

MONTEREY PENINSULA WATER SUPPLY PROJECT

MEDIATION SERVICES

COST SHARING AGREEMENT

This Cost Sharing Agreement is entered into as of January __, 2018, by and between the California American Water Company ("Cal Am"), the City of Marina ("Marina"), Marina Coast Water District ("MCWD"), Monterey County Water Resource Agency ("MCWRA"), Monterey One Water ("M1W"), Monterey Peninsula Regional Water Authority ("MPRWA"), and the Monterey Peninsula Water Management District ("MPWMD"), collectively the "Parties", based upon the following facts, intentions and understandings of the Parties.

I. **BACKGROUND**

A. The Parties believe that a new water supply should be generated for the benefit of Cal Am's Monterey District customers.

B. One key proposal for how to provide a new water supply focuses on establishment of a desalinization facility in North Marina as a component of the Monterey Peninsula Water Supply Project (MPWSP.) Related questions involve potential impacts of such a facility on groundwater quantity and quality. The Parties believe that they need to find mutually acceptable ways of addressing these questions in order to meet the next State Water Board milestone. Therefore, the parties are seeking mediation assistance.

C. The Center for Collaborative Policy (CCP) at California State University, Sacramento (CSUS), is a fee-for-service unit of the CSUS. CCP designs, facilitates, and mediates collaborative processes that result in policy agreements and action, helps foster constructive working relationships between stakeholders, and integrates collaborative processes into the public policy work of participating organizations.

D. The Parties have requested that MPWMD contract with CCP for mediation services related to the MPWSP and have requested approval of each of their governing boards to share in the cost of such mediation services.

II. **AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing facts recited and the mutual goals and objectives contained herein, the Parties agree as follows:

1. Mediation Services Defined

This Agreement is by its terms limited to services described in the letter proposal contained in Exhibit A.

2. **Budget**

The Parties estimate that the costs described in Exhibit B will not exceed \$49,000 and will be split equally among the Parties at \$7,000 apiece.

3. **Payment**

MPWMD shall pay CCP directly and shall issue final invoices to the other Parties upon conclusion of CCP's services.

4. **Payment of Invoices**

The Parties shall have the right to review and confirm that the invoices submitted by the MPWMD are in conformance with the terms of this Agreement. Payments will be made within 30 days of receipt of invoice. If during the review of invoice a Party disputes any payments as not being in accordance with this Agreement, the Party will notify MPWMD within the 30 days to resolve any disputes.

5. **Term**

This Agreement shall remain in force and effect until the conclusion of CCP's mediation services and in no case beyond June 30, 2018.

6. **Event of Default**

The failure of a Party to comply with any provision of this Agreement that has a material and adverse effect on the other Party, except to the extent caused by a breach of this Agreement by the other Party, shall constitute an Event of Default under this Agreement; provided, however, that the defaulting Party shall first have a period of thirty (30) days following receipt of notice from the other Party of such failure to comply to cure such failure, or if such cure cannot be effected within such thirty (30) day period, such period shall extend for a total of one hundred eighty (180) days, so long as the defaulting Party is diligently trying to cure such failure throughout such period.

7. **Dispute Resolution**

Staffs of each Party shall meet and use their best efforts to settle any dispute, claim, question or disagreement (a "Dispute") arising from or relating to this Agreement. To that end, staffs of each Party shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to each Party. If the Parties do not reach such a solution within a period of thirty (30) days after the first meeting of the staff regarding a Dispute, then the Parties shall pursue non-binding mediation to be completed within sixty (60) days after the first meeting of the Parties regarding the Dispute. If the Parties do not settle the Dispute within the sixty (60) day period, either Party may pursue any and all available legal and equitable remedies.

8. **Force Majeure**

No Party shall be deemed to be in default where failure or delay in performance of any of its obligations (other than payment obligations) under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, actions of legislative, judicial, executive or regulatory government bodies or other cause, without fault and beyond

the reasonable control of such Party. If any such events shall occur, the time for performance by either Party of any of its obligations hereunder shall be extended by the Parties for the period of time that such events prevented such performance. Upon the occurrence of an event of Force Majeure, the affected Party shall: (i) promptly notify the other Party of such Force Majeure event, (ii) provide reasonable details relating to such Force Majeure event and (iii) implement mitigation measures to the extent commercially reasonable.

9. Indemnities

Each Party shall fully indemnify the other Parties and their respective directors, employees and agents against, and hold completely free and harmless from, any cost, expense, claim, demand, judgment, loss, injury and/or liability of any kind or nature, including personal or bodily injury, death or property damage ("Losses"), that may arise from (i) any grossly negligent act or omission of that Party related to the CCP services.

10. Insurance/Self Insurance

The Parties are either insured or self-insured as to any requirements under this Agreement. No policies or bonds are required of either party as to any provisions of this Agreement.

11. Notices

All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered (i) when delivered in person, (ii) on the third day after mailing, if mailed, postage prepaid, by registered or certified mail (return receipt requested); (iii) on the day after mailing if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery; (iv) upon receipt of a confirmed transmission, if sent by telex, telecopy or facsimile transmission; or (v) via electronic mail.

Notices shall be delivered to Parties as follows:

California American Water Company
511 Forest Lodge Rd # 100
Pacific Grove, CA 93950
Attention: Eric Sabolsice

City of Marina
211 Hillcrest Avenue
Marina, CA 93933
Attention: Layne Long

Marina Coast Water District
11 Reservation Road
Marina, CA 93933-2099
Attention: Keith Van Der Maaten

Monterey County Water Resources Agency
1441 Schilling Place, North Building
Salinas, CA 93901
Attention: Dave Chardavoyne

Monterey One Water
5 Harris Court, Building D
Monterey, CA 93940
Attention: Paul Sciuto

Monterey Peninsula Regional Water Authority
c/o: City of Monterey
580 Pacific Street
Monterey, CA 93940
Attention: Jim Cullem

Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940
Attention: David Stoldt

12. Successors and Assigns

The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, representatives, successors and permitted assigns.

13. Further Acts and Assurances

The Parties agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances, and shall perform any and all acts and things reasonably necessary, in connection with the performance of the obligations hereunder and to carry out the intent of the Parties.

14. Captions

The captions in this Agreement are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope or intent of this Agreement nor in any way affects this Agreement. Words of any gender in this Agreement shall be held to include any other gender and words in the singular number shall be held to include the plural when the sense so requires.

15. Severability

Should it be found that any part of this Agreement is illegal or unenforceable, such part or parts of this Agreement shall be of no force nor effect and this Agreement shall be treated as if such part or parts had not been inserted.

16. Entire Agreement

All previous negotiations had between the Parties hereto and/or their agents or representatives with respect to this Agreement are merged herein and this Agreement alone fully and completely expresses the Parties' rights and obligations.

17. Modifications In Writing

This Agreement shall not be modified in any manner except by an instrument in writing executed by the Parties or their respective successors in interest.

18. Interpretation

Each of the Parties hereby waives any provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the Party that drafted the contract, agreement or instrument.

19. Governing Law

This Contract shall be governed by and construed according to the laws of California.

20. No Third-Party Beneficiaries

Nothing in this Agreement is intended to create any third-party beneficiaries to the Agreement, and no person or entity other than the Parties, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

21. Assignment

Neither Party may assign its interest in this Agreement without the prior written consent of the other Party.

22. Representation and Warranties

No representations or warranties are made or have been relied upon by either Party other than those expressly set forth herein, if any.

WHEREFORE, this Cost Sharing Agreement was executed by the Parties on the date first above written.

California American Water Company

Eric Sabolsice

City of Marina

Layne Long

Marina Coast Water District

Keith Van Der Maaten

Monterey County Water Resources Agency

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