

**MONTEREY COUNTY WATER RESOURCES AGENCY  
BOARD OF DIRECTORS  
PERSONNEL AND ADMINISTRATION COMMITTEE**

**COMMITTEE MEMBERS**

Mark Gonzalez, Chair  
Mike LeBarre

Richard Ortiz  
John Baillie

TIME:           **8:30 a.m.**  
DATE:           **Friday, June 7, 2019**  
PLACE:          **County Government Center  
1441 Schilling Place  
Saffron Room, 1<sup>st</sup> Floor  
Salinas, CA 93901  
(831) 755-4860**

**AGENDA**

1.     **Call to Order**
2.     **Public Comment**  
*(Limited to three (3) minutes per speaker on matters within the jurisdiction of the Agency not listed on this agenda. The public will have the opportunity to ask questions and make statements on agenda items as the Committee considers them.)*
3.     **Consider approving the Minutes of the Personnel and Administration Committee meeting held on May 3, 2019**
4.     **Discuss the Agency By-Laws Revision.**
5.     **Receive an update on Personnel activities.**
6.     **Receive an update on Legislative activities.**
7.     **Receive an update on activities at the Reservoirs.**
8.     **Receive an update on WRA Land Use Fee Article XI**
9.     **Receive an update on Real Property issues and Agency Land Appraisals.**
10.    **Receive a verbal update on the Integrated Coastal Monitoring Plan for the Monterey Peninsula Water Supply Project.**
11.    **Set next meeting date and discuss future agenda items.**
12.    **Adjournment**

**MONTEREY COUNTY WATER RESOURCES AGENCY  
BOARD OF DIRECTORS  
PERSONNEL AND ADMINISTRATION COMMITTEE**

**COMMITTEE MEMBERS**

**Mark Gonzalez, Chair  
Mike LeBarre**

**Richard Ortiz  
John Baillie**

**TIME: 8:30 a.m.  
DATE: Friday, May 3, 2019  
PLACE: Monterey County Government Center  
1441 Schilling Place. Saffron Room  
Salinas, CA 93901  
(831) 755-4860**

**MINUTES**

- 1. Meeting Called to Order: 8:30 a.m.  
Members Present: Directors Ortiz and LeBarre  
Members Absent: Directors Gonzalez and Baillie  
A quorum was established.**
- 2. Public Comment: None**
- 3. Consider approving the Minutes of the Personnel and Administration Committee meeting held on April 5, 2019.**

**Committee Action: On Motion and Second by Directors Ortiz and LeBarre respectively, the Committee approved the Minutes of the Personnel and Administration Committee meeting held on April 5, 2019.**

- 4. Discuss the Agency By-Laws Revision.**  
Shauna Lorance, Interim General Manager, discussed this topic.
- 5. Receive an update on Personnel activities.**  
Jessell Fenley, Administrative Services Assistant, provided the update.
- 6. Receive an update on activities at the Reservoirs.**  
Brent Buche, Deputy General Manager, provided the update.
- 7. Consider reviewing the current lease agreements between the Water Resources Agency and the County of Monterey for certain recreational lands, facilities and improvements at Nacimiento and San Antonio Reservoirs, and direct staff to initiate renegotiations between the two parties.**  
Jennifer Bodensteiner, Associate Water Resources Hydrologist, presented information.

**Committee Action: On Motion and Second by Directors Ortiz and LeBarre respectively, the Committee approved the request to direct staff to initiate renegotiations between the Water Resources Agency and the County of Monterey.**

8. **Receive an update on the solicitation of a Request for Proposal for On-Call Appraisal Services.**  
Jennifer Bodensteiner, Associate Water Resources Hydrologist, provided the update.
9. **Receive an update on the Amended and Restated Water Recycling Agreement with Monterey One Water.**  
Shauna Lorance, Interim General Manager, provided the update.
10. **Receive an update on Real Property issues and Agency Land Appraisals.**  
Brent Buche, Deputy General Manager, provided the update.
11. **Set next meeting date and discuss future agenda items.**  
The next Committee meeting will be on June 7, 2019. A future agenda item will be to bring Legislative activity to review in regards to the Bi-Laws/Legislative Proposal.
12. **The meeting adjourned at 9:44 a.m.**

Submitted by: Misti Muramatsu

**ARTICLE XI  
MONTEREY COUNTY WATER RESOURCES AGENCY FEES**

(Per Resolution No. 19-XXX, adopted June 25, 2019 by the Board of Supervisors of the Monterey County Water Resources Agency, Resolution No. 19-XXX, incorporated June 25, 2019 into the Master Fee Schedule by the Monterey County Board of Supervisors, and Resolution No. 19-XXX, adopted July xx, 2019 by the Board of Supervisors of the Monterey County Water Resources Agency)

**SECTION I. LAND USE**

On March xx, 2019, the Monterey County Resource Management Agency (RMA), at its cost and expense, assumed all responsibility with respect to stormwater and drainage management agreements, development and drainage review, floodplain management, and other services previously performed by the Monterey County Water Resources Agency (WRA) for the benefit of the RMA as a condition of various land use permits as established in Titles 20 and 21 of the Monterey County Code. Therefore, the WRA is no longer responsible for providing such land use permit review and implementation services, and such fees are removed from Article XI. The RMA in some cases may rely upon the WRA for technical and subject matter assistance and upon the request of the RMA, the WRA shall provide assistance to the RMA with respect to development and drainage review, floodplain management, and water supply. Services for such assistance shall be compensated in accordance with the appropriate hourly rate for the applicable personnel. These rates are listed below and may be adjusted from time-to-time by the WRA, which shall immediately notify the RMA of any such adjustments.

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>UNIT/TIME</u>
General Manager	\$263.00	per hour
Deputy General Manager	\$233.00	per hour
Senior Engineer or Senior Hydrologist	\$170.00	per hour
Associate Engineer or Associate Hydrologist	\$146.00	per hour
Water Resources Hydrologist	\$113.00	per hour
Water Resources Technician	\$ 97.00	per hour

**SECTION 2. MISCELLANEOUS**

As described in Section 1, the RMA at its cost and expense, assumed the permit review and implementation services previously performed by the WRA as relating to stormwater and drainage management agreements, development and drainage review, and floodplain management. Therefore, the Section 2 miscellaneous fees pursuant to Government Code section 65104 for planning services provided by the WRA are mostly removed from Article XI. The WRA will continue its responsibility to provide services for water well permit review required per Monterey County Code Chapter 15.08, and Hydrogeologic Report administration and review required by Monterey County Code Title 19. The RMA will endeavor to create specific criteria for a determination of Long-Term Sustainable Water Supply (LTSWS) as required by General Plan Policies 3.1 and 3.2, and assumes the current responsibility of the WRA for providing an analysis of LTSWS for discretionary permits. Once there is a defined project to develop the specific criteria for LTSWS, the WRA will participate in the development of the specific criteria,

and the WRA will be reimbursed in accordance with the appropriate hourly rate for the applicable personnel as included in Section 1.

**A. Water well permits as required in Chapter 15.08, Monterey County Code**

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>UNIT/TIME</u>
1. Well Construction Fees for Wells Producing Over 5 acre-feet per year in Zone 2C and additional areas of Monterey County inclusive of the jurisdiction of the Pajaro Valley Water Management Agency	\$610.00	Each
2. Well Reconstruction/Destruction Fees for Wells in Zone 2C and additional areas of Monterey County inclusive of the jurisdiction of the Pajaro Valley Water Management Agency	\$365.00	Each
3. Well Construction/Destruction Database Maintenance Fees County Wide <sup>1</sup>	\$365.00	Each
4. Well Construction Fee for New Domestic Well, in the inland areas of Monterey County <sup>2</sup>	\$121.00	Each
5. Well Construction Fee for New High Capacity Well, in the inland areas of Monterey County <sup>3</sup>	\$243.00	Each

**B. Hydrogeologic Report Preparation as required by Title 19, Monterey County Code (Subdivisions)**

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>UNIT/TIME</u>
1. Contract Administration <sup>4</sup>	\$2,721.00	Deposit

**Notes:**

- 1) This fee is added to the \$610.08 in B-1, the \$365.83 in B-2, the \$121.58 in B-4, and the \$243.16 in B-5.
- 2) This fee is added to the \$610.08 in B-1 for new domestic wells with greater than fifteen (15) connections located in the inland areas of Monterey County within Zone 2C, and areas of Monterey County inclusive of the jurisdiction of the Pajaro Valley Water Management Agency.
- 3) This fee is added to the \$610.08 in B-1 for new wells proposing a flow over 1,000 gallons per minute that are located in the inland areas of Monterey County within Zone 2C and areas of Monterey County inclusive of the jurisdiction of the Pajaro Valley Water Management Agency.
- 4) When a hydrogeologic report is required to be prepared for a subdivision or other application subject to Title 19 of the Monterey County Code, the report shall be based on a comprehensive hydrological investigation prepared by a certified hydrogeologist, selected by the County and under contract with the County, at the applicant's expense. A deposit for staff costs associated with preparation and administration of the contract, and review of the hydrogeologic report shall be in addition to the deposit for the associated development application.

**ARTICLE XI  
MONTEREY COUNTY WATER RESOURCES AGENCY FEES**

(Per Resolution No. ~~19-XXX13-002~~, adopted June 25, 2019<sup>93</sup> by the Board of Supervisors of the Monterey County Water Resources Agency, Resolution No. ~~19-XXX13-143~~, incorporated June 25, 2019 ~~2013~~ into the Master Fee Schedule by the Monterey County Board of Supervisors, and Resolution No. ~~194-XXX~~, adopted July xx, 2019 ~~February 25, 2014~~ by the Board of Supervisors of the Monterey County Water Resources Agency)

**SECTION I. LAND USE**

~~A. On March xx, 2019, the Monterey County Resource Management Agency (RMA), at its cost and expense, assumed all responsibility with respect to stormwater and drainage management agreements, development and drainage review, floodplain management, and other services previously performed by the Monterey County Water Resources Agency (WRA) for the benefit of the RMA. ~~As a condition of various land use permits as established in Titles 20 and 21, of the Monterey County Code (Coastal Implementation Plan) and Title 21, Monterey County Code (Zoning). Therefore, the WRA is no longer responsible for providing such land use permit review and implementation services, and such fees are removed from Article XI. The RMA in some cases may rely upon the WRA for technical and subject matter assistance and upon the request of the RMA, the WRA shall provide assistance to the RMA with respect to development and drainage review, floodplain management, and water supply. Services for such assistance shall be compensated in accordance with the appropriate hourly rate for the applicable personnel. These rates are listed below and may be adjusted from time-to-time by the WRA, which shall immediately notify the RMA of any such adjustments.~~~~

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<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>UNIT/TIME</u>
<del>General Manager</del>	<del>\$263.00</del>	<del>per h</del> Hour
<del>Deputy</del>		
<del>Deputy General Manager</del>	<del>\$233.00</del>	<del>per h</del> Hour
<del>Senior Engineer or Senior Hydrologist</del>	<del>\$170.00</del>	<del>per h</del> Hour
<del>Associate Engineer or Associate Hydrologist</del>	<del>\$146.00</del>	<del>per h</del> Hour
<del>Water Resources Hydrologist</del>	<del>\$113.00</del>	<del>per hour</del>
<del>Water Resources Technician</del>	<del>\$ 97.00</del>	<del>per hour</del>
<del>1. Administrative Permit</del>	<del>General</del>	
<del>    i. Application Fee</del>	<del>\$780.00</del>	<del>Each</del>
<del>    ii. Condition Compliance Fee</del>	<del>\$195.00</del>	<del>Permit</del>
<del>2. Appeal (8)</del>	<del>\$365.00</del>	<del>Each</del>
<del>3. Permit Amendment, Renewals, Revisions, or Extension</del>	<del>\$610.00</del>	<del>Each</del>
<del>4. Coastal Administrative Permit</del>		
<del>    a. General</del>		
<del>        i. Application Fee</del>	<del>\$780.00</del>	<del>Each</del>

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ii.	Condition Compliance Fee	\$195.00	Permit
5.	Coastal Development Permit		
a.	General		
i.	Application Fee	\$780.00	Each
ii.	Condition Compliance Fee	\$195.00	Permit
b.	Tree Removal Only	\$244.00	Each
6.	Coastal Implementation Plan Amendment (1)	Extraordinary Development Application Fee	
7.	General Development Plan		
a.	General		
i.	Application Fee	\$976.00	Each
ii.	Condition Compliance Fee	\$244.00	Permit
8.	General/Area Plan Amendments (1)	Extraordinary Development Application Fee	
9.	Extraordinary Development Applications (1)	\$7,318.00	Deposit
10.	Rezoning or Code Text Amendments (1)	Extraordinary Development Application Fee	
11.	Initial Environmental Review	\$486.00	Each
12.	Initial Environmental Review Addendum	\$243.00	Each
13.	Use Permit		
a.	General		
i.	Application Fee	\$780.00	Each
ii.	Condition Compliance Fee	\$195.00	Permit
14.	Variance		
a.	General		
i.	Application Fee	\$683.00	Each
ii.	Condition Compliance Fee	\$170.00	Permit
<b>B.</b>	<b>Various subdivision activities as established in Title 19, Monterey County Code (Subdivisions)</b>		
1.	Lot Line Adjustment		
a.	General		
i.	Application Fee	\$585.00	Each
ii.	Condition Compliance Fee	\$146.00	Permit
2.	Lot Line Amendment, Revisions, or Extensions	\$610.00	Each

3.	Minor Subdivision Tentative Map, or Vesting Tentative Map (10)		
a.	Application Fee	\$2,927.00	Deposit
b.	Adopted Community Plan (initial study)		
i.	Application Fee	\$2,927.00	Deposit
c.	Adopted Community Plan (no initial study)		
i.	Application Fee	\$1,170.00	Each
ii.	Condition Compliance Fee	\$293.00	Map
4.	Minor Subdivision Amendment, Revisions, or Extensions	\$610.00	Each
5.	Standard Subdivision Preliminary Map (10)	\$2,927.00	Deposit
6.	Standard Subdivision Tentative Map, or Vesting Tentative Map (1)	Extraordinary Development Application Fee	
7.	Subdivision Condition Compliance		
a.	Standard or Minor Subdivision Final or Parcel Map (11)	\$2,917.00	Deposit
8.	Standard or Minor Subdivision Amended Final or Parcel Map	\$2,917.00	Deposit
9.	Standard Subdivision Amendments, Revisions, or Extensions	\$610.00	Each

**SECTION 2. MISCELLANEOUS**

~~A:~~ As described in Section 1, the RMA at its cost and expense, assumed the permit review and implementation services previously performed by the WRA as relating to stormwater and drainage management agreements, development and drainage review, and floodplain management. Therefore, the Section 2 miscellaneous various fees pursuant to Government Code section 65104 for planning services provided by the WRA are mostly removed from Article XI and the WRA will no longer provide these select miscellaneous services for the benefit of the RMA. -The WRA will continue its responsibility to provide services for water well permit review required per Title 15.08, Monterey County Code Chapter 15.08, and Hydrogeologic Report administration and review required by Title 19, Monterey County Code Title 19. The RMA will endeavor to create specific criteria for a determination of Long-Term Sustainable Water Supply (LTSWS) as required by General Plan Policies 3.1 and 3.2, and assumes the current responsibility of the WRA for providing an analysis of LTSWS for discretionary permits. Once there is a defined project to develop the specific criteria for LTSWS, the WRA will participate in the development of the specific criteria, and the WRA will be reimbursed in accordance with the appropriate hourly rate for the applicable personnel as included in Section 1. ater Resources Agency.

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DESCRIPTION AMOUNT UNIT/TIME



1.	Development Review Conference (9)	\$364.00	Each
2.	Specific Plans and Amendments (1)	Extraordinary Development Application Fee	
3.	Building/Grading Permit Review		
a.	Standard Building Permits or Grading Permits including, but not limited to, development activities such as single family dwellings, additions of 50% or more, and routine grading	\$731.00	Each
b.	New Commercial or Industrial	(3) \$487.00	Each
c.	Dwelling Addition 500 sq. ft. or more	\$487.00	Each
d.	Commercial or Industrial Addition	\$487.00	Each
e.	Plan Check for building/grading permits that have an associated planning permit	\$365.00	Each
f.	Building and/or Grading Permits for projects located within the 100-year floodplain. (Applied by MCWRA only)(10)	\$2,917.00	Deposit
	After 24 hours	\$121.00	Hour
4.	Monterey Peninsula Water Management District Allocation Tracking: Water Release Form processing fee	\$182.00	Each
5.	Big Sur Viewshed Acquisition	\$244.00	Each
6.	Environmental Impact Report Review	Extraordinary Development Application Fee	
7.	Mitigation Monitoring and Condition Compliance for Projects with Mitigation Measures (2)		
a.	1 to 20 Conditions/Mitigation Measures	\$731.00	Deposit
b.	21 to 40 Conditions/Mitigation Measures	\$1,463.00	Deposit
c.	Over 40 Conditions/Mitigation Measures	\$2,194.00	Deposit
8.	Floodzone Inquiry Report including supporting maps	\$83.00	Each
9.	Floodzone Inquiry Report cover sheet only	\$55.00	Each

**AB. Water well permits as required in Title Chapter 15.08, Monterey County Code**

DESCRIPTION	AMOUNT	UNIT/TIME
1. Well Construction Fees for Wells Producing Over 5 acre-feet per year in Zone 2C and additional areas of Monterey County inclusive of the jurisdiction of the Pajaro Valley Water Management Agency	\$610.00	Each

2.	Well Reconstruction/Destruction Fees for Wells in Zone 2C and additional areas of Monterey County inclusive of the jurisdiction of the Pajaro Valley Water Management Agency	\$365.00	Each
3.	Well Construction/Destruction Database Maintenance Fees County Wide <sup>1</sup> (1.4)	\$365.00	Each
4.	Well Construction Fee for New Domestic Well, in the inland areas of Monterey County <sup>2</sup> (2.5)	\$121.00	Each
5.	Well Construction Fee for New High Capacity Well, in the inland areas of Monterey County <sup>3</sup> (3.6)	\$243.00	Each

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**~~C. Hydrogeologic Report Review and Long Term Sustainable Water Supply Determination as required by 2010 General Plan Policy (PS-3.2)(12)~~**

~~1. Hydrogeologic Report Technical Review and Advice of General Manager (1) Extraordinary Development Application Fee~~

**BD. Hydrogeologic Report Preparation as required by Title 19, Monterey County Code (Subdivisions)**

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>UNIT/TIME</u>
1. Contract Administration <sup>4</sup> (4)	\$2,721.00	Deposit

**Notes:**

- ~~1) "Extraordinary Development Applications" are those applications which will require staff time well beyond the typical application, as determined by the Director of Planning. These applications may include, by way of example and without limitation, applications for large scale development involving multiple discretionary entitlements, significant technical review by other land use agencies, and/or an anticipated lengthy time frame for processing because of their scope and complexity. Consistent with these criteria, any project requiring the preparation of an Environmental Impact Report shall qualify as an extraordinary development application. WRA fees are based on an hourly rate of \$121.58. The amount paid to WRA is for staff costs. The WRA may utilize a consultant, whose expenses shall be fully funded by the project applicant.~~
- ~~2) These fees shall apply, in lieu of other condition compliance fees set forth in this Article, to any permit approved after the effective date of this article that incorporates mitigation measures, such as permits that required adoption of a Mitigated Negative Declaration, certification of an EIR, or carryover of mitigation measures from a previously adopted/certified environmental document. If these fees apply, the other condition compliance fees set forth in this Article do not apply. Projects approved after the effective date of this article with mitigation measures shall be subject to the mitigation monitoring fees set forth in this Article. Projects approved prior to the effective date of this article with mitigation measures shall be subject to the mitigation monitoring fees set forth in the County Fee Resolution that was in effect on the project approval date.~~
- ~~3) Buildings over 5,000 square feet and greenhouses.~~
- ~~4) This fee is added to the \$610.08 in B-1, the \$365.83 in B-2, the \$121.58 in B-4, and the \$243.16 in B-5.~~

- ~~5)2)~~ This fee is added to the \$610.08 in B-1 for new domestic wells with greater than fifteen (15) connections located in the inland areas of Monterey County within Zone 2C, and areas of Monterey County inclusive of the jurisdiction of the Pajaro Valley Water Management Agency.
- ~~6)3)~~ This fee is added to the \$610.08 in B-1 for new wells proposing a flow over 1,000 gallons per minute that are located in the inland areas of Monterey County within Zone 2C and areas of Monterey County inclusive of the jurisdiction of the Pajaro Valley Water Management Agency.
- ~~7)~~ Fees for Combined Development Permits under Chapter 21.76 of Title 21 and Chapter 20.70 of Title 20 shall be 85% of the total combined permit application fees. Fees for Condition Compliance on Combined Development Permits shall be 85% of the total combined Condition Compliance fees on each permit assessed an application fee as part of the Combined Development Permit.
- ~~8)~~ In the coastal zone, the appeal fee applies only to appeals of permits that are not appealable to the California Coastal Commission such as Administrative Permits, Design Approvals, Variances and Tree Removal Permits in certain coastal areas. The appeal fee does not apply to appeals of Coastal Development Permits that are appealable to the Coastal Commission. The Appeal Fee is based upon the fee adopted by the Board of Supervisors on May 7, 2013 which sets the fee substantially lower than the actual cost. The Appeal Fee is subsidized by the County General Fund.
- ~~9)~~ Fees collected for Development Review Conferences (Section 2 A.1) shall be credited against any subsequent discretionary permit, except design approval, provided the discretionary permit application is made within 6 months of the application appointment.
- ~~10)~~ These fees only apply to maps originally submitted prior to July 13, 2003 when applicants were charged "flat fees" (the use of deposits for full cost recovery projects became effective July 13, 2003) and those submitted after August 20, 2006. Maps submitted between July 13, 2003 and August 20, 2006 and on or after the effective date of this article are full cost recovery projects and require a deposit.
- ~~11)~~ The condition compliance fee shall be collected after project approval and after all administrative appeals have been exhausted, based on the fee in effect at the time of collection, to cover the cost of staff time monitoring condition compliance. If the permit incorporates mitigation measures, such as permits that required adoption of a Mitigated Negative Declaration, certification of an EIR, or carryover of mitigation measures from a previously adopted/certified environmental document, the condition compliance fees that apply are the fees set forth under the category "Mitigation Monitoring and Condition Compliance for Projects with Mitigation Measures." Those fees are based on actual time spent on monitoring condition compliance and require a deposit. Additionally, project applications whose application fees were based on actual time, rather than flat fee, will continue to be subject to fees based on actual time for condition compliance, and the County may require an additional deposit for condition compliance. For all other projects, the fee for condition compliance is as indicated in the fee schedule. Where the applicable condition compliance fee is a flat fee, it is based on the estimated reasonable cost of staff time for monitoring condition compliance. Because such flat fees represent an average across all similar permits, such flat fee shall be required of all permits having at least one condition of approval, regardless of the total number of conditions and regardless of the land use department or agency that originated the condition.
- ~~4.12)~~ When a hydrogeologic report is required to be prepared for a subdivision or other application subject to Title 19 of the Monterey County Code, the report shall be based on a comprehensive hydrological investigation prepared by a certified hydrogeologist, selected by the County and under contract with the County, at the applicant's expense. A deposit for staff costs associated with preparation and administration of the contract, and review of the hydrogeologic report shall be in addition to the deposit for the associated development application. When an application is not subject to Title 19, the applicant shall consult with the Water Resources Agency (WRA) to develop the scope of work for the hydrological investigation; however, selection, contract, and preparation of the hydrogeologic report shall occur independent of the County. WRA will review the hydrogeologic report in consultation with the Environmental Health Department.
- ~~13)~~ WRA fees are based on an hourly rate of \$121.58. A flat fee is based on the estimated reasonable cost, averaged across all applications, of processing the permit/entitlement for which the fee is charged. On matters for which a deposit is required, fees will be based on actual time in quarter-hour (.25) increments multiplied by the hourly rate representing actual hours worked by the project planner.

and other staff. The applicant is required to pay the indicated deposit and will be billed subsequently if the deposit is insufficient to cover actual processing time. On deposit matters, applicant and the General Manager of the Water Resources Agency may elect, on a case-by-case basis, to agree to a different deposit amount based on the estimated actual cost of processing a specific application. All fees have been rounded down to the nearest dollar.

MEMORANDUM OF UNDERSTANDING

between

THE MONTEREY COUNTY WATER RESOURCES AGENCY

and

THE COUNTY OF MONTEREY

regarding

PERFORMANCE OF SERVICES

MEMORANDUM OF UNDERSTANDING

between

THE MONTEREY COUNTY WATER RESOURCES AGENCY

and

THE COUNTY OF MONTEREY

regarding

PERFORMANCE OF SERVICES

WHEREAS, the County of Monterey (“County”) is a political subdivision of the State of California with duties and responsibilities set forth in various provisions of the California Constitution, and state laws and regulations; and

WHEREAS, the Monterey County Water Resources Agency (“WRA”) is a special act agency of the State of California with duties and responsibilities set forth in Chapter 52 of the California Water Code Appendix (“WRA Act”), and is the successor to the Monterey County Flood Control and Water Conservation District; and

WHEREAS, the County and the WRA (separately a “Party,” collectively the “Parties”) are separate legal entities, with separate and distinct duties and responsibilities as set forth in their respective organic laws; and

WHEREAS, the County is governed by an elected Board of Supervisors; and

WHEREAS, the WRA is governed by the same Board of Supervisors sitting ex officio as the Board of Supervisors of the Water Resources Agency; and

WHEREAS, the WRA also has a Board of Directors which is advisory to the Board of Supervisors of the WRA, but which also has certain final authority as more fully set forth in the WRA Act; and

WHEREAS, from time-to-time the County performs certain services for the WRA, and from time-to-time the WRA performs certain services for the County; and

WHEREAS, the provision of services by each to the other has historically been undertaken without formal written agreement regarding how and when the services would be provided, and without formally addressing the compensation for the services; and

WHEREAS, it is the desire of both the County and the WRA to more clearly set forth the services that each will provide to the other, and the basis upon which any such services will be compensated.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the County and the WRA agree as follows:

1. Effective date and term.

This Memorandum of Understanding ("MOU") shall be effective on the date last signed by either of the parties, and shall continue in effect unless terminated as set forth in Section 4, below.

2. Definitions.

The definitions set forth in this MOU shall apply herein and in the attached Appendices, unless otherwise indicated. Other definitions may be set forth in the attached Appendices.

3. Services to be provided.

The County shall provide such services to the WRA, and the WRA shall provide such services to the County, on the terms and conditions as more specifically set forth in the Appendices to this MOU, which are attached hereto and incorporated herein by reference. Appendices may be amended, added, or deleted from time-to-time upon the mutual agreement of the Parties.

The party performing such services shall be referred to as the "Performing Party," and the party receiving such services shall be referred to as the "Receiving Party."

4. Termination.

This MOU, or any of the Appendices, may be terminated by either party for any reason or no reason upon the giving of sixty (60) days written notice to the other party, such notice to be delivered as provided in Section 6, below. The effective date of the termination shall be in the notice provided by the terminating party, but in no event shall be earlier than the time required for effective notice. Any sums due for the performance of services by the Performing Party through the date of termination shall be paid by the Receiving Party.

5. Defense and Indemnification.

The Performing Party shall defend and indemnify the Receiving Party from and against any claim, cost or expense of any kind, including litigation expenses and attorney's fees, arising out of the negligent performance of services by the Performing Party, such defense and indemnification obligation to be in proportion to the comparative negligence

of each party. Should either party declare that it will not provide a defense and indemnification pursuant to this Section on the basis that it believes it has not been negligent, or for any other reason, the other party may proceed to defend against any such claim at its own expense, but its rights to a defense and indemnification shall be reserved to be determined in any court proceeding or mutual agreement.

6. Notices.

All notices regarding performance under this MOU shall be sent by hand delivery, electronic mail, or U.S. mail (certified mail, return receipt requested and postage prepaid) to the persons and addresses listed below. Either party may change the designated person by notice to the other party. If sent by U.S. mail, delivery shall be presumed five (5) days following deposit with the U.S. Postal Service.

County of Monterey  
  
CAO  
163 W. Alisal St., Third Floor  
Salinas, CA 93901  
[baumanl@co.monterey.ca.us](mailto:baumanl@co.monterey.ca.us)

Monterey County Water Resources  
Agency

General Manager  
1441 Schilling Pl., North Bldg.,  
Salinas, CA 93901

Copy to:


Charles J. Mckee, County Counsel  
163 W. Alisal St., Third Floor  
Salinas, CA 93901  
[mckeeccj@co.monterey.ca.us](mailto:mckeeccj@co.monterey.ca.us)

Copy to:

Kelly L. Donlon, Deputy County Counsel  
163 W. Alisal St., Third Floor  
Salinas, CA 93901  
[donlonkl@co.monterey.ca.us](mailto:donlonkl@co.monterey.ca.us)

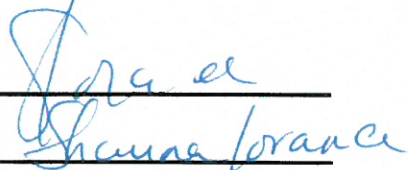
IN WITNESS WHEREOF, COUNTY and WRA execute this agreement as follows:

THE COUNTY OF MONTEREY

By  \_\_\_\_\_  
Lew C. Bauman  
County Administrative Officer

Dated: January 31, 2019

MONTEREY COUNTY WATER  
RESOURCES AGENCY

By  \_\_\_\_\_  
Shanna Torance  
Interim General Manager

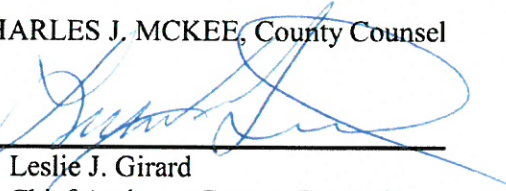
Dated: January 27, 2019



APPROVED AS TO FORM

CHARLES J. MCKEE, County Counsel

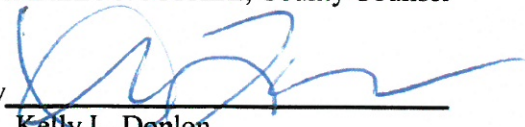
By

  
\_\_\_\_\_  
Leslie J. Girard  
Chief Assistant County Counsel

APPROVED AS TO FORM

CHARLES J. MCKEE, County Counsel

By

  
\_\_\_\_\_  
Kelly L. Donlon  
Deputy County Counsel

## APPENDIX A

### RESOURCE MANAGEMENT AGENCY

#### PURPOSE AND EFFECTIVE DATE

This Appendix A sets forth the agreement of the Parties with respect to services provided by and between the County of Monterey Resource Management Agency (“RMA”) and the WRA. This Appendix A is effective as of the date last signed by either of the Parties (“Effective Date”).

#### PERFORMANCE OF SERVICES

Upon the Effective Date:

1. The RMA will perform the functions and provide the services as set forth in Exhibit 1, and the WRA will perform the services for the RMA also as set forth in Exhibit 1. The WRA will immediately deliver to the RMA all work product, both past and current, related to development review, drainage review, floodplain management, and other RMA and WRA processes previously performed by the WRA for the RMA;
2. The WRA will cause existing stormwater and or drainage management agreements with developers and others to be assigned to the RMA, and the RMA will accept all such assignments; and
3. The WRA will release to the RMA all amounts in escrow related to stormwater and or drainage management agreements upon receipt by the WRA of fully executed agreement assignments.

#### RESPONSIBILITY FOR SERVICES

1. RMA.

In addition to the foregoing, upon the Effective Date, the RMA, at its cost and expense, will assume all responsibility with respect to stormwater and drainage management agreements, development and drainage review, floodplain management, and other services previously performed by the WRA for the benefit of RMA, whether required by state or County laws, regulations or policies, or by the WRA Act. The RMA will hold the WRA harmless for the implementation thereof. The WRA will remain liable for errors and omissions on its part for development and drainage review, floodplain management, and other services previously performed by the WRA for the RMA prior to the Effective Date.

2. WRA.

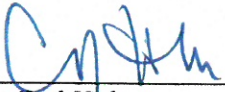
Upon request of the RMA, the WRA shall provide assistance to the RMA with respect to development and drainage review, and floodplain management. Services for such assistance shall be compensated in accordance with the appropriate hourly rate for the applicable personnel. The WRA shall provide to the RMA on an annual basis,

# APPENDIX A

## RESOURCE MANAGEMENT AGENCY

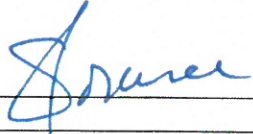
commencing with the Effective Date, a schedule of such rates, and such rates may be adjusted from time-to-time by the WRA which shall immediately notify the RMA of any such adjustments.

RESOURCE MANAGEMENT AGENCY

By  \_\_\_\_\_  
Carl Holm  
RMA Director

Dated: January \_\_\_\_, 2019

WATER RESOURCES AGENCY

By  \_\_\_\_\_  
Interim General Manager

Dated: January \_\_\_\_, 2019

## EXHIBIT 1 TO APPENDIX A

### WRA Development Review Duties To Be Performed By The RMA

#### Grading

- Review for potential impacts to flood elevations (i.e., grading within the FEMA-defined floodway).
- Review to ensure the building site or building is elevated properly.
- Review to ensure development is safe from flow related erosion hazards.
- Review to ensure grading activities comply with setbacks from rivers and water courses to ensure watercourse capacity is not reduced or otherwise adversely affected.
- Review, when necessary, for related drainage improvements (e.g., projects which require flood and storm water control measures; drainage measures to enhance groundwater recharge and protect water quality; and larger scale projects needing detention/retention pond construction).

#### Erosion Control

- Review for compliance with stormwater control plans.

#### Stormwater Management/Drainage Control

- Review to enforce multi-objective drainage policies for areas outside the NPDES boundary (note – the RMA already does this work for areas within NPDES boundary):
  - o Flood control/reduction of runoff rates;
  - o Groundwater recharge;
  - o Erosion control; and
  - o Water quality best management practice.
- Review plans for compliance with drainage policies related to flood control and water quality standards.
  - o Oil-Grit Separators
  - o Retention Facilities
  - o Detention Facilities
- All duties created by existing WRA stormwater and/or drainage management agreements.

#### Floodplain Management/NFIP Community Rating System

- Review plans, for construction in the FEMA-defined 100-year floodplain, to ensure all new structures and substantial improvements are elevated and/or floodproofed properly (e.g., residential lowest floor a minimum of 1 foot above the base flood evaluation with flood vents, non-residential floodproofed and watertight to the passage of water, and certification by a registered civil engineer or architect).
- Require FEMA Elevation Certificates to certify buildings are constructed in accordance with the approved plans.
- Ensuring that NFIP Community Rating System (“CRS”) credit is received for the following activities:
  - o CRS Activity 310 – Elevation Certificates
  - o CRS Activity 320 – Map Information Service

## EXHIBIT 1 TO APPENDIX A

- CRS Activity 330 – Outreach Projects
- CRS Activity 340 – Hazard Disclosure
- CRS Activity 350 – Flood Protection Information
- CRS Activity 360 – Flood Protection Assistance
- CRS Activity 370 – Flood Insurance Promotion
- CRS Activity 410 – Floodplain Mapping
- CRS Activity 420 – Open Space Preservation
- CRS Activity 430 – Higher Regulatory Standards
- CRS Activity 440 – Flood Data Maintenance
- CRS Activity 450 – Stormwater Management
- CRS Activity 510 – Floodplain Management Planning
- CRS Activity 540 – Drainage System Maintenance
- CRS Activity 610 – Flood Warning and Response
- CRS Activity 630 – Dams

### Water Supply

- Assume responsibility for tracking water allocations in the unincorporated portion of the Monterey Peninsula/Carmel Valley area water allocation system.

### Inspections/Enforcement

- Investigate/evaluate complaints and communicate with Code Enforcement.
- Attend ALJ hearings as requested by Code Enforcement.

### General Plan

- Approve mitigation measures for new insurable buildings located within the floodplain (General Plan “GP” Policy S-2.10).
- On-site improvements or other methods for storm water detention to maintain post-development, off-site, peak flows at no greater than pre-development levels. (GP Policy S-3.1).
- Runoff Performance Standards to reduce storm flows plus capture and recharge runoff. (GP Policy S-3.5).
- Preparation of a Flood Criteria or Drainage Design Manual (GP Policy S-3.7).
- Identification of important groundwater recharge areas on large-scale development project sites (GP Policy PS-2.9 c).
- Endeavor to create specific criteria for a determination of Long Term Sustainable Water Supply as required by GP Policy 3.1 and 3.2, and assume current responsibility for providing an analysis of LTSWS for discretionary projects.

### **WRA Development Review Duties To Remain With WRA**

- Engage in a cooperative relationship with regional, state and federal agencies to provide public outreach and technical assistance programs on erosion and sediment control, efficient water use, water conservation and reuse, and groundwater management. (GP Policy OS-3.8).

## EXHIBIT 1 TO APPENDIX A

- The County will endeavor to develop specific criteria for proof of a long-term, sustainable water supply (GP Policy PS-3.1, 3.2). Once there is a defined project to develop the specific criteria, WRA will participate in the development of the specific criteria with the County. The WRA will be reimbursed by the County for its work on this project.
- Review and comment on portions of Environmental Impact Reports on projects being processed by the RMA. The WRA will be reimbursed on a time and materials basis by the RMA.
- The WRA will analyze the regional draft Reclamation Ditch Watershed Impact Fee Program developed in March 2011 and develop an impact fee schedule based on a project's impact to the Reclamation Ditch system. The proposed impact fees will provide the necessary funding not currently available to pay for needed planning studies, environmental work, and capital improvement projects needed to mitigate (or partially mitigate) impacts from future development on the Reclamation Ditch regional drainage system.

Consider supporting an amendment to the County Master Fee Resolution to update land use fee descriptions and levy new fees for reimbursement to the Monterey County Water Resources Agency.

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Personnel and Administration Committee:

- a. Recommend an amendment to the County's Master Fee Resolution to update land use fee descriptions and levy new fees for reimbursement to the Monterey County Water Resources Agency.

SUMMARY/DISCUSSION:

In March 2019, the County of Monterey and the Monterey County Water Resources Agency (Agency) executed a Memorandum of Understanding (MOU) which resulted in the transfer of certain functions related to land use permit development review, drainage review, and floodplain management. The transfer made the Monterey County Resource Management Agency (RMA) responsible with respect to these duties once performed by the Agency. Per the MOU, the RMA may request the WRA provide assistance to the RMA with respect to development and drainage review, and floodplain management. Services for such assistance shall be compensated in accordance with the appropriate hourly rate for the applicable personnel. Therefore, it is necessary for the Agency to amend certain land use fee descriptions and to levy new fees for technical and subject matter services.

OTHER AGENCY INVOLVEMENT:

County Counsel  
Monterey County Resource Management Agency

FINANCING:

None

Prepared by: Jennifer Bodensteiner, Associate Hydrologist, (831) 755-4970

Attachment:

1. Updated WRA Land Use Fee Article XI – clean version
2. Updated WRA Land Use Fee Article XI – tracked changes
3. WRA – RMA MOU executed March 2019