



CITY OF MORRO BAY CITY COUNCIL AGENDA

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

Regular Meeting Tuesday, September 26, 2023 – 5:30 P.M. Veterans Memorial Hall 209 Surf St., Morro Bay, CA

Public Participation:

Public participation is allowed in the following ways:

- *Community members may attend the meeting in person at the Morro Bay Veterans Hall.*
- *Alternatively, members of the public may watch the meeting and speak during general Public Comment or on a specific agenda item by logging in to the Zoom webinar using the information provided below. Please use the “raise hand” feature to indicate your desire to provide public comment.*

Please click the link below to join the webinar:

- <https://us02web.zoom.us/j/82722747698?pwd=aWZpTzcwTHlRTk9xaTlmWVNWRFUQT09>
Password: 135692
- *Or Telephone Attendee: 1 (408) 638-0968 or 1 (669) 900 6833 or 1 (346) 248 7799; Webinar ID: 827 2274 7698; Password: 135692; Press *9 to “Raise Hand” for Public Comment*
- *Members of the public may watch the meeting either on cable Channel 20 or as streamed on the City [website](#).*
- *Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the City Council at council@morrobayca.gov prior to the meeting. Agenda Correspondence received at council@morrobayca.gov by 10 a.m. on the meeting day will be posted on the City website.*

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

PRESENTATIONS

- National Hispanic Heritage Month Proclamation

PUBLIC COMMENT

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.

Public comment is an opportunity for members of the public to provide input to the governing body. To increase the effectiveness of the Public Comment Period, the City respectfully requests the following guidelines and expectations be followed:

- Those desiring to speak are asked to complete a speaker slip, which are located at the entrance, and submit it to the City Clerk. However, speaker slips are not required to provide public comment.
- When recognized by the Mayor, please come forward to the podium to speak. Though not required, it is helpful if you state your name, city of residence and whether you represent a business or group. Unless otherwise established by the Mayor, comments are to be limited to three minutes.
- All remarks should 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.
- The Council in turn agrees to abide by its best practices of civility and civil discourse according to Resolution No. 07-19.

A. CONSENT AGENDA

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

A-1 APPROVAL OF MINUTES FOR THE SEPTEMBER 12, 2023, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (CITY CLERK)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF SB-1 FUNDING PROJECT LIST FOR FY 23/24 PAVEMENT MANAGEMENT PLAN PROJECT; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 63-23 approving the Fiscal Year 2023/24 project list for use of Senate Bill 1 (Road Repair and Accountability Act of 2017) Road Maintenance and Rehabilitation Account (RMRA) funds.

A-3 APPROVAL OF CONTRACT AMENDMENTS WITH CANNON CORPORATION AND ADVANTAGE TECHNICAL SERVICES, INC. FOR KINGS TANKS AND BLANCA TANKS REHABILITATION PROJECT; (PUBLIC WORKS DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council approve amendments to the Professional Services Contracts with Cannon Corporation (Cannon) and Advantage Technical Services, Inc. (ATS) for the completion of the Kings Tanks and Blanca Tanks Rehabilitation Project in the amounts of \$30,373 and \$100,170 respectively and authorize the City Manager to execute the contract amendments.

A-4 ADOPTION OF ORDINANCE NO. 660 AMENDING SECTION 3.24.100, AND REPEALING AND REPLACING SECTION 3.24.110, OF CHAPTER 3.24 OF THE MORRO BAY MUNICIPAL CODE, UPDATING THE TRANSIENT OCCUPANCY TAX APPEALS PROCESS; (CITY MANAGER/CITY ATTORNEY/ASSISTANT CITY MANAGER/ADMIN SERVICES DIRECTOR)

RECOMMENDATION: Staff recommends the City Council adopt by second reading and by title only, with further reading waived, Ordinance No. 660 Amending Section 3.24.100, and Repealing and Replacing Section 3.24.110, of Chapter 3.24 of the Morro Bay Municipal Code, Updating the Transient Occupancy Tax Appeals Process.

A-5 ADOPTION OF RESOLUTION NO. 60-23 WITH ADDED CONDITIONS OF APPROVAL, DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION APPROVAL OF CUP22-06, CDP22-004 AND TTM 22-04 FOR THE PROJECT AT 1140 ALLESANDRO (THE "PROJECT"); (COMMUNITY DEVELOPMENT DEPARTMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 60-23 as presented.

A-6 ACCEPTANCE OF \$50,000 GRANT FROM CALRECYCLE FOR MARINE FLARE AND HAZARDOUS WASTE COLLECTION EVENTS FOR THE PUBLIC; (HARBOR DEPARTMENT)

RECOMMENDATION: Staff recommends Council adopt Resolution No. 65-23 approving the application and accepting the award of \$50,000 grant funds for the purpose of hosting marine flare and hazardous waste collection events for the public.

A-7 PROCLAMATION RECOGNIZING SEPTEMBER 15 – OCTOBER 15, 2023 AS "NATIONAL HISPANIC HERITAGE MONTH"; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

B. PUBLIC HEARING ITEMS - NONE

C. BUSINESS ITEMS

C-1 DISCUSSION OF WATERFRONT MASTER PLAN UPDATE AND AUTHORIZATION TO SUBMIT A GRANT APPLICATION FOR CALIFORNIA COASTAL COMMISSION LCP LOCAL ASSISTANT GRANT PROGRAM FUNDING; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Adopt Resolution No. 64-23 authorizing staff to submit a grant application for California Coastal Commission (CCC) LCP Local Assistance Grant Program to fund the update of the City's 1996 Waterfront Master Plan in the amount of \$500,000 according to the scope outlined in this staff report.

This item was continued from the September 12, 2023 City Council Meeting. The original staff report and all supporting documents are attached for reference.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, October 10, 2023 at 5:30 p.m.**

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, 595 HARBOR ST, MORRO BAY, CA 93442 FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 805-772-6205 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 UPON REQUEST BY CALLING THE CITY CLERK'S OFFICE AT 805-772-6205.

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.

PRESENT: Carla Wixom Mayor
Laurel Barton Council Member
Cyndee Edwards Council Member
Jennifer Ford Council Member
Zara Landrum Council Member

ABSENT: None

STAFF: Yvonne Kimball City Manager
Chris Neumeyer City Attorney
Sarah Johnson-Rios Assistant City Manager/Admin Services director
Scot Graham Community Development Director
Ted Schiafone Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Wixom called the meeting to order at 3:02 p.m. with all but Council Member Barton present.

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

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

Betty Winholtz, Morro Bay, stated her interpretation of the Brown Act required the Council to announce property negotiations in open session. Regarding Item CS-4, she expressed interest in knowing the intent of discussions with the School District.

The public comment period was closed.

Council Member Barton joined the meeting at 3:12 p.m.

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

CS-1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR - GOVERNMENT CODE SECTION 54956.8

Property: Morro Bay State Park Marina
Property Negotiators: California State Department of Parks & Recreation
Agency Negotiators: Ted Schiafone, Harbor Director; Yvonne Kimball, City Manager; and Chris Neumeyer, City Attorney
Negotiation: Price and Terms of Payment

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

Property: Lease Site 102/102W, 1001 Front Street, Giovanni's Central Coast Seafoods
Property Negotiators: Giovanni DeGarimore and Giovanni Comin
Agency Negotiators: Ted Schiafone, Harbor Director; Yvonne Kimball, City Manager; and Chris Neumeyer, City Attorney
Negotiation: Price and Terms of Payment

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

Property: Lease Site 105.1W & 105.2W, 1001 Front Street, Central Coast Fuel and Ice
Property Negotiators: Giovanni DeGarimore and Giovanni Comin
Agency Negotiators: Ted Schiafone, Harbor Director; Yvonne Kimball, City Manager; and Chris Neumeyer, City Attorney
Negotiation: Price and Terms of Payment

CS-4 CONFERENCE WITH REAL PROPERTY NEGOTIATOR - GOVERNMENT CODE SECTION 54956.8

Property: APN No. 066-280-045 and 066-044-011, 1130 Napa Ave., Morro Elementary School
Property Negotiators: San Luis Coastal Unified School District
Agency Negotiators: Scot Graham, Community Development Director; Yvonne Kimball, City Manager; and Chris Neumeyer, City Attorney
Negotiation: Price and Terms of Payment

RECONVENE IN OPEN SESSION – The City Council reconvened in Open Session. City Attorney Newmeyer reported that Item CS-1 was an anticipated future agenda item. Regarding Item CS-4, depending on negotiations, there may be a public agenda item.

ADJOURNMENT - The meeting adjourned at 5:06 p.m.

Recorded by:

Dana Swanson
City Clerk



AGENDA NO: A-2
MEETING DATE: September 26, 2023

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 12, 2023
FROM: Eric Riddiough, P.E. – City Engineer
SUBJECT: Approval of SB-1 Funding Project List for FY 23/24 Pavement Management Plan Project

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 63-23 approving the Fiscal Year 2023/24 project list for use of Senate Bill 1 (Road Repair and Accountability Act of 2017) Road Maintenance and Rehabilitation Account (RMRA) funds.

ALTERNATIVE

The Council could choose to not approve use of Senate Bill 1 (SB-1) funding. If a resolution is not approved by City Council before the September 30, 2023 deadline, project funds will not be eligible for use until the next opportunity when a resolution can be accepted by the California Transportation Commission (CTC) which would be in the following calendar year. The City may lose its ability to receive SB-1 funds from the State if projects have not been identified through a resolution passed by City Council.

FISCAL IMPACT

Funding from multiple sources, including SB-1 funds, for the Annual Pavement Management Project is included in the adopted Budget for Fiscal Year 2023/24 (FY23/24). The City anticipates approximately \$260,799 in revenue from the State due to the continued implementation of SB-1 for the upcoming fiscal year. No local matching funds are required to receive this year’s SB-1 funding allocation; however, the City must keep in good standing with its commitment on MOE (Maintenance of Effort) over time to qualify for the continued receipt of SB-1 funds. In addition to SB-1 funds, the City Council has already budgeted \$1,840,000 from Measure Q & E for the FY23/24 pavement project for a total project budget of \$2,100,000.

BACKGROUND/ DISCUSSION

The Road Repair and Accountability Act of 2017, SB-1, was passed by the State Legislature and signed into law by the Governor in April 2017. The purpose of the bill is to help State and local agencies address transportation funding shortfalls. SB-1 has generated revenue through increases in gas tax, vehicle registration fees, and fees on zero emission vehicles. The tax and fee rate increases were initiated on November 1, 2017, with final implementation of all the rate and fee increases completed in July 2020.

One of the major components of SB-1 is the Road Maintenance and Rehabilitation Account (RMRA),

Prepared By: ER Dept Review: GK
City Manager Review: YK City Attorney Review: CFN

which is the revenue stream set aside for the maintenance and rehabilitation of roadways. SB-1 generates over \$5 billion annually at full implementation for the State, \$1.5 billion of which will be distributed to local agencies and counties through the RMRA. The City of Morro Bay is projected to receive \$260,799 in revenue from the RMRA for FY23/24. Revenue has remained steady for the last 2-3 years between \$250,000-\$300,000 of state funds dedicated to roadway projects.

SB-1 includes accountability and transparency provisions to enable local residents to remain aware of the projects proposed to be funded by SB-1 in their local area. As part of these provisions, it is a requirement for local agencies to adopt project lists before the start of every fiscal year. The project list must include all projects proposed to receive funding from the RMRA. The required list includes a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement. Per the requirements of SB-1, the list must be approved by the City Council through resolution and sent to the California Transportation Commission (CTC) no later than September 30, 2023, to be eligible for RMRA funding for the current fiscal year.

The primary focus of the RMRA is maintenance of the existing infrastructure within the City's rights-of-way. Other transportation funding sources, such as Measure Q and E, General Fund, Growth Mitigation, and other grant programs are available for capital expenditures through the normal budget process. Project selection is developed by the Public Works Department utilizing the City's pavement management system, StreetSaver, in coordination with recommendations from Public Works staff and engineering/pavement consultants. Streets that are heavily traveled generally will be prioritized because of the high volume of usage by the public. Critical point management, which targets treating roads that are at the bottom of one category of maintenance before they fall into another more costly treatment category, is widely used by many jurisdictions and is what also contributes heavily to street selection. These strategies are standard best practices for pavement management and are incorporated to utilize the limited funds on streets that will have the best possible impact on the pavement condition index (PCI) of the City's collective road network. Additionally, when possible, the City will make efforts to distribute projects equitably geographically in the community.

The FY 22/23 project has yet to be completed and is slated to be a surface seal project totaling between \$1.5-1.7 million. This project will likely go to construction in the Spring of 2024. The FY 21/22 project was delayed and is near completion with the recent repairs on South Bay Boulevard, Main Street, Harbor Street, and other high-volume roadways.

The City has budgeted \$2.1 million in pavement management in FY 23/24 with \$260,799 coming from SB-1 and the balance from Measure Q&E. The target project for this fiscal year is rehabilitating some of the lowest pavement condition index (PCI) residential roads that are in poor and very poor condition in order to slow down the rapidly declining PCI citywide. The following project list is proposed for use of SB-1 funds in FY23/24 and illustrates the City has sufficient work to justify the SB-1 allocation:

Annual Pavement Management Project (FY 23/24)

Description:

This project consists of rehabilitating and restoring pavement on several residential/local streets in the City of Morro Bay. SB-1 funds will be used during the construction phase of the project.

Location:

Various Streets throughout the City, some of which include:
Panay Street, Panorama Drive, Surf Street, Oahu Street, Dunbar Street, Dogwood Avenue,
Java Street, Paula Street, and Orcas Way.

Cost and Funding:

Preliminary Engineer's Estimate:	\$ 2,100,000
SB-1 Budgeted(FY 23/24):	\$ 260,000*
Measure Q&E	\$ 1,840,000

*Note: The SB-1 estimated revenue is an updated number from the CTC and the amount is slightly higher than what was budgeted. The additional \$799 that was not budget will remain in the SB-1 fund balance since not reflected in the budget.

Estimated Project Schedule:

Start design (09/23)
Complete construction (08/24)

Estimated Useful Life:

15-20 years (rehabilitation)

Staff presented the SB-1 Funding Project List item at the September 20, 2023 Public Works Advisory Board (PWAB) Meeting where the item was discussed and clarifying questions were answered for the board by staff. The PWAB recommendation was that the City Council adopt the Resolution as presented.

CONCLUSION

In order to meet the SB-1 funding requirements for FY23/24, staff will submit to the California Transportation Commission (CTC) the proposed project and adopted resolution once approved. Submittal of this list to the CTC does not preclude the City from making modifications due to changes in circumstances and scope, such as budget, addition and subtraction of streets from final list, and bidding or Council priorities. The final project details will be reported to the CTC in the project completion expenditure report after the project is complete. The obligation by the City is to spend SB-1 funds appropriately and to not reduce the amount of general fund expenditures due to the Maintenance of Effort requirements.

ATTACHMENT

1. Resolution No. 63-23

RESOLUTION NO. 63-23

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING THE FISCAL YEAR 2023/24 PROJECT LIST FOR SENATE
BILL 1 (ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017) ROAD
MAINTENANCE AND REHABILITATION ACCOUNT FUNDING**

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

WHEREAS, Senate Bill 1 (SB-1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB-1 includes accountability and transparency provisions that will ensure the residents of Morro Bay are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City of Morro Bay must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB-1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City of Morro Bay will receive an estimated \$260,799 in funding in Fiscal Year 2023/24 from the RMRA of SB-1; and

WHEREAS, this is the 7th year in which the City of Morro Bay is receiving RMRA funding which will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB-1; and

WHEREAS, staff has undergone a robust public process to ensure public input into our community's transportation priorities/the project list, including public meetings with the City of Morro Bay's Public Works Advisory Board, City Council's and their review of the capital improvement program and Operating and Capital Budget; and

WHEREAS, the City of Morro Bay used "StreetSaver," a Pavement Management System tool, along with its Streets and Engineering staff, to develop the SB-1 project list to ensure revenues are being used on high-priority and cost-effective projects that also meet the community's priorities for transportation investment; and

WHEREAS, the funding from SB-1 will help the City of Morro Bay maintain and rehabilitate approximately 1.1 centerline miles of roadway segments this fiscal year and additional street segments each year into the future, as SB-1 funds remain available; and

WHEREAS, the 2020 California Statewide Local Streets and Roads Needs Assessment found that the City's streets and roads are in an "at-risk" condition, and this revenue both will help us increase the overall quality of our road system, as well as over the next decade, with additional local funds, may help bring our streets and roads into a better condition; and

WHEREAS, the SB-1 project list and overall investment in our local streets and roads infrastructure, with a focus on basic maintenance and safety, and investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide.

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

1. The foregoing recitals are true and correct.
2. The following is the proposed project that will be funded in-part or solely with fiscal year 2023/24 Road Maintenance and Rehabilitation Account revenues:

Annual Pavement Management Project (FY 23/24)

Description:

This project consists of rehabilitating and restoring pavement on several residential/local streets in the City of Morro Bay. SB-1 funds will be used during the construction phase of the project.

Location:

Various Streets throughout the City, some of which include: Panay Street, Panorama Drive, Surf Street, Oahu Street, Dunbar Street, Dogwood Avenue, Java Street, Paula Street, and Orcas Way.

Cost and Funding:

Preliminary Engineer's Estimate:	\$ 2,100,000
SB-1 (FY 22/23):	\$ 260,000
Measure Q&E	\$ 1,840,000

Estimated Project Schedule: Construction (05/24 - 09/24)

Estimated Useful Life: 15-20 years

3. The City Council may approve funding more than the SB-1 allocation for the Project List in the FY 2023/24 budget, as funding is available, in accordance with City Council goals and priorities.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, California, at a regular meeting held on the 26th day of September 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

CARLA WIXOM, Mayor

ATTEST:

DANA SWANSON, City Clerk

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AGENDA NO: A-3

MEETING DATE: September 26, 2023

Staff Report

TO: Honorable Mayor and Cit Council

DATE: September 12, 2023

FROM: Eric Riddiough, P.E. – City Engineer

SUBJECT: Approval of Contract Amendments with Cannon Corporation and Advantage Technical Services, Inc. for Kings Tanks and Blanca Tanks Rehabilitation Project

RECOMMENDATION

Staff recommends the City Council approve amendments to the Professional Services Contracts with Cannon Corporation (Cannon) and Advantage Technical Services, Inc. (ATS) for the completion of the Kings Tanks and Blanca Tanks Rehabilitation Project in the amounts of \$30,373 and \$100,170 respectively and authorize the City Manager to execute the contract amendments.

ALTERNATIVE

The alternative to the staff recommendation is not to move forward with the amendments to the contracts and not have the remainder of the project overseen by professional consultant services. This is not advised since the City does not have the staff and expertise to self-perform construction management and inspection of these tanks because of the specialization of the type of work related to coatings and tank rehabilitation. Since the scope of the tank project has grown from original bid with additional coating, sandblasting and patching work, seismic upgrades to the Blanca Tanks 3 and 4, and other essential added scope, coupled with weather delays and working with the Utilities Division for best timing on taking tanks out of service, there was the need to increase professional services and contract time.

FISCAL IMPACT

The total cost for Amendment No. 1 with Cannon is \$30,373 for a total contract of \$137,081. The total cost for Amendment No. 2 with ATS is \$100,170 for a total contract of \$218,693. The total increase of project costs is \$130,543 with a remaining budget of \$258,060, which covers this increase with \$127,517 that will remain in the budget.

The value of both amendments to these contracts and other anticipated project costs are estimated to be covered by the approved budget for the Kings/Blanca Tank Rehabilitation Project. The project budget was originally \$2,691,152 with the FY 21/22 budget. An increase of \$600,000 was added to the project and approved through the FY 22/23 budget process to bring the total project budget to \$3,291,152. A summary of currently contracted costs and these additional amendments as part of the contract amendments for the Kings/Blanca Tank Rehab Project are provided in the table below.

Prepared By: ER

Dept Review: GK

City Manager Review: YK

City Attorney Review: CFN

Kings/Blanca Tank Rehab Project Cost Summary - Construction

FY 21/22 Budgeted Amount	\$2,691,152
FY 22/23 Budget Increase	\$600,000
Total Project Budget	\$3,291,152
<u>Contractor</u>	
Original STS Contract	\$2,039,628
STS Amendment No. 1	\$326,495
STS Amendment No. 2	\$441,738
STS Total Contract Amount (Including Amendments 1 and 2)	\$2,807,861
<u>Construction Support</u>	
Original Cannon Contract (CM/RE Services)	\$106,708
Proposed Cannon Amendment No.1	\$30,373
Original ATS Contract (Inspection and CQA Services)	\$118,523
Proposed ATS Amendment No.1	\$100,170
Total Construction Support	\$355,774
Total Estimated Project Cost At Completion	\$3,163,635
Estimated Remaining Budget at Completion	\$127,517

DISCUSSION

On November 9, 2021, the City Council authorized the City Manager to execute a contract with (STS or “Contractor”) for recoating and rehabilitation of the Kings and Blanca Water Storage Tanks. After awarding the contract, it was determined that it would be beneficial to include additional items into the contract with STS to better protect the City’s water storage tanks and improve the operability of the City’s water system. Those items were added to the contract with Amendment No. 1 and included tank mixers and couplings, additional maintenance scope, washout and spot repair of Elena tanks, factory rehabilitation of Blanca 3 and 4, and project contingency. Amendment No. 1 was approved by City Council at the March 8, 2022, regular meeting.

Cannon was contracted by the City to perform construction management and resident engineer services for oversight of the tank rehabilitation construction contract with STS and the tank blasting and coating inspection and quality assurance performed by ATS. Additionally, the City directly contracted with ATS for inspection services and construction quality assurance for the coatings, connections, welding, and overall specification tolerance tracking for this rehabilitation project.

Upon further consideration of the factory rehabilitation with STS, and since Blanca 3 and 4 are bolted tanks that are being completely disassembled and reassembled with new panels and gaskets, the City elected to have seismic upgrades and other foundation work done to protect the life of the bolted steel tanks and added safety for seismic concerns due to the age of the tanks and foundations. The existing Blanca 3 and 4 tanks were built in the 1960’s, and bolted tanks are by design to be replaced in kind over time with new panels; however, with the opportunity of rehabilitation, the time was right to have seismic and foundation issues addressed as well. The replacement bolted tanks were assembled in the same footprint as the existing Blanca 3 and 4 tanks. Blanca 1 and 2 are welded steel tanks in front of Blanca 3 and 4 and were sandblasted and recoated as planned in the contract. All of this work was covered in Amendment No.2 with STS.

The Kings Tank #1 is the last tank remaining in the contract with STS to be rehabilitated which will begin in September of this year. All the tanks have required more work than anticipated compared to the original design contract including blasting, coating and patching as well as replacement and reinforcement of Blanca 3 and 4. This additional work, along with the modified scope of Blanca 3 and 4, have added significant time to the construction contract. As a result, additional services from Cannon and ATS are needed for construction management and inspections to close out the project successfully in compliance with project specifications. The Kings Tank 1 work is forecasted to take 18-20 weeks with project completion targeted in January 2024.

Staff presented Contract Amendments item at the September 20, 2023 Public Works Advisory Board (PWAB) Meeting where the item was discussed and clarifying questions were answered for the board by staff. The PWAB recommendation was that the City Council approve the contract amendments as presented.

CONCLUSION

The requested amendments will provide necessary professional services to oversee the added repairs and improvements to the City's Water Storage Tanks. These modifications will extend the life of these critical water system facilities, improve operability, and better protect public health and safety by enhancing water quality in the distribution system. Construction oversight is important in order to deliver quality assurance in compliance with project requirements to the City for the work performed by the Contractor.

ATTACHMENTS

1. Amendment No. 1 to the contract with Cannon Corporation for Professional Services for the Kings Tanks and Blanca Tanks Rehabilitation Project
2. Amendment No. 2 to the contract with Advantage Technical Services, Inc. for Professional Services for the Kings Tanks and Blanca Tanks Rehabilitation Project

CITY OF MORRO BAY

AMENDMENT NO. 1 TO THE AGREEMENT
FOR CONSULTANT SERVICES
BETWEEN THE CITY OF MORRO BAY
AND CANNON CORPORATION

This AMENDMENT NO. 1 TO THE AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MORRO BAY AND CANNON CORPORATION. ("Amendment No. 1") is entered on the 26th day September 2023, by and between the City of Morro Bay, a municipal corporation ("City") and Cannon Corporation, a California corporation ("Consultant").

RECITALS

WHEREAS, City and Consultant (collectively, the "Parties") entered into an agreement as of February 22, 2022, for construction management and resident engineering services for the Kings Tanks and Blanca Tanks Rehabilitation Project, (the "Project") which was approved by the City Manager in the amount of \$106,708.00 (the "Agreement"); and

WHEREAS, the Parties agree to amend the Agreement because of the increase in required construction management and engineering services due to the extended project duration incurred between the City and its contractor; and

WHEREAS, City and Consultant now wish to extend the term of the Agreement to March 30, 2024.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. The additional services to be provided by Consultant, pursuant to the Agreement, are hereby amended to include additional professional services as detailed in Additional Services Agreement from Cannon dated September 12, 2023 attached hereto. In the event of any inconsistency between the terms of such Additional Services Agreement, and the Agreement, the terms of the Agreement shall govern. No other terms and conditions from that Additional Services Agreement, other than description of scope of services or work, shall apply to the Agreement, unless specifically agreed to by City in writing.
2. The Additional Work results in a net increase of THIRTY THOUSAND THREE HUNDRED SEVENTY-THREE DOLLARS EVEN (\$30,373) to the original contract for a new contract total of ONE HUNDRED THIRTY-SEVEN EIGHTY-ONE DOLLARS EVEN (\$137,081.00) which will be billed on a time and materials basis according to the approved fee schedule as approved by the City Engineer.
3. Consultant shall not be compensated for any further services rendered in connection with its performance of the Agreement that are in addition to those set forth in this Amendment No. 1, absent further mutual, written amendment(s) and in compliance with the limitations on signing authority in the City's Purchasing System (Chapter 3.08 of the Morro Bay Municipal Code).
4. The Agreement shall remain and continue in effect until all tasks are satisfactorily completed, but in no event later than March 30, 2024, unless sooner terminated pursuant to the provisions of the Agreement.
5. Except as expressly set forth herein the terms and conditions of the Agreement and Amendment 1 shall remain in full force and effect.
6. The effective date of this Amendment No. 1 shall be deemed to be September 26, 2023.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives.

CITY OF MORRO BAY

CANNON CORPORATION
(2 signatures required)

By: _____
Yvonne Kimball
City Manager

By: _____
Michael Cannon
President

Attest:

Dana Swanson, City Clerk

By: _____
Lawrence P. Kraemer, III
Secretary

APPROVED AS TO FORM

Chris Neumeyer, City Attorney

City of Morro Bay
 Construction Management Services
 Kings and Blanca Tanks Rehabilitation

Cannon
 1050 Southwood Drive
 San Luis Obispo, CA 93401
 805.544.7407

Phase	Role	Name	Rate	2023				2024		Total Est. Hours	Estimated Cost	
				Sep	Oct	Nov	Dec	Jan	Feb			
Construction												
	Principal-in-Charge	Pat Riddell, PE	\$205	2	2	2	2	2		10	\$2,050	
	Resident Engineer	Matt Scholfield, PE	\$183	24	26	24	24	25		123	\$22,509	
	Engineering Assistant II	Marcia Bohac	\$105	4	4	4	4	4		20	\$2,100	
Post-Construction												
	Principal-in-Charge	Pat Riddell, PE	\$205							0	\$0	
	Resident Engineer	Matt Scholfield, PE	\$183					18		18	\$3,294	
	Engineering Assistant II	Marcia Bohac	\$105					4		4	\$420	
<i>Total Estimated Hours</i>				30	32	30	30	31	0	153		
										<i>Total Estimated Cost of Labor</i>		\$30,373
Other Direct Costs												
Reimbursables												
										Total Estimated Cost of Services		\$30,373

CITY OF MORRO BAY

AMENDMENT NO. 2 TO THE AGREEMENT
FOR CONSULTANT SERVICES
BETWEEN THE CITY OF MORRO BAY
AND ADVANTAGE TECHNICAL SERVICES, INC.

This AMENDMENT NO. 2 TO THE AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MORRO BAY AND ADVANTAGE TECHNICAL SERVICES, INC. (“Amendment No. 2”) is entered on the 26th day September 2023, by and between the City of Morro Bay, a municipal corporation (“City”) and Advantage Technical Services, Inc., a California corporation (“Consultant”).

RECITALS

WHEREAS, City and Consultant (collectively, the “Parties”) entered into an agreement as of May 6, 2022, for construction quality assurances services for the Kings Tanks and Blanca Tanks Rehabilitation Project, (the “Project”) which was approved by the City Council in the amount of \$111,594.00 (the “Agreement”); and

WHEREAS, on November 7, 2022, City and Consultant executed Amendment No. 1 to the Agreement which added Additional Scope of Work in the amount of \$6,929.00 to the original contract for a new contract total of \$118,523.00; and

WHEREAS, the Parties agree to amend the Agreement because of the increase in required, specialized sandblasting and coating inspection and quality assurance services and extended project duration incurred between the City and its contractor; and

WHEREAS, City and Consultant now wish to extend the term of the Agreement to March 30, 2024.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. The additional services to be provided by Consultant, pursuant to the Agreement, are hereby amended to include additional professional services as detailed in letter proposal from ATS dated August 1, 2023. In the event of any inconsistency between the terms of such letter proposal, and the Agreement, the terms of the Agreement shall govern. No other terms and conditions from that letter proposal, other than description of scope of services or work, shall apply to this Agreement, unless specifically agreed to by City in writing.
2. The Additional Work results in a net increase of ONE HUNDRED THOUSAND ONE HUNDRED SEVENTY DOLLARS EVEN (\$100,170.00) to the original contract for a new contract total of TWO HUNDRED EIGHTEEN THOUSAND SIX HUNDRED NINETY-THREE DOLLARS EVEN (\$218,693.00) which will be billed on a time and materials basis as approved by the City Engineer.
3. Consultant shall not be compensated for any further services rendered in connection with its performance of the Agreement that are in addition to those set forth in this Amendment No. 1, absent further mutual, written amendment(s) and in compliance with the limitations on

signing authority in the City's Purchasing System (Chapter 3.08 of the Morro Bay Municipal Code).

4. The agreement shall remain and continue in effect until all tasks are satisfactorily completed, but in no event later than March 30, 2024, unless sooner terminated pursuant to the provisions of the Agreement.
5. Except as expressly set forth herein the terms and conditions of the Agreement and Amendments 1 and 2 shall remain in full force and effect.
6. The effective date of this Amendment No. 2 shall be deemed to be September 26, 2023.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives.

CITY OF MORRO BAY

ADVANTAGE TECHNICAL SERVICES, INC.
(2 signatures required)

By: _____
Yvonne Kimball
City Manager

By: _____
William D. Bellis
President

Attest:

By: _____
Judith Bellis
CFO

Dana Swanson, City Clerk

APPROVED AS TO FORM

Chris Neumeyer, City Attorney

Basis of 20 week duration:
 Kings 2 (East) Tank. March 21, 2022 to Sept 12, 2022 -25 Weeks
 Reduce by 4 wks w/ elimination of coating rafter tops=21 Weeks

Cost Estimate for: City of Morro Bay Tank Rehabilitation Project Kings St. #1			Rates:		
Additional budget associated w/ duration change. Based on Estimated Construction Schedule Field Welding and Coating: 21 wk Work will be on a "time and materials" basis.			AWS CWI/NDEIII: 155 \$/hr. Construction Mgr./Inspection Mgr.: 280 \$/hr. Coatings NACE III/AWS CWI: 155 \$/hr. ATS L1: 135 \$/hr. Cert. Tank Insp/CWI/NDEIII: 155 \$/hr. Administration: 105 \$/hr.		
Pre-Job	Project Days*	% Coverage	Inspection Hours	Estimated Cost	Std Day: 8 hr.
Submittal review	n/a	n/a	8	\$ 2,240	
Document site conditions	n/a	n/a	0	\$ -	
Contract Documents	n/a	n/a			
					Pre-Job Subtotal \$ 2,240
Quality Assurance					
Construction					
Shop Fabrication & Coating					
Tank Erection					
Tank Welding Inspector	20	50%	80	\$ 12,400	(4 weeks), new appurtenances, patches
Tank Coating					
ATS I Coating Inspector	85		0	\$ -	
NACE LIII Coating Insp/CWI	85	70%	476	\$ 73,780	(16 weeks)
Final walk and punch list			8	\$ 1,240	NACE Coating Inspector
					Subtotal: \$ 87,420
Consulting					
Pre-construction meeting			0	\$ -	
Schedule Management			2	\$ 560	
Consult RE: RFI			8	\$ 2,240	
Consult RE: change orders			8	\$ 2,240	
Progress pay estimates			0	\$ -	
					Subtotal: \$ 5,040
Administration					
Internal Project Mgmt./P.E.			16	\$ 4,480	PM/PE
Certified Payroll (internal)			8	\$ 840	Admin. Rate
Document control			4	\$ 420	Admin. Rate
					Subtotal: \$ 5,740
Travel					
	Trips	Rate (\$/mi)	Miles		
Job site	105	1	60	\$ 6,300.00	
Per-diem	0		0	\$ -	N/A Local Project
					Subtotal: \$ 6,300

Scope and Limits of Indemnification. Indemnification shall be limited to Advantage Technical Services scope of services which is part time observation and documentation of the work after 3/14/2022 and specifically excludes project development (including determination of existing conditions) , engineering (including requirements for inspection) , Contractor's means and methods, performance of the work, Contractor's duty to meet the quality standards, access to the work and construction management.

Contingency:	0%	\$ -
Warranty Dive:		N/A
Misc. Materials:	0.30%	\$ 301
Per diem:		\$ -
Total Estimate		\$ 107,041
Contract amount:	\$ 118,523.00	
Expenditure to date:	\$ 111,651.50	
Remaining:	\$ 6,871.50	
Estimated additional to complete:	\$ 100,170	



AGENDA NO: A-4

MEETING DATE: September 26, 2023

Staff Report

TO: Honorable Mayor and City Council

DATE: September 14, 2023

FROM: Yvonne Kimball, City Manager
Chris Neumeyer, City Attorney
Sarah Johnson-Rios, Assistant City Manager/Admin Services Director

SUBJECT: Adoption of Ordinance No. 660 Amending Section 3.24.100, and Repealing and Replacing Section 3.24.110, of Chapter 3.24 of the Morro Bay Municipal Code, Updating the Transient Occupancy Tax Appeals Process

RECOMMENDATION

Staff recommends the City Council adopt by second reading and by title only, with further reading waived, Ordinance No. 660 Amending Section 3.24.100, and Repealing and Replacing Section 3.24.110, of Chapter 3.24 of the Morro Bay Municipal Code, Updating the Transient Occupancy Tax Appeals Process.

ALTERNATIVES

No alternatives are recommended.

FISCAL IMPACT

The recommended action would result in less use of public resources than the current two-step appeals process, and greater cost recovery born by appellants seeking reductions in the amount of TOT owed.

BACKGROUND

Chapter 3.24 (TOT Ordinance) of the Morro Bay Municipal Code (MBMC) provides for the collection of a transient occupancy tax (TOT) for the City of Morro Bay. Section 3.24.100 (“Failure to collect and report tax – Determination of tax”) and Section 3.24.110 (“Appeal”) of the TOT Ordinance provide for a two-step appeal process of final TOT assessments issued by the City for failure to collect and/or make TOT payments to the City, whereby first the City Clerk (as the designated Tax Administrator) hears appeals on such assessments, and then second the City Council hears appeals on such assessments.

This section of the Code has never been updated since the City’s incorporation and adoption of the original Code in 1965. Since that time, best practices have changed significantly.

DISCUSSION

Updated codes and best practices include providing that an independent and appointed professional hearing officer, rather than the City Clerk and the City Council, hear appeals on final TOT assessments by the City for failure to collect and/or make TOT payments to the City.

Prepared By: _SJR_

Dept Review: _____

City Manager Review: _YK_

City Attorney Review: _CFN_

The proposed ordinance amendments, which were introduced at the September 12, 2023 regular meeting, make that key change, clarify procedural steps for conducting such appeals, and allow the City to recover, for unsuccessful appeals of such TOT final assessments, the full, rather than discounted, current fiscal year cost recovery fee published in the City's adopted fee schedule for appeals of non-land use City administrative decisions. Finally, the amendment provides for procedural cleanup revisions including affirmation the tax administrator may utilize a designee.

ATTACHMENT(S)

1. Ordinance No. 660 – Proposed Code Amendment

ORDINANCE NO. 660

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
AMENDING SECTION 3.24.100, AND REPEALING AND
REPLACING SECTION 3.24.110, OF CHAPTER 3.24 OF THE
MORRO BAY MUNICIPAL CODE**

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

WHEREAS, Chapter 3.24 (TOT Ordinance) of the Morro Bay Municipal Code (MBMC) provides for the collection of a transient occupancy tax (TOT) for the City of Morro Bay; and

WHEREAS, Section 3.24.100 (“Failure to collect and report tax – Determination of tax”) and Section 3.24.110 (“Appeal”) of the TOT Ordinance provide for a two-step appeal process of final TOT assessments issued by the City for failure to collect and/or make TOT payments to the City, whereby first the City Clerk hears appeals on such assessments, and then second the City Council hears appeals on such assessments; and

WHEREAS, the City Council desires: i) an independent and appointed professional hearing officer, rather than the City Clerk and the City Council, hear such appeals, submitted pursuant to requirements of the MBMC, on final TOT assessments by the City for failure to collect and/or make TOT payments to the City; ii) to clarify procedural steps for conducting such appeals; iii) to recover, for unsuccessful appeals of such TOT final assessments, the full, rather than discounted, current fiscal year cost recovery fee published in the City’s adopted fee schedule for appeals of non-land use City administrative decisions; and, iv) provide for procedural cleanup revisions including affirmation the tax administrator may utilize a designee; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA FINDS AND ORDAINS AS FOLLOWS:

SECTION 1. RECITALS. The City Council hereby finds that the recitals set forth above are all true and correct and are incorporated herein by this reference.

SECTION 2. CODE AMENDMENT.

A. Sections 3.24.100 (“Failure to Collect or Report Tax”) of the Morro Bay Municipal Code is hereby amended to read as follows (new text in *bold italics*, removed text in ~~strikethrough~~):

“3.24.100 Failure to Collect or Report Tax

If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the tax administrator (*or designee*) shall proceed in such manner as *she/he* may deem best to obtain facts and information on which to base *her/his* estimate of the tax due. As soon as the tax administrator (*or designee*) shall procure such facts and information as *she/he* is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by

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any operator who has failed or refused to collect the same and to make such report and remittance, **she/he** shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator (**or designee**) shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at **her/his** last known place of address. **If the operator fails to file, pursuant to Section 3.24.110 below, a timely appeal (in part or in whole) of that assessment, then the assessed tax, interest and/or penalties not appealed shall become final and conclusive and immediately due and payable.** ~~The operator may within ten days after the serving or mailing of such notice make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for the hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why the amount specified therein should not be fixed for such tax, interest and penalties. At the hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After the hearing the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of the tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 3.24.110.~~

B. Section 3.24.110 of the Morro Bay Municipal Code is hereby repealed in its entirety and is replaced in its entirety with new Section 3.24.110 as follows:

“3.24.110 – Appeal

- A. An operator may within fifteen (15) days after the service or mailing of a final determination from the tax administrator (or designee), sent pursuant to Section 3.24.100 above, submit a notice of appeal to the tax administrator.
- B. An appeal must be submitted in writing to the tax administrator signed by the person making the appeal or their legal representative. The appeal must be accompanied by an appeal fee in accordance with below Section 3.24.110(C). Any appeal submitted to the City based upon this chapter shall be supported by evidence and contain the following:
 - 1. Name, address and telephone number of operator/appellant;
 - 2. Specify the decision(s), action(s), or particular part(s) of the assessment that are the subject of the appeal;
 - 3. Whether all or only specified tax, interest and/or penalties are being appealed;
 - 4. Include a true and correct copy of the notice issued by the tax administrator (or designee) for which the operator is appealing;
 - 5. State with specificity the reasons and grounds for making the appeal, including, but not limited to, both:
 - a. why the assessment (in whole or part) should be revoked, modified, or otherwise set aside; and
 - b. a statement of facts upon which the appeal is based in sufficient detail to enable the hearing officer to understand the nature of the controversy, basis of the appeal and relief requested;

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6. All documents or other evidence pertinent to the appeal that the appellant requests the hearing officer consider at the hearing (documents and evidence not presented at the time of filing the appeal shall not be considered at the hearing except upon a showing of good cause);
 7. A statement that all of the matters alleged in the appeal are true, followed by the signature(s) of each appellant(s), and one official mailing address (if different than address in No. 1 above) for the appellant(s) to receive further notices from City relating to the appeal.
- C. The appeal fee for filing an appeal based upon this chapter is the full amount (i.e., full cost recovery) of the current fiscal year non-discounted fee provided for in the City's adopted fee schedule for appeals for non-land use administrative decisions. The appeal fee is refundable in its entirety if the appeal prevails in its entirety. The appeal fee is refundable in part, if the appeal prevails on some of its claims, on a pro rata basis calculated by the amount of the assessment reduction compared to the assessment amount appealed. The City Manager may provide an appeal fee hardship waiver, in whole or in part, for good cause.
- D. Operators who file a timely written notice of appeal in compliance with this chapter will be entitled to an administrative hearing before an appointed independent hearing officer. The City Manager shall designate the hearing officer for the administrative hearing. The hearing officer shall not be a City of Morro Bay employee. Compensation for the hearing officer shall not be determined by the outcome of the appeal. The tax administrator shall forward all timely filed appeals to the hearing officer who shall schedule a hearing within ninety (90) days of the filing of the appeal. For good cause the hearing date may be reasonably postponed. The operator/appellant listed in the notice of appeal shall be notified in writing of the date, time and location of the hearing at least ten (10) days before the date of the hearing.
- E. The appeal hearing is informal and formal rules of evidence and discovery do not apply. The hearing officer may consider all relevant evidence, and may exclude repetitive or irrelevant evidence. However, rules of privilege shall be applicable to the extent they are permitted and/or required by law. The hearing officer may accept and consider late evidence or documents not presented at the time of filing the appeal only upon a showing of good cause. The hearing officer shall determine on a case-by-case basis whether good cause exists for acceptance and consideration of any evidence or documents submitted late.
- F. The appellant bears the burden of proof at the hearing to establish by a preponderance of the evidence that the appealed assessment of tax, interest and/or penalties as set forth in the final determination from the tax administrator (or designee) is not due and payable.
- G. The City may, at its discretion, record the hearing by stenographer or court reporter, audio recording or video recording. If the appellant requests from the City that a court reporter, stenographer or videographer be used, appellant shall bear the cost of the same and shall deposit such fees prior to commencement of the administrative hearing.
- H. If the appellant, or their legal representative, fails to appear at the appeal hearing, the hearing officer may cancel the appeal hearing and send notice thereof to the appellant by certified, first class mail to the address stated on the notice of appeal. A cancellation of a hearing due to a non-appearance of the appellant, or legal representative, shall constitute the appellant's waiver of the right to appeal and failure to exhaust administrative remedies.

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- I. After consideration of all testimony and evidence submitted, the hearing officer shall issue a written decision to uphold or cancel the appealed assessment of tax, penalties and/or interest (in part or in whole) within twenty (20) days specifying the reasons for the decision. The written decision of the hearing officer is final and conclusive and subject to the time limits set forth in California Code of Civil Procedure §§ 1094.5 and 1094.6 for judicial review. A copy of the written decision shall be served by certified, first class mail on the appellant. Any tax, penalty and/or interest determined to be owed and payable by the hearing officer's decision is immediately due and payable."

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption.

SECTION 5. CERTIFICATION. The City Clerk shall certify as to the passage and adoption of this ordinance, and the City Clerk shall cause the same to be posted and codified in the manner required by law.

INTRODUCED at a regular meeting of the City Council held on the 12th day of September 2023, by motion of Council Member Ford and seconded by Council Member Barton.

PASSED AND ADOPTED on the _____ day of _____, 2023 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

CARLA WIXOM, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

CHRIS F. NEUMEYER, City Attorney

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STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO)
CITY OF MORRO BAY)

I, Dana Swanson, CITY CLERK OF THE CITY OF MORRO BAY, DO HEREBY CERTIFY that the foregoing Ordinance Number 660 was duly adopted by the City Council of the City of Morro Bay at a regular meeting of said Council on the ____ day of _____ 2023, and that it was so adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this ____ day of _____, _____.

DANA SWANSON, City Clerk

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AGENDA ITEM: A-5

MEETING DATE: September 26, 2023

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 19, 2023

FROM: Scot Graham, Community Development Director

SUBJECT: Adoption of Resolution No. 60-23 with added Conditions of Approval, denying the Appeal and Upholding the Planning Commission approval of CUP22-06, CDP22-004 and TTM 22-04 for the project at 1140 Allesandro (the “project”)

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 60-23 as presented.

DISCUSSION

The City Council of the City of Morro Bay conducted a public hearing on September 12, 2023, for the purpose of considering the appeal of the Planning Commission approval of the project referenced above. At that public hearing, the City Council determined to amend certain conditions to the project as such conditions relate to public improvements, in particular setting certain parameters for the deferral and related timeframes (not to exceed two years) for such improvements. The revised Resolution incorporates such revisions as directed by the Council at its September 12, 2023, meeting for final approval.

CONCLUSION

Staff recommends the City Council adopt revised Resolution No. 60-23, denying the appeal and upholding the Planning Commission approval of CUP22-06, CDP22-004 and TTM22-04 with the modified conditions of approval reflected in Resolution No. 60-23.

ATTACHMENT(S)

1. Resolution No. 60-23
2. [Link](#) to September 12, 2023 City Council Agenda (Item B-1)

Prepared By: <u> NH </u>	Department Review: <u> SG </u>
City Manager Review: <u> YK </u>	City Attorney Review: <u> LNL </u>

RESOLUTION NO. 60-23

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
TO DENY THE APPEAL OF THE PLANNING COMMISSION APPROVAL OF
CONDITIONAL USE PERMIT CUP22-06, COASTAL DEVELOPMENT PERMIT
CDP21-004 AND TENTATIVE TRACK MAP TTM22-04 FOR NEW CONSTRUCTION
OF A MIXED-USE PROJECT IN THE MCR ZONING DISTRICT AND OVERLAY
AREA LOCATED AT 1140 ALLESANDRO STREET**

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

WHEREAS, the Planning Commission of the City of Morro Bay (the “City”) conducted a public hearing on August 1, 2023, conducted in a hybrid format with both an in-person meeting at the Morro Bay Veterans Memorial Building, 209 Surf Street, Morro Bay, CA 93442 as well as through virtual public participation provided telephonically through Zoom, for the purpose of considering the approval of the CUP22-06, CDP22-004 and TTM22-04 for a new mixed use project comprised of a 5 residential dwellings, two of which include live/work spaces to be located at 1140 Allesandro Street (the “project”); and

WHEREAS, the Planning Commission approved the project as submitted, with three additional conditions added to the resolution; and

WHEREAS, Ms. Betty Winholtz filed an appeal on August 11, 2023, of the Planning Commission decision approving the project; and

WHEREAS, the City Council of the City of Morro Bay conducted a public hearing on September 12, 2023, for the purpose of considering the appeal of the Planning Commission approval of the project. At that public hearing, the City Council determined to amend certain conditions to the project as such conditions relate to public improvements. This revised Resolution incorporates such revisions as directed by the Council and was presented to the City Council at its September 26, 2023, meeting for final approval; and

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

WHEREAS, despite ambiguities in the appeal’s objections, the City Council exercised due diligence to consider all evidence, including the testimony of the appellant, applicant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.

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

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

California Environmental Quality Act (CEQA)

- A. Pursuant to the California Environmental Quality Act, the project meets the requirements for a Categorical Exemption under CEQA Guidelines Section 15303

Class 3b. This exemption applies to additions to urban areas creating up to 6 new dwelling units. Additionally, none of the Categorical Exemption exceptions, noted under Section 15300.2, apply to the project.

Conditional Use Permit, Coastal Development Permit and Tentative Tract Map findings

- A. The City Council finds that the proposed development is consistent with the MCR/S.4 Zoning designation in providing an appropriate buffer project between zoning districts. The project will not have any substantial adverse impacts on the environment or coastal resources.
- B. The City Council finds that the project is in compliance with the General Plan and certified Local Coastal Program and will not be detrimental to the health, safety, and general welfare of persons residing or working in the surrounding neighborhood.
- C. The findings and conclusions herein are further supported by all findings of fact presented at the City Council hearing, including without limitation those facts stated in the accompanying staff report, exhibits, and public and appellant comments; all of which evidence is incorporated herein by this reference.
- D. The development was designed subject to the MCR/S.4 Zone Standards, and City design guidelines leading to a residential development that is appropriate in size to be compatible both with adjacent commercial development and with other residential structures in the vicinity.
- E. The architectural and general appearance of development is compatible with the visual quality and character of the surrounding area and is compatible with the immediate neighborhood.
- F. The proposed vesting tentative map is consistent with the General Plan, Local Coastal Program and with the General Plan Land Use Plan and Morro Bay Municipal Code.
- G. The design of the development is compatible with nearby existing uses and will not be detrimental to the health, safety, morals, comfort and general welfare of persons living or working in the vicinity of the proposed project.
- H. The proposed vesting tentative map will not be detrimental to the orderly development of improvements in the surrounding area and will not be detrimental to the orderly and harmonious development of the City.
- I. The proposed vesting tentative map will not impair the desirability of investment or occupation in the neighborhood.

Section 2: Action on Appeal; Findings. The City Council does hereby deny the appeal and uphold the Planning Commission decision to approve the Conditional Use Permit (CUP22-06), Coastal Development Permit (CDP22-004) and Tentative Tract Map (TTM22-04). To this end, it is found that:

- 1. The appeal's objection relating to "vacation of the 5-foot section of public right-of-way along Marengo Drive" is unsupported by the findings and evidence because the City Engineer has the authority to make decisions related to abandonment or vacation of City right-of-way.

2. The appeal's objection relating to "inconsistency with what the building is being called and what facilities are included in the 'drawing' plans" is unsupported by the findings and evidence because the project is an allowed use in the zoning district and meets the specific findings for the MCR Special Development Standards. The residential units can be described with the common term "attached residential units" or more commonly known as townhome units.
3. The appeal's objection relating to "setbacks" is unsupported by the findings and evidence because the Planning Commission has the discretion to approve reduced setbacks if it results in a better design (which the evidence shows is the case for this project), and this was approved in the recent hearing.
4. The appeal's objection relating to "building orientation" is unsupported by the findings and evidence because given the site shape and topography, as well as two differing zoning districts on each side of the site, the Planning Commission found that the placement of the building on the site as approved, meets several findings related to the MCR Special Development standards, such as landscaping buffers along the streets and placement of the project on the site to allow the commercial portion to be visually separate from the residential portion.
5. The appeal's objection relating to "impact to neighborhood" is unsupported by the findings and evidence because although this project will produce more vehicle trips than a vacant site, the hearing discussion also noted that the project will eliminate the current issues of illegal parking on the site and trespass, including overnight parking.
6. The appeal's objection relating to "lack of public improvements in a timely fashion" is unsupported by the findings and evidence because the project is subject to a condition that requires frontage improvements along both streets. However, the public frontage improvements along Marengo Drive are subject to a deferral agreement until such date as the adjacent properties on the North side of Marengo Drive redevelop triggering frontage improvements along the entire north side of Marengo Drive. The installation of frontage improvements can either be required at the time of project construction (such is the case with Allesandro frontage improvements) or deferred, as is the case for the public improvements along Marengo.
7. The appeal's requested relief or action seeking reexamination for compliance with the items mentioned in the appeal has been satisfied by virtue of the City Council appeal hearing on September 12, 2023.
8. The appeal's requested relief or action seeking a "requirement for a public benefit if public improvements are not timely" fails for lack of grounds and standing because, consistent with finding 6 above, there is no basis for further public improvement requirements in conjunction with the entitlements at issue.
9. All the above conclusions are further supported by all findings of fact presented at the City Council hearing, including without limitation those facts stated in the accompanying staff report, all of which evidence is incorporated herein by this reference.

Section 3: Action on Appeal; Modified Conditions. Pursuant to the public hearing on September 12, 2023, the City Council directed that the following conditions upon

Conditional Use Permit (CUP22-06), Coastal Development Permit (CDP22-004) and Tentative Tract Map (TTM22-04) be added or amended as follows:

1. Public Works Condition of Approval No. 3 relating to Marengo Drive is hereby amended as follows and Public Works Condition of Approval No. 14 was added as follows (additions shown in **bold** and deletions shown in ~~striketrough~~):

3. Marengo Drive: Due to abandonment of Marengo Drive frontage as approved by City Council per Resolution No. 114-92 and City Municipal Code 14.44.020 that excludes all neighboring single-family residences to install curb, gutters and sidewalks, a deferral of frontage improvements can be submitted for the Marengo Drive frontage improvements. **Any deferral of frontage improvements along Marengo Drive shall be for a period of time not to exceed two years from final inspection and issuance of a certificate of occupancy (which deferral shall be memorialized in a deferral agreement recordable upon the project site).** Complete frontage improvements on Allesandro Street are still required.

14. **Landscape within City Right-of-way: All proposed landscaping within the public right of way shall be maintained by the Homeowners Association and the maintenance requirement shall be incorporated into the CC&R's for the development, subject to review and approval by the Public Works Director. Landscape maintenance shall include watering, weeding, disease prevention and plant replacement, as necessary.**

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 26th day of September 2023 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

CARLA WIXOM, Mayor

ATTEST

DANA SWANSON, City Clerk

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AGENDA NO: A-6

MEETING DATE: September 26, 2023

Staff Report

TO: Honorable Mayor and City Council

DATE: September 7, 2023

FROM: Ted Schiafone, Harbor Director

SUBJECT: Acceptance of \$50,000 Grant from CalRecycle for Marine Flare and Hazardous Waste Collection Events for the Public

RECOMMENDATION

Staff recommends Council adopt Resolution No. 65-23 approving the application and accepting the award of \$50,000 grant funds for the purpose of hosting marine flare and hazardous waste collection events for the public.

FISCAL IMPACT

Staff estimates no more than 10 hours/year of one staff member's time in order to host the event.

BACKGROUND

The United States Coast Guard (USGC) requires boaters to carry several unexpired visual distress signals on board, day and night. Pyrotechnic marine flares are a common type of distress signal, but they are explosive hazardous waste and contain toxic chemicals, like perchlorate, that pose human health risks. Marine flares only work once and expire 36 to 42 months after the manufacture date. For safety and environmental reasons, it is essential to manage single-use pyrotechnic marine flares carefully. Residents should never throw flares overboard into the environment or out in household trash.

DISCUSSION

California resident boaters do not have access to an ongoing expired marine flare disposal program, and recreational vessels generate about 174,000 pyrotechnic marine flares every year, according to the California Expired Marine Flare Working Group as estimated in 2012. One of the reasons marine flare disposal is an issue is due to the cost of properly disposing of this type of hazardous waste. This grant program will cover the cost of promoting and marketing the program to area boaters and the safe disposal of marine flares and hazardous waste.

CONCLUSION

Staff recommends Council adopt Resolution No. 65-23 approving the application and accepting the award of \$50,000 grant funds for the purpose of hosting marine flare and hazardous waste collection events for the public.

ATTACHMENTS

1. Example Marine Flare Disposal Notice
2. Resolution No. 65-23

Prepared By: TS

Dept Review: TS

City Manager Review: YK

City Attorney Review: CFN

Ted Schiafone

From: CA State Parks/CA Coastal Commission <vmatuk@coastal.ca.gov>
Sent: Tuesday, August 8, 2023 10:07 AM
To: Ted Schiafone
Subject: Alert, Multiple Counties will be Offering FREE Expired Marine Flare collection events in August and September 2023!

CAUTION: This is an external email. Please take care when clicking links or opening attachments.



Alameda County, Delta Diablo, Del Norte County, Contra Costa County, Marin County, the City of Oceanside, the Port of LA, and the California Product Stewardship Council have partnered with **CalRecycle, California State Parks and Coastal Commission's California Boating Clean and Green Program** to collect expired marine flares and educate residents about marine flare management safety, including the advantages of reusable distress signals, to protect California communities and the local environment.

Residents and boaters berthing their boats in Del Norte County, Humboldt County, Alameda County, East Contra Costa County, West Contra Costa County, Marin County, the City of Oceanside, and the Port

of LA can take their expired marine flares to their county's designated marine flare collection events in the fall. Only expired marine flares from residents and boaters berthing their boats in the covered areas will be accepted. No marine flares from commercial craft or an organization nor other forms of household hazardous waste (HHW) will be accepted during the special event. Proof of residence or eligibility is required (i.e., license, registration, or slip fee).

Southern California

- **City of Oceanside: Saturday, Sept 9, 2023, from 8 am - 12 pm** at 1850 Harbor Dr N, Oceanside, CA 92054
- **Port of LA: Saturday, Sept 9 from 10 am - 2 pm** at Cabrillo Way Marina - 2293 Miner St, San Pedro, CA 90731

Northern California

- **East Contra Costa County: Aug 17 - Sep 16, 2023** during business hours at 2550 Pittsburg-Antioch Hwy, Pittsburg, CA 94565
- **West Contra Costa County: Aug 16 - Sep 16, 2023** during business hours at 101 Pittsburg Avenue, Richmond, CA 94801
- **Del Norte County: Saturday, Sept 16, 2023, from 8 am – 12 pm** at 1700 State Street, Crescent City, CA 95531. **Open to residents of Humboldt County*
- **Marin County: Sunday, Sept 17, 2023,** from 8 am -12 pm at Clipper Yacht Harbor - 310 Harbor Drive, Sausalito, CA 94965
- **Alameda County: Sunday, Sept 17, 2023, by appointment only** _Sign up for an appointment: www.stopwaste.org/marineflares_

The United States Coast Guard (USGC) requires boaters to carry several unexpired visual distress signals on board, day and night. Pyrotechnic marine flares are a common type of distress signal, but they are explosive hazardous waste and contain toxic chemicals, like perchlorate, that pose human health risks. Marine flares only work once and expire 36 to 42 months after the manufacture date.

For safety and environmental reasons, it is essential to manage single-use pyrotechnic marine flares carefully. Residents should never throw flares overboard into the environment or out in household trash. However, California resident boaters do not have access to an ongoing expired marine flare disposal program, and recreational vessels generate about 174,000

pyrotechnic marine flares every year, according to the California Expired Marine Flare Working Group as estimated in 2012.

In the absence of safe disposal options locally, the partners encourage resident boaters to consider an electronic visual distress signal device (eVDSD) as a reusable distress signal alternative to the single-use pyrotechnic marine flare.

For more information about expired marine flares and the benefits of using electronic distress signals, dbw.parks.ca.gov/marineflares

Hi, just a reminder that you're receiving this email because you have expressed interest in receiving clean boating information. Don't forget to add vmatuk@coastal.ca.gov to your address book so we'll be sure to land in your inbox! You may unsubscribe if you no longer wish to receive our emails.



©2023 CA State Parks and CA Coastal Commission - Boating Clean & Green Program |
455 Market Street, Suite 228, San Francisco, CA

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RESOLUTION NO. 65-23

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
AUTHORIZING THE CITY OF MORRO BAY TO ENTER
INTO A 2023/2024 (HD41) HOUSEHOLD HAZARDOUS WASTE
DISCRETIONARY GRANT FUNDING AGREEMENT WITH
CALRECYCLE IN THE AMOUNT OF \$50,000.00**

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

WHEREAS, City of Morro Bay (City) applied for an Office of Spill Prevention and Response (OSPR) equipment Funding Grant in the Amount of \$50,000.00; and

WHEREAS, CalRecycle awarded the City the funding grant in the amount of \$50,000.00, which will allow the City the ability to utilize the funds as deemed necessary to host a marine flare, hazardous waste collection event for the public; and

WHEREAS, the funding will enable the Harbor Department to continue to collect and host future collection events for the local maritime community.

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

1. The City is hereby authorized to enter into a FY 2023/2024 Household Hazardous Waste Discretionary grant agreement in the amount of \$50,000.00 for marine flare collection, supplies and training, and
2. The Harbor Director, or designee, is hereby authorized to both act as the City's agent in regard to all aspects of the grant contract agreement as well as to execute necessary documents related to the grant agreement on behalf of the City.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 26th day of September 2023 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

CARLA WIXOM, Mayor

ATTEST:

DANA SWANSON, City Clerk

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**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY RECOGNIZING
SEPTEMBER 15 – OCTOBER 15, 2023
AS “NATIONAL HISPANIC HERITAGE MONTH”**

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

WHEREAS, the City of Morro Bay is welcoming, inclusive, and dedicated to improving the quality of life for those who live, work, and visit here; and

WHEREAS, what began in 1968 as Hispanic Heritage Week under President Johnson and was expanded by President Reagan in 1988 to cover a 30-day period starting on September 15, the United States observes Hispanic Heritage Month; and

WHEREAS, Hispanic Heritage Month celebrates the histories, cultures and contributions, of those whose ancestors came to America from Spain, Mexico, the Caribbean, and Central and South America; and

WHEREAS, the purpose of Hispanic Heritage Month is to create awareness of the contributions of people of Hispanic Heritage to the American culture. Many people of Hispanic Heritage serve as civil rights leaders and community organizers, politicians, teachers, journalists, first responders, artists, healthcare professionals, athletes, inventors, entertainers, and more; and

WHEREAS, Hispanic Heritage Month is tied to the celebration of the rich tapestry of our community and reflects an array of distinct cultures; and

WHEREAS, Morro Bay is fortunate to count among its population a large number of residents of Spanish and Latin American descent, who grow businesses, offer innovative ideas, strengthen our economy, create jobs, and contribute to our daily lives.

NOW, THEREFORE, BE IT RESOLVED that Morro Bay City Council does hereby proclaim September 15 - October 15, 2023 as "National Hispanic Heritage Month" and invite the community to learn more of the Hispanic culture, people, traditions and values that have positively enriched our community.

IN WITNESS WHEREOF I have hereunto
set my hand and caused the seal of the City
of Morro Bay to be affixed this 26th day of
September 2023

CARLA WIXOM, Mayor
City of Morro Bay, California

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AGENDA NO: C-1

MEETING DATE: September 26, 2023

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 20, 2023

FROM: Scot Graham, Community Development Director
Cindy Jacinth, Planning Manager

SUBJECT: Discussion of Waterfront Master Plan Update and Authorization to Submit a Grant Application for California Coastal Commission LCP Local Assistant Grant Program Funding

RECOMMENDATION

Adopt Resolution No. 64-23 authorizing staff to submit a grant application for California Coastal Commission (CCC) LCP Local Assistance Grant Program to fund the update of the City's 1996 Waterfront Master Plan in the amount of \$500,000 according to the scope outlined in this staff report.

This item was continued from the September 12, 2023 City Council Meeting. The original staff report and all supporting documents are attached for reference.

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



AGENDA NO: C-3

MEETING DATE: September 12, 2023

Staff Report

TO: Honorable Mayor and City Council

DATE: August 28, 2023

**FROM: Scot Graham, Community Development Director
Cindy Jacinth, Planning Manager**

SUBJECT: Discussion of Waterfront Master Plan Update and Authorization to Submit a Grant Application for California Coastal Commission LCP Local Assistant Grant Program Funding

RECOMMENDATION

Adopt Resolution No. 64-23 authorizing staff to submit a grant application for California Coastal Commission (CCC) LCP Local Assistance Grant Program to fund the update of the City’s 1996 Waterfront Master Plan in the amount of \$500,000 according to the scope outlined in this staff report.

ALTERNATIVES

1. Direct staff to discontinue application for the Coastal Commission Grant.
2. Decrease amount of grant request or provide other direction to staff regarding funding strategy.

FISCAL IMPACT

Should the City be successful in obtaining grant funding, the funds received would pay for consultant services, with staff time spent working on the Waterfront Master Plan (WMP) update to be paid from the City’s General Fund portion of the budget. No cash match is required in order to apply for the grant.

BACKGROUND/DISCUSSION

The California Coastal Commission (CCC) has announced grant funding availability under the LCP Local Assistance Grant Program. This is rolling, non-competitive grant funding available to local governments to assist with either development of or amendments to Local Coastal Programs (LCP). Application funding is limited to a maximum of up to \$500,000. Funds may be used for projects that are designed to assist local governments in assessing impacts and planning for coastal resiliency, including adapting to the impacts of climate change and sea level rise.

The City was previously successful in obtaining approximately \$600,000 of CCC grant funding to update the City’s General Plan/LCP Land Use Plan known as Plan Morro Bay, which was adopted by the City Council in 2021 and certified by the CCC also in 2021. Policy LU-8.1 of the LCP states “Update the 1996 Waterfront Master Plan with a focus on addressing issues of sea level rise and

Prepared By: <u> CJ/SG </u>	Dept Review: <u> SG </u>
City Manager Review: <u> YK </u>	City Attorney Review: <u> LNL </u>

future planning for Morro Rock.” Applying for this grant funding would enable implementation of this policy.

CCC staff has offered assistance and guidance to City staff in submitting an application that would meet the eligibility criteria related to coastal resilience and sea level rise adaptation planning. Staff discussed with CCC staff the Waterfront Master Plan update as an application. Coastal staff confirmed this update would be an eligible project and encouraged the City to apply.

The LCP grant funding opportunity was made available to local governments as a result of the State’s Budget Act of 2021 which appropriated \$31 million to the CCC to support this program. Upon submittal of an application, funding decisions are made by CCC within 30 days of application. The funding program allows grants to be stacked, which means that the City could seek out additional funding sources to supplement the cost of the Waterfront Master Plan Update project.

GRANT DIRECTION FROM COUNCIL

In addition to Council authorization for the grant application, staff is seeking direction from Council on the scope of the grant application and for the update of the Waterfront Master Plan as a whole. Staff intends to expand the area covered by the Waterfront Master Plan to include at least the east (inland) side of the Embarcadero out to the pedestrian bridge and extending across to the old wastewater treatment plant site. Other items for Council to consider incorporating into the Waterfront Master Plan update include:

- Offshore wind uses
- Expansion of the Master Plan to extend across the pedestrian bridge over to the old wastewater treatment plant site
- Possible formation of an ad hoc committee to assist with the Master Plan RFP and development of the Master Plan itself. An ad hoc committee could include Councilmembers, Planning Commissioners, Harbor Advisory Board members, and possibly representatives from the Embarcadero Master Lease Holder group, commercial fishing industry, and maritime museum.

GRANT APPLICATION

Upon authorization by Council, staff will submit an application for grant funding to the CCC. A Request for Proposal (RFP) will be developed after grant funding is received. The RFP contents would be to seek professional planning consulting services similar to the consulting services utilized for the Plan Morro Bay update project. The scope of services in the RFP would be dependent on Council direction. The current Waterfront Master Plan chapters cover identification of planning areas, transportation and harbor improvements, proposals for each planning area, and waterfront design guidelines. The current WMP boundary planning areas cover from the north Morro Rock/Coleman Park area (including sandspit to PG&E plant intake and Little Morro Creek) and extends all the way south to Tidelands Park. Because the grant funding requires a sea level rise adaptation planning component, the WMP update would also include an additional chapter to address these grant funding components, as well as update the existing document. This is consistent with multiple LCP Policies including LU-8.2, which addresses planning for Morro Rock and to incorporate sea level rise projections and an updated coastal hazard vulnerability assessment; Policy LU-8.7, which requires relocation of underdeck utilities, decks, piers, etc. in the Embarcadero area to a location above the sea level rise zone; and Policy LU-8.12, which requires the City to continue to gather information the effects of sea level rise and other coastal hazards on Morro Bay’s shoreline.

CONCLUSION

The newly available grant funding program from the CCC and support by Coastal staff presents an excellent opportunity to apply for needed funding to update the 1996 Waterfront Master Plan, which

would not only incorporate coastal resilience and sea level rise adaptation planning but also provide an opportunity to update other portions of the WMP including waterfront Design Guidelines. Staff recommends the Council adopt Resolution No. 64-23 authorizing staff to submit a grant application in the amount of \$500,000 to the CCC in support of the update for the City's 1996 Waterfront Master Plan to be developed and adopted as a future amendment to the City's LCP.

ATTACHMENT(S)

1. Resolution No. 64-23

RESOLUTION NO. 64-23

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING THE GRANT APPLICATION FOR THE COASTAL
COMMISSION LCP LOCAL ASSISTANCE GRANT PROGRAM**

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

WHEREAS, the Budget Act of 2021 provides up to \$31 million to support the Coastal Commission's LCP Local Assistance Grant Program which awards grants to local governments to support coastal resiliency and updates to Local Coastal Programs (LCPs); and

WHEREAS, the California Coastal Commission, under the authority of the California Coastal Act, may provide financial assistance to support coastal planning and has approved a grant program to provide such financial assistance for LCP planning; and

WHEREAS, the goal of the grant program is to develop new or updated LCPs in conformance with the California Coastal Act and to promote coastal resiliency and address the effects of climate change; and

WHEREAS, grant proposals submitted under this grant program must complete LCP planning work with special emphasis on coastal resiliency and addressing the effects of climate change and sea-level rise; and

WHEREAS, the City of Morro Bay, has an effectively certified LCP; and

WHEREAS, the City of Morro Bay adopted the Waterfront Master Plan in 1996 and is included in the City's LCP; and

WHEREAS, Policy LU-8.1 of the City's LCP states the Waterfront Master Plan should be updated with a focus on addressing issues of sea level rise and future planning for Morro Rock; and

WHEREAS, the City of Morro Bay, desires to pursue an update of the Waterfront Master Plan project that would result in the completion and submittal for certification by the California Coastal Commission of an Amendment to the LCP [in whole or in part]; and

WHEREAS, the City of Morro Bay commits to and agrees to fully support a planning effort intended to amend a certified LCP pursuant to the provisions of the California Coastal Act, with full public participation and coordination with the Coastal Commission staff.

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

1. Directs City of Morro Bay staff to submit the grant application package attached hereto as Attachment 1 to the California Coastal Commission to provide financial and planning assistance, under authority of the California Coastal Act, in the amount of \$500,000 to fund the project more particularly described in the grant application package.

2. Authorizes the Community Development Director, of the City of Morro Bay, to execute, in the name of the City of Morro Bay, all necessary applications, contracts and agreements and amendments thereto to implement and carry out the grant application package attached hereto and any project approved through approval of the grant application.

PASSED AND ADOPTED by the Morro Bay City Council, at a regular meeting held on this 12th day of September 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

CARLA WIXOM, Mayor

ATTEST:

DANA SWANSON, City Clerk