

ATTACHMENT D

**Before the Board of Supervisors of the
Monterey County Water Resources Agency, State of California**

Resolution No. _____)
A Resolution Amending Monterey County)
Water Resources Agency Land Use Fees)
)

This Resolution is made with reference to the following facts:

1. State law allows the Monterey County Water Resources Agency (MCWRA), after noticed public hearing, to adopt a resolution to adopt new fees or increase existing fees for processing land use permits and entitlements, provided the fees do not exceed the estimated reasonable cost of providing the service for which the fee is charged.

2. Several of the Monterey County land use departments and the Monterey County Water Resources Agency are proposing to amend some fees to keep pace with an increase in costs of providing some of these services, to modify fee categories to reflect more efficient operations, to clarify some fee categories, to levy fees for additional mandated services, and to reduce the fee for land use permit appeals. Because the County employs a single point for collection of the fee from the applicant, consistency and uniformity across the departments and the Monterey County Water Resources Agency in the structure of land use fees are needed in order to administer fees efficiently. To this end, the departments and Agency have restructured fees to further segment existing permit fees to better represent actual cost of service, clarified some fees for more consistent application by the staff and better understanding by the public, levied to recover the costs of mandated services, or streamlined existing permit fees to reflect updated data on processing times. The amendments to the land use fees are shown by ~~strikeout~~ and underline in the Articles attached hereto and incorporated herein by reference, with additions shown by underline and deletions shown in ~~strike through~~.

3. The fee articles also provide for extending an annual automatic adjustment of the fees on July 1 of each year for three years, through July 1, 2015. The adjustment will be made based on the United States Department of Labor Consumer Price Indexes, all item indexes, all urban consumers for the San Francisco-Oakland-San Jose area. Because the cost of providing the services for which the fees are charged is rooted in the labor cost of the employees providing the service, the automatic adjustment will allow the fees to keep pace with County's cost of providing the service. The automatic annual adjustment is proposed for a three-year period in order to monitor the fees to ensure they do not exceed the estimated reasonable cost of providing the service and to ensure a return to the Board to consider readjustments.

4. The amendments to MCWRA fees include new fees to cover staff costs for technical support to the Monterey County Environmental Health Bureau's well permit program for evaluation of new domestic wells and high capacity wells pursuant to policies of the Monterey County 2010 General Plan and enlargement of the geographic area where certain existing MCWRA well construction/reconstruction/destruction fees apply.
5. The fee adjustments made by this resolution cover staff costs for technical support services to the Monterey County Environmental Health Bureau's well permit program for evaluation of new domestic wells and high capacity wells pursuant to policies of the Monterey County 2010 General Plan and enlargement of the geographic area where certain existing MCWRA well construction/reconstruction/destruction fees apply. The fees do not exceed the reasonable or actual costs of performing said services. Any and all of the adjustments to the fees reflect no more than the actual cost of the service or benefit received by the payor. To the extent that the fees do not result in full cost recovery, the discount does not result in increased charges to other payors.
6. These fees are not a "tax" and are exempt from voter approval under section 1(e)(1)-(3), (5) and (6) of Article XIII C of the California Constitution (Proposition 26, excepting from the definition of "tax" charges imposed for specific benefit conferred/privilege/service or product, and/or reasonable regulatory costs to a local government for issuing permits and the administrative enforcement thereof, fines and penalties and charges for violation of law, and property development charges.) These fees are imposed for specific government services provided directly to the applicant that is not provided to those not charged, are imposed for the reasonable regulatory costs to the local agency for issuing permits for property development and the administrative enforcement thereof, and do not exceed the reasonable costs to the MCWRA of providing these services.
7. This action to Levy fees for technical support services for evaluation of new domestic and high capacity wells is not a project under the California Environmental Quality Act because it is a governmental funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. (CEQA Guidelines section 15378(b)(4).)
8. Said Agency fees and amended fees shall take effect no sooner than 60 days following final action on the adoption of the amendments.
9. On April 22, 2013, the Board of Directors of the Monterey County Water Resources Agency considered and recommended that the Board of Supervisors of the Monterey County Water Resources Agency levy the new fees to cover staff costs for technical support to the Monterey County Environmental Health Bureau's well permit program for evaluation of new domestic wells and high capacity wells pursuant to policies of the Monterey County 2010 General Plan

and enlargement of the geographic area where certain existing MCWRA well construction/reconstruction/destruction fees apply.

10. The Board of Supervisors of the Monterey County Water Resources Agency held a duly noticed public hearing on May 7, 2013 to consider these fee adjustments. Notice of this matter was provided by publication of notice in newspapers of local circulation in the County of Monterey and all testimony from staff and the public has been heard and considered.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the Monterey County Water Resources Agency as follows:

1. The foregoing recitals are true and correct.
2. Articles XI, setting forth the Monterey County Water Resources Agency land use permitting fees, attached hereto and incorporated herein by reference, is hereby amended as shown by ~~strikeout~~ and underline in the attached Article, including the following:
 - A. Levying a new well construction fee for the Water Resources Agency's technical support to the Monterey County Environmental Health Bureau well permit program for evaluation of new domestic wells, resulting from the implementation of 2010 General Plan Policy (PS-3.3);
 - B. Levying a new well construction fee for the Water Resources Agency's technical support to the Monterey County Environmental Health Bureau well permit program for evaluation of new high capacity wells, resulting from the implementation of 2010 General Plan Policy (PS-3.4);
 - C. Amending the description of where well construction, reconstruction, and destruction permit fees are collected for the Water Resources Agency to include Zone 2C and additional areas of Monterey County inclusive of the area under the jurisdiction of the Pajaro Valley Water Management Agency; and
 - D. Amending specified fees and extending an automatic annual fee adjustment every July 1 for a three year period (beginning July 1, 2013 through July 1, 2015) with adjustment based on the Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area.
3. Said amendments to Article XI shall take effect on the 61st day following adoption.

4. Monterey County Water Resources Agency consents to collection of these fees, as amended, by the County on behalf of MCWRA and inclusion of Article XI (Water Resources Agency) into the Monterey County Fee Resolution.

PASSED AND ADOPTED this **7th** day of **May, 2013**, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book___ for the meeting on _____.

Dated:

Gail T. Borkowski, Clerk of the Board of
Supervisors
County of Monterey, State of California

By: _____
Deputy