

**AGREEMENT BETWEEN THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT AND
CALIFORNIA AMERICAN WATER COMPANY**

**FOR REIMBURSEMENT OF EXPENSES FOR REVIEW AND PROCESSING
OF CALIFORNIA-AMERICAN WATER COMPANY'S APPLICATION
FOR REPAIRS AT LOS PADRES DAM**

THIS AGREEMENT is entered into this _____ day of November 2022, by and between California American Water Company, hereinafter called "Cal-Am," and the Monterey Peninsula Water Management District, hereinafter called "MPWMD" or "District". Cal-Am and MPWMD may hereinafter individually be referred to as a "Party" or collectively as the "Parties."

SECTION I

SCOPE OF SERVICES

This Agreement documents the obligation of Cal-Am to reimburse MPWMD for expenses necessarily and reasonably incurred by the District incident to tasks required for approval and administration of Cal-Am's Application for repairs at Los Padres Dam (the Project). As described in Exhibit A, MPWMD Task List, District activities covered by this Agreement include actions necessary to comply with the California Environmental Quality Act (CEQA) and District law.

SECTION II

REIMBURSEMENT

A. Fee Schedule

1. For MPWMD Staff. Fees and costs payable to MPWMD by Cal-Am for services provided by MPWMD staff pursuant to this Agreement through completion of an action by the District under CEQA shall be in accordance with the schedule in Exhibit C, Fee Schedule.
2. For MPWMD Consultants. It is the District's understanding that Cal-Am intends to provide technical reports and environmental analysis for the District's use in

determining potential project impacts. Should it become necessary for additional independent third party analysis, fees and costs payable by Cal-Am to any consultant retained by MPWMD for work under this Agreement shall be in accordance with Exhibit A, as may be modified by the written agreement between the consultant and MPWMD; provided, however, that Cal-Am shall have no obligation for fees and costs for any consultants or others retained by MPWMD unless and until Cal-Am has agreed in writing to the retention of such consultant and has expressly agreed to pay that consultant's fees and costs.

3. Total Estimated Fees and Costs. The total estimated fees and costs to complete the Scope of Services as stated in Section 1 of this Agreement is \$ 35,000 . Prior to exceeding the total estimated fees and costs, MPWMD shall notify Cal-Am and provide an estimate of additional fees and costs necessary to complete the scope of services described in Section 1 of this Agreement. Cal-Am shall have no obligation for additional fees and costs unless and until Cal-Am has expressly agreed to pay for such additional fees and costs. In such event, MPWMD shall have no obligation to continue its efforts to review or act on the Project should Cal-Am refuse to pay those additional fees or costs.

B. Method of Payment

Cal-Am shall reimburse MPWMD for time and material spent for services. MPWMD shall invoice Cal-Am no more frequently than quarterly for work completed. Such invoice shall itemize all costs and expenses charged and include copies of all corresponding invoices received by the Water Management District and submit such electronically or by hard copy to:

California American Water
J. Aman Gonzalez, Project Manager
511 Forest Lodge Rd, Suite 100
Pacific Grove, CA 93950

Julio.gonzalez@amwater.com

Payments are due and payable within forty-five (45) days of each invoice. In the event

Cal-Am disputes that any work performed or costs incurred is unsatisfactory or is inconsistent with tasks specified in Exhibit A, Cal-Am shall describe these deficiencies in writing to MPWMD within twenty (20) calendar days of receipt of the billing statement from MPWMD. Thereafter the dispute shall be resolved in accord with the Disputes Section below.

- C. The District shall use funds received pursuant to this Section exclusively as reimbursement for reasonable and necessary costs incurred to implement the tasks described in this Agreement as specified herein. The District shall pay all employees, contractors and other vendors in accordance with the contracts between such parties (including any collective bargaining agreements), California law, or both, as applicable.
- D. No reimbursement under this Agreement shall be made for work completed after issuance of a River Work Permit for the Project.

SECTION III

INSPECTION OF WORK

This Section not applicable.

SECTION IV

OWNERSHIP OF PERMITS AND WORK PRODUCT

- A. Permits. All permits obtained by reason of the efforts of the parties to this Agreement shall be sought and obtained in the name of California-American Water Company as the Applicant and permittee for each such permit and shall be owned exclusively by Cal-Am.
- B. Work Product. With (1) the exception of confidential work product (the term "confidential" shall have a meaning consistent with either the California Public Records Act or the Federal Freedom of Information Act) relating to any National Historic Preservation Act or Programmatic Agreement investigation, which shall remain wholly and exclusively owned by MPWMD, (2) all original documents, explanations of methods, maps, tables, reports, and all other documents, materials and work product (including drafts) prepared or obtained by and/or for MPWMD under or in connection with this Agreement shall be the joint property of both MPWMD and Cal-Am. Notwithstanding this provision, MPWMD shall be authorized by Cal-Am to destroy or

dispose of drafts as it deems appropriate. All reports (including all drafts of same) prepared by MPWMD and/or by any consultant under or in connection with this Agreement shall be prepared in a suitable electronic form and jointly owned by both parties to this Agreement.

SECTION V

TIME OF PERFORMANCE

Time is of the essence to this Agreement and each and all of its provisions in which performance is a factor, subject to the applicable professional standard of care. MPWMD and Cal-Am shall promptly inform each other in writing of events or factors affecting the performance of this Agreement that are beyond its control. Such factors could include but are not limited to MPWMD review time and/or local, state, or federal permitting agency review time.

SECTION VI

RESPONSIBILITIES

The MPWMD and Cal-Am shall meet on an as-needed basis throughout the term of this Agreement with the purpose of, among other things, ensuring that no activities performed by the MPWMD under this Agreement are duplicative of activities performed by Cal-Am or otherwise paid by Cal-Am's customers unless by its nature an activity requires a cooperative effort.

A. District Responsibilities

1. MPWMD shall, to the extent reasonable and practicable, cooperate with Cal-Am and each of Cal-Am's consultants in the performance of services hereunder.
2. Exhibit A Tasks. Subject to such reasonable extensions as may be agreed to in writing by Cal-Am, the District shall perform each of the Tasks specified in Exhibit A within the time frame specified for such Task, and otherwise as may be required to ensure compliance with the applicable environmental legislation.
3. Tasks to be performed by MPWMD Staff. District may use District's own staff, rather than consultants, to perform Tasks listed on Exhibit A for which District staff has the required expertise, provided however, that Cal-Am may tender its prior written objection and thereby require the retention and use outside consultants in

those circumstances where the outside consultant is both more qualified and less expensive than the MPWMD staff counterpart. Any dispute between the parties on this issue shall be resolved pursuant to the provisions of the Disputes Section of this Agreement.

4. Agency Meetings. MPWMD shall meet with such agencies or persons as shall be necessary or desirable in order to ensure that the purposes of this Agreement are fulfilled. MPWMD and Cal-Am shall each use their best efforts to provide reasonable advance notice of all planned meetings (including impromptu meetings if practicable) with public agency staff relating to the processing of permits or approvals. This provision, however, is to promote communication between the parties, and shall not cause any meeting to be delayed or canceled. MPWMD shall coordinate and arrange for all meetings required to be held with other agencies or persons hereunder, unless otherwise specified in Exhibit A.
5. In its performance of activities under this Agreement, the MPWMD shall act as independent contractor and the District and Cal-Am are not an agent or employee of the other. The MPWMD shall have exclusive and complete control over its employees.

B. Cal-Am Responsibilities.

Cal-Am shall, to the extent reasonable and practicable, cooperate with District and each of District's consultants in the performance of their services hereunder. Such cooperation shall include, but not necessarily be limited to: providing right to access work sites as required for District to perform or furnish services under this Agreement; providing relevant material available from Cal-Am's files such as maps, drawings as available, records, and operation and maintenance information, and payment of other required fees associated with the tasks required of District by this Agreement. Cal-Am and MPWMD shall each use their best efforts to provide reasonable advance notice of all planned meetings (including impromptu meetings if practicable) with public agency staff relating to the processing of permits or approvals. This provision, however, is to promote communication between the parties, and shall not cause any meeting to be delayed or canceled.

SECTION VII
INSURANCE

- A. The insurance requirements of this Section shall pertain to District, each of District's consultants, Cal-Am, and each of Cal-Am's consultants.
1. Each shall maintain worker's compensation and employers' liability insurance in accordance with the amount(s) and coverage(s) in the attached Exhibit B.
 2. Each shall maintain commercial general liability and automobile liability insurance protecting it against claims arising from bodily or personal injury or damage to property, including loss of use thereof, resulting from its operations and each of its consultants pursuant to this Agreement or from the use of its automobiles and equipment of or by each of its consultants. The amount(s) and coverage(s) shall be in accordance with Exhibit B.
 3. Each shall provide the other party with Certificates of Insurance evidencing the aforementioned coverage as additional insured and other evidence of coverage satisfactory to that party.

SECTION VIII
INDEMNIFICATION

To the fullest extent permitted under applicable laws, each Party shall indemnify and hold harmless the other Party, any parent or affiliate, and their respective directors, officers, agents and employees, and any of them (collectively, the "Indemnified Parties"), 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) suffered or incurred by such other Indemnified Parties and arising out of, resulting from, or related in any way to any breach of this Agreement by the indemnifying Party, or any negligent act or omission or willful misconduct of such indemnifying Party in the performance of this Agreement, excepting therefrom any such claim, damage, loss or expense that is caused in whole or in part by any negligent act or omission or willful omission of the Indemnified Parties.

In any and all claims against a Party, any parent or affiliate, and their respective directors,

officer, agents and employees or any of them by any employee (or the survivor or personal representative of such employee) of the other Party, or any contractor, subcontractor, or supplier, or any person or organization directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under the prior paragraph shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the other Party or any such contractor, subcontractor, supplier or other person or organization under worker's compensation acts, disability benefit acts or other employee benefit acts.

SECTION IX CHANGES AND CHANGED CONDITIONS

A change in the Tasks identified in **Exhibit A** may, subject to CalAm's express written approval, also result in a change in the reimbursement amount. Reimbursement changes shall be based upon the District's fee schedule. Any change agreed to shall be documented by duly executed amendments to this Agreement or other written means acceptable to both parties.

SECTION X TERMINATION

A. Termination Process.

Cal-Am may terminate the District's services under this Agreement at any time by written notice to the District at least thirty (30) days prior to the effective date of such termination. Upon receipt of written notice from Cal-Am that this Agreement is terminated, and subject to the Section II.A.3, the District shall submit to Cal-Am an invoice for an amount which represents the value of services actually performed to the date of said notice of termination for which it, and any subcontractor, has not previously been compensated. Upon approval and payment of this invoice, Cal-Am shall thereafter have no further monetary obligation which may arise by reason of this Agreement to the District or its consultants.

The MPWMD may terminate this agreement at its convenience by providing Cal-Am written notice, 90 calendar days prior to the proposed termination date such that Cal-Am can arrange for alternate performance.

B. Effect of Termination.

In the event this Agreement is terminated by either party prior to completion of all tasks

determined by the District to be required under the California Environmental Quality Act or District law, both parties acknowledge and agree that the District's Responsibilities, as defined above, shall also terminate. In such event, MPWMD's ability to act as lead agency under CEQA, and/or its ability to process Cal-Am's application for MPWMD permits and other approvals may be impaired, and may provide cause for the denial of Cal-Am's application to MPWMD.

SECTION XI DISPUTES

In the event a dispute arises out of the performance of this Agreement, either party shall, as soon as a conflict is identified, submit a written statement of the conflict to the other party. Within five (5) working days of receipt of such a statement of conflict, the second party will respond and a meeting (which may be electronic) will be arranged not more than five (5) working days thereafter to arrive at a negotiated settlement or procedure for settlement. If, after twenty (20) working days from the initial filing of a statement of conflict an agreement has not been reached, it is agreed that the dispute may be resolved in a court of law competent to hear this matter. This Agreement shall be construed in accord with California law and it is agreed that venue shall be in the County of Monterey. The prevailing party shall be awarded costs of suit, and reasonable attorney's fees.

SECTION XII NOTICES

All communications to either party by the other shall be deemed given when made in writing and delivered or mailed to such party at its respective address, as follows:

MPWMD: District Engineer
 Monterey Peninsula Water Management District
 5 Harris Court, Building G
 Monterey CA 93940
 or
 P. O. Box 85
 Monterey, CA 93942-0085

California American Water J. Aman Gonzalez, Project Manager
California American Water
511 Forest Lodge Rd, Suite 100
Pacific Grove, CA 93950

SECTION XIII
AMENDMENTS

This Agreement, together with Exhibits A, B, & C (see next paragraph) sets forth the entire understanding of the parties with respect to the subject matter of this Agreement. There are no other agreements expressed or implied, oral or written, except as set forth herein. This Agreement may not be amended except upon written amendment, executed by both parties to this Agreement.

SECTION XIV
ATTACHMENTS

The following Exhibits attached hereto and referred to in the preceding sections are, by reference, incorporated herein and made an integral part of this Agreement:

- Exhibit A – MPWMD Task List
- Exhibit B – Insurance Coverage
- Exhibit C – Fee Schedule

[CONTINUED ON FOLLOWING PAGE]

WHEREOF, the parties hereto have entered into this Agreement effective as of the day and year first above written.

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

David J. Stoldt, General Manager

Federal Tax ID No. 94-253335586

Date

CALIFORNIA-AMERICAN WATER COMPANY

Date

Exhibit A – MPWMD Task List

A precise schedule is not shown due to the need for interaction between the parties to this Agreement. Numbered tasks will be MPWMD responsibility. Not all tasks may be shown.

MPWMD to be responsible for numbered tasks.

1. Determine if project qualifies for CEQA Exemption based on project application materials
2. Prepare Initial Study and determine appropriate level of CEQA review
3. Coordinate with Cal-Am and Consultants on preparation of environmental documents

Tasks 1 and 2 are anticipated to take 30 to 45 days depending on length of the completed project application. Preparation of environmental documents will be the responsibility of CalAm and its Consultants.

4. Review environmental documents and provide feedback – 30 days after receipt of documents

Cal-Am and its Consultants will be responsible for preparing a Public Notice (PN) of intent to adopt a Negative Declaration or Mitigated Negative Declaration and for providing all copies of the environmental documents to the State Clearing House. CEQA describes the minimum time allowed for a comment period. Cal-Am and its Consultants will be responsible for responding to written comments and preparing a Mitigation and Monitoring Plan. If necessary, Cal-Am and its Consultants will coordinate meetings with other agencies with MPWMD staff in attendance to resolve project issues. Meetings to be online or in person.

5. After all comments are addressed, MPWMD will hold a Public Hearing – MPWMD staff will write a staff report, findings, and recommendations. Cal-Am and its Consultants will be asked to give a project presentation at the Public Hearing and be available to answer questions.

Cal-Am and its Consultants will be responsible for preparing a final environment document and filing appropriate notices with the State Clearing House.

6. Issue a River Work Permit – within 20 days of project approval.

EXHIBIT B

INSURANCE REQUIREMENTS

- I. Cal-Am shall provide evidence of valid and collectible insurance carried for those exposures indicated by an "X".
- A. Professional Liability Errors & Omissions
 - B. Workers Compensation and Employers Liability
 - C. Automobile Liability - "Any Auto - Symbol 1"
 - D. Comprehensive General Liability, including Bodily Injury, Property Damage and Personal Injury
 - E. Protection & Indemnity (Marine/Aviation)
- II. The minimum limit of protection provided by insurance policies for each of the coverages listed above shall be not less than \$2,000,000, except for coverage "D", which shall not be less than \$2,000,000. The procurement and maintenance by Cal-Am of the policies required to be obtained and maintained by Cal-Am under this Agreement shall not relieve or satisfy Cal-Am's obligation to indemnify, defend and save harmless the District.
- III. Evidence of insurance carried shall be Certificates of Insurance for the current policies. The District shall be listed as a certificate holder on the Consultant's Comprehensive General Liability insurance policy and the policy must be endorsed to provide a 30-day prior written notice of cancellation.
- IV. The District requires that Cal-Am carry a commercial liability policy written on a broad comprehensive general liability form.
- A. Such protection is to include coverage for the following hazards, indicated by an "X":
- 1. Premises and Operations
 - 2. Products and Completed Operations
 - 3. Explosion Collapse and Underground
 - 4. Broad Form Blanket Contractual
 - 5. Broad Form Property Damage
 - 6. Personal Injury, A, B & C
 - 7. Employees named as Persons Insured

- B. The "Persons Insured" provision on each comprehensive general liability policy shall include as an additional insured the "Monterey Peninsula Water Management District, its officers, directors, agents and employees."
- C. This policy shall contain a severability of interest clause or similar language to the following:
- "The insurance afforded applies separately to each insured against whom claim is made or suit is brought including claims made or suits brought by any persons included within the persons insured provision of the insurance against any other such person or organization."
- D. All policies shall contain a provision that the insurance company shall give the District at least thirty (30) days prior written notice mailed to the address shown below prior to any cancellation, lapse or non-renewal. The 30-day written notice must be shown on all certificates of insurance.
- E. Certificates of Insurance for the current policies shall be delivered by the Consultant to the Risk Manager for the District as verification that terms A, B, C and D have been met.
- V. All insurance correspondence, certificates, binders, etc., shall be mailed to:
- Monterey Peninsula Water Management District
Attn: Administrative Services Manager
5 Harris Court, Building G
P.O. Box 85
Monterey, CA 93942-0085
- VI. All policies carried by Cal-Am shall be primary coverage to any and all other policies that may be in force. The District shall not be responsible for payment of premiums due as a result of compliance with the terms and conditions of the insurance requirements.
- VII. All such policies of insurance shall be issued by domestic United States insurance companies with general policy holders' rating of not less than "B" and admitted to do business in the State of California. The policies of insurance so carried shall be carried and maintained throughout the term of this Agreement.

Exhibit C – Fee Schedule

Monterey Peninsula Water Management District Schedule of Reimbursement Rates as of July 1, 2022											
Employee	Job Title	Hourly Wage	Labor Overhead Percentage	Labor Overhead Amount	Hourly Benefits Amount	P/R Tax & W/C Ins Hourly Cost	Total Employee Cost Per Hour	Indirect Overhead Percentage	Indirect Overhead Amount	Total Calculated Hourly Rate	Rounded Billable Rate
Bennett	Accountant	44.14	0.1731	7.64	11.28	0.80	63.86	0.6254	39.94	103.79	103.00
GIS Contract	GIS Contract	0.00	0.1731	0.00	0.00	0.00	0.00	0.6254	0.00	0.00	0.00
HR Contract	HR Contract	0.00	0.1731	0.00	0.00	0.00	0.00	0.6254	0.00	0.00	0.00
Mossbacher	HR Coordinator/Contract Specialist	35.41	0.1731	6.13	10.56	0.64	52.73	0.6254	32.98	85.71	85.00
Silvas Robles	Accounting/Office Specialist	31.28	0.1731	5.41	10.21	0.56	47.46	0.6254	29.68	77.15	77.00
Prasad	Admin. Services Manager/CFO	94.84	0.1731	16.41	43.33	1.71	156.30	0.6254	97.75	254.04	254.00
Reyes	Senior Office Specialist	36.21	0.1731	6.27	21.42	0.65	64.54	0.6254	40.37	104.91	104.00
IITM	Information Technology Mgr.	0.00	0.1731	0.00	0.00	0.00	0.00	0.6254	0.00	0.00	0.00
Pablo	Executive Assistant	37.18	0.1731	6.43	10.71	0.67	54.99	0.6254	34.39	89.38	89.00
Stoldt	General Manager	125.49	0.1731	21.72	53.84	2.30	203.35	0.6254	127.17	330.52	330.00
Atkins	Environmental Program Specialist	38.99	0.1731	6.75	10.86	1.79	58.39	0.6254	36.52	94.91	94.00
Christensen	Environmental Resources Manager	72.28	0.1731	12.51	34.92	3.33	123.04	0.6254	76.95	200.00	199.00
Hamilton, M	Water Resources Engineer	67.12	0.1731	11.62	13.11	3.09	94.94	0.6254	59.38	154.32	154.00
Hampson	Interim/Temp District Eng.	78.03	0.1731	13.51	0.35	8.43	100.32	0.6254	62.74	163.06	163.00
Lumas	Resources Maintenance Specialist	36.23	0.1731	6.27	10.64	1.67	54.81	0.6254	34.28	89.09	89.00
PM	Project Manager	0.00	0.1731	0.00	0.00	0.00	0.00	0.6254	0.00	0.00	0.00
Bravo	Conservation Analyst	53.75	0.1731	9.30	28.01	0.97	92.03	0.6254	57.56	149.59	149.00
Osborn	Conservation Technician I	36.27	0.1731	6.28	3.05	0.66	46.26	0.6254	28.93	75.19	75.00
Kister	Conservation Analyst	53.75	0.1731	9.30	27.97	0.99	92.00	0.6254	57.54	149.54	149.00
Locke	Water Demand Manager	74.09	0.1731	12.82	35.60	1.36	123.87	0.6254	77.47	201.33	201.00
Smith	Conservation Rep II	47.53	0.1731	8.23	11.54	0.87	68.17	0.6254	42.64	110.81	110.00
Jakic	Conservation Rep I	43.04	0.1731	7.45	11.22	0.79	62.49	0.6254	39.08	101.57	101.00
Chaney	Associate Fisheries Biologist	51.16	0.1731	8.85	27.08	2.36	89.45	0.6254	55.94	145.39	145.00
Fish Crew Leader	Fish Crew Leader	44.00	0.1731	7.62	0.00	4.75	56.37	0.6254	35.25	91.62	91.00
Gallagher	Assistant Fisheries Biologist	16.25	0.1731	2.81	11.03	1.76	31.85	0.6254	19.92	51.76	51.00
Hamilton, C	Associate Fisheries Biologist	51.16	0.1731	8.85	27.02	2.36	89.38	0.6254	55.90	145.28	145.00
Lear	Water Resources Manager	83.83	0.1731	14.51	39.20	3.86	141.39	0.6254	88.43	229.82	229.00
Lindberg	Associate Hydrologist	56.47	0.1731	9.77	29.11	2.60	97.95	0.6254	61.26	159.21	159.00
Steinmetz	Assistant Hydrologist	39.08	0.1731	6.76	10.86	1.80	58.51	0.6254	36.59	95.10	95.00
Banker-Hix	Assistant Hydrologist	39.08	0.1731	6.76	10.86	1.80	58.51	0.6254	36.59	95.10	95.00
SFB	Senior Fisheries Biologist	0.00	0.1731	0.00	0.00	0.00	0.00	0.6254	0.00	0.00	0.00
WRA	Water Resources Assistant	14.75	0.1731	2.55	0.00	1.59	18.90	0.6254	11.82	30.71	30.00

https://mpwmd-my.sharepoint.com/personal/mhamilton_mpwmd_net/Documents/Carmel River/Los Padres Dam/LPD_OutletMods/2022 LP Dam agreement_2022-11-02.docx