

RESOLUTION NO. 2022-77

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
HUNTINGTON BEACH DECERTIFYING FINAL
SUBSEQUENT ENVIRONMENTAL IMPACT REPORT NO.
10-001 AND REPEALING RESOLUTION NO. 2010-63 AND
RESCINDING ALL CITY ENTITLEMENT APPROVALS AND
TERMINATING ALL AGREEMENTS

WHEREAS, the City of Huntington Beach ("City"), as lead agency, has completed and certified that certain Final Subsequent Environmental Impact Report (SEIR) No. 10-001 for the Poseidon Seawater Desalination project ("Project"), which project is more fully described in Final SEIR No. 10-001 which has been assigned State Clearinghouse #2001051092; and

WHEREAS, on September 7, 2010, the City Council adopted Resolution No. 2010-63, which certified Final SEIR No. 10-001 for the Project; and

WHEREAS, on September 7 and September 20, 2010, the City Council approved the Project, pursuant to Entitlement Plan Amendment No. 10-001 to Conditional Use Permit No. 02-004, Coastal Development Permit No. 10-014, and Tentative Parcel Map No. 10-013 to permit a 50 million gallons per day seawater desalination project on a 13-acre site and to subdivide three parcels totaling 19.5 acres into four parcels conditioned upon California Coastal Commission approval; and

WHEREAS, on September 7, 2010, the City Council approved an Amended and Restated Owner Participation Agreement, an Exchange Agreement and Escrow Instructions, and a Pipeline Franchise Agreement with Poseidon Resources (Surfside) LLC; and

WHEREAS, in May 2022, the California Coastal Commission denied a Coastal Development Permit for the Project; and

WHEREAS, on November 7, 2022, Poseidon Water submitted a letter requesting termination of all approvals, permits and agreements with the City of Huntington Beach (Attached hereto and incorporated herein by this reference).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntington Beach as follows:

1. The Above recitals are incorporated herein.
2. The final SEIR No. 10-001 for the Project is decertified.
3. Resolution No. 2010-63, which certified Final SEIR No. 10-001 for the Project, is repealed.

4. Conditional Use Permit No. 02-004, Entitlement Plan Amendment No. 10-001, Coastal Development Permit No. 10-014, and Tentative Parcel Map No. 10-130 are rescinded.
5. The Amended and Restated Owner Participation Agreement, Exchange Agreement and Escrow Instructions, and Pipeline Franchise Agreement with Poseidon Resources (Surfside) LLC are hereby terminated.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2022.

Mayor

REVIEWED AND APPROVED:

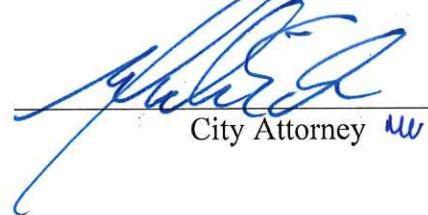
City Manager

INITIATED AND APPROVED:



Director of Community Development

APPROVED AS TO FORM:



City Attorney *m*

ATTACHMENTS

Exhibit A: November 7, 2022 Poseidon Water Letter of Termination

EXHIBIT A



November 7, 2022

VIA EMAIL ONLY

City of Huntington Beach
Public Works Department
2000 Main Street
Huntington Beach, CA

Dear City of Huntington Beach:

On May 12, 2022, the California Coastal Commission voted to deny **Poseidon Resources (Surfside) LLC** ("Poseidon") the Huntington Beach Desalination Facility's ("Facility") Coastal Development Permit application following a public hearing on the issue. As a result, the Facility will not be constructed, and Poseidon has terminated its interest in the Facility. Poseidon therefore requests termination of the agreements/permits listed below, between Poseidon and the **City of Huntington Beach**.

- SEIR No. 10-001
- Conditional Use Permit No. 02-004
- Entitlement Plan Amendment No. 10-001
- Coastal Development Permit No. 10-014
- Tentative Parcel Map No. 10-130
- Franchise agreement
- Owner participation agreement
- Exchange agreement and escrow instructions and lease agreement for water storage purposes

Poseidon waives the right to any noticing and opportunity to be heard before City Council on the termination of the Franchise Agreement, dated September 7, 2010.

Thank you for your attention to this matter.

Keith A. Bukowski

Keith A. Bukowski
Poseidon Water
Corporate Controller

cc: [Via email only]
Ricky Ramos, City of Huntington Beach (rramos@surfcity-hb.org)

Poseidon Water LLC

5780 Fleet Street, Ste 140, Carlsbad, CA 92008 Phone: (760) 655-3900 www.poseidonwater.com