

RESOLUTION NO. 2017-81

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING FOR THE DESIGNATION OF LEAD AGENCY BY AND AMONG THE CITIES OF MONTEREY, MARINA, SAND CITY AND SEASIDE FOR THE SAND COMPATIBILITY AND OPPORTUNISTIC USE PROGRAM (SCOUP) ENVIRONMENTAL REVIEW.

WHEREAS, the City of Monterey was awarded a grant by the State of California Department of Boating and Waterways to complete an environmental study for a Sand Compatibility and Opportunistic Use Program (Program); and,

WHEREAS, the Coastal Regional Sediment Management Plan for Southern Monterey Bay study has shown that beach nourishment (SCOUP) could ameliorate coastal erosion in the near term; and,

WHEREAS, this project is an opportunity to study the environmental consequences of adding sand to our beaches; and,

WHEREAS, in 2008, the Association of Monterey Bay Area Governments (AMBAG) received a grant from the Department of Boating and Waterways (DBW) to complete the CEQA documentation for the Regional Sediment Management initiative. In June, 2012, AMBAG's Legal Council determined that "the agency has no standing to carry a regional nourishment permit or take lead agency status." In 2013, the City of Monterey was offered to take on this responsibility due to the important ramifications of this grant and the beach nourishment findings. On February 16, 2017, the City received notification that it was awarded \$140,000 to complete the project; and,

WHEREAS, the City of Marina determined the project is exempt from the California Environmental Quality Act (CEQA) Guidelines (Article 19, Section 15306, Class 6) because the project proposes to study the environmental impacts of SCOUP Program. No physical changes are proposed at this time.

NOW, THEREFORE IT BE RESOLVED that the City Council of the City of Marina does hereby:

1. Authorize the City Manager to enter into a Memorandum of Understanding (**EXHIBIT A**) for the Designation of Lead Agency by and among the Cities of Monterey, Marina, Sand City and Seaside for the Sand Compatibility and Opportunistic Use Program (SCOUP) Environmental Review

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 6th day of September by the following vote:

AYES, COUNCIL MEMBERS: Amadeo, Morton, O'Connell, Brown, Delgado

NOES, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

**MEMORANDUM OF UNDERSTANDING
FOR THE DESIGNATION OF LEAD AGENCY BY AND AMONG
THE CITY OF MONTEREY,
THE CITY OF MARINA,
THE CITY OF SAND CITY, AND
THE CITY OF SEASIDE
FOR THE SAND COMPATIBILITY AND OPPORTUNISTIC USE PROGRAM (SCOUP)
ENVIRONMENTAL REVIEW**

THIS AGREEMENT FOR THE DESIGNATION OF LEAD AGENCY made and entered into as of _____, 2017, by and among the City of Monterey, the City of Marina ("Marina"), the City of Sand City, and the City of Seaside ("Seaside"), is made with reference to the following facts and circumstances:

RECITALS

WHEREAS, over the next 50 years, the coastal dunes of southern Monterey Bay between the Salinas River and Wharf II in Monterey are predicted to erode;

WHEREAS, the Southern Monterey Bay Coastal Erosion Workgroup (SMBCEW) met for many years to study the coastal erosion issue;

WHEREAS, the SMBCEW developed a Coastal Regional Sediment Management Plan that included recommended policy and sediment management strategies for the southern Monterey Bay shoreline;

WHEREAS, one recommendation included investigating beach nourishment and other beach restoration strategies to ameliorate erosion in the stretch of shoreline;

WHEREAS, in 2008, the Association of Monterey Bay Area Governments (AMBAG) received a grant from the Department of Boating and Waterways (DBW) to complete the CEQA documentation for one project outlined in the Coastal Regional Sediment Management Plan - Regional Sediment Management initiative. In June 2012, AMBAG's Legal Council determined that "the agency has no standing to carry a regional nourishment permit or take lead agency status."

WHEREAS, the City of Monterey was awarded the grant and has offered to serve as lead agency on the preparation of the CEQA environmental document for the Monterey Sand Compatibility and Opportunistic Use Program (SCOUP);

WHEREAS, the California Environmental Quality Act ("CEQA") provides that where a proposed project is to be carried out or approved by more than one public agency, an agency is to be determined to be the Lead Agency under CEQA, and such Lead Agency is to be responsible for preparing the appropriate environmental documentation; and

WHEREAS, CEQA also provides that where more than one public agency meets the criteria for being a Lead Agency, the public agencies may designate a Lead Agency by agreement;



NOW, THEREFORE, Marina, Sand City, Seaside, and Monterey (collectively the "Parties") hereby agree as follows:

AGREEMENT

1. **RECITALS.** The Recitals set forth above are incorporated herein and constitute an integral part of this Agreement.
2. **DESIGNATION OF LEAD AGENCY.** The Parties agree that City of Monterey shall be designated as the Lead Agency for the purposed of environmental review of the Beach Nourishment Project, as preliminarily described herein, because the City of Monterey is most likely to be the first agency to carryout a project. Monterey may employ one or more consultants to assist in Monterey's duties as Lead Agency. Further reference to Monterey in this Agreement shall include any of Monterey's officers, employees or consultants.
3. **PRELIMINARY DESCRIPTION OF SAND COMPATIBILITY AND OPPORTUNISTIC USE PROGRAM (SCOUP) ENVIRONMENTAL REVIEW:**
 - a. Preparation of a CEQA environmental document for the Monterey Sand Compatibility and Opportunistic Use Program (SCOUP);
 - b. The program proposes receiver sites based on critical erosion areas. A tentative list of the receiver sites includes Del Monte Beach (several locations possible); North Monterey (several locations possible between Ocean Harbor House and Monterey Bay Beach Hotel; Sand City/Seaside (vicinity of Tioga Avenue and MRWPCA pump station; Marina (near Reservation Road and Sanctuary Beach Hotel)
4. **ANTICIPATED SCOPING OF ISSUES.** The Parties shall cooperate with each other and especially with Monterey as Lead Agency, to participate in scoping activities and other activities and review necessary to the preparation of appropriate environmental review as determined by Monterey.
5. **COOPERATION BY PARTIES/BEST EFFORTS.** Each Party shall use its best efforts to cooperate with each other, and to work with third parties, to eliminate obstacles to the timely environmental review and consideration of the Program.
6. **NO PROMISE OR REPRESENTATION OF APPROVAL.** The Parties hereby agree to negotiate in good faith and to use their respective best efforts to achieve the mutual goals of the Parties in the promotion of Monterey Sand Compatibility and Opportunistic Use Program and full, unconstrained compliance with the California Environmental Quality Act. It is expressly agreed and understood, however, that by entering into this Agreement no Party is making any promise, representation or commitment to give special treatment to, or exercise its discretion to a particular end with respect to, the investigation of potential significant environmental impacts, the consideration of potentially feasible alternatives and mitigation measures, if warranted by the environmental review, and the final consideration and possible approval, modification, or even denial of the Monterey Sand Compatibility and Opportunistic Use Program.
7. **INTERPRETATION OF THIS NEGOTIATED AGREEMENT.** This Agreement has been arrived at through good faith negotiation between the Parties; each Party waives the provisions of Civil Code Section 1654 concerning the interpretation of this Agreement.
8. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement. Each



party hereto shall act in good faith to expeditiously carry out each party's respective obligations under this Agreement.

9. AMENDMENTS OR MODIFICATIONS. No amendment to, or modification of, this Agreement shall be valid or enforceable unless set forth in writing and signed by each of the Parties hereto.

10. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which is deemed to be an original hereof, and all of which shall together constitute one and the same instrument.

11. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the Parties and supersedes all prior agreements, negotiations or representations with respect to the Property which are not expressly set forth herein.

12. DISPUTE RESOLUTION. In the event a dispute arises relating to performance under this Agreement, the Parties shall meet and confer, but it is expressly acknowledged that Monterey, as Lead Agency, shall have the authority to resolve any disputes relating to the preparation of environmental documentation. If a Party fails to cooperate with Monterey in its Lead Agency role, then any additional costs engendered by such failure to cooperate, including costs relating to delays in performance, shall be chargeable to the non-cooperating Party.

13. GOVERNING LAW & VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

14. ENTIRE AGREEMENT. This document represents the entire Agreement between the Parties, and supersedes any prior written or oral negotiations and representations between the Parties.

15. SEVERABILITY CLAUSE. If any provision, or any portion thereof, contained in the Agreement is held unconstitutional, invalid, unenforceable, or contrary to public policy, the remainder of this Agreement or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

17. EFFECTIVE DATE. This Agreement shall take effect on _____ 2017.

IN WITNESS WHEREOF, each Party hereto has executed this Agreement on the date set forth beneath their respective signatures. Each person signing represents that he or she holds full authority to enter this Agreement, and by signing intends to bind their principal to the terms hereof.

City of Marina

City of Sand City

City of Monterey

City of Seaside

August 28, 2017

Item No: **8g(1)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of September 6, 2017

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION 2017-
AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM
OF UNDERSTANDING FOR THE DESIGNATION OF LEAD AGENCY BY
AND AMONG THE CITIES OF MONTEREY, MARINA, SAND CITY AND
SEASIDE FOR THE SAND COMPATIBILITY AND OPPORTUNISTIC USE
PROGRAM (SCOUP) ENVIRONMENTAL REVIEW. (EXEMPT FROM CEQA
ARTICLE 19, SECTION 15306, CLASS 6)**

REQUEST:

It is requested that City Council consider

1. Adopting Resolution 2017- authorizing the City Manager to enter into a Memorandum of Understanding for the Designation of Lead Agency by and among the Cities of Monterey, Marina, Sand City and Seaside for the Sand Compatibility and Opportunistic Use Program (SCOUP) Environmental Review.

BACKGROUND:

Over the next 50 years, the coastal dunes of southern Monterey Bay between the Salinas River and Wharf II in Monterey are predicted to erode at rates between 1.0 and 6.0 ft/year. Over this planning time frame, eight oceanfront facilities are at high risk due to this erosion, and will require mitigation measures to be implemented to prevent their loss. Six of these facilities; Sand City and Tioga Avenue west of Highway 1, Seaside Pump Station, Monterey Interceptor between Seaside Pump Station and Wharf II, Monterey Beach Resort, Ocean Harbor House condominiums, and Monterey La Playa town homes, are located along the shoreline of the Cities of Sand City, Seaside, and Monterey (the southern bight).

Recognizing that the issue of coastal erosion could not be addressed on a city-by-city basis, a regional consortium was formed of local, state, and federal agencies to determine what can be done to address this issue. This, in conjunction with a planning effort led by the Monterey Bay National Marine Sanctuary, led to the formation of the Southern Monterey Bay Coastal Erosion Workgroup (SMBCEW). The SMBCEW went onto develop a Coastal Regional Sediment Management Plan (RSM) that included recommended policy and sediment management strategies for the southern Monterey Bay shoreline.

One recommendation included investigating beach nourishment and other beach restoration strategies to ameliorate erosion. Beach nourishment is feasible in the southern bight for a number of reasons: low wave energy, low sand transport, and the location within a defined sub-cell (the southern bight is nearly self-contained in terms of sand transport) means that any placed sand would remain for a longer period of time. Beach nourishment may also reduce the need for 'hard' shore protection, and provide ecological benefits associated with wider beaches.

In 2008, the Association of Monterey Bay Area Governments (AMBAG) received a grant from the Department of Boating and Waterways (DBW) to complete the CEQA documentation for the Regional Sediment Management initiative. In June, 2012, AMBAG's Legal Counsel determined that "the agency has no standing to carry a regional nourishment permit or take lead agency status." In 2013, the City of Monterey was offered to take on this responsibility due to the important ramifications of this grant and the beach nourishment findings. The City accepted this responsibility. On February 16, 2017, the City received notification that it was awarded \$140,000 to complete the project.

The proposed project will prepare the environmental document to assess the potential impact and possible mitigation actions for proposed sediment receiver sites, sediment source areas, sediment stockpile areas and the general recommendations identified in the Coastal RSM Plan. The goal of the document will be to minimize the assessment/permitting effort needed at individual projects contained within the Coastal RSM Plan by providing the information that will be needed during the permitting process as well as provide consistency within the region and the State.

FISCAL IMPACT:

The City of Monterey has received a \$140,000 grant to complete the environmental documentation for the SCoup project. The grant requires matching time or funds. As required, the City of Monterey staff will designate approximately 240 hours to complete this project, and \$1,000 from the Planning Office Professional Services Account will supplement the grant to hire the consultant that will prepare the technical reports and documentation. No matching funds are requested from the Cities of Marina, Sand City and Seaside.

ENVIRONMENTAL DETERMINATION:

The City of Marina determined the project is exempt from the California Environmental Quality Act (CEQA) Guidelines (Article 19, Section 15306, Class 6) because the project proposes to study the environmental impacts of SCoup Program. No physical changes are proposed at this time.

CONCLUSION:

Staff recommends that the City Council adopt Resolution 2017- authorizing the City Manager to enter into a Memorandum of Understanding for the Designation of Lead Agency by and among the Cities of Monterey, Marina, Sand City and Seaside.

Respectfully submitted,

Christy Hopper
Planning Services Manager
City of Marina

Fred Aegerter, AICP
Community Development Director
City of Marina

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina