



Supplement to 11/14/2022 MPWMD Board Packet

Attached are copies of letters sent and/or received between **October 12, 2022 and November 8, 2022**. These letters are listed in the **November 14, 2022** Board packet under Letters Received / Set.

Author	Addressee	Date	Topic
Melodie Chrislock	Board of Directors and General Manager	October 14, 2022	Letters to the Editor Opposing Cal Am's Desal – September 28 to October 7, 2022
Hans Uslar	General Manager	October 17, 2022	Copy of Executed Compensation Agreement and Notice of Intent to Dissolve of Successor Agency to the Redevelopment Agency of the City of Monterey
Winstron P. Stromberg	Board of Directors and General Manager	October 17, 2022	MPWMD Board of Director's October 17, 2022 Special and Regular Meeting, Item No. 8: Resolution No. 2022-31
Michael Baer	Board of Directors	October 17, 2022	E-mail Communication from Baer to Luster, re: California American Water Coastal Development Permit
Charles McKee	Board of Directors	October 17, 2022	COVID-19 State of Emergency to End on February 28, 2023
Michael Baer	Board of Directors	October 18, 2022	Cost Estimates to CalAm's Desalination Plant
Michael T. Briley	General Manager	October 21, 2022	CliftonLarsonAllen, LLP Acquisition of Hayashi Wayland
Mike Scheafer	Board of Directors	October 14, 2022	No Paid Property / Liability Claims in 2021-22
Wandzia Rose	Board of Directors	October 25, 2022	No Desal Needed!
Rick Heuer	David J. Stoldt	October 27, 2022	Nomination of John Tilley as MPTA Representative on the Ordinance No. 152 Oversight Panel

David J. Stoldt	Mr. John Ainsworth	November 1, 2022	Cal-Am's CDP Application #9-20-0603
California Coastal Commission	Board of Directors and General Manager	November 4, 2022	Public Hearing Notice from the CA Coastal Commission on Thursday, November 17, 2022

From: mwchrislock@redshift.com
To: [Alvin Edwards](#); [Amy Anderson](#); [Clyde Roberson](#); [George Riley](#); [Karen Paul](#); [District 5](#); [SAFWAT MALEK](#); [Dave Stoldt](#); [Joel Pablo](#)
Subject: Letters to the Editor Opposing Cal Am's Desal - September 28 to October 7, 2022
Date: Friday, October 14, 2022 10:09:59 AM

Letters to the Editor Opposing Cal Am's Desal

Carmel Pine Cone | October 7, 2022

Disputed Water Numbers

Dear Editor:

Regarding your September 30 article, I hope Pebble Beach Company will meet with the Monterey Peninsula Water Management District (MPWMD) to clear up its misunderstanding of MPWMD's water supply and demand numbers provided to the CPUC recently. The AMBAG growth forecast includes ALL growth for the area, including Pebble Beach. It turns out that Cal Am miscalculated the demand by double and triple counting data. It's interesting that Cal Am came up with a water demand that is just enough to justify its desal plant.

As to the charge that the district "has an inherent conflict of interest... avowedly pursuing a public buyout of Cal Am", please remember the district is mandated by law to do so. Voters passed Measure J in 2018 by an overwhelming majority, legally mandating the district to pursue a buyout of Cal Am if feasible. The feasibility study done in 2019 concluded it is feasible.

According to MPWMD, the expansion of Pure Water Monterey will provide more than enough water for 30 years of growth without desal. Drought has minimal impact on recycled water, increased population means more wastewater. And not all the water from the expansion of Pure Water Monterey will be used immediately, so much of it can be stored for drought.

The false narrative that we need this desal project to survive is just that. If the Coastal Commission approves this boondoggle of a desal

plant on November 17, Cal Am customers can probably expect rates to double. Pebble Beach Company customers may be able to pay hundreds or possibly thousands of dollars a month for water, but the average ratepayer cannot.

Susan Schiavone, Seaside

Monterey Herald | October 12, 2022

Restore plant to nature

The original intent of California's Coastal Act was the protection of the coastline from creeping privatization and restoration of parts to the natural habitat where feasible.

In 2017 a success story happened here with the agreement to close the Cemex sand mining plant. The site is to be ecologically restored and publicly accessible.

The sand plant was in existence and resource-dependent when the Coastal Act was written so its use was grandfathered in. It was not designated as Public Facilities. Private corporations should not be allowed to install apparatus there that benefits one set of customers; such exclusivity does not equate to serving the public good.

The Cal Am test well easement location is but a remnant of an earlier, more regional (but failed) project that had been intended to serve Marina and North County's service areas along with that of the Monterey Peninsula but those project parameters no longer exist.

Saltwater intrusion extends inward miles beyond the immediate coastline and water extraction wells are not a coastal dependent use; it would not be a worthy trade to lose the restoration and access promise of the former sand plant to an outside investors project with a shelf life of 30 years.

— *Tina Walsh, Marina*

Desalination phasing

This is in response to one of the two water issues letters in the Oct. 5

Herald [and today's lead article]. That letter is a good synopsis of Cal Am's most current argument supporting a desal project built, owned and operated by the utility. The synopsis is good, but the argument is bad. The argument supports a project that does not exist.

The project to which the letter refers is for a 4.8 million-gallons-per-day (5,380 acre-feet-per-year) desal plant, but Cal Am's current, modified application before the CPUC (Alternative 5a of the original 2012 application) is for a 6.4 (7,174 acre-feet per year) one. Cal Am plans to present the 4.8 project to the Coastal Commission on Nov. 17 in Salinas but has not yet submitted it as a newly modified application to the CPUC.

The application now before the CPUC cites the 6.4 project as the best of several alternatives, which exclude the 4.8 one.

Before presenting the 4.8 project to the Coastal Commission, Cal Am needs to obtain certification of the project by the CPUC.

— *Ron Weitzman, President, Monterey Peninsula Water Ratepayers Association*

Monterey Herald | October 11, 2022

Cal Am's water grabs

A pattern emerges of Cal Am's illicit ways to obtain water. As a previous letter to the editor states, "Cal Am has illegally pumped water from the Carmel River that has killed off trees, enabled massive erosions, and decimated fish populations." And now they propose to illegally pump from a neighboring public jurisdiction (Marina Coast Water District), also ruining sensitive habitats where threatened and endangered species live, and preventing a beach access that was made possible in the Cemex settlement agreement after Cemex closes in one year. When is enough enough? Cal Am's tactics must be called out for what they are and we must end this kind of predatory water grabs that are against the law!

— *Liesbeth Visscher, Chair, Citizens for Just Water*

Monterey Herald Letter | October 10, 2022

Desal plans

Recent Herald letters highlight Cal Am's desal plans and its detrimental effects on our communities, including environmental injustice to disadvantaged communities such as Marina. Noteworthy but overlooked is the hero among us, Marina Coast Water District, a publicly-owned utility that consistently maintains reasonable water rates.

Cal Am obstinately invaded MCWD's water service jurisdiction to contaminate its sole potable water supply, the Salinas Valley Groundwater Basin aquifers.

Cal Am's slant well technology, by design, induces seawater intrusion, which is a major issue that placed the SVGB on the state's critically over-drafted groundwater basin list. Cal Am's desal facility would further endanger the SVGB with seawater to the point that the groundwater would be so seawater intruded that the only solution would be Cal Am's desal plant. If the SVGB is completely seawater intruded and only Cal Am's desal facility could provide sufficient water for drinking and crop irrigation, then the desal plant, by necessity, would solve the "water problem."

— *Margaret-Anne Coppernoll, Marina*

Monterey Herald— October 5, 2022

Can we print water?

Unlike money, we cannot print water. So, we need to be sensible in estimating our water needs. When we estimate the amount of water the Peninsula needs 30 years into the future, we would count the current need plus population growth. That is why, the Monterey Peninsula Water Management District says that the Pure Water extension will provide sufficient water for the growing population and the housing that comes with it, 30 years into the future.

Then, Cal Am, my current water provider, says that Pure Water extension is not enough, and is again applying to build a desalination plant. The crux of the matter is in its double counting of what is needed.

Empty houses don't drink water. People who occupy the houses do. It turns out Cal Am counts both the people and the empty houses.

Maybe 30 years from now we would need a desalination plant, but not now. As a rate payer, I am strongly against wasting money for something we do not need and can ill afford.

— *Sylvia Shih, Seaside*

Monterey Herald – Letter to the Editor | October 1, 2022

Cal Am's desal project will cause harm to Marina

Marina agrees that Cal Am is a “bad neighbor” by crossing its jurisdictional boundaries and proposing a slant well desalination project in a neighboring PUBLIC water jurisdiction of a disadvantaged community of color. MCWD and the City of Marina never invited nor gave permission for Cal Am to pump 6.4 million gallons a day from our area. Cal Am has zero water rights to pump massive amounts of our groundwater and Marina receives zero treated water. Cal Am will endanger our only source of potable water and exacerbate our basin's struggles as one of CA's 21 critically overdrafted basins!

The land on which Cal Am proposes building six large cement pads of 5-6,000 square feet each with fencing, actually will sit on Marina's shores close to water's edge. This is the same beach access that will be bought by a public agency after the final closure of the Cemex sandmining plant in two more years per the Cemex settlement agreement. And these pipes will permanently impact our sensitive habitats per the Coastal Commission. If Cal Am were asked to solve its own water issues within its own jurisdiction, would Carmel allow such cement pads on their shoreline? This is environmental injustice of the worst kind!

— *Kathy Biala, Co-founder of Citizens for Just Water*

MC Weekly Letters | September 29, 2022

Housing, Water, Math

We don't need Cal Am's desal plant ("The debate over Cal Am's desalination plant returns to center stage," Sept. 15-21). AMBAG's growth forecast proves that the Pure Water Monterey expansion is enough water to meet the current RHNA housing demand. We'll need about 800 acre-feet more water by the year 2045 for housing and development. But Cal Am wants us to pay for 6,250 acre-feet of extraordinarily expensive desalinated water.

Tell the Coastal Commission "No Cal Am desal" on Nov. 17. We don't need it. We can't afford it.

*Melodie Chrislock | Carmel
Chrislock is managing director of Public Water Now.*

Thanks for your report on Cal Am's desal project. The Coastal Commission staff twice recommended denial based on environmental damage, extremely high cost, and Marina bears the project with no benefit.

Expansion of Pure Water Monterey supplies adequate water, including for growth, for 20-30 years, as verified by the Monterey Peninsula Water Management District's analysis, available at mpwmd.org <<http://mpwmd.org>> .

Susan Schiavone | Seaside

Monterey Herald – Letters to the Editor | September 28, 2022

Planning for water needs

A recent letter overlooked the fact that the Coastal Commission staff has twice recommended denial of Cal Am's desal project. Their denial

was not because it wasn't publicly owned. It was because there is a superior alternative in the expansion of Pure Water Monterey. Yes, the clock has been ticking for over two years now, as Cal Am used its political power to block the expansion. Finally it should be approved next week and a new water supply will be on the way.

This desal water is extraordinarily expensive and would probably double the average water bill and it has major environmental issues and environmental justice problems that cannot be overcome, which the Coastal Commission cannot ignore.

Cal Am's proposed desal is not a regional solution. The Peninsula doesn't need a smaller desal plant, this county needs a much larger desal plant that can serve the city of Salinas and others who need water.

Is the business coalition seriously proposing that we fill the Seaside basin with \$6,000 an acre-foot desal water? Do they understand how quickly the Seaside Basin will fill from the PWM Expansion?

And if the business coalition really wants to support CSIP they should be asking why the Monterey County Water Resources Agency refuses to buy the extra 4,000 acre-feet of water that is available to CSIP from the Pure Water Monterey program.

It's not hard to get a good water project permitted. Unfortunately the business coalition has blindly supported Cal Am's desal project despite the facts.

— *Renee Franken, Monterey*

RECEIVED

OCT 17 2022

MPWMD



October 14, 2022

Via U.S. Mail

Mr. David Stoldt
General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940

Re: Copy of Executed Compensation Agreement and Notice of Intent to Dissolve of Successor Agency to the Redevelopment Agency of the City of Monterey

Dear Mr. Stoldt:

On April 13, 2022, the California Department of Finance (the "Department") sent a letter to the Successor Agency to the Redevelopment Agency of the City of Monterey (the "Successor Agency") inquiring about the dissolution status of the Successor Agency and requesting that the Successor Agency take steps to dissolve pursuant to Health and Safety Code Section 34187.

Under Health and Safety Code Section 34187(b), "when all of the enforceable obligations have been retired or paid off, all real property has been disposed of pursuant to section 34181 or 34191.4, and all outstanding litigation has been resolved, the successor agency shall, within 30 days of meeting the aforementioned criteria, submit to the oversight board a request, with a copy of the request to the county auditor-controller, to formally dissolve the successor agency. The oversight board shall approve the request within 30 days and shall submit the request to the department."

By this letter, the Successor Agency and the City of Monterey (the "City") are providing the affected taxing entities: (1) notice of the Successor Agency's intent to transfer the Hotel Pacific, located at 300 Pacific Street, City of Monterey, County of Monterey, California (the "Property") to the City, in accordance with the State Department of Finance (the "Department") approved Long Range Property Management Plan ("LRPMP"); (2) a copy of the Compensation Agreement; and (3) notice of the Successor Agency's intent to dissolve pursuant to Health and Safety Code Section 34178(b).

Notice of Intent to Transfer Property and copy of Compensation Agreement. The Property was acquired using federal funds in the name of the "Urban Renewal Agency of the City of

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Monterey" which was later renamed the "Redevelopment Agency of the City of Monterey" (the "Former Agency"). Though title to the Property remained in the name of the Urban Renewal Agency, the Former Agency owned the Property until it was dissolved pursuant to the California Dissolution Statutes in February of 2012, at which point the Successor Agency was granted fee title to the Property, by operation of law. In accordance with the requirements of Health and Safety Code section 34191.5(b), the Successor Agency prepared and submitted the LRPMP, the sole purpose of which was to address the transfer of the Property.

By determination letter issued on December 22, 2015, the Department approved the LRPMP which required: (1) the assignment of the Former Agency's interest in the Lease to the City; and (2) transfer of the fee title to the Property to the City subject to the preparation and execution of a compensation agreement among the City and the Taxing Entities pursuant to Health and Safety Code section 34180(f).

In fulfillment of the Paragraph 1.C of the Lease and the LRPMP, the Successor Agency and the City executed that certain Assignment and Assumption of Ground Lease Agreement, dated as of February 12, 2016, under which the Successor Agency assigned on behalf of itself and the Former Agency, all of the Former Agency's right, title, and interest in and obligations under the Lease to the City.

As required under the LRPMP, the Successor Agency and City proceeded to negotiate the terms of the Compensation Agreement with the affected taxing entities. Under the Compensation Agreement, all lease and sales proceeds revenues generated from Property are considered restricted CDBG program income and must continue to be transferred to the City's CDBG program and spent in accordance with the CDBG program requirements. In November 2016, the City and Successor Agency provided the affected taxing entities with a proposed Compensation Agreement associated with the transfer of the Property. While a majority of taxing entities executed the contract, the Successor Agency did not receive signatures from the Monterey Peninsula Unified School District ("MPUSD") and the Monterey Peninsula College ("MPC" and collectively with MPUSD, the "Educational Districts"). Attached to this Letter is the final Compensation Agreement governing the transfer of the Property and to which the signatures of the taxing entities were appended, with the exception of the Educational Districts. Please note that the final Compensation Agreement incorporated revisions to Section 3(b) requested by the Monterey County Office of Education and other technical corrections.

The Successor Agency intends to transfer the Property to the City on November 1, 2022. By its terms, the Compensation Agreement terminates at such time as the Successor Agency transfers the Property to the City in fee.

Notice of Dissolution of Successor Agency pursuant to Health and Safety Code §34178(b). Under Health and Safety Code Section 34187(b), when *all of the enforceable obligations have been retired* or paid off, *all real property has been disposed of pursuant to section 34181 or*

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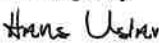
34191.4, and all outstanding litigation has been resolved, the successor agency shall submit to the oversight board a request to dissolve.

Once the Successor Agency transfers the Property to the City and the Compensation Agreement terminates by its own terms all of the enforceable obligations of the Successor Agency will have been retired or paid off, and all real property of the Successor Agency will have been disposed of. There is no outstanding litigation pending. Pursuant to Health and Safety Code section 34187(b), within thirty (30) days of the Property transfer, the Successor Agency governing board will approve a resolution of dissolution and the Successor Agency will submit to the Consolidated Oversight Board for the County of Monterey a request to approve the dissolution of the Successor Agency, in satisfaction of Health and Safety Code section 34178(b).

The dissolution of the Successor Agency is for the benefit of all the taxing entities and will result in no further property taxes being allocated to the Redevelopment Property Tax Trust Fund. Upon dissolution, all property taxes will be distributed by the County-Auditor Controller to each of the taxing entities as normal property taxes in accordance with each taxing entities AB8 factor. All contractual and statutory pass-through payments will cease and result in the expeditious wind-down of the Successor Agency.

This letter and the information is being provided as a courtesy and no further action for any of the affected taxing entities is required. If you have any questions about the proposed dissolution plan or any of the documents that were provided, please contact Kim Cole, City of Monterey Community Development Director at (831) 646-3759 or via email at cole@monterey.org.

Sincerely,

DocuSigned by:

6892AD3E4790433...

Hans Uslar, City Manager
City of Monterey

- cc: Garry Bousum, Chair, Consolidated Oversight Board for the County of Monterey
Jennifer Forsyth, Auditor-Controller Analyst, County of Monterey
- e: Christine Davi, City Attorney, City of Monterey
Rafaela King, Finance Director, City of Monterey
Kim Cole, Community Development Director, City of Monterey
Janna Aldrete, Leasing and Property Manager, City of Monterey

ATTACHMENT 1

COMPENSATION AGREEMENT
(Pacific Hotel)

This Agreement, dated for reference purposes as of Nov. 17, 2017 is entered into by and among the Monterey Successor Agency (the "Successor Agency"), successor in interest to the dissolved Redevelopment Agency of the City of Monterey (the "Former Agency"), the City of Monterey, the Monterey County, the Monterey County Water Resources Agency (MCWRA Zone 11), the Monterey Peninsula Water District, the Monterey Regional Park District, the Monterey County Office of Education, the Monterey Peninsula Unified School District, and Monterey Peninsula College, on the basis of the following facts, understandings, and intentions of the Parties:

RECITALS

- A. These Recitals refer to and utilize certain capitalized terms which are defined in Section 1 of this Agreement. The Parties intend to refer to those definitions in connection with the use thereof in this Agreement.
- B. Pursuant to the Redevelopment Dissolution Statutes, the Former Agency was dissolved as of February 1, 2012, and the Successor Agency became responsible for paying the enforceable obligations, disposing of the properties and other assets, and unwinding the affairs of the Former Agency.
- C. Accordingly, ownership of the Former Agency's properties that had been acquired to implement the Redevelopment Plan transferred to the Successor Agency for disposition in accordance with the Redevelopment Dissolution Statutes.
- D. The City of Monterey received an Urban Renewal Grant, from the United States Department of Housing and Urban Development ("HUD"), under Loan and Grant Contract No. Calif. R-34 (LG), which the City used the HUD grant funds to acquire property commonly referred to as the Hotel Pacific Property located at 300 Pacific Street, City of Monterey, County of Monterey, California, as further described in the attached Exhibit A, incorporated herein by this reference (the "Property").
- E. The Property was acquired in the name of the "Urban Renewal Agency of the City of Monterey" which was later renamed "Redevelopment Agency of the City of Monterey." Though title to the Property remained in the name of the Urban Renewal Agency, the Former Agency owned the Property until it was dissolved pursuant to the California Dissolution Statutes.
- F. The Property is subject to a long-term lease which facilitated the construction of a hotel on the Property (the "Lease"), a copy of the Lease is attached hereto as Exhibit B and incorporated herein by this reference.
- G. Paragraph 1.C of the Lease provides, that the Former Agency "may assign all right, title and interest in this lease to the CITY OF MONTEREY. In said event, or in the event the [Former] Agency is terminated by action of law, the City shall automatically succeed to all

right, title and obligation under the lease, and this lease shall be deemed amended by substituting the word "City" wherever the word Agency appears. [emphasis added]"

H. Upon completion of the project, HUD approved that certain project, Urban Renewal Agency-City of Monterey Closeout Agreement (the "Closeout Agreement"), by and between HUD, the Urban Renewal Agency and the City which specifically requires that all lease revenues generated at the Property and all proceeds from the disposition of the Property be used by the City as program income under 24 C.F.R. §570.801, and used solely to further the CDBG national objectives under the provisions of 24 C.F.R. §570.506. The Closeout Agreement is a valid and binding obligation that continues to restrict the use of revenues and property disposition proceeds generated at the Property.

I. The Successor Agency received a "Finding of Completion" from the DOF on September 10, 2013, confirming that the Successor Agency had made specified required payments under the Redevelopment Dissolution Statutes, and entitling the Successor Agency to prepare and submit a Long-Range Property Management Plan (the "LRPMP", as further defined in Section 1) to the Oversight Board and the DOF for approval.

J. The Successor Agency initially prepared and obtained Oversight Board approval of its LRPMP on February 26, 2014, calling for the Former Agency's Property to be transferred by the Successor Agency to the City for governmental use and to fulfill an enforceable obligation. Under the initial LRPMP, the Successor Agency proposed to transfer the Property to the City for public use and to fulfill the terms of the Lease, an enforceable obligation as defined in Health and Safety Code 34171(d). The intent being that the City would continue to own the Property and continue to use the lease revenue to further the national objectives consistent with the CDBG regulations.

K. The DOF directed that, in order to obtain DOF approval, the initial LRPMP needed to be amended to provide for: (1) an assignment of the Former Agency's interest in the Lease to the City; and (2) transfer of the fee title to the Property to the City subject to the preparation and execution of a compensation agreement among the City and the Taxing Entities pursuant to Health and Safety Code Section 34180(f).

L. To comply with this DOF directive, the Successor Agency revised the LRPMP through an amendment approved by the Oversight Board and submitted to the DOF on October 28, 2015. The DOF approved the Revised LRPMP by determination letter issued on December 22, 2015. Under the revised LRPMP, transfer of the Property to the City is intended to allow the City to fulfill the duties and obligations of the Former Agency under the Lease and the Closeout Agreement.

M. In fulfillment of the Paragraph 1.C of the Lease and the LRPMP, the Successor Agency and the City executed that certain Assignment and Assumption of Ground Lease Agreement, dated as of February 16, 2016, under which the Successor Agency assigned on behalf of itself and the Former Agency, all of the Former Agency's right, title, and interest in and obligations under the Lease to the City.

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N. As designated in the LRPMP, the Successor Agency now desires to transfer the fee interest in the Property to the City for retention by the City for future development for a project in approved redevelopment plan as allowed under Health and Safety Code Section 34191.5(c)(2).

O. The Parties desire to enter into this Agreement to comply with the DOF directives and the terms of the Revised LRPMP. The Parties acknowledge that the restrictions of the Closeout Agreement and the Lease, result in none of the lease revenue funds or the property disposition funds being distributed to any other entity or used for anything other than as program income of the City under the provisions of 24 CFR 570.506.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Definitions. The following definitions shall apply in this Agreement:

- (a) "Agreement" means this Compensation Agreement, as this Agreement may be amended from time to time.
- (b) "Applicable Shares" has the meaning given in Section 6(a).
- (c) "Auditor-Controller" means the Monterey County Auditor-Controller.
- (d) "City" means the City of Monterey, a California charter city.
- (e) "County" means the County of Monterey, a political subdivision of the State of California.
- (f) "Restricted Proceeds" means, with respect to the Property, any and all of the lease and other revenue funds or the property disposition funds generated at the Property, all of which are deemed to be restricted as program income under 24 CFR 570.801 for use by the City to meet the CDBG national objectives under 24 CFR 570.506.
- (g) "DOF" means the California Department of Finance.
- (h) "Effective Date" has the meaning given in Section 2.
- (i) "ERAF" means the Educational Revenue Augmentation Fund maintained by the Auditor-Controller.
- (j) "Former Agency" means the dissolved Redevelopment Agency of the City of Monterey.
- (k) "LRPMP" means the Revised Long-Range Property Management Plan of the Successor Agency as it exists from time to time. As of the date of this Agreement, the LRPMP consists of the revised Long-Range Property Management Plan dated December 7, 2015, as approved by the Oversight Board on December 7, 2015. The DOF approved the LRPMP in the determination letter dated December 22, 2015.

ATTACHMENT I

- (l) "Oversight Board" means the Successor Agency's oversight board established and acting in accordance with the Redevelopment Dissolution Statutes.
- (m) "Parties" means all of the parties to this Agreement as set forth in the opening paragraph of this Agreement. "Party" means one of the Parties individually.
- (n) "Property" has the meaning set forth in Recital D.
- (o) "Redevelopment Dissolution Statutes" means collectively ABx1 26 enacted in June 2011, AB 1484 enacted in June 2012, and SB 107, enacted September 2015, and any future amendments that may apply.
- (p) "Redevelopment Plan" means the Redevelopment Plan for the Custom House Redevelopment Project Area, adopted by Ordinance No. 1255 C.S. on July 5, 1961 and amended by the following ordinances:

Ordinance No. 1449 C.S. on July 6, 1965
 Ordinance No. 1571 C.S. on July 5, 1967
 Ordinance No. 1737 C.S. on July 7, 1970
 Ordinance No. 1867 C.S. on November 21, 1972

- (q) "Successor Agency" means the Successor Agency of the dissolved Redevelopment Agency of the City of Monterey.

(r) "Taxing Entities" means, collectively, the following entities that comprise affected taxing entities for purposes of the Redevelopment Dissolution Statutes: the City of Monterey, the Monterey County, the Monterey County Water Resources Agency (MCWRA Zone 11), the Monterey Peninsula Water District, the Monterey Regional Park District, the Monterey County Office of Education, the Monterey Peninsula Unified School District, and Monterey Peninsula College. "Taxing Entities" shall also mean and include ERAF if and to the extent the Auditor-Controller determines that ERAF is entitled to a distribution of compensation pursuant to Section 6 and the provisions of Health and Safety Code Section 34188. Notwithstanding anything to the contrary herein, ERAF is only considered a Taxing Entity for purposes of distributing funds and for no other purpose, and no additional approval or signature will be required on behalf of ERAF.

Section 2. Effectiveness of Agreement.

- (a) This Agreement shall become effective only upon satisfaction of the following conditions:
- (1) Approval of this Agreement by the Taxing Entities' governing boards and direction for the Taxing Entities to execute this Agreement; and
 - (2) Approval of this Agreement by the Successor Agency's governing board and direction for the Successor Agency to execute and implement this Agreement pursuant to Health and Safety Code Section 34180(f)

ATTACHMENT 1

(b) Promptly following the effectiveness of this Agreement, the City and the Successor Agency shall transmit notice to all the other Parties that the Agreement is effective and specifying the date the Agreement became effective (the "Effective Date").

Section 3. Signatories With Respect To Certain Funds.

(a) Flood Control District Funds. The Monterey County Water Resources Agency (the "Water Resource Agency") administers the following special funds, and, in addition to entering into this Agreement for the Water Resource Agency itself, is authorized to, and has entered into and executed this Agreement on behalf of the following:

- (1) Monterey County Water Resource Agency; and
- (2) Monterey County Water Resource Agency Zone 11.

(b) Office of Education Funds. The Monterey County Office of Education (the "County Office of Education") administers funds for the following special funds, and, in addition to entering into this Agreement for the County Office of Education itself, is authorized to, and has entered into this Agreement on behalf of the following:

- (1) County School Service Fund;
- (2) Charter School Fund;
- (3) SELPA Pass-Through Fund;
- (4) Child Development Fund;
- (5) Deferred Maintenance Fund;
- (6) Forest Reserve Fund;
- (7) Special Reserve- Other; and
- (8) Special Reserve- Capital Outlay.

(c) ERAF. ERAF may be entitled to a distribution pursuant to Section 6 of a portion of the Applicable Share. Pursuant to instruction and direction from the DOF and the Auditor-Controller, there is no need for a separate signatory to execute this Agreement on behalf of ERAF because the ultimate beneficiaries of any distribution of Applicable Shares to ERAF are themselves Taxing Entities that are signatories to this Agreement.

Section 4. Conveyance of Property to City. Promptly following the execution of this Agreement, the Successor Agency shall convey, and the City shall accept, all of the Former Agency's fee interest in and to the Property. The Successor Agency shall convey the Property by quitclaim deed in form reasonably acceptable to the Successor Agency and the City. In accordance with Health and Safety Code Sections 34179(h)(1)(D) and (E), and Section

ATTACHMENT 1

34191.5(f), no further approval of the Oversight Board or the DOF will be necessary to effectuate the transfers contemplated herein.

Section 5. Retention of Property by City.

(a) Upon the transfer of the Property to the City, pursuant to Section 4 above, the City shall retain the Property to fulfill the terms of the Lease and the Closeout Agreement.

(b) Notwithstanding anything to the contrary, as designated in the LRPMP, the City shall also retain the Property for future development for a project in approved redevelopment plan as allowed under Health and Safety Code Section 34191.5(c)(2).

Section 6. Compensation To Taxing Entities Related To Property Transfers.

(a) Distribution of Restricted Proceeds. The City shall retain any and all Restricted Proceeds generated by the Property, for use by the City as program income under the provisions of 24 C.F.R. §570.801 to further the CDBG national objectives 24 C.F.R. §570.506. Because all funds generated at the Property are deemed Restricted Proceeds, the City will not be required to distribute any funds to the Auditor-Controller for future distribution among the Taxing Entities in proportion to their shares of the base property tax (the "Applicable Shares"), as determined by the Auditor-Controller pursuant to Health and Safety Code Section 34188. The attached Exhibit D shows the distribution of Restricted Proceeds and Applicable Shares of the Taxing Entities that would have applied to a distribution under this Section 6 had the distribution been made on January 1, 2016, as provided by the Auditor-Controller.

Section 7. Term of Agreement; Early Termination.

(a) Term. The term of this Agreement shall commence on the Effective Date and terminate upon the transfer of the Property to the City pursuant to Section 4, above ("Termination"). Within five (5) business days of transfer of the Property from the Successor Agency to the City, the City shall send a notice of termination of this Agreement to all the Taxing Entities (the "Termination Notice").

(b) Termination. Upon Termination of this Agreement and transmittal of the Termination Notice, no Party shall have any further rights or obligations under this Agreement, and the City may continue to collect and retain the Restricted Proceeds from the Property, including any and all Restricted Proceeds that the City has not yet received as of the effective date of the Termination, the rights of the City to collect any and all Restricted Proceeds shall survive termination of this Agreement.

Section 8. Miscellaneous Provisions.

(a) Notices. All notices, statements, or other communications made pursuant to this Agreement to another Party or Parties shall be in writing, and shall be sufficiently given and served upon the Party if sent by: (1) United States certified mail, return receipt requested, postage prepaid; or (2) nationally recognized overnight courier, with charges prepaid or charged to sender's account, and addressed to the applicable Party in the manner specified in the attached Exhibit C. Any Party may change its address for notice purposes by written notice to the other Parties prepared and delivered in accordance with the provisions of this Section 9(a).

ATTACHMENT 1

(b) No Third Party Beneficiaries. No person or entity other than the Parties and their permitted successors and assigns, shall have any right of action under this Agreement.

(c) Litigation Regarding Agreement. In the event litigation is initiated attacking the validity of this Agreement, each Party shall in good faith defend and seek to uphold the Agreement; provided, however, that the costs of such litigation shall be borne solely by the City and/or the Successor Agency.

(d) State Law; Venue. This Agreement, and the rights and obligations of the Parties hereto, shall be construed and enforced in accordance with the laws of the State of California. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Monterey County, California or in the Federal District Court for the Northern District of California.

(e) Attorneys' Fees. In any action which a Party brings to enforce its rights hereunder, the unsuccessful Party or Parties shall pay all costs incurred by the prevailing party, including reasonable attorneys' fees.

(f) Entire Agreement; Amendment. This Agreement constitutes the entire and integrated agreement of the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be modified only in writing and only if signed by all of the Parties.

(g) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon, provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Parties. Any executed counterpart of this Agreement may be delivered to the other Parties by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

(h) Non-Waiver. No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement will be effective unless it is in writing and signed by the waiving Parties.

(i) No Partnership. Nothing contained in this Agreement shall be construed to constitute any Party as a partner, employee, joint venturer, or agent of any other Party.

(j) Ambiguities. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

(k) Exhibits. The following exhibits are incorporated in this Agreement by reference:

Exhibit A: Legal Description

Exhibit B: Copy of Lease

Exhibit C: List of Addresses for Notice Purposes

Exhibit D: Illustrative Distribution of Restricted Proceeds and Applicable Shares

ATTACHMENT 1

(l) Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.


(m) Action or Approval. Whenever action and/or approval by the City is required under this Agreement, the City Manager or the City Manager's designee may act on and/or approve such matter unless specifically provided otherwise, or unless the City Manager determines in the City Manager's discretion that such action or approval requires referral to the City Council for consideration. Whenever action and/or approval by the Successor Agency is required under this Agreement, the Successor Agency Executive Director or the Successor Agency Executive Director's designee may act on and/or approve such matter unless specifically provided otherwise, or unless the Successor Agency Executive Director determines in the Successor Agency Executive Director's discretion that such action or approval requires referral to the Successor Agency Board for consideration.

[SIGNATURE PAGES FOLLOW]

ATTACHMENT 1

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth in the opening paragraph of this Agreement.

MONTEREY SUCCESSOR AGENCY, a
separate legal entity pursuant to Health & Safety
Code §34173

By: 
Clyde Roberson, Chair

Dated: _____

APPROVED AS TO FORM OF LEGALITY:



Dianne Jackson McLean, Esq.
Goldfarb & Lipman LLP
City Special Counsel


ATTEST:


City Clerk



Whereas this Agreement has been entered into by the undersigned as of the date first written above.

CITY OF MONTEREY, a California charter city

By: 
Clyde Roberson, Mayor

Dated: _____

APPROVED AS TO FORM:



Dianne Jackson McLean, Esq.
Goldfarb & Lipman LLP
City Special Counsel

ATTEST:



City Clerk



ATTACHMENT 1

Whereas this Agreement has been entered into by the undersigned as of the date first written above.

MONTEREY PENNINSULA WATER DISTRICT

By: David J. Stoldt
Name: David J. Stoldt
Its: General Manager
Dated: 11/17/2017

APPROVED AS TO FORM:

David Laredo for
David Laredo
General Counsel

Whereas this Agreement has been entered into by the undersigned as of the date first written above.

COUNTY OF MONTEREY, a political subdivision
of the State of California

By: _____

Name: J. G. Giff

Its: _____

Dated: _____


APPROVED AS TO FORM:

[Signature]
County Counsel

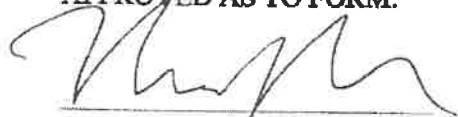
ATTACHMENT 1

Whereas this Agreement has been entered into by the undersigned as of the date first written above.

MONTEREY PENINSULA REGIONAL PARK
DISTRICT

By: 
Name: Kelly Sorenson
Its: President
Dated: 1/10/18

APPROVED AS TO FORM:


Michael J. Whilden
MPRPD Legal Counsel

The Monterey County Water Resources Agency administers the following authorized special funds, and in addition to executing this Agreement for the Water Resources Agency itself, is authorized to, and has executed this Agreement on behalf of each of the following entities and funds:

Monterey County Water Resources Agency; and
Monterey County Water Resources Agency Zone 11.

MONTEREY COUNTY WATER
RESOURCES AGENCY

By: _____
Name: Y. C. A. P.
Its: _____
Dated: _____

APPROVED AS TO FORM:

ATTACHMENT 1

The Monterey County Office of Education administers the following authorized special funds, and in addition to executing this Agreement for the Office of Education itself, is authorized to, and has entered into and executed this Agreement on behalf of the following entities and funds:

- County School Service Fund
- Charter School Fund
- SELPA Pass-Through Fund
- Child Development Fund
- Deferred Maintenance Fund
- Forest Reserve Fund
- Special Reserve – Other
- Special Reserve – Capital Outlay

MONTEREY COUNTY OFFICE OF
EDUCATION

By: 

Name: Nancy Kotowski

Its: County Superintendent

Dated: February 7, 2018

APPROVED AS TO FORM:

ATTACHMENT 1EXHIBIT A

LEGAL DESCRIPTION

The property referred to is situated in the County of Monterey, City of Monterey, State of California, and is described as follows:

Parcel I:

Lots Numbered H-2, H-4 and I-1, as said Lots are shown on that certain map entitled, "Tract No. 827, Custom House Redevelopment Project", filed in Volume 13 of Maps, "Cities and Towns", at Page 75, Monterey County Records.

Parcel II:

All that portion of Jackson Street lying Southerly of Lot H-4, Northerly of Lot I-1, Easterly of that certain course S. 13° 51' 15" E., connecting the Southwest corner of Lot H-4 to the Northwest corner of Lot I-1 and Westerly of Pacific Street, as said Lots, course and Streets are shown in that certain map entitled, "Tract No. 827, Custom House Redevelopment Project", filed in Volume 13 of Maps, "Cities and Towns", at Page 75, Monterey County Records.

Assessor's Parcel Number(s): 001-568-004, 001-568-005, 001-569-005

ATTACHMENT 1

EXHIBIT B

COPY OF LEASE

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PACIFIC STREET MOTEL LEASE

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ATTACHMENT 1LEASE"Pacific Street Motel"

Redevelopment Agency and John Barleycorn, Inc., Redeveloper

THIS LEASE AGREEMENT is executed by and between the REDEVELOPMENT AGENCY OF THE CITY OF MONTEREY, a municipal corporation, hereinafter called "Agency", and JOHN BARLEYCORN, INC., a corporation, hereinafter called "Lessee".

I. DEMISED PREMISES. Agency hereby leases to the Lessee and Lessee leases from Agency all of that certain real property situated in the CITY OF MONTEREY, STATE OF CALIFORNIA, described and delineated as Parcels H-2, H-4, and I-1 as specifically described on "Official Map - Custom House Redevelopment Plan" - filed for record May 26, 1975 at Volume 13, page 75 of Cities and Towns, Records of Monterey County, State of California. Said real property is hereinafter called the "premises".

- A. PERMITTED USE. Said premises are leased to Lessee only for the purposes of constructing and operating a motel of approximately 104 rooms plus uses ancillary thereto, retail-commercial uses in the areas designated for said uses in the approved plans, and use approved by the Agency and permitted by the Custom House Redevelopment Plan.
- B. OBLIGATION TO DILIGENTLY USE. Lessee covenants to use said premises for the above-specified purposes and to diligently conduct the business thereon to produce a reasonable and substantial gross income.
- C. SUCCESSION BY CITY OF MONTEREY. The Agency may assign all right, title and interest in this lease to the CITY OF MONTEREY. In said event, or in the event the Agency is terminated by action of law, the City shall automatically succeed to all right, title and obligation under this lease, and this lease shall be deemed amended by substituting the word "City" wherever the word "Agency" appears.

II. TERM OF AGREEMENT.

- A. COMMENCEMENT AND TERMINATION. The term of this agreement shall be fifty (50) years, commencing on the date of issuance of a building permit.
- B. SURRENDER OF PREMISES. At the expiration or earlier termination of this lease, Lessee shall execute, acknowledge and deliver to Agency, within five days after written demand by Agency, a valid and recordable quitclaim deed covering all of the leasehold premises. The leasehold premises shall be delivered free and clear of all liens and encumbrances, except for liens and encumbrances permitted for the construction of the improvements under the terms of this lease.

III. RENT.

- A. MINIMUM RENT. The minimum rent shall be paid monthly in advance as follows:
1. From the first of the calendar month following the issuance of a building permit, \$1,000.00 per month until an occupancy permit is issued by the City of Monterey.
 2. From the issuance of an occupancy permit or fifteen (15) months, whichever is sooner, \$4,167.00 per month until December 31 of said year.
 3. For the next calendar year, \$4,167.00 per month.
 4. For the next two calendar years, \$5,000.00 per month.
 5. For the next calendar year (the 4th year after the year of completion) and every month thereafter during the term of this lease, \$5,833.00.
- B. PERCENTAGE RENT. In addition to the minimum rent, Lessee shall pay Agency the amount by which seven percent (7%) of the gross receipts during any calendar year exceed the amount of minimum rent paid during said calendar year.
- C. TIME AND PLACE OF PAYMENT AND PENALTIES. The minimum rent shall be due and payable on the first day of each calendar month and delinquent if not received by the close of the business day on the 10th of each calendar month. Percentage rent shall be due and payable on the 15th of February for the preceding calendar year and delinquent on the 1st of March following the calendar year for which it is due. Delinquent rent shall bear a penalty assessment of

ATTACHMENT 1

two percent (2%) for each calendar month or part of a calendar month which it remains unpaid.

- D. ADJUSTMENT OF RENT. Rent shall be adjusted effective each five (5) years after the effective date of this lease in accordance with Section 6.8 of the Monterey City Chapter.
- E. GROSS INCOME. Gross Income, as used in this lease, shall include all income resulting from occupancy of the leased premises from whatever source derived whether received or to become due. Provided, however, gross income shall not include federal, state or municipal taxes collected from the consumer (regardless of whether the amount thereof is stated to the consumer as a separate charge) and paid over periodically by Lessee to a governmental agency accompanied by a tax return or statement as required by law. The amount of such taxes shall be shown on the books and records elsewhere herein required to be maintained. The aforesaid percentage rent shall be calculated and paid by Lessee on the basis of said gross income whether the income is received by Lessee their agents and all gross income received by any sublessee or other party as a result of such occupancy of said premises or the operation thereof shall be regarded as gross income of Lessee for the purpose of calculating the percentage rent hereunder required to be paid by Lessee to Agency.
- F. FINANCIAL RECORDS MAINTENANCE. Lessee shall keep true, accurate and complete records in a manner and form satisfactory to Agency from which Agency can at all reasonable times determine the nature and amounts of income subject to rental from the operation of the leased premises. Such records shall show all transactions relative to the conduct of the operation, and such transactions shall be supported by documents of original entry such as sales slips, or cash register tapes. All sales or rentals of merchandise and services rendered shall be recorded by means of cash register system which automatically issues a customer's receipt or certifies the amount recorded on a sales slip. Said cash register shall have a locked-in total which is constantly accumulating, which total cannot be reset, and at the option of the Agency, a constantly locked-in accumulating printed transaction counter which cannot be reset, and/or a printed detailed audit tape located within the register. Complete beginning and ending cash register readings shall be made a matter of daily record, including purchase invoices and tickets issued, or other means satisfactory to Agency. On or before March 1 of each year, Lessee shall render to Agency a detailed statement as to the source of the receipts showing all gross income of the preceding calendar year together with the amount payable to Agency as

hereinabove provided and shall accompany same with a remittance of the amount so shown to be due Agency. After the end of each lease year, Lessee shall submit an operating statement of the business of Lessee, its agents, sublessees, concessionaires or licensees operating on said premises to be made by a certified public accountant, or a public accountant licensed by the State of California, and shall, within sixty (60) days after the end of each lease year, furnish a copy thereof to Agency without any cost or expense to Agency.

- G. DEVELOPMENT AS ADDITIONAL CONSIDERATION. Lessee agrees that part of the consideration for granting this lease is Lessee's obligation to develop the leased premises in accordance with the Agency- approved Redevelopment plan.

IV. COVENANTS AND CONDITIONS.

A. CITY COVENANTS.

1. Quiet Possession. Lessee, paying the said rent and performing the covenants and agreements herein, shall and may at all times during the said term peaceably and quietly have, hold and enjoy the said premises for the term thereof.

2. Assignment and Subleasing. Lessee shall not assign this lease, or sublease any portion of the premises, without the written consent of the Agency. In granting this lease, the Agency is placing specific reliance on the ability of the Lessee to construct and operate the motel facility and therefore retains the sole right to approve or disapprove any assignment. However, said right to assign or sublet shall not be withheld if Lessee will provide proofs to Agency that the proposed subtenant or assignee is of equal ability to perform the tasks and duties set forth in this lease. This section shall not be applicable to the rights of a mortgage holder or holder of other security interest created under the next succeeding section of this lease.

Lessee may sublease the areas designated for retail commercial or the restaurant designated on the approved plans.

3. Right to Encumber. Agency does hereby consent and agree that Lessee may encumber this lease, its leasehold estate and its improvements thereon by deed of trust, mortgage, chattel mortgage or other security type instrument to assure the payment of a promissory note or notes of the Lessee. Agency further agrees that in the event said deed or trust or mortgage or other security type

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instrument should at any time be in default and be foreclosed or transferred in lieu of foreclosure, the Agency will accept the mortgagee or beneficiary thereof, if reputable, qualified and financially responsible, such as a State or Federal regulated financial institution, as its new tenant under this lease with all the rights, privileges and duties granted and imposed in this lease contract. In the event said mortgagee or beneficiary desires to assign this lease to its nominee, if nominee is a reputable, qualified and financially responsible person in the opinion of the Agency, Agency hereby agrees that upon the filing of an application for consent to such assignment, Agency will give its consent thereto. The right to encumber includes any refinancing, provided that the amount of the encumbrance does not exceed the fair market value of the assets encumbered. Lessee shall give Agency at least thirty (30) days notice of its intent to encumber stating the amount of the encumbrance and the fair market value of the assets subject to be encumbered.

In the event of disagreement, the fair market value of the improvements subject to encumbrance shall be determined by arbitration in accordance with Section C-16.

B. LESSEE COVENANTS.

1. Compliance with Law. Lessee agrees, at its sole cost and expense, to comply and secure compliance with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the said premises, or the operations conducted thereon, and to faithfully observe and secure compliance with, in the use of the premises, all applicable county and municipal ordinances and state and federal statutes now in force or which may hereafter be in force, and to pay before delinquency all taxes, assessments, and fees assessed or levied upon the Lessee or the leased premises, including the land and any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by Lessee or by reason of the business or other activities of Lessee upon or in connection with the leased premises. Lessee recognizes and understands that this lease may create a possessory interest subject to property taxation and that the Lessee may be subject to payment of property taxes levied on such interest. Lessee further agrees that such tax payment shall not reduce any rent due to the Agency hereunder and that any such tax shall be paid by the Lessee before becoming delinquent. The final judgement of any court of competent jurisdiction, or the admission of Lessee or any sublessee or permittee in any action or proceeding against them, or any of them, whether Agency be

a party thereto or not, that Lessee, sublessee or permittee has violated any such ordinance or statute in the use of the premises shall be conclusive of that fact as between Agency and Lessee.

2. Construction/Alteration. Lessee agrees not to construct or install any buildings or structures on said premises or otherwise improve or alter said premises in any manner except in accordance with plans and specifications previously submitted to the Agency's Secretary and approved by him in writing. Lessee shall not make any major structural or architectural design alterations to approved buildings, structures or improvements installed on said premises except in accordance with plans and specifications previously approved in writing by the Agency Secretary. This provision shall not limit or set aside any obligation of Lessee under this lease to maintain said premises in a decent, safe, healthy and sanitary condition, including structural repair and restoration of damaged or worn improvements. Agency shall not be obligated by this lease to make any improvements or alterations to said premises or to assume any expense therefor.

3. Indemnity. Lessee agrees that Agency and the City of Monterey, its agents, officers and employees, shall not be liable for any claims, alleged liabilities, penalties, fines or for any damage to the goods, properties, or effects of Lessee, its sublessees or representatives, agents, employees, guests, licencees, invitees, patrons or clientele or of any other person whomsoever, or for personal injuries to, or deaths of any persons, whether alleged to have been caused by or resulting from any acts or omission of Lessee or its sublessees in or about the Leased premises, or any act or omission of any person or from any defect in any part of the leased premises or from any other cause or reason whatsoever arising from the use and occupancy of the premises. Lessee agrees to indemnify and save free and harmless Agency and City of Monterey and its authorized agents, officers, and employees against any of the foregoing alleged liabilities and any costs and expenses incurred by Agency or City of Monterey on account of any claim or claims therefor. Lessee is not liable for acts of omissions of the employees, officers or agents of the City or Agency.

4. Insurance Coverage. During the entire term of this lease, Lessee agrees to procure and maintain public liability insurance which names Agency and City of Monterey as an additional insured with an insurance company satisfactory to Agency licensed to do business in California to protect against loss from liability imposed by law for damages on account of bodily injury, including

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death therefrom, suffered or alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of Agency or Lessee, its sublessees or any person acting for Agency, or Lessee or under its control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from acts or activities of Agency, or Lessee, or its sublessees, or any person acting for Agency or Lessee, or under its control or direction. Such PD and PL insurance shall also provide for and protect Agency against incurring any legal cost in defending claims for alleged loss. Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this lease in the amount of not less than One Million Dollars (\$1,000,000) COMBINED SINGLE LIMIT LIABILITY. Lessee agrees to submit a policy of said insurance to the Agency on or before the effective date of this agreement indicating full coverage of the contractual liability imposed by this agreement indicating full coverage of the contractual liability imposed by this agreement and stipulating that the insurance company shall not terminate, cancel or limit said policy in any manner without at least thirty (30) days prior written notice thereof to Agency. If the operation under this agreement results in an increased or decreased risk in the opinion of the Secretary, then Lessee agrees that minimum limits hereinabove designated shall be changed accordingly upon request by the Agency Secretary. Lessee agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which the Lessee may be held responsible for the payment of damages to persons or property resulting from Lessee's activities, the activities of its sublessees or the activities of any person or persons for which Lessee is otherwise responsible.

Lessee also agrees to procure and maintain during the entire term of this lease, a policy of fire, extended coverage and vandalism insurance on all permanent property of an insurable nature located upon the leased premises. Said policy shall name the Agency and City of Monterey as additional insureds and shall be written by an insurance company satisfactory to Agency licensed to transact business in the State of California and shall be in an amount sufficient to cover at least 90% of the replacement costs of said property. Lessee agrees to submit a certificate of said policy to the Agency on or before the effective date of this lease. Said policy shall contain a condition that it is not to be terminated or cancelled without at least thirty (30) days written notice to Agency by the insurance company. Lessee agrees to pay the premium

for such insurance and shall require that any insurance proceeds resulting from such a loss under said policy are payable jointly to Agency and Lessee, and said proceeds shall constitute a trust fund to be reinvested in rebuilding or repairing the damaged property or said proceeds may be disposed of as specified in Section IV, B, 9, Waste, Damage or Destruction, hereof; provided, however, that within the period during which there is in existence a mortgage or deed of trust upon the leasehold, then and for that period all policies of fire insurance, extended coverage and vandalism shall be made payable jointly to the mortgagee or beneficiary, the named insured, and Agency, and shall be disposed of jointly by the parties for the following purposes:

- a. A trust fund to be held by the beneficiary or mortgagee to be applied first to the cost of reconstruction, repair or replacement of equipment, furniture, fixtures and improvements. Said amount may be paid in progress payments as work is performed. Any amount in excess of the amount used for correction of the damages shall be used to pay instalments on the mortgage debt as said payments become due. Any balance after corrections are made shall be paid to the lessee.
- b. In the event that this lease is terminated by mutual agreement and said improvements are not reconstructed, repaired or replaced, the insurance proceeds shall be jointly retained by Agency and said mortgagee or beneficiary to the extent necessary to first discharge the debt secured by said mortgage or deed of trust and then to restore the premises in a neat and clean condition.

Lessee agrees to increase the limits of liability when, in the opinion of Agency, the value of the improvements covered is increased, subject to the availability of such insurance at the increased limits. Lessee agrees, at its sole expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of reasonable fire and public liability insurance covering said premises, buildings and appurtenances.

If the Lessee or any sublessee operates a restaurant or other fresh food service on the premises, the Lessee shall procure and maintain, or cause to be procured and maintained, a products liability policy covering risks common to said business, with policy limits satisfactory to the Agency and naming the Agency, the City of Monterey and their officers and employees as additional insured.

ATTACHMENT 1

Any disagreement concerning the amount and nature of the coverage required shall be determined by arbitration in compliance with section C-16.

5. Legal Proceedings. Lessee agrees that should it become necessary for Agency to commence legal proceedings to collect rent, recover possession, or enforce any other provision of this lease, the prevailing party will be entitled to legal costs in connection therewith, including reasonable attorney's fees as determined by the court. The parties agree that the law of the State of California shall be used in interpreting this lease agreement and will determine all rights and obligations hereunder. Personal service either within or without the State of California shall be sufficient to give personal jurisdiction to any court in which an action is filed for litigation of rights under this lease agreement.

6. Maintenance. Lessee agrees to assume full responsibility for the operation and maintenance of said premises throughout the term hereof without expense to Agency unless otherwise specified herein, and to perform all repairs and replacements necessary to maintain and preserve said premises in a decent, safe, healthy and sanitary condition in a manner satisfactory to Agency in compliance with all applicable laws. Lessee agrees that Agency shall not be required to perform any maintenance, repairs or services or to assume any expense not specifically assumed herein in connection with said premises.

7. Nondiscrimination. Lessee agrees not to discriminate in any manner against any person or persons on account of race, marital status, sex, religious creed, color, ancestry, or national origin in Lessee's use of the premises, including, but not limited to, the providing of goods, services, facilities, privileges, advantages and accommodations, and the obtaining and holding of employment.

8. Utility Costs. Lessee agrees to order, obtain and pay all utilities and service and installation charges in connection therewith. All utilities installed by Lessee shall be installed underground.

9. Waste, Damage or Destruction. Lessee agrees to give notice to the Agency of any fire or other damage that may occur on the leased premises within ten (10) days of such fire or damage. Lessee agrees not to commit or suffer to be committed any waste or injury or any public or private

nuisance, to keep the premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash and rubbish in a manner satisfactory to the Agency. If the leased premises shall be damaged by any cause which puts the premises into a condition which is not decent, safe, healthy and sanitary, Lessee agrees to make or cause to be made full repair of said damage and to restore the premises to the condition which existed prior to said damage, or Lessee agrees to clear and remove from the leased premises all debris resulting from said damage and rebuild the premises in accordance with plans and specifications previously submitted to the Agency and approved in writing in order to replace in kind and scope the operation which existed prior to such damage.

C. RESTRICTIVE CONDITIONS.

1. Administration and Notices. Control and administration of this lease is under the jurisdiction of the City Manager of the City of Monterey, which said person is also Secretary to Agency, as to Agency's interest herein and any communication relative to the terms or conditions or any changes thereto or any notice or notices provided for by this lease or by law to be given or served upon Agency may be given or served by registered letter deposited in the United States mails postage prepaid, and addressed to the City Manager, City Hall, Monterey, California 93940. Any notice or notices provided for by this lease or by law to be given or served upon Lessee, mortgagee, trustee or beneficiary may be given or served by depositing in the United States mails, postage prepaid, a letter addressed to said Lessee at the leased premises or at such other address designated in writing by Lessee, mortgagee, trustee or beneficiary or may be personally served upon them or any person hereafter authorized by them to receive such notice. Any notice or notices given or served as provided herein shall be effectual and binding for all purposes upon the principals of the parties so served upon personal service or forty-eight hours after mailing in the manner required herein.

2. City Approval and Consent. The approval or consent of the Agency, wherever required in this agreement, shall mean the approval of the Secretary unless the Secretary submits the matter to the Agency for resolution.

3. Eminent Domain. In the event the leased premises or any part thereof shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, then the interests of Agency and Lessee (or beneficiary or mortgagee, if there is a Trust Deed or Mortgage then in effect), in the award and the effect of

ATTACHMENT 1

taking upon this lease agreement shall be as follows:

- a. In the event of such taking of only a part of the leased premises, leaving the remainder of said premises in such location and in such form, shape and size as to be used effectively and practicably in the opinion of Agency for the conduct thereon of the operations permitted hereunder, this lease shall terminate and end as to the portion of the leased premises so taken as of the date title to such portions vests in the condemning authority, but shall continue in full force and effect as to the portion of the leased premises not so taken and from and after such date the contract rent, or in the event there is a minimum rent specified herein, then the minimum rental required by this lease to be paid by Lessee to Agency shall be reduced in the proportion to which the value of the leased premises so taken bears to the total value of the demised premises; provided, however, Agency shall have the right, with the consent of the Lessee, to substitute like adjacent property and maintain the rent schedule without diminution.
- b. In the event of the taking of only a part of the leased premises, leaving the remainder of said premises in such location, or in such form, shape or reduced size as to render the same not effectively and practicably usable, in the opinion of Agency, for the conduct thereon of the operations permitted hereunder, this lease and all right, title and interest thereunder shall cease on the date title to said premises or the portion thereof so taken vests in the condemning authority.
- c. In the event the entire leased premises are so taken, this lease and all the right, title and interest thereunder shall cease on the date title to said premises so taken vests in the condemning authority.
- d. In the event of a taking under subparagraphs a, b, or c, the Agency shall first receive the fair market value of the land as of the effective date of the taking and the Lessee shall receive the remainder.
- e. Notwithstanding the foregoing provisions of this section, Agency may, in its discretion and without affecting the validity and existence of this lease, transfer the Agency's interests in said premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. In the event of such transfer by Agency, Lessee shall retain whatever rights it may have to recover from the said authority

the fair market value of Lessee's interest in the improvements taken by the authority and which Lessee has placed upon the leased premises in accordance with the provisions of this lease.

4. Entry and Inspection. Agency reserves and shall always have the right to enter said premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the premises or to inspect the operations conducted thereon. In the event that such entry or inspection by Agency discloses that said premises are not in a decent, safe, healthy and sanitary condition, Agency shall have the right, after thirty (30) days written notice to Lessee, to have any necessary maintenance work done for and at the expense of Lessee and Lessee hereby agrees to pay promptly any and all costs incurred by Agency in having such necessary maintenance work done in order to keep said premises in a decent, safe, healthy and sanitary condition.
5. Holding Over. The occupancy of the demised premises after the expiration of the term of this agreement shall be construed to be a tenancy from month to month, and all other terms and conditions of this agreement shall continue in full force.
6. Merger. The voluntary or other surrender of this lease by Lessee, or a mutual cancellation thereof, shall not work a merger and shall, at the option of Agency, terminate all or any existing subleases or subtenancies or may, at the option of Agency, operate as an assignment to it of any or all such subleases or subtenancies.
7. Oral Representation. It is specifically understood and agreed hereby that this lease contains the complete expression of the whole agreement between the parties hereto, and that there are no promises, representations, agreements, warranties or inducements, either expressed orally or implied by the said parties, except as are fully set forth herein; and further, that this lease cannot be enlarged, modified or changed in any respect except by written agreement duly executed by and between the said parties.
8. Ownership of Improvements, Furniture, Fixtures and Equipment. Lessee First Right of Refusal. Within one hundred twenty (120) days after expiration or termination of this lease, Lessee shall remove all improvements, furniture, fixtures, and equipment, at its option, and to return the premises in approximately the same condition as when it was received, subject to normal wear and expectable useage. Should the Lessee not remove said improvements,

ATTACHMENT 1

furniture, fixtures, and equipment within one hundred twenty (120) days, then title to said improvements shall vest in Agency.

Any time prior to expiration or termination of this lease, or in the alternative within twelve (12) months after the expiration or termination, Agency shall notify Lessee of the terms on which Agency will be willing to lease said premises. Lessee shall have, First Right of Refusal, if within ninety (90) days after receipt of Agency's notice, Lessee indicates in writing its agreement to lease the premises. Agency must then lease the premises to Lessee on the terms stated in the notice. If Lessee does not indicate its agreement within ninety (90) days, Agency shall then have the right to lease the real property to a third party on the same terms stated in the said notice.

If the Agency does not lease the premises within ninety (90) days, or changes the terms of the notice previously submitted, any further transaction shall be deemed a new determination by Agency to lease the premises and the provisions of this paragraph shall be applicable.

If Agency determines to sell all or any part of the premises, Agency shall notify Lessee of the terms on which Agency will be willing to sell.

If Lessee, within ninety (90) days after receipt of Agency's notice, indicates in writing its agreement to purchase the premises or a part of the premises on the terms stated in Agency's notice, Agency shall sell and convey the premises or a part of the premises to Lessee on the terms stated in the notice. If Lessee does not indicate its agreement within ninety (90) days, Agency thereafter shall have the right to sell and convey the premises or a part of the premises to a third party on the same terms stated in the notice. If Agency does not sell and convey the premises or a part of the premises within ninety (90) days, or changes the terms of the notice previously submitted, any further transaction shall be deemed a new determination by Agency to sell and convey the premises or a part of the premises and the provisions of this paragraph shall be applicable.

If Lessee purchases all of the premises, this lease shall terminate on the date title vests in Lessee, and Agency shall remit to Lessee all prepaid and unearned rent. If Lessee purchases a part of the premises, this lease as to the part purchased shall terminate on the date title vests in Lessee, and the minimum monthly rent shall be reduced in the same ratio that value of the premises before

the purchase bears to the value of the premises covered by the lease immediately after the purchase.

9. Default by Lessee. In the event of default by the Lessee of any of the covenants contained herein, except non-payment of rent, if said default shall continue for sixty (60) days after notice has been given Lessee and unless appropriate action has been taken by Lessee in good faith to cure said default, the Agency shall have the right to terminate this lease and take possession of the premises.

Prior to termination, the Agency shall give notice to any mortgage lender of whom they have knowledge. Said notice shall give the mortgage lender a reasonable time to correct the default in the event the lessee fails to do so. The Agency further agrees not to terminate the lease for a reasonable time as long as the mortgage lender is diligently pursuing the remedies under the deed of trust.

In the event Lessee defaults in the payment of rent, Agency shall have all of the rights and be governed by the procedures set forth in the statutes of the State of California.

10. Reservation of City Rights. Agency hereby reserves all rights, title and interest in any and all gas, oil, minerals and water beneath said leased premises. Agency shall have the right to enter said leased premises for the purpose of making repairs to or developing municipal services. Agency hereby reserves the right to grant and use such easements or establish and use such rights of way over, under, along and across said leased premises for utilities, thoroughfares, or access as it may deem advisable for the public good. Provided, however, Agency shall not unreasonably interfere with Lessee's use of the premises and will reimburse Lessee for physical damages, if any, to the permanent improvements of Lessee located on the leased premises resulting from Agency's exercising the rights retained in this paragraph. Such reimbursement shall include a reduction in the annual rent proportionate to the amount of said physical damage as determined by the City Manager. Agency shall pay the costs of maintenance and repair of all Agency installations made pursuant to the rights reserved herein. The right to use the leased premises for municipal services is limited to the Jackson Street right-of-way. All utilities shall be underground.

11. Time is of the Essence. Time is of the essence of each and all of the terms and provisions of this lease and this lease shall inure to the benefit of and be binding

ATTACHMENT 1

upon the parties hereto and any successor of Lessee as fully and to the same extent as though specifically mentioned in each instance, and all covenants, stipulations and agreements in this lease shall extend to and bind any assigns or sublessees of Lessee.

12. Waiver. The waiver by Agency of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Agency shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this lease, regardless of Agency's knowledge of such preceding breach at the time of acceptance of such rent. Failure on the part of Agency to require or exact full and complete compliance with any of the covenants, conditions or agreements of this lease shall not be construed as in any manner changing the terms hereof and shall not prevent Agency from enforcing any provision hereof.

13. Closure of Jackson Street to Vehicular Traffic. In order to facilitate the operation of the project, the City agrees to prohibit vehicular traffic on Jackson Street between Parcels H-4 and I-1. Lessee shall commit no act or omission which interferes with the flow of pedestrian traffic and shall maintain all surface improvements in this area in a neat, safe and attractive condition; provided, however, that pedestrian traffic may be limited to walkways, stairs, and other similar improvements for pedestrian access as designated on the plan.

Lessee also acknowledges the existence of underground public utilities in this area maintained by the City or public utility companies. The City and all public utility companies maintain the right to repair, reconstruct, construct or replace public utilities in the Jackson Street right of way, provided the City or any public utility company doing work in the area shall replace, reconstruct or repair the improvements of Lessee damaged or destroyed by utility work in the area.

14. Recordation. Lessee may, at its cost, record this lease or a memorandum of this lease.

15. Liens, Taxes and Assessments. Lessee is advised that this lease may be subject to real property taxes (possessory interest) under the laws of the State of California and/or the County of Monterey. Lessee agrees to pay all taxes, liens and assessments against said property

or any improvements thereon, including any taxes on personal property including but not limited to furniture, fixtures, equipment and inventory, prior to the delinquent date of said liens, taxes or assessment and shall be entitled to reimbursement from Lessee plus statutory interest. Payment by the City shall not constitute a waiver to declare the lease in default under other provisions.

16. Arbitration. In the event of disagreement under sections A-3 or B-4 the parties shall submit the matter to arbitration. Arbitration is not mandatory for other disputes under the lease. All other matters may be submitted to arbitration by consent of both parties. In either event, the decision of the arbitrator(s) shall be binding on both parties.

If arbitration is either demanded or agreed upon, the parties shall attempt to agree upon a sole arbitrator. If the parties are unable to agree upon a sole arbitrator, then an arbitrator or arbitrators shall be appointed as set forth by statute. All other procedures for arbitration shall be governed by the California Code of Civil Procedure or other California statute governing arbitration as said section exist at the time of arbitration.

17. Rights of Mortgage Lender. Any person having a first mortgage, deed of trust or other first lien for security purposes, shall have the following rights:

- a. In the event of a breach by lessee that cannot be cured by lender, the Agency shall not foreclose while the lender is diligently pursuing his remedies under the security document.
- b. No modification of this lease shall be effective unless approved in writing by lender. Said approval shall not be unreasonably withheld.
- c. Lender shall have no personal liability under this lease unless it acquires title through foreclosure proceedings and shall be relieved of liability on transfer of lease to a new tenant.

IN WITNESS WHEREOF, this lease agreement is executed by Agency, acting by and through the Agency Chairman, and by Lessee, acting by and through its lawfully authorized officers.

ATTACHMENT 1

Dated: October 29, 1984

REDEVELOPMENT AGENCY OF THE
CITY OF MONTEREY

By [Signature]
Agency Chairman

Dated: 11/2/84

JOHN BARLEYCORN INC.

By [Signature]

By [Signature]

CITY OF MONTEREY hereby agrees to the lease of a portion of Jackson Street, as well as any other terms and conditions of this lease to be performed by City.

Dated: October 29, 1984

CITY OF MONTEREY

By [Signature]
Mayor

ATTEST:

[Signature]
PATRICIA L. O'HEARN
City Clerk, City of Monterey

STATE OF CALIFORNIA)
) ss.
COUNTY OF MONTEREY)

On November 21, 1984, before me, the undersigned, a Notary Public in and for said County and State, personally appeared CLYDE ROBERSON, known to me to be the Chairman of the Redevelopment Agency of the City of Monterey, and known to me to also be the Mayor of the City of Monterey that executed the within document, and known to me to be the person who executed the within document on behalf of the Redevelopment Agency and the City of Monterey therein named, and acknowledged to me that such agencies executed the within document pursuant to its by-laws or a resolution of its members.



Cynthia L. Parham
My Commission Expires _____

ATTACHMENT 1

REDEVELOPMENT AGENCY OF THE

CITY OF MONTEREY

LEASE AMENDMENT NO. 1

Hotel Pacific

This Lease Amendment is made by and between the REDEVELOPMENT AGENCY OF THE CITY OF MONTEREY, an agency of a municipal corporation and THE CITY OF MONTEREY, a municipal corporation (collectively "City"), and HOTEL PACIFIC LIMITED PARTNERSHIP, a Georgia limited partnership, (hereinafter referred to as "Lessee"), as of March 21, 1995, ("Effective Date").

R E C I T A L S:

WHEREAS, on October 29, 1984, City and John Barlycorn, Inc., executed a Lease, in which City agreed to lease and Lessee agreed to rent real property known as Pacific Street Hotel, located in Monterey County, California and more particularly described in the Lease (the "Property");

WHEREAS, the Lease was subsequently assigned to Hotel Pacific Limited Partnership, a Georgia limited partnership ("Lessee");

WHEREAS, on February 16, 1994, pursuant to page 6, Section III. D. of the Lease, City mailed a notice to Lessee indicating its intent to begin rental term negotiations for the base rent and gross percentage and consumer price index adjustments to rent;

WHEREAS, the Lease provides that the rent provision may be revised every 5 years pursuant to Section 6.8 of the Charter of the City of Monterey. Section 6.8 was repealed in 1989 and replaced with Section 6.4 which provides that all leases in excess of one year shall contain a provision for reconsideration of rent at fair market value in accordance with acceptable commercial lease practices.

WHEREAS, on March 21, 1995, the Redevelopment Agency adopted Resolution No. 776A, amending this Lease; and

WHEREAS, City and Lessee now have agreed to modify the Lease on the terms and conditions hereinafter set forth.

ATTACHMENT 1

NOW, THEREFORE, incorporating the foregoing recital of facts and in consideration of the mutual covenants hereinafter set forth, City and Lessee, intending to be legally bound, hereby agree as follows:

AGREEMENT:

1. RECITALS. The foregoing recitals are true and correct and are incorporated herein.

2. LEASE AMENDMENT. The Lease is hereby amended to provide that, notwithstanding any other provision thereof to the contrary, from and after the Effective Date, the following provisions:

a. Section II(A) COMMENCEMENT AND TERMINATION. Paragraph II(A) is modified to provide as follows:

"COMMENCEMENT AND TERMINATION. The term of this Lease is extended by approximately 10 years to a term of fifty (50) years from the Effective Date of this Lease Amendment expiring on March 21, 2045.

Provided Lessee is not in default at the end of the term of the Lease (March 21, 2045), Lessee shall have two successive options to extend the term of this Lease, on the same terms and conditions of this Lease, except for rent which shall be set at fair market rent as determined under the procedure described in the amended and restated Section III(D)(2) below, for two successive ten (10) year periods, by giving notice to the City before the expiration of the preceding term of this Lease."

b. Section III(A) MINIMUM RENT. Paragraph III(A) is modified to provide as follows:

"MINIMUM RENT. The minimum rent shall be paid monthly in advance as follows:

- 1) From September 1994 through August 1995, the monthly minimum rent shall be \$6,689.18 per month for a total of \$80,270.16 in the first year.
- 2) From September 1995 through August 1996, the monthly minimum rent shall be \$8,269.82 per

ATTACHMENT 1

- month for a total of \$99,237.84 for that year.
- 3) From September 1996 through August 1997, the monthly minimum rent shall be \$9,850.46 per month for a total of \$118,205.52 for that year.
 - 4) From September 1997 through August 1998, the monthly minimum rent shall be \$11,431.10 per month for a total of \$137,173.20 for that year.
 - 5) From September 1998 through August 1999, the monthly minimum rent shall be \$13,011.74 per month for a total of \$156,140.88 for that year.
 - 6) From September 1999 through August 2000, the monthly minimum rent shall be \$13,736.25 per month for a total of \$164,835 for that year.

After August 2000, this MINIMUM RENT shall be adjusted based upon a cost of living adjustment as set forth pursuant to the amended and restated Section III(D) (1) below".

c. Section III(D) ADJUSTMENT OF RENT. Adjustment of rent in Paragraph III(D) is deleted and replaced in its entirety with the following:

III(D) (1). ADJUSTMENT OF MINIMUM RENT Commencing on September 1, 2000, and thereafter on each September 1 during the term of this Lease, including any option period, MINIMUM RENT will be adjusted on an annual basis, based upon the percentage difference between the Consumer Price Index, All Urban Consumers, for San Francisco-Oakland-San Jose, California (hereinafter "CPI") between September 1 of the prior year and September 1 of the current year. The minimum monthly MINIMUM RENT shall be adjusted to an amount equal to the amount of the prior year's monthly MINIMUM RENT multiplied by the percentage increase in CPI during the one year period, provided however that the adjustment reflects a minimum increase of 2% per year and a maximum increase of 4% per year.

The index for the adjustment date shall be the one reported in the U.S. Department of Labor's newest comprehensive official index then in use and most nearly answering the description of the index to be used. If the CPI utilized herein shall no longer be

published, another generally recognized as authoritative shall be substituted by agreement of the parties. If they are unable to agree within ninety (90) days after demand by either party, the substitute index shall, on application by either party, be selected by the chief officer of the San Francisco regional office of the Bureau of Labor Statistics or its successor as the index most comparable to the CPI used herein."

"III(D)(2) ADJUSTMENT OF RENT TO FAIR MARKET RENT AT MIDTERM AND UPON EXERCISE OF OPTION TO EXTEND."

"On March 1, 2020, the 25th anniversary date of this Lease Amendment and at the commencement of each option period if exercised, rent will be renegotiated to fair market rent if either party determines that the then current monthly percentage amount is more or less than one and one-half percent (1.5%) above or below the then fair market rental value for the Property. Either party may then request an adjustment of rent to reflect the correct fair market rent by notifying the other party at least 180 days following the 25th anniversary date (or the commencement of each respective option period, as appropriate). Thereafter the parties shall negotiate in good faith to reach an agreement on fair market rent. If, by 300 days following the 25th anniversary date (or the commencement of each respective option period, as appropriate), an agreement cannot be reached then each party shall select an MAI certified appraiser to determine the fair market rent. If by the 26th anniversary date of this Lease Amendment (or the commencement of each respective option period, as appropriate), those two appraisers cannot agree, they shall promptly select a third MAI certified appraiser whose decision shall be binding on the parties. Each party shall bear the cost of their own appraiser and one-half (1/2) the cost of the third appraiser. The rent revision effective date shall be the 25th anniversary date of this Lease Amendment (or the commencement of each respective option period, as appropriate), despite the actual date on which the revised rent is established, if any."

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3. CONSISTENT AMENDMENTS. The Lease is hereby amended to the extent necessary to make it consistent with this Lease Amendment.

4. LIMITATION ON MODIFICATION. Except as specifically modified herein, the terms and conditions of the Lease shall remain in full force and effect as executed. This Lease Amendment is a modification of terms only as set out herein, leaving in effect all features of the Lease, except as specifically or necessarily modified hereby.

5. PARTIES BOUND. The Lease Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, and assigns.

6. GOVERNING LAW. All questions with respect to the construction of this Lease Amendment and the rights and liabilities of the parties hereto shall be determined in accordance with the applicable provisions of the laws of the State of California.

7. NO FURTHER AMENDMENT. The Lease cannot be further amended except by an instrument in writing and signed by the party against whom such amendment is asserted.

IN WITNESS WHEREOF, City and Lessee have executed this Lease Amendment as of the date first set forth above.

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CITY OF MONTEREY

Approved by Monterey the
Redevelopment Agency of
Monterey, an agency of a
municipal corporation
on March 21, 1995

Resolution No. 776A

APPROVED AS TO FORM:

W. Bot
City Attorney

City of Monterey, a Municipal
Corporation

By: Paul D. [Signature]
Mayor

Redevelopment Agency of the City of
Monterey, an agency of the Muni-
cipal Corporation

By: Samuel [Signature]
Agency Chairperson

ATTEST:

By: C. Parkham
City Clerk

Lessee:

Dated: 9.26, 1995

HOTEL PACIFIC LIMITED PARTNERSHIP,
a Georgia limited partnership

By: [Signature]

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ATTACHMENT 1

REDEVELOPMENT AGENCY
 OF THE
 CITY OF MONTEREY
 LEASE AMENDMENT NO. 2

HOTEL PACIFIC

This Second Amendment to Lease ("Lease No. 2) is made by and between the REDEVELOPMENT AGENCY OF THE CITY OF MONTEREY, an agency of a municipal corporation and THE CITY OF MONTEREY, a municipal corporation (collectively "CITY"), and NOT ON CANNERY ROW, LLC, a California limited liability company, (hereinafter referred to as "Lessee"), as of January 1, 2004, ("Effective Date").

RECITALS:

WHEREAS, On October 29, 1984 City and John Barleycorn, Inc., executed a Lease, in which City agreed to lease and Lessee agreed to rent real property known as Pacific Street Hotel, located in Monterey County, California and more particularly described in the Lease (the "Property");

WHEREAS, the Lease was assigned to Hotel Pacific Limited Partnership, a Georgia limited partnership, on December 7, 1993, then assigned to Olympus Huron-California Partnership on March 13, 1996, then assigned to P.W. Acquisitions, XI, LLC, a Delaware limited liability company, on August 11, 1998 and subsequently, on April 9, 2002, assigned to Not On Cannery Row, LLC, a California limited liability company ("Lessee"), which Lease was amended on March 21, 1995 by Lease Amendment No.1;

WHEREAS, on December 2, 2004, the Redevelopment Agency adopted Resolution No. 816, authorizing and approving the amending of this Lease; and

WHEREAS, City and Lessee now have agreed to amend the Lease on the terms and conditions hereinafter set forth;

NOW, THEREFORE, incorporating the foregoing recital of facts and in consideration of the mutual covenants hereinafter set forth, City and Lessee, intending to be legally bound, hereby agree as follows:

AGREEMENT:

1. RECITALS. The foregoing recitals are true and correct and are incorporated herein.

2. LEASE AMENDMENT. The Lease is hereby amended to provide that, notwithstanding any other provision thereof to the contrary, from and after the Effective Date, the following provisions:

a. Section II (A) COMMENCEMENT AND TERMINATION. Paragraph II (A) as previously amended is hereby deleted and replaced in its entirety to read, as follows:

COMMENCEMENT AND TERMINATION. The term of this Lease shall be fifty-five (55) years, commencing from the Effective Date of this Lease Amendment No. 2 and expiring on December 31, 2058.

OPTION TO EXTEND. Provided Lessee has not theretofore sold, transferred, assigned, mortgaged or hypothecated this Lease, or any interest therein, nor sublet all or any part thereof to any third party, and further provided that Lessee is not then in default, and that there is no uncured default then in effect in the performance of any of Lessee's obligations under said Lease, City hereby grants to Lessee two (2) successive options for two successive ten (10) year periods hereinafter specified (the "Option Terms"), which said Option Terms shall be subject to all the provisions of this Lease, except the Minimum Annual Rental payable to City shall be set at Fair Market Value as determined under the procedure set forth hereinafter in Section III (D) (2). Such First Option Term shall commence on January 1, 2059, and shall terminate on December 31, 2068. To exercise the first option, Lessee shall give City notice in writing by registered or certified mail, postage prepaid, with return receipt requested, addressed to City at City's address for notices provided herein, not sooner than January 1, 2058, and not later than March 31, 2058. Option shall be at the mutual consent of City and Lessee.

Provided Lessee has not theretofore sold, transferred, assigned, mortgaged or hypothecated this Lease, or any interest therein, nor sublet all or any part thereof to any third party, and further provided that Lessee is not then in default, and that there is no uncured default then in effect in the performance of any of Lessee's obligations under said Lease, City hereby grants to Lessee a second option term to extend the term of this Lease for one (1) additional period hereinafter specified (the "Second Option Term" which said Second Option Term shall be subject to all the provisions of this Lease, except the Minimum Annual Rental payable to City shall be set at Fair Market Value as determined under the procedure set forth hereinafter in Section III (D) (2). Such First Option Term shall commence on January 1, 2069, and shall terminate on December 31, 2078. To exercise the first option, Lessee shall give City notice in writing by registered or certified mail, postage prepaid, with return receipt requested, addressed to City at City's address for notices provided herein, not sooner than January 1, 2068, and not later than March 31, 2068. Option shall be at the mutual consent of City and Lessee.

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b. Section III (B) PERCENTAGE RENT. Paragraph III (B) is hereby deleted and replaced in its entirety to read as follows:

Section III (B) PERCENTAGE RENT. Commencing January 1, 2004, in addition to the fixed Minimum Annual Rent, Lessee shall pay City the amount by which seven percent (7%) of the Gross Income, as defined in Subsection III (E), made from or upon the premises during each calendar Quarter exceeds the amount of Minimum Rent paid during such calendar Quarter.

The following shall apply to percentage rent as provided in this Lease:

1. "Quarter" Defined. "Quarter" as used herein refers to the periods ending March 31, June 30, September 30, and December 31 of each calendar year, January 1-December 31. K
2. Percentage Rent Computation. Percentage Rent shall be computed each calendar month and on or before the fifteenth (15th) day of the calendar month immediately following the close of each calendar month, Lessee agrees to furnish or cause to be furnished to City a statement of Gross Sales as defined in Subsection III (E).
3. Due Date. Percentage rent shall be due on the first day of the month next following the end of the Quarter (April 1, July 1, Oct 1, and January 1) and shall be paid each Quarter within fifteen (15) calendar days after the due date; and delinquent on the sixteenth (16th) calendar day after the due date; and shall be determined on the basis of the Gross Sales and business transacted each month during the preceding Quarter.
4. Due Date Adjustment. The percentage rent payment due after the Quarter ending June 30 of each calendar year shall be adjusted to reflect correct and accurate percentage rents for the proceeding twelve (12) month period. Lessee shall reconcile any previous overpayment or underpayment at this time, and shall report any discrepancies within fifteen (15) days.

c. SECTION III (C) TIME AND PLACE OF PAYMENT AND PENALTIES. The sentence "Percentage rent shall be due and payable on the 15th of February for the preceding calendar year and delinquent on the 1st of March following the calendar year for which it is due." Is hereby deleted.

d. Section III (D) (2) ADJUSTMENT OF RENT TO FAIR MARKET RENT AT MIDTERM AND UPON EXERCISE OPTION TO EXTEND. Paragraph III (D)(2) as previously amended is hereby deleted and replaced in its entirety to read as follows:

Section III (D) (2) ADJUSTMENT OF RENT TO FAIR MARKET RENT. On January 1, 2020, and on January 1, 2045 and at the commencement of each option period if exercised, (the "Rent Adjustment Dates"), rent will be renegotiated to fair market rent (the "Adjusted Rent") if either party determines that the then current monthly percentage amount is more or less than one and one-half percent (1.5%) above or below the then fair market rental value for the Property. Either party may then request an adjustment of rent to reflect the correct fair market rent by notifying the other party at least 180 calendar days following the Rent Adjustment Date or commencement of each respective option period, as appropriate. Thereafter the parties shall negotiate in good faith to reach an agreement on fair market rent. If, by 300 calendar days following the Rent Adjustment Date or the commencement of each respective option period, as appropriate, an agreement cannot be reached then each party shall select an MAI certified appraiser to determine the fair market rent. If by the January 1, 2021 and January 1, 2046 or the commencement of each respective option period, as appropriate, those two appraisers cannot agree, they shall within fifteen (15) calendar days select a third MAI certified appraiser whose decision shall be binding on the parties. Each party shall bear the cost of their own appraiser and one-half (1/2) the cost of the third appraiser. The Adjusted Rent's effective dates shall be January 1, 2020 and January 1, 2045 or the commencement of each respective option period, as appropriate, despite the actual date on which the Adjusted Rent is established, if any.

3. CONSISTENT AMENDMENTS. The Lease is hereby amended to the extent necessary to make it consistent with this Lease Agreement.
4. NO OTHER MODIFICATIONS. Except as hereinabove amended and modified, said Lease as heretofore amended by Lease Amendment No. 1 remains in full force and effect, and has not been otherwise amended or modified.
5. PARTIES BOUND. The Lease Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, and assigns.
6. GOVERNING LAW. All questions with respect to the construction of the Lease Amendment and the rights and liabilities of the parties hereto shall be determined in accordance with the applicable provisions of the laws of the State of California.
7. NO FURTHER AMENDMENT. The Lease cannot be further amended except by an instrument in writing and signed by the party against whom such amendment is asserted.

ATTACHMENT 1


IN WITNESS WHEREOF, City and Lessee have executed this Lease Amendment as of the date first hereinabove set forth.

CITY OF MONTEREY:

Approved by Monterey the
Redevelopment Agency of
Monterey, an agency of a
Municipal Corporation on
December 2, 2003

Resolution No 816

Approved as to Form:



City Attorney

City of Monterey, a Municipal
Corporation

By: 

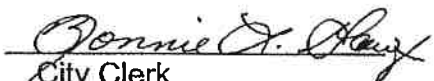
Mayor

Redevelopment Agency of the
City of Monterey, an agency of
The Municipal Corporation

By: 

Agency Chairperson

Attest:

By: 

City Clerk

LESSEE: 01/05/2004
Dated: 12/22, 2004

NOT ON CANNERY ROW, LLC
a California limited liability
company

By: 

ATTACHMENT 1EXHIBIT C

LIST OF ADDRESSES FOR NOTICE PURPOSES

Monterey Successor Agency 580 Pacific Street Monterey, CA 93940 Attn: Executive Director	City of Monterey 580 Pacific Street Monterey, CA 93940 Attn: City Manager
County of Monterey 168 West Alisal Street, 3 rd Floor Salinas, CA 93901 Attn: County Administrative Officer	Monterey Peninsula Unified School District 700 Pacific Street Monterey, CA 93940 Attn: Superintendent
Monterey County Water Resources Agency 1441 Schilling Place Salinas, CA 93901 Attn: General Manager	Monterey County Office of Education 901 Blanco Circle Salinas, CA 93901 Attn: County Superintendent
Monterey Peninsula Water Management District 5 Harris Court, Building G Monterey, CA 93940 Attn: General Manager	Monterey Peninsula College 980 Fremont Street Monterey, CA 93940 Attn: President
Monterey Regional Park District P.O. Box 223340 Carmel, CA 93922 Attn: General Manager	

ATTACHMENT 1EXHIBIT DILLUSTRATIVE DISTRIBUTION OF RESTRICTED PROCEEDS AND
APPLICABLE SHARES

Below is an illustrative distribution of Restricted Proceeds and Applicable Shares of the Taxing Entities that would have applied to a distributions under Section 6 of the Compensation Agreement, had such distribution been made on January 1, 2016. Parties acknowledge that the restrictions of the Closeout Agreement and the Lease, result in none of the lease revenue funds or the property disposition funds being distributed to any other entity or used for anything other than as program income of the City under the provisions of 24 CFR 570.506.

<u>Taxing Entity/Fund</u>	<u>Restricted Funds Share</u>	<u>Property Tax Share</u>
City of Monterey	100%	17.29%
Monterey County	0%	13.81%
Monterey County Water Resources Agency	0%	0.10%
Monterey County Water Resources Agency Zone 11	0%	0.02%
Monterey Regional Park District	0%	1.02%
Monterey County Office of Education	0%	2.79%
County School Service Fund		
Charter School Fund		
SELPA Pass-Through Fund		
Child Development Fund		
Deferred Maintenance Fund		
Forest Reserve Fund		
Special Reserve – Other		
Special Reserve – Capital		
Outlay		
Monterey Peninsula Unified School District	0%	45.90%
Monterey Peninsula College	0%	4.96%
ERAF	0%	13.59%
Monterey Peninsula Water Management District	0%	0.51%

TOTAL

100%

99.99%

Joel Pablo

From: Winston.Stromberg@lw.com
Sent: Monday, October 17, 2022 2:43 PM
To: comments; Karen Paull; District 5; Alvin Edwards; George Riley; Safwat Malek; Amy Anderson; Clyde Roberson
Cc: ian.crooks@amwater.com; kathryn.horning@amwater.com; DJ.Moore@lw.com
Subject: MPWMD Oct. 17, 2022 Special and Regular Meeting Agenda Item 8: letter on behalf of California American Water
Attachments: MPWMD Agenda Item 8 - 10-17-2022 CalAm letter to MPWMD Board.pdf

Dear Members of the Board:

Please see the attached correspondence on behalf of California American Water regarding Agenda Item 8 on today's agenda.

Very truly yours,

Winston P. Stromberg

LATHAM & WATKINS LLP

355 South Grand Avenue, Suite 100
Los Angeles, CA 90071-1560
Direct Dial: +1.213.891.8983
Email: winston.stromberg@lw.com
<https://www.lw.com>

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 Los Angeles, California 90071-1560
 Tel: +1.213.485.1234 Fax: +1.213.891.8763
 www.lw.com

LATHAM & WATKINS LLP

FIRM / AFFILIATE OFFICES

Austin	Milan
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Dubai	San Diego
Düsseldorf	San Francisco
Frankfurt	Seoul
Hamburg	Shanghai
Hong Kong	Silicon Valley
Houston	Singapore
London	Tel Aviv
Los Angeles	Tokyo
Madrid	Washington, D.C.

October 17, 2022

VIA EMAIL

Board of Directors
 Monterey Peninsula Water Management District
 5 Harris Court, Building G
 Monterey, California 93940

Re: MPWMD Board of Directors October 17, 2022 Special and Regular Meeting,
 Item 8: Resolution No. 2022-31

Dear Chair Paull and Members of the Board:

On behalf of California American Water Company (“CalAm”), this letter addresses the MPWMD Board’s consideration of proposed Resolution No. 2022-31 (the “Resolution”), which purports to clarify MPWMD’s requirements for CalAm to obtain an amendment to its water distribution system permit for the Monterey Peninsula Water Supply Project (“MPWSP”). The Resolution also would direct MPWMD’s General Manager to notify other regulators with permit authority over the MPWSP that CalAm has not yet applied for or received an amendment to its water distribution system permit. The Resolution misconstrues and overstates MPWMD’s jurisdiction by asserting that an amendment to CalAm’s water distribution permit is necessary before CalAm may construct the MPWSP. Because MPWMD does not have pre-construction jurisdiction and for the reasons set forth below, the Board should reject the Resolution as currently drafted.

First, the Resolution appears to exceed MPWMD’s jurisdiction. The majority of the MPWSP’s infrastructure, including its proposed slant intake wells in the City of Marina, the desalination plant in the unincorporated County, and the pipeline infrastructure associated with those project components, would be constructed *outside* of MPWMD’s boundaries and therefore outside of its jurisdiction. MPWMD Rule 11 defines a “Water Distribution System” as “all works *within the District* used for the collection, storage, transmission or distribution of water from the Source of Supply to the Connection of a system providing water service to any Connection including all Water-Gathering Facilities and Water-Measuring Devices.” (Emphasis added.) Therefore, consistent with this definition, MPWMD does not have permitting authority over construction of any component of the MPWSP that would be built outside of MPWMD’s boundaries. As such, Section 1 of the proposed Resolution only can be read to apply to portions of the MPWSP within MPWMD’s boundaries.

Second, Section 4 of the Resolution is unnecessary. Since the CPUC approved the MPWSP and certified its Final Environmental Impact Report and Final Environmental Impact Statement (“EIR/EIS”) in 2018, CalAm has been working to seek and obtain approvals from

LATHAM & WATKINS LLP

various governmental agencies for different components of the MPWSP. Currently, CalAm's coastal development permit application (and appeal of Marina's denial of a local coastal development permit) is pending before the Coastal Commission, with a hearing scheduled for November 17, 2022. The MPWSP EIR/EIS identifies more than two dozen necessary permits and approvals for the MPWSP, including that CalAm obtain MPWMD's approval of an amendment to its water distribution system permit. (See EIR/EIS, Table 3-8.) Accordingly, other responsible agencies, such the Coastal Commission and State Lands Commission, are well aware that MPWMD has permitting authority over certain aspects of the MPWSP. Passing a resolution notifying other agencies of CalAm's permitting status is neither necessary nor germane to those agencies' separate permitting authority.

Third, CalAm is concerned that the Resolution appears to misconstrue MPWMD's limited authority over the construction of components of the MPWSP located within MPWMD's boundaries. Section 1 of the Resolution states that CalAm must obtain the amended permit "prior to initiating construction of facilities" pursuant to District Rules 21.C. and 22.E. This statement is not supported by MPWMD's Rules applicable to modifications to water distribution system permits. Specifically, Rule 21.C. and Rule 22.E. do not state that applications for water distribution system amendments must be processed prior to initiation of construction. Nor does any applicable MPWMD Ordinance. As to *initial* permits for a water distribution system, Rule 20.A. states that "[b]efore any Person ***Creates or Establishes*** a Water Distribution System . . ., such Person shall either obtain a written Confirmation of Exemption from the Water Distribution System Permit requirements or a Water Distribution System Permit from the [MPWMD]." (Emphasis added.) Rule 11 defines "Create a Water Distribution System" and "Establish" to mean "the construction and operation of a Water Distribution System." Rule 20.A. and Rule 22.E. also state that before a water distribution system can be modified, expanded, or its supply sources changed, MPWMD must approve an amendment to the existing water distribution system permit. However, neither of these Rules use the terms "Create a Water Distribution System" or "Establish" in connection with modifications to an existing system with an existing permit. While approval of an amendment to a water distribution permit may be required prior to MPWSP operation, the Rules cannot be read so broadly as to require such approval for construction alone. Thus, the Resolution appears to be an attempt to take a position that exceeds MPWMD's authority for considering amendments to existing water distribution permits.¹

MPWMD's proposed Resolution is unnecessary, exceeds MPWMD's authority, and should not be adopted as drafted. Thank you for your consideration of these comments.

Very truly yours,



Winston P. Stromberg
of LATHAM & WATKINS LLP

¹ This letter should not be read as constituting all of CalAm's positions with respect to MPWMD's jurisdiction over the components of the MPWSP, and, as such, CalAm reserves the right to make additional or different arguments in the future. For instance, CalAm notes that the proposed Resolution *may* interfere with the CPUC's constitutional authority to regulate public utilities' production, storage, treatment, transmission and distribution of water.

LATHAM & WATKINS LLP

cc: Ian Crooks, California American Water Company
Kathryn Horning, California American Water Company
DJ Moore, Latham & Watkins LLP

Distributed to the MPWMD Board of Director's, General Manager and
District Counsel on Monday, October 17, 2022

Joel Pablo

From: Michael Baer <mgbisme@yahoo.com>
Sent: Monday, October 17, 2022 7:48 PM
To: Joel Pablo
Subject: Fw: Baer to Luster with questions and comments on Cal AM CDP

Joel,

Please send this around to the Board members, Mr. Stoldt and Mr. Loredó.

Perhaps I can be the first letter in the November hearing which I believe will be after the Coastal Commission meeting in Salinas.

Cheers all,

Michael B.

----- Forwarded Message -----

From: Michael Baer <mgbisme@yahoo.com>
To: Tom Luster <tluster@coastal.ca.gov>
Sent: Monday, October 17, 2022 at 07:24:02 AM PDT
Subject: Baer to Luster with questions and comments on Cal AM CDP

Good morning Tom,

I have *italicized* the parts of this email that seek a response to a question or ask for your action.

So here we are again, and I have some comments and questions for your consideration and for the record, in compiling your staff report regarding Cal Am's application for a CDP of its ill-conceived desal plant. As always, it is my attempt to offer comments or questions that may not be being asked by others, to add something to the overall inquiry, to more fully vet the process.

Although its been delayed over two years since they pulled the application in the last minute back in 2020, it is still far from ready for prime time.

I understand that they are now seeking to downsize the plant to a 4,800 afy instead of a 6,400 afy which itself was downsized from their original ask of 9600 afy. Actually, they want to phase it up 6400 afy over time. Back in the early days of the long and winding story with the CPUC, the 4800 option was viewed to be infeasible due to economies of scale; i.e. It's even MORE expensive to make a smaller plant in terms of the cost per acre foot. Undoubtedly it is also more expensive to build it at 4800 then expand it to 6400 later, than build it out in one effort. And it is not needed for the next 20-30 years if we get the M1W expansion. Plus, I have not heard that Cal Am has gone back to the CPUC, who is the lead agency, to seek approval for the downsized version. If that approval has not been secured, then Cal Am's application is not ready for prime time.

Also, when we last "spoke" by email, you shared that Cal Am and Monterey One had come to an agreement on the outfall liner. While they may have verbally agreed to the basic structure of the agreement, the agreement is by no means finalized. Monterey One has agendized the issue for it's Oct 31 board meeting, but there is a strong push within the community to place a contingency on that agreement, that it will not be valid or executed until the Water Purchase Agreement for the M1W expansion of Pure Water recycling is signed, sealed and

delivered. That is also still in process. The ALJ approved the agreement recently and it is scheduled to be before the full CPUC Commission in the first week of November. Assuming that is approved which is not guaranteed, it will still take another 30-60 days before all parties will sign off on the document. Once again, not ready for primetime until after Thanksgiving at the earliest.

Since we are on the subject of the outfall, I am still unclear to what extent the diffusers have been proven to effectively disperse the brine. I expressed concerns about that years ago. The fact that the outfall terminus is in a flat-bottomed topography suggests the possibility that the brine might lay in an ever growing bolus, creating a deadzone due to increasing salinity. It is the type of topography that is often associated with a squid nursery. Because the current outfall from M1W operations is brackish, it will tend to float upward and disperse easily in the water column, creating no harm to such a nursery. The opposite is true for brine. It tends to sink and collect. So my questions are; *a) Has a biosurvey been done of the area at the outfall terminus to establish a baseline of sea life? and b) What is the plan for monitoring the outfall regularly in the eventuality that brine makes it way out, to ensure that critical habitats are not being damaged?*

In another line of inquiry, I have recently learned that Cal Am has said that any future slant wells will be a 1000 feet long. That was also their original plan for the test well, but they only made it to 735 feet. *PLEASE ASK Ian Crooks why they stopped the drilling at 735 feet? Ask him how many drill motors burnt out trying to drill further?*

He will probably reply something about snowy plover nesting season, but I believe the reason they stopped is because when they encountered the aquitard at that distance and at that angle, they simply could not apply the torque necessary to penetrate and get through the substrate.

It's a good thing too. *What happens when you perforate an aquitard which is holding brackish water above it. Does it exacerbate seawater intrusion? Are there any examples where this has been done elsewhere in the world?* I asked these questions of the CPUC, but they do not do science, so they ignored the question. They do not have the staff to address such a question. Unlike the CCC.

My final point on this email also relates to the test slant well. You can see from the TAC (Technical Advisory Committee) report excerpt below, which was an adjunct of the Mayors' Authority (remember them? thankfully disbanded now) that they had a problem with removing the external casing and so a 25% portion of the intake was rendered useless. Cal Am says it didn't affect the overall intake target of 2100gpm, but that is hard to believe, and there has been no explanation offered on how that is possible. *Please Ask Ian Crooks what changes have been made to the drilling protocols so that such a situation with the casing will not arise if future slant wells are drilled?*

They still have no plan to extract the stranded casing because they lost interest in solving that problem when it did not impede their next step. They still don't know how to do it, though. It has been more than seven years since the problem occurred, but they have done nothing to try to figure it out so that it won't happen if they ever get permission to dig more wells.

Source: MPRWWA TAC meeting, 7/16/15, Item #2, Packet Page 31 (labeled pg,31 but for print enter pg 33, quote below is on print page 34 last paragraph)

“Due to concerns about coastal margin erosion and sea level rise, the test slant well at the CEMEX facility starts nearly 600 ft inland from the coastline. Consequently, it barely reaches coastline where it is at a depth of approximately 200 feet. Drilling and construction of the test slant well was challenging and the drill rig was unable to retract a portion of temporary casing, which remains in the ground and limits flow into 150-ft-length of the nearly 600-ft-long well screen.

However based on more than one month of test pumping at 2000 gpm, the test slant appears to be capable of producing the design flow rate of ~2100 gpm. "

Thanks for your time Tom. I know you are a busy guy, but I hope you can make the inquiries of Mr. Crooks that I have outlined here. There are still so many unresolved issues, but these are a couple that might not otherwise make your radar.

Regards,

Michael B.

MONTEREY COUNTY



COUNTY ADMINISTRATIVE OFFICE

Nicholas Pasculli
County Communications Director
pascullin@co.monterey.ca.us
(831) 905-9632

FOR IMMEDIATE RELEASE

Monday, October 17, 2022

Statement from County of Monterey Chief Administrative Officer, Charles McKee

“Today Governor Newsom announced that the COVID-19 State of Emergency will end on February 28, 2023. This timeline gives our Office of Emergency Services and Health Department ample time to demobilize and to look ahead to managing what most would agree is an evolving and on-going public health challenge.

What this means for the County of Monterey specifically will be determined over the coming weeks. We will however remain strong proponents for our residents who live here and those who work here of getting fully vaccinated. Science has proven time and time again that vaccinations are our best defense against COVID-19.

Our County Health Department, Natividad, and our other public and private sector partners in community health have been planning for this day as well as a potential surge that may occur after the holidays in January and February. Coupled with health experts’ expectation that we will experience a very challenging Flu season, making it more important for our community members to get both COVID boosters and Flu shots.

There is nothing more important to our Board of Supervisors and our County’s Healthcare Professionals than the health and wellbeing of our residents. The County of Monterey will continue to beat the drum of prevention and reasonable measures to protect our people and our economy.”

March 10, 2020, marked the date the County of Monterey Board of Supervisors approved the County’s Emergency Proclamation. County of Monterey COVID-19 timeline is available at the link below.

<https://www.co.monterey.ca.us/government/departments-a-h/administrative-office/office-of-emergency-services/response/covid-19>

###

Joel Pablo

From: Michael Baer <mgbisme@yahoo.com>
Sent: Tuesday, October 18, 2022 10:46 AM
To: Joel Pablo
Subject: Baer on Cal Am

Hi Joel,

Once again please distribute this letter to Board Members, and the two Daves. Thank you.

Greetings all,

Last night I spoke out of turn, but I want to keep the thread of my comment alive. The fact is that Cal Am hasn't updated its cost estimate for the desal plant since it's NOI in 2011. Chair Paul briefly referenced that fact last night when she suggested the rising cost of construction and other inflationary pressures have not been adequately considered.

How can the CPUC or the Coastal Commission make final decisions about billion dollar infrastructure without at least reasonable and recent cost estimates for the project? I know that you are in negotiations/litigations and so I ask you to advocate wherever there might be leverage, for Cal Am to be responsible, and update its cost estimates for desal.

Thank you for your consideration on this ask, and thank you for all the diligent work you are doing.

Regards,

Michael B.



HAYASHI | WAYLAND

October 18, 2022

David Stoldt, General Manager
 Monterey Peninsula Water Management District
 P.O. Box 85
 Monterey, CA 93942

RECEIVED

OCT 21 2022

MPWMD

Dear David,

I'm writing to inform you of some exciting news coming soon at Hayashi Wayland.

For almost 50 years we have been serving clients in Central California, carrying on the legacy that our founding partners Douglas Hayashi and Warren Wayland, and many others established over the decades. This legacy was built on three ideals: treat our employees like family, provide our clients with the highest quality of service possible and give back to our communities. We lived this out each day by striving to follow our guiding principles of Care, Excellence, Gratitude, Humility, Integrity, Respect and Stewardship.

Over the years, HW has been through monumental change. Our firm started with two people in one office serving only a handful of clients in Salinas. We now have over 80 people in the HW family working from five different states, serving nearly 4,000 clients in four office locations throughout Central California. We have been part of a technological revolution which completely changed the way we do our work and serve clients. In order for us to be successful through this period of time, we had to adapt to change and embrace new ways of doing business.

Recently it has become increasingly clear to us that in order to continue to thrive and lead the way in providing the best opportunities to our HW family and our clients with the quality of service and resources they require, we may need to align Hayashi Wayland with a firm that shares our vision and culture and will leverage the legacy we've built and make it even better. After several years of discernment, we are very pleased to announce that we have found that firm and have made the decision to join them. We are excited to share that our partners and team members will join CLA (CliftonLarsonAllen LLP) on November 1, 2022.

Why did we choose CLA? CLA is a national professional services firm that, like us, has developed an approach to serving others which is grown out of a passion for the people and businesses in our communities and a deep concern for their success. We chose CLA because they best fit our culture and our guiding principles and after spending a year getting to know them, we believe they understand Hayashi Wayland and our business model better than any other firm we considered. Like us, they believe in treating their employees like family and serving clients in smaller communities like ours. They also focus on serving closely held businesses rather than publicly traded companies and they share a passion for the same industries we serve: agriculture; hospitality; non-profit organizations, just to name a few. We chose CLA, so we can offer you even deeper knowledge and capabilities when you need it — while retaining the agility we have today.



October 18, 2022

Page 2

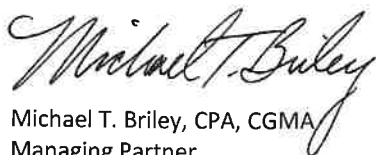
What will this change mean for you?

- You will continue working with the same team as you are today.
- We'll continue serving you as we have in the past, with even more resources for your ongoing needs.
- The fee structure for the services that you receive won't change. However, you will now see a 5% tech fee broken out on invoices to support a secure technology environment to help protect sensitive client data. In the past, similar technology costs in our fee structure were included in the total billing. Therefore, this is not an increase in cost, rather a different method of invoicing for those costs.
- We are staying in our current locations, with the same phone and fax numbers.
- Our email addresses will migrate to a CLA format; however, our existing email addresses will continue to function for a period of time.

All told, this transition should feel seamless. Take a look at CLAconnect.com to get a feel for CLA — creating opportunities for clients, people, and communities through industry-focused wealth advisory, digital, audit, tax, consulting, and outsourcing services.

Thank you for your business over the years, I am truly grateful for it. We look forward to continuing to serve you and we trust that you will be pleased with the service you receive from us once we become members of the CLA family. If you have any questions or concerns, please don't hesitate to contact me directly.

Sincerely,



Michael T. Briley, CPA, CGMA
Managing Partner
Hayashi Wayland

CLA (CliftonLarsonAllen LLP) is an independent network member of CLA Global. See CLAglobal.com/disclaimer. Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor.



October 18, 2022

Ms. Karen Paull
Board Chair
Monterey Peninsula Water Management District
Post Office Box 85
Monterey, California 93942

RECEIVED

OCT 24 2022

MPWMD

Re: No Paid Property/Liability Claims in 2021-22

Dear Ms. Paull,

This letter is to formally acknowledge the dedicated efforts of the Monterey Peninsula Water Management District's Governing Body, management, and staff towards proactive risk management and loss prevention training. Your agency's efforts have resulted in no "paid" property/liability claims for program year 2021-22. A "paid" claim for the purposes of this recognition represents the first payment on an open claim during the prior program year and excludes property claims. This is a great accomplishment!

In addition to this annual recognition, members with no "paid" claims during 2021-22 earned one credit incentive point (CIP), thereby reducing their annual contribution amount.

As SDRMA is dedicated to serving its members and preventing claims, we would appreciate your agency taking a moment and sharing with us what made your District successful in preventing property/liability losses. Our goal is to incorporate your successful ideas and suggestions into our loss prevention programs to benefit all members of SDRMA. Please forward any comments or suggestions to us at memberplus@sdrma.org.

On behalf of the SDRMA Board of Directors and staff, it is my honor to congratulate the Governing Body, management, and staff for their commitment to proactive risk management and loss prevention training.

Sincerely,
Special District Risk Management Authority



Mike Scheafer, President
Board of Directors

Joel Pablo

From: Wandzia Rose <wandziarose@gmail.com>
Sent: Tuesday, October 25, 2022 1:34 PM
To: Joel Pablo
Subject: No Desal Needed!

FYI

Marvin and Wandzia Rose
 6000 Brookdale Drive
 Carmel, CA 93923

24 October 2022

California Coastal Commission
 725 Front Street #300,
 Santa Cruz, CA 9506
 VIA email: CalAmMonterey@coastal.ca.gov

Dear California Coastal Commission Members:


DESAL IS NOT NEEDED! Please **stop the California American Water Desalination project** as it is not needed and very costly monetarily and environmentally to the residents of Monterey County, Carmel Valley and the flora and fauna of the Carmel River.

When completed in two years, the next phase of the Monterey Peninsula Water Management District Pure Water Monterey project will solve the Monterey Peninsula's long-standing water supply problems. The Pure Water Monterey Expansion will provide all the water needed for housing and growth for the next 30 years, drought or no drought. This project provides a clean, safe and sustainable source of water for Monterey County. In addition, it emphasizes advanced water recycling technology, replenishment of the groundwater supply and protection of the environment.

In January of this year, Pure Water Monterey reached its initial goal of producing enough water to allow Cal Am to stop over drafting the Carmel River. As residents of Carmel Valley and property owner on and in the Carmel River, we need the Pure Water Monterey project to return the river to its previous flow rates year-round. The river on our property dries up for three to six months of the year stopping the migration of protected and threatened species of Central California Coast Steelhead.

Upon completion of the new Pure Water Monterey Expansion two years from now, it will provide enough water to lift the cease-and-desist order on the Carmel River and deliver all the water we need. **NO DESAL NEEDED!**

Respectfully,


 Marvin A. Rose
 Registered California Civil Engineer


 Wandzia Rose

Marvin and Wandzia Rose
6000 Brookdale Drive
Carmel, CA 93923

24 October 2022

California Coastal Commission
725 Front Street #300,
Santa Cruz, CA 9506
VIA email: CalAmMonterey@coastal.ca.gov

Dear California Coastal Commission Members:

DESAL IS NOT NEEDED! Please **stop the California American Water Desalinization project** as it is not needed and very costly monetarily and environmentally to the residents of Monterey County, Carmel Valley and the flora and fauna of the Carmel River.

When completed in two years, the next phase of the Monterey Peninsula Water Management District Pure Water Monterey project will solve the Monterey Peninsula's long-standing water supply problems. The Pure Water Monterey Expansion will provide all the water needed for housing and growth for the next 30 years, drought or no drought. This project provides a clean, safe and sustainable source of water for Monterey County. In addition, it emphasizes advanced water recycling technology, replenishment of the groundwater supply and protection of the environment.

In January of this year, Pure Water Monterey reached its initial goal of producing enough water to allow Cal Am to stop over drafting the Carmel River. As residents of Carmel Valley and property owner on and in the Carmel River, we need the Pure Water Monterey project to return the river to its previous flow rates year-round. The river on our property dries up for three to six months of the year stopping the migration of protected and threatened species of Central California Coast Steelhead.

Upon completion of the new Pure Water Monterey Expansion two years from now, it will provide enough water to lift the cease-and-desist order on the Carmel River and deliver all the water we need. **NO DESAL NEEDED!**

Respectfully,



Marvin A. Rose
Registered California Civil Engineer



Wandzia Rose



**Monterey Peninsula Taxpayers Association
PO Box 15 – Monterey – CA - 93942**

October 27, 2022

David Stoldt
General Manager
Monterey Peninsula Water Management District

RE: Nomination of John Tilley as MPTA representative on Ordinance 152 Oversight
Committee

BY : Email

Dear Mr. Stoldt:

This letter nominates John Tilley on behalf of MPTA for the Ordinance 152 Oversight
Committee (O/S/C).

Please let me know if you need anything else from MPTA with respect to this
nomination.

Sincerely yours,

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Heuer", written over a white background.

Rick Heuer
President



November 1, 2022

Mr. John Ainsworth
Executive Director
California Coastal Commission
455 Market Street
San Francisco, CA 94105

Via Email

RE: Cal-Am's CDP Application #9-20-0603

Dear Mr. Ainsworth:

On September 6, 2022 I notified you that the California American Water Company's (Cal-Am) CDP Application #9-20-0603 was not ripe for Coastal Commission consideration due to an on-going California Public Utilities Commission (CPUC) proceeding.

We understand that you have waived 14 Cal. Code Regs. § 13052, which states "a permit application shall not be accepted for filing by the Executive Director unless all such governmental agencies have granted at a minimum their preliminary approvals for said development, except as provided in section 13053." However, at this time we count at least nine unresolved or incomplete regulatory issues:

- Cal-Am's Monterey County permits were revoked subject to additional environmental review. This issue is in the Superior Court and many months from resolution;
- Cal-Am's exclusive negotiating agreement with Monterey One Water for use of their outfall has expired, an additional party has expressed desire to also utilize the outfall, and no agreement is in place with either party;
- The State Lands Commission has not agreed to a lease for the project's intake wells;
- On October 3, 2022 the State Water Board removed Cal-Am its Intended Use Plan for state revolving loan funding of \$279.2 million due to a "lack of progress";
- Cal-Am has not applied for an amendment to its Water Distribution System permit through our District (see Resolution attached);
- Marina Coast Water District contends that Cal-Am has no rights to take water from the CEMEX site and water extractions there are limited by an agreement with CEMEX's predecessor Lonestar Cement. That case is currently being heard in Superior Court.
- The CPUC has on-going proceedings regarding supply and demand for additional water supplies that are expected to continue into March 2023;
- The CPUC has previously approved only a 6.4 MGD plant and specifically discouraged the 4.8 MGD plant as little to no ratepayer savings, less water, no contingency, increased environmental impacts, and so on. Cal-Am would likely need to revisit its CPUC permission to build the plant to pursue a phased approach;

Mr. Ainsworth
Page 2 of 2
November 1, 2022

and

- The CPUC's cost cap for the project is \$279.1 million. To expend funds that Cal-Am intends to recover from ratepayers beyond the capital cost cap, Cal-Am must file a petition to modify the CPUC decision. The Construction Cost Index since the last estimate would imply costs for the project far in excess of the CPUC cost cap.

We hope the Coastal Commission will defer action on CDP Application #9-20-0603. Given the number of unresolved issues, there is a significant likelihood that the project will need to come back before you.

Sincerely,



David J. Stoldt
General Manager

cc: Dan Carl, Coastal Commission
Tom Luster, Coastal Commission
Zita Kline, CPUC
Kenneth Foster, State Lands Commission
Charles McKee, Monterey County
Layne Long, City of Marina
Rem Scherzinger, Marina Coast Water District
Paul Sciuto, Monterey One Water



Final

RESOLUTION NO. 2022-31

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
CONFIRMING DISTRICT PERMIT AUTHORITY ASSOCIATED WITH RECEIPT OF
DESAL PLANT PRODUCT WATER INTO THE CALIFORNIA AMERICAN WATER
COMPANY WATER DISTRIBUTION SYSTEM**

WHEREAS, The Monterey Peninsula Water Management District (“District”) is organized and exists under the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, and published at Water Code Appendix, Section 118-1, et seq.) (“District Law”); and

WHEREAS, Pursuant to Section 325 of the District Law, and except as otherwise limited by the District Law, the District has the power to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the District, including, but not limited to, irrigation, domestic, fire protection, municipal, commercial, industrial, recreational, and all other beneficial uses and purposes; and

WHEREAS, Pursuant to Section 328 of the District Law, the District has the power, among other things, (e) To commence, maintain, intervene in, defend or compromise, in the name of the district on behalf of the landowners therein, or otherwise, and to assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights, within or without the district, used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein. (f) To commence, maintain, intervene in, defend, and compromise and to assume the cost and expenses of any and all actions and proceedings now or hereafter begun. (g) To prevent interference with or diminution of, or to declare rights in, the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; and

WHEREAS, Pursuant to Section 325.5 of the District Law, to the extent feasible, District policy shall require development of the water sources within the District boundaries before utilizing water originating outside its boundaries. The proposed Monterey Peninsula Water Supply Project desalination facility is proposed as a Source of Supply and a Water Gathering Device to be developed outside the District boundaries, for delivery and use of that water within the District boundaries, warranting regulatory interest and review by the District under said Section 325.5; and

WHEREAS, Pursuant to Section 363 of the District Law, no person, owner, or operator shall establish, extend, expand, or create a water distribution system unless and until the approval of the board is first obtained in writing. For the purposes of such approval, the board may adopt such rules and regulations and establish such forms for such applications as are necessary and proper; and

WHEREAS, Pursuant to Section 341 of the District Law, the District shall encourage the coordination and integration of ground water supplies with surface water supplies; and

WHEREAS, Pursuant to Section 256 of the District Law, the District Board may by ordinance adopt reasonable rules and regulations to carry out its powers and duties not inconsistent with District Law and any other law, and violation of a District ordinance is a misdemeanor punishable by law; and

WHEREAS, Pursuant to District Ordinance No.1 (February 11, 1980) amended by District Ordinance No.96 (March 19, 2001) “Water Distribution System” is defined to mean all works within the District used for the collection, storage, transmission or distribution of water from the Source of Supply to the Connection of a system providing water service to any Connection including all Water-Gathering Facilities and Water-Measuring Devices. In systems where there is a water meter at the point of Connection, the term “Water Distribution System” shall not refer to the User’s piping; in systems where there is no water meter at the point of Connection, the term “Water Distribution System” shall refer to the User’s piping; and

WHEREAS, Pursuant to District Rule 20.A., adopted by District Ordinance No. 1 (February 11, 1980 and as amended from time-to-time by District Ordinance), an Owner or Operator of a Water Distribution System shall not modify, add to or change his/her Source of Supply, location of uses, change the System Capacity (if applicable) or Expansion Capacity Limit (if applicable), or expand the Service Area unless that Person first files an application to do so with the District and receives an amended creation/establishment permit or written Confirmation of Exemption. Action on such an application for a permit to create or amend a Water Distribution System shall also conform to the process set forth in District Rules 21 and 22.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Monterey Peninsula Water Management District does hereby resolve as follows:

1. That prior to initiating construction of facilities designed to deliver water from the Monterey Peninsula Water Supply Project to the California American Water Distribution System, and prior to receipt of waters from that Source of Supply, Cal-Am shall first obtain approval by the District Board of an application to amend its Water Distribution System permit pursuant to District Rules 21.C. and 22.E.
2. That prior to importing, distributing or using desal product water from the Monterey Peninsula Water Supply Project into any surface or groundwater source within the District, Cal-Am shall first seek and obtain approval from the District in accord with Article 2 of the District Law, Sections 341 to 366, inclusive.

3. The District's General Manager, or designee, is hereby authorized and directed to ensure that Cal-Am shall make its application pursuant to District Rules 22.E. and 21.C., shall comply with each Rule therein, shall seek authorization to integrate imported waters into District ground water supplies as contemplated by District Law, and these efforts shall be investigated, considered, determined, and acted upon on the same terms and conditions as provided for the approval, conditional approval, or denial of a permit, in accord with District Rules.

4. The District's General Manager, or designee, is hereby directed to notify other public regulators with permit authority over the Monterey Peninsula Water Supply Project, including, but not limited to, the California Public Utilities Commission, California Coastal Commission, California State Lands Commission, the County of Monterey, and the City of Marina that Cal-Am has not yet applied for, nor received approval of, an amendment to its Water Distribution System by the District, and has not yet received approval of efforts to include introduction of desal product water into District ground water supplies.

PASSED AND ADOPTED on this 17th day of October 2022 on a motion by Director Riley with a second by Director Edwards by the following vote, to wit:


AYES: Director Edwards, Riley, Malek, Paull, Anderson, Adams and Roberson

NOES: None

ABSENT: None

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a resolution adopted on 17th day of October 2022.

Dated: October 18, 2022



David J. Stoldt,
Secretary to the Board of Directors

CALIFORNIA COASTAL COMMISSION

455 MARKET ST, SUITE 300
SAN FRANCISCO, CA 94105
FAX (415) 904-5400
TDD (415) 597-5885

RECEIVED

NOV 04 2022



MPWMD
PUBLIC HEARING NOTICE
ENERGY, OCEAN RESOURCES, AND FEDERAL CONSISTENCY
DIVISION

The California Coastal Commission will consider the following Energy, Ocean Resources, and Federal Consistency Division item:

THURSDAY, NOVEMBER 17, 2022, 9:00 A.M.

7. CONTINUED APPEALS.

- a. **Appeal No. A-3-MRA-19-0034 (California American Water Co., Marina)** Appeal by California American Water Company, Brian LeNeve, Castroville Community Services District, and Commissioners Howell and Uranga from City of Marina decision denying permit for construction and operation of well field, pipelines, and associated infrastructure at CEMEX sand mining facility, Lapis Road, Marina, Monterey County, to be used to provide source water for desalination facility located outside the coastal zone in Monterey County.

8. COASTAL PERMIT APPLICATIONS.

- a. **Application No. 9-20-0603 (California American Water Co., Monterey Co.)** Application of California American Water Company for consolidated permit to construct and operate water delivery pipelines and associated infrastructure within the City of Seaside, County of Monterey, and the Commission's retained jurisdiction to support desalination facility located outside the coastal zone in Monterey County.

Staff reports and staff recommendations. Staff reports and staff recommendations are available at www.coastal.ca.gov/mtgcurr.html. Click on the Thursday tab and scroll down to agenda items 7a & 8a. If you wish to receive a hard copy of a report, please contact the Commission's Energy, Ocean Resources and Federal Consistency Division at EORFC@coastal.ca.gov or (415) 904-5240.

Please note: The above items may be moved to the Consent Calendar by the Executive Director if, prior to Commission consideration of the Consent Calendar, staff and the applicant agree on the staff recommendation. If an item is moved to the Consent Calendar, the Commission will either approve it with the recommended conditions in the staff report or remove the item from the Consent Calendar by a vote of three or more

Commissioners. If an item is removed, the public hearing described above will still be held at the point in the meeting originally indicated on the agenda.

How to provide written comments on an item. To submit written materials for review by the Commission, either email (via EORFC@coastal.ca.gov) or submit such materials to Commission staff no later than 5 pm on the Friday before the hearing. Staff will then distribute your materials to the Commission. Such materials received after this time will not be distributed to the Commission. Alternatively, you may also submit such materials directly to the Commissioners (a current list of Commissioner names and email addresses is available from Commission staff or from the Commission's website) as long as such materials are submitted to all Commissioners, all alternates for Commissioners, the three non-voting members of the Commission, and Commission staff. You are requested to summarize the reasons for your position in no more than two or three pages, if possible.

PLEASE NOTE THAT THIS WILL BE A HYBRID MEETING, WITH BOTH VIRTUAL AND IN-PERSON PARTICIPATION ALLOWED. Please see the Coastal Commission's Hybrid Hearing Procedures, posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Hybrid Hearing Procedures, please call (415) 904-5202.

The in-person hearing will be held at **Monterey County Board of Supervisors Chambers, 168 West Alisal St., 1st Floor, Salinas, CA 93901**. The Commission strongly encourages continued participation virtually through video and teleconferencing due to changing Covid-19 conditions.

When will my agenda item be heard? The items listed above will be considered by the Commission at a meeting at which other items are also scheduled. It is not possible to specify the exact time at which each matter will be heard, or to guarantee that an item will not be postponed. No one can predict how quickly the Commission will complete agenda items or how many will be postponed to a later date. The Commission begins each session at the time listed and considers each item in order, except in extraordinary circumstances.

Questions? Questions regarding this agenda item and/or this hearing should be directed to EORFC@coastal.ca.gov or (415) 904-5240.

COMISIÓN COSTERA DE CALIFORNIA

455 MARKET ST, SUITE 300
SAN FRANCISCO, CA 94105
FAX (415) 904-5400
TDD (415) 597-5885

[Sello: EL GRAN SELLO
DEL ESTADO DE
CALIFORNIA]



AVISO DE AUDIENCIA PÚBLICA

DIVISIÓN DE ENERGÍA, RECURSOS OCEÁNICOS Y REGULARIDAD FEDERAL

La Comisión Costera de California examinará el siguiente punto de la División de Energía, Recursos Oceánicos y Regularidad Federal:

JUEVES 17 DE NOVIEMBRE DE 2022, 9:00 A.M.

7. RECURSOS DE APELACIÓN CONTINUADOS.

- a. **Recurso No. A-3-MRA-19-0034 (California American Water Co., Marina)**
Recurso de apelación por California American Water Company, Brian LeNeve, Castroville Community Services District, y los Comisionados Howell y Uranga contra la decisión de la Ciudad de Marina de denegar el permiso para la construcción y operación de un campo de pozos, tuberías e infraestructura asociada en las instalaciones de extracción de arena de CEMEX, Lapis Road, Marina, Condado de Monterey, que se utilizará para suministrar agua de origen a la instalación de desalinización ubicada fuera de la zona costera en el Condado de Monterey.

8. SOLICITUDES DE PERMISOS COSTEROS.

- a. **Recurso No. 9-20-0603 (California American Water Co., Condado de Monterey)** Solicitud de California American Water Company de un permiso consolidado para construir y operar tuberías de suministro de agua e infraestructura asociada dentro de la Ciudad de Seaside, Condado de Monterey, y la jurisdicción retenida de la Comisión para apoyar la instalación de desalinización ubicada fuera de la zona costera en el Condado de Monterey.

Informes y recomendaciones del personal. Los informes y recomendaciones del personal están disponibles en www.coastal.ca.gov/mtgcurr.html. Haga clic en la pestaña del jueves y desplácese hasta los puntos 7a y 8a del orden del día. Si desea recibir una copia impresa de un informe, póngase en contacto con la División de Energía, Recursos Oceánicos y Regularidad Federal de la Comisión en EORFC@coastal.ca.gov o llamando al (415) 904-5240.

Por favor, tome en cuenta que: El Director Ejecutivo puede trasladar los puntos mencionados al Calendario de Consentimiento si, antes de que la Comisión examine el Calendario de Consentimiento, el personal y el solicitante están de acuerdo con la recomendación del personal. Si un punto se traslada al Calendario de Consentimiento, la Comisión lo aprobará con las condiciones recomendadas en el informe del personal o retirará el punto del Calendario de Consentimiento por un voto de tres o más Comisionados.

Si se retira un punto, la audiencia pública descrita anteriormente seguirá celebrándose en el punto de la reunión indicado originalmente en el orden del día.

Cómo presentar comentarios por escrito sobre un tema. Para presentar materiales escritos para su revisión por parte de la Comisión, envíe un correo electrónico (vía EORFC@coastal.ca.gov) o presente dicho material al personal de la Comisión antes de las 5 pm del viernes anterior a la audiencia. El personal distribuirá entonces sus materiales a la Comisión. Los materiales recibidos después de esa hora no se distribuirán a la Comisión. También puede presentar dichos materiales directamente a los Comisarios (el personal de la Comisión o el sitio web de la Comisión tienen a su disposición una lista actualizada de los nombres y direcciones de correo electrónico de los Comisarios), siempre que dichos materiales se presenten a todos los Comisarios, a todos los suplentes de los Comisarios, a los tres miembros de la Comisión sin derecho a voto y al personal de la Comisión. Se ruega resumir las razones de su posición en no más de dos o tres páginas, si es posible.

TENGA EN CUENTA QUE ESTA SERÁ UNA REUNIÓN HÍBRIDA, CON PARTICIPACIÓN VIRTUAL Y PARTICIPACIÓN EN PERSONA. Consulte los Procedimientos de Audiencia Híbrida de la Comisión de Costas, publicados en la página web en www.coastal.ca.gov para conocer los detalles de los procedimientos de esta audiencia. Si desea recibir una copia en papel de los Procedimientos de Audiencia Híbrida de la Comisión de Costas, llame al (415) 904-5202.

La audiencia en persona se llevará a cabo en la **Sala de la Junta de Supervisores del Condado de Monterey, 168 West Alisal St., 1^{er} Piso, Salinas, CA 93901**. La Comisión anima encarecidamente a seguir participando virtualmente a través de video y teleconferencias debido a las cambiantes condiciones de Covid-19.

¿Cuándo se escuchará mi punto del orden del día? Los puntos enumerados anteriormente serán examinados por la Comisión en una reunión en la que también están programados otros puntos. No es posible precisar la hora exacta en que se tratará cada asunto, ni garantizar que un punto no se posponga. Nadie puede predecir la rapidez con la que la Comisión completará los puntos del orden del día ni cuántos se pospondrán a una fecha posterior. La Comisión comienza cada sesión a la hora indicada y examina cada punto por orden, salvo en circunstancias extraordinarias.

¿Preguntas? Las preguntas relativas a este punto del orden del día y/o a esta audiencia deben dirigirse escribiendo a EORFC@coastal.ca.gov o llamando al (415) 904-5240.