

RESOLUTION 21-006

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
AUTHORIZING THE FILING OF AN ANNEXATION APPLICATION TO THE
MONTEREY COUNTY LOCAL AGENCY FORMATION COMMISSION FOR THE
MISSION LINEN SUPPLY PROPERTY LOCATED AT 801 SUNSET DRIVE
(APN 007-101-036-000) AND AUTHORIZING ENTERING INTO A MEMORANDUM OF
UNDERSTANDING WITH THE PEBBLE BEACH COMMUNITY SERVICES DISTRICT
RELATING TO THE PROVISION OF SERVICES**

WHEREAS, the City of Pacific Grove (City) desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with California Government Code Section 56000, for a change of organization consisting of the annexation of territory to the City of Pacific Grove; and

WHEREAS, the subject 2.99-acre territory is located at 801 Sunset Drive, APN 007-101-036-000 (Exhibit 1), and is within the County of Monterey and located outside City limits; and

WHEREAS, pursuant to Section 56654 of the California Government Code, notice of intent to adopt this Resolution of Application was given to the Monterey County Local Agency Formation Commission (LAFCO), interested agencies and subject agencies at least twenty-one (21) days before the adoption of this Resolution; and

WHEREAS, on April 21, 2021, this Council conducted a public hearing based upon this notification; and

WHEREAS, the principal reasons for the proposed reorganization are as follows:

1. The subject property is surrounded on all sides by City limits;
2. The subject property was rezoned by the City Council through its adoption of Ordinance 20-008 on March 18, 2020;
3. The subject property is identified in the City’s 1994 General Plan as the only County of Monterey property within the City’s mapped Sphere of Influence and was assigned a land use designation as part of the adoption of the General Plan; and
4. The subject property is accessed by Sunset Drive, a public, City-maintained public street and is served by City fire and police protection.

WHEREAS, the following agency or agencies that would be affected by the proposed jurisdictional changes and tax transfer agreement include:

<u>Agency</u>	<u>Nature of Change</u>
City of Pacific Grove	Jurisdictional Boundary
Pacific Grove Unified School District	Tax Receiving Entity
Monterey Peninsula Community College Dist.	Tax Receiving Entity
County of Monterey	Tax Receiving Entity
Monterey Co. Office of Education	Tax Receiving Entity
Monterey County Library	Tax Receiving Entity
Monterey Co. Water Resources Agency (MCWRA) District	Tax Receiving Entity
MCWRA Zone 11	Tax Receiving Entity
Monterey Peninsula Water District	Tax Receiving Entity
Pebble Beach Community Services District	Tax Receiving Entity

Monterey Regional Park District
Monterey Airport District

Tax Receiving Entity
Tax Receiving Entity

WHEREAS, the annexation of the subject property is supported by the City's General Plan Section 2.6 – *Development Potential and Annexation*; and

WHEREAS, City records indicate that annexation of the subject property has been contemplated since the mid-1980s, thus informing the General Plan language referenced in Section 2.6 – *Development Potential and Annexation*; and

WHEREAS, the property was recently rezoned “Light Commercial (C-1)”, which allows a wide variety of potential uses including mixed-use commercial, multi-family residential, and light industrial uses; and

WHEREAS, the City has been in discussions about the rezoning and future annexation of the property with the owner of the subject property, Mission Linen Supply, and has received written support of both actions from the owner; and

WHEREAS, the Pebble Beach Community Services District (PBCSD) authorizes its General Manager to enter into a Memorandum of Understanding (MOU) with the City of Pacific Grove (Exhibit 2) relating to the provision of wastewater services, solid waste, and fire protection into the future.

WHEREAS, the City has been in discussions with LAFCO of Monterey County, which has indicated its support of the annexation given the “island” nature of the current situation; and

WHEREAS, the Pacific Grove Planning Commission recommends the City Council find the proposed annexation of the Mission Linen Supply property exempt from environmental review per the Class 19, § 15319 CEQA exemption for annexations of existing facilities and lots for exempt facilities. The subject property is developed with an industrial laundry facility that has been nonoperable for the past three (3) or more years. No new development, demolition, or establishment of a new use at the subject property is proposed at this time; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

- Section 1. This Resolution of Application is hereby adopted and the Local Agency Formation Commission of Monterey County is hereby requested to take proceedings in the matter of the annexation of territory as authorized and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
- Section 2. The annexation is exempt from environmental review pursuant to CEQA §15319 (Class 19 – Annexations of Existing Facilities and Lots for Exempt Facilities).
- Section 3. City Staff is directed to submit an application for annexation of the area included within Exhibit 1, attached hereto and incorporated herein, to the Monterey County Local Agency Formation Commission.
- Section 4. The City Manager is hereby authorized to execute the Memorandum of Understanding (MOU) with the Pebble Beach Community Services District referenced herein.

Section 5. In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 21st day of April 2021, by the following vote:

AYES: Mayor Peake, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.

NOES: None.

ABSENT: None.

APPROVED:

DocuSigned by:

Bill Peake

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BILL PEAKE, Mayor

ATTEST: 4/26/2021
DATED: _____

DocuSigned by:

Sandra Kandell

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SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DocuSigned by:

David C. Laredo

E06545E32B2846E

DAVID C. LAREDO, City Attorney

Exhibit 2

MEMORANDUM OF UNDERSTANDING BETWEEN PEBBLE BEACH COMMUNITY SERVICES DISTRICT AND CITY OF PACIFIC GROVE FOR RETAINING EXISTING WASTEWATER SERVICES FOR THE PROPERTY KNOWN AS 801 SUNSET DR., PACIFIC GROVE

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into this July 30, 2021 (Effective Date), by and between the City of Pacific Grove, a municipal corporation of the State of California (City), and the Pebble Beach Community Services District, a California Community Services District (PBCSD), collectively, the Parties, with reference to the following facts.

FACTS

1. The City has initiated proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with California Government Code Section 56000, for a change of organization consisting of the annexation of territory to the City.
2. The subject property is a 2.99-acre territory is located at 801 Sunset Drive, APN 007-101-036-000 (Property), and is within the County of Monterey and located outside City limits.
3. The Property is within the service jurisdiction of the PBCSD. PBCSD currently provides wastewater, solid waste, and fire protection services to the Property and has access to the Property's wastewater flows.
4. The Parties have discussed the potential for PBCSD to retain wastewater rights, post-annexation to the City, and this MOU would be beneficial in moving those efforts forward.
5. Currently, PBCSD receives approximately \$1,828.00 per year in property tax as reflected in the 0.203914 share of total property taxes assessed and collected by the County. This amount is distributed between all three (3) of the services mentioned herein. Because PBCSD will retain wastewater transmission and treatment responsibilities, it requests that a small portion (0.02) of the total County assessment be retained post-annexation. This equates to approximately \$179.34/yr in tax payment. This will be activated through the Property Tax Transfer agreement between the City of Pacific Grove and the County of Monterey upon annexation.

NOW, THEREFORE, the City and PBCSD agree as follows:

The above facts, including the paragraph preceding the facts, are hereby incorporated into this MOU as if set forth herein in full.

ARTICLE 1— RESPONSIBILITIES

- a. CITY shall forgo access to current and future wastewater flows in recognition of the existing infrastructure that PBCSD has constructed to serve the Property.
- b. CITY shall assume the provision of solid waste service, fire protection service, and police service to the Property in accordance with existing ordinances and agreement with the City of Monterey for fire protection services, or its successor. CITY shall be the Authority Having Jurisdiction relative to emergency response, code adoption and enforcement, fire investigation and other legally obligated fire protection services.
- c. CITY shall assume provision of police service and solid waste service to the Property in accordance to existing franchise agreements and other contracts with GreenWaste Recovery (or its successor) for solid waste service.
- d. California-American Water Company or its successor in interest shall continue to provide water to the Property.
- e. Any owner or developer of the Property, in its discretion, may purchase entitlements for reclaimed water or additional potable water, if needed, from the Pebble Beach Company or the City.
- f. PBCSD agrees that it will not object to or oppose City's annexation of the Property into the City's jurisdictional boundaries and the release of all current services other than wastewater to the City.

ARTICLE 2— TERM AND TERMINATION

This MOU shall commence on the Effective Date and shall remain in effect so long as not terminated. Either Party shall be entitled to terminate this MOU at any time with thirty (30) days prior written notice to the other Party.

ARTICLE 3— MUTUAL INDEMNIFICATION

- a. PBCSD shall indemnify, defend, and hold harmless the City, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this MOU by PBCSD and/or its agents, employees or PBCSD's sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of the City. PBCSD shall reimburse the City for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the PBCSD is obligated to indemnify, defend and hold harmless the City under this MOU.
- b. City shall indemnify, defend, and hold harmless PBCSD, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this MOU by City and/or its agents, employees or City's sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of PBCSD. The City shall reimburse PBCSD for all costs, attorneys'

fees, expenses and liabilities incurred with respect to any litigation in which the City is obligated to indemnify, defend and hold harmless PBCSD under this MOU.

ARTICLE 4— INSURANCE

Each Party recognizes and accepts the other Party is self-insured. Either Party may purchase commercial insurance to cover its exposure hereunder, in whole or in part.

ARTICLE 5— ASSIGNMENT

Neither Party shall have the right to assign its respective rights and obligations hereunder without the written consent of the other Party.

ARTICLE 6— LAW AND VENUE

This MOU shall be in accordance with the laws of the State of California. Venue shall be within the County of Monterey, California.

ARTICLE 7— ATTORNEY’S FEES AND COSTS

In the event any dispute arising out of this MOU is brought before a court of law, all reasonable fees and costs shall be awarded to the prevailing party, including expert witness fees. These fees and cost shall be taxed as costs in that proceeding and shall not necessitate the filing of a separate action.

ARTICLE 8— NOTICES

Any notices required or given pursuant to this MOU shall be given in writing by personal delivery, or by United States mail, return receipt requested. Notices shall be sent to the addresses as set forth below or to the owner(s) of the Property or to such other address as any party may from time to time specify in writing to the other:

To:	Mike Niccum General Manager Pebble Beach Community Services (PBCSD) 3101 Forest Lake Road Pebble Beach, CA 93950	Ben Harvey City Manager City of Pacific Grove 300 Forest Ave. Pacific Grove, CA 93950
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ARTICLE 9— ENTIRE AGREEMENT

This MOU constitutes the entire agreement between the Parties hereto concerning the subject matter hereof. This MOU may only be modified by mutual written agreement between the Parties.

ARTICLE 10 — SEVERABILITY

The invalidity of any provision of this MOU as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

ARTICLE 11 — COUNTERPARTS

This MOU may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

ARTICLE 12 — AUTHORIZATION

The City warrants that the execution of this MOU has been approved and authorized by the City, and that the person who executes this MOU has been authorized to perform said act. PBCSD warrants that the execution of this MOU has been approved and authorized by PBCSD, and that the person who executes this MOU has been authorized to perform said act.


IN WITNESS WHEREOF, the undersigned have executed this MOU as of the dates indicated below.

Pebble Beach Community Services
District

City of Pacific Grove

Date: 4/30/21

Date: 5/4/2021

By 
Mike Niccum,
General Manager

By 
Ben Harvey,
City Manager