

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("Agreement") is made effective as of 6/7, 2000 by and between CALIFORNIA-AMERICAN WATER COMPANY ("Cal-Am"), a California corporation, and the MONTEREY PENINSULA WATER MANAGEMENT DISTRICT, a California public entity (the "District").

RECITALS

A. Cal-Am is a California public utility regulated by, among others, the California Public Utilities Commission and the Monterey Peninsula Water Management District. Cal-Am's Monterey Division collects, treats and distributes potable water for public and private consumption and fire protection to the six cities of Carmel-by-the-Sea, Pacific Grove, Monterey, Seaside, Sand City, Del Rey Oaks and portions of the unincorporated areas of Monterey County.

B. The Monterey Peninsula lacks adequate water supply storage, is subject to repeated droughts and is subject to restrictions on its water supply by reason of actions of the California State Water Resources Control Board.

C. The District was formed in 1977 by the California Legislature to address, among other things, serious water supply and conservation issues on the Monterey Peninsula. In that capacity it has enacted certain ordinances that specifically address water transfers and water conservation.

D. Customer-specific data obtained by Cal-Am from its customers relating to their water consumption is proprietary and confidential information ("Confidential Information") and Cal-Am is obligated by the rules of the California Public Utilities Commission to maintain that confidentiality.

E. District, in order to advance its conservation programs, requires certain customer-specific consumption information from Cal-Am's records to enable it to analyze the efficacy of its existing water transfer ordinances and to enforce its water conservation program, including its Ordinance No. 92. District needs access to Cal-Am's confidential customer consumption records for those limited purposes. Cal-Am is willing to make such information available without the need for a formal proceeding before the California Public Utilities Commission but only on the condition that the District acknowledges the proprietary and confidential nature of that information and agrees that such information is to be transmitted to and retained and used by the District under terms of strict confidentiality and for those very limited purposes described above, and that all such information is thereafter returned to Cal-Am and in no way distributed by the District to third parties.

AGREEMENT

1. **Confidential Proprietary Information.** District acknowledges and agrees that solely for the purposes (the "Limited Purposes") (a) of analyzing the past efficacy of its water

transfer programs and (b) to enable District to enforce its Ordinance No. 92, Cal-Am will make available to specific District staff personnel, identified by the District Manager, on a need-to-know basis, confidential and proprietary information concerning historical consumption practices of specific Cal-Am customers involved in past water transfers potentially subject to enforcement procedures under District Ordinance No. 92 or other investigations identified by the District Manager.

2. **Limited Use of Confidential Information.** District agrees that it will not use the Confidential Information for any purposes other than the Limited Purposes. District acknowledges that it will treat such information as a "trade secret." District agrees that if for any reason District determines or is directed by a court or administrative agency or any other body that such information cannot be maintained confidential under all the terms of this Agreement, then this Agreement shall be deemed null and void in so far as it may require any further delivery of data by Cal-Am to District, and all existing data obtained by the District from Cal-Am pursuant to this Agreement shall be immediately returned to Cal-Am and not used by District for any purpose whatsoever.

3. **Non-Disclosure Obligations.** District shall hold in strict confidence and shall not use, and cause its officers, directors, agents, employees, independent contractors and associates to hold in strict confidence and not use, except for the Limited Purposes, all Confidential Information.

4. **Disclosure to Employees.** The District's Manager may disclose the Confidential Information only to those District's responsible employees and/or agents who have a bona fide need to know the information, but only to the extent strictly necessary for fulfillment of the Limited Purposes. District agrees to instruct all such employees and/or agents not to disclose the Confidential Information to any third parties, including consultants.

5. **Return of Confidential Information.** Upon completion of the tasks for which such confidential Information is required, District will promptly return to Cal-Am all materials or tangible items containing any Confidential Information received from Cal-Am or generated by District or its agents, employees, consultants and contractors and all copies thereof.

6. **No Grant of Rights.** Nothing in this Agreement shall be construed to grant to District any right in and/or to the Confidential Information.

7. **Equitable and Legal Relief.** District acknowledges that there is and will be no adequate remedy at law for its failure to comply strictly with any of the terms of this Agreement. Accordingly, in the event District fails to comply strictly with the terms of this Agreement, District acknowledges and agrees that in addition to such legal remedies to which Cal-Am may be entitled, and notwithstanding the provisions of the next paragraph, Cal-Am shall have the right to have any breach of this Agreement remedied by equitable relief, including, but not limited to, a temporary restraining order, a preliminary injunction, a permanent injunction and such other equitable relief as may be appropriate, without the necessity of posting any bonds or proving any damages. The prevailing party in any such proceeding shall be reimbursed for its

reasonable fees and expenses, including attorney fees incurred in connection with the proceeding.

8. **Arbitration.** In the event any legal action becomes necessary to enforce or interpret the terms of this Agreement, the parties will attempt in good faith promptly to resolve any dispute arising out of or relating to this Agreement. Except to the extent equitable relief is sought pursuant to Section 7, above, if the dispute has not been resolved within thirty (30) days of either party's initiation of such attempts, the dispute shall be finally settled by an arbitration to be held in Monterey, California, in accordance with the rules then applicable of the American Arbitration Association. The number of arbitrators to be used in any such arbitration shall be one (1), who shall be acceptable to both District and Cal-Am. The arbitration shall include all discovery under the California Code of Civil Procedure §1282, et seq., including Section 1283.05. Any award rendered in that arbitration shall be final and binding upon each and all of the parties, and judgment may be entered thereon in the Superior Court of the State of California for the County of Monterey. Unless the arbitrator provides otherwise, the prevailing party shall be reimbursed for its reasonable fees and expenses, including attorney fees incurred in connection with the dispute.

9. **Notice.** Any notice, demand or other communication required or permitted to be given under this Agreement shall be in writing and shall be personally delivered to the other party by pre-paid registered or certified mail, certified mail return receipt requested, or sent to the other party by telecopier or other electronic facsimile transmission at the following address specified below for such party or such other address as such party hereafter designates in writing and delivers to the other party and shall be effective upon receipt:

If to Cal-Am:

Manager
California-American Water Company
50 Ragsdale Drive, Suite 100
Monterey, CA 93940

Telephone: (831) 646-3057
Telefax: (831) 375-4367

With a copy to:

Lenard G. Weiss, Esq.
STEEFEL LEVITT & WEISS
One Embarcadero Center, 30th Floor
San Francisco, CA 94111-3784

Telephone: (415) 788-0900
Facsimile: (415) 788-2019

If to District:

Darby Fuerst, General Manager
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942

Telephone: (831) 658-5650
Facsimile: (831) 644-9560

With a copy to:

David C. Laredo
De LAY & LAREDO
606 Forest Avenue
Pacific Grove, CA 94950

Telephone: (831) 646-1502
Facsimile: (831) 646-0377

10. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement between the parties concerning the subject matter hereof and supercedes all prior agreements, correspondence, representations, or understandings between the parties relating to the subject matter hereof, whether written or oral. This Agreement may not be modified or amended except by written agreement executed by the parties to this Agreement. The parties acknowledge and agree that any ambiguous terms in this Agreement will not be construed in favor of or against either party.

11. **Severability.** If any portion of this Agreement is found or declared to be invalid, or unenforceable, the remaining portions of this Agreement shall remain in full force and effect.

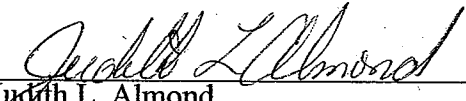
12. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to or application of principals of choice of law.

13. **Waiver.** No waiver by either party, whether expressed or implied, of any provisions of this Agreement shall constitute a continuing waiver of such provision or a waiver of any other provision of this Agreement. No waiver by either party, whether expressed or implied, of any breach or default by the other party shall constitute a waiver of any other breach or default of the same or any other provision of this Agreement.


14. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be considered to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement through their duly-authorized representatives as of the date set above.

CALIFORNIA-AMERICAN WATER COMPANY

By: 
Judith L. Almond
Vice President

MONTEREY PENINSULA WATER
MANAGEMENT DISTRICT

By: 
Darby Fuerst
General Manager

u/new/MPWMD/k/Non-Disclosure Agreement.doc