

ITEM: PUBLIC HEARING

9. CONSIDER RATIFICATION OF RESOLUTION 2020-12, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT SEEKING AUTHORIZATION TO ACTIVATE LATENT DISTRICT POWERS AND TO ADOPT A SPHERE OF INFLUENCE AMENDMENT AND ANNEXATION

Meeting Date: August 17, 2020 **Budgeted:** N/A

From: David J. Stoldt,
General Manager **Program/
Line Item No.:** N/A

Prepared By: David J. Stoldt **Cost Estimate:** N/A

General Counsel Approval: N/A

Committee Recommendation: None

CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.

SUMMARY: In order to prepare the Board to consider in the future a Resolution of Public Necessity for the potential acquisition of California American Water (Cal-Am) Company's Monterey Water System the Monterey County Local Agency Formation Commission (LAFCO) must allow the District to activate certain latent powers authorized by its legislation, as well as consider annexation of approximately 56 parcels to the District. At its July 20, 2020 meeting the Board adopted Resolution 2020-12 attached as **Exhibit 9-A** authorizing the District to file an application with LAFCO. That Public Hearing was improperly noticed, but has now been corrected. The proposed action simply ratifies the Resolution after proper notice was advertised.

RECOMMENDATION: The General Manager recommends the Board ratify Resolution 2020-12.

EXHIBIT

9-A Proposed Resolution 2020-12

EXHIBIT 9-A

RESOLUTION 2020-12

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
SEEKING AUTHORIZATION TO ACTIVATE LATENT DISTRICT POWERS
AND TO ADOPT A SPHERE OF INFLUENCE AMENDMENT AND ANNEXATION**

WHEREAS, The Monterey Peninsula Water Management District (“District”) is organized and exists under the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, and published at Water Code Appendix, Section 118-1, et seq.) (“District Law”).

WHEREAS, Pursuant to Section 325 of the District Law, and except as otherwise limited by the District Law, the District has the power to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the District, including, but not limited to, irrigation, domestic, fire protection, municipal, commercial, industrial, recreational, and all other beneficial uses and purposes.

WHEREAS, Pursuant to Section 328 of the District Law, the District has the power, among other things, (a) to acquire public or private water systems necessary or proper to carry out the purposes of the District Law; (b) to store water in surface or underground reservoirs within or outside of the District for the common benefit of the District; (c) To conserve and reclaim water for present and future use within the District; (d) To appropriate and acquire water and water rights, and import water into the District and to conserve and utilize, within or outside of the District, water for any purpose useful to the District.

WHEREAS, Section 326 of the District Law authorizes the District to fix, revise, and collect rates and charges for the services, facilities, or water furnished by it, and authorizes the District to collect its rates and charges via the tax roll or other billing methods. Section 308 of the District Law authorizes the District, by resolution or ordinance, to fix and collect rates and charges for the providing of any service it is authorized to provide.

WHEREAS, The District engages in a variety of activities that supply water to properties within the District via a distribution system owned by California American Water (CAW), including water supplied by the Aquifer Storage and Recovery project and the Pure Water Monterey project.

WHEREAS, Since 1994 the District has provided highly treated recycled water for sale to properties within the Del Monte Forest.

WHEREAS, On November 6, 2018, voters within the Water Management District passed initiative Measure J by 56% (23,757 voted yes) to 44% (18,810 voted no). Measure J directed that the following Rule 19.8 be added to the District Rules and Regulations, Regulation I, General Provisions:

Rule 19.8. Policy of Pursuing Public Ownership of Monterey Peninsula Water Systems

- A. It shall be the policy of the District, if and when feasible, to secure and maintain public ownership of all water production, storage and delivery system assets and infrastructure providing services within its territory.
- B. The District shall acquire through negotiation, or through eminent domain if necessary, all assets of California American Water, or any successor in interest to California American Water, for the benefit of the District as a whole.
- C. The General Manager shall, within nine (9) months of the effective date of this Rule 19.8, complete and submit to the Board of Directors a written plan as to the means to adopt and implement the policy set forth in paragraph A, above. The plan shall address acquisition, ownership, and management of all water facilities and services within and outside the District, including water purchase agreements as appropriate. The plan may differentiate treatment of non-potable water services.

WHEREAS, District boundaries include almost all, but not all, the properties served within the California American Water Main, Bishop, Hidden Hills, and Ryan Ranch service areas. In order to serve approximately 43 connections presently served by California American Water, but not presently within the District's boundaries, the District seeks to annex 58 parcels in the Hidden Hills and Yankee Point locales. The proposed annexation, in and of itself, would have no impact on the environment with respect to future development, as the District, should it proceed with an acquisition of California American Water assets, would be obligated to provide water service to the area regardless of whether those areas were annexed.

WHEREAS, the District exercises no land use authority within or for the areas to be annexed, therefore the boundary modification cannot make any change whatsoever in the uses to which the affected area may be put.

WHEREAS, the District is deemed to be a "district" within the provisions of the District Reorganization Act of 1965 (Division 1 (commencing with *Section 56000*) of *Title 6 of the Government Code*), and all proceedings for the annexation or detachment of territory to or from the District are required to be conducted in the manner therein provided and all the provisions of such Act apply to the District.

WHEREAS, the District has circulated a "Potential Acquisition of Monterey Water System and District Boundary Adjustment Draft Environmental Impact Report" and intends to certify that Final Report later this year.

WHEREAS, the District has held a duly noticed public hearing with respect to this Resolution Seeking Authorization to Activate Latent District Powers and to Adopt a Sphere of Influence Amendment and Annexation this day as required by California Government Code §56824.12(c) and considered all testimony, if any, presented at that hearing.

NOW, THEREFORE, BE IT RESOLVED, as follows:

This Resolution Seeking Authorization to Activate Latent District Powers and to Adopt a Sphere of Influence Amendment and Annexation is hereby adopted and approved by the Board of

Directors of the Monterey Peninsula Water Management District. The District requests the Local Agency Formation Commission (LAFCO) of Monterey County act pursuant to Sections 56824.10 *et seq.* of the Cortese Knox Hertzberg Act to authorize the District to activate its latent powers to provide water production and distribution services for retail customers and to authorize the District to amend its sphere of influence and annex affected parcels.

On motion of Director _____, and second by Director _____, the foregoing resolution is duly adopted this 17th day of August 2020 by the following votes:

AYES:

NAYS:

ABSENT:

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a resolution duly adopted on the 17th day of August 2020.

Witness my hand and seal of the Board of Directors this ____ day of August 2020.

David J. Stoldt,
Secretary to the Board