

**EXHIBIT LWL-25**

ANNEXATION AGREEMENT  
BETWEEN THE  
MARINA COUNTY WATER DISTRICT  
AND THE  
MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY

THIS AGREEMENT is made and entered into on <sup>202.1</sup> ~~March~~ <sup>21</sup> ~~25~~ <sup>1989</sup>,  
by and between the MONTEREY REGIONAL WATER POLLUTION CONTROL  
AGENCY ("MRWPCA") and the MARINA COUNTY WATER DISTRICT ("MCWD"),  
the parties herein, as follows:

RECITALS

A. The MRWPCA. The MRWPCA is a California Joint powers agency formed pursuant to Government Code Sections 6500 et seq., and composed of the cities of Monterey, Pacific Grove, Salinas, Seaside, Del Rey Oaks and Sand City, the County of Monterey, the Fort Ord Military Reservation and the Castroville, Moss Landing and Boronda County Sanitation Districts. The MRWPCA was formed to undertake and implement the common power and authority of its members to study, plan for, design, construct and operate regional wastewater treatment facilities for the general area of north Monterey County. The MRWPCA's regional treatment plant ("RTP"), located north of Marina, California, will be completed in 1989.

B. The MCWD. The MCWD is a public agency formed pursuant to Water Code Sections 30000 et seq., and provides wastewater collection, disposal and treatment, as well as water services, to the City of Marina and environs. MCWD has its own secondary treatment plant and discharges treated wastewater through its own outfall into Monterey Bay. There is pending litigation between the State of California and MCWD concerning such discharge. The litigation is being held in abeyance while MCWD negotiates with MRWPCA for membership and wastewater treatment services.

C. Negotiations. In 1982, MCWD filed a petition with the State Water Resources Control Board ("SWRCB"), seeking an order which would compel the MRWPCA to provide waste disposal services to MCWD. In September 1983, the SWRCB adopted its Resolution No. 83-74, which held that the MRWPCA was not required to provide such disposal services, but determined that the MRWPCA had an obligation to offer service to MCWD on reasonable terms and conditions. The two agencies were directed to negotiate in good faith to attempt to voluntarily arrive at a mutually acceptable agreement. By early 1986, substantial agreement had been reached by both parties on all significant items except the amount to be paid by MCWD to join the MRWPCA.

D. Grant Condition. In the summer of 1988, the MRWPCA received a grant amendment offer in connection with the transfer

of the Fort Ord capacity from the initial RTP construction to the Stage 5A Expansion Project, with a resulting grant increase to the MRWPCA, upon certain conditions, one of which was that the MRWPCA would substantially reduce the annexation fee for the MCWD. Negotiations thereafter have been largely concerned with the amount of grant or loan monies which MCWD might obtain to pay for the membership and annexation costs and for a portion of the facilities to connect MCWD's existing systems to the RTP.

E. Purpose of Agreement. The parties have successfully concluded their negotiations. The purpose and intent of this Agreement, therefore, is to set forth the terms and conditions pursuant to which the MCWD will annex to and become a member entity of the MRWPCA.

#### TERMS AND CONDITIONS

In consideration of the mutual promises made herein, the MRWPCA and MCWD hereby agree to the following terms and conditions:

1. Annexation. The MCWD will annex to and become a member entity of the MRWPCA.

2. Conditions Subsequent. This Agreement is entered into upon the following conditions subsequent:

a. MCWD will obtain a Clean Water Grant of the maximum amount available, but not less than a net proceed of one million dollars (\$1,000,000.00), to pay a portion of the cost of annexing to MRWPCA.

b. MCWD will obtain a loan from the State Revolving Fund ("SRF") in the maximum amount available, but not less than three million dollars (\$3,000,000.00), which sum has been established by the parties as a reasonable estimate of the construction and related costs (including planning, engineering and inspection costs) for a pump station, interceptor and related facilities (hereinafter jointly referred to as "the Connector") to convey wastewater from the MCWD plant to the MRWPCA's regional treatment plant. MCWD will make a good faith effort to apply for and seek to obtain a SRF loan for Fiscal year 1989/90.

c. The parties will petition for and obtain the approval of the Monterey County Local Agency Formation Commission ("LAFCO"), to annex the MCWD to the Monterey Regional County Sanitation District ("MRCSD"), the companion entity which establishes the boundaries of the MRWPCA.

d. Neither MRWPCA nor MCWD shall lose any currently permitted treatment or discharge capacity, pursuant to air quality regulations or otherwise, as a result of this Agreement.

e. The execution and implementation of this Agreement will resolve the pending litigation between the State of California and the MCWD over MCWD's discharge into Monterey Bay through its own outfall. MCWD shall, at its cost, take the actions necessary to resolve the pending litigation forthwith.

If MCWD is unable to obtain the grant or the loan, this Agreement will be of no force or effect and the parties will proceed in good faith to negotiate a new or revised agreement concerning the matters set forth in this Agreement. If the parties are unable to obtain the approval of LAFCO upon conditions acceptable to MCWD, this Agreement shall be voidable at the option of MCWD, voting status in the MRWPCA being material to MCWD in entering this Agreement.

3. MRWPCA Membership. Upon MCWD becoming a signatory of the MRWPCA's joint powers agreement, the MCWD will become a full voting member of the MRWPCA. Execution of the joint powers agreement will occur immediately upon approval and execution of this Agreement, after compliance with applicable CEQA requirements.

4. Connection Fees and User Fees. When the MCWD becomes a voting member of the MRWPCA, the MRWPCA shall be entitled to receive all connection fees from new connections to the MCWD system for which MCWD has not previously received connection fees for wastewater treatment and disposal. Such connection fees received by MRWPCA before satisfaction or release of the conditions subsequent will be placed by MRWPCA in a separate, interest-bearing account, to be released therefrom to MRWPCA free of restriction upon completion of the Connector (as discussed in paragraph 6 below), or to be repaid to MCWD if the conditions subsequent cannot, by the exercise of diligence, be satisfied or released. When the Connector becomes fully operational, and MRWPCA begins treating wastewater generated in MCWD's service area, MRWPCA, may begin collecting user fees from users in MCWD's service area pursuant to MRWPCA's approved revenue plan. Such user fees will be the same as those collected from like users in other service areas served by MRWPCA.

5. Grant and Loan Funds. MCWD will give all grant and loan funds described in paragraph 2 above to MRWPCA immediately upon receipt; provided, however, that the grant funds must be delivered to MRWPCA before October 1, 1989. Depending on the preference of the SWRCB, MRWPCA will pay the debt service on the SRF loan either a) directly or b) by advancing funds to MCWD to pay the debt service. If it is acceptable to the SWRCB, the SRF loan will be assigned by the MCWD to the MRWPCA. The local share of

project funded by a grant pursuant to this Agreement will be paid to the MRWPCA as a part of the future normal, user fees to be paid to MRWPCA by users within MCWD's present or future service area.

6. Design and Completion of Connector. MRWPCA will design and construct the Connector to provide the capacity specified by MCWD, provided that the incremental cost of capacity in excess of 2.0 mgd ADWF (and appropriate peaking capacity) will be paid for by the MCWD. MCWD will complete its facilities plan and all proceedings for CEQA compliance for the Connector. The Connector will be constructed by the MRWPCA, which will obtain any necessary permits and rights of way to construct the Connector. MRWPCA will start upon the design and construction process of the Connector within sixty (60) days following the first receipt by it or funds from the SRF loan, and it will act diligently and make a good faith effort to complete construction of the Connector within a reasonable period of time (estimated by the parties at this time to be within twenty-four (24) months after the MRWPCA's first receipt of grant or loan funds.) Provided, however, that if it is necessary to do pre-loan design work in order to obtain the SRF loan, the MRWPCA will commence such work within (30) days after execution of this Agreement. However, if an SRF loan is not obtained thereafter by the MCWD, the MCWD will reimburse MRWPCA for the expense of such design work. MRWPCA will take such steps as are necessary to coordinate all pre-loan design work with the MCWD.

7. Plant Reclamation/Desalination Use. The MCWD intends to convert its treatment plant to a water reclamation and/or desalination plant. MCWD, at its cost, will comply with all applicable governmental requirements and take all actions necessary and appropriate to such use of the plant. MRWPCA shall cooperate in such efforts as requested by MCWD, provided, MCWD shall hold MRWPCA harmless of and from any costs and liabilities occasioned by such cooperation.

8. Costs of Annexation and CEQA Compliance. MRWPCA shall be the lead agency for obtaining CEQA compliance for this Agreement. MRWPCA will pay all costs associated with fulfilling any CEQA requirements in connection with this Agreement and the annexation of MCWD to the MRCSD. MRWPCA shall also pay all other costs of the LAFCO proceedings in connection with the annexation.

9. MCWD Growth. Following the annexation by the MCWD to the MRCSD, the MRWPCA agrees to provide treatment and disposal capacity for MCWD growth, as follows: in any expansion of MRWPCA facilities constructed for the general benefit and use of all member agencies, the MCWD will have access to growth capacity on the same basis as all other member agencies. MCWD may also elect to pay the MRWPCA to construct additional capacity specifically

for MCWD's sole use, and MRWPCA will construct such capacity with requested and paid for in full by the MCWD. For purposes of this paragraph, "growth" is defined as that treatment and discharge capacity in excess of 2 million gallons per day, monthly average of daily dry weather volumes discharged (2.0 mgd ADWF).

10. Treatment Capacity Allocation. Pending revision of the Monterey Bay Area Air Quality Maintenance Plan, MRWPCA will treat up to 2.0 mgd ADWF of wastewater from MCWD. Attached to this agreement as Exhibit "C" is a letter from AMBAG to the MBUAPCD, stating that the population forecast figures for MCWD are consistent with the Air Quality Plan for the Monterey Bay Region. Such compliance forms the basis for treatment of up to 2.0 mgd ADWF, which is the amount currently permitted under MCWD's NPDES permit. Flows shall be determined based upon the then current User Category Average Flow chart maintained by the MRWPCA and used by it in determining sewer user rates. Allocation of capacity above 2.0 mgd ADWF shall be subject in all respects to the rules governing other member agencies of MRWPCA, including the MRWPCA's Ordinance No. 87-6, as it may be revised, replaced, or amended from time to time.

11. Credit for Reclaimed Water. MCWD will receive a credit from the MRWPCA for wastewater that is reclaimed by the MCWD and not delivered to the MRWPCA regional treatment plant, to the extent that there is a measurable operations cost savings to the MRWPCA.

12. Wastewater for Reuse. MCWD shall have the right to obtain from the MRWPCA, at the regional treatment plant, treated wastewater for reuse by the MCWD in quantities equal to the volume of MCWD wastewater treated by MRWPCA and such additional quantities as from time to time are not committed to any other users for beneficial use. MCWD's cost for such treated wastewater will be the MRWPCA's incremental cost over secondary treatment, to meet applicable local, state and federal requirements for water reuse, not to exceed the lowest amount charged to any other user by the MRWPCA for treated water. Water reclaimed by the MCWD will not be used in violation of any condition placed on the MRWPCA in connection with its Use Permit No. 3188, dated August 12, 1987, issued by the County of Monterey for the RTP.

13. Expenses, Attorney's Fees and Costs. Each party hereto agrees to pay all expenses and costs incurred by such party in connection with this Agreement. In the event it should become necessary for either party to enforce any of the terms and conditions of this Agreement by means of arbitration, court action or administrative enforcement, the prevailing party, in addition to any other remedy at law or in equity available to such party, shall be awarded all costs and reasonable attorney's fees in connection therewith, including fees and costs of experts reasonably consulted by the attorneys for the prevailing party.

14. Amendment. This Agreement may be amended or modified only by a writing signed by both parties hereto.

15. Waiver. Failure on the part of either party to enforce any provisions of this Agreement shall not be construed as a waiver of the provision or of the right to compel enforcement of such provision or provisions, nor act to release the other party from its obligations under this Agreement. Waiver of any right or default shall not be construed as a waiver of the right or default or any subsequent waiver or default.

16. Binding Effect. This Agreement shall bind and benefit the parties and their successors.

17. Time is of the Essence. Time is of the essence of this Agreement except where otherwise expressly provided.

18. Exhibits. All exhibits attached and referred to in this Agreement are incorporated herein by reference.

19. Integration. This Agreement constitutes the full and complete agreement of the parties regarding its subject matter and any prior agreements or arrangements are hereby superseded.

20. Captions. Titles or captions of articles, sections and paragraphs contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision hereof.

21. Number and Gender. Whenever required by the context, the singular number shall include the plural, and the masculine or neuter gender shall include all persons.

22. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California as applied to agreements executed in California solely by residents of California to be performed entirely within that State.

23. Severability. If any of the provisions of this Agreement are determined to be invalid or unenforceable, those provisions shall be deemed severable from the remainder of this Agreement and shall not cause the invalidity or unenforceability of the remainder of this Agreement.

24. Counterparts. This Agreement has been or may be executed in multiple copies or counterparts, each of which shall for all purposes constitute one agreement, binding on the parties.

25. Implementation. The parties will take such actions and execute such documents as are necessary and appropriate to implement this Agreement.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representative, have executed this Annexation Agreement on the date first hereinabove written.

MONTEREY REGIONAL WATER  
POLLUTION CONTROL AGENCY

By *Shylla M. ...*  
Chairman of the Board

MARINA COUNTY WATER  
DISTRICT

By *James E. ...*  
Chairman of the Board

ATTEST:

*Keith ...*  
Secretary

ATTEST:

*Bonnie ...*  
Secretary

12400/2D-ANNEX.AG/4389/3

EXHIBIT "A"  
~~XXXXXXXXXXXXXXXXXXXX~~  
MARINA COUNTY WATER DISTRICT

Being a portion of Monterey City Lands Tract #1 and Rancho Las Salinas as shown and so designated on the "Official Map of Monterey County, California", on file in the office of the Road Commissioner, Monterey County, California.

BEGINNING at the southwest corner of the Locke Paddon Bayside Sub-division as recorded in Volume 2 of Outside Lands at page 15, office of the County Recorder, Monterey County, California; said point being also on the shoreline of Monterey Bay, thence from said place of beginning in an easterly direction along the southerly boundary of the Locke Paddon Bayside Subdivision, and the southerly boundary of the Locke Paddon Second Subdivision of Monterey City Lands as recorded in Volume 2, Outside Lands, page 11, office of the County Recorder, Monterey County, California; to the southeasterly corner thereof, thence in a northerly direction along the easterly boundary of the Locke Paddon Second Subdivision of Monterey City Lands and Locke Paddon Subdivision as recorded in Volume 2, Outside Lands, page 10, office of the County Recorder, Monterey County, California, to the northeast corner thereof, thence continuing in a northerly direction along the prolongation of the last described course to the northerly line of Reservation Road (a county road 120 feet wide) thence in an easterly direction along the northerly right of way line of Reservation Road to its intersection with the line between Lots 6 and 7 of Rancho Las Salinas as shown on said "Official Map of Monterey County", thence in a northeasterly direction along said line between Lots 6 and 7, being also the easterly line of that certain 60.0 acre tract of land conveyed by R.H. Maddock to George Alfred Maddock by deed dated December 26, 1930, recorded in Volume 275 of Official Records at page 209, Records of Monterey County, California, to the northeasterly corner of said 60.0 acre tract, thence leaving said line between Lots 6 and 7 of Rancho Las Salinas and in a northwesterly direction along the northeasterly line of said 60.0 acre tract to its intersection with the line between Lots 4 and 5 of Rancho Las Salinas, thence

EXHIBIT A

in a northeasterly direction along the line between said Lots 4 and 5 to the most southerly corner of that certain 37.39 acre tract of land conveyed by Mary C. Freitas to Martin Girotti by deed dated April 13, 1941; recorded in Volume 716 of Official Records at page 300, Records of Monterey County, California, thence in a westerly direction along the southerly line of said 37.39 acre tract to the most westerly corner thereof situated in the center of DeForest County Road, 40 feet wide, thence in a northeasterly direction along the centerline of DeForest Road and the westerly line of said 37.39 acre tract to the northwest corner thereof, thence westerly along the northerly line of DeForest Road to the northwest corner of that certain 43.67 acre tract of land conveyed by Edith A. Anthony to F.M. Hilby, by deed dated November 10, 1909, recorded in Volume 113 of Deeds at page 96, Records of Monterey County, said corner being on the east boundary of the Locke Paddon Third Subdivision of Monterey City Lands, as recorded in Volume 2 of Outside Lands at page 12, thence in a northeasterly direction along the easterly boundary of the Locke Paddon Third Subdivision to the northeast corner thereof, thence in a westerly direction along the northerly boundary of said Locke Paddon Third Subdivision and the Locke Paddon Bayside Subdivision as previously described to the northwest corner thereof, said corner being also a point on the shoreline of Monterey Bay, thence in a general southerly direction along the shoreline of Monterey Bay to the place of beginning.