MEMORANDUM OF AGREEMENT

BETWEEN THE SEASIDE BASIN WATERMASTER, THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT, CALIFORNIA AMERICAN WATER COMPANY, AND MONTEREY ONE WATER

TO SHARE IN THE COSTS OF PERFORMING GEOCHEMICAL MODELING OF THE SEASIDE BASIN GROUNDWATER BASIN

THIS AGREEMENT is made and entered into this ____________________ day of ____________________, 2018, by and between the SEASIDE BASIN WATERMASTER, hereinafter referred to as the “WATERMASTER”, and the MONTEREY PENINSULA WATER MANAGEMENT DISTRICT, hereinafter referred to as the “DISTRICT”, CALIFORNIA AMERICAN WATER COMPANY, hereinafter referred to as “CAWC,” and MONTEREY ONE WATER, hereinafter referred to as “M1W,” as follows.

In this Agreement the terms “Party” and “Parties” refer to the WATERMASTER, the DISTRICT, and/or M1W, either individually or collectively.

RECIDUALS:

A. The WATERMASTER was established for the purposes of administering and enforcing the provisions of the Amended Decision filed February 9, 2007 in Case No. M66343, California Superior Court, Monterey County (“Amended Decision”).

B. Section L.3.j.xxi of the Judgment states in part “The Watermaster will monitor and perform or obtain engineering, hydrogeologic, and scientific studies concerning all characteristics and workings of the Seaside Basin, and all natural and human-induced influences on the Seaside Basin, as they may affect the quantity and quality of Water available for Extraction, that are reasonably required for the purposes of achieving prudent management of the Seaside Basin in accord with the provisions of this Decision.”

C. Section L.3.j.xxiii of the Judgment states in part “The Watermaster will take any action within the Seaside Basin, including, but not limited to, capital expenditures
and legal actions, which in the discretion of Watermaster is necessary or desirable to accomplish any of the following:

• Prevent contaminants from entering the Groundwater supplies of the Seaside Basin, which present a significant threat to the Groundwater quality of the Seaside Basin, whether or not the threat is immediate;
• Remove contaminants from the Groundwater supplies of the Seaside Basin presenting a significant threat to the Groundwater quality of the Seaside Basin;
• Determine the existence, extent, and location of contaminants in, or which may enter, the Groundwater supplies of the Seaside Basin;
• Determine Persons responsible for those contaminants; and
• Perform or obtain engineering, hydrologic, and scientific studies as may be reasonably required for any of the foregoing purposes.

D. The DISTRICT, CAWC, and M1W intend to submit application(s) to the WATERMASTER for Storage of Non-Native Water in the Seaside Basin (“Application(s)”) in accordance with Section III.L.3.j.xx of the Amended Decision, which states in part: “The Watermaster will review applications for Storage in the Seaside Basin, regulate the Storage of Non-Native Water in the Seaside Basin, and issue Storage and Recovery Agreements, all as provided below. All applications for Storage in the Seaside Basin shall be considered and voted on before a noticed meeting of the Watermaster. However, all such applications shall be approved absent the issuance of findings that a Material Injury to the Seaside Basin or Producers will or is likely to occur as a result of the proposed Storage program and no reasonable conditions could be imposed to eliminate such risk. If a Storage application is approved, the Watermaster shall issue a Storage and Recovery Agreement. The Storage and Recovery Agreement may include, among other possible elements and/or provisions, the following conditions to avoid Material Injury: … (4) the particular Water quality characteristics that are required pursuant to the Storage and Recovery Agreement… and any other terms and conditions deemed necessary to protect the Seaside Basin and those areas affected by the Seaside Basin.”

C. The DISTRICT, CAWC, and M1W propose to store Non-Native Water from the following sources: (1) water produced by the DISTRICT; (2) desalinated seawater produced by CAWC’s Monterey Peninsula Water Supply Project (“Desal Water”), and water produced by M1W’s Pure Water Monterey project (“PWM Water”). As part of carrying out its duties and responsibilities under the Amended Decision, the WATERMASTER has requested that the Application(s) include a geochemical interaction modeling assessment investigating the potential for adverse geochemical reactions resulting from the introduction of these waters into the Seaside Basin and, if applicable, identifying measures to avoid such adverse reactions.
Terms and Conditions

In consideration of the mutual promises contained herein, the WATERMASTER, the DISTRICT, CAW, and M1W hereby agree to the following terms and conditions:

A. **Work to be performed.** The DISTRICT will contract directly with its consultant, Pueblo Water Resources, Inc. (“Consultant”), to perform modeling of the proposed groundwater storage and recovery projects to assess the geochemical interaction effects of introducing the non-native water from these projects into the native water in the Basin (“Work”). The Scope of Work and the estimated costs to perform this work are described in Attachment 1 to this Agreement. The DISTRICT will invite the staff of each of the Parties to this Agreement to attend any key milestone meetings and conference calls that are held between the DISTRICT and its Consultant as the Work is being performed, in order to enable each of the Parties to stay abreast of the work, raise pertinent questions in a timely manner, and provide input as appropriate.

The Parties hereto understand, as stated in Attachment 1, that it is difficult for the Consultant to accurately estimate the costs to perform the Work, and that the costs listed in the Estimated Fee Summary of Attachment 1 are the Consultant’s best estimates. In the event it is determined, during the course of the Work, that the cost to complete the Work will be greater than the total cost listed in the Estimated Fee Summary, the Parties agree to meet and confer to reach agreement on a revised cost that will be shared as described in paragraph B below, so that the Work can be completed. Agreement on said revised cost shall not be binding on any Party unless and until that Party formalizes its agreement to the revised cost in writing to each of the other Parties.

B. **Costs to be shared.** The $68,679 cost to be shared is contained in the Estimated Fee Summary of Attachment 1. This cost will be shared in the following percentages:

- Watermaster share = 0% ($0)
- District share = 33 and 1/3% ($22,893)
- CAWC share = 33 and 1/3% ($22,893)
- M1W share = 33 and 1/3% ($22,893)

(In the event a revised cost is agreed to, as described in paragraph A above, these dollar figures will change).
C. **Documents to be provided.** The DISTRICT will ensure that: (1) After completion of Tasks 1, 2, 3, 4, and 5, as described in Attachment 1, a Technical Memorandum or summary report will be prepared by the Consultant and provided by the DISTRICT to each of the other Parties, and (2) After completion of Task 6 an overall summary report will be prepared by the Consultant and provided by the DISTRICT to each of the other Parties.

D. **Payment of costs and reimbursement to the DISTRICT.** The DISTRICT will make progress payments to the Consultant as it satisfactorily performs the Work. After the satisfactory completion of the work, the DISTRICT will provide to CAWC and M1W copies of the invoices received from and payments made to the Consultant. Within 45 days of receiving those documents, CAWC and M1W will reimburse the DISTRICT for their respective shares of those costs.

E. **Term of Agreement.** The term of this Agreement shall commence on the date of its execution by all Parties, and shall continue in effect until the DISTRICT has been reimbursed as described in paragraph D above.

F. **Hold Harmless.** Under this Agreement the Parties do hereby agree to indemnify, defend, and hold the other Parties, their respective Board members, officers, employees, agents, and representatives harmless from and against any and all liability, claims, suits, actions, damages, and causes of action of any kind arising out of the indemnifying Party’s use of the Work in the planning, design, and construction, operation, and maintenance of the indemnifying Party’s projects.

G. **Venue.** This Agreement shall be governed by the laws of the state of California. The Parties agree that venue for any litigation arising out of this Agreement shall be exclusively vested in the state courts of the County of Monterey, or the United States District Court for the Northern District of California. Further, the prevailing Party shall be entitled to reasonable attorney fees and costs.

H. **Miscellaneous.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall be deemed to constitute one and the same instrument. Paragraph headings are for convenience only and shall not be used in interpreting this Agreement. All Attachments to this Agreement are incorporated herein. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter herein and may only be modified in a writing executed by all Parties. Each Party acknowledges that it participated in the drafting of this Agreement and agrees that any ambiguity herein shall not be construed against any Party as the drafter of the Agreement.
I. **Notices.** Written notice shall be deemed to have been duly served if delivered in person or by mail to the individuals and at the addresses listed below:

A. WATERMASTER: Technical Program Manager
   Seaside Basin Watermaster
   P.O. Box 51502
   Pacific Grove, CA 93950

B. DISTRICT: General Manager
   Monterey Peninsula Water Management District
   5 Harris Court, Building G
   Monterey, CA 93940

C. CAWC: Operations Manager, Central Division
   California American Water
   511 Forest Lodge Road, Suite 100
   Pacific Grove, CA 93950

D. M1W: General Manager
   Monterey One Water
   5 Harris Court, Building D
   Monterey, CA 93940

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates shown below.

**WATERMASTER**

Date: ______________________________

By: _________________________________
    Ralph Rubio, Chair, Board of Directors

**DISTRICT**

Date: ______________________________

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