

# City of Morro Bay

## City Council Agenda

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### *Mission Statement*

*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.*

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### **AMENDED**

**REGULAR MEETING – MARCH 13, 2012**

**CLOSED SESSION – MARCH 13, 2012  
CITY HALL CONFERENCE ROOM - 5:00 P.M.  
595 HARBOR ST., MORRO BAY, CA**

**CS-1 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR.** Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

**CS-2 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS.** Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to one (1) parcel.

- **Property: Lease Site 122-123/122W-123W, 1205 Embarcadero**  
Negotiating Parties: Troy & Heather Leage (Harbor Hut) and City of Morro Bay  
Negotiations: Lease Terms and Conditions
- **Property: Lease Site 87-88/87W-88W, 833 Embarcadero**  
Negotiating Parties: Violet Leage (Outrigger) and City of Morro Bay  
Negotiations: Lease Terms and Conditions

**IT IS NOTED THAT THE CONTENTS OF CLOSED SESSION MEETINGS  
ARE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE.**

**PUBLIC SESSION – MARCH 13, 2012  
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  
MAYOR AND COUNCILMEMBERS ANNOUNCEMENTS & PRESENTATIONS  
CLOSED SESSION REPORT

PUBLIC COMMENT PERIOD - Members of the audience wishing to address the Council on City business matters (other than Public Hearing items under Section B) may do so 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 address 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.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (805) 772-6205. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE JOINT PLANNING COMMISSION/CITY COUNCIL MEETING AND REGULAR MEETING OF FEBRUARY 28, 2012; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 RESOLUTION 14-12 AUTHORIZING THE FEDERAL FUNDING UNDER FTA SECTION 5317 (49 U.S.C. SECTION 5317) WITH CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR THE COMMUNITY BUS PROGRAM; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Resolution 14-12.**

A-3 RESOLUTION 13-12 AUTHORIZING THE EXECUTION OF A MASTER AGREEMENT AND PROGRAM SUPPLEMENTS WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR STATE FUNDED TRANSIT PROJECTS; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Resolution 13-12.**

A-4 APPROVAL OF THE AMENDED JOB DESCRIPTIONS FOR THE HARBOR DIRECTOR/HARBORMASTER AND HARBOR BUSINESS MANAGER AND AUTHORIZATION TO FILL THE HARBOR DIRECTOR/HARBORMASTER AND HARBOR BUSINESS MANAGER VACANCIES; (ADMINISTRATION)

**RECOMMENDATION: Approve the amended job descriptions for the Harbor Director/Harbormaster and Harbor Business Manager and authorize to fill the Harbor Director/Harbormaster and Harbor Business Manager vacancies.**

A-5 FINDINGS FOR APPROVAL OF THE SIGN EXCEPTION PERMIT (#SP0-141) FOR VIRG'S SPORT FISHING; (PUBLIC SERVICES)

**RECOMMENDATION: Staff recommends that Council adopt the findings listed in Exhibit A and Conditions detailed in Exhibit B.**

**B. PUBLIC HEARINGS, REPORTS & APPEARANCES**

B-1 INTRODUCTION AND 1ST READING OF THE ORDINANCE AMENDING CHAPTER 17.48.32, SECONDARY UNITS, SPECIFICALLY MINIMUM AND MAXIMUM FLOOR AREA, ARCHITECTURAL COMPATIBILITY, PARKING AND CONDITIONAL USE PERMIT; (PUBLIC SERVICES)

**RECOMMENDATION: Open the public hearing and receive testimony; adopt the Negative Declaration; accept the Planning Commission recommendation to adopt the proposed Ordinance amendments that would allow for ministerial secondary dwelling units in residential zones; and make a motion to approve the First Reading and Introduction of Ordinance No. 576 by number and title only.**

**C. UNFINISHED BUSINESS**

C-1 CONSIDERATION OF ESTERO BAY TRANSIT SERVICE PROPOSAL; (PUBLIC SERVICES)

**RECOMMENDATION:** Review the Estero Bay Transit service proposal from the San Luis Obispo Council of Governments (SLOCOG) and the information from the Public Works Advisory Board meeting and chose either not pursue implementation of it or continue working with SLOCOG and return to PWAB and Council.

D. NEW BUSINESS

D-1 REVIEW OF THE MORRO BAY SPRINKLER ORDINANCE; (FIRE)

**RECOMMENDATION:** This item is informational only.

D-2 RECOMMENDATION ON BEACH ACCESS RAMP AT MORRO ROCK;  
(PUBLIC SERVICES/RECREATION & PARKS)

**RECOMMENDATION:** Provide direction to staff to pursue the project as funding is available through grants or other sources.

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

**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 THAT REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.**

MINUTES - MORRO BAY CITY  
COUNCIL/PLANNING COMMISSION  
JOINT MEETING – FEBRUARY 28, 2012  
VETERANS MEMORIAL HALL - 5:00 P.M.

AGENDA NO: A-1  
MEETING DATE: 3/13/2012

Mayor Yates called the meeting to order at 5:00 p.m.

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
	Rick Grantham	Chairman
	John Solu	Vice Chair
	John Fennacy	Planning Commissioner
	Paul Nagy	Planning Commissioner
	Jessica Napier	Planning Commissioner
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Rob Livick	Public Services Director
	Kathleen Wold	Planning Manager
	Sierra Davis	Assistant Planner
	Jamie Boucher	City Clerk

I. ESTABLISH QUORUM AND CALL MEETING TO ORDER

II. PLEDGE OF ALLEGIANCE

III. DUTIES AND RESPONSIBILITIES

Pursuant to the Morro Bay Planning Commission By-Laws, the Planning Commission, upon the request of the City Council, shall hold a joint meeting to discuss proposed policies, programs, goals and objectives, budgeting, future planning, or any other planning matter requiring joint deliberation.

IV. PUBLIC COMMENT PERIOD - Members of the audience wishing to address the Council and Planning Commission on matters on this special meeting agenda may do so at this time – there was no public comment.

V. JOINT MEETING DISCUSSION ITEMS

Planning Commission Requested Discussion Items:

**A) Subdivision Ordinance Review Sub-Committee**

Commissioners Nagy and Napier have been studying the Subdivision Ordinance and the Zoning Ordinance identifying inconsistencies between the two. After compiling a list, they intend sharing the information with the Planning Commission and staff

before handing it to the City Council for their review. The goal of the project is to find ways to streamline the process.

Chair Grantham suggested Council appoint a member to sit on this subcommittee as well. Councilmember Johnson volunteered to be a member of this sub-committee.

### **B) Commercial Façade Improvement Program**

The Planning Commission asked staff what the status of the Facade Improvement Program was. Public Services Director, Rob Livick stated that staff was still in discussions with a local bank. Their manager is still working with their Board of Directors to get approval for the process. Unfortunately we can't market the proposal to local businesses until we get the partner bank on board. Members of the Council and Planning Commission expressed their desire to move forward with this project, even if it means contacting an alternative local bank. Commissioner Nagy hoped that this process could be streamlined a little bit more with the possibility of reduction of permit fees and maybe even a blanket encroachment permit which would encourage business owners to participate. Public Services Director Rob Livick spoke to the fact that there would be letters mailed out as part of the Facade Improvement Program marketing plan. He added that the City already has a blanket encroachment permit for those purposes discussed. Within the context of the letter, he will include those provisions. Commissioner Solu also encouraged the terms of these potential loans be included in the letter as additional incentive.

## VI. ADJOURNMENT – 5:35 p.m.

This meeting adjourned to the regularly scheduled City Council meeting.

Recorded by:

Jamie Boucher  
City Clerk

**AGENDA NO: A-1**

**MEETING DATE: 03/13/2012**

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – FEBRUARY 28, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Yates called the meeting to order at 6:00 p.m.

PRESENT:	William Yates	Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	City Clerk
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	Eric Endersby	Harbor Operations Manager
	Joe Woods	Recreation & Parks Director
	Kathleen Wold	Planning Manager
	Barry Rands	Associate Engineer
	Cindy Jacinth	Administrative Technician

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &  
PRESENTATIONS

CLOSED SESSION REPORT – There was no closed session held this evening.

PUBLIC COMMENT

Charlie Kleeman, owner of the Forever Stoked provided the City local business report. Located at 1164 Quintana, Forever Stoked sells artwork and jewelry; they host art shows every couple of months; and, are excited that the demand for their products is growing rapidly. They have a goal of being able to sell all locally-made items. He and his partner, Chris Peterson, are excited to be a part of the Moro Bay Community.

Jean Lamaroe and Rene Bishop spoke on behalf of the SurvivOars. They are a diverse group of women, most of whom are cancer survivors, others cancer survivor supporters, whose goal is to rebuild strength of body and mind. They do this in part by participating in their rowing club as team members working together and for each other.

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John Solu spoke representing the City's lodging industry. John requested Council approve and move forward the Eckles/Alexander Plan A and uphold the TBID's unanimous decision. To achieve the best results for businesses and the City Treasury, all of the marketing resources should be consolidated, both financially and human, into one organization and Plan A does that.

Craig Schmidt, CEO of the Chamber of Commerce spoke in support of Plan A+ which he feels addresses the desires the TBID and also retains the Visitor's Center contract with the Chamber of Commerce. This will be of mutual benefit to the City, the Chamber and ultimately the community. There are good reasons why the City contracts its Visitor's Center and fulfillment services with the Chamber: first is fiscal responsibility; second, it promotes ethicacy; third, would allow for total representation of all business segments; and finally, confidence in the services provided. The removal of the Visitor's Center from the Chamber will have long lasting effects and the whole program of their work would have to shrink.

John Weiss spoke advocating fiscal responsibility and the use of existing infrastructure. He encouraged Council maintain the Chamber's contract for the Visitor's Center as it currently works. His research shows, especially in small towns, people assume that the Visitor Center and Chamber resources will be shared. He stressed that if the Council and citizens believe a director of tourism is needed, he feels the Chamber can continue to support and fulfill that plan by assisting the effort with office, staff, and years of visitor serving experience. He advocates for Plan A+.

Dan Reddell has the highest respect and admiration for all members representing their interests tonight and feels that the goals of both proposals are the same. He feels the difference is in the "how" – the goal of the TBID/CPC is through "advanced technology" and the goal of the Chamber is through "human contact". He feels we can reach these goals by blending these philosophies, and placing the members of this new board on the Chamber of Commerce Board which would create one of the most dynamic and most technologically advanced Chambers of Commerce on the Coast.

Mary Lucinda, who works with CAPSLO, read a letter written by Dee Torres, Director of Homeless Services requesting the City's financial support from the 2012 CDBG Program funds to support on-going operations of the Prado Day Center as well as the Maxine Lewis Memorial Overnight Shelter in the amount of \$10,000.

Bill Coy spoke advocating his support of the Chamber of Commerce and what they are trying to do. First wanted to invite everyone on September 15<sup>th</sup> and 16<sup>th</sup> to the Avocado/Margarita Festival which should be one of the largest events in Morro Bay history. He would hate to see resources taken away from the Chamber because at this particular time they need more not less resources.

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Betty Winholtz spoke on Item A-3 with concerns that it is on the Consent Calendar, that there was no staff report, that there was no bid ceiling mentioned and no information about what the City intends to do with the property.

Brian Stacy spoke in support of Item B-2. With the years of recognized fishing disasters as well as those that have not been recognized and still not financially viable to the local fishermen – 2006 and 2010 – he feels that the applicant should be granted his slip waiver.

Barry Brannon spoke on the wastewater treatment plant site. He feels that if the value of the site is factored into the relocation costs, you will find out that these questions have actually saved citizens money.

Joe Yukich wondered why Morro Bay doesn't participate in the SLO Film Festival; he hopes that next year we will. He also questioned what the real costs of the Director of Tourism proposals were and that Council should be making their decisions based on which is most cost effective and has the highest cost benefit.

Lori French, who wears many Morro Bay hats, encouraged Council to seek unity; dividing the City up is not what we need right now. She feels that the combined Chamber and Visitors Center provides a very valuable service. She also spoke in favor of granting the fishing slip waiver.

Nick Mendoza serves as a member of the TBID and is also a Chamber supporter. There was consensus at the 2 workshops that were held that a Director of Tourism was needed. After that was decided, there needed to be a structure to put that Director of Tourism in place. He also noted that while our sales tax numbers are going up, they aren't going up as much as they are in other places. He doesn't feel it is working the way it should be right now and feels that the formation of the 501(c)(6) is the right move; this should result in a positive partnership with that organization and the Chamber.

Susan Stewart, who serves as the Chairperson for the Community Promotions Committee is concerned that we have gotten away from the original question of "do we need a Director of Tourism?" and instead have been forced to choose between 2 formats for a complete or partial restructuring of the Tourism Advisory Boards, Visitor's Center and Chamber of Commerce. She feels that if the TBID would like to move forward with the formation of the 501(c)(6), a new board, a new office and a new tourism director they should be allowed to, just not with City funding. One clarification she made was that the CPC does not feel that it is in the best interest of the community to combine the TBID and CPC Boards. And finally, she believes that the CPC has a valuable role in the promotion of the community.

Janice Peters wanted to offer a different option to the tourism proposal – Option "C" – Consider Creating a Compromise. The key points to this proposal are: the TBID forms a 501(c)(6) with its own board and funding who would then decide whether or not to hire a

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marketing director; CPC remains a City Advisory Board with an appropriate budget charged with in-county promotion of City events; the website and agreed upon co-op advertising costs would be shared by TBID and CPC; the Chamber continues to operate the Visitors Center for the 2012/13 fiscal year with an RFP going out before the 2013/14 fiscal year. She feels this option responds to all concerned parties without making drastic changes.

Dan Podesto feels that neither Plan A nor Plan A+ addresses the issue of need – does Morro Bay need a tourism director? He expressed concerns with Plan A as he feels it misrepresents the effectiveness of the current organizational structure, that he thinks the cost of creating a 501(c)(6) will be greater than anticipated and in leave fewer dollars for marketing Morro Bay, but his greatest concern is that a majority of the newly created advisory board's make-up will be hoteliers who he feels may not have the best interests of all Morro Bay businesses in mind. Mr. Podesto supports Ms. Peter's Plan C.

Jamie Irons announced the 3<sup>rd</sup> Annual Black Mountain Trail Work Day being held on Sunday, March 11<sup>th</sup> at 8am. This project is being done in conjunction with State Parks and the CCCMB (Central Coast Concerned Mountain Bikers). He encouraged trail runners and riders to come out and support the trail. He also voiced concern that the goal setting workshops scheduled for next week were both being held during the day which doesn't allow full citizen participation, he hoped that staff would consider adding an evening session.

Bill Shewchuk feels that combining the TBID and CPC is a logical decision to make but how the board members of the TBID and CPC are to be allocated is important – it should be weighted equally. He also feels the Chamber should stay intact, as their job is to drive customers/visitors into our town. He feels that we should take advertising money funds and actually advertise, which would be better than adding a body.

Joan Solu spoke in favor of Plan A and presented a power-point presentation. There was direction to conduct workshops to develop a job description for a Director of Tourism but based on the information received, it became clear that the existing structure would not support the position. The TBID unanimously recommends that Council adopt Plan A which would consolidate all tourism activities including the Visitor's Center under the direction of one board consisting of 9 members – 5 hoteliers and 4 other tourism related businesses; allow the new advisory board to form a 501(c)(6) who would then hire a director of tourism, award contracts, pay bills and perform other tourism business related activities. She feels that marketing and branding the destination by unifying the tourism efforts for every business and the city is the priority.

Mayor Yates closed the public comment period.

Item D-2, REVIEW OF THE MORRO BAY SPRINKLER ORDINANCE was moved to the March 13, 2012 Council Meeting.

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VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Yates called for a break at 7:11 p.m.; the meeting resumed at 7:39 p.m.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR MEETING OF FEBRUARY 28, 2012; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 AUTHORIZATION FOR ATTENDANCE AT THE C-MANC ANNUAL WASHINGTON D.C. MEETING; (HARBOR)

**RECOMMENDATION: Approve authorization for a two-person delegation, the City Manager and Harbor Operations Manager, to attend the C-MANC meetings.**

A-3 RESOLUTION 11-12 AUTHORIZING THE CITY MANAGER TO BID AT THE U.S. GENERAL SERVICES ADMINISTRATION AUCTION ON CERTAIN REAL PROPERTY LOCATED AT 3300 PANORAMA AUTHORIZING PAYMENT OF REQUIRED FEES AND DEPOSITS AND EXECUTION OF ALL NECESSARY DOCUMENTS; (CITY ATTORNEY)

**RECOMMENDATION: Adopt Resolution 11-12**

Councilmember Smukler pulled Item A-3 from the Consent Calendar.

MOTION: Councilmember Johnson moved the City Council approve Item A-1 and A-2 of the Consent Calendar. The motion was seconded by Mayor Yates and carried unanimously 5-0.

Councilmember Smukler asked staff where we are in the bidding process for 3300 Panorama. City Attorney stated the next step in the process would be to request an appraisal.

MOTION: Councilmember Smukler moved the City Council approve Item A-3 of the Consent Calendar. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

MINUTES - MORRO BAY CITY COUNCIL  
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B-1 APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY SIGN  
EXCEPTION #SP0-141 (VIRG'S LANDING SIGNS); (PUBLIC SERVICES)

Councilmembers George Leage and Carla Borchard had to step down from the dais due to a conflict of interest.

Planning Manager, Kathleen Wold presented her staff report recommending Council deny the appeal and uphold Planning Commission's denial of Sign Exception #SP0-141 as it is an off-premise sign (billboard) which are specifically prohibited in the City's Zoning Ordinance. While there are provisions which provide for exceptions, those must be approved subject to findings. Staff reviewed the proposal in relationship to the required findings and was unable to make all the required findings for approval.

Cathy Novak, representing the appellant Virg's Landing, gave her presentation. She covered the history of the original sign request, the Planning Commission decision and then spoke on specific points regarding the appeal. Ms. Novak feels that the sign exception should be allowed as they feel this particular sign encourages communications which aid in orientation and identifies activities; preserves the aesthetic character of the surroundings; relates to basic principles of good design and pleasing appearance; and, doesn't overload the public's capacity to receive information – all points that relate to the billboard section of the Zoning Ordinance. In addition, this directional and display sign is in public, not private property, which is dealt with in the Zoning Ordinance in a separate section. This section states that directional and community promotion sign programs advertising, directing or informing pedestrians of business service or community events and services not related to or located on the site shall be permitted in commercial use areas of the City on public lands or rights-of-way upon granting of an exception permit. After 57 years in the same location, Virg's had to relocate; this has caused confusion, frustration and loss of charter and private "fisher folk" to Morro Bay. They feel this information signage is vital to assisting the visiting "fisher folk" to the new shop as opposed to losing them to competing communities. Finally, the applicant is amenable to a project condition that would specify the length of time the sign is allowed – Virg's would ask for a 2 year period and an option for the Public Services Director or Planning Commission to revisit the issue before that expiration date to see if it needs to remain longer.

Mayor Yates opened the hearing for public comment; seeing no one wishing to speak, Mayor Yates closed the hearing for public comment.

Mayor Yates noted that the sign has been there for several months and hasn't bothered anybody and to his knowledge, we haven't received any complaints. There are special circumstances surrounding this business and he would like to be able to direct Rob Schultz to find special circumstances that would allow this.

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Councilmember Johnson is favor of also upholding the appeal as it is a waterfront business that has had to move away from the water, is one of our oldest businesses but most importantly, is the only business in Morro Bay that sells fishing licenses.

Councilmember Smukler is inclined to agree with Mayor Yates and Councilmember Johnson but is wrestling with the sensitivity in the community of being fair and that this might be opening the door for other exceptions. He would prefer a sunset written in this in the exemption.

**MOTION:** Mayor Yates moved the City Council uphold Virg's appeal for sign exception #SPO-141 and direct the City Attorney to draft findings to uphold this decision, to allow the exception for 2 years, and to have the Public Services Director, at his discretion, extend or deny the extension after the 2 years. The motion was seconded by Councilmember Johnson and carried 3-0-2 with Councilmembers Borchard and Leage needing to abstain.

**B-2 APPEAL OF COMMERCIAL FISHING SLIP WAIVER DECISION BY HARBOR ADVISORY BOARD; (HARBOR)**

Harbor Operations Manager Eric Endersby gave the staff presentation. As required, three fishermen appealed in writing to the Harbor Advisory Board for fishing slip waivers. The two fishermen in attendance at the Harbor Advisory Board meeting were granted their waivers and the one who was unable to attend was not. Per Resolution #23-91, that fisherman is now appealing that decision to Council this evening. Should the appeal be denied, the fisherman would be required to vacate his slip. Should the appeal be upheld, the fisherman would be granted a waiver

Fisherman and Appellant Joe Nungaray stated that he is here complying with Resolution 23-91 in submitting fuel tickets and receipts for fish caught but didn't catch the required limit due to personal reasons. At that point, as advised, he submitted a waiver request to the Harbor Advisory Board. Mr. Nungaray was never told that he needed to attend the Harbor Advisory Board meeting. The Harbor Advisory Board denied that waiver due to his lack of attendance at the meeting. He is asking that Council reconsider his waiver tonight.

Mayor Yates opened the hearing for public comment.

Brian Stacy spoke on behalf of Mr. Nungaray. He stated that Mr. Nungaray has been out trying to fish, it was just a terrible season. He supports staff's request to grant the waiver.

Mayor Yates closed the hearing for public comment.

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Councilmember Borchard is personally sorry that Mr. Nungaray was here tonight and feels that he was singled out because he wasn't able to attend the Harbor Advisory Board meeting. She absolutely supports Mr. Nungaray's appeal.

Councilmember Johnson echoes Councilmember Borchard's sentiments as does Councilmember Smukler and wishes the Harbor Advisory Board discuss the Salmon Fishing disaster.

Mayor Yates says this shouldn't have happened and is sorry as Mr. Nungaray was absolutely not required to have attended the Harbor Advisory Board meeting. He hopes that staff will take this decision and the flavor of what he is hearing back to the Harbor Advisory Board so that this will not happen in the future.

**MOTION:** Councilmember Borchard moved that Council uphold Mr. Nungaray's appeal and grant him an exemption for this past year. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

**B-3 APPROVAL OF THE MORRO BAY BICYCLE AND PEDESTRIAN MASTER PLAN; (PUBLIC SERVICES)**

Associate Engineer Barry Rands presented the Morro Bay Bicycle and Pedestrian Master Plan staff report to Council. He thanked the various groups who all took part in putting this document together with special thanks to the public for their enthusiastic support. Of special note, the City will benefit in numerous ways from the implementation of this plan including increasing the safety and convenience of travel for cyclists and pedestrians, enhancing the City's eligibility for grant funding, creating more reasons for tourists to visit Morro Bay and stay longer, and helping our residents stay fit and reduce reliance on imported energy. Mr. Rands recommends adoption of the plan.

Mayor Yates opened the hearing for public comment.

Dan Rivoire, Executive Director of the SLO Bicycle Coalition, thanked staff for bringing this forward and Council for hearing their public comments. He stressed that an approved bike plan will help the City with some of the fiduciary concerns as we will now be able to apply for bicycle account funds.

Robert Davis spoke on behalf of the Morro Bay Citizen's Bike Committee who like the plan and appreciated all of the public input. He is happy that this will increase the safety of both pedestrians and cyclists as well as promote Morro Bay as a tourist destination.

Dave Albrecht encouraged Council adopt this plan as it will make Morro Bay a more cyclist and pedestrian friendly City. He also said that the annual Lighthouse Ride which occurs each

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September and boasts over 1300 riders will be starting and ending at Morro Bay High School and they are very excited for this partnership.

Amy Burton was here to show her support for the Plan. She feels this plan provides the avenue to address the area's bicycling needs and encourages its adoption.

Christine Johnson, an avid biker and walker sees the benefit that the adoption of this plan can have, as with an approved plan, we will be eligible for grants that can improve our infrastructure. She also spoke of the Annual 4<sup>th</sup> of July Bike Parade, which is the largest "All Ages Bike Parade", in the County. She also sees the value of being able to market Morro Bay as a bike and pedestrian friendly town.

Jamie Irons supports the plan as well. This is a great opportunity for us as a City to implement a plan that will provide funding for needed projects that were all done through the public process with input from the public.

Geiska Velasques, who represents for SLOCOG, states that the plan has been reviewed by SLOCOG and deemed certified and is ready to be submitted for BTA eligibility.

Anika Velasques who attends a charter school in Morro Bay would like it if the bike plan would work as she is a big fan of biking.

Mayor Yates closed the hearing for public comment.

Councilmember Johnson gave her support to the plan.

Councilmember Smukler is absolutely in support of it and complemented staff for facilitating and moving this forward.

Councilmember Borchard is also in support of the plan.

MOTION: Councilmember Smukler moved the City Council approve the 2011 Morro Bay Bicycle & Pedestrian Master Plan as presented. The motion was seconded by Councilmember Leage and carried unanimously 5-0.

**B-4 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM  
FUNDING RECOMMENDATIONS FOR 2012/2013; (PUBLIC SERVICES)**

Public Services Director Rob Livick presented the staff report requesting Council approve and provide awards on a proportional basis after final receipt of the 2012/2013 funding allocation from the Department of Housing and Urban Development. This year the City received 11 applications for CDBG funds.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – FEBRUARY 28, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Yates opened the hearing for public comment; seeing no one wishing to speak, Mayor Yates closed the hearing for public comment.

Councilmember Smukler has seen the list of requests for funding. As a result of hearing about the concerns of the homeless population, he thinks that its worthwhile to shift \$8630 of these funds to CAPSLO as he feels this is a higher need at this point.

Councilmember Leage will support this.

Councilmember Johnson she is in favor of the apportionment of the monies as recommended.

Councilmember Borchard knows that CAPSLO is very challenged right now with the homeless services in general and would also support shifting \$8630 over and using the remainder of the funds with the handicapped project.

Mayor Yates stated he can get behind the support of CAPSLO receiving the shifting of the monies; he feels we have enough volume of homeless who utilize those shelters to justify the expenditure.

**MOTION:** Councilmember Smukler moved the City Council approve the CDBG Block Grant funding request with the following adjustment - \$8630 going to the CAPSLO's Homeless Shelter request and the remainder going to projects as recommended. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.

Mayor Yates called for a break at 8:43 p.m.; the meeting resumed at 9:00 p.m.

C. UNFINISHED BUSINESS – None.

D. NEW BUSINESS

D-1 DISCUSSION OF DIRECTOR OF TOURISM AND FORMATION OF A TOURISM BUREAU; (ADMINISTRATION/CITY ATTORNEY)

City Manager Andrea Lueker presented the staff report recommending a blending of aspects of both the Eckles/Alexander proposal and the Chamber proposal to include combining the TBID and CPC Advisory Boards; to incorporate a 501(c)(6) to implement and administer an Annual Work Program that Council would approve and retain ultimate authority over; that the Visitor's Center remain under contract with the Chamber of Commerce for fiscal year 2012/2013; and that the funding amount for the Visitor Center contract and new nonprofit contract be determined during the budget process.

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Councilmember Leage's goal is for us to bring in more revenue to Morro Bay and to do this we need more tourists. He sees Morro Bay as the jewel of the Central Coast. He would also like to see Director of Tourism position's name changed to the Director of Marketing. He is in support of a Tourist Bureau, of disbanding the CPC and forming a new corporation. He definitely feels like decisions need to be made tonight as we don't have time to fool around.

Councilmember Smukler thanked the members of the public, who spent time and put thought into this process over the last year. He continues to go back to the fact that this is tax payer money and how can we form this to bring the most funds into the community and respect the rate payers' money. He feels there is value to both proposals. To date we have been focused on the tourism and promotions side. He is excited to partner with the TBID as they take the lead on the marketing and promotions side and to partner with the Chamber on the Economic Development side. He is supportive of the formation of a new non-profit as soon as possible; wants to make sure we don't allocate all funds that go through the CPC so that they can be used for investment in an economic development program that he would like to see the Chamber provide; possibly use City facilities as offices for the Chamber and/or Tourism office. He would also like to see the Chamber's contract extended through the end of 2012.

Councilmember Johnson agrees with Councilmember Smukler. She too appreciates the time everybody took in coming out tonight to share their opinions even though they differ. She would like to look at a 501(c)(6) and get it going right away. She feels we need a Chamber that can reach out and bring a strong economic base to our community. Of probably the most importance - the use of taxpayer monies – where is it going and how is it being spent?

Councilmember Borchard stressed that the money that the TBID controls is their assessed money and is different money than the money from the general fund. She feels that they've known since the creation of the TBID that we would be interested in merging the two boards. And while the Chamber, through the Visitor's Center, does a wonderful job in getting the word out about local events and local businesses to the people in town, she realizes that over time, that will change with the onset of social media. She would also like to look at optional City owned locations for the Visitor's Center. She would also like to extend the Visitor's Center contract to the end of 2012 as it will give us time to transition into the tourist season.

Mayor Yates agrees while these monies are technically tax payer dollars, they are in the form of TOT Tax that is collected and spent by TBID. He says we need to focus on the item and is concerned we are going to get too much into the ramifications of things. He also agrees that there is the potential for different City-owned physical locations available for re-locations. He supports the staff recommendation as it seems like a reasonable compromise. His vision is that the new corporation will drive the decision as to the location of and under the purview of who, of the Visitor's Center. He is also concerned with the fact that we are trying to tackle too much tonight.

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MOTION: Councilmember Johnson moved to authorize the City Attorney begin the process of forming the 501(c)(6) non-profit corporation to be named the Marketing Visitor's Bureau and to be in place no later than July 1, 2102. The motion was seconded by Councilmember Borchard and carried unanimously 5-0.

MOTION: Councilmember Leage moved the Community Promotions Committee be dissolved effective June 30, 2012; that the TBID be renamed the Marketing and Visitor's Advisory Board to consist of 5 hoteliers from the existing TBID Board and 4 others from tourism related local businesses. The motion was seconded by Councilmember Johnson and carried unanimously 5-0.

Councilmember Smukler asked whether or not this motion assumed that the CPC funds were automatically folded in? City Attorney Schultz responded that staff's recommendation would be no, until you see the full budget and are aware of the implications. He also questioned the hard date that was mentioned – will everybody be ready by that date?

MOTION: Councilmember Smukler moved to invite the Chamber of Commerce to develop an economic development plan and submit that to the City Council for our review. The motion was seconded by Councilmember Borchard and carried 4-1 with Mayor Yates voting no.

MOTION: Councilmember Johnson moved that the new Marketing and Visitor's Bureau be funded by the City's General Fund in an amount to be determined and from the hoteliers' self-assessment. The motion was seconded by Councilmember Leage and carried 3-2 with Mayor Yates and Councilmember Smukler voting no.

MOTION: Councilmember Leage moved that the City extend the existing contract with the Chamber of Commerce through December 31, 2012. Effective January 1, 2013 the Marketing and Visitor's Bureau will expand its existing service agreement contract with the City to include the operations of the Visitor's Center. The motion was seconded by Councilmember Johnson and carried 3-2 with Mayor Yates and Councilmember Smukler voting no.

Mayor Yates wondered what the term "operations" meant – was it that they are in charge of giving the Visitor's Center contract or are they in charge of the Visitor's Center? City Attorney responded that as of January 1, 2013 we would be charged with developing a contract and an Annual Work Plan with the new corporation, based on this motion, this contract would include the operations of the Visitor's Center.

MOTION: Councilmember Smukler moved we direct staff to initiate dialogue with the Chamber of Commerce and the Tourism Bureau separately about potential

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – FEBRUARY 28, 2012  
VETERANS MEMORIAL HALL - 6:00 P.M.

locations of their office and operations within City facilities. The motion was seconded by Councilmember Johnson and carried 4-1 with Mayor Yates voting no.

D-2 REVIEW OF THE MORRO BAY SPRINKLER ORDINANCE; (FIRE)

This item was moved to the March 13, 2012 Council Meeting.

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Borchard requests an informational item on Charter Communication Franchise Fees; Mayor Yates and Councilmember Johnson concurred.

Councilmember Johnson requests a report on traffic patterns and issues at the San Jacinto/Main Street/@ Highway 1 area all the way up to San Jacinto; Mayor Yates and Councilmember Smukler concurred.

ADJOURNMENT

The meeting adjourned at 10:28 p.m.

Recorded by:

Jamie Boucher  
City Clerk



AGENDA NO: A-2

MEETING DATE: March 13, 2012

## Staff Report

**TO:** Honorable Mayor and Council Members      **DATE:** March 5, 2012

**FROM:** Janeen Burlingame, Management Analyst

**SUBJECT:** Resolution 14-12 Authorizing the Federal Funding Under FTA Section 5317 (49 U.S.C. Section 5317) With California Department of Transportation (Caltrans) for the Community Bus Program

**RECOMMENDATION:**

Staff recommends the City Council adopt Resolution 14-12.

**FISCAL IMPACT:**

There will be no local match required as 100% in federal funds will be made available upon FTA approval of Toll Credits to be used for local match requirements.

**SUMMARY**

In January 2012 the California Department of Transportation Division of Mass Transportation released a Call for Projects for the Federal Transit Administration Section 5317 New Freedom grant funding. These funds can be used for capital and operating expenses that support new public transportation services beyond those required by the Americans with Disabilities Act of 1990 (ADA) and new public transportation alternatives beyond those required by the ADA, such as a volunteer driver program.

The City of Morro Bay is an eligible recipient to apply for these funds. Approximately \$1.5 million is available competitively for New Freedom-Small Urban and New Freedom-Non-Urban (Rural) for non-urbanized areas less than 50,000 in population for competitive distribution for the Federal Fiscal Year 2011/2012 cycle. Applications are due on Wednesday, March 23, 2012.

The City, through the efforts of Council members Borchard and Smukler, have been working jointly with Morro Bay Senior Citizens Inc. and Meals on Wheels to start a volunteer community bus program later this year. Acquisition of a vehicle must occur before the service can begin.

Prepared By: J. Burlingame

Dept Review: \_\_\_\_\_

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

In January, Council authorized staff to submit a Rural Transit Fund grant application for the purchase of a small passenger van to the volunteer program. The City received notice from the San Luis Obispo Council of Governments (SLOCOG) that the grant project proposed was not eligible for the RTF funds as the program was not open to the general public. SLOCOG staff provided information to City staff regarding the FTA Section 5317 Call for Projects and recommended submitting an application for the volunteer community bus program.

**DISCUSSION:**

The City intends to submit an application for the FTA Section 5317 New Freedom Federal Fiscal Year 2011/2012 cycle for the purchase of a vehicle for a volunteer community bus program.

**CONCLUSION:**

Staff recommends the City Council adopt Resolution 14-12.

**RESOLUTION NO. 14-12**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,  
CALIFORNIA AUTHORIZING THE FEDERAL FUNDING UNDER FTA SECTION 5317  
(49 U.S.C. SECTION 5317) WITH CALIFORNIA DEPARTMENT OF TRANSPORTATION  
FOR THE COMMUNITY BUS PROGRAM**

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

**WHEREAS**, the U. S. Department of Transportation is authorized to make grants to states through the Federal Transit Administration to support capital projects for non-urbanized public transportation systems under Section 5317 of the Federal Transit Act (FTA C 9045.1); and

**WHEREAS**, the California Department of Transportation (Department) has been designated by the Governor of the State of California to administer Section 5317 grants for transportation projects for the individuals with disabilities; and

**WHEREAS**, the City of Morro Bay desires to apply for said financial assistance to permit operation of a volunteer driver community bus program in Morro Bay; and

**WHEREAS**, the City of Morro Bay has, to the maximum extent feasible, coordinated with other transportation providers and users in the region (including social service agencies).

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the Public Services Director, is hereby authorized to file and execute applications on behalf of the City of Morro Bay with the Department to aid in the financing of capital/operating assistance/mobility management projects pursuant to Section 5317 of the Federal Transit Act (FTA C 9045.1), as amended.

**NOW THEREFORE, BE IT FURTHER RESOLVED** that the Public Services Director is authorized to execute and file all certification of assurances, contracts or agreements or any other document required by the Department.

**NOW THEREFORE, BE IT FURTHER RESOLVED** that Public Services Director is authorized to provide additional information as the Department may require in connection with the application for the Section 5317 projects.

**NOW THEREFORE, BE IT FURTHER RESOLVED** that Public Services Director is authorized to submit and approve request for reimbursement of funds from the Department for the Section 5317 projects.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay, California at a regular meeting thereof held on the 13th day of March, 2012 on the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
WILLIAM YATES, Mayor

ATTEST:

\_\_\_\_\_  
JAMIE BOUCHER, City Clerk



AGENDA NO: A-3

MEETING DATE: March 13, 2012

# Staff Report

**TO:** Honorable Mayor and Council Members      **DATE:** February 29, 2012

**FROM:** Janeen Burlingame, Management Analyst

**SUBJECT:** Resolution 13-12 Authorizing the Execution of a Master Agreement and Program Supplements with the California Department of Transportation (Caltrans) for State Funded Transit Projects

**RECOMMENDATION:**

Staff recommends the City Council adopt Resolution 13-12.

**FISCAL IMPACT:**

There is no fiscal impact to authorizing the execution of the Caltrans Master Agreement as local match funding for future State grant fund transit projects would be authorized by the Council at the time for which the grant application would be applied.

**DISCUSSION:**

The current 10 year Master Agreement with Caltrans expires in April 2012 and attached is a Master Agreement of renewal of another 10 years. The agreement covers administrative duties and requirements regarding state funded transit projects.

Execution of the Master Agreement will be needed in order to receive State funds for transit projects and approving the 10 year agreement will allow the City to receive State funds for transit projects more quickly as the agreement would be executed one time rather than multiple agreements having to be executed each time the City received a State grant for a project, thereby slowing down the post grant award process and delaying timely project initiation.

**CONCLUSION:**

Staff recommends the City Council adopt Resolution 13-12.

Prepared By: J. Burlingame

Dept Review: \_\_\_\_\_

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

**RESOLUTION NO. 13-12**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,  
CALIFORNIA AUTHORIZATION FOR THE EXECUTION OF A MASTER  
AGREEMENT AND PROGRAM SUPPLEMENTS WITH CALIFORNIA DEPARTMENT  
OF TRANSPORTATION FOR STATE-FUNDED TRANSIT PROJECTS**

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

**WHEREAS**, the City of Morro Bay may receive state funding from the California Department of Transportation (Department) now or sometime in the future for transit projects; and

**WHEREAS**, substantial revisions were made to the programming and funding process for the transportation projects programmed in the State Transportation Improvement Program, by Chapter 622 (SB 45) of the Statutes of 1997; and

**WHEREAS**, the Traffic Congestion Relief Act of 2000 (the Act) was established by Chapters 91 (AB 2928) and 92 (SB 496), as amended by SB 1662, of the statutes of 2000, creating the Traffic Congestion Relief Program (TCRP); and

**WHEREAS**, the statutes related to state-funded transit projects require a local or regional implementing agency to execute an agreement with the Department before it can be reimbursed for project expenditures; and

**WHEREAS**, the Department utilizes Master Agreements for State-Funded Transit Projects, along with associated Program Supplements, for the purpose of administering and reimbursing state transit funds to local agencies; and

**WHEREAS**, the City of Morro Bay wishes to delegate authorization to execute these agreements and any amendments thereto to the Public Services Director.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the fund recipient agrees to comply with all conditions and requirements set forth in this agreement and applicable statutes, regulations and guidelines for all state-funded transit projects.

**NOW THEREFORE, BE IT FURTHER RESOLVED** that the Public Services Director be authorized to execute the Master Agreement and all Program Supplements for State-Funded Transit Projects and any Amendments thereto with the California Department of Transportation.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13th day of March, 2012 on the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
WILLIAM YATES, Mayor

ATTEST:

\_\_\_\_\_  
JAMIE BOUCHER, City Clerk

# **Master Agreement State Funded Transit Projects**



## **California Department of Transportation**

DIVISION OF MASS TRANSPORTATION  
1120 N STREET, ROOM 3300  
P. O. BOX 942874, MS-39  
SACRAMENTO, CA 94274-0001  
PHONE (916) 657-3876



STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
DIVISION OF MASS TRANSPORTATION

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**STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
DIVISION OF MASS TRANSPORTATION**

**MASTER AGREEMENT  
STATE FUNDED TRANSIT PROJECTS**

**Effective Date of this Agreement:** Month Date, Year

**Termination Date of this Agreement:** Month Date, Year

**Recipient:** Recipient Name

**APPLICABLE FUNDING SOURCES COVERED BY THIS AGREEMENT WILL BE  
IDENTIFIED IN EACH SPECIFIC PROGRAM SUPPLEMENT  
ADOPTING THE TERMS OF THIS AGREEMENT**

- ◆ **General Fund**
  - ◆ **State Highway Account**
  - ◆ **Public Transportation Account**
  - ◆ **Transportation Investment Fund**
  - ◆ **Traffic Congestion Relief Fund (TCR), GC 14556.40**
  - ◆ **Clean Air and Transportation Improvement Act of 1990 (PROP. 116) Bond Fund**
  - ◆ **Other State Funding Sources**
- 

This AGREEMENT, entered into effective as of the date set forth above, is between the signatory public entity identified hereinabove, hereinafter referred to as **RECIPIENT**, and the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter referred to as **STATE**.

**ARTICLE I - PROJECT ADMINISTRATION**

**Section 1. Program Supplement**

*A. General*

- (1) This AGREEMENT shall have no force and effect with respect to any PROJECT unless and until a separate PROJECT specific “PROGRAM SUPPLEMENT – STATE FUNDED TRANSIT PROJECT(S),” hereinafter referred to as “PROGRAM SUPPLEMENT,” adopting all of the terms and conditions of this AGREEMENT has been fully executed by both **STATE** and **RECIPIENT**.
- (2) **RECIPIENT** agrees to complete each defined PROJECT, or the identified PROJECT Phase/Component thereof, described in the PROGRAM SUPPLEMENT adopting all of the terms and conditions of this AGREEMENT.

- (3) A financial commitment of actual PROJECT funds will only occur in each detailed and separate PROGRAM SUPPLEMENT. No funds are obligated by the prior execution of this AGREEMENT alone.
- (4) **RECIPIENT** further agrees, as a condition to the release and payment of the funds encumbered for the PROJECT described in each PROGRAM SUPPLEMENT, to comply with the terms and conditions of this AGREEMENT and all the agreed-upon Special Covenants and Conditions attached to or made a part of the PROGRAM SUPPLEMENT identifying and defining the nature of that specific PROJECT.
- (5) The PROGRAM SUPPLEMENT shall include: a detailed Scope of Work conforming to the included Project Description, a Project Schedule, an Overall Funding Plan, and a Project Financial Plan as required by the applicable Program Guidelines.
  - a. The Scope of Work shall include a detailed description of the PROJECT and will itemize the major tasks and their estimated costs.
  - b. The Project Schedule shall include major tasks and/or milestones and their associated beginning and ending dates and duration.
  - c. The Overall Funding Plan shall itemize the various PROJECT Components, the committed funding program(s) or source(s), and the matching funds to be provided by **RECIPIENT** and/or other funding sources, if any [these Components include Environmental and Permits; Plans, Specifications and Estimates (PS&E); Right-of-Way (ROW); and Construction (including transit vehicle acquisition)].
  - d. The Project Financial Plan shall identify estimated expenditures for each PROJECT Component by funding source.
- (6) Adoption and execution of the PROGRAM SUPPLEMENT by **RECIPIENT** and **STATE**, incorporating the terms and conditions of this AGREEMENT into the PROGRAM SUPPLEMENT as though fully set forth therein, shall be sufficient to bind **RECIPIENT** to these terms and conditions when performing the PROJECT. Unless otherwise expressly delegated to a third-party in a resolution by **RECIPIENT**'s governing body, which delegation must be expressly assented to and concurred in by **STATE**, the PROGRAM SUPPLEMENT shall be managed by **RECIPIENT**.
- (7) The estimated cost and scope of each PROJECT will be as described in the applicable PROGRAM SUPPLEMENT. **STATE** funding participation for each PROJECT is limited to those amounts actually encumbered by **STATE** as evidenced in that applicable PROGRAM SUPPLEMENT. A contract awarded by **RECIPIENT** for PROJECT work in an amount in excess of said approved estimate or the PROGRAM SUPPLEMENT funding limit may exceed any said PROGRAM SUPPLEMENT cost estimate and the limits of **STATE**'s participation provided:
  - a. **RECIPIENT** provides the necessary additional funding, or
  - b. A cost increase in **STATE**'s share of PROJECT funding is first requested by **RECIPIENT** (before the cost overrun occurs) and that increase is approved by

**STATE** in the form of an Allocation Letter comprising the encumbrance document for that increased **STATE** funding level.

- (8) State programmed fund amounts may be increased to cover **PROJECT** cost increases only if:
  - a. Such funds are available;
  - b. **STATE** concurs with that proposed increase; and
  - c. **STATE** issues an approved Allocation Letter, Fund Shift Letter, or a Time Extension Letter with additional funding as stated in an executed amendment to that **PROGRAM SUPPLEMENT**.
- (9) When additional State programmed funds are not available, **RECIPIENT** agrees that reimbursements of invoiced **PROJECT** costs paid to **RECIPIENT** will be limited to, and shall not exceed, the amounts already approved in the **PROGRAM SUPPLEMENT** containing the **STATE** approved encumbrance documents and that any increases in **PROJECT** costs above that **STATE** supported funding level must be defrayed by **RECIPIENT** with non-State funds.
- (10) For each approved **PROGRAM SUPPLEMENT**, **RECIPIENT** agrees to contribute at least the statutorily or other required local contribution of appropriate matching funds (other than State funds) if any matching funds are specified within the **PROGRAM SUPPLEMENT**, or any attachment thereto, toward the actual cost of the **PROJECT** or the amount, if any, specified in an executed SB 2800 (Streets and Highways Code section 164.53) Agreement for local match fund credit, whichever is greater. **RECIPIENT** shall contribute not less than the required match amount toward the cost of the **PROJECT** in accordance with a schedule of payments as shown in a Project Financial Plan prepared by **RECIPIENT** as part of a **PROGRAM SUPPLEMENT**.
- (11) Upon the stated expiration date of this **AGREEMENT**, any **PROGRAM SUPPLEMENTS** executed under this **AGREEMENT** for a **PROJECT** with work yet to be completed pursuant to the approved Project Schedule shall be deemed to extend the term of this **AGREEMENT** only to conform to the specific **PROJECT** termination or completion date contemplated by the applicable **PROGRAM SUPPLEMENT** to allow that uncompleted **PROJECT** to be administered under the extended terms and conditions of this **AGREEMENT**.

**B. Project Overrun**

- (1) If **RECIPIENT** and **STATE** determine, at any time during the performance of a **PROJECT**, that the **PROJECT** budget may be exceeded, **RECIPIENT** shall take the following steps:
  - a. Notify the designated **STATE** representative of the nature and projected extent of the overrun and, within a reasonable period thereafter, identify and quantify

potential cost savings or other measures which **RECIPIENT** will institute to bring the Project Budget into balance; and

- b. Schedule the projected overrun for discussion at the next Quarterly Review meeting; and
- c. Identify the source of additional **RECIPIENT** or other third party funds that can be made available to complete PROJECT.

### C. *Scope of Work*

- (1) **RECIPIENT** shall be responsible for complete performance of the work described in the approved PROGRAM SUPPLEMENT for the PROJECT related to the commitment of encumbered funds. All work shall be accomplished in accordance with the applicable provisions of the Public Utilities Code, the Streets and Highways Code, the Government Code, and other applicable statutes and regulations.
- (2) **RECIPIENT** acknowledges and agrees that **RECIPIENT** is the sole control and manager of each PROJECT and its subsequent employment, operation, repair and maintenance for the benefit of the public. **RECIPIENT** shall be solely responsible for complying with the funding and use restrictions established by (a) the statutes from which these funds are derived, (b) the California Transportation Commission (CTC), (c) the State Treasurer, (d) the Internal Revenue Service, (e) the applicable PROGRAM SUPPLEMENT, and (f) this AGREEMENT.

### D. *Program Supplement Amendments*

PROGRAM SUPPLEMENT amendments will be required whenever there are CTC-approved changes to the cost, scope of work, or delivery schedule of a PROJECT from those specified in the original PROJECT Application and the original PROGRAM SUPPLEMENT. Those changes shall be mutually binding upon the Parties only following the execution of a PROGRAM SUPPLEMENT amendment.

## **Section 2. Allowable Costs and Payments**

### A. *Allowable Costs and Progress Payment Vouchers*

- (1) Not more frequently than once a month, but at least quarterly, **RECIPIENT** will prepare and submit to **STATE** (directed to the attention of the appropriate State District Transit Representative) signed Progress Payment Vouchers for actual PROJECT costs incurred and paid for by **RECIPIENT** consistent with the Scope of Work document in the PROGRAM SUPPLEMENT and **STATE** shall pay those uncontested allowable costs once the voucher is approved. If no costs were incurred during any given quarter, **RECIPIENT** is exempt from submitting a signed Progress Payment Voucher; but is still required to present a progress report at each Quarterly Review.

- (2) **STATE** shall not be required to reimburse more funds, cumulatively, per quarter of any fiscal year greater than the sums identified and included in the PROJECT Financial Plan. However, accelerated reimbursement of PROJECT funds in excess of the amounts indicated in the Project Financial Plan, cumulatively by fiscal year, may be allowed at the sole discretion of **STATE** if such funds are available for encumbrance to fulfill that need.
- (3) Each such voucher will report the total of PROJECT expenditures from all sources (including those of **RECIPIENT** and third parties) and will specify the percent of State reimbursement requested and the fund source. The voucher should also summarize State money requested by PROJECT component (environmental and permits, plans specifications, and estimates (PS&E); right of way; construction; rolling stock; or--if bond funded--private activity usage) and phase, and shall be accompanied by a report describing the overall work status and progress on PROJECT tasks. If applicable, the first voucher shall also be accompanied by a report describing any tasks specified in the PROGRAM SUPPLEMENT which were accomplished prior to the Effective Date of this AGREEMENT or the PROGRAM SUPPLEMENT with costs to be credited toward any required local contribution described in Article II, Section 1 of this Agreement (but only if expended pursuant to any applicable prior executed Agreement for Local Match Fund Credit between **RECIPIENT** and **STATE**).
- (4) An Indirect Cost Rate Proposal and/or Central Service Cost Allocation plan and related documentation approved under cognizant agency regulations are to be provided to **STATE** (Caltrans Audits & Investigations) annually for their review, and approval and filing prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for reimbursement.

*B. Advance Payments (TCR Projects Only)*

- (1) Advance reimbursements or payments by **STATE** are not allowed except in the case of TCR funded Projects, and only then when expressly authorized by the CTC.
- (2) In order to receive a CTC approved TCR payment advance, **RECIPIENT** must provide duplicate signed invoices to **STATE** requesting payment of that authorized advance.
- (3) For TCR Projects approved for advanced payment allocation by the CTC, said advance payment shall be deposited by **RECIPIENT** in an interest bearing account held by institutions with long-term credit ratings of "AA" or better from at least two nationally recognized credit rating agencies, or in instruments issued by and secured by the full faith and credit of the U.S. Government or by an agency of the U.S. Government. No TCR interest earnings may be spent on the PROJECT. Interest earned shall be recorded and documented from the time the TCR funds are first deposited in **RECIPIENT**'s account until all the approved TCR advance funds have been expended or returned to **STATE** together with all accrued interest. Interest earned shall be reported to **STATE**'s Project Coordinator on an annual basis and upon the final PROJECT

payment when interest earnings, overpayments, and unexpended advanced TCR funds shall be returned to **STATE** no later than thirty (30) days after **PROJECT** completion or termination of the **PROGRAM SUPPLEMENT**, whichever is first in time.

- (4) Advanced funds are to be expended only as indicated in the approved TCR Application. **RECIPIENT** must be able to document the expenditures/disbursement of funds advanced to only pay for actual allowable **PROJECT** costs incurred.
- (5) Except as expressly allowed hereinbelow, non-TCR funds and TCR project funds not authorized for advance payment can only be released by **STATE** as reimbursement of actual allowable **PROJECT** costs already incurred and paid for by **RECIPIENT** no earlier than the effective date of this **AGREEMENT** and not incurred beyond the **AGREEMENT/PROGRAM SUPPLEMENT** Termination Date.
- (6) Where advance payments are authorized in a **PROGRAM SUPPLEMENT**, **RECIPIENT** must report and document the expenditure/disbursement of funds advanced to pay for actual eligible **PROJECT** costs incurred, at least quarterly, using a Progress Payment Voucher to be approved by **STATE**'s District Project Administrator.

#### *C. Expedited Payments*

Should **RECIPIENT** have a valid Memorandum of Understanding (MOU) for "Expedited Payment" on file with **STATE**'s Accounting Service Center, **RECIPIENT** will, not more frequently than as authorized by that MOU, prepare and submit to **STATE** an Expedited Payment Invoice for reimbursements that are consistent with that MOU, this **AGREEMENT**, and the applicable **PROGRAM SUPPLEMENT**. Expedited Payments are subject to policies established in the Caltrans Accounting Manual. One time payments and final payments eligible for expedited pay pursuant to this Section will have ten percent (10%) of each invoice amount withheld until **PROJECT** completion and **STATE** has evaluated **RECIPIENT**'s performance and made a determination that all requirements assumed under this **AGREEMENT** and the relevant **PROGRAM SUPPLEMENT** have been satisfactorily fulfilled by **RECIPIENT**.

#### *D. Advance Expenditure of Local Funds*

Government Code section 14529.17 (AB 872) allows public agencies to expend their own funds on certain programmed projects prior to the CTC's allocation of funds, and, upon receipt of CTC approval, to then seek reimbursement for those allowable prior expenditures following execution of a **PROGRAM SUPPLEMENT** wherein **STATE** acknowledges and accepts those statutorily authorized prior expenditures as a credit towards a required **RECIPIENT** match, (if any) or as eligible **PROJECT** expenditures for reimbursement.

#### *E. Travel Reimbursement*

Payments to **RECIPIENT** for **PROJECT** related travel and subsistence expenses of **RECIPIENT** forces and its subcontractors claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid rank and file State employees under current

State Department of Personnel Administration (DPA) rules. If the rates invoiced by **RECIPIENT** are in excess of those authorized DPA rates, then **RECIPIENT** is responsible for the cost difference, and any overpayments inadvertently paid by **STATE** shall be reimbursed to **STATE** by **RECIPIENT** on demand.

F. *Final Invoice*

The PROGRAM SUPPLEMENT Termination Date refers to the last date for **RECIPIENT** to incur valid PROJECT costs or credits and is the date that the PROGRAM SUPPLEMENT expires. **RECIPIENT** has one hundred and eighty (180) days after that Termination Date to make already incurred final allowable payments to PROJECT contractors or vendors, prepare the PROJECT Closeout Report, and submit the final invoice to **STATE** for reimbursement of allowable PROJECT costs before those remaining State funds are unencumbered and those funds are reverted as no longer available to pay any PROJECT costs. **RECIPIENT** expressly waives any right to allowable reimbursements from **STATE** pursuant to this AGREEMENT for costs incurred after that termination date and for costs invoiced to **RECIPIENT** for payment after that one hundred and eightieth (180<sup>th</sup>) day following the PROJECT Termination Date.

## ARTICLE II – GENERAL PROVISIONS

### Section 1. Funding

A. *Local Match Funds*

Subparagraphs “(1) and (2)” within this Section 1.A. apply only to those PROJECTS where the PROJECT funding is programmed to require a local match. (See individual Program Guidelines for specific funding requirements).

- (1) Except where specifically allowed by the applicable PROGRAM SUPPLEMENT, reimbursement of and credits for local matching funds will be made or allowed only for work performed after the Effective Date of a PROGRAM SUPPLEMENT and prior to the Termination Date unless permitted as local match PROJECT expenditures made prior to the effective date of the PROGRAM SUPPLEMENT pursuant to Government Code section 14529.17 or by an executed SB 2800 Agreement for Local Match Fund Credit.
- (2) **RECIPIENT** agrees to contribute at least the statutorily or other required local contribution of matching funds (other than State or federal funds), if any is specified within the PROGRAM SUPPLEMENT or any attachment thereto, toward the actual cost of the PROJECT or the amount, if any, specified in any executed SB 2800 (Streets and Highways Code Section 164.53) Agreement for local match fund credit, whichever is greater. **RECIPIENT** shall contribute not less than its required match amount toward the PROJECT cost in accordance with a schedule of payments as shown in the Project Financial Plan prepared by **RECIPIENT** and approved by **STATE** as part of a PROGRAM SUPPLEMENT.

## B. *Funding Contingencies*

Delivery by **STATE** of all funds encumbered to reimburse allowable **PROJECT** costs pursuant to this **AGREEMENT** is contingent upon prior budget action by the Legislature, fund allocation by the CTC or the United States Department of Transportation, and submittal by **RECIPIENT** and approval by **STATE** of all **PROJECT** documentation, including, without limitation, that required by Government Code section 14085. In the event of the imposition of additional conditions, delays, or a cancellation or reduction in funding, as approved by the Legislature, the CTC or the United States Department of Transportation, **RECIPIENT** shall be excused from meeting the time and expenditure constraints set forth in the Project Financial Plan and the Project Schedule to the extent of such delay, cancellation or reduction and the **PROGRAM SUPPLEMENT** will be amended to reflect the resultant necessary changes in **PROJECT** funding, scope, or scheduling.

## C. *Funds Movement*

**RECIPIENT** shall not make any proposed changes in any of the four **PROJECT** expenditure Components (Environmental and Permits, PS&E, Right-of-Way and Construction (including major equipment acquisitions) without prior written **STATE** approval. **STATE** will also determine whether those proposed changes are significant enough to warrant CTC review. Specific rules and guidelines regarding this process may be detailed in the applicable CTC Resolutions, including, but not limited to, numbers G-06-04 and G-06-20 or their successors.

## Section 2. Audits and Reports

### A. *Cost Principles*

- (1) **RECIPIENT** agrees to comply with Title 2 Code of Federal Regulations 225 (2 CFR 225) Cost Principles for State and Local Government, and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- (2) **RECIPIENT** agrees, and will assure that its contractors and subcontractors will be obligated to agree, that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual Project cost items and (b) those parties shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Every sub-recipient receiving **PROJECT** funds as a contractor or sub-contractor under this **AGREEMENT** shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- (3) Any **PROJECT** costs for which **RECIPIENT** has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR 225, Chapter 1, Part 31 or 49 CFR, Part 18, are subject to repayment by **RECIPIENT** to **STATE**. Should

**RECIPIENT** fail to reimburse moneys due **STATE** within thirty (30) days of demand, or within such other period as may be agreed in writing between the Parties hereto, **STATE** is authorized to intercept and withhold future payments due **RECIPIENT** from **STATE** or any third-party source, including but not limited to, the State Treasurer, the State Controller and the CTC.

B. *Record Retention*

- (1) **RECIPIENT** agrees, and will assure that its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred PROJECT costs and matching funds by line item for the PROJECT. The accounting system of **RECIPIENT**, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of **RECIPIENT**, its contractors and subcontractors connected with PROJECT performance under this AGREEMENT and each PROGRAM SUPPLEMENT shall be maintained for a minimum of three (3) years from the date of final payment to **RECIPIENT** under a PROGRAM SUPPLEMENT and shall be held open to inspection, copying, and audit by representatives of **STATE**, the California State Auditor, and auditors representing the federal government. Copies thereof will be furnished by **RECIPIENT**, its contractors, and subcontractors upon receipt of any request made by **STATE** or its agents. In conducting an audit of the costs and match credits claimed under this AGREEMENT, **STATE** will rely to the maximum extent possible on any prior audit of **RECIPIENT** pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by **RECIPIENT**'s external and internal auditors may be relied upon and used by **STATE** when planning and conducting additional audits.
- (2) For the purpose of determining compliance with Title 21, California Code of Regulations, Section 2500 et seq., when applicable, and other matters connected with the performance of **RECIPIENT**'s contracts with third parties pursuant to Government Code section 8546.7, **RECIPIENT**, **RECIPIENT**'s contractors and subcontractors and **STATE** shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such AGREEMENT and PROGRAM SUPPLEMENT materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of final payment to **RECIPIENT** under any PROGRAM SUPPLEMENT. **STATE**, the California State Auditor, or any duly authorized representative of **STATE** or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent to a PROJECT for audits, examinations, excerpts, and transactions, and **RECIPIENT** shall furnish copies thereof if requested.

- (3) **RECIPIENT**, its contractors and subcontractors will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by **STATE**, for the purpose of any investigation to ascertain compliance with this AGREEMENT.

### C. *Quarterly Review*

- (1) Subject to the discretion of **STATE**, **RECIPIENT** and **STATE** agree to conduct, on a quarterly basis, on-site reviews of all aspects of the progress of each PROJECT. **RECIPIENT** agrees, during each quarterly progress review, to inform **STATE** regarding:
  - a. Whether the PROJECT is proceeding on schedule and within budget;
  - b. Any requested changes to the Project Description, Scope of Work, Project Schedule, Overall Funding Plan, or Project Financial Plan contained in a PROGRAM SUPPLEMENT;
  - c. Major construction accomplishments during the quarter;
  - d. Any actual or anticipated problems which could lead to delays in schedule, increased costs or other difficulties;
  - e. The status of the PROJECT budget; and
  - f. The status of critical elements of PROJECT.
- (2) Quarterly reviews of **RECIPIENT** progress will include consideration of whether reported implementation activities are within the scope of the PROJECT PROGRAM SUPPLEMENT and in compliance with State laws, regulations, and administrative requirements.

## Section 3. Special Requirements

### A. *California Transportation Commission (CTC) Resolutions*

- (1) **RECIPIENT** shall adhere to applicable CTC policies on “Timely Use of Funds” as stated in Resolution G-06-04, adopted April 26, 2006, addressing the expenditure and reimbursement of TCR funds; and Resolution G-09-11, adopted October 14, 2009, to provide guidance for the use of Proposition 116 and STIP funds. These resolutions, and/or successor resolutions in place at the time a PROGRAM SUPPLEMENT is executed, shall be applicable to all Prop 116, STIP and TCR funds, respectively.
- (2) **RECIPIENT** shall be bound to the terms and conditions of this AGREEMENT; the PROJECT application contained in the PROGRAM SUPPLEMENT (as applicable); and CTC Resolutions G-06-04, G-09-11 and/or their respective successors in place at the time the PROGRAM SUPPLEMENT is signed (as applicable) and all restrictions, rights, duties and obligations established therein on behalf of **STATE** and CTC shall accrue to the benefit of the CTC and shall thereafter be subject to any necessary

enforcement action by CTC or **STATE**. All terms and conditions stated in the aforesaid CTC Resolutions and CTC-approved Guidelines in place at the time the PROGRAM SUPPLEMENT is signed (if applicable) shall also be considered to be binding provisions of this AGREEMENT.

- (3) **RECIPIENT** shall conform to any and all permit and mitigation duties associated with PROJECT as well as all environmental obligations established in CTC Resolution G-91-2 and/or its successors in place at the time a PROGRAM SUPPLEMENT is signed, as applicable, at the expense of **RECIPIENT** and/or the responsible party and without any further financial contributions or obligations on the part of **STATE** unless a separate PROGRAM SUPPLEMENT expressly provides funding for the specific purpose of hazardous materials remediation.

**B. RECIPIENT Resolution**

- (1) **RECIPIENT** has executed this AGREEMENT pursuant to the authorizing **RECIPIENT** resolution, attached as Attachment II to this AGREEMENT, which empowers **RECIPIENT** to enter into this AGREEMENT and which may also empower **RECIPIENT** to enter into all subsequent PROGRAM SUPPLEMENTS adopting the provisions of this AGREEMENT.
- (2) If **RECIPIENT** or **STATE** determines that a separate Resolution is needed for each PROGRAM SUPPLEMENT, **RECIPIENT** will provide information as to who the authorized designee is to act on behalf of the **RECIPIENT** to bind **RECIPIENT** with regard to the terms and conditions of any said PROGRAM SUPPLEMENT or amendment and will provide a copy of that additional Resolution to **STATE** with the PROGRAM SUPPLEMENT or any amendment to that document.

**C. Termination**

- (1) **STATE** reserves the right to terminate funding for any PROGRAM SUPPLEMENT upon written notice to **RECIPIENT** in the event that **RECIPIENT** fails to proceed with PROJECT work in accordance with the PROGRAM SUPPLEMENT, the bonding requirements, if applicable, or otherwise violates the conditions of this AGREEMENT and/or the PROGRAM SUPPLEMENT or the funding allocation such that substantial performance is significantly endangered.
- (2) No such termination shall become effective if, within thirty (30) days after receipt of a Notice of Termination, **RECIPIENT** either cures the default involved or, if not reasonably susceptible of cure within said thirty (30)-day period, **RECIPIENT** proceeds thereafter to complete the cure in a manner and time line acceptable to **STATE**. Any such termination shall be accomplished by delivery to **RECIPIENT** of a Notice of Termination, which notice shall become effective not less than thirty (30) days after receipt, specifying the reason for the termination, the extent to which funding of work under this AGREEMENT is terminated and the date upon which such termination becomes effective, if beyond thirty (30) days after receipt. During the

period before the effective termination date, **RECIPIENT** and **STATE** shall meet to attempt to resolve any dispute.

- (3) Following a fund encumbrance made pursuant to a PROGRAM SUPPLEMENT, if **RECIPIENT** fails to expend TCR/GENERAL FUND monies by June 30 of any applicable Fiscal Year that those funds would revert, those funds will be deemed withdrawn and will no longer be available to reimburse PROJECT work unless those funds are specifically made available beyond the end of that Fiscal Year through re-appropriation or other equivalent action of the Legislature and written notice of that action is provided to **RECIPIENT** by **STATE**.
- (4) In the event **STATE** terminates a PROGRAM SUPPLEMENT for convenience and not for a default on the part of **RECIPIENT** as is contemplated in C (1) and (2) above of this Section 3, **RECIPIENT** shall be reimbursed its authorized costs up to **STATE**'s proportionate and maximum share of allowable PROJECT costs incurred to the date of **RECIPIENT**'s receipt of that notice of termination, including any unavoidable costs reasonably and necessarily incurred up to and following that termination date by **RECIPIENT** to effect such termination following receipt of that termination notice.

D. *Third Party Contracting*

- (1) **RECIPIENT** shall not award a construction contract over \$10,000 or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code Sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of **STATE**. Contracts awarded by **RECIPIENT**, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.
- (2) Any subcontract entered into by **RECIPIENT** as a result of this AGREEMENT shall contain the provisions of ARTICLE II – GENERAL PROVISIONS, Section 2. Audits and Reports and shall mandate that travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as PROJECT costs only after those costs are incurred and paid for by the subcontractors.
- (3) To be eligible for local match credit, **RECIPIENT** must ensure that local match funds used for the PROJECT meet the General Provisions requirements outlined in this ARTICLE II in the same manner as required of all other PROJECT expenditures.
- (4) In addition to the above, the preaward requirements of third party contractor/consultants with local transit agencies should be consistent with Local Program Procedures (LPP-00-05).

E. *Change in Funds and Terms/Amendments*

This AGREEMENT and the resultant PROGRAM SUPPLEMENTS may be modified, altered, or revised only with the joint written consent of **RECIPIENT** and **STATE**.

F. *Project Ownership*

- (1) Unless expressly provided to the contrary in a PROGRAM SUPPLEMENT, subject to the terms and provisions of this AGREEMENT, **RECIPIENT**, or a designated subrecipient acceptable to **STATE**, as applicable, shall be the sole owner of all improvements and property included in the PROJECT constructed, installed or acquired by **RECIPIENT** or subrecipient with funding provided to **RECIPIENT** under this AGREEMENT. **RECIPIENT**, or subrecipient, as applicable, is obligated to continue operation and maintenance of the physical aspects of the PROJECT dedicated to the public transportation purposes for which PROJECT was initially approved unless **RECIPIENT**, or subrecipient, as applicable, ceases ownership of such PROJECT property; ceases to utilize the PROJECT property for the intended public transportation purposes; or sells or transfers title to or control over PROJECT and **STATE** is refunded the Credits due **STATE** as provided in paragraph (4) herein below.
- (2) Should State bond funds be encumbered to fund any part of a PROJECT under this AGREEMENT, then, at **STATE**'s option, before **RECIPIENT** will be permitted to make any proposed change in use, **RECIPIENT** shall be required to first obtain a determination by Bond Counsel acceptable to the State Treasurer's Office and **STATE** that a change in the operation, proportion, or scope of PROJECT as originally proposed by **RECIPIENT** will not adversely affect the tax exempt status of those bonds.
- (3) PROJECT right-of-way, PROJECT facilities constructed or reconstructed on a PROJECT site and/or PROJECT property (including vehicles and vessels) purchased by **RECIPIENT** (excluding temporary construction easements and excess property whose proportionate resale proceeds are distributed pursuant to this AGREEMENT) shall remain permanently dedicated to the described public transit use in the same proportion and scope, and to the same extent as mandated in the PROGRAM SUPPLEMENT and related Bond Fund Certification documents, if applicable, unless **STATE** agrees otherwise in writing. Vehicles acquired as part of PROJECT, including, but not limited to, buses, vans, rail passenger equipment and ferry vessels, shall be dedicated to that public transportation use for their full economic life cycle, which, for the purpose of this AGREEMENT, will be determined in accordance with standard national transit practices and applicable rules and guidelines, including any extensions of that life cycle achievable by reconstruction, rehabilitation or enhancements.
- (4) (a) Except as otherwise set forth in this Section 4, **STATE**, or any other **STATE**-assignee public body acting on behalf of the CTC, shall be entitled to a refund or credit (collectively the Credit), at **STATE**'s sole option, equivalent to the proportionate PROJECT funding participation received by **RECIPIENT** from

**STATE** if **RECIPIENT**, or a sub-recipient, as applicable, (i) ceases to utilize **PROJECT** for the original intended public transportation purposes or (ii) sells or transfers title to or control over **PROJECT**. If federal funds (meaning only those federal funds received directly by **RECIPIENT** and not federal funds derived through or from the State) have contributed to the **PROJECT**, **RECIPIENT** shall notify both **STATE** and the original federal source of those funds of the disposition of the **PROJECT** assets or the intended use of those sale or transfer receipts.

- (b) **STATE** shall also be entitled to an acquisition Credit for any future purchase or condemnation of all or portions of **PROJECT** by **STATE** or a designated representative or agent of **STATE**.
- (c) The Credit due **STATE** will be determined by the ratio of **STATE**'s funding when measured against the **RECIPIENT**'s funding participation (the Ratio). For purposes of this Section 4, the State's funding participation includes federal funds derived through or from **STATE**. That Ratio is to be applied to the then present fair market value of **PROJECT** property acquired or constructed as provided in (d) and (e) below.
- (d) For Mass Transit vehicles, this Credit [to be deducted from the then remaining equipment value] shall be equivalent to the percentage of the full extendable vehicle economic life cycle remaining, multiplied by the Ratio of funds provided for that equipment acquisition. For real property, this same funding Ratio shall be applied to the then present fair market value, as determined by **STATE**, of the **PROJECT** property acquired or improved under this AGREEMENT.
- (e) Such Credit due **STATE** as a refund shall not be required if **RECIPIENT** dedicates the proceeds of such sale or transfer exclusively to a new or replacement **STATE** approved public transit purpose, which replacement facility or vehicles will then also be subject to the identical use restrictions for that new public purpose and the Credit ratio due **STATE** should that replacement project or those replacement vehicles cease to be used for that intended described pre-approved public transit purpose.
  - (1) In determining the present fair market value of property for purposes of calculating **STATE**'s Credit under this AGREEMENT, any real property portions of a **PROJECT** site contributed by **RECIPIENT** shall not be included. In determining **STATE**'s proportionate funding participation, **STATE**'s contributions to third parties (other than **RECIPIENT**) shall be included if those contributions are incorporated into the **PROJECT**.
  - (2) Once **STATE** has received the Credit as provided for above because **RECIPIENT**, or a sub-recipient, as applicable, has (a) ceased to utilize the **PROJECT** for the described intended public transportation purpose(s) for which **STATE** funding was provided and **STATE** has not consented to that cessation of services or (b) sold or transferred title to or control over **PROJECT** to another

party (absent **STATE** approval for the continued transit operation of the **PROJECT** by that successor party under an assignment of **RECIPIENT**'s duties and obligations), neither **RECIPIENT**, subrecipient, nor any party to whom **RECIPIENT** or subrecipient, as applicable, has transferred said title or control shall have any further obligation under this **AGREEMENT** to continue operation of **PROJECT** and/or **PROJECT** facilities for those described public transportation purposes, but may then use **PROJECT** and/or any of its facilities for any lawful purpose.

- (3) To the extent that **RECIPIENT** operates and maintains Intermodal Transfer Stations as any integral part of **PROJECT**, **RECIPIENT** shall maintain each station and all its appurtenances, including, but not limited to, restroom facilities, in good condition and repair in accordance with high standards of cleanliness (Public Utilities Code section 99317.8). Upon request of **STATE**, **RECIPIENT** shall also authorize State-funded bus services to use those stations and appurtenances without any charge to **STATE** or the bus operator. This permitted use will include the placement of signs and informational material designed to alert the public to the availability of the State-funded bus service (for the purpose of this paragraph, "State-funded bus service" means any bus service funded pursuant to Public Utilities Code section 99316).
- (4) Special conditions apply to any proposed sale or transfer or change of use as respects **PROJECT** property, facilities or equipment acquired with tax free State bond funds and **RECIPIENT** shall conform to those restrictions as set forth herein and in said bonds.

### *G. Disputes*

**STATE** and **RECIPIENT** shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, **RECIPIENT** shall submit to the **STATE**'s District Contract Manager or designee a written demand for a decision regarding the disposition of any dispute arising under this agreement. The District Contract Manager shall make a written decision regarding the dispute and will provide it to the fund **RECIPIENT**. The fund **RECIPIENT** shall have an opportunity to challenge the District Contract Manager's determination but must make that challenge in writing within ten (10) working days to the Mass Transportation Program Manager or his/her designee. [If the fund **RECIPIENT** challenge is not made within the ten (10) day period, the District Contract Manager's decision shall become the final decision of the **STATE**.] **STATE** and **RECIPIENT** shall submit written, factual information and supporting data in support their respective positions. The decision of the Mass Transportation Program Manager or his/her designee shall be final, conclusive and binding regarding the dispute, unless **RECIPIENT** commences an action in court of competent jurisdiction to contest the decision in accordance with Division 3.6 of the California Government Code.

### *H. Hold Harmless and Indemnification*

- (1) Neither **STATE** nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by **RECIPIENT**, its agents and contractors under or in connection with any work, authority, or jurisdiction delegated to **RECIPIENT** under this AGREEMENT or any PROGRAM SUPPLEMENT or as respects environmental clean up obligations or duties of **RECIPIENT** relative to PROJECT. It is also understood and agreed that, **RECIPIENT** shall fully defend, indemnify and hold the CTC and **STATE** and their officers and employees harmless from any liability imposed for injury and damages or environmental obligations or duties arising or created by reason of anything done or imposed by operation of law or assumed by, or omitted to be done by **RECIPIENT** under or in connection with any work, authority, or jurisdiction delegated to **RECIPIENT** under this AGREEMENT and all PROGRAM SUPPLEMENTS.
- (2) **RECIPIENT** shall indemnify, defend and hold harmless **STATE**, the CTC and the State Treasurer relative to any misuse by **RECIPIENT** of State funds, PROJECT property, PROJECT generated income or other fiscal acts or omissions of **RECIPIENT**.

I. *Labor Code Compliance*

**RECIPIENT** shall include in all subcontracts awarded using PROJECT funds, when applicable, a clause that requires each subcontractor to comply with California Labor Code requirements that all workers employed on public works aspects of any project (as defined in California Labor Code §§ 1720-1815) be paid not less than the general prevailing wage rates predetermined by the Department of Industrial Relations as effective the date of Contract award by the **RECIPIENT**.

J. *Non-Discrimination*

- (1) In the performance of work under this AGREEMENT, **RECIPIENT**, its contractor(s) and all subcontractors, shall not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age, marital status, family and medical care leave, pregnancy leave, and disability leave. **RECIPIENT**, its contractor(s) and all subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. **RECIPIENT**, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full. Each of **RECIPIENT**'s contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

- (2) Should federal funds be constituted as part of PROJECT funding or compensation received by **RECIPIENT** under a separate Contract during the performance of this AGREEMENT, **RECIPIENT** shall comply with this AGREEMENT and with all federal mandated contract provisions as set forth in that applicable federal funding agreement.
- (3) **RECIPIENT** shall include the non-discrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this AGREEMENT.

*K. State Fire Marshal Building Standards Code*

The State Fire Marshal adopts building standards for fire safety and panic prevention. Such regulations pertain to fire protection design and construction, means of egress and adequacy of exits, installation of fire alarms, and fire extinguishment systems for any State-owned or State-occupied buildings per section 13108 of the Health and Safety Code. When applicable, **RECIPIENT** shall request that the State Fire Marshal review PROJECT PS&E to ensure PROJECT consistency with State fire protection standards.

*L. Americans with Disabilities Act*

By signing this Master Agreement, **RECIPIENT** assures **STATE** that **RECIPIENT** shall comply with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. 12101 et seq.).

*M. Access for Persons with Disabilities*

Disabled access review by the Department of General Services (Division of the State Architect) is required for all publicly funded construction of buildings, structures, sidewalks, curbs and related facilities. **RECIPIENT** will award no construction contract unless **RECIPIENT**'s plans and specifications for such facilities conform to the provisions of sections 4450 and 4454 of the California Government Code, if applicable. Further requirements and guidance are provided in Title 24 of the California Code of Regulations.

*N. Disabled Veterans Program Requirements*

- (1) Should Military and Veterans Code sections 999 et seq. be applicable to **RECIPIENT**, **RECIPIENT** will meet, or make good faith efforts to meet, the 3% Disabled Veterans Business Enterprises goals (or **RECIPIENT**'s applicable higher goals) in the award of every contract for PROJECT work to be performed under these this AGREEMENT.
- (2) **RECIPIENT** shall have the sole duty and authority under this AGREEMENT and each PROGRAM SUPPLEMENT to determine whether these referenced code sections are applicable to **RECIPIENT** and, if so, whether good faith efforts asserted by those contractors of **RECIPIENT** were sufficient as outlined in Military and Veterans Code sections 999 et seq.

O. *Environmental Process*

Completion of the PROJECT environmental process (“clearance”) by **RECIPIENT** (and/or **STATE** if it affects a State facility within the meaning of the applicable statutes) is required prior to requesting PROJECT funds for right-of-way purchase or construction. No State agency may request funds nor shall any State agency, board or commission authorize expenditures of funds for any PROJECT effort, except for feasibility or planning studies, which may have a significant effect on the environment unless such a request is accompanied with all appropriate documentation of compliance with or exemption from the California Environmental Quality Act (CEQA) (including, if as appropriate, an environmental impact report, negative declaration, or notice of exemption) under California Public Resources Code section 21080(b) (10), (11), and (12) provides an exemption for a passenger rail project that institutes or increases passenger or commuter services on rail or highway rights-of-way already in use.

**ARTICLE III – SPECIAL PROVISIONS**

**Section 1. Bond Provisions** (Applicable only to State Bond Funding encumbered against a specific Program Supplement).

A. *General Bond Provisions*

- (1) If **RECIPIENT** enters into a management contract with a private party (including AMTRAK) for operation of rail, ferry or other transportation services in connection with PROJECT, **RECIPIENT** will obtain prior approval from Bond Counsel acceptable to **STATE** that the terms of that management contract meet the requirements of Internal Revenue Service Revenue Procedure 97-13 (as supplemented or amended) or any successor thereto (dealing generally with guidelines for when management contracts may be deemed not to create a "private use" of bond-financed property) or are otherwise acceptable. **RECIPIENT** must also be prepared to certify, upon request of **STATE**, that the revenues which **RECIPIENT** (or its manager) will receive directly from the operation of transportation services in connection with PROJECT (but not including any subsidy of the transportation operation from taxes or other outside fund sources) are, for any fiscal year, less than the ordinary and necessary expenses directly attributable to the operation and maintenance of the transportation system (excluding any overhead or administrative costs of **RECIPIENT**).
- (2) Except as provided in this Article III, A (1), **STATE** and **RECIPIENT** agree that any costs of PROJECT acquired or constructed by **RECIPIENT** allocable to portions of PROJECT which are subject to any property interests held by a non-governmental person(s) in connection with business activities, such as easements, leases, or fee interests, not generally enjoyed by the public (hereinafter referred to as “Non-Governmentally Used Property” or “NUP”) shall require the prior approval of **STATE** and the State Treasurer, as applicable. If **RECIPIENT** receives any revenues or profits

from any NUP activities allowed pursuant to this Article (whether approved at this time or hereafter approved by **STATE**), **RECIPIENT** agrees that such revenues or profits shall be used exclusively for the public transportation services for which **PROJECT** was initially approved, either for capital improvements or operating costs. If **RECIPIENT** does not so dedicate those revenues or profits, a proportionate share shall (unless disapproved by Bond Counsel) be paid to **STATE** equivalent to the Ratio of **STATE**'s percentage of participation in **PROJECT**.

- (3) Notwithstanding the foregoing, **RECIPIENT** may be authorized to receive an allocation of bond proceeds for NUP activity, in an amount not to exceed the amount specified in the **PROGRAM SUPPLEMENT**, if **RECIPIENT** submits a certified bond certification questionnaire to the **STATE**, and both the **STATE** and the State Treasurer approve the private activities contained therein.
- (4) **RECIPIENT** shall not loan any portion of bond proceeds funding **PROJECT** to any private (including nonprofit) person or business. For this purpose, a "loan" includes any arrangement that is the economic equivalent of a loan, regardless of how it is named.
- (5) Delivery by **STATE** of any bond funds is contingent on the sale of bonds by the State Treasurer. **STATE** shall not be held liable for any resulting damage or penalty to **RECIPIENT** in the event bond sales are delayed, canceled, or downsized or other **AGREEMENT** funds are restricted, limited or otherwise conditioned by acts of Congress, the Internal Revenue Service, the United States Department of Transportation, the Legislature, or the CTC.
- (6) **RECIPIENT** shall, for the purposes of any State bond funded right of way acquisition which will become a permanent part of **PROJECT** (such acquisitions exclude temporary construction easements, property allocated to matching funds, and excess property purchased with State funds whose resale proceeds are returned or credited to **STATE**), maintain ownership of such **PROJECT** property for a minimum of twenty years or until the bonds have matured, whichever occurs first, before transferring or selling such property (subject to all refunds or Credits due **STATE** as provided hereinabove).
- (7) Where **RECIPIENT**'s **PROJECT** includes a commuter rail **PROJECT** within the meaning of Proposition 116, **RECIPIENT** shall coordinate and share with other public transit operators any rail rights-of-way, common maintenance services and station facilities used for intercity and commuter rail. Intercity and commuter rail services shall be coordinated with each other, with other providers and with freight traffic to provide integrated rail passenger and freight services with minimal conflict.
- (8) **RECIPIENT** agrees that all passenger vehicles, rail, and water borne ferry equipment, and all facilities acquired or constructed with Proposition 116 bond funds shall be accessible to persons with physical disabilities, including wheelchair users, at all stops, stations and terminals, whether or not staffed.

- (9) NUP shall, for accounting and bookkeeping purposes, first be allocated to funding sources other than the State bond funds. For purposes of making such allocations, the costs attributable to NUP involving a sale, easement, lease or similar arrangement shall be determined on the basis of a fair allocation of value, which may include determinations based upon square meters/feet of the area encumbered by the NUP lease or easement relative to the total area acquired or constructed if all such area is of approximately equal value.
- (10) NUP will include, but is not limited to, property which is sold (including sales of air and subsurface rights), and property subject to easements, leases or similar rights. A rail right of way will not be treated as NUP solely as a result of a Freight Use Easement retained by the seller of the right of way to **RECIPIENT**, provided that the sales agreement appropriately excludes the Freight Use Easement from the property or rights being acquired. Further, notwithstanding anything in this Article III to the contrary, **RECIPIENT** may allocate grant funds to the cost of any NUP if (a) neither **RECIPIENT** nor any other governmental entity will receive, directly or indirectly, any payments from or on behalf of the non-governmental user of the NUP, or (b) the payment from such user does not exceed the operation and maintenance costs fairly attributable or allocable to the non-governmental use of the NUP.
- (11) **RECIPIENT** shall request, in writing, **STATE**'s advance approval if **PROJECT** funds are to be allocated to any NUP except "incidental use" property described below. If property, the costs of which have previously been allocated to **PROJECT** funds, is to become NUP before the State bond funds are fully paid or redeemed, then **RECIPIENT** may allocate the costs of such property to another funding source as provided or obtain **STATE**'s approval that the allocation of the costs of such property to the bond funds may remain. It is anticipated that **STATE**'s approval will be granted if, taking into account the existing and expected uses of the proceeds of the State bonds, **STATE** determines that the continued tax-exempt status of the State bonds will not be adversely affected and that the use of the property is consistent with **PROJECT** and its described purpose.
- (12) For purposes of these fund source allocations, **RECIPIENT** does not have to consider NUP as including those "incidental uses" of **PROJECT** (for example, advertising billboards, vending machines, telephones, etc.) which meet the applicable requirements of federal tax regulations (IRS Notice 87-69 or any successor thereto). In general, such Notice requires that the incidental use not be physically separated from the rest of **PROJECT** and not comprise, in the aggregate, more than 2-1/2% of the total costs of **PROJECT**.

## Section 2. TCRP PROJECTS

The TRAFFIC CONGESTION RELIEF (TCR) ACT OF 2000 (the "ACT"), was added (in Chapter 4.5, commencing with section 14556) to part 5.3 of Division 3 of Title 2 of the Government Code by AB 2928 and SB 406, as amended by SB 1662 and AB 1705. As directed

by the ACT and the CTC established Guidelines (as set out in CTC Resolution G-06-04), and as those Guidelines may be amended prior to the execution of a future PROGRAM SUPPLEMENT, said Guidelines shall apply to each TCRP funded PROJECT. By this reference, those Guidelines are made an express part of this AGREEMENT and shall apply to each TCRP funded PROJECT. **RECIPIENT** will cause its specific TCRP mandated Resolution to be attached as part of any TCRP funded PROGRAM SUPPLEMENT as a condition precedent to the acceptance of TCR ACT funds for that PROJECT.

**Section 3. PROJECT MANAGEMENT**

- (1) **STATE's** PROJECT administrator for this AGREEMENT shall be the chief of the State Transit Grants Branch of the Division of Mass Transportation. **RECIPIENT's** General Manager, Executive Director or a Designee as named in writing to **STATE** following execution of this AGREEMENT shall be the administrator acting for **RECIPIENT**.
- (2) PROGRAM SUPPLEMENT administrators for **STATE** shall be the applicable District Division Chief for Planning and for **RECIPIENT**, the designee named in the applicable PROGRAM SUPPLEMENT.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT by their duly authorized officers.

**STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
DIVISION OF MASS TRANSPORTATION**

**RECIPIENT NAME**

**BY:** \_\_\_\_\_  
TERRY FARRIS, Chief  
State Transit Grants Branch

**BY:** \_\_\_\_\_  
EXECUTIVE NAME  
Title

APPROVED AS TO FORM AND PROCEDURE

**STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION**

**BY:** \_\_\_\_\_  
TODD VAN SANTEN  
Attorney

**ATTACHMENT I**

**CTC RESOLUTION G-91-2**

Passed by the CTC on February 21, 1991

**CALIFORNIA TRANSPORTATION COMMISSION  
RESOLUTION G-91-2**

**Commission Policy Resolution for Hazardous Waste Identification  
and Cleanup for Rail Right-of-Way**

WHEREAS, the Commission has programmed funding for rail right-of-way acquisition in the 1990 State Transportation Improvement Program and may allocate funds for rail right-of-way acquisition from the Clean Air and Transportation Improvement Act; and

WHEREAS, hazardous wastes, based upon federal and state statutes and regulations, include but are not limited to such categories as heavy metals, (e.g., lead), inorganic (e.g., excessive mineral levels) and organic compounds (e.g., petroleum products), and can occur on a property's surface and subsurface; and

WHEREAS, rail properties often have hazardous wastes exceeding State of California and federal hazardous waste standards; and

WHEREAS, such properties contaminated with hazardous wastes require mitigation prior to using them for rail purposes; and

WHEREAS, hazardous wastes discovered on rail property may significantly impact property value, project scheduling and future liability for the grant applicant; and

WHEREAS, the Commission must be assured that acquisition of rail properties have been fully reviewed by the grant applicant, and if warranted, the grant applicant has tested for hazardous wastes; and

WHEREAS, if hazardous wastes exist, the Commission must be assured that the hazardous wastes identified has either been cleaned up, or financial responsibility for the cleanup has been determined prior to title transfer to the grant applicant, or easement has been secured in lieu of purchasing the property, and the subsurface rights and liability for hazardous wastes remain with the property seller; and

WHEREAS, hazardous wastes identified subsequent to title transfer to the grant applicant will be cleaned up by the seller or a mechanism to recover clean-up-costs is established and executed as a condition prior to title transfer; and

WHEREAS, full due diligence is necessary in discovering hazardous waste and is an essential element in acquiring rail right-of-way properties by the grant applicant; and

NOW THEREFORE BE IT RESOLVED, that acquisition of all rail right-of-way properties will be fully investigated by the grant applicant to determine the absence/presence of hazardous wastes. Investigations shall be conducted in accordance to the standards and practices of the local, state and/or federal regulatory agencies having jurisdiction and by personnel adequately trained in hazardous waste investigation; and

-2-

BE IT FURTHER RESOLVED, that all properties, discovered with hazardous wastes, which exceed the federal/state standards, will be cleaned up to the satisfaction of the responsible local, state and/or federal regulatory agency. The appropriate regulatory agency shall certify to grant applicant that the cleanup has been completed; and

BE IT FURTHER RESOLVED, that the grant applicant will certify by formal resolution to the Commission that all reasonable steps have been completed to assure full due diligence in the discovery of hazardous waste has been achieved during the acquisition of rail right-of-way and the state is held harmless from cleanup liability or damages, both present and future; and

BE IT FURTHER RESOLVED, that the grant applicant will certify by formal resolution that it will not seek further state funding, for cleanup, damages, or liability cost associated with hazardous wastes on or below acquired property's surface; and

BE IT FURTHER RESOLVED, that the grant applicant will certify to the Commission:

- that all rail right-of-way acquisition properties have been investigated and have been found clean;
- or that the cleanup of discovered hazardous waste has been completed prior to acquisition of the property;
- or that the grant applicant has obtained permanent easement and the subsurface rights and liability and full responsibility to pay for and remove such hazardous waste remains with the seller in conformance with applicable State and Federal law;
- or if hazardous wastes are known to exist prior to acquisition and if the applicant determines that time is of the essence for acquisition, then and in that event, an enforceable agreement will be entered into requiring the responsible party(ies) to clean all hazardous wastes by a date certain, with the option of funds sufficient for the clean-up costs deposited in escrow by the seller.

In the event of failure to clean up by the date determined, the recipient of the grant will make full restitution to the **STATE** for its participation. This resolve does not preclude the recipient from requesting re-allocation not to exceed the refunded amount after the hazardous waste(s) have been fully removed from the subject site; and

BE IT FURTHER RESOLVED, that the grant applicant will certify to the Commission that the seller from whom properties have been acquired retain liability for any hazardous waste investigation and/or cleanup, and damages discovered subsequent to the transfer of title; and

BE IT FURTHER RESOLVED, the Commission declares all future liability resulting from hazardous wastes remain with the seller or the grant applicant, not the state, and the grant applicant has been indemnified by the seller for any costs resulting from failure to eliminate hazardous wastes; and

BE IT FURTHER RESOLVED, no state funds will be made available for any future costs associated with cleanup; damages, or liability costs associated with hazardous wastes on or below the acquired property's surface.

**ATTACHMENT II**

**(INSERT AGENCY BOARD RESOLUTION)**

**See Sample at**

**[http://www.dot.ca.gov/hq/MassTrans/state\\_grants.html](http://www.dot.ca.gov/hq/MassTrans/state_grants.html)**

**under Transit Forms**



AGENDA NO: A-4

MEETING DATE: 3/13/2012

## Staff Report

**TO:** Mayor and City Council

**DATE:** March 7, 2012

**FROM:** Andrea K. Lueker, City Manager

**SUBJECT:** Approval of the Amended Job Descriptions for the Harbor Director/Harbormaster and Harbor Business Manager and Authorization to Fill the Harbor Director/Harbormaster and Harbor Business Manager Vacancies

### **RECOMMENDATION**

Staff recommends the City Council approve the amended job descriptions for the Harbor Director/Harbormaster and Harbor Business Manager and authorize to fill the Harbor Director/Harbormaster and Harbor Business Manager vacancies.

### **FISCAL IMPACT**

With this action, there will be an approximate \$10,000 savings in the Harbor Fund, specifically due to the movement of the Harbor Business Manager position to a lower salary schedule position.

The salary range of the Harbor Director/Harbormaster is \$100,619 - \$142,660 with the employee then paying the entire employee's share of the PERS contribution from that amount. The salary range for the Harbor Business Manager is proposed at \$58,615 to \$71,248 with the employee then paying the entire employee's share of the PERS contribution from that amount. The complete Executive and Management benefit package can be found on the City's website under the "Employee Compensation" tab.

### **BACKGROUND**

After the retirement of the Harbor Director in June 2010, the Harbor Director position's duties were reallocated to 2 Managers overseeing the operations: the Harbor Operations Manager and the Harbor Business Manager. This decision was made based on the study of the Level of Service Document which outlined the major areas and work tasks of the Harbor Department to include Administration, Operations, Planning, and Logistics. At that time, it was best for the organization to offer tandem control of the Department as the managers each possessed specific and separate skill sets that worked well together. In the past 1 ½ years, this structure has worked very well for the Department and the City. Prior to that structural change, staff indicated that at some time, the former structure of the Harbor Department with the Harbor Director was likely.

Prepared By: \_\_\_\_\_

Dept Review: \_\_\_\_\_

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

## **DISCUSSION**

The Harbor Department plays a major role in the City in terms of operations, revenue generation and the attraction of tourists. While the structure of the Harbor Department in the past 1 ½ years has taken on a different look with shared management, staff recommends at this time to appoint a Harbor Director to oversee the Department.

Upon approval of the recommendations in this staff report, the existing Harbor Operations Manager will be appointed to the Harbor Director/Harbormaster position and the Harbor Operations Manager position will not be refilled. Staff will begin an outside recruitment for the Harbor Business Manager. Staff has also recommended some amendments to the Harbor Director/Harbormaster job description to capture and slightly refocus that position with a more harbor operational quality as well as remove duties that were transferred to the Harbor Business Manager position in 2010. The Harbor Business Manager job description was also slightly modified to remove the dual management of the Department. The Harbor Business Manager position, due to the removal of the dual management of the Department, will also be moved down to a lower level on the Management Salary Schedule.

## CITY OF MORRO BAY

### HARBOR DIRECTOR/HARBOR MASTER

#### DEFINITION

Under administrative direction plans, organizes, directs and coordinates the City=s Harbor activities, including property and lease management of Embarcadero lease sites, direction of the Harbor Patrol; and other duties as required.

#### ESSENTIAL DUTIES & RESPONSIBILITIES

1. Plans, manages, organizes and directs the activities of the Harbor Department.
2. Formulates rules, procedures, and policies for the efficient operation of the department.
3. Manages departmental personnel including interviews, selection, training, evaluations, and discipline.
4. Prepares and administers annual departmental operating budget; manages operations to achieve goals within available resources.
5. Consults with governmental agencies, other staff members, and the public; and, attends meetings, makes presentations and recommendations to appointed and elected officials on departmental related activities.
6. Evaluates the need for and develops plans and budget schedules for long range programs.
7. Prepares grants, formal bid specifications, and request for proposals, and manages same.
8. Prepares and submits periodic reports, analysis, and recommendations concerning departmental activities.
9. Reviews~~Drafts and negotiates~~ complex lease agreements- in conjunction with the Harbor Business Manager. ~~with tenants and coordinates the work with other City departments, lending institutions, appraisers, escrow agents, acquisition agents, and other property related specialists.~~
10. ~~Communicates with tenants and subtenants to provide lease site and development information, resolve disputes, and interpret lease contracts.~~
11. Prepares specifications and reviews applications for conditions for use of lease and sub-lease sites and lease amendments in conjunction with the Harbor Business Manager.
12. ~~Develops and maintains a comprehensive property management records system for lease site administration.~~
13. Reviews and designs long range plans and needs of the harbor, addressing environmental, navigation, fishing, commerce, and other related coastal concerns.
14. Supervises the maintenance of harbor equipment and facilities and has the ability to operate and navigate a harbor patrol boat.
15. Oversees a comprehensive preventative maintenance program for harbor patrol

boats and equipment.

16. Monitors and manages conformance with the City's clean marina program and bay water quality efforts and coordinates and works with the National Estuary Program/Comprehensive Conservation Management Plan.

17. Reviews and analyzes legislation affecting the City or a department, determining impact and recommending appropriate action.

18. Assists and coordinates with other agencies such as, but not limited to State Parks, Army Corps of Engineers, National Estuary Program, Marine Interest Group and SLOSEA.

19. Performs other duties as required.

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## HARBOR DIRECTOR/HARBOR MASTER

### **QUALIFICATIONS**

#### Knowledge of:

Principles, practices and procedures and laws governing appraisal, purchase, leasing and sales of real property; commercial lease negotiation and administration, basic principles of municipal finance, budgetary systems and personnel management; California and Federal boating law; harbor and waterfront activities, maritime laws, California regulatory processes, and project management practices.

#### Ability to:

Work effectively with inter-governmental agencies, co-workers, employees, lessees and the public; oversee negotiation and administration of property and insurance agreements; communicate clearly and concisely orally and in writing; supervise and evaluate subordinates; supervise harbor related projects including facilitating the permitting process and assisting with construction management. Operate a patrol boat safely and effectively under routine and adverse sea conditions.

#### Education and Experience:

Equivalent to graduation from an accredited four year college or university with a major in ~~real estate management~~, business, public administration, public safety administration, or other related field or any equivalent combination of education and progressively responsible experience with additional work experience substituting for the required education on a year for year basis; ~~Master=s degree preferred.~~

~~Five years of increasingly responsible experience in property management and lease administration; familiarity~~ Familiarity in water site administration is desirable.

Valid California Driver=s License.

### **TOOLS & EQUIPMENT USED**

Personal computer including word processing software; motor vehicle; calculator; telephone; copy, ~~and~~ fax machine and patrol boat.

### **PHYSICAL DEMANDS**

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

## HARBOR DIRECTOR/HARBOR MASTER

functions.

Work is performed mostly in office settings. Some outdoor work is required in the inspection of various land use developments and construction sites [and in operation of harbor patrol boats in routine and emergency response](#). Hand-eye coordination is necessary to operate computers, ~~and~~ various pieces of office equipment [and harbor patrol equipment](#).

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

The employee must occasionally lift and/or move up to [25-50](#) pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perceptions, and the ability to adjust focus.

### **WORK ENVIRONMENT**

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

While performing the duties of this job, the employee occasionally works in outside weather conditions. The employee is occasionally exposed to wet and/or humid conditions, or airborne particles. The noise level in the work environment is usually quiet in the office, and moderate [to loud](#) in the field.

### **SELECTION GUIDELINES**

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

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

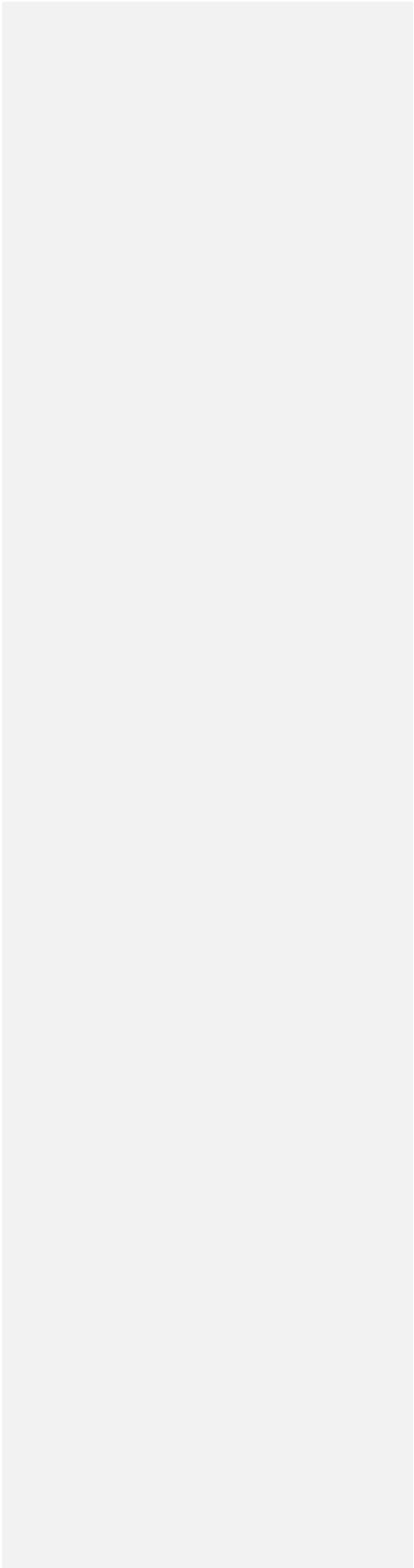
The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Approved by the Morro Bay City Council on May 28, 1996.

HARBOR DIRECTOR/HARBOR MASTER

| [Approved by the Morro Bay City Council on March 13, 2012](#)

h/jdhd



## CITY OF MORRO BAY

### HARBOR BUSINESS MANAGER

#### DEFINITION

Under direction to plan, organize, direct and coordinate the City's Harbor business activities, including property and lease management of Embarcadero Lease Sites and; and does related work as required.

#### ESSENTIAL DUTIES & RESPONSIBILITIES

1. ~~Plans, organizes and directs the activities of the Harbor Department business operations.~~(Harbor Director job description)
2. Collects, analyzes, interprets, and reports on data relating to departmental or city-wide projects, policies, and procedures.
3. Assists in determining the resources necessary for meeting current and future Harbor Department needs, including personnel, equipment, facilities, and funding.
4. Performs the analytical tasks necessary to determine the feasibility to obtain proper authorization and funding for the development of new programs, systems, or procedures.
5. ~~Reviews and analyzes legislation affecting the City or a department, determining impact and recommending appropriate action.~~(Harbor Director job description)
6. ~~May assist in d~~etermining feasibility of participation in grant programs and develops, submits and monitors assigned grant applications.
7. Assists in compilation, analysis and administration of Harbor Fund budget.
8. Works with the Harbor ~~Operations Manager~~Director with special projects as needed including dredging issues, construction projects; and administrative tasks.
9. ~~Assists and coordinates with other agencies such as State Parks, Army Corps of Engineers, MBNEP, MIG, and SLOSEA regarding environmental issues.~~(Harbor Director job description)
10. ~~May make~~Makes written and oral presentations and acts as departmental representative to the City Council, various individuals, commissions, boards, and other groups.
11. Coordinates and performs special assigned programs and projects, consultant tasks and contracts.
12. Analyzes departmental administrative procedures and harbor operations.
13. Drafts and negotiates complex lease agreements with tenants and coordinates the work with other City Departments, lending institutions, appraisers, escrow agents, acquisition agendas and other property related specialists.
14. Communicates with tenants and subtenants to provide lease site and development information, resolve disputes and interpret lease contracts.
15. Interprets and implements state and local environmental laws and regulations as they relate to lease site administration.
16. Manages departmental clerical and/or technical staff including interviews,

## HARBOR BUSINESS MANAGER

selection, training, evaluation and discipline.

17. ~~Coordinates and works with National Estuary Plan during implementation of the Comprehensive Conservation Management Plan.~~(Harbor Director job description)
18. ~~May manage~~Manages special department projects.
19. Performs related duties as required.

### **QUALIFICATIONS**

#### Knowledge of:

Principles, problems, and methods of public and business administration as applied to a municipality; techniques and procedures for grant applications; commercial/municipal leasing practices; research methodologies and statistical analysis; laws, regulations and ordinances affecting the city's operations; computer systems and applications.

Familiarity with state granted tidelands property issues and regulations, commercial lease contracts, Harbor & Navigation Code, State and Federal government regulations relating to Harbors and environmentally dependent issues.

#### Ability to:

Prepare bid packages and administer contracts of various types; evaluate and make recommendations of feasibility studies from statistical and narrative data; prepare accurate and sound analysis; develop and present comprehensive reports; effectively deal with organized groups; make public presentations; establish and maintain cooperative relationships with those contacted during the course of work. Direct all accounts receivable functions of the department and coordination with the Finance Department.

#### Education and Experience:

Equivalent to graduation from an accredited four-year college or university with a degree in Business or Public Administration, Economics, or a related field or any equivalent combination of education and progressively responsible experience with additional work experience substituting for the required education on a year for year basis.

Two years experience performing the duties of a Management Analyst or the equivalent.

Valid and appropriate California Drivers License.

### **TOOLS & EQUIPMENT USED**

Typewriter, personal computer including word processing, spreadsheet, graphic and data base software; mainframe computer terminal; 10-key calculator; telephone; copy machine; fax machine; UHF/VHF radio; vehicle.

## HARBOR BUSINESS MANAGER

### **PHYSICAL DEMANDS**

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

While performing the duties of this job, the employee is frequently required to sit and talk or hear, use hands to finger, handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to walk.

The employee must occasionally lift and/or move up to 25 pounds. Specific vision abilities required by this job include close vision and the ability to adjust focus.

### **WORK ENVIRONMENT**

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

The noise level in the work environment is usually loud with varying levels of interference from UHF/VHF radio traffic and power plant background noise and vibration.

### **SELECTION GUIDELINES**

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

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

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

Approved by the Morro Bay City Council on July 26, 1999.

| Approved by the Morro Bay City Council on June 28, 2010.

HARBOR BUSINESS MANAGER

| [Approved by the Morro Bay City Council on March 13, 2012.](#)



AGENDA NO: A-5

MEETING DATE: March 13, 2012

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** March 6, 2012  
**FROM:** Kathleen Wold, Planning and Building Manager  
**SUBJECT:** Findings for Approval of the Sign Exception Permit (#SP0-141) for Virg's Sport Fishing.

**RECOMMENDATION:**

Staff recommends that Council Adopt the findings listed in Exhibit A and Conditions detailed in Exhibit B.

**DISCUSSION:**

At the February 28, 2012 City Council meeting the Council approved Sign Permit Exception (#SP0-141) for Virg's Sport Fishing allowing a 3 by 5 foot sign at the corner of Market and Beach (Walkers Mobile Home). The Council directed staff to draft findings upholding the appeal and granting the Sign Exception.

Pursuant to City Council direction, please find attached to this brief staff report Exhibit A which contains the necessary findings for approval and Exhibit B which contains the one condition of approval placed on the project.



## **EXHIBIT A**

### **FINDINGS**

**SITE LOCATIONS:** Walker's Mobile Home Park (1105 Morro Ave). The sign will be located within the public right of way along Market Street and beneath the existing Walker Mobile Home Sign on the same sign supports.

**PROJECT DESCRIPTION:** The applicant is requesting approval of a sign exception to allow the placement of an off-premise sign at Walker's Mobile Home Park (1105 Morro Ave) within the public-right-of-way advertising Virg's Sport fishing pursuant to Section 17.68.120.C Directional and Community Promotional Display Programs. This business had been previously located on the waterfront for 57 years. Recently the business moved to a location off the waterfront to 1169 Market. Because the business is water dependent and the new location is off the waterfront a sign at Beach and Market will help direct the public to this business which offers sport fishing and California State fishing licenses, a community service.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

The project has been found to be categorically exempt from CEQA pursuant to Section 15305, Class 5. Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to issuance of minor encroachment permits.

### **SIGN PERMIT FINDINGS:**

The sign is consistent with the intent and purpose of this chapter;

*The sign is consistent with Section 17.68.120.C which provides for sign programs which advertise, direct or inform pedestrians of business services not related to or located on the site. The sign advertises Virg's at 1169 Market. The sign is needed as a community service to inform patrons of the 1169 Market facility (non-water location) for a business which has historically operated on the water.*

The sign does not constitute a detriment to public health, safety and welfare;

*The proposed location of the sign will not create a detriment to public health, safety or welfare.*

The size, shape, color, materials, design and location of the sign are compatible with and bear harmonious relationship to all signs on a parcel and to the use, as well as to the neighborhood and surroundings;

*The sign as proposed is compatible with the existing sign at this location. The signs colors are different but the size, design, materials and shape are consistent with the existing Walker Mobile Home Sign.*

Signs on all proposed buildings or new additions to existing buildings are designed as an integral pan of the total building design;

*There is no wall sign proposed.*

The location of the proposed sign and the design of its visual elements (lettering, words, figures, colors, decorative motifs, spacing and proportions) are legible under normal viewing conditions prevailing where the sign is to be installed;

*The sign as proposed is legible.*

The location and design of the proposed sign does not obscure from view or unduly detract from existing or adjacent signs;

*The sign is proposed to be located on the same poles as the existing Walker Mobile Home underneath the existing Walker's Mobile Home Sign. This location will not obscure the existing sign and the difference in sign copy ensures that the signs will not be confusing.*

The location and design of the proposed sign, its size, shape, illumination and color does not detract from or interfere with or intrude upon adjacent properties or their occupants;

*The sign is proposed to be located on the same sign structure as the existing Walker Mobile Home Park Sign. The sign size, shape, non illumination and color are compatible with the existing Walker Mobile Home sign and therefore it will not detract from or interfere with or intrude upon the adjacent properties or their occupants.*

The location and design of a proposed sign in close proximity to any residential district does not adversely affect the value or character of the adjacent residential district;

*Proposed location is zoned R-2 (Duplex Residential District) therefore the sign is in a residential district. Because the sign is compatible with the existing sign at this location, proposes to increase the signage by only 4 square feet, and is conditioned to remain for a two year period of time there will be no adverse affect to the adjacent residential district.*

## **EXHIBIT B**

### **CONDITIONS OF APPROVAL**

**SITE LOCATIONS:** Walker's Mobile Home Park (1105 Morro Ave). The sign will be located within the public right of way along Market Street and beneath the existing Walker Mobile Home Sign on the same sign supports.

**PROJECT DESCRIPTION:** The applicant is requesting approval of a sign exception to allow the placement of an off-premise sign at Walker's Mobile Home Park (1105 Morro Ave) within the public-right-of-way advertising Virg's Sport fishing pursuant to Section 17.68.120.C Directional and Community Promotional Display Programs. This business had been previously located on the waterfront for 57 years. Recently the business moved to a location off the waterfront to 1169 Market. Because the business is water dependent and the new location is off the waterfront a sign at Beach and Market will help direct the public to this business which offers sport fishing and California State fishing licenses, a community service.

### **CITY COUNCIL CONDITION:**

1. Allow the exception for 2 years, and to have the Public Services Director, at his discretion, extend or deny the extension after the 2 years.



AGENDA NO: B1

MEETING DATE: March 13, 2012

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** March 7, 2012

**FROM:** Rob Livick, PE/PLS – Public Services Director/City Engineer  
Kathleen Wold, AICP – Planning and Building Manager

**SUBJECT:** Introduction and 1st Reading of the Ordinance Amending Chapter 17.48.32, Secondary Units, Specifically Minimum and Maximum Floor Area, Architectural Compatibility, Parking and Conditional Use Permit

**RECOMMENDATION:**

Staff recommends that the City Council:

- 1) Open the public hearing and receive testimony;
- 2) Adopt the Negative Declaration;
- 3) Accept the Planning Commission recommendation to adopt the proposed ordinance amendments that would allow for ministerial secondary dwelling units in residential zones; and
- 4) Make a motion to approve the First Reading and Introduction of Ordinance No. 576 by number and title only.

**DISCUSSION**

At the February 14, 2012 City Council meeting staff presented the draft Zoning Text Amendment A00-013 amending Section 17.48.32 (Secondary Units). Staff presented the draft amendment as well as the revisions proposed by the Planning Commission at their January 4, 2012 meeting. It was the direction of the Council to bring back the Ordinance as proposed in the staff report as no further modifications were proposed. Staff did note in the staff report that additional language would be added to clarify how these modifications would affect projects within the coastal zone. This language is as follows: "Nothing in Government Code Sections 65852.2 or 65852.150 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act except that the local government shall not be required to hold public hearings for coastal development permit applications for second units." (Government Code Section 65852.2(j)) Noticing for interested parties and those properties within 100 feet of the second unit property will be required. The Ordinance in its entirety is provided as Attachment C.

Prepared By: \_\_\_\_\_ Dept Review: \_\_\_\_\_  
City Manager Review: \_\_\_\_\_  
City Attorney Review: \_\_\_\_\_

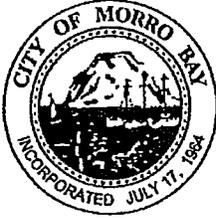
**Attachments:**

**Attachment A—Planning Commission staff report, resolution and minutes**

**Attachment B—City Council staff report and minutes**

**Attachment C—Ordinance No. 576 with Exhibit “A”**

**Attachment D – Negative Declaration**



AGENDA NO: B-4

MEETING DATE: December 7, 2011

## Staff Report

**TO:** Planning Commissioners **DATE:** December 7, 2011

**FROM:** Kathleen Wold, Planning and Building Manager

**SUBJECT:** Zoning Text Amendment A00-013 amending Section 17.48.32 (Secondary Units), Section 17.44 (Parking) and Section 17.12 (Definitions).

**RECOMMENDATION:**

Staff recommends the Planning Commission:

- 1) Open the public hearing and receive testimony; and
- 2) Make a motion to adopt resolution No. 01-11, and direct staff to forward your recommendation to City Council.

**APPLICANT:** City of Morro Bay

**PROJECT DESCRIPTION:**

The purpose of these amendments is to comply with the amendments made in 2002 to State Law Section 65852.2 which requires cities to set standards for the development of second dwelling units with ministerial review in an effort to increase supply of small, affordable housing units while ensuring that those units remain compatible with the existing neighborhood.

**PROJECT SETTING:**

The proposed text amendment as proposed will be applicable to the entire city.

**PROJECT ANALYSIS:**

On March 22, 2011 the City Attorney brought to the City Council a staff report on the status of secondary dwelling unit regulations with a recommendation that City Council provide direction to staff. At this meeting the Council directed staff to return with the following amendments to Morro Bay Municipal code Section 17.48.320 (Secondary Units):

1. Minimum and Maximum Floor area. The floor area of a second unit shall not exceed the maximum allowable amount of 1,200 square feet as per State

guidelines.

2. Architectural compatibility. The architectural design, exterior materials and colors, roof pitch and style, reasonable compatible of the second unit....
3. Parking. The parking space can be open and uncovered; however neither may be in tandem with required parking....
4. Conditional Use Permit. Remove entire requirement.

Staff has researched the Secondary Unit regulations and found that the changes proposed in 2005 were never certified by the California Coastal Commission (CCC). Because the changes approved by the City Council in 2005 were never certified by the CCC staff has used the prior secondary unit regulations as the base document and made changes to that document as instructed by the City Council All changes proposed are consistent with Government Code Section 65852.150 and 65852.2 which pertain to Secondary Units.

The changes proposed are as follows (words in italics are added and word with strikethrough will be deleted):

**17.48.320 GRANNY SECONDARY UNITS**

The purpose of this Section is to provide affordable low- and moderate-income housing. *The following supplemental regulations are intended to comply with government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements; Pursuant to Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single family residence, subject to the following provisions:*

~~A. Minor Use Permit and Deed Restriction Required~~

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

B. A. Location

Said unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit. Only one-second unit or one guesthouse is permitted per one primary single family dwelling on the same lot:

C. B. Lot Coverage

Maximum lot coverage allowed for the District that they are located in.

~~D.~~ C. Design

Said unit shall be ~~consistent~~ *reasonably compatible* with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.

~~E.~~ D. Size

The total floor area, not including a garage, for a ~~granny~~ secondary unit shall not exceed 1,200 square feet *as per State guidelines*.

~~F.~~ E. Parking

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking space can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setback areas and in tandem if both spaces are for the secondary unit. ~~Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:~~ The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading:"

- ~~1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or~~
2. That it is not permitted anywhere else in the City.

~~G.~~ Water Equivalencies and Other Public Facilities

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

~~H.~~ F. Compliance with Title 14

A granny/second unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

~~I.~~ Use Limitation

~~Single family residences with approved secondary units shall not have the secondary unit rented independent of the main residence when neither is occupied by the owner. Primary and secondary Single family residences with approved granny second units shall not have the granny unit rented independent of the main residence when neither is occupied by the owner.~~

In addition to the above changes there are also the following changes:

Remove requirement for a Conditional Use Permit in the AG, R-A, R-1, R-2, R-3, R-4 and CRR zone districts,  
Change title from Granny Unit to Secondary Unit within Section 17.44 (Parking), Section 17.12 (Definitions)

Staff has included both Attachment A the redlined version of the proposed changes and Attachment B which shows the final version of the text for your convenience.

In addition to changes to the Secondary Unit regulations, staff is recommending the following changes to the Guesthouse regulations to be consistent with State law.

#### **17.48.315 GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS**

Where provided by this Title, guesthouses/quarters and habitable structures for accessory living area may be permitted in conjunction with a dwelling unit, subject to these further requirements:

##### **A. Guesthouse Restrictions**

A guesthouse shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the main residence, and no cooking or food preparation or food storage facilities shall be provided.

##### **B. Use Permit Requirements**

~~A guesthouse may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. In all cases, the Director shall require the recordation of a deed restriction limiting the use to guest purposes only and prohibiting its rental or occupation as a second unit. Such deed restriction shall be subject to the approval of the City Attorney. (Ord. 288 Exh. B (part), 1986; Ord. 263 § 1 (part), 1984)~~

**B. Location. Guesthouses may be established on any lot in any R or AG district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of a guesthouse. Only one-guesthouse or second unit is permitted per one primary single-family dwelling on the same lot.**

#### **ENVIRONMENTAL DETERMINATION:**

A Negative Declaration was prepared for the project as there were no environmental impacts associated with the project. The environmental document was posted for review and comment for a thirty day period beginning on October 31, 2011 and ending on November 29, 2011.

#### **PUBLIC NOTICE:**

Notice of this item was published as a 1/8<sup>th</sup> page in the San Luis Obispo Tribune newspaper on November 25, 2011 notifying all Morro Bay residents.

**CONCLUSION:**

The proposed Text Amendment will bring the City's regulations regarding Secondary Units into conformance with Government Code Section 65852.150 and 65852.2 and incorporate the direction given to staff by the City Council.

**EXHIBITS:**

Exhibit A – Resolution #01-11

Exhibit B – Current City of Morro Bay Section 17.48.320

Exhibit C – March 14, 2011 City Council staff report and minutes

Exhibit D – Negative Declaration Environmental Document/Initial Study

Exhibit E – Attachment A-modifications including strikeouts and additions.

Exhibit F – Attachment B-new proposed text.

# EXHIBIT A

## RESOLUTION NO. 01-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORRO BAY, ANNOUNCING FINDINGS AND RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AMENDMENTS TO THE MORRO BAY MUNICIPAL CODE SPECIFICALLY TITLE 17 "ZONING ORDINANCE", SECTION 17.48 320 "Secondary Unit"

### THE PLANNING COMMISSION CITY OF MORRO BAY

**WHEREAS**, the Planning Commission of the City of Morro Bay held a duly noticed public hearing on December 7, 2011 to consider the amendments to Title 17 Section 17.48.320 as shown on attachment "A" attached hereto; and recommended approval of said amendments to the City Council; and

**WHEREAS**, the Environmental Coordinator determined that the proposed text amendment complies with the City of Morro Bay objectives, criteria and procedures for implementation of the California Environmental Quality Act (CEQA) in that environmental review pursuant to CEQA resulted in a Negative Declaration; and

**WHEREAS**, following the public hearing after consideration of staff report and consideration of all comment by persons written and oral, the Planning Commission did recommend approval of the amendments to the City Council, based on the following findings:

The proposed text amendment is consistent with the General Plan intent to preserve neighborhood character, and the purposes of the Subdivision Map Act.

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

That the above recitations are true and correct and constitute the findings of the Commission in this matter; and,  
That the Commission does hereby recommend approval of the amendment to Title 17, Section 17.48.32 attached hereto as Attachment "A: to the City Council; and,

**PASSED, APPROVED, AND ADOPTED**, by the Planning Commission of the City of Morro Bay, on the day of December 7, 2011 by the following vote to wit:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Rick Grantham, Planning Commission Chairperson

ATTEST:

\_\_\_\_\_  
Rob Livick, Public Services Director

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012

Commissioner Irons asked to pull Item A-1 for discussion. Irons noted that on page 3 regarding discussion of item B-3, 2 State Park Road, there was a letter and an email from a resident received which was brought forward and Commissioners discussed the concerns stated in the letter. He asked the minutes be corrected to include that we brought forth the email from the public and discussed the concerns with staff and the applicant.

**MOTION:** Commissioner Irons moved to approve the minutes as corrected. The motion was seconded by Chairperson Grantham and carried unanimously. (5-0)

B. PUBLIC HEARINGS

- B-1** *Continued Item from the December 7, 2011 Meeting*  
**Case No.:** #A00-013  
**Site Location:** Citywide  
**Applicant/Project Sponsor:** City of Morro Bay  
**Request:** Zoning Text Amendment proposing to amend Section 17.48.320 (Secondary Units) modifying the section to be consistent with State regulations.  
**CEQA Determination:** Mitigated Negative Declaration  
**Staff Recommendation:** Forward a favorable recommendation to the City Council to approve the proposed Zoning Text Amendment and adopt the Mitigated Negative Declaration.  
**Staff Contact:** Kathleen Wold, Planning and Building Manager (805) 772-6211

Wold presented the staff report.

Chairperson Grantham opened the Public Comment period.

Amy Perry, resident of Morro Bay, spoke against the zoning text amendment. She stated that on her block the secondary units have caused parking and noise problems and urged the Commission not to ease the current restrictions.

Betty Winholtz, resident of Morro Bay, spoke against the zoning text amendment. Winholtz stated that allowing second units to go from 900 to 1,200 square feet does not take into consideration the impacts to noise, parking, and circulation on neighborhoods and stated the current law is already compliant with State law; just more restrictive. Winholtz disagreed that the proposed changes will further affordable housing.

Dorothy Cutter, resident of Morro Bay, spoke against the zoning text amendment and expressed concern about allowing two large houses on one small lot. Cutter stated that residents will not want rental homes to surround them cutting off their views, light and air. Cutter stated the State law only states the granny units can be up to 1,200 square feet, but can be less. She stated this is not about affordable housing but about greed.

John Barta, resident of Morro Bay, spoke in favor of the zoning text amendment and stated as a former Planning Commissioner, he was involved with granny units. Barta read from the State law which cites that granny units can ease a rental housing shortage, maximize limited land

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REGULAR MEETING – JANUARY 4, 2012

resources, infrastructure and assist low to moderate income homeowners with supplemental rental income. Barta stated he supports staff's proposal.

Dan Reddell, resident of Morro Bay, spoke in favor of the zoning text amendment, stating he supports reducing these restrictions and that rental income from a second unit could help struggling homeowners.

Roger Ewing, resident of Morro Bay, spoke against the zoning text amendment. Ewing stated that while he agrees with Mr. Reddell, he disagrees with Mr. Barta. Ewing stated 1,200 square feet is not affordable housing and questioned why changes are proposed when this was not approved by the Coastal Commission. He said the Commission should not make changes at the expense of neighbors and urged the Commission to consider the whole community.

Hearing no further comment, Chairperson Grantham closed the Public Comment period.

Commissioner Napier stated as a renter, she appreciates the smaller size for its affordability. The increased cost of renting a secondary unit at 1,200 square feet would not be affordable.

Commissioner Solu asked staff to clarify lot size versus home size in terms of the "building envelope." Wold clarified that the State guidelines allow the density to increase, not the lot coverage to increase.

Commissioner Irons asked for Commission support on the following suggested changes:

1. Secondary units to be consistent with the primary unit noting we do not have design guidelines that require neighborhood compatibility and line out "and the neighborhood".
2. Zoning be left as "consistent" and to line out "reasonably compatible."
3. The total floor area for a detached secondary unit shall not exceed 1,200 square feet which is consistent with State law.
4. Restrict attached guest houses to not exceed 30% of the primary existing unit size and limited to owner occupied housing in the primary dwelling.

Solu and Nagy were not in support of dictating design requirements. Nagy stated regarding size, the lot size requirements are still present. Having a requirement which limits size to a percentage of the main house does not work if the main house is small.

Napier stated her support for Irons' suggestion on design requirement and also size limitations, noting that a developer is still limited to the building envelope.

Grantham stated his support and noted that reasonable compatibility provides flexibility.

**MOTION:** Grantham moved to pass as amended B-1. Solu seconded the motion.

Discussion included:

Commissioner Solu requested to amend the motion secondary unit subsection Item C to include "said unit shall be consistent and/or reasonably compatible."

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Commissioner Irons requested to amend the motion to state the increased floor area of an attached second unit shall not exceed 30% of the existing living area to bring us into conformance with State code and also the guest unit on "A" (Section 17.48.315) for an attached unit. A detached unit shall not exceed 1,200 square feet.

Commissioner Irons amended the motion on the floor and Chairperson Grantham seconded. Rob Schultz confirmed State law.

**VOTE:** The motion carried 3-2 with Commissioners Napier and Irons voting no.

**B-2 Case No.:** #S00-109 and #AD0-065

**Site Location:** 821 Pacific and 700, 710 and 710 ½ Bernardo

**Applicant/Project Sponsor:** Ruth Viau/ Cathy Novak

**Request:** Requesting Planning Commission to amend the previously approved project conditions by deleting Planning Commission Condition 1, which requires parking to be provided on parcel two east of the power pole.

**CEQA Determination:** Categorically Exempt Section 15305, Class 5

**Staff Recommendation:** Conditionally approve amendment to #S00-109 and #AD0-065

**Staff Contact:** Kathleen Wold, Planning and Building Manager (805) 772-6211

Wold presented the staff report and discussed with Commissioners the non-conforming status of the property including the previously approved parking exception.

Chairperson Grantham opened the Public Comment period.

Cathy Novak, Applicant's Representative, explained the Applicant's request and asked the Commission to support the modified parking request.

Chairperson Grantham closed the Public Comment period.

Commissioners discussed the request with staff.

Irons stated he was not in support of the Applicant's request to delete the parking condition as it is not an unreasonable condition. Irons addressed his concerns made known at the previous Commission meeting where he had requested the garage setback be made conforming at 5 feet from the existing 1 foot. And also his concern regarding the parking, which could be a safety issue having the parking spot straddle the right of way which he felt was not appropriate.

**MOTION:** Commissioner Nagy made a motion to approve Lot Line Adjustment #S00-109 and Variance #AD0-065, subject to the modified conditions of approval as stated in Exhibit B. The motion was seconded by Chairperson Grantham and carried 3-2 with Commissioners Napier and Irons voting no.

**B-3 Case No.:** #SP0-141

**Site Location:** Off premise signs at: Corner of Beach and Market, entry to parking lot of former Virg's location on the Embarcadero, boat launch ramp.

## ATTACHMENT 2

**17.48.320 - Secondary units.**

The following supplemental regulations are intended to comply with Government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements:

- A. Location. Second units may be established on any lot in any R or AG district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of a second unit. Only one second unit or one guesthouse is permitted per one primary single-family dwelling on the same lot;
- B. Type of Unit. A second unit may be attached, detached, or located within the living area of the primary dwelling unit on the lot, subject to the standards of this section;
- C. Minimum and Maximum Floor Area. The maximum floor area of a second unit shall not exceed nine hundred square feet, or fifty percent, whichever is smaller, of the existing or proposed living areas of the primary dwelling unit, except that a secondary dwelling unit of three hundred square feet is permitted regardless of the size of the primary dwelling unit. No second unit shall be smaller than three hundred square feet;
- D. Development Standards. Second units shall conform to setback, height, lot coverage, and other zoning requirements applicable to the primary dwelling in the zoning district where the second unit is proposed;
- E. Architectural Compatibility. The architectural design, exterior materials and colors, roof pitch and style, type of windows, and trim details of the second unit shall be substantially the same as and visually compatible with the style and character of the surrounding neighborhood, as determined by the public services director. Color photographs of the street-facing side(s) of the street shall be submitted with the second unit building permit application;
- F. Parking. One additional parking space shall be provided for each second unit with one bedroom and two additional parking spaces shall be provided for units with two or more bedrooms. The parking space can be open and uncovered, however neither may be in tandem with required parking of the principal dwelling unit or secondary unit, and cannot be located in the front or street side setback area. The principal dwelling unit must conform to the parking requirements of Chapter 17.44: Off-Street Parking and Loading;
- G. Use Limitation. Single-family residences with approved secondary units shall not have the secondary unit rented independent of the main residence when neither is occupied by the owner. Primary and secondary units may be rented under a single rental agreement if the owner is not occupying either unit. The terms of the single rental agreement shall not allow sub-lease of one unit. An owner is deemed to occupy a unit if they hold it off of the rental market for their own use;
- H. Emergency Access. A second dwelling unit may be permitted only on a lot with access from a roadway that meets the fire apparatus access road requirements of the California Fire Code Section 902.2.2.1;
- I. Conditional Use Permit. A secondary unit that is larger than nine hundred square feet may be permitted only after obtaining a conditional use permit pursuant to Chapter 17.60. The maximum size of a secondary dwelling unit shall not exceed one thousand two hundred square feet or fifty percent, whichever is smaller, of the existing or proposed living areas of the primary dwelling unit;
- J. Parking Exception. The planning commission may grant exceptions to the limitations of parking subject to appropriate conditions adopted with a conditional use permit in accordance with Chapter 17.44

(Ord. 507 § 1 (part), 2005; Ord. 501 § 1 (Exh. A (part)), 2004; Ord. 445 § 3 (part), 1995)



AGENDA NO: B-2

MEETING DATE: February 14, 2012

# Staff Report

**TO:** Honorable Mayor and City Council **DATE:** February 7, 2012

**FROM:** Kathleen Wold, AICP – Planning and Building Manager  
Rob Livick, PE/PLS – Public Services Director/City Engineer

**SUBJECT:** Review of Draft Zoning Text Amendment A00-013 amending Section 17.48.32 (Secondary Units).

**RECOMMENDATION:**

Staff recommends the City Council:

- 1) Open the public hearing and receive testimony; and
- 2) Provide direction to staff to incorporate any changes and bring the ordinance back to City Council for “First Reading”.

**FISCAL IMPACT:**

This action has minimal fiscal impact in that the processing and publication of the ordinance change will require some staff resources. Additionally, the reduction in fees through processing a public hearing is offset by a reduction in staff time required to review the project.

**BACKGROUND/DISCUSSION:**

The purpose of this amendment is to modify the current regulations and comply with the amendments made in 2002 to State Law Section 65852.2 which requires cities to set standards for the development of second dwelling units with ministerial review in an effort to increase supply of small, affordable housing units while ensuring that those units remain compatible with the existing neighborhood. Nothing in this amendment will affect the due process rights that citizens possess through the City’s Local Coastal Plan or the California Coastal Act. Language will be added to the ordinance to this effect based on Coastal Commission Staff comments.

On March 22, 2011 the City Attorney brought to the City Council a staff report on the status of secondary dwelling unit regulations with a recommendation that City Council provide direction to staff.

At this meeting the Council directed staff to return with the following amendments to Morro Bay Municipal code Section 17.48.320 (Secondary Units):

1. Minimum and Maximum Floor area. The floor area of a second unit shall not exceed

Prepared By: <u>RL/KW</u>	Dept Review: <u>RL</u>
City Manager Review: _____	
City Attorney Review: _____	

the maximum allowable amount of 1,200 square feet as per State guidelines.

2. Architectural compatibility. The architectural design, exterior materials and colors, roof pitch and style, reasonable compatible of the second unit....
3. Parking. The parking space can be open and uncovered; however neither may be in tandem with required parking....
4. Conditional Use Permit. Remove entire requirement.

Staff has researched the Secondary Unit regulations and found that the changes proposed in 2005 were never certified by the California Coastal Commission (CCC). Because the changes approved by the City Council in 2005 were never certified by the CCC staff has used the prior secondary unit regulations as the base document and made changes to that document as instructed by the City Council. All changes proposed are consistent with Government Code Section 65852.150 and 65852.2 which pertain to Secondary Units.

The proposed revisions to Chapter 17.48 are as follows (words in italics are added and words with strikethrough will be deleted):

#### **17.48.320 GRANNY SECONDARY UNITS**

The purpose of this Section is to provide affordable low- and moderate-income housing. *The following supplemental regulations are intended to comply with government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements;* Pursuant to ~~Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single-family residence, subject to the following provisions:~~

##### ~~A. Minor Use Permit and Deed Restriction Required~~

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

##### ~~B. A. Location~~

~~Said unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit. Only one-second unit or one guesthouse is permitted per one primary single family dwelling on the same lot:~~

##### ~~C. B. Lot Coverage~~

~~Maximum lot coverage allowed for the District that they are located in.~~

##### ~~D. C. Design~~

Said unit shall be ~~consistent~~ *reasonably compatible* with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.

~~E.~~ D. Size

The total floor area, not including a garage, for a ~~granny~~ secondary unit shall not exceed 1,200 square feet *as per State guidelines*.

~~F.~~ E. Parking

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking space can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setback areas and in tandem if both spaces are for the secondary unit. ~~Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:~~ The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading:"

- ~~1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or~~
2. That it is not permitted anywhere else in the City.

~~G.~~ Water Equivalencies and Other Public Facilities

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

H. F. Compliance with Title 14

A granny/second unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

~~I.~~ Use Limitation

~~Single family residences with approved secondary units shall not have the secondary unit rented independent of the main residence when neither is occupied by the owner. Primary and secondary Single family residences with approved granny second units shall not have the granny unit rented independent of the main residence when neither is occupied by the owner.~~

In addition to the above changes there are also the following changes:

- Remove requirement for a Conditional Use Permit in the AG, R-A, R-1, R-2, R-3, R-4 and CRR zone districts; and,
- Change title from Granny Unit to Secondary Unit within Section 17.44 (Parking), Section 17.12 (Definitions).

Staff has included both Attachment A the redlined version of the proposed changes and Attachment B which shows the final version of the text for your convenience.

In addition to changes to the Secondary Unit regulations, staff is recommending the following changes to the Guesthouse regulations to be consistent with State law.

### **17.48.315 GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS**

Where provided by this Title, guesthouses/quarters and habitable structures for accessory living area may be permitted in conjunction with a dwelling unit, subject to these further requirements:

#### **A. Guesthouse Restrictions**

A guesthouse shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the main residence, and no cooking or food preparation or food storage facilities shall be provided.

#### **~~B. Use Permit Requirements~~**

~~A guesthouse may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. In all cases, the Director shall require the recordation of a deed restriction limiting the use to guest purposes only and prohibiting its rental or occupation as a second unit. Such deed restriction shall be subject to the approval of the City Attorney. (Ord. 288 Exh. B (part), 1986; Ord. 263 § 1 (part), 1984)~~

#### **B. Location. Guesthouses may be established on any lot in any R or AG district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of a guesthouse. Only one-guesthouse or second unit is permitted per one primary single-family dwelling on the same lot.**

#### **Environmental Determination**

A Negative Declaration was prepared for this project, as defined by CEQA, as there were no environmental impacts associated with the project. The environmental document was posted for review and comment for a thirty day period beginning on October 31, 2011 and ending on November 29, 2011.

#### **Public Notification**

Notice of this item will be published as a 1/8<sup>th</sup> page in the San Luis Obispo Tribune newspaper prior to the "first reading" notifying all Morro Bay residents of these proposed changes.

#### **Planning Commission Recommendations**

This proposed secondary unit revision was discussed at the December 7, 2011 Planning Commission meeting and then continued to their meeting of January 4, 2012. Six members of the public spoke in regards to modifications to the ordinance. The commissioners considered the public testimony and adopted planning commission resolution with the following amendments to the proposed ordinance:

1. Change language in 17.48.320 C to read " said unit shall be consistent and/or reasonably compatible".

2. The increased floor area of an attached second unit shall not exceed 30-percent of the existing living area, per state law.
3. A detached unit shall not exceed 1,200 square feet.

**CONCLUSION:**

The proposed Text Amendment will bring the City's regulations regarding Secondary Units into conformance with Government Code Section 65852.150 and 65852.2 and incorporate the recommendations given to staff by the Planning Commission and previous direction from City Council. And, to bring this ordinance revision, along with the revisions to definitions and parking sections, to insure consistency with terminology, back to City Council for "First Reading" on February 28, 2012.

**ATTACHMENTS**

1. Planning Commission Meeting Minutes of January 4, 2012
2. Current City of Morro Bay Section 17.48.320

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VETERANS MEMORIAL HALL - 6:00 P.M.

have spoken and there is no damage here. The applicant isn't asking for anything beyond the existing wall and feels there is a simple solution which would be to ask for a simple easement.

Mayor Yates closed the hearing for public comment.

Councilmember Borchard asked staff if an easement was an option which Public Services Director Livick responded that even with an easement, the driveway would still encroach into a portion of the 25 foot ESH buffer.

Councilmember Johnson asked clarification of staff regarding the following issues: the project's conditions of approval; drainage issues; the cutting down of willows; location of the proposed driveway; what part does the existing wall play in the ESH; if the driveway is permitted, can we require it be constructed of a permeable surface; and, possible granting of an easement. She is willing to stand by the 2010 Planning Commission decision to use a common driveway.

Councilmember Leage feels that they could be able to use the common driveway and still get around the corner to which Public Services Director said was a possibility though it isn't the proposal submitted by the applicant.

Councilmember Smukler also feels there is sufficient room with the existing driveway to utilize a common driveway. The 2010 Planning Commission also thought so; and it's his intent to stand by the 2010 Planning Commission decision.

Mayor Yates feels it is wrong to force someone to use an existing driveway when they want 2 separate stand-alone properties without an easement; they are staying on the same side of the existing retaining wall; he doesn't have a problem with granting this.

**MOTION:** Councilmember Borchard moved the City Council uphold the appeal and direct the project to follow the 2010 Planning Commission approval. The motion was seconded by Councilmember Smukler and carried 4-1 with Mayor Yates voting no.

**B-2 REVIEW OF DRAFT ZONING TEXT AMENDMENT A00-013  
AMENDING SECTION 17.48.32 (SECONDARY UNITS); (PUBLIC  
SERVICES)**

Public Services Director provided his staff report regarding the status of secondary units. City Council last heard this item back on March 22, 2011 where there was direction to return with the discussed amendments to MBMC Section 17.48.320, at a future meeting. The proposed secondary unit revision was then discussed at the December 7, 2011 and January 4, 2012 Planning Commission meetings where they also made recommendations which are a part of this report.

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Councilmember Smukler asked for a review of history as to how we came to the existing regulations of the 900 square feet to both Public Services Director Livick and City Attorney Schultz. He followed up with a question of whether we did a review of other coastal communities in our county of what their regulations are for secondary units.

Mayor Yates opened the hearing for public comment.

Jamie Irons brought up the fact that there is no data from Planning staff or the public that the current Ordinance even had a problem. He also questioned why it wasn't certified back in 2005. There was a 3 day public workshop when this Ordinance was originally crafted and now Council majority is asking to revise that process; he asked that Council reconsider these actions and send it back to a public workshop to do it the right way.

Betty Winholtz concurred with Mr. Irons. She is concerned with the potential of being able to build 2 homes on a lot, each 1200 square feet and then subdivide them and sell both off. She feels there are 3 things being repeated in the staff report that she wants to correct. She feels it is in error that: we are fixing our Ordinance in regards to compliance with State law; that we are increasing small affordable housing units; and, that we are ensuring compatibility with existing neighborhoods. We should listen to public input and shouldn't undermine the public process.

John Barta commented that the granny unit issue is not about land being subdivided and sold separately, never was and never will be. Granny units are there because they allow us to have a healthy community. No one is going to be required to build a 1200 sq foot granny unit. From 2005 to the present we have had a more restrictive process and as a result, very few granny units have been built. In order to have a viable community where people can afford to live, we will need a robust granny unit program.

Mayor Yates closed the hearing for public comment.

Councilmember Smukler felt that there wasn't enough data to move forward with this tonight. He also feels we would be abandoning the public process by moving forward. If we plan on changing, we should have another public workshop. He feels that 900 square feet is a fair and more affordable number and wants to stick with the existing Ordinance that was developed through the public process and move forward with the certification of that.

Councilmember Leage thinks the owner of the property should have the choice of up to 1200 square feet and agrees that just because you can, doesn't mean you will. He doesn't feel 1200 square feet is too big as long as the property owner feels they can rent it out.

Mayor Yates doesn't see a problem with this and feels it's irrelevant to compare us with what other communities are doing. He also doesn't feel that 1200 square feet is too big nor does he feel that everybody building a secondary unit to 1200 square feet will occur.

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Councilmember Johnson is good with this as well. She feels that 1200 square feet is still a reasonably sized smaller home and that this subject has been “workshopped” enough as we’ve had 2 public hearings already.

Councilmember Borchard agreed, public process has been on-going on this issue and in fact we are having a public process on it right now. A 1200 square foot limit would help the applicants expedite a project as well as save costs without having to go to a CUP. This should also help with our housing inventory.

MOTION: Councilmember Borchard moved the City Council approve Item B2 as presented in the staff report. The motion was seconded by Councilmember Leage and carried 4-1 with Councilmember Smukler voting no.

C. UNFINISHED BUSINESS – None.

D. NEW BUSINESS

D-1 DISCUSSION ON THE CLOSURE OF ATASCADERO STATE BEACH (MORRO STRAND); (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report requesting the budget amendments as presented.

San Luis Obispo Coast District Superintendent, Nick Franco also spoke. He stated that the park closures were as a result of state-wide budget cuts. Morro Strand State Park was one of 70 parks slated to be closed. There are 3 options to keeping a park open: donor agreements, concession agreements and operating agreements. In an effort to keep our park open, there have been on-going discussions with Cal Poly. If there is nothing in place by March or April, the State will have to move forward with plans to close the park but they will still keep the talks open.

All Councilmembers were in total support of keeping the park open.

Mayor Yates stated that July was probably the worst possible time for this to occur. He also knows of someone who has expressed interest in running the park.

Councilmember Smukler thinks the discussions with Cal Poly are promising as that fits within our mission.

Councilmember Leage wants to do all we can to keep the park open.

Councilmember Johnson wanted to know how people can get ahold of Mr. Franco. (805) 927-2065; [nfranco@hearstcastle.com](mailto:nfranco@hearstcastle.com)

ATTACHMENT C

ORDINANCE NO. 576

**AN ORDINANCE OF THE CITY OF MORRO BAY  
ANNOUNCING FINDINGS AND ADOPTING AMENDMENTS TO TITLE 17 OF  
THE MUNICIPAL CODE TO ESTABLISH PROVISIONS FOR MINISTERIAL  
REVIEW OF SECONDARY DWELLING UNITS AND GUESTHOUSES IN ALL  
ZONES WHERE SINGLE FAMILY HOMES ARE A PERMITTED USE.**

THE CITY COUNCIL  
City of Morro Bay, California

Case No. A00-013 (Local Coastal Plan/Zoning Ordinance Amendment)

**WHEREAS**, it is the purpose of the Zoning Ordinance of the City of Morro Bay to establish a precise and detailed plan for the use of land in the City based on the General Plan; and

**WHEREAS**, California State Law §65852.2 requires Cities to establish standards to allow for ministerial secondary dwelling units so as to increase the supply of smaller, affordable housing while ensuring that they remain compatible with the existing neighborhood; and

**WHEREAS**, the proposed amendments meet the intent of the State Law by providing for an option to build a secondary dwelling unit or guest house in all zones that permit single family dwellings and have no more than one single family home existing on the property; and

**WHEREAS**, it is important to have clear, consistent, easy to use regulations within the Zoning Ordinance; and

**WHEREAS**, the Planning Commission of the City of Morro Bay, on December 7, 2011 after a duly noticed PUBLIC HEARING, did forward a recommendation, by adoption of Planning Commission Resolution No. 01-11 that the City Council amend Title 17 (Zoning Ordinance) to comply with the State legislation (AB 1866) as contained in attached Exhibit "A"; and

**WHEREAS**, on the 13<sup>th</sup> day of March 2012, the City Council of the City of Morro Bay did hold a duly noticed PUBLIC HEARING to consider the amendment regulating Secondary Unit and Guesthouse as contained in attached Exhibit "A" and

**WHEREAS**, the City Council finds that a Negative Declaration was prepared to evaluate the environmental impacts of the proposed Ordinance amendments, and determined that no significant impacts would result from the adoption of these amendments; and

**WHEREAS**, following the PUBLIC HEARING, and upon consideration of the testimony of all persons, both written and oral, the City Council accepted the Planning Commission recommendation and approved the amendment based on the following findings:

1. The Zoning Ordinance Amendment proposal is consistent with the State Statute AB 1866 and includes similar language, which was previously in effect.
2. The proposed Zoning Ordinance Amendments will not be injurious or detrimental to the health, safety, comfort, general welfare or well being of the persons residing or working in the neighborhood.
3. That the proposed amendment is in general conformance with the City's General Plan and Local Coastal Plan.

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

SECTION 1: Title 17 of Morro Bay Municipal Code (Zoning Ordinance) is amended as contained in Exhibit "A", attached hereto and made a part of this Ordinance:

SECTION 2: To implement the amendment adopted herein, the City Council of the City of Morro Bay, California, hereby directs as follows:

1. That the above recitations are true and correct and constitute the findings of the Council in this matter; and
2. The City Council of the City of Morro Bay hereby finds that the Local Coastal Program Implementation Program (Zoning Ordinance) Amendments are in compliance with the intent, objectives, and all applicable policies and provisions of the California Coastal Act; and
3. Pursuant to Section 17.64.080 no amendment to Title 17 shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission.

**INTRODUCED** at the regular meeting of the City Council held on the 13<sup>th</sup> day of March 2012, by motion of \_\_\_\_\_ and seconded by \_\_\_\_\_.

**PASSED, APPROVED, AND ADOPTED**, by the City Council of the City of Morro Bay, on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the following vote to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

---

William Yates, Mayor  
City of Morro Bay

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Jamie Boucher, City Clerk  
City of Morro Bay

APPROVED AS TO FORM:

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ROBERT W. SCHULTZ, Esq.  
City Attorney

## EXHIBIT "A"

### 17.48.320 SECONDARY UNITS

The purpose of this Section is to provide affordable low- and moderate-income housing. The following supplemental regulations are intended to comply with government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements. Nothing in Government Code Sections 65852.2 or 65852.150 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act except that the local government shall not be required to hold public hearings for coastal development permit applications for second units." (Government Code Section 65852.2(j)) Noticing for interested parties and those properties within 100 feet of the second unit property will be required. Approvals of second units in the appealable zone will continue to be appealable to the Coastal Commission.

- A. Location  
Said unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit. Only one-second unit or one guesthouse is permitted per one primary single family dwelling on the same lot:
- B. Lot Coverage  
Maximum lot coverage allowed for the District that they are located in.
- C. Design  
Said unit shall be consistent and/or reasonably compatible with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.
- D. Size  
The total floor area, not including a garage, for a detached secondary unit shall not exceed 1,200 square feet as per State guidelines. The increased floor area of an attached second unit shall not exceed 30 percent of the existing living area.
- E. Parking  
A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking space can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setbacks areas and in tandem if both spaces are for the secondary unit. The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading:"

F. Compliance with Title 14

A secondary unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

**17.12.545 Secondary Dwelling Unit.**

“Secondary dwelling unit” means an attached or detached residential dwelling unit, which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary dwelling. This term also means “second unit” for the purposes of Sections 65852.150 and 65852.2 of the California Government Code.

17.44.020.C. e.iii. Secondary Dwelling Unit. In accordance with the provision of Section 1748.320(E) of this title.

**17.48.315 GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS**

Where provided by this Title, guesthouses/quarters and habitable structures for accessory living area may be permitted in conjunction with a dwelling unit, subject to these further requirements:

A. Guesthouse Restrictions

A guesthouse shall not contain more than six hundred forty (640) square feet of habitable floor area containing not more than one bedroom and bathroom nor shall it exceed thirty (30) percent of the floor area of the main residence, and no cooking or food preparation or food storage facilities shall be provided.

B. Location.

Guesthouses may be established on any lot in any R or AG district where a primary single-family dwelling has been previously established or is proposed to be established in conjunction with construction of a guesthouse. Only one-guesthouse or second unit is permitted per one primary single-family dwelling on the same lot.

**17.24.020 Agricultural (AG) District Table**

Unless otherwise designated, the following uses, or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage	
<p><b>Principle Permitted Uses:</b> The following uses are permitted in the AG zone: crop farming; viticulture; livestock farming and grazing; accessory uses and buildings including but not limited to barns, corrals and storehouses, which are normally incidental to other permitted uses; equestrian boarding facilities for not more than four horses.</p>	No	25 ft.	<p>General: 20 acres Between Little Morro Creek Rd. &amp; Morro Creek: 40 acres or pursuant to 17.24.020 B.4</p>	<p>General: 20 acres Between Little Morro Creek Rd. &amp; Morro Creek: 40 acres</p>	<p>Corral, barns &amp; other animal enclosures: 75 ft. from dwelling (see 17.16.050)</p>					NA	5%
										One single-family residence	No.
<p>Guest house (no kitchen) pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.</p>											
Temporary produce stand											
<p><b>Conditionally Permitted Uses:</b> The following may be permitted in the AG zone subject to a Conditional Use Permit: farm labor quarters; public coastal accessways; greenhouse and nurseries; other uses per the land use plan of Section 17.24.020.B if the appropriate findings are made by the Planning Commission.</p>	Yes										

**17.24.030 Suburban Residential (RA) District Table**

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage		
Single-family dwelling.	No	25 ft. (no wall may exceed 30 ft.)	20,000 sq. ft.	20,000 sq. ft.	20 ft.	10 ft garage entrance 20ft..	10% of ave. with 10 ft maximum requirement	20% of the depth of the lot with 20 ft. maximum	35% minimum permeable surface	45%		
Crop and tree farming: viticulture; farming and if one acre or more grazing, of not more than two (2) cattle or horses per acre or not more than four (4) sheep or goats per acre.					Refer to Chapter 7.16 for animal keeping setbacks							
Rabbit and chicken ranching involving not more than twelve (12) animals												
Expressly prohibited: commercial dairies and kennels;												
Accessory uses and buildings normally incidental to other permitted uses but not including commercial uses, and located in accordance with Title 7, home occupations												
Guest house (no kitchen) pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.	No	25 ft. (no wall may exceed 30 ft.)	N/A	1 per lot in conjunction	20 ft.	10 ft.	10 %	20%	35% minimum permeable surface	45%		
Temporary Produce Stands			10 acres									
Additional Residences for Agricultural Employees	Yes				Not permitted within 100' of residential structure or adjacent residentially zoned property							
Equestrian Boarding					Per CUP							
Special Use Permits pursuant to 17.30	Yes											
Antennas and Wireless												

**17.24.040 Single family Residential (R-1) District Table**

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
One single-family dwelling	No	25 ft. (No wall may exceed 30 ft.)	Refer to subdivision regulations for sizes for new lots	1/lot or pursuant to Section 17.24.040	20 ft.	20% of ave. width of lot with 10 ft. maximum and 5 ft. minimum	10% of ave. width of lot with 5 ft. maximum and 3 ft. minimum	10% if ave. depth of lot with 10 ft. maximum and 6 ft. minimum	N/A	45%
Home occupations: structures and uses (include: home oc.) normally incidental to primary use									N/A	45%
Guest house (no kitchen) pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.	No	25 ft.	N/A	1 unit per lot in conjunction with a primary unit	20 ft.	20% of ave.	10% of ave.	10% if ave.	N/A	45%
Community housing project	Yes		1 per CUP	5,000 sq. ft. or per overlay zone					Plan required 20% min. permeable surface area	
Special Use Permits pursuant to 17.30	Yes			PER	CUP					

### 17.24.050 Duplex Residential (R-2) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.										
	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses in the R-1 district.	No	25 ft.	Refer to Subdivision regulations for sizes for new lots	2,900 sq. ft.	20 ft.	20% of ave. width of lot with 10 ft. maximum and 5 ft. minimum Garage entrance 20ft.	10% of ave. width of lot with 5 ft. maximum and 3 ft. minimum	5 ft.	N/A	50 %
	Guest house (no kitchen) pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.	No								
Home occupations; structures and uses normally incidental to primary use										
Apartment units/Bed and Breakfast	Yes									
Community Housing projects			10,000 sq. ft.							
Mobile home parks and other permitted uses as stated in Section 17.40.060			2 acres							
Parking lots-only to serve residential uses			Per CUP	N/A						
Special Use Permits pursuant to 17.30	Yes	Per CUP								

**17.24.060 Multiple Family Residential (R-3) District Table**

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses in the R-1 and R-2 districts.	No	25 ft.	Refer to Subdivision Regulations for sizes for new lots	2,175 sq. ft.	15 ft.	20% of ave. width of lot with 10 ft. maximum and 5 ft. minimum Garage entrance 20ft.	5 ft.	5 ft. except where abuts an R-1 or R-2 zone, in which case the R-1 criteria applies	N/A	60%
Home occupations: structures and uses normally incidental to primary use										
Apartment units		25 ft.								
Guest house (no kitchen) pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.	No				15 ft.	20% of ave. width of lot	5 ft.	5 ft. except where abuts an R-1	N/A	60%
Rooming and boarding house: bed and breakfast establishment	Yes			2,900 sq. ft.					Plan required 15% minimum permeable surface	
Community Housing project			6,000 sq. ft.							
Parking Lot			3 acres	N/A						
Mobile home park			3 acres	2,900 sq. ft.						
Special Use Permits pursuant to 17.30	Yes		Per	CUP						

### 17.24.070 Multiple Residential (R-4) District Table

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
All principally permitted uses listed in the R-1, R-2, and R-3 districts.	No	30 ft.	Refer to Subdivision	1,800 sq. ft.	15 ft./ Garage entrance 20 ft.	20% of ave. width of lot with 15 ft. minimum and 10 ft. minimum Garage entrance 20 ft.	5 ft.	5 ft. except where abuts an R-1 or R-2 zone, in which case the R-1 criteria applies	N/A	60%
Home occupations, structures and uses normally incidental to primary uses			Regulations for sizes for new lots						Plans required	60%
Apartment units	No	30 ft.		1 unit per lot in conjunction with a primary unit	15 ft./ Garage entrance 20 ft.	20% of ave. width of lot with 15 ft. minimum and 10 ft. minimum Garage entrance 20 ft.	5 ft.	5 ft. except where abuts an R-1 or R-2 zone, in which case the R-1 criteria applies	permeable surface	60%
Community housing project										
Rest home, rooming and boarding houses	Yes		6,000 sq. ft.	750 sq. ft.						
Hotel and Motel; Bed and Breakfast establishment			3 acres	2,900 sq. ft.						
Mobile Home Park										
Commercial uses and services, including but not limited to newsstands, gifts and notions, coffee shops, self service laundries, and bike rental, which are normally incidental to hotels, motels and mobile home parks, if such uses are provided without direct access to a public street										
Parking lots										
Professional, governmental and general business offices which do not engage in retail sales on the premises										
Special Use Permits pursuant to 17.30	Yes		Per	CUP						

**17.24.080 Coastal Resource Residential (CRR) District Table**

Unless otherwise designated, the following uses or other uses which are found to be similar and consistent with the General Plan and Local Coastal Plan may be allowed with the appropriate permits and licenses.	Conditional Use Permit Required.	Maximum Building Height	Minimum Building Site Area	Minimum Lot Area Per Unit	Minimum Front Yard Setback	Minimum Side Yard Setback (Exterior Yard)	Minimum Side Yard Setback (Interior Yard)	Minimum Rear Yard Setback	Landscaping	Maximum Lot Coverage
One single-family dwelling  Structures and uses normally incidental to the primary use; home occupation	No	14 ft./25 ft. (refer to special standards)	20,000 sq. ft.  If cluster development 6,000 sq. ft. interior & 7,000 sq. ft. corner. (Refer to Cluster Requirements)	1 unit per lot	20 ft. (In addition garage shall be 20 ft. from sidewalk).	10 ft.	10% of the width of the lot with 6 ft minimum	10 ft. from property lines and from designated view corridor lines.		30%  If clustered: Refer to Cluster Requirements
Guest house (no kitchen)	No pursuant to Section 17.48.315	14 ft./25 ft. (refer to special standards)		1 unit per lot in conjunction with a primary unit on the same lot	20 ft. (In addition garage shall be 20 ft. from sidewalk).	10 ft.	10% of the width of the lot with 6 ft minimum	10 ft. from property lines and from designated view corridor lines.	Plan required	30%  If clustered: Refer to Cluster Requirements
Guest house (no kitchen) pursuant to 17.48.315 regulations or Secondary Unit pursuant to 17.48.320 regulations.										



- E. **Size**  
The total floor area, not including a garage, for a ~~granny~~ secondary unit shall not exceed 1,200 square feet *as per State guidelines*.
- F. **Parking**  
A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking space can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setback areas and in tandem if both spaces are for the secondary unit. ~~Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:~~ The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading:"
- ~~1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or~~
  2. That it is not permitted anywhere else in the City.
- G. ~~Water Equivalencies and Other Public Facilities~~  
~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~
- H. **Compliance with Title 14**  
A granny/second unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.
- I. ~~Use Limitation~~  
~~Single family residences with approved secondary units shall not have the secondary unit rented independent of the main residence when neither is occupied by the owner. Primary and secondary Single family residences with approved granny second units shall not have the granny unit rented independent of the main residence when neither is occupied by the owner.~~

**SPONSOR:** City of Morro Bay

**LEAD AGENCY:** City of Morro Bay

**CONTACT PERSON:** Kathleen Wold, Planning and Building Manager

**TELEPHONE:** (805) 772-6211

**ADDRESS WHERE DOCUMENT MAY BE OBTAINED:**

Public Services Department  
955 Shasta Avenue  
Morro Bay, California 93442  
(805) 772-6261

**PUBLIC REVIEW PERIOD:** Begins: October 31, 2011 Ends: November 29, 2011

**SCHEDULED PUBLIC HEARING**

**Date:** Tentative December 7, 2011

**Time:** 6:00 p.m.

**Location:** 209 Surf St., Morro Bay Veterans Hall

Anyone interested in this matter is invited to comment on the document by written response or by personal appearance at the hearing. Persons wishing to appear at the hearing should call:

**Public Services Dept.**

**Phone: (805) 772-6261**

---

Kathleen Wold, Planning and Building Manager  
Signature

**City of Morro Bay**  
PUBLIC SERVICES DEPARTMENT  
955 SHASTA AVENUE ♦ MORRO BAY, CA 93442  
805-772-6261

**P R O P O S E D M I T I G A T E D N E G A T I V E D E C L A R A T I O N**

CEQA: CALIFORNIA ENVIRONMENTAL QUALITY ACT

CITY OF MORRO BAY  
955 Shasta Avenue  
Morro Bay, California 93442  
805-772-6210

The State of California and the City of Morro Bay require, prior to the approval of any project, which is not exempt under CEQA, that a determination be made whether or not that project may have any significant effects on the environment. In the case of the project described below, the City has determined that the proposal qualifies for a Negative Declaration.

CASE NO.: A00-013

PROJECT TITLE: Zoning Text Amendment A00-013 amending Section 17.48.32.

PROJECT LOCATION: Citywide

APPLICANT / PROJECT SPONSOR: Citywide

PROJECT DESCRIPTION: The City of Morro Bay is proposing a Zoning Ordinance Text Amendment to modify Section 17.48.0320 as follows:

**17.48.320 GRANNY SECONDARY UNITS**

The purpose of this Section is to provide affordable low- and moderate-income housing. *The following supplemental regulations are intended to comply with government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements; Pursuant to Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single family residence, subject to the following provisions:*

~~A. Minor Use Permit and Deed Restriction Required~~

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

**B. Location**

Said unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit. Only one-second unit or one guesthouse is permitted per one primary single family dwelling on the same lot:

**C. Lot Coverage**

Maximum lot coverage allowed for the District that they are located in.

**D. Design**

Said unit shall be ~~consistent~~ *reasonably compatible* with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.

E. Size

The total floor area, not including a garage, for a ~~granny~~ secondary unit shall not exceed 1,200 square feet *as per State guidelines*.

F. Parking

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking space can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setback areas and in tandem if both spaces are for the secondary unit. ~~Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:~~ The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading:"

- ~~1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or~~
2. That it is not permitted anywhere else in the City.

~~G. Water Equivalencies and Other Public Facilities~~

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

H. Compliance with Title 14

A granny/second unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

~~I. Use Limitation~~

~~Single family residences with approved secondary units shall not have the secondary unit rented independent of the main residence when neither is occupied by the owner. Primary and secondary Single family residences with approved granny second units shall not have the granny unit rented independent of the main residence when neither is occupied by the owner.~~

FINDINGS OF THE: Environmental Coordinator

It has been found that the project described above will not have a significant effect on the environment. The Initial Study includes the reasons in support of this finding.

**City of Morro Bay**  
PUBLIC SERVICES DEPARTMENT  
PLANNING DIVISION  
955 SHASTA AVENUE ♦ MORRO BAY, CA 93442  
**805-772-6261**

**INITIAL STUDY AND CHECKLIST**

**I. PROJECT INFORMATION**

**Project Title:** Zoning Text Amendment A00-013 amending Section 17.48.32.

**Case Number:** A00-013

**LEAD AGENCY:** City of Morro Bay Phone: (805) 772-6211  
955 Shasta Ave Fax: (805) 772-6268  
Morro Bay, CA 93442 Kathleen Wold

**Project Applicant:** City of Morro Bay Phone: (805) 772-6211  
955 Shasta Ave Fax: (805) 772-6268  
Morro Bay, CA 93442 Kathleen Wold

**Project Landowner:** Not Applicable Phone: \_\_\_\_\_

**Project Designer/Agent:** Not Applicable Phone: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Fax: \_\_\_\_\_

**1.0 OVERVIEW**

The project applicant, City of Morro Bay, is seeking approval of a Zoning Text Amendment. The amendment seeks to modify Section 17.48.320 “Secondary Units”.

**Project Background/Objective**

The City is seeking to modify the Section 17.48.321 “Secondary Units” to relax requirements and facilitate development of secondary units. Secondary units are seen as one method of providing housing units that are more affordable.

**1.1 PROJECT DESCRIPTION**

The City of Morro Bay is proposing a Zoning Ordinance Text Amendment to modify Section 17.48.0320 as follows:

**17.48.320 GRANNY SECONDARY UNITS**

The purpose of this Section is to provide affordable low- and moderate-income housing. *The following supplemental regulations are intended to comply with government Code Sections 65852.150 and 65852.2 on second units and implement the general plan, by allowing second units in all R districts subject to the following requirements; Pursuant to Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single-family residence, subject to the following provisions:*

**A. Minor Use Permit and Deed Restriction Required**

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

**B. Location**

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment  
CASE NUMBER A00-013  
DATE: October 28, 2011

Said unit may be located, as an accessory use, on any lot zoned for single-family or multi-family uses in accordance with the District Tables in Chapter 17.24 where a primary residential use has been previously established or proposed to be established in conjunction with said unit. Only one-second unit or one guesthouse is permitted per one primary single family dwelling on the same lot:

C. Lot Coverage

Maximum lot coverage allowed for the District that they are located in.

D. Design

Said unit shall be ~~consistent~~ *reasonably compatible* with the architectural style of the main residence and the neighborhood, and shall be located on the same lot as the primary residence.

E. Size

The total floor area, not including a garage, for a ~~granny~~ secondary unit shall not exceed 1,200 square feet *as per State guidelines*.

F. Parking

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking space can be open and uncovered, however may not be in tandem with the required parking of the principal dwelling unit but can be located in setback areas and in tandem if both spaces are for the secondary unit. ~~Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:~~ The principal dwelling unit must conform to the parking requirements of Chapter 17.44 "Off-Street Parking and Loading:"

- ~~1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or~~
2. That it is not permitted anywhere else in the City.

G. ~~Water Equivalencies and Other Public Facilities~~

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

H. Compliance with Title 14

A granny/second unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.

I. ~~Use Limitation~~

~~Single family residences with approved secondary units shall not have the secondary unit rented independent of the main residence when neither is occupied by the owner. Primary and secondary Single family residences with approved granny second units shall not have the granny unit rented independent of the main residence when neither is occupied by the owner.~~

**II. ENVIRONMENTAL SETTING AND IMPACTS**

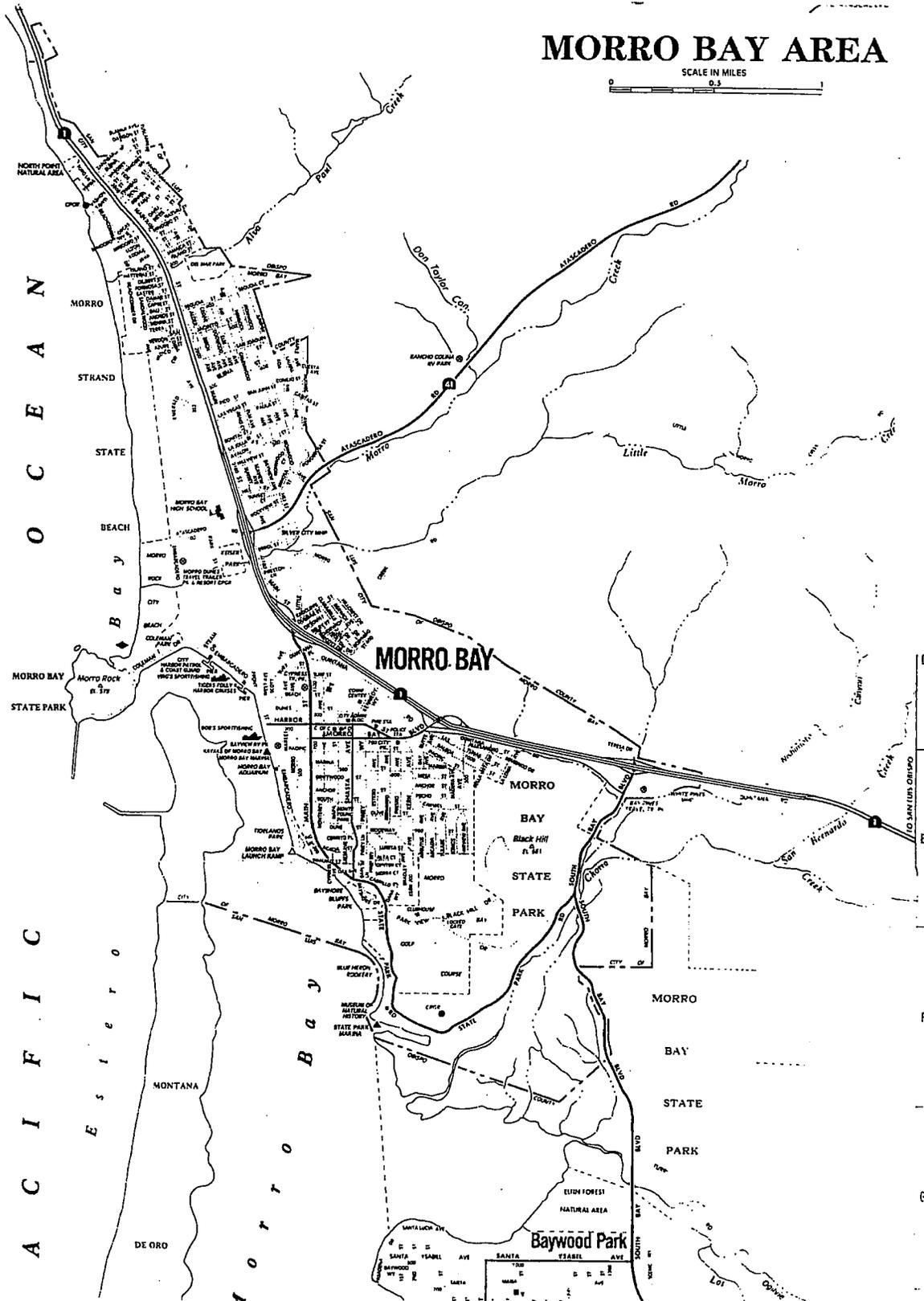
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or is "Potentially Significant Unless Mitigated", as indicated by the Environmental Checklist:

1. Aesthetics	10. Land Use/Planning
2. Agricultural Resources	11. Mineral Resources
3. Air Quality	12. Noise
4. Biological Resources	13. Population/Housing
5. Cultural Resources	14. Public Services
6. Geology/Soils	15. Recreation
7. Greenhouse Gas Emissions	16. Transportation/Circulation
8. Hazards/Hazardous Materials	17. Utility/Service Systems
9. Hydrology/Water Quality	18. Mandatory Findings of Significance

Environmental Setting:

The proposed project is an amendment to the City of Morro Bay’s Municipal Code Section 17.48.320 “Secondary Units”. The modifications proposed are sought to reduce the regulations concerning the development of secondary units and therefore encouraging the use of this housing type throughout the community. Secondary units are regarded as a more affordable type of housing unit. The modifications proposed are in line with sections 65852.150 and 65852.2 of the Government Code; no changes are proposed which would increase density or significantly alter the built environment. The changes proposed would allow a 1,200 square foot unit by right eliminating the need for a Conditional Use Permit and remove superfluous architectural compatibility requirements while keeping a requirement for overall architectural compatibility. There are no direct impacts to the built environment proposed by the project.

INITIAL STUDY AND CHECKLIST – Zoning Text Amendment  
CASE NUMBER A00-013  
DATE: October 28, 2011



## ENVIRONMENTAL CHECKLIST

### 1. AESTHETICS

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Have a substantial adverse effect on a scenic vista?				X
b. Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within view of a state scenic highway?				X
c. Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?				X

**Environmental/Impact Discussion:** The proposed project is an amendment to the City of Morro Bay’s Municipal Code Section 17.48.320 “Secondary Units”. The modifications proposed are sought to reduce the regulations concerning the development of secondary units and therefore encouraging the use of this housing type throughout the community. Secondary units are regarded as a more affordable type of housing unit. The modifications proposed are in line with sections 65852.150 and 65852.2 of the Government Code; no changes are proposed which would increase density or significantly alter the built environment. The changes proposed would remove the requirement for a Conditional Use Permit and make other minor amendments to help clarify size, parking and architectural requirements.

**a., b., c., and d.** The proposed text amendment does not alter any regulations involving scenic vistas, scenic resources or new sources of light. Ministerial second units will not be subject to design review but must be built within the same zoning envelope of the primary residence and must be compatible with the neighborhood and primary residence therefore it is anticipated that there will be no impacts to aesthetics.

**Mitigation and Residual Impact:** The proposed project would have no adverse impact on the aesthetics of the area; therefore no mitigation measures are required.

**Monitoring:** None

**2. AGRICULTURAL AND FORESTRY RESOURCES**

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X
d. Result in the loss of forest land or conversion of forest land to non-forest use?				X
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X

**Environmental/Impact Discussion:** The proposed text amendment will affect only residentially zoned land, no changes are proposed for agricultural lands.

a., b., c., d., and e. The project proposes a text amendment to the City of Moro Bay’s Zoning Ordinance, however no changes are proposed for lands zoned agricultural or forestry resources. As such there is no potential for environmental impacts related to agricultural and forestry resources.

**Mitigation and Residual Impact:** The proposed project would result in no impacts to agricultural or forestry resources; therefore, no mitigation measures are required.

**Monitoring:** None.

### 3. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with or obstruct implementation of the applicable air quality plan?				X
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?				X
d. Exposure of sensitive receptors to substantial pollution concentrations (emissions from direct, indirect, mobile and stationary sources)?				X
e. Create objectionable smoke, ash, dust or odors affecting a substantial number of people?				X

**Environmental/Impact Discussion:** According to the Air Resources Board (ARB), the project site (Morro Bay) lies within the South Central Coast Air Basin (SCCAB). The portion of this air basin located within San Luis Obispo County is managed by the Air Pollution Control District (APCD) of San Luis Obispo County. According to the *Clean Air Plan (CAP)* (2001) prepared by APCD, the project site is located within the Coastal Plateau region of the air basin.

The coastal plateau is about five to ten miles wide and varies in elevation from sea level to about 500 feet. It is bounded on the northeast by the Santa Lucia Mountain Range. Rising sharply to about 3,000 feet at its northern boundary, the Santa Lucia Range gradually winds southward away from the coast, finally merging into a mass of rugged features on the north side of Cuyama Canyon.

The climate of the area is characterized as Mediterranean, with warm, dry summers and cooler, relatively damp winters. In the vicinity of the project site, mild temperatures are the rule throughout the year due to the influence of the Pacific Ocean. Maximum summer temperatures average approximately 70 degrees Fahrenheit (F) while minimum winter temperatures average from the low 30s.

Pollutant concentrations at any one location tend to vary widely over time due to changing meteorological conditions and variations in source emission rates. The California Air Resources Board (ARB) and U.S. Environmental Protection Agency (U.S. EPA) assign designations as to whether or not areas are in attainment with air quality standards. The state assigns designations based on data collected for all criteria pollutants designated for the State and National standards. **Table 3-1** summarizes the state and national attainment designations for pollutants.

**Table 3-1  
State and National Attainment Status**

Pollutant	State Designation	National Designation
Ozone (O <sub>3</sub> )	Nonattainment	Attainment
Fine Particulate Matter (PM <sub>2.5</sub> )	Attainment	Attainment
Fugitive Particulate Matter (PM <sub>10</sub> )	Nonattainment	Attainment
Carbon Monoxide (CO)	Attainment	Attainment

**Table 3-1  
State and National Attainment Status**

<b>Pollutant</b>	<b>State Designation</b>	<b>National Designation</b>
Nitrogen Dioxide (NO <sub>2</sub> )	Attainment	Attainment
Sulfur Dioxide (SO <sub>2</sub> )	Attainment	Attainment
Sulfates	Attainment	N/A
Lead (Pb)	Attainment	Attainment
Hydrogen Sulfide	Attainment	N/A
Visibility Reducing Particulates	Unclassified	N/A

*Notes: N/A = Not Applicable*

Source: ARB, 2010; U.S. EPA, 2011

Sensitive receptors are located within the project site (Morro Bay).

**a., b., c., d., and e.** The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect air quality requirements, however there may be indirect benefits to air quality as secondary units provide additional housing units within the community without contributing to urban sprawl.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to air quality; therefore, no mitigation measures are required.

**Monitoring:** None.

**4. BIOLOGICAL RESOURCES**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California department of Fish and Game or U.S. Fish and Wildlife Service?				X
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife service?				X
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc) through direct removal, filling, hydrological interruption, or other means?				X
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?				X

**Environmental/Impact Discussion:** a., b., c., d., e. and f. The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect biological resources. Each project utilizing the new code sections will have separate environmental review to assess the project site biological resources.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to biological resources; therefore, no mitigation measures are required.

**Monitoring:** None.

**5. CULTURAL RESOURCES**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5?				X
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?				X
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d. Disturb any human remains, including those interred outside of formal cemeteries?				X

**Ethno-Historical Setting:** The entire San Luis Obispo area, including the project site, was home to the Northern Chumash, or *Obispeno*, for over 9,000 years. The Chumash were gatherers and fishermen. The settlement pattern was somewhat dispersed in the area. A historic Chumash village known as *Chotcagua* appears to have been located in the Morro Bay area. Researchers have suggested that *Chotcagua* was situated in the Los Osos area (TCHD, 2009) or in the Morro Bay area at the mouth of Morro Creek. During Portola’s expedition in 1769, he observed about sixty people living at the Chumash village named *Chotcagua* (TCHD, 2009). By the late 1770, the Spanish began to replace the aboriginal settlements of the area with the first mission founded by San Luis Obispo Creek, on Chumash territory in 1772. By 1803 most of the numerous Obispeno Chumash groups had moved away from their traditional villages to the vicinity of the mission (TCHD, 2010). Mission records indicate that *Chotcagua* may have been abandoned in the early 1800’s (TCHD, 2009).

Along the coast between Morro Bay and Los Osos at least 30 prehistoric Chumash settlements have been discovered. While the prehistory of the Morro Bay area is abundantly present it is poorly known. A review of records at the Central Coast Information Center located at U.C.S.B. in Santa Barbara identified that eight archaeological sites have been documented with three of those being located near the mouth of Morro Creek on the Morro Bay Power Plant property.

**Environmental/Impact Discussion:** a., b., c, and d. The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes propose will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect cultural resources. Each project utilizing the new code sections will have separate environmental review to assess the project site’s cultural resources.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to cultural resources; therefore, no mitigation measures are required.

**Monitoring:** None.

**6. GEOLOGY/SOILS**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the are or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Publication 42)				X
ii) Strong Seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b. Result in substantial erosion or the loss of topsoil?				X
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X

**Environmental/Impact Discussion:** a. (i, ii, iii & iv), b., c, d, and e. The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect geology/soils. Each project utilizing the new code sections will have separate environmental review to assess the geology/soils for their particular site.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to geology/soils; therefore, no mitigation measures are required.

**Monitoring:** None.

**7. GREENHOUSE GAS EMISSIONS**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?				X
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?				X

**Environmental/Impact Discussion:** Global climate change has become a major concern in recent years. While the exact effects of global climate change are not known, the best scientific opinions believe that over the next century the average temperature on the planet will increase between 2 and 5 degrees Celsius (3½ to 9 degrees Fahrenheit). Some potential long-term consequences of this increase in temperature include substantial increases in sea level, increased drought and desertification, reductions in global agriculture and food supplies, impacts to existing ecosystems, and a possible re-initiation of an ice age. California will probably be most affected by increasing sea levels, extended drought conditions, increased flooding, and more severe wildfires.

Given the planet-wide causes of global climate change, it is unlikely that any substantial reduction in the rate or magnitude of climate change is possible at the local level. Long-term solutions to global climate change will probably require extensive reductions in the use of fossil fuels and the increases in the use of alternate energy sources. On the level of a small scale development project, there are a number of items that could help minimize the severity of the adverse effects of global climate change. These items include increased energy efficiency (including the use of light colored/highly reflective roof materials), enhanced land use connectivity (between work, services, school and recreation), reductions in vehicle miles driven, increases in mass transit use, and increased open space conservation.

The U.S. EPA is the federal agency responsible for implementing the Clean Air Act. Prior to 2007, the U.S. EPA did not have regulations addressing GHGs. However, California has passed several bills related to greenhouse gas emissions and climate change including AB 1493 (passenger vehicle GHG emission reductions), AB 32 (the California Global Warming Solutions Act of 2006), SB 1368 (utility GHG emission reductions), SB 97 (requiring climate change analysis under CEQA), the California Climate Action Registry, SB 1078 (electricity from renewable sources), SB 375 (land use and transportation planning), Executive Order S-3-05 (acknowledges potential impacts of climate change on state), and Executive Order S-13-08 (the Climate Adaptation and Sea Level Rise Planning Directive). In June of 2005, Governor Schwarzenegger issued a landmark Executive Order establishing progressive greenhouse gas emissions targets for the entire state, including reducing GHG emissions to 2000 levels by 2010; to 1990 levels by 2020, and; to 80% below 1990 levels by 2050. To support these reduction targets, the California legislature adopted the California Global Warming Solutions Act of 2006, also known as AB 32. The law requires the California Air Resources Board (CARB) to develop regulatory and market mechanisms that will reduce greenhouse gas emissions to 1990 levels by 2020. In December 2008, CARB approved the AB 32 Scoping Plan outlining regulatory and market mechanisms to achieve the goal of AB 32. The plan cites local government action as an integral partner to achieving the State’s goals. Additional bills targeting climate change include SB 97 (Dutton, Chapter 185, Statutes of 2008), which requires the Governor’s Office of Planning and Research (OPR) to development guidelines for the California Environmental Quality Act (CEQA) pertaining to the mitigation of GHG emissions or the effects of GHG emissions.

**a. and b.** The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect greenhouse gas emissions.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to greenhouse gas emissions; therefore, no mitigation measures are required.

**Monitoring:** None.

**8. HAZARDS/HAZARDOUS MATERIALS**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment?				X
e. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
f. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

**Environmental/Impact Discussion:** a., b., c, d, e and f. The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes propose will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect hazards/hazardous materials. Each project utilizing the new code sections will have separate environmental review to assess the project’s specific impacts.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to hazards/hazardous materials; therefore, no mitigation measures are required.

**Monitoring:** None

**9. HYDROLOGY/WATER QUALITY**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements?				X
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c. Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site?				
d. Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?				X
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X
f. Otherwise substantially degrade water quality?				X
g. Place housing within a 100-year flood hazard area as mapped on a federal flood hazard boundary or flood insurance rate map or other flood hazard delineation map?				X
h. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
i. Inundation by seiche, tsunami, or mudflow?				X

**Environmental/Impact Discussion:** Water supply for the City of Morro Bay has principally been provided by the State Water Project since 1997. However, alternative sources of water can be derived for limited periods of time from groundwater from the Morro and Chorro Basins and/or the City of Morro Bay desalination plant.

**a., b., c., d., e., f., g., h., and i.** The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect hydrology/water quality. Each project utilizing the new code sections will have separate environmental review to assess the project’s specific impacts.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to hydrology/water quality; therefore, no mitigation measures are required.

**Monitoring:** None

**10. LAND USE AND PLANNING**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Physically divide an established community?				X
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

**Environmental/Impact Discussion: a., b., and c.** The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect land use and planning. Each project utilizing the new code sections will have separate environmental review to assess the project’s specific impacts.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to land use and planning; therefore, no mitigation measures are required.

**Monitoring:** None.

**11. MINERAL RESOURCES**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

**Environmental/Impact Discussion: a. and b.** According to the Morro Bay General Plan and Local Coastal Program, there are no significant mineral resources within the City (Morro Bay, 1988; Morro Bay 1982).

The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect mineral resources.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to minerals resources; therefore, no mitigation measures are required.

**Monitoring:** None.

**12. NOISE**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Expose people to, or generate, noise levels exceeding established standards in the local general plan, coastal plan, noise ordinance or other applicable standards of other agencies?			X	
b. Expose persons to or generate excessive groundborne vibration or groundborne noise levels?			X	
c. Cause a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d. Cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	

**Environmental/Impact Discussion:** The City of Morro Bay may be considered a relatively quiet environment, with the most significant sources of community noise related to traffic and transportation. The City’s General Plan Noise Element threshold for traffic noise exposure is 60dB for most land uses. Chapter 17.52 of the *City of Morro Bay Zoning Ordinance*, provides performance standards. This section provides noise requirements with general limitations, operational hours, criteria for review of development projects, noise mitigation, and requirements for noise reduction measures and acoustical analysis.

**a., b., c., and d.** The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect noise. Each project utilizing the new code sections will have separate environmental review to assess the project’s specific impacts.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to noise; therefore, no mitigation measures are required.

**Monitoring:** None

**13. POPULATION AND HOUSING**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c. Induce substantial growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (e.g. through extension of roads or other infrastructure)?				X

**Environmental/Impact Discussion:** a., b., and c. The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect population and housing. Each project utilizing the new code sections will have separate environmental review to assess the project’s specific impacts.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to population and housing; therefore, no mitigation measures are required.

**Monitoring:** None.

**14. PUBLIC SERVICES**

Would the project result in a substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Fire protection?				X
b. Police protection?				X
c. Schools?				X
d. Parks or other recreational facilities?				X
e. Other governmental services?				X

**Environmental/Impact Discussion:** Local public services such as police and fire protection, parks and recreation facilities and other governmental services are provided by the City of Morro Bay. Schools in the area are located within the San Luis Coastal Unified School District.

a., b., c., d. and e. The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes propose will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect public services. Each project utilizing the new code sections will have separate environmental review to assess the project’s specific impacts.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to public services; therefore, no mitigation measures are required.

**Monitoring:** None

**15. RECREATION**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?				X

**Environmental/Impact Discussion:** a. and b. The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect Recreation. Each project utilizing the new code sections will have separate environmental review to assess the project’s specific impacts.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to recreation facilities; therefore, no mitigation measures are required.

**Monitoring:** None

**16. TRANSPORTATION/CIRCULATION**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e. result in a substantial increase in either the number of vehicle trips, the volume to capacity ration on roads, or congestion at intersections)?			X	
b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?			X	
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d. Substantially increase hazards due to a design feature (e.g. limited sight visibility, sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?			X	
e. Result in inadequate emergency access?				X
f. Result in inadequate parking capacity?				X
g. Conflicts with adopted policies supporting alternative transportation (e.g. bus turnouts, bicycle racks)?				X

**Environmental/Impact Discussion:** a., b., c., d., e., f. and g. The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect transportation/circulation. Each project utilizing the new code sections will have separate environmental review to assess the project’s specific impacts.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to transportation/circulation; therefore, no mitigation measures are required.

**Monitoring:** None

**17. UTILITIES & SERVICE SYSTEMS**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e. Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?				X
f. Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?			X	
g. Comply with federal, state, and local statutes and regulations related to solid waste?			X	

**Environmental/Impact Discussion:** a., b., c., d., e., f. and g. The proposed project is a text amendment to the City’s Zoning Ordinance which seeks to bring the City’s secondary residential unit into compliance with State law. The changes proposed will eliminate the need for a Conditional Use Permit and clarify the regulations. There are no changes proposed which would affect Utilities and Service Systems. Each project utilizing the new code sections will have separate environmental review to assess the project’s specific impacts.

**Mitigation and Residual Impact:** The proposed project would not result in impacts to Utilities & Service systems; therefore, no mitigation measures are required.

**Monitoring:** None

**III. INFORMATION SOURCES**

4.1 COUNTY/CITY/FEDERAL DEPARTMENTS CONSULTED: None

4.2 GENERAL PLAN

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Land Use Element   | <input type="checkbox"/> Conservation Element                   |
| <input type="checkbox"/> Circulation Element           | <input type="checkbox"/> Noise Element                          |
| <input type="checkbox"/> Seismic Safety/Safety Element | <input checked="" type="checkbox"/> Local Coastal Plan and Maps |
| <input type="checkbox"/> Zoning Ordinance              |   |

4.3 OTHER SOURCES OF INFORMATION

- |  |  |
|--|--|
| <input type="checkbox"/> Field work/Site Visit               | <input type="checkbox"/> Ag. Preserve Maps (SLO Co. 2008)  |
| <input type="checkbox"/> Calculations                        | <input type="checkbox"/> Flood Control Maps                |
| <input checked="" type="checkbox"/> Project Information      | <input type="checkbox"/> Other studies, reports(see below) |
| <input type="checkbox"/> Traffic Study (Safety-see below)    | <input type="checkbox"/> Zoning Maps                       |
| <input type="checkbox"/> Records                             | <input type="checkbox"/> Soils Maps/Reports                |
| <input type="checkbox"/> Grading Plans                       | <input type="checkbox"/> Plant maps                        |
| <input type="checkbox"/> Elevations/architectural renderings | <input type="checkbox"/> Archaeological maps and reports   |
| <input type="checkbox"/> Published geological maps           | <input type="checkbox"/> Forestry Map (2003)               |
| <input type="checkbox"/> Topographic maps                    | <input type="checkbox"/>                                   |

**IV. MANDATORY FINDINGS OF SIGNIFICANCE (Section 15065)**

A project may have a significant effect on the environment and thereby require a focused or full environmental impact report to be prepared for the project where any of the following conditions occur (CEQA Sec. 15065):

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Potential to degrade:</b> Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
<b>Cumulative:</b> Does the project have impacts that are individually limited but cumulatively considerable? (Cumulatively considerable means that incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				X
<b>Substantial adverse:</b> Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?				X

**V. DETERMINATION**

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

The Planning Commission found that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

I find that the proposed project MAY have limited and specific significant effect on the environment, and a **FOCUSED ENVIRONMENTAL IMPACT REPORT** is required.

I find that the proposed project MAY have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

With Public Hearing  Without Public Hearing

Previous Document : \_\_\_\_\_

Project Evaluator : Kathleen Wold, Planning and Building Manager

\_\_\_\_\_  
Signature

October 28, 2011  
Initial Study Date

Kathleen Wold, Planning & Building Manager  
Printed Name

City of Morro Bay  
Lead Agency



AGENDA NO: C-1

MEETING DATE: March 13, 2012

# Staff Report

TO: Honorable Mayor and City Council

DATE: March 6, 2012

FROM: Janeen Burlingame, Management Analyst

SUBJECT: Consideration of Estero Bay Transit Service Proposal

## STAFF RECOMMENDATION

Staff recommends the City Council review the Estero Bay Transit service proposal from the San Luis Obispo Council of Governments (SLOCOG) and the information from the Public Works Advisory Board meeting and select one of the following:

1. Determine that the Estero Bay Transit service concept as proposed does not serve the best interests of Morro Bay residents and not pursue implementation of it; or
2. Concur with the Public Works Advisory Board (PWAB) recommendation to continue working with SLOCOG and return to PWAB and Council.

## FISCAL IMPACT

**Impact to the Transit Fund:** The estimated operating budget for the service plan proposed is \$250,000 with fares estimated at \$25,913. The Transportation Development Act (TDA) funds to be allocated from the City for its share of the total operating budget, less fares, would be \$173,432 for the first year and are calculated based on the percentage of service hours spent in Morro Bay for the proposed fixed route and three additional senior shuttle days.

The SLOCOG February 2, 2012 proposal states it accommodates City staff overhead of up to 7.5% (\$13,000) making the total cost to the City \$186,000; however, this is not how the City calculates overhead for the Transit Fund in the Cost Allocation Plan.

The Transit Fund cost allocation would be revised to take into account changes for the transit related activities by general fund employees due to the service proposal. There would still be some transit related activities that Council, City staff and Accounting/Treasury employees would be involved with under the proposed concept while other transit related activities for Facilities and Vehicle Maintenance would be eliminated from the cost allocation since those activities are proposed to be handled by the RTA. The revised cost allocation for the service proposal is estimated to be \$41,962. As such, the overhead amount listed in the table below and in Table 1 is this revised cost allocation amount.

For FY 2010/2011, the City received \$203,469 in TDA available for transit operations. For FY 2011/2012 the City has been allocated \$261,591 in TDA for transit operations; however, there is a one time increase in the Local Transportation Fund portion of TDA that will not occur in FY 2012/2013, so when looking at potential TDA cost savings if Council were to accept and pursue the proposed transit service concept, staff took a more conservative approach using the FY 2010/2011 TDA allocation amount as it would more accurately reflect the City's future allocation after this fiscal year. The SLOCOG is anticipating a 4.5% increase to TDA funds for FY 2012/2013 that it is programming into its FY 2012/2013 Overall Work Program which, when applied to the FY 2010/2011 TDA available, would increase the TDA available for transit to \$212,625.

Prepared By: J. Burlingame

Dept Review: \_\_\_\_\_

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

Including the City’s revised cost allocation amount of \$41,962 for overhead and comparing the full operating cost to the anticipated TDA allocation available for transit operations, it is estimated that the proposed service concept is estimated to yield a \$23,145 surplus of TDA funds.

**SLOCOG Proposal**

(224,087)	Operating cost less fares
<u>50,656</u>	Los Osos Share
(173,431)	MB Operating Cost Share for SLOCOG proposal
<u>(41,962)</u>	MB Cost Allocation (overhead)
(215,393)	FY 12/13 MB total cost to Transit Fund
<u>212,625</u>	Estimated FY 12/13 TDA available
(2,768)	Estimated Surplus TDA
<u>25,913</u>	Estimated Fares
23,145	Estimated TDA Surplus

**Impact to the General Fund:** The FY 2011/2012 cost allocation to the Transit Fund is \$109,775. If the proposed transit service concept is implemented, the estimated cost allocation would be \$41,962. The general fund would see an estimated \$67,813 increase because there would be a reduction in transit related activities that certain general fund employees would no longer be performing resulting in an increase of time spent on general fund related activities so that cost would be transferred to the general fund.

**BACKGROUND**

The Transit Efficiencies Group was initiated in 2009 at the direction of SLOCOG Board to its staff to see if there could be cost savings/efficiencies identified through better coordination or consolidation of transit functions/services. The group broke down into service regions and began meeting to discuss issues specific to each area.

For the North Coast region, several meetings occurred with SLOCOG, Regional Transit Authority (RTA), City staff and former Mayor Janice Peters which resulted in a service concept developed by SLOCOG staff that proposed a shared fixed route and dial-a-ride concept between Morro Bay and Los Osos.

In the initial proposal, the fixed route and dial-a-ride service for Morro Bay was inadequate, reducing service levels to an unsatisfactory level. Follow up meetings which included the City Manager and Public Services Director took place to discuss the initial proposal to see if modifications could be made to remedy the deficiencies. In June 2011, a new concept was proposed by SLOCOG and went before the PWAB in August 2011 and to Council in September 2011 for review.

This revised proposal was for a shared fixed route and senior shuttle concept between Morro Bay and Los Osos; however, there still were deficiencies related to inadequate service levels. The Council directed staff to continue to work with SLOCOG and RTA staff to try and remedy deficiencies that were raised and bring a revised proposal to PWAB for review and recommendation to Council.

After the additional meetings with SLOCOG and RTA staff, the SLOCOG presented the City with a revised transit service proposal. Details of the proposed service concept are outlined under the Discussion section of this staff report.

**DISCUSSION**

**Morro Bay Transit**

The City currently operates Morro Bay Transit service that is a hybrid transit system combining a fixed route with limited door to door service. The Morro Bay Transit fixed route has specific stops

throughout the City and the Call-A-Ride trips deviate off route within  $\frac{3}{4}$  of a mile to pick up/drop off riders before returning back on route. The fixed route and Call-A-Ride service is provided hourly Monday through Friday from 6:25am to 5:45pm. The fare for the fixed route is \$1.25 per trip (\$2.50 round trip) with a discount fare of \$0.60 per trip (\$1.20 round trip). The fare for the Call-A-Ride is \$2.50 per trip (\$5 round trip).

Per the direction of the auditor for the annual TDA audit and in accordance with TDA regulations, there is one calculation for farebox ratio that includes all transit services provided and included in the Transit Fund. As such, the farebox ratio for the Transit Fund is 21% for FY 2010/2011. This is a change in the methodology that has been performed in prior years. The City has been taking steps to reduce operating costs and increase fare revenue for Morro Bay Transit and will continue these efforts each fiscal year.

In the second year of operation, Morro Bay Transit ridership has increased by 32% over the previous year. The City received a Rural Transit Fund grant to purchase and install bus stop signage and information display cases that will be installed within the next month and will help increase awareness of the service and provide route information at each stop. Beginning in the early fall of 2011, the City increased marketing activities to increase awareness of the fixed route and Call-A-Ride services through newspaper advertisements and participating in Rideshare Month's Transit Tuesdays where free rides on the fixed route were provided the whole month of October. There was an increase in ridership after the newspaper advertisements began running.

In late October 2011, the service hours and fixed route schedule were changed to better coordinate connections with the regional transit service at City Park. Now all RTA north coast buses and Morro Bay Transit have the same arrival and departure times from City Park. Since the change, there has been an increase in ridership, particularly for the last run of the day from City Park at 5:00 PM.

In late February 2012, new bus stop signs and route information display cases were installed at all Morro Bay Transit stops resulting in more awareness of the service to drivers, bicycle riders and pedestrians traveling along the bus route.

For FY 2012/2013, the City's cost allocation for the Transit Fund will be reduced by more than half to reflect staffing changes that have taken place when the Public Services Department re-organization occurred, resulting in less staff time being spent on transit related activities and the reduction in fleet size and maintenance staff time on transit related activities with the change from the demand response to deviated fixed route system last fiscal year.

**Volunteer Community Bus:** Council members Borchard and Smukler volunteered to look into a volunteer community bus program like that offered in Cambria, including spearheading discussions with the local Senior Citizens Inc. and Meals on Wheels groups regarding setting up such a program in Morro Bay. The idea is that the volunteer bus program would augment existing transit services provided in Morro Bay and fill in the gaps where existing services may be inadequate or non-existent (ex. Saturday service was eliminated in 2009 and in past rider surveys, Sunday service as well as later hours had been requested so that residents could go to church, the movies, socialize with friends, or dine out).

Tentative agreement has been reached between the City, Senior Citizens Inc., and Meals on Wheels on initiating and operating a community bus program with various duties outlined and assigned to each agency. A formal agreement is in the process of being drafted for execution by all parties involved. The Senior Citizens group has appointed a subcommittee who would work with the City and Meals on Wheels on developing the program specifics regarding operating days and hours, and a volunteer dispatcher has been identified for call reservation and driver scheduling. Part of the City's contribution towards the program is the purchase of a small passenger vehicle. The City submitted an application for a Rural Transit Fund grant for the vehicle acquisition and received notice from the SLOCOG that the project would not be applicable for RTF funds as the community bus was not

open to the general public; however, they did encourage the City to submit an application for 5317 New Freedom funds since volunteer driver programs are eligible projects.

#### Estero Bay Transit Proposal

The SLOCOG is proposing the development of a cooperative agreement between the City of Morro Bay, San Luis Obispo County, the RTA and SLOCOG to provide local transit services within and between the communities of Morro Bay and Los Osos. The proposal does not include the City's trolley services and should the Council accept the proposed service concept, a separate arrangement would need to be made regarding trolley operations.

The cooperative agreement would:

1. Establish an Estero Bay Transit Policy Committee;
2. Establish an Estero Bay Technical Advisory Committee; and
3. Establish fixed route and Senior Shuttle services between Morro Bay and Los Osos.

The Policy Committee would be comprised of policy makers that would meet twice per year, at minimum, to review/adopt the annual service plan and budget and review/resolve potential disputes among members of the Technical Advisory Committee.

The Technical Advisory Committee would be comprised of staff representatives from the City, RTA, Los Osos Citizen's Advisory Committee and the SLOCOG whose purpose would be to reach consensus on the geographical coverage of the service area, ensure satisfactory implementation of the adopted service plan, review the annual service plan and budget, and explore/make adjustments to the Estero Bay Transit jurisdictions' roles and responsibilities as needed.

#### Estero Bay Connector - Fixed Route

A draft timetable for the fixed route service that outlines the service area and times for both communities can be found in on page 4 of Attachment 2. This service would operate Monday through Friday from 6:34 am (first pick up at the high school) to 6:36 pm (last drop off at the high school). The proposed fare is \$1.50 per trip (\$3 round trip) with a discount fare of \$0.75 per trip (\$1.50 round trip).

The fixed route proposed is for a combined service between Morro Bay and Los Osos with an hourly headway. Service for Los Osos includes 5 trips a day with a stop on Los Osos Valley Road at the Ralphs shopping center (every other hour plus 2 additional trips, one at mid-day and one at the end of the service day).

Service for Morro Bay includes 12 trips to City Park and areas north of the park on the east side of Highway 1 (hourly). For areas south of the park and in the Beach Tract on the west side of Highway 1 in the north, there are 7 trips a day (every other hour plus 2 additional trips, one at mid-day and one at the end of the service day).

Currently, Morro Bay Transit provides 11 trips a day, on an hourly basis, for all areas in the north and south areas of the community.

#### Benefits

- Early evening hours (service day ends at the high school 6:36 pm instead of 5:45 pm). This would allow Morro Bay commuters, who live in north Morro Bay, coming from San Luis Obispo after work on RTA Rt. 12 to be able to transfer to the connector service to get home.

#### Deficiencies

- The high school stop would see a reduction in service frequency as it would no longer be served hourly. There would be every other hour service with 2 additional trips, one at mid-day and one at the end of the day (first trip would be at 6:34 AM and the last trip would be at 6:36 PM). In addition, the times the bus would stop at the high school do not coincide with bell times. For Morro Bay students the proposed fixed route would not be a viable option to get to/from school.

- South Morro Bay would see a reduction in service frequency as it would no longer be served hourly. There would be every other hour service plus 1 additional trip at mid-day, instead of the current hourly service all day (first trip would be at 6:43 AM and the last trip would be at 5:43 PM). Riders in this area have expressed to drivers they would use Morro Bay Transit more often than they currently do if the service was every 30 minutes.
- The Beach Tract on the west side of Highway 1 in north Morro Bay would see a reduction in service frequency as it would no longer be served hourly. There would be every other hour service plus 2 additional trips, one at mid-day and one at the end of the day (first trip would be at 8:27 AM and the last trip would be at 6:29 PM). As the first trip for Morro Bay Transit is at 6:40 AM for commuters that need connections to the RTA or who work in Morro Bay, the proposed service would not be a viable option for those morning commutes.
- The regular and discount base fare is higher than the Morro Bay Transit fixed route fare.

### Demand Response

Under the proposed transit service concept, there would be no local demand response service as the City's Call-A-Ride service would stop operating. The proposed transit concept would utilize the existing Ride-On Transportation North Coast Senior Shuttle which operates 2 days a week and include funding to provide 3 additional days for a total of 5 days per week.

The Senior Shuttle operates on the north coast from Cambria to San Luis Obispo on Monday and Wednesday from 9am to 5pm. The shuttle is for seniors 65 and older. Due to limited capacity, a rider may only use the shuttle 4 times in a month. The fare for the Senior Shuttle is \$3 per trip (\$6 round trip).

The proposed Estero Bay Transit concept would include funding for expanding the Senior Shuttle by 3 days to operate on Tuesday, Thursday and Friday from 9 AM to 5 PM. The shuttle on these days would be dedicated to Morro Bay and Los Osos and would not be limited in the number of times a rider could use the service in a month.

### Benefits:

- Morro Bay seniors would have more flexibility in the time during the day a ride could be scheduled on the Senior Shuttle instead of the current block of time each hour when Morro Bay Transit fixed route is in the area to deviate off route for a Call-A-Ride pick up/drop off.

### Deficiencies:

- Current riders who are not seniors and not able to use the fixed route service would no longer be able to access a demand response service that they are currently able to use with the Call-A-Ride.
- Seniors would see a reduction in the number of service hours per day provided (service proposed starts at 9 AM instead of 6:25 AM and ends at 5:00 PM instead of 5:45 PM).
- A rider is limited to using the service 4 times in a month for Monday and Wednesday service, but would not be limited in the number of trips on a Tuesday and Thursday. This can lead to potential confusion and frustration when trying to arrange trips. Call-A-Ride has riders that use the service multiple times a week and are not limited in the number of times the service can be used.
- There is a larger pool of potential users of the service that Morro Bay seniors would have to compete with when making a reservation for a ride in a vehicle that has limited capacity (everyone along the north coast on Monday and Wednesday and riders from Morro Bay and Los Osos on Tuesday, Thursday and Friday), particularly now that South Bay Dial-A-Ride service was eliminated in August 2011. With Call-A-Ride, there is a smaller pool of potential users (those in Morro Bay only) that seniors would vie for when scheduling a ride.
- Senior Shuttle base fare is higher than the current Call-A-Ride fare and there is no pass

available where there is for Call-A-Ride (punch pass - 1 free ride for every 10 rides).

#### Other Transit Service Available - Runabout

If the City is contemplating implementing transit service that would result in a reduction in the level of service being provided for some areas of or individuals in Morro Bay, other transit services available should be identified that might fill the newly created gaps.

For general public riders that are not seniors and cannot use the Senior Shuttle or cannot use the fixed route as proposed, the other transit service available is Runabout.

Runabout is operated by the RTA and is the American's With Disabilities Act (ADA) paratransit service for San Luis Obispo County, providing door to door service throughout the county. ADA law mandates that public transit systems provide paratransit service for those persons whose disabilities prevent them from using accessible fixed route bus services. This does not include disabilities that make use of fixed route bus service difficult or inconvenient.

There are limitations to using Runabout which can potentially create confusion and frustration for individuals trying to navigate the different service parameters to determine if they can use the service and when.

- The specific criteria for determining who is eligible for ADA paratransit are defined by ADA law and only riders who meet the criteria specified by the ADA and who have been certified as eligible by RTA will have a guaranteed ride. This would mean a Morro Bay resident must go through the process to be certified eligible to use the service which often requires a visit to the doctor. Sometimes the trip to the doctor can be a barrier as doctors require the visit to evaluate the person before completing the certification form for the Runabout application. This is also an added cost to the individual. There is no certification process to use Call-A-Ride.
- General public riders who are not ADA eligible are able to reserve a ride with Runabout, however, it is not a guaranteed ride and the rider may be bumped by RTA as late as the day before a scheduled trip by a rider who is eligible and wants the same pick up time. No rider using Call-A-Ride with a scheduled ride would have his/her ride bumped by another passenger.
- Runabout service is provided to those living within  $\frac{3}{4}$  of a mile from all fixed routes and the hours of operation mirror those of the fixed routes. As such, not all Morro Bay residents who are eligible to use Runabout would have the same access to the service depending on where he/she lived in relation to the RTA fixed routes, Estero Bay Connector and seasonal trolley routes and hours of operation for those routes. For example, a resident living in the south end of the city on Kern and Main would not be able to use the service on Saturday because it is more than  $\frac{3}{4}$  of a mile from RTA's Route 12 at City Park; however, a resident living in north Morro Bay on Errol could use the service on Saturday because they live within  $\frac{3}{4}$  of a mile from RTA's Route 15. Similarly, a resident living at Kern and Main would not be able to use Runabout for a ride at 8:30pm on Wednesday because it is further than  $\frac{3}{4}$  of a mile from City Park, the nearest spot to where Route 12 runs, but that same resident could use Runabout for a ride at 6:30pm on Wednesday because it is within  $\frac{3}{4}$  of a mile from the Estero Bay Connector route.
- The fare for Runabout for an ADA eligible rider is double the fixed route fare and would vary depending on trip origin and destination. A Morro Bay to Morro Bay trip would cost \$3 per trip (\$6 round trip). For the general public, the Runabout fare for a Morro Bay to Morro Bay trip would cost \$5 per trip (\$10 round trip). Call-A-Ride is \$2.50 per trip (\$5 round trip) and offers a pass (1 free ride for 10 rides).

#### PWAB MEETING

The PWAB reviewed this item at its February 16, 2012 meeting. The main discussion for the Board centered on the difference in farebox ratio between what the City's auditor reported in the most recent annual TDA audit for fiscal year 2010/2011, discussed above, and what the SLOCOG staff

believes the ratio to be which is less than the 10% requirement. PWAB's concern related to SLOCOG's statement at the meeting that if the City does not attain the 10% ratio, it would not be eligible to receive State Transit Assistance funds for the difference between the required fares needed to reach the required ratio and the actual fares received and future increases to Local Transportation Funds.

The PWAB recommended to continue working with SLOCOG and return in two months, particularly seeking clarification regarding the farebox ratio issue so as to not have the potential to lose transit funds if the required 10% is not met. A meeting with SLOCOG staff has been scheduled for the Thursday prior to tonight's meeting to discuss the Transit Fund's farebox ratio issue raised at the PWAB meeting.

**CONCLUSION**

As mentioned in the Fiscal Impact, the estimated operating cost and City share of that cost for the first year of the proposed transit service included an overhead amount for the City that is not how the City allocates cost to the Transit Fund for activities related to transit that are performed by general fund employees.

A revised cost allocation based on what the changes in transit related activities would be performed by City employees if implementing the proposed service concept was added to the proposed operating cost for the City's share of the Estero Bay Transit service to determine the City's full cost impact to the Transit Fund for the proposed transit service. This is compared with the estimated cost to the Transit Fund to operate Morro Bay Transit for FY 2012/2013 (see Table 1 below).

**Table 1 - Impact to the Transit Fund**

COG Proposal	MBT Service	
(224,087)	(141,094)	Operating cost less fares
50,656	n/a	Los Osos Share
(173,431)	n/a	MB Operating Cost Share for COG proposal
(41,962)	(59,975)	MB Cost Allocation (overhead)
(215,393)	(201,069)	FY 12/13 MB total cost to Transit Fund
212,625	212,625	Estimated FY 12/13 TDA available
(2,768)	11,556	Estimated Surplus TDA
25,913	19,000	Estimated Fares
23,145	30,556	Estimated TDA Surplus

After factoring into the operating cost a rough estimate of the revised cost allocation amount and comparing that to the anticipated TDA fund allocation available for transit operations, it is estimated that the proposed service concept would yield a \$23,145 surplus of TDA funds.

In addition, the general fund would see an increase of approximately \$67,813 because there would be a reduction in transit related activities that certain general fund employees would no longer be performing resulting in an increase of time spent on general fund related activities.

Regarding the proposed service concept, the question is whether or not the proposed transit service would be beneficial to Morro Bay residents. The SLOCOG proposal may further their goal of an unified transit agency, but it does not provide service coverage to the citizens of Morro Bay as well as the current Morro Bay Transit fixed route and Call-A-Ride.

When looking at the proposed transit services, while there is a 6:00 PM run for those living in the north of City Park and more flexibility in the time during the day a demand response ride could be scheduled instead the current block of time each hour when Morro Bay Transit is in the area to

deviate off route for a pick up/drop off, overall the proposed service concept would not be beneficial to Morro Bay residents as noted in the Discussion above.

The Board and Council had expressed concern with the transit service concept proposed in August 2011 as there were service reductions for certain areas or individuals of the community, particularly seniors and users of the service in the morning, noting that individuals would stop using transit service if it becomes more inconvenient. In addition, it was noted by some that the cost savings realized would not make up for the loss in service. With the new proposed transit service concept, it would appear that those concerns still exist.

Additionally, in prior Council meetings, there was an expressed desire to have more demand response type service for seniors. The proposed transit service concept, while expanding 1 more day from the previous proposal to provide service 5 days a week, would not achieve that goal as there are other deficiencies as noted in the Discussion above.

Staff recommends the City Council review the Estero Bay Transit service proposal from the San Luis Obispo Council of Governments (SLOCOG) and the information from the Public Works Advisory Board meeting and select one of the following:

1. Determine that the Estero Bay Transit service concept as proposed does not serve the best interests of Morro Bay residents and not pursue implementation of it; or
2. Concur with the Public Works Advisory Board (PWAB) recommendation to continue working with SLOCOG and return to PWAB and Council.

Attachment 1 - Morro Bay Transit Brochure

Attachment 2 - SLOCOG Transit Proposal Dated February 2, 2012

Attachment 3 - Comparison of Transit Proposal to Existing Transit Service

# ADDITIONAL TRANSIT SERVICES

## Regional Transit Authority

slorta.org  
541-2228  
541-2544 Runabout information

Operates transit services connecting communities in San Luis Obispo county.

### **Fixed Route Service**

Routes 11, 12, 13, 14 and 15 serve Morro Bay. Connections between RTA 's fixed route and the City's Fixed Route are made at City Park.

### **Runabout**

RTA also operates Runabout the American's with Disabilities Act (ADA) service to fixed routes for San Luis Obispo county.

To learn if you qualify to use Runabout, visit RTA's website, slorta.org/runabout or call RTA.

## SLO Regional Rideshare

rideshare.org  
For transportation info call 511

One-stop-shop for transportation information to increase mobility for people living, working and visiting San Luis Obispo County.

## Ride On Transportation

ride-on.org  
541-8747

Ride On operates a senior and medical shuttle within the county.

### **North Coast Senior Shuttle**

- Seniors 65 and older
- Fare is \$3 each way
- Monday and Wednesday
- 9 am until 5 pm
- Travel anywhere between Cambria and SLO

### **Medical Shuttle**

- CenCal or Medi-Cal insurance pays for the trip
- Medical appointment shuttle service to and from the doctor's office or hospital anywhere in SLO County.
- Ask for the Medi-Cal Secretary when calling for a ride

### **Mobility Coordinator**

Contact Ride-On's Transportation Mobility Coordinator to help determine which transit service available best fits your trip's need. Call 541-8747 and ask for the Mobility Coordinator.

## Good Neighbor Program

547-7025

This program provides free rides to seniors 55+ & adults 18+ with disabilities. Call to arrange a ride for medical appointments, errands, shopping, social engagements and more.

## TRANSIT

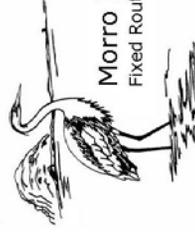
## CONNECTIONS

Morro Bay Transit connects with the Regional Transit Authority Routes 11, 12, 13, 14 and 15 at City Park.

During the trolley season, Morro Bay Transit connects with the trolley routes at City Park and at the Centennial Stairway on Market Street. The Regional Transit Authority connects with the trolley at City Park.

## TRAVEL TIPS

- No eating, drinking, smoking, or playing loud music.
- No standing or sitting in the step wells.
- No animals, except for certified service, guide, or signal dogs used by physically challenged riders.
- Do not willfully disturb the driver or other passengers.
- No graffiti, alcohol, drugs or weapons of any kind.
- Keep the bus clean by using the trash receptacle.
- Remain seated until bus comes to a complete stop.



Morro Bay Transit  
Fixed Route \* Call-A-Ride

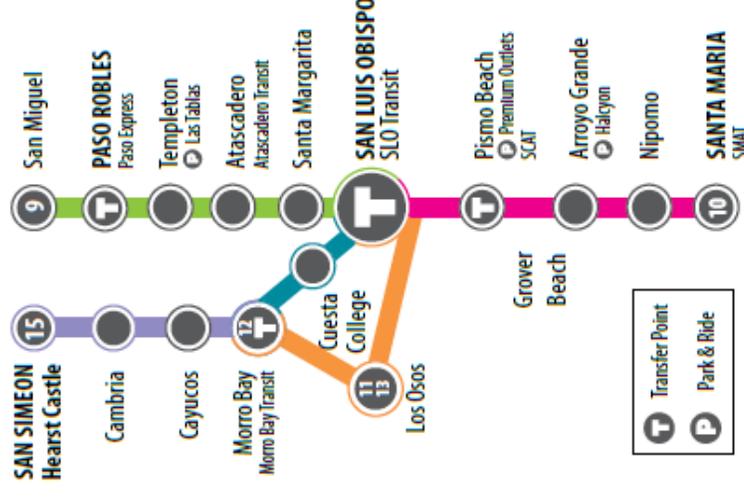
# MORRO BAY TRANSIT

## Fixed Route and

## Call-A-Ride

morro-bay.ca.us/transit  
772-2744

Attachment 1



Effective 10/24/11 through 6/30/12

# MORRO BAY TRANSIT

Attachment 1

Get on the bus anywhere along the route by waving your hand at the driver.

## Days and Hours

Monday through Friday  
6:25 a.m. - 5:45 p.m.

## Fixed Route Stops

1. Main at Bonita
2. Main at Spencer's Market
3. Main at Sequoia
4. Main at Jamaica
5. Main at Tahiti
6. Beachcomber at Mindoro (stairs to campground)
7. Sandalwood at San Jacinto (beach access)
8. Atascadero at 200 Block (Teen Center; High School)
9. Atascadero at Morro Dunes
10. Quintana at Cookie Crock
11. Quintana at Albertson's
12. City Park at Harbor
13. Piney Way at Anchor
14. Market at Morro Bay Blvd. (Centennial Stairway)
15. Community Center/Senior Center
16. Main at Errol

\*Bus stop times are shown in minutes on the hour during service hours.

Beachcomber at Mindoro Stairs to campground :40

Spencers :30

Teen Center High School :45

Community & Senior Center :20

## Call-A-Ride ~ 772-2744

Call-A-Ride curb-to-curb service is available to everyone. The fixed route bus will flex off route up to 3/4 of a mile to pick up/drop off the rider, then return on route before the next scheduled stop. **Be ready when the bus arrives by being out at the curb at your scheduled pick up time.**

To schedule a Call-A-Ride trip, call between the hours of 8 a.m. to 10 a.m., Monday through Friday, to schedule a ride for the next day. Monday trips will need to be scheduled on the Friday before.

## Transit Connections

The Fixed Route connects with the Regional Transit Authority north coast routes at City Park. In addition, during the trolley season, the Fixed Route connects with trolley routes at City Park and at the Centennial Stairway on Market Street.

## Holidays

Fixed Route and Call-A-Ride service is not available on City observed holidays.

## Bag Limit

Due to limited space in the bus, each passenger may bring either 2 paper or 3 plastic bags on board the bus.

## Bicycle Racks

The bus is equipped with a bicycle rack for your use. Space is on a first come, first served basis. Passengers are responsible for both loading and unloading the bicycle from the rack.

Please signal to the driver that you will be loading your bicycle. Also, when exiting the bus, remind the driver that you will be unloading your bicycle from the rack.

The City is not responsible for bicycles left on or for damages arising from bicycles not properly affixed to the rack.

No bicycles will be allowed inside the bus.

[morro-bay.ca.us/transit](http://morro-bay.ca.us/transit)  
(805) 772-2744

## FARE INFORMATION

Fare is on a per ride basis  
Fixed Route - \$1.25  
Discount Fixed Route\* - \$0.60  
Call-A-Ride - \$2.50

\*Seniors (65 & over) and disabled individuals are eligible for the discount fare.

Children under 5 years old ride the fixed route free with a fare paying adult (limit 2).

## PASS INFORMATION

Day Pass:  
Fixed Route - \$4  
Discount Fixed Route - \$2

Punch Pass: 11 rides  
Fixed Route - \$12.50  
Discount Fixed Route - \$6  
Call-A-Ride - \$25

The Fixed Route will accept Regional 31 Day and Day Passes.

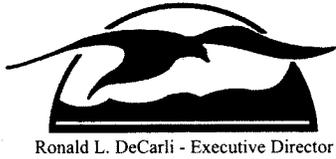


- School
- Flex Route Stops
- Connection to RTA
- Public Parking Lot
- Unpaved Public Parking Lot
- Campground

Effective 10/24/11 through 6/30/12



# San Luis Obispo Council of Governments



Ronald L. DeCarli - Executive Director

Regional Transportation Planning Agency  
 Metropolitan Planning Organization  
 Rideshare Program / Census Data Affiliate  
 Service Authority for Freeways and Expressways

Arroyo Grande  
 Atascadero  
 Grover Beach  
 Morro Bay  
 Paso Robles  
 Pismo Beach  
 San Luis Obispo  
 San Luis Obispo County

## TRANSMITTAL

Date: February 2, 2012

To: Janeen Burlingame & PWAB members

From: Peter Rodgers, SLOCOG

Re: Morro Bay Transit System Proposal

Thank you for the opportunity to address our recommended changes to the Morro Bay Transit System. We will attend your February 16<sup>th</sup> Public Works Advisory Committee meeting to explain the attachments.

We believe the current Morro Bay Transit System is unsustainable. State law requires a minimum farebox recovery ratio of 10%. Morro Bay's farebox recovery ratio is 4%. SLOCOG will be required to withhold future transit funds if the current service continues. There is a 43% overhead charge on the current service. This is extremely high and not justifiable for a contract service.

This proposal accommodates City staff overhead of up to 7.5% (\$13,000/year) for general monitoring and planning. All transit related management, planning, marketing, maintenance, fueling, budgeting etc. would be covered in an operating agreement with the Regional Transit Authority (\$173,000). It is a "turnkey" proposal. The total transit costs would be \$186,000.

This proposal offers a more efficient transit system – and saves the City an estimated \$63,000 per year. Morro Bay spent \$249,000 on the deviated fixed route (or "Call-a-Ride") service in FY10/11 (including overhead). The \$63,000 in saving could be used for additional transit, pedestrian & bikeway, or street and road purposes in Morro Bay as determined by the City.

This proposal leverages County funds by connecting 5 times per day with Los Osos, and during those times, provides only an abbreviated loop in Morro Bay. (North Morro Bay, and the downtown markets Albertsons/Cookie Crock are still served hourly.) To address the reduction in fixed route service hours in Morro Bay, "senior", door-to-door, demand responsive services would be available 5 days per week (Monday-Friday) in Morro Bay at \$3 per ride.

Please do not hesitate to contact me at 781-5712 or Eliane Guillot at 781-5711 to discuss these details.

## **Estero Bay Transit Service Elements February 2012 Update**

**Regional Fixed-Route Service:** RTA service is restructured with three routes pulsing on the hour at the Morro Bay City Park. Rte 12 connects Morro Bay with Cuesta College and downtown San Luis Obispo; Rte 15 connects Morro Bay with Cambria/Hearst Castle. Rtes 11 and 13 (combined) connect Los Osos either with Morro Bay (every other hour) or with South San Luis Obispo via the LOVR corridor (every other hour). Weekend service differs

- Rte 12 Service Span: 7:00 AM to 8:58 PM-Every Hr at the Park
- Rte 15 Service Span: 6:07 AM to 6:47 PM-Every 3 Hrs at the Park
- Rtes 11/13 Service Span: 7:03 AM to 8:58 PM-Every 2 Hrs at the Park
- Fares: Base cash fare varies by distance; discount cash fare starts at 75 cents; zone charge 50 cents (Morro Bay & Los Osos in same zone)
- Transfer Policy: Regional Day Pass (\$5.00) and Regional 31 day Pass (\$60 regular; \$30 discount) provide free transfers between the RTA regional and local fixed-route buses

**Proposed Local Fixed-Route:** this Estero Bay service has two components:

- a) Full Morro Bay Loop-Seven times a day (same coverage as existing Morro Bay Transit service without the Call-a-Ride feature) starting at the Park on the hour pulsing with the RTA routes;
- b) Morro Bay/Los Osos Connector-Five times a day (provides for same North Morro Bay coverage as existing Morro Bay Transit except for the Beach Tract (westside of SR1) and South Morro Bay (South of Morro Bay Blvd) with a southern deviation along South Bay Boulevard to reach Ralph's bus stop on Los Osos Valley Road, connects with RTA Rte 13 and return to the Park to resume the Full Morro Bay Loop.

- Service Days: Monday-Friday
- Service Hours: 6:34 AM to 6:36 PM
- Base Fare: Base cash fare \$1.50; Discount cash fare 75 cents
- Monthly/31 day Passes: \$40.00 (regular); \$20.00 (discount)
- Transfer Policies: same as Regional Fixed-Route

**Local Senior Shuttle:** An expanded Senior Shuttle, operated by Ride-On Transportation under contract with RTA, will cover Morro Bay and Los Osos on three additional days of the week (Tuesday, Thursday and Friday). Current North Coast Senior Shuttle service is limited to Monday and Wednesday.

- New Service Days: Tuesday, Thursday and Friday
- Service Hours: 9 AM to 5 PM
- Regular Fares: Base cash fare \$3; no discount cash
- Transfer Policy: no fare transfer privileges to local or regional fixed routes

## February 2012-Updated Financial Plan-Estero Bay Transit Proposal

Given Below are Annual Projections for the Operating Costs and Operating Revenues

### A) Operating Cost Distribution-relative to service hour allocation

		Fixed Rte Shares	Supplemental Senior Shuttle Shares	Weighted Cost allocation
CITY	Morro Bay	81.00%	50.00%	\$173,432
COUNTY	Los Osos	19.00%	50.00%	\$50,656
<b>Estero Bay total</b>		<b>\$198,025</b>	<b>\$26,063</b>	<b>\$224,088</b>

### B) Estimated Annual Costs

Local Fixed Rte weekday service (\$75 per hour)	\$220,000
Local Estero Bay Senior Shuttle (3 extra days-\$40 an hour)	\$30,000
<b>Total Local Operations</b>	<b>\$250,000</b>

### C) Projected Fare Revenues

#### Local Fixed Rte Service

Service Hours (annual)	2,930
Productivity (riders per hour)	6
Average fare	\$1.25
Projected ridership	17,580
Fare revenues	<b>\$21,975</b>

#### Supplemental Senior Shuttle

Service Hours (annual)	750
Productivity (riders per hour)	1.75
Average fare	\$3.00
Projected ridership	1,313
Fare revenues	<b>\$3,938</b>

**Total Fares** **\$25,913**

### D) Operating Balance after Passenger Revenues

**\$224,088**

### E) Farebox Recovery Ratio

**10.37%**

**PROPOSED LOCAL FIXED-ROUTE SCHEDULE**

<b>ESTERO BAY TRANSIT - FEB.1 DRAFT</b>	<b>AM</b>						<b>PM</b>						
Harbor @ Piney (Morro Bay Park) Depart		7:00	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Quintana at Albertson's		7:02	8:02	9:02	10:02	11:02	12:02	1:02	2:02	3:02	4:02	5:02	6:02
Morro Bay Transit Office		7:05	8:05	9:05	10:05	11:05	12:05	1:05	2:05	3:05	4:05	5:05	6:04
Market @ Morro Bay Blvd		7:06	8:06	9:06	10:06	11:06	12:06	1:06	2:06	3:06	4:06	5:06	6:05
Quintana at Cookie Crock		7:09	8:09	9:09	10:09	11:09	12:09	1:09	2:09	3:09	4:09	5:09	6:08
Community Center		7:11	8:11	9:11	10:11	11:11	12:11	1:11	2:11	3:11	4:11	5:11	6:10
Main at Errol		7:15	8:15	9:15	10:15	11:15	12:15	1:15	2:15	3:15	4:15	5:15	6:14
Main at Bonita		7:16	8:16	9:16	10:16	11:16	12:16	1:16	2:16	3:16	4:16	5:16	6:15
Main at Spencer's Market		7:18	8:18	9:18	10:18	11:18	12:18	1:18	2:18	3:18	4:18	5:18	6:20
Senior Housing @ Elena		7:19	8:19	9:19	10:19	11:19	12:19	1:19	2:19	3:19	4:19	5:19	6:21
Main at Sequoia		7:22	8:22	9:22	10:22	11:22	12:22	1:22	2:22	3:22	4:22	5:22	6:24
Main at Jamaica		7:23	8:23	9:23	10:23	11:23	12:23	1:23	2:23	3:23	4:23	5:23	6:25
Main at Tahiti		7:24	8:24	9:24	10:24	11:24	12:24	1:24	2:24	3:24	4:24	5:24	6:26
Beachcomber at Mindoro			8:27		10:27		12:27	1:27		3:27		5:27	6:29
Sandalwood at San Jacinto			8:29		10:29		12:29	1:29		3:29		5:29	6:31
Atascadero at 200 Block (High School)	6:34		8:34		10:34		12:34	1:34		3:34		5:34	6:36
Atascadero at Morro Bay Dunes	6:36		8:36		10:36		12:36	1:36		3:36		5:36	
Harbor @ Piney (Morro Bay Park)		7:33		9:33		11:33			2:33		4:33		
Los Osos Valley Road @ Ralphs		7:44		9:44		11:44			2:44		4:44		
Piney at Anchor	6:43		8:43		10:43		12:43	1:43		3:43		5:43	
Harbor @ Piney (Morro Bay Park) Arrive	6:49	7:57	8:49	9:57	10:49	11:57	12:49	1:49	2:57	3:49	4:57	5:49	

# MORRO BAY TRANSIT

**LOS OSOS LOOP**  
 7:00 AM  
 9:00 AM  
 11:00 AM  
 2:00 PM  
 4:00 PM

**MAIN @ TAHITI**  
:24

**MAIN @ JAMAICA**  
:23

**MAIN @ SEQUOIA**  
:22

**SENIOR HOUSING**  
:19

**SPENCER'S**  
:18

**MAIN @ BONITA**  
:16

**MAIN @ ERROL**  
:15

**MB TRANSIT OFFICE**  
:05

**COOKIE CROCK**  
:09

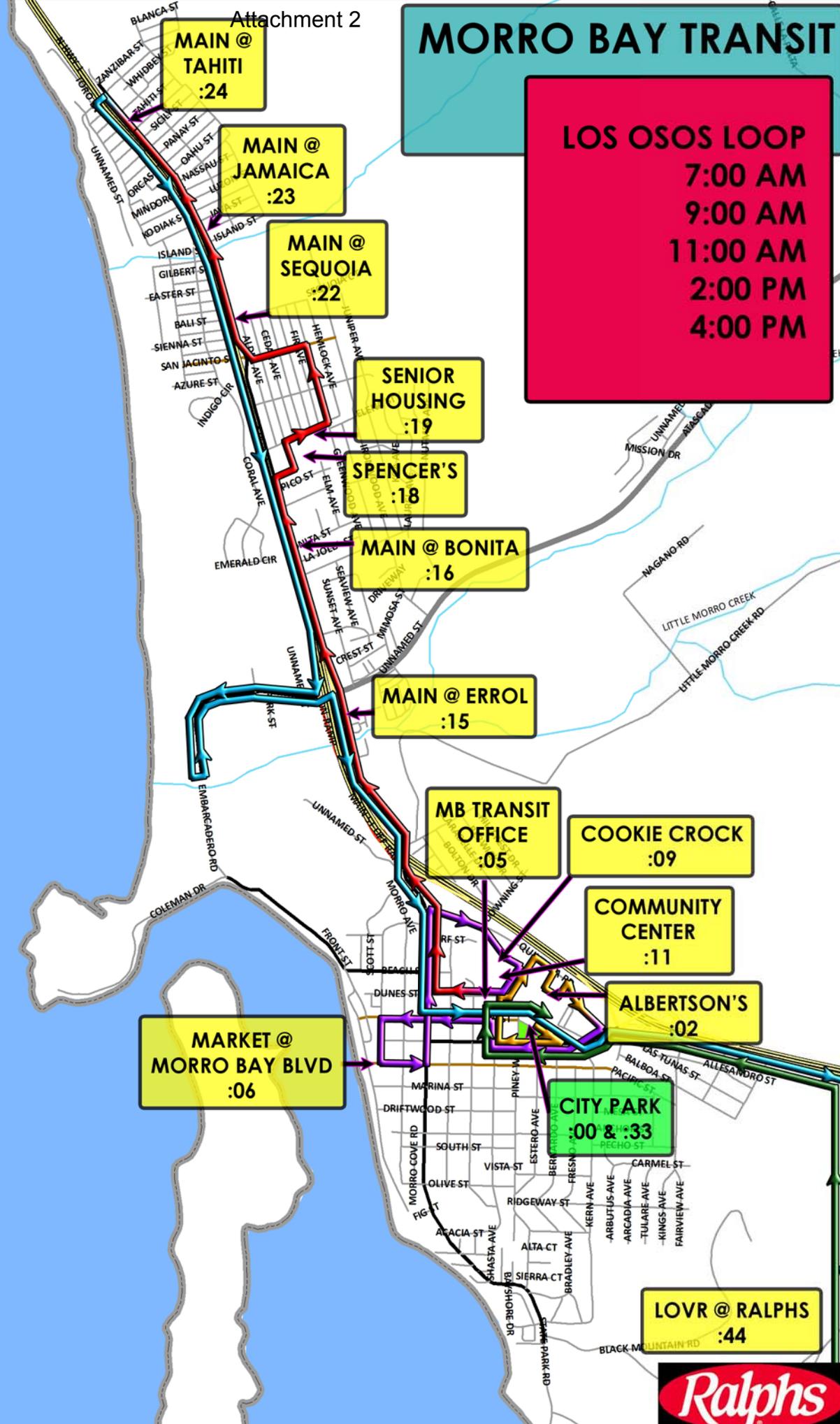
**COMMUNITY CENTER**  
:11

**ALBERTSON'S**  
:02

**MARKET @ MORRO BAY BLVD**  
:06

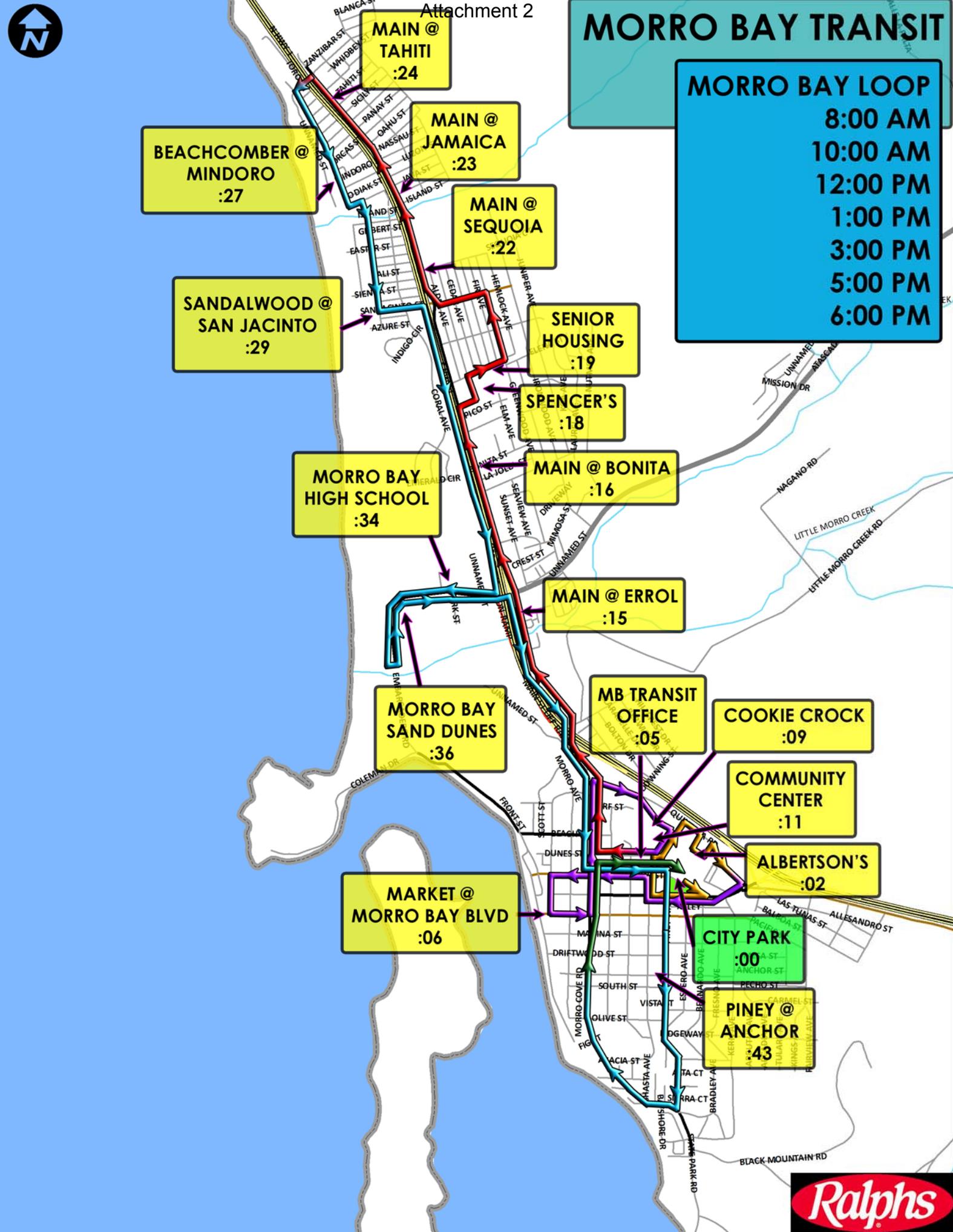
**CITY PARK**  
:00 & :33

**LOVR @ RALPHS**  
:44



# MORRO BAY TRANSIT

**MORRO BAY LOOP**  
 8:00 AM  
 10:00 AM  
 12:00 PM  
 1:00 PM  
 3:00 PM  
 5:00 PM  
 6:00 PM



Attachment 3

FIXED ROUTE	Operating Days	Operating Hours	Hourly Service in MB	MB Student Connection to High School	Commuter Connection to RTA Rt 12	Non-Commuter Connection to RTA Rt 12	Fare	Passes Available
Current - Morro Bay Transit	M-F	6:25am - 5:45pm	Yes	Yes	AM - Yes PM - Yes for 5 PM run; No for 6 PM run	AM - Yes PM - Yes	\$1.25 per ride Regular \$0.60 per ride Discount	Yes; 11 Ride Punch \$12.50 Regular; \$6 Discount
Proposed - Estero Bay Transit	M-F	6:34am - 6:36pm	No (Note 1)	No (Note 2)	AM - Yes PM - Yes	AM - Yes PM - Yes	\$1.50 per ride Regular \$0.75 per ride Discount	Yes; Monthly/31 Day Pass \$40 Regular; \$20 Discount

**Note 1:** There would be hourly service only to City Park and in north MB on the east side of Highway 1); south of MB and the Beach Tract on the west side of Highway 1 would have 7 trips per day; high school would have 8 trips per day.

**Note 2:** Proposed service would have 8 trips a day and the times scheduled do not coincide with bell times.

DEMAND RESPONSE	Operating Days	Operating Hours	Service Area	Fare	General Public Use	Additional Restrictions	Reservations	Passes Available
Current - Morro Bay Call-A-Ride	M-F	6:25am - 5:45pm	MB City limit within 3/4 mile of fixed route (Quintana Road after mortuary is out of area)	\$2.50 per ride	Yes	No	Call day before	Yes; 11 Ride Punch \$25
Current & Proposed - Ride On Senior Shuttle (Note 1)	M-F	9am - 5pm	M & W - Cambria to SLO T, Th & F - Morro Bay and Los Osos	\$3 per ride	No - Senior 65 and older only	Yes - On M & W shuttle, can only use it 4 times a month	Call day before	No
Current - RTA Runabout	3/4 mile from Rt. 12: M-Su; 3/4 mile from Estero Bay Connector: M-F (Note 2)	For those living 3/4 mile from RTA Rt. 12: M-F 6am - 9:30pm; Sa 8am - 8pm; and Su 8am - 7pm For those living 3/4 mile from Estero Bay Connector: M-F 7:26am - 6:53 pm (Note 2)	Countywide within 3/4 mile of fixed route (Note 2)	Double fixed route cash fare (MB to MB is \$3); General Public (Morro Bay to Morro Bay) \$5	Yes (Note 3)	No	Call up to 7 days before	No

**Note 1:** Ride-On currently operates a North Coast Senior Shuttle on Monday and Wednesday. The proposed service concept would include funding to add 3 days of service for a total of 5 days per week.

**Note 2:** Since Runabout operates within 3/4 of a mile of all fixed routes, hours of operation may vary depending on which fixed route a rider lives near. Riders living in south Morro Bay beyond 3/4 mile from City Park would have access to Runabout Monday through Friday from 7:26am to 6:53 pm (Estero Bay Connector hours) while a rider living inside 3/4 of a mile from Main and Errol would have access to Runabout Monday through Friday from 6am to 9:30pm, Saturday from 8am to 8pm and on Sunday from 8am to 7pm. (RTA Rt. 12 hours).

**Note 3:** Runabout is the ADA complementary paratransit service to all fixed routes countywide. In order to be guaranteed a ride, a person must be eligible under the ADA criteria and certified by RTA. To be eligible a person must have a disability which prevents him/her from using the fixed route bus because of the disability. Members of the general public can use the service, however, the ride is not guaranteed and if there is an eligible certified person who schedules a ride at the same time, the general public person would not be provided a ride.



AGENDA NO: D-1

MEETING DATE: 3/13/2012

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** February 28, 2012

**FROM:** Michael Pond, Fire Chief

**SUBJECT:** Review of the Morro Bay Sprinkler Ordinance

## **RECOMMENDATION**

Staff recommends the City Council receive and file this report.

## **FISCAL IMPACT**

There is no fiscal impact.

## **SUMMARY**

The City of Morro Bay sprinkler ordinance is more restrictive than the minimum code requirements found in the California Fire Code and California Building Code. However, the Morro Bay ordinance is in line with the majority of San Luis Obispo County.

According to the National Fire Protection Agency (NFPA) U.S. Experience With Sprinklers report, "Automatic sprinklers are highly effective elements of total system designs for fire protection in buildings. They save lives and property, producing large reductions in the number of deaths per thousand fires, in average direct property damage per fire, and especially in the likelihood of a fire with large loss of life or large property loss."

Fire Departments across the country rely on built in fire protection to assist in the preservation of life and property. Fires progress quickly and require a rapid and overwhelming response to keep them in check. Small departments, such as those found in San Luis Obispo County, don't have the resources to adequately address the fire threat without assistance from built in fire protection and mutual aid from neighboring fire departments. Buildings with fire resistive construction, built-in fire suppression systems, and served by a quality local fire department are provided the best protection from life and property loss due to fire.

## **BACKGROUND**

Prepared By: MP

Dept Review: \_\_\_\_\_

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

The City of Morro Bay has maintained a sprinkler ordinance that exceeds the minimum requirements of the State of California since at least the 1980's. While the 5,000 square foot ordinance of the 1980's was initially viewed as progressive, by 2008 it was one of the least restrictive ordinances in San Luis Obispo County. Most communities in San Luis Obispo County have passed ordinances requiring sprinklers in new structures with square footage from 0-1,000 square feet or larger. The approval of more stringent sprinkler requirements in San Luis Obispo County and nationwide is due to the proven effectiveness of sprinklers in saving lives and reducing property loss.

On May 12, 2008 the Morro Bay City Council unanimously (5-0) passed Ordinance 538, amending Section 14.600.200 (now Section 14.08.090) of the City of Morro Bay Municipal Code. This enhanced sprinkler ordinance brought Morro Bay in line with neighboring communities of San Luis Obispo County. The ordinance moved the city from a 5,000 square foot threshold to 1,000 square feet in new construction including commercial and residential projects.

A sprinkler retrofit was required for existing structures adding 1,000 square feet or increasing in size by 50%. Also, a change in occupancy with an increased fire hazard would require a building to install sprinklers. In 2010, the California Fire Code made residential sprinklers a statewide minimum requirement regardless of the size of the residence.

**DISCUSSION**

The best and least expensive time to install sprinklers is during initial construction and when additions are made to a building. Once installed, the fire protection system remains in place for the life of the building with little additional cost. The City of Morro Bay sprinkler ordinance addresses new construction and additions larger than 1,000 square feet or an addition exceeding 50% of the original structure. Retrofitting an existing building that is not constructing additional floor area would not be required to install sprinklers. If a building's occupancy changes and there is an increased hazard, retrofitting of sprinklers could be required.

The differences in our local ordinance compared to the minimums identified in the California Building Code (CBC) and California Fire Code (CFC) depend on occupancy type and whether it is new construction or an existing structure. The CFC addresses sprinkler needs in new construction but it is often silent to the retrofitting of existing or remodeled structures.

**Table 1**

<b>Occupancy Type</b>	<b>CFC Minimum Sprinkler Requirements</b>	<b>Morro Bay Sprinkler Ordinance</b>	<b>CFC Remodeled Buildings Sprinkler Retrofit required</b>	<b>MB Remodeled Buildings Sprinkler Retrofit required</b>
Group A-1,A-3, A-4 (assembly with fixed seating for performances, movies, worship, recreation, indoor sporting events)	12,000 sq. ft. or oc. load of 300	1,000 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group A-2 (assembly intended for food/drink/restaurants)	5,000 sq. ft. or oc. load of 100	1,000 sq. ft.	Depends on size, hazard, & Fire Chief	With increase of 1,000 sq. ft. or 50% of floor area.

			Interpretation	
Group A-5 (assembly for outdoor activities, concession)	1,000 sq. ft.	Was exempt. Now must meet CFC 1,000 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group B (Business offices, service transactions, show rooms, laundry, etc)	Sprinklers not required.	1,000 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group B (ambulatory health care facilities serving fewer than 5)	0 sq. ft.	Was exempt to 1,000 sq. ft.. Now must meet CFC 0 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group E (public schools)	12,000 sq. ft.		Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group F-1 (moderate –hazard factory industrial, fabrication, manufacturing, etc)	12,000 sq. ft.	1,000 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group F-1 (woodworking)	12,000 sq. ft.	1,000 sq. ft.	Depends on size Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group H (high-hazard)	0 sq. ft.	0 sq. ft. per CFC	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group I (Institutional)	0 sq. ft.	0 sq. ft. per CFC	Yes Group I-2	With increase of 1,000 sq. ft. or 50% of floor area.
Group M (Mercantile)	12,000 sq. ft.	1,000 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group M (upholstered furniture)	0 sq. ft.	0 sq. ft. per CFC	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group M (high piled storage)	0 sq. ft.	0 sq. ft. per CFC	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group R (residential)	0 sq. ft.	1,000 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group S-1(storage)	12,000 sq. ft.	1,000 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group S-1 (storage of commercial trucks/buses)	5,000 sq. ft.	1,000 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.

Group S-1 (repair garages)	5,000-12,000 sq. ft.	1,000 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group S-2 (parking garages)	5,000-12,000 sq. ft.	1,000 sq. ft.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.
Group U (carport with habitable space above and attached garages)	0 sq. ft.	0 sq. ft.	Yes	With increase of 1,000 sq. ft. or 50% of floor area.
Group U (miscellaneous, barns, sheds, green houses, stables, etc)	Depends on size, hazard, & Fire Chief Interpretation	Sprinklers not required	Depends on size, hazard, & Fire Chief Interpretation	No
Buildings exceeding 1,000 sq. ft. and a change in use increases fire hazard.	Depends on occupancy type	Sprinklers required.	Depends on size, hazard, & Fire Chief Interpretation	With increase of 1,000 sq. ft. or 50% of floor area.

As you can see in Table 1 above, the City of Morro Bay sprinkler ordinance is more restrictive than the minimum state codes. However, Morro Bay’s sprinkler ordinance is very similar to most communities in San Luis Obispo County. Table 2 compares the Morro Bay sprinkler ordinance with sprinkler requirements in neighboring communities and San Luis Obispo County areas.

**Table 2**

<b>COMMUNITY</b>	<b>RESIDENTIAL</b>	<b>COMMERCIAL</b>	<b>ADDITIONS/RETROFIT</b>
<b>Arroyo Grande</b>	CFC 0 SF or more	1,000 SF or more	Throughout existing structure if increased by 1,000 SF or 50%
<b>Atascadero</b>	0 SF or more	0 SF or more	Throughout existing structures of 3,000 SF or more adding 10%

<b>Avila Beach</b>	CFC 0 SF or more	1,000 SF or more	Throughout existing structure if increased by 1,000 SF or 50%
<b>Cambria</b>	0 SF or more	1,000 SF or more	Addition making home over 2,500 SF
<b>Cayucos</b>	CFC 0 SF or more	0 SF or more	
<b>Grover Beach</b>	CFC 0 SF or more	1,000 SF or more	Residential additions in excess of 40% Commercial additions in excess of 25%
<b>Los Osos</b>	CFC 0 SF or more	1,000 SF or more	Throughout existing structure if increased by 1,000 SF or 50%
<b>Morro Bay</b>	CFC 0 SF or more	1,000 SF or more 0 SF west of Embarcadero	Throughout existing structure if increased by 1,000 SF or 50%..
<b>Oceano</b>	CFC 0SF or more	No ordinance	
<b>Paso Robles</b>	CFC 0 SF or more	5,000 SF or more	
<b>Pismo Beach</b>	CFC 0SF or more	1,000 SF or more	Throughout existing structure if increased by 1,000 SF or 50%
<b>San Luis Obispo County</b>	CFC 0SF or more	1,000 SF or more	Throughout existing structure if increased by 1,000 SF or 50%
<b>San Luis Obispo City</b>	0 SF or more	1,000 SF or more	Remodels increased by 25%
<b>San Miguel</b>	0 SF or more	0 SF or more	Ag buildings over 500 SF
<b>Santa Margarita</b>	CFC 0 SF or more	0 SF or more	
<b>Templeton</b>	0 SF or more	2,500 SF or more	

Fire department capabilities should be considered when addressing sprinkler ordinances. It takes 13 firefighters to extinguish a typical house fire. The City of Morro Bay staffs 4 firefighters each day and relies on the call back of off duty personnel and mutual aid to help provide additional firefighters. Today's structures put out more BTU's and reach flashover much quicker than structures built in the last 60 years due to the use of plastics and other flammable materials. Sprinklers provide time for people to exit a building by providing an immediate fire attack which reduces smoke and heat. Sprinklers assist firefighters in confining fire to the area of origin and they provide a more tenable environment for firefighters to work prior to the arrival of additional firefighting resources. Morro Bay has experienced a number of fires where the property loss was minimized by the activation of fire sprinklers. Examples of local fires controlled or minimized by fire sprinklers in Morro Bay have occurred at Bayside Care/Casa de Flores, Mission Linen, Blue Sail Inn, Marina Square, Giovanni's, and Dockside Too.

In addition to saving lives and property, the installation of sprinklers provides potential tradeoffs for builders. For example, a structure designed with automatic fire sprinklers allows for a reduction in the required fire flow, increased travel distance to a fire hydrant, and increased distance to a fire access road. In 2008, the building official identified 40 additional tradeoffs available to a builder depending on the occupancy type.

## **CONCLUSION**

It took many years for people to get used to paying for safety features found in today's vehicles. Seat belts, shoulder restraints, air bags, and engineered crumple zones all increase survivability during a crash but at great expense. Safety features for buildings occupied by people are seeing a

similar progression in engineered safety. There is a cost to building safe structures. Fire blocking, drywall, fire separations, electrical breakers, smoke detectors, CO detectors, and sprinklers are all part of a progressive design to provide the best opportunity for occupant survival, property preservation, and for firefighter safety and success. The Fire Chief strongly supports the use of fire sprinklers and recommends there be no changes to our current ordinance.



AGENDA NO: D-2

MEETING DATE: March 13, 2012

# Staff Report

**TO:** Honorable Mayor and City Council **DATE:** March 6, 2012  
**FROM:** Rob Livick, PE/PLS – Public Services Director/City Engineer  
Joe Woods, Recreation and Parks Director  
**SUBJECT:** Recommendation on Beach Access Ramp at Morro Rock

**STAFF RECOMMENDATION:**

That the City Council review and discuss the proposed improvements to the Morro Rock parking lot and provide direction to staff to pursue the project as funding is available through grants or other sources.

**FISCAL IMPACT:**

Development of a pedestrian access ramp from the parking lot level down to the beach level that meets accessibility requirements for beach access is estimated by Public Services to be approximately \$83,200. Currently, no funding has been committed to this proposed project, although the project is likely to be a good contender for competitive grant funding.

**SUMMARY:**

Development of a beach access ramp from the Rock parking lot to the beach will have to meet Federal Access Board (FAB) design requirements for beach access, in addition to being able to withstand wave and surge action during winter months. The area proposed for the ramp is within the Coastal Commission's original jurisdiction and will require a Coastal Development permit along with any required local permits.

**BACKGROUND/DISCUSSION:**

At the August 23, 2011 City Council meeting, Councilperson Smukler requested that the subject of an improved beach access facility from the Rock parking lot mid-lot area down to the beach sand be agenzed and brought back for Council's discussion. This item was discussed at the regular City Council meeting on October 31, 2011. Council unanimously agreed to send the item to the City's advisory boards for review and recommendations.

Three of the City's advisory boards have discussed the item and the following represents their recommendations:

The Recreation and Parks Commission (RPC) reviewed the proposal on November 17, 2011 and recommend to staff to *forward to City Council to proceed with the pedestrian access from the Morro Rock parking area to the beach as a ramp with no staircase and to have at least two benches and tie in with the Target Rock access. The recommendation included staff to proceed*

Prepared By: RL

Dept Review: RL/JW

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

*to submit for grants for additional funding for the project and that the design take into consideration the visual environmental impact with color and view corridor.*

At their February 2, 2012 meeting, the Harbor Advisory Board's recommendation was *that City Council continues to review the proposed Beach Access Ramp Concept Plan with a view toward less intrusive and less expensive means of beach access, and for Council to direct the Harbor Department to install two Beach Access signs directing the public to the current ramp.*

The Public Works Advisory Board reviewed and discussed the potential project at their February 16, 2012. Issues discussed included requirements for ADA parking and a path of travel leading to the ramp and recommended to *send this forward subject to getting grant money to construct it.*

Improvements recommended in the Waterfront Master Plan include a stair access from the parking lot to the beach level. Development of stairs for the able-bodied without accommodations for the disabled would be problematic and could expose the City to possible legal action under the Americans with Disabilities Act (ADA). In order to comply with ADA, a ramp would also need to be constructed along with the stairway to accommodate all potential users. Instead of building both a staircase and a ramp, the construction of only an ADA-compliant ramp would accommodate all potential users while realizing a cost savings. The ramp will need to comply with the design requirements enabling disabled access to the beach level and could be up to 90 feet long and 8 feet wide with periodic level areas for resting in accordance with FAB guidelines for beach access facilities. In addition, design of the facilities will require an engineer with specialty in coastal engineering with a foundation and configuration capable of withstanding exposure to potentially heavy wave and surge action from the mid to lower end. After reviewing the preliminary sketch for location, it was recommended that the landing be reoriented as to not expose it to the brunt of the dynamic ocean forces. Attached to this report are several examples of beach access and stairs, the example that is particularly interesting is the one that blends the ramp into the revetment, so that it softens the look from the beach.

**CONCLUSION:**

The development of a beach access ramp in the Morro Rock parking lot is consistent with the Waterfront Master Plan and would provide a safe accessible path of travel to the beach from the mid-parking lot area. Staff recommends the City Council review and discuss the proposed improvements to the Morro Rock parking lot and provide direction to staff to pursue the project as funding is available through grants or other sources.

**ATTACHMENTS:**

1. Excerpt from FAB Draft Final Accessibility Guidelines
2. Examples of Other Beach Access Facilities

## Beach Access Routes

The scoping provisions for beach access routes are contained in F248. The provisions are revised from the NPRM based on the comments and information meeting. The Access Board also visited beaches where beach access routes are provided. The provisions require a permanent or removable beach access route to be provided when the entity that manages a beach engages in any of the following activities:

- Constructs or alters any of these facilities to serve the beach: circulation paths, parking facilities, toilet facilities, or bathing facilities.
- Undertakes a beach nourishment project.

There are three exceptions to the scoping provisions:

- A beach access route is not required where pedestrian access to the beach is not permitted.
- An entity is not required to expend more than 20 percent of the cost of constructing or altering the facilities to serve the beach to provide a beach access route.
- An entity is not required to expend more than 20 percent of the cost of the beach nourishment project to provide a beach access route.

Where a beach access route is required, the entity is required to provide at least one beach access route for each ½ mile of shoreline managed by the entity. The beach access route is required to coincide with or be located in the same area as pedestrian access points to the beach. An exception limits the number of beach access routes required to not exceed the number of pedestrian access points provided by the entity to the beach.

The technical provisions for beach access routes address connections in 1018.2; surface in 1018.3; clear width in 1018.4; obstacles in 1018.5; openings in 1018.6; slopes in 1018.7; resting intervals in 1018.8; protruding objects in 1018.9; and elevated dune crossings in 1018.10. The technical provisions are the same as in the NPRM, except as follows:

- Conditional exceptions apply to each technical provision for new construction and alterations. The conditional exceptions are discussed under Conditional Exceptions.
- An exception is added for situations where it is impractical to require a beach access route. The exception is discussed under Exceptions for Trails and Beach Access Routes.
- The clear width is increased to 60 inches minimum. At beaches that provide beach access routes, they are the preferred path of travel for many beach users, and the increased width is necessary to provide adequate space for individuals with disabilities to

pass other users and not go off into the sand. Passing spaces and turning space are not required because of the increased width.

- Removable beach access routes are not required to comply with the slope and resting interval provisions.
- Where concrete, asphalt, or boards are used, obstacles cannot exceed ½ inch in height and the cross slope and resting interval slope cannot exceed 1:48. These provisions are discussed under Concrete, Asphalt, or Board Surfaces.
- The NPRM exceptions for openings are included in 302.3 of the ADA-ABA Accessibility Guidelines.
- Where resting intervals are provided adjacent to the beach access route, a turning space is required.
- A provision is added to address elevated dune crossings. The provision requires handrails and edge protection on elevated dune crossings. Exceptions permit the clear width to be reduced to 48 inches minimum and do not require resting intervals.

### **Future Rulemaking**

After the final accessibility guidelines are issued the Access Board plans to conduct additional rulemaking on outdoor developed areas for facilities constructed or altered with Federal grants or loans that are covered by the Architectural Barriers Act, and for public and private entities covered by the Americans with Disabilities Act. The Access Board also plans to address shared-use paths in these future rulemakings.

### **Regulatory Process Matters**

These guidelines have been reviewed by the Office of Management and Budget pursuant to Executive Order 12866. The Access Board prepared a regulatory assessment for the guidelines. The regulatory assessment is available on the Access Board's website at <http://www.access-board.gov/outdoor/assessment.htm>. The guidelines apply to the new construction and alteration of outdoor developed areas by Federal agencies subject to the Architectural Barriers Act. The guidelines will primarily affect the following Federal land management agencies in the Department of Agriculture: Forest Service; in the Department of the Interior: National Park Service, Fish and Wildlife Service, Bureau of Land Management, and Bureau of Reclamation; and in the Department of Defense: Army Corps of Engineers.



