



**Administrative Hearing of the
Monterey Peninsula Water Management District
March 8, 2024, 11:00 am**

MPWMD Conference Room – 5 Harris Court, Bldg. G, Monterey, CA

Call to Order

Item for Consideration

- 1. Consider Amendment to California-American Water Company's (Cal-Am) Main Water Distribution System to Increase the Production Limit by Thirteen (13) Acre-Feet Annually to Enable Cal-Am to Produce the City of Seaside's Banked Water Credits from Seaside's In-Lieu Groundwater Storage Program for and Supply at the Ascent Project (APNs: 012-191-001, -002, -003, -004, -030, -031, -033, -034, and -035)**

Action: The Monterey Peninsula Water Management District staff hearing officer, Frances M. Farina, will consider Application #WDS-20240223CAL submitted on February 23, 2024, by Applicant California-American Water Company and Ascent Seaside, LLC, a Delaware Limited Liability Company.

Adjourn

ITEM: ADMINISTRATIVE HEARING

- 1. CONSIDER AMENDMENT TO CALIFORNIA-AMERICAN WATER COMPANY'S (CAL-AM) MAIN WATER DISTRIBUTION SYSTEM TO INCREASE THE PRODUCTION LIMIT BY THIRTEEN (13) ACRE-FEET ANNUALLY TO ENABLE CAL-AM TO PRODUCE THE CITY OF SEASIDE'S BANKED WATER CREDITS FROM SEASIDE'S IN-LIEU GROUNDWATER STORAGE PROGRAM FOR AND SUPPLY AT THE ASCENT PROJECT (APNS: 012-191-001, -002, -003, -004, -030, -031, -033, -034, AND -035)**

Meeting Date: March 8, 2024

Prepared By: Stephanie Locke

SUMMARY: The Monterey Peninsula Water Management District (MPWMD or District) Hearing Officer will consider Application #WDS-20240223CAL received on February 23, 2024, by California-American Water Company (Cal-Am) and Ascent Seaside, LLC, a Delaware Limited Liability Company (Ascent Seaside) to amend the Main California American Water System to increase the Production Limit by thirteen (13) Acre-Feet annually (AFA) for a ten-building workforce rental housing development by Ascent Seaside. The application is available as **Exhibit A**.

MPWMD adopted Ordinance No. 194 on February 12, 2024, to establish a Water Entitlement for the City of Seaside. A condition of the ordinance was that Cal-Am must amend their Water Distribution System (WDS) production limit to serve the Benefited Properties identified in the ordinance. The Water Entitlement for the Benefited Properties will be supplied by Cal-Am from Wells located in the Coastal Subareas of the Seaside Groundwater Basin based on a temporary assignment of Seaside's banked water credits from its in-lieu groundwater storage program as recognized by the Seaside Watermaster. The ordinance establishes the City of Seaside (Seaside) Water Entitlement of 13.00 Acre-Feet annually (AFA) through the California-American Water Company Water Distribution System (WDS) for production from Cal-Am's Seaside Groundwater Basin Wells, less an assumed system loss factor of seven percent (7%) to supply water to the Ascent Project. The water available for permitting purposes will be 12.09 AFA.

MPWMD staff recommend approval of the application with Conditions of Approval that comply with the minimum standards specified in MPWMD Rule 22-C and required in Rule 22-D, and Special Condition #17 related to this application.

For non-controversial WDS matters, District Rule 22 allows the General Manager, in consultation with the Board Chairperson, to direct that a hearing be scheduled before the General Manager (or his/her designee) as the sole hearing officer. Notice of the staff action shall be provided to the public via the "Appealable Decisions" and "Public Notices" sections of the District website. The staff determination may be appealed to the MPWMD Board pursuant to Rule 70, "Appeals." This

hearing was noticed for at least ten days around the project Site as well as in the District's office window and on the website.

DISCUSSION: The following paragraphs describe the proposed Findings and Conditions of Approval as required by MPWMD Rule 22.

Findings of Approval: Findings of Approval for Application #WDS-20240223CAL (**Exhibit B**) are based on evidence provided in the Application materials, including supporting documents on file at the District office. With the Findings of Approval, District staff believes a Finding can be made that the application meets the criteria and minimum standards for approval set by the District Rules 22-B and C. Specifically, this action should “not create an Overdraft or increase an existing Overdraft” (Rule 22-C-4).

Conditions of Approval: Permit M24-01-L3 results in Conditions of Approval shown as **Exhibit C**. The permit authorizes Cal-Am to produce up to 13.0 AFA for the Benefited Properties identified in MPWMD Ordinance No. 194 and Rule 23.10. Pursuant to Special Condition #17, this increase in the Production Limit will expire following lifting of the Cease-and-Desist Order (CDO) against Cal-Am and lifting of the meter moratorium.

CEQA Compliance: In the review of this application, MPWMD has followed those guidelines adopted by the State of California and published in the California Administrative Code, Title 14, Section 15000, et seq. Specifically, the MPWMD has determined that a Statutory Exemption applies as defined in CEQA Guidelines Section 15268 (Ministerial Projects), based on previous environmental determinations by the Courts. The Monterey County Superior Court concluded that its Adjudication Decision included environmental determinations related to the Seaside Basin and adjudication of the rights therein. The MPWMD action is also consistent with the May 11, 2009, Court Order as confirmed by the Sixth District Court of Appeal, which limits MPWMD CEQA review of water-related issues to areas other than the Seaside Basin.

RECOMMENDATIONS: District staff recommends that the Administrative Hearing Officer take the following actions:

1. Adopt the MPWMD Findings of Approval and Conditions of Approval for Application #WDS-20240223CAL to increase the Production Limit by 13.0 AFY for the Main California American Water System to serve the Benefited Properties identified in MPWMD Rule 23.10.
2. Direct staff to file a CEQA Notice of Exemption with the County Clerk (**Exhibit D**).

EXHIBITS

- 1-A** Application #20240223CAL received February 23, 2024
- 1-B** MPWMD Draft Findings of Approval
- 1-C** MPWMD Draft Conditions of Approval with Attachments
- 1-D** Notice of Exemption

EXHIBIT 1-A
RECEIVED
 FEB 23 2024
 MPWMD



**APPLICATION for a PERMIT to CREATE or AMEND a
 WATER DISTRIBUTION SYSTEM or MOBILE WDS**

For detailed guidance, please visit the District website at:
<http://www.mpwmd.net/regulations/wells-water-systems/water-distribution-systems/>
 (click on "2014 Implementation Guidelines").
 For staff assistance, contact 831-658-5601 or skister@mpwmd.net or gabby@mpwmd.net

Form received on February 23, 2024 by Gabriela Bravo
 Fee Received: \$1,200 (Level 1 or 2); \$3,000 (Level 3)
 ID# WDS- 20240223CAL

Please complete the table below (attach extra sheets as needed):

#	QUESTIONS	FILL IN ANSWERS BELOW
1	System Name	California American Water Distribution System
2	Assessor's Parcel ## (list all)	If multiple parcel, identify APN for well/facility location and APN of parcels receiving water from WDS or Mobile WDS. 012-191-001, -002, -003, -004, -030, -031, -033, -034, -035
3	Physical Address or Location	Corner of Terrace St. and Broadway Ave., Seaside, CA 93955
4	Name of Applicant	California-American Water Company/ Ascent Seaside LLC
5	Mailing Address	(Street or PO) 511 Forest Lodge Rd. Suite 100/ 3021 Citrus Cir. Suite 130
6	City, State, Zip	Pacific Grove, CA 93950/Walnut Creek, CA 94598
7	Phone/fax/email:	831-646-3291/ 831-751-2330
8	Agent (if applicable)	(i.e., person who may receive paperwork on behalf of applicant/owner) Anthony Lombardo & Associates
9	Agent mailing address	144 West Gabilan St.
10	Agent City, State, Zip	Salinas, CA 93901
11	Agent phone/fax/email	831-751-2330/ cody@alombardolaw.com 805-440-4677
12	Hydrogeologist (if applicable)	(e.g., licensed professional who has conducted well testing and evaluation) N/A
13	Hydro mailing address	N/A
14	Hydro City, State, Zip	N/A
15	Hydro phone/fax/email	N/A
16	Is this an amendment to an existing WDS?	YES or NO. If yes, identify previous MPWMD permit #, if any. # _____ Describe planned changes. YES
17	Is this a Mobile WDS?	YES OR NO. If yes, go to Row 42 NO
18	Is this a water Well?	YES or NO. If no, go to Row 21. NO

19	MCEHB² Permit # and issuance date	(One for each well) N/A
20	DWR Well Completion Report # and date	(One for each well) N/A
21	Within MPWRS³ ?	YES or NO. Consult with District staff if unsure; see definition in footnote. YES
22	>1,000 ft. MPWRS?	YES or NO. Consult with District staff if unsure. See Section 4.0 of 2014 Implementation Guidelines.
23	≤1,000 ft. MPWRS?	YES or NO. Consult with District staff if unsure. Staff will assess well log re: potential impacts; additional testing may be required. See Section 4.2 of 2014 Implementation Guidelines.
24	Seaside Basin source?	YES or NO. If yes, Adjudication documentation and/or approval from Watermaster are required. See Section 5.0 of 2014 Implementation Guidelines. YES
25	CV Alluvium source?	YES or NO. If yes, water rights documentation is required. See Section 6.0 of 2014 Implementation Guidelines. District staff will confirm if alluvial. NO
26	Fractured rock spring or seep?	YES or NO. If yes, state if onsite or offsite use, and if potable (drinking water) or non-potable use. See Section 7.0 of 2014 Implementation Guidelines. NO
27	River/tributary direct diversion?	YES or NO. If yes, water rights documentation is required. See Section 7.0 of 2014 Implementation Guidelines. Describe system. NO
28	Dam/reservoir?	YES or NO. If yes, water rights documentation and EIR is required. See Section 7.0 of 2014 Implementation Guidelines. NO
29	Desal plant?	YES or NO. If yes, describe facilities, annual production and recipients. EIR required. See Section 7.0 of 2014 Implementation Guidelines. NO
30	Reclamation plant?	YES or NO. If yes, describe facilities, annual production and recipients. EIR required. See Section 7.0 of 2014 Implementation Guidelines. NO
31	Rainwater harvest + offsite delivery?	YES or NO. If yes, describe. See Section 7.0 of 2014 Implementation Guidelines. NO
32	Other water systems?	YES or NO. Describe. See Section 7.0 of 2014 Implementation Guidelines. NO
33	Estimated production	Unit is acre-feet per year (AFY). See Section 2.9 of 2014 Implementation Guidelines. 13 afy
34	Total acreage served	(Break out acreage of each parcel served) 2.85 acres
35	Type of water use?	(e.g., drinking water, irrigation only) drinking water and irrigation
36	Type of land use?	(e.g., residential, commercial, agriculture) Mixed Use
37	New subdivision?	YES or NO. CEQA document from lead agency is required. NO
38	In CAW⁴ service area?	YES or NO. YES
39	Active CAW service?	What is currently served by CAW on the property (e.g. home or business)? YES
40	What is Zoning?	Mixed Use
41	Environmental information	Describe CEQA documentation and Lead Agency, if applicable. CEQA Exempt (Class 32)

² MCEHB= Monterey County Environmental Health Bureau

³ MPWRS= Monterey Peninsula Water Resource System (i.e., Carmel Valley Alluvial Aquifer, Carmel River/tributaries, and Seaside Basin)

⁴ CAW = California American Water Company


42	Is Mobile WDS source within MPWMD?	YES or NO. If yes, describe source and location. See Rows 21 - 32 for possibilities. NO
43	Is water source outside MPWMD?	YES or NO. If yes, describe source and location. NO
44	Source agency and approval	If outside MPWMD, identify source agency with authority. Attach written documentation that the source water may be exported to serve applicant. N/A
45	Describe intended use (long-term)	Mobile WDS may only be non-potable (e.g., irrigation, pools only) unless an emergency. Mixed Use
46	# Parcels served?	Use Request for Exemption form if service is to 3 or fewer parcels from a source out side MPWMD. 9
47	Emergency drinking water service?	YES or NO. If yes, describe situation. NO
48	Other relevant information or unique considerations?	Refer to Question #. Attach explanatory sheets as needed. N/A
ATTACHMENTS		
A1	Parcel Maps	See Attached
A2	MCEHB permit(s)	
A3	DWR Well log(s)	
A4	Well registration forms	
A5	Well meter sign-offs	
A6	Grant deed	See Attached
A7	Water rights docs.	Seaside Storage Credits Entitlement
A8	Environmental docs.	See Attached City Council Resolution
A9	Mobile WDS approval	
A10	Application fee (check)	
A11	Other	See Attached

This Application for a Permit must be signed by the person who is identified in a recorded Deed as the owner of the parcel on which the well or other water producing facility is located. If multiple owners, at least two must sign.

Under penalty of perjury, I verify that the above information is accurate to the best of my knowledge and understanding.

Christopher Cook
Christopher Cook (Feb 19, 2024 08:07 PST)
Signature of Applicant/System Owner

02/19/2024
Date

Printed name of Applicant: Chris Cook


2.2.24
Date

Signature of Applicant/System Owner
Printed name of Applicant: Clayton Darron **Chuck Bond**
Authorized Signatory

U:\demand\Work\WDS\Forms&Applications\WDS Permit_Application Form_REV_20170807.docx

002 0924020382
**RECORDING REQUESTED BY
AND WHEN RECORDED,
MAIL DOCUMENTS AND TAX
STATEMENT TO:**

Ascent Seaside, LLC
3021 Citrus Circle #130
Walnut Creek, CA 94598

Stephen L. Vagnini
Monterey County Clerk-Recorder
Recorded at the request of
OLD REPUBLIC TITLE COMPANY |

2020049287

09/18/2020 02:27:59
Titles: 1 Pages: 4
Fees: \$106.00
Taxes: \$0.00
AMT PAID: \$108.00

DOCUMENTARY TRANSFER TAX \$ 0

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The grantors and the grantees in this conveyance are comprised of the same parties who continue to hold the same proportionate interest in the property, R & T 11925(d)


Signature of Declarant or Agent determining tax

GRANT DEED


FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged **ASCENT BROADWAY, LLC**, a California limited liability company (the "Grantor") hereby **GRANTS** and conveys to **ASCENT SEASIDE, LLC**, a Delaware limited liability company (the "Grantee"), the real property in the City of Seaside, County of Monterey, State of California, described on Exhibit A attached hereto and incorporated by reference herein.

THE PROPERTY IS CONVEYED TO GRANTEE SUBJECT TO: (a) all record liens, encumbrances, rights, rights of way, easements, covenants, conditions and restrictions; (b) all matters which would be revealed or disclosed by an inspection or accurate survey of the Property; and (c) liens for taxes on real property not yet delinquent, and liens for any general or special assessments of record against the Property not yet delinquent.

Dated: September 17, 2020

ASCENT BROADWAY, LLC,
a California limited liability company

By: Orosco & Associates, Inc.,
a California corporation, Manager

By: 
Patrick W. Orosco, Vice President

SUBMITTED BY APPLICANT

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Monterey)

On September 17, 2020, before me, Sherry Peverini, a Notary Public, personally appeared PATRICK W. OROSCO, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public Signature Sherry Peverini (Seal)



Commission Number: 2286212 Commission Expiration: MAY 22, 2023

SUBMITTED BY APPLICANT

**Exhibit A to Grant Deed
Legal Description****PARCEL ONE:**

Certain real property situate in the City of Seaside, County of Monterey, State of California, being a portion of Block 24 as shown on the map filed for record February 6, 1912 in Volume 2 of Cities and Towns at Page 33, in the office of the County Recorder of said County, described as follows:

Lots 24 through 27 inclusive in Block 24,

Excepting therefrom the Easterly 2.94 feet of Lot 24 in said Block 24 as measured at right angles to the Easterly line thereof.

Also excepting therefrom that portion of said lot 27 conveyed to the City of Seaside by Grant Deed recorded May 02, 2001 by Doc# 2001034296, Official records of said county.

APN: 012-191-021 (portion)

APN: 012-191-022

PARCEL TWO:

Certain real property situate in the City of Seaside, County of Monterey, State of California, being a portion of Block 24 as shown on the map filed for record February 6, 1912 in Volume 2 of Cities and Towns at Page 33, in the office of the County Recorder of said County, described as follows:

Lots 21 through 23 inclusive in said Block 24, together with the Westerly 6.58 feet of Lot 20 as measured at right angles to the Westerly line thereof, and the Easterly 2.94 feet of Lot 24 in said Block 24 as measured at right angles to the Easterly line thereof.

APN: 012-191-029 (portion)

APN: 012-191-021 (portion)

PARCEL THREE:

Certain real property situate in the City of Seaside, County of Monterey, State of California, being a portion of Block 24 as shown on the map filed for record February 6, 1912 in Volume 2 of Cities and Towns at Page 33, in the office of the County Recorder of said County, described as follows:

Lots 14 through 20 inclusive in said Block 24

Excepting therefrom the Easterly 0.37 feet of said Lot 14 as measured at right angles to the Easterly line thereof, and the Westerly 6.58 feet of said Lot 20 as measured at right angles to the Westerly line thereof.

APN: 012-191-023 (portion)

SUBMITTED BY APPLICANT

APN: 012-191-024
APN: 012-191-028
APN: 012-191-029 (portion)

PARCEL FOUR:

Certain real property situate in the City of Seaside, County of Monterey, State of California, being a portion of Block 24 as shown on the map filed for record February 6, 1912 in Volume 2 of Cities and Towns at Page 33, in the office of the County Recorder of said County, described as follows:

Lots 7 through 13 inclusive in said Block 24, together with the Easterly 0.37 feet of Lot 14 in said Block 24, as measured at right angles to the Easterly line thereof,

Excepting therefrom the Easterly 7.32 feet of said Lot 7, as measured at right angles to the Easterly line thereof.

APN: 012-191-016 (portion)
APN: 012-191-017
APN: 012-191-023 (portion)

PARCEL FIVE:

Certain real property situate in the City of Seaside, County of Monterey, State of California, being a portion of Block 24 as shown on the map filed for record February 6, 1912 in Volume 2 of Cities and Towns at Page 33, in the office of the County Recorder of said County, described as follows:

Lots 1 through 6 inclusive in said Block 24, together with the Easterly 7.32 feet of Lot 7 in said Block 24, as measured at right angles to the Easterly line thereof.

APN: 012-191-013
APN: 012-191-025
APN: 012-191-016 (portion)

PARCEL SIX:

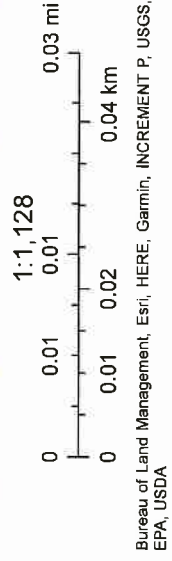
Certain real property situate in the City of Seaside, County of Monterey, State of California, being a portion of Block 24 as shown on the map filed for record February 6, 1912 in Volume 2 of Cities and Towns at Page 33, in the office of the County Recorder of said County, described as follows:

Lots 28 through 35 inclusive in said Block 24 as measured at right angles to the Easterly line thereof.

APN: 012-191-001
APN: 012-191-002
APN: 012-191-003
APN: 012-191-004

IMPORTANT – READ CAREFULLY: THIS REPORT IS NOT AN INSURED PRODUCT OR SERVICE OR A REPRESENTATION OF THE CONDITION OF TITLE TO REAL PROPERTY. This report is for the exclusive use of the IgniteRE user who obtained it from the First American IgniteRE website: ignite.firstam.com. No one else can use or rely on this report. This report is subject to the terms and conditions of the FirstAm IgniteRE End User License Agreement agreed to by the IgniteRE user who obtained the report, available here: properties.ignite.firstam.com/showeula. ©2005-2024 First American Financial Corporation and/or its affiliates. All rights reserved.

Untitled map



Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA

9/19/2023

SUBMITTED BY APPLICANT

RESOLUTION 19-109

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

APPROVING A DENSITY BONUS ASSOCIATED WITH INCLUSIONARY HOUSING AND DEVELOPMENT CONCESSIONS FOR THE CONSTRUCTION OF 9 MULTI-FAMILY STRUCTURES AND ONE MIXED USE STRUCTURE FOR A TOTAL OF 106 RESIDENTIAL UNITS AND 4,079 SQUARE FEET OF COMMERCIAL FLOOR AREA GENERALLY LOCATED ON THE NORTH SIDE OF THE 1100 BLOCK OF BROADWAY AVENUE BETWEEN TERRACE STREET, SAN LUCAS STREET, AND OLYMPIA AVENUE IN THE COMMERCIAL MIXED USE (CMX) ZONING DISTRICT.

WHEREAS, the City Council approves a Density Bonus associated with Inclusionary Housing and Development Concessions for the construction of a proposed mixed-use development consisting of 10 buildings with 106 residential units, which includes: a 28-unit increase in density, sixteen low-income units, commercial space totaling 4,079 square feet, and the following development concessions from the Multi-Family Projects development standards for the provision of sixteen low-income rental units:

1. A reduction to the Common and Private open space requirements of Seaside Municipal Code (SMC) 17.52.180.X, subject to the conditions of approval of the Zoning Administrator hearing (MUP-19-13).
2. A waiver to the front facade standards of SMC 17.15.060, subject to the conditions of approval of the Zoning Administrator hearing (MUP-19-13).

WHEREAS, the City Council considered oral comments and written information concerning the proposed project and requested density bonus, inclusionary housing, and development concessions at a duly noticed public hearing held on November 7, 2019; and

WHEREAS, the City Council considered oral comments and written information regarding the negotiation of the percentage of income to be used for low-income rent calculations at a public meeting held on November 21, 2019; and

WHEREAS, it is the responsibility of the City Council to consider and weigh the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in review of the requested density bonus and development concessions; and

WHEREAS, the project is a Categorically Exempt, Class 32, In-fill Development Project, Categorical Exemption under the California Environmental Quality Act (CEQA) Guidelines Sections 15332 and 15300.2.

Evidence: Under a Class 32, projects that meet the following conditions are characterized as in-fill development, and, therefore, are categorically exempt from CEQA:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
- b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
- c) The project site has no value as habitat for endangered, rare, or threatened species;
- d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- e) The site can be adequately served by all required utilities and public services.

The proposed project meets each of the conditions set forth in CEQA Guidelines Section 15332, as outlined below:

- a) As stated above, the 2004 City of Seaside General Plan designates the proposed project site as Commercial Mixed Use and proposed project involves the construction 10 buildings with 106 residential units and 4,079 square feet of commercial space, which is consistent with the mixed-use general plan designation and zoning of the site. Further, a consistency analysis was performed to ensure the proposed project would be consistent with all relevant plans, policies, and regulations (e.g., the 2004 City of Seaside General Plan, Seaside Zoning Code, and City of Seaside Municipal Code). The proposed project was found to be consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- b) The proposed project would be located on a project site that is approximately 2.85 acre and within the city limits of Seaside. As described above, the project site is surrounded by urban uses including commercial and mix of single-family and multi-family residential uses.

c) A Denise Duffy & Associate (DD&A) biologist conducted a reconnaissance-level survey of the project site. Where the site is not paved, the site contains mostly bare ground and non-native invasive species (i.e., iceplant and telegraph weed). Three trees (i.e., eucalyptus and coast live oak) are located within the project site. The project site is highly disturbed and does not provide value as habitat for endangered, rare, or threatened species. A landscape plan will include 20 street trees along Broadway Avenue and landscaping within common open space areas in compliance with City standards.

d) The proposed project would not have a significant effect related to traffic, noise, air quality, or water quality.

Traffic

The proposed project would not result in a significant increase in vehicle miles traveled (VMT) and as a result the proposed project would not have significant construction- nor operation- related traffic impacts.

Per CEQA Guidelines Section 15064.3(b)(1), traffic impacts are less than significant if the project is close to transit (i.e., "projects within one-half mile of either an existing major transit stop or a stop along an existing high-quality transit corridor should be presumed to cause a less than significant transportation impact"). Public Resources Code Section 21155 defines a high-quality transit corridor as a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

NOW, THEREFORE, BE IT RESOLVED, that the City Council adopts the following findings in support of the requested density bonus, inclusionary housing and development concessions:

1. The proposed use is consistent with provisions of the General Plan and Zoning Ordinance.

General Plan Conformance

The Seaside General Plan Land Use Designation for the project site is Mixed Use (CMX). The land use classification is intended to promote pedestrian and transit oriented activity centers in the community with a mix of residential and commercial land uses. The proposed project would consist of multi-family apartment buildings and a mixed use commercial component in conformance with the following General Plan Goals and policies:

Land Use Element

Goal LU-1: Promote a mixture of land uses and a balance of jobs and housing to support a community in which people live, work, and play

Policy LU-1.4: Provide a variety of housing that complements the employment opportunities in the community.

Evidence: The proposed project will result in 106 residential units, which would include sixteen low-income affordable units to adequately provide housing opportunities to meet the City's Regional Housing Needs Assessment for the community.

Goal LU-2: Revitalize existing commercial areas.

Policy LU-2.1: Encourage consolidation of under-performing and under-utilized commercial properties.

Evidence: The project site consists of a former redevelopment owned property which has remained mostly vacant, and underdeveloped for over 30 years. The proposed development will serve to reinvigorate this area of the community by improving the value of adjacent multi-family residential sites, providing a population base to support adjacent small commercial businesses, support the Monterey-Salinas Transit line which operates on Broadway Avenue, and improve the housing stock for renters and low-income households.

Goal LU-3: Revitalize existing residential areas.

Policy LU-3.2: Improve the physical appearance of residential neighborhoods

Evidence: Seaside General Plan Policy LU-3.2 encourages development that would improve the physical appearance of residential neighborhoods. The proposed project will remove two dilapidated, non-conforming commercial buildings that would be replaced with multi-family apartment buildings and a mixed-use building consistent with the intent of the Commercial Mixed Use land use category.

Goal LU-4: Ensure that new development complements existing land uses and enhances the character of the community and neighborhoods.

Policy LU-4.1: Require new development to fund its share of community services, uses quality design and materials, and is compatible with surrounding uses.

Evidence: The proposed development will consist of an infill development that is surrounded by available utilities and roadways. The developer will pay for the development of infrastructure improvements (e.g. underground utilities, driveways, sidewalks, curb returns, water) needed for the development. The proposed project will be constructed at a density that is consistent with the surrounding multi-family neighborhoods and commercial uses. The overall height and scale of the development will respect the single family neighborhoods located further to the east and south of the

development. The positioning of the apartment buildings will not impact the light and air access to the adjacent multi-family apartments to the north.

Policy LU-4.2: Encourage redevelopment that brings non-conforming buildings and uses into compliance with the Seaside General Plan and Zoning Ordinance

Evidence: The proposed development will remove two, dilapidated non-conforming commercial buildings and will develop the site with a high-density mixed-use development that will serve to both provide needed affordable housing opportunities and reinvigorate a commercial area of the community with pedestrian activity and real estate investment at a high level.

Housing Element

Goal H-1: Maintain a range of housing opportunities to address the existing and projected needs of the community.

Policy H-1.1: Maintain a variety of housing types, sizes, and prices throughout the city to increase housing choice and ensure that households of all types and income levels have the opportunity to find suitable rental housing.

Evidence: Seaside General Plan Policy H-1.1 of the City's Housing Element states that the City shall maintain a variety of housing types, sizes, and prices throughout the City to increase housing choice and ensure that households of all types and income levels have the opportunity to find suitable ownership or rental housing. The provision of sixteen low income units under this project would support this Policy by establishing a range of housing sizes and prices within the development.

Policy H-1.2: Identify adequate sites and appropriate zoning and development standards to facilitate and encourage housing production commensurate with projected housing needs of the City.

Evidence: The project site consists of an infill development site within an existing high density commercial and residential neighborhood that would provide new rental housing stock to meet the City's regional requirements for both affordable and rental housing opportunities.

Policy H-1.3: Encourage the construction of high-density, well designed housing.

Evidence: The proposed project would provide a high quality, affordable multi-family residential project within an area of the community with concentrated high density housing. The project would provide new residential development to enhance the neighborhood and maintain adequate infrastructure service levels.

Policy H-1.4: Maintain a geographic dispersal of units affordable to low- and moderate income households throughout the City.

Evidence: The proposed project would provide sixteen low-income units that would include deed restrictions to ensure their affordability for an occupancy term of 55 years. Furthermore, the location of the affordable units would be near a high transit corridor and near three grocery stores to provide the necessary amenities for a living environment within a high density development.

Policy H-1.5: Reduce potential government constraints to the production, maintenance, and development of housing.

Evidence: The granting of the density bonus for 28 units and the two development concessions to the property development standards would enable the developer to construct a project at an appropriate density with proper design amenities to ensure a quality living environment that would not be detrimental to the public interest, health, safety, convenience, or welfare or materially injurious to persons, property, or improvements in the vicinity and zone district in which the property is located.

2. The approved number of dwelling units can be accommodated by existing and planned infrastructure capacities.

Evidence: The project site consists of an in-fill development within a high density commercial and residential neighborhood with access to all public utilities and services and shopping for daily household needs and access to healthy foods and products.

3. Adequate evidence exists to indicate that the project will provide affordable housing in a manner consistent with the purpose and intent of the affordable housing standards.

Evidence: The proposed design will include 106 units of the relatively same floor plan, size, and accessibility to each unit for both the designated affordable units and market rate units consistent with the affordable housing standards.

4. There are sufficient guarantees that the units will remain affordable for the required time period.

Evidence: Property owner would be required to record the Density Bonus and Inclusionary Housing Agreement requiring the recordation of a deed restriction ensuring that the designated low-income units would remain affordable for period of 55 years from the date of occupancy of the first unit.

BE IT FURTHER RESOLVED, the City Council hereby approves the requested density bonus and development concessions subject to the following terms and conditions:

Planning:

1. The Applicant shall receive Minor Use Permit approval for the proposed project by the Zoning Administrator prior to receiving final Board of Architectural Review approval.

2. The Applicant shall receive design approval for the proposed project by the Board of Architectural Review prior to an application for a building permit for the construction of all buildings, with the exception of a foundation permit which may proceed prior to final design review approval.

3. Except as modified by these conditions of approval, plans submitted for Architectural Review application must be in compliance with the plans stamped "Received City of Seaside October 7, 2019

Community Development Department," or as amended at the Zoning Administrator hearing, provided as Attachment 1. The Applicant shall provide sixteen (16) affordable units on the project site that will be assigned to low-income households (SMC Section 17.31.020) in accordance with the City's Density Bonus and Inclusionary Housing Agreement. Rental rate maximums for the affordable housing units shall be determined, and adjusted annually, based on the County of Monterey Housing Office's 2019 Income Limits and Maximum Rental Allowances calculations for the number of bedroom units and affordability categories. The low income units shall be designated for a period of 55 years, with the rent calculated based on 28% of AMI for the first 5 years of occupancy and 30% for the remaining 50 years of occupancy, and adjusted annually to reflect AMI. The Density Bonus and Inclusionary Housing Agreement must be recorded within 10 business days of the Minor Use Permit hearing.

Standard:

1. The Minor Use Permit approved for this project is subject to revocation procedures contained in S.M.C. Section 17.69.060 in the event any of the terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood.

2. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that it will defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the

CONFIDENTIAL DOCUMENT

City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding, and the City shall cooperate fully in the defense thereof.

3. The project shall comply with the requirements and the applicable ordinances of the Monterey Peninsula Water Management District (MPWMD).

4. The permit shall have no force or effect unless and until accepted, and the terms thereof agreed, to, in writing, by the applicant and property owner within fifteen (15) days from the date of its approval.

5. Project approval will become null and void if a building permit is not obtained within one (1) year from the date of approval to begin construction on the project.

6. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Seaside duly held on the 21st of November 2019 by the following vote:

AYES:	5	COUNCILMEMBERS:	Oglesby, Pacheco, Campbell, Wizard, Kispersky
NOES:	0	COUNCILMEMBERS:	NONE
ABSENT:	0	COUNCILMEMBERS:	NONE
ABSTAIN:	0	COUNCILMEMBERS:	NONE


 Ian N. Oglesby, Mayor

ATTEST:


 Lesley Milton-Rerig, City Clerk

Attachment A11

1. The Agreement Regarding Use of Stored Water Credits for Ascent Broadway Project between Cal Am and the City of Seaside, as amended (“Stored Water Credits Agreement”) establishes a schedule for the transfer of stored water credits, including at least thirty (30) calendar days prior to the setting of a meter for the Ascent Broadway Project, the City of Seaside shall have transferred a minimum of thirty-nine (39) acre-feet of stored water credits to Cal Am.
2. This application is made with the understanding that the additional 13 afy supply that constitutes the anticipated water usage for the Ascent Broadway Project and is transferred from the City of Seaside to Cal Am pursuant to the Stored Water Credits Agreement is only available for use at the Ascent Broadway Project and cannot be used for other properties receiving water from Cal Am’s distribution system;
3. The Stored Water Credits Agreement will expire when SWRCB Cease and Desist Order WR95-10, 2009-006 and 2016-0016, as they may be amended from time to time, are lifted and it is no longer necessary for Cal Am to utilize the stored water credit or allocations as provided in the agreement.; and
4. Following the expiration of the Stored Water Credits Agreement, Cal Am will transfer back to the City of Seaside any unused Stored Water Credits or other allocation rights that Cal Am received from the City of Seaside pursuant to the agreement.



SUBMITTED BY REPRESENTATIVE

ORDINANCE NO. 194
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING RULE 11 AND ADDING RULE 23.10
TO ESTABLISH A WATER ENTITLEMENT FOR
THE CITY OF SEASIDE

FINDINGS

1. The Monterey Peninsula Water Management District (MPWMD or District) is charged under the Monterey Peninsula Water Management District Law with the integrated management of all ground and surface water resources in the Monterey Peninsula area.
2. The Monterey Peninsula Water Management District Law grants MPWMD general and specific powers to cause sufficient water to be available for present and future beneficial use or uses of lands or inhabitants within the District. MPWMD Rule 30 requires the District to establish a specific Allocation for each Jurisdiction and provides that the District also may establish Water Entitlements as necessary to manage water supplies throughout the District.
3. This ordinance establishes a Water Entitlement that is sourced from adjudicated groundwater rights that the City of Seaside (Seaside) possesses in the Seaside Groundwater Basin that California-American Water Company (Cal-Am) will produce and convey through its Water Distribution System (WDS) to Benefitted Properties specified in this ordinance.
4. Seaside is a general law city situated in the County of Monterey. Seaside produces groundwater from the Seaside Basin (1) for use on two city-owned golf courses that overly the Basin, and (2) for municipal water service to its residents.
5. Seaside holds adjudicated rights under the judgment issued in the Seaside Basin Groundwater Adjudication Decision (Amended Decision of the Monterey County Superior Court, Case No. M66343) to an Alternative Production Allocation of water totaling 540 Acre-Feet annually (AFA) from the Seaside Groundwater Basin for municipal use and

irrigation of the two city-owned golf courses. Recent golf course irrigation is recognized at 450 AFA. On October 25, 2019, Judge Robert O'Farrell approved the In-Lieu Groundwater Storage Program proposed by the City of Seaside. As a result, Seaside has been purchasing recycled water from Marina Coast Water District to irrigate the golf courses in lieu of using a portion of its Alternative Production Allocation. Under the program, Seaside may use the stored water credits or assign the credits to others to allow production of groundwater to serve other water demands.

6. A portion of the stored water credit is being assigned to Cal-Am to supply water service to the Ascent Project (Benefited Properties) in the Seaside Groundwater Basin until the State Water Resources Control Board Cease and Desist Order and the California Public Utilities Commission moratorium are lifted. The Ascent Project is owned by Ascent Seaside LLC, a Delaware Limited Liability Company, and will consist of a ten-building workforce rental housing development at Broadway Avenue and Terrace Street (APNs: 012-191-001, -002, -003, -004, -030, -031, -033, -034, and -035).
7. Upon approval by the MPWMD of a Water Distribution System Amendment to the Cal-Am Production Limit as a result of the assignment of stored water credit from the Seaside golf courses to Cal-Am, the Cal-Am Production Limit from the Coastal Subareas of the Seaside Basin will be increased by 13.00 AFA to meet the water needs of the Benefited Properties. This is equivalent to metered sales (customer water consumption) of 12.09 AFA that will be approved via MPWMD Water Permits for use on the Benefited Properties, based on an assumed system loss factor (Unaccounted for Water Use) of seven percent (7%).
8. This ordinance shall allow for new Connections and modifications of existing Connections at the Benefited Properties.
9. This ordinance authorizes Seaside, on terms and conditions set forth in this ordinance, to separately sell and convey portions of the Water Entitlement established by this ordinance within the Cal-Am WDS supplied with water from Cal-Am Wells in the Seaside Groundwater Basin as is allowed by the Seaside Basin Groundwater Adjudication Decision.
10. This ordinance provides that water use authorized by the Water Use Permit issued under this ordinance shall be subject to the water efficiency and conservation rules of MPWMD under its Regulation XIV and the rationing rules of MPWMD under its Regulation XV.
11. This ordinance amends Rule 11 (Definitions) and adds Rule 23.10 (City of Seaside Water Entitlement) to the Rules and Regulations of the MPWMD.

- SUPERVISOR [unclear]
12. MPWMD has followed those guidelines adopted by the State of California and published in the California Administrative Code, Title 14, Section 15000, *et seq.* Specifically, the MPWMD has determined that a Statutory Exemption applies as defined in CEQA Guidelines Section 15268 (Ministerial Projects), based on previous environmental determinations by the Courts. The Monterey County Superior Court concluded that its Adjudication Decision included environmental determinations related to the Seaside Basin and adjudication of the rights therein. The MPWMD action is also consistent with the May 11, 2009, Court Order as confirmed by the Sixth District Court of Appeal, which limits CEQA review of water-related issues to areas other than the Seaside Basin.

NOW THEREFORE, be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the City of Seaside Water Entitlement Ordinance of the Monterey Peninsula Water Management District.

Section Two: Purpose

This ordinance establishes a Water Entitlement for Benefited Properties in the City of Seaside supplied by California-American Water Company (Cal-Am) from Cal-Am Wells located in the Coastal Subareas of the Seaside Groundwater Basin based on a temporary assignment of Seaside's banked water credits from its in-lieu groundwater storage program as recognized by the Seaside Watermaster and approved by the Monterey County Superior Court pursuant to the Seaside Basin Groundwater Adjudication Decision.

Section Three: Amendment of Rule 11, Definitions

The following definitions in Rule 11 shall be amended as shown in bold italics (*bold italics*) and strikeout (~~strikethrough~~).

WATER ENTITLEMENT HOLDER – “Water Entitlement Holder” shall refer to one of the following entities: The Pebble Beach Company (Ordinance Nos. 39 and 109), Hester Hyde Griffin Trust (Ordinance No. 39), Lohr Properties Inc. (Ordinance No. 39), the City of Sand City (Ordinance No. 132), Cypress Pacific Investors LLC (Water Distribution System Permit approved September 15, 2014), Malpaso Water Company LLC (Ordinance No. 165), ~~and~~ D.B.O. Development No. 30, a California Limited Liability Company (Ordinance No. 166), *and City of Seaside (Ordinance No. 194).*

Section Four: Addition of Rule 23.10, City of Seaside Water Entitlement

The following text shall be added as Rule 23.10 City of Seaside Water Entitlement:

RULE 23.10 – CITY OF SEASIDE WATER ENTITLEMENT

A. CITY OF SEASIDE WATER ENTITLEMENT

1. The City of Seaside (Seaside) Water Entitlement confers a Water Entitlement of 13.00 Acre-Feet annually (AFA) for Benefited Properties in the City of Seaside supplied by California-American Water Company (Cal-Am) from Cal-Am Wells located in the Coastal Subareas of the Seaside Groundwater Basin based on a temporary assignment of Seaside's banked water credits from its in-lieu groundwater storage program as recognized by the Seaside Watermaster and approved by the Monterey County Superior Court pursuant to the Seaside Basin Groundwater Adjudication Decision.
2. The water available for permitting purposes shall be 12.09 AFA, which includes an assumed system loss factor of seven percent (7%) from the allowed production of 13.0 AFA.
3. The Seaside Water Entitlement shall be available for assignment and use upon the Benefited Properties consisting of Assessor's Parcel Numbers 12-191-001, -002, -003, -004, -030, -031, -033, -034, and -035 presently owned by Ascent Seaside LLC, a Delaware Limited Liability Company.
4. Seaside is authorized to separately sell, transfer, and convey to owners of Benefited Properties for such consideration and upon such terms and conditions as Seaside in its discretion may determine, such portions of the Seaside Water Entitlement as it may choose. Any portion of the Seaside Water Entitlement conveyed to the owner of a Benefited Property by an Assignment Document shall temporarily vest in the owner of the Benefited Property subject to the provisions of Rule 23.10-C.
5. The Seaside Water Entitlement shall be separate and distinct from any other Allocations provided in Rule 30. The existence of the Seaside Water Entitlement shall not affect any existing use of water in the County of Monterey or any City, or any existing Allocation to the County of Monterey or any City.
6. For purposes of collecting Capacity Fees and tracking the use of a Water Entitlement, the projected increase in Water Use Capacity of a Benefited Property shall be calculated in the manner set forth in Rule 24, as it may be amended from time to time.
7. Each Water Use Permit issued pursuant to this Rule shall represent a temporarily vested property interest upon issuance and shall be subject to ~~Revocation or cancellation as expressly set forth in subparagraph C below.~~

8. The portion of the Seaside Water Entitlement granted by the Water Use Permit shall not be subject to reallocation pursuant to MPWMD Rule 30, nor shall the setting of meters by Cal-Am be terminated or diminished by reason of a water emergency, water moratorium, or other curtailment on the setting of meters with the exception of a water emergency or other curtailment that affects the use of water by all Cal-Am Users of the Coastal Subarea of the Seaside Groundwater Basin.

B. REPORTING REQUIRED

The City of Seaside will provide MPWMD with a copy of its monthly Recycled Water Reports at the same time Seaside provides such reports to the Watermaster to ensure compliance with this Rule.

C. REVOCATION, TERMINATION, OR MODIFICATION OF WATER USE PERMITS

Prior to sunset of this Ordinance, Seaside shall authorize a deduction of water from a Cal-Am Allocation for each Water Permit issued using this Entitlement and shall ensure conversion of all Water Permits from the Seaside Entitlement to a Seaside Allocation by issuance of an amended Water Permit that identifies the Allocation used.

D. SUNSET OF SEASIDE ENTITLEMENT

This Ordinance shall sunset following Cal-Am's filing of a Tier 1 advice letter transmitting the written concurrence of the Deputy Director of Water Rights of the State Water Resources Control Board with a finding that a permanent supply of water is ready to serve as a replacement for the unlawful diversion of Carmel River water and removing from its tariffs the special condition contained in Ordering Paragraph 1 of California Public Utilities Commission Decision 11-03-048. Sunset shall occur upon completion of the conversion of Water Permits from the Seaside Entitlement to a Seaside Allocation as set forth in subparagraph C above.

Section Five: Effective Date

This ordinance shall take effect at 12:01 a.m. on the 30th day after it has been enacted on second reading and upon approval of a Water Distribution System Amendment to the California-American Water Company Water Distribution System to increase its Production Limit by 13.0 AFA.

Section Six: Severability

If any subdivision, paragraph, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or enforcement of the remaining portions of this ordinance, or of any other provisions of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

PASSED AND ADOPTED on this 12th day of February 2024 on a motion by Director Edwards and second by Director Riley, by the following vote, to wit:


AYES: Oglesby, Adams, Eisenhart, Paull, Edwards, Riley and Anderson

NAYS: None

ABSENT: None

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is an ordinance adopted on the 12th day of February 2024.

Dated: February 13, 2024



David J. Stoldt,
Secretary to the Board



DRAFT

FINDINGS OF APPROVAL

Consider Amendment to California-American Water Company’s (Cal-Am) Main Water Distribution System to Increase the Production Limit by Thirteen (13) Acre-Feet Annually to Enable Cal-Am to Produce the City of Seaside’s Banked Water Credits from Seaside’s In-Lieu Groundwater Storage Program for and Supply at the Ascent Project (APNs: 012-191-001, -002, -003, -004, -030, -031, -033, -034, and -035)

Permittee: California-American Water Company, a California Corporation

Permitted System: Main California American Water System

Recipient Assessor Parcel Numbers: 012-191-001, 012-191-002, 012-191-003, 012-191-004, 012-191-030, 012-191-031, 012-191-033, 012-191-034, and 012-191-035

Application #WDS-20240223CAL

Adopted by MPWMD Administrative Hearing Officer on [REDACTED]

Unless noted otherwise, all cited documents and materials are available for review on the MPWMD website <https://www.mpwmd.net/regulations/public-notices/> and will be available for 30 days following action on the application.

It is hereby found and determined:

- FINDING:** The City of Seaside (“Seaside”) holds adjudicated rights under the judgment issued in the Seaside Basin Groundwater Adjudication Decision (Amended Decision of the Monterey County Superior Court, Case No. M66343) to an Alternative Production Allocation of water totaling 540 Acre-Feet annually (AFA) from the Seaside Groundwater Basin for municipal use and irrigation of the two city-owned golf courses. Recent golf course irrigation is recognized at 450 AFA. On October 25, 2019, Judge Robert O’Farrell approved the In-Lieu Groundwater Storage Program proposed by the City of Seaside. As a result, Seaside has been purchasing recycled water from Marina Coast Water District to irrigate the golf courses in lieu of using a portion of its Alternative Production Allocation. Under the program, Seaside may use the stored water credits or assign the credits to others to allow production of groundwater to serve other water demands.

EVIDENCE: Seaside Basin Groundwater Adjudication Decision (Amended Decision of the Monterey County Superior Court, Case No. M66343). City of Seaside Notice of Intent for Assignment and Transfer of Production Allocation dated November 1, 2023, and amended January 3, 2024. City of Seaside’s Motion

for Approval of In Lieu Groundwater Storage Program (Case M66343) approved by the Court on October 25, 2019.

2. FINDING: A portion of the stored water credit is being assigned to California-American Water Company (“Cal-Am”) to supply water service to the Ascent Project (Benefited Properties) in the Seaside Groundwater Basin until the State Water Resources Control Board Cease and Desist Order and the California Public Utilities Commission moratorium are lifted. The Ascent Project is owned by Ascent Seaside, LLC, a Delaware Limited Liability Company, and will consist of a ten-building workforce rental housing development at Broadway Avenue and Terrace Street (APNs: 012-191-001, 012-191-002, 012-191-003, 012-191-004, 012-191-030, 012-191-031, 012-191-033, 012-191-034, and 012-191-035).

EVIDENCE: Agreement Regarding Use of Stored Water Credits for Ascent Project signed September 11, 2023 (City of Seaside) and September 28, 2023 (Cal-Am). Amendment 1 to Agreement Regarding Use of Stored Water Credits for Ascent Project signed February 14, 2024 (City of Seaside) and February 13, 2024 (Cal-Am). Grant Deeds on file at MPWMD and project approvals by City of Seaside.

3. FINDING: This Water Distribution System amendment to the Cal-Am Production Limit approves the assignment of stored water credit from the Seaside golf courses to Cal-Am and increases the Cal-Am Production Limit from the Coastal Subareas of the Seaside Basin by 13.00 AFA to meet the water needs of the Benefited Properties. This is equivalent to metered sales (customer water consumption) of 12.09 AFA based on an assumed system loss factor (Unaccounted for Water Use) of seven percent (7%).

EVIDENCE: Ordinance No. 194, the City of Seaside Water Entitlement Ordinance of the Monterey Peninsula Water Management District, adopted February 12, 2024.

4. FINDING: This amendment shall allow for new Connections and modifications of existing Connections at the Benefited Properties to meet the project’s needs.

EVIDENCE: Ordinance No. 194, the City of Seaside Water Entitlement Ordinance of the Monterey Peninsula Water Management District, adopted February 12, 2024.

5. FINDING: Each Water Use Permit issued pursuant to Ordinance No. 194 represents a temporarily vested property interest upon issuance and shall be subject to cancellation as expressly set forth in Finding 6 below.

EVIDENCE: Ordinance No. 194, the City of Seaside Water Entitlement Ordinance of the Monterey Peninsula Water Management District, adopted February 12, 2024.

6. FINDING: Following Cal-Am’s filing of a Tier 1 advice letter transmitting the written concurrence of the Deputy Director of Water Rights of the State Water Resources Control Board with a finding that a permanent supply of water is ready to serve as a replacement for the unlawful diversion of Carmel River water and removing from its tariffs the special condition contained in Ordering Paragraph 1 of California Public Utilities Commission Decision 11-03-048, and following conversion of all Water Permits from the Seaside Entitlement to a Seaside Allocation by issuance of an amended Water Permit that identifies the Allocation used, this Water Distribution System Amendment M24-01-L3 shall expire.

EVIDENCE: Ordinance No. 194, the City of Seaside Water Entitlement Ordinance of the Monterey Peninsula Water Management District, adopted February 12, 2024.

7. FINDING: The portion of the Seaside Water Entitlement granted by the Water Use Permit shall not be subject to reallocation pursuant to MPWMD Rule 30, nor shall the setting of meters by Cal-Am be terminated or diminished by reason of a water emergency, water moratorium, or other curtailment on the setting of meters with the exception of a water emergency or other curtailment that affects the use of water by all Cal-Am Users of the Coastal Subarea of the Seaside Groundwater Basin.

EVIDENCE: Ordinance No. 194, the City of Seaside Water Entitlement Ordinance of the Monterey Peninsula Water Management District, adopted February 12, 2024.

Required Findings for Granting a Permit (MPWMD Rule 22-B)

8. FINDING: The approval of Application #WDS-20240223CAL does not result in unnecessary duplication of the same types of services by any existing system.

EVIDENCE: Recorded documents and evidence on file at MPWMD.

9. FINDING: The approval of Application #WDS-20240223CAL does not result in exportation or importation of water outside or into the District.

EVIDENCE: Recorded documents and evidence on file at MPWMD.

10. FINDING: The approval of Application #WDS-20240223CAL does not result in significant environmental effects that cannot be mitigated by conditions attached to the permit.

EVIDENCE: Recorded documents and evidence on file at MPWMD.

Minimum Standards for Granting a Permit (MPWMD Rule 22-C)

11. FINDING: All Minimum Standards for Granting a Permit pursuant to MPWMD Rule 22-C have been met.

EVIDENCE: Recorded documents and evidence on file at MPWMD.

Compliance with California Environmental Quality Act (CEQA)

12. FINDING: MPWMD has followed those guidelines adopted by the State of California and published in the California Administrative Code, Title 14, Section 15000, et seq. Specifically, the MPWMD has determined that a Statutory Exemption applies as defined in CEQA Guidelines Section 15268 (Ministerial Projects), based on previous environmental determinations by the Courts. The Monterey County Superior Court concluded that its Adjudication Decision included environmental determinations related to the Seaside Basin and adjudication of the rights therein. The MPWMD action is also consistent with the May 11, 2009, Court Order as confirmed by the Sixth District Court of Appeal, which limits MPWMD CEQA review of water-related issues to areas other than the Seaside Basin.

EVIDENCE: Seaside Basin Groundwater Adjudication Decision (Amended Decision of the Monterey County Superior Court, Case No. M66343).

DRAFT
CONDITIONS OF APPROVAL

Consider Amendment to California-American Water Company’s (Cal-Am) Main Water Distribution System to Increase the Production Limit by Thirteen (13) Acre-Feet Annually to Enable Cal-Am to Produce the City of Seaside’s Banked Water Credits from Seaside’s In-Lieu Groundwater Storage Program for and Supply at the Ascent Project (APNs: 012-191-001, -002, -003, -004, -030, -031, -033, -034, and -035)

Permittee: California-American Water Company, a California Corporation

Permitted System: Main California American Water System

Recipient Assessor Parcel Numbers: 012-191-001, 012-191-002, 012-191-003, 012-191-004, 012-191-030, 012-191-031, 012-191-033, 012-191-034, and 012-191-035

Application #WDS-20240223CAL

Adopted by MPWMD Administrative Hearing Officer on [REDACTED]

Permitted System Minimum Standards and Mandatory Conditions of Approval (Required by MPWMD Rules)

1. The Main California American Water System¹ (Permitted System) is authorized by the Monterey Peninsula Water Management District (MPWMD or District) under Permit #M24-01-L3 to produce 13.0 Acre-Feet annually (AFA) of the City of Seaside’s stored water credit under Seaside’s In Lieu Groundwater Storage Program (Case M66343 approved by the Court on October 25, 2019) for water service to Assessor’s Parcel Numbers (APN): 012-191-001, 012-191-002, 012-191-003, 012-191-004, 012-191-030, 012-191-031, 012-191-033, 012-191-034, and 012-191-035. (The land referred to herein is located in the City of Seaside, County of Monterey, State of California.) A Parcel map of the Benefited Properties is shown as **Attachment 1**. These APNs are defined as the Benefited Properties of the City of Seaside’s Water Entitlement enacted by MPWMD Ordinance No. 194 on February 12, 2024. [Rule 22-D-1-a]
2. This Permit authorizes the Permitted System to provide water supply for the Ascent Project. The Ascent Project is owned by Ascent Seaside, LLC, a Delaware Limited Liability Company, and consists of a ten-building workforce rental housing development at Broadway Avenue and Terrace in Seaside consisting of 106 Residential Users, Non-Residential Users, and Landscape Area. [Rule 22-D-1-b]
3. The System Capacity (“Production Limit”) for the Permitted System shall be increased by

¹ Capitalized terms are defined in MPWMD Rule 11.

13.0 AFA specifically for the Benefited Properties of the City of Seaside Water Entitlement (Rule 23.10). This is equivalent to metered sales (customer water consumption) of 12.09 AFA based on an assumed system loss factor (Unaccounted for Water Use) of seven percent (7%). [Rule 22-D-1]

4. Precedent to use of this Permit, Permittee shall first obtain and comply with any required approval from the local Jurisdiction in which the property is located, as applicable. [Rule 22-D-3]
5. Permittee shall execute an Indemnification Agreement, (**Attachment 2**), which holds the MPWMD harmless and promises to defend the MPWMD from any claims, demands, or expenses of any nature or kind arising from or in any way related to the MPWMD approval of the Permitted System or the adequacy of the system water supply. This Permit is not valid until the Indemnification Agreement is signed by both Permittee and MPWMD. [Rule 22-D-1-d]
6. Permittee shall comply with MPWMD rules relating to water Well registration, metering, and annual reporting of production (MPWMD Regulation IV), including reporting the quantity of water produced from each Source of Supply, the number of active and non-active Connections in the system, and the number of new Connections and disconnections that occur during the year. [Rule 22-D-1-e; Rule 22-D-2]
7. New Connections to the Permitted System may not be installed until a Water Permit has been secured from MPWMD for each Connection in accordance with MPWMD Regulation II. Landscape Water Permits shall also be required pursuant to Regulation II. [Rule 22-D-1-g]
8. Any Intensification, Expansion, or Change of Use of a User within the Permitted System shall require a new Water Permit pursuant to MPWMD Regulation II. [Rule 22-D-1-k]
9. Any modification, addition, or change to the Source of Supply, location of uses, any increase in the System Limits or expansion of the Service Area shall require an amended Water Distribution System Permit pursuant to MPWMD Regulation II. [Rule 22-E]
10. Permittee shall sign (and notarize) the Permit accepting all conditions for the approval of the Permitted System. By signing the form, Permittee acknowledges understanding and acceptance of these conditions as a binding part of the Final Permit approval and agrees to carry them out faithfully. [Rule 22-D-1-m]
11. Permittee shall disclose to any future owner, successors and assigns of the property described in Condition #1 the requirements for the Permitted System. Permittee shall advise MPWMD in a timely manner of any changes in system ownership, system name, or other substantive changes to the system to facilitate accurate record keeping. [Rule 22-D-2]
12. Prior to MPWMD recordation of the Notice of Agreement to Permit this System Limit increase, Permittee shall pay to the MPWMD the invoiced cost for MPWMD staff, attorney and consultant time spent to process the Permit after the application date. [Rule 22-D-1-l]

13. Permittee shall execute a Notice of Agreement Regarding Limitation on Use of a Water Distribution System prepared by MPWMD regarding the limitation on water use set forth in these conditions. Permittee shall pay all fees associated with preparation, review and recording of the Notice of Agreement. The Notice of Agreement must be signed and notarized by the Permittee before the MPWMD has the document recorded by the Monterey County Recorder. Upon successful recordation, the Final Permit from MPWMD may be transmitted to the Permittee. [Rule 22-D-1-n]
14. The Permit granted herein is subject to revocation in the event Permittee does not fully comply with each and every condition set forth in this Permit. [Rule 22-D-1-p]

Other Conditions of Approval

15. Nothing in this Permit shall be construed to grant or confirm any water right.
16. This Permit does not authorize any act that results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code Sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544). If a “take” will result from any act authorized under this Permit, the Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this Permit.

Special Conditions for Main California American Water System

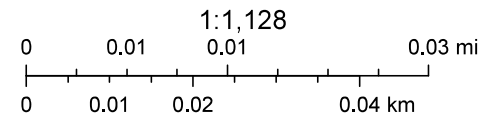
17. Following Cal-Am’s filing of a Tier 1 advice letter transmitting the written concurrence of the Deputy Director of Water Rights of the State Water Resources Control Board with a finding that a permanent supply of water is ready to serve as a replacement for the unlawful diversion of Carmel River water and removing from its tariffs the special condition contained in Ordering Paragraph 1 of California Public Utilities Commission Decision 11-03-048, and following conversion of all Water Permits from the Seaside Entitlement to a Seaside Allocation by issuance of an amended Water Permit that identifies the Allocation used, this Water Distribution System Amendment M24-01-L3 shall terminate.

ATTACHMENT 1 – Parcel Map of Benefited Properties

ATTACHMENT 2 – Indemnification Agreement



9/19/2023



Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA



**DRAFT
INDEMNIFICATION AGREEMENT**

Consider Amendment to California-American Water Company’s (Cal-Am) Main Water Distribution System to Increase the Production Limit by Thirteen (13) Acre-Feet Annually to Enable Cal-Am to Produce the City of Seaside’s Banked Water Credits from Seaside’s In-Lieu Groundwater Storage Program for and Supply at the Ascent Project (APNs: 012-191-001, -002, -003, -004, -030, -031, -033, -034, and -035)

Permittee: California-American Water Company, a California Corporation

Permitted System: Main California American Water System

Recipient Assessor Parcel Numbers: 012-191-001, 012-191-002, 012-191-003, 012-191-004, 012-191-030, 012-191-031, 012-191-033, 012-191-034, and 012-191-035

Application #WDS-20240223CAL

Adopted by MPWMD Administrative Hearing Officer on [REDACTED]

THIS AGREEMENT (“Agreement”) is made and entered into by and between the Monterey Peninsula Water Management District (“MPWMD”), and **California-American Water Company** (“Cal-Am”) (referred to herein as “Indemnitor”) upon the date set forth below.

- This Agreement has been entered into as a condition to the approval of the “**Main California American Water System/Seaside Entitlement Amendment**” Permit #M24-01-L3 authorized by MPWMD Hearing Officer on [REDACTED], on behalf of the Indemnitor. This approval stems from MPWMD Application # **WDS-20240223CAL** to authorize a 13.0 Acre-Feet annually (AFA) increase in Main California American Water System production from the Seaside Groundwater Basin of the City of Seaside’s stored water credit under Seaside’s In Lieu Groundwater Storage Program (Case M66343 approved by the Court on October 25, 2019) for water service to Assessor’s Parcel Numbers: 012-191-001, 012-191-002, 012-191--003, 012-191-004, 012-191-030, 012-191-031, 012-191-033, 012-191-034, and 012-191-035. This Agreement is a requirement of MPWMD Permit M24-01-L3, Condition #5, and must be executed by both parties prior to issuance of the WDS Permit.
- Indemnitor expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed to induce MPWMD to undertake the actions stated in Paragraph 1 and acknowledges that MPWMD is relying upon this Agreement. Indemnitor further agrees that MPWMD has made no representations that this permit approval is exempt from the SWRCB Order No. 95-10, WR 2009-0060, WR 2016-0016, or the California Public Utilities Commission (CPUC) Decision No. 11-03-048.
- Indemnitor agrees to indemnify MPWMD to the maximum extent authorized by the law as an

inducement for MPWMD to undertake the actions referenced in Paragraph 1 without concern for any liability or expense which may result from the good faith performance of MPWMD's duties. Creation of this Indemnification Agreement, and the assumption of the duties set forth herein, have induced MPWMD to undertake that action, and if this Agreement shall lapse, the actions of MPWMD as referenced above shall then become null and void.

- Indemnitor agrees, in consideration of MPWMD's participation and approval in the activities referenced in Paragraph 1, to defend, indemnify, and hold harmless MPWMD and its elected and appointed officials, agents, officers, attorneys and employees from all liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses (including interest, penalties, attorney fees, accounting fees, and expert witness fees) of any kind or nature incurred by MPWMD, known or unknown, contingent or otherwise, directly or indirectly, including but not limited to personal injury or property damage, arising from or related to the activities referenced in Paragraph 1. This Agreement shall include, but shall not be limited to any action, or proceeding brought against MPWMD or its agents, officers, attorneys or employees to attack, set aside, void, annul, limit, modify or inhibit the activities referenced in Paragraph 1, and shall expressly include any action undertaken that may include claims or causes of action under the California Environmental Quality Act (CEQA), or the National Environmental Policy Act (NEPA).
- Indemnitor's obligation to defend, indemnify, and hold harmless shall further include, but not be limited to, all costs relating to litigation, preparation of any administrative record, response to discovery, retention of experts, and other related costs. Indemnification shall further extend to any and all reasonable expenses, including, without limitation, attorney's fees, expenses incurred in establishing a right to indemnification, costs of investigation and costs of appeal, judgments, fines, settlements and other obligations incurred in connection with any demand, claim or proceeding, or any appeal therefrom, to which MPWMD is a party or threatened to be made a party.
- If required to accomplish the activities referenced in Paragraph 1, Indemnitor agrees to indemnify and hold harmless MPWMD for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending any document (including any CEQA or NEPA documents) that shall support, defend, or comply with any relevant order.
- Indemnitor shall not be liable to indemnify MPWMD with respect to any expense, judgment, fine, settlement or other obligation incurred by MPWMD:
 - a. To the extent that such expense, judgment, fine, settlement or other obligation is actually paid or satisfied by an insurer on behalf of Indemnitor pursuant to an insurance policy;
 - b. In connection with any remuneration paid to MPWMD, if it shall be finally adjudged that such remuneration was in violation of law;
 - c. On account of MPWMD's misconduct if such misconduct shall be finally adjudged to have been knowingly fraudulent, deliberately dishonest or willful.

- Indemnitor further agrees to make no claim, and hereby waive, to the fullest extent permitted by law, any claim or cause of action of any nature against MPWMD, its officials, officers, directors, employees, and agents which may arise out of or in connection with activities referenced in Paragraph 1.
- In the event that Indemnitor is required to defend MPWMD in connection with the activities referenced in Paragraph 1, MPWMD shall retain the right to approve:
 - a. The counsel to so defend MPWMD and its agents, which approval shall be in writing;
 - b. All significant decisions concerning the timely manner in which the defense is conducted; and
 - c. Any and all settlements, which approval shall not be unreasonably withheld.
- MPWMD shall not be required to participate in the defense of any proceeding. If MPWMD chooses to have counsel of its own where the Indemnitors have already retained counsel, the fees and expenses of the counsel selected by MPWMD shall be paid by the Indemnitor. MPWMD agrees to cooperate with the Indemnitor in the defense of any proceeding.
- If MPWMD so elects, expenses actually and reasonably incurred by MPWMD in defending any demand, claim or proceeding shall be paid by Indemnitor from time to time as requested by MPWMD notwithstanding there may not yet be a final disposition of such demand, claim or proceeding. Indemnitor agrees to advance any such expenses within ten (10) days after receipt from MPWMD of a written request for an advance payment. MPWMD shall not be obligated, however, to advance any such expenses if it is prohibited by applicable law from advancing such expenses. In the event that it is not ultimately determined that MPWMD is entitled to be indemnified, MPWMD shall repay the amount of any such expenses so advanced.
- The defense and indemnification of MPWMD set forth herein shall remain in full force and effect throughout all stages of litigation including appeals of any lower court judgments.
- MPWMD shall not settle any demand, claim or proceeding in any manner that would impose any obligation, penalty or limitation on, or that otherwise may adversely affect Indemnitor without Indemnitor's prior written consent. Neither MPWMD nor the Indemnitor shall unreasonably withhold its consent to any proposed settlement.
- Any permit, appeal or other approval given by MPWMD to Indemnitor shall be valid only so long as this Indemnification Agreement is given full force and effect. If this Indemnification Agreement is revoked, the permit, appeal, or other approval of MPWMD shall then become null and void.
- This Indemnification Agreement shall bind and benefit MPWMD, its successors and assigns, and Indemnitor and Indemnitor's successors in interest.

- It is agreed and understood by the parties hereto that this Agreement has been arrived at through negotiations and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code section 1654.
- In the event any party brings an action to enforce rights or to collect moneys due under this Agreement or applies to a court for judgment that indemnification is proper under the circumstances and is successful in whole or in part in such action or application, the prevailing party in such action shall be entitled to all reasonable fees and expenses (including attorneys' fees) in pursuing or defending such action or application.
- This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue shall be in the County of Monterey.
- If any provision of this Agreement or the application thereof to any person, place or circumstance, is held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect the validity or enforceability of the other provisions hereof, which provisions shall be deemed separate and distinct agreements.
- No amendment or termination of this Agreement shall be effective unless in writing signed by the parties hereto.

(Signature must be notarized. For all California Notaries, an All-Purpose Acknowledgement is required.)

California American Water Company, a California Corporation

By: _____
 XXXXXXXXXXXXXXXXXXXXXXXX

Date: _____

Attest
 By: _____
 XXXXXXXXXXXXXXXXXXXXXXXX

By: _____
David J. Stoldt, General Manager
Monterey Peninsula Water Management District

Dated: _____

MPWMD NOTICE OF DETERMINATION

TO: Office of Planning and Research **FROM:** Monterey Peninsula Water Mgt. Dist.
1400 Tenth St., PO Box 3044 PO Box 85, Monterey, CA 93942
Sacramento, CA 95812-3044 Phone: 831-658-5600

or X **County Clerk, County of Monterey**
PO Box 29 (168 W. Alisal, 1st Floor)
Salinas, CA 93902

SUBJECT: **Filing of Notice of Determination** in compliance with Section 15268 (Ministerial Projects)

Project Title: *Amendment to California-American Water Company’s (Cal-Am) Main Water Distribution System to Increase the Production Limit by Thirteen (13) Acre-Feet Annually to Enable Cal-Am to Produce the City of Seaside’s Banked Water Credits from Seaside’s In-Lieu Groundwater Storage Program for and Supply at the Ascent Project (APNs: 012-191-001, -002, -003, -004, -030, -031, -033, -034, and -035)*

State Clearinghouse Number: n/a **Contact Person:** *Stephanie Locke*
(if submitted to Clearinghouse) **Phone Number:** *831-658-5630*

Project Location: The Ascent Project housing development at Broadway Avenue and Terrace Street, Seaside, California (APNs: 012-191-001, 012-191-002, 012-191-003, 012-191-004, 012-191-030, 012-191-031, 012-191-033, 012-191-034, and 012-191-035)

Project Description: California-American Water Company (Cal-Am) is authorized to produce up to 13.0 Acre-Feet Annually for the Benefited Properties stated above from Cal-Am Wells located in the Coastal Subareas of the Seaside Groundwater Basin based on a temporary assignment of Seaside’s banked water credits from its in-lieu groundwater storage program as recognized by the Seaside Watermaster and approved by the Monterey County Superior Court pursuant to the Seaside Basin Groundwater Adjudication Decision.

This is to advise that on [redacted], the Monterey Peninsula Water Management District, as a Responsible Agency, relied on the Monterey County Superior Court’s Adjudication Decision that included environmental determinations related to the Seaside basin and adjudication of the rights therein. The MPWMD action is also consistent with the May 11, 2009, Court Order as confirmed by the Sixth District Court of Appeal, which limits MPWMD CEQA review of water-related issues to areas other than the Seaside Basin, approved the above-described project following a noticed public hearing. On [redacted], the MPWMD Administrative Hearing Officer made the following determinations in adoption of Findings of Approval for the subject permit:

1. The project **will not** have a significant effect on the environment.
2. MPWMD has followed the guidelines adopted by the State of California and published in the California Administrative Code, Title 14, Section 15000, et seq.
3. As a Responsible Agency pursuant to CEQA Guidelines 15268 (Ministerial Projects), the MPWMD relied on previous environmental determinations by the Courts. The Monterey County Superior Court concluded that its Adjudication Decision included environmental determinations related to the Seaside Basin and adjudication of the rights therein.
4. The MPWMD action is also consistent with the May 11, 2009 Court Order as confirmed by the Sixth District Court of Appeal, which limits MPWMD CEQA review of water-related issues to areas other than the Seaside Basin.
5. A Statement of Overriding Considerations **was not** adopted by MPWMD for this project.

Signature: _____
David J. Stoldt, MPWMD General Manager

Date: _____