

**REGULAR MEETING OF THE  
MONTEREY PENINSULA AIRPORT DISTRICT  
BOARD OF DIRECTORS**

**February 11, 2015 10:00 AM  
Board Room, Terminal Building - Monterey Regional Airport**

(Unless you are a public safety official, please turn off your cell phone or place it on vibrate mode during the meeting. Thank you for your compliance.)

**A. CALL TO ORDER/ROLL CALL**

**B. PLEDGE OF ALLEGIANCE**

**C. COMMUNICATIONS/ANNOUNCEMENTS/INFORMATIONAL ITEM**

1. Semi-Annual Employee Recognition FY 2015 (July 1, – December 31, 2014)

<u>Name</u>	<u>Department</u>	<u>Position</u>
Alfred Porter	Public Safety	Sergeant

**D. PUBLIC COMMENTS**

Any person may address the Monterey Peninsula Airport District Board at this time. Presentations should not exceed three (3) minutes, should be directed to an item **NOT** on today's agenda, and should be within the jurisdiction of the Monterey Peninsula Airport District Board. Though not required, the Monterey Peninsula Airport District Board appreciates your cooperation in completing a speaker request form available on the staff table. Please give the completed form to the Monterey Peninsula Airport District Secretary. Comments concerning matters set forth on this agenda will be heard at the time the matter is considered.)

**E. CONSENT AGENDA – ACTION ITEMS**

(10:10AM – 10:15AM Estimated)

(The Consent Agenda consists of those items which are routine and for which a staff recommendation has been prepared. A Board member, member of the audience or staff may request that an item be placed on the deferred consent agenda for further discussion. One motion will cover all items on the Consent Agenda. The motion to approve will authorize the action or recommendation indicated.)

Approve            1. Minutes of the Regular Meeting of January 14, 2015

Approve            2. Minutes of the Special Meeting of January 27, 2015

**F. DEFERRED CONSENT AGENDA - ACTION ITEMS**

**G. REGULAR AGENDA – ACTION ITEMS**

(10:15AM-11:30AM Estimated)

- Adopt 1. Resolution No. 1633, a Resolution Upon the Retirement of Frank Garcia Acknowledging Him for More Than Twenty-Eight Years of Distinguished and Dedicated Service to the District
- Adopt 2. Resolution No.1636, a Resolution Approving a Grant Agreement between the Monterey Peninsula Airport District and the Monterey Peninsula Water Management District (MPWMD) for Funding of Local Water Well Assessment Analysis
- Approve 3. Award of Contract to Allterra Environmental, Inc., for Local Water Well Assessment Analysis for Monterey Peninsula Airport District
- Pass to Print 4. Ordinance No. 914, an Ordinance regarding Flight Way Self Storage LLC and Monterey Hi-Way Self Storage LLC Lease Term Amendment
- Presentation 5. Mid-Year Review – Fiscal Year 2015 Financial Update
- Approve 6. Change to the FY 2015 Capital Plan
- Adopt 7. Resolution No.1637, a Resolution Approving the Memorandum of Understanding between Monterey Peninsula Airport District and the Police Officers Association (POA)
- Presentation 8. Monthly Update on the Runway Safety Area (RSA) Project by Kimley-Horn and Associates
- Approve 9. Lease Extension for Rio Restaurants Corporation (Tarpys)
- Discussion 10. Continued Discussion Regarding Appointment to Community Affairs Ad Hoc Committee by Chair, Disclosure of Discussion Following Adjournment of Board Meeting, and Discussion of Rules of Procedure Applicable to Committees

**H. ACCEPTANCE OF DEPARTMENT REPORTS**

(11:30AM – 12:00PM Estimated)

*(The board receives department reports which do not require any action by the board)*

LUNCH BREAK (12:00PM – 1:00PM Estimated)

**I. BOARD COMMITTEE REPORTS**

(1:00PM –1:30PM Estimated)

*(Report on meetings attended by Board Members at Monterey Peninsula Airport District's expense - AB1234)*

**a. Standing Committees:**

- i. Local Jurisdiction Liaison Directors Miller & Searle
- ii. Budget and Finance Directors Miller & Sabo
- iii. Air Service, Marketing, Community Relations Directors Leffel & Nelson

b. Ad-Hoc Committees:

- |  |                           |
|--|---------------------------|
| i. Executive Search                        | Directors Sabo & Miller   |
| ii. Community Affairs                      | Directors Sabo & Leffel   |
| iii. Airport Property Development & Leases | Directors Nelson & Miller |

c. Liaison/Representatives:

- |   |                 |               |
|---|-----------------|---------------|
| i. Local Agency Formation Commission            | Director Leffel | Alt: Searle   |
| ii. Regional Taxi Authority                     | Director Leffel | Alt: GM Greer |
| iii. Transportation Agency for Monterey County  | Director Sabo   | Alt: Nelson   |
| iv. Water Management District (Policy Advisory) | Director Leffel | Alt: Searle   |

**J. CLOSED SESSION**

(1:30PM – 2:00PM Estimated)

1. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** (Pursuant to Government Code section 54956.8; the Board of Directors will meet with General Manager and his designee(s)  
200 Fred Kane Drive, Suite 201, Monterey, CA 93940

**K. RECONVENE TO OPEN SESSION**

**L. DISCUSSION OF FUTURE AGENDAS**

(Any Board member may request the Board of Directors to instruct staff to report back to the Board at a future meeting concerning any matter or place a matter of business on a future agenda. Approval of such requests will be made by motion.)

**M. ADJOURNMENT**

**AGENDA DEADLINE**

All items submitted by the public for possible inclusion on the Board Agenda or in the Board packet must be received by 5:00 P.M. on the Monday before the first Wednesday of the month. This agenda is subject to revision and may be amended prior to the scheduled meeting. A final Agenda will be posted outside the District Offices in the Terminal Building at the Monterey Regional Airport 72 hours prior to the meeting.

Upon request and where feasible, the Monterey Peninsula Airport District will provide written agenda materials in appropriate alternate formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. In order to allow the District time within which to make appropriate arrangements, please submit a written request containing a brief description of the materials requested and preferred alternative format or auxiliary aid or service desired as far as possible in advance of the meeting. Requests should be sent to the District Secretary at 200 Fred Kane Drive, Suite 200, Monterey, California 93940.

**MINUTES OF THE REGULAR MEETING OF THE MONTEREY PENINSULA AIRPORT DISTRICT BOARD OF DIRECTORS**  
**January 14, 2015 10:00AM, BOARD ROOM**

**A. CALL TO ORDER/ROLL CALL**

*Chair Miller called to order the Regular Meeting of the Board of Directors. Directors Sabo, Searle, and Nelson, were present. The following District officers were present: Board Secretary Posey, Auditor Merritt and District Counsel Huber. General Manager Greer was absent. Deputy General Manager, Planning & Development, Mark Bautista was present and was Acting General Manager. Director Leffel arrived at 10:14am.*

**B. PLEDGE OF ALLEGIANCE**

*Director Searle Led the Pledge of Allegiance*

**C. COMMUNICATIONS/ANNOUNCEMENTS/INFORMATIONAL ITEMS**

*Director Sabo announced the Salinas Airport has been awarded the Aircraft Owners and Pilots Association (AOPA) 2015 Fly-In, scheduled for May. Director Sabo asked that the district support our sister airport and take a lead to promote the event. He also asked that a staff member from the District be appointed to be involved in the event.*

*Director Sabo also announced that the City of Monterey is hosting the CERT Drill on Saturday, January 17, 2015. The Monterey Fire Boat, State Parks Lifeguard, ambulance and Fire Command will participate.*

*Director Leffel announced the Monterey Bay Economic Partnership's Regional Economic Forecast will take place on January 29, 2015 at the Embassy Suites in Seaside. She encouraged staff to attend.*

1. Introduction of New District Employee

<u>Name</u>	<u>Department</u>	<u>Position</u>
Patricia Winfield	Planning & Development	Office Technician

*Deputy General Manager, Planning & Development, Mark Bautista introduced Patricia Winfield.*

**D. PUBLIC COMMENTS**

*None*



Approve 1. Minutes of the Regular Meeting of December 10, 2014

Approve 2. Minutes of the Special Meeting of December 19, 2014

*Director Leffel moved to approve Items H. 1. & 2. Chair Sabo seconded the motion. The motion passed unanimously.*

**I. DEFERRED CONSENT AGENDA - ACTION ITEMS**

**J. REGULAR AGENDA – ACTION ITEMS**

(10:45AM-11:30AM Estimated)

Adopt 1. Resolution No. 1633, A Resolution Upon the Retirement of Frank Garcia Acknowledging Him for More Than Twenty-Eight Years of Distinguished and Dedicated Service to the District.

*This item was tabled until the next Regular Board Meeting on February 11, 2015.*

Adopt 2. Resolution 1634, Amending the Agreement for Professional Services with Kimley-Horn and Associates (RSA Project).

*Director Leffel moved to adopt Item J.2 with the correct dollar amounts as amended. Director Miller seconded the motion. The motion passed by a roll call vote of 4-1.*

*During the latter part of the meeting District Counsel announced that the amounts were corrected (as shown on record below). Director Leffel moved to amend her earlier motion and Adopt Resolution 1634, Item J.2, with the corrected dollar amounts. Director Miller seconded the amended motion. The motion passed by a roll call vote of 4-1.*

**RESOLUTION NO. 1634**

**A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN ASSOCIATES, INCORPORATED FOR RUNWAY SAFETY AREA IMPROVEMENTS PROJECT**

**WHEREAS**, the Monterey Peninsula Airport District (MPAD) has previously approved a Professional Services Agreement with Kimley Horn Associates by Resolution 1528; and

**WHEREAS**, continuing the implementation of the Runway Safety Area (RSA) Improvements project at the Monterey Peninsula Airport (MRY) was approved by the MPAD Board of Directors at its November 13, 2013 meeting; and

**WHEREAS**, the Monterey Peninsula Airport District (MPAD) has previously submitted Airport Capital Improvement Programs (ACIPs) to the Federal Aviation Administration (FAA); and

**WHEREAS**, the Federal Aviation Administration (FAA) has funded the RSA project as approved by the MPAD Board of Directors with two grants, through the Airport Improvement Program (AIP) 03-06-0159-58 and 03-06-0159-61 to accomplish the construction; and

**WHEREAS**, to that end MPAD had previously approved a professional services agreement with Kimley-Horn Associates, Inc. (KHA) to complete design of Runway Safety Area standards for the Monterey Peninsula Airport, and provide construction administration services, in an amount not to exceed \$ 6,054,825; and

**WHEREAS**, MPAD has negotiated a proposed additional cost of \$1,880,552 with KHA for a total contract cost in an amount not to exceed \$ 7,935,377 in order to provide construction administration services through the anticipated end of the project;

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT:** That MPAD amend the contract with the firm of Kimley-Horn & Associates, Incorporated that includes the additional construction administration services through RSA Improvements Project completion.

**PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT:** This 14th day of January 2015, by the following roll call vote:

<b>AYES:</b>	<b>DIRECTORS:</b> Leffel, Nelson, Miller, Sabo
<b>NOES:</b>	<b>DIRECTORS:</b> Searle
<b>ABSTAIN:</b>	<b>DIRECTORS:</b> None
<b>ABSENT:</b>	<b>DIRECTORS:</b> None

Presentation 3. Update on the Runway Safety Area (RSA) Project by Kimley-Horn and Associates.

*Kevin Flynn, Kimley-Horn and Associates updated the Board on the status of the RSA project.*

Approve 4. Flight Way Self Storage LLC and Monterey Hi-Way Self Storage LLC Lease Term Amendment.

*Counsel Huber presented this item. Counsel will present the board with an Ordinance during the next Regular Board Meeting.*

*Chair Sabo moved to approve Item J. 4. Director Leffel seconded the motion. The motion passed unanimously.*

**K. ACCEPTANCE OF DEPARTMENT REPORTS**

*(The board receives department reports which do not require any action by the board)*

**L. BOARD COMMITTEE REPORTS**

*(Report on meetings attended by Board Members at Monterey Peninsula Airport District's expense - AB1234)*

**a. Standing Committees:**

- |  |                           |
|--|---------------------------|
| i. Air Carrier Service/Marketing/Community Relations | Directors Nelson & Leffel |
| ii. Finance  | Directors Miller & Sabo   |
| iii. Local Jurisdiction Liaison                      | Directors Miller & Searle |

b. Ad-Hoc Committees:

i. Personnel

Directors Miller & Nelson

c. Liaison/Representatives:

i. Local Agency Formation Commission

Directors Leffel & Searle

ii. Transportation Agency for Monterey County

Directors Sabo/Nelson (alt)

iii. Water Management District (Policy Advisory)

Directors Leffel/Searle (alt)

iiii. Regional Taxi Authority

Director Leffel/GM Greer (alt)

**M. CLOSED SESSION**

1. **CONFERENCE WITH LABOR NEGOTIATORS** (Pursuant to Government Code Section 54957.6)

Agency designated representatives: David Prentice, Prentice & Epperson LLP and Tonja Posey

2. **PUBLIC EMPLOYEE APPOINTMENT, EMPLOYMENT, DISCIPLINE, OR DISMISSAL** (Government Code Section 54957) regarding the following position: General Manager

**N. RECONVENE TO OPEN SESSION**

*Chair Sabo reported that no action was taken in closed session.*

Adopt

1. Resolution No. 1635, A Resolution Amending Resolution No. 1622, A Resolution Authorizing and Approving the Fiscal Year 2014 Salary Schedule Listing Positions and Salary Ranges and Pay Steps for the Monterey Peninsula Airport District.

*Director Miller moved to adopt Item N.1. Director Nelson seconded the motion. The motion passed by a roll call vote of 5-0.*

**O. DISCUSSION OF FUTURE AGENDAS**

(Any Board member may request the Board of Directors to instruct staff to report back to the Board at a future meeting concerning any matter or place a matter of business on a future agenda. Approval of such requests will be made by motion.)

*Director Miller asked for a recap of what items were due for future agendas:*

- *Discussion of holding elections in-house*
- *Purchase of Board Laptops*
- *Leakage Study*

*Other items for future discussion:*

- *Soundproofing the Board Room / Better quality speaker(s)*
- *Drone laws and their effect on the Monterey Regional Airport*



**P. ADJOURNMENT**

*The meeting adjourned at 5:00pm.*

**MINUTES OF THE SPECIAL MEETING OF THE MONTEREY PENINSULA AIRPORT DISTRICT BOARD OF DIRECTORS January 27, 2015 12:00pm, HYATT REGENCY – OAK TREE ROOM 1-3**

**A. CALL TO ORDER/ROLL CALL**

*Chair Sabo called to order the Special Meeting of the Board of Directors. Directors Miller, Searle, Nelson, and Leffel were present. The following District officers were present: General Manager Greer Board Secretary Posey, Auditor Merritt and District Counsel Huber.*

**B. PLEDGE OF ALLEGIANCE**

*Director Miller Led the Pledge of Allegiance*

**C. COMMUNICATIONS/ANNOUNCEMENTS/INFORMATIONAL ITEMS**

*None*

**D. PUBLIC COMMENTS**

*None*

**E. REGULAR AGENDA – ACTION ITEMS**

Presentation/Discussion      1. Master Plan Update Workshop

*Deputy General Manager Planning & Development, Mark Bautista, introduced the presenters who each gave the Board an update on the current status of the Master Plan.*

*Jim Harris, Coffman & Associates  
Lori Ballance, Gatzke Dillon & Ballance LLP  
Chris Eberhard, CommuniQuest  
Dr. Lee McPheters, Arizona State University*

*Patrick Taylor, Coffman & Associates  
Steve Wagner, Coffman & Associates*

**F. ADJOURNMENT**

*The Meeting Adjourned at 4:07pm*

**AGENDA ITEM: G.1.**  
**DATE: February 11, 2015**

**RESOLUTION NO. 1633**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA  
AIRPORT DISTRICT UPON THE RETIREMENT OF FRANK GARCIA  
ACKNOWLEDGING HIM FOR MORE THAN TWENTY-EIGHT YEARS OF DISTINGUISHED  
AND DEDICATED SERVICE TO THE DISTRICT**

**WHEREAS,** Frank Garcia has faithfully served as an employee of the Monterey Peninsula Airport District's Police Department since May 15, 1986, providing more than twenty-eight years (approximately 60,000 hours) of commitment to the public safety of the District; and

**WHEREAS,** In December 2002 Frank Garcia was promoted to Sergeant. Frank's professionalism and attention to detail while serving the public is recognized throughout the district; and

**WHEREAS,** Frank served the district well. He has received several commendations including several letters of appreciation from the Federal Bureau of Investigation. Frank is respected throughout the airport district and the surrounding communities; and

**WHEREAS,** Frank's years of dedication and commitment to the success and safety of the airport district is appreciated;

**NOW, THEREFORE, BE IT RESOLVED,** that the Board of Directors of the Monterey Peninsula Airport District commend Frank Garcia for twenty-eight years of dedicated service to the district;

**BE IT FURTHER RESOLVED,** that the valuable services of Frank Garcia be memorialized by resolution on the occasion of his retirement from the Monterey Peninsula Airport District on December 30, 2014.

**PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA  
AIRPORT DISTRICT:** This 11<sup>th</sup> day of February, 2015 by the following roll call vote:

<b>AYES:</b>	<b>DIRECTORS:</b>
<b>NOES:</b>	<b>DIRECTORS:</b>
<b>ABSTAIN:</b>	<b>DIRECTORS:</b>
<b>ABSENT:</b>	<b>DIRECTORS:</b>

Signed this 11<sup>th</sup> day of February, 2015

William J. Sabo, Chairman

ATTEST

Tonja Posey  
District Secretary

**AGENDA ITEMS:** G-2, G-3

**DATE:** February 11, 2015

**TO:** MPAD, Board of Directors  
**FROM:** Mark Bautista, Deputy General Manager, Planning & Development  
**DATE:** February 4, 2015  
**SUBJ:** Proposed Assessment/Analysis of Five Wells on Airport Property, Including a Grant Agreement with Monterey Peninsula Water Management District (Agenda Item No. G-2, Draft Resolution No. 1636) and a Professional Services Agreement with Allterra Environmental, Incorporated (Agenda Item No. G-3)

**BACKGROUND.** Monterey Peninsula Water Management District (MPWMD) was created by the California Legislature in 1977 for the purpose of "conserving and augmenting the supplies by integrated management of ground and surface water supplies, for control and conservation of storm and wastewater, and for the promotion of the reuse and reclamation of water." In an effort to improve the local water supply by encouraging independent public works projects with matching financial assistance, MPWMD solicited applications from local jurisdictions and other interested parties.

The Airport District submitted a grant application to MPWMD that was approved by MPWMD's Board of Directors for funding (please see attached grant agreement and draft Resolution No. 1636. With the permission of the MPAD Board of Directors, a Request for Proposals (RFP) for the assessment/analysis was advertised by Staff. Four (4) proposals were received by the District in response to the RFP.

As a result of interviews held on January 12, 2015, Allterra Environmental, Incorporated was identified as the lowest responsive bidder. Accordingly, Staff has negotiated a proposed professional services agreement with Allterra Environmental, Inc. to conduct the assessment/analysis (please see attached draft agreement, proposed for approval today under Agenda Item No. G-3).

The proposed project is exempted from the California Environmental Quality Act (CEQA) per Sections 15262, 15301 and 15306. A Notice of Exemption (NOE) will be filed subsequent to Board action.

**SCOPE OF WORK.** The assessment/analysis is intended to determine the feasibility of re-using five (5) wells on the north side of Monterey Regional Airport as a non-potable water supply. This could result in a new water supply that will increase and diversify water resources by providing a drought resistant, sustainable replacement, over and above the existing water allocation for the Airport. In early 2014, through cooperation with the U.S. Army Corps of Engineers and its contractors, the District retrofitted a formerly-used U.S. Corps of Engineers' treatment system. The system currently includes pumps and motors for 3 extraction wells, tank storage, meters, gauges, sensors, alarms, and 2 injection wells.

**BUDGET EFFECT.** None. The project is fully funded by the MPWMD.

**SOURCE OF FUNDS.** MPWMD.

**IMPACT ON REVENUES.** The assessment/analysis, itself, will not have an impact on District revenues. However, in the event one or more of the potential users identified in the

assessment/analysis become actual users for the non-potable well water, the District will have the opportunity to create an additional non-aviation revenue source.

**SCHEDULE.** The Consultants will have up to three (3) months to complete the assessment/analysis, after receiving a Notice to Proceed (NTP) from MPAD.

**IMPACT ON OPERATIONS.** None.

**STRATEGIC PLAN.** Approving proposed Resolution No. 1636, together with approval of the proposed agreement for professional services with Allterra Environmental (see Agenda Item No. G-3), implements three (3) elements/goals of the 2014 MPAD Strategic Plan, including:

- 1) Element No. 4 "Property Management," Strategic Goal 4.5 "Water Management";
- 2) Element No. 5 "Financial Management," Strategic Goal 5.3 "Invest in Revenue-Producing Capital Assets"; and
- 3) Element No. 8 "Airport Relations," Strategic Goal 8.1 "Maintain and Cultivate Good Working Relationships with all Regulatory Agencies".

The assessment/analysis will implement Strategic Goal 4.5 "Water Management," by determining the most viable and beneficial use of the existing wells and thereby potentially allowing the District to increase and diversify water resources by providing a drought resistant, sustainable water resource option over the existing water allocation (Cal-Am Water) for the Airport.

The assessment/analysis will also implement Strategic Goal 5.3 "Invest in Revenue-Producing Capital Assets," by allowing the District to determine if there are potential users for the existing well water that in turn, can provide MPAD with a new source of non-aviation revenue.

Lastly, the effort will implement Strategic Goal 8.1 "Maintain and Cultivate Good Working Relationship with all Regulatory Agencies," by allowing the District to work closely with the Monterey Peninsula Water Management District.

**RECOMMENDATION.**

**Agenda Item No. G-2**

That the Board adopt draft Resolution No. 1636, approving the Grant Agreement between MPAD and MPWMD to fund the Small Water Assessment/Analysis.

**Agenda Item No. G-3**

That the Board approve the proposed agreement with Allterra Environmental, Incorporated. Approval of Agenda Item No. G-3, together with approval of the grant agreement in Agenda Item No. G-2 will allow moving forward with the assessment/analysis.

Accordingly, this Staff Report serves to provide information to the Board for both Agenda items.

**RESOLUTION NO. 1636**

**A RESOLUTION APPROVING A GRANT AGREEMENT WITH MONTEREY PENINSULA WATER MANAGEMENT DISTRICT TO CONDUCT AN ASSESSMENT/ANALYSIS**

**WHEREAS**, Monterey Peninsula Water Management District (MPWMD) was created by the California Legislature in 1977 for the purpose of "conserving and augmenting the supplies by integrated management of ground and surface water supplies, for control and conservation of storm and wastewater, and for the promotion of the reuse and reclamation of water"; and

**WHEREAS**, In an effort to improve the local water supply by encouraging independent public works projects with matching financial assistance, MPWMD solicited applications from local jurisdictions and other interested parties; and

**WHEREAS**, the Monterey Peninsula Airport District (MPAD) submitted a grant application to the MPWMD, which said application was approved for funding by the MPWMD's Board of Directors; and

**WHEREAS**, the Staffs of MPWMD and MPAD have negotiated a draft grant agreement for consideration by MPAD's Board of Directors; and

**WHEREAS**, A Request for Proposals (RFP) for the assessment/analysis was advertised by MPAD, for which four (4) proposals were received; and

**WHEREAS**, after interviews were held on January 12, 2015, the District Staff selected Allterra Environmental, Inc. as the apparent lowest responsive bidder to conduct the assessment/analysis; and

**WHEREAS**, Staff has negotiated a draft Professional Services Agreement with Allterra Environmental, Inc. to conduct the assessment/analysis; and

**WHEREAS**, the proposed project is exempted from the California Environmental Quality Act (CEQA) per Sections 15262, 15301 and 15306;

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT THAT:** the proposed grant agreement between the MPWMD and the MPAD is hereby approved;

**BE IT FURTHER RESOLVED THAT:** the General Manager of the District, or his designee, is authorized and directed, for and on behalf of the Monterey Peninsula Airport District, to execute the grant agreement for the assessment/analysis if approved by the Board of Directors, and that the District Secretary or Acting District Secretary is authorized to affix thereto the official seal of said District.

**ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA  
AIRPORT DISTRICT:** This 11<sup>th</sup> day of February, 2015 by the following roll call vote:

<b>AYES:</b>	<b>DIRECTORS:</b>
<b>NOES:</b>	<b>DIRECTORS:</b>
<b>ABSTAIN:</b>	<b>DIRECTORS:</b>
<b>ABSENT:</b>	<b>DIRECTORS:</b>

**A T T E S T**

Signed this 11<sup>th</sup> day of February, 2015

Tonja Posey,  
District Secretary

William J. Sabo, Board Chairman

**GRANT AGREEMENT BETWEEN  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
AND  
MONTEREY PENINSULA AIRPORT DISTRICT  
FOR LOCAL WATER WELL ASSESSMENT/ANALYSIS**

**THIS AGREEMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Monterey Peninsula Water Management District (MPWMD) and the Monterey Peninsula Airport District (MPAD).

**FACTS**

A. MPWMD was created by the California Legislature in 1977 for the purpose of “conserving and augmenting the supplies by integrated management of ground and surface water supplies, for control and conservation of storm and wastewater, and for the promotion of the reuse and reclamation of water.” The MPWMD’s specific functions are “management and regulation of the use, reuse, reclamation, conservation of water and bond financing of public works projects.” It is authorized to issue bonds, assess charges for groundwater enhancement facilities, levy assessments on real property and improvements, and “fix, revise and collect rates and charges for the services, facilities, or water furnished by it.”

B. The Monterey Peninsula Airport District through its Board and other officials, has all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants, which are not prohibited by the Constitution of the State.

C. In an effort to improve the local water supply by encouraging independent public works projects with matching financial assistance, MPWMD solicited applications from local jurisdictions and other interested parties.

D. At its June 17, 2013 meeting, the MPWMD Board of Directors adopted a budget that included expenditures up to \$200,000 for development expenses for local water projects.

E. The MPAD submitted a grant application to MPWMD on August 30, 2013. The application was approved by MPWMD’s Board of Directors on September 16, 2013.

**NOW, THEREFORE**, in consideration of the facts recited above and the mutual goals and objectives contained herein, the parties agree as follows:



1. Purpose of Agreement.

The purpose of this Agreement is for MPWMD to offer and agree to pay one hundred percent (100%) of the actual costs incurred in accomplishing the project consisting of the following: to conduct a feasibility study on the re-use of five (5) existing wells formerly used by the U.S. Army Corps of Engineers for groundwater remediation, up to a maximum of \$30,000, to the Monterey Peninsula Airport District, to be paid beginning in MPWMD Fiscal Year 2014/15.

2. The Project.

The Project is intended to assess the feasibility of re-using five (5) wells on the north side of Monterey Regional Airport as a non-potable water supply. This could result in a new water supply that will increase and diversify water resources by providing a drought resistant, sustainable replacement, over and above the existing water allocation for the Airport. In early 2014, through cooperation with the U.S. Army Corps of Engineers and its contractors, the District retrofitted a formerly-used U.S. Corps of Engineers' treatment system. The retained portion of the former treatment system is currently set up to operate with three former extraction wells (EW-02, -03 and -04) and two former reinjection wells (IW-10 and -12) as potential future back-up supply wells. The system currently includes pumps and motors for the extraction wells, tank storage, and meters, gauges, sensors, and alarms programmed through the onsite Programmable Logic Controller (PLC) system.

3. Term of Agreement.

The term of this Agreement begins on the date set forth above and shall remain in effect until June 30, 2016. Invoices received by MPWMD after this date for Project costs incurred up to June 30, 2016, shall be paid unless MPWMD's maximum commitment of \$30,000 has been reached.

4. Reimbursement.

The MPAD shall invoice MPWMD on a quarterly basis and MPWMD shall pay, subject to the conditions described in Section 6 below.

5. Invoices.

The MPAD shall pay for consultants, contractors, and other Project costs in accordance with the terms of this Agreement. The MPAD shall submit quarterly invoices to MPWMD for Project costs which will include back-up documentation substantiating said Project costs incurred by the MPAD.

6. Payment of Invoices.

MPWMD shall have the right to review and confirm that the invoices submitted by the MPAD are in conformance with the terms of this Agreement. Where MPWMD finds the invoice and supporting documentation for work to be unsatisfactory, MPWMD shall describe the deficiencies in writing or by electronic mail to the MPAD within ten (10) days. The MPAD shall have the option of revising the invoice and supporting documentation to delete reimbursement requests for invoices that are deemed unsatisfactory or revising unsatisfactory invoices and resubmitting a reimbursement request. Payments to the MPAD are due and payable within thirty (30) days of receipt of invoice. MPWMD shall treat as privileged and confidential any invoice that the MPAD transmits under such label, and shall not disclose the content of that document to any third party.

7. Event of Default.

The failure of a party to comply with any provision of this Agreement that has a material and adverse effect on the other party, except to the extent caused by a breach of this Agreement by the other party, shall constitute an Event of Default under this Agreement; provided, however, that the defaulting party shall first have a period of thirty (30) days following receipt of notice from the other party of such failure to comply to cure such failure, or if such cure cannot be effected within such thirty (30) day period, such period shall extend for a total of one hundred eighty (180) days, so long as the defaulting party is diligently trying to cure such failure throughout such period.

8. Dispute Resolution.

Both parties shall meet and use their best efforts to settle any dispute, claim, question or disagreement (Dispute) arising from or relating to this Agreement. To that end, the parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If the parties do not reach such a solution within a period of thirty (30) days after the first meeting regarding the Dispute, then the parties shall pursue non-binding mediation to be completed within sixty (60) days after the first meeting regarding the Dispute. If the parties do not settle the Dispute within the sixty (60) day period, either Party may pursue any and all available legal and equitable remedies.

## GENERAL PROVISIONS

### 9. Force Majeure.

Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations (other than payment obligations) under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, actions of legislative, judicial, executive or regulatory government bodies or other cause, without fault and beyond the reasonable control of such party. If any such events shall occur, the time for performance by either party of any of its obligations hereunder shall be extended by the parties for the period of time that such events prevented such performance. Upon the occurrence of an event of Force Majeure, the affected party shall: (i) promptly notify the other party of such Force Majeure event, (ii) provide reasonable details relating to such Force Majeure event and (iii) implement mitigation measures to the extent commercially reasonable.

### 10. Indemnities.

- a. MPWMD Indemnity. MPWMD shall fully indemnify the MPAD and its respective Directors, employees and agents against, and hold completely free and harmless from, any cost, expense, claim, demand, judgment, loss, injury and/or liability of any kind or nature, including personal or bodily injury, death or property damage (Losses), that may arise from any grossly negligent act or omission of MPWMD related to the Project.
- b. MPAD Indemnity. MPAD shall fully indemnify the MPWMD and its respective Directors, employees and agents against, and hold completely free and harmless from, any cost, expense, claim, demand, judgment, loss, injury and/or liability of any kind or nature, including personal or bodily injury, death or property damage (Losses), that may arise from any grossly negligent act or omission of MPAD related to the Project.

### 11. Insurance/Self Insurance.

The parties are either insured or self-insured as to any requirements under this Agreement. No policies or bonds are required of either party as to any provisions of this Agreement.

### 12. Notices.

All notices to MPWMD required or permitted under this Agreement shall be in writing and shall be deemed delivered (i) when delivered in person; (ii) on the third day after mailing, if

mailed, postage prepaid, by registered or certified mail (return receipt requested); or (iii) on the day after mailing if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery. In each case the parties shall use the following addresses or such addresses as may be furnished in writing by one party to the other:

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

All notices to the MPAD required or permitted under this Agreement shall be in writing and shall be deemed delivered (i) when delivered in person; (ii) on the third day after mailing, if mailed, postage prepaid, by registered or certified mail (return receipt requested); or (iii) on the day after mailing if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery. In each case the parties shall use the following addresses or such addresses as may be furnished in writing by one party to the other:

Monterey Peninsula Airport District  
200 Fred Kane Dr #200  
Monterey, CA 93940  
Attention: General Manager

13. Successors and Assigns.

The terms and conditions of this Agreement shall inure to the benefit of and are binding upon the parties hereto and their respective successors in interest and permitted assigns.

14. No Third-Party Beneficiaries.

Nothing in this Agreement is intended to create any third-party beneficiaries to the Agreement, and no person or entity other than the parties, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

15. Further Acts and Assurances.

The Parties agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances, and shall perform any and all acts and things reasonably necessary, in connection with the performance of the obligations hereunder and to carry out the intent of the parties.

16. Opinions and Determinations.

Where the terms of this Agreement provide for action to be based upon opinion, judgment, approval, review or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review or determination to be arbitrary, capricious or unreasonable.

17. Captions.

The captions in this Agreement are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement. Words of any gender in this Agreement shall be held to include any other gender and words in the singular number shall be held to include the plural when the sense so requires.

18. Severability.

Should it be found that any part of this Agreement is illegal or unenforceable, such part or parts of this Agreement shall be of no force nor effect and this Agreement shall be treated as if such part or parts had not been inserted.

19. Entire Agreement.

All previous negotiations had between the parties hereto and/or their agents or representatives with respect to this Agreement are merged herein and this Agreement alone fully and completely expresses the parties' rights and obligations.

20. Modifications in Writing.

This Agreement shall not be changed, altered or modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

21. Assignment.

Neither Party may assign its interest in this Agreement without the prior written consent of the other Party.

22. Drafting Ambiguities.

This Agreement is the product of negotiation and preparation between the parties. Both sides and their counsel have had the opportunity to revise this Agreement. The parties waive the provisions of Section 1654 of the Civil Code of California and any other rule of construction to the effect that ambiguities are to be resolved against the drafting party, and the parties warrant and agree that the language of this Agreement shall neither be construed against nor in favor of any party unless otherwise specifically indicated.

23. Governing Law.

This Agreement and the rights and obligations of the parties shall be governed, controlled and interpreted in accordance with the laws of the State of California.

24. Venue.

The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of Monterey, State of California.

25. Signing Authority.

The representative of each party signing this Agreement hereby declares that authority has been obtained to sign on behalf of the MPAD and MPWMD.

26. Inspection of Books and Records.

The proper officers or agents of MPWMD shall have full and free access at all reasonable times to the account books and official records of the MPAD insofar as the same pertain to the matters and things provided for in this Agreement, with the right at any time during office hours to make copies thereof at MPWMD's expense, and the proper representatives of the MPAD shall have similar rights in respect to the account books and records of MPWMD.

27. Representations and Warranties.

No representations or warranties are made or have been relied upon by either party other than those expressly set forth herein, if any.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first above written.

**MONTEREY PENINSULA WATER MANAGEMENT DISTRICT**

By: \_\_\_\_\_  
KRISTI MARKEY, Chair

ATTEST:

\_\_\_\_\_  
DAVID J. STOLDT, General Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
DAVID C. LAREDO, District Counsel

**MONTEREY PENINSULA AIRPORT DISTRICT**

By: \_\_\_\_\_  
WILLIAM J. SABO, Board Chairman

ATTEST:

\_\_\_\_\_  
TONJA POSEY, District Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT HUBER, District Counsel

MONTEREY PENINSULA AIRPORT DISTRICT

FEASIBILITY INVESTIGATION OF  
MONTEREY REGIONAL AIRPORT  
WELL SYSTEM  
SMALL WATER PROJECT

AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN  
MONTEREY PENINSULA AIRPORT DISTRICT AND  
ALLTERRA ENVIRONMENTAL, INC.

This Agreement for Professional Services ("Agreement"), is made and entered into effective this \_\_\_th day of \_\_\_\_\_, by and between the Monterey Peninsula Airport District, a California special district ("District"), and Allterra Environmental, Inc., ("Consultant").

WHEREAS, Consultant represents that Consultant is specially trained, experienced, and competent to perform the professional services required by this Agreement; and

WHEREAS, Consultant is willing to render such professional services, as are hereinafter defined, on the following terms and conditions.

NOW, THEREFORE, Consultant and District agree as follows:

1. Scope of Service.

The project contemplated and the Consultant's services are described in Exhibit "A," attached hereto and incorporated herein by reference.

2. Completion Schedule.

Consultant shall complete the consulting services described in Exhibit "A" by the date set forth in Exhibit "A."

3. Compensation.

District hereby agrees to pay Consultant for services rendered to District pursuant to this Agreement in an amount not to exceed the amount indicated in the payment schedule in, and in the manner indicated and in accordance with, Exhibit "A."

4. Billing.

Consultant shall submit to District an itemized invoice, prepared in a form satisfactory to District, describing Consultant's services and costs for the period covered by the invoice. Except as specifically authorized by District, Consultant shall not bill District for duplicate services performed by more than one person. Consultant's bills shall include the following information to which such services or costs pertain:

- (a) a brief description of services performed;
- (b) the date the services were performed;
- (c) the number of hours spent and by whom;
- (d) a brief description of any costs incurred; and
- (e) Consultant's signature.



In no event shall Consultant submit any billing for an amount in excess of the maximum amount of compensation provided in Section 3, unless authorized pursuant to Section 5 hereof.

All such invoices shall be in full accord with any and all applicable provisions of this Agreement.

District shall make payment on each such invoice within forty-five (45) days of receipt; provided, however, that if Consultant submits an invoice which is incorrect, incomplete, or not in accord with the provisions of this Agreement, District shall not be obligated to process any payment to Consultant until forty-five (45) days after a correct and complying invoice has been submitted by Consultant.

5. Additional Services.

It is understood by District and Consultant that it may be necessary, in connection with the project, for Consultant to perform or secure the performance of consulting and related services other than those set forth in Exhibit "A." The parties have listed those additional consulting services which could be anticipated at the time of the execution of the Agreement as shown in Exhibit "B." If additional services are requested by District, Consultant shall advise District in writing of the cost of and estimated time to perform the services. Consultant shall not proceed to perform any such additional service until District has determined that such service is beyond the scope of the basic services to be provided by Consultant, is required, and has given District's written authorization to perform. Written approval for performance and compensation for additional services shown in Exhibit "B" may be granted by the Deputy General Manager, Planning & Development Department (DGM).

Except as hereinabove stated, any additional service not shown on Exhibit "B" shall require an amendment to this Agreement and shall be subject to all of the provisions of this Agreement.

6. Additional Copies.

If District requires additional copies of reports, or any other material which Consultant is required to furnish in limited quantities as part of the services under this Agreement, Consultant shall provide such additional copies as are requested, and District shall compensate Consultant for the actual costs of duplicating such copies.

7. Responsibility of Consultant.

(a) By executing this Agreement, Consultant agrees that Consultant is apprised of the scope of work to be performed under this Agreement and Consultant agrees that said work can and shall be performed in a fully competent manner. By executing this Agreement, Consultant further agrees and warrants to District that Consultant possesses, or shall arrange to secure from others, all of the necessary professional capabilities, experience, resources, and facilities necessary to provide District the services contemplated under this Agreement and that District relies upon the professional skills of Consultant to do and perform Consultant's work. Consultant further agrees and warrants that Consultant shall follow the current, generally accepted practices of the profession to make findings, render opinions, prepare factual presentations and provide professional advice and recommendations regarding the project for which the services are rendered under this Agreement.

(b) Consultant shall assign a single project director to have overall responsibility for the execution of this Agreement for Consultant. James Allen is hereby designated as the

project director for Consultant. Any changes in the project director designee shall be subject to the prior written acceptance and approval of the DGM.

8. Responsibility of District.

To the extent appropriate to the project contemplated by this Agreement, District shall:

(a) Assist Consultant by placing at Consultant's disposal all available information pertinent to the project, including but not limited to, previous reports and any other data relative to the project. Nothing contained herein shall obligate District to incur any expense in connection with completion of studies or acquisition of information not otherwise in the possession of District.

(b) Make provision for Consultant to enter upon public and private property as required by Consultant to perform Consultant's services.

(c) Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by Consultant, and render verbally or in writing as may be appropriate, decisions pertaining thereto within a reasonable time so as not to delay the services of Consultant.

(d) DGM Mark Bautista, or his designee, shall act as District's representative with respect to the work to be performed under this Agreement. Such person shall have the complete authority to transmit instructions, receive information, interpret and define District's policies and decisions with respect to the materials, equipment, elements and systems pertinent to Consultant's services. District may unilaterally change its representative upon notice to Consultant.

(e) Give prompt written notice to Consultant whenever District observes or otherwise becomes aware of any defect in the project.

(f) Furnish approvals and permits from all governmental authorities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the project.

9. Acceptance of Work Not a Release.

Acceptance by District of the work performed under this Agreement does not operate as a release of Consultant from professional responsibility for the work performed.

10. Indemnification and Hold Harmless.

Consultant shall indemnify, defend and hold District and its officers, employees, agents and volunteers harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to any property, or any violation of any federal, state, or municipal law or ordinance, or other cause in connection with the negligent or intentional acts or omission of Consultant, Consultant's employees, subcontractors, or agents, or on account of the performance or character of the work, except for any such claim arising out of the sole negligence or willful misconduct of District, its officers, employees, agents, or representatives. Acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be

applicable to any of such damages or claims for damages. Consultant shall reimburse District for all costs and expenses (including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, and court costs) incurred by District in enforcing the provisions of this section.

11. Insurance.

(a) Consultant shall, throughout the duration of this Agreement, maintain comprehensive general liability and property insurance covering all operations of Consultant, Consultant's agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.

(b) Consultant shall maintain the following limits:

*General Liability*

*Combined Single Limit Per Occurrence..... \$1 million*  
*General Aggregate..... \$1.5 million*

***(The policy shall cover on an occurrence or an accident basis, and not on a claims made basis.)***

*Automobile Liability:*

*Combined Single Limit Per Occurrence..... \$1 million*

***(The policy shall cover on an occurrence or an accident basis, and not on a claims made basis.)***

*Workers Compensation..... Full Liability Coverage*

*Professional Errors and Omissions..... \$1 million (no more*

***liability for the acts or omissions of Consultant's subcontractors or other professional consultants. The retroactive date of the policy must be shown and must be before the date of the Agreement.)*** *than \$25,000 deductible)*

(c) With the exception of workers compensation and professional errors and omissions insurance, each insurance policy affording coverage to Consultant shall name District, its officers, employees, agents, and representatives as additional insureds and shall stipulate that the policy will operate as primary insurance for the work performed and that no other insurance maintained by District, its officers, employees, agents, or representatives will be called upon to contribute to a loss covered thereunder. The policy shall contain no special limitations on the scope of protections afforded to District, its officers, employees, agents, or representatives.

(d) All insurance companies affording coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner to transact the business of insurance in the State of California.

(e) All insurance companies affording coverage shall provide not less than thirty days written notice by certified or registered mail to District should any policy be cancelled or reduced in coverage before the expiration date. For the purposes of this notice requirement, any material change prior to expiration shall be considered cancellation. A statement on the insurance certificate to the effect that the insurance company will endeavor to notify the certificate holder, "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" does not satisfy the requirements of this

subsection. Consultant shall ensure that the above-quoted language is stricken from the certificate by the authorized representative of the insurance company.

(f) Consultant shall provide evidence of compliance with the insurance requirements listed above by providing certificates of insurance, in a form satisfactory to District's Risk Manager, concurrently with the submittal of this Agreement. Each insurance certificate shall also state the unpaid limits of the policy.

(g) Consultant shall provide a substitute certificate of insurance no later than thirty days prior to the expiration date of any required policy. Failure by Consultant to provide such a substitution and extend the policy expiration date shall be considered a default by Consultant.

(h) Maintenance of insurance by Consultant as specified in this Agreement shall in no way be interpreted as relieving Consultant of any responsibility whatsoever and Consultant may carry, at Consultant's own expense, such additional insurance as Consultant may deem necessary or desirable.

12. Access to Records.

Consultant shall maintain all preparatory books, records, documents, accounting ledgers, and similar materials including but not limited to calculation and survey notes relating to the work performed for District under this Agreement on file for at least three years following the date of final payment to Consultant by District. Any representative of District shall be provided with access to such records for the purpose of inspection, audit, and copying at all reasonable times during Consultant's usual and customary business hours. Consultant shall provide proper facilities for such access and inspection.

13. Assignment.

It is recognized by the parties hereto that a substantial inducement to District for entering into this Agreement was, and is, the professional reputation and competence of Consultant. This Agreement is personal to Consultant and shall not be assigned by Consultant without express written approval of District.

14. Changes to Scope of Work.

District may at any time and, upon a minimum of ten days written notice, seek to modify the scope of basic services to be provided under this Agreement. Consultant shall, upon receipt of said notice, determine the impact on both time and compensation of such change in scope and notify District in writing. The rate of compensation shall be based upon the hourly rates shown in Exhibit "C" of this Agreement. Upon agreement between District and Consultant as to the extent of said impacts to time and compensation, an amendment to this Agreement shall be prepared describing such changes. Execution of the amendment by District and Consultant shall constitute notice to Consultant to proceed with the changed scope.

15. Compliance with Laws, Rules, and Regulations.

Services performed by Consultant pursuant to this Agreement shall be performed in accordance and full compliance with all applicable federal, state, and District laws and any rules or regulations promulgated thereunder.

16. Licenses.

If a license of any kind, which term is intended to include evidence of registration, is required of Consultant, Consultant's employees, agents, or subcontractors by federal or state law, Consultant warrants that such license has been obtained, is valid and in good standing, and that any applicable bond has been posted in accordance with all applicable laws and regulations.

17. Exhibits Incorporated.

All exhibits referred to in this Agreement are hereby incorporated in it by this reference. In the event there is a conflict between any of the terms of this Agreement and of any of the terms of any exhibit to this Agreement, the terms of this Agreement shall control the respective duties and liabilities of the parties hereto.

18. Independent Contractor.

It is expressly understood and agreed that Consultant, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and not an employee of District. Consultant shall refrain from representing, at any time or in any manner, that Consultant is an employee or agent of District.

19. Integration and Amendment.

This Agreement represents the entire understanding of District and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or affect with respect to any matters contained herein. This Agreement may not be modified or altered except by amendment in writing signed by all parties hereto.

20. Jurisdiction.

This Agreement shall be administered and interpreted under the laws of the State of California. Venue for any litigation arising from this Agreement shall be in the State of California in the County of Monterey.

21. Severability.

If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void in so far as it is in conflict with said laws, but the remainder of this Agreement shall continue to be in full force and effect.

22. Notice to Proceed; Progress; Completion.

Upon execution of this Agreement by all parties, District shall give Consultant written notice to proceed with the work. Such notice may authorize Consultant to render all of the services contemplated herein, or such portions or phases as may be mutually agreed upon. In the latter event, District shall, in its sole discretion, issue subsequent notices from time to time regarding further portions or phases of the work. Upon receipt of such notices, Consultant shall diligently proceed with the work authorized and complete it within the agreed time period specified in said notice.

23. Ownership of Documents.

Title to all documents, drawings, specifications, data, reports, summaries, correspondence, photographs, computer software, video and audio tapes, and any other materials with respect to the work performed under this Agreement shall vest with District at such time as District has compensated Consultant, as provided herein, for the services rendered by Consultant in connection with which such materials were prepared

24. Subcontractors.

Consultant shall be entitled, to the extent determined appropriate by Consultant, to subcontract any portion of the work to be performed under this Agreement. Consultant shall be responsible to District for the actions of persons and firms performing subcontract work. The subcontracting of work by Consultant shall not relieve Consultant, in any manner, of the obligations and requirements imposed upon Consultant by this Agreement.

25. Termination.

(a) District may, for any reason whatsoever, upon written notice to Consultant, terminate this Agreement. Upon termination Consultant shall be entitled to payment of such amount as fairly compensates Consultant for all work satisfactorily performed up to the date of termination based upon hourly rates shown in Exhibit "C," except that in the event of termination by District for Consultant's default, District shall deduct from the amount due Consultant the total amount of additional expenses incurred by District as a result of such default. Such deduction from amounts due Consultant is made to compensate District for its actual additional cost incurred in securing satisfactory performance of the terms of this Agreement, including but not limited to, costs of engaging other consultants for such purposes. In the event that such additional expenses exceed amounts otherwise due and payable to Consultant hereunder, Consultant shall pay District the full amount of such expense.

(b) In the event that this Agreement is terminated by District for any reason, Consultant shall:

(1) Upon receipt of written notice of such termination promptly cease all services on this project, unless otherwise directed by District; and

(2) Deliver to District all documents, data, reports, summaries, correspondence, photographs, computer software, video and audio tapes, and any other materials provided to Consultant or prepared by or for Consultant or District in connection with this Agreement. Such material shall be delivered to District whether in completed form or in process; however, notwithstanding the provisions of Section 23 above, District may condition payment for services rendered to the date of termination upon Consultant's delivery to District of such material.

(c) In the event that this Agreement is terminated by District for any reason, District is hereby expressly permitted to assume this project and complete it by any means, including but not limited to, an agreement with another party.

(d) The rights and remedies of District and Consultant provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or appearing in any other section of this Agreement.

26. Audit and Examination of Accounts.

(a) Consultant shall keep and will cause any assignee or subcontractor under this Agreement to keep accurate books of record in account, in accordance with sound accounting principles, which records pertain to services to be performed under this Agreement.

(b) Any audit conducted of books and records and accounts shall be in accordance with generally accepted professional standards and guidelines for auditing.

(c) Consultant hereby agrees to disclose and make available any and all information, reports, or books of records or accounts pertaining to this Agreement to District and any government entity (including, but not limited to, the County of Monterey, the State of California and the federal government) which provides support funding for this project.

(d) All records provided for in this section are to be maintained and made available throughout the performance of this Agreement and for a period of not less than three years after full completion of services hereunder, except that any and all such records which pertain to actual disputes, litigation, appeals, or claims shall be maintained and made available for a period of not less than three years after final resolution of such disputes, litigation, appeals, or claims.

(e) Consultant hereby agrees to include the requirements of subsections (a) through (d) above in any and all contracts with assignees or consultants under this Agreement.

27. Notices.

(a) Written notices to District hereunder shall, until further notice by District, be addressed to:

Deputy General Manager, Planning & Development Department  
Monterey Peninsula Airport District  
200 Fred Kane Dr., Suite 200  
Monterey, CA 93940

(b) Written notices to Consultant shall, until further notice by Consultant, be addressed to:

Allterra Environmental, Inc.  
Attn: James Allen, Owner  
849 Almar Avenue  
Suite C #281  
Santa Cruz, CA 95060

(c) The execution of any such notices by the DGM of District shall be effective as to Consultant as if it were by resolution or order of District's Board of Directors.

(d) All such notices shall either be delivered personally, or shall be deposited in the United States mail, properly addressed as aforesaid, postage fully prepaid, and shall be effective the day following such deposit in the mail.

28. Nondiscrimination.

During the performance of this Agreement, Consultant shall not discriminate against any employee or applicant because of race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age or disability. Consultant shall take affirmative action to

ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age or disability.

29. Conflict of Interest.

Consultant warrants and declares that Consultant presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, in any manner or degree which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law. Consultant further declares that, in the performance of this Agreement, no subcontractor or person having such an interest shall be retained or employed. In the event that any conflict of interest should nevertheless hereafter arise, Consultant shall promptly notify District of the existence of such conflict of interest so that District may determine whether to terminate this Agreement.

30. Headings.

The section headings appearing herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Agreement.

31. Multiple Copies of Agreement.

Multiple copies of this Agreement may be executed but the parties agree that the copy on file in the office of the District Secretary is the version that shall take precedence should any differences exist among counterparts of the documents.

IN WITNESS THEREOF, the parties hereto have made and executed this Agreement on the date first above written.

MONTEREY PENINSULA AIRPORT DISTRICT:

CONSULTANT:

\_\_\_\_\_  
William J. Sabo  
Board Chairman

\_\_\_\_\_  
James Allen,  
Owner, Allterra Environmental, Inc.

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Tonja Posey,  
District Secretary

\_\_\_\_\_  
Scott Huber,  
District Counsel

RECOMMENDED FOR APPROVAL:

\_\_\_\_\_  
Mark Bautista,  
Deputy General Manager

Attachments:

Exhibit A, Scope of Basic Services, consisting of 2 pages.

Exhibit B, Additional Services, consisting of 1 page.

Exhibit C, Hourly Rates of Compensation, consisting of 1 page.



**EXHIBIT A  
SCOPE OF BASIC SERVICES  
AGREEMENT FOR PROFESSIONAL SERVICES  
FEASIBILITY INVESTIGATION OF MONTEREY REGIONAL AIRPORT  
WELL SYSTEM SMALL WATER PROJECT  
ALLTERRA ENVIRONMENTAL, INC.  
AND MONTEREY PENINSULA AIRPORT DISTRICT**

**SCOPE OF CONSULTING SERVICES**

Consultant Services to be performed are as set forth herein and shall include the following scope of services.

**1. Well System Assessment**

- Conduct assessment of three existing extraction wells and their components and perform step testing to determine individual well and system wide sustainable production rates. Region-wide drought conditions will be considered.
- Evaluate potential for increase in well capacity/production by comparing performance of current well pumps with upgraded pumping equipment. Consultant will first consider refurbishing existing equipment to reduce project costs.
- Estimate the longevity of each well based on past performance, current groundwater conditions, anticipated aquifer sustainability and other related factors.
- Determine steps required to equip two existing injection wells for potential future use as additional supply wells for the system.
- Test current operation of the Programmable Logic Controller (PLC) system under simulated water extraction/delivery conditions and to confirm all pumps, gauges, sensors, float switches, alarms, and fail-safes are working properly.
- Identify additional equipment and controls required to operate full system with five total wells, and determine procurement and installation costs. Depending on magnitude and frequency of demand, additional onsite water storage should also be considered.

**2. Identification of Well Use Options & Users**

- Working with MPAD and MPWMD staff, and other individuals/organizations as appropriate to generate list of potential uses for the water supply and recommend the most viable and beneficial option to help offset current demand for California American Water (Cal Am) resources.
- Identify various entities that could operate the water supply system and recommend the most skilled and capable operator for this project.
- Evaluate potential logistical concerns for supplying and receiving water from the system and propose various strategies to mitigate those concerns.
- Determine the market feasibility of non-potable water produced by the system, identify potential customers in the Monterey Bay Region, and propose appropriate value of the water based on accessibility and increasing Cal Am prices.

### 3. System Operations & Maintenance Manual

- Using technical writing and extraction system expertise, Consultant will prepare a thorough yet concise Operations & Maintenance (O&M) Manual for the water supply system to aid potential system operators.
- Develop a data tracking methodology for ongoing operations that will provide a means to evaluate system performance and estimate future production rates.
- Once the O&M Manual is completed, Consultant will train a lead maintenance staff member from the District on how to use the O&M Manual.

### COMPLETION SCHEDULE FOR PERFORMANCE OF BASIC SERVICES

Time shall be of the essence on the Agreement and on each and every covenant and condition hereof. Consultant shall be responsible for all expenses for the selection and employment of such staff as will enable Consultant to perform its services diligently and skillfully in order to complete the stated services in an expeditious manner and in accordance. The design phase services shall be completed in accordance with the following design schedule exclusive of submittal review time by District.

<u>Task Element</u>	<u>Time to Complete</u>
Task Element 1	Within 6 weeks from the issuance of a Notice to Proceed (NTP)
Task Element 2	Within 10 weeks from the issuance of a NTP
Task Element 3	Within 12 weeks from the issuance of a NTP

### PAYMENT SCHEDULE FOR BASIC SERVICES

The Consultant shall be paid for authorized and satisfactorily completed Basic Services on a time-and-expense basis in accordance with the rates shown in Exhibit C, for the not to exceed costs identified below.

<u>Task</u>	<u>Amount</u>
Task Element 1	\$8,500.00
Task Element 2	\$3,500.00
Task Element 3	\$2,500.00

**EXHIBIT "B"**  
**ADDITIONAL SERVICES**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**FEASIBILITY INVESTIGATION OF MONTEREY REGIONAL AIRPORT**  
**WELL SYSTEM SMALL WATER PROJECT**  
**MONTEREY PENINSULA AIRPORT DISTRICT**  
**AND ALLTERRA ENVIRONMENTAL, INC.**

**SCOPE OF ADDITIONAL CONSULTING SERVICES**

Additional Services. For the purpose of this agreement, Additional Services means the following professional services:

Scope of Work excluded from Basic Services that may be desired by District to perform additional unspecified tasks such as the following:

Additional Well System Analysis

Additional unforeseen office or field tasks determined to be necessary by District to complete the project. Consultant shall furnish all the additional services to the satisfaction of District's DGM, with reasonable diligence. Consultant shall perform such additional services upon District's written request, specifying the details thereof and the time and manner in which such services shall be performed.

Services required that are not obvious or become apparent when uncovered shall be considered as additional services. The extent of these services will be determined and approved by District's DGM.

Compensation. Consultant will perform the work on an hourly charge rate basis as shown in Exhibit "C". The maximum Consultant's Fee for this work shall be approved by District's DGM.

**EXHIBIT "C"**  
**HOURLY RATES OF COMPENSATION**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**FEASIBILITY INVESTIGATION OF MONTEREY REGIONAL AIRPORT**  
**WELL SYSTEM SMALL WATER PROJECT**  
**ALLTERRA ENVIRONMENTAL, INC.**  
**AND MONTEREY PENINSULA AIRPORT DISTRICT**

**BILLING RATE SCHEDULE**

Payments to Consultant for authorized and satisfactorily completed Basic Services and Additional Services shall be made on a time-and-expense basis in accordance with the rates shown below.

<u>Classification</u>	<u>Hourly Rate</u>
Principal Engineer/Scientist/Geologist	\$145.00
Senior Engineer/Scientist/Geologist	\$120.00
Project Manager	\$105.00
Project Engineer/Scientist/Geologist	\$105.00
Staff Engineer/Scientist/Geologist	\$90.00
Senior Technician	\$80.00
Technician	\$75.00
CAD Operator/Illustrator	\$55.00
Accounting/Clerical	\$55.00
Subcontractors/Vendors/Materials	10% Markup

The above rates include direct salary costs, overhead and related fees.

**TO:** Board of Directors, Monterey Peninsula Airport District  
**FROM:** Thomas E. Greer, General Manager  
Scott E. Huber, District Counsel  
**SUBJ:** Flight Way Self Storage LLC and Monterey Hi-Way Self Storage LLC – Ordinance Adoption to Authorize Lease Term Amendment

**BACKGROUND.** On January 14, 2015, the Board of Directors of the Monterey Peninsula Airport District ("MPAD") approved three ground lease amendments with Flight Way Self Storage LLC and Monterey Hi-Way Self Storage LLC ("LLCs") for approximately 10.5 acres of property immediately contiguous to the Monterey Airport, which property is for the purpose of the development and operation of self-storage facilities.

The original leases were approved by ordinances, which contained clauses that the leases may only be amended by a subsequent ordinance. Accordingly, the proposed ordinance approves the three lease amendments, which were authorized by the Board of Directors on January 14, 2015. In addition, the proposed ordinance removes the requirement for a lease amendment to be accomplished by a subsequent ordinance.

As the Board of Directors will recall, the LLC leases were each extended by a period of 15 years. The lease term amendments, including the original leases, are attached to Staff Report J-4 as part of the January 14, 2015 Board Agenda.

**IMPACT ON OPERATIONS.** None

**IMPACT ON OPERATING REVENUE.** None

**OPERATING BUDGET IMPACT.** None

**CAPITAL BUDGET IMPACT.** None

**RECOMMENDATION.** By motion, approve the ordinance which authorizes the lease term amendments between Monterey Peninsula Airport District, as lessor and Flight Way Self Storage LLC and Monterey Hi-Way Self Storage LLC, as lessees.

**MONTEREY PENINSULA AIRPORT DISTRICT  
ORDINANCE NO. 914**

**AN ORDINANCE OF THE MONTEREY PENINSULA AIRPORT DISTRICT  
AUTHORIZING AND APPROVING AMENDED LEASE AGREEMENTS WITH 2965  
MONTEREY HI-WAY SELF STORAGE, LLC AND FLIGHT WAY SELF STORAGE,  
LLC.**

**NOW, THEREFORE,** the Board of Directors of the Monterey Peninsula Airport District DO  
ORDAIN as follows:

**SECTION 1:** The amendment to the lease agreement entitled Phase One Lease Term  
Amendment between Monterey Peninsula Airport District and 2965 Monterey Hi-Way  
Self Storage, LLC is hereby authorized and approved, subject to the conditions,  
provisions and considerations set forth in the agreement, including any amendments.

**SECTION 2:** The amendment to the lease agreement entitled Phase Two Lease Term  
Amendment between Monterey Peninsula Airport District and 2965 Monterey Hi-Way  
Self Storage, LLC is hereby authorized and approved, subject to the conditions,  
provisions and considerations set forth in the agreement, including any amendments.

**SECTION 3:** The amendment to the lease agreement entitled Phase Three Lease Term  
Amendment between Monterey Peninsula Airport District and Flight Way Self Storage,  
LLC is hereby authorized and approved, subject to the conditions, provisions and  
considerations set forth in the agreement, including any amendments.

**SECTION 4:** The agreements, including any amendments, which are the subject of this  
Ordinance may be further amended by the parties, as mutually agreed upon in writing,  
without the need for the adoption of an ordinance.

This ordinance shall take effect on the 30<sup>th</sup> day after its adoption.

**PASSED TO PRINT BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA  
AIRPORT DISTRICT:** This 11<sup>th</sup> day of February 2015, by the following roll call vote:

<b>AYES:</b>	<b>DIRECTORS:</b>
<b>NOES:</b>	<b>DIRECTORS:</b>
<b>ABSTAIN:</b>	<b>DIRECTORS:</b>
<b>ABSENT:</b>	<b>DIRECTORS:</b>

Signed this 11<sup>th</sup> day of February, 2015

\_\_\_\_\_  
Tonja Posey, District Secretary

A T T E S T

Publication Date: \_\_\_\_\_, 2015

**AGENDA ITEM: G-5**  
**DATE: February 11, 2015**

**DATE:** February 11, 2015  
**TO:** Board of Directors, Monterey Peninsula Airport District  
**FROM:** Thomas E. Greer, General Manager  
**SUBJ:** Mid-Year Review – Fiscal Year 2015 Financial Update

**BACKGROUND.** The primary purpose of this presentation is to provide a financial summary of Fiscal Year 2015 after two (2) quarters. A secondary purpose is to provide a forecast as to where (compared to the adopted plans) the District will be at fiscal year end.

The presentation will be primarily a slide (PowerPoint) presentation.

Copies of the presentation will be provided at the regular meeting (as the presentation was unavailable when the agenda packet is/was assembled and transmitted).

**OPERATING BUDGET IMPACT.** Not Applicable.

**CAPITAL BUDGET IMPACT.** Not Applicable.

**RECOMMENDATION.** Not Applicable.

**DATE:** February 11, 2015  
**TO:** Board of Directors, Monterey Peninsula Airport District  
**FROM:** Thomas E. Greer, General Manager  
**SUBJ:** Amending the Capital Plan of the Monterey Peninsula Airport District for Fiscal Year 2015

**BACKGROUND.** One purpose of this report is to update the Board on District-funded capital projects/acquisitions that were planned for the current fiscal year. A second purpose is to recommend changes to the FY 2015 Capital Plan and receive Board approval to continue.

**Fiscal Year 2015 Capital Budget (District-funded portion).**

The adopted capital plan for FY 2015 approved \$113,800 of District funding:

- Project 2013-02 Airport Master Plan - \$41,880 for CEQA,
- Project 2015-01 ARFF Station Remodel/Improvements - \$42,000, and
- Project 2015-02 Police Vehicle – Sedan - \$30,000.

The improvements to the ARFF Station were completed for \$6,368.77, well below the \$42,000 adopted capital plan amount. These improvements will be expensed and not capitalized.

The acquisition cost of a new police vehicle was \$7,546 above the adopted capital plan amount.

District staff recommends that the board authorize the amendment of the plan to eliminate Project 2015-01 ARFF Station Remodel/Improvements and add Project 2015-03 Maintenance Pick-Up Truck.

A summarized comparison is provided below.

PROJECT NUMBER	PROJECT DESCRIPTION	ADOPTED FY 2015 PLAN	AMENDED FY 2015 PLAN	CHANGE
2013-02	AIRPORT MASTER PLAN	41,880	41,880	0
2015-01	ARFF STATION REMODEL	42,000	0	-42,000
2015-02	POLICE VEHICLE - SEDAN	30,000	37,500	7,500
2015-03	MAINTENANCE PICK-UP TRUCK	0	40,000	40,000
		113,880	119,380	5,500

**Other Opportunities.**

Upon consent of the board, District staff applied for and was granted \$57,000 to purchase new fully-electric vehicles. Acquisition of these new vehicles is dependent upon availability of the



vehicles. If these vehicles become available and are purchased before June 30, 2015, we will designate the acquisitions as 2015-04 and 2015-05; if we do not acquire these vehicles until after June 30, 2015, we will incorporate into the FY 2016 Capital Plan.

**OPERATING BUDGET IMPACT.** \$6,400. Due to not meeting criteria for capitalization, Project 2015-01 ARFF Station Remodel/Improvements will be expensed – not capitalized. The adopted operating budget contains a budget line for \$10,000 in “General Repairs & Maintenance”.

**CAPITAL BUDGET IMPACT.** An overall \$5,500 increase in District-funded capital projects/acquisitions; eliminate Project 2015-01 ARFF Station Remodel/Improvements, with a projected to cost of \$42,000. Adjust Project 2015-02 Police Vehicle – Sedan to increase cost to \$37,500; add Project 2015-03 Maintenance Pick-Up Truck, an acquisition projected to cost the District \$40,000.

**RECOMMENDATION.** Staff recommends the Board, by motion, authorize the changes to the District’s capital plan for FY 2015 pending formal amendment of the adopted resolution (Resolution No. 1623 for Fiscal Year 2015).

**AGENDA ITEM: G.7.**  
**DATE: February 11, 2015**

**TO:** MPAD Board of Directors  
**FROM:** Thomas E. Greer, General Manager  
David Prentice, Prentice, Long & Epperson, LLP  
Tonja Posey, Human Resources/Risk Manager  
**SUBJ:** Resolution No. 1637, a Resolution approving the Memorandum of Understanding between the Monterey Peninsula Airport District and Police Officers Association

**BACKGROUND.** The District entered a Memorandum of Understanding (MOU) with the Police Officers' Association for the period, July 1, 2010 through December 31, 2011. The MOU was extended twice through December 31, 2013. The expired agreement remains in effect pending the negotiation of a new agreement which is now complete.

The subject agreement covers wages, benefits and working conditions for the period of July 1, 2014 to June 30, 2017.

**MEMORANDUM OF UNDERSTANDING (MOU) BARGAINING CHANGES.**

Salary Increase(s): 3% on July 1, 2016 (FY17)

No increase in FY15 or FY16

Uniform Allowance: \$80.00 per month

The uniform allowance is increased from \$70.00 per month to \$80.00 per month

Night Differential Pay: 2.5% for any time worked between the hours of 10:00pm to 6:00am

Field Training Officer (FTO) Pay: 2.5% during the time the Officer is actively performing training

Other Items:

- Salary Survey: language is removed from the MOU. No future mandatory Salary Surveys
- No Educational Incentive for New Employees: Police Officers hired after July 1, 2014 will not be eligible for an Educational Incentive, but will be eligible for the Educational Reimbursement as stated in the MPAD Employee Handbook.

**SOURCE OF FUNDS.** FY15 – FY17 Budget.

**IMPACT ON REVENUES.** None.

**SCHEDULE.** The agreement is for a three (3) year beginning July 1, 2014 through June 30, 2017.

**IMPACT ON OPERATIONS.** None.

**STRATEGIC PLAN.** 5.0 Financial Management, 7.0 Human Resources/Organizational Development

**RECOMMENDATION.** Adopt Resolution No. 1637, authorizing and approving the General Manager to enter into a Memorandum of Understanding between the District and the Police Officers' Association.

**RESOLUTION NO. 1637**

**A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN  
THE MONTEREY PENINSULA AIRPORT DISTRICT AND  
THE POLICE OFFICERS ASSOCIATION**

**WHEREAS**, The Monterey Peninsula Airport District Police Officers, represented by Police Officers' Association, is the exclusive representative for matters within the scope of representation of employees in the classification of Police Officer, Sergeant and Lieutenant of the Monterey Peninsula Airport District (MPAD), in accord with the Meyers-Milias-Brown Act (Government Code Section 3500-3510); and

**WHEREAS**, the District's bargaining team, acting under the authority of the General Manager, has negotiated an agreement with the Union for the term of July 1, 2014 to June 30, 2017; and

**WHEREAS**, MPAD and the Police Officers' Association met, conferred and bargained to set wages, hours and other terms and conditions of employment for the Police Officers' Association to govern periods for July 1, 2014 to June 30, 2017; and these negotiations met the structured collective bargaining process required by the Meyers-Milias-Brown Act;

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT THAT:** 1) The Memorandum of Understanding (MOU) between the Monterey Peninsula Airport District and the Police Officers' Association is hereby approved and the General Manager is directed to execute the MOU to set wages, hours and working conditions for all employees of the Police Officers' Association for the period from July 1, 2014 to June 30, 2017; and 2) a copy of the Memorandum of Understanding referred to herein will be on file in the office of the Airport District.

**PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT:** This 11th day of February 2015, by the following roll call vote:

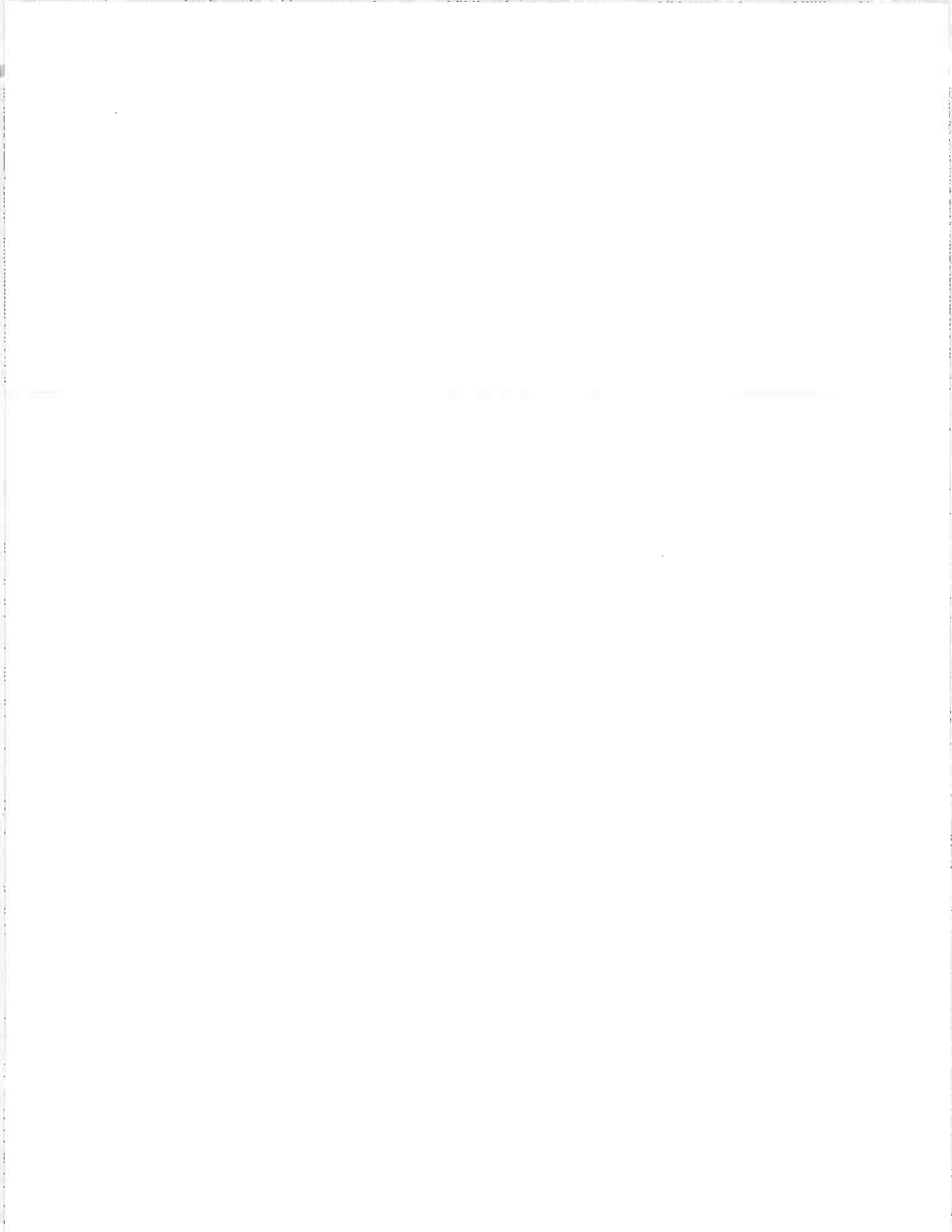
**AYES:           DIRECTORS:**  
**NOES:           DIRECTORS:**  
**ABSTAIN:       DIRECTORS:**  
**ABSENT:         DIRECTORS:**

Signed this 11th day of February 2015

William J. Sabo, Chairman

**ATTEST**

Tonja Posey  
District Secretary



**Agreement**

**Between**

**Monterey Peninsula Airport District**

**And**

**Monterey Peninsula Airport District  
Peace Officers' Association**

**For the Period  
July 1, 2014 to June 30, 2017**

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1. **PERIOD OF AGREEMENT.** This agreement is for the period July 1, 2014 through June 30, 2017. If a successor agreement is not executed by June 30, 2017, this agreement shall remain in force until a new agreement is executed. No amendment to this agreement shall be binding unless reduced to writing and executed by authorized representative(s) of the parties.
2. **RECOGNITION.** Pursuant to resolution of the Board of Directors of the Monterey Peninsula Airport District (hereinafter referred to as MPAD) and provisions of applicable State law, the Monterey Peninsula Airport District Peace Officers' Association (hereinafter referred to as the Association) is recognized as the exclusive representative for meeting and conferring on matters within the scope of representation of all full time regular sworn members of the Police Department including those in the classification of Police Officer, Sergeant and Lieutenant. As used herein "employee" refers only to such members of the Police Department.
3. **PURPOSE.** The purpose of this agreement is to promote harmonious relations, cooperation and understanding between MPAD and the employees represented by the Association and to provide an orderly and equitable means of resolving differences that may arise, and to set forth the full agreements of the parties reached as a result of meeting and conferring in good faith regarding wages, hours, and other terms and conditions of employment for the personnel represented by the Association.
4. **ASSOCIATION ACTIVITIES ON MPAD PREMISES.** For conduct of business, the association may use MPAD premises as follows:
  - a. **Authorized Meetings.** One (1) monthly meeting of all employees covered by this contract, and two (2) monthly meetings of the Executive Board.
  - b. **Additional Association Activities.** Except as set forth in section 4(a), other Association activities on MPAD premises require written approval from the Director of Public Safety (Police Chief).
5. **ASSOCIATION AND PORAC MEMBERSHIP.**
  - a. **Withholding.** MPAD agrees to withhold Association dues in accordance with the procedures set forth in this section.
  - b. **Authorization.** Association members in good standing may authorize payment of dues to the Association through payroll withholding. To request dues withholding, a completed authorization form shall be submitted to MPAD Administration (payroll clerk). Withholding shall become effective at the beginning of the first pay period for which the payroll closing date is not less than five (5) days after receipt of the withholding authorization by MPAD Administration (payroll clerk).



- c. **Revocation.** To cancel the Association dues withholding allotment, employees shall complete and submit the appropriate form to MPAD Administration (payroll clerk). Revocation shall become effective at the beginning of the next pay period for which the payroll closing date is not less than five (5) days after receipt of the appropriate form by MPAD Administration (payroll clerk).
  - d. **PORAC Membership.** Membership in PORAC is optional, but Association members desiring to obtain health care coverage through the PORAC Health Care plan must be members of PORAC. Association members in good standing may authorize the payment of PORAC membership costs through payroll withholding. Requests for such withholding or cancellation of such withholding shall be made and processed in the same manner as requests for withholding or cancellation of withholding of Association dues.
6. **PERSONNEL REDUCTION IN FORCE (RIF).** In the event of police personnel reduction in force, employees to be retained shall be selected primarily on the basis of seniority. Also considered will be job performance evaluation and the recommendation of supervisory personnel. No new employees shall be hired until all laid-off employees have been given the opportunity to return to work.
7. **DISMISSALS.** Employees are tenured once off probation and shall not be discharged without just cause. Employees discharged for cause shall have the right to appeal said discharge by filing with MPAD's General Manager a written appeal within ten (10) days of said discharge. The discharged employee shall have all those rights allotted him/her by the Peace Officer Bill of Rights.
8. **SALARY AND OTHER COMPENSATION.**  
**Meet and Confer.** Salary and compensation shall be a meet and confer item.
- a. **Salary Schedule.** The salary schedule with the increase agreed to by MPAD and the Association will be adopted by the board during the FY2017 budget and will be effective on July 1, 2016.
  - b. **Standard Step Increases.** Contingent upon a satisfactory performance for the applicable performance period, a step increase shall be granted annually. Step increases shall become effective at the beginning of the first pay period following the anniversary date of initial employment, or the anniversary of the most recent step increase or of the most recent promotion.
  - c. **New Hires.** Newly hired Police Officers will remain in a probationary status at step one for a minimum period of twelve (12) months.
  - d. **Accelerated Increase.** An accelerated step increase may be granted at the discretion of MPAD management, in accordance with MPAD policies governing such increases.
  - e. **Promotion.** Upon promotion to a higher position classification, employees shall receive a monthly increase of base salary of not less than Fifty Dollars (\$50.00).

- f. **Promotional Exam Selection Committee.** Ranking police officers from outside agencies may be used by MPAD in a promotional process. MPAD will notify the Association of those officers selected and will ensure they will be fair and impartial in the selection process. Of the members from outside agencies who are proposed for the Selection Committee, the Association will have the option of rejecting one.
- g. **Promotional Probation.** Any promotional employee who fails his or her one (1) year probationary period will be entitled to return to his or her prior pay step and classification unless flagrant violations are involved. The junior department employee(s) would be subject to lay-off.
- h. **Uniform Allowance.** Employees represented by the Association shall receive an allowance of Eighty dollars (\$80.00) per month for uniform upkeep and maintenance.
- i. **Educational Incentive Pay.** Employees hired on or prior to June 30, 2014 and serving in other than the Police Chief classification, and serving in step two or higher of their pay classification shall receive, in addition to their regular monthly salary, education incentive pay, upon submission of proof of completion of study at an accredited degree granting institution, as follows:

**Thirty Units.** Two and one-half percent (2.5 %) of base salary for completion of thirty (30) credit units, of which at least eighteen (18) units shall be for course work in Administration of Justice/Police Science or a related field.

**Associate Degree.** Five percent (5%) of base salary for completion of an AA or AS Degree in Administration of Justice/Police Science or a related field. Any employee receiving educational incentive pay pursuant to this subsection shall not simultaneously be eligible to receive educational incentive pay under any preceding section.

**Bachelor's Degree.** Seven percent (7%) of base salary for completion of BA or BS Degree in Administration of Justice/Police Science, Public Administration, Management or a related field. Any employee receiving educational incentive pay pursuant to this subsection shall not simultaneously be eligible to receive educational incentive pay under any preceding section.

**Previous Education.** Employees who have completed MPAD educational requirements prior to being hired by MPAD shall be eligible to receive educational incentive pay after successful completion of their F.T.O. Program.

**Non-Retroactivity.** Educational incentive pay shall become effective at the beginning of the first pay period for which the payroll closing date is not less than five (5) days after receipt of proof of eligibility by MPAD Administration (payroll clerk). Retroactive educational incentive pay is not authorized.

**No Future Educational Incentives.** Police Officers hired after July 1, 2014 shall not be eligible for an Educational Incentive, but will remain eligible for Educational Reimbursement as provided in the MPAD Employee Handbook.

9. **EQUIPMENT.**

a. **Safety Equipment.** MPAD agrees to supply the following equipment: (1) leather gear, (2) service weapon, (3) handcuffs, (4) ammunition, (5) baton, (6) rain-gear, (7) flashlight and batteries, (8) ballistic vest, (9) 12-gauge shotgun (minimum 1 for Department), and (10) chemical agent.

b. **Other Equipment.** MPAD agrees to supply two California Penal Codes for the Police Department. A current copy of the California Vehicle Code shall be kept in each patrol vehicle and in the Police Offices of MPAD. A copy of the "MPAD Police Directives Manual" shall be made available to each employee represented by the Association.

c. **Ownership of Equipment.** Equipment provided by MPAD pursuant to section 9 of this agreement shall remain the property of MPAD and shall be returned to MPAD upon termination of employment with MPAD.

10. **PERFORMANCE EVALUATION.**

a. **Standard Evaluation.** Written performance evaluations shall be made annually for each employee.

b. **Probationary Officers.** Probationary (trainee) officers shall be evaluated according to the Field Training Officer Program and then monthly until probation is completed.

c. **Evaluation Record.** Each employee shall receive a copy of each evaluation, and a copy shall be placed in the employee's personnel record.

11. **HOLIDAYS.** All employees shall be entitled to the following paid holidays:

1. First Day of January (New Year's Day)
2. Third Monday in January (Martin Luther King Day)
3. Third Monday in February (President's Day)
4. Last Monday in May (Memorial Day)
5. Fourth Day in July (Independence Day)
6. First Monday in September (Labor Day)
7. Second Monday in November (Veterans' Day)
8. Fourth Thursday in November (Thanksgiving Day)
9. Day after Thanksgiving
10. Twenty-fourth Day of December (Christmas Eve)
11. Twenty-fifth Day of December (Christmas Day)

12. **OVERTIME.**

a. **Defined.** Overtime is any time worked in excess of forty (40) hours per week, (or ten [10] hours per day if on a ten [10] hour day schedule). Overtime shall be paid at time-and-a-half. Employees serving in the Police Chief classification shall not be entitled to overtime pay.

b. **Compensatory Time Off (CTO)** Non-exempt employees may request "Comp" time at time and one-half in lieu of overtime pay. All "comp" time must receive your supervisor's prior authorization. To take "comp" time, you should request approval from your supervisor as far in advance as possible. All requests will be reviewed based on a number of factors, including business needs, staffing requirements, order of requests and possibly seniority. The maximum accrued "comp" hours that you may have at any one time will not exceed 480 hours. If the earned but unused "comp" hours reach this maximum, additional hours will be "capped" and any overtime worked will be paid at overtime rates. Upon separation of employment, you will be paid for unused "comp" time.

c. **Holidays.** Holiday pay for days worked shall be two (2) times the hourly rates. Overtime on holiday shall be paid at two and one-half (2 1/2) times the hourly rate of pay. Compensation for holidays falling on an officer's scheduled day off shall be provided by giving the officer compensating time off at a straight time rate for the length of the officer's normal shift. Employees serving in the Police Chief classification shall not be entitled to premium pay for holidays.

d. **Call Back.** Employees called back for duty after completing a work day, or called in on a scheduled day off, or who are required to report to court during other than scheduled work hours, shall be paid a minimum of two (2) hours overtime.

13. **SHIFT ASSIGNMENTS.**

a. **Bid Provision.** Shift assignments shall be bid, and assignments shall be made on the basis of seniority within classification.

b. **Off-Duty Education Coordination.** To accommodate off-duty education, to the extent that it is compatible with MPAD requirements, shift changes shall be coordinated with the semester or quarter start dates of local educational institutions providing instruction in the fields of Administration of Justice/Police Science.

c. **Shift Exchange.** Employees shall have the privilege to exchange shifts when the change does not interfere with the operation or diminish the effectiveness of the Police Department and is authorized by affected supervisors.

14. **VACATION TIME.** Vacation entitlement shall be accrued for continuous service, as follows:

a. **After First Six (6) Months.** Forty (40) hours.

b. **After One (1) Year.** Eighty (80) hours per year (includes the 40 hours accrued after the first [6] months).

c. **Five (5) or More Years.** One hundred Twenty (120) hours per year.

d. **Ten (10) or More Years.** One hundred sixty (160) hours per year.

e. **Vacation Time Accumulation Limit.** Employees may accumulate up to two

hundred forty (240) hours of unused vacation, after which point no further vacation shall accrue. MPAD will endeavor to notify Association members of when their individual vacation time accumulation is about to be reached.

15. **SICK LEAVE.**

a. **Accrual.** Sick leave with pay shall accrue at a rate equal to the accrual rate for vacation time. There is no restriction for sick leave accumulation.

b. **Verification.** A physician's certificate or other evidence may be required if there is reasonable cause to believe an employee may be abusing sick leave.

c. **Unused Sick Leave.**

(1) **Applied to Retirement.** MPAD will maintain enrollment of employees in the State of California Public Employees' Retirement System "Unused Sick Leave" Plan.

(2) **Sick Leave Pay-Off.** MPAD agrees to pay up to one (1) month's pay for unused sick leave upon retirement.

d. **On the Job Injury.** Whenever any employee is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his or her duties, he or she shall become entitled to leave of absence without loss of salary for the period of the disability, but not exceeding one (1) year, or until such earlier date as he or she is retired on a permanent disability pension, and is actually receiving disability pension payments, or advanced disability pension payments pursuant to Labor Code section 4850.3. In order to obtain such leave of absence without loss of salary, the disabled employee must remit to MPAD all disability indemnity received by the disabled employee from MPAD's insurance carriers during the period of such leave. This subsection d of section 15 shall cease to be operative at any time that benefits under Labor Code section 4850 or any successor or similar statute are made available to MPAD police employees.

16. **JURY DUTY.** Employees that perform jury duty during working hours shall be granted time off with pay. The employee shall remit to MPAD all compensation received for jury duty, except reimbursement for mileage.

17. **STATE DISABILITY INSURANCE** Effective July 1, 2010, and at all times thereafter, each employee shall pay 100% of the costs for State Disability Insurance (SDI).

18. **BEREAVEMENT LEAVE.**

a. **General.** In the event of a death in an employee's immediate family, the employee may be granted bereavement leave without deduction in pay for a period that is deemed by MPAD's General Manager to be reasonable, normally not to exceed three (3) days, but more time may be granted depending on the relationship of the employee and the decedent and the amount of time required to travel to the funeral service. Any leave so granted shall not be charged to the employee's sick leave or annual leave.

- b. **Immediate Family.** Immediate family shall normally be understood to mean the employee's spouse, parents, children, siblings, grandparents, mother-in-law and father-in-law.
19. **LEAVE OF ABSENCE.** A leave of absence for personal reasons may be granted at the sole discretion of the MPAD's General Manager.
20. **RETIREMENT.**
- a. **3% at Age 50 Plan.** Employees who became members of CalPERS on or prior to December 31, 2012, "Classic Members", and did not take a prior "cash distribution" shall be maintained in the "3% at 50" Retirement Plan for the local Safety Officers, State of California Public Employees' Retirement System (PERS).
- b. **2.7% at Age 57 Plan.** Employees who became members on or after January 1, 2013, "New Member" shall be in the "2.7% at 57" Retirement Plan for the local Safety Officers, State of California, Public Employees' Retirement System (PERS).
- c. **Contribution.** Contribution rates for both the employee and the District are published annually by the CalPERS Actuarial Department, and are available at the Airport District Offices.
- d. **Accumulated Vacation Pay Off.** Up to two hundred forty (240) hours for unused time.
- e. **One-Year Compensation.** MPAD will maintain the PERS optional benefit PERL Section 20042 providing for retirement benefits to be based on the highest twelve (12) consecutive months for purposes of determining final compensation.
21. **SAFETY ITEMS.** MPAD agrees to "meet and confer" on Safety Items.
22. **GRIEVANCE PROCEDURE.** A grievance is defined as any disagreement by any employee over the application of personnel policy, or any personnel action that an employee alleges to be unfair. Procedures for resolving grievances are as follows:
- a. **Supervisor Action.** Grievances may be submitted to the employee's immediate supervisor. If the grievance has not been settled within five (5) working days from receipt of the grievance by the supervisor, the grievant may submit the matter to the Director of Public Safety (Police Chief), unless the Police Chief is the grievant or the immediate supervisor. If the Police Chief is the grievant's immediate supervisor then the grievant may next submit the grievance to MPAD's General Manager. If the Police Chief is the grievant, then the Police Chief may submit the grievance directly to MPAD's General Manager.
- b. **Police Chief Action.** If within five (5) working days from receipt of the grievance by the Police Chief the grievance has not been settled, the grievant may submit the matter to MPAD's General Manager.

c. **General Manager Action.** If the grievance has not been settled within ten (10) working days from receipt of the grievance by MPAD's General Manager, the grievant may submit the matter to MPAD's Board of Directors.

d. **Board of Directors' Action.** MPAD's Board of Directors shall normally consider grievances at their first meeting which is not less than thirty (30) days following receipt of the grievance by MPAD's Board of Directors. The decision of MPAD's Board of Directors shall be final, unless they choose to allow binding arbitration. The arbitrator will be agreed upon by both parties and selected from the American Arbitration Association.

23. **HEALTH AND INSURANCE BENEFITS.** MPAD agrees to provide the following health and insurance benefits to the extent that they continue to be available during the term of this agreement:

a. **Medical In Lieu Payments.** The District shall pay each employee the sum of five hundred dollars (\$500) provided that employee elects not to receive any Medical coverage, and further provided the employee provides, to the satisfaction of the District, proof that he or she qualifies for and has obtained alternate health coverage for that month. The District shall not pay both the Medical In Lieu and also provide Medical coverage for any employee.

b. **Retirees** For retirees of at least age 50 and having a minimum of 10 years of service with MPAD, PERS health care benefits are available for the retiree only (i.e., not dependents). MPAD shall contribute toward the premium for such coverage an amount equivalent to 3% of such premium for each year of service with PERS, including sick leave accruals, but not to exceed a total of 90% of such premium. The retiree will be responsible for all other costs, including income taxes.

c. **Flexible Spending Account (FSA)** Separate and apart from the cost of premiums, MPAD shall contribute to the Cafeteria Plan for each active employee the sum of \$100 per month.

d. **Cafeteria Plan.** MPAD has established an IRC Section 125 Cafeteria Plan in which active employees may participate. Through the Cafeteria Plan employees may choose from the health care plan options offered from time to time over the term of this agreement. At the inception of this agreement, the health care plan options shall include PERS Care, PERS Choice, and (for PORAC members) PORAC Health Care. MPAD's contribution to the Cafeteria Plan for the cost of health care coverage shall at the inception of this agreement be as follows:

**1. Current Employees:**

a. **Medical Coverage.** Effective July 1, 2010, MPAD agrees to contribute 93% of the cost of a Major Medical Insurance Program for employees and dependents. The employee shall bear the remainder of this cost of 7%. (Employee 7% contribution shall be calculated after deduction of PERS required employer contribution)

- b. **Dental Coverage**. MPAD agrees to contribute 100% of the cost of a Dental Program for employees and dependents.
- c. **Life Insurance**. MPAD agrees to contribute 100% of the cost of a basic Life Insurance program in an amount not less than \$20,000.
- d. **Group Vision Care**. MPAD agrees to contribute 100% of the cost of Group Vision Care Plan for employees only.
- e. **Changes to Coverage**. The District agrees to keep the Association informed of all changes and negotiations of new, or updating of the present, medical, dental, life insurance and vision care plans.
- f. **Employee Costs**. For medical, dental, and vision care, received by the employee or his/her covered dependents, the employee shall be responsible for payment of annual deductibles and the amount in excess of the amount allowed under the insurance programs carried by MPAD.

**2. Employees Hired after July 1, 2010:**

- a. **Medical Coverage**. Effective July 1, 2010, MPAD agrees to contribute 85% of the cost of a Major Medical Insurance Program for employees and dependents. The employee shall bear the remainder of this cost of 15%. (Employee 15% contribution shall be calculated after deduction of PERS required employer contribution)
- b. **Dental Coverage**. MPAD agrees to contribute 100% of the cost of a Dental Program for employees and dependents.
- c. **Life Insurance**. MPAD agrees to contribute 100% of the cost of a basic Life Insurance program in an amount not less than \$20,000.
- d. **Group Vision Care**. MPAD agrees to contribute 100% of the cost of Group Vision Care Plan for employees only.
- e. **Changes to Coverage**. The District agrees to keep the Association informed of all changes and negotiations of new, or updating of the present, medical, dental, life insurance and vision care plans.
- f. **Employee Costs**. For medical, dental, and vision care, received by the employee or his/her covered dependents, the employee shall be responsible for payment of annual deductibles and the amount in excess of the amount allowed under the insurance programs carried by MPAD.

24. **NON-DISCRIMINATION**. The parties agreed that they shall not discriminate against any employee or Association member because of race, color, creed, sex or national origin, or because of membership or non-membership in an association or any activities on behalf of the Association.



25. **SEVERABILITY.** In the event that any provision of this agreement shall be, declared by any court of competent jurisdiction, or by any State or Federal law or regulation, or should a decision by any court of competent jurisdiction or any applicable State or Federal law or regulation diminish the benefits provided in this agreement, or impose additional obligations on MPAD, the parties shall "meet and confer" on the provision affected. In such event, all other provisions of this agreement not affected shall continue in full force and effect.
26. **FULL UNDERSTANDING, MODIFICATION AND WAIVER.**
- a. **General.** This agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein and any and all prior or existing memoranda of understanding, understandings, or agreements, whether formal or informal, are hereby superseded and terminated in their entirety.
- b. **Existing Practices.**
- (1) **Cited in Agreement.** Existing practices and/or benefits provided by ordinance or resolution of MPAD's Board of Directors and which are referenced in this Agreement shall continue in accordance with the terms of this Agreement.
- (2) **Not Cited in Agreement.** Existing practices and/or benefits which are not referenced in this Agreement shall continue without change unless modified or abolished by mutual agreement of the parties.
- c. **Good Faith Intent.** It is the intent of the parties that ordinances, resolutions, rules and regulations enacted pursuant to this agreement be administered and observed in good faith.
- d. **Meet and Confer.** Although nothing in this agreement shall preclude the parties from mutually agreeing to "meet and confer" on any subject within the scope of this agreement, it is agreed that neither party may require the other party to "meet and confer" on any matter not covered herein or any other matter not within the scope of the representation.
27. **AUTHORIZED REPRESENTATIVES:** To administer the terms and provisions of the applicable ordinances, resolutions, rules and regulations for this agreement, the following shall apply:
- a. **MPAD Representatives.** MPAD's principal agent shall be MPAD's General Manager, or his designated representative.
- b. **Association.** The association's principal agent shall be the President of the Association, or his duly authorized representative.
28. **MANAGEMENT RIGHTS.** MPAD retains the following rights during the period of this agreement:
- a. **Staffing Level.** It is within the sole discretion of MPAD to determine the

staffing level of the Police Department.

b. **Reduction in Force (RIF).** MPAD reserves the right to institute reduction in force action (RIF) when necessitated by airline strikes, major reduction in service, critical economic conditions, or government legislation. MPAD agrees that before any reduction in force of police personnel is made, all other MPAD departments will be reviewed before a reasonably fair reduction in MPAD staff is made. MPAD agrees to make reasonable efforts to notify laid-off officers and employees of any openings in the police department. MPAD agrees that laid-off officers and employees that are returned to service for MPAD shall keep their same rank, pay step compensation, and status they had prior to being laid-off.

c. **Insurance.** Whereas MPAD shall maintain adequate medical/dental/optical insurance coverage for employees, MPAD reserves the right to consider medical/dental/optical insurance options and alternatives and to select the insurance programs deemed by MPAD to be the most appropriate.

d. **Meet and Confer.** All of the above MPAD rights will follow the "meet and confer" process.

29. **SALARY SCHEDULE.** The salary schedule set forth by the district for Police Officers shall be in full force and effect through and including June 30, 2016. Commencing July 1, 2016 the salary schedule shall be adjusted to reflect a three percent (3%) increase in compensation.

**Police Officer Part Time.** Police Officer step 1 hourly rate is less 10%. Part time officers are temporary employees and entitled to only the basic benefits required by state or federal law.

**Special Assignment Pay.**

Employees providing Field Training and designated as a Field Training Officer (FTO) by the Police Chief, or his/her designee, shall be entitled to a two and one-half percent (2.5%) increase in their base hourly rate for all hours actually worked as an FTO.

**Night Differential Pay.** All full-time employees working between the hours of 10:00pm and 6:00am shall receive an additional two and one-half percent (2.5%) above their hourly rate of pay for hours actually worked during the defined time period.

30. **PRIOR AGREEMENT SUPERSEDED.** The agreement between MPAD and the Association for the period July 1, 2010 – December 31, 2011 is hereby superseded.

IN WITNESS WHEREOF, the parties have caused this contract to be signed this \_\_\_\_ day of February, 2015.

Monterey Peninsula Airport District

Monterey Peninsula Airport District  
Police Officers Association

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Tonja Posey  
Human Resources/Risk Manager

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Damon Hickerson  
President, POA

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David A. Prentice, Partner  
PRENTICE, LONG & EPPERSON, LLP

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Thomas E. Greer, AAE  
General Manager

**AGENDA ITEM: G-9**  
**DATE: February 11, 2015**

**TO:** Monterey Peninsula Airport District Board of Directors  
**FROM:** Thomas E. Greer, General Manager  
**SUBJ:** Lease Extension for Rio Restaurants Corporation (Tarpy's)

**BACKGROUND AND STAFF ANALYSIS.** Rio Restaurants Corporation, which operates Tarpy's Roadhouse Restaurant ("Tarpy's) has requested a lease extension to allow it to obtain financing to remodel the kitchen facilities on the premises. The Tarpy's leasehold has been in effect for many years. It currently has one 5-yr option remaining to be exercised (at the appropriate time). This single option does not provide sufficient time for Tarpy's to obtain financing which will allow it to remodel the kitchen.

In October, 2013, the Board approved a lease modification to reduce the impact of the RSA on Tarpy's operations, as well as to install a new roof on the structures which are owned by the District. If approved, this lease amendment would provide two additional 5-year options to the tenant. Tarpy's lease expires on April 30, 2016; however, the existing unexecuted option (when exercised) will extend the lease until April 30, 2021. These two additional 5-year options will allow the lease to be extended until April 30, 2031, and will allow tenant to borrow and invest up to \$450,000 in modern kitchen equipment and upgrades.

The lease will have an effective term of sixteen years and two months from today's action.

**IMPACT ON OPERATIONS.** None

**IMPACT ON OPERATING REVENUE.** Continue lease payments received for an additional ten years.

**OPERATING BUDGET IMPACT.** None

**CAPITAL BUDGET IMPACT.** None

**RECOMMENDATION.** Staff's recommendation is that the Board approves the amended lease, as presented.

**ATTACHMENTS:** Request for Extension from Tarpy's  
Proposed Lease Amendment  
Lease

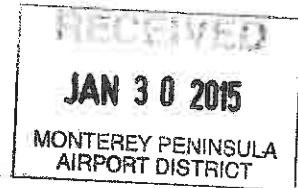


# TARPY'S ROADHOUSE

2999 Monterey Salinas Hwy, Monterey, CA 93940

Tel: 831-647-1444, Fax: 831-647-1103, Web: <http://tarpys.com>

Tony Tollner  
2999 Monterey Salinas Hwy #1  
Monterey CA 93940  
January 30, 2015



Mr. Tom Greer  
Monterey Peninsula Airport District  
200 Fred Cane Dr. Suite 200  
Monterey, CA 93940

Dear Mr. Greer:

With reference to the lease between the Monterey Airport and Rio Restaurants Corporation, we currently have one 5 year option beginning May 1, 2016. We respectfully request two additional 5 year options that would begin on May 1, 2021 and May 1, 2026.

Sincerely,

Tony Tollner

**AMENDMENT TO LAND LEASE AGREEMENT  
BETWEEN THE MONTEREY PENINSULA AIRPORT DISTRICT AND  
RIO RESTAURANTS CORPORATION**

This Amendment ("Amendment") dated February 11, 2015, is to the Land Lease Agreement between the Monterey Peninsula Airport District ("Lessor") and Rio Restaurants Corporation ("Lessee").

In consideration of the terms and conditions herein, and to enhance the condition of the Leased Property, the Lessor and the Lessee agree that the Land Lease Agreement shall be amended as follows:

1. Lessee shall be granted two additional 5-year options, which shall commence on May 1, 2021, and May 1, 2026, respectively.
2. The first sentence of section 8.3(a) is revised as follows: "The option to extend the lease term is subject to negotiation of rent to apply during the first year of each of the option terms."
3. Within 180 days of the execution of this Amendment, Lessee shall make improvements to the kitchen and/or other portions of the Premises in an amount of not less than \$450,000. Lessee shall provide to Lessor proof acceptable to Lessor which shall demonstrate Lessee's compliance with this provision.
4. Conflicts between the Agreement and this Amendment shall be controlled by this Amendment. All other provisions within the Land Lease Agreement shall remain in full force and effect

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed on the date first written above.

**MONTEREY PENINSULA  
AIRPORT DISTRICT**

**RIO RESTAURANTS CORPORATION**

By: \_\_\_\_\_

William Sabo, Chair

By: \_\_\_\_\_

Tony Tollner  
Its: Secretary

APPROVED AS TO FORM:

ATTEST:

By: \_\_\_\_\_  
Scott E. Huber, District Counsel

By: \_\_\_\_\_  
Tonja Posey, District Secretary

## LAND LEASE AGREEMENT

**1.0 Preamble.** This Land Lease Agreement ("Lease") is made effective September 11, 2013 by and between the Monterey Peninsula Airport District, a special district of the State of California ("Lessor") and Rio Restaurants Corporation, a California corporation ("Lessee") with reference to the following facts and objectives:

### **2.0 Recitals.**

**A.** Lessor is the owner of certain real property located adjacent to the Monterey Peninsula Airport, comprised of approximately 3.07 acres of land on which buildings are situated along with other improvements, all of which is more particularly described in Exhibit A attached hereto (the "Premises").

**B.** Lessee has occupied the Premises pursuant to a Land Lease Agreement which expired August 31, 1999 and which was followed by four amendments to said Land Lease Agreement, each of which extended the term of the lease agreement.

**C.** Lessor and Lessee now desire to enter into a new lease to enable continued occupancy of the Premises by Lessee and to replace the prior Land Lease Agreement and each of the amendments thereto.

**NOW THEREFORE** the parties agree as follows:

**3.0 Lease.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Premises subject to each and all of the terms, covenants and conditions set forth in this Lease.

### **4.0 Construction.**

**4.1 Federally Mandated Removal of Residential Premises.** Lessee acknowledges that the Premises contains a residential property which Lessee previously rented to a third party. Lessee further acknowledges that federally mandated work performed at and near the Premises will remove Lessee's ability to rent said residential property and will require the demolition of said residential property by Lessor. Compensation to Lessee for the loss of this portion of the Premises is addressed below at section 8.1.1.

**4.2 Partial Destruction of Landscaping and Miscellaneous Nuisances.** Lessee acknowledges that the federally mandated work at and near the Premises may cause partial destruction of the Premises' landscaping, dust, debris, noise, and other nuisances. Lessee further acknowledges that Lessee has been fully compensated for all such items as described in section 8.1.2, that no further compensation is or will be due to Lessee, and that this Lease fully and fairly mitigates all of Lessee's current, future, and potential losses due the federally mandated work, whether now known or unknown.

**4.3 Roof Replacement and Repairs.** Lessor acknowledges that the roof and rain gutters of the building on the Premises need replacement. Lessee shall replace, or cause the roof and gutters to be replaced, at Lessor's sole cost and expense prior to December 31, 2013. Lessee shall be solely responsible for the timing and work of the roof replacement, including compliance with all engineering, labor, and governmental approval required for the roof replacement. Lessor shall have no obligation to pay for any amount for said roof and rain gutter replacement unless Lessee first seeks and receives approval from Lessor for the design, materials, and construction plans prior to commencement of the work. Absent such prior consent and approval, Lessee shall be solely responsible for all costs incurred to remove and/or replace



said roof and rain gutters.

**5.0 Use.** The authorized uses of the Premises are:

**5.1** Restaurant, wedding chapel and related activities

**5.2** Storage, office and dwelling use

**5.3** Retail sales and related activities

**5.4** Professional office space and related uses

**5.5** Other uses are subject to consent in writing by Lessor, which consent shall not be unreasonably withheld.

**6.0 Term.** The initial term of this Lease shall commence on the date it is fully executed and returned by Lessee to Lessor and shall terminate on April 30, 2016. Subject to the faithful performance of all of the terms and conditions of this Lease, Lessor grants to Lessee the option of extending this Lease for one additional five (5) year period, to begin May 1, 2016.

**7.0 [INTENTIONALLY OMITTED]**

**8.0 Rent and Charges.**

**8.1 Base Rent.** Lessee shall pay Lessor without reduction, abatement, deduction, offset or any prior demand therefor in advance of the first day of each calendar month of the term hereof, rent in the amount of \$18,711.00, subject to adjustment as provided in sections 8.2 and 8.3:

**8.1.1 Reduction in Base Rent for Loss of Residential Property.** Lessee acknowledges that Lessee has been fully compensated for the loss of the residential property (discussed above at section 4.1) from the Premises by a reduction in Lessee's Base Rent in the amount of \$1,600.00 per month. The amount listed in section 8.1 reflects the rent reduction, and that amount should not be further adjusted based on this subsection 8.1.1.

**8.1.2 Credit for Loss of Residential Property.** Lessee acknowledges that Lessee has been fully compensated for *past* loss of rent from the residential property by a credit toward Lessee's Base Rent in the amount of \$36,800.00, as of October 1, 2013, which Lessor hereby grants and acknowledges. Said credit shall be a deduction from the amount of Base Rent Lessee owes under this Lease, and shall not be a payment from Lessor to Lessee. Said credit shall not accrue interest or charges in the amount of said credit, and Lessor may, in its sole discretion, apply the credit to amounts owed by Lessee under this Lease, with all remainders due and owing by Lessee.

**8.2 Annual Adjustment.** The monthly rent and other charges to be adjusted (collectively, "Rent") shall be adjusted, effective July 1, 2013 and effective July 1st of each year thereafter during the term, including any extension thereof, ("Adjustment Date") as follows: The base for computing the adjustment is the Consumer Price Index for All Urban Consumers, San Francisco - Oakland - San Jose Metropolitan Area published by the United States Department of Labor, Bureau of Labor Statistics ("Index") which is published for the month of April 2013 ("Beginning Index"). The monthly Rent for each year beginning on an Adjustment Date shall be set by multiplying the applicable monthly Rent set forth in the Lease by a fraction, the numerator

of which is the Index published for the month of April of the year of adjustment and the denominator of which is the Beginning Index. Lessor may round the resulting figure up to the nearest five dollar (\$5) increment. In no case shall the monthly Rent be less than that established for the preceding year. In no case shall the monthly Rent be more than four percent (4%) above the monthly Rent established for the preceding year. On adjustment of the monthly Rent, Lessor shall notify Lessee of the new monthly Rent. Lessor's failure to promptly notify Lessee of a change in Rent shall not be considered a waiver of Lessor's rights to adjust the Rent due, nor shall it effect Lessee's obligations to pay any increased rent. If the Index is changed so that the base year differs from that used as of the date immediately preceding the Commencement Date the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term hereof such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

### 8.3 Rent Renegotiation.

(a) The option to extend the lease term is subject to negotiation of rent to apply during the first year of the option term. Either party may give notice of intent to renegotiate rent no earlier than one hundred eighty (180) days and no later than sixty (60) days prior to the end of the then current term. Within ten (10) days of the date such notice is given, the parties shall exercise their reasonable efforts to mutually agree on the fair rental value of the Premises. Any agreed upon rate of rent shall be effective as of the commencement of the option term. Rent for the second and all subsequent years during each option term shall be adjusted in the manner set forth in section 8.2 of this Lease except that the rent to be adjusted shall be that which applied during the initial year of the respective option term and the Beginning Index shall be the Index which is published for the month of April preceding commencement of the respective option term.

(b) If Lessor and Lessee are unable to agree on the amount of rent to apply during the first year of the option term then the rent shall be the then current fair market rent for the Premises, provided however that the rent shall not be less than that which applied during the immediately preceding year. In the event of a dispute between the parties as to what constitutes fair market rent for the Premises, the dispute shall be settled in arbitration. Any rate of rent established through arbitration shall be effective as of the commencement of the option term. The party seeking arbitration (the "Requesting Party") shall serve the other party (the "Responding Party") with a written notice setting forth the name, address, telephone number and qualifications of the arbitrator selected by the Requesting Party. The Responding Party shall have the right to name an additional arbitrator within fifteen (15) days from the date of service of the initial request by serving a written notice setting forth the name, address, telephone number and qualifications of the arbitrator selected by the Responding Party. Any such notices shall be personally delivered or mailed and shall be deemed served immediately in the case of personal service, or twenty-four (24) hours after the time of mailing in the case of service by mail. If the Responding Party does not timely name an additional arbitrator, then the dispute shall be resolved by the first arbitrator appointed whose decision shall be binding on the parties and the parties share equally in the payment of said arbitrator's fee. If two arbitrators are timely named then they shall within fifteen (15) days after the naming of the second arbitrator appoint a third arbitrator. The decision of two of the three arbitrators shall be binding on the parties. Each party shall bear the fees of its appointee and shall share equally the fees of the third arbitrator. The arbitrator(s) shall be instructed by both Lessor and Lessee that the arbitration is to be conducted, completed and a written decision rendered and delivered to each of the parties all within sixty (60) days of the date of appointment of the sole arbitrator if there be one, or the third arbitrator if there be three. If the sole arbitrator if there be one, or at least two of the arbitrators if there be three, cannot render a decision within said time frame, effective as of the commencement of the

option term the rate of rent shall, temporarily, be set at one hundred five percent (105%) of the amount which would have been the rent if the rent had been adjusted in the manner set forth in section 8.2 of this Lease. Lessee shall within ten (10) days of the temporary rate of rent being triggered pay to Lessor any difference between the rent which was actually paid since the commencement of the option term and the temporary rate of rent set forth above for the period from commencement of the option term until the date when the next installment of rent is due. The temporary rate of rent shall continue until such time as the arbitrator(s) deliver(s) the written decision to the parties, at which time the rate of rent shall be established at the amount set forth in the decision of the arbitrator(s). If the rate of rent established by the arbitrator(s) exceeds the temporary rate of rent, then Lessee shall within ten (10) days following delivery of the decision of the arbitrator(s) pay to Lessor the difference between the rent actually paid and the rent established by the arbitrator(s) for the period from commencement of the option term through the date when the next installment of rent becomes due. If the temporary rate of rent exceeds the rate of rent established by the arbitrator(s) then Lessor shall within ten (10) days following delivery of the decision of the arbitrator(s) credit to Lessee's account the difference between the rent actually received and the rent established by the arbitrator(s) for the period from the commencement of the option term. Time is of the essence of this provision and a material term of this Lease. In order to be qualified to serve as an arbitrator hereunder the arbitrator must be a licensed real estate broker in good standing within the State of California having no less than ten (10) years of experience dealing in commercial real estate in the Monterey Peninsula region. The third arbitrator, if any, must also not have represented either of the parties in any real estate dealings within the past ten (10) years.

**8.4 Additional Rent.** In addition to the monthly rent payable under section 8.1 of this Lease, Lessee shall pay Lessor without reduction, abatement, deduction, offset or any prior demand therefore in advance of the first day of each calendar month, additional rent in the sum of \$845.00. Such additional rent shall continue each month through and including the month of September 2014. The additional rent shall not be subject to annual adjustment, nor shall the additional rent be considered in any renegotiation of fair market rent.

**8.5 Utilities.** Lessee shall pay all charges for all electricity, gas, water, sewer, trash disposal and other utility services which may be used or consumed on or for the Premises. Lessee shall have the right at its sole cost and expense to provide additional utility service to the Premises or upgrade existing utilities as may reasonably be required by Lessee subject to Lessor's prior written approval of plans and specifications therefor, which approval shall not unreasonably be withheld.

**8.5.1** Lessee may during the term of the Lease use the well on the Premises. Lessor shall retain the right to use the well, provided that Lessor shall not exclude Lessee from use of the well. Any use of the ground water under the Premises by Lessee shall be for use on the Premises only.

**8.6 Late Payments and Charges.**

**8.6.1 Interest.** If Lessee shall fail to pay, when the same is due and payable, any rent, amounts or charges payable hereunder, such unpaid amount shall bear interest from the due date to the date of payment at the rate of one percent (1%) per month up to the maximum rate allowed by applicable usury law. Notwithstanding the foregoing, interest will not be charged on payments of such rent, amounts or charges received by Lessor prior to 5:00 p.m. on the 20th day of the month when due.

**8.6.2 Late Charge.** Lessee acknowledges that late payment by Lessee to Lessor of rent or other charges payable hereunder will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which are extremely difficult and impracticable to fix. Such costs

include, without limitation, processing and accounting charges, late charges which may be imposed on Lessor and additional property management expenses. Therefore, if any installment of rent or other charges payable hereunder due from Lessee is not received by Lessor prior to 5:00 p.m. on the 20th day of the month when due, Lessee shall pay to Lessor as a late charge an additional sum of five percent (5%) of the amount of rent which is due but unpaid. The parties agree that this late charge represents a fair and reasonable estimate of the costs that Lessor will incur by reason of late payment by Lessee. Acceptance of any late charge shall not constitute a waiver of Lessee's default with respect to the overdue amount, or prevent Lessor from exercising any of the other rights and remedies available to Lessor.

**8.7 Security Deposit.** On execution of this Lease, Lessee shall deposit with Lessor, or provide a surety bond, certificate of deposit or a letter of credit meeting the reasonable satisfaction of Lessor, as security for the faithful performance of the terms, covenants and conditions of this Lease, a sum equivalent to one (1) month base rent. Upon adjustment of rent, Lessee shall increase the amount of the security deposit so as to maintain at all times a sum on deposit equivalent to one (1) month then current rent. If Lessee is in default, Lessor may use the security deposit provided or any portion of it, to cure the default or to compensate Lessor for any damages or loss sustained by Lessor resulting from Lessee's default. Lessee shall immediately on demand pay to Lessor a sum equal to the portion of the security deposit expended or applied by Lessor as provided in this paragraph so as to maintain the security deposit in the amount required by this section. Upon final accounting by Lessor, any balance shall be refunded to Lessee without interest.

#### **9.0 Use Conditions and Reservations.**

**9.1. Compliance with Rules, Regulations, Ordinance, Codes and Laws.** Lessee shall at Lessee's sole cost and expense at all times during the term of this Lease or any renewal or extension thereof comply with and observe all rules, regulations, ordinances, codes and laws which have been or may be promulgated by Lessor or by other jurisdictions that relate to the Premises and the use of the facilities of the Airport including all fire regulations, safety regulations, noise control regulations and security regulations. Such rules, regulations, ordinances, codes and laws are hereby made a part of this Lease and Lessee's failure to keep and observe the rules and regulations shall constitute a breach of the terms of this Lease in like manner as if the same were contained herein as covenants and conditions. Lessor reserves the right to amend or supplement the rules, regulations, ordinances, codes and laws and to adopt additional rules, regulations, ordinances, codes and laws applicable to the Premises, to Lessee's use of the Premises, and the use of the facilities of the Airport. Lessor shall have no obligation to Lessee as a result of the violation of any such rules by any other person. Lessee shall at all times obey the statutes, codes, ordinances, laws and regulations of the United States of America, the State of California, the County of Monterey and any other governmental entity having jurisdiction as the same may from time to time be amended during the term of this Lease.

**9.1.1 Airport Appropriated by Federal Government.** If the airport or any part thereof is appropriated by the Federal Government in a national emergency and, as a result thereof, LESSEE is prohibited by Federal law, rule or regulation from using or occupying the Premises, and LESSEE for such reason does not use or occupy the Premises and is not otherwise compensated for loss of use caused thereby, then, during the period in which all these conditions exist, LESSEE shall not be entitled to recover from LESSOR. Each and every provision, term and condition of this Lease shall remain in force and effect, unless by reason of the Federal Government's having appropriated the airport or any part thereof, LESSEE shall be physically or legally prevented from carrying out such provisions, terms and conditions; LESSEE's obligation in this regard shall be suspended only during the period of time LESSEE is prevented from carrying out such obligations by reason of such appropriation by the Federal Government. The term of this Lease shall not be extended because of the occurrence of the above conditions.

LESSEE's obligation to pay rent and any other monetary payments to LESSOR shall also be suspended during the period of time LESSEE is prevented from occupying the Premises by reason of such appropriation. In the event LESSEE is prevented from occupying the Premises as a result of such appropriation for a period of more than sixty (60) days, LESSEE shall have the right to terminate this Lease.

**9.1.2 Non-discrimination.** The LESSEE, in the operation and use of the lands and buildings at the Airport will not on the grounds of race, age, religion, color, sex, handicap, marital status or national origin discriminate or commence discrimination against any person, or group of persons, in any manner prohibited by Part 15 of the Federal Aviation Regulations. Non-compliance with the above assurances shall constitute a material breach and, in the event of such non-compliance, LESSOR may take appropriate action to enforce compliance, may terminate the Lease agreement to which this covenant relates, or seek judicial enforcement.

**9.1.3 Agreement with the United States.** This Lease shall be subordinate to the provisions of any existing or future agreement between LESSOR and the United States of America relative to the use, operation or maintenance of the Airport, the execution of which agreement had been or may now or hereafter be required as a condition precedent to the expenditure of Federal Funds for the development of the Airport; provided, that if, in the consequence of the subordination of this Lease to such agreement, LESSEE is required to give up any part or all of these leased premises or to alter, remove and/or relocate any part or all of its improvements, adjustment of rent shall be made by mutual agreement between LESSOR and LESSEE.

**9.1.4 Rights to Amend.** In the event the Federal Aviation Agency requires modifications or changes in this Lease as a condition precedent to the granting of funds for the improvement of the air terminal or lands and improvement covered by its laws, rules or regulations, LESSEE agrees to consent to such amendments, modifications or requirements of this Lease as may be reasonably required to obtain such funds; provided, however, that in no event will LESSEE be required, pursuant to this paragraph, to agree to an increase in the rent provided for hereunder or to a change in the use (provided it is an authorized use hereunder) to which LESSEE has put the Premises.

**9.1.5 Compliance with Federal Regulation.** LESSEE, for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained or otherwise operated on said property described in this Lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964.

**9.1.6 Compliance with Department of Transportation Regulations.** LESSEE, for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land, that: (1) no person on the grounds of race, age, religion, color, sex, handicap, marital status or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that, in the construction of any improvements on, over, or under such land and the furnishings of services thereon, no person on the grounds of race, age, religion, color, sex, handicap, marital status or national origin shall be excluded from participation in, denied benefits of, or otherwise be subject to discrimination, (3) that LESSEE shall use the Premises in compliance with all other requirements imposed by or

pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

**9.1.7 Breach of Non-discrimination Covenants.** In the event of breach of any of the above nondiscrimination covenants, LESSOR shall have the right to terminate the Lease and to render and repossess said land and the facilities thereon, and hold the same as if the Lease had never been made or issued. This provision does not become effective until the procedures of 49 CFR are followed and completed including expiration of appeal rights.

**9.1.8 Non-Discriminatory Prices.** LESSEE shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof, and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that LESSEE may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

**9.2 Other Use Restrictions.** Lessee shall not commit or suffer to be committed any waste upon the Premises or any public or private nuisance or any other act or thing which may disturb the quiet enjoyment of any other person or organization at the Airport. Lessee's method of lighting the Premises and its installation of all exterior light fixtures shall be subject to Lessor's prior approval, which shall not unreasonably be withheld. Lessee shall maintain access control to the Premises in conformance with Federal Airport Security regulations, the security plan of Lessor and other federal and Lessor directives and regulations that may be issued. All motor vehicles parked or operated upon the Premises by Lessee, its officers, employees, passengers, guests, patrons and invitees shall be parked or operated in accordance with Lessor's traffic and parking regulations, ordinances and other directives.

### **9.3 Reservations.**

**9.3.1** Lessor reserves the right to install, lay, construct, maintain, repair, and operate such sanitary sewers, drains, storm water sewers, pipelines, manholes, and connections; water, oil and gas pipelines; telephone, telegraph and electric power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across and along any and all portions of the leased premises. No right reserved by Lessor in this clause shall be so exercised as to interfere unreasonably with Lessee's operations hereunder or to impair the security of any secured creditor of Lessee authorized by this Agreement. Lessor agrees that rights granted to third parties by reason of this clause shall contain provisions that the surface of the Premises shall be restored as nearly as practicable to its original condition upon the completion of any construction.

**9.3.2** Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of the Lessee and without interference or hindrance. Lessor reserves the right, but shall not be obligated to the Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of the Lessee in this regard.

**9.3.3** This Lease is subordinate to the provisions and requirements of any existing or future Agreement between the Lessor and the United States, including but not limited to agreements with the Federal Aviation Administration, relative to the development, operation or maintenance of the Airport. Lessee agrees to conform its use with all applicable Federal Aviation Regulations and further agrees that nothing in this Lease shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308A of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1349a). Lessor reserves the right to take any

action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent LESSEE from erecting, or permitting to erect, any building or other structures on the Airport which, in the opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

#### **10.0 Maintenance of Premises.**

**10.1 As Is.** Lessee agrees to accept the Premises in an "as is" condition. Lessee acknowledges that it has inspected the Premises as thoroughly as Lessee desires. Lessee agrees that Lessor has made no warranties or representations of any kind respecting the conditions of the Premises or the condition of any improvements or utilities located thereon.

**10.2 Maintenance Costs.** Lessee at its sole cost and expense shall at all times maintain the Premises, including grounds, buildings, structures and improvements in a good state of repair and in a safe, clean, neat and sanitary condition. Lessee hereby waives the provisions of sections 1941 and 1942 of the Civil Code of the State of California and any statutes, laws or ordinances now or hereafter enacted permitting Lessee to make repairs at the expense of the Lessor or to terminate the Lease by reason of the condition of the Premises. In the event Lessee fails to make any repairs required to be made by Lessee in accordance with the terms of this section, after providing ten (10) days' written notice (unless for emergency) Lessor shall have the option but not the obligation to make such repairs at the expense of Lessee. Lessee shall pay as additional rent due hereunder upon demand all costs of Lessor for making such repairs. Lessor shall have no liability to Lessee for any damage, inconvenience or interference with the use of the Premises by Lessee as a result of the making of any repairs made by Lessor under this section and the rent shall not be abated by reason thereof.

**10.3 Masonry Walls.** Lessee acknowledges that Lessor believes the Property consists at least in part of unreinforced masonry walls. Lessee further acknowledges that Lessor retains the right, at Lessor's exclusive discretion, to add signage to the Property stating that it consists of unreinforced masonry walls. In the event any governmental agency acting with jurisdiction requires any reinforcement of unreinforced masonry wall on the Premises, Lessor shall be solely responsible for the cost of any such reinforcement. In the event that Lessor is unable to pay for the reinforcement, or if Lessor determines that is not financially feasible to undertake the reinforcement, Lessor shall have the right to cancel the lease without any further obligation to Lessee provided Lessor gives notice to Lessee of no less than 12 months of such cancellation, unless a shorter notice is required by another governmental agency acting with jurisdiction.

#### **11.0 Alterations and Improvements.**

**11.1 Alterations and Improvements in General.** Lessee shall not install, make, or suffer to be made, any alterations or improvements to the Premises or any part thereof without the prior written consent of Lessor which shall not unreasonably be withheld. All work performed by Lessee shall be performed in accordance with good construction practices, applicable governmental requirements, the requirements of any insurance policy providing coverage to the Premises and the general and special conditions, plans and specifications approved by Lessor. Lessee shall comply with all construction and labor regulations of Lessor and shall provide all bonds and insurance required by Lessor, including such proof of bonding and insurance coverage as Lessor may require. All alterations or improvements performed by Lessee shall be carried out by licensed contractors reasonably approved by Lessor and shall be carried out in accordance with all applicable laws and regulations. Lessee shall at Lessee's sole cost and expense obtain all necessary permits, licenses and authorizations in connection with the construction. Lessee's work shall be subject to the general inspection of Lessor. Lessee shall provide proof satisfactory to Lessor that Lessee's contractor will (a) provide warranties for not less than one year against defects in workmanship, materials, and equipment; (b) carry or cause

to be carried worker's compensation insurance covering all of the contractor's and its subcontractor's employees; and (c) carry public liability and property damage insurance which names Lessor as an insured and requires thirty (30) days prior written notice to Lessor before any change in or cancellation of coverage becomes effective. The policy or policies shall contain liability limits of not less than One Million Dollars (\$1,000,000) single limit coverage. Lessor shall have the right to post a notice of non-responsibility for liens arising out of any work performed, materials furnished and obligations incurred by Lessee. Lessee agrees to advise Lessor in writing at least ten (10) business days in advance of the date upon which alterations will be commenced in order to permit Lessor to post such a notice. Lessee shall keep the Premises free from any and all liens arising out of any work performed, materials furnished or obligations incurred by Lessee. Lessee shall indemnify, defend and hold Lessor harmless against any claim, demand, liability or expense on account of claims for work done or materials supplied for Lessee or person claiming under it.

**11.2 Exterior Awning.** Lessee has requested that Lessor permit the construction of an awning to extend from the Premises' fixed building and partially cover an exterior patio. Said awning shall be affixed to and extend from an exterior wall. Lessor agrees to reimburse Lessee an amount not to exceed \$20,000.00 for the purchase and installation of said awning. Lessor shall have no obligation to reimburse Lessee for any amount for said awning unless Lessee first seeks and receives approval from Lessor for the design, materials, and construction plans for said awning. Absent such prior consent and approval, Lessee shall be solely responsible for all costs incurred to remove and/or replace said awning. Even with the prior approval of Lessor, Lessee shall alone be responsible for all costs incurred to repair and/or replace said awning, even if such is necessary due to normal wear, tear, and exposure to the elements. Lessee shall alone be responsible for all costs to remove said awning in the event removal is necessary. Lessor, in its sole discretion, may require Lessee, at Lessee's sole expense, to remove, repair, and/or replace said awning when it becomes worn and/or unsightly. Failure of Lessee to comply in full with the provisions of this paragraph shall constitute a material breach of this Lease.

**12.0 Surrender of Premises.** Upon the expiration or earlier termination of this Lease, Lessee shall vacate and surrender the Premises and all improvements and alterations made thereto in good condition, reasonable use and wear excepted. If required by Lessor, Lessee shall remove prior to the date of termination at Lessee's expense, any or all of its trade fixtures, equipment, machinery, materials or other personal property which are not an integral part of the Premises and shall repair any damage to the Premises caused by such removal. This covenant shall survive the expiration or sooner termination of the term of this Lease. Lessee shall have the option to remove its movable furniture and trade fixtures prior to the expiration or sooner termination of the term of this Lease, provided that any damage to the Premises caused by such removal is repaired by Lessee. All improvements, additions to or alterations of the Premises with respect to which Lessee does not exercise its option to remove or Lessor does not require removal (each pursuant to this section) shall at the termination of the Lease remain attached to and become part of the Premises.

**13.0 Damage, Destruction or Condemnation.**

**13.1 Damage or Destruction.** If the Premises are damaged or destroyed during the term hereof, Lessor agrees to consult with Lessee on the advisability of repairing or rebuilding the Premises. In the event there is destruction or damage to the Premises, Lessee may either elect to repair or rebuild the Premises or may elect to terminate this Lease by giving notice of such election in writing to Lessor within sixty (60) days after the occurrence of the event causing the damage. If Lessee elects to terminate, all insurance proceeds received by either party as a result of the cost of repairing damage to the Premises shall belong to Lessor. If Lessee does not elect to terminate, this Lease shall continue and Lessee shall diligently complete the repair or rebuilding of the Premises. If Lessee elects to repair or rebuild, the damage shall be promptly repaired by



Lessee at Lessee's expense, provided that Lessee shall apply any insurance proceeds received as a result of such damage to the repair or replacement of the Premises. If damage to the Premises or repair or rebuilding of the Premises after such damage renders the Premises untenable in whole or in part and the damage is not due to the default or neglect of Lessee and Lessee elects to repair such damage pursuant to the provisions of this section, then a proportionate abatement of the rent shall be allowed from the ninetieth (90th) day following the date on which such damage occurs until the date Lessee completes repairs, but in no event for longer than an aggregate of one hundred eighty (180) days. Lessee hereby waives any rights it may have under the provisions of California Civil Code section 1932(2) and section 1933(4) or any successor statute thereto regarding repair and termination after destruction of part or all of the Premises.

**13.2 Total Taking.** If all the Premises are taken or condemned for a public or quasi-public use, this Lease shall terminate as of the date of condemnation and Lessee shall thereupon be released from any liability thereafter occurring hereunder.

**13.3 Partial Taking.** If any part of the Premises are taken or condemned for a public or quasi-public use and there is such a major change in the character of the property as to prevent Lessee from using the Premises in substantially the same manner as theretofore used then in such event Lessee may terminate this Lease as of the date of condemnation by giving written notice to Lessor within fifteen (15) days after the date of condemnation. If any part of the Premises are taken or condemned for a public or quasi-public use and Lessee does not have the power to terminate this Lease as hereinabove set forth, then this Lease shall continue in full force and effect except that as to the part so taken this Lease shall terminate as of the date of condemnation and the monthly rent payable hereunder shall be adjusted so that Lessee shall be required to pay for the remainder of the term only such portion of such rent as the value of the remaining part after condemnation bears to the value of the Premises at the date of condemnation. Each party hereby waives the provisions of California Code of Civil Procedure section 1265.130 or any similar statute allowing either party to petition the Superior Court to terminate this Lease in the event of a partial taking of the Premises.

#### **14.0 Default.**

**14.1 Event of Default.** Each of the following events shall be an event of default hereunder by Lessee and a breach of this Lease:

**14.1.1** The failure by Lessee to pay Lessor any rent or other charges due under this Lease as and when the same become due and payable if such nonpayment continues for a period of three (3) days after written notice thereof by Lessor to Lessee;

**14.1.2** The failure by Lessee to perform or observe any other agreements, terms, covenants or conditions hereof if such nonperformance or nonobservance continues for a period of ten (10) days after written notice thereof by Lessor to Lessee or such performance or observance cannot be had within such 10-day period then if Lessee has not in good faith commenced such performance within such 10-day period and does not diligently proceed therewith to completion;

**14.1.3** The filing by or against Lessee in any court pursuant to any statute of the United States or of any state of a petition in bankruptcy or insolvency or for reorganization or arrangement or for the appointment of a receiver or trustee of all or any portion of Lessee's property if within thirty (30) days after the commencement of any such proceedings against Lessee or after such assignment for the benefit of creditors such petition shall not have been dismissed or such assignment shall not have been revoked;

**14.1.4** The transfer of Lessee's interest in this Lease to any person, firm or corporation

whether voluntarily or by operation of law except in the manner expressly permitted in this Lease; or

**14.1.5 Vacating or abandoning the Premises by Lessee at any time during the term hereof for a period in excess of fourteen (14) consecutive days.**

**14.2 Lessor's Remedies.** Lessor shall have the following remedies in the event of default. The remedies are not exclusive—they are cumulative and in addition to any remedies now or later allowed by law. Lessor can continue this Lease in full force and effect. The Lease will continue in effect as long as Lessor does not terminate Lessee's right to possession and Lessor shall have the right to collect rent when due during the period Lessee is in default. Lessor can enter the Premises and relet them or any part of them to third parties for Lessee's account. No act by Lessor in reletting the Premises allowed by this section shall terminate this Lease unless Lessor notifies Lessee that Lessor elects to terminate this Lease. Lessor can terminate Lessee's right to possession of the Premises at any time upon giving notice to Lessee. No act by Lessor other than giving notice to Lessee shall terminate this Lease. In the event of Lessee's default and Lessor's re-entering of the Premises, Lessee agrees to pay Lessor as an additional item of damages the cost of repairs, alterations, redecorating, lease commissions and Lessor's other expenses incurred in reletting the Premises to a new tenant.

**14.3 Attorneys' Fees.** In the event of any action at law or in equity (or in the event of any arbitration required by the terms of this Lease) between Lessor and Lessee arising out of or concerning this Lease or any right or obligation derived therefrom, then in addition to all other relief at law or in equity, the prevailing party shall be entitled to recover from the unsuccessful party all attorneys' fees and costs incurred therein by the prevailing party.

#### **15.0 Indemnity and Insurance.**

**15.1 Waiver.** This Lease is made upon the express condition that Lessee hereby waives all claims against Lessor for damages to property or for injuries or death to any person or persons from any cause except to the extent of the negligence of Lessor or any of its agents, employees or servants arising at any time.

**15.2. Indemnity.** Each party hereby agrees to and shall indemnify, defend and hold the other harmless from and against any and all claims, demands, actions, damages, liability and expense in connection with or for loss of or damage to property or injury or death to any person from any cause whatsoever (except to the extent caused by any act or omission of the indemnified party, or any of its agents, employees or servants) while in, upon or about the Premises or any such claims, demand or the like arising from or out of any occurrence in, upon or at the Premises from or in connection with the occupancy or use of the Premises or any part thereof or from or in connection with the business conducted in the Premises or occasioned wholly or in part by any act or omission of the indemnifying party, its agents, contractors, employees, licensees or concessionaires (except to the extent caused by any act or omission of the indemnified party, or any of its agents, employees or servants).

**15.3 Insurance Coverage.** During the term of this Lease including any extension or renewal thereof, Lessee at its cost shall at all times maintain in full force and effect comprehensive public liability insurance and property damage insurance (each more particularly described below) upon the Premises.

**15.3.1 General Liability.** Comprehensive general liability insurance with a minimum of not less than One Million Dollars (\$1,000,000) combine single limit annual aggregate for bodily injury and property damage in connection with the use by Lessee, sublessees, invitees, agents, suppliers and employees on the Premises.

**15.3.2 Liquor Liability.** Lessee shall maintain liquor liability insurance in the amount of One Million Dollars to cover any injury as the result of the selling, serving or furnishing of alcoholic beverages on the Premises.

**15.3.3 Fire Insurance.** Lessee shall maintain fire insurance covering the Premises and all improvements, including protection against perils included within the classification standard fire and extended coverage together with insurance against vandalism and malicious mischief; in an amount sufficient to fully cover the replacement cost of all improvements.

**15.4 Other Insurance Requirements.** All policies shall name Lessor as an additional insured. Insurance shall be with a company or companies reasonably satisfactory to Lessor in the amounts of not less than that specified herein or in minimum amounts as may be subsequently adjusted by Lessor in the exercise of its reasonable business judgment and consistent with airport industry practice for similar kinds of activities. Lessee shall at all times during the term of this Lease, including any extension or renewal hereof, provide Lessor with a certificate from the insurance carrier or carriers insuring Lessor and Lessee as set forth herein. Insurance policies shall not be subject to cancellation except after notice to Lessor by registered mail at least thirty (30) days prior to such cancellation. Where policies have normal expirations during the term of this Lease or any extension thereof written evidence of renewal shall be furnished to Lessor thirty (30) days prior to such expiration.

**15.5 Waiver of Subrogation.** The parties release each other and their respective authorized representatives from any claims for damage to any person or to the Premises and to the fixtures, personal property, Lessee improvements and alterations by Lessor or Lessee in or on the Premises that are caused by or result from risks insured against under any insurance policy carried by either party and in force at the time of any such damage to the extent of the insurance proceeds received from such policy. Each party shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any policy. If the insurance cannot be obtained or the party in whose favor a waiver of subrogation is desired refuses to pay the additional premium charged the other party is relieved of the obligation to obtain a waiver of subrogation right with respect to the particular insurance involved.

**16.0 Hazardous Substances.** The provisions of this section 16, which govern Lessee's obligations with regard to hazardous substances, as defined below, shall survive termination of this Lease.

**16.1 Responsibility for and Definition of Hazardous Substances.** Lessee agrees to indemnify, defend, protect and hold Lessor free and harmless from and against any and all claims, liability, loss, damage, actions or causes of action, costs and expenses (including attorney's fees) arising from or in connection with the presence of any Hazardous Substances in, on or under the Premises except to the extent that Lessee can demonstrate by clear and convincing proof that such Hazardous Substances were present in, on or under the Premises prior to September 1, 1989 or migrated onto or under the Premises from other land after such date. Furthermore, Lessee shall, at Lessee's sole cost and expense, be responsible for the receiving, use, storage, handling, transportation, generation, spillage, migration, discharge, release, and disposition of all Hazardous Substances to the extent any such are used, stored, brought onto, located on or shipped from or within, the Premises in connection with Lessee's occupancy and use thereof, in accordance with all applicable rules, regulations, orders, ordinances, statutes, codes and laws. For purposes of this Lease, "Hazardous Substances" shall include but not be limited to flammable, combustible, explosive, corrosive, caustic, carcinogenic or radioactive matter, petroleum or petroleum related materials and/or substances defined as "hazardous substances", "hazardous materials", "hazardous waste" or "toxic substances" in any federal, state or local laws or regulations adopted or publications promulgated pursuant to said laws

(hereinafter collectively referred to as the "Laws"). Lessee shall, at Lessee's sole cost and expense, comply fully with all requirements of the Laws applicable to Lessee's use of the Premises and obligations contained herein.

**16.2 Cleanup of Hazardous Substances.** In the event of a release, leak, spill, or threatened or actual contamination or deterioration of the Premises or groundwater by a Hazardous Substance, whether the result of an act or omission of Lessee or its agents, employees, contractors, licensees, or invitees or any other third parties, Lessee shall, immediately notify Lessor and all appropriate health, safety and environmental regulatory agencies. Lessee hereby covenants and agrees to implement and complete, at its sole cost and expense, and to the satisfaction of Lessor, all investigation and remediation measures required by such agency or agencies. If Lessee fails to take such action Lessor may, but shall not be obligated to, take such action. In such event, all costs incurred by Lessor with respect to such cleanup activities shall be for the account of Lessee and Lessee shall promptly make reimbursement therefore. Lessee shall not take any remedial action in response to the presence of any Hazardous Substances in or about the Premises, nor enter into any settlement agreement, consent decree or other compromise in respect to any claims relating to any Hazardous Substances in any way connected with the Premises without first notifying the Lessor of Lessee's intention to do so and affording Lessor ample opportunity to appear, intervene or otherwise appropriately assess and protect its interest with respect thereto.

**16.3 Hazardous Substances from Subtenants or Assignees.** Lessee shall bear responsibility for the presence of any Hazardous Substances as a result of subtenant's or assignee's activities, whether before, during or after construction, in or around any part of the Premises or the soil, groundwater or soil vapor on or under the Premises. Upon demand by Lessor, Lessee shall defend any investigation, action or proceeding alleging the presence of any Hazardous Substances in any such location, which affects the Premises or which is brought or commenced against Lessor, whether alone or together with Lessee or any other person, all at Lessee's own cost and by counsel to be approved by Lessor in the exercise of its reasonable judgment. In the alternative, Lessor may elect to conduct its own defense at the expense of Lessee.

**16.4 Compliance Regarding Hazardous Substances.** Lessee shall comply and cause all occupants of the Premises to comply, with all statutes, codes, regulations, rules, ordinances, orders and other laws governing or applicable to Hazardous Substances as well as the recommendations of any qualified environmental engineer or other expert which apply or pertain to the Premises, Lessee's use of the Premises or of the facilities of the Airport. Lessee acknowledges that the presence of Hazardous Substances may permanently and materially impair the value and use of the Premises.

**16.5 Notice Regarding Hazardous Substances.** Lessee shall promptly notify Lessor if Lessee knows, suspects or believes that there may be any Hazardous Substances in or around the Premises, or in the soil, groundwater or soil vapor on or under the Premises, or that Lessee or the Premises may be subject to any threatened or pending investigation by any governmental agency under any statute, code, regulation, rule, ordinance, order or other law pertaining to any Hazardous Substances.

**16.6 Site Visits, Observations, and Testing.** Lessor and its agents and representatives shall have the right at any reasonable time to enter and visit the Premises to make observations of the Premises, take and remove soil or groundwater samples, and conduct tests. Lessor is under no duty, however, to visit or observe the Premises or to conduct tests. No site visit, observation or testing by Lessor shall result in a waiver of any default of Lessee or impose any liability on Lessor. In no event shall any site visit, observation or testing by Lessor be a representation that Hazardous Substances are or are not present in, on or under the Premises or that there has been

compliance with any statute, code, regulation, rule, ordinance, order or other law pertaining to Hazardous Substances. Neither Lessee nor any other party is entitled to rely on any site visit, observation or testing by Lessor. Lessor shall not be obligated to disclose to Lessee or any other party any report or finding made as a result, or in connection with, any site visit, observation or testing by Lessor. In each instance, Lessor shall give Lessee reasonable notice before entering the Premises. Lessor shall make reasonable efforts to avoid interfering with Lessee's use of the Premises in exercising any right provided in this Section.

**16.7 Business Response Plan.** Lessee must prepare and maintain to the satisfaction of the Airport Fire Marshall a "Business Response Plan" in accordance with Section 25500 et seq. of the Health and Safety Code. Said plan must be kept current and on file in the Airport Fire Marshall's office.

**17.0 Assignment and Subletting.**

**17.1 Sublease.** Sublease of rental space, subject to compliance with applicable provisions of the Lease, is authorized.

**17.2 Assignment of Lease.** Without Lessor's prior written consent, Lessee shall not assign, hypothecate, or encumber this Lease, or any interest in this Lease. Lessor's acceptance of any rent or any other payment in the nature of rent from any assignee shall not constitute Lessor's consent to such assignment, a waiver of any provision of this Lease, nor any release of Lessee from the full performance of all Lessee's obligations under this Lease.

**17.3 Request for Consent to Assign.** Should Lessee request Lessor's consent to an assignment of this Lease, Lessee shall submit in writing to Lessor the following: (a) the name and address of the proposed assignee; (b) the terms and conditions of the proposed assignment; (c) the nature and character of the business of the proposed assignee; and (d) banking, financial and other credit information relating to the proposed assignee reasonably sufficient to enable Lessor to determine the proposed assignee's financial responsibility.

**17.4 Payment of Expenses.** Lessee shall pay to Lessor, on demand, all costs incurred by Lessor in connection with extraordinary requirements for reviewing any request for assignment of this Lease, including Lessor's attorney fees.

**17.5 Lessor's Rights With Respect to Assignments.** Lessor shall not unreasonably withhold its consent to the request by Lessee for assignment. Lessee agrees that the consent of Lessor shall not be considered unreasonably withheld by reason of the fact that Lessor requires as a condition of any assignment that the rent be adjusted to the then fair rental value. Such fair rental value shall be determined in the manner set forth in section 6.4 of this Lease. Lessee further agrees that the consent of Lessor shall not be deemed or considered unreasonably withheld if Lessor refuses to consent to an assignment to any person, firm or corporation the operations of which will, in the reasonable business judgment of Lessor, adversely affect the image, tenant mix, or other valuable aspect of Lessor's property or result in excessive noise, traffic or interference with Lessor's operations.

**17.6 Change of Ownership.** Lessee represents that it is a corporation organized and existing under and by virtue of the laws of the State of California and that its majority stockholders are Tony Tollner and the Cox Children's Trust. It is a condition of this Lease that the majority ownership of the shares of stocks with voting privileges shall not be transferred by said principal stockholders without the consent of Lessor in writing first had and obtained, which consent shall not be unreasonably withheld. In the event of any such transfer or change of ownership without such consent of Lessor, Lessor at its option may terminate this Lease. Notwithstanding any other provision of this Lease, said majority stockholders may transfer all or

any portion of their shares in Lessee to any revocable trust created for the benefit of that stockholder that stockholder's spouse or that stockholder's issue.

**18.0 Miscellaneous.**

**18.1 Notices.** Wherever notice is required by the terms of this Lease, notice shall be deemed complete upon personal service of written notice upon the party or parties to whom such notice is given or such notice may be given by prepaid U.S. first-class mail addressed to Lessor at 200 Fred Kane Drive, Suite #200, Monterey, California, 93940 or addressed to Lessee at 2999 Monterey-Salinas Highway, Suite 1, Monterey, California 93940 and such notice shall be deemed complete two (2) days after deposit in the United States mail within the State of California.

**18.2 Possessory Interest Tax.** In the event a possessory interest tax is levied by the appropriate taxing authority of the County of Monterey or the State of California, it is understood that Lessee shall be solely responsible for the payment of such tax.

**18.3 Non-Discrimination.** The Standard Nondiscrimination and Airport Development Provisions For Leases attached hereto as Exhibit "B" are incorporated herein by this reference. Lessee's failure to abide by the requirements set forth therein shall constitute a breach of the terms of this Lease in like manner as if the same were contained herein as covenants and conditions.

**18.4 Time.** Time is of the essence of this Lease and of each and every one of the provisions herein contained.

**18.5 Entire Agreement.** This Lease sets forth all the covenants, agreements and conditions between Lessor and Lessee concerning the Premises and there are no other covenants, promises, agreements, conditions or understandings either oral or written between them. No subsequent alteration, amendment, change or addition to the Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by each of them.

**18.6 Captions.** The headings and titles to the paragraphs of this Lease are not part of this Lease and shall have no effect on the construction or interpretation of any part of this Lease.

**18.7 Applicable Law.** The laws of the State of California shall govern the validity, performance and enforcement of this Lease.

**18.8 Partial Invalidity.** If any term, covenant or condition of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each term, covenant and condition shall be valid and enforced to the fullest extent permitted by law.

**18.9 Tense, Number and Gender.** Each number, tense and gender used in this Lease shall include any other tense, number or gender where the context and the parties hereto or the context and references therein shall require.

**18.10 Negotiated Agreement.** It is acknowledged, agreed and understood by the parties that this Lease and its wording have been arrived at through a process of negotiation between the parties in which each party participated to the fullest extent desired by that party and that neither party is to be deemed the party who prepared this Lease or the party who caused any uncertainty to exist within the meaning of California Civil Code Section 1654.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the dates below indicated.

**LESSOR:  
MONTEREY PENINSULA AIRPORT  
DISTRICT**

Dated:

By:



Matt Nelson

ATTEST:



District Secretary

**LESSEE:  
RIO RESTAURANTS CORPORATION**

Dated:

10/17/13

By:



Tony Tollner  
Its: President

Dated:

By:

Its:

**EXHIBIT "A"**  
**DESCRIPTION OF PREMISES**

Certain real property situate in the City of Del Rey Oaks, Monterey County, California, particularly described as follows:

BEGINNING at the southwest corner of Parcel 3, as said parcel is shown on that certain map entitled "Parcel Map, a Division of Parcel "B", "C" and "D" per Parcel Map Filed in Volume 11 of Parcel Maps at Page 87, Monterey County Records", filed in Volume 21, of Parcel Maps at Page 10, records of Monterey County, California and running thence

(1) N. 10° 59' W., 486.77 feet; thence

(2) N. 35° 46' W., 93.27 feet; thence

(3) S. 64° 00' 04" W., 215.82 feet to a point on the Monterey Peninsula Airport District property boundary, thence

(4) S. 19° 54' E., 45.54 feet; thence

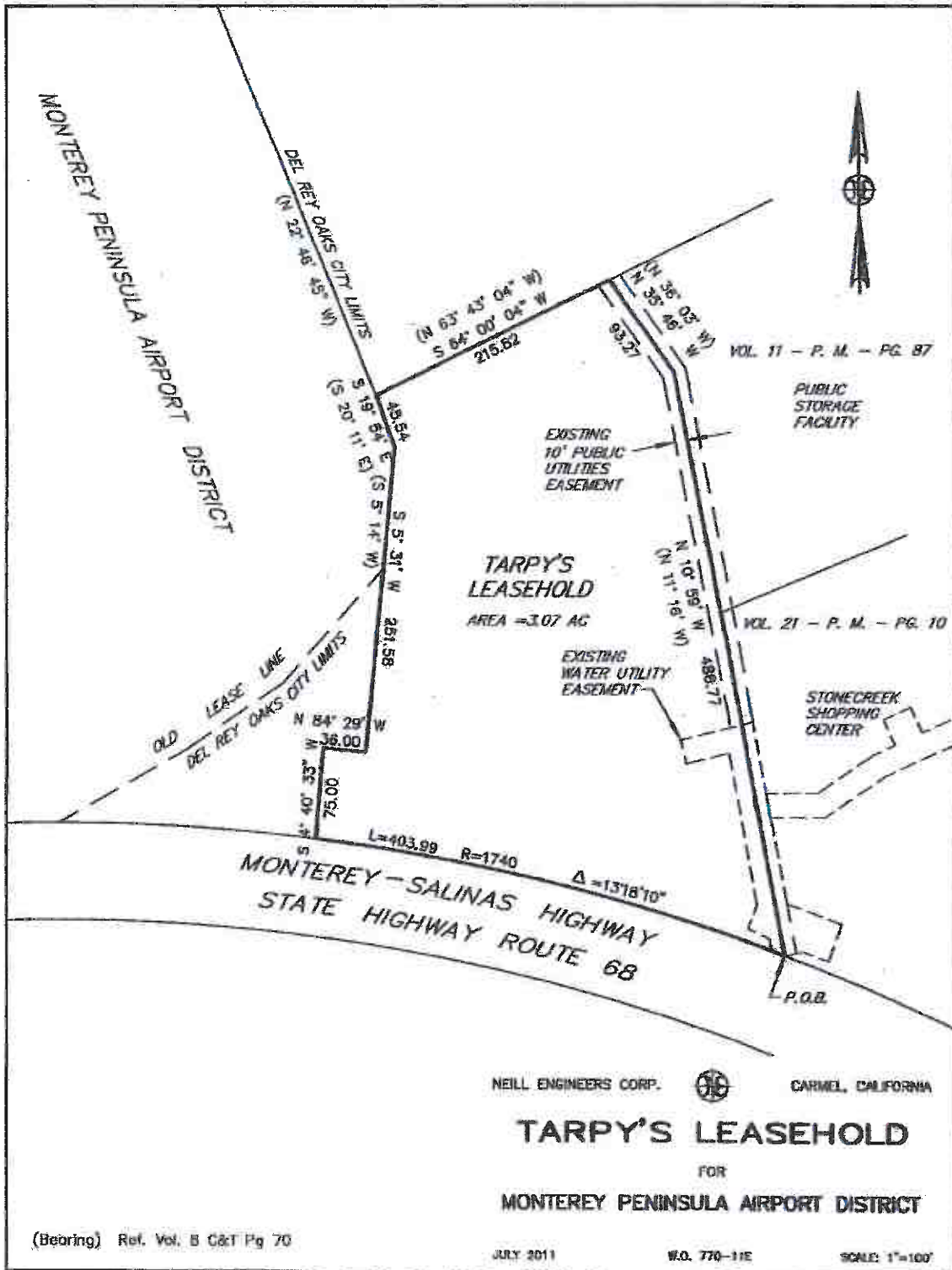
(5) S. 5° 31' W., 251.58 feet; thence

(6) N. 84° 29' W., 36.00 feet; thence

(7) S. 4° 40' 33" W., 75.00 feet; to a point on the northerly line of State Highway Route 68; and running thence along said northerly line of State Highway Route 68

(8) 403.99 feet along the arc of a circular curve to the right having a radius of 1740 feet through a central angle of 13° 18' 10" to the POINT OF BEGINNING.





## EXHIBIT "B"

### STANDARD NONDISCRIMINATION AND AIRPORT DEVELOPMENT PROVISIONS FOR LEASES

1. Lessee for himself/herself/itself and all heirs, personal representatives, successors in interest, and assigns, as a part of the consideration for the Lease to which these Standard Nondiscrimination And Airport Development Provisions For Leases are attached or made a part (hereinafter, the "Lease"), does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in the Lease (the "Premises") for a purpose for which a United States Department of Transportation ("DOT") program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
2. Lessee for himself/herself/itself and all personal representatives, successors in interest, and assigns, as a part of the consideration for the Lease, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, and (3) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
3. Lessee for himself/herself/itself and all personal representatives, successors in interest, and assigns, as a part of the consideration for the Lease, does hereby covenant and agree as a covenant running with the land that in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate the Lease and to reenter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.
4. Lessee shall furnish all accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.
5. Non-compliance with Provision 4 above shall constitute a material breach of the Lease and in the event of such noncompliance Lessor shall have the right to terminate the Lease and the estate thereby created without liability therefore or at the election of

Lessor or the United States either or both said governments shall have the right to judicially enforce these provisions.

6. Lessee agrees that Lessee shall insert the above five provisions in any sublease, lease agreement or other contract by which Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises.
7. Lessee assures that Lessee will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that Lessee will require that Lessee's covered suborganizations provide assurances to Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR 152, Subpart E, to the same effect.
8. Lessor reserves the right to further develop or improve the landing area of the Monterey Peninsula Airport (the "Airport") as Lessor sees fit, regardless of the desires or view of Lessee and without interference or hindrance.
9. Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.
10. The Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States, relative to the development, operation or maintenance of the Airport.
11. There is hereby reserved to Lessor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation of the Airport.
12. Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.
13. Lessee by accepting the Lease expressly agrees for himself/herself/itself and all successors and assigns that Lessee will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Premises above the mean sea level elevation \_\_\_\_\_<sup>1</sup> feet. In the event the aforesaid covenants are breached, Lessor reserves the right to enter upon the Premises and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Lessee.
14. Lessee by accepting the Lease expressly agrees for himself/herself/itself and all successors and assigns that Lessee will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft from the Monterey

Peninsula Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, Lessor reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of Lessee.

15. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).
16. The Lease and all the provisions thereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

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<sup>1</sup> In accordance with Federal Aviation regulations.

**AGENDA ITEM: G. 10.**

**DATE:** Feb. 11, 2015

**TO:** Monterey Peninsula Airport District Board of Directors  
**FROM:** Scott E. Huber, District Counsel  
**SUBJ:** Continued Discussion Regarding Appointment to Community Affairs Ad Hoc Committee by Chair, Disclosure of Discussion Following Adjournment of Board Meeting, and Discussion of Rules of Procedure Applicable to Committees

**BACKGROUND AND STAFF ANALYSIS.** The Board of Directors will hear and participate in a discussion regarding the appointment of Directors to the Community Affairs Ad Hoc Committee, disclosure of a discussion following adjournment of the January 14, 2015 Board Meeting, and a discussion regarding the rules of procedure which are applicable to standing and ad-hoc committees.

**ATTACHMENTS:** None

**AGENDA ITEM: H**

**DATE: February 11, 2015**

**TO:** Monterey Peninsula Airport District Board of Directors

**FROM:** Thomas E. Greer, General Manager

**DATE:** February 2, 2015

**SUBJ:** Monthly Report

1. I attended the AAAE Legislative Issues Conference and AAAE Board /Policy Review Committee meeting on the Big Island, Hawaii. The Conference was well attended with well over three hundred attendees. The Conference was opened with Cauncey Won Yuen, Hawaii Airports District Manager, HI DOT, and his performing family, playing traditional Hawaiian E Komo Greeting and welcoming music and dance.

The Director of Hawaii Department of Transportation, Ford Fuchigami, welcomed the attendees. Meetings and sessions included: State of the Industry with Aviation Leaders; Airport/Airline Economics, Air Service; Washington Update, FAA Leadership and Reauthorization Previews Consequences; of Recent Elections; PFC's; NextGen and ATC Modernization; TSA Leadership Focus; Aviation Security-Policy and Technology update; and Evolving Environmental Issues.

In addition to the formal sessions, there was ample time to network with airline and government officials as well as other airport operators.

2. The week following my return, Jennifer Hickerson and I traveled to St. George, UT to meet with SkyWest airlines. Joseph Pickering, with Mead & Hunt Consulting, met us there. On Wednesday morning we met with Greg Atkin, Managing Director, Market Development, Brandi Honey, Marketing Manager, Ian Whiting, Schedule Analyst and Etsushi Shaimano, Pricing and Revenue Manager, SkyWest on January 28<sup>th</sup>. The meeting went very well. They expressed their satisfaction with the current flights and told us they had been planning to begin 4 flights a day to LAX in March. However, due to a pilot shortage, they are unable to do it at this time. They are aggressively recruiting pilots and after the newly hired pilots complete training, they will revisit adding flights. We also presented them with a pro-forma scenario for them to begin new service to Salt Lake City. They seemed interested but can't add any new service until they are fully staffed. We will follow up with them in a few months. A copy of our presentation is available in the office if you care to see it.
3. SWAAAE held its Airport Management Short Course in Monterey at the Monterey Plaza Hotel and Spa. The Honorable Eduardo Angeles, Associate Administrator for Airports, FAA delivered the keynote address where he gave an update on the status of reauthorization of the AIP program as well as other things happening in DC with regards

to areas of interest to Airports. The theme of this year's Conference was "Honoring the Past-Shaping-The Future". I served on the committee that gathered historical (and hysterical) data about the Chapters evolution from the original California Association of Airport Executives (CAAE) to becoming the Southwest Chapter of the parent association, AAAE, (SWAAAE). I also participated as a panel member during that session. Other topics covered were updates from Caltrans Division of Aeronautics; FAA-Western Pacific Region; Disaster Planning and Recovery; Perimeter Security; Preparing for Transportation Network Companies (TNC's); and others. A copy of that program is available for your review in the office.

4. During the Conference, P&D Staff, Kimley-Horn on site personnel and I, escorted Associate Administrator Angeles, Regional FAA Manager, Mark McClardy and three other senior FAA people for a view of the RSA construction site. They all were quite impressed with the scope and complexity of the project. Having Administrator Angeles and Manager McClardy see the project first hand was a significant accomplishment for the airport.

**AGENDA ITEM: H**  
**DATE: February 11, 2015**

**TO:** Thomas E. Greer, General Manager  
**FROM:** Mark Bautista, Deputy General Manager, Planning & Development  
**DATE:** January 31, 2015  
**SUBJ:** Planning & Development Monthly Project Report

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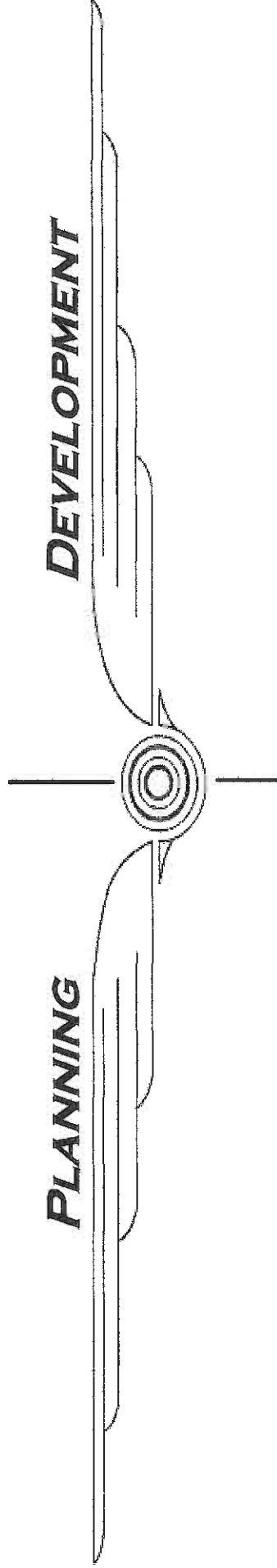
Attached is the current monthly Project Report for the Planning and Development Department. Highlights for January 2015 include:

- Work directed toward implementation of the Runway Safety Area (RSA) Project accomplished during the reporting period, including:
  - Tour of the RSA construction site by Eduardo Angeles, the FAA's Associate Administrator for Airports, and Mark McClardy, the FAA's Western Pacific Region Airports Division Manager. FAA representatives Maverick Douglas, Asst. Manager, SF-ADO; Patrick Lammerding, Asst. Manager, LAX-ADO; and Michael Williams, Manager of the Phoenix-ADO, also attended the tour.
  - Communication with Airport users on the availability of the ILS during the upcoming AT&T event, including the Monterey Peninsula Foundation.
  - Coordination of delivery of the EMAS blocks for the RSA project.
  - Continuing construction of retaining walls.
  - Continuing earthwork between Hwy 68 and the east end of Rwy 10R/28L.
  - Continuing construction of soil nail walls for the vehicle service road near the east end of Rwy 10R/28L.
  - Storm water system construction near Tarpy's and Hwy 68.
  - Maintenance of the project web site on the Internet.
  
- Work directed toward the Airport Master Plan (AMP), including:
  - Board Workshop on January 27, 2015 for input regarding possible alternatives to meet the needs identified in the draft Demand/Capacity Analysis and Facility Requirement chapters provided to BOD members previously, and published on the project web site.
  - Maintenance of the project web site on the Internet.
  - Preparation of review materials for the March 10, 2015 PAC meeting regarding the draft master plan concept, financial/capital improvement plan, land use compatibility analysis; and the sustainability baseline assessment.

Staff will make a presentation at the Board Meeting on any items that arise subsequent to the publishing of the Agenda.



**Monthly Capital Project Report**  
**February 2015**



**Monterey Peninsula Airport District**

PROJECT#	FUNDING		BUDGETING				EXPENDITURES			STATUS			
	AIP #	PFC	Prior FY Budget	FY 2015 Budget	Post FY Budget	Total Project Budget	Spent in Prior Fiscal Years	FY 2015 Expenditures to Date	1/31/2015	% Physical Complete	Project Name	Current Status	4 Week Look Ahead
<b>ACTIVE FEDERALLY FUNDED PROJECTS:</b>													
1	2012-01 and 2014-01	10-15-C-00-MRY 11-17-C-00-MRY 13-18-C-00-MRY	\$31,371,402	\$29,223,954	\$15,638,832	\$46,461,506	\$6,847,008	\$14,031,074	\$20,878,081	45%	RSA Runway 10R/28L - Construction; Phase 1 and 2	Schedule I and II are virtually complete.	Schedule III is underway; last retaining wall will be finished and EMAS installation underway during the look ahead period.
2	2013-02	13-18-C-00-MRY	\$690,000	\$632,008	\$162,236	\$1,094,980	\$402,727	\$283,819	\$686,545	65%	Airport Master Plan	All current working papers have been distributed to BOD; and available at MPAD website home page link (see Airport Master Plan Website). FAA has approved forecasts reviewed with the BOD.	Work on sustainability, land use, and master plan concept/financial plan portions continue in the look ahead period. A PAC meeting, and Public Workshop for the master plan concept/financial plan, etc. are scheduled for March 10, 2015.
3	2015-03	Unk.	\$0	\$1,094,980	\$0	\$1,094,980	\$0	\$0	\$0	0%	Airport Infield Reconstruction Design	Funding anticipated to be available only during last quarter of FY 15.	No action anticipated.
<b>ACTIVE DISTRICT FUNDED PROJECTS:</b>													
4	2015-01	N/A	\$0	\$42,000	\$0	\$42,000	\$4,000	\$0	\$6,698	98%	ARTF Station Remedial Improvements	Construction almost complete.	Completed.
5	N/A	N/A	\$14,148	\$17,045	\$10,307	\$99,000	\$85,436	\$0	\$85,436	95%	FWSS Mitigation Land Restoration	Preparation and planting is complete at the off-airport site. Signage delineating status as habitat area has been installed.	Monitoring will continue through FY 2015, and into FY 2016.

**AGENDA ITEM: H**  
**DATE: February 11, 2015**

**TO:** Thomas E. Greer, General Manager  
**FROM:** Jeff Hoyne, Police Chief  
**DATE:** February 4, 2015  
**SUBJECT:** Police Activity Report for January 2015

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The following is a summary of significant activity in the Police Department during the month of January 2015:

**Highlights**

- MRY PD responded to 117 door and gate alarms.
- Officers worked a total of **28 hours of overtime in January.**
- MRY PD Officers conducted **over 100 business and area checks** over the course of the month of January.
- MRY PD officers responded to two outside agency assists in December which consisted of the following:
  - 1/14 Assisted Del Rey Oaks after they requested assistance on a traffic stop
  - 1/15 Assisted Del Rey Oaks on a report of a suicidal subject

**Training**

**All MRY PD Officers completed:**

- Monthly Lexipol Daily Training Bulletins.
- Post DVD telecourse on "Pursuit Driving Update" and "Tactical Driving for Law Enforcement."
- Policy Review on *Vehicle Pursuits*
- Winter pistol qualification course in partnership with CSUMB Police Department
- Policy Review on *Use of Force*

**MRY PD Command Staff (Chief and Sergeants) completed:**

- Monthly Leadership Team Meeting
- Review of Interactive (Reality Based) Training Principles
- Review of articles on Leadership/Managing Performance and Accountability & Creating a Positive Culture

## Calls for Service

1. 1/1 @ 0820 MRY Officers responded to a report of two coyotes on the military ramp. Animals were gone upon arrival. Area check proved negative.
2. 1/3 @ 0820 MRY Officers responded to the northeast side in Area 8 on a report of a dispute about stolen wood between two tree services. Original complainant gone from the area on arrival. Detail settled by contact.
3. 1/4 @ 1515 Elderly male fell while in the terminal. EMS checked on subject who fell because of pre-existing medical issues. Subject cleared by EMS and stated that he was not going to miss his Vegas flight.
4. 1/5 @ 1010 MRY Officers responded to a report of two car burglaries at Sergios's Auto Body. Two vehicles were broken into and had stereos removed. Report completed.
5. 1/7 @ 1106 Vehicle Burglary reported at J & J Auto Body. (Possibly related to the incident on 01/05). Report completed.
6. 1/8 @ 1000 MRY Officers contacted a homeless individual (possibly PC 5150) loitering in the short-term parking lot. Subject was identified/field interviewed and moved on his way.
7. 1/9 @ 1115 Officers responded to a report of unattended luggage (3 suitcases). Officers located the owner who was warned about leaving luggage unattended.
8. 1/10 @ 1045 MRY Officers contacted a driver of an unregistered shuttle service on the airport pick-up drive. Driver was issued a warning and advised about rules/regulations and instructed how and where to obtain a permit.
9. 1/11 @ 0100 MRY Officers found a hangar with an open door. The hangar was searched without incident and secured after leaving a note for the tenant.
10. 1/12 @ 1615 MRY Officers responded to a storage facility on a report of a Protection Order Violation. The incident was unfounded and a report was completed.
11. 1/20 @ 0121 MRY Officers responded to an alarm at 401 Sky Park and contacted a subject in the building. No criminal activity. Report completed.
12. 1/20 @ 1640 MRY Officers responded to a female having a possible miscarriage in the terminal. Female was transported to CHOMP by an aid unit. Report completed.
13. 1/23 @ 1302 MRY officers responded to a report of a verbal disturbance between a cab driver and a customer over a cab fare. Both subjects contacted. Issue settled by contact.
14. 1/24 @ 0946 MRY PD was dispatched to a 911 call near Airport and North in the Northside Business Area. No vehicles or pedestrians located. No signs of any emergency or need for police assistance.
15. 1/29 @ 1708 MRY Officers responded to the checkpoint for a passenger with 25 rounds of .22 LR ammunition. Ammunition was confiscated for destruction and passenger was allowed on their way. Report completed.
16. 1/30 @ 0729 Officers responded to American ticketing on a report of an irate passenger. Officers kept the peace and the passenger was rebooked. Nothing further.



## MONTEREY FIRE DEPARTMENT

### Report to Airport Board of Directors

January 2015

#### 1. Incident Responses

Engine assigned to Fire Station 6 (Airport) responded to a total of 28 incidents during the month as follows (see attached for breakdown of types of incidents):

- MPAD property – 8
- City of Monterey – 19
- Auto / Mutual Aid – 1

#### 2. Training

Personnel completed 16 hours of Airport related training during the month.

Currently the following numbers of personnel are qualified in the ARFF training program:

- Awareness (familiar with operations at the Airport): 71
- Operational (qualified to work at Airport, but no live fire training): 31
- Technician (fully qualified to be the designated ARFF fire engineer): 13

#### 3. Other

- The City of Monterey has authorized a pilot program to hire a Training Officer for 18 months. This will be one of our existing Fire Captains who will be responsible to oversee our training program including developing a master training plan, ensuring consistent training for all personnel, improving our training records management, and ensuring compliance with regulations. The Training Officer will use office space at the Airport Fire Station.



**Monterey Fire Department**

**Incident Type Report (Summary)**

**Alarm Date Between {01/01/2015} And {01/31/2015}  
and Station = "6"**

<b>Incident Type</b>	<b>Count</b>	<b>Pct of Incidents</b>	<b>Total Est Loss</b>	<b>Pct of Losses</b>
<b>3 Rescue &amp; Emergency Medical Service Incident</b>				
321 EMS call, excluding vehicle accident with	17	60.71%	\$0	0.00%
324 Motor Vehicle Accident with no injuries	1	3.57%	\$0	0.00%
353 Removal of victim(s) from stalled elevator	1	3.57%	\$0	0.00%
	<u>19</u>	<u>67.85%</u>	<u>\$0</u>	<u>0.00%</u>
<b>4 Hazardous Condition (No Fire)</b>				
411 Gasoline or other flammable liquid spill	1	3.57%	\$0	0.00%
445 Arcing, shorted electrical equipment	1	3.57%	\$0	0.00%
	<u>2</u>	<u>7.14%</u>	<u>\$0</u>	<u>0.00%</u>
<b>5 Service Call</b>				
511 Lock-out	1	3.57%	\$0	0.00%
	<u>1</u>	<u>3.57%</u>	<u>\$0</u>	<u>0.00%</u>
<b>6 Good Intent Call</b>				
611 Dispatched & cancelled en route	1	3.57%	\$0	0.00%
6111 Medical Call No Aid Given	1	3.57%	\$0	0.00%
622 No Incident found on arrival at dispatch	1	3.57%	\$0	0.00%
672 Biological hazard investigation	1	3.57%	\$0	0.00%
	<u>4</u>	<u>14.28%</u>	<u>\$0</u>	<u>0.00%</u>
<b>7 False Alarm &amp; False Call</b>				
735 Alarm system sounded due to malfunction	1	3.57%	\$0	0.00%
745 Alarm system activation, no fire -	1	3.57%	\$0	0.00%
	<u>2</u>	<u>7.14%</u>	<u>\$0</u>	<u>0.00%</u>

**Total Incident Count: 28**

**Total Est Loss: \$0**

**TO:** Thomas E. Greer, General Manager  
**FROM:** Operations Manager Griggs  
**DATE:** February 4, 2014  
**SUBJ:** Operations Report

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The following is a summary of significant activity in the Operations Department for January 2015.

1. Oversaw the nighttime closures of Runway 10R/28L for the RSA project.
2. Chaired the Technical Advisory Committee meeting for the Regional Taxi Authority.
3. Attended the quarterly Regional Taxi Authority Board Meeting.
4. Provided recurrent Wildlife Mitigation Training for applicable staff members to meet FAR Part 139 requirements.
5. Assisted in the development of the Construction Safety Phasing Plan for Schedule III of the RSA project.
6. Attached is the Noise Comment Report.
7. Attached is the Operating and Expense Report for the Taxi Open-Entry System.
8. Attached is the Commercial Flight Cancellations & Delay Report. In the month of January there were a total of 125 delays and 22 cancellations. None of these cancellations were attributed to the planned unavailability of the Instrument Landing System during the RSA project (beginning on Jan. 19<sup>th</sup>).
9. Attached is the Commercial Flight Schedule for February 2015.
10. Below is the summary of scheduled activity for February 2015:

Alaska Air/Horizon

- No changes from January
- Continuing to operate one daily departure to San Diego
- Scheduled to operate a total of 56 flights (Arrivals and Departures)

Allegiant Air

- No changes from January
- Continuing to operate two weekly departures on Sundays and Thursdays.
- Scheduled to operate a total of 16 flights (Arrivals and Departures)

American Eagle/SkyWest

- No changes from January
- Will continue to operate two daily departures.
- Scheduled to operate a total of 112 flights (Arrivals and Departures)



United/SkyWest

- No significant changes from January
- Will operate three to four daily SFO departures. Continuing to operate three daily departures to LAX.
- Scheduled to operate a total of 364 flights (Arrivals and Departures)

US Airways/SkyWest

- No significant changes from January.
- Continuing to operate three daily departures, two on Tuesdays & Wednesdays.
- The CRJ900 continues to operate daily.
- Scheduled to operate a total of 158 flights (Arrivals and Departures)

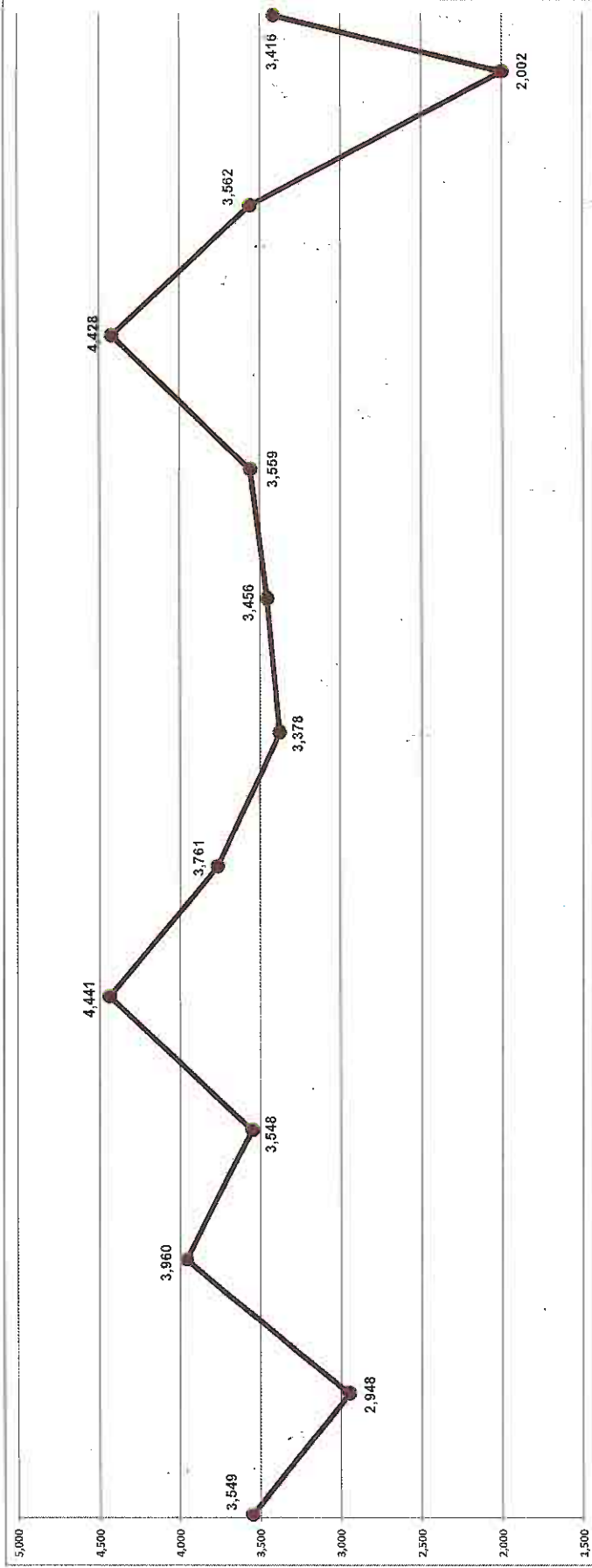
Cumulatively speaking the airlines have scheduled 124 fewer flights (706 vs. 830) as compared to last January. This is primarily due to the United Express service elimination of the Denver flight and seasonal reduction from three to two daily LAX flights flown by American Eagle.

## MRY AIRPORT NOISE COMMENT LOG JANUARY 2015

Name	Location (Address)	Incident Date	Incident Time	Aircraft ID	</> of Flight	Comments	By	Action Taken	Notes
<b>AIR OPERATIONS CENTERED AT MONTEREY AIRPORT</b>									
1	Frank Anthony Ferrante Seaside	past 3 months prior to 1/12/15	n/a	small aircraft and helicopters	unknown	Have lived there for 30 years; small planes landing and taking off over home; a lot of helicopters flying low over home this summer; please divert traffic over ocean or Fort Ord	NG	Emailed complainant explaining various flight paths based on type of operation and weather	No increase in helicopter activity noted.
2	Barbara Bullas PG	1/15/2015	12:20pm	MD-83	westbound	Large jet flew low and loud over complainant's house; she could see people's faces in the plane	NG	I explained the occasional necessity for departing aircraft to deviate from standard procedures based on certain circumstances	Ms. Bullas understood and appreciated the information.
3	Yue Ma PG	In general	10PM and 11:05PM everyday	Commercial	Arrival eastbound	Commercial aircraft fly low and wake up my family every night.	KG	Explained the relationship of their residence and the primary approach path into MRY. Verified the two commercial aircraft are scheduled to arrive during the described event timeline.	
4	Tomas Fuentes Monterey - Skyline Forest Area	1/21/2015	10:55AM	Challenger 300	Arrival eastbound	Noisy white jet with red tail flew low over residence. Appears to be a new route as a jet recently departed the same way.	KG	Emailed complainant explaining standard published approach and departure flight paths can be deviated from based on ATC or pilot discretion.	
5	Vicky Rhea North Monterey	1/25/2015	Between 10AM - 11AM	Military jets	Everywhere	Woken up by loud jet noise that shook the whole house	KG	Two Canadian T-45 jets were in based in MRY over the weekend for training. They performed a couple of fly-bys before and after the training operations.	
6	Nina Beadla Monterey - Jack's Peak Area	1/25/2015	Between 10AM - 11AM on SAT & SUN	Military jets	Everywhere	Loud military jets flying over the neighborhood on both Saturday and Sunday.	KG	Two Canadian T-45 jets were in based in MRY over the weekend for training. They performed a couple of fly-bys before and after the training operations each day.	
7	Paul Asilomar/PG/New Monterey	1/29/2015	unknown	C-130	orbiting	Aircraft "buzzed" just off Asilomar and observed low over PG and New Monterey	NG	Coast Guard C-130 operating in the vicinity. Nature of operation unknown.	
0	**NONE**								
0	**NONE**								
<b>AIR OPERATIONS ORIGINATING FROM ANOTHER AIRPORT</b>									
<b>AIR OPERATIONS OF UNKNOWN ORIGIN</b>									
<b>MONTHLY TOTALS and COMPARISONS</b>									
		Jan-15	Jan-14						
Number of Complaints:		7	2			Other Airport		UNKNOWN ORIGINS	
Number of Operations:		4,922	3,458			0		0	
Annual Total		7	2			0		0	
		% Change							
		250%							
		42%							
		250%							

13-MONTH ROLLING COMPARISON

MONTHLY TOTAL TRIPS	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15
	3,549	2,948	3,960	3,548	4,441	3,761	3,378	3,456	3,559	4,428	3,562	2,002	3,416



	JANUARY 2014	FEBRUARY 2014	MARCH 2014	APRIL 2014	MAY 2014	JUNE 2014	JULY 2014	AUGUST 2014	SEPTEMBER 2014	OCTOBER 2014	NOVEMBER 2014	DECEMBER 2014	JANUARY 2015
NUMBER OF TRIPS	3,549	2,948	3,960	3,548	4,441	3,761	3,378	3,456	3,559	4,428	3,562	2,002	3,416
NUMBER OF CABS	135	135	137	138	139	142	106	113	114	117	119	122	123
TAXI TRIP FEES	\$ 10,647	\$ 8,844	\$ 11,880	\$ 10,644	\$ 13,323	\$ 11,283	\$ 10,134	\$ 10,368	\$ 10,677	\$ 13,284	\$ 10,686	\$ 6,005	\$ 10,248
TAXI MEDALLION FEES <sup>1</sup>	\$ 2,604	\$ 2,479	\$ 2,729	\$ 2,542	\$ 2,542	\$ 2,667	\$ 2,206	\$ 3,958	\$ 2,458	\$ 3,646	\$ 2,583	\$ 2,833	\$ 2,333
TAXI - TOTAL REVENUE	\$ 13,251	\$ 11,323	\$ 14,609	\$ 13,186	\$ 15,865	\$ 13,950	\$ 12,342	\$ 14,326	\$ 13,135	\$ 16,930	\$ 13,269	\$ 8,839	\$ 12,581

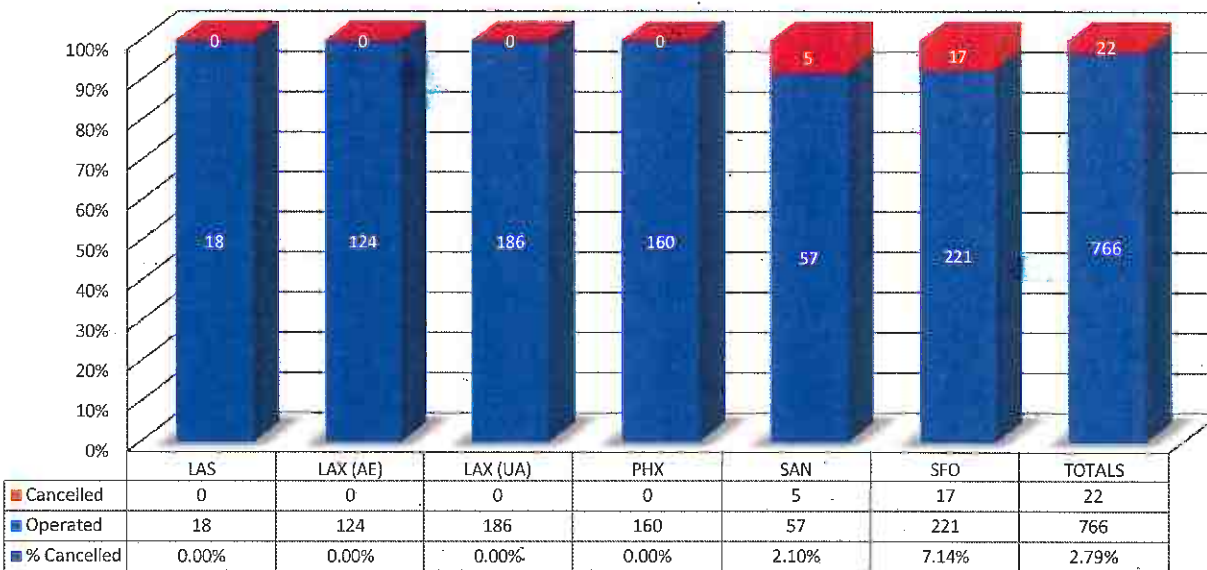
CURB MGMT CONTRACT	\$ 10,327	\$ 10,327	\$ 10,327	\$ 10,327	\$ 10,327	\$ 10,327	\$ 10,897	\$ 10,897	\$ 10,897	\$ 10,897	\$ 10,897	\$ 10,897	\$ 10,897
EQUIPMENT DEPRECIATION	\$ 1,600	\$ 1,600	\$ 1,600	\$ 1,600	\$ 1,600	\$ 1,600	\$ 1,600	\$ 1,600	\$ 1,600	\$ 1,600	\$ 1,600	\$ 1,600	\$ 1,600
SOFTWARE LICENSE / HOSTING	\$ 2,175	\$ 2,175	\$ 2,175	\$ 2,175	\$ 2,175	\$ 2,175	\$ 2,175	\$ 2,175	\$ 2,175	\$ 2,175	\$ 2,175	\$ 2,175	\$ 2,175
EXPENDABLE SUPPLIES	\$ 14,102	\$ 14,102	\$ 14,102	\$ 14,102	\$ 14,102	\$ 14,102	\$ 14,672	\$ 14,672	\$ 14,672	\$ 14,672	\$ 14,672	\$ 14,672	\$ 14,672

OPERATING INCOME / (LOSS)	\$ (851)	\$ (2,779)	\$ 507	\$ (916)	\$ 1,763	\$ (152)	\$ (2,330)	\$ (346)	\$ (1,537)	\$ 2,258	\$ (1,403)	\$ (5,833)	\$ (2,091)
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CUMULATIVE (13-MONTH) OPERATING INCOME / (LOSS)	\$					\$			\$		\$		\$ (13,709)
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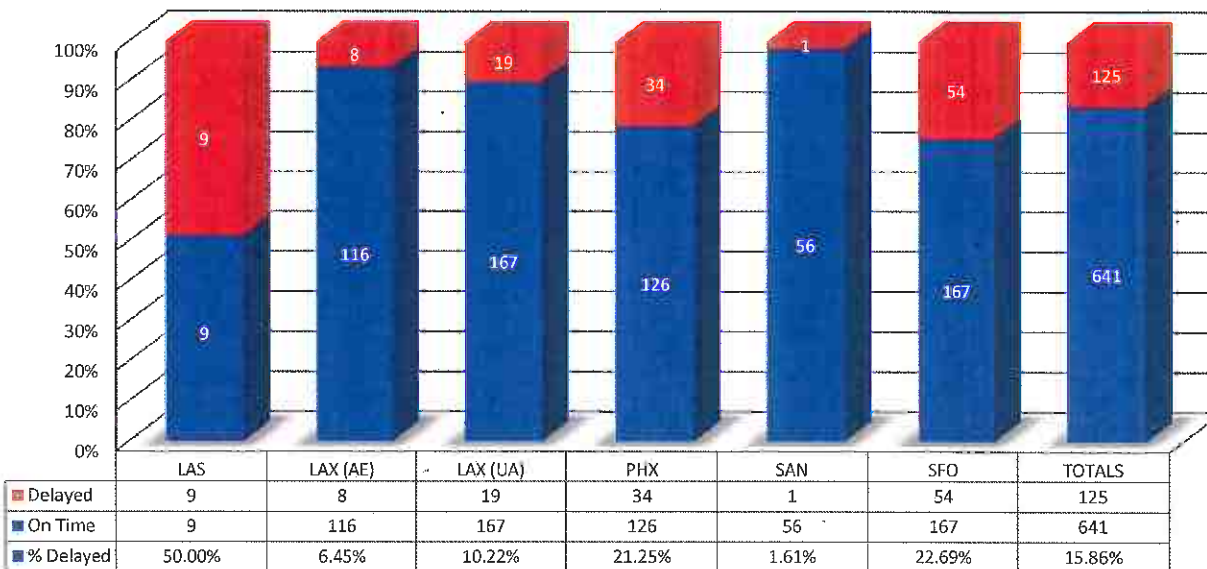
# January 2015

## January Commercial Flights Operated vs. Cancelled



























TOTAL CANCELED FLIGHTS: 22

## January Commercial Flights On Time vs. Delayed



TOTAL DELAYED FLIGHTS: 125

## Monterey Regional Airport February 2015 Flight Schedule

ARRIVALS					DEPARTURES				
FROM	AIRLINE	FLIGHT	TIME	SCHD	TO	AIRLINE	FLIGHT	TIME	SCHD
CRJ200 (50)	LAX	 5415	9:45 AM	DAILY	PHX	 6573/2744	6:15 AM	DAILY	CRJ200 (50)
EMB (27)	SFO	 5503/5628	11:00 AM	FEB 12-28 ONLY	SFO	 6346	6:30 AM 6:00 AM	FEB 1-11 FEB 12-28	EMB (27)
CRJ900 (76)	PHX	 5532	11:50 AM	DAILY	LAX	 5316	6:00 AM 6:45 AM 6:30 AM	FEB 1-11 FEB 12-27 EXC 2/14,15,21,22,28	CRJ200 (50)
EMB (27)	SFO	 5654/6293	2:17 PM	DAILY	LAX	 2610	7:50 AM	DAILY	CRJ200 (50)
MD80 (166)	LAS	 540	2:25 PM 10:54 AM 12:05 PM	SU FEB 5 FEB 12,19,26	SAN	 2437	8:00 AM	DAILY	Q400 (76)
CRJ200 (50)	PHX	 2696	3:35 PM	DAILY EXC FEB 4,7,11	LAX	 5423	10:18 AM	DAILY	CRJ200 (50)
EMB (27)	SFO	 5652/5638	5:00 PM	DAILY	SFO	 5160/5503	11:25 AM	FEB 12-28 ONLY	EMB (27)
CRJ200 (50)	LAX	 2589	5:25 PM	DAILY	PHX	 5455	12:20 PM	DAILY	CRJ900 (76)
CRJ200 (50)	LAX	 5347/5338	5:35 PM	DAILY	SFO	 6359/6386	2:40 PM	DAILY	EMB (27)
Q400 (76)	SAN	 2436	7:45 PM 8:57 PM	DAILY EXC MO & TH	LAS	 541	3:10 PM 11:39 AM 12:50 PM	SU FEB 5 FEB 12,19,26	MD80 (166)
CRJ200 (50)	PHX	 2681	9:56 PM	DAILY EXC FEB 3,10	PHX	 6562	4:05 PM	DAILY EXC FEB 3,4,7,10,11	CRJ200 (50)
CRJ200 (50)	LAX	 2595	10:00 PM	DAILY	SFO	 5609	5:22 PM	DAILY EXC FEB 14,21,28	EMB (27)
DAIL	LAX	 5420	9:09 PM	DAILY	LAX	 2589	5:50 PM	DAILY	CRJ200 (50)
EMB (27)	SFO	 6376	11:20 PM	DAILY EXC FEB 14,21,28	LAX	 5391	6:04 PM	DAILY	CRJ200 (50)

\*Flight Schedule is general information and subject to change. Schedules are updated monthly and can change daily. Please contact your airline for further information.

**TO:** Tom Greer, General Manager, Monterey Peninsula Airport District  
**FROM:** Jerry Merritt, District Auditor/Controller  
**SUBJ:** Financial Summary for December 2014 & FYTD (FY 2015)

**BACKGROUND.** The Financial Summary for December 2014 (the sixth period of Fiscal Year 2015) is summarized by the following documents:

- **Graphic Comparisons – Actual Operating Revenue & Actual Operating Expense**
- **Airport District Operating Statistics & Financial Performance**
- **Sources / Uses of Cash**
- **Capital Expenditures**

**SUMMARY.** In December, operating revenue was above plan by \$12,926 (2%). Terminal rents, rental car concessions and property tax revenue were above plan; GA landing fees and fuel flowage fees were on plan; all other operating revenue categories were below plan. When reviewed on the FYTD basis, operating revenue was above plan by \$81,864 (2%). Partially due to phasing and partially due to increased offsets, operating expense was below plan by \$23,134 (-4%); below plan by \$186,619 (-5%) FYTD. Net income for December was 51% above plan; FYTD net income was 287% above plan. The net change in cash position (for December) was a positive \$83,068; net change in cash position FYTD was a positive \$184,919.

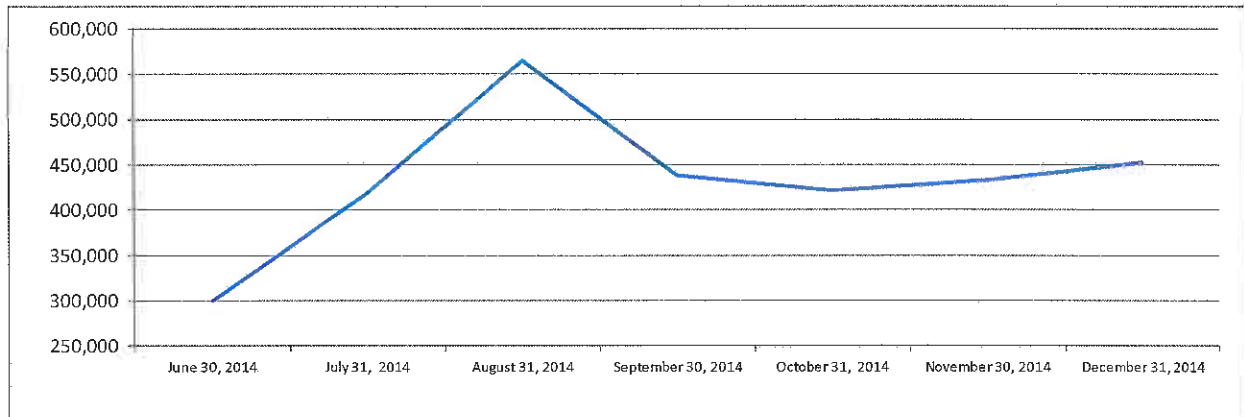
OPERATING REVENUE							
DECEMBER 2014 ACTUAL	DECEMBER 2014 PLAN	VARIANCE		FISCAL YTD 2015 ACTUAL	FISCAL YTD 2015 PLAN	VARIANCE	
		\$	%			\$	%
\$ 725,323	\$ 712,926	\$ 12,397	2%	\$ 4,270,194	\$ 4,188,330	\$ 81,864	2%

OPERATING EXPENSE							
DECEMBER 2014 ACTUAL	DECEMBER 2014 PLAN	VARIANCE		FISCAL YTD 2015 ACTUAL	FISCAL YTD 2015 PLAN	VARIANCE	
		\$	%			\$	%
\$ 620,014	\$ 643,148	\$ 23,134	-4%	\$ 3,908,081	\$ 4,094,700	\$ 186,619	-5%

OPERATING INCOME / (LOSS)							
DECEMBER 2014 ACTUAL	DECEMBER 2014 PLAN	VARIANCE		FISCAL YTD 2015 ACTUAL	FISCAL YTD 2015 PLAN	VARIANCE	
		\$	%			\$	%
\$ 105,310	\$ 69,778	\$ 35,532	51%	\$ 362,113	\$ 93,630	\$ 268,483	287%

**ACCOUNTS RECEIVABLE.** The accounts receivable balance on December 31, 2014, was \$452,498. This balance is 4.6% higher than the balance on November 30, 2014, and 50.5% higher than the balance on June 30, 2014. Of the accounts receivable balance, \$38,602 or 8.4% was over 60 days old. Chart 1 depicts the accounts receivable balances by month.

**Chart 1**



Under normal circumstances, the balance of accounts receivable at month-end will align with the dynamic (variable) operating revenue in that month, such as landing fees, fuel flowage fees, concession-based revenues, passenger facility charges (PFC). Typically, accounts receivable balances will span a range from \$300,000 to \$550,000, depending on the District's business cycle. We have a cyclic high in August; a cyclic low in January. Compared to November, December operating revenue increased 9.1%; compared to October, December operating revenue increased 1.1%. Chart 2 graphically presents the monthly comparison of operating revenues to accounts receivable.

**Chart 2**

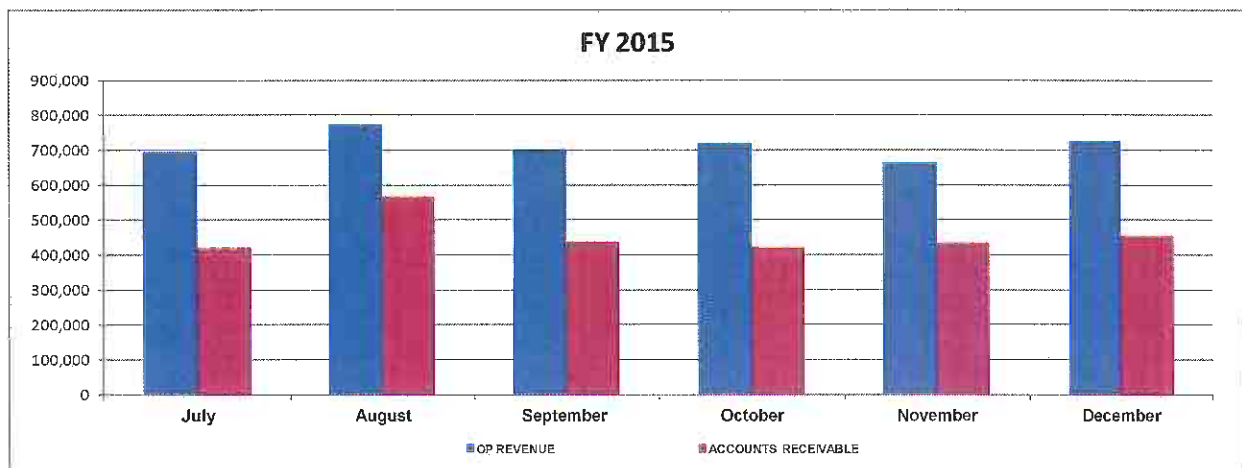
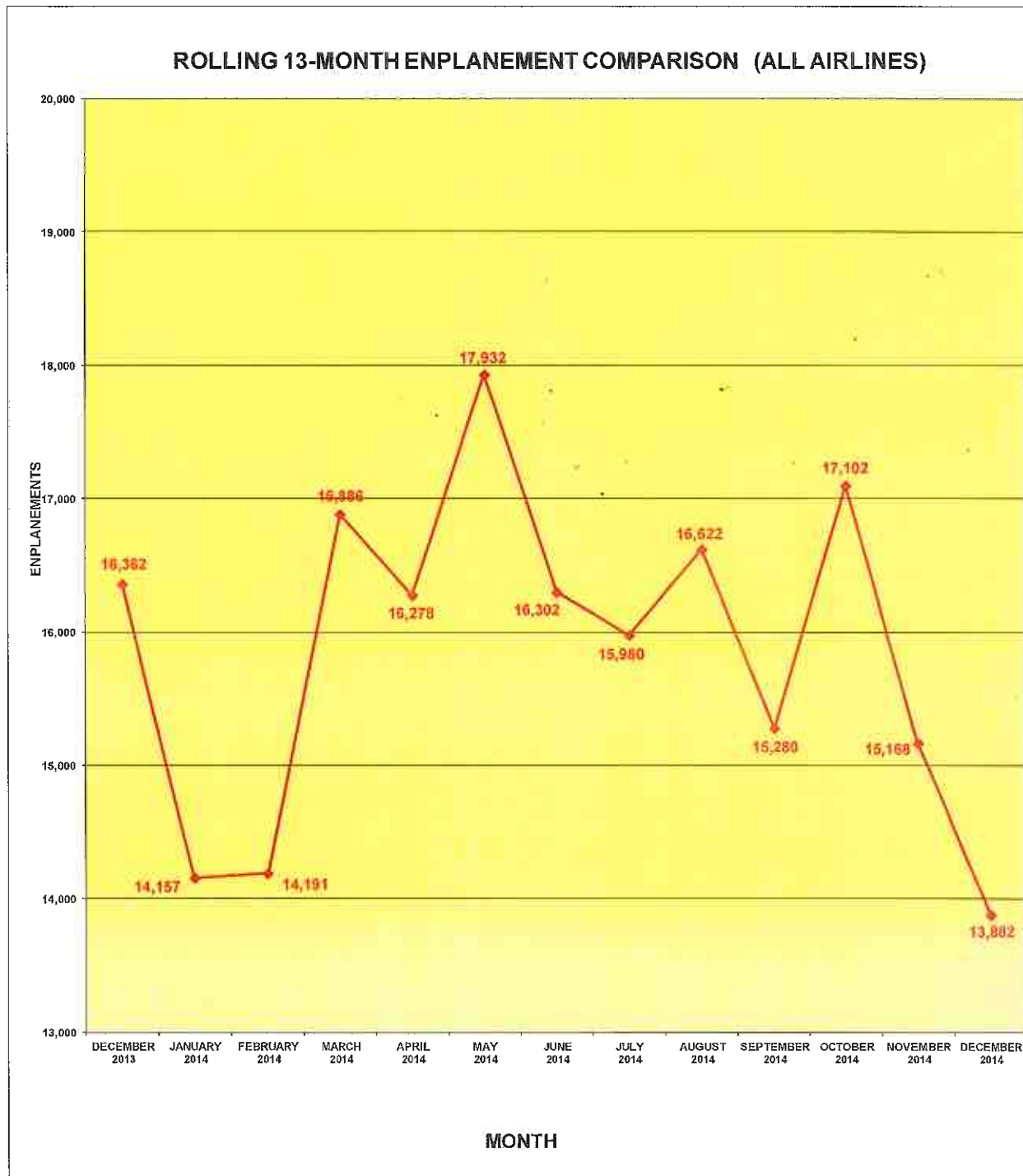


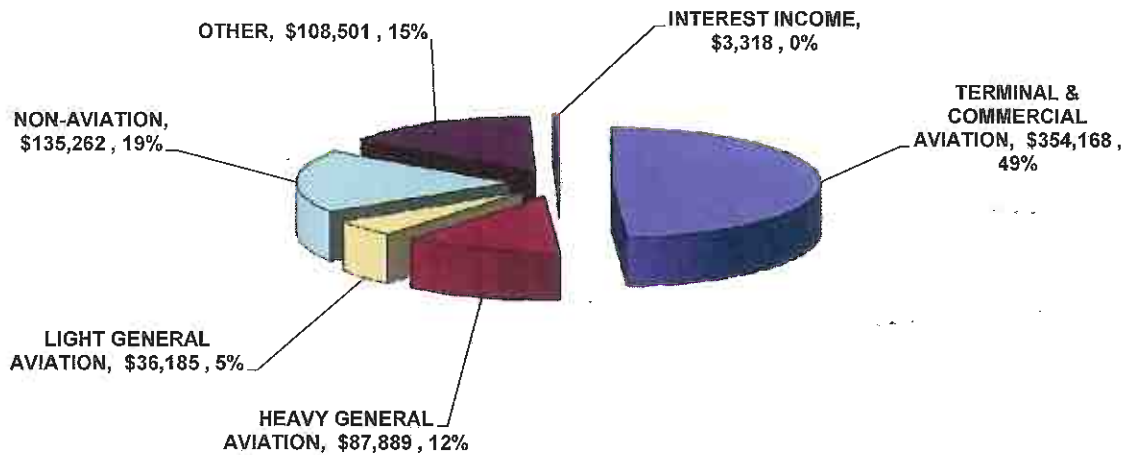
Chart 3 presents a rolling 13-month display of total enplanements which mimics the business cycle of the District. When compared to November 2014, December 2014 enplanements decreased 8.5%. When compared to December 2013, December 2014 enplanements decreased 15.2%.

**Chart 3**



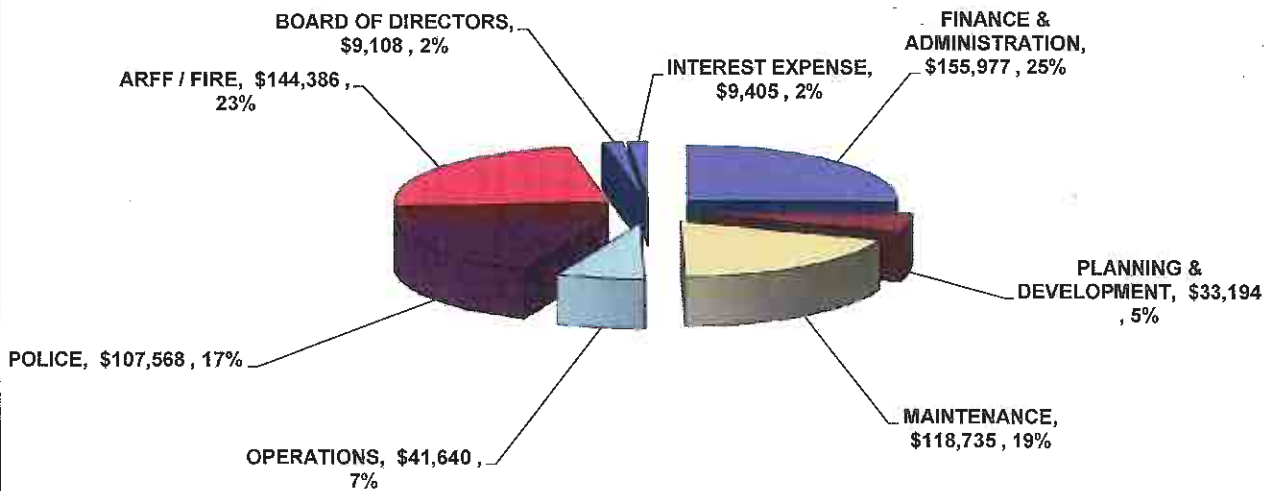


## DECEMBER 2014 OPERATING REVENUE



TOTAL OPERATING REVENUE: \$725,323

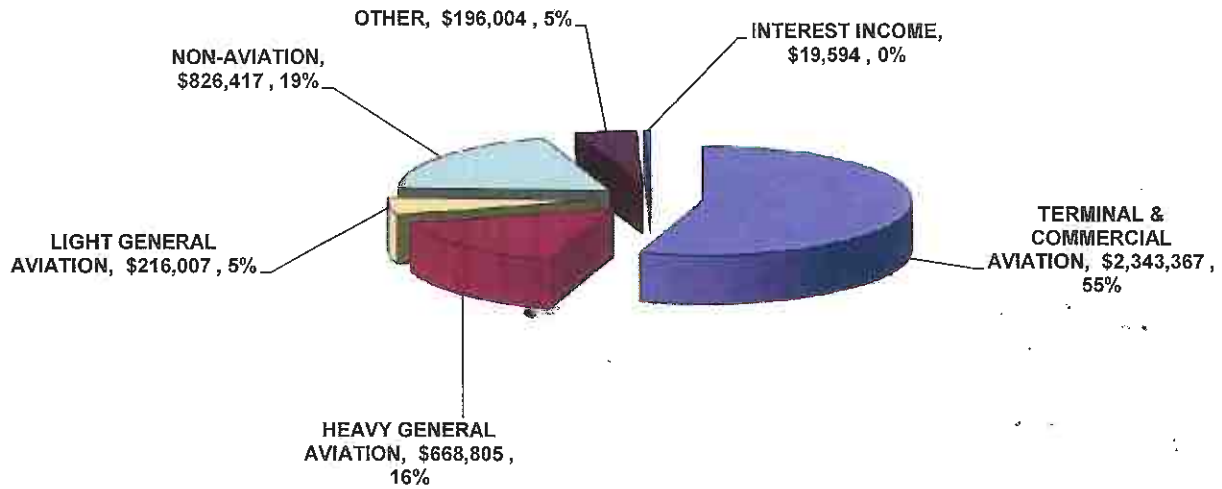
## DECEMBER 2014 OPERATING EXPENSE



TOTAL OPERATING EXPENSE: \$620,014

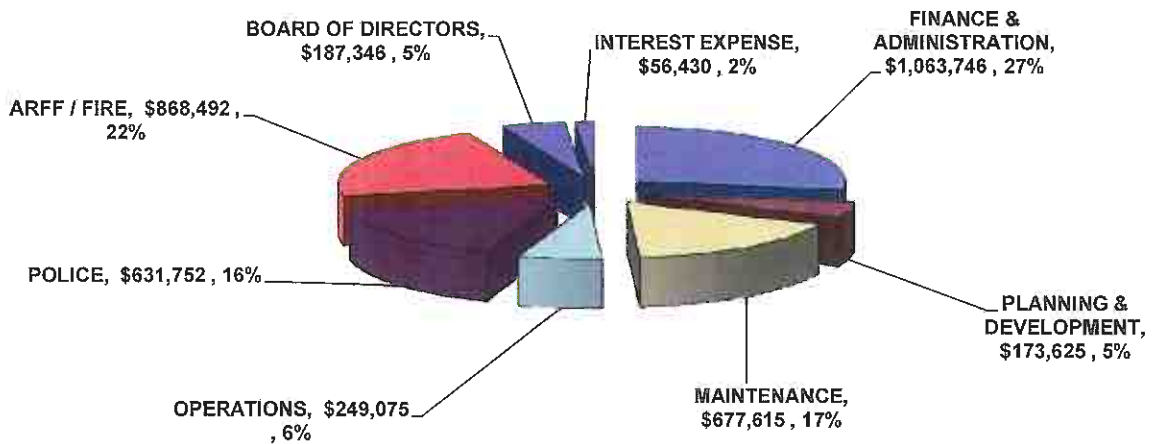
Monterey Peninsula Airport District

**FY 2015 (July 14 - December 14) YTD OPERATING REVENUE**



TOTAL OPERATING REVENUE: \$4,270,194

**FY 2015 (July 14 - December 14) YTD OPERATING EXPENSE**



TOTAL OPERATING EXPENSE: \$3,908,081

# AIRPORT DISTRICT OPERATING AND FINANCIAL PERFORMANCE SUMMARY

December 31, 2014

OPERATING STATISTICS	DECEMBER 14	DECEMBER 13	YTD FY 15	YTD FY 14
<b>AIRPORT ACTIVITY</b>				
Air Carrier Landings <sup>1</sup>	352	437	2,398	2,830
Passengers (emp/dep)	26,872	31,706	186,843	207,976
Total Cargo (in pounds)	107,182	122,347	556,854	531,062
			PLAN	-8%
				2,612
<b>AIRCRAFT OPERATIONS</b>				
Commercial	1,009	1,164	7,265	7,790
General Aviation	2,082	2,443	17,332	17,704
Military	202	127	1,032	894
<b>TOTAL AIRCRAFT OPERATIONS</b>	<b>3,293</b>	<b>3,734</b>	<b>25,629</b>	<b>26,388</b>
<b>VEHICLE EXIT COUNT</b>				
Upper Short Term (1) Lot	2,133	1,679	12,716	12,370
Long Term (2) Lot	2,020	1,651	12,849	12,150
Lower Short Term (3) Lot	6,080	7,869	39,219	46,099
<b>TOTAL VEHICLE EXIT COUNT</b>	<b>10,233</b>	<b>11,199</b>	<b>64,784</b>	<b>70,619</b>

<sup>1</sup>Cancelled Flights: December = 71 (2 - Alaska / 0 - Allegiant / 1 - US Airways / 67 - United Express); FYTD = 263 (4 - Alaska / 0 - Allegiant / 18 - American Eagle / 13 - US Airways / 218 - United Express)

FINANCIAL INFORMATION	DECEMBER 14	DECEMBER 14	DECEMBER 13	YTD FY 15	YTD FY 14	
	ACTUAL	BUDGET	ACTUAL	ACTUAL	ACTUAL	
		%		BUDGET	%	
<b>BGT OPERATING REVENUE</b>						
<b>TERMINAL</b>						
CA Landing, Apron & RON Fees	54,827	55,595	-1%	349,924	331,136	8%
Rents	143,044	141,805	1%	852,391	847,705	1%
TCP Operator Permits	950	750	-13%	4,900	4,569	7%
Taxi Operator Permits & Trip Fees	8,964	11,938	-25%	80,092	85,040	-5%
Concessions	17,282	17,428	-1%	78,179	79,042	-1%
Rental Car	64,178	62,282	3%	571,687	574,884	-1%
Parking	65,223	68,805	-5%	408,194	417,551	-3%
<b>HEAVY GENERAL AVIATION</b>						
GA Landing Fees	16,583	16,588	0%	168,904	144,758	17%
FBO Rent	54,925	54,888	0%	329,550	329,388	0%
Fuel Fees	16,381	17,963	-9%	168,351	156,507	8%
<b>LIGHT GENERAL AVIATION</b>						
Non-Aviation	36,185	38,131	-5%	216,007	228,766	-5%
Other Operating Revenue	135,262	140,598	-4%	826,417	816,004	1%
Interest Income	108,501	82,794	31%	196,004	153,414	29%
<b>TOTAL BGT OPERATING REVENUE</b>	<b>725,323</b>	<b>712,926</b>	<b>2%</b>	<b>4,270,194</b>	<b>4,188,330</b>	<b>2%</b>
<b>BGT OPERATING EXPENSE</b>						
Finance & Administration	155,977	172,951	-10%	1,083,746	1,082,217	-2%
Planning & Development	33,194	37,798	-12%	173,625	244,375	-29%
Maintenance & Custodial Services	118,795	112,914	5%	677,615	710,904	-5%
Airport Operations	41,540	45,242	-8%	249,075	266,469	-7%
Police Department	107,968	108,909	-2%	631,752	665,737	-5%
ARFF / Fire Service	144,386	144,743	0%	868,492	880,158	-1%
Board of Directors	9,108	10,195	-11%	187,946	188,419	-1%
Interest Expense	9,405	9,405	0%	56,430	56,430	0%
<b>TOTAL BGT OPERATING EXPENSE</b>	<b>620,014</b>	<b>643,148</b>	<b>-4%</b>	<b>3,908,081</b>	<b>4,094,700</b>	<b>-5%</b>
<b>BGT OPERATING INCOME / (LOSS)</b>	<b>105,310</b>	<b>69,778</b>	<b>51%</b>	<b>362,113</b>	<b>93,630</b>	<b>287%</b>
<b>DISTRICT CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>	<b>43,744</b>	<b>72,000</b>	<b>-39.2%</b>
<b>DEBT SERVICE - PRINCIPAL ONLY</b>	<b>22,667</b>	<b>0</b>	<b>0</b>	<b>136,000</b>	<b>0</b>	<b>0</b>

**MONTEREY PENINSULA AIRPORT DISTRICT**

	FY 2015 DECEMBER 2014 ACTUAL	FY 2015 YEAR-TO-DATE ACTUAL
<b>SOURCES AND USES OF CASH -- OPERATIONS</b>		
<b>SOURCES OF CASH</b>		
CASH RECEIVED - OPERATING REVENUE	\$ 722,005	\$ 4,250,600
CASH RECEIVED - INTEREST INCOME	3,318	19,594
<b>CASH RECEIVED</b>	<b>\$ 725,323</b>	<b>\$ 4,270,194</b>
<b>USES OF CASH -- OPERATIONS</b>		
CASH DISBURSED - OPERATING EXPENSE <sup>1</sup>	\$ 610,184	\$ 3,849,101
CASH DISBURSED - DEBT SERVICE (BOND INTEREST EXPENSE) <sup>2</sup>	9,405	56,430
CASH DISBURSED - DEBT SERVICE (PRINCIPAL REDUCTION) <sup>2</sup>	22,667	136,000
<b>CASH DISBURSED</b>	<b>\$ 642,255</b>	<b>\$ 4,041,531</b>
<b>CHANGE IN CASH POSITION FROM OPERATIONS &amp; DEBT SERVICE</b>	<b>\$ 83,068</b>	<b>\$ 228,663</b>
 <sup>1</sup> Net of non-cash operating expense (OPEB)		
<sup>2</sup> Moved to Restricted Account/Disbursement will occur in December 2014 & June 2015		
<b>USES OF CASH -- CAPITAL PROGRAM</b>		
CASH DISBURSED - DISTRICT CAPITAL PROJECTS <sup>3</sup>	\$ -	\$ 43,744
<b>CASH DISBURSED</b>	<b>\$0</b>	<b>\$43,744</b>
<b>CHANGE IN CASH POSITION FROM CAPITAL PROGRAM</b>	<b>\$ -</b>	<b>\$ (43,744)</b>
 <sup>3</sup> District-funded capital plan for FY15		
<b>CHANGE IN CASH POSITION FROM OPERATIONS, CAPITAL &amp; DEBT SERVICE</b>	<b>\$ 83,068</b>	<b>\$ 184,919</b>



**Monterey Peninsula Airport District**  
**Airport Capital Improvements / Capital Expenditures**  
**December 31, 2014**

**Airport Improvement Programs**

	Actual FY 2014 Current Period	Prior Fiscal Year Current Period	Actual FY 2014 Year-To-Date	Prior Fiscal Year Year-To-Date
MPAD Expenditures	0.00	93,027.36	6,698.16	335,025.51
AIP -- FAA Funded Expenditures	1,406,334.25	29,510.53	12,453,040.76	243,100.11
AIP -- PFC Funded Expenditures	76,772.80	3,065.55	668,233.71	93,100.04
<b>Total Capital Improvement Expenditures</b>	<b>1,483,107.05</b>	<b>125,603.44</b>	<b>13,127,972.63</b>	<b>671,225.66</b>

**Capital Acquisitions / Expenditures By Department**

	Actual FY 2014 Current Period	Prior Fiscal Year Current Period	Actual FY 2014 Year-To-Date	Prior Fiscal Year Year-To-Date
Finance & Administration	0.00		0.00	
Planning & Development	0.00		0.00	
Maintenance & Custodial Services	0.00		0.00	
Airport Operations	0.00		0.00	
Police	0.00	40,197.40	37,046.21	40,197.40
Fire	0.00		0.00	
<b>Total Capital Acquisition Expenditures</b>	<b>0.00</b>	<b>40,197.40</b>	<b>37,046.21</b>	<b>40,197.40</b>

**Consolidated**

	Actual FY 2014 Current Period	Prior Fiscal Year Current Period	Actual FY 2014 Year-To-Date	Prior Fiscal Year Year-To-Date
District Expenditures	0.00	133,224.76	43,744.37	375,222.91
AIP -- FAA Funded Expenditures	1,406,334.25	29,510.53	12,453,040.76	243,100.11
AIP -- PFC Funded Expenditures	76,772.80	3,065.55	668,233.71	93,100.04
<b>Total Capital Expenditures</b>	<b>1,483,107.05</b>	<b>165,800.84</b>	<b>13,165,018.84</b>	<b>711,423.06</b>

2015-01 ARFF Station Reno/Improvements 6,698.16  
 2015-02 Police Vehicle - Sedan 37,046.21

**AGENDA ITEM: H**  
**DATE: February 11, 2015**

**TO:** Thomas E. Greer, General Manager  
**FROM:** Jennifer Hickerson, Marketing & Public Relations Coordinator  
**DATE:** February 4, 2015  
**SUBJ:** Air Service Development Report

The Air Carrier Service/Marketing/Community Relations Committee (Committee) met February 3, 2015. The agenda for the meeting is included at the end of this report.

**Air Carrier Update:**

The airline flight schedules, presented at the February meeting, with small changes:

- AS - One 76-seat Q400 turboprop daily to SAN arriving MRY. The later arrival time continues - 8:57 on Monday and Thursday. The other days will remain the same at 7:45 PM, departing the next day at 8:00 AM.
- G4 (Allegiant) – MD-83 to LAS on Sundays and Thursdays. The times change several times this month.
- AA/US – Two CRJ flights daily to LAX and one on Saturday. Skywest was hoping to increase to four daily flights in March but due to the pilot shortage they will have to continue with two until their pilot staffing levels increase.
- US/AA – PHX service continues three times a day with the exception of the first two Mondays and Tuesdays of the month as well as the first Friday. On those Mondays, the mid-afternoon departure and evening arrival will not operate and on Tuesdays and Friday the mid-afternoon arrival and departure will not operate.
- US SFO - SFO four times a day. They increase to four times a day mid-month with exception of the last three Saturdays, when the last departure and arrival will not operate
- UA LAX – SkyWest flies three daily flights for UA, flown on a “prorate” basis. Will be changed to two times a week on March 5<sup>th</sup>.
- Gamblers Express Charter (operated by Republic Airlines) – This month the flight will depart MRY for SAN on February 6<sup>th</sup> and return on February 8<sup>th</sup>. We do not have the timing of these flights at this time. They also have a trip to Laughlin scheduled to depart on February 20<sup>th</sup> and return on February 23<sup>rd</sup>.

**Air Service Planning/Reports**

- SkyWest Airlines will phase out all EMB-120s in 2015: Between February 1<sup>st</sup> and May 5<sup>th</sup>, it will replace all EMB120 turboprops (27 seats) serving CA airports with one CRJ200 (50 seat) and one CRJ700 (64 coach seats and 6 first class). Future flight schedules to reflect these changes in 2015 have not been published.

- Visit to Skywest, St. George, UT: Tom and I visited with Greg Atkin, Managing Director, Market Development, Brandi Honey, Marketing Manager, Ian Whiting, Schedule Analyst and Etsushi Shaimano, Pricing and Revenue Manager, Skywest on January 28<sup>th</sup>. The meeting went very well. They expressed their satisfaction with the current flights and told us they were planning to begin 4 flights a day to LAX in March but due to a pilot shortage, they are unable to do it at this time. They are aggressively recruiting pilots and after the newly hired pilots complete training, they will revisit adding flights. Joseph Pickering of Mead & Hunt joined us a presenting the opportunity for them to begin new service to Salt Lake City. They seemed interested but can't add any new service until they are fully staffed. We will follow up with them in a few months.

## **Marketing, Advertising & Promotions**

### **Advertising**

- TV – We were on the college plays-offs, NFL play-offs, Golden Globes and KSBW News. We will also be advertising on AT&T Golf and the Oscars.
- Movie Theaters: currently running at Del Monte Theaters.
- Billboard: On Hwy 101, 2 miles north of Prunedale. The artwork on the billboard will be changing soon. It has been sent off to be printed and will be installed when it is ready. (See attached)
- Baggage Claim Video: The new Fly Monterey video is running in the Baggage Claim. We have received many positive comments.

### **Public Relations:**

- Weekly e-Newsletter: Below are the featured cities during the past five weeks:
 

Dec 30	US Airways	Phoenix
Jan 7	Alaska	San Diego
Jan 14	American	Los Angeles
Jan 20	Alaska	San Diego
Jan 27	Allegiant	Las Vegas
- Social Media/Facebook: "Total Likes" continue to grow – **12,410** as of February 2, 2015.

### **Customer Service:**

- Customer Comment Cards – see January responses attached.

### **Next Committee Meeting:**

Monday, March 2 at 9:00 a.m.

**SPECIAL MEETING  
AIR CARRIER SERVICE – MARKETING - COMMUNITY RELATIONS COMMITTEE  
OF THE BOARD OF DIRECTORS  
MONTEREY PENINSULA AIRPORT DISTRICT**

**February 3, 2015 – 9:00 AM**

**Board Room - Terminal Building  
Monterey Regional Airport**

(Unless you are a public safety official, please turn off your cell phone or place it on vibrate mode during the meeting. Thank you for your compliance.)

**A. CALL TO ORDER**

**B. COMMUNICATIONS/ANNOUNCEMENTS/INFORMATIONAL ITEMS**

**C. PUBLIC COMMENTS**

(Any person may address the Committee at this time. Presentations should not exceed three (3) minutes, should be directed to an item **NOT** on today's agenda, and should be within the jurisdiction of the Monterey Peninsula Airport District Board. Though not required, the Monterey Peninsula Airport District Board appreciates your cooperation in completing a speaker request form available on the staff table. Please give the completed form to the Monterey Peninsula Airport District Secretary. Comments concerning matters set forth on this agenda will be heard at the time the matter is considered.)

**D. REGULAR AGENDA – ACTION ITEMS**

- |            |    |   |
|------------|----|---|
| Review     | 1. | Marketing, Advertising & Promotions                 |
| Review     | 2. | Air Service   |
| Review     | 3. | Community Alliance for Promotion of Inbound Flights |
| Review     | 4. | Public Relations                                    |
| Review     | 5. | Customer Service Ideas, Feedback & Reports          |
| Review     | 6. | Instrument Landing System Status                    |
| Discussion | 7. | Schedule next meeting                               |

**E. ADJOURNMENT**

**AGENDA DEADLINE**

This is the final Agenda that has been posted on the bulletin board outside the District Offices in the Terminal Building at the Monterey Peninsula Airport no less than 72 hours prior to the meeting.



**Over 400,000 passengers every year.  
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**AGENDA ITEM: I a. 2.**  
**DATE: February 11, 2015**

**TO:** Board of Directors, Monterey Peninsula Airport District  
**FROM:** Tom Greer, General Manager (on behalf of the Finance Committee)  
**SUBJ:** Committee Report for Finance Committee Meeting

**BACKGROUND.** Since the last regular board meeting, the Finance Committee held one meeting. The agenda is presented below. Comments and notes are recorded separately (at the end of the agenda).

**SPECIAL MEETING OF THE FINANCE COMMITTEE  
BOARD OF DIRECTORS  
MONTEREY PENINSULA AIRPORT DISTRICT**

**February 4, 2015 1:30 PM**

**Boardroom, Terminal Building  
Monterey Regional Airport**

(Unless you are a public safety official, please turn off your cell phone or place it on vibrate mode during the meeting.)

**A. CALL TO ORDER**

**B. COMMUNICATIONS / ANNOUNCEMENTS / INFORMATIONAL ITEMS**

**C. PUBLIC COMMENTS**

(Any person may address the Monterey Peninsula Airport District Finance Committee at this time. Presentations should not exceed three (3) minutes, should be directed to an item **NOT** on today's agenda, and should be within the jurisdiction of the Monterey Peninsula Airport District Board. Though not required, the Monterey Peninsula Airport District Board appreciates your cooperation in completing a speaker request form available on the staff table. Please give the completed form to the Monterey Peninsula Airport District Secretary. Comments concerning matters set forth on this agenda will be heard at the time the matter is considered.)

**D. REGULAR AGENDA – ACTION ITEMS**

- |            |    |   |
|------------|----|---|
| Review     | 1. | December 2014 & FYTD (FY 2015) Financial Statements |
| Review     | 2. | Accounts Receivable Aged Invoice Report             |
| Review     | 3. | Cash Position Update                                |
| Discussion | 4. | Update District Investment Policy                   |
| Discussion | 5. | District Fleet Management Policy                    |
| Review     | 6. | Finance & Accounting Issues Update                  |

**E. ADJOURNMENT**

**AGENDA DEADLINE**

This is the final Agenda that has been posted on the bulletin board outside the District Offices in the Terminal Building at the Monterey Peninsula Airport no less than 24 hours prior to the meeting.

**Notes/comments from 02/04/2015 Finance Committee Meeting:**

- Meeting called to order by Chair Sabo at 1:31 p.m.
- Meeting attended by board members Carl Miller and Bill Sabo; staff members Tom Greer, Mark Bautista, Tonja Posey, Brenda Smith, and Jerry Merritt were present.
- There were no communications or public comments
- December 2014 & FYTD (FY 2015) Financial Statements
  - ✓ Operating revenue was 2% (\$12,397) above plan for December,
    - Above plan were:
      - Terminal Rents,
      - Rental Car Concessions, and
      - Property Tax Revenue.
    - On plan were:
      - GA Landing Fees, and
      - FBO Rents
    - All other categories of operating revenue were below plan
    - Discussion centered on:
      - December enplanements,
      - loss of revenue (parking for example) from those reduced enplanements,
      - changes/reductions in air carrier schedules/flights,
      - cancelled flights in December, and
      - self-storage (MHSS/FWSS) concession revenue for December.
    - Questions also raised were:
      - Are we losing more and more passengers to San Jose (due to a ticket price war between air carriers), and
      - Is it time to raise the taxi medallion fee and/or the taxi trip fee?
  - ✓ FYTD Operating Revenue was 2% (\$81,864) above plan
    - Forecast for full-year FY 2015 is that operating revenue will be slightly under plan
  - ✓ December operating expense was 4% (\$23,134) below plan
    - Staff answered questions regarding several expense lines in several departments asked by Director Sabo, specifically regarding:
      - Temporary personnel use (Admin - receptionist),
      - Wage/salary expense (Police), and
      - Vehicle maintenance expense (Police).

- FC was again reminded that the District may be at risk regarding election expense (we will not have an invoice from the MC Elections Department until March/April)
  - ✓ FYTD Operating Expense was 5% (\$186,619) below plan
    - Forecast for full-year FY 2015 is that operating expense will be right on (possibly slightly below) the plan number
  - ✓ Operating income was 51% (\$35,532) above plan for December
  - ✓ Operating income FYTD was 287% (\$268,483) above plan
    - FC was reminded that the above plan operating income will erode as we progress through the fiscal year
    - Forecast for full-year FY 2015 is that operating income will be very close to the plan
- Accounts Receivable Aged Invoice Report
  - ✓ Reviewed the distribution of aged receivables for the month of December,
  - ✓ Reviewed the aged A/R detail as of 01/31/2015, and
  - ✓ Reviewed the specifics of the A/R on several tenants including Forza Motors (Non-Aviation Facilities) and OK Aviation (Light G/A Space)
- Cash Position Update
  - ✓ Cash position – net change was a positive \$83,068 for December, positive \$184,919 FYTD, and a
  - ✓ separate presentation/document was reviewed, and
  - ✓ the FC acknowledged that a small contribution to the District's net position was being made.
- Update District Investment Policy
  - ✓ Handed out copies of the chart that showed what a public entity (such as the District) can invest monies in,
  - ✓ Informed the committee that staff had requested the District General Counsel review relevant code sections and render a written opinion on investment latitude,
  - ✓ FC will move slowly regarding any changes in the District's investment policy/strategy and over the next few months (and future FC meetings) will:
    - receive District General Counsel's opinion,
    - work with Mr. Brenaman concerning options, and
    - assemble/edit/create an investment policy to recommend to the board of directors.
  - ✓ District Fleet Management Policy
    - Reviewed work that staff had assembled to create a "Fleet Management Policy",
    - Staff will finalize and present as a draft at the next FC meeting
- Finance & Accounting Issues Update
  - ✓ Handed out copies of "The Seven Deadly Sins of Public Finance",
  - ✓ Answered questions presented at the previous (01/07/15) FC meeting:

- Is it possible to put a sub-meter on the restaurant's (Golden Tee's) water line and there-by invoice that tenant for water used? There is already a sub-meter on the GT's water line
- Does the restaurant have its own gas meter/service? We are still investigating; however, it appears that the gas meter/service on the terminal's west end is shared by the District and the restaurant. More investigation is required.
- Future Agenda Items/Finance Committee Schedule
  - ✓ The FC asked that a review of MHSS/FWSS concession revenue be presented at the next FC meeting, and
  - ✓ the committee scheduled its next meeting on Wednesday, March 4, at 1:30 p.m.
- Meeting adjourned by Director Sabo at 3:50 p.m.