify, and amend the classification plan, including but not limited to creating new classes or adjusting, dividing, combining, or abolishing existing classes, when, in the judgment of the City Manager, such modifications or amendments are in the best interest

of the City. The plan, or any subsequent revisions, shall become effective on the date when approved by the City Council.

The Human Resources Department, on its own initiative or upon a request from a Department Head, may initiate and conduct studies of any classified position to determine the position's proper classification, including whether to create a new class. This study may include access to department records, consultation with employees and/or supervisors regarding duties, functions and responsibilities of the position, and the collection of such other information believed necessary for making a decision.

- F. Filling New Positions. When a new position is needed, the Department Head shall notify City Manager, who will, in turn, notify the Human Resources, who will create the position or may amend the classification plan, as necessary.
- G. Reclassification. Human Resources shall recommend to the City Manager reclassification of any position(s) he or she determines to be improperly classified. Upon the approval of the City Manager of such reclassification and availability of funding, Human Resources shall allocate the position to the proper class. Such reclassification shall not be used for purposes of circumventing restrictions concerning demotions and promotions.
- H. Status of Incumbents in Reclassified Positions. Whenever reclassification occurs, an employee occupying the position may be retained in the position after it has been reclassified without further competitive examination when:
 - 1. The reclassification results from an official recognition of a change in duties and responsibilities which has already occurred for a significant period of time; and
 - 2. The changed duties and responsibilities justifying allocation to a different classification have taken place during the employment of the present incumbent in such position and were not the result of planned management action; and
 - 3. The incumbent possesses the knowledge, skills and abilities required of the different class.
- I. Request for Reclassification. When a Department Head believes a position is not properly classified due to a significant change in duties, functions and responsibilities, the Department Head may request that a position classification study be initiated by Human Resources for the position in question.
- J. Request for New Classification. A Department Head, when requesting a new classification to be created, shall provide Human Resources with information pertinent to the class specifications.

SECTION 6 COMPENSATION PLAN

- A. Preparation of Plan. Human Resources shall prepare a salary plan covering all classes in the classified service, as directed by the City Manager. Human Resources or the person or agency employed for that purpose shall thereafter make such further studies of the salary plan as may be requested by the City Manager.
- B. Adoption of Plan. The plan shall be adopted and may be amended from time to time by resolution of the City Council. No position shall be assigned a salary not in conformance with the salary plan unless the salary range for the class is amended in the same manner as provided for its adoption.
- C. Application of Rates. Classified service employees shall be assigned to a pay range and salary steps, or an hourly rate. New employees shall be paid at Step 1 or the minimum rate, if provided, upon original appointment. However, the City Manager may authorize original appointment or reinstatement at another rate, up to and including the 5th step of the salary range.
1. Full-time Regular, Probationary, and Acting Appointment. All pay rates shall be fixed on the basis of full-time positions, unless otherwise designated, and compensated at a monthly rate, paid bi-weekly.
 2. Other Appointments. An employee in any other type of appointment, including but not limited to temporary or seasonal service, may be compensated at any rate established for the class, including an hourly rate, paid bi-weekly. If a monthly rate is established for the position, the hourly rate will be computed by dividing the monthly rate by 173.33.
- D. Continuity of Service Requirements. Continuous service, as required for advancement within salary ranges and for other purposes specified in these rules, is defined as City employment on a probationary, regular, or acting appointment basis without break or interruption.

Authorized leaves of absence without pay of thirty (30) calendar days or less and leaves of absence with pay for any period shall not constitute a break in continuous service and shall not be deducted from total City service. Authorized leaves of absence without pay in excess of thirty (30) calendar days shall not count towards total City service for merit advancement in salary range or for other purposes specified in these rules, and the employee's salary review date shall be set forward a period of time equal to the employee's total absence.

Continuity of service requirements while on probation are provided in Section 8.A.

- E. Salary Review Dates. A salary review date is established as the effective date of employment and sets the date upon which employees shall next be eligible for

consideration of a merit step increase. For employees starting at Step 1, this is six months after date of hire, if performance is meeting expectations. Thereafter, it is every year. However, any approved leaves of absence without pay, exceeding thirty (30) calendar days, will set forward the review date a number of calendar days corresponding with the days of authorized leave in excess of thirty (30) calendar days.

If employee starts employment at a step greater than Step 1, the salary review date is one year after the date of hire.

Salary adjustments, such as merit increases and promotions, shall be made at the start of the next pay period following the employee's salary review date, unless otherwise authorized by the City Manager. Any delayed merit increases will extend the salary review date for the next eligible salary increase correspondingly, unless otherwise stated in MOUs or Agreements.

- F. Merit Salary Increases. Department Heads may recommend a merit salary increase on an employee's salary review date (see E above). Recommendations may only be made for full- and part-time regular or probationary employees, who have demonstrated appropriate standards of work performance. Merit increases may be recommended to the next highest step in the salary range for the classification. Human Resources may approve the recommendation, and processes all approved merit increases. No salary advancement shall be made so as to exceed any maximum rate established in the plan for the class to which the employee's position is allocated. All merit salary increases are to be approved by the City Manager, or his/her designee.

Merit salary increases are not automatic. They are made only after the Department Head recommends, and Human Resources approves, the merit salary increase, based on the increased service value of an employee to the City, as documented in performance evaluations by the Department, or other pertinent evidence.

The Steps 1 – 5 (6 for Police) are further described below:

1. Step 1 is the minimum rate, and is normally the hiring rate of the class, with the employee remaining in this step during the one-year probationary period. In the case where a person of unusual qualifications is engaged, the personnel officer may authorize hiring at an appropriate step within the established salary range.
2. Step 2 is an incentive adjustment, to reward an employee for the quality of his/her work. An employee is eligible for this step after 6 months of service, and has received a "meets" or "exceeds standards" in his/her performance evaluation, or has unusual qualifications or has demonstrated the same to be eligible for this step. An employee, hired into this step, is not eligible for a merit increase until 12 months of service.
3. Step 3 is awarded to an employee, who has proven to be fully qualified, experienced and conscientious. An employee is eligible for this step after one year at the preceding step, and has received a "meets" or "exceeds standards" in his/her

performance evaluation. An employee, hired into this step, is not eligible for a merit increase until 12 months of service.

4. Step 4 is awarded to an employee, whose job performance clearly “meets” or “exceeds standards.” An employee is eligible for this step after one year of service at the preceding step. An employee, hired into this step, is not eligible for a merit increase until 12 months of service.
 5. Step 5 is awarded to an employee, whose job performance clearly “meets” or “exceeds standards” on a sustained basis. An employee is eligible for this step after one year of service at the preceding step.
- Step 6 (Police Safety only) is awarded to an employee, who job performance clearly “exceed standards” on a sustained basis. An employee is eligible for this step after two years of service at the preceding step.

G. Other Salary Provisions. Other salary adjustments will include:

1. Special Salary Adjustments. Notwithstanding anything in these rules to the contrary, to correct gross inequities or to reward outstanding achievement and performance, upon recommendation of the Department Head, the City Manager may adjust the salary rate of an incumbent of a particular position to any step within the salary range for that class.

A step increase may be withheld if the employee is not consistently meeting or exceeding standards for this classification. It may be withdrawn, when an employee’s job performance fails to maintain a “meets” or “exceeds standards” on a sustained basis.

2. Salary on Promotion. An employee who is promoted in accordance with these rules shall be placed at Step 1 of the new salary range or at a step of the new range which is approximately five (5) percent higher than the employee’s previous base salary; but, in no case shall the employee be compensated above the top step of the new salary range. The promotion shall establish a new salary review date for the employee and the employee shall serve a new probation period established for the position. Employees receiving acting pay based on a temporary assignment are not considered to have received a promotion, and this section therefore does not apply.
3. Salary on Demotion. Any employee who volunteers demotion or is involuntarily demoted shall not be required to serve a new probationary period, shall establish a new salary review date, and shall have their salary set at the salary step in the range for the lower class for which they qualify, as recommended by the Department Head and approved by Human Resources.

Upon the demotion of any employee to a class with a lower maximum salary, the employee shall be assigned to a salary step in the lower pay range as follows:

- i. If the demotion is involuntary or disciplinary, the employee may be assigned to any designated step in the pay range for the lower class which is at least one step less than the dollar amount received in the pay range for the class from which demoted.
 - ii. If the demotion is a voluntary demotion, the employee shall be assigned to that salary step in the new pay range so as to receive the same salary he/she was receiving in the old range. If the same salary is not a step in the new range, he/she shall be placed on such step of the new range as to receive the nearest lower salary. The employee's previous personnel action date shall be retained.
- 4. Salary on Transfer. Any employee who is transferred shall continue to receive the same salary rate and their salary review date shall not change.
- 5. Salary on Change in Range Assignment:
 - i. Salary Range Increase. With the approval of City Manager, or his/her designee, whenever a class is reassigned to a higher salary range, the salary of each incumbent on the effective date shall be increased to the corresponding step in the new range and their salary review date shall not change.
 - ii. Salary Range Decrease. Whenever a class is reassigned a lower salary range, the salary of each incumbent on the effective date shall be set at the same salary rate that they were receiving in the former range, providing it does not exceed the maximum salary rate of the new range, and their salary review date shall not change. If the present salary is between steps of the new range, the employee shall be placed on the step of the new range next higher than the present salary.

H. Acting Appointment. The City may temporarily appoint a probationary or regular employee to a higher class or position occupied by a person on temporary leave, vacation, or disability, or until an eligibility list can be created for a vacant position. The acting appointment may be made when the demands of the service are such that it is not practical to leave the position vacant and organizational constraints preclude filling the position in a timely manner. Upon the return of the incumbent or when the position is filled through appointment, the acting appointment shall be immediately terminated and the appointee shall resume the duties, compensation, and privileges of their regular classification.

- 1. Acting appointments may be made by the City Manager, or his/her designee only, provided that:
 - i. The employee is assigned to and actually performs all of the duties of the higher-level classification.

- ii. The employee is required to perform the duties of the higher-level classification for more than thirty (30) consecutive days. At that time, his/her Department Head may, with prior approval of the City Manager, make an acting appointment. The effective date of the acting appointment shall be the first day the employee began to perform the higher-level classification's duties.
 - iii. Acting appointments are of a limited duration and will not exceed six (6) months. One six-month extension of an acting appointment may be made upon the request of the Department Head and the City Manager's approval.
- 2. Salary Increase following Acting Appointment. A one-step increase within the employee's current classification salary range shall be granted in accordance with the provisions of this Section. In the absence of available steps within their current range to be placed, the employee shall be granted a five percent (5%) increase above their current base salary.
- 3. If an employee believes they are performing work which is outside of the work normally assigned to their class, they may submit a request to Human Resources, thru their Department Head, that a reclassification study be performed.
- 4. Upon termination of the acting appointment, the employee shall be returned to the salary of his/her former position as though the special adjustment had not occurred. A person in an acting appointment shall not acquire regular status in such appointment. The merit system status and classification title for employees serving in an acting appointment capacity shall remain unchanged during the appointment.
- I. Out-of-Class Assignment. With City Manager approval, an employee who is temporarily directed by his or her supervisor or Department Head in writing to serve in a regular, higher position will be compensated at a higher rate of pay in accordance with the following:
 - 1. To be eligible for the additional compensation, the employee must assume the full range of duties and responsibilities of the higher-level classification. Once these qualifications are satisfied, no additional requalification will be required.
 - 2. Temporary assignments out-of-class shall be recorded only in full-shift units, unless approved by the City Manager or otherwise stated in an applicable Memorandum of Understanding. For example, out-of-class pay may be considered when an employee is performing the full range of duties for half shifts or more, or work on a specific project, for a period of at least fifteen consecutive days.

3. Time worked in a higher class shall not earn credits toward the completion of probationary requirements in the higher class.
4. An employee who has qualified under these provisions will be compensated at the minimum rate established for the higher class for each completed work shift served in the higher class after thirty (30) shifts, or approved specific project with duration of less than thirty (30) days, has been completed. In the event of overlapping salary ranges, a one-step differential shall be paid out for out-of-class assignments. The higher rate of pay shall be used in computing overtime when authorized overtime is served in a non-exempt, out-of-class work assignment.

SECTION 7
RECRUITMENT, SELECTION AND APPOINTMENT

- A. Recruitment. Applicants for positions with the City shall be recruited to obtain qualified candidates for employment. Recruitment and selection procedures shall be designed to measure the job-related qualifications of applicants.
- B. Job Announcements: The City shall prepare recruiting notices to publicize vacancies and to attract qualified candidates for vacant or anticipated positions. All examinations for positions in the City service should be publicized by such methods as the City Manager deems appropriate. Job announcements should include:
1. Class title and pay for the position;
 2. A statement that the City is an equal opportunity employer;
 3. The nature of the work to be performed, including major job responsibilities;
 4. The minimum and desired qualifications;
 5. Whether the position is at-will or regular;
 6. The time and place of examination, if known;
 7. The method of applying;
 8. The closing date for application, if one is established;
 9. Whether a medical and/or psychological examination, including a drug screen, will be required, post-offer of employment;
 10. Such other information as desirable in the discretion of Human Resources, or designee.
- C. Application Forms: Application for employment shall be made either through the official City website or on an official application form available in the Human Resources Office or City Hall. Every application must be signed by the applicant, who must attest to the accuracy of the information contained in the application. Falsification of information contained in the application, or the failure to submit complete information may be reason for rejection of the application; or, if hired, disciplinary action, including discharge, regardless of when the falsification or omission is discovered. The City may refuse to process an application that is not completed, references a resume in lieu of filling out the application, is illegible or not signed.
- D. References: The City may contact former supervisors, employers, and personal references provided by applicants. All reference information shall be handled on a confidential basis.
- E. Disqualifications: The appointing authority may, at any time, remove from further consideration any applicant if the applicant:
1. Has made false statements of any material fact, or practiced any deception or fraud on the application, declarations or in securing eligibility or appointment;

2. Is found to lack any of the requirements, certifications, or qualifications for the position involved;
 3. Is incapable of performing the essential functions and duties of the job, with or without reasonable accommodation, to which the applicant seeks appointment;
 4. Was under the influence of alcohol or illegal controlled substances on the job or is using a prescription medicine in a manner which is illegal, or otherwise violates the Drug-Free Workplace Policy;
 5. Is a relative of an employee and subject to the Nepotism Policy in these rules;
 6. Used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;
 7. Directly or indirectly obtained information regarding examinations;
 8. Refuses to execute the Oath of Office;
 9. Failed to submit the employment application correctly or within the prescribed time limits, or submitted an incomplete application to the personnel office within the prescribed filing date;
 10. Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related;
 11. For any material cause which in the judgment of the personnel officer or designee would render the applicant unsuitable for the position, which may include dismissal from any position for any cause which would be cause for dismissal by the City, a prior resignation from a position in order to avoid dismissal, termination from the city, or information from reference or background checks of the applicant indicating probable unfitness.
 12. For law enforcement applicants, applicant does not meet recommended or required job dimensions established by the Peace Officer Standards and Training (P.O.S.T.).
- F. Criminal Conduct - Ineligibility for Employment: Conviction, including pleas of guilty and *nolo contendere*, of a felony or of any misdemeanor which evidences moral turpitude or unfitness for employment on the part of the applicant may be grounds for rejecting the applicant or removing the name of an eligible from any employment list.
1. The City will first, determine whether an applicant meets the minimum employment qualifications before asking the applicant to disclose information

concerning his or her conviction history or conducting a conviction history background check. The City shall then conduct an individualized, case-by-case analysis of the facts of each applicant's criminal history before making a decision regarding their employment.

2. This section shall not apply to positions for which the City is required by law to conduct a conviction history background check.

G. Selection Process:

1. Examination Process: The selection techniques used in the examination process shall be impartial and shall relate to those subjects which fairly measure the relative abilities of the individuals examined to execute the duties and responsibilities of the class or position to which they seek to be appointed, or whether they can perform a job function without posing a direct threat to health or safety. Examination techniques may include: written tests, personal interviews, performance tests, physical agility tests, psychological examination, background investigation, evaluation of daily work performance, work samples, medical tests and/or alcohol and drug tests for certain classifications, successful completion of prescribed training, or any combination of these or other tests. No medical, physical, and/or psychological examination will be conducted before making a conditional offer of employment to the applicant. All new and returning employees may be fingerprinted for Department of Justice clearance. The probationary period shall be considered as part of the examination process.

In the event there are a large number of qualified applicants, the personnel officer may rank, for qualifying purposes only, the applications submitted on the basis of the applicants' experience, education, training, and work history as related to the particular position, and may choose a suitable number of applications whom he/she determines would best fill the position. The chosen applicants shall then be given further examination in order to obtain a score and ranking on the eligible list.

2. Scoring and Qualifying Grade: Failure in one part of the examination, or to meet established standards described in the job announcement, may be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of an examination. A candidate's final score in a given examination (if a scoring process is used) should be the average of the scores on each competitive part of the examination on which the applicant qualified, weighted as shown in the examination announcement. The personnel officer may designate any part of the examination as qualifying only, and no numerical weight need be assigned to passing scores on such part.

3. Eligible List: After completion of an open or promotional examination, the personnel officer or designee shall prepare an eligible list consisting of the names of candidates who passed the examination, arrange in order of final score, from the highest to the lowest. Notwithstanding any other provision of these rules, if there are less than three (3) names on an eligible list, the personnel officer or designee may declare such list void and fill the position(s) by any method permitted by the Rules, including, but not limited to recruiting and testing procedures. Eligible lists shall become effective upon the certification by the personnel officer or designee.
 4. Eligible List Duration: Eligible lists should remain in effect twelve months, unless the list is exhausted or extended by the personnel officer or designee provided, however, that eligible lists for classes for which there is continuous recruitment shall remain in effect indefinitely. The personnel officer or designee may declare such list void or extend the list at any time prior to the expiration of the list if he or she determines that it is in the best interest of the City to do so.
 5. Removal of Name: The name of any person appearing on an eligible list shall be removed by the personnel officer or designee if the eligible so requests in writing, or fails to respond to a notification of an opening from the personnel officer or designee. It shall be the responsibility of the eligible to keep the human resources office informed of their current address and telephone number.
 6. Promotional Examinations. Promotional examinations may be conducted whenever, in the opinion of the City Manager, the needs of the City require them. Only qualified applicants who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.
- H. Method of Filling Vacancies. All vacancies in the classified service may be filled by re-employment, reinstatement, transfer, demotion, promotion, lateral entry, appointment of hourly employees, or appointment from established eligible lists, if available. In the absence of persons eligible in such manner, provisional, acting or temporary appointments may be made. The City Manager or designee shall decide in what manner the vacancy is to be filled. The City Manager or designee may appoint any qualified individual.
- I. Appointment: After an interview and background investigation, the Department Head shall make a recommendation to the City Manager for appointment from among those eligible, and, if approved by the City Manager, shall immediately notify the human resources office of the appointment. An individual accepting an appointment shall report to the City on or before the date of appointment. If a candidate accepts an appointment and reports for duty at the time prescribed by the City Manager, the

candidate shall be considered appointed; otherwise, the candidate shall be deemed to have declined the appointment.

J. Types of Appointments. Employment in the City service is divided into the following categories:

1. Acting Appointment
2. At-will or unclassified
3. Emergency Employee: Appointment(s) made by the City Manager as may be needed for the period of an emergency, to meet the requirements of an emergency condition which threatens life, property, or the general welfare of the City without regard to these Rules. Emergency employees are at-will and do not enjoy the same rights as regular employees.
4. Exempt Employee: An employee exempt from the overtime payment requirements of the Federal Fair Labor Standards Act.
5. Probationary: An at-will appointment for a set period of time that may lead to a regular appointment.
6. Provisional Appointment: The appointment of a person who possesses the minimum qualifications established for a particular position in the absence of available certified eligibles. Normally a provisional appointment shall not exceed six (6) months; however, the City Manager may extend the length of a provisional appointment when he/she determines such appointment is in the best interest of the city. A provisional appointment may be terminated at any time, without notice, and without the right of appeal or hearing. A provisional appointee obtains no right or property interest in the position to which the employee is provisionally appointed. Except as expressly authorized in these Rules, provisional appointees are not entitled to the benefits provided for in these Rules unless authorized by the appointing authority.
7. Full-Time Regular Employee: An employee in the classified service who has successfully completed the probationary period, who is assigned to an authorized position and who is regularly scheduled to work the full workweek as established by the appointing authority.
8. Part-Time Regular Employee: An employee in the classified service who has successfully completed the probationary period and who is assigned to an authorized budgeted position requiring a minimum of twenty (20) hours of work per week on a regular basis. Regular part-time employees are entitled to the benefits provided for in these Rules on a pro-rated basis.

9. Reinstatement: The re-employment without examination of a former regular employee within twelve (12) months of the last day of employment to a position in which the employee formerly served. Reinstatement shall be at the discretion of the City Manager. (See Section 8.)
10. Student Interns: Appointments made for the purpose of affording students participating in a career development program an educational opportunity to gain actual work experience. Student appointments may or may not be paid, shall not earn vacation, sick leave, or other benefits unless otherwise required by law.
11. Temporary Employee: An employee hired on a temporary basis. Except as expressly authorized in these Rules, temporary employees are not entitled to the benefits provided for in these Rules. They serve at-will, and may be terminated without cause or right of appeal.
12. Retired Annuitant: A retired annuitant is defined as a CalPERS retiree, whether a former City employee or not, who has returned to work with the City while remaining a retiree. A retired annuitant may serve without reinstatement from retirement or loss or interruptions of benefits provided by CalPERS upon appointment by the appointing power. Retired annuitants must comply with the work restrictions established by law without exception.
13. Volunteer:
 - a. A volunteer is an individual who performs service for the City for civic, charitable, or humanitarian reasons, and without promise, expectation or receipt of remuneration or compensation for services rendered. Volunteers shall meet all of the criteria set forth in the Fair Labor Standards Act, 29 U.S.C. §203(e)(4)(a), and applicable Department of Labor Regulations, 29 C.F.R. §§553.100 et seq.
 - b. Except as provided herein, these Rules do not apply to volunteers.
 - c. Volunteers serve at-will and at the pleasure of the City Manager or individual Department Heads. Volunteers do not acquire any right or interest, including, but not limited to any property right or interest, in their assignment, position or task. Accordingly, volunteers may be terminated from their assignment, position or task with the City at any time, without notice and without cause.
 - d. Nothing contained in these Rules shall be interpreted to change the at-will nature of the relationship between a volunteer and the city.

K. Nepotism.

1. For purposes of this section, a “relative” shall be defined as a son, daughter, brother, sister, parent, grandparent or grandchild, aunt, uncle, niece, nephew, spouse, registered domestic partner, or a person sharing the same household/cohabitating (in a marriage-like relationship). Half-relatives, step-relatives, adopted relatives, domestic partners as defined by State law, and in-laws are included in these restrictions.
2. The City retains the right to refuse to hire or promote a person to a position in any department in which such person’s relative by blood or marriage within the third degree already holds a position, when such employment would result in any of the following:
 - a. A supervisor-subordinate relationship;
 - b. The employee sharing job duties that require performance of shared duties on the same or related work assignment;
 - c. Both employees having the same immediate supervisor.
 - d. A potential for creating an adverse impact on supervision, safety, security, morale or efficiency that is greater for relatives than for unrelated persons.
3. If a City employee marries another person employed by the City within the same department, both employees shall be allowed to retain their respective positions provided a supervisory relationship does not exist between the couple. During the period of employment, no supervisory position shall exist between the two employees. For purpose of this section, a supervisory relationship shall be defined as one in which one person exercises the right to control, direct, evaluate, reward or discipline another person by virtue of the duties and responsibilities assigned to his or her position.
4. The City also retains the right to transfer one or both spouses in the same department, division or facility where such has the potential for creating adverse impact on supervision, safety, security or morale or involves potential conflicts of interest. Where the circumstances mandate that two spouses shall not work together, the human resources office will attempt to transfer one spouse to a similar position in another City department. Although the wishes of the involved parties as to which spouse is to be transferred will be given consideration by the city, the City maintains full discretion to make the determination. If any such transfer results in a reduction in salary or compensation, the same shall not be considered disciplinary in nature and shall not be the subject of any form of administrative appeal.

5. If continuing employment of two spouses cannot be accommodated consistent with the city's interest in promotion of safety, security, morale and efficiency, then the City retains sole discretion to separate one spouse from City employment. Absent resignation by one affected spouse, the less senior of the involved spouses will be subject to separation and the same shall not constitute discipline and shall not be subject to any administrative appeal.
- L. Pertinent Documents or Evidence: Each person appointed to a position in the classified service may be required to provide and/or sign certain documents such as: Oath of Office, birth certificate, fingerprints, automobile operator's license, high school diploma, education transcripts, technical certifications, military discharge papers, and waivers.

SECTION 8 EMPLOYMENT STATUS

- A. Probationary Employment: The probationary period shall be regarded as part of the testing and selection process, and shall be utilized for closely observing the employee's work, for facilitating the effective adjustment of the employee to his/her position, and for rejecting any probationary employee.
1. All original and promotional appointments are tentative and subject to a probationary period. Original appointments are subject to a probationary period of twelve (12) months actual and continuous service. However, all sworn personnel in the Fire Fighter classifications shall serve an eighteen (18) month probationary period of actual and continuous service. The end of the probationary period shall coincide with the end of the payroll period after the employee's probationary twelve or eighteen-month probationary period.
 2. The probationary period shall not include the time served under any interim, extra help, emergency, out-of-class, or acting appointment, and shall begin on the effective date of appointment to a regular position.
 3. The probationary period is automatically extended by the length of any authorized unpaid leave(s) of absence of thirty (30) working days or more (consecutive or not).
 4. Probationary employees will be evaluated at least twice during their probation period. Sworn police and fire employees will be evaluated at least three times during their probation period.
- Nothing contained herein shall preclude additional evaluations during the probationary period as deemed appropriate by the appointing authority.
5. A probationary period may be extended for a six-month period, at the discretion of the City Manager.
- B. Promotion: Vacancies may be filled by promotion from within City service with or without a promotional examination. A vacancy may be filled by an open competitive examination instead of a promotional examination if so determined by the City Manager.
- C. Probation After Promotion: On accepting a promotion, an employee serves a new probationary period of six (6) months of actual and continuous service, subject to the rules described herein. On accepting a promotion, safety employees serve a new probationary period of twelve (12) months of actual and continuous service, subject to the rules described herein.

An employee does not acquire regular status in the promotional position until the

successful completion of this probationary period and may be rejected without right of appeal or hearing. If the employee is rejected during the promotional probation period, the employee shall be reinstated to the position held prior to promotion at the range and step held prior to promotion if there is a vacancy in the prior position, unless he or she is discharged from City service in addition to the rejection. If there is no vacancy, the employee may be assigned to a vacant position for which the employee is qualified and which is nearest the employee's prior pay range.

- D. Re-Employment: The names of regular employees who have been laid off or who have exhausted all leave time and are medically unable to return to work shall be placed on a re-employment list in the order of their seniority in the classification from highest to lowest. Such names shall remain thereon for a period of one (1) year unless such persons are sooner re-employed. As a vacancy within the classification becomes available, the name appearing at the top of the list shall be selected to fill the vacancy. An employee who is selected from the list to fill the vacancy, who refuses the assignment, shall be removed from the list without right of appeal.

Employees who are demoted as a result of a layoff shall have their names placed on a classification re-employment list, in order of their classification seniority. Vacant positions within a classification series shall be first offered to employees on this list.

Employees who are reemployed within six-months in a classification other than the classification held prior to layoff shall be subject to a new probationary period. All reemployed employees shall retain their previous action date, which may be adjusted to account for time of separation, and are entitled to any benefits accrued during prior employment with the City, provided they were not previously compensated for the earlier accrued benefits.

No laid off employee has a right to reemployment. Reemployment shall be determined in accordance with the needs of the City.

- E. Reinstatement: Separated employees, not laid off and not currently on a reemployment list may, with the approval of the City Manager, be reinstated within six (6) months of the effective date of resignation to a vacant position in the same or comparable class, provided they meet the minimum qualifications for the classification. Regular employees who successfully completed the relative probationary service for their classification and who separate with a satisfactory employment record are eligible for reinstatement.

Reinstated employees shall complete any probationary period associated with the new position. An employee reinstating within 6 months of the last day of employment may begin accruing vacation at the rate that he/she was accumulating prior to separation. The time in that rate for purposes of calculating an increase in vacation accrual rate will begin on the date of rehire. No other credit for former employment shall be granted in computing salary, sick leave, or other benefits.

No separated employee has a right to reinstatement. Reinstatement shall be determined in accordance with the needs of the City, and at the sole discretion of the City Manager.

- F. Rejection During Initial Probation: During the probationary period, an employee may be rejected at any time without cause and without the right of appeal.
- G. Relief of Duty: Relief of duty is the temporary assignment of an employee to a status of leave with pay. Relief of Duty may be used while investigating alleged misconduct by an employee.
- H. Demotion: Upon request of the employee, and with approval of the City Manager, an employee who has not held status in a lower classification may be allowed to voluntarily demote to a vacant authorized position in the same department if he/she meets all the requirements of the lower position as determined by the appointing authority. All employees who are demoted under this paragraph will be paid at the rate of pay consistent with the City's Compensation Plan, unless it is part of a general plan to reduce salaries and wages or to eliminate positions.
- I. Transfer: No person shall be transferred to a position for which that person does not possess the minimum qualifications unless waived by the City Manager. The City Manager may transfer an employee at any time from one position to another. If a transfer involves a change from one department to another, both Department Heads must consent thereto unless the City Manager orders the transfer. In the case of the transfer of an employee from one position to another in the same class, or to another class to which the same salary range is applicable, the employee shall remain at the same salary step and retain the employee's original anniversary date. Transfers are not to be considered disciplinary actions. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in these Rules.
- J. Voluntary Transfer: A regular employee may request a transfer to a vacant position in the same or lower classification for which the employee is qualified. With the approval of the Department Head for whom the employee currently works, the Department Head for whom the employee wishes to work, and the appointing authority, the employee will be transferred to the new position. If the transfer is to a position in a class with a lower salary range, the employee shall be placed in the highest step in the lower salary range, which does not represent a salary increase.
- K. Lay-Offs and Seniority: The Lay-Off and Seniority Policy is set forth in Section 14 (B).

SECTION 9 FORMAL PERFORMANCE EVALUATIONS

- A. Evaluation Procedure. Managers and supervisors observe employees' performance and conduct every day, and should use their observations during the formal performance evaluation. In accordance with procedures and on forms provided by Human Resources for that purpose, supervisors shall evaluate, record, and report the performance of their employees such that:
1. Probationary employees shall be evaluated throughout the period of probation as provided in Section 8 above;
 2. Regular employees shall be formally evaluated at least annually by the individual's salary review date, and a report filed with Human Resources to record such evaluation; and
 3. As deemed desirable or necessary by the appointing authority, additional written evaluations of performance may be conducted at any time during the period of employment.

It is crucial to the organization that supervisors prepare and provide to employees, truthful and regular performance evaluations that document strengths, weaknesses, areas needing improvement and unacceptable performance. Factual evaluations are especially important when unacceptable behaviors persist, and disciplinary measures are needed.

- B. Rating Discussed with Employee. Each evaluation shall be discussed with the employee who has been evaluated. The employee shall be given a copy of the performance evaluation report following the discussion and shall be required to sign the report, but only as an indication that the report was discussed with him/her.

Performance evaluations are not appealable. Employees may file a written response to the performance evaluation, which will be placed in his/her personnel file along with the written performance evaluation.

- C. Unsatisfactory Performance. If an employee is rated overall as below competent, the appointing authority may recommend that the employee's next scheduled merit increase be withheld (see Section 6 for merit increase information).

Employees who receive unsatisfactory reviews shall take appropriate and immediate steps to improve or correct the performance or conduct which has been rated as unsatisfactory. Failure by the employee to demonstrate satisfactory effort toward improvement, if substantiated, shall be considered as cause for appropriate disciplinary action, such as but not limited to a reduction of step(s) in the employee's salary range or dismissal.

- D. Postponement of Performance Evaluation. If an employee's anniversary date falls within the time the employee, or supervisor, is on leave, the annual performance evaluation may be postponed until the employee or supervisor returns from leave. The performance evaluation may also be postponed to meet the organizational or operational needs of the City, as determined by the City Manager.

SECTION 10 LEAVES

A. Vacation Leave.

1. The purpose of vacation leave is to enable eligible employees, annually, to use this paid time off to rest and return to work, mentally refreshed. With this in mind, employees are encouraged to take vacation leave.
2. Unless otherwise stated by an applicable and current Memorandum of Understanding, Contract, Resolution or Agreement, the following provisions shall apply.
3. Each probationary and regular full-time employee in the Classified Service shall earn vacation benefits in accordance with his/her length of continuous service and in accordance with any applicable Memorandum of Understanding, Contract, Resolution or Agreement.

Probationary and regular part-time employees in the Classified Service, scheduled to work at least 1040 hours a year, shall accrue vacation in an amount proportionate to the ratio of scheduled hours of work per week to the standard work week.

Dates of vacation may be requested by the employee, but are subject to the approval of the Department Head or his/her designee.

4. Vacation Accrual Rates.

Unless otherwise provided in a current Memorandum of Understandings, Contracts, Resolutions or Agreements, the following is the list of vacation accrual entitlement for each eligible employee by years of employment, to be earned on a prorated bi-weekly basis:

<u>Service Years</u>	<u>Entitlement in Days</u>
1 thru 2	10
3 thru 4	11
5 thru 6	12
7 thru 8	13
9 thru 10	14
11 thru 12	15
13 thru 14	16
15 thru 16	17
17 thru 18	18
19 thru 20	19
21 or more	20

5. For purposes of computing service years, continuous service from the employee's anniversary date as defined in Section 3 shall be the qualifying factor. Authorized leaves of absence without pay in excess of thirty (30) calendar days shall be deducted in computing an employee's total City service years.
6. Holidays Falling During Vacation. In the event one or more municipal holidays fall within an employee's annual vacation leave, such holidays shall not be charged as vacation leave.
7. Payment For Vacation Upon Termination. Vacation leave may not be used at the time of termination of employment. All accrued, but unused, vacation leave credits shall be paid off at the employee's current base hourly rate.

If the employee is retiring, the City Manager may approve use of vacation leave, upon the request of the retiring employee and recommendation of the retiring employee's Department Director.

B. Sick Leave.

1. Sick leave with pay shall be granted to all regular and probationary employees within the classified service. Employees may use sick leave for diagnosis, care or treatment of an existing health condition or preventive care for an employee or the employee's family member. Employees who are victims of domestic violence, sexual assault or stalking may use sick leave to implement safety measures, seek medical treatment and counseling, seek restraining orders and appear in court.
2. For regular employees, sick leave shall be earned at the rate of one (1) eighth (8) hour work day for each calendar month of service, prorated on a bi-weekly basis. For eligible employees, scheduled to work at least 1040 hours a year, but less than 2080 hours a year, sick leave entitlement shall be a percentage of the sick leave days normally earned for the same number of service months identical to the percentage of work hours scheduled as to a 2080 hour scheduled work year (for example, a ½ time benefitted employee will earn 4 hours per calendar month).

For purposes of computing sick leave, a work day shall be considered as one-fifth of the number of working or duty hours in the established work-week for each employee, unless otherwise provided in current Memorandums of Understanding, Contracts, Resolutions or Agreements.

3. Any employee requesting sick leave shall notify his/her immediate supervisor or Department Head no later than one hour before their work shift begins or immediately when taken ill during work hours.
4. Prior to an employee's return to work following an illness or injury, the City may request a physician's statement confirming that the employee was out for sick

leave as defined in this policy, confirming the employee's ability to return to normal duties, with or without limitations.

5. Leave Chargeable to Sick Leave. An employee with accumulated sick leave may be granted sick leave for the following reasons:
 - i. Illness or physical incapacity of the employee;
 - ii. Medical and dental office appointment which cannot be scheduled at other than work hours.
 - iii. An employee may use up to one half of their yearly accrued sick leave to attend to any of the above mentioned medical needs of the following persons:
 - a. The employee's child (e.g., biological, foster, or adopted child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis).
 - b. The employee's parent (e.g., biological, foster, or adoptive parent, a stepparent, or a legal guardian).
 - c. The employee's spouse or domestic partner.
 6. Sick leave may not be used at the time of termination of employment, and all accrued, but unused sick leave credits, shall not be paid off, unless otherwise provided in current Memoranda of Understanding, Agreements, Resolutions or Contracts.
 7. An employee, absent on approved vacation or compensatory time-off, may request a change to paid sick leave, and may be required, upon return to work, to provide a physician's statement, verifying the illness, injury, or disability of the employee or the employee's family member, as listed in iii above. Sick leave absence shall begin at the time the employee notified his/her Department Head or the duration of time indicated on the physician's statement.
- C. Bereavement Leave. Employees are permitted to utilize three (3) days of paid bereavement leave per occurrence in case of the death of members of the employee's immediate family (as defined in Section 3.A.). Any necessary extra time shall be taken from the employee's accrued sick leave. In cases where sick leave is exhausted, vacation time shall be charged. Paid leave beyond the initial three (3) days is subject to department head approval.

D. Catastrophic Leave Bank Policy.

1. Purpose.

The purpose of the Catastrophic Leave Policy is to establish a Catastrophic Leave Bank (“Bank”) into which employees may voluntarily donate sick or vacation leave hours. This Bank will be used to assist employees, who have exhausted all leave credits and require further time off for an extended serious or catastrophic illness or injury to the employee or his/her immediate family as defined herein.

The Bank is to be awarded on a case-by-case basis. Therefore, all employees should attempt to accumulate and maintain as high a sick leave balance as possible.

2. Definitions.

- i. **Catastrophic Illness or Injury:** An illness or injury which incapacitates an eligible employee, as defined within this policy. Catastrophic Illness or Injury is further defined as a debilitating illness or injury of an immediate family member that requires an eligible employee to take time off from work to care for the family member.
- ii. **Immediate Family:** For the purposes of the Bank only, immediate family includes spouse, registered domestic partner, son, daughter, or other individuals whom the employee has legal guardianship over, or employee's mother or father.
- iii. **Donor Employee:** Regular employees may voluntarily transfer up to 120 hours in excess of 40 hours sick leave and 40 hours vacation accrual per calendar year. Part-time employees in a regular position must maintain their prorated equivalent balance. (Example: Half-time employee - 20 hours)
- iv. **Eligible Employee:** To be eligible, an employee must meet all of the following criteria:
 - a. Be employed in a regular position by the City for a minimum of twelve (12) months;
 - b. Have exhausted all paid leave balances and are suffering from a long-term illness or injury that will result in the loss of work for a period of at least twenty (20) working days;
 - c. Have previously donated vacation or sick hours to the City’s Bank at least once during their employment;
 - d. Employees receiving workers’ compensation or disability insurance will only receive enough sick leave hours to bring their

total compensation up to base pay. Insurance will be maintained as long as employee is using sick leave bank hours; and

- e. The employee must be using catastrophic leave due to a verifiable, catastrophic injury or illness or to care for an immediate family member suffering from a verifiable, catastrophic injury or illness. The City reserves the right to request verification from a medical doctor that the employee or family member has a catastrophic illness prior to making an eligibility determination.
- v. Donated Time: For the purposes of this program, sick leave and vacation may be transferred from a donating employee to the Bank. Transfers of remaining balances of vacation or sick leave will be allowed upon employees' termination, separation or retirement up to 75% of available accrued balance.
- vi. An employee may donate a maximum of 120 hours of sick leave in any calendar year. Only sick leave and/or vacation time may be donated.
- vii. All employees must maintain a minimum of 40 hours' sick accrual and 40 hours' vacation accrual at the time donation is made (i.e. full time employees – 40 hours; half time employees - 20 hours).
- viii. Donations shall be in hourly increments and shall be on an hour for hour basis without regard to an employee's cash value equivalent of the amount of time donated or used.
- ix. The transfer of leave hours is irreversible, and donations shall be processed in the same manner as any other leave request.
- x. Donations are to the Bank, not individual employees.
- xi. Records of sick leave donations/balances will be the responsibility of the Human Resources Office.

3. Procedure to Access the Bank.

- i. An eligible employee, who voluntarily chooses to participate, shall submit a "Catastrophic Leave/ Donation Application" to the employee's Department Head for recommendation to and approval by Human Resources.
- ii. Along with the application, the employee must submit a written medical verification of his/her condition, or the medical condition of his/her immediate family member. This information will be maintained in a confidential file in Human Resources separate from the personnel file.

When the medical emergency involves an immediate family member, the employee must supply written documentation from the family member's medical physician that the medical condition of the family member necessitates the employee's personal attendance during the employee's normally scheduled work hours.

- iii. All information regarding the leave application will be kept confidential, and the employee will be notified by Human Resources when a determination has been made regarding the application.
- iv. Any application, which is denied, may be appealed to the City Manager. The City Manager's decision shall be final and not grounds for grievance or appeal.
- v. The maximum number of hours a regular employee may access from the Bank during any 24-month period shall be the lesser of 360 hours or the amount of leave hours available in the Bank. Part-time employees, in a regular position, may apply for a prorated equivalent of 360 hours, based on the number of hours per month employee works.
- vi. If the application is approved, hours from the Bank will be transferred to the sick leave account of the absent employee as the hours are used. Subsequent eligibility by additional employees for use of the Bank shall result in the concurrent use of available hours in the Bank.
- vii. There will be no coercion of employees to donate; this is voluntary program. Applying to receive and receiving a donation from the bank is also entirely voluntary. All donations will be confidential.
- viii. In the event an employee using approved catastrophic leave for the care of an immediate family member, and said family member dies, employee may receive up to three (3) working days off, per the City's Bereavement Policy.

E. Industrial Disability Leave (Workers' Compensation Leave): Employees who suffer a work-related injury or illness are eligible for Workers' Compensation in accordance with California law and these Rules. Additional information is available from the City's Risk Manager or his/her Workers' Compensation designee.

- 1. The procedure outlined below should be followed for reporting work-related employee injuries/illness:
 - i. In the event a work-related illness or injury occurs, the Department Director shall provide the necessary claim forms to the employee within 24 hours and insure the employee receives immediate medical attention, if other than first aid is necessary, at a City-authorized medical facility. The

Department Director shall insure the necessary forms are completed and submitted to the Risk Manager or Workers' Compensation designee by the next business day for processing and investigation.

- ii. In the event a work-related illness or injury occurs and it is determined no medical treatment is necessary, the employee and supervisor must complete an Employee Incident Only form and submit that form to the City's Workers' Compensation designee.

2. Public Safety Employees

- i. Public safety employees who receive compensation under Section 4850 of the Labor Code are eligible for City insurance benefits and leave accruals and shall not utilize sick leave until such time as they are no longer eligible to receive said compensation.
- ii. Should the employee's absence due to work related injury or illness extend beyond the time frame allowed under Section 4850 of the Labor Code, any temporary disability benefits received under Workers' Compensation shall be considered part of the employee's salary. During the time the employee receives Workers' Compensation temporary disability benefits, the employee may use sick leave, vacation or other compensatory time off to supplement compensation received under the Workers' Compensation Act in an amount not to exceed the employee's regular rate of pay.
- iii. Should the employee's accumulated sick leave, vacation, or other compensatory time off be exhausted, the temporary disability payments provided under the Workers' Compensation benefits shall continue, and the employee shall be subject to a leave of absence without pay.

3. Miscellaneous Employees

- i. Any compensation received under Workers' Compensation shall be considered part of the employee's salary. During the time the employee receives Workers' Compensation benefits, the employee may use sick leave, vacation or other compensatory time off to supplement compensation received under the Workers' Compensation Act in an amount not to exceed the employee's regular rate of pay.
- ii. Should the employee's accumulated sick leave, vacation, or other compensatory time off be exhausted, the temporary disability payments provided under the Workers' Compensation benefits shall continue, and the employee shall be subject to a leave of absence without pay.

4. The City does not compensate an employee for time to attend routine medical appointments relative to their workers' compensation claims. In the event the employee returns to work but requires follow up physician visits and/or rehabilitative treatments, the employee should schedule such appointments during off duty hours. Employees shall use sick time or another form of leave if their appointment conflicts with their work schedule.
5. The Risk Manager or designated representative shall continually monitor all active Workers' Compensation claims as necessary.

E. Transitional Return to Work (TRTW) Program

The purpose of the Transitional Return to Work (TRTW) Program is to return injured employees, who are **temporarily** precluded from performing their normal duties, to work in a TRTW assignment.

The purpose of this policy is to establish procedures for assigning employees to temporary modified duty. Temporary modified-duty assignments may be available to employees who have incurred a job-related illness or injury and, due to restrictions or limitations, are unable to perform their regular assigned duties. Non-job related illnesses or injuries may also be considered for eligibility in accordance with this policy.

1. Responsibility

Human Resources will act as the TRTW Coordinator and function as the liaison with the workers' compensation claims administrator for work related injuries. This policy must comply with all current workers' compensation rules and regulations.

2. Procedures

i. Identifying TRTW Assignments:

- a. Periodically, as needed, the TRTW Coordinator will request that all departments/divisions complete the "TRTW Assignment" form. This form assists the TRTW Coordinator in identifying possible TRTW assignments.
- b. An injured employee may be assigned to a modified duty position outside of his/her normal assignment, if one becomes available. If the injury or illness is non-duty related, the employee shall be given the option to either accept the position, or continue to draw on applicable sick leave or other leave accounts.

ii. Employee placed on TRTW by a treating physician:

- a. All work restrictions the employee has will be listed on the "Authorization for Medical Examination" or the treating physician's/facility's work status report (which authorization or report shall solely confirm functional limitation work restrictions).

- b. If the employee's department/division is able to accommodate the restrictions, the employee's supervisor will notify the TRTW Coordinator, and the coordinator will send a TRTW agreement letter to the employee. It is the City's intent to keep employees in their division/department if possible.
- c. If the employee's division/department is unable to accommodate the restrictions, the division will notify the TRTW Coordinator immediately.
- d. The TRTW Coordinator will then:
 - 1. Contact departments/divisions for possible TRTW assignments, based upon employee's restrictions.
 - 2. If an assignment in another department is located, the TRTW Coordinator will meet with the employee to advise him/her of the available work assignment(s). Should the employee accept the assignment, the TRTW Coordinator will provide the employee with a TRTW agreement letter. Should the employee refuse the assignment, he/she will need to be aware that his/her non-medical, worker's compensation benefits may end.
- e. The employee's assigned supervisor will ensure that the employee is complying with, and working within, the work restrictions imposed by the treating physician.
- f. Every 30 days, the TRTW Coordinator will review the employee's progress, which may require a duty status report from the treating physician/facility to extend the modified duty assignment.
- g. If the employee feels his/her injury precludes him/her from completing a TRTW assignment, then it is the employee's duty to notify the TRTW Coordinator of his/her problem, whereby the employee and the TRTW Coordinator can make plans for the subsequent course of action.

iii. Unavailable transitional assignments:

- a. If no transitional assignment is available, the employee will remain off- duty.
- b. Employees off duty are to contact the TRTW Coordinator on a weekly basis to assess the availability of TRTW assignments.
- c. Failure to contact the TRTW coordinator may result in disciplinary action.

iv. Intermittent Assignment:

- a. If an employee completes a temporary assignment, and there is no additional transitional work available, the employee will be placed in off-duty status, and Section iii above applies.
- b. If the injury is industrial, the TRTW coordinator must **immediately**

notify the workers' compensation claims administrator that the employee is not working.

v. Time Card Procedures:

- a. The time record code "TRTW" shall be used to track employees on transitional return to work assignments.
- b. The employee's regular account number is used.

SECTION 11
ATTENDANCE AND LEAVES

A. Family Care and Leave Policy (FMLA/CFRA):

1. Statement of Policy: To the extent not already provided for under current leave policies and provisions, the City will provide family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations, which are not specifically set forth below, are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 (“FMLA”), and the regulations of the California Family Rights Act (“CFRA”). Unless otherwise provided by this article, “Leave” under this article shall mean leave pursuant to the FMLA and CFRA.
2. Definitions:
 - i. “12-Month Period” means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
 - ii. “Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves:
 - a. Any period of incapacity or treatment in connection with or subsequent to inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility;
 - b. Continuing treatment by a health care provider due to a serious health condition for a period of more than three (3) days requiring absence from work, school or other regular daily activities, and any subsequent or continuing treatment by a health care provider, or period of incapacity relating to the same condition that also involves:
 1. Treatment two or more times by a health care provider within 30 days of the first day of incapacity, or
 2. Continuing treatment under the supervision of the health care provider (e.g., prescription medication or therapy requiring special equipment to resolve or alleviate the health condition);
 - c. Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave only. Under

California law, an employee disabled by pregnancy is entitled to pregnancy disability leave); or

- d. Continuing treatment by, or under the supervision of, a health care provider for a chronic or long-term serious health condition that continues over an extended period of time, causes episodic periods of incapacity (e.g., asthma, diabetes, epilepsy, etc.), or is incurable or so serious that the condition would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

3. Reasons for Leave. Employees may take a total of twelve workweeks of unpaid leave during any 12-month period for any one or more of the following reasons:

- i. The birth of a child or to care for a newborn of an employee;
- ii. The placement of a child with an employee in connection with the adoption or foster care of a child;
- iii. Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition;
- iv. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;
- v. For a “qualifying exigency” arising out of the fact that an employee’s spouse, son, daughter, or parents is on covered active duty or called to active duty status (under the FMLA only, not the CFRA); or
- vi. To care for a spouse, son, daughter, parent, or next of kin who is a covered service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on activity duty in the Armed Forces (this leave can run up to 26 weeks of unpaid leave during a single 12-month period) (under the FMLA only, not the CFRA).

4. Employees Eligible for Leave. An employee is eligible for leave if the employee:

- i. Has been employed for at least 12 months; and

- ii. Has worked at least 1,250 hours for the City during the 12-month period immediately preceding the commencement of the leave.
5. Amount of Leave. Eligible employees are entitled to a total of 12 workweeks of leave during any 12-month period:
- i. Minimum duration of leave: Leave taken for the birth, adoption or foster care placement of a child of the employee must be taken for no less than two-weeks and must be concluded within one year of the birth or placement of the child. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than the minimum two weeks on any two occasions.

If leave is requested to care for a child, parent, spouse, spouse or domestic partner's child, or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

6. Employee Benefit While on Leave. Leave under this policy is unpaid. While on leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job. However, an employee will not accrue other benefits, including, but not limited to vacation or sick leave earnings, or continued coverage/contributions for employee elective benefit deductions (i.e., Colonial, deferred compensation, credit union). The employee is not entitled to greater rights than he or she would have if they remained in the workplace.

Employees on unpaid leave during this time shall make the appropriate contributions for continued health benefits/health insurance coverage or their coverage may be cancelled. If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City has the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition as specified in this rule, or because of circumstances beyond the employee's control.

7. Substitution of Paid Accrued Leaves. While on a leave under this policy, the City will require an employee to concurrently use any accrued paid leaves.
- i. City's Right to Require an Employee to Use Paid Leave When Using FMLA/CFRA Leave. Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave, but shall not be required to use accrued compensatory time earned in lieu of overtime earned.

- ii. City's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently With Other Leaves. If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the non-FMLA/CFRA leave shall run concurrently with the employee's 12-week FMLA/CFRA leave entitlement. The only exception is for peace officers that are on leave pursuant to Labor Code §4850.

- 8. Notice. Except for qualifying exigency leave, an employee is required to give 30 days' notice in the event of a foreseeable leave. In unexpected or unforeseeable situations, an employee should provide as much notice as is practicable.

If an employee fails to give 30 days' notice for a foreseeable leave with no reasonable excuse for the delay, the leave may be delayed until the City, in its discretion, can adequately cover the position with a substitute.

- 9. Medical Certification. Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider. If applicable, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position.

- i. Time to Provide a Certification. When an employee's leave is foreseeable and at least thirty (30) days' notice has been provided, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the City within fifteen (15) calendar days after the employer's request, unless it is not practicable to do so. Failure to provide a completed medical certification on time may impact the employee's ability to take the leave as requested.

- ii. Recertification. Where the employee's certification is incomplete, appears to be from physician lacking appropriate expertise, or appears fraudulent, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee but paid for by the City. The opinion of the third provider will be binding.

- 10. Reinstatement Upon Return from Leave. An employee will be reinstated to the position of employment held when the leave commenced, or to an equivalent position if the former position is no longer available. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the

FMLA/CFRA period.

- i. Employee's Obligation to Periodically Report on His/Her Condition. Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.
 - ii. Release for Duty Certification. An employee returning from leave taken due to the employee's own serious health condition, which made the employee unable to perform his/her job, must provide a release-for-duty certification from his/her health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.
 - iii. Reinstatement of "Key Employees". The City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.
11. Required Forms. Employees may contact the Human Resources Department for applicable forms in connection with the leave under this policy.

B. Pregnancy Disability Leave (PDL).

1. Any employee with appropriate doctor certification may request an unpaid leave of absence for up to four months, due to conditions related to pregnancy, childbirth, or related medical conditions. Part-time employees are entitled to leave on a pro rata basis. PDL is an unpaid leave of absence. An Employee will be required to use any accrued sick leave first while out on leave, and then will be allowed to use accrued vacation or compensatory time available thereafter.
2. Employees are required to give at least thirty days' notice of intent to take leave in the event it is foreseeable. If the need for leave is not foreseeable, employees must provide notification as soon as is reasonable or practicable. Employees must consult with the Human Resources Department regarding the scheduling of any planned medical treatment or supervision in order to minimize disruption to the operations of the City. Any such scheduling is subject to the approval of the employee's health care provide.
3. Upon the request of an employee and recommendation of the employee's physician, the employee's work assignment may be changed if necessary to protect the health and safety of the employee and her child, but the transferred

employee will receive the pay that accompanies the job. The City will provide such accommodations unless the requested accommodations would constitute an undue hardship, upon which the employee may be placed on an unpaid leave of absence.

4. Under most circumstances, upon expiration of the approved leave and the City's receipt of a written statement from the health care provider that the employee is fit to return to duty, the employee shall be reinstated to her former position or to a comparable one, so long as it was not eliminated for a legitimate business reason during the leave. The comparable position is one having similar terms of pay, location, job content and promotional opportunities.
5. Failure to return to work after the authorized four month leave period may cause the employee to have no reinstatement rights. An employee who plans to take such a leave should give reasonable notice of the date the leave shall commence and the estimated duration of the leave.

- C. Military Leave. Military leave shall be granted by the employee's Department Head in accordance with the provisions of state and federal law. An employee requesting leave for this purpose shall provide the Department Head, whenever possible, with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the Department Head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

Probationary and regular employees in the military reserves who are called to active duty, excluding weekend and other routine drill periods, shall receive the difference in pay between their military pay and their regular work pay. Such pay differential shall continue for a period of one-year from the date of the call to active duty. In addition, such employees shall have their health insurance benefits for themselves and their covered dependents continued by the City until the employee and the employee's covered dependents are first eligible and secure similar military health benefits.

- D. Jury Leave. Every employee in the classified service required to report for jury duty shall be granted leave from their duties with the City during the period of such service upon presentation of the notice to appear for jury duty to the Department Head.

Reasonable advance notice to the Department Head is required. If reasonable notice is given, the employee shall be paid the difference between regular full salary and any payment received, except travel pay, for such duty. An employee who serves on jury duty during a regular day-off may receive all jury duty fees paid for that day.

- E. Subpoena. The employee shall receive full pay for subpoenaed court appearances connected with the employee's official duties provided the employee remits to the

City all fees received for such appearances. Compensation for expenditures for mileage or subsistence allowances shall not be considered fees and shall be retained by the employee.

F. Holidays. The holidays to be observed in this City are as follows:

New Year's Day
Martin Luther King, Jr. Day
Lincoln's Birthday
Presidents' Day
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Day After Thanksgiving
Christmas Day
2 Floating Holidays

And any other holiday proclaimed by the Mayor of the City.

Every regular and every probationary employee in the classified service except members of the Public Safety Departments, who are required to be on duty for 24-hour periods, shall be entitled to the above paid holidays unless the employee's services are needed and required in the interests of the public health, safety or general welfare, in which latter event any such employee shall be entitled to compensatory time off at such time as in the discretion of the Department Head, their services are not needed and required.

Members of the Public Safety Departments who are required to be on duty for 24-hour periods, shall be entitled to compensatory time off in lieu of holidays in the same number of hours as is commensurate with the holiday time hereby granted to other employees, which time shall be eight duty hours per holiday. Said compensatory time off may be taken in conjunction with annual vacation leave to allow for maximum personnel utilization.

For those employees who work Monday through Friday, any holiday falling on Saturday shall be observed on the proceeding Friday and any holiday falling on Sunday shall be observed on the following Monday. Employees who work schedules other than Monday through Friday shall be entitled to compensatory time off for any holiday which falls on their regularly scheduled days off.

An employee must be employed by the City on the day preceding and the day following a holiday to qualify for holiday pay. For purposes of this paragraph, an employee who is absent on authorized vacation with pay or on accrued sick leave

shall be deemed to be employed at such time.

G. Representatives of Recognized Employee Organizations. The City shall provide leave, without loss of pay, to employees serving as officers of a recognized employee organizations, or a designated representative, when the employee is to: (1) meet and confer with the City on matters within the scope of representation; (2) testify or appear in proceedings before the Public Employment Relations Board; and (3) testify or appear before a personnel or merit commission.

H. Time Off for Victims of Violent Crimes or Domestic Abuse.

1. An employee who has been a victim of a violent crime, domestic violence, sexual assault, or stalking may take time off to: (1) appear in court to comply with a subpoena or other court order as a witness to any judicial proceeding; (2) seek medical or psychological assistance; or (3) participate in safety planning to protect against further assaults. The City shall also, pursuant to Section 18.02 of these rules, provide reasonable accommodations for victims of domestic violence, sexual assault or stalking who request an accommodation for their safety while at work.
2. Victim shall mean any person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime.
3. An affected employee must give the City reasonable notice that he or she is required to be absent for the purpose stated above. In cases of unscheduled or emergency court appearances or other emergency circumstances, the affected employee must, within a reasonable time after the appearance or circumstance, provide the City with written proof that the absence was required for any of the above reasons. Leave under this section is unpaid, unless the employee uses sick leave, vacation or compensatory time off

I. Absence Without Leave. Any employee who is absent from duty shall report the reason for such absence to the Department Head or immediate supervisor prior to the date of expected absence whenever possible and in no case, later than one (1) hour after the beginning of their normal work shift; except in the Public Safety Departments where such notice shall be at least one (1) hour before the beginning of their normal work shift. Absences not reported in such manner may be considered absence without leave. A deduction of pay shall be made for the duration of any absence without leave. Upon return to work, such absence shall be justified to the Department Head who shall consider the need for further disciplinary action.

An authorized absence without leave for more than three (3) consecutive work days may constitute a resignation of their position by the employee.

- J. Authorized Leave of Absence Without Pay. An employee shall not be entitled to leave of absence without pay as a matter of right (except as provided by federal or state law) but an employee may request a leave of absence without pay. The request must be submitted in writing and set forth the reason for the request. The City Manager may grant, in writing only, a regular or probationary employee's request for leave of absence without pay for a period not to exceed three months. A leave of absence without pay shall not be authorized until the employee has exhausted all accumulated compensatory time off.

An employee must return to employment upon expiration of an authorized leave without pay. An employee returning to employment may return to the same classification, status and salary step in the pay range in effect for the class at the time leave was granted, unless the City Manager determines that a position in the same classification, status, or salary step is not available. Failure to report promptly at the expiration of such leave, or after notice to return to duty, may be cause for discharge.

City benefits shall not be granted or accrue after the third consecutive day of leave of absence without pay. Employees and their dependents may continue their health/medical insurance by paying the premiums for such time as the employee is on authorized leave of absence without pay. Benefits waived shall resume upon employee's return to active duty.

- K. Reasonable Accommodations. The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act. (See Section 15.E.).

SECTION 12 GRIEVANCE PROCEDURES

Purpose of the Procedure

The primary purpose of this procedure shall be to provide a means whereby an employee, without jeopardizing his or her employment, can express a personal grievance relating to wages, hours of work, and working conditions, and obtain a fair and equitable disposition of such grievance.

Definition of Informal Grievance

An informal grievance is defined as a verbal disagreement by an employee expressed to the employee's supervisor with a request to informally discuss the grievance with the supervisor and/or the department head.

Definition of Formal Grievance

A formal grievance shall be defined as any written complaint of an employee filed with the employee's immediate supervisor within thirty (30) days of the subject of the grievance relating to his or her wages, hours of work, and working conditions.

Informal Discussion with Supervisor

An employee shall first pursue all informal grievances with his or her supervisors and at any time that the employee or the supervisor or department head deem that the informal grievance is a formal grievance, the employee may reduce it to a formal written grievance. An employee with an informal grievance is encouraged first to attempt to resolve the problem by discussing it informally with his or her first line supervisor before filing a written grievance.

Formal Conference with Supervisor

If an employee does not obtain satisfaction of the informal grievance by means of an informal discussion with the supervisor, or if the employee is unable to communicate with his/her supervisor, the employee and/or employee representative may, by written grievance, request and shall be accorded a formal conference within ten (10) days with the supervisor and/or department head. The decision of the supervisor shall be reported to the employee and/or his/her representative within five (5) business days of the date the conference was held with the supervisor.

Departmental Review

In the event the employee does not obtain satisfaction at any level of review by means of informal or formal grievance and a formal conference with his or her supervisors, the employee and/or his or her representative may submit the grievance in writing to the supervisor or department head. The procedure to be followed by the supervisor who receives a grievance in writing shall be established by each department head for his or her department, and shall include review of the grievance by the immediate supervisor and such successively higher levels of management as may be determined by the department head. A cumulative record of the decision and the reason for the decision at each level of review shall be

maintained. The ultimate decision shall be that of the department head. The decision must be reported to the employee in writing within ten (10) business days of the date that the request for departmental review was submitted to the supervisor.

Appeal to the City Administrator

In the event the employee does not obtain satisfaction by means of the departmental review, the employee and/or his/her representative shall submit the grievance in writing to the City Manager within 10 days after notification of the departmental decision is given to the employee. The City Manager may meet with the employee and/or representative and the department head before making a decision; or may waive administrative review and refer the grievance directly to a committee of the City Council appointed to hear grievances. A copy of the decision on the matter must be presented to the employee within ten (10) business days of the date the grievance was filed with the City Manager.

Submission to a Committee of the City Council

In the event that the employee does not obtain satisfaction by means of the administrative procedures outlined above, the employee may request a hearing by a committee of the City Council. The hearing shall be held by the committee within fifteen (15) business days of the date of receipt of the request at the convenience of all parties, unless waived by common consent of the employee and the department head. The hearing shall be informal. The employee and/ or his/her representative, the department head and/or the City Manager shall appear before the committee to present facts pertinent to the case. The burden of proof shall rest with the employee. The committee shall limit its review of the grievance to the subject matter contained in the previous steps of the grievance procedure and shall make its decision within thirty days after the termination of the hearing unless a reasonable time extension is deemed necessary and all parties are notified.

Time Limits

In case the time limits outlined above are not observed by the representative of the City, the employee and/or representative shall have the right to carry the grievance directly to the next higher level of review.

GROUP GRIEVANCE PROCEDURE

The recognized employee organizations may present a general grievance (affecting several employees) in writing directly to the City Manager. Upon receipt of such a grievance, the City Manager shall establish a time for a hearing, at which time all affected parties may appear before the City Manager to present facts pertinent to the issue. The decision of the City Manager shall be presented to all parties concerned within fifteen (15) business days and shall be appealable by the group to a committee of the City Council for their findings and recommendations within thirty (30) days. If either party wishes to appeal, they may file an appeal with the City Council as a whole within five (5) working days of the final decision of the committee of the City Council.

SECTION 13
TRANSFER, PROMOTION, DEMOTION, SUSPENSION, AND REINSTATEMENT

- A. Transfer. The City Manager may transfer employees at any time within departments and to positions outside a department in a manner most advantageous to the City. However, no person shall be transferred to a position for which they do not possess the minimum qualifications unless waived by the City Manager. Employees may be transferred by the appointing authority at any time to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties, and requires substantially the same basic qualifications. The City's Compensation Plan will be used to determine an employee's applicable pay following transfer.

If the transfer involves a change from one department to another, both Department Heads must consent thereto, with approval of the City Manager, unless the City Manager orders the transfer. Transfers are not to be considered as disciplinary actions. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in the City's Compensation Plan or these Rules.

- B. Promotion. Consistent with the best interests of the service, vacancies within the classified service may be filled by promotion from within the service with or without a promotional examination. At Human Resource's discretion, the City may conduct a promotional examination to establish a promotional list of eligible candidates, or a vacancy in the position may be filled by an open-competitive examination instead of promotional examination, then an open-competitive examination shall be arranged. The City's Compensation Plan will be used to determine an employee's applicable pay following promotion.
- C. Demotion. The appointing authority may demote any employee whose ability to perform required duties falls below standard or for disciplinary purposes. Upon request of the employee, and with the consent of the prospective supervisor and appointing authority, an employee may voluntarily demote to a vacant position in the same department. No employee shall be demoted to a position for which they do not possess the minimum qualifications, as determined by the appointing authority. Written notice of the demotion shall be given the employee not less than five (5) working days prior to the effective date of the demotion, and a copy filed with Human Resources. The City's Compensation Plan will be used to determine an employee's applicable pay following demotion.
- D. Suspension. The City Manager may suspend any regular employee without pay at any time for cause (see Section 18 for definition of cause). When suspensions are imposed by Department Heads, said action shall be reported immediately to the City Manager and Human Resources.

- (1) Department Heads may suspend a subordinate employee for not more than five (5) working days at any one time, and not more frequently than one such suspension in a thirty (30) day period.
 - (2) A suspension of not more than thirty (30) working days of any City employee may be made by or with the approval of the City Manager.
 - (3) A suspension exceeding thirty (30) days must be approved by the City Manager.
- E. Reinstatement. With the approval of the City Manager, a regular or probationary employee, who has separated from employment with a good record, except for layoffs, may be reinstated within six (6) months of the effective date of resignation, to a vacant position in the same or comparable class, provided they meet the minimum qualifications for the classification. (See Section 8.E.)

SECTION 14 SEPARATION FROM THE SERVICE

- A. Discharge. A regular employee may be discharged by the appointing authority for cause. An employee may likewise be dismissed when off-the-job conduct either creates a conflict with the employee's work for the City or evidences an obvious unfitness to perform the duties of an employee. Whenever an employee is convicted of driving under the influence of alcohol or drugs, this shall be considered a prima facie indication of unfitness if part of the employee's duties involves operating a vehicle. Any employee who may be discharged shall be entitled to due process as provided in the Personnel Ordinance and these Rules.
- B. Lay-off and Seniority Policy.
It is recognized that when it is necessary to reduce City employment due to outsourcing, fiscal constraints, reductions in revenue, reorganization, reductions in municipal services, or reduction in the demand for municipal service, such action and its implementation except as qualified herein, shall be at the sole discretion of the City. The City Manager may lay-off any employee in the classified service because of material change in duties or organization or shortage of work or funds. The City Manager shall notify Human Resources of the intended action who, in turn, shall notify the affected employees and employee organization in accordance with this Policy.

When it is deemed necessary to reduce City employment by layoff, the layoff procedures shall protect the right of the City to retain qualified employees, while recognizing the seniority of affected employees as outlined below.

Lay-offs shall occur by classification within department. The department head, with approval of the City Manager, shall determine the classification, number of positions to be affected within the department, the lay-off date, and shall notify Human Resources and the affected employee organization in writing at the earliest possible date.

This Policy and the procedures outlined herein apply to all employees in the City of Morro Bay whose positions may be eliminated as outlined above.

1. Definitions

- a) Lay-off. An action caused by a reduction of authorized, budgeted positions wherein an employee is laid-off from the work force for economic reasons only. The term "Lay-off" shall include removal from City employment or reassignment to a former or other class pursuant to this Policy.
- b) Classification. The job title and job description are the City's official description of the representative duties, responsibilities and employment qualifications of a job. Classification means one or more regular positions grouped according to the duties and responsibilities assigned to a specific

job title. A Classification Series consists of a grouping of two or more job classes performing similar work, but at different levels of responsibility, difficulty and pay. (i.e. Worker, Senior Worker, Lead Worker)

c) Seniority. Seniority for the limited purposes of this policy shall be measured from the time an employee was first granted permanent status in the employee's current classification, subject to the following:

(1) Service time shall be given only for continuous service with the City of Morro Bay in all regular classifications served.

(2) Continuous unbroken time worked includes time during which the employee was absent with pay. Approved leaves of absence without pay shall maintain the continuity of employment, but the duration of the leave shall be deducted from the total continuous time period except as provided by State and/or Federal law.

(3) In cases where there are two or more employees in the Classification from which the lay-off is to be made who have the same seniority date, such employees shall be laid off on the following basis: 1) (safety only) test score, provided that they took the same test on the same date, 2) total City seniority, 3) by lot.

(4) For bumping purposes only, seniority shall be calculated by adding service time in the higher classification(s) to service time in the classification to which the employee is attempting to bump.

d) Bumping Rights.

(1) Bumping rights or bumping shall mean the right of an employee, based upon the seniority as defined above in section c, (4).

(2) Subject to d, (3) below, an employee shall be permitted to bump into a classification where he/she previously held regular permanent status. Bumping may occur only in the case where the employee has seniority over the person being bumped. Bumping shall also be permitted to lower level positions in the same classification series. Title changes will not disqualify an employee from bumping if the position is substantially the same as determined by the City Manager.

(3) No employee shall have the right to bump into a classification for which the employee does not possess the minimum qualifications for the classification, such as specialized education, training, certifications, knowledge, skills and abilities.

(4) An employee who is bumped shall have the same rights as provided herein and shall be considered laid-off for the purposes of this Policy.

2. Scope and Order of Layoff. Layoff shall occur within a job classification and division in inverse order of seniority in the following order of employee status:

- a) Contract
- b) Provisional
- c) Probationary
- d) Regular employees (regular part-time employees' service time shall be prorated for the purposes of computing seniority).

3. Notification.

- a) In the event the City anticipates a lay-off covered by this Policy, the City will notify the employee organization 15 calendar days prior to notice being given to employees pursuant to section 3 (c) below of its intent prior to making any such lay-offs.
- b) Prior to formal announcement of lay-offs, the City shall meet and confer with the employee organization concerning the impact of the lay-off decision. Nothing in this section relinquishes the City's right to lay-off employees. The City shall, upon request, explain the rationale/need for the lay-offs.
- c) Employees subject to lay-off shall be given at least forty-five (45) calendar days' advance notice in writing. A lay-off notice shall include the following information:
 - (1) Reason for lay-off
 - (2) Effective date of the lay-off
 - (3) The employee's calculated seniority date
 - (4) Classes to which the employee may request displacement within the City
 - (5) A copy of this Policy.
- d) An employee who has bumping rights shall notify the Personnel Officer within ten (10) working days after notice of lay-off of his/her intention to exercise bumping rights.

4. Reemployment.

- a) Employees who are laid off shall have their names placed on a reemployment eligibility list for their current classification or a classification in which they previously held permanent status. The City shall maintain the list as long as any employee is in laid-off status or one (1) year, whichever occurs first (see Section 8. D).
- b) Reemployment Eligible List: The reemployment eligible list shall consist of the names of employees and former employees having probationary or regular status who have been laid off or whose positions have been reallocated as a result of reclassification. The affected employee shall be placed on the reemployment eligibility list. Such lists shall take precedence over all eligibility lists.
- c) The Personnel Officer shall make every effort to place an employee who has been laid off in a vacant position for which he/she is qualified during the life of the reemployment list.
- d) An employee, whose name is active on the reemployment list and was employed with the City in a permanent position for at least three

consecutive months prior to lay-off, shall be eligible to apply for any promotional recruitment.

e) To the extent feasible, the City will utilize re-employment lists when filling temporary and/or contract employee opportunities.

5. Voluntary Demotion in lieu of Lay-off.

a) An employee scheduled for lay-off may voluntarily demote to a vacant lower class, provided the employee possesses the minimum qualifications for the lower position, as determined by the Personnel Officer.

b) Employees may also demote to any previously held vacant position, provided that position is vacant, wherein their performance in that position has been documented to be satisfactory.

c) To be considered for voluntary demotion in lieu of lay-off, an employee must notify Human Resources in writing of this election no later than ten (1) working days after receiving the notice of lay-off.

6. Interpretation. Differences regarding interpretation of this policy shall be determined by the City Manager.

C. Resignation. An employee wishing to leave the classified service in good standing, shall file with the appointing authority, a written resignation stating the effective date and reasons for leaving at least two weeks before leaving the service, unless such time limit is waived by such official. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to Human Resources. Failure to give notice as required by this Rule may be cause for denying future employment by the City.

D. Retirement. Whenever an employee meets the conditions set forth in the City's retirement plan regulations, they may elect to retire and receive benefits earned under the retirement plan.

SECTION 15
MISCELLANEOUS RULES

- A. Political Activity. The City prohibits all officers and employees from engaging in political activities during work hours and from using his/her office or position to influence any vote or promote, propose, oppose, or contribute to any political cause or candidate. An officer or employee of the City shall not knowingly solicit political contributions from other City officers or employees unless done incidentally to a solicitation of a larger segment of the public which may include officers or employees of the City. No City officer or employee shall participate in political activities of any kind while in uniform.

Political activities are prohibited on all City premises with the exception that political activities may take place at a City-owned facility when said facility has been rented for the occasion.

- B. Gifts and Gratuities. No employee shall accept, receive or solicit any gift, gratuity, present, property or service of any kind, nature or value, including but not limited to money, loans, travel, entertainment, apparel, hospitality, or promises of preferential treatment of any kind, which may be directly or indirectly offered as a result of, or anticipation of said employee's position or performance of duties with the City. Inappropriate gifts and gratuities must be rejected firmly but tactfully so that the good intentions of the giver are properly acknowledged.

It is not the intent of this policy to prohibit the expressions of general appreciation, such as advertising and promotional pens, calendars, and other items of negligible value which are circulated widely, including small boxes of candy at holidays which are presented to an entire department and not to individuals.

Any questions regarding the appropriateness of a gift should be referred to the City Manager within 24 hours of the receipt thereof. The City Manager's decision shall be final.

- C. Outside Employment. No employee shall engage in outside employment or enterprise for compensation which is in conflict with their municipal duties or responsibilities, or the department by which he/she is employed, or which will lessen their efficiency or effectiveness as a City employee.
1. Determination of Inconsistent Activities. Each Department Head, subject to the City Manager's approval, may determine the consistency or inconsistency of outside employments, activities or enterprises with City employment. Authorization to engage in outside employment or activities for compensation is subject to revocation by the Department Head or City Manager without cause. Outside employment, activity, or enterprise shall be prohibited if it:

- i. Involves the use or advantage of City time, facilities, equipment, supplies, or the badge, uniform, City-issued business cards, prestige, authority or influence or his/her City office or position;
 - ii. Involves receipt or acceptance by the City employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of hours of his/her City employment or as a part of his/her duties as a City employee; or
 - iii. Involves the performance of an act in other than the capacity of the City employee, which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other officer or employee of the City
- 2. Use of City Equipment prohibited. No City-owned equipment, vehicles, tools, supplies or any other item shall be used by any employee while the employee is engaged in any outside employment or activity, or for personal use.
- 3. Violations and Penalties. Any violation of these provisions respecting outside employment or activity and use of City property shall constitute sufficient grounds for disciplinary action, including termination of the employee from the City service.

D. Drug and Alcohol-Free Workplace.

- 1. No City employee shall bring to the workplace alcohol or illegal drugs, nor shall any employee report to work under the influence of alcohol or any illegal drug, nor may any employee whose duties include driving receive a conviction for driving under the influence of alcohol or drugs. The City has a Separate Drug and Alcohol Free Workplace Policy, which contains a prohibition on alcohol and illegal drug use in the workplace, when reporting to work, and when on-call.
- 2. Violation of the Drug-Free Workplace policy shall be grounds for disciplinary action up to and including termination.
- 3. Any employee convicted of a drug crime shall immediately notify his/her supervisor, not later than five (5) days after any such conviction. Failure to do so will constitute grounds for disciplinary action up to and including termination.
- 4. Searches: In order to promote a safe, productive, and efficient workplace, the City has the right to search and inspect all City property, as provided in Section 15(G) of these Rules. Except as otherwise provided in a current

Memorandum of Understanding, or as modified for City employees who operate a commercial vehicle as defined by the Omnibus Transportation Employee Testing Act or other safety-sensitive employees, the City has discretion to test a current employee for drugs or alcohol in the circumstances outlined in the City's Drug-Free Workplace Policy.

E. Reasonable Accommodations and Fitness-for-Duty Medical, Physical, and/or Psychological Examinations.

1. Reasonable Accommodations. The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act. An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request, preferably in writing, to the Human Resources Department. The request should identify the job-related functions at issue and the desired accommodations. The City will conduct an interactive meeting with disabled employees desiring a reasonable accommodation to discuss possible reasonable accommodations. The City then determines whether a reasonable accommodation exists, and if so, the reasonable accommodation to be provided.
2. Fitness-for-Duty Examinations. The City Manager or a designee may require an employee to submit to a fitness-for-duty examination to determine if the employee is able to perform the essential functions of his or her job when there is significant evidence: 1) the employee appears to be unable to perform or has difficulty performing one or more essential functions of his or her job; and 2) there are reasonable grounds to question the employee's ability to safely or efficiently complete work duties.

A City-selected health care provider will examine the employee at City expense. The City will provide the health care provider with a letter requesting a fitness-for-duty examination limited to the employee's job-related functional limitations and a written description of the essential functions of the employee's job. The health care provider will examine the employee and provide the City with information regarding whether the employee is fit to perform essential job functions and if the employee's continued employment poses a threat to the health and safety of him or herself or others. Should the health care provider exceed the scope of the City's request and provide confidential health information, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness-for-duty information that the City has requested.

The City may require an employee to undergo an examination by a City-designated physician, psychiatrist or psychologist if the employee does not submit a certificate of employability from the treating physician before

returning to work after taking any leave due to injury or illness.

3. Determination. After receipt of reasonable documentation, the City will meet with the employee to fully consider all feasible potential reasonable accommodations. The purpose of the discussions will be in good faith to fully discuss all feasible potential reasonable accommodations. After the discussions, the City will determine, in its sole discretion, whether reasonable accommodation can be made and the type of accommodation to provide. The City will not provide accommodation that would pose an undue hardship upon City finances or operations, or that would endanger the health and safety of the employee or others. Employees unable to perform the essential functions of their position, with or without reasonable accommodation, may be subject to termination.

F. Workplace Violence Prevention Policy. The City is committed to providing a working environment that is free from violence or the threat of violence, or abusive conduct (up to and including bullying). Accordingly, there is "zero tolerance" for any acts of intimidation, threats, actual or perceived, or any form of violence against an employee, a member of the public or the property of either, even if it was intended to be harmless, humorous, a prank or venting. All threats and acts of violence will be investigated with the understanding that any such conduct may result in criminal prosecution and/or discipline up to and including termination.

1. Definitions:

- i. "Violent Act": An aggressive physical behavior or force exerted for the apparent purpose of harming, intimidating, damaging or abusing others, or damaging property. Specific examples include, but are not limited to:
 1. Striking, punching, slapping, kicking, or otherwise physically assaulting another person, including dangerous or threatening horseplay;
 2. Fighting or challenging another person to fight;
 3. Grabbing, pinching, or touching another person in an unwanted manner, whether sexually or otherwise;
 4. Physically or verbally threatening harm to another person, or any action or conduct that implies or would lead a reasonable person to fear bodily harm;
 5. Loud, disruptive, or angry behavior or language;
 6. Blatant or intentional disregard for the safety or well-being of others;
 7. Encouraging or inciting an employee to engage in prohibited activities, or uttering "fighting words" or language calculated to incite violence;
 8. Stalking;
 9. Harassing or threatening phone calls;

10. Possession of weapons at any City workplace or property or in any City vehicle, unless specifically required for work-related purpose or authorized and approved by the City Manager or as authorized pursuant to State law. Employees who have legal authority to carry a weapon, except sworn members of the Morro Bay Police Department, shall notify the Department Head in writing of what type of weapon is being carried. Employees with legal authority to carry a weapon violate this policy if they: accidentally discharge or lose their weapon, use, threaten to use, or display the weapon; or violate any law related to carrying a legal weapon while engaged in City business.
 - ii. “Workplace Violence”: Any conduct or verbal expression that causes an individual to reasonably fear that a violent act will be committed. Such threats include those conveyed in person, through a third party, or through other forms of communication including, but not limited to, telephone, email, other forms of electronic communication, and print media.
2. All City employees are responsible for immediately notifying their supervisor or manager of any threats which they have witnessed, received, or have been told that another person witnessed or received. Even without an actual threat, City employees shall also report any behavior they have witnessed which they regard as threatening or violent, when that behavior is job related, might be carried out on City property, or is connected to City employment. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person or persons who are threatened or were the focus of the threatening behavior. If the supervisor or manager is not available, employees should report the threat to the Department Head or another member of the management team immediately.
3. An employee acting in good faith that initiates a complaint or reports an incident under this policy will not be subject to retaliation or harassment. However, any employee who makes a report under this Policy, which the employee knows or reasonably should know is false, may be subject to disciplinary action.
4. Employees who have a signed restraining order, temporary or permanent, against an individual due to the potential of a violent act, and who would be in violation of the order by coming near them while at work, shall immediately supply a copy of the signed order and proof of service to the Morro Bay Police Department, the City Attorney's Office, Department Head, and Human Resources Director.

5. The Human Resources Director or his/her designee, along with the Department Head, shall determine the immediate response needs and provide direction to the department by gathering and assessing the facts of the incident. Any report of a violent act or threat of violent act by a City employee will be thoroughly investigated, however, the appointing authority may decide to take immediate action without investigation based on the exigency of the violent act or threat of an imminent violent act. Incidents involving a possible violation of the law shall be reported to the Police Department for criminal investigation.

G. City Rights to Maintain Jurisdiction Over Work Areas Utilized by Employees

1. Employee work areas are defined as the property of and open to the City.
2. Employee work areas which include, but are not limited to, City vehicles, desks, offices, cabinets, bookcases, lockers, and other places under the common or joint control of the City and employees are subject to inspection and control by the employer. No employee has any expectation of privacy in any City building, property, or communications system.
3. City property, equipment, or communications systems may be monitored and searched at any time and for any reason. Messages sent or received on City equipment including cell phones, computers, email accounts, desktops, City network, or texts may be saved and reviewed by others. As a result, City employees have no expectation of privacy in the messages sent or received on City property, equipment, or communications systems. Further, all employees assigned City communications equipment have no expectation of privacy as to the data residing in telecommunications devices or voicemail and are prohibited from using the camera function on any City cellular phone, except as authorized by a supervisor for work-related purposes.
4. While employees may bring personal items to work, the City maintains its right to inspect and disapprove the bringing of certain items to the workplace. The City also does not guarantee the safety of personal items brought to the workplace from damage or theft, except as expressly provided in the applicable Memorandum of Understanding, Agreements, Contracts, Administrative Policies, or these Personnel Rules and Regulations.

SECTION 16
TRAINING OF EMPLOYEES

- A. Training. Human Resources and Department Heads may prepare and conduct appropriate training programs within budget constraints. Such programs may include lecture courses, demonstrations, assignment of reading matter or such other devices as may be available for the purpose of improving the effectiveness and broadening the knowledge of municipal employees in the performance of their respective duties. There shall be no right to additional training.
- B. Credit for Training. Participation in and successful completion of special training courses may be considered in making advancements and promotions. However, all advancement and promotional decisions are based on merit and training credit will not confer a right to promotion. Evidence of such activity shall be filed by the employee or department with the Personnel Officer and placed in the employee's file.
- C. Seminars and Conferences. Employees shall be encouraged to continue their professional development through attendance at approved seminars and conferences subject to the following conditions
 - 1. The conference should be a budgeted item when possible and must be of direct benefit to the City.
 - 2. Approval to attend the conference shall be requested from the appointing authority, preferably one month in advance of the travel date.

SECTION 17
REPORTS AND RECORDS

- A. Employee Records. Human Resources shall maintain a service record for each employee in the service of the City, showing the name, title of position held, the department to which assigned, salary, changes in employment status, residence data, and such other information as may be considered pertinent. Personnel records are the property of the City and access to the information they contain is restricted in accordance with the law. Personnel records shall be kept at City Hall.
- B. Change-of-Status Report. Every appointment, transfer, promotion, demotion, change of salary rate, and other temporary or permanent change in status of employees shall be reported to Human Resources in such manner as may be prescribed. Each employee is responsible to promptly notify Human Resources of any changes in relevant personal information, including: mailing address, telephone number, emergency contacts, and number and names of dependents.
- C. Public Information. It shall be the responsibility of Human Resources to preserve the confidentiality of all records placed under the custodianship of the Human Resources Department. Upon request, the City will release to the public information about its employees as required by the Public Records Act and any other applicable laws. The City will not disclose personnel information if it believes doing so would constitute an unwarranted invasion of personal privacy or is inconsistent with other legal standards.
- D. Employee Access. Every employee may inspect their own personnel file and every document therein at reasonable times and at reasonable intervals. An employee who wishes to review his/her file should contact the Personnel Officer to arrange an appointment. The review must be done in the presence of an employee of the Human Resources Department and, under no circumstances is the employee or his/her designee permitted to add or remove any document or other item from the personnel file during the inspection.

On request, an employee is entitled to receive a copy of any employment-related document he or she has signed. The City may charge the employee for the actual cost of reproducing the copy.

SECTION 18
DISCIPLINARY AND APPEALS PROCEDURES.

- A. Basis for Disciplinary Action. The tenure of every City employee in the classified service shall be based on standards of personal conduct and job performance that are consistent with the efficient and effective delivery of public services. Failure to meet such standards may be grounds for disciplinary action.

This Section shall not apply to the following categories of persons who can be terminated at-will and have no rights to any of the pre- or post-disciplinary processes or procedures in this Section, regarding Disciplinary and Appeals Procedures: (1) interim or temporary employees; (2) provisional or seasonal employees; (3) probationary employees; (4) reinstated employees; (5) employees serving in acting appointment and who may be returned to their original position at-will; (6) any person who serves pursuant to contract; (6) any person who is designated “at-will” or included in the unclassified service in any City policy, document, acknowledgement, resolution or ordinance.

- B. Causes for Disciplinary Action. Disciplinary action, including, but not limited to, written reprimand, demotion, suspension, or dismissal of any employee, may be based upon any of the following grounds. The purpose of specifying these causes is to alert regular employees to the more commonplace types of disciplinary issues. However, this list is not all inclusive, and there may arise instances of unacceptable behavior not included in this list:

1. Dishonesty, including fraud or the submission of false information related to employment application, payroll, or any work-related record or report,
2. Incompetency, inefficiency, neglect in the performance of duties, including failure to perform assigned tasks or training, or failure to discharge duties in a prompt, competent, and reasonable manner,
3. Drinking of alcoholic beverages on the job, or reporting for work under the influence of alcohol, illegal drugs, or other controlled substances,
4. Insubordination, including refusal to accept reasonable and proper assignment from an authorized supervisor,
5. Refusal or inability to improve job performance in accordance with written or verbal direction,
6. Improper or unauthorized use or abuse of sick leave,
7. Excessive absenteeism that precludes reasonable availability for assigned duties,
8. Absence without authorized leave; repeated tardiness to assigned work station; leaving assigned work without authorization; failure to report to work after a

leave of absence has expired, or after a leave has been disapproved or revoked,

9. Misconduct, willful or negligent violation of the personnel rules, regulations, resolutions or other related ordinances, including written departmental rules, regulations, and policies, or as may be established by a supervisor or the City Manager,
10. Conviction of a felony or misdemeanor involving moral turpitude. A plea or a verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction,
11. Conviction of driving under the influence of alcohol or drugs.
12. Suspension of driver's license where job duties require driving,
13. Discourteous treatment of the public or fellow employees or disorderly conduct on City property or on City business including fighting, using profane or abusive or threatening language towards others,
14. Careless, negligent, or improper use of City property, equipment or funds, including unauthorized removal, or use for private purpose, or use involving damage or unreasonable risk of damage to property,
15. Participation in an illegal strike, work stoppage, slowdown, or other job action against the City,
16. Acceptance of gifts or gratuities in connection with or relating to the employee's duties,
17. Soliciting outside work for personal gain during the conduct of City business; engaging in outside employment for any business under contract by the City; or participating in any outside employment that adversely affects the employee's City work performance,
18. Engaging in political activities while on duty, in uniform or using the authority associated with City employment,
19. Violation or neglect of safety rules,
20. Discrimination, including harassment, against other employees or member of the public on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, military and veteran status, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or any other legally protected classification,

21. Taking retaliatory action against persons engaged in protected conduct.
 22. Unauthorized release of confidential information or official records,
 23. Unlawful conduct on or off duty, or inappropriate conduct, failure of good behavior during duty hours, substandard job performance and other acts, including failure to cooperate reasonably with superiors or fellow employees, which tend to interfere with the reasonable management, operation of the City or any of its departments or divisions, cause discredit to the City or one of its operating services, or are incompatible with service to the public.
- C. Persons Who May Take Disciplinary Action. The City Manager or any Department Head or designee may take disciplinary action against an employee.
- D. Types of Discipline. The following procedures shall be followed when, in the judgment of the City Manager or Department Head, an employee has committed an act or omission that justified the disciplinary action indicated. In the case of any member of the staff of the City Manager's Office, the City Manager shall, for the purpose of this Section, be considered to be a Department Head. Except for written warnings/reprimands, the Department Head or his/her designed shall advise employees of contemplated disciplinary actions in writing and allow the employee an opportunity to respond to such charges prior to taking action.

When there exists a serious and imminent risk to the health or safety of any person or serious injury or loss to property, a supervisor shall take immediate action to reduce or eliminate the danger. In case of emergency, the Department Head may take action without prior written notice of proposed disciplinary action. In such cases, the notice will be served within three working days of the action taken in accordance with the City's Municipal Code. The Personnel Officer must be contacted immediately.

1. Written Reprimand. A written reprimand is an official notification to the employee containing a description of the events which need improvement in work performance or behavior, specific expectations of change by the employee, and notice of further action unless there is an immediate and sustained improvement in work performance or behavior. A written reprimand may be considered as pertinent evidence or information in any subsequent hearing.

The Department Head shall give the employee a copy of the written reprimand and forward a copy to the Personnel Officer for review and retention in the employee's personnel file. The employee may provide a written response to the written reprimand, and the response shall be placed in the employee's personnel file.

2. Suspension. A Department Head may temporarily suspend an employee without pay from his/her position. During a period of suspension without pay, an employee shall not accrue or be allowed to use any other paid time (vacation, sick

leave, CTO, etc.). Unless extended by approval of the Manager, the maximum period of suspension shall be thirty (30) calendar days.

3. Demotion. An involuntary reduction in pay for disciplinary purposes shall be a demotion unless it is part of a general plan to reduce salaries and wages or to eliminate a position in connection with a general economic or curtailment program.
 4. Discharge. Discharge is termination of an employee from City employment for cause.
- E. Proposed Notice of Suspension, Demotion, or Discharge. If the City proposes a suspension of five days or more, demotion or dismissal, a written notice of proposed disciplinary action shall be given to the employee, including the following information:
1. The factual basis and violations of rules/regulations for the proposed disciplinary action.
 2. All information relied upon in making the decision to propose disciplinary action.
 3. Any rights to respond to the proposed discipline either orally or in writing, including a pre-disciplinary Skelly conference prior to the imposition of the suspension, demotion or dismissal.

The proposed notice of suspension, demotion, and discharge will include a date for the pre-disciplinary Skelly conference that will be overseen by the Department Head. In the event the Department Head has a conflict and is unable to oversee the pre-disciplinary Skelly conference, the Director of Human Resources will designate another individual to oversee the pre-disciplinary Skelly conference. The pre-disciplinary Skelly conference is intended to be an informal meeting, not a formal or an adversary hearing. The employee shall not cross-examine a department's witness or present a formal case in opposition to the proposed discipline. An employee subject to the proposed disciplinary action shall have the right of representation at the pre-disciplinary Skelly conference, if so requested.

The Department Head or other designee(s) overseeing the pre-disciplinary Skelly conference will review the information received and make a decision to sustain, modify, or reject the proposed suspension, demotion or discharge. To the extent the final disciplinary decision includes suspension for five (5) days or more, demotion, or discharge, a final notice will be provided in accordance with Section 16(F) of these rules.

- F. Notice of Suspension, Demotion, or Discharge. If a suspension for five (5) days or more, demotion or discharge is imposed, a written statement shall be given to the employee of the following:
1. The reasons for the disciplinary action.

2. The effective date(s) of the disciplinary action.
3. Any rights of appeal.

G. Appeal Procedures. The appeal procedure described herein shall apply to cases of disciplinary action resulting in a suspension of five (5) days or more, demotion, or discharge, or grievance appeals affecting the regular employees in the classified service. It shall not be applicable to those positions which may be deemed exempt by Council resolution or to probationary employees, nor shall it apply to disciplinary written reprimands.

1. Employees shall have five working days following receipt of a Final Notice of Discipline to file a written request to appeal with Human Resources. The request shall set forth the grounds or basis on the appeal. If the employee involved does not file said appeal the City's decision shall be final and take effect as prescribed.
2. If, within the five-day appeal period, the employee involved files a written notice of appeal to Human Resources, the City shall obtain a list of seven hearing officers from an outside entity and present that list to both counsels for review. The parties will select a hearing officer by taking turns striking proposed hearing officers off the list. The party striking first would be decided by the flip of a coin. The remaining hearing officer would be retained as the hearing officer for the appeal. The cost of the hearing officer should be evenly split between the parties.
3. A time for an appeal hearing shall be established which shall not be less than ten (10) working days, nor more than thirty (30) working days, from the date of the filing of the appeal. All interested parties shall be notified in writing of the date, time, and place of the hearing at least five (5) working days prior to the hearing.
4. All hearings shall be private unless the appellant requests a hearing open to the public.
5. The Hearing Officer may, if legally authorized, issue subpoenas at the request of either party to the commencement of such hearing.
6. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses but hearings shall be conducted in a manner most conducive to determinations of the truth. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence may be excluded. Decisions made by the Hearing Officer

shall not be invalidated by any informality in the proceedings, and the Hearing Officer shall not be bound by technical rules of evidence.

7. The Hearing Officer shall rule on the admission or exclusion of evidence.
8. Each party shall have these rights: to be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the respondent does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination.
9. Oral evidence shall be taken only on oath or affirmation.
10. The hearing shall proceed in the following order, unless the Hearing Officer, for special reason, otherwise directs:
 - i. The party imposing discipline shall be permitted to make an opening statement.
 - ii. The appealing party shall be permitted to make an opening statement.
 - iii. The party imposing disciplinary action shall produce the evidence on his/her part.
 - iv. The party appealing from such disciplinary action shall produce the evidence on his/her part.
 - v. The parties may then, in order, respectively offer rebutting evidence only, unless the Hearing Officer for good reason, permits them to offer evidence upon their original case.
 - vi. Arguments shall be permitted in the discretion of the Hearing Officer.
 - vii. The Hearing Officer shall determine relevancy, weight, and credibility of testimony and evidence, and shall base his/her findings on the preponderance of evidence.
 - viii. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.
 - ix. No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing.
 - x. The Hearing Officer, prior to or during a hearing, may grant a continuance for any reason he/she believes to be important to its reaching a fair and

proper decision.

- xi. The Hearing Officer shall render his/her findings and recommendations as soon after the conclusion of the hearing as possible and in no event later than thirty (30) calendar days after conducting the hearing, unless otherwise agreed upon by both parties. His/her decision shall set forth the recommendations as to each of the charges and the reasons therefore.
- xii. The Hearing Officer may recommend the sustaining or rejecting of any or all of the charges filed against the employee. He/she may recommend sustaining, rejecting, or modifying the disciplinary action invoked against the employee.
- xiii. The decision of the Hearing Officer is advisory. The decision shall be filed with the charged employee, and the City Manager, and shall set forth all findings and conclusions. If a discharge is not sustained, the decision shall set forth the recommended effective date the employee is to be reinstated, which may be any time on or after the date the disciplinary action went into effect.
- xiv. Either the appellant or the City may file written exceptions to the decision, findings, and conclusions of the Hearing Officer within ten (10) working days of the Hearing Officer's decision.
- xv. A party desiring to contest the decision of the Hearing Officer may request a transcript for review by the City Council within ten (10) working days of the Hearing Officer's decision. If the appellant requests a transcript, he/she shall pay the sum of one hundred and no/100ths (\$100.00) dollars to the Clerk as a deposit at the time the request is made. This amount shall be applied toward the cost of preparing the record. When the total cost of the preparation of the record has been ascertained by the Clerk, the appellant shall pay the amount of the cost thereof within forth-eight (48) hours after being notified by the Clerk. If the cost of the record is less than one hundred and no/100ths (\$100.00) dollars, any amount in excess of the total cost shall be refunded to the appellant. The Hearing Officer shall not be held responsible for faulty taping equipment and the consequences thereof.

Within thirty (30) working days of: (a) the expiration of the ten-day exception period, or (b) the filing of exceptions, whichever period is later, the City Council shall review the decision of the Hearing Officer, any appeals or exceptions filed, and the record, if one is requested by a party. The City Council may ratify, modify, or reverse the decision of the Hearing Officer. The decision of the City Council shall be final.

RESOLUTION NO. XX-17

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
RESCINDING RESOLUTION NO. 74-69 AND ESTABLISHING
EMPLOYER-EMPLOYEE RELATIONS

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Section 3500 *et seq.*) was enacted for the purpose of promoting full communication and improved employer-employee relations between public employers and their employees by establishing uniform and orderly methods of communication between employees and the public agencies by which they are employed; and

WHEREAS, Government Code Section 3507 empowers a city to adopt reasonable rules and regulations for the administration of employer-employee relations after consultation in good faith with representatives of its employee organizations regarding such proposed rules and regulations; and

WHEREAS, the Municipal Employee Relations Representative of the City of Morro Bay ("City"), as defined herein below, has met and conferred in good faith with the employee representatives of the City's Recognized Employee Organization, as hereinafter defined, regarding the preparation of reasonable rules and regulations for the administration of employer-employee relations in the form of a new and complete Employer-Employee Relations Resolution; and

WHEREAS, the City Council believes that it is in the best interests of the City and its employees to adopt a comprehensive and complete Employer-Employee Relations Resolution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

ARTICLE I. GENERAL PROVISIONS

Section 1. Title of the Resolution

This Resolution shall be known as the Employer-Employee Relations Resolution of the City of Morro Bay.

Section 2. Statement of Purpose

2.1 This Resolution is adopted as authorized under Chapter 10, Division 4, Title 1 of the California Government Code (Sections 3500 *et seq.*), entitled the Meyers-Milias-Brown Act ("MMBA"), to provide reasonable, uniform and orderly procedures for the administration of employer-employee relations between the City and its employees,

procedures for the recognition and/or decertification of employee organizations, procedures for determining appropriate units of representation and/or modifying such units, and a reasonable, uniform and orderly method for the resolution of questions regarding wages, hours, and other terms and conditions of employment of City employees. This Resolution rescinds and supersedes all previous resolutions pertaining to employer/employee relations.

Section 3. Definitions

Except as otherwise specifically provided below, the terms used in this Resolution shall be defined in the same way as such terms are defined in the MMBA. In addition, the following definitions are adopted for terms used in this Resolution.

3.1 "Appropriate unit" or "Employee unit of representation" means a unit of employee classes or positions, established pursuant to Article II hereof.

3.2 "City" shall mean the City of Morro Bay, a general law city and municipal corporation, and where appropriate herein, "City" also refers to the City Council, the governing body of said City, or any duly authorized representative of the City of Morro Bay.

3.3 "Confer in good faith": See "Meet and Confer in Good Faith." .

3.4 "Confidential Employee" means any employee who formulates, develops, or determines management policy or administers the City's employer-employee relations, or whose duties normally require access to confidential information that is used to contribute significantly to the formulation, development, or determination of the same (e.g., secretary to a department head, analyst who prepares confidential employer-employee relations documents).

3.5 "Consult in Good Faith" or "meet and consult in good faith" means to communicate in writing or, if requested by the employee organization within the time limits set by the Municipal Employee Relations Representative (also referred to as "MERR"), orally, for the purpose of presenting and obtaining views and advising of intended actions in a good faith effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of the meet and confer process, does not involve an exchange of proposals and counterproposals in an endeavor to reach agreement in the form of a memorandum of understanding, nor is it subject to Article IV hereof.

3.6 "Days" means calendar days unless otherwise stated.

3.7 "Employee" means any person regularly employed by the City in a position approved in the City's allocated positions and compensation plan, as approved by the City Council, except in a position designated in that plan as temporary or part-time and those elected.

3.8 "Employee Organization" or "Recognized Employee Organization" means any employee organization formally acknowledged by the City as an employee organization that represents the City's employees.

3.9 "Employee Representative" means the authorized representative of a Recognized Employee Organization or an Exclusively Recognized Employee Organization.

3.10 "Employee unit of representation" or "appropriate unit" means a unit of employee classes or positions, established pursuant to Article II hereof.

3.11 "Employer-employee relations" means the relationship between the City and its employees and their employee organization(s), or when used in a general sense, the relationship between City management and individual employees or employee organization(s).

3.12 "Exclusive Recognized Employee Organization" means a sole employee organization certified as the representative of all employees in a unit or units, whether or not those employees are its members, and having the exclusive right and duty to meet and confer in good faith on behalf of said employees concerning statutorily required subjects pertaining to unit employees and thereby assuming the corresponding obligation of fairly representing said employees. An Exclusively Recognized Employee Organization may not be challenged by another employee organization within twelve (12) months of initial recognition.

3.13 "Filing Period" means the period between November 1st and December 31st of every year following the adoption of this Resolution during which Employee Organizations may submit petitions to be recognized, decertified, or modified, or the period within which an Employee Organization or the City may propose to modify any existing unit of representation.

3.14 "Impasse" means that the representatives of the City and a Recognized Employee Organization or Exclusively Recognized Employee Organization have reached a deadlock or point in their meeting and conferring in good faith at which differences in positions on matters to be included in a memorandum of understanding or on more general mandatory bargaining matters within the scope of representation, and concerning that which they are required to meet and confer, are so substantial or prolonged that future meetings would be futile.

3.15 "Lead Negotiator" means the person in charge of the City's negotiating team when a tentative agreement, a proposed memorandum of understanding, or a proposed amendment to a memorandum of understanding is to be presented to the City Council.

3.16 "Management Employee" means any employee in a position having significant responsibilities for formulating, administering or managing the implementation of City policies and programs through independent judgment, including, but not limited to, the exercise of discretionary authority to develop and modify

institutional goals and priorities, including but not limited to the City Manager, Deputy City Manager and all Department Heads.

3.17 "Mediation or Conciliation" means the efforts of an impartial third person or persons functioning as an intermediary to assist the parties in reaching a voluntary resolution to impasse, through interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.

3.18 "Meet and Confer in Good Faith" or "Confer in Good Faith" means performance by duly authorized City and Recognized Employee Organization representatives of their mutual obligations. the City and a representative of a Recognized Employee Organization or Exclusively Recognized Employee Organization shall have the mutual obligation personally to meet within the time periods established by Section 6 of this Resolution upon request, exchange information on matters within the scope of representation, including wages, hours and other terms and conditions of employment, in a good faith effort to 1) reach agreement on those matters within the authority of such representatives, 2) freely exchange information, opinions and proposals, and 3) reach agreement in the form of a memorandum of understanding, on what will be recommended to the City Council on those matters within the decision making authority of the City Council. This does not require either party to agree to a proposal or to make a concession.

3.19 "Memorandum of Understanding" means a written document jointly prepared by the City's Municipal Employee Relations Representative, or designee(s), and a Recognized Employee Organization or Exclusively Recognized Employee Organization enumerating any agreement reached as the result of meeting and conferring on matters within the scope of representation, and the same signed by the parties involved and ratified by the majority of the relevant bargaining unit and approved by the City Council.

3.20 "Municipal Employee Relations Representative" or "MERR" means the City's principal representative in all matters of employer-employee relations with authority to meet and confer on matters within the scope of representation. The City Council hereby designates the City Manager as the MERR who is hereby authorized to delegate such duties and responsibilities.

3.21 "Professional Employee" means any employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction.

3.22 "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee, provided that the card has not been subsequently revoked in writing by the employee (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be

considered as Proof of Employee Support for any employee organization. The only authorization which shall be considered as Proof of Employee Support hereunder shall be the authorization most recently signed by an employee within ninety (90) days prior to the filing of a petition.

3.23 "Recognized Employee Organization" means an Employee Organization that has been acknowledged by the Municipal Employee Relations Representative as an Employee Organization that represents employees of the City. The rights accompanying recognition include the right to consultation in good faith by all Recognized Employee Organizations.

3.24 "Scope of Representation" means all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order, as set forth in Section 5.

3.25 "Supervisory Employee" means any employee who has authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline employees, or the responsibility to assign work and direct them, adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Section 4. Employee Rights

4.1 Subject to the requirements of the law and Section 5 below, employees shall have the following rights:

4.1.1 To form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on matters within the scope of representation, in accordance with this Resolution.

4.1.2 To refuse to join or participate in the activities of employee organizations and to represent themselves individually in their employment relations with the City.

4.1.3 To be free from the interference, intimidation, restraint, coercion, or discrimination by the City, any employee organization, or any other employee because of the exercise of these rights.

4.2 Professional Employees shall not be denied the right to be represented separately from non-professional employees by an employee organization consisting of such Professional Employees.

4.3 No Supervisory, Management, or Confidential Employee may represent any employee organization, which represents other non-Supervisory, non-Management, or non-Confidential employees of the City, on matters within the scope of

representation, unless as permitted by the City of Morro Bay Personnel Rules, and no Supervisory, Management, or Confidential Employee may engage in any activity with or on behalf of any employee organization which would result in an actual or apparent conflict of interest, as determined by the MERR.

Section 5. City Responsibilities and Rights

5.1 To ensure that the City is able to carry out its functions and responsibilities imposed by law, the City has and will retain the exclusive right to manage and direct the performance of City operations and the work force performing such operations. Among the rights which are reserved to the City are the following:

5.1.1 To determine the merits, necessity, organization, expansion, or diminishment of any operation, service, or activity conducted by the City;

5.1.2 To determine and change the facilities, methods, means, and personnel by which City operations are to be conducted;

5.1.3 To determine and change the number of locations, relocations, and types of City operations and the processes and materials to be employed in carrying out said operations, including but not limited to, the right to subcontract any work or operation;

5.1.4 To determine the size, assignments, and composition of the employee work force, to determine employee job classifications and contents thereof, and to assign work to employees in accordance with requirements as determined by the City;

5.1.5 To relieve employees from duty because of lack of work, lack of financial resources, or other non-disciplinary reasons;

5.1.6 To hire, transfer, promote, and discipline employees in accordance with the City's Personnel Rules;

5.1.7 To determine policies, procedures and standards for the selection, training and promotion of employees;

5.1.8 To establish employee performance standards including, but not limited to, quality and quantity standards;

5.1.9 To maintain the efficiency of governmental operations;

5.1.10 To take any and all necessary actions to carry out the City's operations in emergencies;

5.1.11 To exercise complete control and discretion over the City's organization and the technology of performing its work and services; and

5.1.12 To establish reasonable work and safety rules and regulations to maintain the efficiency and economy desirable in the performance of City operations.

5.2 The City, in exercising these rights and operations, will not discriminate against any employee because of membership or non-membership in any employee organization.

Section 6. Meeting and Conferring

6.1 The City, through its representative(s), shall meet and confer in good faith with Employee Representative(s) of any Recognized Employee Organization or Exclusively Recognized Employee Organization regarding matters within the scope of representation for its members or for all employees, whichever applies, in the unit for which such organization is recognized.

6.2 Where a Recognized Employee Organization or Exclusively Recognized Employee Organization desires to meet and confer with the City, through its Employee Representative(s), on matters within the scope of representation, said organization shall make a request in writing and specify the subjects to be discussed.

6.3 The Recognized Employee Organization or Exclusively Recognized Employee Organization shall submit any and all request(s) to meet and confer on matters within the scope of representation that have a fiscal impact and are not currently accounted for in the current budget in the manner specified below:

6.3.1 By March 15th if it intends to have the requested item(s) considered for the budget for the next fiscal year, or, if there is a Memorandum of Understanding in existence between the parties, for the fiscal year following the expiration date of the Memorandum of Understanding, where March 15th immediately precedes the commencement of said fiscal year.

6.3.2 If a Recognized Employee Organization or Exclusively Recognized Employee Organization fails to submit, or to request a reasonable extension of time to submit, written requests by March 15th, the City shall send written notice requesting said employee organization to submit its written requests. If said employee organization fails to deliver to the City its written request(s) within seven (7) days after receipt of the notice given by the City, said employee organization shall be deemed conclusively to have waived any right to meet and confer as to the subjects to be discussed.

6.3.3 Written requests submitted by the Recognized Employee Organization or the Exclusively Recognized Employee Organization may be changed during the meet and confer process so long as the total cost of the requests as changed does not exceed the cost of the requests made as of March 15th, or as of any other extension of time agreed upon by the parties.

6.3.4 Promptly after such written requests have been made, a meeting shall be arranged at a time and place mutually satisfactory to the parties involved.

6.3.5 The meet and confer process discussed in this Section 6.2 shall be completed by May 31st immediately preceding the commencement of the fiscal year in which the changes and/or requests are to become effective, or by any other extension of time as agreed upon by the parties in writing. If a Recognized Employee Organization or Exclusively Recognized Employee Organization fails to deliver to the City a written request for a meeting within seven (7) days after receipt of the notice given by the City, or within such other noticed time as specified by the City, said employee organization(s) shall be deemed conclusively to have waived any right to meet and confer as to any matter noticed by the City pursuant to this Section. In the event the meet and confer process has not been completed or an agreement is not reached within the time period(s) set forth in this Section 6, either party may declare an Impasse and initiate Impasse procedures in accordance with Article IV.

6.4 Where the City proposes to take action on matters regarding wages, hours, and other terms and conditions of employment within the scope of representation, whether such action be by ordinance, resolution, rule, or regulations, reasonable written notice shall be given to each Recognized Employee Organization and each Exclusively Recognized Employee Organization affected thereby, and each shall be given the opportunity to meet and confer with the City, through its representative(s), prior to the adoption of same. In cases of emergency when the City Council determines that an ordinance, resolution, rule or regulation must be adopted immediately without prior notice or meeting with any Recognized Employee Organization or Exclusively Recognized Employee Organization, the City shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of same.

6.4.1 In the event the City gives notice of an anticipated action pursuant to this Section, the City may specify in said notice a reasonable period of time within which the meet and confer process must be completed.

6.4.2 If a Recognized Employee Organization or Exclusively Recognized Employee Organization fails to deliver to the City a written request for a meeting within seven (7) days after receipt of the notice given by the City, or within such other noticed time as specified by the City due to an emergency, said employee organization(s) shall be deemed conclusively to have waived any right to meet and confer as to any matter noticed by the City pursuant to this Section.

6.5 If a tentative agreement is reached by the authorized representatives of the City and Employee Organization and ratified by the Employee Organization, the City Council shall vote to accept or reject the tentative agreement within thirty (30) days of the date it is first considered at a duly noticed public meeting. If the City Council accepts the tentative agreement, the parties shall jointly prepare a written Memorandum of

Understanding, signed by the City's representatives and the duly authorized Employee Representatives, which shall be brought back for approval by the City Council. Said Memorandum of Understanding shall not be binding until approved by the City Council.

6.6 If an agreement is reached by the representatives of the City and the employee representatives, all agreed matters shall be incorporated as joint recommendations to the City Council in a written Memorandum of Understanding signed by the City's representatives, and the duly authorized employee representatives. Said Memorandum of Understanding shall not be binding until approved by the City Council.

6.7 In the event the meet and confer process has not been completed or an agreement is not reached within the time period(s) set forth in this Section 6, either party may declare an Impasse and initiate Impasse procedures in accordance with Article IV.

Section 7. Consult or Consultation in Good Faith

The City, through its representatives, shall consult in good faith with representatives of recognized and exclusively recognized employee organizations prior to the modification of any rules and regulations for the administration of employer-employee relations, including any amendments to this Resolution.

ARTICLE II. REPRESENTATION PROCEEDINGS

Section 8. Employee Unit of Representation

8.1 The City has investigated and considered the services performed by its employees, their working conditions, and job duties, and the City's need to maintain an efficient operation while providing sound employer-employee relations and the units of representation historically recognized by the City. The City recognized the Service Employees International Union Local No. 620 ("Union"), the Morro Bay Peace Officers Association ("POA"), and the Morro Bay Firefighters Association, IAFF Local 3725 ("MBFFA") as the exclusive employee organizations for the designated non-management employees of the City for purposes of employer-employee relations under the MMBA and regulations of the Public Employment Relations Board ("PERB") (Cal Code Reg. Section 31001-32997).

8.2 Additional, different or modified employee units of representation may be created by action of the City Council as it deems appropriate, upon the City's own written notice given to the appropriate employee organization or upon a petition filed by an employee organization pursuant to Section 9 of this Resolution. In making its determination, the City Council will investigate and consider the following factors:

8.2.1 Whether and which employees share a similar community of interests, kinds of work performed, types of qualifications required, and general working conditions;

8.2.2 The City's needs to maintain an efficient operation;

8.2.3 The units of representation historically recognized by the City, except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized;

8.2.4 Consistency with the organizational patterns of the City;

8.2.5 Effect of differing legally mandated impasse resolution procedures;

8.2.6 Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units; and

8.2.7 Other matters considered relevant by the City to promoting sound employer-employee relations and efficient operation of the City.

Section 9. Requirements For and Process of Becoming an Exclusively Recognized Employee Organization

9.1 Only one employee organization shall be recognized as an employee organization representing employees in a unit and, after the effective date of this Resolution, only exclusive recognition on behalf of a unit established in accordance with this Resolution or amendment hereto shall be conferred.

9.2 An employee organization which was a Recognized Employee Organization immediately prior to the effective date of this Resolution shall continue to be so recognized under this Resolution in the unit for which it had been recognized, subject to this Article II, Section 9, and Sections 14 through 16 herein, and provided that said organization, sixty (60) days after the effective date of this Resolution, submits current information listed in Sections 9.3.1 through 9.3.9 and acknowledges in writing within said time limit that it consents to the definition of said unit or units set forth in Section 8.

9.3 Process of Becoming Recognized. An employee organization seeking to become certified as the Exclusively Recognized Employee Organization representing employees in an appropriate unit shall file a petition ("Recognition Petition") with the MERR during the Filing Period. The Recognition Petition shall contain all of the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct, and complete:

9.3.1 Name and address of the employee organization;

9.3.2 Names and titles of its officers;

9.3.3 Names of employee organization representatives who are authorized to speak on behalf of the organization;

9.3.4 Names and addresses of no more than two (2) employee representatives to whom notices, if sent pursuant to this Resolution, will be deemed sufficient notice to the employee organization for any purpose;

9.3.5 A copy of the employee organization's current Constitution and Bylaws, which shall contain a statement that the employee organization has, as one of its primary purposes, the representation of employees in their employment relations with the City;

9.3.6 A statement whether the employee organization is a subordinate body of, or affiliated directly or indirectly in any manner with, any regional or state or international organization and, if so, the name and address of each such regional, state, national, or international organization;

9.3.7 A statement that the employee organization has no restriction on membership based on race, religious creed, color, national origin, ancestry, genetic material, age, mental or physical disability, medical condition, marital status, sex, sexual orientation, or gender expression;

9.3.8 The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein;

9.3.9 A statement that the employee organization has in its possession Proof of Employee Support to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the MERR or to a representative of the California State Mediation and Conciliation Service; and a request that the MERR formally acknowledge the employee organization as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

Section 10. City Response to Recognition Petition for an Exclusively Recognized Employee Organization

10.1 Upon receipt of the Recognition Petition, the MERR shall determine whether:

10.1.1 There has been compliance with the requirements of the Recognition Petition, in accordance with Section 9, and

10.1.2 The proposed representation unit is an appropriate unit, in accordance with Section 8.

10.2 If an affirmative determination is made by the MERR on the foregoing matters listed in Section 10.1, the MERR shall inform the petitioning employee organization, give written notice of the Recognition Petition to all the employees in the

unit and any other employee organization(s) representing any employee in the same unit, and take no action on said request for thirty (30) days thereafter.

10.3 If either of the foregoing matters listed in Section 10.1 are not affirmatively determined, the MERR shall deny the Recognition Petition and inform the petitioning employee organization of the reasons therefor in writing. The petitioning employee organization shall have seven (7) days to cure any defects in the Recognition Petition. All defaults must be cured, and a valid Recognition Petition must be submitted by the end of the Filing Period, unless the submission deadline is extended by the MERR, who shall not extend the cure period more than fifteen (15) days beyond the end of the Filing Period. Neither the MERR nor the City is obligated to assist the petitioning employee organization in curing the alleged defects to the Recognition Petition.

10.4 The petitioning employee organization may appeal such determination in accordance with Section 18.

Section 11. Open Period for Filing Challenging Petition to an Exclusively Recognized Employee Organization

Within thirty (30) days of the date written notice was given to affected employees that a valid Recognition Petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the Exclusively Recognized Employee Organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the Recognition Petition being challenged), by filing a petition evidencing Proof of Employee Support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Section 9.3. If such challenging petition seeks establishment of an overlapping unit, the MERR shall call for a meeting on such overlapping Recognition Petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the MERR shall determine the appropriate unit or units in accordance with the standards in Section 8.2. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the MERR to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 18.

Section 12. Granting Recognition to an Exclusively Recognized Employee Organization Without an Election

If the Proof of Employee Support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization files a challenging petition, the petitioning employee organization and the MERR shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party, to review the count, form, accuracy, and propriety of the Proof of Employee Support. If the neutral third party makes an affirmative determination, the MERR shall certify the petitioning

employee organization as the Exclusively Recognized Employee Organization for the appropriate unit.

Section 13. Granting Recognition to an Exclusively Recognized Employee Organization Through an Election Process

13.1 Upon the submission of valid Recognition Petitions of more than one employee organization for employees in the same or overlapping units, the MERR shall arrange for a secret ballot election to be conducted by the City Clerk or such other third party agreed to by the MERR and the concerned employee organization(s), in accordance with such party's rules and procedures, subject to the provisions of this Resolution. All employee organizations who have duly submitted Recognition Petitions which have been determined to be in conformance with this Resolution shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the City. Employees entitled to vote in such election shall be those persons employed in regular, permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the City in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run-off election, if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast. The rules governing an initial election are applicable to a run-off election.

13.2 There shall be no more than one valid election under this Resolution pursuant to any Recognition Petition in a twelve (12) month period affecting the same unit.

13.3 In the event that the parties are unable to agree on a third party to conduct the election, the election shall be conducted by the California State Mediation and Conciliation Service. If a third party conducts the election, costs of conducting elections shall be borne in equal shares by the City and by each employee organization appearing on the ballot.

13.4 A Recognized Employee Organization or Exclusively Recognized Employee Organization of the unit for which a decertification election is being conducted shall also appear on the ballot, unless within fourteen (14) days of receipt of the notice of the Decertification or Recognition Petition, or notice of the unit determined by the City Council, whichever is later, said employee organization provides written notice to the MERR that it does not intend to participate in the election. Notice of the intention not to participate in the election shall constitute withdrawal from representation of the unit

effective the date the notice of intention not to participate in the election is received by the MERR.

13.5 The MERR shall announce the date of the election and the voting location or locations at least twenty-eight (28) days before the date of such election. Employees shall vote in person.

Section 14. Procedure for Decertification of Exclusively Recognized Employee Organization

14.1 A decertification petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit ("Decertification Petition") may be filed with the MERR only during the Filing Period or the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of a Memorandum of Understanding then having been in effect for three (3) years or less, provided that a Decertification Petition may not be filed within twelve (12) months of initial recognition of an Exclusively Recognized Employee Organization. A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct, and complete:

14.1.1 The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.

14.1.2 The name of the established appropriate unit and the incumbent Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit.

14.1.3 An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.

14.1.4 Proof of Employee Support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the MERR or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section. An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a petition under this Section in the form of a Recognition Petition that evidences Proof of Employee Support of at least thirty (30) percent, that includes the allegation and information required under paragraph 14.1.3 of this Section, and otherwise conforms to the requirements of Section 9.

14.2 The MERR shall initially determine whether the Decertification Petition has been filed in compliance with the applicable provisions of this Resolution.

14.2.1 If the foregoing matters listed in Section 14.1 are not affirmatively determined, the MERR shall deny the Decertification Petition and inform the petitioning employee organization of the reasons therefor in writing. The petitioning employee organization shall have seven (7) days to cure any defects in the Decertification Petition. Neither the MERR nor the City is obligated to assist the petitioning employee organization in curing the alleged defects to the Decertification Petition.

14.2.2 If the foregoing matters listed in Section 14.1 are affirmatively determined by the MERR, or if his/her negative determination is reversed on appeal, the MERR shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees. The MERR shall thereupon arrange for a secret ballot election to be held to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted within the same timeframe and under the same procedures as set forth in Section 13.

14.2.3 The petitioning employee organization may appeal such determination in accordance with Section 18.

14.3 During the Filing Period or the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of a Memorandum of Understanding then having been for three (3) years or less, the MERR may give written notice of the city's specific intent to the affected employee organization, when the MERR has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to said organization and all unit employees that an election will be arranged and held by the MERR to determine that issue. In such event, any other employee organization may, within fifteen (15) days of such notice, file a Recognition Petition in accordance with Section 9.3, which the MERR shall act on in accordance with this Section.

14.4 If, pursuant to this Section, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

Section 15. Procedure for Modification of Established Appropriate Units

15.1 Requests by employee organizations for modifications of established appropriate units ("Modification Petition") may be considered by the MERR. The Modification Petition shall be submitted during the Filing Period or the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of a Memorandum of Understanding then having been in effect for three (3) years or less, whichever occurs later, shall be in the form of a Recognition Petition, and, in addition to the requirements set forth in Section 9.3, shall contain a complete statement of all

relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 8. The MERR shall process the Modification Petition as any other Recognition Petition under this Resolution.

15.2 Proof of Support: When an employee organization requests the addition of classifications or positions to its established unit, and the addition of the positions would increase the existing unit size by ten (10) percent or more, the MERR will require proof of majority support of persons employed in the classifications or positions to be added. The MERR will require proof of at least thirty (30) percent support among the affected employees if a pending representation petition by another employee organization overlaps the positions at issue in the unit modification petition.

15.3 At any time, the MERR may, by giving written notice of City's intent to the affected employee organization, propose that an established unit be modified. The MERR shall give written notice of the proposed modification(s) to any affected employee organization(s), and each employee within said affected unit or units, and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the MERR shall determine the composition of the appropriate unit or units in accordance with Section 8, and shall give written notice of such determination to the affected employee organizations.

15.3.1 The MERR's determination may be appealed in accordance with Section 18.

15.3.2 If a unit is modified pursuant to the written notice of the MERR hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Section 9.

Section 16. Procedure for Processing Severance Requests

16.1 An employee organization may file a request to become the Recognized Employee Organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another Recognized Employee Organization ("Severance Request"). The timing, form, and processing of the Severance Request shall be as specified in Section 15 for a Modification Petition.

16.2 Proof of Support: When an employee organization requests severance of classifications or positions to its established unit, and the severance of the positions would decrease the existing unit size by ten (10) percent or more, the MERR will require proof of majority support of persons employed in the classifications or positions to be severed. The MERR may require proof of at least thirty (30) percent support among the affected employees. The MERR's determination may be appealed in accordance with Section 18.

Section 17. Amendment of Certification

17.1 Employee Organization Petition

17.1.1 A Recognized Employee Organization shall file with the MERR a petition to amend its certification or recognition ("Amendment Petition") in the event of a merger, change in affiliation, or transfer of jurisdiction.

17.1.2 The Amendment Petition shall be in writing, signed by an authorized agent of the employee organization, and contain the following information:

(a) The name, address and telephone number of the employee organization and the name, address and telephone number of the agent to be contacted;

(b) A brief description and the title of the established unit;

(c) A clear and concise statement of the nature of the merger, amalgamation, affiliation, or other change in jurisdiction, and the new name of the employee organization. The statement shall include the following information:

(1) Whether the new organization has the same structure as the former organization (e.g., eligibility for membership, dues/fees structure, continuation of the manner in which contract negotiations, administration and grievance processing will be effectuated), and if not, an explanation of the change(s) in structure;

(2) Whether the officers and representatives of the new organization are the same as the former organization, and if not, a specification of the changes in officers and/or representatives;

(3) Whether the power of the members to control the organization's agents is the same as it was in the former organization (e.g., input into contract proposals, contract ratification, frequency of membership meetings, preservation of the (former) organization's physical facilities, books, and assets, choosing/oversight of executive board members), and if not, a specification of what changes have been made; and

(4) Whether the organization's members were given an opportunity to vote on the change in status, and if so, a description of the voting process and results.

17.2 Review Process

17.2.1 Upon receipt of a petition filed pursuant to Section 17.1 above, the MERR shall conduct such inquiries and investigations, and hold such meetings as deemed necessary and/or conduct a representation election in order to decide the questions raised by the Amendment Petition.

17.2.2 The MERR may dismiss the Amendment Petition if the petitioner has no standing to petition for the action requested or if the Amendment Petition is improperly filed.

17.2.3 In determining whether to grant the Amendment Petition, the MERR will examine the following issues:

(a) Whether the new organization has the same or similar structure as the former organization;

(b) Whether the officers and representatives of the new organization are substantially the same as the former organization;

(c) Whether the power of the members to control the organization's agents are substantially the same; and

(d) Whether the organization's members were given an opportunity to vote on the change in status.

17.3 Determination

17.3.1 Unless the MERR finds that there is no substantial continuity of identity and representation between the former and new organizations, the MERR will issue an amendment of certification reflecting the new identity of the Exclusive Recognized Employee Organization. Such certification shall not be considered to be a new certification for the purpose of computing time limits pursuant to Section 14. The terms and conditions of a Memorandum of Understanding then in effect shall remain in effect until said Memorandum of Understanding expires.

17.3.2 If the MERR determines that there is no substantial continuity of identity and representation between the former and new organizations, the MERR shall order an election in conformance with Section 14.

17.3.3 The MERR's determination may be appealed in accordance with Section 18.

Section 18. Appeals

18.1 Within fifteen (15) days of a final decision of the MERR, (i) an employee organization aggrieved by a determination of an appropriate unit or that a Recognition

Petition (Sec. 9), Challenging Petition (Sec. 11), Decertification Petition (Sec. 14), Modification Petition (Sec. 15), Severance Request (Sec. 16), or Amendment Petition (Sec. 17) has not been filed in compliance with Article II; or (ii) employees aggrieved by a determination that a Decertification Petition (Sec. 14) or Severance Request (Sec. 16) has not been filed in compliance with Article II, may request to submit the matter to mediation by the State Mediation and Conciliation Service. In lieu thereof, or fifteen (15) days after such mediation proceedings, said employee organization or employees may appeal such determination to the City Council for final decision.

18.2 Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof served on the MERR. The City Council shall commence to consider the matter within thirty (30) days of the filing of the appeal. The City Council may, in its discretion, refer the dispute to a third party hearing process. Any decision of the City Council on the use of such procedure, and/or any decision of the City Council determining the substance of the dispute, shall be final and binding. Any costs for the appeal shall be borne equally by the City and the employee organization.

ARTICLE III. ADMINISTRATION

Section 19. Submission of Current Information by Recognized Employee Organizations

All Recognized Employee Organizations and Exclusively Recognized Employee Organizations shall advise the MERR in writing immediately of any changes in the information enumerated in Sections 9.3.1 through 9.3.9 within fourteen (14) days of such change.

Exclusively Recognized Employee Organizations that are party to an agency shop provision shall provide annually to the Employee Relations Officer and to unit members within 60 days after the end of its fiscal year the financial report required under Government Code Section 3502.5 (f) of the Meyers-Milias Brown Act.

Section 20. Employee Organization Activities – Use of City Resources

Access to City work locations and the use of City paid time, facilities, equipment and other resources by employee organizations and those representing them, shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of this Resolution that pertain directly to the employer-employee relationship and not to such internal employee organization business as soliciting membership, campaigning for office, or organization meetings and elections, and shall not interfere with the efficiency, safety, and security of City operations.

ARTICLE IV. IMPASSE PROCEDURES

Section 21. Initiation of Impasse Procedures

If the meet and confer process has reached an Impasse, either party may initiate the Impasse procedures by filing with the other party a written request for an Impasse meeting, together with a statement declaring an Impasse and its position on all issues. An Impasse meeting shall then be scheduled promptly by the MERR. The purpose of such meeting shall be:

21.1.1 To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and

21.1.2 If the Impasse is not resolved, to discuss arrangements for the utilization of the Impasse procedures provided herein.

Section 22. Impasse Procedures

Impasse procedures are as follows:

22.1 If the parties agree to submit the dispute to mediation, mediation will be conducted by a mediator from the California State Mediation and Conciliation Service, unless the parties agree to use another mediator. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues. If there is a cost for the services of a mediator, such costs shall be borne equally by the City and the employee organization.

22.2 If the parties, having so agreed to mediation, fail to resolve the dispute within thirty (30) days after the appointment of the mediator, the employee organization thereafter may request to submit the Impasse to fact-finding, as provided in Section 23 below.

22.3 If the parties do not agree to mediation, the employee organization may request to submit the Impasse to fact-finding, as provided in Section 23 below.

22.4 If the Impasse has not been resolved through fact-finding, or the employee organization fails to request fact-finding, the Impasse will be sent to the City Council, which shall then hold a public hearing on the impasse and take such action regarding the Impasse as it, in its discretion, deems appropriate as in the public interest, including but not limited to unilaterally implementing its last, best, and final offer, but shall not implement a memorandum of understanding. Any legislative action by the City Council on the Impasse shall be final and binding.

Section 23. Fact-Finding Procedures

23.1 Upon failure to agree to, or upon failure to reach an agreement through, mediation, the employee organization may submit a written request to the MERR and the Public Employment Relations Board for a fact-finding panel as follows:

23.1.1 If the dispute was submitted to mediation, not sooner than thirty (30) days, but not more than forty-five (45) days, after the appointment of the mediator.

23.1.2 If the dispute was not submitted to mediation, not later than thirty (30) days following the date that either party provided the other with a written notice of an Impasse and request for an Impasse meeting.

23.2 The request for fact-finding shall be filed with the Public Employment Relations Board, Sacramento Regional Office 1031 18th Street, Sacramento, CA 95811-4124, with a proof of service, containing a declaration signed under penalty of perjury with the following information: (1) the name of the declarant; (2) the county and state in which the declarant is employed or resides; (3) a statement that the declarant is over the age of 18 years and not a party to the case; (4) the address of the declarant; (5) a description of the documents served; (6) the method of service and a statement that any postage or other costs were prepaid; (7) the name(s), address(es) and, if applicable, fax number(s) used for service on the party(ies); and (8) the date of service. The Public Employment Relations Board shall approve or disapprove all requests for fact-finding.

23.3 Within five (5) working days after notification from the Public Employment Relations Board that the fact-finding request is approved, (i) each party shall select a person to serve as its member of the fact-finding panel and notify the Public Employment Relations Board of its selection; and (ii) the Public Employment Relations Board shall provide the names of seven persons that may serve as chairperson, and will designate one of the seven as the chairperson of the fact-finding panel. Within five (5) working days after a chairperson is selected, the parties may mutually agree upon another person to serve as chairperson in lieu of the person selected by the Board. If permitted by PERB, the parties shall then select the chairperson by utilizing a strike procedure whereby each side strikes a member of a list provided by PERB until one is selected. The strike procedure will be initiated by a coin toss by a member of the City witnessed by the employee organization. Otherwise, PERB shall select the chairperson. The costs for the services of the chairperson, including per diem fees, if any, and actual and necessary travel and subsistence expenses, shall be divided equally between the parties. Any other mutually incurred costs shall be divided equally between the parties. Any separately incurred costs for the panel member selected by each party shall be borne by that party.

23.4 Within ten (10) days of its appointment, the fact-finding panel shall meet with the parties or their representatives, either jointly or separately, and may make inquiries and investigations, hold hearings, and take any other steps it deems appropriate, including issuance of subpoenas requiring attendance and testimony and production of evidence.

23.5 Within thirty (30) days of its appointment, or upon agreement by the parties for a longer period, and if the dispute is not settled by the parties within said time period, the fact-finding panel shall make findings of fact and recommend terms of settlement, which shall be advisory only. In making its findings and recommendations, the fact-finding panel shall consider the following criteria:

23.5.1 State and federal laws that are applicable to the City;

23.5.2 Local rules, regulations, or ordinances;

23.5.3 Stipulations of the parties;

23.5.4 The interests and welfare of the public and the financial ability of the City;

23.5.5 Comparison of the wages, hours, and conditions of employment to employees performing similar services in comparable public agencies;

23.5.6 The consumer price index for goods and services, commonly known as the cost of living;

23.5.7 The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received; and

23.5.8 Any other facts which are normally or traditionally taken into consideration in making the findings and recommendations.

23.6 The fact-finding panel shall submit its findings and recommendations in writing to the parties prior to making them available to the public for the purpose of resolving the impasse. The City shall make the findings and recommendations available to the public within ten (10) calendar days after its receipt. If the Impasse has not been resolved within ten (10) calendar days after the City's receipt of the fact-finding panel findings and recommendations, then the Impasse shall be sent to the City Council, which shall then hold a public hearing on the Impasse and take such action regarding the Impasse as it, in its discretion, deems appropriate as in the public interest, including but not limited to unilaterally implementing its last, best, and final offer, but shall not implement a Memorandum of Understanding. Any legislative action by the City Council on the Impasse shall be final and binding, including but not limited to unilaterally implementing its last, best, and final offer.

ARTICLE V. MISCELLANEOUS PROVISIONS

Section 24. Construction

The City may adopt such rules, regulations and/or procedures necessary or convenient to implement the provisions of this Resolution and of the MMBA after consultation with affected Recognized Employee Organizations. Nothing in this Resolution shall be construed to deny any person or employee any rights granted by Federal or State laws. The rights, powers, and authority of the City in all matters, including the right to maintain any legal actions, shall not be modified or restricted by this Resolution.

Section 25. No Strike Clause

Nothing in this Resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to City employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike during the term of a Memorandum of Understanding, or participate in a sickout or other partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the City, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination, and may be replaced, to the extent such actions are not prohibited by preemptive law; and employee organizations may thereby forfeit rights accorded them under City law or contract.

Section 26. Severability

If any provision or portion thereof contained in this Resolution, or the application thereof, to any person or circumstances is held to be unconstitutional, invalid, or unenforceable, the remainder of this Resolution and the application of such provision, or portion thereof, to other persons or circumstances, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Section 27. Notice

Wherever written notice to either party is required by this Resolution, it shall be given by email and if to the City at 595 Harbor Street, Morro Bay, California 93442, and to any employee organization at its last address furnished in writing to the City, by first class registered or certified mail, postage prepaid and shall be deemed to have been received on the third day immediately following the day it was mailed (excluding Saturdays, Sundays and holidays on which the offices of the City are closed). Service of notice by mail at the sender's option, may be given by hand delivery.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2017.

, Mayor

ATTEST:

, City Clerk



CITY OF MORRO BAY POLICY PROHIBITING HARASSMENT, DISCRIMINATION, AND RETALIATION

I. GENERAL POLICY

The City is committed to providing a work environment that is free of discrimination, harassment, and retaliation. In keeping with this commitment, the City maintains a strict policy prohibiting harassment, including sexual harassment and takes steps to promptly correct discriminatory, harassing, and retaliatory conduct. This policy prohibits harassment in any form, including verbal, physical and visual harassment by or against any employee, intern, volunteer, applicant for employment, or vendor, independent contractor, elected or appointed officials or guest. This policy applies to all of the City's activities, wages, reviews, leaves, training, benefits, and all other conditions and terms of employment.

As a general guideline, harassment can be avoided if employees act professionally and treat each other with respect.

II. PURPOSE OF POLICY

Federal and state law expressly prohibit discrimination and harassment of employees or applicants based upon race, color, national origin, religious creed, ancestry, physical or mental disability, medical condition, breast-feeding, pregnancy, childbirth or related medical condition, age (40 and over), sexual orientation, sex, gender identity, gender expression, genetic information, military or veteran status, marital status, or any other basis protected by applicable state or federal law, including association with individuals with these protected characteristics or perception that an individual has one or more of these protected characteristics.

The purpose of this policy is to establish a means to protect employees, applicants for employment, or guests from harassment. Discrimination, harassment, and retaliation constitute misconduct that can decrease work productivity, decrease morale and cause emotional and physical damage. Incidents of discrimination, harassment, or retaliation can result in serious economic implications such as high turnover, ineffective use of time during working hours, costly salaries paid for nonproductive work hours, and employee absences due to hearings and meetings related to discrimination, harassment, and retaliation complaints.

The further purpose of this Policy is to define and forbid discriminatory, harassing, and retaliatory conduct, to prohibit the condoning or perpetuating of such conduct, and to provide an efficient means for reporting and resolving complaints of discrimination, harassment, or retaliation against any individual who reports discrimination, harassment, or retaliation or who participates in an investigation of such reports.

III. DEFINITION OF TERMS

A. Employee. Any individual under the direction and control of the City under any appointment or contract of hire or apprenticeship, express or implied, oral or written. For purposes of this Policy only, the term "employee" includes any

individual who is an unpaid intern or volunteer of the City. The inclusion of any individual, including but not limited to unpaid interns and volunteers, in the definition of “employee” for purposes of this policy should not be interpreted to affect the applicability of any other policy or procedure of the City.

- B. Legally Protected Category/Legally Protected Characteristic.** Race, color, national origin, ancestry, religious creed, sex, sexual orientation, gender identity, gender expression, marital status, religion, age (over 40), physical or mental disability, medical condition, breast-feeding, pregnancy, childbirth or related medical condition, physical or mental disability, medical condition, genetic characteristics or information, military or veteran status, or any other protected basis under state or federal law, including association with individuals with these protected characteristics or perception that an individual has one or more of these protected characteristics.
- C. Discrimination.** Discrimination is any action or conduct by which an employee is treated differently or less favorably than other employees similarly situated for the sole reason that the employee is a member of a Legally Protected Category.
- D. Harassment.** Harassment is any verbal, visual, or physical conduct based on an employee’s membership in a Legally Protected Category that creates an intimidating, hostile or otherwise offensive working environment. Such conduct constitutes harassment when:
1. Submission to the conduct is made either an explicit or implicit condition of employment;
 2. Submission to or rejection of the conduct is used as the basis for an employment decision; or
 3. The harassment unreasonably interferes with an employee’s work performance.

Harassing conduct can take many forms and includes, but is not limited to, slurs, jokes, statements, gestures, pictures, computer images, or cartoons regarding an employee’s Legally Protected Characteristic.

Harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, or harassment by third parties doing business with or for the City.

E. Sexual Harassment.

Unwelcome sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature all may constitute sexual harassment when: (1) submission to such conduct is made a term or condition of employment; or (2) submission to or rejection of such conduct is used as basis for employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee’s work performance or creating an intimidating, hostile or offensive working environment.

This definition includes potential forms of offensive behavior, such as the following:

1. Unwanted sexual advances.
2. Visual conduct, such as leering, making sexual gestures, displaying of sexually explicit jokes, derogatory images, and comments about an employee's body or dress.
3. Verbal sexual advances or propositions.
4. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes, or invitations.
5. Physical conduct, such as touching, assault, impeding, or blocking movements.
6. Retaliation for reporting harassment or threatening to report harassment.

Sexual harassment includes many forms of offensive behavior and may include harassment of a person of the same or opposite sex as the harasser.

Sexual harassment need not be motivated by sexual desire. Sexual harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, harassment by a subordinate, or harassment by third parties doing business with or for the City.

F. Retaliation.

Taking adverse action against any employee because of (1) the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination, harassment, or retaliation or (2) because of the employee's participation in an employment discrimination, harassment, or retaliation investigation, proceeding, or hearing. or (3) because of such opposition or participation by a family member or close associate of the employee.

1. Protected Opposition.

Protected opposition to perceived discrimination, harassment, or retaliation includes, but is not limited to, threatening to file a discrimination, harassment, or retaliation complaint with any federal or state agency, or court, or complaining or protesting about alleged discrimination, harassment, or retaliation to a supervisor, manager, co-worker, or other official. Protected opposition also includes a complaint or protest made on behalf of another employee or made by the employee's representative. The City also prohibits retaliation against somebody closely related to or associated with the employee exercising such rights. Opposition not made in good faith, or made in a manner which disrupts the workplace, or which constitutes an unlawful activity, or

which includes badgering or threatening of employees or supervisors is not protected.

2. Protected Participation.

Protected participation includes, but is not limited to, filing a charge, testifying, assisting, or participating in any manner in an investigation under this Policy, or in a proceeding, hearing or litigation under federal or state discrimination, harassment, or retaliation statutes, at other hearings regarding protected employee rights, such as unemployment compensation proceedings, and making requests for reasonable accommodation of a Legally Protected Characteristic.

3. Adverse Action.

Adverse actions include, but are not limited to, the following acts: disciplinary actions, negative performance evaluations, undesirable transfer, undesirable assignments, negative comments, unwarranted criticism, actions that harm the employee outside the workplace, undesirable change in benefits, undesirable change in work schedule, unwarranted exclusion from meetings trainings, or events, or undesirable change in work duties.

G. Supervisor.

Any individual having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct other employees, or to adjust their grievances, or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Employees who have questions regarding these definitions or are uncertain what constitutes discrimination, harassment, sexual harassment, retaliation, or other prohibited conduct under the City's policy should contact the Personnel Officer, Human Resources, or a Department Head.

IV. MAKING DISCRIMINATION, HARASSMENT, OR RETALIATION COMPLAINTS

A. In General.

The City's complaint procedure provides for an immediate, thorough, impartial, and objective investigation of every discrimination, harassment, or retaliation claim, appropriate disciplinary action against one found to have engaged in prohibited discrimination, harassment, or retaliation, and appropriate remedies to any victim of discrimination, harassment, or retaliation. The City encourages reporting of all perceived incidents of discrimination, harassment, or retaliation.

B. Complaint Procedure.

The City cannot resolve discrimination, harassment, or retaliation unless the City is aware of the situation. The City relies upon its employees to bring those

concerns to the attention of the City so that the necessary steps can be taken to correct the situation, and all employees are encouraged to do so. Accordingly, any employee who believes he or she has been harassed, discriminated or retaliated against should promptly report the facts of the incident/incidents and the name(s) of the individual(s) involved to his/her immediate supervisor, any supervisor, the Personnel Officer, or Human Resources.

The complaint should be as detailed as possible, and must include details of the incident(s), names of individuals involved, and the names of any witnesses. Any supporting documentary evidence should be attached to the complaint. Notification to the City is essential. Employees may be assured that they will not be penalized in any way for filing a good faith complaint of potential discrimination, harassment, or retaliation.

ALL EMPLOYEES SHOULD NOTE THAT THE FAILURE TO USE THE CITY'S COMPLAINT PROCEDURE MAY HAVE AN ADVERSE EFFECT ON ANY CLAIM UNDER THIS POLICY IF SUCH CLAIMS ARE LITIGATED.

C. Reporting Obligations.

1. Supervisory Employees.

Any supervisor who receives a complaint of discrimination, harassment, or retaliation; witnesses discrimination, harassment, or retaliation; or has any reason to believe that discrimination, harassment, or retaliation may have occurred in the workplace is required to report the conduct immediately to Human Resources. A supervisor will be subject to discipline for failing to report offensive conduct that potentially constitutes discrimination, harassment, or retaliation if the supervisor knew or should have known of the offensive conduct.

2. Non-Supervisory Employees.

All other employees who observe or are advised about the discrimination, harassment, or retaliation involving another employee are encouraged to report the conduct to a supervisor or to Human Resources.

D. The City's Response to Reports or Complaints.

1. Investigation of Complaints.

All incidents of discrimination, harassment, or retaliation that are reported must be investigated appropriately by the City so that corrective and preventive actions can be promptly taken if warranted. The City will promptly undertake or direct an effective, thorough, impartial, and objective investigation of the allegations, which will be conducted by qualified personnel.

2. **Intermediary Measures.**

Employees may be placed on a leave of absence, or subject to other intermediary measures, until the conclusion of the investigation.

3. **Cooperation with the Investigation.**

All employees involved in a workplace investigation into alleged harassment, discrimination, or retaliation are required to fully and truthfully cooperate with the investigation. Failure to fully and truthfully cooperate with the investigation is grounds for disciplinary action, up to and including termination.

4. **Prohibition Against Retaliation.**

The City prohibits retaliation against any employee because of the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination or harassment or because of the employee's participation in an employment discrimination investigation, proceeding, or hearing. Any retaliatory adverse action because of such opposition or participation will not be tolerated, and may also be unlawful.

5. **City Determination and Corrective Action.**

- a. The City will make its determination based on the findings of the investigation and communicate that determination to the complaining employee, and to the accused. Except where required by law or court order, parties are not entitled to copies of any notes or other written materials regarding the investigation, as these are considered to be confidential documents.
- b. If the City determines that discrimination, harassment, or retaliation has occurred, the City will take effective remedial action commensurate with the circumstances. Appropriate action will also be taken to deter any future discrimination, harassment, or retaliation. If a complaint of discrimination, harassment, or retaliation is substantiated, appropriate disciplinary action, up to and including discharge, will be taken. The City will also take appropriate action to remedy improper adverse action, if any, to the employee resulting from the discrimination, harassment, or retaliation. In addition, as part of the City's efforts to remedy the complaining employee's concerns, the complaining employee may be informed in general terms regarding any remedial measures and disciplinary actions imposed against the violator.
- c. The information and definitions set forth in Section III, above, are based on the legal definitions of discrimination, harassment, and retaliation. In light of the City's duty to prevent the unlawful conduct defined in Section III, and in light of the City's desire to have a professional and productive work environment, the City reserves the right to take appropriate corrective action when an

employee engages in inappropriate conduct that does not fully rise to the legal standards or definitions set forth in Section III of this Policy. For example, the City may take appropriate corrective action for inappropriate conduct, even if such conduct was not subjectively unwelcome or offensive to another employee of the City, or did not involve a legally protected characteristic.

E. Evidence and Finding of Intentionally False Complaints.

While the City vigorously defends its employees' right to work in an environment free of discrimination, harassment, and retaliation it also recognizes that false accusations of discrimination, harassment, or retaliation can have serious consequences. Accordingly, any employee who is found, through the City's investigation, to have deliberately and falsely accused another person of discrimination, harassment, or retaliation may be subject to appropriate disciplinary action, up to and including termination.

F. Anonymity and Confidentiality.

1. While the City will investigate anonymous complaints, the City strongly discourages anonymous complaints. **EMPLOYEES CHOOSING TO FILE A COMPLAINT ANONYMOUSLY MUST BE AWARE THAT ANONYMITY IN THE COMPLAINT PROCEDURE MAY COMPROMISE THE CITY'S ABILITY TO COMPLETE A THOROUGH INVESTIGATION.** Employees should also be aware that should the City learn of the identity of an anonymous complainant, the City cannot guarantee that his/her identity will remain confidential, if the City determines in its discretion that disclosure is necessary to complete the investigation.
2. The City will take all reasonable steps available to maintain the confidentiality of all complaints of discrimination, harassment, or retaliation, as well as all information gathered during an investigation. However, the City retains sole discretion to determine whether disclosure of information is necessary to complete the investigation.
3. All employees involved in the investigation of discrimination, harassment, or retaliation complaints as either investigator(s), complainant(s), witness(es), or accused are required to keep all information related to the investigation confidential. Revealing such information is grounds for disciplinary action, except as expressly permitted by law, such as in discussion with a legal or labor union representative.

V. EMPLOYEE'S DUTY TO DISCLOSE BENEFITS RECEIVED

Employees are hereby informed that no supervisor, manager, or officer of the City, or other person or entity doing business with the City, is authorized to expressly or impliedly condition the receipt or denial of any benefit, compensation, or other term or condition of employment on an employee's acquiescence to any sexual demand.

To the contrary, all employees are instructed to refuse such demands and report them promptly either to their immediate supervisor or to Human Resources. Any employee

who is found to have accepted any benefit from the City because he/she submitted to an unreported sexual demand will be disciplined appropriately. If such employee received a gift of public funds, the City shall be entitled to immediate reimbursement. Any employee making such a demand will be similarly disciplined, up to and including termination.

VI. ADDITIONAL ENFORCEMENT INFORMATION

In addition to the City's internal complaint procedure, employees should also be aware that the Equal Employment Opportunity Commission ("EEOC") and the Department of Fair Employment and Housing ("DFEH") investigate and prosecute complaints of discrimination, harassment, and/or retaliation in employment.

Employees can contact the EEOC and the DFEH as follows:

EEOC

800-669-4000 | 800-669-6820 (TTY)
www.eeoc.gov

San Francisco District Office
450 Golden Gate Avenue
5 West, P.O Box 36025
San Francisco, CA 94102-3661

Los Angeles District Office
255 East Temple Street, 4th Floor
Los Angeles, CA 90012

Fresno Local Office
2300 Tulare Street, Suite 215
Fresno, CA 93721

DFEH

800-884-1684 | 800-700-2320 (TTY)
www.dfeh.ca.gov

Bay Area Regional Office
39141 Civic Center Drive, Suite 250
Fremont, CA 94538

Los Angeles Regional Office
320 West 4th Street, 10th Floor
Los Angeles, CA 90013

Fresno Regional Office
1277 East Alluvial Avenue, Suite 101
Fresno, CA 93720

VII. TRAINING AND POLICY DISSEMINATION

All employees who are hired by the City will be given a copy of this Policy, and will receive guidance from the City on its provisions and the City's commitment to provide a workplace free from discrimination, harassment, and retaliation. In addition, all supervisors will be trained in accordance with applicable requirements of the Fair Employment and Housing Act (Government Code § 12950.1) and implementing regulations. Non-supervisory employees may also receive training, at the discretion of the City.

CITY OF MORRO BAY
POLICY PROHIBITING HARASSMENT, DISCRIMINATION, AND RETALIATION
ACKNOWLEDGEMENT OF RECEIPT

By my signature below, I acknowledge that I have received, read, and understood the City of Morro Bay's Policy Prohibiting Harassment, Discrimination, and Retaliation, and I will abide by its terms. I understand that failure to fully comply with all terms set forth in the Policy may lead to disciplinary action, up to and including termination.

Employee's Name (PLEASE PRINT)

Employee's Signature

Date



CITY OF MORRO BAY

DRUG-FREE WORKPLACE POLICY

I. PURPOSE

The purpose of this policy is to maintain a workplace that is free of drugs and alcohol and to discourage drug and alcohol abuse by employees. There is a vital interest in maintaining safe and efficient working conditions for employees. Substance abuse is incompatible with health, safety, efficiency, and success. Employees, who are under the influence of alcohol, or who have any illegal drugs in their system, or who misuse and abuse legal drugs, as defined in this policy, while conducting or performing business, endanger their own health and safety, and the health and safety of others, and can cause a number of other work-related problems, including absenteeism and tardiness, substandard job performance, increased workloads for coworkers, behavior that disrupts other employees, delays in the completion of work, inferior quality in service and disruption of resident relations. Employees shall not work with any detectible level of illegal drugs, alcohol or marijuana in their systems.

It is important for employees to understand that this policy governs not only the abuse of alcohol and illegal drugs, but also the use and abuse of legal drugs in the workplace. Certain classes of employees, described in this policy, who find the need to use impairing legal drugs, including prescription and over-the counter drugs, should consult, and must comply with, those provisions set forth in this policy that address such use.

To further its interest in avoiding accidents, to promote and maintain safe and efficient working conditions for its employees, to protect its business, property, equipment and operations, and to comply with all federal and state requirements, this policy has been established, concerning employee use of alcohol and drugs. As a condition of continued employment, each employee must abide by this policy.

II. GENERAL DEFINITIONS

- A. **Illegal or Prohibited Drugs or Other Controlled Substances:** Illegal drugs, or other controlled substance, means any drug or substance that (i) is not legally obtainable; or (ii) is legally obtainable but has not been legally obtained; or (iii) has been legally obtained, but is being sold or distributed unlawfully; or (iv) a legal drug which is being used in a manner for which it was not prescribed. Illegal Drugs include marijuana, cocaine, opiates, amphetamines, or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

- B. Legal Drugs: Legal drugs means any drug, including prescription drugs and over-the-counter drugs, that has been legally obtained, and is not unlawfully sold or distributed.
- C. Abuse of any Legal Drug: Abuse of any legal drug means the use of any legal drug (i) for any purpose, other than the purpose for which it was prescribed or manufactured; or (ii) in a quantity, frequency, or manner that is contrary to the instructions or recommendations of the prescribing physician.
- D. Reasonable Suspicion: Reasonable suspicion means a suspicion that is based on (i) specific contemporaneous and articulable personal observations, such as an employee's manner, disposition, muscular movement, appearance, behavior, performance, speech or odor; or (ii) information provided to management by an employee, by law enforcement officials, by a security service, or by other persons where the Employer has a reasonable belief the information is reliable. Examples of reasonable suspicion factors include but are not limited to the following:
1. Slurred speech or bloodshot eyes;
 2. Odor of intoxicants on breath or clothing;
 3. Unsteady standing, walking or movement;
 4. Substandard performance whether in quantity or quality that cannot otherwise be explained;
 5. Mood swings, increased inattentiveness, and changes in appearance;
 6. Physical or verbal altercations;
 7. A preventable accident generally of a reckless nature while on City time or involving City property or resources;
 8. Information from a reliable person with knowledge of the drug or alcohol use; or
 9. Actual observation of the possession or use of alcohol or drugs.
- E. "Marijuana," as used in this policy includes cannabis, synthetic or herbal marijuana, constituents of cannabis, such as tetrahydrocannabinol (THC) and cannabidiol, whether prescribed by a physician or not.
- F. Possession: Possession means that an employee has the substance on his or her person or otherwise under his or her control.
- G. Safety-Sensitive Employees: safety-sensitive employees include part-time and full-time employees who perform, or may be called upon to perform, the following safety-sensitive functions:

1. Operating a revenue service vehicle, a vehicle operated for revenue, even when it is not in revenue service, including floating and rolling stock used in providing transit revenue service for passengers, when the vehicle is available to the general public and there is a reasonable expectation of carrying passengers that directly pay fares, are subsidized by public policy, or provide payment through a contractual arrangement;
2. Operating a non-revenue service vehicle when required to be operated by a Commercial Driver's License (CDL) holder;
3. Controlling dispatch or movement of a revenue service vehicle;
4. Maintaining (including inspection, repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service;
5. Carrying a firearm for security purposes; or
6. Operating commercial motor vehicles of 26,001 lbs. or greater or
7. Operating a vehicle carrying 16 passengers including the driver, or vehicles required to display a Department of Transportation (DOT) placard for hazardous material.

Supervisors are considered safety-sensitive only if they perform, or may be called upon to perform, any of the above safety-sensitive functions.

III. DEFINITIONS – TESTING TERMINOLOGY

A. Adulterated specimen: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

B. Alcohol Concentration: Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

C. Aliquot: A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

D. Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

E. Evidentiary Breath Testing Device (EBT): A Device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the NHTSA conforming products list.

F. Initial Drug Test: (Screening Drug Test) The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

G. Initial Specimen Validity Test: The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

H. Invalid Result: The result reported by an Health and Human Services (HHS)-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

I. Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

J. Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

K. Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

L. Non-negative test result: A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

M. Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse (ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

N. Substituted specimen: A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

IV. THE CITY OF MORRO BAY'S **CONSENT FOR USE OF LEGAL DRUGS**

A. Use of Legal Drugs: The City recognizes that it may be necessary for employees to use legal drugs from time to time. For purposes of these policies, "marijuana" is not considered a legal drug. The City also recognizes that an employee who is using legal drugs might become impaired by the drug such that the employee's ability to adequately or safely perform is compromised. In order to accommodate employees who might be required to use legal drugs, and to help assure that no serious adverse consequences in the workplace result from such drug use, certain classes of employees, identified in this policy, are required to obtain the City

consent and comply with certain disclosure and work-restriction requirements under the following circumstances.

1. The classes of employees who must obtain City consent to work while using a potentially impairing legal prescribed drug are those classifications defined as "safety sensitive" in these policies; those who work with children while the guardians of such children are absent; water well workers; those who operate heavy equipment; and those who operate City vehicles.
- B. When Consent is Required: Employees who know or should know that their use of legal drugs might endanger their own safety or the safety of another person, are obligated to report such drug use to the Human Resources prior to reporting to work on such medicine, and to obtain the City's consent to continue working. If the use of such medicine is temporary, the employee may be afforded the use of accrued time off. If the medicine is used for a disability, the employee should schedule a reasonable accommodation meeting in accordance with the City's reasonable accommodation policy. The City reserves the right to ask the employee to obtain a certification that the employee may safely perform duties, and to identify possible reasonable accommodations to safely perform essential job functions. If such certification is not received after requested, is produced by an inappropriately qualified physician, or appears incomplete or fraudulent, then the City may have a City-paid physician determine whether the employee can safely perform essential job functions and recommend reasonable accommodations which would allow such employee to safely perform essential job functions.
- C. Duty to Disclose: Employees who operate or who are responsible in any way for the operation, custody or care of the City's property, or for the safety of other employees or other persons, have a duty to disclose the nature of their job duties to any prescribing physician or pharmacist, or to a City physician or pharmacist if examined by one as set forth in Section B, and to inquire of the physician(s) or pharmacist whether their use of the drugs prescribed might result in the dangers, risks or impairment that this Policy is intended to prevent.
- D. Restrictions on Work: The City reserves the right to restrict the work activities of any employee who is using impairing legal drugs, that pose a threat to the safety of the employee or others, or prohibit any employee from working entirely while he or she is using impairing legal drugs that pose a threat to the safety of the employee or others.
- E. Duty to Refrain from Working: Each employee using impairing legal drugs has a duty to not report for work while impaired by the drug if such impairment might result in serious harm or damage or might interfere with his or her job performance. Accordingly, even if an employee has obtained the City's consent to continue working while taking legal impairing drugs, the employee will not be authorized to work while impaired by the use of such drug if the employee knows or has reason to know that working while impaired might endanger the safety of the employee or some other person, pose a risk of significant damage to the City's

property, or substantially interfere with the employee's job performance or the efficient operation of the City's business.

V. PROHIBITED CONDUCT

A. Scope: The prohibitions of this section apply whenever the interests of the City may be adversely affected, including any time the employee is:

1. On City premises;
2. Conducting or performing City business, regardless of location;
3. Operating or responsible for the operation, custody, or care of City equipment or other property; or
4. Responsible in any way for the safety of other individuals associated with City, including, but not limited to, co-employees, management, visitors, residents and vendors.

B. Alcohol: The following acts are prohibited and subject an employee to discipline, up to and including discharge:

1. The unauthorized use, possession, purchase, sale, manufacture, distribution, transportation or dispensation of alcohol; or
2. Being under the influence of alcohol defined as having a .04 blood alcohol content or above.
3. If an on-call employee has consumed alcohol, he or she must notify management. If he or she claims the ability to perform safety-sensitive functions, he or she may not test at a result of 0.02 or higher.

C. Illegal Drugs: The following acts are prohibited and subject an employee to discipline, up to and including discharge:

1. The use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of any illegal drug or other prohibited controlled substance; or
2. Having any illegal drug or other prohibited controlled substance in your system.

D. Legal Drugs: The following acts are prohibited and subject an employee to discipline, up to and including discharge:

1. The misuse or abuse of any legal drug; or

2. The purchase, sale, manufacture, distribution, transportation, dispensation, or possession of any legal prescription or over-the counter drug in a manner inconsistent with law; or
 3. Working while impaired by the use of a legal drug in violation of Section IV above; or
 4. Working without obtaining the required consent in violation of Section IV, above; or
 5. Failure to make proper disclosure in violation of Section IV, above.
- E. Marijuana: For purposes of these policies, marijuana possession on or in City property is strictly prohibited. Marijuana use prior to or during working hours or while on call is strictly prohibited.
- F. Conviction of any criminal drug statute for a violation occurring in the workplace.
- G. Failure to notify the City within five (5) days of any conviction of any criminal drug statute for a violation occurring in the workplace.

VI. SUBSTANCE SCREENING

- A. Job Applicants: Job applicants, holding a conditional offer of employment, may be required to undergo drug and alcohol testing as a condition of employment with the City. Classifications for which applicants will be tested are those classifications defined as "safety sensitive" in these policies; those who work with children while the parents, care-givers or guardians of such children are absent; water well workers; those who operate heavy equipment; and those who operate City vehicles.
- B. Employees: Current employees will be subject to testing if they:
1. Report to work or, while conducting or performing City business regardless of location, are reasonably suspected of being intoxicated or exhibiting abnormal behavior or performance difficulties associated with substance abuse;
 2. Are involved in a work-related accident and exhibit indicators of substance abuse;
 3. Are subject to federal or state regulatory requirements for random drug or alcohol testing, as set forth in Section C.2 below; or
 4. Post-accident testing as described in Section C below.
- C. Testing: The City may utilize each or all of the following testing methods:

1. Pre-employment testing of applicants to certain classifications while such applicants are holding a conditional offer of employment;
2. Random testing for employees in the following safety-sensitive positions (hereafter "DOT Safety Sensitive"): operating commercial motor vehicles of 26,001 lbs. or greater or operating a vehicle carrying 16 passengers including the driver, or vehicles required to display a Department of Transportation placard for hazardous material and those who carry a firearm for security;

(a) Such random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or child care commitments will be random drug tested no later than 3 hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift.

3. Reasonable suspicion testing;
4. Post-accident testing, within 8 hours for alcohol and within 32 hours for drugs, following accidents in which the employee was operating a vehicle for the City (where the employee exhibits indicators of substance abuse or one that involves significant property damage of \$10,000 or more, or any medical injury requiring treatment away from the scene, or fatality);

For safety-sensitive employees, in addition to the above circumstances, they will also be subject to post-accident testing (within 8 hours for alcohol and within 32 hours for drugs) in the following situations:

- a. One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident, or the vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, unless the covered employee can be completely discounted as a contributing factor to the accident;
 - b. The covered employee must remain available post-accident for testing, but necessary medical attention shall not be delayed under any circumstances;
 - c. Any other safety-sensitive employee whose performance could have contributed to the accident, as determined by management using the best information available at the time, will be tested; and
5. Testing authorized or required by federal or state regulations, including Department of Transportation regulations.

VII. DISCIPLINARY ACTION

Violation of this Policy by any employee may result in discipline, up to and including discharge, depending on the circumstances and at the discretion of the City. At a minimum, referral to an SAP and disciplinary mandates for safety-sensitive positions, as required under Title 13 of the California Code of Regulations and Title 49 of the Code of Federal Regulations, will be followed for those individuals in safety-sensitive positions.

- A. Effect of Criminal Conviction: An employee who is convicted under a criminal drug statute for a violation occurring in the workplace, while conducting or performing City business regardless of location, or during any City-related activity or event will be deemed to have violated this Policy.
- B. An employee, who violates drug and alcohol regulations, cannot again perform any safety-sensitive duties for the City until and unless the employee completes the SAP evaluation, referral, and education/treatment process set forth in this subpart and in applicable DOT agency regulations and return-to-work follow-up testing required by federal regulations.
- C. Refusal to Test: Includes circumstances or behaviors such as:
 - 1. Failure to appear at the collection site in the time allotted;
 - 2. Leaving the collection site before the testing process is completed;
 - 3. Failure to provide a urine, breath, or saliva specimen as required by CFR, Part 40;
 - 4. Failure to permit the observation or monitoring of specimen collection when it is required by law;
 - 5. Failure to provide a sufficient amount of urine or breath specimen without a valid medical explanation;
 - 6. Failure or refusal to take a second test when required;
 - 7. Failure to undergo a fitness for duty medical evaluation when required;
 - 8. Failure to cooperate with any part of the testing process. (Example: refusal to sign the testing form when required);
 - 9. Leaving the scene of an accident without just cause prior to submitting to a test; or,

10. If the Medical Review Officer (MRO) reports a verified adulterated or substituted test result.
11. Possession or wearing a prosthetic or other device used to tamper with the collection process.
12. Admitting to the adulteration or substitution of a specimen to the collector or MRO.
13. Refusal to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
14. As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

Note: A refusal to test shall be treated as a positive test result for the purposes of administration of this Policy and any resulting disciplinary action.

VIII. CRIMINAL CONVICTIONS

Employees are required by this Policy to notify the City of any conviction under a criminal drug statute for a violation occurring in the workplace, while conducting or performing City business regardless of location, or during any City-related activity or event, not later than five (5) days after any such conviction. When required by applicable law, the City will notify agencies under contract of any employee who has been convicted under a criminal drug statute for a violation occurring while conducting or performing City business, regardless of location.

IX. UNREGULATED OR AUTHORIZED CONDUCT

- A. Customary Use of Over-the-Counter Drugs: Nothing in this Policy is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over-the-counter drugs, so long as such activity does not violate any law or result in an employee being impaired by the use of such drugs in violation of this Policy.
- B. Off-the-Job Conduct: Nothing in this Policy is intended to regulate off-the-job conduct, so long as the employee's off-the-job use of alcohol or legal drugs does not result in the employee being under the influence of or impaired by the use of alcohol or drugs in violation of this Policy.
- C. Use of Alcohol or Legal Drugs: Human Resources will maintain a list of circumstances in which the use or possession of certain legal drugs or alcohol is authorized (such as certain medicine or drugs maintained in company first-aid cabinets or alcoholic beverages served during certain business meetings or social functions) and will communicate the authorization as appropriate. Changes to the authorization require the prior written approval of the Human Resources. Except as otherwise provided in this policy, no employee may assume that his or her possession, use, purchase, sale, manufacture, distribution, transportation, or dispensation of alcohol or drugs is authorized unless the employee has been notified in writing by Human Resources.

X. QUALIFIED DISABLED EMPLOYEES

- A. Commitment to Employ Disabled Individuals: Nothing in this Policy is intended to diminish the City's commitment to employ qualified disabled individuals or to provide reasonable accommodation to such individuals consistent with all federal, state and local laws.
- B. Reasonable Accommodation: If an employee's use of a legal drug is related to a disability and the employee voluntarily self-identifies as a disabled individual to the City in connection with an effort to determine whether it is advisable to continue working despite the use of the drug, and if it is determined that the employee should not continue to work in his or her regular job while using the legal drug, an effort will be made to reasonably accommodate that employee.

XI. CONFIDENTIALITY

Disclosures made by employees to Human Resources, concerning their use of legal drugs, will be treated confidentially, and will not be revealed to managers or supervisors, unless there is an important work-related reason to do so. Disclosures made by employees to Human Resources, concerning their participation in any drug or alcohol rehabilitation program, will be treated confidentially.

Managers and supervisors should restrict communications concerning possible violations of this Policy to persons who have an important work-related reason to know. In addition, managers and supervisors should not disclose the fact of an employee's participation in any drug or alcohol counseling or rehabilitation program. Although the City does not allow marijuana use or possession in the workplace, any manager receiving information that an employee has a medical marijuana card or prescription must treat such information with the same level of confidentiality of medical information received.

Under the federal and state Drug-free Workplace Acts, if an employee is performing work on a project funded in whole or in part by a state or federal grant, a report may be required to state or federal funding agencies upon a finding that an employee violated these policies. In addition, criminal conduct may be reported to law enforcement.

XII. COUNSELING

Employees who suspect they may have alcohol or drug problems, even in the early stages, are encouraged to voluntarily seek diagnosis and to follow through with the treatment as prescribed by qualified professionals. Employees who voluntarily disclose that they wish to enter and participate in an alcohol or drug rehabilitation program are encouraged to contact Human Resources, who will hold an interactive meeting with the employee to determine the reasonable accommodation(s) of the efforts to seek treatment, including possibly providing unpaid leave for the time necessary to complete participation in the program.

Employees who voluntarily self-identify as having a drug or alcohol problem for which they seek treatment will not be discharged for such disclosure provided the self-identification is not made (1) to avoid testing, or (2) after being selected for reasonable suspicion, random or post-accident testing, or (3) after refusing a test, and provided the self-identification is made prior to performing any safety sensitive functions (reporting for duty for a safety sensitive function). Such employee will be referred to a SAP and evaluation, education and/or treatment to establish control over the drug or alcohol problem. Any safety-sensitive employee who self-reports will be removed from safety-sensitive functions until successful completion of a rehabilitation program. Prior to resuming any safety-sensitive functions, the employee must undergo a DOT return-to-duty drug test with a verified negative result and/or return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

XIII. PROCEDURES

- A. A Medical Review Officer (MRO), a licensed physician, will be responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug results. A MRO may have a designee who is a licensed physician.
- B. Employees will be asked to submit to testing and sign a consent to test immediately upon arrival at the site. If an insufficient sample is provided when requested, employees will be allotted up to forty ounces of water within three hours (or a timeframe consistent with current Federal Guidelines) to provide a sample.
- C. A MRO or MRO designee must verify all drug test results. Employees will be afforded the opportunity to discuss all prescription and non-prescription drugs they have used with the MRO or designee. Marijuana will not be recognized as a prescription drug. The use of the information on prescription and non-prescription information by the MRO will be limited to verification of the employee's drug test results;
- D. A positive drug test is a result reported by a Department of Health and Human Services-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations and confirmed positive by the MRO or a Refusal to Test.
- E. An employee whose drug test results are positive may, within 30 days, submit a written request for a retest of the split sample. The retest will be conducted at another National Institute on Drug Abuse Certified Laboratory approved by the City's Health Officer. The retest will be conducted at the employee's expense. If the results of the retest are not consistent with the original, the process shall be considered inconclusive and shall not be used as the basis for subsequent action.
- F. If an employee produces a negative dilute specimen, he/she must undergo a second test. A second negative-dilute specimen (with a creatinine concentration

greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL) will be considered a refusal to test.

- G. All employees shall receive a copy of the City's Drug-Free Workplace Policy and Conditions of Employment form; employees must sign a statement that they have received and read the policy.
- H. For any aspect of the testing procedures of the testing laboratory or receipt and review procedures of the MRO, not set forth herein, the Federal Department of Transportation guidelines will be followed.
- I. In the event of a verified positive test result or a verified adulterated or substituted result, the employee may request that a split specimen be tested at a second laboratory.

XIV. INFORMATION DISCLOSURE

- A. Drug/alcohol testing records shall be maintained by the Morro Bay Drug and Alcohol Program Manager, and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- B. The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- C. Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
- D. Records will be released to a subsequent employer only upon receipt of a written request from the employee, or as required by law.
- E. Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- F. Records will be released to the National Transportation Safety Board during an accident investigation.
- G. Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information.

- H. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- I. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over any department of Morro Bay or the employee.
- J. If a party seeks a court order to release a specimen or **part** of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.
- K. In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the Federal Transit Administration.

REFERENCES

California Code Of Regulations (CCR), Title 13

California Government Code Section 8350, "Drug-Free Workplace Act of 1988"

Code of Federal Regulations (CFR), Title 49 Parts 40, 382, and 391

**CITY
OF
MORRO BAY**

PERSONNEL

RULES & REGULATIONS

RESOLUTION NO. 26-05

**RESOLUTION ADOPTING AMENDMENTS AND ADDITIONS TO
THE CITY OF MORRO BAY PERSONNEL RULES AND REGULATIONS
AND RESCINDING RULES AND REGULATIONS IN CONFLICT THEREWITH
LAYOFF AND SENIORITY**

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

WHEREAS, the City of Morro Bay is required to comply with state and federal laws concerning employment and re-employment rights of permanent city employees; and

WHEREAS, the City has established policies regarding retention of employment and termination of employment and the rights and responsibilities of the City and employees related to these issues; and

WHEREAS, the City desires to amend these existing policies to more clearly delineate the rights and responsibilities of all affected parties regarding layoff and seniority, and;

WHEREAS, City staff and employee representatives have reviewed the proposed policy changes and find no further objection to them.

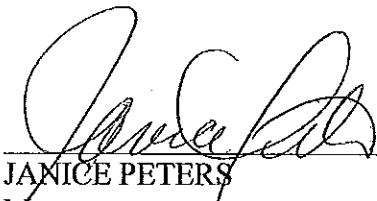
NOW, THEREFORE, BE IT RESOLVED by the Morro Bay City Council that the attached amendments and additions to the Personnel Rules and Regulations are adopted and any existing adopted provisions in conflict therewith are rescinded and superseded.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting held thereof on the 13th day of June 2005 by the following vote:

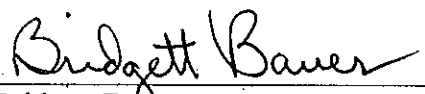
AYES: Baxley, DeMeritt, Peirce, Peters, Winholtz

NOES: None

ABSENT: None



JANICE PETERS
Mayor



Bridgett Bauer
City Clerk

CITY OF MORRO BAY

LAYOFF AND SENIORITY POLICY

I. PURPOSE

- A. It is recognized that when it is necessary to reduce City employment due to outsourcing, fiscal constraints, reductions in revenue, reorganization, reductions in municipal services, or reduction in the demand for municipal service, such action and its implementation except as qualified herein, shall be at the sole discretion of the City.
- B. This Policy establishes regulations pertaining to lay-off and seniority and establishes procedures involved in the application of this Policy.
- C. When it is deemed necessary to reduce City employment by layoff, the layoff procedure shall protect the right of the City to retain qualified employees, while recognizing the seniority of affected employees as outlined below.
- D. Lay-offs shall occur by classification within department. The department head, with approval of the City Manager, shall determine the classification, number of positions to be affected within a department, the lay-off date, and shall notify the Personnel Officer and the affected employee organization in writing at the earliest possible date.

II. POLICY

This Policy and the procedures outlined herein apply to all employees in the City of Morro Bay whose positions may be eliminated as outlined above.

III. DEFINITIONS

- A. Lay-off
 - 1. An action caused by a reduction of authorized, budgeted positions wherein an employee is laid-off from the work force for economic reasons only. The term "Lay-off" shall include removal from city employment or reassignment to a former or other class pursuant to this Policy.
- B. Classification
 - 1. The job title and job description are the City's official description of the representative duties, responsibilities and employment qualifications of a job.

2. Classification means one or more regular positions grouped according to the duties and responsibilities assigned to a specific job title.
3. A Classification Series consists of a grouping of two or more job classes performing similar work, but at different levels of responsibility, difficulty and pay. (i.e. Worker, Senior Worker, Lead Worker)

C. Seniority

1. Seniority for the limited purposes of this policy shall be measured from the time an employee was first granted permanent status in the employee's current classification, subject to the following:
 - a. Service time shall be given only for continuous service with the City of Morro Bay in all regular classifications served.
 - b. Continuous unbroken time worked includes time during which the employee was absent with pay. Approved leaves of absence without pay shall maintain the continuity of employment, but the duration of the leave shall be deducted from the total continuous time period except as provided by State and/or Federal law.
 - c. In cases where there are two or more employees in the Classification from which the lay-off is to be made who have the same seniority date, such employees shall be laid off on the following basis: 1) (safety only) test score, provided that they took the same test on the same date. 2) total City seniority. 3) By lot.
 - d. For bumping purposes only, seniority shall be calculated by adding service time in the higher classification(s) to service time in the classification to which the employee is attempting to bump.

D. Bumping Rights

1. Bumping rights or bumping shall mean the right of an employee, based upon the seniority as defined in III c, d,
2. Subject to D.3. below, an employee shall be permitted to bump into a classification where he/she previously held regular permanent status. Bumping may occur only in the case where the employee has seniority over the person being bumped. Bumping shall also be permitted to lower level positions in the same classification series. Title changes will not disqualify an employee from bumping if the position is substantially the same as determined by the City Manager.

3. No employee shall have the right to bump into a classification for which the employee does not possess the minimum qualifications for the classification, such as specialized education, training, certifications, knowledge, skills and abilities.
4. An employee who is bumped shall have the same rights as provided herein and shall be considered laid-off for the purposes of this Policy.

IV. SCOPE AND ORDER OF LAY-OFF

Lay-off shall occur within a job classification and division in inverse order of seniority in the following order of employee status:

1. Contract
2. Provisional
3. Probationary
4. Regular employees. (Regular part-time employees' service time shall be prorated for the purposes of computing seniority.)

V. NOTIFICATION

- A. In the event the City anticipates a lay-off covered by this Policy; the City will notify the employee organization 15 calendar days prior to notice being given to employees pursuant to V.C. below of its intent prior to making any such layoffs.
- B. Prior to formal announcement of lay-offs the City shall meet and confer with the employee organization concerning the impact of the lay-off decision. Nothing in this section relinquishes the City's right to lay-off employees. The City shall, upon request, explain the rationale/need for the layoffs.
- C. Employees subject to lay-off shall be given at forty-five (45)-calendar days advance notice in writing. A lay-off notice shall include the following information:
 1. Reason for lay-off
 2. Effective date of the lay-off
 3. The employee's calculated seniority date
 4. Classes to which the employee may request displacement within the City.
 5. A copy of this Policy.
- D. An employee who has bumping rights shall notify the Personnel Officer within ten (10) working days after notice of layoff of his/her intention to exercise bumping rights.

VI. REEMPLOYMENT

- A. Employees who are laid off shall have their names placed on a reemployment eligibility list for their current classification or a classification in which they previously held permanent status. The City shall maintain the list as long as any employee is in laid-off status or three years, whichever occurs first.
- B. Reemployment Eligible List: The reemployment eligible list shall consist of the names of employees and former employees having probationary or regular status who have been laid off or whose positions have been reallocated as a result of reclassification. The affected employees shall be placed on the reemployment eligibility list. Such lists shall take precedence over all eligibility lists.
- C. The Personnel Officer shall make every effort to place an employee who has been laid off in a vacant position for which he/she is qualified during the life of the reemployment list.
- D. An employee, whose name is active on the reemployment list and was employed with the City in a permanent position for at least three consecutive months prior to lay-off, shall be eligible to apply for any promotional recruitment.
- E. To the extent feasible, the City will utilize re-employment lists when filling temporary and/or contract employee opportunities.

VII. VOLUNTARY DEMOTION IN LIEU OF LAY-OFF

- A. An employee scheduled for lay-off may voluntarily demote to a vacant lower class, provided the employee possesses the minimum qualifications for the lower position, as determined by the Personnel Officer.
- B. Employees may also demote to any previously held vacant position, provided that position is vacant, wherein their performance in that position has been documented to be satisfactory.
- C. To be considered for voluntary demotion in lieu of lay-off, an employee must notify the Personnel Officer in writing of this election no later than ten (10) working days after receiving notice of layoff.

VII. INTERPRETATION

Differences regarding interpretation of this policy shall be determined by the City Manager.

VIII. VOLUNTARY LAYOFF

When lay-offs are pending, employees resigning City positions for alternate employment may request a voluntary lay-off. Upon the approval of the City Manager, such employees shall be considered to be laid-off and will be treated in accordance with this policy.

RESOLUTION NO. 58-04

**RESOLUTION ADOPTING AMENDMENTS AND ADDITIONS TO
THE CITY OF MORRO BAY PERSONNEL RULES AND REGULATIONS
AND RESCINDING RULES AND REGULATIONS IN CONFLICT THEREWITH**

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

WHEREAS, the City of Morro Bay last revised its personnel rules and regulations in 1983; and

WHEREAS, revisions are necessary to keep current with policies, procedures and laws affecting employees; and

WHEREAS, the attached revisions relate to employment; classification; recruitment, selection and appointment; and employment status.

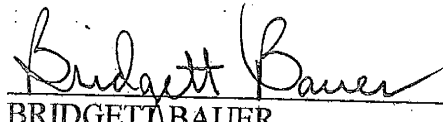
NOW, THEREFORE, BE IT RESOLVED by the Morro Bay City Council that the attached amendments and additions to the Personnel Rules and regulations are adopted and provisions in any resolutions in conflict therewith are rescinded.

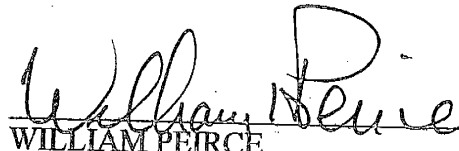
PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting held thereof on the 9th day of August 2004 by the following vote:

AYES: Elliott, Peirce, Peters, Winholtz

NOES: None

ABSENT: Yates


BRIDGETT BAUER
City Clerk


WILLIAM PEIRCE
Vice Mayor

DIVISIONS 1, 2, 4, 5, 6

Adopted by Resolution No. 58-04 on August 9, 2004

DIVISION 1. INTRODUCTION

Section 1.02 Purpose. These rules establish the personnel system for the City of Morro Bay. These rules shall apply to all employees of the City of Morro Bay except those employees who are specifically excluded herein.

Section 1.03 Authority of the City Manager. In accordance with Morro Bay Municipal Code Section 2.32, Personnel System, the city manager shall have general control and supervision over the affairs of the city; the authority to establish, when not in conflict with these Rules and Regulations, such other procedures as the city manager deems necessary for the control and supervision of the affairs of the city; and the power to appoint, to make transfers, promotions, demotions, reinstatements, and layoffs, and to discipline city employees for whom the city manager is the appointing authority. The city manager may delegate any of these powers and duties to any other employee of the city.

Section 1.04 Conflict with Collective Bargaining Agreements. If a provision of these rules conflicts with any provision of an applicable collective bargaining agreement entered into by the city and a recognized employee organization, to the extent of such conflict, the provision of the collective bargaining agreement shall be deemed controlling. City shall comply with the provisions of Government Code §3505 to meet with employee organizations.

Section 1.05 Non-Contract Provision. THESE RULES DO NOT CREATE ANY CONTRACT OF EMPLOYMENT, EXPRESS OR IMPLIED, OR ANY RIGHTS IN THE NATURE OF A CONTRACT.

Section 1.06 Tenure of Employment. The tenure of every employee in the city service shall be based upon continued satisfactory work performance, good conduct, continuing mental and physical fitness for their position as determined by the appointing power, existence of the need for the work performed, and the availability of funds.

Section 1.07 Department Heads. Subject to the approval of the appointing authority, department heads may create rules and regulations more specific to the department's operation. None of the department rules, regulations, or directives shall conflict with or supersede any provisions of the Personnel Rules and Regulations or any current bargaining agreement, and in the event of any conflict the same shall be resolved in favor of these Rules and Regulations and/or bargaining agreement. All departmental rules and regulations established by the department head shall be reviewed by the city manager.

Section 1.08 Conditions of Employment. In accepting employment with the City of Morro Bay, each employee agrees to be governed by and to comply with these Rules and Regulations, the Morro Bay Ordinances and Resolutions, administrative rules and

procedures established by the city manager pursuant thereto, and rules, regulations and directives of the department in which the employee is employed.

Section 1.09 Legal Residency. All candidates for examination and employees of the city shall be citizens or legal residents of the United States, except for candidates who may be in the process of applying for legal residency.

Section 1.10 At-Will Employment. Employees who hold their job at the will and pleasure of the City are at-will employees; they may be dismissed for no cause. Probationary, temporary, provisional, seasonal, contract, and department head employees are examples of such at-will employees.

Section 1.11 Exceptions to the Application of the Rules and Regulations. These rules establish the personnel system for the city. These rules shall apply to all employees of the city except those employees or employee groups who are excluded or except where these rules specifically otherwise provide. Excluded employees are:

- A. Elected officers,
- B. The city manager, city attorney, city clerk, and city treasurer, and department heads;
- C. Persons engaged under contract to supply expert, professional, technical, or other services for a definite period of time;
- D. Persons designated as volunteer, temporary, provisional or seasonal;
- E. Appointed members of boards, commissions, or committees;
- F. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property;
- G. Any position primarily funded under a state or federal employment program;
- H. Employees retained pursuant to an employment agreement;
- I. Grant funded positions.

Employees not in the classified service serve at the will of the appointing authority and may be discharged, suspended, demoted or reduced in pay at any time, without cause, without advance notice, and without right of appeal. The city council is the appointing authority for the city manager, city attorney, city clerk and city treasurer; the city manager is the appointing authority for all other positions and volunteer assignments within the service of the city. Employees not in the classified service are subject to the state and federal requirements set forth in these rules.

DIVISION 3. DEFINITION OF TERMS

The following definitions for the terms used in these Rules; unless the context indicates another meaning.

Section 3.01 Business (or Working) Day: Any calendar day exclusive of Saturdays, Sundays, and legal holidays as defined in Section 7.04 of these Rules and Regulations.

Section 3.02 Calendar Day: A continuous twenty-four (24) hour period commencing at 12:00 Midnight.

Section 3.03 Construction of Genders: As used here, the masculine form of pronouns shall include the feminine and feminine forms of pronouns shall include the masculine.

Section 3.04 Day or Days: Calendar day or days unless otherwise stated.

Section 3.05 Human Resources Office: A division of the city manager's office charged with monitoring compliance with these rules and regulations. A personnel officer will carry out the day-to-day operations of the human resources office and will be designated by the city manager.

Section 3.06 Leave: An approved absence from work as provided for by these Rules.

Section 3.07 May and Should: The words "may" and "should" indicate the permissive.

Section 3.08 Memorandum of Understanding (MOU): An agreement between recognized employee representatives and the city concerning hours, working conditions, benefits and rates of pay.

Section 3.09 Must and Shall: The words "must" and "shall" indicate the mandatory.

Section 3.10 Personnel Ordinance: Chapter 2.32 of the Morro Bay Municipal Code as adopted by the city council.

DIVISION 4. CLASSIFICATION

Section 4.01 Preparation of Classification Plan: The city manager shall assign a qualified person to ascertain and record the duties and responsibilities of all positions in the city service and to recommend to the city manager a classification plan for all positions in the city service. The classification plan shall consist of classes of positions defined by class specifications (or job descriptions) and job titles. The classification plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class, and that similar schedules of compensation apply to all positions in the same class.

Section 4.02 Classified Service: All positions in the service of the city except for those listed in Section 1.11 of these rules.

Section 4.03 Class Specifications: A class specification shall be a written record providing the title and definition of a class, a listing of illustrative examples of duties to be performed, and the qualifications necessary for consideration for appointment. Qualifications may be stated as a minimum that is acceptable or desirable, and shall be revised as the need arises. A class specification may include other pertinent information as deemed necessary by the personnel officer. Class specifications shall be descriptive and explanatory, and not restrictive. The class specifications shall not be construed as limiting the assignment of duties of any position, nor as limiting or modifying the power of appointing authority to direct and control the work of employees under the appointing authority's supervision. A Class Specification may also be referred to as a Job Description.

Section 4.04 Amendment and Revision of Plan: The city manager may cause the classification plan to be revised whenever in the city manager's judgment it is in the best interest of the city. Material changes in job duties of a class specification shall be approved by the city council.

Section 4.05 Position Classification Studies: The personnel officer shall have the right to initiate and conduct studies of any position in the classified service to determine such position's proper classification. Said right shall include access to department records considered pertinent to such study, consultation with employees and/or supervisors regarding duties, functions and responsibilities of the position, and the collection of such other information believed necessary for making a decision.

Section 4.06 Reclassification: The personnel officer shall recommend to the city manager reclassification of any position(s) it determines to be improperly classified. Upon the approval of the city manager of such reclassification and availability of funding, the personnel officer shall allocate the position to the proper class. Such reclassification shall not be used for purposes of circumventing restrictions concerning demotions and promotions.

Section 4.07 Request for Reclassification: When a department head believes a position is not properly classified due to a significant change in duties, functions and

responsibilities, the department head may request that a position classification study be initiated by the personnel officer for the position in question.

Section 4.08 Class Allocation: When recommending the creation of a new class, the personnel officer shall submit for the department head's review and comment the class specification for the new class. The new class specification shall be submitted to the city council for approval. Upon approval of the specifications by the city council, the personnel officer shall allocate such position(s) to the new class as are required.

Section 4.09 Request for New Classification: A department head, when requesting a new classification to be created, shall provide human resources with information pertinent to the class specifications.

All new position classifications are subject to city council approval.

DIVISION 5. RECRUITMENT, SELECTION AND APPOINTMENT

Section 5.01 Recruitment: Applicants for positions with the city shall be recruited to obtain qualified candidates for employment. Recruitment and selection procedures shall be designed to measure the job-related qualifications of applicants.

Section 5.02 Job Announcements: The city shall prepare recruiting notices to publicize vacancies and to attract candidates for vacant or anticipated positions. All examinations for positions in the city service should be publicized by such methods as the city manager deems appropriate.

Job announcements should include:

- Title and pay for the position;
- the nature of the work to be performed;
- the minimum and desired qualifications;
- whether the position is at-will or regular;
- the time and place of examination, if known;
- the method of applying;
- the closing date for application, if one is established;
- whether a medical and/or psychological examination, including a drug screen, will be required, post-offer of employment;
- such other information as desirable in the discretion of the human resources office or designee.

Section 5.03 Application Forms: Application for employment shall be made as prescribed on the job announcement. Application forms should require information covering training, experience, and other job-related information. Consistent with applicable law, applicants may be required to submit certificates, references, and other pertinent information. Every application must be signed by the person applying and the applicant must attest to the accuracy of the information contained in the application. Falsification of information contained in the application, or the failure to submit complete information may be reason for rejection of the application; or, if hired, disciplinary action, including discharge, regardless of when the falsification or omission is discovered. The city may refuse to process an application that is not completed, references a resume in lieu of filling out the application, is not legible or is not signed.

Section 5.04 Applicant: An applicant is an individual who has completed and submitted an application for employment with the city.

Section 5.05 References: The city may contact former supervisors, employers, and personal references provided by applicants. All reference information shall be handled on a confidential basis.

Section 5.06 Disqualifications: The appointing authority may, at any time, remove from further consideration any applicant if the applicant:

- A. Has made false statements of any material fact, or practiced any deception or fraud on the application, declarations or in securing eligibility or appointment;
- B. Is found to lack any of the requirements, certifications, or qualifications for the position involved;
- C. Is physically or mentally unable to perform the essential functions of the job, with or without reasonable accommodation;
- D. Is a current user of illegal drugs;
- E. Is a relative of an employee, and is subject to the Nepotism Policy in Section 5.12;
- F. Has been convicted of a crime, either a misdemeanor or felony, that relates to the position duties that the applicant would perform;
- G. Used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;
- H. Directly or indirectly obtained information regarding examinations;
- I. Refuses to execute the Oath of Office;
- J. Failed to submit the employment application correctly or within the prescribed time limits;
- K. Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related;
- L. For any material cause which in the judgment of the personnel officer or designee would render the applicant unsuitable for the position, which may include a prior resignation from the city, termination from the city, or a significant disciplinary action.
- M. For law enforcement applicants, applicant does not meet recommended or required job dimensions established by the Peace Officer Standards and Training (P.O.S.T.).

Defective applications may be returned to the applicant with notice to amend and re-file, provided that the time limit for receiving applications has not expired. Whenever an application is rejected, notice of such rejection shall be mailed to the applicant.

Section 5.07 Criminal Conduct - Ineligibility for Employment: Conviction, including pleas of guilty and *nolo contendere*, of a felony may disqualify an applicant for employment; provided, however, the city manager may disregard the conviction or plea if the city manager finds and determines that mitigating circumstances exist, or that the

conviction or plea is not related to the applicant's ability to perform the duties of the position. In making such determination, the City Manager shall consider the following factors:

- A. The relationship of the duties of the position to the nature of the conviction;
- B. The nature and seriousness of the offense;
- C. The circumstances surrounding the conviction;
- D. The length of time elapsed since the conviction;
- E. The age of the person at the time of conviction;
- F. The presence or absence of rehabilitation or efforts at rehabilitation; and
- G. Contributing social or environmental conditions.

Section 5.08 Selection Process:

- A. Examination Process: The selection techniques used in the examination process shall be impartial and shall relate to those subjects which fairly measure the relative abilities of the individuals examined to execute the duties and responsibilities of the class or position to which they seek to be appointed. Examination techniques may include: written tests, personal interviews, performance tests, physical agility tests, psychological examination, background investigation, evaluation of daily work performance, work samples, medical tests and/or alcohol and drug tests, successful completion of prescribed training, or any combination of these or other tests. All new and returning employees may be fingerprinted for Department of Justice clearance. The probationary period shall be considered as part of the examination process.

In the event there are a large number of qualified applicants, the personnel officer may rank, for qualifying purposes only, the applications submitted on the basis of the applicants' experience, education, training, and work history as related the particular position, and may choose a suitable number of applications whom he/she determines would best fill the position. The chosen applicants shall then be given further examination in order to obtain a score and ranking on the eligible list.

- B. Scoring and Qualifying Grade: Failure in one part of the examination, or to meet established standards described in the job announcement, may be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of an examination. A candidate's final score in a given examination (if a scoring process is used) should be the average of the scores on each competitive part of the examination on

which the applicant qualified, weighted as shown in the examination announcement.

Each applicant shall be notified by mail of the examination results, including the final earned score and ranking on the eligible list, if applicable.

- C. Eligible List: After completion of an open or promotional examination, the personnel officer or designee shall prepare an eligible list consisting of the names of candidates who passed the examination, arrange in order of final score, from the highest to the lowest. Notwithstanding any other provision of these rules, if there are less than three (3) names on an eligible list, the personnel officer or designee may declare such list void and fill the position(s) by any method permitted by the Rules, including, but not limited to recruiting and testing procedures. Eligible lists shall become effective upon the certification by the personnel officer or designee.
- D. Eligible List Duration: Eligible lists should remain in effect twelve months, unless the personnel officer or designee abolishes the list, the list is exhausted, or extended by the personnel officer or designee provided, however, that eligible lists for classes for which there is continuous recruitment shall remain in effect indefinitely. The personnel officer or designee may abolish or extend the list at any time prior to the expiration of the list if he or she determines that it is in the best interest of the city to do so.
- E. Removal of Name: The name of any person appearing on an eligible list shall be removed by the personnel officer or designee if the eligible so requests in writing, or fails to respond to a notification of an opening from the personnel officer or designee. It shall be the responsibility of the eligible to keep the human resources office informed of their current address and telephone number.
- F. Promotional Examinations. Promotional examinations may be conducted whenever, in the opinion of the city manager, the needs of the city require them. Only qualified applicants who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.

Section 5.09 Method of Filling Vacancies. All vacancies in the classified service may be filled by re-employment, reinstatement, transfer, demotion, promotion, lateral entry, appointment of hourly employees, or appointment from established eligible lists, if available. In the absence of persons eligible in such manner, provisional, acting or temporary appointments may be made. The city manager or designee shall decide in what manner the vacancy is to be filled. The city manager or designee may appoint any qualified individual.

Section 5.10 Appointment: After an interview and background investigation, the department head shall make a recommendation to the city manager for appointment from among those eligible, and, if approved by the city manager, shall immediately notify the human resources office of the appointment. An individual accepting an appointment shall report to the city on or before the date of appointment. If a candidate accepts an appointment and reports for duty at the time prescribed by the city manager, the candidate shall be considered appointed; otherwise, the candidate shall be deemed to have declined the appointment.

Section 5.11 Types of Appointments. Employment in the city service is divided into the following categories:

- A. Acting Appointment: The appointment of a probationary or regular employee for a limited period to a position in a higher class for which they are qualified if the position is temporarily vacant. At the end of the acting appointment, the employee will return to the position from which they are appointed.
- B. At-will or unclassified: See Section 1.10.
- C. Emergency Employee: Appointment(s) made by the city manager as may be needed for the period of an emergency, to meet the requirements of an emergency condition which threatens life, property, or the general welfare of the city without regard to these Rules. Emergency employees are at-will and do not enjoy the same rights as regular employees.
- D. Exempt Employee: An employee exempt from the overtime payment requirements of the Federal Fair Labor Standards Act.
- E. Probationary: An at-will appointment for a set period of time that could lead to a regular appointment.
- F. Provisional Appointment: The appointment of a person who possesses the minimum qualifications established for a particular position in the absence of available certified eligibles. Normally a provisional appointment shall not exceed six (6) months; however, the city manager may extend the length of a provisional appointment when he/she determines such appointment is in the best interest of the city. A provisional appointment may be terminated at any time, without notice, and without the right of appeal or hearing. A provisional appointee obtains no right or property interest in the position to which the employee is provisionally appointed. Except as expressly authorized in these Rules, provisional appointees are not entitled to the benefits provided for in these Rules unless authorized by the appointing authority.
- G. Regular Full-Time Employee: An employee in the classified service who has successfully completed the probationary period, who is assigned to an

authorized position and who is regularly scheduled to work the full workweek as established by the appointing authority.

- H. Regular Part-Time Employee: An employee in the classified service who has successfully completed the probationary period and who is assigned to an authorized budgeted position requiring a minimum of twenty (20) hours of work per week on a regular basis. Regular part-time employees are entitled to the benefits provided for in these Rules on a pro-rated basis.
- I. Reinstatement: The re-employment without examination of a former regular employee within twelve (12) months of the last day of employment to a position in which the employee formerly served. Reinstatement shall be at the discretion of the city manager. (See Section 6.05.)
- J. Student Employee: Appointments made for the purpose of affording students participating in a career development program an opportunity to gain actual work experience. Student appointments require the written approval of the city manager. Unless otherwise approved by the city manager, student appointments shall be deemed volunteers, and shall be subject to the provisions in these Rules governing volunteers.
- K. Temporary Employee: An employee hired on a temporary basis for a specific period or project. Except as expressly authorized in these Rules, temporary employees are not entitled to the benefits provided for in these Rules. They serve at-will and may be terminated without cause or right of appeal.
- L. Volunteer:
 - 1. A volunteer is an individual who performs service for the city for civic, charitable, or humanitarian reasons, and without promise, expectation or receipt of remuneration or compensation for services rendered. Volunteers shall meet all of the criteria set forth in the Fair Labor Standards Act, 29 U.S.C. §203(e)(4)(a), and applicable Department of Labor Regulations, 29 C.F.R. §§553.100 et seq.
 - 2. Except as provided herein, these Rules do not apply to volunteers.
 - 3. Volunteers serve at-will and at the pleasure of the city manager or individual department heads. Volunteers do not acquire any right or interest, including, but not limited to any property right or interest, in their assignment, position or task. Accordingly, volunteers may be terminated from their assignment, position or task with the city at any time, without notice and without cause.

4. Nothing contained in these Rules shall be interpreted to change the at-will nature of the relationship between a volunteer and the city.

Section 5.12 Nepotism.

- A. The City retains the right to refuse to promote a person to a position in any department in which such person's relative already holds a position, when such employment would result in any of the following:
 1. A supervisor-subordinate relationship;
 2. The employee sharing job duties that require performance of shared duties on the same or related work assignment;
 3. Both employees having the same immediate supervisor.
- B. For purposes of this section, "relative" means spouse, child, stepchild, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law or sister-in-law. This section shall not apply to employees currently in a position described by A above on the date of adoption of these rules.
- C. If a city employee marries another person employed by the city within the same department, both employees shall be allowed to retain their respective positions provided that a supervisory relationship does not exist between the couple. During the period of employment, no supervisory position shall exist between the two employees. For the purpose of this section, a supervisory relationship shall be defined as one in which one person exercises the right to control, direct, reward or discipline another person by virtue of the duties and responsibilities assigned to his or her position.
- D. The city also retains the right to refuse to place both spouses in the same department, division or facility where such has the potential for creating adverse impact on supervision, safety, security or morale or involves potential conflicts of interest.
- E. Where the circumstances mandate that two spouses shall not work together, the human resources office will attempt to transfer one spouse to a similar position in another city department. Although the wishes of the involved parties as to which spouse is to be transferred will be given consideration by the city, the controlling factor in determining which spouse is to be transferred shall be the positive operation and efficiency of the city. If any such transfer results in a reduction in salary or compensation, the same shall not be considered disciplinary in nature and shall not be the subject of any form of administrative appeal.

- F. If continuing employment of two spouses cannot be accommodated consistent with the city's interest in promotion of safety, security, morale and efficiency, then the city retains sole discretion to separate one spouse from city employment. Absent resignation by one affected spouse, the less senior of the involved spouses will be subject to separation and the same shall not constitute discipline and shall not be subject to any administrative appeal.

Section 5.13 Pertinent Documents or Evidence: Each person appointed to a position in the classified service may be required to provide and/or sign certain documents such as: Oath of Office, birth certificate, fingerprints, automobile operator's license, high school diploma, education transcripts, technical certifications, military discharge papers, and waivers.

DIVISION 6 EMPLOYMENT STATUS

Section 6.01 Probationary Employment: All original and promotional appointments shall be tentative. Original appointments shall be subject to a probationary period of twelve (12) months actual and continuous service. An eighteen (18) month probationary period of actual and continuous service shall be required for all sworn fire and police personnel. Periods of time on paid or unpaid leave exceeding five (5) working days (consecutive or not) shall automatically extend the probationary period by that number of working days the employee is on leave. If the probationary period is interrupted by military leave for a period that extends beyond half of the probationary period, then the employee shall serve a new probationary period.

The probationary period shall be regarded as part of the testing process and shall be utilized for closely observing the employee's work to determine the employee's fitness for the position. If an employee is required, as a condition of hire, to obtain a job related certificate, license, education, etc., prior to the end of the probation period and has not done so, employee may be discharged regardless of performance. A five-month extension may be granted if approved by the department head and city manager.

The end of the probationary period shall coincide with the end of the payroll period after the employee's probationary twelve or eighteen month probationary period.

Section 6.02 Promotion: Vacancies in the city service may be filled by promotion from within the service with or without a promotional examination. A vacancy may be filled by an open competitive examination instead of a promotional examination if so determined by the city manager.

Section 6.03 Probation After Promotion: On accepting a promotion, an employee serves a new probationary period of six (6) months of actual and continuous service. Periods of time on paid or unpaid leave exceeding five (5) working days (consecutive or not) shall automatically extend the probationary period by the number of days the employee is on leave. An employee does not acquire regular status in the promotional position until the successful completion of this probationary period. If the employee fails to satisfactorily complete the probationary period in the promotional position, the employee shall be entitled to return to the position held prior to promotion at the range and step held prior to promotion if there is a vacancy in the prior position. If there is no vacancy, the employee may be assigned to a vacant position for which the employee is qualified and which is nearest the employee's prior pay range. The employee is not entitled to notice of a hearing if rejected during probation.

Section 6.04 Re-Employment: The names of regular employees who have been laid off or who have exhausted all leave time and are medically unable to return to work shall be placed on a re-employment list in the order of their seniority in the classification from highest to lowest. Such names shall remain thereon for a period of one (1) year unless such persons are sooner re-employed. As a vacancy within the classification becomes available, the name appearing at the top of the list shall be selected to fill the vacancy. An employee who is selected from the list to fill the vacancy, who refuses the assignment, shall be removed from the list without right of appeal.

Employees who are demoted as a result of a layoff shall have their names placed on a classification re-employment list, in order of their classification seniority. Vacant positions within a classification series shall be first offered to employees on this list.

Section 6.05 Reinstatement: With the approval of the city manager, a regular employee who has successfully completed at least twelve (12) months of probationary service and who has resigned with a satisfactory employment record may be reinstated within twelve (12) months of the effective date of resignation to a vacant position in the same or comparable class. Upon reinstatement, the employee shall be subject to the probationary period prescribed for the position. An employee reinstating within 12 months of the last day of employment may begin accruing vacation at the rate that he/she was accumulating prior to separation. The time in that rate for purposes of calculating an increase in rate will begin on the date of rehire. No other credit for former employment shall be granted in computing salary, sick leave, or other benefits.

Section 6.06 Rejection During Initial Probation: During the probationary period an employee may be rejected at any time without cause and without the right of appeal.

Section 6.07 Relief of Duty: Relief of duty is the temporary assignment of an employee to a status of leave with pay. Relief of Duty may be used while investigating alleged misconduct by an employee.

Section 6.08 Demotion: Upon request of the employee, and with approval of the appointing authority, an employee who has not held status in a lower classification may be allowed to demote to a vacant authorized position in the same department if he/she meets all the requirements of the lower position as determined by the appointing authority. All employees who are demoted under this paragraph will be paid at the rate of pay for the lower position.

Section 6.09 Transfer: No person shall be transferred to a position for which that person does not possess the minimum qualifications unless waived by the city manager. The city manager may transfer an employee at any time from one position to another. If a transfer involves a change from one department to another, both department heads must consent thereto unless the city manager orders the transfer. In the case of the transfer of an employee from one position to another in the same class, or to another class to which the same salary range is applicable, the employee shall remain at the same salary step and retain employee's original anniversary date. Transfers are not to be considered as disciplinary actions. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in these rules.

Section 6.10 Voluntary Transfer: A regular employee may request a transfer to a vacant position in the same or lower classification for which the employee is qualified. With the approval of the department head for whom the employee currently works and the department head for whom the employee wishes to work, the employee will be transferred to the new position. If the transfer is to a position in a class with a lower

salary range, the employee shall be placed in the highest step in the lower salary range, which does not represent a salary increase

RESOLUTION NO. 21-04

**RESOLUTION ADOPTING AMENDMENTS AND ADDITIONS TO
THE CITY OF MORRO BAY PERSONNEL RULES AND REGULATIONS
AND RESCINDING RULES AND REGULATIONS IN CONFLICT THEREWITH**

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

WHEREAS, the City of Morro Bay is required to comply with state and federal laws concerning rights of employees with regard to equal employment opportunity, harassment prevention, the Family Medical Leave Act, Americans With Disabilities Act, Leave, pregnancy leave, and military leave; and

WHEREAS, the City is also required to establish policies to conform to said laws; and

NOW, THEREFORE, BE IT RESOLVED by the Morro Bay City Council that the attached amendments and additions to the Personnel Rules and regulations are adopted and provisions in any resolutions in conflict therewith are rescinded.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting held thereof on the 12th day of April 2004 by the following vote:

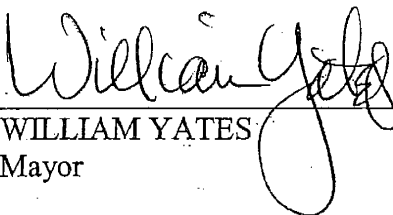
AYES: Elliott, Peirce, Peters, Winholtz, Yates

NOES: None

ABSENT: None



Jamie Boucher
Deputy City Clerk



WILLIAM YATES
Mayor

CITY OF MORRO BAY

DIVISION 2. EQUAL EMPLOYMENT OPPORTUNITY POLICIES

Section 2.01 Equal Employment Opportunity Statement. The City does not discriminate against qualified employees or applicants for employment on the basis of race, color, religion, gender, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, or any other basis protected by law. The City will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline, and discharge.

Section 2.02. Harassment Prevention Policy. The City is committed to providing a work environment free of discriminatory harassment. This policy defines discriminatory harassment, and sets forth a procedure for the investigation and resolution of complaints of such harassment by or against any employee or applicant or from a person providing services pursuant to a contract.

Discriminatory harassment violates this policy¹, and will not be tolerated. Discriminatory harassment of an applicant or employee or person providing services pursuant to a contract, is harassment based on actual or perceived race, religious creed, sex, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. It is also improper to retaliate against any individual for making a complaint of discriminatory harassment or for participating in a harassment investigation. Retaliation constitutes a violation of this policy.

This policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation.

Employees who violate this policy may be subject to disciplinary action up to and including discharge.

- A. Definition. Harassment can consist of virtually any form or combination of verbal, physical, visual or environmental conduct. It need not be explicit, or even specifically directed at the victim. Sexually harassing conduct can occur between people of the same or different genders.

By definition, sexual harassment is not within the course and scope of an individual's employment with the City.

1. Verbal: Inappropriate or offensive remarks, slurs, jokes or innuendoes based on actual or perceived sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation.

¹ A violation of this policy does not constitute a violation of state and/or federal law, although both prohibit discriminatory harassment.

This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, pregnancy or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation of a sexual nature; or sexist, patronizing or ridiculing statements that convey derogatory attitudes about a particular gender.

2. Physical: Inappropriate or offensive touching, assault, or physical interference with free movement when directed at an individual on the basis of actual or perceived sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, massaging, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.
3. Visual or Written: The display or circulation of offensive or derogatory visual or written material related to sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions (i.e., email).
4. Environmental: A work environment that is permeated with sexually oriented talk, innuendo, insults or abuse not relevant to the subject matter of the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements. An environment may be hostile if unwelcome sexual behavior is directed specifically at an individual or if the individual merely witnesses unlawful harassment in his or her immediate surroundings. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's work.

Romantic or sexual relationships between supervisors and subordinate employees is discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

- B. Prohibited Supervisory or Managerial Behavior. No supervisor, manager, or other authority figure may condition any employment, employee benefit or

continued employment in this City on an applicant or employee's acquiescence to any of the behavior defined above.

No supervisor, manager, or other authority figure may retaliate against any applicant, or employee, because that person has opposed a practice prohibited by this policy or has filed a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing conducted by an authorized investigator. Supervising an employee's work or work product is not harassment.

No person shall destroy evidence relevant to an investigation of harassment discrimination.

- C. Behavior Prohibited by All Persons. No supervisor, manager, or any other person in the City organization shall create a hostile or offensive work environment for any other person by engaging in any discriminatory harassment or by tolerating it on the part of any employee.

No supervisor, manager, or any other person in the City shall assist any individual in doing any act, which constitutes discriminatory harassment against any employee of the City.

No supervisor/manager, or any other person in the City may retaliate against any employee because that person has opposed a practice prohibited by this policy or has filed a complaint, testified, assisted or participated in any manner in an investigation proceeding or hearing conducted by an authorized investigator.

- D. Obligations of Supervisors/Manager. A copy of this policy shall be provided to all employees of the City, as well as displayed in prominent locations throughout the City.

A copy of the information sheet on sexual harassment prepared by the Department of Fair Employment of Housing is available to all City employees upon request.

The City shall periodically notify employees of the procedures for registering a complaint as well as available redress. Such notification shall occur through the normal channels of communication.

The human resources office will make available upon request information from the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission about filing claims of sexual harassment with these entities.

A copy of this policy shall appear in any publication of which sets forth the comprehensive rules, regulations, procedures and standards of conduct for employees.

Employees of the City shall receive periodic training on the policy.

- E. Complaint Procedure. Employees who believe they have experienced any form of employment discrimination are encouraged to report this experience immediately, using the complaint procedure provided in Section 2.04 of these rules.

Section 2.03 Reasonable Accommodation Policy. The City will comply with the employment-related reasonable accommodation requirements of the California Fair Employment and Housing Act and the Americans with Disabilities Act.

An employee or applicant who alleges denial of reasonable accommodation may file a complaint pursuant to the City Complaint Procedure in Section 2.04.

Section 2.04 Complaint Procedure for Discrimination or Harassment

- A. Obligations of All Employees. All employees shall report any conduct, which fits the definition of discriminatory harassment, to their immediate supervisor or appropriate authority figure. This includes conduct of non-employees, such as sales representatives or service vendors or harassing conduct toward such contractors.

Employees should immediately report the conduct to their supervisor, manager, any department head or the human resources office. Under no circumstances shall employees of the City who believe they have been the victim of discrimination or harassment be required to first report that harassment to a supervisor or other authority figure if that person or authority figure is the individual who has done the harassing. These employees should instead report the conduct to any manager or department head or the personnel officer.

All persons shall report to their supervisor, manager or the human resources office any instances of discriminatory harassment, which they have directly observed, whether or not reported by the employee who is the object of the harassment.

All employees shall cooperate with any investigation of any alleged act of discriminatory harassment conducted by the City or its agents.

- B. Responsibility of Supervisors or Management. Any supervisor, or manager who receives a complaint regarding discriminatory harassment shall immediately report it to the personnel officer. If it is not possible to report it to the personnel officer, then the supervisor or manager must instead report the complaint to the City Manager.

Under no circumstances shall a supervisor, manager, or other authority figure retaliate in any way against an employee who has made a complaint or who has provided information as a witness to an incident of alleged discrimination or harassment.

All supervisors and managers are required to maintain confidentiality to the extent possible in communicating or investigating any claims of alleged discrimination or harassment.

- C. Investigative/Corrective Action. The personnel officer will authorize an investigation or conduct an investigation of the complaint. The investigation will be conducted in a manner that ensures, to the extent feasible, the privacy of the parties involved.

The person designated to investigate shall immediately report in writing the findings of fact to the personnel officer. The personnel officer will determine whether the policy has been violated and communicate the conclusion to the complainant.

Disciplinary action shall be decided in accordance with City policy and after consultation with the personnel officer.

Section 7.01 Family and Medical Leave Act (FMLA):

- A. Statement of Policy: To the extent not already provided for under current leave policies and provisions, the City will provide family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations, which are not specifically set forth below, are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA"), and the regulations of the California Family Rights Act ("CFRA"). Unless otherwise provided by this article, "Leave" under this article shall mean leave pursuant to the FMLA and CFRA.

B. Definitions:

1. "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
2. "Child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child, legal ward, or a child of a person standing in loco parentis (in place of a parent).

A child is "incapable of self care" if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living such as caring for

grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.

3. "Parent" means the biological parent of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child. This term does not include parents-in-law.
4. "Spouse" means a husband or wife as defined or recognized under California State law for purposes of marriage.
5. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
 - a. Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery there from); or
 - b. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - (1) A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - (i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
 - (ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription, medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care

provider, it does not constitute a regimen of continuing treatment.

- (2) Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law an employee disabled by pregnancy is entitled to pregnancy disability leave.)
- (3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - (i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - (ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - (iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- (4) A period of incapacity, which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider.
- (5) Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

6. "Health care provider" means:

- a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;

- b. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state of jurisdiction, including another country, that directly treats or supervises treatment of a serious health condition;
- c. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
- d. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
- e. Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts; and
- f. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

C. Reasons for Leave. Leave is only permitted for the following reasons:

- 1. The birth of a child or to care for a newborn of an employee;
- 2. The placement of a child with an employee in connection with the adoption or foster care of a child;
- 3. Leave to care for a child, parent or a spouse who has a serious health condition; or
- 4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.

D. Employees Eligible for Leave. An employee is eligible for leave if the employee:

- 1. Has been employed for at least 12 months; and
- 2. Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

E. Amount of Leave. Eligible employees are entitled to a total of 12 workweeks of leave during any 12-month period.

1. Minimum duration of leave: If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

2. Spouses both employed by the City: In any case in which a husband and wife both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). This limitation does not apply to any other type of leave under this policy.

- F. Employee Benefit While on Leave. Leave under this policy is unpaid. While on leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job. However, the City will not pay for continued coverage/contributions for employee elective benefit deductions (i.e., Colonial, deferred compensation, credit union). Employees shall contact human resources to arrange for payment of alternate health programs after leave time is exhausted. Additionally, deductions for deferred compensation and/or credit union contributions will cease when leave time is exhausted.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City shall have the right to recover premiums through deduction from any sums due the City (e.g., unpaid wages, vacation pay, etc.).

- G. Substitution of Paid Accrued Leaves. While on a leave under this policy, as set forth herein, an employee may elect to concurrently use paid accrued leaves. Similarly, the City may require an employee to concurrently use paid accrued leaves after requesting FMLA and/or CFRA leave, and may also require an

employee to use Family and Medical Care Leave concurrently with a non-FMLA/CFRA leave which is FMLA/CFRA-qualifying.

1. Employee's right to use paid accrued leaves concurrently with family leave: Where an employee has earned or accrued paid vacation, administration leave, or compensatory time, that paid leave may be substituted for all or part of any otherwise unpaid leave under this policy.

As for sick leave, an employee is entitled to use sick leave concurrently with leave under this policy if:

- a. The leave is for the employee's own serious health condition; or
- b. The leave is needed to care for a parent, spouse or child with a serious health condition, and would be permitted as sick leave under the City's sick leave policy.

2. City's Right to Require an Employee to Use Paid Leave When Using FMLA/CFRA Leave. Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA leave with two exceptions:

- a. Employees are not required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act; and
- b. Employees will only be required to use sick leave concurrently with FMLA/CFRA leave if the leave is for the employee's own serious health condition.

3. City's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently With Other Leaves. If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the non-FMLA/CFRA leave shall run concurrently with the employee's 12-week FMLA/CFRA leave entitlement. The only exception is for peace officers that are on leave pursuant to Labor Code §4850.

4. City's and Employee's Rights if an Employee Requests Accrued Leave without Mentioning Either the FMLA or CFRA. If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the City may inquire further into the reason for the absence. If

the reason is FMLA/CFRA qualifying, the City shall require the employee to exhaust accrued leave as described above.

- H. Medical Certification. Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care if requested by the City of Morro Bay.

If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position.

1. Time to Provide a Certification. When an employee's leave is foreseeable and at least thirty (30) days notice has been provided, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the City within fifteen (15) calendar days after the employer's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

2. Consequences for Failure to Provide an Adequate or Timely Certification. If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency.

However, if an employee fails to provide a medical certification within the time frame established by this policy, the City may delay the taking of FMLA/CFRA leave until the required certification is provided.

3. Recertification. If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification.
4. Intermittent Leave or Leave on a Reduced Leave Schedule. If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

I. Reinstatement Upon Return from Leave.

1. Right to Reinstatement. Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

2. Employee's Obligation to Periodically Report on His/Her Condition. Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.
3. Release for Duty Certification. As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a release-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.
4. Reinstatement of "Key Employees". The City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

J. Required Forms. Employees must fill out the following applicable forms in connection with the leave under this policy:

1. "Request for Family or Medical Leave Form" prepared by the City to be eligible for leave. NOTE: EMPLOYEES WILL RECEIVE A CITY RESPONSE TO THEIR REQUEST WHICH WILL SET FORTH CERTAIN CONDITIONS OF THE LEAVE.

2. Medical certification either for the employee's own serious health condition or for the serious health condition of a child, parent or spouse;
3. Authorization for payroll deductions for benefit plan coverage continuation; and
4. Release for duty to return from leave form.

Section 7.07 Americans with Disabilities Act Leave. In the event an employee becomes disabled within the meaning of the Americans with Disabilities Act or other applicable disability laws and the City is reasonably able to accommodate the limits or restrictions on that employee's ability to work, the City will do so provided that the employee is qualified to perform the duties of a job that may be made available to him or her. In effectuating the provisions of this section and the duties of the law, the City's efforts to reasonably accommodate the employee shall take precedence over and preempt any other conflicting provisions or limitations of these personnel rules, or an applicable MOU. The personnel officer will notify employee represented units, and, upon request by the unit, meet with the unit to discuss reasonable accommodation questions affecting unit members prior to implementation.

Section 7.09 Pregnancy Leave: A pregnant employee shall be entitled to a leave of absence without pay for up to four (4) months so long as the employee's attending physician certifies that she is physically unable to work due to pregnancy, childbirth or a related medical condition. During said leave of absence without pay, the employee has the option of using accumulated sick leave, compensatory time and/or vacation credits.

Upon expiration of the approved leave, the employee shall be reinstated to her former position or to a comparable one if the former position is abolished during the period of leave and the employee would otherwise not have been laid off. The comparable position is one having similar terms of pay, location, job content and promotional opportunities. Prior to the employee being reinstated, the department head may require a statement from the attending physician that the employee is physically capable of resuming the regular duties of her position.

Failure to return to work after the authorized four month leave period causes the employee to have no reinstatement rights. An employee who plans to take such a leave should give reasonable notice of the date the leave shall commence and the estimated duration of the leave.

Female employees shall be reasonably accommodated for conditions related to pregnancy, childbirth or related medical conditions if the employee requests an accommodation with the advice of her healthcare provider.

Section 7.14 Military Leave: Military leave shall be granted in accordance with the provisions of state and federal law. An employee requesting leave for this purpose shall provide the department head, whenever possible, with a copy of the military orders specifying the dates of the activity or mission. Within the limits of such order, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

RESOLUTION NO. 90-98

RESOLUTION AMENDING PERSONNEL RULES AND REGULATIONS,
CATASTROPHIC LEAVE POLICY

THE CITY COUNCIL

City of Morro Bay, California

WHEREAS, Resolution No. 46-95 established a Catastrophic Leave Policy; and

WHEREAS, said policy was established to mitigate catastrophic illness or injury of an employee or employee's immediate family by continuing employee's compensation through donations of leave time from fellow employees; and

WHEREAS, if the immediate family member employee is caring for during use of catastrophic leave time dies, an additional amount of time off for employee may be necessary in order to recover from such a catastrophic event.

NOW, THEREFORE, BE IT RESOLVED that Resolution No. 46-95 is hereby amended to add Section 3(h) as follows:

J. CATASTROPHIC LEAVE POLICY

(3) Procedure to Access Sick Leave Bank

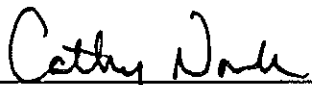
- (h) In the event an employee is using catastrophic leave for the care of an immediate family member and said family member dies, employee shall be entitled to an additional five (5) working days off, if available in the catastrophic leave bank, to recover from said loss. Any bereavement leave provisions are separate from this policy.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting held thereof on the 28th day of September, 1998, by the following vote:

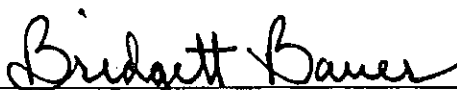
AYES: Anderson, Elliott, Peirce, Peters, Novak

NOES: None

ABSENT: None


CATHY NOWAK, Mayor

ATTEST:


BRIDGETT BAUER, City Clerk

RESOLUTION NO. 46-95

RESOLUTION AMENDING RESOLUTION NO. 34-83,
PERSONNEL RULES AND REGULATIONS, TO ESTABLISH
A CATASTROPHIC LEAVE POLICY

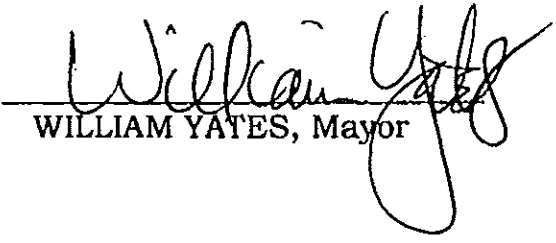
WHEREAS, the employees of the City of Morro Bay desire to help their co-workers during times of extreme stress when facing catastrophic events in their lives; and

WHEREAS, a catastrophic event in an employee's life can be mitigated by uninterrupted compensation while the employee is incapacitated or cares for a family member.

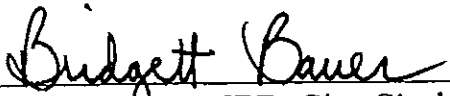
NOW, THEREFORE, BE IT RESOLVED that Resolution 34-83 is amended to include the attached Catastrophic Leave Policy.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 10th day of April, 1995 on the following vote:

AYES: Anderson, Crotzer, Novak, Unger, Yates
NOES: None
ABSENT: None


WILLIAM YATES, Mayor

ATTEST:


BRIDGETT BAUER, City Clerk

J. CATASTROPHIC LEAVE POLICY

(1) Purpose

The purpose of the Catastrophic Leave Policy is to establish a Sick Leave Bank into which employees may voluntarily donate sick or vacation leave hours. This Bank will be used to assist employees who have exhausted all leave credits and have a serious or catastrophic illness or injury to the employee or his/her immediate family as defined herein.

It is the employee's responsibility to accumulate and maintain as high a sick leave balance as possible, precisely for the very reasons this Bank is established. Thus, this program is to assist employees during an extended illness or injury that could not otherwise be reasonably provided for by the employee's total leave balance.

(2) Definitions

(a) Catastrophic Illness or Injury

An illness or injury which incapacitates the employee and creates a financial hardship because the employee has exhausted all of his/her accumulated leave. Catastrophic Illness or Injury is further defined as a debilitating illness or injury of an immediate family member that requires an employee to take time off from work to care for the family member, and this creates a financial hardship because the employee has exhausted all of his/her accumulated leave.

(b) Immediate Family

Immediate family includes spouse, son, daughter or employee's mother or father.

(c) Eligible Employee

To be eligible, an employee must meet all of the following criteria:

- (i) Be employed in a permanent position;
- (ii) Have exhausted all paid leave balances;
- (iii) Employees receiving workers compensation or disability insurance will only receive enough sick leave hours to bring their compensation up to base pay. No insurance dollars will be paid while on catastrophic leave.

Insurance will be maintained as long as employee is using sick leave bank hours.

- (4) Be disabled due to a verifiable, catastrophic injury or illness or needed to care for employee's family member disable due to a verifiable, catastrophic injury or illness.

(d) Donor Employee

In order to be eligible to donate sick leave hours to the City-wide Sick Leave Bank, an employee must be in a permanent position and maintain a minimum of 40 hours sick leave and a minimum of 40 hours vacation accrual after donation. Part time employees in a permanent position must maintain their prorated equivalent balance. (Example: Half-time employee - 20 hours)

(e) Donated Time

For the purposes of this program, sick leave and vacation may be transferred from a donating employee to the Sick Leave Bank. No transfers of remaining balances of vacation or sick leave will be allowed upon employees' termination, separation or retirement.

(3) Procedure to Access Sick Leave Bank

- (a) An eligible employee shall submit a "Catastrophic Leave/ Donation Application" to the employee's Department Head for recommendation to and approval by the Personnel Officer.
- (b) Along with the application, employee must submit a written medical verification of his/her condition, or the medical condition of his/her immediate family member.

When the medical emergency involves an immediate family member, the employee must supply written documentation from the family member's medical physician that the medical condition of the family member necessitates the employee's personal attendance during the employee's normally scheduled work hours, and that reasonable accommodation by the employee's Department is possible in order to meet the medical need.

- (c) All information regarding the leave application will be kept confidential and the employee will be notified by the Personnel Officer when a determination has been made regarding the application.
- (d) Any application which is denied may be appealed to the City Administrator. The City Administrator's decision shall be final.

- (e) The maximum number of hours an employee may access from the Sick Leave Bank is 720 hours in any 12 month period providing hours remain in the Sick Leave Bank to access. Part time employees in a permanent position will be entitled to their prorated equivalent of 720 hours based on the number of hours per month employee works.
- (f) If the application is approved, hours from the Sick Leave Bank will be transferred to the sick leave account of the absent employee as the hours are used.
- (g) There will be no coercion of employees to donate, this is strictly a voluntary program. All donations will be confidential.

(4) Conditions for Donating Leave Hours

- (a) Only sick leave and/or vacation time may be donated.
- (b) An employee must maintain a minimum of 40 hours sick accrual at the time donation is made (i.e. full time employees - 40 hours; half time employees - 20 hours).
- (c) Donations shall be in hourly increments.
- (d) An employee may donate a maximum of 120 hours of sick leave in any calendar year.
- (e) The transfer of leave hours is irreversible.
- (f) Transferred and accessed hours to and from the Sick Leave Bank shall be on an hour for hour basis without regard to an employee's cash value equivalent of the amount of time donated or used.
- (g) Donations are to the Sick Leave Bank, not individual employees.
- (h) Records of sick leave donations/balances will be the responsibility of the Personnel/Finance Offices.

RESOLUTION NO. 127-89
A RESOLUTION OF THE CITY OF MORRO BAY
AMENDING RESOLUTION NO. 34-83, CITY OF MORRO BAY
PERSONNEL RULES AND REGULATIONS

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

WHEREAS, the City Council is authorized and directed under the provisions of Ordinance No. 21 to adopt and amend rules for the administration of the personnel system created in said ordinance; and

WHEREAS, the City has duly discussed and reached mutual agreement with the four (4) bargaining units regarding the content and substance of the amended personnel rules and regulations; and

WHEREAS, at the same time, within the limits of administrative feasibility, considerable latitude shall be given the City Administrator and Personnel Officer in the interpretation of these rules;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby adopt the attached Personnel Rules and Regulations Family Sick Leave and Bereavement Leave Amendment to facilitate efficient and economical services to the public and to provide for an equitable system of personnel management;

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held the 30th day of October 1989, by the following roll call vote:

AYES: Baker, Lemons, Wuriu, Sheetz

NOES: None

ABSENT: Odell


Rose Marie Sheetz, Mayor

ATTEST:


Ardith Davis, City Clerk

AGREEMENT

Family Sick Leave/Bereavement Leave

WHEREAS, the City of Morro Bay, hereinafter referred to as "City", and each of its bargaining units, referred to as "City Employees", both acknowledge and accept the changes in the City's leave policies; and

WHEREAS, the City and the Employee Relations Committee have met and consulted regarding these leave policy changes; and

WHEREAS, both parties agree to changes to the Family Sick Leave and Bereavement Leave policies;

NOW THEREFORE BE IT RESOLVED that these agreed upon changes are:

1. Family Sick Leave. Not more than five (5) days of accrued sick leave ~~each fiscal year~~ may be taken per occurrence in the case of sickness or disability ~~or death~~ of members of the employee's immediate family, (as defined in Section 2) for non-catastrophic, general illness.

For circumstances involving family catastrophic illness and/or hospitalization, employees may utilize unlimited sick leave use, up to their total individual accrual. A doctor's certification that the immediate family member is catastrophically ill shall be required in these instances. Beyond the employee's accrued sick leave should it expire, use of vacation time is subject to the City's Personnel Rules and Regulations.

Non-Catastrophic Definition. The definition of what is a non-catastrophic vis-a-vis a catastrophic illness shall be defined by the City's current group medical plans.

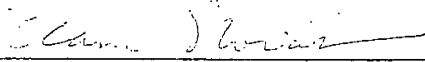
2. Bereavement Leave. Employees are permitted to utilize three (3) days of paid bereavement leave per occurrence in case of the death of members of the employee's immediate family (as defined in Section 2.). Any necessary extra time shall be taken from the employee's accrued sick leave. In cases where sick leave is exhausted, vacation time shall be charged. Paid leave beyond the initial three (3) days is subject to department head approval.

Agreed to by the undersigned parties, these changes shall be put into effect when adopted by the City Council.

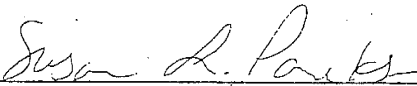
Signatures:

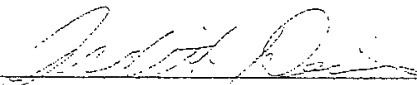
Employee Association

City of Morro Bay









#3-FSL

RECEIVED
SEP 22 1989

AGREEMENT
Family Sick Leave/Bereavement Leave PERSONNEL OFFICE

WHEREAS, the City of Morro Bay, hereinafter referred to as "City", and each of it's bargaining units, referred to as "City Employees", both acknowledge and accept the changes in the City's leave policies; and

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Agreed to by the undersigned parties, these changes shall be put into effect when adopted by the City Council.

Signatures:

Employee Association

City of Morro Bay

Stan Thomas

Scott Barber

President

Morro Bay Firefighters
9/22/89

#3-FSL

AGREEMENT
Family Sick Leave/Bereavement Leave

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Agreed to by the undersigned parties, these changes shall be put into effect when adopted by the City Council.

Signatures:

Employee Association

Roger Stiller

City of Morro Bay

Scott Hansen

#3-FSL

AGREEMENT
Family Sick Leave/Bereavement Leave

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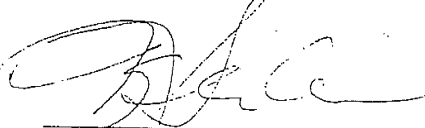
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Agreed to by the undersigned parties, these changes shall be put into effect when adopted by the City Council

Signatures:

Employee Association



K Mendonca

City of Morro Bay



#3-FSL

RESOLUTION NO. 34-83

A RESOLUTION REVISING THE PERSONNEL RULES
AND REGULATIONS OF THE CITY OF MORRO BAY,
AND RESCINDING RESOLUTION NOS. 29-65, 59-65,
33-70, 69-70, 69-75, and 58-76

T H E C I T Y C O U N C I L

City of Morro Bay, California

WHEREAS, the City Council is authorized and directed under the provisions of Ordinance No. 21 to adopt and amend rules for the administration of the personnel system created in said ordinance; and

WHEREAS, the personnel rules and regulations have not been comprehensively reviewed or modified since initial adoption in March 1965; and

WHEREAS, the City has duly discussed and reached mutual agreement with the three (3) bargaining units regarding the content and substance of the amended personnel rules and regulations; and

WHEREAS, at the same time, within the limits of administrative feasibility, considerable latitude shall be given the City Administrator and Personnel Officer in the interpretation of these rules;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby adopt the attached Personnel Rules and Regulations to facilitate efficient and economical services to the public and to provide for an equitable system of personnel management; and,

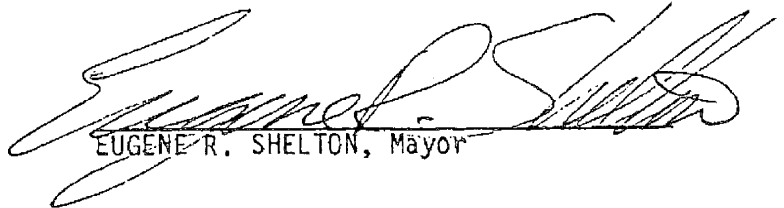
BE IT FURTHER RESOLVED that Resolution Nos. 29-65, 59-65, 33-70, 69-70, 69-75, and 58-76 are hereby rescinded.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held the 14th day of March 1983, by the following roll call vote:

AYES: Anderson, Lemons, Risley, Zeuschner, Shelton

NOES: None

ABSENT: None


EUGENE R. SHELTON, Mayor

ATTEST:


PEGGY BUCHANAN, DEPUTY CITY CLERK

PERSONNEL RULES AND REGULATIONS
CITY OF MORRO BAY

* TABLE OF CONTENTS *

<u>SECTION</u>	<u>PAGE</u>
1. MERIT PERSONNEL SYSTEM ESTABLISHED	1
2. DEFINITION OF TERMS	2
3. PERSONNEL BOARD	6
4. CLASSIFICATION PLAN	6
5. COMPENSATION PLAN	7
6. APPLICATIONS AND APPLICANTS	8
7. EXAMINATIONS	9
8. ELIGIBILITY LISTS	10
9. METHOD OF FILLING VACANCIES	11
10. PROBATIONARY PERIOD	12
11. PERFORMANCE EVALUATION	13
12. SALARY ADMINISTRATION	14
13. ATTENDANCE AND LEAVES	17
14. TRANSFER, PROMOTION, DEMOTION, SUSPENSITON, AND REINSTATEMENT . . .	23
15. SEPARATION FROM THE SERVICE	24
16. MISCELLANEOUS RULES	25
17. TRAINING OF EMPLOYEES	26
18. REPORTS AND RECORDS	27
19. DISCIPLINARY AND APPEALS PROCEDURES	27

PERSONNEL SYSTEM RULES AND REGULATIONS OF THE
CITY OF MORRO BAY

T H E C I T Y C O U N C I L

City of Morro Bay, California

SECTION 1. MERIT PERSONNEL SYSTEM ESTABLISHED

A. Purpose. The following merit personnel system is hereby established in order to:

- (1) Establish an equitable and uniform procedure for dealing with personnel matters,
- (2) Attract the most competent and desirable persons available to municipal service,
- (3) Assure that appointment and advancement of employees are based on merit and ability, and
- (4) Provide reasonable security for qualified employees.

The objectives of these rules and regulations are to facilitate efficient and economical service to the public and provide for a fair and equitable system of personnel management in the municipal government. These rules set forth those procedures and policies which ensure similar treatment for those who compete for original and promotional employment and define certain obligations, rights, privileges, benefits and prohibitions which are placed upon all employees in the service of the City.

B. Intent of the Personnel System.

- (1) Employment Standards: The City Council and all the citizens of the City of Morro Bay have the right to expect that the City will employ the best qualified persons available, that the tenure of every City employee will be based on a demonstrated need for the work performed, availability of funds, faithful and effective performance, proper personal conduct, and continuing fitness for the position, and that each employee will be encouraged, trained, and developed to assure optimum performance.
- (2) City Responsibility to Employees: Each employee of the City of Morro Bay has the right to expect: to be fully informed of their duties and responsibilities; to be provided with adequate administrative and supervisory direction; to be told how well they are performing; that promotions will be made on the basis of merit and ability; that progressively improved work performance over an extended period will be recognized and rewarded; that incompetence will not be tolerated; that suspensions, demotions, discharge and other disciplinary actions will be administered in a fair and impartial manner.

C. Discrimination. No person applying for employment by the City or employed by the City shall be unlawfully discriminated against by reason of his or her political affiliations, race, creed, religion, national origin, sex, age, color, or physical handicap.

- D. Violation of Rules. Violation of the provisions of these rules shall constitute grounds for discharge, rejection or suspension. A violation shall not make discharge, rejection or suspension mandatory but shall be given such weight as shall be appropriate in view of all the circumstances.
- E. Administrative Rules and Regulations. These rules do not preclude the City Administrator or individual City departments from developing and administering supplemental department rules and regulations, as long as they do not conflict with these Rules, other Council resolutions and ordinances, or existing laws.
- F. Amendment and Revision of Rules. Amendments and revisions may be suggested to the City Council by any interested party and shall be submitted to the City Council through the Personnel Officer at the option of the proponent. Amendments and revisions shall become effective by resolution of the City Council following the meet and confer process with the exclusive representatives of employees.
- G. Competitive Service. The provisions of these rules shall apply to all offices, positions, and employments in the service of the City of Morro Bay, except:
- (1) Elected officers;
 - (2) City Administrator;
 - (3) Members of appointive boards, commissions, committees, and agencies other than City employees;
 - (4) Management personnel covered by separate contract;
 - (5) City Attorney;
 - (6) Persons engaged under contract to supply expert, professional, technical, or other services;
 - (7) Volunteer personnel who are not permanent, salaried employees;
 - (8) Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property;
 - (9) Employees who are employed less than half the hours established for a full-time position in the class;
 - (10) Provisional employees, or temporary employees.

SECTION 2. DEFINITION OF TERMS

- A. Definitions. The following terms whenever used in these rules, shall be defined as follows:

Acting Appointment: the appointment for a limited period of a probationary or permanent employee to a position in a higher class for which there is no employment list and/or is temporarily vacant, and during which that employee will continue to occupy the position from which they are appointed.

Advancement: a salary increase of one or more steps within the limits of the salary range established for a class.

Allocation: the assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

Anniversary Date: the first day of continuous service used to determine seniority and benefit accrual rate for applicable benefits. An employee's anniversary date shall be determined by applying the continuity of service requirements of these Rules.

Applicant: an individual who has completed and submitted an application for employment with the City.

Appointing Authority: the City Administrator or designee(s) who, in their individual capacities, have the final authority to make the appointment to or from a position.

Appointment: the offer to and acceptance by a person of a position in the City service, either on a permanent or temporary basis.

Board: the Personnel Board established in pursuance of the ordinance creating a personnel system for the City.

Break In Continuous Service: separation of the employee from City employment initiated by either the City or the employee for a period of more than thirty consecutive calendar days.

Class: all positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title and the equitable application of common standards of selection, transfer, promotion and salary.

Class Specifications: a written description of a class, setting forth factors and conditions which are essential characteristics of positions in the class.

Compensation Plan: the assignment by the City Council of salary ranges to each class, normally established by Resolution.

Compensatory Time: time off from work in lieu of monetary payment for overtime work.

Competitive Service: all positions of employment in the service of the City except those specifically excluded by ordinance or these Rules.

Conditional Employment: placement of specific and interim work conditions on the terms of initial or continued employment with the City.

Continuous Service: the employment without a break or interruption of service of an employee in a probationary or permanent status.

Demotion: the voluntary or involuntary reduction of a permanent employee from a position in one class to a position in another class having a lower maximum rate of pay.

Discharge: the involuntary separation of an employee from City service.

Eligible: a person whose name is on an employment list.

Employee: an individual in the competitive service who is legally employed by the City and is compensated through the City payroll for services rendered.

Eligibility List:

- (a) Open eligibility list: a list of names of persons who have taken an open competitive examination for a class and have qualified.
- (b) Promotional eligibility list: a list of names of persons who have taken a promotional examination for a class and have qualified.
- (c) Re-employment list: a list of names of qualified permanent and probationary employees who have been laid off.

Examination: any test or group of tests to determine the fitness and relative ability of persons seeking employment or promotion in the competitive service.

- (a) Open-competitive examination: an examination for a particular class which is open to all persons meeting the qualifications for the class.
- (b) Promotional examination: an examination for a particular class, admission to the examination being limited to permanent and probationary employees in the competitive service who meet the qualifications for the class.
- (c) Continuous examination: an open-competitive examination which is administered periodically and as a result of which names are merged on an eligibility list, in order of final scores, for a period of not more than one year.

Full-Time Position: a position in the competitive service of the City normally scheduled for at least 40 hours of work per week.

Immediate Family: spouse, children, parents, brothers, sisters, grandparents, grandchildren of the employee; and the corresponding relationships by affinity.

Out of Class Assignment: the full-time performance of the significant duties of a vacant, funded position in one classification by an individual in a position of lower classification.

Part-Time Employee: an individual in a part-time position.

Part-Time Position: a position having fewer work hours than the work week established for a full-time position in the class. A part-time position may be either temporary, permanent, or provisional.

Permanent Employee: an employee who has successfully completed a probationary period and has been retained as hereafter provided in these Rules.

Permanent Position: a full-time or part-time position that is individually authorized in the budget and which is expected to exist indefinitely.

Personnel Ordinance: Ordinance No. 21 which creates a personnel system for the City.

Position: a combination of duties and responsibilities assigned to a single employee and performed on either a full-time or part-time basis.

Probationary Employee: an employee who has a probationary appointment to a permanent position.

Probationary Period: a working test period as an extension of the selection process during which an employee is required to demonstrate fitness for the position.

Promotion: the movement of an employee from one class to another class having a higher maximum rate of pay.

Provisional Appointment: an appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles, pending an examination for said position.

Reclassification: a change in classification of an individual position by raising it to a higher salary range, reducing it to a lower salary range, or allocating it to another classification at the same pay range, on the basis of significant and substantive changes in the type or difficulty of duties and responsibilities in that position.

Reemployment: the appointment, as provided in these Rules, of a former employee who was laid-off, or an employee who was rejected during a promotional probation.

Reinstatement: the appointment, as provided in these Rules, of a former employee who resigned in good standing.

Rejection: the involuntary separation from the City service of an employee who does not successfully complete the probation period in a position and who does not have permanent status in another position in a different class; or, the reduction of an employee who did not successfully complete the probation period in a position to another position in a different class in which permanent status was previously acquired.

Reprimand: an oral or written censure made as a disciplinary action.

Resignation: the voluntary separation of an employee from the City service.

Salary Range: the minimum through maximum salary increments of a salary range.

Salary Rate: dollar amount of each step in a salary range or the flat dollar amount for a class not having a salary range.

Salary Review Date: the date on which a probationary or permanent employee is eligible, on the basis of satisfactory job performance for a prescribed period, for a merit salary advance within the salary range established for the class of position occupied.

Salary Step: one or more specific salary rates having a percentage relationship to one another, assigned to a class of positions as the compensation for that class.

Separation: a break in competitive service without pay.

Suspension: the temporary separation from the competitive service of an employee for disciplinary purposes.

Temporary Position: a full-time or part-time position of fixed duration.

Termination: the separation of an employee from the City service because of retirement, resignation, death or discharge.

Transfer: a change of an employee from one position to another position in the same class or in another class having the same maximum salary rate, involving the performance of basically similar duties and requiring substantially the same minimum qualifications.

Vacancy: an authorized position that is not occupied by an employee.

SECTION 3. PERSONNEL BOARD

- A. Meeting. The City Council when acting as the Personnel Board shall hold meetings at such time and place within the city as shall be designated by the Mayor. Any regular meeting may be adjourned to a time certain and to a place designated by the Mayor. In addition, the Board may hold special meetings upon the call of the Mayor or a majority of the members of the Board. A majority of the members of the Board shall constitute a quorum for the transaction of business. Meetings shall be conducted in accordance with such rules and procedures as adopted in the Morro Bay Municipal Code.
- B. Public Hearings. Proceedings conducted by the Personnel Board shall be public and subject to the "Brown Act", Government Code Sections 54950 et seq., but shall be conducted in private if they pertain to the appointment, employment or discharge of a city employee or pertain to the proceeding of a complaint or charge brought against an officer or employee of the City, unless such officer or employee requests a public proceeding. Said body also may exclude from any such public or private proceeding, during the examination of a witness, any or all other witnesses in the matter being investigated by the Personnel Board. The proceeding need not be conducted according to technical rules relating to evidence and witnesses.

SECTION 4. CLASSIFICATION PLAN

- A. Purpose. The Classification Plan provides a complete inventory of all positions in the City service and an accurate description and specifications for each class of employment. The Plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the service.
- B. Preparation of Plan. The Personnel Officer, or a person or agency employed for that purpose, shall ascertain and record the duties and responsibilities of all positions in the competitive service and, after consulting with appointing authorities and heads of departments affected, shall recommend a classification plan for such positions. The classification plan shall consist of classes of positions in the competitive service defined by class specifications including the title. The classification plan shall be so

developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

- C. Adoption, Amendment and Revision of Plan. The classification plan shall be adopted and may be amended from time to time by the City Council. At the time of consideration any interested party may appear and be heard. Amendments and revisions of the plan may be suggested to the City Council by any interested party and shall be submitted to the City Council through the Personnel Officer at the option of the proponent.
- D. Allocation of Positions. Following the adoption of the classification plan, the Personnel Officer shall allocate every position in the competitive service to one of the classes established by the plan.
- E. New Positions. When a new position is created, before the same may be filled, the appointing authority shall notify the Personnel Officer, and, except as otherwise provided by Ordinance or these Rules, no person shall be appointed or employed to fill any such position until the classification plan shall have been amended to provide therefore and an appropriate eligibility list established for such position.
- F. Reclassification. Positions, the duties of which have changed materially so as to necessitate reclassification, shall be allocated by the Personnel Officer to a more appropriate class, whether new or already created. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions.
- G. Use of Class Titles. Official class titles are to be used in all personnel, accounting, budget, appropriation and financial records. No person shall be appointed to or employed in any permanent position in the service under a title not included in the classification plan. Working job titles may be used in the course of departmental routine to indicate authority, status in the organization, or administrative rank.
- H. Use of Class Specifications. Specifications are to be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples are not to be isolated and treated as a full definition of the class. Specifications are deemed to be descriptive and explanatory of the kind of work performed, and not necessarily inclusive of all duties performed.

SECTION 5. COMPENSATION PLAN

- A. Preparation of Plan. The Personnel Officer or the person or agency employed for that purpose shall prepare a salary plan covering all classes of positions in the competitive service. In arriving at salary rates or ranges, consideration shall be given to prevailing rates of pay and consideration of working conditions for comparable work in other public and in private employment, to current costs of living, to suggestions of department heads, to the City's financial condition and policies, to the results of the meet and confer process, and to other relevant factors. The Personnel Officer or the person or agency employed for that purpose shall thereafter make such further studies of the salary plan as may be requested by the City Council.

- B. Adoption of Plan. The salary plan shall be adopted and may be amended from time to time by action of the City Council. At the time of consideration any interested party may appear and be heard. Amendments and revisions of the plan may be suggested to the City Council by any interested party and shall be submitted to the City Council through the Personnel Officer at the option of the proponent. No position shall be assigned a salary not in conformance with the salary plan unless the salary range for the class is amended in the same manner as provided for its adoption.

SECTION 6. APPLICATIONS AND APPLICANTS

- A. Announcement. All examinations for classes in the competitive service shall be publicized by posting announcements in the City Hall, on official bulletin boards, and by such other methods as the Personnel Officer deems advisable. The announcements shall specify the title and pay of the class for which the examination is announced; the nature of the work to be performed; preparation desirable for the performance of the work of the class; the manner of making applications; and other pertinent information.
- B. Application Forms. Applications shall be made as prescribed on the examination announcement. Application forms shall require information covering training, experience, and other pertinent information, and may include certificates of one or more examining physicians, references and fingerprinting. All applications must be signed by the person applying.
- C. Disqualification. The Personnel Officer shall reject any application which indicates on its face:
- (a) Failure to demonstrate that the requirements or qualifications established for the examination have been met.
 - (b) Physical inability to perform the duties of the class.
 - (c) Addiction or excessive use of intoxicating liquors, drugs, or controlled substances causing an inability to perform one's duties properly.
 - (d) Conviction of a felony or misdemeanor which was of such a nature as to have a clearly adverse effect on the candidate's ability to perform the duties of the position, or the integrity and efficiency of the public service.
 - (e) False statements of material fact or actual or attempted deception, fraud, or misconduct in connection with an application.
 - (f) A history of dismissal from public or private employment for any of the above causes, or resignation to avoid such dismissal, which after investigation is determined to have been of such a nature as to have a clearly adverse effect on the candidate's ability to perform the duties of the position, or the integrity and efficiency of the public service.

Whenever an application is rejected, notice of such rejection with statement of reason shall be mailed to the applicant by the Personnel Officer. Defective applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving applications has not expired.

- D. Hiring of Relatives. No employee, prospective employee, or applicant shall be improperly denied employment or benefits of employment on the basis of marital status or relationship to another employee or official of the City. For purpose of administration, a relative shall be defined as a member of the immediate family.

Notwithstanding the above provisions, the City retains the right:

1. To refuse to place one party to a relationship under the direct or indirect supervision of the other party to a relationship.
2. To refuse to place both parties to a relationship in the same department, division, or facility where such has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest.
3. To disqualify one party to a relationship for a position privy to confidential personnel matters who has a relative already in the City's employment when the relationship may compromise confidential information.

SECTION 7. EXAMINATIONS

- A. Nature and Types of Examinations. The selection techniques used in the examination process shall fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations may be assembled or un-assembled, but shall consist of one, or a combination of the following types of tests, as determined by the Personnel Officer: oral, written, performance, physical agility, evaluation of training and experience, medical tests, criminal background check, or any other forms designed to test the qualifications of applicants. If a combination of two or more types of tests are used in the same examination, the relative weighted value of each part, expressed as percentages, shall be included on the announcement for the examination.

- (1) Written. Written tests may be used to measure knowledge, abilities, or aptitudes, insofar as such traits are related to ability to perform the work in a class.
- (2) Oral. Oral qualifications appraisal examinations shall be used to evaluate experience, training or education, and other factors that relate to the knowledge or abilities required to perform the work of the position or class. Oral examinations may be either structured or unstructured, as the Personnel Officer may determine.
- (3) Performance. Performance tests may be used to evaluate the skill, speed, or accuracy with which principal tasks of the class are performed.

- (4) Physical Agility. Physical agility tests may be used to measure agility, strength, coordination, or general physical fitness required to perform the duties of the class. A waiver, releasing the City from liability, will be required from each candidate wishing to participate in such a test.
- B. Promotional Examinations. Promotional examinations may be conducted whenever, in the opinion of the Personnel Officer, the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section A. of this Rule, or any combination of them. Only permanent or probationary employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.
- C. Continuous Examination. Open-competitive examinations may be administered periodically for a single class as the needs of the service require. Names shall be placed on eligibility lists, and shall remain on such lists, as prescribed in Section 8.
- D. Conduct of Examination. The City Council may contract with any competent agency or individual for the preparing and/or administering of examinations. In the absence of such a contract, the Personnel Officer shall see that such duties are performed. The Personnel Officer shall arrange for the use of public buildings and equipment for the conduct of examinations.
- E. Scoring Examinations and Qualifying Scores. A candidate's score in a given examination shall be the total of their scores on each competitive part of the examination, weighted as shown in the examination announcement. Failure in one part of the examination shall be grounds for declaring such applicants as failing the entire examination or as disqualified for subsequent parts of an examination.
- The Personnel Officer may, at his/her discretion, include as a part of the examination tests which are qualifying only.
- F. Notification of Examination Results and Review of Papers. Each candidate in an examination shall be given written notice of the results thereof, and if successful, of their final earned score.

Any candidate shall have the right to inspect their own examination papers within five working days after the notices of examination results were mailed. Any error in computation, if called to the attention of the Personnel Officer within this period, shall be corrected.

SECTION 8. ELIGIBILITY LISTS

- A. Eligibility Lists. As soon as possible after the completion of an examination, the Personnel Officer shall prepare and keep available an eligibility list of the names of candidates who qualified in the examination.
- B. Duration of Lists. Eligibility lists other than those resulting from a continuous examination shall remain in effect for one year, unless sooner exhausted, and may be extended, prior to their expiration dates, by action of the Personnel Officer for additional periods but in no event shall an eligibility list remain in effect for more than two years.

Open-competitive lists created as the result of continuous examinations shall remain in effect for not more than one year after the last administration of the examination, unless sooner exhausted. Names placed on such lists shall be merged with any others already on the list and shall remain on the list for not more than one year.

Whenever there are less than three names on any eligibility list willing to accept appointment, the Personnel Officer may exhaust the list and order a new examination to establish a new list.

- C. Re-employment Lists. The names of probationary and permanent employees who have been laid off shall be placed on appropriate re-employment lists in the order of total continuous cumulative time served in probationary and permanent status and their performance competency. Such names shall remain thereon for a period of one year unless such persons are sooner re-employed.

When a re-employment list is to be used to fill vacancies, the Personnel Officer shall certify from such lists the number of names equal to the number of vacancies to be filled, and the appointing power shall appoint such persons to fill the vacancies.

- D. Removal of Names from List. The name of any person appearing on an eligibility, re-employment or promotional list shall be removed by the Personnel Officer if the eligible requests in writing that their name be removed, if the eligible fails to respond to a notice of certifications mailed to their last known address, or for any of the reasons specified in Section 6C of these Rules. The person affected shall be notified of the removal of their name by a notice mailed to their last known address. The names of persons on promotional eligibility lists who resign from the service shall automatically be dropped from such lists.

SECTION 9. METHOD OF FILLING VACANCIES

- A. Types of Appointment. All vacancies in the competitive service shall be filled by transfer, demotion, re-employment, reinstatement, or from eligibles certified by the Personnel Officer from an appropriate eligibility list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be made in accordance with the Personnel Ordinance and these Rules.
- B. Notice to Personnel Officer. Whenever a vacancy in the competitive service is to be filled, the appointing authority shall notify the Personnel Officer in writing.
- C. Certification of Eligibles. If it is not possible to fill the vacancy from a re-employment list, the appointing authority may consider filling the vacancy by reinstatement, transfer or demotion, or from an eligibility list.

When the appointing authority requests a vacancy be filled by appointment from an eligibility list, the Personnel Officer should certify from the specified list two more names than the number of vacancies in that class to be filled. Whenever there are fewer than three names of individuals willing to accept appointment on an eligibility list, the appointing authority may make an appointment from among such eligibles or may request the Personnel Officer to establish a new list. When so requested, the Personnel Officer shall hold a new examination and establish a new eligibility list.

- D. Appointment. After interview and investigation, the appointing authority shall make appointments from among those certified, and shall immediately notify the Personnel Officer of the person(s) appointed. The person accepting appointment shall report to the Personnel Officer, or designated representative, for processing on or before the date of appointment. If the applicant accepts the appointment and reports to duty within such period of time as the appointing authority shall prescribe, they shall be deemed to be appointed; otherwise, they shall be deemed to have declined the appointment.
- E. Provisional Appointment. In the absence of there being names of three individuals willing to accept appointment on eligibility lists, a provisional appointment may be made by the appointing authority. An eligibility list shall be established within six months for any permanent position filled by provisional appointment. The City Administrator, upon request of the department head, may extend the period for any provisional appointment for not more than thirty days by any one action.

No special credit shall be allowed in meeting any qualification or in the giving of any test or the establishment of any open-competitive promotional lists or the determination of seniority or compensation for service rendered under a provisional appointment.

SECTION 10. PROBATIONARY PERIOD

- A. Objective of Probationary Period. The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to their position, and for releasing any probationer whose performance of duties or conduct does not meet the required standards of work.
- B. Duration of Probationary Period. All appointments shall be tentative and subject to a probationary period of not less than six months actual service, except that the probation period for sworn police and fire employees shall be for a period of not less than twelve months actual service. The City Council may, by resolution or ordinance, establish a longer probationary period for specified classes.

An employee's probation period may only be extended an additional six months time upon request of the appointing authority and approval of the Personnel Officer for purposes of further evaluation, observation, and/or development.

- C. Evaluation During Probationary Period. Each probationary employee is to be evaluated at least twice during their probation period; once, at approximately the half-way point and again, prior to the expiration date of the probation period. Sworn police and fire employee evaluations will occur at least three times during their probation period; at approximately the three month, six month, and twelve month intervals from the employee's date of probation appointment.

Nothing contained herein shall preclude additional evaluations during the probationary period as deemed appropriate by the appointing authority.

- D. Rejection of Probationer. During the probationary period, an employee may be rejected at any time by the appointing authority without cause and without the right of appeal. Notification of rejection in writing shall be served on the probationer and a copy filed with the Personnel Officer.
- E. Rejection Following Promotion. Any employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period by reason of failure of the appointing authority to file a statement that the services have been satisfactory, shall be reinstated to a vacant position from which promoted unless charges are filed and they are discharged in the manner provided in the Personnel Ordinance and these Rules. If a vacant position does not exist, the employee shall be placed on a re-employment list to await appointment to a vacant position.
- F. Permanent Appointment Following Probationary Period. The Personnel Officer shall notify the appointing authority and the probationer concerned two weeks prior to the termination of any probationary period. If the service of the probationary employee has been satisfactory to the appointing authority, then the appointing authority shall file with the Personnel Officer a statement in writing to such effect and stating that the retention of such employee in the service is desired. If such statements are not filed, the employee will be deemed to be unsatisfactory and their employment terminated at the expiration of the probationary period.
- G. Promotion During Probationary Period. An employee promoted to a position with a greater maximum rate of pay than the original appointment shall be deemed a new probationary employee and will commence a new probationary period on the effective date of the promotion. The City Administrator may authorize credit for all or part of the probationary time in the promotion position toward fulfilling an uncompleted probationary period requirement in a lower position.
- H. Extension Due to Leave of Absence. Any leave of absence without pay exceeding fifteen (15) calendar days shall cause the employee's probationary period to be extended by the number of calendar days of such leave that are in excess of fifteen (15) calendar days.

SECTION 11. PERFORMANCE EVALUATION

- A. Evaluation Procedure. In accordance with procedures and on forms provided by the Personnel Officer for that purpose, supervisors shall evaluate, record, and report the performance of their employees such that:
 - (1) probationary employees shall be evaluated throughout the period of probation as provided in Section 10-C above;
 - (2) permanent employees shall be evaluated at least annually by the individual's salary review date and a report filed with the Personnel Officer to record such evaluation; and
 - (3) as deemed desirable or necessary by the appointing authority, additional evaluations of performance may be at any time during the period of employment and a report of such evaluation filed with the Personnel Officer.

- B. Rating Discussed with Employee. Each evaluation shall be discussed with the employee who has been evaluated. The employee shall be given a copy of the performance evaluation report following the discussion and shall be required to sign the report, but only as an indication that the report was discussed with him/her. The employee may request to review the report with the appointing authority.
- C. Unsatisfactory Performance. If an employee is rated overall as below competent, the appointing authority may recommend that the employee's next scheduled merit increase be withheld.

A supervisor shall take appropriate and immediate steps to assist and to improve or correct the performance or conduct which has been rated as unsatisfactory. Failure by the employee to demonstrate satisfactory effort toward improvement, if substantiated, shall be considered as cause for appropriate disciplinary action, such as but not limited to a reduction of step(s) in the employee's salary range or dismissal.

SECTION 12. SALARY ADMINISTRATION

- A. Application of Rates. Employees occupying a position in the competitive service shall be paid a salary or wage established for the position's class under the salary plan as provided by Section 5. The minimum rate, if provided, for the class generally shall apply to employees upon original appointment. However, the City Administrator may, when circumstances warrant it, authorize original appointment or reinstatement at other than the minimum rate.
- B. Basis of Compensation.
- (1) Full-time Permanent, Probationary, and Acting Appointment. An employee having a permanent, probationary or acting appointment that is on a full-time basis shall be compensated at a monthly rate, paid bi-weekly.
 - (2) Other Appointments. An employee having any other type of appointment shall be compensated at an hourly rate, paid bi-weekly. If a monthly rate is established for the position, the hourly rate will be computed by dividing the monthly rate by 173.33.
- C. Continuity of Service Requirements. Continuous service, as required for advancement within salary ranges and for other purposes specified in these rules, is defined as City employment on a probationary, permanent, or acting appointment basis without break or interruption.

Authorized leaves of absence without pay of thirty (30) calendar days or less and leaves of absence with pay for any period shall not constitute an interruption of an employee's continuous service and shall not be deducted in computing total City service. Authorized leaves of absence without pay in excess of thirty (30) calendar days shall be deducted in computing an employee's total City service for merit advancement in salary range and for other purposes specified in these rules.

Continuity of service requirements while on probation are provided in Section 10-H.

- D. Salary Review Dates. Any officer or employee of the City shall have as a salary review date the date upon which they shall next be eligible for consideration of a merit step increase. However, any approved leaves of absence without pay exceeding thirty (30) calendar days will result in the establishment of a new review date. Such date shall be based on one's original salary review date plus the number of calendar days of authorized leave in excess of thirty (30) calendar days. Salary adjustments such as merit increases and promotions shall be made at the start of the pay period closest to the employee's salary review date, unless otherwise authorized by the City Administrator. Any delayed merit increases will extend the salary review date for the next eligible salary increase correspondingly.
- E. Entrance Salary Rates.
- (1) General. All new employees shall normally be appointed at Step 1 of the salary range in effect for the class in which the appointment is made. The City Administrator may, upon department head request, approve or reject initial City employment at a salary rate up to and including the 5th step of the salary range.
 - (2) Temporary Appointees. Persons employed or re-employed for temporary or seasonal service may, upon written recommendation by the department head and approval by the Personnel Officer, be compensated at any rate established for the class.
- F. Merit Increases. No salary advancement shall be made so as to exceed any maximum rate established in the plan for the class to which the employee's position is allocated. Advancements shall not be automatic but shall depend upon increased service value of an employee to the City as exemplified by recommendations of one's supervising official, length of service, productivity, performance, record, special training undertaken, or other pertinent evidence. Full-time and part-time permanent or probationary employees may be considered eligible for merit increases in salary according to the following schedule:
- (1) The numerals 1, 2, 3, 4 and 5 respectively, denote the various progressive steps in the salary range.
 - (2) Salary Step 2 upon completion of six months of employment in Step 1 where the employee has demonstrated satisfactory job progress and normally increasing productivity, and upon recommendation of the department head and approval of the Personnel Officer.
 - (3) Salary Range 3 upon completion of one year of employment in Step 2 where the employee has demonstrated satisfactory job progress and normally increasing productivity, and upon recommendation of the department head and approval of the Personnel Officer.
 - (4) Salary Steps 4 and 5 upon completion of one year of employment at the previous step where the employee has demonstrated satisfactory job progress and productivity and upon recommendation of the department head and approval of the Personnel Officer.

G. Other Salary Provisions. Other salary adjustments will include:

- (1) Special Salary Adjustments. Notwithstanding anything in these rules to the contrary, to correct gross inequities or to reward outstanding achievement and performance, upon recommendation of the department head, the City Administrator may adjust the salary rate of an incumbent of a particular position to any step within the salary range for that class.
- (2) Salary on Promotion. An employee who is promoted in accordance with these rules shall be placed at Step 1 of the new salary range or at a step of the new range which is approximately five (5) percent higher than the employee's previous base salary; but, in no case shall the employee be compensated above the top step of the new salary range. The promotion shall establish a new salary review date for the employee and the employee shall serve a new probation period established for the position.
- (3) Salary on Demotion. Any employee who volunteers demotion or is involuntarily demoted shall not be required to serve a new probationary period, shall establish a new salary review date, and shall have their salary set at the salary step in the range for the lower class for which they qualify, as recommended by the department head and approved by the Personnel Officer; provided that, in no event shall the new step be lower in number than the step of the range held prior to the demotion.
- (4) Salary on Transfer. Any employee who is transferred shall continue to receive the same salary rate and their salary review date shall not change.
- (5) Salary on Change in Range Assignment:
 - (a) Salary Range Increase. Whenever a class is reassigned to a higher salary range, the salary of each incumbent on the effective date shall be increased to the corresponding step in the new range and their salary review date shall not change.
 - (b) Salary Range Decrease. Whenever a class is reassigned a lower salary range, the salary of each incumbent on the effective date shall be set at the same salary rate that they were receiving in the former range, providing it does not exceed the maximum salary rate of the new range, and their salary review date shall not change.
- (6) Acting Appointment.
 - (a) No employee shall be required to perform duties which are not closely related both in kind of work and in level of responsibility to the duties normally assigned to positions in his/her class, except on a short-term basis not to exceed thirty (30) consecutive calendar days, or on an emergency basis.

- (b) If an employee is required to work in an out-of-class assignment for more than thirty (30) consecutive calendar days, his/her department head may, with prior approval of the Personnel Officer, make an acting appointment. The effective date of the acting appointment shall be the first day of the out-of-class assignment.
- (c) Acting appointments are of a limited duration and will not exceed six (6) months time. One six month extension of an acting appointment may be made upon the request of the department head and the Personnel Officer's approval.
- (d) Salary Increase. A one-step increase within the employee's current classification salary range shall be granted in accordance with the provisions of this Section. In the absence of available steps within their current range to be placed, the employee shall be granted a five percent (5%) increase above their current base salary.
- (e) If an employee believes they are performing work which is outside of the work normally assigned to their class, they may submit a request to the Personnel Officer, thru their department head, that a reclassification study be performed.

SECTION 13. ATTENDANCE AND LEAVES

A. Annual Vacation Leave.

- (1) The purpose of annual vacation leave is to enable each eligible employee annually to return to work mentally refreshed. All employees in the Competitive Service shall be entitled to annual vacation leave with pay.

The times during a calendar year at which an employee may take vacation leave shall be determined by the department head with regard for the wishes of the employee and particular regard for the needs of the services.

No vacation time may be accumulated for use in a following calendar year except that under extreme emergency to the City, the City Council may order the deferment of vacation for not to exceed one year, in which case the employee shall have the right to carry over the deferred vacation time into the following vacation year.

- (2) Vacation Accrual Rates.

Unless otherwise provided in a current Memorandum of Understanding, the following is the list of vacation accrual entitlement for each eligible employee by years of employment, to be earned on a prorated bi-weekly basis:

<u>Service Years</u>	<u>Entitlement in Days</u>
1 thru 2	10
3 thru 4	11
5 thru 6	12
7 thru 8	13
9 thru 10	14

<u>Service Years</u>	<u>Entitlement in Days</u>
11 thru 12	15
13 thru 14	16
15 thru 16	17
17 thru 18	18
19 thru 20	19
21 or more	20

For eligible employees scheduled to work at least 1040 hours a year but less than 2080 hours a year, annual vacation leave entitlement shall be a percentage of the vacation days earned for the same number of service years identical to the percentage of work hours scheduled as to a 2080 hour scheduled work year.

- (3) Vacation leave may not be used at the time of termination of employment and all accrued but unused vacation leave credits shall be paid off at the employee's current base hourly rate.
- (4) For purposes of computing service years, continuous service from the employee's anniversary date as defined in Section 2 shall be the qualifying factor. Authorized leaves of absence without pay in excess of thirty (30) calendar days shall be deducted in computing an employee's total City service years.
- (5) In the event one or more municipal holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave, and the vacation leave shall be extended accordingly.

B. Sick Leave.

- (1) Sick leave with pay shall be granted to all permanent and probationary employees within the competitive service. Sick leave shall not be considered as a right which an employee may use at their discretion, but shall be allowed only in case of necessity and actual personal sickness, disability, or approved family sick leave.
- (2) Sick leave shall be earned at the rate of one (1) eight (8) hour work day for each calendar month of service, prorated on a bi-weekly basis. For eligible employees scheduled to work at least 1040 hours a year but less than 2080 hours a year, sick leave entitlement shall be a percentage of the sick leave days normally earned for the same number of service months identical to the percentage of work hours scheduled as to a 2080 hours scheduled work year.

For purposes of computing sick leave, a work day shall be considered as one-fifth of the number of working or duty hours in the established work-week for each employee, and firefighters shall be considered to work a five day week, Monday through Friday. Unused sick leave shall be accumulated to a total of not more than ninety work days, unless otherwise provided in a current Memorandum of Understanding.

- (3) Family Sick Leave. Not more than five days of sick leave each fiscal year may be taken in case of sickness, disability or death of members of the employee's immediate family, as defined in Section 2. The appointing authority may grant such sick leave when, in their opinion, the relationship of the sick or disabled person to the employee warrants such use of sick leave. CC 02.28.17 Page 347 of 522

- (4) To receive compensation while absent on sick leave, the employee shall notify their immediate supervisor or the Personnel Officer prior to or within one hour after the time set for beginning of daily duties, or as may be specified by the head of the department. When absent on sick leave, the employee may be required to file a physician's certificate or a personal affidavit with the Personnel Officer, stating the cause of the absence and the fitness of the employee to return to duty. Management's requirement for a physician's certification will be to ensure proper use of sick leave.

In the event of a sick-out, identified as such by the City Administrator, management may require doctor's written verification for all employees who claim to be ill or injured and request sick leave with pay.

- (5) Sick leave may not be used at the time of termination of employment, and all accrued but unused sick leave credits shall not be paid off, unless otherwise provided in a current Memorandum of Understanding.
- (6) An employee, absent on approved vacation or compensatory time-off, may request a change to paid sick leave, and may be required to provide a physician's statement verifying the illness, accident, or disease upon return to work. Sick leave absence shall begin at the time the employee notified their department head, the employee's remaining approved vacation or compensatory time-off is terminated, and the employee shall report to work at the end of their sick leave absence.
- (7) An employee receiving temporary disability payments under the Workers' Compensation laws may use accumulated sick leave to continue to maintain regular income. All employees receiving full salaries in lieu of temporary disability payments pursuant to Section 4850 of the Labor Code are entitled to accumulate sick leave during such periods of disability in accordance with Section 13-I.

- C. Military Leave. A member of the National Guard or Military Reserve ordered to annual military duty, excluding weekend and other routine drill periods, who is a full-time permanent or probationary employee, shall receive full salary as provided in the State of California Military and Veterans' Code.

Employees on military leave are not subject to loss of any employee rights such as accrual of vacation leave, seniority, and other privileges. The City reserves the right to schedule public safety employees and other flexible schedule employees so that drill periods coincide with ordinary off-duty time for which the employee will not receive compensation.

- D. Jury Leave. Every employee in the competitive service who is called or required to serve as a trial juror shall be entitled to be absent from their duties with the City during the period of such service or while necessarily being present in court as a result of such call. Under such circumstances, the employee shall be paid the difference between regular full salary and any payment received, except travel pay, for such duty. An employee who serves on jury duty during a regular day-off may receive all jury duty fees paid for that day.

E. Holidays.

The holidays to be observed in this City are as follows:

New Year's Day
Lincoln's Birthday
Washington's Birthday
Memorial Day
Independence Day
Labor Day
Admission's Day
Veteran's Day
Thanksgiving Day
Day After Thanksgiving
Christmas Day
Floating Holiday

and any other holiday proclaimed by the Mayor of the City.

Every permanent and every probationary employee in the competitive service except members of the Public Safety Departments, who are required to be on duty for 24-hour periods, shall not be required to be on duty on holidays unless the employee's services are needed and required in the interests of the public health, safety or general welfare, in which latter event any such employee shall be entitled to compensatory time off at such time as in the discretion of the department head, their services are not needed and required.

Members of the Public Safety Departments who are required to be on duty for 24-hour periods, shall be entitled to compensatory time off in lieu of holidays in the same number of hours as is commensurate with the holiday time hereby granted to other employees, which time shall be eight duty hours per holiday. Said compensatory time off may be taken in conjunction with annual vacation leave to allow for maximum personnel utilization.

For those employees who work Monday through Friday, any holiday falling on Saturday shall be observed on the proceeding Friday and any holiday falling on Sunday shall be observed on the following Monday. Employees who work schedules other than Monday through Friday shall be entitled to compensatory time off for any holiday which falls on their regularly scheduled days off.

- F. Absence Without Leave. Any employee who is absent from duty shall report the reason for such absence to the department head or immediate supervisor prior to the date of expected absence whenever possible and in no case, later than one (1) hour after the beginning of their normal work shift; except in the Public Safety Departments where such notice shall be at least one (1) hour before the beginning of their normal work shift. Absences not reported in such manner may be considered absence without leave. A deduction of pay shall be

made for the duration of any absence without leave. Upon return to work, such absence shall be justified to the department head who shall consider the need for further disciplinary action.

An unauthorized absence without leave for more than three (3) consecutive work days shall constitute an automatic resignation of their position by the employee.

- G. Leave of Absence Without Pay. The City Administrator may grant a permanent or probationary employee leave of absence without pay and seniority for not to exceed three months after all available paid leave time has been exhausted. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the approval will be in writing. Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable period of time after notice to return to duty, shall be cause for discharge.

City benefits are discontinued after the third consecutive day of leave of absence without pay. The employee may continue coverage for health and life benefits for the duration of the leave without pay by monthly advance payment of the total premium cost. Coverage waived shall resume upon employee's return to active duty.

Continuity of service requirements are provided in Sections 10H and 12C.

H. Maternity Leave.

- (1) In all cases of pregnancy, the employee shall furnish the City a statement from her physician giving the anticipated date of delivery and the opinion of the physician as to her ability to perform her normal work assignment. Such statement shall be furnished as soon as practical after a determination of the pregnancy has been made.
- (2) A pregnant employee will be permitted to work as long as she is able to safely perform the duties of her position as recommended by her attending physician, and as approved by the City-designated physician.
- (3) A pregnant employee shall be allowed to be absent from work without pay up to a total of three (3) months without fear of job jeopardy for purposes of each maternity leave; where, in the opinion of her attending physician and, when necessary, the City-designated physician, the employee is temporarily disabled due to pregnancy, miscarriage, abortion, or childbirth and recovery therefrom.

Such temporary disability shall be treated as any other illness pursuant to the provisions of these rules. A pregnant employee taking maternity leave shall first use all available sick leave and other paid time earned before a leave of absence without pay shall be granted. Additional maternity leave of absence in excess of three months may be approved by the City Administrator at the written request of the employee and certification by her attending physician for extenuating circumstances.

If the pregnant employee fails to report to work after the expiration of the three (3) months maternity leave or approved extension, said employee's position shall be declared to be automatically vacated.

- (4) Continuance of City benefits while on approved maternity leave is provided under Leave of Absence Without Pay (Section 13G).

I. Industrial Sick Leave.

(1) Public Safety Employees.

- (a) A public safety employee of the City who is disabled temporarily or permanently by injury or illness occurring in the course and scope of employment shall be paid full salary for the period of such disability but not to exceed one year (pursuant to Section 4850 of the Labor Code); or until such earlier date as they are retired on disability pension. Full salary payments shall be in lieu of temporary disability benefits which would otherwise be payable.
- (b) Prior to the time Workers' Compensation laws provide compensation payments (current law is first three consecutive calendar days), the employee's unused sick leave balance shall be utilized to pay regular salary and wages. After the twenty-first consecutive calendar day on industrial sick leave, the first three days charged to the employee's sick leave shall be fully credited.
- (c) During the remainder of the time that a public safety employee is disabled by reason of injuries or illness incurred during the course and scope of employment, neither vacation nor sick leave shall be charged for the purpose of paying Workers' Compensation benefits.
- (d) A public safety employee receiving disability pay under the provisions of Labor Code 4850 shall be eligible for City insurance benefits and vacation and sick leave accruals during the absence for as long as the employee's unused sick leave would have provided full salary by paying the difference between Workers' Compensation benefits and the employee's regular salary.

When the employee's sick leave balance would have been depleted, the employee will be considered to be on leave without pay but shall continue to receive Labor Code 4850 pay only. All vacation accruals, sick leave accruals and insurance benefits shall cease at such time. The employee may opt to continue health and life insurance benefits in accordance with Section 13G of these rules.

Continuity of service requirements are provided in Sections 10H and 12C.

(2) Miscellaneous Employees.

- (a) An employee, other than a public safety member, who, by reason of an injury or illness occurring in the course and scope of employment (as defined by the Workers' Compensation laws of the State of California), is temporarily or permanently disabled from performing the duties of their position, shall be paid full salary for as long as their unused sick leave is available.

Thereafter, only Workers' Compensation benefits shall be paid for the remainder of temporary disability until they return to active duty. When permanent disability results from an injury or illness occurring in the course and scope of employment, a settlement by way of either a Compromise and Release Agreement (paid in one lump sum) or a Stipulated Findings and Award (paid out bi-weekly) will be determined according to the procedures prescribed by the laws of Workers' Compensation in the State of California.

(b) Industrial Sick Leave for miscellaneous employees shall be subject to the following provisions:

1. Prior to the time the Workers' Compensation laws provide compensation payments (current law is first three consecutive calendar days), the employee's unused sick leave balance shall be utilized to pay regular salary and wages. After the twenty-first consecutive calendar day on industrial sick leave, the first three days charged to the employee's sick leave shall be credited in the number of hours Workers' Compensation benefits would equate to for the first three days.
2. Thereafter, the City will pay only the difference between Workers' Compensation benefits earned and the employee's regular salary or wages, provided the employee's unused sick leave time remains available to pay said difference. To facilitate payment and administration, the City shall make full salary payment to employee, and employee shall endorse and deliver to City all checks received as payment for temporary disability under the Workers' Compensation laws.

The employee shall continue to be eligible for insurance benefits and vacation and sick leave accruals during an industrial sick leave, provided available sick leave time is being utilized to maintain full salary.

3. When the employee's unused sick leave balance has been depleted, the employee shall be deemed to be "off payroll" and shall thereafter only receive Workers' Compensation temporary disability payments directly. All vacation accruals, sick leave accruals and insurance benefits shall cease at such time. The employee may opt to continue health and life benefits in accordance with Section 13G.

Continuity of service requirements are provided in Sections 10H & 12C.

SECTION 14. TRANSFER, PROMOTION, DEMOTION, SUSPENSION, AND REINSTATEMENT

- A. Transfer: No person shall be transferred to a position for which they do not possess the minimum qualifications. Upon notice to the Personnel Officer, an employee may be transferred by the appointing authority at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications.

If the transfer involves a change from one department to another, both department heads must consent thereto, with approval of the City Administrator, unless the City Administrator orders the transfer for purposes of economy or efficiency. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in the Personnel Ordinance Salary Plan or these Rules.

- B. Promotion: Consistent with the best interests of the service, all vacancies in the competitive service will be filled by promotion from within the competitive service, after a promotional examination has been given and a promotional list established.

If, in the judgment of the Personnel Officer, a vacancy in the position could be filled better by an open-competitive examination instead of promotional examination, then an open-competitive examination shall be arranged.

- C. Demotion. The appointing authority may demote any employee whose ability to perform required duties falls below standard, or for disciplinary purposes. Upon request of the employee, and with the consent of the prospective supervising official, demotion may be made to a vacant position. No employee shall be demoted to a position for which they do not possess the minimum qualifications. Written notice of the demotion shall be given the employee not less than five (5) working days prior to the effective date of the demotion, and a copy filed with the Personnel Officer.

- D. Suspension. The appointing authority may suspend any employee without pay at any time for cause. When suspensions are imposed by department heads, said action shall be reported immediately to the Personnel Officer.

- (1) Department heads may suspend a subordinate employee for not more than five (5) working days at any one time and not more frequently than one such suspension in a thirty (30) day period.
- (2) A suspension of not more than thirty (30) working days of any City employee may be made by or with the approval of the City Administrator.
- (3) A suspension exceeding thirty (30) days must be approved by the City Council.

- E. Reinstatement. With the approval of the appointing authority and the Personnel Officer, a permanent or probationary employee who has resigned with a good record may be reinstated within two years of the effective date of resignation, to a vacant position in the same or comparable class. Upon reinstatement, the employee, for all purposes, shall be considered as though they had received an original appointment.

SECTION 15. SEPARATION FROM THE SERVICE

- A. Discharge. An employee may be discharged by the appointing authority whenever conduct on the job so warrants. An employee may likewise be dismissed when off-the-job conduct either brings discredit upon the City or evidences an obvious unfitness to perform the duties of an employee. Whenever an employee is convicted of driving under the influence of alcohol or drugs, this shall be considered a prima facie indication of unfitness if part of the employee's duties involve operating a vehicle. Any employee who may be discharged shall be entitled to due process as provided in the Personnel Ordinance and these Rules.

- B. Lay-off. The appointing authority may lay-off any employee in the competitive service because of material change in duties or organization or shortage of work or funds. Thirty calendar days before the effective date of lay-off,

the appointing authority shall notify the Personnel Officer of the intended action with the reasons therefore, and a statement certifying whether or not the services of the employee have been satisfactory. A copy of such notice shall be given the employee affected. If certified as having given satisfactory service, the name of the employee laid off shall be placed on the appropriate re-employment list as provided by these Rules.

If not certified as having given satisfactory service, the permanent employee laid off may interpret the action as a discharge and request an administrative hearing as provided by the Personnel Ordinance and these Rules.

- C. Resignation. An employee wishing to leave the competitive service in good standing, shall file with the appointing authority, a written resignation stating the effective date and reasons for leaving at least two weeks before leaving the service, unless such time limit is waived by such official. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Personnel Officer. Failure to give notice as required by this Rule may be cause for denying future employment by the City.
- D. Disability. An employee may be transferred, demoted, or separated for disability when they cannot adequately perform the required duties because of a physical and/or mental impairment. The City, at its expense, may require an examination of the employee performed by a physician, psychologist or psychiatrist of City choice when any issue of an employee's possible disability arises. A disabled employee may be retained by the City in a position for which qualified, if deemed reasonable and appropriate by City.
- E. Retirement. Whenever an employee meets the conditions set forth in the City's retirement plan regulations, they may elect to retire and receive benefits earned under the retirement plan.

SECTION 16. MISCELLANEOUS RULES

- A. Political Activity. No officer or employee of the City shall use their position to influence any vote or other political influence within the City. An officer or employee of the City shall not knowingly solicit political contributions from other City officers or employees unless done incidentally to a solicitation of a larger segment of the public which may include officers or employees of the City. No City officer or employee shall participate in political activities of any kind while in uniform.

No City officer or employee shall engage in political activity during working hours. Political activities are prohibited on all City premises with the exception that political activities may take place at a City-owned facility when said facility has been rented for the occasion.

- B. Gifts and Gratuities. No employee shall accept or receive any benefit from any gift, gratuity, present, property or service of any kind, nature or value, which may be directly or indirectly offered as a result of, or anticipation of said employee's position or performance of duties with the City of Morro Bay. Employees should recognize clearly that many practices which are acceptable in private enterprise are not acceptable in public employment where there must be no suspicion of favoritism or influence. To avoid even the slightest implication, it is necessary to follow the strict rule outlined above. Exceptions to the rule are few and quite narrow. For example, advertising and promotional pens, calendars, and other items of negligible value which are circulated widely can be accepted. Also, small boxes of candy at holidays which are presented to an entire department and not to individuals are permitted, but not encouraged.

- C. Outside Employment. No employee shall engage in outside employment or enterprise which is unsuitable or in conflict with their municipal duties or responsibilities, or which will lessen their effectiveness as a City employee.

No City-owned equipment, vehicles, tools, supplies or any other item shall be used by any employee while the employee is engaged in any outside employment or activity. To avoid public criticism or discredit of the City, employees shall not use the influence of their City employment in non-City business.

- D. Sexual Harassment. The City of Morro Bay will not condone any form of sexual harassment at the workplace. Such conduct by a City employee will not be tolerated, and disciplinary action up to and including termination will be taken against an employee engaging in sexual harassment.

- (1) Responsibility of Each City Employee. A City employee is to report any act of sexual harassment to their immediate supervisor, department head, or the Personnel Officer.
- (2) Responsibility of Management and Supervisory Employees. Management and supervisory personnel are responsible for ensuring that the work environment is free of sexual harassment by:
 - (a) Informing all employees under their direction of the City policy and complaint procedure.
 - (b) Reporting any instances of sexual harassment to their department head and to the Personnel Officer for investigation.
 - (c) Based on the findings of the investigation, taking appropriate disciplinary action.
- (3) Responsibility of the Personnel Officer. The Personnel Officer is responsible for administering the complaint procedure, conducting an investigation and in consultation with the department head, recommending disciplinary action as may be appropriate.

SECTION 17. TRAINING OF EMPLOYEES

- A. Training. The Personnel Officer and department heads shall prepare and conduct appropriate training programs within budget constraints. Such programs may include lecture courses, demonstrations, assignment of reading matter or such other devices as may be available for the purpose of improving the effectiveness and broadening the knowledge of municipal employees in the performance of their respective duties.
- B. Credit for Training. Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such activity shall be filed by the employee or department with the Personnel Officer and placed in the employee's file.

- C. Seminars and Conferences. Employees shall be encouraged to continue their professional development through attendance at approved seminars and conferences subject to the following conditions:
- (1) The conference should be a budgeted item when possible and must be of direct benefit to the City.
 - (2) Approval to attend the conference shall be requested from the appointing authority, preferably one month in advance of the travel date.

SECTION 18. REPORTS AND RECORDS

- A. Roster Cards. The Personnel Officer shall maintain a service record for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, residence data, and such other information as may be considered pertinent.
- B. Change-of-Status Report. Every appointment, transfer, promotion, demotion, change of salary rate, and other temporary or permanent change in status of employees shall be reported to the Personnel Officer in such manner as may be prescribed.
- C. Destruction of Records. Roster and payroll records shall be kept permanently. All other records relating to personnel, including correspondence, applications, examinations, and reports may be destroyed after five years. Any temporary record may be destroyed at any time by the Personnel Officer before the expiration of two years with the consent of the City Council and the City Attorney.
- D. Employee Access. Every employee shall have a right of access to their own personnel file and every document therein. It shall be the responsibility of the Personnel Officer to preserve the confidentiality of all records placed under the custodianship of the Personnel Department and to limit exposure of such records to persons who have a legitimate need to review the the information contained therein.

SECTION 19. DISCIPLINARY AND APPEALS PROCEDURES

- A. Basis for Disciplinary Action. The tenure of every City employee in the competitive service shall be based on reasonable standards of personal conduct and job performance. Failure to meet such standards shall be grounds for appropriate disciplinary action, which shall be commensurate with the seriousness of the offense and with due consideration of the employee's prior performance record. Disciplinary action may be based upon any of the following grounds: dishonesty, incompetency, inefficiency, neglect of duty, disability resulting from other than good cause, drunkenness, intemperance, insubordination, drug addiction, unexcused absence, violation of rules, regulations or orders established by a supervisor or the City Council, conviction of a felony or misdemeanor involving moral turpitude, discourtesy to the public or fellow employees, misuse or abuse of City property or equipment, substandard job performance and other acts which are incompatible with service to the public.

- B. Types of Discipline. The following procedures shall be followed when, in the judgment of the department head, an employee has committed an act or omission that justified the disciplinary action indicated. In the case of any member of the staff of the City Administrator's Office, the City Administrator shall, for the purpose of this Section, be considered to be a department head. Except for written warnings/reprimands, the department head or his/her designee shall advise employees of contemplated disciplinary actions in writing and allow the employee an opportunity to respond to such charges prior to taking action.

When there exists a serious and imminent risk to the health or safety of any person or serious injury or loss to property, a supervisor shall take immediate action to reduce or eliminate the danger. In case of such emergency, an employee shall have all of the rights set forth herein, except the right to receive prior written notice of proposed disciplinary action. The Personnel Officer must be contacted immediately.

- (1) Warning/Reprimand. If the warning/reprimand is in writing, the department head shall give the employee a copy and forward a copy to the Personnel Officer for review and retention in the employee's personal history file. A written warning/reprimand shall contain a description of the events which necessitated the action, specific expectations of change by the employee, and notice of further action in the event a change by the employee does not occur.
- (2) Extra Duty. In the event of the suspension of an employee, the department head may offer an option to the employee to work extra duty, without pay, in lieu of suspension. The employee involved shall have the option to accept or refuse such extra duty, without prejudice to his/her appeal rights.
- (3) Suspension. A department head may suspend an employee with or without pay from his/her position. The department head shall advise the employee in writing of the proposed action and shall give a copy of such statement to the Personnel Officer. The written statement shall contain a description of the events which necessitates the intended suspension, a statement of the charges, notification that the employee may review or make copies of any materials which are a basis of the intended action, and the right of the employee to meet with the department head or to submit in writing his/her response to the proposed action within a reasonable time frame. Unless extended by approval of the City Council on written recommendation of the City Administrator, the maximum period of suspension shall be thirty (30) calendar days.
- (4) Demotion. A department head shall advise the employee in writing of his/her intention to demote an employee prior to taking such action. The written statement shall contain a description of the events which necessitates the intended demotion, a statement of the charges, notification that the employee may review or make copies of materials leading to the intended demotion, and the right of the employee to meet with the department head or respond in writing within a reasonable time frame to the charges.
- (5) Discharge. A department head shall advise the employee and the Personnel Officer in writing of his/her intention to discharge an employee prior to taking such action. In discharging an employee, the department head shall

make a written notice and shall give a copy of said notice of intended discharge to the employee and forward a copy to the Personnel Officer. The written statement shall contain a description of the events which necessitates the intended discharge, a statement of the charges, notification that the employee may review or make copies of materials leading to the proposed discharge action, and the right of the employee to meet with the department head or respond in writing within a reasonable time frame to the charges.

- C. Employee's Response. An employee's opportunity to respond to the department head is intended to be a meeting and not a formal or an adversary hearing. The employee is not accorded the right to cross-examine a department's witness, nor to present a formal case in opposition to the proposed discipline. However, the limited nature of this response does not obviate the department head's responsibility to initiate further investigation if the employee's version of the facts raises doubts as to the accuracy of the department head's information leading to the discipline proposal. An employee shall have the right of representation, if so requested.
- D. Appeal Procedures. The appeal procedure described herein shall apply to cases of disciplinary action or grievance appeals affecting the permanent employees in the competitive service. It shall not be applicable to those positions which may be deemed exempt by Council resolution or to probationary employees.
- (1) An employee shall first pursue all informal grievances with his/her supervisor and at any time that the employee or the supervisor or the department head deem that the informal grievance is a formal grievance, the employee may reduce it to a formal written grievance. An employee with an informal grievance is encouraged first to attempt to resolve the problem by discussing it informally with his/her supervisor and department head before filing a written grievance.
 - (2) Following the notice of proposed disciplinary action and the employee's opportunity to respond, the Personnel Officer, where indicated, shall cause to be served on the employee affected, by registered mail or personal delivery, a statement signed by the department head indicating, if applicable, the department head's decision based on the employee's response and, if the disciplinary action is to proceed, the specific charges against the employee. This statement shall clearly inform the employee that he/she has the right, within five working days after receipt of this notice, to request a hearing on the charges by filing the request with the Personnel Officer. Such request shall set forth the grounds and basis of the appeal.
 - (3) If, within the five-day appeal period, the employee involved does not file said appeal, unless good cause for the failure is shown, the action of the City shall be considered conclusive and shall take effect as prescribed.

- (4) If, within the five-day appeal period, the employee involved files such notice of appeal by giving written notice of appeal to the Personnel Officer, the City shall select a hearing officer to hear the appeal, which may be the City Administrator, Personnel Officer, or other designee selected by the City.
- (5) A time for an appeal hearing shall be established which shall not be less than ten (10) working days, nor more than thirty (30) working days, from the date of the filing of the appeal. All interested parties shall be notified in writing of the date, time, and place of the hearing at least five (5) working days prior to the hearing.
- (6) All hearings shall be private; provided, however, that the appellant may request a hearing open to the public.
- (7) The Hearing Officer may, if legally authorized, issue subpoenas at the request of either party to the commencement of such hearing.
- (8) The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses but hearings shall be conducted in a manner most conducive to determinations of the truth. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence may be excluded. Decisions made by the Hearing Officer shall not be invalidated by any informality in the proceedings, and the Hearing Officer shall not be bound by technical rules of evidence.
- (9) The Hearing Officer shall rule on the admission or exclusion of evidence.
- (10) Each party shall have these rights: to be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the respondent does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination.
- (11) Oral evidence shall be taken only on oath or affirmation.
- (12) The hearing shall proceed in the following order, unless the Hearing Officer, for special reason, otherwise directs:
 - (a) The party imposing discipline shall be permitted to make an opening statement.
 - (b) The appealing party shall be permitted to make an opening statement.

- (c) The party imposing disciplinary action shall produce the evidence on his/her part.
- (d) The party appealing from such disciplinary action may then open his/her defense and offer his/her evidence in support thereof.
- (e) The parties may then, in order, respectively offer rebutting evidence only, unless the Hearing Officer for good reason, permits them to offer evidence upon their original case.
- (f) Arguments shall be permitted in the discretion of the Hearing Officer.
- (g) The Hearing Officer shall determine relevancy, weight, and credibility of testimony and evidence, and shall base his/her findings on the preponderance of evidence.
- (h) During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.
- (i) No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing.
- (j) The Hearing Officer, prior to or during a hearing, may grant a continuance for any reason he/she believes to be important to its reaching a fair and proper decision.
- (k) The Hearing Officer shall render his/her findings and recommendations as soon after the conclusion of the hearing as possible and in no event later than thirty (30) calendar days after conducting the hearing, unless otherwise agreed upon by both parties. His/her decision shall set forth the recommendations as to each of the charges and the reasons therefore.
- (l) The Hearing Officer may recommend the sustaining or rejecting of any or all of the charges filed against the employee. He/she may recommend sustaining, rejecting, or modifying the disciplinary action invoked against the employee.
- (m) The decision of the Hearing Officer is advisory. The decision shall be filed with the charged employee, the City Administrator, and the City Council, and shall set forth all findings and conclusions. If a discharge is not sustained, the decision shall set forth the recommended effective date the employee is to be reinstated, which may be any time on or after the date the disciplinary action went into effect.
- (n) Either the appellant or the City may file a written appeal to the decision, findings, and conclusions of the Hearing Officer within ten (10) working days of the Hearing Officer's decision.
- (o) A party desiring to contest the decision of the Hearing Officer may request a transcript for review by the City Council within ten (10) working days of the Hearing Officer's decision. If the appellant requests a transcript, he/she shall pay the sum of one hundred and no/100ths (\$100.00) dollars to the Clerk as a deposit at the time the request is made. This amount shall be applied toward the cost of preparing the record. When the total cost of the preparation of the record has been ascertained by the Clerk,

the appellant shall pay the amount of the cost thereof within forty-eight (48) hours after being notified by the Clerk. If the cost of the record is less than one hundred and no/100ths (\$100.00) dollars, any amount in excess of the actual cost shall be refunded to the appellant. The Hearing Officer shall not be held responsible for faulty taping equipment and the consequences thereof.

- (p) Within ten (10) working days of (a) the expiration of the ten-day exception period, or (b) the filing of exceptions, whichever period is later, the City Council shall review the decision of the Hearing Officer, any exceptions filed, and the record, if one is requested by a party. The City Council may ratify, modify, or reverse the decision of the Hearing Officer. The decision of the City Council shall be final.

RESOLUTION APPROVING GRIEVANCE PROCEDURES
FOR THE EMPLOYEES OF THE CITY OF MORRO BAY

THE CITY COUNCIL

City of Morro Bay, California

WHEREAS, Section 2.32.050(K) of the Morro Bay Municipal Code states that the City will establish grievance and appeal procedures; and

WHEREAS, Resolution No. 74-69 entitled "Employer-Employee Relations Resolution of the City of Morro Bay", established procedures for conducting employer-employee relations in accordance with Chapter 10, Division 4, Title 1 of the Government Code of the State of California; and

WHEREAS, the purpose of Grievance Procedures is to:

1. Promote improved employer-employee relationships by establishing grievance procedures on matters for which appeal is not provided by other regulations;
2. Afford employees individually or through recognized employee organizations a systematic means of obtaining further considerations of problems after every reasonable effort has failed to resolve them through discussions;
3. Provide that grievances shall be settled as near as possible to the point of origin;
4. Provide that the grievance procedure shall be as informal as possible.

NOW, THEREFORE, BE IT RESOLVED, that the Morro Bay City Council hereby approves and adopts the attached Grievance Procedures to be effective as of the date of this resolution.

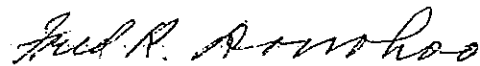
On motion by Councilman Jennings and seconded by Councilman Brown, the City Council of the City of Morro Bay hereby adopts in its entirety the foregoing proposed resolution on the following roll call vote:

AYES: Councilmen Brown, Jennings, Pipitone and Mayor Donohoo

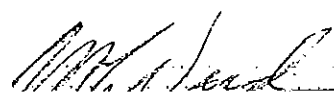
NOES: None

ABSENT: Councilman Mitchell

ADOPTED: June 24, 1974


FRED R. DONOHOO, Mayor

ATTEST:



GRIEVANCE PROCEDURES
FOR THE
CITY OF MORRO BAY

AGENDA NO: A-14
ATTACHMENT: 5
MEETING DATE: FEBRUARY 28, 2017

Purpose of the Procedure

The primary purpose of this procedure shall be to provide a means whereby an employee, without jeopardizing his employment, can express a personal grievance relating to his wages, hours of work, and working conditions, and obtain a fair and equitable disposition of his grievance.

Definition of Informal Grievance

An informal grievance is defined as a verbal disagreement by an employee expressed to his supervisor with a request to informally discuss the grievance with the supervisor and/or the department head.

Definition of Formal Grievance

A formal grievance shall be defined as any written complaint of an employee filed with his immediate supervisor within thirty (30) days of the subject of the grievance relating to his wages, hours of work, and working conditions.

Informal Discussion with Supervisor

An employee shall first pursue all informal grievances with his supervisors and at any time that the employee or the supervisor or department head deem that the informal grievance is a formal grievance, the employee may reduce it to a formal written grievance. An employee with an informal grievance is encouraged first to attempt to resolve the problem by discussing it informally with his first line supervisor before filing a written grievance.

Formal Conference with Supervisor

If an employee does not obtain satisfaction of his informal grievance by means of an informal discussion with his supervisor, or if he is unable to communicate with his supervisor, he and/or his representative may, by written grievance, request and shall be accorded a formal conference within ten (10) days with the supervisor and/or department head. The decision of the supervisor shall be reported to the employee and/or his representative within five (5) business days of the date the conference was held with the supervisor.

Departmental Review

In the event the employee does not obtain satisfaction at any level of review by means of informal or formal grievance and a formal conference with his supervisors, he and/or his representative may submit the grievance in writing to the supervisor or department head. The procedure to be followed by the supervisor who receives a grievance in writing shall be established by each department head for his department, and shall include review of the grievance by the immediate supervisor and such successively higher levels of management as may be determined by the department head. A cumulative record of the decision and the reason for the decision at each level of review shall be maintained. The ultimate decision shall be that of the department head. The decision must be reported to the employee in writing within ten (10) business

days of the date that the request for departmental review was submitted to the supervisor.

Appeal to the City Administrator

In the event the employee does not obtain satisfaction by means of the departmental review, he and/or his representative shall submit the grievance in writing to the City Administrator within 10 days after notification of the departmental decision is given to the employee. The City Administrator may meet with the employee and/or his representative and the department head before making a decision; or may waive administrative review and refer the grievance directly to a committee of the City Council appointed to hear grievances. A copy of his decision on the matter must be presented to the employee within ten (10) business days of the date the grievance was filed with the City Administrator.

Submission to a Committee of the City Council

In the event that the employee does not obtain satisfaction by means of the administrative procedures outlined above, he may request a hearing by a committee of the City Council. The hearing shall be held by the committee within fifteen (15) business days of the date of receipt of the request at the convenience of all parties, unless waived by common consent of the employee and the department head. The hearing shall be informal. The employee and/or his representative, the department head and/or the City Administrator shall appear before the committee to present facts pertinent to the case. The burden of proof shall rest with the employee. The committee shall limit its review of the grievance to the subject matter contained in the previous steps of the grievance procedure and shall make its decision within thirty days after the termination of the hearing unless a reasonable time extension is deemed necessary and all parties are notified.

Time Limits

In case the time limits outlined above are not observed by the representative of the City, the employee and/or his representative shall have the right to carry the grievance directly to the next higher level of review.

GROUP GRIEVANCE PROCEDURE

The recognized employee organizations may present a general grievance (affecting several employees) in writing directly to the City Administrator. Upon receipt of such a grievance, the City Administrator shall establish a time for a hearing, at which time all affected parties may appear before the City Administrator to present facts pertinent to the issue. The decision of the City Administrator shall be presented to all parties concerned within fifteen (15) business days and shall be appealable by the group to a committee of the City Council for their findings and recommendations within thirty (30) days. If either party wishes to appeal, they may file an appeal with the City Council as a whole within five (5) working days of the final decision of the committee of the City Council.



AGENDA NO: A-15

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor & City Council
FROM: David W. Buckingham, City Manager
SUBJECT: Adoption of City Mission Statement

DATE: February 22, 2017

RECOMMENDATION

Staff recommends the City Council adopt the following mission statement for the City of Morro Bay:

a: 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.

ALTERNATIVES

Alternative b: *The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy quality of life for residents and visitors to live, work and play.*

Alternative c: *The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy quality of life for residents and visitors.*

FISCAL IMPACT

None.

BACKGROUND/ DISCUSSION

As part of our FY 2016-17 goal setting process, the City Council, with community input both during Council meetings and at the Community Goals forum, considered formally adopting a City mission statement.

Part of the impetus to adopt a mission was to ensure that important community interests, some of which were previously listed as City goals, were clearly delineated in a mission statement.

On December 8, 2015, Council Resolution 72-15 adopted the City's Strategic Planning Framework (SPF) (attached). That framework formally established definitions for a number of planning terms, including a mission statement. Following is the mission statement, and other definitions from the SPF:

- **City Mission Statement** – The Mission Statement is a Council-approved statement that describes the basic / essential tasks the City must provide, and a statement toward the purpose of executing these tasks. The mission statement is focused on the purpose of the City government, not the broader community. The City mission statement might begin something like: "The City of Morro Bay provides Public Safety, Recreation, and other key

Prepared By: DWB

Dept Review: _____

City Manager Review: DWB

City Attorney Review: _____

municipal services in order to”

- **Community Vision and Values Statements.** Community vision and values are also Council-approved, semi-permanent statements, developed with significant community input, that describe what we want our community to be (Vision) and what ideals our community considers of essential importance (Values).
- **City Core Tasks.** Core tasks are functions that we should always be doing well and they should be addressed in our City mission statement. A core task might be: “Maintain City Infrastructure”, or Provide Public Safety.”
- **City Goals.** Goals are broad projects we want to accomplish over a long-term (4-6 year) period, usually because they are big enough and broad enough they can’t be accomplished in a year or two. An example of a goal is: “Improve Streets”.
- **City Objectives.** Biennial objectives are specific, discreet, medium-term (1-2 year) projects that support a more general goal, are feasible and achievable if appropriately resourced, and can be directly budgeted against. An example of an Objective related to the Goal “Improve Streets” could be: “Repave 10% of streets in FY16/17 and FY 17/18.”

Thus, the mission statement is one part of a broader structure that defines who we are (values), what we want to be (vision), what we do in an enduring sense (mission), what we are going to focus on over a number of years (goals) and what we are going to accomplish in the short term (objectives).

The mission statement, as noted above, contains two key pieces of information. First is the City’s essential task(s). That is what the City *does*, and should contain the shortest, clearest possible definition of what essential services the City provides. Second is a statement of the *purpose*, or why we do this task.

Breaking down the recommended mission statement:

- the essential task is: *a: provide essential public services and infrastructure*
- and, the purpose is: *to maintain a safe, clean and healthy place for residents and visitors to live, work and play.*

Following the Community Goals forum, the Council refined the mission statement based on input at the forum. At the end of the most recent Council discussion, while there was general consensus on the mission statement, there was some relatively minor division of Council opinion on the best word choice for the purpose portion of the mission statement. There was:

- positive statements toward retaining a description of a good quality of life such as “*safe, clean and healthy place*” instead of explicitly saying “quality of life”,
- some Council interest in adding the words “quality of life”,
- consensus to keep the mission statement as concise and clear as possible.

Based on Council discussion, staff formulated the three mission statements presented above and then voted on them. All three were very close, with the mission statement “a,” recommended by a close margin.

Staff concern with alternative “b” is it is redundant, and thus becomes less concise, to state both “safe, clean and healthy” and “quality of life”.

Concern with alternative “c” was the same.

Preference for the recommended alternative was noted because it does not contain the redundancy noted above, and that “live, work and play” makes clear that we intend to provide a wonderful environment for all aspects of life, *living* in neighborhoods, *working* in businesses and *playing* in wonderful environment which exists in Morro Bay.

Staff, thus, recommends Council adopt the recommended mission statement.

If Council wishes to discuss the mission statement further, then staff recommends Council continue this item to a later meeting at which it will be placed on the agenda as a business item.

ATTACHMENT

1. City of Morro Bay adopted Strategic Planning Framework.

RESOLUTION NO. 72-15

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MORRO BAY, CALIFORNIA,
ESTABLISHING THE STRATEGIC PLANNING FRAMEWORK POLICY**

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

WHEREAS, at the August 11, 2015, City of Morro Bay regular City Council meeting, the Council unanimously approved the Strategic Planning and Budgeting Framework concept presented and directed staff to develop a Strategic Planning Framework policy to be adopted at a future meeting; and

WHEREAS, in accordance with City Council direction, staff has prepared a Strategic Planning Framework White Paper which is attached as Exhibit A.

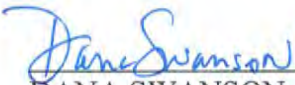
NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Morro Bay, the Strategic Planning Framework Policy is named and established as defined in the attached Exhibit A.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 8th day of December, 2015, by the following vote:

AYES: Irons, Headding, Johnson, Makowetski, Smukler
NOES: None
ABSENT: None



JAMIE L. IRONS, Mayor



DANA SWANSON, City Clerk



WHITE PAPER
Strategic Planning Framework
November 5, 2015

I. PURPOSE

The purpose of this paper is to describe the City of Morro Bay Strategic Planning framework. This framework, to be adopted by the City Council, provides direction on annual, biennial and quadrennial planning and budgeting tasks and processes the City will follow.

II. OVERVIEW

The City has many plans, including a General Plan (GP), Local Coastal Plan (LCP), Economic Development Strategic Plan (EDSP - under development in 2015/16), Parking Management Plan and other particular plans. Those plans are essential to provide long-term guidance for the City. And, in particular, the GP/LCP provides strategic direction not only in land-use but in many other areas.

However, the City also needs a regular process to set more general goals, and to identify specific, measurable objectives to reach those goals. This process must also ensure those objectives are considered in the annual budgeting process.

This Strategic Planning Framework does that. In general, the City Council will set / refine broad goals every four years. Every two years the Council will identify specific objectives associated with each goal for staff to complete. Every year during the budget process, those objectives will be budgeted against.

In addition to this Strategic Planning Framework, the City is developing fresh Vision, Values and Mission statements that should inform all of our planning efforts, and goal / objective setting in particular.

III. DEFINITIONS

The following definitions are important to understand the City's Strategic Planning Process:

- **City Mission Statement** – The Mission Statement is a Council-approved statement that describes the basic / essential tasks the City must provide, and a statement toward the purpose of executing these tasks. The mission statement is focused on the purpose of the City Government, not the broader community. The City mission statement might begin something like: "The City of Morro Bay provides Public Safety, Recreation, and other key municipal services in order to"
- **Community Vision and Values Statements.** Community vision and values are also Council-approved, semi-permanent statements, developed with significant community

input, that describe what we want our community to be (Vision) and what ideals our community considers of essential importance (values).

- **City Core Tasks.** Core tasks are functions that we should always be doing well and they should be addressed in our City mission statement. A core task might be: "Maintain City Infrastructure", or "Provide Public Safety".
- **City Goals.** Goals are broad projects we want to accomplish over a long-term (4-6 year) period, usually because they are big enough and broad enough they can't be accomplished in a year or two. An example of a goal is: "Improve Streets".
- **City Objectives.** Biennial objectives are specific, discreet, medium-term (1-2 year) projects that support a more general goal, are feasible and achievable if appropriately resourced, and can be directly budgeted against. An example of an Objective related to the Goal "Improve Streets" could be: "Repave 10% of streets in FY16/17 and FY 17/18".

IV. PROCESS

Following is a written description of the City's Strategic Planning Framework depicted below in figure 1.

- The process begins in December of each election year with the seating of a new Council.
- The new Council begins a planning process to set biennial budget objectives for the upcoming two budget years.
- This objective-setting planning process normally occurs in January and February with two-year objectives set by the last Council meeting in February.
- Council-approved objectives are then used by staff and Council to develop the annual budget in March – May of each year.
- Every four years (Presidential election years) the new Council also reviews and updates the City's Goals. The City should work to ensure goals are items in which real improvement is needed and achievable. Generally, goals should not be "maintain", but should be "improve". Any new Council could, of course, resolve to deviate from this Strategic Planning Framework and modify City goals outside of the specified four-year window. However, for organizational efficiency and community stability, the City should strive to keep goals for at least four years, using biennial objective setting and annual budgeting to affect change and adjust priorities.
- On a semi-annual basis, normally in the fall of each year, staff updates the Council on the status of the two-year budget objectives in an Annual Goals Update report and special Council Meeting.
- In March – May each year, the staff and Council develop a 1-year budget for the upcoming fiscal year: July 1 to June 30 of the following year. The two 1-year budgets every 2-year goal/objective period provide the Council ample opportunity to reallocate resources to achieve, or "weight" specific City Goals and Objectives.
- This entire process is underpinned and informed by a continuing 10-year budget forecast process that is updated annually in Jan – Feb. Every other year the 10-year forecast is

updated by an external professional consultant. In the off years it is updated internally by staff.

Transition Plan for the Morro Bay Strategic Planning and Budgeting Framework



- ★ Elections – Nov of even years, new Council seated in early January
- ★ Biennial Planning – Every other year in Jan and Feb Council updates 2-year objectives. every 4th year Council also updates 4-year goals.
- ★ Annual Budgeting – Every year in May and Jun Council updates approves a 1-year budget.

Overview. Beginning in December 2016 the City of Morro Bay executes a 4-2-1 Strategic Planning and Budgeting process.

- Following each election, the new council meets in Jan / Feb to establish 2-year objectives supporting each existing City Goal.
- Every four years this process begins in December and includes renewal of the City's goals.
- The staff then uses the new objectives to inform creation of the City's annual budget.
- The entire process is underpinned by a 10-year budget forecast that is professionally (externally) updated every other year and internally updated every year.

Figure 1 – Strategic Planning and Budgeting Framework

V. SUMMARY

This Strategic Planning and Budgeting Framework is intended to complement the City's broader and more specific plans, including the General Plan, Local Coastal Plan, Economic Development Strategic Plan and other land-use and issue-specific plans.

The above mentioned plans coupled with this Goals and Objectives process should serve, taken as a whole, as the City's strategic plan. Following full implementation of the ongoing GP/LCP rewrites in 2017, and 10-year Economic Development Strategic Plan in 2016, the City could consider if an additional, formal, 10-year strategic plan is required.

David W. Buckingham
City Manager
November 5, 2015

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AGENDA NO: C-1

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** February 22, 2017

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

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

RECOMMENDATION

Staff recommends the City Council authorize the City Manager to execute Amendment 2 to the Water Reclamation Facility Program Management agreement with Michael K. Nunley & Associates, Inc. (MKN).

ALTERNATIVES

1. Not approve the Contract Amendment and direct staff regarding issues required to be addressed.
2. Terminate Contract and direct staff to issue a new RFP for Program Management.

FISCAL IMPACT

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

At the August 11, 2015, City Council meeting, the multi-year Program Management contract between the City and Michael K. Nunley & Associates, Inc. (MKN) was approved. It was estimated the fees over the term of the contract, for both program development (3 - 4% of construction costs) and construction management (6-8%), could range between \$8 -12 Million for the then estimated \$102 million project. The term of the contract extends through December 31, 2023, and the agreement states the following in Paragraph 5c:

It is anticipated that this contract will be amended on an annual basis and the contract amount will be increased by the amount authorized through the City's budgeting process.

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

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

next tasks will be expended through the end of fiscal year 16/17 and through the end of calendar year 2017 (December 31, 2017), although program tasks may require modification to address unforeseen challenges.

DISCUSSION

The City signed a contract with MKN on August 12, 2015, see [Item A-5](#), Attachment 2, from the January 24, 2017 City Council meeting. All work has proceeded within the scope and budget of that agreement, as overseen by City staff. As stated in the Agreement, additional scope and budget will be authorized each year to address the next year of Program Management services. MKN presented a contract amendment to City staff for tasks beginning or proceeding in calendar year 2017 and it was considered by City Council at the January 24, 2017, Council meeting.

At that meeting, City Council directed staff to plan a City Council Work Session to review the contract amendment and address concerns raised by Council. MKN prepared a revised amendment with supporting information to address comments from Council and the public (See Attachment 1). The publicly noticed and open Work Session occurred on February 21, 2017. The following agenda items and topics were addressed:

1. *Discussion of Program Management Services and Contracts.*
Discuss program management in general and for this particular project, including overall project management, (sub) consultant oversight, planning, assistance with consultant selection/procurement, quality control reviews, and outreach/communication to the Community, Council and various Boards. Discuss the normal differences between professional services contracts and other contracts.
2. *Budgeting for Program Management Services.*
Discuss and compare examples of program management budgets for similar projects, including items typically included in all program management budgets, and why the program management cost as a percentage of construction costs can vary based on the scope of work specified by the City.
3. *Discussion of Contract Tasks Included in the Proposed PM Contract Amendment.*
Discuss the clarity and specificity of the tasks included in the program management contract amendment. Compare the specificity of tasks to those in typical program management contracts.
4. *Capital Budgets and Operating Budgets.*
Discuss typical differences in Capital Project Budgets and Operating budgets, determine what aspects of the Capital Project Budget should be captured in the Operating Budget, and address whether the Capital Project Budget must be managed on the same fiscal year cycle as the Operating Budget.
5. *Oversight of Program Management Services Agreement.*
Discuss project oversight and fiscal oversight of the project. Discuss appropriate Public Works and Finance Department review of consultant and sub-contractor invoices. Discuss existing Finance department staffing level and capacity and determine if additional capacity is required to provide sufficient fiscal oversight of the project.
6. *Discussion of Additional Questions and Issues.*
Discuss additional specific questions and concerns raised by Council and the community about the Program Management contract, including acquisition and purpose of Procure

software license.

7. *Discuss Next Steps.*

Determine the next step in the process to approve the program management contract amendment. Discuss and affirm next steps in the WRF program. Affirm project goals.

The publicly noticed and open meeting took the form of a round table discussion, with all topics openly discussed among the City Council, City staff, and consultant team. The discussion also included public input at multiple junctures throughout the meeting. City staff addressed all agenda topics, answering questions from the City Council on each topic. As needed, the consultant team illuminated the discussion, providing perspective and information as appropriate.

The consensus among the City Council was the Work Session clarified the key issues associated with the contract amendment to their satisfaction, and City staff and the consultant team adequately addressed the public input received.

At the end of the Council Work Session, Council directed staff to bring the proposed amendment back to the February 28, 2017, Council meeting for approval. Council directed it be included as a business item (rather than on the consent agenda) to allow for maximum public transparency, and to facilitate any additional public input.

ATTACHMENT:

1. MKN Letter and Contract Amendment Scope and Budget dated February 22, 2017

February 22, 2017

Rob Livick, PE/LS
Director of Public Works
City of Morro Bay
(Submitted electronically)

Re: Water Reclamation Facility Program Management - Contract Amendment 2

Dear Rob,

To address concerns raised at the City Council meeting on January 24, 2017, Michael K. Nunley & Associates, Inc. (MKN) has revised the scope of work and budget for Amendment 2 to the Program Management Services Agreement dated August 12, 2015. Items that were revised include the following:

- Added detail to Tasks 103 (Meetings), 107 (Grant and Loan Technical Support), 108 (Maintain Project Management System), and 206 (Rate Study Coordination and Rate Model Analysis)
- Included Attachment 1, a Program Schedule that identifies tasks and deliverables from the Amendment, where such tasks have a defined start and end date. As requested by a member of the public, the column identifying task predecessors was included in this latest print.
- Included Attachment 2, which identifies the State Revolving Loan Fund items that will be prepared by MKN under Task 107 (Grant and Loan Technical Support)
- Included Attachment 3, which provides more detail on the deliverables and work efforts required for Task 302B (Development of Performance Criteria for Design-Build Procurement Documents)
- Modified Task 105 (Budget Tracking and Reporting) to reduce MKN's scope of work and budget. It is assumed that City staff will use their internal accounting software to generate quarterly and fiscal year reports in a format similar to the Water Reclamation Facility Citizens Advisory Committee (WRFCAC) budget format. MKN will continue to monitor and track consultant invoices and costs and provided a detailed summary of work accomplished for each quarter to complement the City's financial report.

MKN would have no objection to modifying the invoice submittal requirements in the agreement to include the following information identified at the last City Council meeting, since we typically provide this with our invoices:

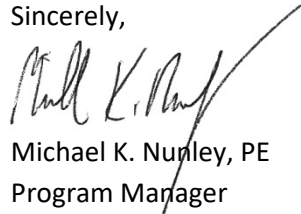
- Names and classification of staff
- Detailed hours, fees, and charges for each task by date
- Summary report with work completed during that invoicing period

The attached summary table summarizes each task, budget, subconsultants involved in that task, and start and end dates as presented in the attached Scope Amendment.

At the Council Work Session on February 21, MKN also agreed to include a table with anticipated expenditures from this contract amendment for through fiscal year (FY) 2016/17 and FY 2017/18

We hope this meets your expectations and look forward to continuing our work on this exciting program.

Sincerely,



Michael K. Nunley, PE
Program Manager

Enclosed:

Summary Table

Table - Amendment 2 (2017) with Anticipated FY Expenditures

Scope of Work and Attachments

Summary Table – Contract Amendment 2 – Morro Bay WRF Program Management

The following table summarizes each task, budget, subconsultants involved in that task, and start and end dates as presented in the attached Scope Amendment.

Task	Description	Lead Consultant (Support)	Budget	Start Date	End Date
101 – Schedule Tracking and Progress Reporting	Manage and update detailed Program Schedule; Reports to Council and WRFCAC	MKN (JFR)	\$21,048	January 2017	December 2017 (Estimated)
103 – Meetings and Coordination	Meetings with team members and City staff, biweekly program meetings, presentations to WRFCAC and Council, and monthly staff reports	MKN (JFR, RRM)	\$148,663	January 2017	December 2017 (Estimated)
104 – Public Outreach	Public workshops, website maintenance, postcards/mailers, and emails to registered parties	MKN (JFR, RRM)	\$105,135	January 2017	December 2017 (Estimated)
105 – Budget Tracking and Reporting	Review, tracking, and reporting of consultant costs and work performed	MKN (JFR)	\$7,007	January 2017	December 2017 (Estimated)
106 – Grant and Loan Pursuit and Management	Coordinate and manage activities by City's state and federal loan and grant consultant	MKN (JFR)	\$7,852	January 2017	January 2018
107 – Technical Support for Grant and Loan Applications	Complete technical reports and documents required for State Revolving Loan Fund financing or other programs	MKN	\$31,080	January 2017	January 2018
108 – Maintain Project Management System	Manage, update, and organize documents and submittal processes within Procore Software	MKN (JFR)	\$16,758	January 2017	December 2017 (Estimated)
202- CEQA	Manage the work of the CEQA consultant; Review deliverables; perform biological studies and other technical studies	JFR (MKN)	\$96,298	January 2017	December 2017
203-Permitting	Coordinate with regulatory agencies and LAFCO; Complete permit applications	JFR (MKN)	\$44,272	January 2017	December 2017
204-FMP and Salinity Control Plan Coordination	Manage final edits to Facility Master Plan; Develop softener ordinance, industrial salinity plan, and public outreach materials to reduce salt loading to wastewater system	MKN	\$13,184	January 2017	December 2017

206-Rate Study Coordination and Alternative Evaluation	Manage rate study (by City consultant) and develop project alternatives to determine rate impacts	MKN	\$26,626	January 2017	July 2017
207-Coordination with Caltrans and Encroachment permit application	Complete and negotiate draft encroachment permit applications for pipeline crossings at HWY 1 and access road to WRF site	MKN	\$24,493	March 2017	October 2017
301-Outfall Evaluation and Management Strategy	Perform assessment of ocean outfall condition, develop connection recommendation for brine pipeline, and complete a technical memorandum summarizing the work	MKN	\$18,169	September 2017	November 2017
302A – WRF Procurement Process	Develop RFQ, RFP, interviews, and negotiation with design-build teams	MKN (MNS)	\$54,578	January 2017	May 2018
302B – WRF DB Performance Criteria	Prepare plans and specifications for design-build of the WRF; provide technical support for review of design-build proposals; and coordinate meetings with proposers	MKN (RRM, Yeh, SSG, IRJ)	\$479,164	January 2017	May 2018
303 - Procurement of Influent Lift Station & Transmission Pipeline Design Team	Develop and issue RFP, plan and attend the preproposal meeting and interviews, perform proposal review, and coordinate review and comments from City staff and WRFCAC subcommittee.	MKN	\$13,606	January 2017	May 2017
304 - Data Collection and "As-Needed" Services	"As-needed" technical work or reports as directed in writing by City staff	MKN (JFR)	\$61,585	January 2017	December 2017
401 – Coordination of WRF Offsite Design Development	Manage design consultant, perform quality control review of design deliverables (plans, specifications, and memoranda), and coordinate review by City technical staff	MKN	\$79,248	January 2017	December 2018

Morro Bay WRF Program Management Services - Amendment 2 (2017) With Anticipated FY Expenditures

	Program Manager	Principal Engineer	Project Engineer	Assistant Engineer	Drafter	Administrative Assistant	Total Hours (MKN)	Subtotal Labor (MKN)	ODCs (MKN)	JFR	RRM	MNS	Laquidara (TAT)	IRJ	SSG	Yeh & Associates	Konig Media	Total Subconsultant Cost	Total Cost	Anticipated FY 2016/2017 Expenditures	Anticipated FY 2017/2018 Expenditures
Task Group 100 Program Administration																					
Task 101-Schedule tracking and progress reporting	60		30	30			120	\$ 18,600	\$ 558	\$ 1,890								\$ 1,890	\$ 21,048	\$ 10,524	\$ 10,524
Task 102-Program Documentation - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -	\$ -	\$ -
Task 103-Meetings and Coordination	320		300	30			650	\$ 103,250	\$ 3,098	\$ 36,540	\$ 5,775							\$ 42,315	\$ 148,663	\$ 104,064	\$ 44,599
Task 104-Public outreach	80		16				96	\$ 16,320	\$ 490	\$ 36,225	\$ 50,000						\$ 2,100	\$ 88,325	\$ 105,135	\$ 84,108	\$ 21,027
Task 105-Budget tracking and reporting	12		24				36	\$ 5,580	\$ 167	\$ 1,260								\$ 1,260	\$ 7,007	\$ 3,504	\$ 3,504
Task 106-Grant and loan pursuit and management	20		20				40	\$ 6,400	\$ 192	\$ 1,260								\$ 1,260	\$ 7,852	\$ 3,926	\$ 3,926
Task 107-Grant and loan support	100		50	25	25		200	\$ 30,175	\$ 905									\$ -	\$ 31,080	\$ -	\$ 31,080
Task 108-Maintain project management system	12			84			96	\$ 12,600	\$ 378	\$ 3,780								\$ 3,780	\$ 16,758	\$ 8,379	\$ 8,379
Subtotal	604	0	440	169	25	0	1238	\$ 192,925	\$ 5,788	\$ 80,955	\$ 55,775	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,100	\$ 138,830	\$ 337,543	\$ 214,504	\$ 123,039
Task Group 200 Preliminary Planning																					
Task 201-Master Reclamation Plan - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -		
Task 202-CEQA	100		30	30			160	\$ 25,600	\$ 768	\$ 69,930								\$ 69,930	\$ 96,298	\$ 48,149	\$ 48,149
Task 203-Permitting	40		20	20			80	\$ 12,400	\$ 372	\$ 31,500								\$ 31,500	\$ 44,272	\$ 22,136	\$ 22,136
Task 204-FMP and Salinity Control Plan Coordination	40		40				80	\$ 12,800	\$ 384									\$ -	\$ 13,184	\$ 11,866	\$ 1,318
Task 205-Project Delivery Technical Memorandum - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -		\$ -
Task 206-Rate Study Coordination and Alternative Evaluation	80		30	60			170	\$ 25,850	\$ 776									\$ -	\$ 26,626	\$ 26,626	\$ -
Task 207-Coordination with Caltrans and Encroachment permit application(s)	20		80	40	40		180	\$ 23,780	\$ 713									\$ -	\$ 24,493	\$ 17,145	\$ 7,348
Task 208 -Data Collection and As-needed services - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -		
Subtotal	280	0	200	150	40	0	670	\$ 100,430	\$ 3,013	\$ 101,430	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 101,430	\$ 204,873	\$ 125,921	\$ 78,951
Task Group 300 Phase I Preliminary Engineering and Procurement																					
Task 301-Outfall Evaluation and Management Strategy	24	24	40	24		8	120	\$ 17,640	\$ 529									\$ -	\$ 18,169	\$ 12,718	\$ 5,451
Task 302-Phase 1 WRF Design-Build Procurement																		\$ -	\$ -		\$ -
302A - Procurement Process	40		100	80		20	240	\$ 32,600	\$ 978			\$ 21,000						\$ 21,000	\$ 54,578	\$ 27,289	\$ 27,289
302B - Performance Criteria	200	300	280	300	200	80	1360	\$ 188,400	\$ 5,652		\$ 64,565		\$ 10,500	\$ 115,500	\$ 37,002	\$ 57,545		\$ 285,112	\$ 479,164	\$ 287,498	\$ 191,666
Task 303-Procurement of Influent Lift Station & Transmission Pipeline Design Team	20		52	10	10		92	\$ 13,210	\$ 396									\$ -	\$ 13,606	\$ 13,606	\$ -
Task 304 -Data Collection and "As-Needed" Services	100		100	100			300	\$ 44,500	\$ 1,335	\$ 15,750								\$ 15,750	\$ 61,585	\$ 30,793	\$ 30,793
Subtotal	384	324	572	514	210	108	2112	\$ 296,350	\$ 8,891	\$ 15,750	\$ 64,565	\$ 21,000	\$ 10,500	\$ 115,500	\$ 37,002	\$ 57,545	\$ -	\$ 321,862	\$ 627,102	\$ 371,904	\$ 255,198
Task Group 400 Project Design																					
Task 401-Coordination of WRF Offsite Design Development	200		200	100		8	508	\$ 76,940	\$ 2,308									\$ -	\$ 79,248	\$ 7,925	\$ 71,323
Subtotal	200	0	200	100	0	8	508	\$ 76,940	\$ 2,308	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 79,248	\$ 7,925	\$ 71,323
TOTAL BUDGET	1468	324	1412	933	275	116	4528	\$ 666,645	\$ 19,999	\$ 198,135	\$ 120,340	\$ 21,000	\$ 10,500	\$ 115,500	\$ 37,002	\$ 57,545	\$ 2,100	\$ 562,122	\$ 1,248,766	\$ 720,255	\$ 528,511

Billing Rates	\$/hr
Program Manager	175
Principal Engineer	175
Project Engineer	145
Assistant Engineer	125
GIS	125
Drafter	92
Administrative Assistant	55

Mileage to be reimbursed at IRS rate

113 weeks

PROJECT UNDERSTANDING

PROJECT OVERVIEW

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

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

PROJECT COMPONENTS

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

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

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

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

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

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

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

DETAILED WORK PROGRAM – AMENDMENT 2 (CALENDAR YEAR 2017)

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

This Amendment is intended to include work that will begin with calendar year 2017. Some of these tasks will continue beyond this calendar year. Attachment 1 is the Project Schedule with the anticipated dates and durations for the tasks identified below, where applicable, other than Task Group 100 which continues across fiscal and calendar years. Additionally, the Program Management team may want to begin other tasks, originally planned to occur in later phases, earlier in the project process which may not be reflected in the current budget or proposed amendment. *It is assumed future authorizations will address the remainder of the program*

Task groups are as follows:

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

TASK GROUP 100: PROGRAM ADMINISTRATION

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

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

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

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

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

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

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

This Task includes the following activities:

- Preparation of staff reports and presentations for monthly WRFCAC meetings
- Preparation of monthly project updates for City Council (based on the monthly project update for WRFCAC)
- Preparation of other staff reports and presentations for City Council on an “as-needed” basis
- Development of biweekly Program Management team meeting agendas
- Documentation of meeting notes

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

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

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

Task 104B: Project Website Maintenance

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

Task 104C: Outreach Program

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

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

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

Task 104D: Stakeholder Outreach

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

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

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

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

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

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

Task 104F: Reclamation Planning Workshops and Coordination

Our Program Management Team will work closely with the City, regulatory agencies, growers, and general public to address complex issues related to the potential development and use of reclaimed

water within the framework of the Master Reclamation Plan. JFR and RRM will lead a robust outreach process to develop consensus on the best course of action. Specific tasks include two workshops focused on reclamation-related issues to address these key questions. We anticipate the workshops would address the following broad topics:

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

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

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

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

104H: Outreach Coordination and Meetings – Work Completed

104I: General Plan/LCP Coordination

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

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

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

The project team will provide e-blasts, newsletters and/or survey to keep the community informed or poll the community as the project progresses. The team will work with staff to draft articles and information for the e-blasts, newsletters and/or questions for the surveys (using survey monkey or similar program), and will format and brand with the project logo. City will provide emails and

addresses. The budget is based on production of four quarterly postcards or mailers, one survey, and six (6) e-blasts.

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

As discussed with City staff, it is our recommendation that City Finance Department staff prepare quarterly fiscal reports from this point forward. It is assumed the City will produce these reports in a format similar to the WRFCAC quarterly budget summary.

Three (3) hours per month is the assumed level of effort for MKN to monitor consultant and contract expenses, review quarterly financial reports from City staff, and provide a detailed summary of work accomplished for the quarter by each of the consultants or contractors.

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

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

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

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

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

Attachment 2 includes requirements for submitting a State Revolving Construction Loan Fund application. It is assumed MKN will prepare the technical, financial, engineering, and environmental submittals as described in Attachment 2.

TASK 108 – MAINTAIN PROJECT MANAGEMENT SYSTEM. MKN evaluated alternatives for an electronic project management file-sharing and document management system and Procore was selected for the

project. The project management system has been established and is in use for sharing project documents among project team members and tracking contracts, invoices, and payments. MKN will continue maintaining the project management system.

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

A monthly estimate of 8 hours per month is assumed for this task. Activities for this task are listed below:

- Organize reference materials and consultant deliverables and modify the file structure to accommodate new planning efforts
- Participate in semi-annual reviews with Procore software technicians to identify possible improvements to the City's platform that may help improve use of the software. These modifications are included in the City's annual software license.
- Regularly review contracts, change orders, and invoices and identify and upload any missing items

TASK GROUP 200: PRELIMINARY PLANNING

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

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

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

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

h. Ongoing Meetings with City Staff (cost assumed as part of Task 103)

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

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

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

TASK 203 – PERMITTING. This phase of the project includes all resource regulatory agency permitting, as well as any land use permitting that may be needed to support the project within Calendar Year 2017. In coordination with the Program Manager, JFR will coordinate these efforts, and work with City staff, others on the Program Management Team, or outside consultants (including ESA, Kevin Merk and Associates, and Far Western Consulting) to prepare or complete these processes or permits. The following permitting subtasks are included in this effort:

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

Key resource regulatory permitting agencies for this project include:

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

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

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

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

Key land use permitting agencies for this project could include:

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

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

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

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

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

TASK 206 – RATE STUDY COORDINATION AND RATE MODEL ANALYSIS.

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

MKN will work with the rate consultant to develop cost opinions for different project alternatives. This will include up to four (4) alternative projects (ex. different WRF treatment technologies or different reclamation facilities). MKN will rely on work from the Facility Master Plan and Master Reclamation Plan to develop these cost alternatives, but as the rate analysis proceeds and as public input is received new alternatives may need to be evaluated.

Twelve (12) hours are assumed for each cost opinion (four total), with another twenty six (26) hours assumed for management of the rate consultant and quality control reviews of deliverables.

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

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

It is assumed up to 12 model runs will be performed for public workshops and meetings and results will be summarized in those presentations. Eight (8) hours per model run, including documentation of results, is assumed.

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

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

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

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

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

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

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

TASK GROUP 300: PRELIMINARY ENGINEERING AND PROCUREMENT

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

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

A budget of 120 hours is recommended for this task.

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

Sub-Task 302A – Prepare and Manage Procurement Process

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

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

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

Attachment 3 provides a detailed list of the deliverables and workshops for this effort.

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

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

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

TASK GROUP 400: PROJECT DESIGN

TASK 401 - COORDINATION OF WRF OFFSITE (INFLUENT LIFT STATION AND TRANSMISSION PIPELINES) DESIGN DEVELOPMENT - MKN will organize weekly coordination meetings and lead responses to issues

that develop during design development. MKN will serve as the main point of contact for the Design Team while also maintaining communications between the City and the Design Team.

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

BUDGET

Attachment 4 provides the manhours, subconsultant costs, and other direct costs that were the basis of the Contract Amendment.

Morro Bay Water Reclamation Facility Project						
Program Schedule						
ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
1	[Icon]	Task Group 100 - Program Management	104.45 mons	Mon 8/17/15	Thu 8/17/23	
2	[Icon]	Preliminary Project Planning/Site Studies	269 days	Tue 12/10/13	Fri 12/19/14	
16	[Icon]	City Council Decision on WRF Site	0 days	Tue 6/14/16	Tue 6/14/16	
17	[Icon]	Property Negotiation	400 days	Tue 6/14/16	Mon 12/25/17	
23	[Icon]	RFP/Selection of Program Management Consultant	20.4 wks	Mon 3/23/15	Tue 8/11/15	
24	[Icon]	Task 106 - Grant and Loan Pursuit and Management	823 days	Wed 7/15/15	Fri 9/7/18	23
25	[Icon]	Review of Proposition 1 / SWRCB Planning Grant/Funding Opportunities	2 mons	Wed 8/12/15	Tue 10/6/15	
26	[Icon]	Preparation and Coordination of SWRCB Recycled Water Planning Grant Application	5 mons	Wed 7/15/15	Tue 12/1/15	25S-4 wks
27	[Icon]	Preparation and Coordination of Clean Water SRF Design/Planning Loan - SWRCB Division of Financial Assistance	11.95 mons	Wed 12/2/15	Mon 10/31/16	25S+2 wks,26
28	[Icon]	Task 107 - Clean Water SRF Construction Loan - SWRCB Division of Financial Assistance	723 days	Wed 12/2/15	Fri 9/7/18	
29	[Icon]	Complete General Information Package	5 days	Wed 12/2/15	Tue 12/8/15	26
30	[Icon]	SWRCB CWSRF Project Manager Assigned	0 days	Tue 12/15/15	Tue 12/15/15	29FS+5 days
31	[Icon]	Coordinate document reviews with CWSRF PM	5 days	Wed 12/16/15	Tue 12/22/15	25SFS+4 wks,30
32	[Icon]	Phase I Project Report	287 days	Thu 11/10/16	Fri 12/15/17	
33	[Icon]	Review Draft FMP and Recommend Project Alternative	4 wks	Thu 11/10/16	Wed 12/7/16	145
34	[Icon]	Prepare Draft Project Report	9 wks	Tue 9/12/17	Mon 11/13/17	107FS-55 days
35	[Icon]	City Review	2 wks	Tue 11/14/17	Mon 11/27/17	34
36	[Icon]	Prepare Final Project Report	2 wks	Mon 12/4/17	Fri 12/15/17	35,113
37	[Icon]	Complete and submit draft Financial Security Package	10 days	Mon 12/18/17	Fri 12/29/17	36
38	[Icon]	Complete and submit draft Environmental Package	10 days	Mon 12/18/17	Fri 12/29/17	36
39	[Icon]	Complete and submit Final Technical Package	10 days	Mon 12/18/17	Fri 12/29/17	36
40	[Icon]	Complete and submit Final Financial Security Package	10 days	Mon 12/18/17	Fri 12/29/17	36
41	[Icon]	Update General Information Package (as needed)	5 days	Tue 11/28/17	Mon 12/4/17	107
42	[Icon]	Complete and Submit Final Environmental Package	10 days	Tue 11/28/17	Mon 12/11/17	110
43	[Icon]	SWRCB Review of Complete Application Package	9 mons	Mon 1/1/18	Fri 9/7/18	29,39,40,42,38
44	[Icon]	Task 108 - Select and Implement PM System	94 days	Wed 8/12/15	Mon 12/21/15	23
45	[Icon]	Task 109 - Development of Program Office	8 wks	Wed 8/12/15	Tue 10/6/15	23
46	[Icon]	Task 201 - Master Reclamation Plan	442 days	Wed 9/9/15	Thu 5/18/17	
62	[Icon]	Expanded Groundwater Modeling	7 mons	Mon 8/1/16	Fri 2/10/17	51FS-5.5 mons
63	[Icon]	RFP/Selection of Facilities Master Plan Consultant	155 days	Thu 12/11/14	Wed 7/15/15	
71	[Icon]	Tasks 202-203 - Coordination of CEQA/Permitting	485 days	Tue 7/5/16	Mon 5/14/18	
72	[Icon]	Notice of Preparation and Initial Study	47 days	Tue 7/5/16	Wed 9/7/16	
79	[Icon]	Prepare EIR Project Description	93 days	Fri 10/14/16	Tue 2/21/17	
84	[Icon]	Administrative Draft EIR	115 days	Wed 2/8/17	Tue 7/18/17	
91	[Icon]	Prepare Screencheck Public Draft EIR	20 days	Tue 7/18/17	Tue 8/15/17	
97	[Icon]	Publish Public Draft EIR	33 days	Wed 8/16/17	Sun 10/1/17	
102	[Icon]	Response to Comments	25 days	Mon 10/2/17	Fri 11/3/17	
107	[Icon]	Prepare Final EIR	16 days	Mon 11/6/17	Mon 11/27/17	
111	[Icon]	LCP/General Plan Amendment (Tentative)	26 wks	Tue 8/8/17	Mon 2/5/18	110FS-4 mons
112	[Icon]	RWQCB/CDFG/NOAA Permit Application/Negotiation	12 mons	Tue 6/13/17	Mon 5/14/18	110FS-6 mons
113	[Icon]	Task 204 - Facilities Master Plan Coordination	623 days	Wed 7/15/15	Fri 12/1/17	
148	[Icon]	Task 204 - Salinity Identification and Control Plan	514 days	Fri 5/15/15	Wed 5/3/17	
149	[Icon]	Salinity Source Identification Study (LWA)	103 days	Fri 5/15/15	Tue 10/6/15	
150	[Icon]	Draft Salinity Source Control Plan (LWA)	44 days	Fri 4/1/16	Wed 6/1/16	149FS+6.35 mons
151	[Icon]	City Staff Review	30 days	Thu 6/2/16	Wed 7/13/16	150
152	[Icon]	Final Salinity Source Control Plan (LWA)	60 days	Thu 7/14/16	Wed 10/5/16	151

MB WRF Project Schedule
Date: Wed 2/22/17

Task

Split

Milestone

Summary

Project Summary

External Tasks

External Milestone

Inactive Task

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

Deadline

Path Successor Milestone Task

Path Successor Summary Task

Path Driven Successor Summary Task

Path Successor Normal Task

Path Driven Successor Normal Task

Path Predecessor Milestone Task

Path Driving Predecessor Milestone Task

Path Predecessor Summary Task

Path Driving Predecessor Summary Task

Path Predecessor Normal Task

Path Driving Predecessor Normal Task

Path Driven Successor Milestone Task

Progress

Page 1

Application Information and Instructions

Administered by the State Water Resources Control Board (State Water Board), Division of Financial Assistance (Division), the Financial Assistance Application is designed to help determine your eligibility for funding through the following programs:

Clean Water State Revolving Fund (CWSRF) Water Recycling Funding Program (WRFPP)

To streamline the review process, the application is divided into four packages:

- **General Information**
- **Technical**
- **Environmental**
- **Financial Security**

Instructions for each package are provided below.

An overview of the financing process can be found on the Division's web site at http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/forms/application_process.pdf

Before proceeding with your application, please read the applicable policy/guidelines for your project:

Clean Water State Revolving Fund Policy at http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/finalpolicy0513.shtml

Water Recycling Funding Program Guidelines at http://www.waterboards.ca.gov/water_issues/programs/water_recycling_policy/docs/final_wrfppguidelines071508.pdf

Submitting Your Application

You can help the review process by ensuring your application contains accurate and complete information. To avoid delays in the processing of your application, we recommend:

- ✓ Contact the Division as early as possible to coordinate your application with your project's schedule; contact information is provided on the next page.
(NOTE: No action is necessary on your part to be added to the Project List; the Division will make arrangements for your project to be added to the Project List at http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/cwsrf/cwsrf_project_list.pdf.)
- ✓ Review the Potential CWSRF Flags Worksheet at http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/forms/cwsrf_potential_flags_worksheet.pdf. Although not required as part of your application, we recommend you review this worksheet and discuss your answers with Division staff at your earliest opportunity so we can identify issues up front that may require supplementary information or additional review time.
- ✓ Submit complete packages whenever possible.
(NOTE: Projects are funded based on a complete application. Partial packages may be submitted, but complete packages will be reviewed before incomplete packages, and complete applications will be reviewed and approved for financing first.)
- ✓ Submit the Environmental Package first. Generally the review of this package takes the longest lead time. The Technical and Financial Security Packages can be submitted later to ensure that the information is as current as possible.

- ✓ Have your legal counsel review the FAQs at http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/forms/legal_fa.pdf regarding the legal opinion we will need from you at the time of signing of the financing agreement. The Division's legal counsel will contact your legal counsel approximately eight to sixteen weeks prior to execution of the financing agreement to discuss the contents of the legal opinion.
- ✓ Clearly type or print all information.
- ✓ Sign and date the application where indicated.
- ✓ Include all required attachments.

The application and attachments should be submitted electronically or as a hard copy in one of the following three ways. Applicants are encouraged to utilize the Financial Assistance Application Submittal Tool (FAAST) to streamline the application submittal and review process, but if that will create a hardship, email or mail can be utilized instead:

- 1) Apply online via the FAAST: <https://faast.waterboards.ca.gov>

To submit a CWSRF Construction Application in FAAST you must complete all the tabs in FAAST and attach (at minimum) the General Information Package. (Note: Once the CWSRF Construction Application has been uploaded, you must still complete the application by clicking on the "Submit" button.) Once the CWSRF Construction Application is submitted in FAAST a project manager will be assigned to help the applicant complete the application process.

To submit additional documents for the same project, **DO NOT** start a new application, instead click on the Submitted Applications link on the Main Menu and choose the project from the list of previously submitted applications. Open the Attachments tab, and then the Post-Submission sub-tab. Choose which document from the Attachment Category drop-down list and then select the file to upload. The project manager will receive an email notification letting them know you have submitted additional information for review.

The following FAAST resources are available online:

[Frequently Asked Questions](#)
[How-to-Videos](#)
[User Manual](#)

If you need assistance you can also contact the FAAST Help Desk, which is staffed Monday through Friday 8am through 5pm, at 1-866-434-1083 or FAAST_ADMIN@waterboards.ca.gov.

- 2) Send the application and attachments via email to cleanwatersrf@waterboards.ca.gov.
- 3) Mail a CD or hard copy to:

**State Water Resources Control Board
Division of Financial Assistance
ATTN: Marketing Unit
1001 I Street, 16th Floor, Sacramento, CA 95814
P.O. Box 944212
Sacramento, CA 94244-2120**

General Information Package

Section I - Type of Assistance Requested

Amount of Assistance Requested – Enter the amount of assistance requested.

Proposed Security – Enter the revenues and funds you will use to repay the CWSRF financing.

Project Type(s) – Select the type(s) of project for which funding is requested. Check all that apply.

- Wastewater - publicly-owned treatment works projects (Clean Water Act Section 212).
- Water Recycling - publicly-owned treatment works projects (Clean Water Act Section 212).
- Estuary – publicly or privately owned projects that implement a Comprehensive Conservation and Management Plan for the San Francisco Bay estuary, the Morro Bay estuary or the Santa Monica Bay estuary (Clean Water Act Section 320).
- Nonpoint Source – publicly or privately owned nonpoint source water quality projects (Clean Water Act Section 319) implementing CA's NPS Implementation Plan.

Section II - Applicant Information

Applicant Name – Enter the entity that will be the legal signatory to a financing agreement.

Street Address, City, State, Zip – Enter the applicant's physical street address. The Zip+4 Code can be found at <https://tools.usps.com/go/ZipLookupAction!input.action>.

Applicant Type – Enter one of the following entity types:

- Public – local or state (including cities, counties, and districts with wastewater authority)
- Native American Tribe - Federally recognized tribes
- Nonprofit (nonpoint source and estuary projects only)
- Other – please specify

County – Enter the County where the project will be physically located.

Charter City/County – Indicate if the applicant is a charter city/county.

Mailing Address, City, State, Zip – Enter the applicant's mailing address, if different from the street address.

Congressional District(s) – Enter the Congressional district(s) where the project will be physically located. If the project will span multiple Congressional Districts (i.e., a pipeline project), list all affected districts. A map of California Congressional Districts can be found at <http://house.gov/representatives/find/>.

State Senate District(s) – Enter the State Senate district(s) where the project will be physically located. Refer to <http://findyourrep.legislature.ca.gov/>.

State Assembly District(s) – Enter the State Assembly district(s) where the project will be physically located. Refer to <http://findyourrep.legislature.ca.gov/>.

Data Universal Numbering System (DUNS) No. - If you don't already have a DUNS number, you can get more information at http://www.whitehouse.gov/sites/default/files/omb/grants/duns_num_guide.pdf. This number is required to receive CWSRF financing.

Federal Tax ID No. – Enter the Federal tax identification number of the applicant.

Regional Water Board - Check the Regional Water Quality Control Board (Regional Water Board) jurisdiction(s) where the project will be physically located or affected by the project. A list of Regional Water Boards can be found at http://www.waterboards.ca.gov/publications_forms/publications/factsheets/docs/region_brds.pdf

Authorized Representative Name, Title – Identify the person who has the authority to represent the applicant and sign documents pertaining to the funding application. If the applicant is a public agency or has a governing board, the application must include a copy of a resolution adopted by the governing body designating its authorized representative and authorizing the submission of an application. If the applicant does not have a governing board, then it must provide documentation supporting the authorization of the authorized representative. It is advisable to designate the title of the position authorized to sign and submit an application rather than naming a specific person. The funding application must be signed by the authorized representative.

Auth. Rep. Phone - Enter the authorized representative's telephone number.

Auth. Rep. Email – Enter the authorized representative's email address.

Contact Person Name – Enter the name of the person who is the day-to-day contact for the project. This person should be able to answer general questions about the project and application.

Contact Person Phone – Enter the contact person's telephone number.

Contact Person Email – Enter the contact person's email address.

Local Counsel Name – Enter the name of the applicant's local counsel.

Local Counsel Phone – Enter the local counsel's telephone number.

Local Counsel Email – Enter the local counsel's email address.

Section III - Project Information and Proposed Schedules

Project Description – Provide a brief description of the project.

Project Title – Enter the title or name of the project.

Project Location – Enter the physical location for the project.

NPDES Permit or WDR Order No. – Enter the National Pollutant Discharge Elimination System Permit number or the Waste Discharge Requirement number, if applicable.

Current Year Estimated Population Served – Enter the estimated population of the proposed project service area.

Estimated Project Schedule – Provide an estimated or actual date for the following:

- Complete Facilities Planning Documents
- Complete Project Plans and Specifications
- Advertise Bids
- Issue Notice to Proceed
- Complete Construction

Consultation with Other Agencies – Provide the following:

- Name of other Federal and State agencies involved in this project (e.g. planning, CEQA/NEPA consultation, funding, etc.)
- Contact information for the named agencies
- Estimated dates for resolution of any issues

Partnering Agencies – Provide the name and contact information of all other agencies that have an interest in the project.

Potential Flags Worksheet – To avoid potential delays later in the application process, it is recommended that the applicant complete and submit this worksheet with the General Information Package to alert the Division staff of any issues that may potentially affect the application review.

Section IV – Estimated Project Capital Costs and Funding Summary

Provide the dollar amount requested for each cost classification listed in this section.

NOTE: Soft costs may be provided for planning, design, value engineering, construction management, and administration costs.

Section V – Technical Sponsorship

If the Division set up a technical sponsorship program, indicate if you would be interested in providing in-kind technical assistance to another CWSRF applicant in exchange for special financing over and above the cost of your in-kind contribution. **NOTE:** Checking “Yes” does not obligate you to participate in this potential program or guarantee that this incentive will be available or offered.

If you answer “Yes”, please indicate the area(s) where you are willing to provide assistance.

Section VI - Sustainability

Priority points are given during the application review and funding process for projects that support or incorporate any of the listed sustainability goals. Check (✓) all the sustainability goal(s) that apply to your project. One priority point is given for each identified area.

The Division will review projects on the Project List with complete applications, except as directed by the State Water Board, based on the project class (“A” being the highest class and “E” being the lowest class) and the number of sustainability points. Projects within each project class will be ranked according to their sustainability points. If the State Water Board lacks sufficient funds to fund all projects with complete applications, then the Division will first fund projects based on project

class, giving priority within the class to the small disadvantaged community with the lowest median household income, and then to the project that most effectively addresses sustainability and global climate change.

Certification and Signature of Authorized Representative

The authorized representative is the person who has the authority to sign and submit the application materials, certify compliance with applicable state and federal laws, execute the financial assistance agreement and amendments, and certify disbursement requests.

- ✓ Print the name and title of the authorized representative.
- ✓ Sign and date the application.

Technical Package

Applicant (Entity) Name – Enter the entity that will be the legal signatory to a financing agreement.

Project Title – Enter the title of the project.

Contact Person and Phone – Enter the name and phone number of the day-to-day contact for the project. This person should be able to answer general questions about the project and application.

Section I – Water Rights

1. Check (✓) the box indicating whether the Project will change the point of discharge, place of use, or purpose of use of treated wastewater and decrease the flow in any portion of a watercourse.

If the NO box is checked, proceed to question 2.

If the YES box is checked, a Petition for Change must be filed with the State Water Board, Division of Water Rights, if the project will decrease the flow in the affected watercourse. Provide a copy of the Petition for Change (label as Attachment **T5a**) or the date that you anticipate filing the Petition.

2. Check (✓) the box indicating whether the Project will divert flow from a stream or other surface water body to another location.

If the NO box is checked, proceed to question 3.

If the YES box is checked, a Petition for Change or application for a Water Right or License must be filed with the State Water Board, Division of Water Rights. Provide copies of the Petition for Change, application for a Water Right or License or copy of the Change of Use approval, or Water Right Permit or License, as appropriate (label as Attachment **T5b**), or the date that you anticipate filing the Petition for Change or application for a Water Right or License.

If you have questions regarding whether a petition or application is required you may contact your CWSRF Project Manager or Patricia Fernandez with the Division of Water Rights at (916) 319-9141 or Patricia.Fernandez@waterboards.ca.gov.

3. Check (✓) the box indicating if your entity is a water diverter and subject to section 5103 of the Water Code. Subdivision (e) (1) states that on or after January 1, 2012, monthly records of water diversion must be reported to the State Water Board's Division of Water Rights.

Section II – Water Conservation and Urban Water Management Requirements

Prior to the State Water Board's approval of the project, specific water conservation and urban water management requirements must be achieved.

Check (✓) the box(es) that apply to your project.

Water Conservation

Non-Point and Estuary projects are not required to meet the water conservation requirements.

Water Suppliers (an urban water supplier to more than 3,000 customers or supplying more than 3,000 acre-feet annually) must fulfill one of the following:

- Approved Water Conservation Program on file with the State Water Board
- Developed Water Conservation Program for approval by the State Water Board (submit copy labeled as Attachment **T6**)
- Signed the "Memorandum of Understanding Regarding Urban Water Conservation in California" (submit proof labeled as Attachment **T7**)
- Submitted an Urban Water Management Plan (UWMP) to the Department of Water Resources (DWR) per Water Code Section 10653 (submit proof labeled as Attachment **T8**)

Non Water Suppliers must fulfill one of the following:

- Certify that seventy-five (75) percent of the water connections in the water supplier's service area are covered by an adopted, Division-approved Water Conservation Program (label as Attachment **T10**)
- Demonstrate that the water supplier(s) have signed the "Memorandum of Understanding Regarding Urban Water Conservation in California", covering at least seventy-five (75) percent of the water connections within the applicant's sewer service area (label as Attachment **T7**)
- Demonstrate that the water supplier has submitted an Urban Water Management Plan to the Department of Water Resources per water Code Section 10653 (label as Attachment **T8**)

Waiver: An Applicant may request a waiver of the Water Conservation requirement if the water supplier(s) for the community serve 3,000 or fewer customers and the costs to comply with the requirements are found by the Division to be burdensome to the supplier in light of the benefits derived from the water Conservation Program. Submit waiver request labeled as Attachment **T9**.

A flow chart outlining the different tracks for satisfying the Water Conservation requirement is found in the CWSRF Policy at

http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/forms/water_conservation_flowchart.pdf.

Urban Water Management

1. Check (✓) the box indicating if you are an urban water supplier as defined in Water Code Section 10617 or an agricultural water supplier as defined in Water Code Section 10608.12(a). If you are an urban water supplier or an agricultural water supplier, provide any documentation you have from the CA Department of Water Resources confirming compliance with (a) the urban water use reduction targets described in Water Code Section 10608.24, (b) the efficient agricultural water management practices described in Water Code Section 10608.48, and/or (c) the Urban Water Management Planning Act (Water Code Section 10610) or the Agricultural Water Management Planning Act (Water Code Section 10800), as applicable to your agency (label as Attachment **T11**).
2. Provide a self-certification that you are in compliance with the water meter requirements of Water Code Section 529.5 (Attachment **T2b**).

Section III – Delta Plan

1. Check (✓) the box indicating if the project is a “covered action” under section 85225 of the Water Code. More information about what constitutes a “covered action” is available online at <http://deltacouncil.ca.gov/covered-actions>.
2. If the project is a “covered action” there is a self-certification process for demonstrating consistency with the Delta Plan, which must be submitted by the lead agency to the Delta Stewardship Council. More information about this process is available online at <http://deltacouncil.ca.gov/covered-actions>. Check (✓) the box indicating if you have submitted the consistency certification required under section 85225 of the Water Code. If the project is not a “covered action”, check (✓) “N/A”.
3. Check (✓) the box indicating if any person has appealed the consistency certification per section 85225.10 of the Water Code. More information about this appeal process is available at <http://deltacouncil.ca.gov/covered-actions>. If the project is not a “covered action”, check (✓) “N/A”.

Section IV – Architectural and Engineering (A/E) Procurement

Check (✓) the box indicating if you follow a qualifications-based procurement process for A/E procurement (for services such as program management, construction management, feasibility studies, engineering, surveying, or mapping).

If yes, check (✓) the box indicating if your A/E procurement process complies with one of the following codes:

- [40 United States Code Section 1101 et seq.](#)
- [California Government Code Section 4525 et seq.](#) (as it relates to state agencies)

Section V – Green Project Reserve (GPR)

1. Check (✓) the box indicating if this project or a portion of this project is eligible for CWSRF GPR. Municipalities applying for GPR-eligible projects or project components may be eligible for principal forgiveness. United States Environmental Protection Agency (U.S. EPA) Guidance regarding GPR eligibility is available online at: https://www.epa.gov/sites/production/files/2015-04/documents/green_project_reserve_eligibility_guidance.pdf
2. Indicate the percentage of total project cost within each GPR category. Only the components of the project that clearly advance one or more of the objectives articulated in the four GPR categories should be counted as GPR eligible. If the Project qualifies for more than one GPR category, please indicate the percentage in each category, and then the total percentage of the project that qualifies for GPR. The above U.S. EPA guidance lists categorically eligible project types under each of the 4 categories. If your project is not categorically eligible, you may consider preparing a business case to document GPR eligibility. The decision criteria and required content for business cases are provided in the U.S. EPA guidance above.

Section VI – Attachments

- ✓ **T1 – Project Report:** Submit a Project Report containing all of the items in the Suggested Project Report outline attached to the Technical Package application form applicable to the proposed project. The Project Report must be signed and stamped by a registered Professional Engineer. Please contact your assigned project manager, if known, or the CWSRF general telephone number at (916) 327-9978 with specific questions about the contents of the Project Report.
- ✓ **T2a – General Plan Compliance Certification:** The CWSRF Policy requires all funded projects to be consistent with the applicant's adopted General Plan or to serve an area in which at least 75% of the cities and counties have adopted land use and housing elements. Applicants must complete the General Plan Compliance Certification confirming these conditions.
- ✓ **T2b – Certification for Compliance with Water Metering Form:** Water Code sections 525 through 529.7 prohibit water purveyors, both agricultural and urban, from receiving State funds if metering requirements are not met. If you are an urban water supplier (i.e., supply to more than 3,000 customers or supplying more than 3,000 acre-feet annually), you must comply with this requirement. Please consult with your legal counsel and review sections 525 through 529.7 of the Water Code before completing this certification.
- ✓ **T2c – Certification for Fiscal Sustainability Plan:** Section 603(d)(1)(E) of the Clean Water Act requires CWSRF financing recipients for treatment works projects to develop and implement a Fiscal Sustainability Plan (FSP). Applicants must complete the Certification for Fiscal Sustainability Plan to either certify that an FSP has been developed and implemented, or to certify a date by which an FSP will be developed and implemented.
- ✓ **T2d – Certification for Cost and Effectiveness and Water and Energy Conservation and Efficiency:** Section 602(b)(13) of the Clean Water Act requires municipalities, intermunicipals, interstate and State agencies who are recipients of CWSRF funds to certify

that they have performed a cost and effectiveness analysis and has selected the proposed project or activity for its potential to maximize the efficient use, reuse, recapture of water and to maximize conservation of water and energy.

- ✓ **T3 – Climate Change Worksheet:** The purpose of the Climate Change Worksheet is to motivate the applying agency to identify how the proposed facility is vulnerable to the effects of climate change and the impacts the facility may have on the climate. Investigation into adaption and mitigation measures that lead to responsible resolutions made by the agency will ultimately improve the investments made by the state. Priority points will be awarded to applicants that thoroughly and thoughtfully complete this worksheet.

Worksheet – The worksheet is broken into three sections: Vulnerability, Adaptation, and Mitigation Each section has check boxes. Check all boxes applicable to the facility regarding climate change vulnerability, and all boxes considered by the applicant regarding adaptation and mitigation. Each section is equipped with an “Other” box followed by an area to define the unnamed option. This option is available to encourage creative ideas and in the event an agency identifies options that have been overlooked.

Attachments – Each section will be followed up by an attachment. The attachments are intended to provide a detailed description of the vulnerabilities and response measures selected, risk level, critical conditions, intended responses, and explanations why certain vulnerabilities and response measures are not considered essential enough for response measures to be implemented. The attachments may include detailed plans to incorporate the measures mentioned such as alternative options, scope of work, budget, construction estimates and schedule.

Definitions – Climate change vulnerability, mitigation, and adaptation are terms that many individuals find ambiguous or don’t understand what the differences between them may be.

Climate Change Vulnerability: This term is used to identify effects of climate change that the facility may be susceptible to. Some effects overlap. For example, a treatment facility built on the coast may be severely vulnerable to sea level rise. It would be a poor investment for the state to invest in a treatment facility with an expected useful life of 50 years when the facility is projected to be under water in 20 years due to sea level rise. Coincidentally, as sea level rises, the neighboring groundwater aquifers may be vulnerable to saltwater intrusion and water quality issues. The two effects are related, and both should be discussed in the attachment.

Adaptation: This term is used to identify measures taken as a direct response to climate change effects. Multiple measures can be taken in response to a single vulnerability. For example, in response to sea level rise an agency may investigate constructing sea walls or levees in order to prevent flooding. Flood contingencies should also be explored to protect the facility if the levees fail or in the event of severe storm surges.

Mitigation: This term is used to identify measures taken to slow or stop changes to the environment caused by greenhouse gas emissions in the atmosphere. Measures identified in adaptation may also be used for mitigation. For example, water conservation may be an adaptation response to drought vulnerability and also a mitigation measure by reducing the energy consumed to move excessive volumes of water. Green roofing as

an adaptation measure will help to reduce the heat island effect of an urban community, and as a mitigation measure will reduce the energy consumed to heat and cool the building.

- ✓ **T4 – Regional Water Quality Control Board Requirements:** Submit any permit requirements and/or enforcement orders that have been issued by the Regional Water Board relative to the proposed project. If the proposed project is not subject to permit requirements and/or enforcement orders, please indicate this in the comment box.
- ✓ **T5 – Water Rights Determination Letter:** Provide a letter or an email from the Division of Water Rights stating whether a petition is or is not required.
- ✓ **T6 – Water Conservation Program:** If an approved Water Conservation Program is not on file with the State Water Board, provide a developed Water Conservation Program for State Water Board approval. In lieu of a Water Conservation Program, either Memorandum of Understanding (Attachment T7) or Urban Water Management Plan (Attachment T8) may be submitted.
- ✓ **T7 – Memorandum of Understanding:** In lieu of a Water Conservation Program (T6) or proof of an Urban Water Management Plan (T8), may provide proof that the applicant is a signatory to the “Memorandum of Understanding Regarding Urban Water Conservation in California,” September 1991, *California Urban Water Conservation Council*.
- ✓ **T8 – Urban Water Management Plan:** In lieu of a Water Conservation Program (T6) or Memorandum of Understanding (T7), may provide proof that an Urban Water Management Plan per Water Code Section 10653 has been submitted to the Department of Water Resources.
- ✓ **T9 – Waiver Request Letter:** An applicant supplying water to 3,000 or less customers may request a waiver of the Water Conservation requirement. The request should explain why the costs to prepare a document to satisfy the CWSRF Policy requirements are burdensome to the supplier in light of the benefits derived from the Water Conservation Program.
- ✓ **T10 – Certification for Non-Water Suppliers:** An applicant who is not a water purveyor must submit written certification that seventy-five (75) percent of the water connections in its service area are covered by either Division-approved Water Conservation Program (T6), Memorandum of Understanding (T7), or Urban Water Management Plan (T8).
- ✓ **T11 – Compliance with Water Demand Management Measures** – An urban water supplier with a water management project must implement Water Demand Management Measures as described in Water Code section 10631.5. The DWR will determine if these water conservation measures have been implemented. Provide a letter from DWR confirming compliance with this requirement.

Attachments T12 and T13 are applicable to *Water Recycling Funding Program* projects ONLY:

- ✓ **T12 – Recycled Water User Assurance:** Recycled Water User Assurances document the commitment of users’ participation on the Project. For existing users, provide either an adopted mandatory use ordinance or letters of intent to execute a user contract.

- ✓ T13 – **User Connection Schedule:** Provide the anticipated connection schedule and estimated recycled water deliveries for all users of the project.

Environmental Package

Detailed information, including statutes and guidelines on the California Environmental Quality Act (CEQA), can be obtained at <http://ceres.ca.gov/ceqa>. A CEQA Process Flowchart that shows interaction points between lead and responsible agencies can be found at http://www.waterboards.ca.gov/water_issues/programs/grants_loans/docs/environmental_review/ceqa_process_flow_chart.pdf.

Applicant (Entity) Name – Enter the entity that will be the legal signatory to a financing agreement.

Project Title – Enter the title of the project.

Contact Person and Phone – Enter the name and phone number of the day-to-day contact for the project. This person should be able to answer general questions about the project and application.

I. CEQA Status

Place a check (✓) in the box that describes the status of the CEQA process for the project.

❖ **Not yet started**

❖ **Underway**

A draft copy of the CEQA document should be provided to the Division for review and comment. Also provide the Division with copies of any substantiating federal cross-cutter information (i.e. USFWS species list/biological assessment, cultural resources report, air quality analysis data, flood map, etc.). This will enable the Division to better understand the project's environmental impacts, and provide more meaningful comments on the draft CEQA document before it is sent to the State Clearinghouse.

❖ **Complete**

Proceed to Question 2 below (CEQA Documents).

❖ **Complete, but more than 5 years prior to anticipated State Water Board agreement execution date**

Must provide an updated CEQA document (subsequent, supplemental or addendum) that evaluates the current environmental status of the project.

Proceed to Question 2 below (CEQA Documents).

II. CEQA Documents – *Complete this section ONLY if the CEQA process is complete.*

Place a check (✓) in the box(es) that describe(s) the project and submit the required attachments for each section applicable to the project.

Example: If the project is covered under a CEQA Categorical or Statutory Exemption (Section A) and a Negative Declaration (Section B), submit the following attachments:

- ✓ *Evaluation Form for Environmental Review and Federal Coordination*
- ✓ *Draft and Final Initial Study/Negative Declaration (IS/ND)*

- ✓ *Comments and Responses*
- ✓ *Resolution Approving the CEQA Documents*
- ✓ *Notice of Exemption filed with the county clerk and the State Clearinghouse*
- ✓ *Notice of Determination filed with the county clerk and the State Clearinghouse*

Please submit two copies of all applicable CEQA documents.

Attachments

- ✓ **E1 – Evaluation Form for Environmental Review and Federal Coordination:** This form (including the supporting attachments E1.1 to E1.13) must be completed for all projects seeking CWSRF funding. This enables the CWSRF Program to comply with the cross-cutting federal environmental regulations.
- ✓ **E2 – Initial Study/Negative Declaration (IS/ND):** Provide both draft and final copies.
- ✓ **E3 – Initial Study/Mitigated Negative Declaration (IS/MND):** Provide both draft and final copies.
- ✓ **E4 – Environmental Impact Report (EIR):** Provide both draft and final copies.
- ✓ **E5 – Comments and Responses:** Provide all comments and responses.
- ✓ **E6 – Statement of Overriding Consideration (SOC):** If the project has a significant unavoidable impact, the applicant must adopt an SOC.
- ✓ **E7 – Mitigation and Monitoring Program/Plan (MMRP):** Applicant must adopt an MMRP for all projects with an IS/MND and EIR CEQA documents.
- ✓ **E8 – CEQA Documents Approval:** All CEQA documents (including Addendum, Supplemental and Subsequent) must be adopted/certified by the governing body of the applicant agency seeking funds from the CWSRF Program. If the applicant is not the lead CEQA agency, then the applicant must adopt/certify the relevant CEQA documents to be able to receive funds from CWSRF Program.
- ✓ **E9 – Notice of Exemption:** A copy must be filed and date stamped by the local County Clerk and the Governor's Office of Planning and Research.
- ✓ **E10 – Notice of Determination:** A copy must be filed and date stamped by the local County Clerk and the Governor's Office of Planning and Research.

E1 – Evaluation Form for Environmental Review and Federal Coordination

Form E1 is required for all projects requesting CWSRF financing. Additional guidance can be found in the State Environmental Review Process (Appendix I of the CWSRF Policy) at http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/finalpolicy0513.shtml or by

contacting the Environmental Review Unit (refer to contact list at http://www.waterboards.ca.gov/water_issues/programs/grants_loans/environmental_requirements.shtml).

Applicant Name – Enter the entity that will be the legal signatory to a financing agreement.

Project Title – Enter the title of the project.

1. Clean Air Act

Air Basin Name - Identify the air basin name.

Local Air District for Project Area – Enter the name of the local air district for the project area.

For CWSRF financed projects, we recommend including a general conformity section in the CEQA documents so that another public review process will not be needed, should a conformity determination be required. The applicant should check with its local air quality management district and review the California Air Resources Board's air emissions map for information on the State Implementation Plan. The applicant should also check the United States Environmental Protection Agency, Green Book, for Currently Designated Nonattainment Areas for All Critical Pollutants. For information on the analysis steps involved in evaluating air quality conformity, please contact the State Water Board environmental staff through the assigned Project Manager.

Indicate if the project is subject to a State Implementation Plan (SIP) conformity determination, and complete the chart with estimated project construction and operational air emissions data, with respect to the federal *de minimis* levels (in tons per year). Also submit supporting calculations and any air quality maintenance plans or additional supporting documents you utilize to compile the data.

2. Coastal Barriers Resources Act

The Coastal Barriers Resources Act is intended to discourage development in the Coastal Barrier Resources System and adjacent wetlands, marshes, estuaries, inlets, and near-shore waters. Since there is no designated Coastal Barrier Resources System in California, no impacts from California projects are expected. However, should the applicant believe there may be impacts to the Coastal Barrier Resources System due to special circumstances, please use the following information as a guide.

During the planning process, the applicant should consult with the appropriate Coastal Zone management agency (e.g., City or County with an approved Local Coastal Program, the California Coastal Commission, or the San Francisco Bay Conservation and Development Commission) to determine if the project will have an effect on the Coastal Barrier Resources System. If the project will have an effect on the Coastal Barrier Resources System, the State Water Board must consult with the appropriate Coastal Zone management agency and the USFWS. Any recommendations from the Coastal Zone management agency and USFWS will be incorporated into the project's design prior to approval of CWSRF financing.

For more information and to ensure that no modifications to Coastal Barrier Resources System have occurred, please visit: <http://www.fws.gov/CBRA/>.

Indicate if the project will affect or be located within or near the Coastal Barrier Resources System or its adjacent wetlands, marshes, estuaries, inlets, and near-shore waters, and describe the project location with respect to the Coastal Barrier Resources System and provide the status of any consultation with the appropriate Coastal Zone management agency and the United States Fish and Wildlife Service.

3. Coastal Zone Management Act

Projects proposing construction in the Coastal Zone will require consultation with either the California Coastal Commission (or the designated local agency with a Local Coastal Program), or the San Francisco Bay Conservation and Development Commission (for projects located in the San Francisco Bay area). The applicant must submit a copy of the approved Coastal Development permit to the State Water Board to satisfy this requirement.

For more information on Coastal Zone Management Act requirements refer to the following agencies' websites:

- United States Coastal Zone Boundaries through the NMFS website at <http://coastalmanagement.noaa.gov/mystate/docs/StateCZBoundaries.pdf>
- California Coastal Commission website at <http://www.coastal.ca.gov/ccatc.html>; and/or
- San Francisco Bay Conservation and Development Commission website at <http://www.bcdc.ca.gov/>.

Indicate if any portion of the project site is located within the coastal zone, and describe the project location with respect to coastal areas and the status of the coastal zone permit, and provide a copy of the coastal zone permit or coastal exemption.

4. Endangered Species Act (ESA)

The United States Department of the Interior, Fish and Wildlife Service (USFWS) and the United States Department of Commerce National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) must be consulted for any project that will have the potential to adversely impact a federal special-status species. The USEPA delegated the State Water Board to act as the non-federal lead for initiating informal Section 7 ESA consultation with the USFWS. The State Water Board will coordinate with the USEPA for projects requiring formal Section 7 ESA consultation with the USFWS and projects that will impact federal special-status fish species under the NMFS jurisdiction. The USFWS and NMFS must provide written concurrence prior to a CWSRF financing agreement. USFWS and NMFS comments may include conservation measures, for which the applicant's CWSRF financing agreement will be conditioned to ensure compliance.

For further information on the federal ESA go to <http://www.fws.gov/endangered/laws-policies/index.html> and <http://www.nmfs.noaa.gov/pr/laws/esa/>. Note that compliance with both the state and federal ESAs is required of projects having the potential to impact state and federal special-status species. Although overlap exists between the state and federal ESAs, there might be additional or more restrictive state requirements. For further information on the California ESA, refer to the California Department of Fish and Wildlife website at <http://www.dfg.ca.gov/habcon/cesa/>.

Indicate if the project involves any direct effects from construction activities or indirect effects that may affect federal and state listed threatened or endangered species that are known, or have a potential, to occur on-site, in the surrounding area or in the service area, and provide the additional information and requested documents, i.e. species list and biological assessment completed within the last year.

5. Environmental Justice

Identify and address any disproportionately high and adverse human health or environmental effects of the project's activities on minority and low-income populations. USEPA has defined environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies."

Fair Treatment means that no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative consequences of industrial, governmental, and commercial operations or programs and policies.

Meaningful Involvement means that: 1) potentially affected community members have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; 2) the public's contribution can influence the agency's decision; 3) the concerns of all participants involved will be considered in the decision-making process; and 4) the decision-makers seek out and facilitate the involvement of those potentially affected.

The term "environmental justice concern" is used to indicate the actual or potential lack of fair treatment or meaningful involvement of minority, low-income, or indigenous populations, or tribes in the development, implementation, and enforcement of environmental laws, regulations, and policies.

Indicate if the project involves an activity that is likely to be of particular interest to or have a particular impact upon minority, low-income, or indigenous populations or tribes, as identified by the Lead Agency.

Your project may involve an "environmental justice concern" if the project could:

- a) Create new disproportionate impacts on minority, low-income, or indigenous populations;
- b) Exacerbate existing disproportionate impacts on minority, low-income, or indigenous populations; or
- c) Present opportunities to address existing disproportionate impacts on minority, low-income, or indigenous populations that are addressable through the project.

No - Provide an explanation.

Yes - Place a check (✓) in the box(es) that describe the impact of the project and provide a brief explanation for your answer(s).

6. Farmland Protection Policy Act

Projects involving impacts to farmland designated as prime and unique, local and statewide importance, or under a Williamson Act Contract, will require consultation with the United States Department of Agriculture, Natural Resources Conservation Service and/or California Department of Conservation. For more information on the Farmland Protection Policy Act go to <http://www.nrcs.usda.gov/programs/fppa>, and regarding the Williamson Act Contract go to <http://www.consrv.ca.gov/dlrp/lca>.

Indicate if any portion of the project is located on important farmland, and provide information on the acreage that would be converted from important farmland to other uses. Also indicate if any portion of the project boundaries is under a Williamson Act Contract and specify the amount of coverage affected. If the project area will be within a portion of protected farmland under the Williamson Act, please be sure to complete the consultations with appropriate federal, state and local agencies and provide necessary documents to the State Water Board.

7. Flood Plain Management – Executive Order 11988

Each agency shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities. Before taking an action, each agency shall determine whether the proposed action will occur in a designated floodplain. The generally established standard for risk is the flooding level that is expected to occur every 100 years. If an agency determines or proposes to conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains.

For further information regarding Floodplain Management requirements, please consult the United States Department of Homeland Security, Federal Emergency Management Agency website at <http://www.fema.gov>, as well as the USEPA floodplain management Executive Order 11988 at <http://www.epa.gov/owow/wetlands/regs/eo11988.html>.

Indicate if any portion of the project located within a 100-year floodplain as depicted on a floodplain map or otherwise designated by the Federal Emergency Management Agency, and provide the additional information and requested documentation.

8. National Historic Preservation Act (NHPA)

Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties. The Section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. Historic properties are properties that are included in the National Register of Historic Places or that meet the criteria for the National Register. Historic properties include buildings, structures, objects, and archaeological sites that are 50 years old or older. The Section 106 reports must be prepared by a qualified researcher that meets the Secretary of the Interior's Professional Qualifications Standards (http://www.nps.gov/history/local-law/arch_stnds_9.htm).

In addition, CEQA requires state, local, and other agencies subject to the jurisdiction of California to evaluate the environmental effects of the agency actions, including impacts to cultural and historic resources. CEQA law states that “a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment” (21084.1).

The Governor’s November 2005 Tribal Consultation Guidelines (http://opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf) states that [applicants] must conduct a record search through the appropriate regional California Historical Resources Information System (CHRIS) (http://ohp.parks.ca.gov/pages/1068/files/ic_roster.pdf) center to determine whether any listed cultural places are present in the project area, and contact the Native American tribes affiliated with a project area from a list available from the Native American Heritage Commission (NAHC) (<http://www.nahc.ca.gov/>).

The NAHC can be contacted at:

Address: 1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691
Telephone: (916) 373-3710
Email: nahc@nahc.ca.gov

Identify the area of potential effects (APE), including construction areas, staging areas, and depth of any excavation. Attach a copy of the Cultural Resources Report prepared by a qualified professional, a Section 106 SHPO consultation letter, and a current records search (less than one year old, extending to a half-mile beyond the project APE). Provide maps showing all cultural resources sites and surveys drawn in relation to the project area, and records of Native American consultation from a list provided by the Native American Heritage Commission (NAHC).

9. Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act, as amended, is designed to manage and conserve national fishery resources. Essential Fish Habitat (EFH) consultations are only required for actions that may adversely affect EFH. The applicant needs to determine whether the proposed project may adversely affect EFH. NMFS is responsible for publishing maps and other information on the locations of designated EFH, and can provide information on ways to promote conservation of EFHs to facilitate this assessment. If a project may adversely affect a designated EFH, the applicant must complete an EFH consultation.

The State Water Board will coordinate with the USEPA to request an EFH consultation from the NMFS. NMFS is required to respond informally or in writing. NMFS comments may include conservation measures, for which the applicant’s CWSRF financing agreement will be conditioned to ensure compliance. For more information, see the brochure at http://www.nmfs.noaa.gov/sfa/reg_svcs/Council%20stuff/council%20orientation/2007/2007TrainingCD/TabT-EFH/EFH_CH_Handout_Final_3107.pdf.

Indicate if the project involves any direct effects from construction activities or indirect effects that may adversely affect EFH, and provide the additional information and requested documents.

10. Migratory Bird Treaty Act (MBTA)

The MBTA restricts the killing, taking, collecting and selling or purchasing of native bird species or their parts, nests, or eggs. The MBTA, along with subsequent amendments to this act, provides legal protection for almost all breeding bird species occurring in the United States and must be addressed under CEQA. In the CEQA document, each agency must make a finding that a project will comply with the MBTA. For further information, please consult the Migratory Bird Program through the USFWS website at <http://www.fws.gov/laws/lawsdigest/migtrea.html>.

Indicate if the project will affect protected migratory birds that are known, or have a potential, to occur on-site, in the surrounding area, or in the service area, and provide a list of all protected migratory bird species that have the potential to occur in the project area, including their migration schedules and past sightings within the project area.

11. Protection of Wetlands

Projects, regardless of funding, must get approval for any temporary or permanent disturbance to federal and state waters, wetlands, and vernal pools. The 404 permitting process through the United States Army Corps of Engineers (USACE) can be lengthy, and may ultimately require project alterations to avoid wetlands and waters of the United States. Applicants must consult with the USACE early in the planning process if any portion of the project site contains wetlands, or other federal waters. The USACE Wetland Delineation Manual is available at <http://www.wetlands.com/regs/tlpge02e.htm>. California Department of Fish and Wildlife (CDFW) determines whether or not an activity may adversely affect fish and wildlife resources, and a Fish and Game code 1600 Streambed Alteration Agreement may need to be prepared. For more information on Fish and Game codes please go to <http://www.dfg.ca.gov/habcon/1600/>. Also note that the State and Regional Water Boards are involved in providing approvals through the Clean Water Act Section 401 Water Quality Certification Program and/or Waste Discharge Requirements. For more information, please go to http://www.waterboards.ca.gov/water_issues/programs/cwa401/index.shtml.

Indicate if any portion of the project boundaries contain areas that should be evaluated for wetland delineation or require a permit from the United States Army Corps of Engineers, State and Regional Water Boards, and/or California Department of Fish and Game.

12. Safe Drinking Water Act, Sole Source Aquifer Protection

Projects must comply with the Safe Drinking Water Act and document whether or not a project has the potential to contaminate a sole source aquifer. For projects impacting a listed sole source aquifer, the applicant must identify an alternative project location, or develop adequate mitigating measures in consultation with the USEPA. For more information, please go to the Sole Source Aquifer Program website at <http://epa.gov/region09/water/groundwater/ssa.html>.

Indicate if the project is located in an area designated by the USEPA, Region 9, as a Sole Source Aquifer, and identify the sole source aquifer (e.g., Santa Margarita Aquifer, Scott's Valley, the Fresno County Aquifer, the Campo/Cottonwood Creek Aquifer or the Ocotillo-Coyote Wells Aquifer) that will be affected. The Lead Agency shall be held responsible for providing an alternate project location and/or appropriate mitigation measures, if a sole source aquifer were to be significantly impacted by a project.

13. Wild and Scenic Rivers Act

There are construction restrictions or prohibitions for projects near or in a designated “wild and scenic river.” A listing of designated “wild and scenic rivers” can be obtained at <http://www.rivers.gov/california.php>. Watershed information can be obtained through the “Watershed Browser” at http://cwp.resources.ca.gov/map_tools.php.

Indicate if a portion of the project is located within a wild and scenic river. If the project is located within a wild and scenic river watershed, please provide a map identifying the watershed where the project is located.

FINANCIAL SECURITY PACKAGE

Applicant (Entity) Name – Enter the entity that will be the legal signatory to a financing agreement.

Project Title – Enter the title of the project.

Contact Person and Phone – Enter the name and phone number of the day-to-day contact for the project. This person should be able to answer general questions about the project and application.

1. Financing Amount Requested

Estimate the project costs to be funded with State Water Board CWSRF funds. This amount should match the Amount of Assistance Requested in Section 1 of the General Information Package.

2. Term Requested

Indicate the financing term you are requesting: 20-year or 30-year.

3. Other Project Funding Sources

Describe how the total project will be financed.

- ✓ Enter the name(s) and type(s) of all funding sources.
- ✓ Enter the amount of funds you expect to receive from each source.
- ✓ Check the appropriate box to indicate whether the other sources of financing have been applied for, approved by the funding agency, or received by the applicant.

Example: CWSRF financing \$1,000,000
USDA grant \$ 500,000
Applicant Agency portion \$ 250,000

4. Current Year Median Household Income

Enter the estimated Median Household Income (MHI) for the proposed project service area, using the most recent income survey. If an income survey is not available, MHI estimates may be found at the Census Bureau website at

<http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml#none>. Enter “Median Household Income in the Past 12 Months” and the municipality name into the Quick Search box. If you cannot locate data for your community, you may contact the Division at cleanwatersrf@waterboards.ca.gov for additional assistance.

5. Current Year Estimated Population Served

- a. Enter the estimated population of the proposed project service area.
- b. Place a check (✓) in the box if less than 50% of residences are permanently occupied.

6. Active Service Connections

If the active wastewater connection is currently and directly served by the wastewater collection system, enter the following for the applicable connection type:

- ✓ Number of active wastewater service connections that are currently and directly served by the wastewater collection system
- ✓ Current monthly service charge
- ✓ Projected monthly service charge that will be in place after the proposed project is completed
- ✓ Average monthly billing for the last 12 months

Rate increase effective date for projected monthly service charges – Enter the estimated date that the projected monthly service charges will go into effect (if unknown, assume one year after construction completion).

7. Projected Annual Operations and Maintenance Costs

Enter the estimated annual costs to operate and fully maintain the proposed project after it is complete. Operations and maintenance costs include staff salaries, chemicals, utilities, warranties, routine repair and replacement, laboratory services, billing and collection and life-cycle costs. The consulting engineer should have included these costs in the Project Report (Attachment T1).

8. Discussion of Material Events, Material Obligation Conditions, and Any Debt Limit

Identify any current, prior, or pending material events such as bankruptcy, defaults, litigation, grand jury findings, unscheduled draws on reserve funds, substitution of insurers or their failure to perform, unscheduled draws on credit enhancements, actions taken in anticipation of filing Chapter 9, rating changes, relevant conditions in material obligations, and any local debt limit.

ATTACHMENTS

F1 – Audited Financial Statements AND Budgets or Projections: Provide COMPLETE audited financial statements for the most recent three years AND budgets or projections for the next two years. Submit via hardcopy, CD, email, or web link. Refer to the schedule below:

Application Date	Required Financial Statements
January 1 st through June 30 th	Most recent three years, including last Fiscal Year. Example: Application on March 1, 2013, requires Financial Statements for Fiscal Years 2009/10; 2010/11; and 2011/12
July 1 st through December 31 st	Most recent three years prior to current Fiscal Year. Example: Application on September 1, 2012, requires Financial Statements for Fiscal Years 2008/09; 2009/10; and 2010/11

Identify any restricted funds and the reason for the restrictions as well as all sources of security to be pledged. If using real property, provide at least two appraisals of the value, how the value was determined, and whether the property is currently pledged as security on any other debt.

F2 – Tax Questionnaire: The Tax Questionnaire provides basic information about project costs, accounting, and who will own and operate the project. The applicant's response to the Tax Questionnaire and Reimbursement Resolution (see below) are reviewed by the State Water Board's CWSRF tax attorney (CWSRF tax attorney) to determine whether the applicant is eligible to receive funds from tax-exempt revenue bond sales. After reviewing these documents, you may be required to sign a Tax Certificate which will be forwarded to you for signature by your Authorized Representative.

F3 – Reimbursement Resolution: An adopted Reimbursement Resolution is required for review by the CWSRF tax attorney. The language may not vary from the language provided in the template. The Reimbursement Resolution should be a stand-alone resolution.

F4 - Authorizing Resolution/Ordinance: This resolution or ordinance designates the Authorized Representative(s) for the project, who will have the authority to sign and submit the CWSRF application materials, certify compliance with applicable state and federal laws, execute the financial assistance agreement and amendments, and certify disbursement requests.

- ❖ To minimize the potential for problems, use the exact language in the template resolution.
- ❖ Enter the title of the Authorized Representative, NOT a person's name.
- ❖ Do not modify the words financing or financial assistance to other terms such as "loan", "grant", or "principal forgiveness". Use of these terms will create legal complications; the terms "financing" and "financial assistance" are broad enough to be applicable to all of the above.
- ❖ It is not necessary to specify the requested amount of financing. If you do specify an amount, to allow some flexibility, please specify the maximum anticipated amount of financing as follows: "Financial assistance shall not exceed \$_____."

F5 – Rate Adoption Resolution: This is your most recent rate adoption resolution, if wastewater project.

F6 – Pledged Revenues and Fund(s) Resolution: Federal law requires applicants to establish a dedicated source of revenue for repayment. The financing agreement will identify the pledge revenue(s) and fund(s) (PRF). The majority of CWSRF applications for wastewater projects are secured with "the Wastewater Enterprise fund and Net Revenues thereof". If your CWSRF financing agreement will also be secured with other PRFs such as special assessments or a special tax, the template language will need to be modified accordingly. If you are uncertain as to the appropriate wording, a draft version may be submitted with the initial application. A reserve fund may also be required. This item is not required if the applicant is a Small DAC applying for one hundred percent grant or principal forgiveness funding.

F7 – Existing Related Debt: Submit a schedule of all material debt secured by the PRF or the system, along with a copy of each relevant debt document (if there are any pending debts, provide draft or estimated information). This schedule will be an exhibit to the CWSRF financing agreement and will rank related debt according to priority in relation to the proposed CWSRF debt (senior,

parity, or subordinate tier). If the applicant has no other debt (except other CWSRF debt), the Authorized Representative must provide a letter stating this. In most cases, the CWSRF debt will be on parity with related debt.

F8 – New Special Tax, Assessment District, or Service Charge Projections: If applicable, provide budget projections based on proposed taxes, fees, charges or assessments (*No template exists*). Label the projections as Attachment F8.

F9 – Relevant Service, Management, Operating, or Joint Powers Agreements: If applicable, provide a copy of any relevant, service, management, operating or joint powers agreements and any amendments (*No template exists*). Label the agreement as Attachment F9.

F10 – Future Capital Needs: The applicant should describe any capital improvement plans and the long-term indebtedness needed to fund its future capital improvements. The applicant must provide any formal CIP it has to the Division (*No template exists*). Label the agreement as Attachment F10.

ATTACHMENT 3: DETAILED SCOPE OF WORK FOR PERFORMANCE CRITERIA DOCUMENTS

Task 302B-1 - Geotechnical Baseline Report (Yeh and Associates, Inc.)

Yeh and Associates, Inc. will provide a Geotechnical Baseline Report (GBR) as part of the performance criteria to be included in the Procurement Documents. The report will provide geotechnical considerations that could impact the design, construction, or cost of the project. The purpose of the GBR is to develop baselines for conditions anticipated to be encountered during subsurface construction and geotechnical performance criteria, and thereby provide all design-build proposers with a single interpretation that can be relied upon in preparing bids.

The services provided by Yeh and Associates, Inc. for the GBR include the following:

- Consult with City and MKN to establish approach and acquire background knowledge
- Prepare health and safety plan, notify Underground Services Alert, procure necessary permits, and coordinate field exploration with the City
- Provide a two- to four-day effort to explore the sites and perform the following:
 - Geophysical survey (Subcontracted to Advanced Geoscience, Inc.) consisting of four to five seismic refraction survey lines performed over a period of one to two days to investigate the depth profile and compression wave and shear velocities of the bedrock. This work will help determine if special excavation methods may be necessary for the development of the site. Data would also be used to develop baseline seismic design parameters. The data will be processed to develop elevation profiles of subsurface seismic compressional wave velocity provides and shear wave velocity profiles.
 - Three to four 50-foot maximum depth borings and sample collection at 5-foot intervals using Standard Penetration Test protocols or pushing thin-walled Shelby tubes. Underlying bedrock will be cored using a continuous core sampler.
- Laboratory testing on selected samples to determine the following characteristics:
 - Moisture Content
 - Unit Weight
 - Soil Classification
 - Compaction
 - Strength
 - Swell-Collapse
 - R-value
 - Corrosivity
- Preparation of draft Geotechnical Baseline Report, including logs of the explorations, laboratory test results, geophysical data, a map summarizing the interpreted site geology and showing the locations of the explorations, and interpreted subsurface profiles for the project area. The report will provide opinions and recommendations regarding the following:
 - Regional and site geology;
 - Soil, rock, and groundwater conditions encountered;
 - Summary of the geotechnical properties of the soil and rock materials encountered, presence of expansive, collapsible, or soft soil;

- Potential for liquefaction, seismic settlement, static settlement or lateral spreading/slope instability and tolerable settlement and lateral displacement limits for foundations, graded slopes, reinforced soil slopes and retaining walls;
 - Faulting and guidelines for assessing geologic hazards for the development of the site;
 - Preliminary seismic data and seismic design criteria for structures, slopes and retaining walls;
 - Design criteria and geotechnical properties for evaluating slope stability, foundations, retaining walls, slab-on-grade, and pavements;
 - Geologic structure and adverse geologic conditions that should be considered in the design of graded slopes and excavations;
 - Minimum site preparation and support for compacted fill, graded slopes, retaining structures and structure foundations;
 - Material requirements for reuse of excavated on-site soil and rock, compacted fill and backfill for buried pipes, retaining walls and buried structures;
 - Suitability and characteristics of excavated on-site soil relative to reuse as compacted fill, select backfill, slope stability, expansion and R-value support for pavement;
 - Excavation characteristics of the soil and bedrock conditions encountered and use of the geophysical data collected for evaluating the excavation potential of the rock;
 - Compaction requirements for structural and non-structural fill, pavements, utilities and stormdrain pipe trenches;
 - Geotechnical considerations regarding foundation support for structures, retaining wall design, and reinforced slopes;
 - Construction and design requirements for evaluating temporary slopes, shoring, dewatering, and deep excavations;
 - Requirement for surface drainage, subsurface drainage and onsite infiltration of stormwater;
 - Corrosion test data and corrosion requirements for buried pipes and substructures;
 - Preliminary evaluation of graded slopes and allowable slope inclinations for cut and fill slopes based on the master plan layout of the site, and limitations, recommendation, or consideration for the design of graded and existing slopes; and
 - Deflection criteria for buried pipes and modulus (E'), unit weight and geotechnical properties of subsurface conditions encountered relative to the design and support of buried pipes.
- Preparation of final Geotechnical Baseline Report, incorporating City and MKN Team comments

The following assumptions were used in the development of the scope of work.

- The site is grazing land that appears to have clay topsoil. Site conditions may not be trafficable during periods of wet weather.
- The geotechnical services are limited to a base line study for use in the design-build process and does not include appurtenant pipeline routes or offsite improvements.

It should be noted that the design-build team will have the opportunity to change the facility layout during the bidding phase. Therefore, the recommended geotechnical performance criteria may need to be reviewed and revised for applicability to the new facility layout.

Task 302B-2 - Architectural Performance Criteria (RRM Design Group)

RRM Design Group will prepare the architectural programming as part of the performance criteria to be included in the Procurement Documents. Their scope of work includes services on the following structures:

- Operations Facilities
 - Ops Center/Common Area
 - Water and Collections Equipment Storage
 - Water Vehicle Storage
 - Collections Vehicle Equipment
 - Outdoor Storage Aisles
 - WRF Maintenance and Canopy Parking
 - Hazardous Waste Collection
 - Vehicle and Equipment Wash Rack
- WRF
 - Headworks
 - Equalization Basin
 - Dewatering Building
 - Fire Pump Building
 - Microfiltration-Reverse-Osmosis-UV Building
 - Remote Operations Center

The services provided by RRM for development of Procurement Documents for the structures listed above include:

- Data Gathering: RRM will conduct user interviews to review the operational and programmatic needs of the Operations facilities. RRM will use the existing Area Summary prepared in 2008 by RRM as a beginning document. Through user interviews, RRM will confirm and revise building total areas and identify specific rooms and divisions within each building. This effort will include two days of interviews of facility departments and notes from meetings to form the basis of the Space Needs Outline described below.
- Architectural Program: With the confirmation of the needs assessment established by the interviews and site visits, RRM will develop a draft program for the Morro Bay WRF Operations facilities using the information gathered in Task 1. The draft program will contain a detailed space needs outline and equipment and furnishing lists. Component diagrams will be provided for many spaces to graphically show space size and characteristics. The program document will contain:
 - Space Needs Outline: The detailed space needs outline will identify the total square footage required for each facility. Standardization of common spaces such as offices, workstations, conference rooms, copy, and storage for the entire facility
 - Equipment and Furnishings Lists: These lists will confirm the operational, equipment, and furnishings needs of each space. The computer, security, and radio systems needs will also be confirmed
 - Component Diagrams: Component diagrams will be presented for certain spaces. These are the graphic representation of the space needs and provide the reviewer a better sense and understanding of the room layout and square footage for each space

- Detailed Space Use Form: The Detailed Space Use Form will identify the interior attributes and requirements of each space. This form is to be used in conjunction with the component diagrams.

A draft and final Architectural Program document will be prepared. This effort will include two meetings: One to review the draft and one to review the final document.

- Adjacency and Site Fit Diagrams: RRM will prepare adjacency diagrams in “bubble diagram” form for each Operations Facilities building to identify space adjacencies and relationships. These diagrams will be compared to the existing site plan to verify overall site adjacencies and sizes. A draft and final space adjacency diagram will be prepared. This effort will include two meetings: One to review the draft and one to review the final document.
- Bridging Document Architectural Guidelines (Operations Facilities and WRF): RRM will review desired architectural character with the City and MKN & Associates to identify the desired character and exterior finishes of the facility. RRM will provide images to quantify features of the character. These features will be documented in a written narrative that is further supported by specific character graphic images. This effort will include three meetings: one meeting to review draft image board, concurrent with final space adjacency diagram meeting; one meeting to review draft bridging document architectural guidelines and final image board; and one meeting to review final bridging document architectural guidelines
- Bridging Document Specifications (Operations Facilities and WRF): RRM will develop bridging document specifications for the project. Specifications will identify specific requirements and parameters for the design-build process while providing areas of innovation and flexibility where desired by the project team. Draft and final bridging documents specifications will be prepared. This effort will include two meetings: One to review the draft and one to review the final specifications.
- Landscape Bridging Documents (Operations Facilities and WRF): RRM Landscape Architects will prepare landscape guidelines and a narrative that will provide parameters for the design-build process. Bridging document specifications will be included to provide specific irrigation and planting requirements. Landscape bridging document guidelines, narrative, and specifications will be prepared. This effort will involve up to two review meetings concurrent with the bridging document architectural guidelines or specifications meetings.
- Landscape 30% Design Drawings of Hwy 1 Facility Entrance: RRM Landscape Architects will prepare 30% bridging documents in coordination with MKN & Associates for the modifications to the entry to the facility along Hwy 1. The plans will consist of planting and irrigation design to restore and spruce up the entry to the project. Planting and irrigation will be shifted out of Cal Trans right-of-way whenever possible to avoid additional permit requirements. This effort will include up to two review meetings concurrent with bridging document architectural guidelines or specifications meetings.
- Final Program and Bridging Document Report (Operations Facilities and WRF): The Facility Program will be a comprehensive document which will incorporate the findings, recommendations, and documents prepared by the RRM team. This document will contain an

executive summary and will include documents prepared in all the tasks. This effort will include one meeting to review the final Facility Program report.

- Design Build Team Interviews and Review Meetings: RRM will assist the City and MKN & Associates as a part of the interview panel of design build teams for a full day of interviews. RRM will also be present at City and MKN & Associates proprietary meetings with each of the design build teams prior to selection. This effort will include one full day of interviews and six, two-hour meetings with design build teams.

Task 302B-3 –Structural Performance Criteria (Smith Structural Group, LLP)

Smith Structural Group, LLP will prepare the structural performance criteria as part of the performance criteria to be included in the Procurement Documents. Their scope of work is assumed to generally apply to the following structures:

- Ops Center/Common Area
- Water and Collections Equipment Storage
- Water Vehicle Storage
- Collections Vehicle Equipment
- Outdoor Storage Aisles
- WRF Maintenance and Canopy Parking
- Hazardous Waste Collection
- Vehicle and Equipment Wash Rack
- Retaining walls
- Headworks
- Equalization Basin
- Dewatering Building
- Fire Pump Building
- Microfiltration-Reverse-Osmosis-UV Building
- Remote Operations Center

The services provided by Smith Structural Group, LLP will include the following:

- Preparation of Bridging Documents: Smith Structural Group will review relevant background information including the Water Reclamation Facility Master Plan and relevant geotechnical reports. Draft Structural Requirements will be prepared and provided to the City and MKN & Associates for review and comments that will be incorporated into the Final Structural Requirements. This effort will include monthly meetings with the project team civil engineer (MKN & Associates) and architect (RRM Design Group) and two stakeholder workshops.
- Proposal Review: Smith Structural Group will assist the City and MKN & Associates in reviewing proposal responses from the short list of selected design build teams through review of structural submissions by the design build teams. This effort includes a preliminary meeting with MKN & Associates and the City to determine review criteria; six, two-hour proprietary meetings

with design build teams to review design concepts,, and a final meeting with MKN & Associates and the City to discuss findings and recommendations.

Task 302B-4 – Electrical Performance Criteria (IRJ Engineers)

IRJ Engineers Inc. will prepare the electrical and mechanical HVAC performance criteria as part of the performance criteria to be included in the Procurement Documents. Their scope of work includes services pertaining to the mechanical ventilation, heating, air conditioning, and electrical on the following structures:

- Headworks
- Equalization Basin
- Dewatering Building
- Fire Pump Building
- Microfiltration-Reverse-Osmosis-UV Building
- Maintenance Facility
- Remote Operations Building
- Administration/Operations Facility
- Electrical Building and electrical rooms.

The services provided by IRJ for development of Procurement Documents for the structures listed above include:

- Coordination with Pacific Gas and Electric (PG&E) for electrical service: IRJ Engineers will coordinate with PG&E to determine the schedule and cost to bring electrical service to the site. This will include completion of applications for service, but will not include any service fees or processing fees (to be paid by the City)
- Preparation of Bridging Documents: IRJ Engineers will review relevant background information including the Water Reclamation Facility Master Plan. Draft Electrical and Mechanical HVAC Requirements will be prepared and provided to the City and MKN & Associates for review and comments to be incorporated into the Final Electrical and Mechanical HVAC Requirements.
- Request for Proposal Review: IRJ Engineers will assist the City and MKN & Associates in reviewing proposal responses from the short list of selected design build teams through review of electrical and mechanical HVAC submissions by the design build teams. This effort includes a preliminary meeting with MKN & Associates and the City to determine review criteria, six, two-hour proprietary meetings with design build teams to review design concepts, and a final meeting with MKN & Associates and the City to discuss findings and recommendations.

Task 302B-5 – Development of Performance Criteria for Design Build Procurement Documents (MKN & Associates)

MKN will provide Project Management and coordination of all the tasks identified above. MKN will also provide civil, site, and process engineering services for development of performance criteria for the following facilities:

- Ops Center/Common Area
- Water and Collections Equipment Storage

- Water Vehicle Storage
- Collections Vehicle Equipment
- Outdoor Storage Aisles
- WRF Maintenance and Canopy Parking
- Hazardous Waste Collection
- Vehicle and Equipment Wash Rack
- Retaining walls
- Headworks
- Equalization Basin
- Dewatering Building
- Fire Pump Building
- Microfiltration-Reverse-Osmosis-UV Building
- Remote Operations Center

In addition to those services, MKN will perform the following:

- Workshops: Coordinate two (2) treatment process design workshops with City staff
- Task Management: Manage production of all the documents and deliverables identified above, allowing the design-build teams to develop a bid while maximizing opportunities for innovation.
- Preparation of Performance Criteria and Specifications: MKN will develop performance criteria for all civil, process, and site planning elements for the WRF. This will include the following information, as provided by the City and the subconsultants listed above:
 - Design flows and loading
 - Summary of water quality and flow records
 - Process flow diagram (2 alternatives)
 - Site utility design standards (fire protection, electrical, communications, potable water, nonpotable water, sewer, and others)
 - Operational requirements, access standards, and performance criteria
 - SCADA and instrumentation performance criteria
- Develop conceptual plans and layouts for critical infrastructure: MKN & Associates will coordinate with City staff and consultants to prepare stricter guidelines for critical infrastructure. The conceptual plans and layouts will include the following:
 - Preliminary site constraints plans
 - 30% Design plans for entrance road (incorporating input from Caltrans and EIR)
 - Highway 1/South Bay Boulevard access improvements
 - Offsite pipeline coordination exhibits

This effort includes up to two meetings with the City or other consultants for each conceptual plan or layout listed above.

Budget

The following table summarizes the budget for each task. The budget spreadsheet (Attachment 4) to the scope amendment provides a summary of the man-hours anticipated by MKN staff for this work.

	Budget
Task 302B - 1 Geotechnical Baseline Report (Yeh)	\$57,545
Task 302B - 2 Architectural performance Criteria (RRM)	\$64,565
Task 302B - 3 Structural Performance Criteria (SSG)	\$37,002
Task 302B - 4 Electrical Performance Criteria (IRJ)	\$115,500
Task 302B - 5 Development of Performance Criteria for Design Build Procurement Documents (MKN)	\$194,052
Subtotal	\$479,164

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

	Program Manager	Principal Engineer	Project Engineer	Assistant Engineer	Drafter	Administrative Assistant	Total Hours (MKN)	Subtotal Labor (MKN)	ODCs (MKN)	JFR	RRM	MNS	Laquidara (TAT)	IRJ	SSG	Yeh & Associates	Konig Media	Total Subconsultant Cost	Total Cost
Task Group 100 Program Administration																			
Task 101-Schedule tracking and progress reporting	60		30	30			120	\$ 18,600	\$ 558	\$ 1,890								\$ 1,890	\$ 21,048
Task 102-Program Documentation - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -
Task 103-Meetings and Coordination	320		300	30			650	\$ 103,250	\$ 3,098	\$ 36,540	\$ 5,775							\$ 42,315	\$ 148,663
Task 104-Public outreach	80		16				96	\$ 16,320	\$ 490	\$ 36,225	\$ 50,000						\$ 2,100	\$ 88,325	\$ 105,135
Task 105-Budget tracking and reporting	12		24				36	\$ 5,580	\$ 167	\$ 1,260								\$ 1,260	\$ 7,007
Task 106-Grant and loan pursuit and management	20		20				40	\$ 6,400	\$ 192	\$ 1,260								\$ 1,260	\$ 7,852
Task 107-Grant and loan support	100		50	25	25		200	\$ 30,175	\$ 905									\$ -	\$ 31,080
Task 108-Maintain project management system	12			84			96	\$ 12,600	\$ 378	\$ 3,780								\$ 3,780	\$ 16,758
Subtotal	604	0	440	169	25	0	1238	\$ 192,925	\$ 5,788	\$ 80,955	\$ 55,775	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,100	\$ 138,830	\$ 337,543
Task Group 200 Preliminary Planning																			
Task 201-Master Reclamation Plan - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -
Task 202-CEQA	100		30	30			160	\$ 25,600	\$ 768	\$ 69,930								\$ 69,930	\$ 96,298
Task 203-Permitting	40		20	20			80	\$ 12,400	\$ 372	\$ 31,500								\$ 31,500	\$ 44,272
Task 204-FMP and Salinity Control Plan Coordination	40		40				80	\$ 12,800	\$ 384									\$ -	\$ 13,184
Task 205-Project Delivery Technical Memorandum - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -
Task 206-Rate Study Coordination and Alternative Evaluation	80		30	60			170	\$ 25,850	\$ 776									\$ -	\$ 26,626
Task 207-Coordination with Caltrans and Encroachment permit application(s)	20		80	40	40		180	\$ 23,780	\$ 713									\$ -	\$ 24,493
Task 208 -Data Collection and As-needed services - <i>Not applicable</i>							0	\$ -	\$ -									\$ -	\$ -
Subtotal	280	0	200	150	40	0	670	\$ 100,430	\$ 3,013	\$ 101,430	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 101,430	\$ 204,873
Task Group 300 Phase I Preliminary Engineering and Procurement																			
Task 301-Outfall Evaluation and Management Strategy	24	24	40	24		8	120	\$ 17,640	\$ 529									\$ -	\$ 18,169
Task 302-Phase 1 WRF Design-Build Procurement																		\$ -	\$ -
302A - Procurement Process	40		100	80		20	240	\$ 32,600	\$ 978			\$ 21,000						\$ 21,000	\$ 54,578
302B - Performance Criteria	200	300	280	300	200	80	1360	\$ 188,400	\$ 5,652		\$ 64,565		\$ 10,500	\$ 115,500	\$ 37,002	\$ 57,545		\$ 285,112	\$ 479,164
Task 303-Procurement of Influent Lift Station & Transmission Pipeline Design Team	20		52	10	10		92	\$ 13,210	\$ 396									\$ -	\$ 13,606
Task 304 -Data Collection and "As-Needed" Services	100		100	100			300	\$ 44,500	\$ 1,335	\$ 15,750								\$ 15,750	\$ 61,585
Subtotal	384	324	572	514	210	108	2112	\$ 296,350	\$ 8,891	\$ 15,750	\$ 64,565	\$ 21,000	\$ 10,500	\$ 115,500	\$ 37,002	\$ 57,545	\$ -	\$ 321,862	\$ 627,102
Task Group 400 Project Design																			
Task 401-Coordination of WRF Offsite Design Development	200		200	100		8	508	\$ 76,940	\$ 2,308									\$ -	\$ 79,248
Subtotal	200	0	200	100	0	8	508	\$ 76,940	\$ 2,308	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 79,248
TOTAL BUDGET	1468	324	1412	933	275	116	4528	\$ 666,645	\$ 19,999	\$ 198,135	\$ 120,340	\$ 21,000	\$ 10,500	\$ 115,500	\$ 37,002	\$ 57,545	\$ 2,100	\$ 562,122	\$ 1,248,766

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AGENDA NO: C-2

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor & City Council **DATE:** February 22, 2017

FROM: Scot Graham, Community Development Director

SUBJECT: Direction on Market Plaza Request for Qualifications

RECOMMENDATION

Staff recommends the City Council review the staff report and associated materials, receive the presentation by staff, and provide direction in relation to going out with a Request for Qualifications (RFQ) to identify firms that are interested and qualified to develop plans for the improvement of the Market Plaza and Centennial Parkway area.

ALTERNATIVES

The Council could opt to leave the property as it is and not go out with an RFQ or the Council could provide some other direction deemed acceptable to a majority of the Council.

FISCAL IMPACT

Issuance of an RFQ has no direct fiscal impact beyond the staff time spent to create, issue and evaluate responses to the RFQ.

BACKGROUND

Market Plaza Property

The City Council, in December of 2015, authorized staff to move forward with the purchase of the property containing DiStasio's Restaurant (Market Plaza Property), including the adjacent 40 space parking lot at the corner of Market and Pacific Street. The City was able to re-acquire the property for \$150,000 as a result of the Salwasser bankruptcy and because the City held a note on the property for \$1.2 Million. For the purpose of discussion, the "Market Plaza" property includes the city-owned "front street" parking lot below DiStasio's and adjacent to Centennial Parkway.

Centennial Parkway Project

As part of the Fiscal Year 2015/2016 Goal setting process, the City Council identified one of the objectives as the need for preparation of a plan that would both widen the Embarcadero sidewalk along the water side of the street and provide a new vision for the Centennial Stair area. The Centennial Stair redesign has been termed the Centennial Parkway Project and was recently adopted by Council on January 24, 2017.

January 2016 Council Direction

Staff brought the Market Plaza property forward to the Council for discussion at the January 26, 2016, Council meeting. Council directed staff to obtain substantial public input related to redevelopment options for this area. Specifically, Council directed staff to incorporate the Market Plaza concept discussion into the ongoing efforts for Centennial Parkway and the General Plan/Local Coastal Program update.

Prepared By: SG

Dept Review: SG

City Manager Review: DWB

City Attorney Review: _____

Staff has incorporated the Market Plaza discussion into outreach efforts for both the Centennial Parkway Project and the Downtown Waterfront Strategic Plan. The discussion related to the Centennial Parkway Project centered on ways in which the City could fund construction. Given City budgetary constraints, the improvements identified in the adopted Centennial Parkway Project are unlikely to be funded through the General Fund. Instead, outreach discussion focused on looking at opportunities associated with public/private partnerships. Specifically, the Centennial Parkway Project area, on the east side of the Embarcadero, could be developed as part of a public/private partnership endeavor involving redevelopment of the following City-owned “Market Plaza” properties: DiStasio’s, portions of Market Street, the City Parking lot below DiStasio’s and the parking lot at the northeast corner of Market and Pacific. See Market Plaza/Centennial Parkway Map provided below:



Staff also wrapped the Market Plaza discussion into the public outreach effort associated with the Downtown Waterfront Strategic Plan (DWSP). Staff, along with the Michael Baker consulting team, conducted outreach for the DWSP in the form of stakeholder interviews and three public workshops. Those outreach efforts served to identify the Market Plaza site as Opportunity Site 7 in the draft DWSP. Potential catalyst projects associated with the Market Plaza site (Opportunity Site 7) include the following:

- Cultural/Maritime/Historical Museum
- Seafood Market, including produce, flowers and artisanal products
- High end Hotel with restaurant/bar/retail and possible conference facilities
- Ecotourism
- Parking Facility (recommended by staff based on other public input)

DISCUSSION

In order to move the Centennial Parkway Project and Market Plaza forward, staff is recommending going out with a RFQ to identify companies that would be interested in partnering with the City to develop the area in a manner consistent with the direction provided above. To that end, staff is requesting Council provide specific input on the following items:

- a. Should the City pursue development/redevelopment of the identified properties at this time?
- b. Is the RFQ process the desired approach to identify potential development/redevelopment partners?
- c. Is the Council interested in maintaining ownership of the Market Plaza properties and leasing them out to a potential developer or would the preference be to sell the property outright? (Staff recommends leaving this open as a point in future negotiations with a selected investor.)
- d. Are the catalyst project identified above appropriate for inclusion in the RFQ (Including Centennial Parkway Project improvements) or are changes desired? *It is recommended the list be augmented to include consideration of a parking structure.*
- e. **Consideration of inclusion of the Off the Hook lease site in the RFQ.** Given the timing of the RFQ and the fact the properties associated with the Centennial Parkway Project and Market Plaza are in close proximity to the Off the Hook lease site, staff would like the Council to weigh in on whether the lease site should be included in the RFQ. The Off the Hook lease site represents water access for potential RFQ respondents and thereby has the potential to expand redevelopment opportunities and interest in the RFQ.

The downside to inclusion of the Off the Hook lease site in the RFQ is we have already advertised and received three responses to an RFP on that lease site. The City has reviewed those responses and provided direction to the proposers to rework their drawings and return with what they consider their best designs. Staff has evaluated the original proposals and provided letters to each proposer outlining possible issues. Revised proposals are due March 15, 2017, with a tentative Council review date of April 11, 2017.

CONCLUSION

In order to support a robust local economy and, begin to achieve Council Goal #1 (Achieve Fiscal and Economic Sustainability), staff is recommending the Council consider going out with a RFQ for development/redevelopment of the Centennial Parkway and Market Plaza properties and possibly including the Off the Hook lease site. If Council authorizes the RFQ, then staff will develop a mailing list of potential companies that may have interest in such a combined project. Staff will also post the RFQ to the City's website and to some of the online sites that host similar bid type postings.

Issuance of an RFQ will not bind the City, in any way, to future revitalization of the Market Plaza area. The RFQ will simply identify investors who have the experience and capacity to conduct such a project. Follow-up steps will include working closely with certain RFQ respondents to craft a project consistent with our land use plans, emerging General Plan / Local Coastal Plan documents, and our Community vision.

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AGENDA NO: C-3

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor and City Council

DATE: February 21, 2017

FROM: Joan Gargiulo, Assistant Planner
Whitney McIlvaine, Contract Planner

SUBJECT: Consideration of and direction regarding a request from *By the Sea Productions* for a reduction or waiver of application fees for special use permit (UP0-446) allowing colocation of a live theater in an existing church in a residential zone at 545 Shasta Avenue.

RECOMMENDATION

Council review the staff report and presentation by staff and provide direction regarding the fee waiver/reduction request.

ALTERNATIVES

1. Approve a reduction in application fees from \$5,706 to \$2,100
2. Approve a complete waiver of the project's special use permit application fees.
3. Deny the request for a fee reduction and direct full payment of the project's special use permit application fees.

FISCAL IMPACT

Pursuant to the City of Morro Bay Fee Schedule, adopted for the fiscal year 2016/17, total fees for a Planning Commission special use permit, including noticing and a public hearing, are \$5,706. Approval of the requested waiver or reduction in fees means the City would absorb all or some of the cost associated with development review of a proposed new use.

DISCUSSION

By the Sea Productions (aka Pewter Plough Players Inc.) is a non-profit live theater organization that operated in Cambria for 18 years. The theater company has recently decided to relocate to Morro Bay. On January 17, 2017, the Planning Commission approved a special use permit to allow the theater company to hold performances at Saint Peter's Episcopal Church at 545 Shasta Avenue, subject to conditions of approval.

At the December 13, 2016, City Council meeting, Councilman Heading requested that Council place on a future agenda consideration of a waiver or reduction in application fees for a use permit to allow a live theater to share facilities at an existing church. The City received a formal written request for a fee reduction on February 18, 2017, provided as Attachment A.

Prepared By: WM & JG

Dept Review: _____

City Manager Review: _____

City Attorney Review: __JWP__

City fees are based on the cost of providing a particular service. In this particular situation, the use permit request was reasonably uncomplicated and straight forward. Project review required only one public hearing; there was no appeal filed; and the project did not require a concurrent coastal development permit.

CONCLUSION

Approval by Council of Alternative 1 would result in an application fee of \$2,100 and an overall fee reduction of \$3,606. A reduction in application fees for special use permit UP0-446, allowing colocation of a theater in an existing church in a residential zone at 545 Shasta Avenue, can be substantiated in this case because potential fiscal impacts are relatively minor and offset by the community benefit of supporting the arts locally and encouraging a new entertainment venue within the City.

ATTACHMENTS

A: Request for fee waiver/reduction

ATTACHMENT A
MEMORANDUM

DATE: February 18, 2017

TO: Morro Bay Mayor & City Council

FROM: By the Sea Productions & St. Peter's by the Sea Episcopal Church

RE: Special Use Permit UPO-466 Fee Waiver/Reduction

By the Sea Productions has been a non-profit organization under the name Pewter Plough Players Inc. for 18 years, producing plays at the Pewter Plough Playhouse in Cambria. This year, our landlord decided to use the facility for music and other entertainment, so we needed to find a new venue. We saw this as an opportunity to bring live theatre to Morro Bay, and were delighted when St. Peter's by the Sea Episcopal Church offered us the use of their parish hall for our productions.

Our non-profit contributed to various other non-profit groups in Cambria, with our primary contribution the funding of scholarships to high school students interested in pursuing careers in the arts. Our contribution amounts varied, but have never been less than \$1,000 annually. We intend to continue this practice in Morro Bay, and will be in contact with Morro Bay High School on how to do so.

We are excited to bring live theatre to Morro Bay, and appreciate the assistance of the Planning Dept. and Planning Commissioners in obtaining our Special Use Permit. We have complied with all requirements and made outreach to the neighboring property owners to mitigate any impact our activities may have.

Our final concern is the \$5700 permit fee, which is extremely difficult given our limited not-for-profit budget.

Last year at our 'home' theater in Cambria, our season included 7 main shows, which ran for 5 weekends each, or 15 performances per show. We also staged 5 Readers Theatre shows, which ran 2 performances on one weekend each. Our total number of performances for the year was 115. We charged \$22 per ticket (\$10 for Readers Theatre shows), and paid monthly rent, but no ticket percentage. Our income for the year was \$71,000. Our expenses for the year, including rent, royalties, music and show directors (\$350 total per show, not including Readers Theatre), set building, advertising, costumes, props, supplies, music rights, equipment, etc., totaled \$66,000, so we cleared only \$5,000. Most of that was spent for moving and storage of our set pieces and costumes, with the storage costs ongoing at a Morro Bay storage facility.

At our new residency in Erickson Hall at the church, we must schedule our performances around ongoing church activities, so per our permit and agreement with the church, we will be staging only 39 performances for the 2017 season. We chose to reduce the ticket price to \$20 to encourage attendance in our new venue (still \$10 for Readers Theatre). We will make a monthly donation to the church plus 15% of our ticket sales. Therefore, while our earnings will

be substantially reduced, our expenses will be somewhat increased (storage fees and ticket percentage.)

Our Board of Directors is composed of unpaid local volunteers...President Anita Schwaber (Cayucos), Vice-President Craig Brooke (Los Osos), Treasurer Kelli Howard (Templeton), Secretary Janice Peters (Morro Bay), Volunteer Coordinator Randall Lyon (Cambria) and House Manager John Geever (Morro Bay). The Rev. Sidney Symington and many members of St. Peter's are volunteering their assistance to this venture as well.

Morro Bay has long needed more evening activities for our residents and visitors, and live theatre is an excellent way to achieve this. We have our business license and have joined the Chamber of Commerce. We will involve local volunteers, including students, to help us stage our shows. Once we are established, we would like to offer youth theatre classes. Our goal is to provide a positive, active cultural and recreational contribution to Morro Bay for many years to come.

We would appreciate the Council's assistance in achieving that goal by allowing either a waiver or significant reduction of the permit fee in recognition of the potential contribution to the community and our limited funds.

We thank you for your consideration.

**By the Sea Productions Board of Directors
St. Peter's By the Sea Episcopal Church**



AGENDA NO: C-4

MEETING DATE: February 28, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** February 21, 2017

FROM: Dave Buckingham, City Manager

SUBJECT: Discussion and Direction of Washington DC Representation for Water Reclamation Facility (WRF) Project

RECOMMENDATION

Staff recommends the Council consider directing staff to negotiate a low-cost contract with The Ferguson Group to develop a federal agenda and work plan to support efforts to gain federal grant and loan support for the Wastewater Reclamation Facility (WRF) project.

ALTERNATIVES

1. The City Council could direct staff to negotiate a longer-term retainer agreement with The Ferguson Group, still for relatively low cost, to build a federal agenda, advocate for the City, and provide Federal grant-writing assistance to support the WRF project.
2. The City Council could direct staff to release a request for proposals for federal representation related to grant and loan advocacy for the WRF project.

FISCAL IMPACT

The contract cost for the recommended federal agenda building option is \$5,000 - \$6,000 with up to \$1,000 of expenses. The contract cost for retainer representation is \$4,000-5,000/month, with up to \$4,000 in annual expenses.

BACKGROUND

The City's new WRF, including both a new facility and complete water recycling components consistent with the City's project goals is projected to cost up to \$150M.

The City intends to pursue State grants and construction loans to the largest extent possible. The existing contract with Kestral Consulting for grant research and support is sufficient for the pursuit of State funds. Kestral was, in fact, instrumental in assisting the City to compete for and win a \$10M State Revolving Fund planning loan for the project.

Kestral's expertise and focus is, however, at the State level and the City may benefit from federal representation to improve our pursuit of federal monies in support of the project.

With the new Administration's advertised emphasis on infrastructure projects, staff believes retaining federal representation for advocacy on this project is even more important, and more likely to pay off, than it may have been prior to the recent election.

The City has federal representation for other projects. Our membership in CMANC, the California Marine Affairs and Navigation Conference, is, in effect, a federal advocacy group for our Harbor in general and dredging support in particular. Our \$1,350 annual membership in CMANC is an important investment in advocating for Federal funding for our dredging program of our Army Corps of Engineers-maintained channels. Annual dredging of our harbor entrance area at a cost of ~\$3M, and every 5-7 years dredging of other bay channels at a cost of \$4M-\$6M, represents a significant

Prepared By: DWB City Attorney Review: JWP

return on a modest annual investment.

The Ferguson Group is a proven advocate for California cities, especially in the areas of water, water reuse and wastewater treatment. Further, the group has experience working in SLO County, was instrumental in getting federal support for the Los Osos wastewater project, and remains under contract to provide representation for SLO County.

In January, the Council agenda'd a discussion to consider contracting for federal representation. This discussion came at the same meeting in which staff reviewed a recent visit to Sacramento to staff-level engagement for State grants and loans, and which included a meeting with representatives of The Ferguson Group to discuss the potential benefits of federal advocacy. The presentation for those meetings is included at Attachment 2.

Subsequent to our meetings in Sacramento, additional staff and Mayor Irons met again with a representative of the Ferguson Group, this time in Morro Bay, to further understand the potential benefits of representation.

Based on the Ferguson Group's demonstrated expertise with projects similar to our WRF, and their experience with SLO County, and in order to provide the Council a range of options, staff asked Ferguson Group to provide a sample proposal for representation. That proposal is attached.

Two key reasons staff determined to provide Council with an option to enter an agreement now, instead of taking time for a full RFP process, follow. First, there are clear indications there is fairly significant movement in Congress and the new Administration toward identifying key infrastructure projects that may be prime for federal funding (see Attachment 3). Second, we determined a low-cost survey of opportunities – building a federal agenda and work plan – would be an excellent step to help determine if a longer-term representation contract would be beneficial.

DISCUSSION

As noted above, staff is providing Council three options and recommends we contract now with The Ferguson Group to build a federal agenda and work plan to determine the potential federal grant and loan opportunities for the City's WRF project.

The cost for that work will likely be no more than \$7,000 and will provide a very good assessment to help us better measure if investing in federal representation for the life of the project construction will be beneficial. It is understood part of the work plan, if the City contracts with the Ferguson Group, will be to help position the Morro Bay WRF project for potential federal assistance as the Congress and the Administration begin to develop their infrastructure funding plans.

Perhaps the best way to measure the potential return on investment for this contract is to consider the likely maximum cost of representation during the key funding period for the WRF project which is from now until the project is completed in summer 2021 – approximately 4.5 years.

If the City retains federal representation, then the annual cost would be around \$60,000 per year. Or, \$260,000 over 4 ½ years. If that representation results in even a single, \$1M grant, then the City's return on investment would be good. If representation results in a \$4M grant, then the return would be very well worth it. While there is no guarantee federal representation will result in a grant, the reward is likely quite worth the risk – especially given the current talk in Washington, DC about a federal infrastructure initiative.

It is also important to note, the California State Water board recommended the City seek alternative funding in case there are not sufficient state funds available for a State Revolving Fund construction loan. Thus, loan support from the federal government may be important for the project, and, with strong representation, could result in a construction loan with measurably better terms than and SRF loan. On the Los Osos project, the County with assistance from The Ferguson Group, was able to “negotiate” a measurable interest rate reduction for the project. For the Morro Bay project, even a ¼% interest rate reduction would likely result in more than 7.5 Million Dollars saved on the 30-year life of the project construction loan.

Based on the above, staff recommends Council direct staff negotiate a Federal Agenda Building and Advocacy contract with the Ferguson Group. That would allow Morro Bay to get started quickly, with a proven partner, working toward some level of federal funding, via grants and/or loans, for the WRF project.

Based on the results of the Ferguson Group’s work, Council could choose to issue an RFP for long-term representation, negotiate directly with the Ferguson Group for long-term representation, or choose not to continue with any representation.

CONCLUSION

Council directed staff to bring forward a discussion on federal representation for the WRF project. Based on the demonstrated expertise of the Ferguson Group working on the Los Osos project, and to provide the Council a way to move quickly toward federal representation, staff asked the Ferguson Group to prepare a proposal for both an initial assessment, and long-term representation. Based on declining State funds available for WRF-related grants and loans, and the discussion in Washington of a major infrastructure bill, federal representation is likely a wise step, and one that may pay off.

RECOMMENDATION

Staff recommends the Council consider directing staff to negotiate a low-cost contract with The Ferguson Group to develop a federal agenda and work plan to support efforts to gain federal grant and loan support for the Wastewater Reclamation Facility (WRF) project.

ATTACHMENTS

1. Proposal for Representation
2. WRF Project Overview Presentation
3. Sample Priority List of Emergency & National Security Projects

February 1, 2017

David Buckingham
City Manager
City of Morro Bay
595 Harbor Street
Morro Bay, California 93442

Dear Mr. Buckingham:

We appreciate the opportunity to present this proposal to represent the City of Morro Bay at the federal level regarding the City's water resources, waste water infrastructure, regulatory matters, and other matters related to municipal government at the federal level. The Ferguson Group (TFG) professionals are second to none in the area of federal advocacy on behalf of municipal governments, and we believe our expertise in water issues, coupled with our experience working with Morro Bay's congressional delegation and relevant agency officials in Washington and field offices, sets our firm apart from all others in our ability to successfully represent City interests.

This proposal is organized in the following sections:

- Background – a brief outline of The Ferguson Group.
- Experience - examples of our recent work on water reclamation and wastewater projects.
- Scope of Services – an outline of our approach to agenda building and advocacy.
- Morro Bay – options for representation.

1. Background – The Ferguson Group

TFG. The Ferguson Group, LLC (TFG) is headquartered in Washington D.C. with additional offices in California and Florida. TFG is a federal governmental relations consulting firm specializing in securing federal funding, grants, authorizations, policy, and regulatory changes for our public sector clients including cities, counties, and joint power authorities. Our depth, commitment, and experience representing the interests of local governments at the federal level allows us to represent our clients with great efficiency and a level of effectiveness to which few firms can compare. We serve our clients more effectively by leveraging our collective knowledge to benefit each client's specific goals and objectives.

Water Specialists. TFG has been the preeminent provider of federal government relations advice for over three decades. Our experience in water and natural resources issues includes working for municipal government, public utilities, and regional water and power authorities. Our specialty areas focused on water resources include:

- Stormwater, drinking water, water reuse, and wastewater policy.
- Water infrastructure development, planning, funding, and financing.
- Clean Water Act, Endangered Species Act, and Safe Drinking Water Act regulations.
- Environmental restoration.
- Shoreline protection.
- Climate change and public infrastructure
- Irrigation.
- Flood control.

TFG and California. TFG has strong ties to California. We represent many local and regional government entities throughout California. Our experience working with the California delegation – House and Senate – provides our firm unparalleled capability to represent the City of Morro Bay. Many of our partners have worked for current and former Members of Congress from California and we will bring decades of knowledge of California issues, California delegation Members, and the activities of federal agencies in California to bear on issues important to the City. Our strong California presence – two TFG partners are based in California – is evidence of our long-standing commitment to providing the best representation for our California clients. In addition, TFG has successfully represented the County of San Luis Obispo for over a decade, an experience that has broadened and deepened our knowledge of Morro Bay, the County, Central California, and Coastal California issues and opportunities.

2. Water Policy and Project Funding Experience

TFG has extensive experience with water resources issues, particularly water supply, wastewater and stormwater infrastructure development, planning and implementation, flood control, harbors, ports, environmental restoration, and shore protection. We provide advice and assistance to clients on the development of their federal policy agendas and legislative initiatives, and then help guide and implement supporting strategies. Fundamental to our approach on water resources issues is working with the client to and cultivate and manage strong working relationships with federal agencies such as the Environmental Protection Agency (EPA), U.S. Army Corps of Engineers, Bureau of Reclamation, the U.S. Department of Agriculture, and the Fish and Wildlife Service.

Our list of successes is expansive, and below are a few examples of our experience in issue areas that are of particular interest to the City of Morro Bay.

- **Los Osos Waste Water Project (San Luis Obispo County).** This project is well known in the region and we will provide only a brief summary of the project. TFG worked with the County to identify several potential federal funding sources, including Corps of Engineers (Corps) environmental infrastructure programs and US Department of Agriculture (USDA) rural utilities opportunities. In summary, TFG assisted the County in obtaining a legislative waiver from the House and Senate allowing the County to participate in in USDA grant and low interest loan programs which resulted in over \$85 million in grants and low interest loans flowing to the County to construct the collection infrastructure (construction almost complete). In addition, we continue pursuing authorized Corps funding for the planned treatment plant and related reuse components.

- **NACWA.** In coordination with several CSO communities in the Midwest, TFG has been involved with the National Association of Clean Water Agencies (NACWA) legislative initiative to provide sufficient congressional authority to the EPA under the Clean Water Act (CWA) to work with CSO/SSO impacted communities and water districts to fund and promote long-term commitments from EPA for “green infrastructure” applications. In response to these efforts, EPA announced plans to integrate stormwater/wastewater permitting and provide flexibilities for CSO wet weather infrastructure investments. TFG has helped our clients advocate a position that EPA has adopted that should provide as much flexibility as possible to more effectively deal with these pervasive issues in a more holistic manner. While these efforts relate to long-term approaches to solving CSO/SSO solutions under the CWA for struggling communities across the country, TFG has the knowledge and experience to represent Morro Bay in these and similar broad federal policy and legislative initiatives.
- **Rehabilitating and Improving Aging Water Infrastructure.** TFG has worked with dozens of communities nationwide to secure tens of millions of dollars in federal funds to help pay for the cost of stormwater, wastewater, and drinking water system improvements. For example, we helped the Allegheny County Sanitation District in Pennsylvania secure approximately \$33 million in federal assistance as a down payment on an \$80 million federal contribution to a combined stormwater and sanitary sewer system improvement demonstration program. We also helped the Neuse Regional Water and Sewer Authority in North Carolina secure \$82,831,000 in federal assistance to help defray the construction cost of a new \$108 million regional drinking water treatment facility.
- **Water Supply and Ecosystem Restoration.** Working on behalf of public water agency clients, TFG helped craft and win enactment of legislation that created new authority and direction for a multi-agency/state-federal partnership to improve water supply and reliability and environmental stability in California's giant Bay-Delta estuary. We worked as part of a team, seamlessly integrating our strengths with those of water agencies, engineering firms, state and federal lobbyists, community interest groups, and attorneys – not to mention local elected officials and staff members.
- **Regulatory Certainty and Habitat Conservation.** Representing an irrigation district in Southern California, TFG served a leading role in assisting a coalition of water agencies in three states to develop and enact legislation authorizing funding and implementation of a cost-shared \$600-million plan to protect fish and wildlife while ensuring continued water supply and power operations on the Colorado River. We have worked successfully with the Congress and a water users association to craft and adopt compromise legislative language in a Wild and Scenic Rivers authorization bill that protects existing water uses in Idaho while protecting free-flowing rivers in Wyoming.
- **Water Quality and Watershed Protection (Sacramento County).** TFG worked with Sacramento County to secure over \$10 million from EPA to conduct water quality testing and develop a watershed stakeholder program that will ensure the proper focus on pollutants in the Sacramento River watershed. This program has already resulted in significant cost-

savings in revised control strategies based on more accurate information about priority pollutants in the watershed.

3. Scope of Services - Generally

TFG supports our clients in the following manner:

- **Strategic Advice.** TFG provides strategic advice concerning relevant congressional and agency action and policy.
- **Communications.** TFG assists clients in communicating congressional Members and staff, congressional committees, federal agency officials, and staff at all levels of government regarding the City's federal agenda. TFG prepares briefing sheets, talking points and any other materials needed for meetings with Members of Congress, the Administration, and federal agencies to discuss funding requests, regulatory targets, authorizing legislation, or other federal initiatives.
- **Client Communications.** We pride ourselves on providing personal service to all of our clients. TFG provides regular updates and reports on federal action and policy as well as ongoing communications regarding your federal agenda. Client managers are always available to talk with clients, and we tailor our communications to meet your needs.
- **Budget Advocacy.** TFG will seek funding for projects in budget requests of appropriate federal agencies.
- **Statutory Authorizations.** In the event that federal legislation is necessary to achieve points on a client's federal agenda, TFG supports the relevant congressional delegation and committees with information and materials to develop, advocate for and implement federal legislation and authorities.
- **Stakeholder Support.** TFG advises clients on obtaining and coordinating stakeholder support from key organizations or individuals, such as environmental groups or business interests, as may be necessary to implement our strategy or objectives.
- **Appropriations Advocacy –** Where federal funding assistance is appropriate to achieving client objectives, TFG provides necessary logistical and institutional support to the congressional delegation in pursuing federal funding requests.
- **Grant Services –** TFG provides the following grants support:
 - Identify appropriate grant opportunities.
 - Provide strategic advice shaping projects in accordance with federal priorities.
 - Build and leverage relationships within federal agencies yielding valuable information that may provide a competitive advantage.
 - Review draft grant proposals and provide feedback.
 - Partner with clients to prepare and submit competitive grant applications.

- o Secure congressional support for grant applications.

4. Morro Bay – Options for TFG Representation

We take this opportunity to outline two modes of representation: federal agenda building and retainer engagement. We stand ready to tailor our services and fine tune our professional fee structure to meet the City's needs and budget.

- **Federal Agenda Building.** Some of our new clients prefer to start our relationship by hiring us to help develop a federal agenda. In this mode, we travel to our client, meet with elected officials and staff to develop an understanding of all issues and projects, and then draft a federal agenda outlining an advocacy plan. We negotiate a single fee for agenda building services and normally complete work in a 30-60 day timeframe although we can adjust the timeframe to meet our client's needs. After reporting the agenda and advocacy plan, many of our clients choose to extend our agreement to carry forward the federal agenda. Again, we will work closely with you to refine and tailor our agenda building fee based upon your needs.

The following points outline the scope of services we will provide to Morro Bay should you decide to hire our firm to build your federal agenda:

- o Meet with Morro Bay officials and staff to define federal goals and objectives.
 - o Develop and deliver a written formal federal agenda and advocacy plan, including strategies on relevant legislation or regulations and funding goals.
- **Retainer Agreement.** Most of our clients hire us on a retainer basis to provide a full suite of federal representation services. We first meet with our clients to review their issues and projects and develop a federal agenda with a written action plan and milestones to help measure results. After the federal agenda is approved, our firm carries forward the agenda and provides regular updates and reports to our clients on our activities and progress. Our current monthly fees for professional services for retainer clients vary depending upon the time and intensity required to carry out the work plan associated with the federal agenda. We always work with our clients to ensure the fee is tailored to budgetary requirements while providing the client with the desired scope of services.

The following points outline the scope of services we will provide to Morro Bay should you decide to hire our firm on a retainer agreement basis:

- o Meet with Morro Bay officials and staff to define federal goals and objectives.
- o Develop a formal federal agenda, including strategies on relevant legislation or regulations and the funding goals to be accomplished, in order to meet client defined goals and objectives.
- o Serve as the liaison to the California congressional delegation, as well as facilitate meetings with key officials in Congress, the Administration, and the federal agencies.

- o Assist in the preparation of funding requests to Congress and the federal agencies, including what programs to target and how to properly frame the request to meet the criteria of the federal program.
- o Prepare briefing sheets, talking points and any other materials needed for meetings with Congress, the Administration, and federal agencies to discuss funding requests, regulatory targets, authorizing legislation, or other federal initiatives.
- o Organize trips to Washington, D.C. for Morro Bay officials and staff to advocate for the City's federal agenda, including scheduling all meetings and any logistics to make the trip run as smoothly as possible for the visiting Morro Bay representatives.
- o Assist in the preparation of testimony for committee hearings.
- o Draft responses to congressional inquiries and questionnaires, letters of support, and any other federal documentation needed, while meeting all deadlines, to ensure the successful implementation of Morro Bay's federal agenda.
- o Review and report on all pertinent pending legislation and regulations, including all committee meetings, hearings and conferences.
- o Attend relevant industry meetings in Washington, D.C. and elsewhere as needed to remain informed on the Morro Bay legislative and regulatory initiatives and in order to properly adjust strategies for maximum success.
- o Advocate aggressively throughout the legislative sessions.
- o Provide written, verbal, and electronic reports as agreed upon with the City, including but not limited to periodic local visits to review progress made on federal agenda and to develop the projects and related strategies for the upcoming year.
- o Provide specialized assistance with competitive grant applications.

<i>Option</i>	<i>Services</i>	<i>Cost</i>	<i>Engagement Period</i>
Federal Agenda Building & Advocacy Plan	Needs and opportunities analysis; deliver federal agenda with work plan.	Flat fee to be negotiated – recommend \$6000 Expenses to be negotiated and likely capped at \$1000 annually	60 days
Retainer Agreement	Build federal agenda; TFG advocacy; client advocacy support; DC trip coordination & support; TFG publications; grants support; all other services.	To be negotiated – likely to be in the \$4000 – \$5000 monthly retainer range To be negotiated – likely to be capped at \$4000 annually	1 – 2 years

February 1, 2017
City of Morro Bay

We are attaching brief biographies of members of TFG's Morro Bay Team and our TFG Water & Natural Resources Practice Team. We stand ready to talk with you about these options further and refine our proposal to meet your needs and budget.

On behalf of The Ferguson Group, thank you for giving us the opportunity to provide this proposal for your consideration. We hope you view our ideas and proposal favorably.

Sincerely,

Mike Miller
Partner

Biographies of TFG's Morro Bay Team

Mike Miller, Partner



Mike Miller is a partner at The Ferguson Group, specializing in water resources, water infrastructure, transportation, economic development, and environmental issues. Mike will serve as Morro Bay's primary TFG contact. While Mike has worked on most types of federal issues faced by local governments, his main focus and experience centers on infrastructure projects including water resources and transportation facilities. Mike has extensive experience dealing with very large and politically complex federal projects including wastewater and other water resources projects, highway and bridge construction, military construction, and base realignment and reuse.

Mike has helped local and regional governments work at the federal level for over 30 years, first as a congressional staffer, then as a land use attorney, and for the past 19 years as a federal lobbyist and partner at TFG. By way of example, Mike helped secure legislation waiving program population requirements which allowed a client to access over \$85 million in federal grants and loans to construct a new wastewater collection system and treatment facility. Mike also assisted one client secure over \$100 million and technical assistance from two federal agencies to build a \$140 million bridge in Northern California.

Before joining TFG, Mike served as counsel to U.S. Representative Robert T. Matsui, focusing on transportation, economic development, military base closure and reuse, flood control, water infrastructure, and environmental issues. He also practiced land use and environmental law in California.

Mike received his bachelor's degree with High Honors in Political Science from the University of California, his law degree from the College of William and Mary, and his Master of Laws degree from the University of the Pacific. Mike is member of the State Bar of California.

Joseph Raeder, Partner and Water and Natural Resources Practice Management Team Leader



Joe Raeder is a partner and the head of the firm's Water and Natural Resources Practice. Joe specializes in water resources and environmental issues, including legislation and policies affecting the U.S. Army Corps of Engineers and the Environmental Protection Agency. Among his clients are some of the largest water districts in the nation, as well as municipal water agencies, county groundwater authorities, and a coalition of agricultural water users in 17 western states. Joe manages some of the firm's most challenging, national water resource client concerns.

Joe joined TFG in 1994 after serving on Capitol Hill for more than 10 years in positions focused on water and natural resources issues. These include Legislative Director to U.S. Representative Calvin Dooley and the principal water and natural resources staffer to U.S. Representative Tony

February 1, 2017
City of Morro Bay

Coelho. Joe also served as Senior Staff Writer for the Congressional Environment and Energy Study Conference and later worked off the Hill as a program director for the Environmental and Energy Study Institute.

While at TFG, Joe has represented water agencies, counties, municipalities and associations on a variety of legislative, regulatory and appropriations matters. In 2009, Joe helped agricultural water agencies serving more than a million acres in Central California to win enactment of landmark legislation to settle a long-standing water supply conflict. Working for a major metropolitan county in Washington State, Joe led the effort to develop and enact legislation creating a new Corps of Engineers program to assist localities improve salmon habitat in the Puget Sound region. In the southwest, Joe worked with large irrigation and urban water agencies, federal authorities and congressional leaders on the development of the Quantification Settlement Agreement reorganizing the allocation of water from the Colorado River. Working with many of the same agencies, Joe later helped secure enactment of legislation to implement a multi-species habitat conservation program for the Lower Colorado River. As the Washington representative for the Family Farm Alliance, Joe was instrumental in securing policies and legislation that gave local authorities a greater voice in federal decisions affecting operations, maintenance, and safety improvements at Bureau of Reclamation water and power projects. In addition to legislative achievements, Joe has helped water agencies in negotiations with federal agencies on regulatory and contract matters and has led efforts to secure appropriations for flood control and water supply infrastructure projects.

Joe received a B.S. in Journalism, cum laude, from the University of Maryland at College Park in 1980.

W. Roger Gwinn, Chief Executive Officer and President



Roger Gwinn, will assist the Morro Bay team in the development and implementation of federal funding strategies to support the City's objectives. Recognized by *Influence Magazine* as one of Washington's six "Top Gun" appropriations lobbyists, Roger has spent his entire professional career in Washington. He joined TFG in 1993 after spending fifteen years on Capitol Hill. Roger worked on the staff of U.S. Representative L. Richardson Preyer

and then served as associate staff on the House Appropriations Committee and as legislative director to Congressman Vic Fazio, for whom he was responsible for water, energy, environmental protection, and natural resources issues.

Roger is a nationally recognized water infrastructure funding expert. In addition to managing the day-to-day operations of the firm, he represents public agency and private interests, specializing in community development and water resources. He also assists with representing many of TFG's appropriations clients. Roger is known for the development and implementation of innovative and successful strategies to meet the challenging and complex funding needs of TFG's clients.

Roger received his B.A. in Political Science from North Carolina State University. He was selected as a member of the inaugural class of the Stennis Congressional Staff Fellows Program,

February 1, 2017
City of Morro Bay

a bipartisan leadership development program for senior-level staff of the United States Congress. Roger also serves on the Board of Directors of eCivis.

The Hon. Mark A. Limbaugh, Partner and Managing Partner of Client Services



Mr. Limbaugh will assist the Morro Bay team in developing and implementing successful water resource and agency coordination strategies. Before joining TFG in 2007, Mr. Limbaugh served as Assistant Secretary for Water and Science at the Department of the Interior and was former Deputy Commissioner for External and Intergovernmental Affairs for the Bureau of Reclamation in Washington. These positions enabled Mr. Limbaugh to perform extensive budget preparation and priority setting responsibilities that included agency presentations to the Office of Management and Budget and congressional appropriations committees. During his extensive relationships with the Army Corps of Engineers, he worked closely with Corps headquarters and staff, and as Deputy Commissioner at the Bureau of Reclamation, he helped to draft and implement a memorandum of understanding between the Corps and Bureau that continues to provide the two agencies a foundation for a collaborative and cooperative working relationship. Mark routinely draws upon his experience with the Corps to assist TFG clients.

Prior to his federal service, Mark has accumulated over 22 years of on-the-ground experience in production agriculture, water, and natural resource issues, and has been actively involved in various state and federal water organizations throughout his career. Other key positions Mark has held include President of the Family Farm Alliance, Watermaster of Idaho's Payette River Basin, and Executive Director of the Payette River Water Users Association.

Mark earned his B.S. *cum laude* from the University of Idaho and has worked as a Certified Public Accountant.

Morro Bay Water Reclamation Facility



City of Morro Bay Water Reclamation Facility Project Overview January 17, 2017

David Buckingham
City Manager
City of Morro Bay
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Michael Nunley, P.E.
Morro Bay WRF Program Manager
MKN & Associates
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Presentation Overview



- Introduction
- Project Goals
- Existing Wastewater Treatment Plant (WWTP)
- Managed Retreat Overview
- New Water Reclamation Facility
- Reclamation Overview
- Water Independence
- Timeline and Funding
- Summary

A One-Water Future



The citizens of Morro Bay are taking measurable financial risk to affect managed retreat of a 62-year old Wastewater Treatment Plant from the beachfront, recover the water resource and reuse to achieve water independence.

- Leads managed retreat due to the effects of *climate-change*
- Mitigates environmental risk – coastal *flood and tsunami protection*
- Achieves *complete IPR reclamation* of 800af/year of effluent
- Employs *nitrate flushing* to purify a coastal freshwater aquifer
- Prevents *seawater intrusion* into the aquifer
- Provides an ideal site for *solar power* generation
- Supports long term *coastal stream enhancement*
- Relieves pressure on *state water* supplies – ~1300af/year
- Creates a 10+ acre *urban park*

Shovel Ready in Nov 2017



- Political will to execute – 5 of 5 Council committed to this project
- Received SWB Recycled Water Feasibility Study Grant (\$75K)
- Facility Master Plan, biological, & cultural studies completed for site
- EIR scoped & in progress – to be complete in Nov 2017
- Program management team under contract thru project completion
- City = History of success meeting grant requirements (Prop 50, etc)
- Approved for State Water Board planning loan (\$10M)
- Coastal Commission staff fully briefed and supportive
- Rate increase in place for \$70M project, 2nd increase in Jun 2017

WRF Project Community Goals



- **Produce Tertiary Disinfected Wastewater**
- **Produce Reclaimed Wastewater Cost-Effectively**
- **Allow for Onsite Composting (revised 2016)**
- **Design for Energy Recovery**
- **Design to Treat for Contaminants of Emerging Concern**
- **Allow for other Municipal Uses**

Existing WWTP

- WWTP is 62-Years Old
- Permit - expiring 301H waiver
- Dumps 1M gal/day of water into ocean
- Within 100-yr floodplain
- Situated in tsunami inundation zone
- Visible from PCH
- Contributes to upstream flooding
- Adjacent to:
 - High School
 - City Park
 - Coastal Campground
 - City Beach



Managed Retreat Overview

- Conducting managed retreat from coast
- Mitigating climate change risk
- New site is 2.5 miles from the beach
- 30-acre site under contract
- 2000 feet from nearest residents
- Ranchland location preserves view shed
- \$150M project , with 10K residents
 - ~\$110M environmental retreat
 - ~\$40M water reclamation project



New Water Reclamation Facility

- Facility Master Plan Approved Dec 2016
- Planned SBR/MBR w/ Advanced Treatment
 - Microfiltration
 - Reverse Osmosis
 - UV Disinfection
- ~800 af/year of reusable water
- Substantial solar energy opportunities
- Water and wastewater collection and treatment systems integrated physically and operationally



Reclamation Overview

- Hydrogeology studies of Morro Valley Groundwater Basin complete
- Identified sub-basin within city limits
- Existing city wells located in this basin
- No other users in the sub-basin
- Aquifer will accept 800 af/year via groundwater injection, 4 or 5 wells
- Injection will mitigate existing high-nitrate concern with the aquifer
- Modeling confirmed extraction of 1200 af/year with no seawater intrusion



Water Independence

- City's current H₂O requirement = ~1150 af/year
- Currently contracted for State Water – debt service paid off in ~2022
- WRF project to be complete in 2021
- City will be water independent
 - Reclaimed Water + Existing right = 1200+ af/year
 - Desal plant in place to remove nitrates
- WRF project to return 1300 af/year of water back to state (through agreements with other agencies)



Timing and Funding

Timeline – 5-year project complete in June 2021

- 2017 – EIR and Master Reclamation Plan
- 2018 – Design Build Construction Begins

Funding

- Planning for SRF Const. Loan (Dec 2017 submit application)
- Water / sewer rates increased in 2015 – rates doubled
- Further rate increase planned June 2017 – based on FMP #'s (\$\$)
- Residents increasingly concerned – could result in delay or abandonment of water-reuse component of the plan.
- Water reuse components ~25% of overall cost (~\$40M)



Summary

A Huge Project for a Small Community

- Addressing expiring 301H discharge waiver
- Responding seriously to the effects of *climate change*
- Mitigating environmental risks from *flooding and tsunami*
- *Reusing 800af/year of water* currently dumped into the ocean
- Mitigating *nitrate contamination* of existing aquifer
- Protecting existing aquifer from *seawater intrusion*
- Providing opportunities for *solar power generation*
- Returning ~1300af/year of *State Water for another user*
- Creating a 10+ acre urban park



Needs and Questions

- Grant Funding –
 - Need to assist small community with essential project
 - What state grant opportunities exist?
 - Who else should we talk to?
 - Political assistance?
 - Other grant or partnership opportunities: Federal? Non-profit?
- Support for SRF loan application – how can we help?
 - 30-year amortization.
- SWRCB support for required regulatory approvals and permits



BACK-UP SLIDES

WRF Looking South



WRF

Looking Southeast



View From Highway 1 Heading West Just East of South Bay Boulevard



WEST 2

Priority List

Emergency & National Security Projects

President-elect Trump

Basic Metrics - Running Total/ Initial 50 Projects

- ☑ Total Investment: \$137.5 Billion
- ☑ Private Investment: 50%
- ☑ Jobs
 - ☑ Direct: 193,350 job years
 - ☑ Indirect (est.): 241,700 job years
 - ☑ Long-term:

1. Gateway Program

1. Description: Reconstruction of critical, high-risk Northeast Corridor rail infrastructure between Newark and New York City

2. Authority: Amtrak, Port Authority of New York & New Jersey (Gateway Development Corporation)

3. Cost: \$12 billion

4. Jobs: 15,000 Direct Jobs; 19,000 Indirect Jobs; Average = \$73,000 / yr

5. Status

5.1. Engineering: in progress

5.2. Permitting: in progress

5.3. Funding: seeking Federal



2. The Brent Spence Bridge

1. Description: The interstate highway bridge was built in 1963 and is carrying twice its original capacity. There are no shoulders on the bridge and the lanes are too narrow for today's traffic. It is the major cause of delays on I-75 and the site of numerous fatal auto accidents. The FHWA ranks it as the 15th worst bridge in the country.

2. Authority: Ohio and Kentucky DOT

3. Cost: \$2.5 billion

4. Jobs: 2,200 Direct Jobs

5. Status

5.1. Engineering: in progress

5.2. Permitting: in progress

5.3. Funding: seeking Federal



3. National Research Lab for Infrastructure

1. Description: Conceived along the lines of the old Bell Labs, this R&D center would develop and commercialize infrastructure technology of the future. The lab would be sited in Columbus, Ohio and work closely with Ohio State University National Transportation Research Center and Battelle Labs.

2. Authority: U.S. Infrastructure Commission

3. Cost: \$2 billion

4. Jobs: 2,300 Direct Jobs

5. Status

5.1. Engineering: in progress

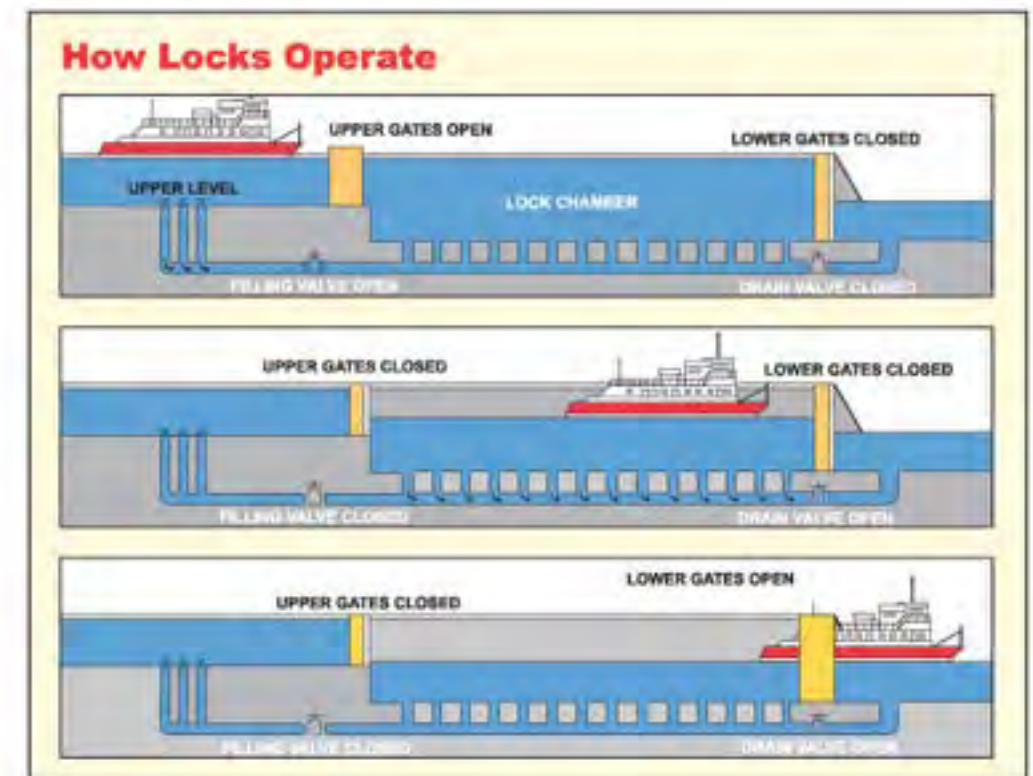
5.2. Permitting: in progress

5.3. Funding: seeking Federal



4. Locks and Dams 52 and 53 on the Ohio River

1. Description: This USACE project has been in development for 30 years and addresses the choke point for all barge traffic on the Ohio/Mississippi Rivers. Delays are up to three days, significantly increasing costs and making U.S. producers less competitive in the global commodities market.
2. Authority: U.S. Army Corps of Engineers
3. Cost: \$3 billion
4. Jobs: 1,500 Direct Jobs
5. Status: Construction underway
 - 5.1. Engineering: Complete
 - 5.2. Permitting: Complete
 - 5.3. Funding: Annual Federal, constrains pace of work



5. I-95 Critical Highway Repairs, North Carolina

1. Description: This was one of the first sections of I-95 built and is ranked by the Federal Highway Administration as a top priority and one of the most critical highway repairs needed. I-95 is the busiest interstate in the nation, and this section is a major freight corridor.

2. Authority: NC DOT

3. Cost: \$1.5 billion

4. Jobs: 5,400 Direct Jobs

5. Status

5.1. Engineering: in progress

5.2. Permitting: in progress

5.3. Funding: seeking Federal



6. 15 Bridges on I-95, Philadelphia

1. Description: All 15 bridges are structurally deficient and need to be repaired or replaced.
2. Authority: Pennsylvania DOT
3. Cost: \$8 billion
4. Jobs: 15,800 Direct Jobs
5. Status
 - 5.1. Engineering: in progress
 - 5.2. Permitting: in progress
 - 5.3. Funding: seeking Federal



7. Mississippi River Shipping Channel Dredging, South Louisiana

1. Description: The complex of ports and shipping facilities located along the Mississippi River in South Louisiana is the largest in the Western Hemisphere by tonnage, connecting 31 up-river states to global markets. However, the Mississippi River Ship Channel depth is not sufficient to accommodate the deep-draft vessels now transiting the expanded Panama Canal, hurting the competitiveness of the ports and the inland industries dependent on them. Congress authorized a 50-foot channel depth in 1985, but the work has never been funded.

2. Authority: Port of South Louisiana/USACE

3. Cost: \$1 billion

4. Jobs: 200 Direct Jobs

5. Status

5.1. Engineering: in progress

5.2. Permitting: in progress

5.3. Funding: seeking Federal



8. NextGen Air Traffic Control System

1. Description: Replacing outdated radar-based systems with satellite-based systems to increase air traffic capacity by 50%, shorten flight times, save billions in fuel and make the system safer and more efficient.

2.. Authority: FAA

3. Cost: \$10 billion

4. Jobs: 2,300 Direct Jobs

5. Status

5.1. Engineering: in progress

5.2. Permitting: in progress

5.3. Funding: seeking Federal



9. Plains and Eastern Electric Transmission Lines

1. Description: This 720-mile transmission line will move cheap, clean, wind power energy from the Oklahoma panhandle to Memphis, Tennessee. This is a national security project that can add resiliency to our electrical grid. The project will deliver enough low-cost clean energy for more than 1 million homes in the mid-South.

2. Authority: Clean Line Energy Partners

3. Cost: \$2.5 billion

4. Jobs: 3,300 Direct Jobs

5. Status

5.1. Engineering: in progress

5.2. Permitting: in progress

5.3. Funding: private



10. Project Clean Lake, Cleveland

1. Description: Seven new water tunnels would provide relief to Cleveland's antiquated system which is overwhelmed by even moderate rainfall and feeds contaminated water into Lake Erie.
2. Authority: Northeast Ohio Regional Sewer District
3. Cost: \$3 billion
4. Jobs: 2,150 Direct Jobs
5. Status
 - 5.1. Engineering: in progress
 - 5.2. Permitting: in progress
 - 5.3. Funding: seeking Federal



How big will the tunnels be?

Our 25-year program to reduce Lake Erie pollution includes seven huge tunnel projects. Here are their finished diameters:



@neorsd
#neorsdECT
neorsd.org/cleanlake



11. South Carolina Dams Accelerated Repairs

1. Description: In 2015, heavy rains breached 50 dams and caused widespread damage. The Army Corps assessed over 600 dams as either high or significant hazards.
2. Authority: U.S. Army Corps of Engineers
3. Cost: \$850 million
4. Jobs: 2,200 Direct Jobs
5. Status
 - 5.1. Engineering: in progress
 - 5.2. Permitting: in progress
 - 5.3. Funding: seeking Federal



12. Hydroelectric Plants operated by the U.S. Army Corps of Engineers

1. Description: The Corps produces revenue of \$5 billion per year from hydro plants they own and operate throughout the country. These power plants are operating at 80% efficiency and the industry average is 99%. Billions of dollars of revenue are being wasted by not maximizing this opportunity. The turbines are 50 years old and replacing them will dramatically increase the production of clean energy desperately needed.
2. Authority: U.S. Army Corps of Engineers
3. Cost: \$4 billion
4. Jobs: 550 Direct Jobs
5. Status
 - 5.1. Engineering: in progress
 - 5.2. Permitting: in progress
 - 5.3. Funding: seeking Federal



13. Texas Central Railway

1. **Description:** Nearly 50,000 Texans, sometimes called “super-commuters,” travel back and forth between Houston and Dallas / Fort Worth more than once a week. Many others make the trip very regularly. The approximately 240-mile high-speed rail line will offer a total travel time of less than 90 minutes, with convenient departures every 30 minutes during peak periods each day, and every hour during off-peak periods – with 6 hours reserved each night for system maintenance and inspection.

2. **Authority:** Texas Central Partners, LLC

3. **Cost:** \$12 billion

4. **Jobs:** 40,000 Direct Jobs

5. **Status**

5.1. Engineering - in progress

5.2. Permitting - in progress

5.3. Funding - in progress



**TEXAS
CENTRAL
RAILWAY**
AMERICA'S BULLET TRAIN

14. Cotton Belt Line Rail Project

1. **Description:** The Cotton Belt Rail Line is a planned 67.7-mile commuter rail line to provide service from Dallas's northeast suburbs to Southwest Fort Worth with a major terminal at the north end of Dallas/Fort Worth International Airport.
2. **Authority:** Dallas Area Rapid Transit
3. **Cost:** \$1.1 billion (\$2.8 billion if not single tracked)
4. **Jobs:** 2,000 direct jobs
5. **Status**
 - 5.1. Engineering - in progress
 - 5.2. Permitting - complete
 - 5.3. Funding - seeking federal



15. Cadiz Water Conveyance Project

1. **Description:** The Cadiz Valley Water Conservation, Recovery and Storage Project is designed to capture and conserve billions of gallons of renewable native groundwater flowing beneath Cadiz-controlled property in California's Mojave Desert that is currently being lost to evaporation and salt contamination at nearby dry lakes.

2. **Authority:** Cadiz Inc.

3. **Cost:** \$250 Million

4. **Jobs:** 5,900 direct jobs

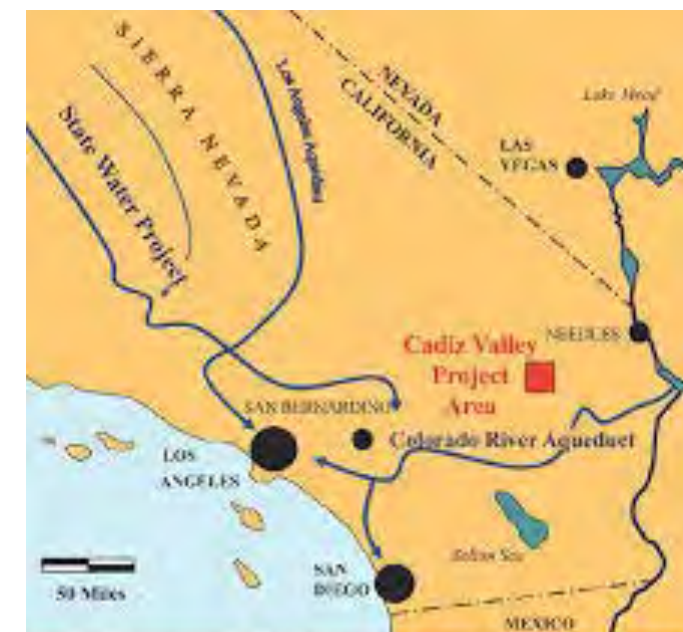
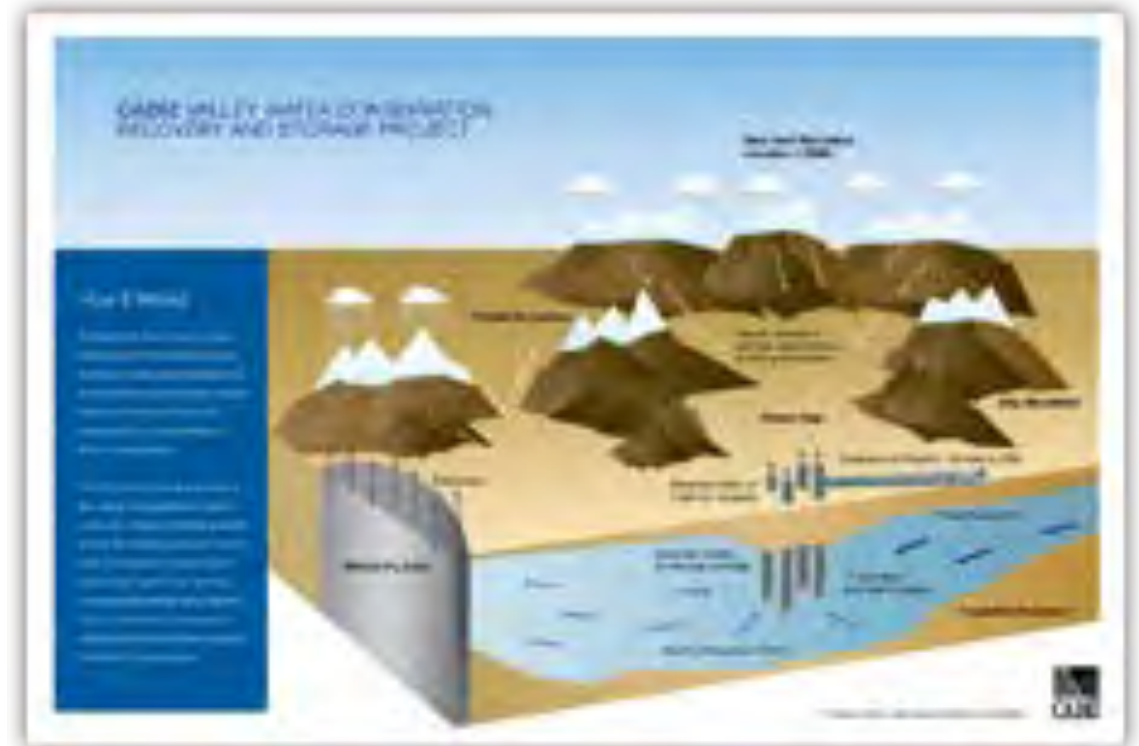
5. **Status**

5.1. Engineering - done

5.2. Permitting - 95%

5.3. Funding - private

Note: Two additional projects worth \$1.4 billion available.



Southern California receives about 60% of its water from the Colorado River. The proposed Cadiz Project would augment the river's water delivery via the system's current infrastructure.

16. TransWest Express Transmission

1. **Description:** The TransWest Express Transmission Project is a high-voltage, direct current regional electric transmission system proposed by TransWest Express LLC. The TWE Project will reliably deliver cost-effective renewable energy produced in Wyoming to the Desert Southwest region (California, Nevada, Arizona).
2. **Authority:** TransWest Express, LLC (Anschutz)
3. **Cost:** \$3 billion
4. **Jobs:** 3,000 direct jobs; indirect 4,000
5. **Status**
 - 5.1. Engineering - done
 - 5.2. Permitting - 95%
 - 5.3. Funding - private



17. Chokecherry and Sierra Madre Wind Energy/Wyoming

1. **Description:** Power Company of Wyoming LLC's Chokecherry and Sierra Madre Wind Energy Project is an up-to-1,000-turbine wind farm to be located south of Sinclair and Rawlins in Carbon County, Wyoming.
2. **Authority:** Wyoming Power Company (Anschutz)
3. **Cost:** \$5 billion
4. **Jobs:** 1,000 direct jobs
5. **Status**
 - 5.1. Engineering - done
 - 5.2. Permitting - 95%
 - 5.3. Funding - private



18. Second Avenue Subway - Phases 2 & 3

1. **Description:** The Second Avenue Subway will be New York City's first major expansion of the subway system in over 50 years. When fully completed (see phases at right), the line will stretch 8.5 miles along the length of Manhattan's East Side, from 125th Street in Harlem to Hanover Square in Lower Manhattan.
2. **Authority:** New York Metropolitan Transit Authority (MTA)
3. **Cost:** \$14.2 billion
4. **Jobs:** 16,000 direct jobs
5. **Status**
 - 5.1. Engineering - done
 - 5.2. Permitting - 95%
 - 5.3. Funding - public/seeking federal



19. Savannah Harbor Expansion Acceleration

1. **Description:** After more than 15 years of study, construction has begun on the Savannah Harbor Expansion Project (SHEP), which will deepen the 18.5-mile outer harbor to 49 feet at mean low water and the Savannah River channel to 47 feet. Note: took 17 years to move through the approval process.

2. **Authority:** Georgia Ports Authority / USACE

3. **Cost:** \$706 million

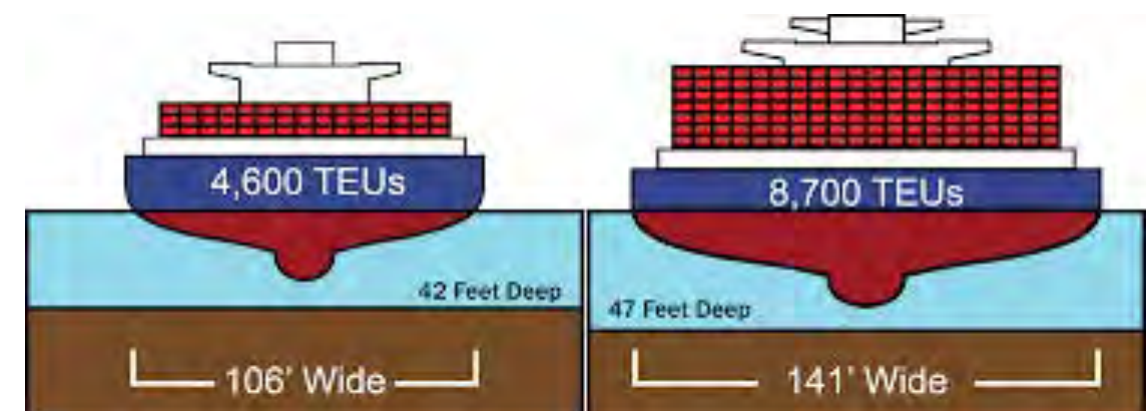
4. **Jobs:** 2,400 direct jobs; 11,000 indirect

5. **Status**

5.1. Engineering - done

5.2. Permitting - done

5.3. Funding - public - state & federal



20. Atlantic Coast Pipeline

1. Description: The Atlantic Coast Pipeline (ACP) is an interstate natural gas pipeline that will serve multiple public utilities and their urgent energy needs in Virginia and North Carolina.

2. Authority: Dominion Energy

3. Cost: \$4.5 - \$5 billion

4. Jobs: 10,000 direct job years

5. Status

5.1. Engineering - done

5.2. Permitting - done

5.3. Funding - private/utility

**Atlantic
Coast
Pipeline**



21. Champlain Hudson Power Express

1. **Description:** The Champlain Hudson Power Express project will bring up to 1,000 megawatts (MW) of clean, renewable power to the New York metro area.
2. **Authority:** Transmission Developers, Inc. (Blackstone)
3. **Cost:** \$2.2 billion
4. **Jobs:** 1,000 direct job years
5. **Status**
 - 5.1. Engineering - done
 - 5.2. Permitting - 85%
 - 5.3. Funding - done/private

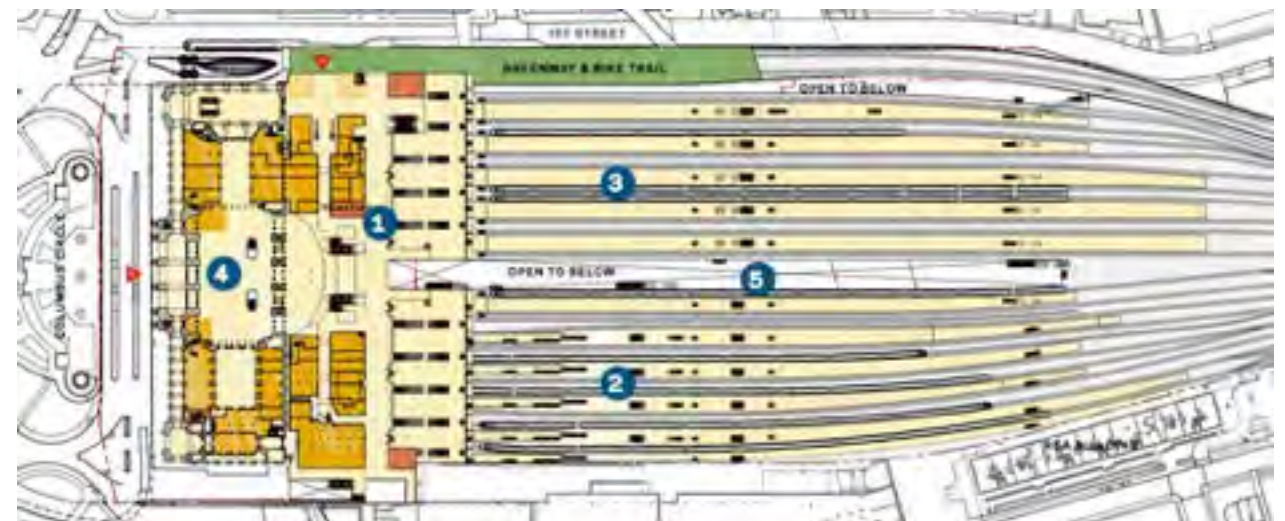


22. DC Union Station Expansion & Rehab

1. **Description:** Modernization of Union Station including surrounding rail infrastructure.
2. **Authority:** Amtrak
3. **Cost:** \$8.7 billion
4. **Jobs:** 16,000 direct job years
5. **Status**

- 5.1. Engineering - done
- 5.2. Permitting - 75%
- 5.3. Funding - public, private

Note: There are multiple multimodal terminals, including Chicago, Los Angeles and New York - this would be a model



23. Maryland Purple Line

1. **Description:** The Purple Line is a 16-mile light rail line that will extend from Bethesda in Montgomery County to New Carrollton in Prince George's County. It will provide a direct connection to three Metrorail lines, as well as MARC, Amtrak, and local bus services.

2. **Authority:** Maryland Transit Administration

3. **Cost:** \$5.6 billion

4. **Jobs:** 5,000 direct job years

5. **Status**

5.1. Engineering - done

5.2. Permitting - 95%

5.3. Funding - PPP (large federal share)



24. M-1 Rail, Detroit

1. **Description:** Detroit's M-1 RAIL is an unprecedented public-private partnership and model for regional collaboration. Notably, it is the first major transit project being led and funded by both private businesses and philanthropic organizations, in partnership with local government, the State of Michigan, and the U.S. Department of Transportation.

2. **Authority:** City of Detroit

3. **Cost:** \$528 million

4. **Jobs:** 500 direct job years

5. **Status**

5.1. Engineering - done

5.2. Permitting - 95%

5.3. Funding - Seeking Federal



25. Gordie Howe International Bridge

1. **Description:** The crossing will connect Interstates 75 and 94 in Michigan with the newly built Herb Gray Parkway connection in Ontario. This will allow faster traffic flow than the current configuration, which connects to city streets on the Canadian side. A Canadian federal Crown corporation, the Windsor-Detroit Bridge Authority, was established in 2012 to handle the procurement process. The project was approved by the US government in April 2013, is currently in procurement, and has been delayed by land acquisition issues.

2. **Authority:** Windsor-Detroit Bridge Authority, Michigan DOT

3. **Cost:** \$4.5 billion

4. **Jobs:** 13,000 direct job years; 10,000 indirect job: (Canada)

5. **Status**

- 5.1. Engineering - done
- 5.2. Permitting - 95%
- 5.3. Funding - PPP



26. Kansas City Airport

1. Description: The business case for a new terminal was bolstered after Southwest and the other airlines told the City Council on April 26 that they would finance the nearly \$1 billion new terminal, to be built where the mothballed Terminal A is now.

2. Authority: The City of Kansas City

3. Cost: \$972 million

4. Jobs: 1,000 Direct Jobs

5. Status

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



New vs. renovation

New terminal, plan A: \$964 million



New terminal, plan B: \$972 million*



*requires additional construction steps

- Builds a new centralized terminal at the current Terminal A site
- Provides separate arrivals and departures roadways and curbs
- Builds a new centralized parking garage
- Reuses Terminal B garage

Renovation, plan A: \$1.191 billion



Renovation, plan B: \$1.046 billion



- Reuses existing Terminal A and B concourses
- Builds new, two-level central security processor
- Provides separate arrivals and departures roadways
- Plan A has parking garages for each terminal
- Plan B reuses portions of existing A and B garages

Source: Kansas City presentation

THE KANSAS CITY STAR

27. The Peace Bridge

1. Description: An international border crossing, carrying vehicular and pedestrian traffic across the upper Niagara River between Fort Erie, Ontario, Canada, and Buffalo, New York, United States of America. 3 lane toll road bridge constructed in 1927, and measures 3,998 feet (1,219 m) long over 49 spans.
2. Authority: Buffalo and Fort Erie Public Bridge Authority
3. Cost: \$700 million
4. Jobs: 700 Direct Jobs
5. Status
 - 5.1. Engineering: In progress
 - 5.2. Permitting: In progress
 - 5.3. Funding: In progress



28. MBTA Green Line Extension, Boston

1. Description: The 4.3-mile (6.9 km) extension is intended in order to improve mobility and regional access for residents in the densely populated municipalities of Somerville and Medford, two cities currently underserved by the MBTA relative to their population densities, commercial importance, and proximity to Boston.

2. Authority: MBTA

3. Cost: \$3 billion

4. Jobs: 3,000 Direct Jobs

5. Status

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



29. Augustin Plains Ranch

1. Description: The demand for water in our state already surpasses its availability, and the situation is becoming even more dire due to extreme drought. That is why the project's supporters and sponsors are committed to developing this much-needed resource on behalf of all New Mexicans. This state-of-the-art, eco-friendly project will be unique, producing its own power for operation through hydropower and solar energy. But more importantly, the project will create a new, sustainable and abundant source of water independent of compacts with other states.

2. Authority: Augustin Plains Ranch, LLC

3. Cost: \$600 million

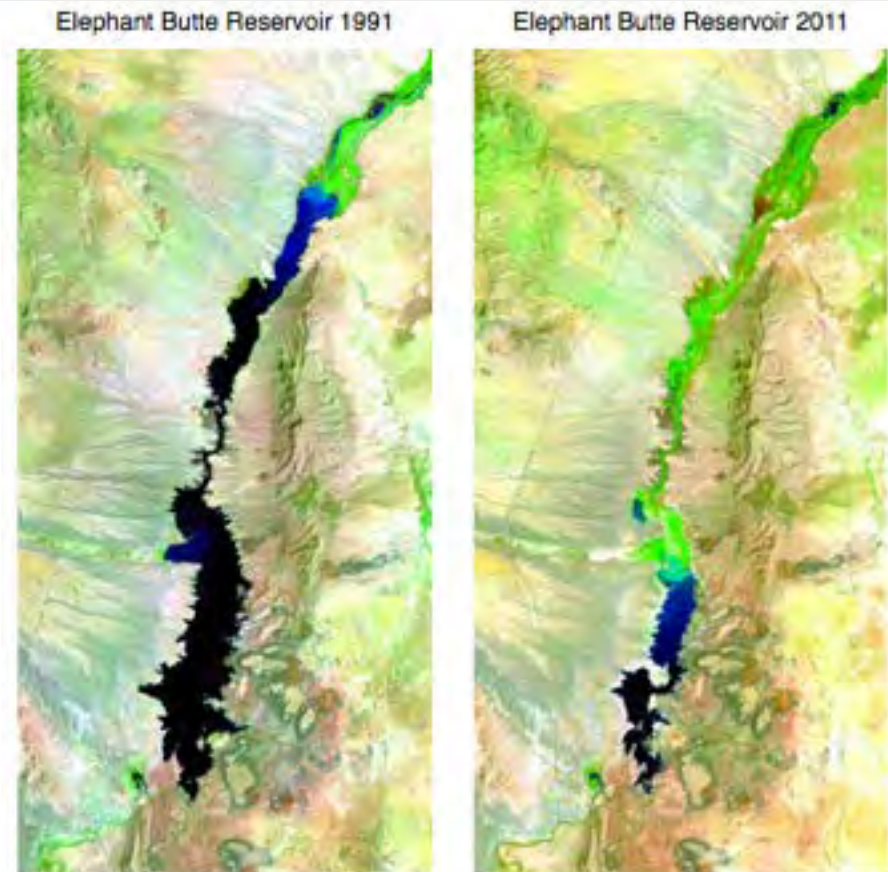
4. Jobs: 600 Direct Jobs

5. Status

5.1. Engineering: In progress

5.2. Permitting: In progress

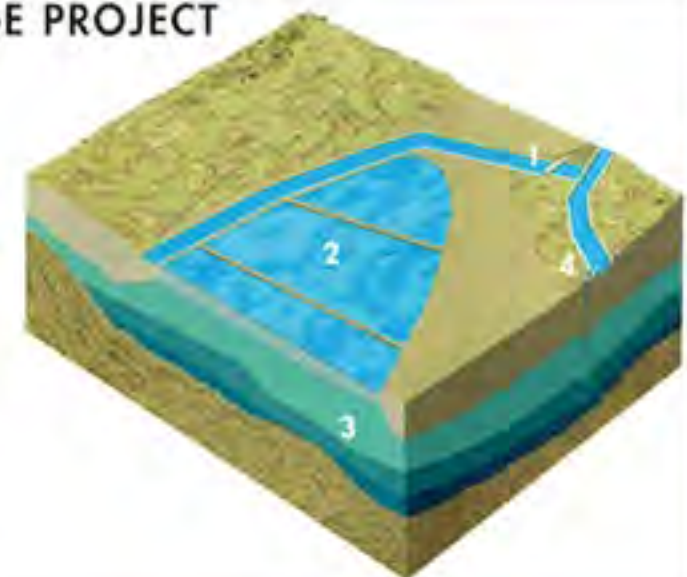
5.3. Funding: In progress



UNDERGROUND STORAGE PROJECT

How underground water storage works

- 1 Water is delivered by canal to recharge basins.
- 2 Water percolates through the porous sand and gravel above to the water table.
- 3 The water reaches the underground aquifer, where it is stored.
- 4 As need arises, water can be pumped out and returned to the canal for delivery.



30. I-93 Rebuild, New Hampshire

1. Description: One of the most ambitious projects that the New Hampshire Department of Transportation (NHDOT) has ever undertaken: the widening of a 20 mile segment of I-93 between Exits 1 and 5 from the Massachusetts Stateline to Manchester, NH. The overall goal of this project is simple: to make the I-93 corridor safer and to improve mobility.

2. Authority: NHDOT

3. Cost: \$800 million

4. Jobs: 800 Direct Jobs

5. Status

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



31. Lake Pontchartrain Bridge/Causeway

1. Description: The Causeway Spans 24 miles and is the longest bridge over water in the world. The bridge's parallel spans are made of prestressed panels supported by over 9,000 concrete pilings.
2. Authority: The Greater New Orleans Expressway Commission (GNOEC)
3. Cost: \$125 million
4. Jobs: 200 Direct Jobs
5. Status
 - 5.1. Engineering: In progress
 - 5.2. Permitting: In progress
 - 5.3. Funding: In progress



32. Port Newark Container Terminal Improvements

1. Description: As one of the largest infrastructure projects in New Jersey, PNCT will invest \$500 million into the expansion before the year 2030. The expansion is expected to double the number of containers moving through the terminal, creating significant economic growth within the region. Further expansion plans include the development of 74 additional acres, a new gate facility, additional berth deepening and upgraded container handling equipment including additional super post-Panamax ship-to-shore cranes.
2. Authority: PNCT, Port Authority of New York/New Jersey
3. Cost: \$500 million
4. Jobs: 500 Direct Jobs
5. Status
 - 5.1. Engineering: In progress
 - 5.2. Permitting: In progress
 - 5.3. Funding: In progress



33. Howard Street Tunnel

1. Description: Height restrictions within CSX's Howard Street Tunnel currently prevent the shipment of double-stacked intermodal containers (two shipping containers stacked on top of each other) by rail to and from the Port of Baltimore. This puts Baltimore at a competitive disadvantage as all other major East Coast ports have double-stack rail capacity.

2. Authority: CSX Inc., MDOT

3. Cost: \$425 million

4. Jobs: 500 Direct Jobs, 3,200 Indirect Jobs

5. Status

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



34. Red and Purple Line Modernization, Chicago

1. Description: This major initiative will completely rebuild the nearly century old North Red Line from Belmont to Howard and the Purple Line from Belmont to Linden in Wilmette. As it is rebuilt, much needed capacity will be added in this growing residential corridor to accommodate current and future riders, and to deliver faster and smoother rides with less crowding and more frequent service.



2. Authority: Chicago Transit Authority

3. Cost: \$2.1 billion

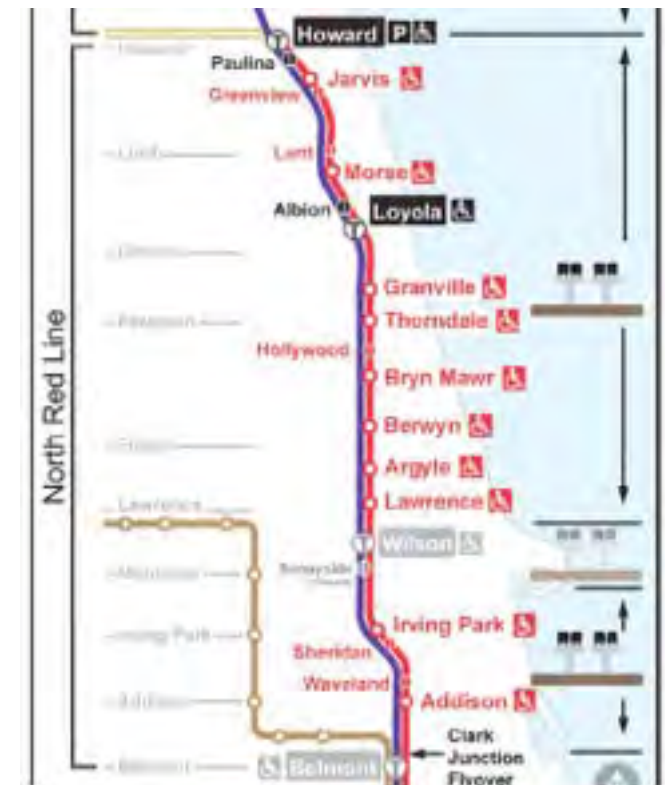
4. Jobs: 2,100 Direct Jobs

5. Status

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



35. I-395/I-95 Reconstruction

1. Description: The projects are the I-395 Reconstruction Project and I-95 Pavement Reconstruction projects and the Miami-Dade Expressway Authority (MDX) project includes the SR 83611 project.
2. Authority: FDOT
3. Cost: \$800 million
4. Jobs: 800 Direct Jobs
5. Status
 - 5.1. Engineering: In progress
 - 5.2. Permitting: In progress
 - 5.3. Funding: In progress



36. Chicago Union Station Redevelopment

1. Description: Union Station is one of the region's key transportation facilities and economic drivers. It is the third-busiest railroad terminal in the United States, serving over 300 trains per weekday carrying about 120,000 arriving and departing passengers – a level of passenger traffic that would rank it among the ten busiest airports in the U.S. Most travelers at Union Station take Metra commuter trains. The Station is also the hub of Amtrak's network of regional trains serving the Midwest as well as most of the nation's overnight trains, which connect to the Atlantic, Gulf, and Pacific coasts.

2. Authority: Amtrak, City of Chicago

3. Cost: \$1 billion

4. Jobs: 1,000 Direct Jobs

5. Status

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



37. Upper Mississippi Locks 20-25

1. Description: The maintenance needs of this aging infrastructure have surpassed annual operations and maintenance funding. This limited funding has adversely affected reliability of the system and has primarily resulted in a fix-as-fail strategy, with repairs sometimes requiring days, weeks or months. Depending on the nature of a failure and extent of repairs, shippers, manufacturers, consumers and commodity investors can experience major financial consequences. Additionally, today's 1,200'-long tows must split and lock through in two operations within the Project's 600' chambers. This procedure doubles and triples lockage times, increases costs and wear to lock machinery, and exposes deckhands to higher accident rates.

2. Authority: USACE

3. Cost: \$1.8 billion

4. Jobs: 1,800 Direct Jobs

5. Status

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



38. Illinois River Locks - Lagrange and Peoria

1. **Description:** A Rehabilitation Evaluation Report was approved in August 2005. A preliminary schedule of work has been developed with construction spanning over a three year period. Three lock closures will be required with two of the three closures involving lock dewatering.

2. **Authority:** USACE

3. **Cost:** \$640 million

4. **Jobs:** 650 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



39. Colorado I-70 Mountain Corridor

1. **Description:** Part of CDOT's comprehensive plan to improve travel in the I-70 Mountain Corridor, this project will upgrade 13 miles of eastbound I-70 within CDOT's existing right-of-way. The upgrades will create the I-70 Mountain Express Lane—a wide shoulder that, only during peak travel periods, will operate as a third travel lane.

2. **Authority:** CDOT

3. **Cost:** \$1 billion

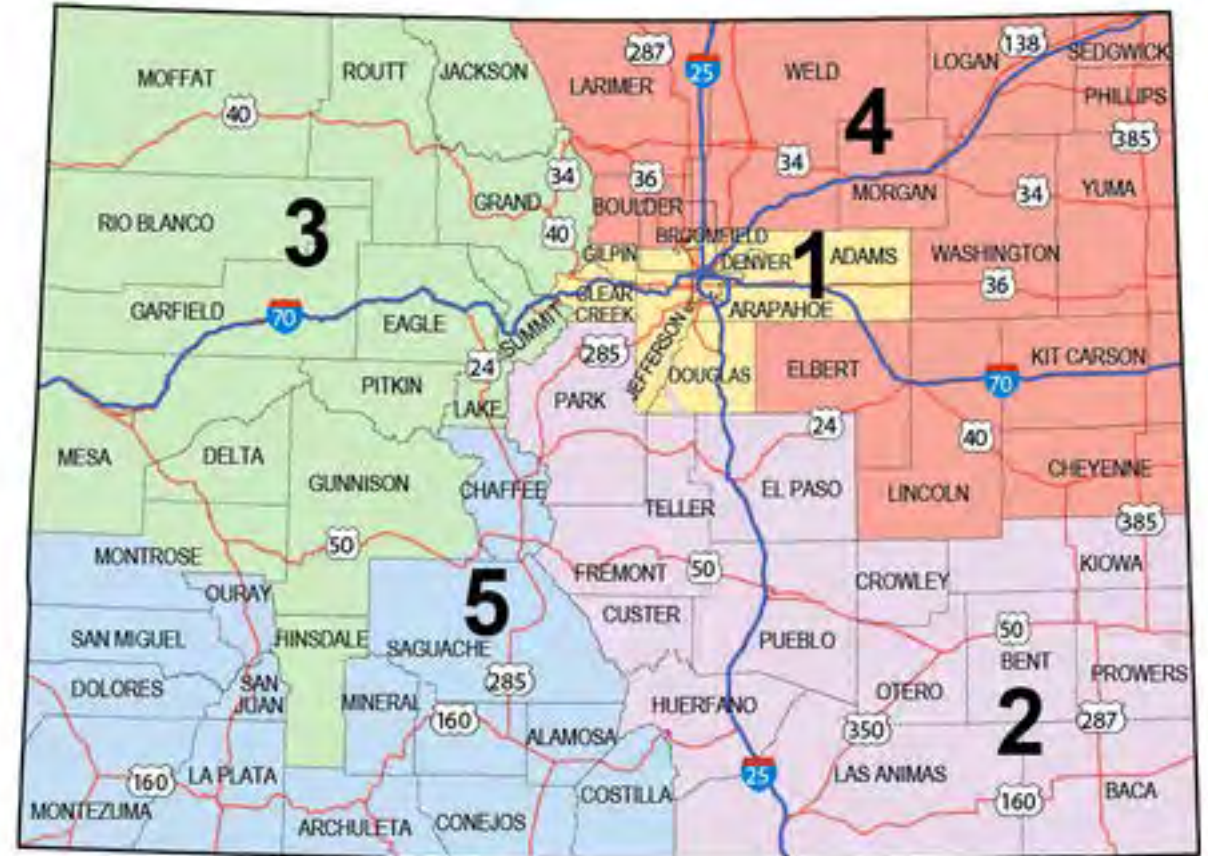
4. **Jobs:** 1,000 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



40. Colorado I-25 Improvements

1. **Description:** The Colorado Department of Transportation has identified \$9 billion in unfunded priorities, including widening I-25 between Monument and Castle Rock, measured against a \$1.41 billion budget next year.

2. **Authority:** CDOT

3. **Cost:** \$1 billion

4. **Jobs:** 1,000 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



41. IHNC Lock Replacement, New Orleans

1. **Description:** The current lock, built in 1921 but not opened until 1923, is too small to accommodate modern day vessels. The planned replacement lock could provide a nearly three-fold increase in lock chamber capacity easing transport through this high-traffic waterway.

2. **Authority:** USACE

3. **Cost:** \$893 million

4. **Jobs:** 900 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



42. Chickamauga Lock

1. **Description:** Owned by the Tennessee Valley Authority and operated by the U.S. Army Corps of Engineers. Upstream of Chickamauga Lock are 318 miles of navigable waterway used to transport materials to and from industries, TVA facilities and the Department of Energy facilities at Oak Ridge. A concrete aggregate problem causes structural concerns at the existing lock, and will result in closure of the lock at some point. Also, the existing 60-foot by 360-foot lock is a non-standard size that is not suited to the barges used by the transportation industry today. The new 110-foot by 600-foot Chickamauga Lock, designed and constructed by the U.S. Army Corps of Engineers Nashville District, will replace the existing lock, improve locking efficiency, and solve the structural issues caused by the concrete aggregate at Chickamauga Lock.

2. **Authority:** USACE

3. **Cost:** \$383 million

4. **Jobs:** 400 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



43. Soo Locks Reconstruction

1. **Description:** A recent Department of Homeland Security report predicted an unscheduled six-month outage of the Poe Lock would cripple the U.S. economy, cost 11 million jobs and shut down almost all North American appliance, automobile, construction, farm and mining equipment, and railcar production within weeks. A six-month outage could increase unemployment by 18 to 22 percent in the Great Lakes region, according to the report. On the flip side, building a new lock would generate 15,000 jobs in the eastern U.P.

2. **Authority:** USACE

3. **Cost:** \$580 million

4. **Jobs:** 600 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



44. Huntington Beach Desalination Plant

1. **Description:** A cost-effective, environmentally sensitive solution to provide a safe and reliable water supply to Orange County residents and has the potential to bring significant economic benefits for the city of Huntington Beach and the region

2. **Authority:** Poseidon Water

3. **Cost:** \$350 million

4. **Jobs:** 400 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



45. Upper Ohio Navigation Improvements

1. **Description:** The Upper Ohio Navigation Study recommends for Congressional authorization the National Economic Development (NED) plan for improving the upper Ohio River navigation system, specifically the Emsworth, Dashields and Montgomery Locks and Dams. Emsworth, Dashields and Montgomery, each constructed prior to 1936, are the first three locks and dams on the Ohio River just below Pittsburgh's Point. These facilities have the oldest and smallest lock chambers in the entire Ohio River Navigation System.

2. **Authority:** USACE

3. **Cost:** \$1.7 billion

4. **Jobs:** 1,700 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



46. Monongahela River Locks-and-Dams

1. **Description:** Charleroi Locks and Dam consists of two lock chambers and a gated dam. This type of dam is constructed to permit increased control over the water level in the navigation pool upriver of the dam. Machinery mounted on tall concrete piers moves large chains which lift gates that are hinged into the body of the piers. As the gates are raised or lowered to control the amount of water flowing under them, the upstream pool is maintained at a relatively constant level for an authorized depth of at least 9 feet throughout its length. The dam, however, cannot be operated to control flood flows. An incidental benefit derived from the pool formed by the dam is the availability of a source of municipal and industrial water.

2. **Authority:** USACE

3. **Cost:** \$900 million

4. **Jobs:** 900 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



47. Seattle Airport Expansion

1. Description: Sea-Tac's Sustainable Airport Master Plan is a long-term blueprint for airport development to meet the needs of the traveling public, while reducing environmental and social impacts. The plan includes airfield development within the current three-runway configuration, terminal development, roadway improvements, and facility modernization and expansion possibilities. Completion of the plan will make Sea-Tac the first large hub U.S. airport to fully incorporate sustainability as a key planning component.

2. Authority: Port of Seattle, City of Seattle

3. Cost: \$2 billion

4. Jobs: 2,000 Direct Jobs

5. Status

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



48. Arlington Memorial Bridge

1. **Description:** The condition of Arlington Memorial Bridge is degrading quickly. The Memorial Bridge has reached the end of its design life and requires extensive rehabilitation, to include full replacement of its center span. Corrective measures are needed now to keep the structure open to the public until the rehabilitation can be performed.

2. **Authority:** NPS

3. **Cost:** \$250 million

4. **Jobs:** 300 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



49. Energy Storage and Grid Modernization

1. **Description:** Fearing blackouts, the California Public Utilities Commission has mandated a series of mitigation measures, including an expedited procurement for local energy storage resources. The more renewable energy that can be stored during the day, the less need to fire up fossil fuel generators as electricity demand increases in the evening.

2. **Authority:** National

3. **Cost:** Variable

4. **Jobs:** Variable

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress



50. St. Louis Airport

1. **Description:** The St. Louis Airport Commission approved a major development project at Lambert-St. Louis International Airport that is geared to be a catalyst for international cargo activity and jobs by expanding Lambert's aviation facilities and capabilities on the north side of the airfield. The project will generate more than \$13.5 million in lease revenue alone, over the initial term of the agreement.

2. **Authority:** St. Louis Airport Commission

3. **Cost:** \$1.8 billion

4. **Jobs:** 1,800 Direct Jobs

5. **Status**

5.1. Engineering: In progress

5.2. Permitting: In progress

5.3. Funding: In progress

