

**FIRST AMENDMENT TO
LICENSE AGREEMENT
FOR SLEEPY HOLLOW FISH REARING FACILITY**

This First Amendment to License Agreement for Sleepy Hollow Fish Rearing Facility (“**First Amendment**”) is entered into by and between California-American Water Company, a California corporation (“**Company**”), and the Monterey Peninsula Water Management District, a governmental entity (“**District**”) (each of whom is sometimes individually referred to herein as a “**Party**” and collectively as the “**Parties**”), with reference to the following:

WHEREAS, effective May 5, 1994, Company and District entered into a License Agreement pursuant to which District constructed and operates a fish rearing and holding facility located on certain real property owned by Company (“**Agreement**”);

WHEREAS, pursuant to Section 2 of the Agreement, the term has been renewed by District four (4) times, with the current five (5) year renewal period expiring December 4, 2020;

WHEREAS, District desires to construct the *Sleepy Hollow Steelhead Rearing Facility Raw Water Intake and Water Supply System Upgrade Project* (“**Project**”) on the Licensed Property, and to use other Company property identified herein for disposal of soil from Project excavations;

WHEREAS, the Agreement provides that District is prohibited from making any improvements on the Licensed Property without the prior written consent of Company, which consent may be withheld or granted in Company’s sole and absolute discretion; and

WHEREAS, Company is willing to consent to District’s construction and operation of the Project on the Licensed Property and disposal of excavated soil from the Project site under the terms and conditions set forth in this First Amendment.

NOW, THEREFORE, in consideration of the above Recitals, which are true and correct and incorporated herein by this reference, and of the mutual covenants and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AMENDMENT

1. Consent to Project. In accordance with Section 5(f) of the Agreement, Company hereby consents to construction and operation of the Project on the Licensed Property as the Project is described in that certain *Initial Study/Mitigated Negative Declaration, Sleepy Hollow Steelhead Rearing Facility Raw Water Intake and Water Supply System Upgrade Project* dated February 2017 (“**MND**”), which MND was certified by District on November 14, 2016, corrected in an addendum thereto certified by District on January 25,

2017, modified in an addendum thereto certified by the State Coastal Conservancy on November 30, 2017, and modified by an addendum thereto certified by District on July 16, 2018, all of which are incorporated herein by this reference. This consent is subject to the conditions subsequent that District and its contractors shall: (a) only access the Licensed Property using the Tularcitos High Road; (b) at all times comply with Company's security procedures; (c) not use any portion of Assessor's Parcel Number 197-081-033-000 ("**Parcel 033**") for Project staging or storage without the prior written approval of Company, which approval may be withheld in Company's sole discretion.

2. Disposal of Excavated Soil. Company hereby consents to the disposal of soil excavated from the Project site on Parcel 033, subject to the conditions precedent that District shall: (a) obtain Company's written approval of a soil disposal plan ("**Disposal Plan**"); and (b) implement the Disposal Plan to the reasonable satisfaction of Company. At a minimum, the Disposal Plan must identify: (i) pre-Project and post-Project erosion control measures; (ii) specific disposal location(s); (iii) dimensions of soil deposits; (iv) planting requirements for each disposal location; and (v) plant establishment period(s).

3. Indemnification. As a material part of the consideration to Company for the consent provided in paragraphs 1 and 2 of this First Amendment, and notwithstanding any provision in the Agreement to the contrary, District agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless Company, including its directors, officers, employees and agents, from and against all claims, damages, losses and expenses, direct, indirect or consequential (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals and court and arbitration or other dispute resolution costs) arising out of, resulting from, or related in any way to the Project (collectively, "**Claims**") (including any Claims related to compliance with the California Environmental Quality Act, use of access roads or Company property, or the disposal of soil excavated from the Project site), excepting therefrom any Claims caused by the sole negligence or willful misconduct of Company.

4. Insurance. Section 12 of the Agreement, *Company as Additional Insured*, is amended by adding the following:

12. Effective July 1, 2018, in lieu of the foregoing, at all times during the term of the Agreement, Company and District shall respectively: (i) keep in force at a minimum the insurance coverages in the amounts set forth on Exhibit INS-1; and (ii) include the other as additional insured as set forth on Exhibit INS-1. Further, District shall: (a) require its contractors performing any work on the Licensed Property to obtain and keep in force at a minimum the insurance coverages in the amounts set forth on Exhibit INS-2, or as otherwise accepted in writing by Company; and (b) require its contractors to include Company as additional insured as set forth on Exhibit INS-2.

5. Compliance with Law. District shall comply, and shall require its contractors and agents to comply, with all laws applicable to construction and operation of the Project.

- 6. Definitions. All capitalized terms not defined herein shall have the meanings set forth in the Agreement.
- 7. Exhibits. All Exhibits referenced in this First Amendment are attached hereto and incorporated herein.
- 8. Continuity. Except as expressly and explicitly set forth in this First Amendment, all terms and conditions of the Agreement shall remain and continue in full force and effect.
- 9. Effective Date. This First Amendment shall be effective on the date it has been executed by both Parties.
- 10. Counterparts. This First Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument and the signature of a Party may be sent by facsimile or other electronic transmission and shall be deemed to constitute an original and fully effective signature of such Party.

IN WITNESS WHEREOF, this First Amendment has been executed by the duly authorized representatives of the Parties.

**MONTEREY PENINSULA WATER
MANAGEMENT DISTRICT**

**CALIFORNIA-AMERICAN WATER
COMPANY**

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

EXHIBIT INS-1

DRAFT

EXHIBIT INS-2

DRAFT