



June 26, 2025

The Honorable Judge Stephanie E. Hulsey
Judge of the Superior Court
c/o Office of the County Counsel
Attention: Sandra Ontiveros
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

Re: 2024-2025 Monterey County Civil Grand Jury Final Report – “Monterey’s Deteriorating Wharves: A Concern for Public Safety”

Dear Honorable Judge Hulsey,

This letter is in response to the Monterey County Civil Grand Jury Final Report – “Monterey’s Deteriorating Wharves: A Concern for Public Safety” pursuant to Penal Code sections 933 and 933.05. The responses contained in this correspondence were approved by the Monterey City Council at its regular meeting on June 17th, 2025.

On behalf of the Monterey City Council, I would like to assure you that the City of Monterey is committed to ensuring the safety and continued investment in our infrastructure. The City of Monterey appreciates the Civil Grand Jury’s work and responds to the report’s findings and recommendations below. The actual report language is displayed in **bold** type for readability.

FINDINGS

F1. The City of Monterey has failed to maintain the structural integrity of its wharves for many years, resulting in the wharves’ classification as being in “Poor” condition, according to ASCE standards. Several structural elements have been identified as requiring immediate repair, yet little action has been taken. This neglect poses serious risks to public safety, the City’s historic structures, and the assets of leaseholders.

The City Council disagrees with this finding. Wharf I is over 100 years old, and Wharf No. II is approaching 100. The City cyclically inspects and repairs the wharves targeting a 3 to 5 year cycle. While the wharves are rated as being in “poor condition,” that does not mean the structures do not have structural integrity. A “Poor condition” rating is defined as “Major deterioration or overstressing observed on widespread portions of the structure but does not significantly reduce

the load-bearing capacity of the structure. Repairs may need to be carried out with moderate urgency.” When a condition is found to potentially compromise the structure’s safety, the City takes action and expedites these repairs. The City has invested over \$6 million in the wharf programmatic repairs program over the last six (6) years, including 2018 Wharf II critical repairs, 2021/22 Municipal Wharves Structural Repairs, and 2024/25 Wharf II Deck Repairs. The current condition of the wharves does not pose an immediate or serious risk to public safety (See table below). There are no historically designated buildings or properties (H1, H2 or HD) present at Wharf I or Wharf II.

Condition Assessment Rating (CAR) from ASCE, Table 2-14:

| Condition Rating | | Description |
|------------------|--------------|---|
| 6 | Good | No visible damage or only minor damage noted. Structural elements may show very minor deterioration, but no overstressing observed. No repairs are required. |
| 5 | Satisfactory | Limited minor to moderate defects or deterioration observed but no overstressing observed. No repairs are required. |
| 4 | Fair | All primary structural elements are sound but minor to moderate defects or deterioration observed. Localized areas of moderate to advanced deterioration may be present but do not significantly reduce the load-bearing capacity of the structure. Repairs are recommended, but the priority of the recommended repairs is low |
| 3 | Poor | Advanced deterioration or overstressing observed on widespread portions of the structure but does not significantly reduce the load-bearing capacity of the structure. Repairs may need to be carried out with moderate urgency. |
| 2 | Serious | Advanced deterioration, overstressing, or breakage may have significantly affected the load-bearing capacity of the primary structural components. Local failures are possible, and loading restrictions may be necessary. Repairs may need to be carried out on a high-priority basis with urgency. |
| 1 | Critical | Very advanced deterioration, overstressing, or breakage has resulted in localized failure(s) of primary structural components. More widespread failures are possible or likely to occur, and load restrictions should be implemented as necessary. Repairs may need to be carried out on a very high-priority basis with strong urgency |

F2. Under the 1991 leases, the City of Monterey cannot require leaseholders to undertake structural repairs identified by the City’s inspection reports unless the leaseholder’s engineer agrees those repairs are necessary. This allows the leaseholders to avoid making immediate and critical repairs identified in the City commissioned wharf-wide inspections.

The City Council disagrees with this finding. The “1991 leases” are ground leases, in which all of the improvements from the sand to the top of the roof, are owned and maintained by the lessee.

This includes the pilings, substructure and decking. The lease only obligates the lessee to pay for a structural inspection and report every 3 years and to repair any defects noted in the report in accordance with the ground lease. Generally, the professional conducting the structural inspection is a registered engineer, structural or civil, with experience in wharves and wharf construction.

The Civil Grand Jury insinuates in this finding that the leaseholders' engineers are poised to oppose findings from inspection reports. The Civil Grand Jury ignores the fact that professional engineers are licensed by the State of California and are bound by the highest technical and ethical standards.

Multiple qualified engineers can look at the same structure and form different professional opinions about the severity of damage and the recommended course of action to repair it. Fortunately, there is some level of redundancy automatically built into the calculations and the design. For example, an existing pile could completely fail, and the decking, joists, cap beams and other remaining piles can re-distribute the load such that the structure remains stable. That does not mean that necessary repairs can be neglected or unnecessarily delayed, but it does afford the means to navigate the permitting process without fearing imminent failure. Should a wharf deteriorate to the extent that failure is likely, the qualified engineers would be obligated to inform the City that the structure is unsafe and cannot be occupied. No such determination has been made in the case of Monterey's wharves.

F3. The six-month timeframe for repair completion specified in the 1991 ground leases is unrealistic in today's regulatory environment. Currently, the permits alone, required from the City of Monterey, Army Corps of Engineers, Regional Water Quality Control Board, and California Coastal Commission, cannot all be obtained in six months. Consequently, the City allows the leaseholders to delay these repairs without a required completion date or a penalty for noncompliance.

While the City Council agrees with the first two sentences of this finding, it does not agree with the conclusion. The regulatory landscape has changed considerably since the City entered the Fisherman's Wharf ground leases in 1991, and the City recognizes that it can be difficult for lessees to obtain all required permits within the 6 month period required in the lease. Therefore, in order to ensure compliance with the intent of the lease, the City has demonstrated both patience and practicality while the lessees continue to work through the process of applying for and securing the numerous required permits. The City carefully tracks the lessees permitting and repair progress, following up with lessees if progress appears stalled. Should the lessee fail to act diligently in obtaining all necessary permits and scheduling work, the City may take action as afforded in the lease agreement.

F4. The City of Monterey has not informed all ground leaseholders regarding their ability to use the City's Mitigated Negative Declaration (MND), which could significantly expedite the permitting process. This has resulted in delays in leaseholder-initiated repairs. By employing

the MND, leaseholders can streamline the permitting process, reduce costs associated with delayed repairs, and ultimately shorten the time required to mitigate risks to the public.

The City Council acknowledges that it did not provide the lessees with a copy of the City's Mitigated Negative Declaration ("MND") at the time it was adopted. The MND was formally adopted by the City Council on January 20, 2020, during a publicly noticed and conducted meeting. This adoption occurred mid-cycle of the lessees' three-year reporting period, which could explain why the lessees neglected to be aware of it.

Moving forward, the City shall inform all ground leaseholders if, and when, they may be able to use the City's MND for streamlining the permitting process.

Reference:

<https://isearchmonterey.org/publicaccess/api/Document/ARw5M3Tmy66%C3%89tUeLg%C3%81uwJw%C3%81vxmTStGAlaoeUTUmgD4JhpGlbseZ3MQJFpUvzsl5gUgxJESJnGC4K0k9BMCt2XWk%3D/>

F5. In 2019, the City of Monterey commissioned a consulting firm at significant expense to create an ongoing maintenance program. This was intended to streamline structural repairs to the wharves, replacing the less efficient project-by-project method. The City of Monterey has yet to implement the Program, delaying work by at least three years, which is equivalent to the length of one maintenance cycle, jeopardizing public safety.

The City Council does not agree with this finding and it has not delayed any work, nor has public safety been jeopardized. The effort to implement a structural maintenance program began in 2017. With consultant support, the City worked to obtain "programmatic" permits that covered all maintenance activities on the wharves, regardless of ownership, for a 10-year duration. This effort included the 2017 condition assessments to develop a "menu" of anticipated construction activities. In accordance with the California Environmental Quality Act (CEQA), an Initial Study was undertaken and required biological and cultural assessments of the project areas. Mitigation measures were developed to offset environmental impacts to the lifeforms and habitat of Monterey Bay resulting from potential construction activities.

The City adopted a Mitigated Negative Declaration (Reso 20-009 C.S.) on January 21, 2020, in order to provide CEQA compliance for any future programmatic repair activity. Permit applications for the jurisdictional agencies (California Coastal Commission, United States Army Corps of Engineers and CA State Water Resources Control Board) were submitted. This was a lengthy, iterative process to ensure that the wide range of maintenance and repair work was properly accounted for and appropriately conditioned/regulated to minimize impacts.

During permitting efforts, it was determined that the City could not be the permit holder for work it cannot control. In other words, the City could not provide its permits to the tenants for any work that they had to perform, and tenants must obtain their own permits. The City acquired the final required permit to perform City work in July 2021 for a 5-year duration on City owned properties only (not leased).

Once the MND was approved and all necessary permits were obtained, the first cycle of repairs was put out to bid in late 2021 and the work was completed in 2022. The project implemented the necessary repairs to ensure public safety. The City has and will continue to prioritize and implement necessary repairs as identified in the assessment reports to ensure public safety.

Timelines:

2017: Conception of the Program and “Notice to Proceed” for consultant support, including the Condition Assessment; commencement of planning efforts (including Biological and Cultural work) and permitting correspondence

2018: Completion of the “Wharf 2 Critical Repairs Project” (separate project from the Program with its own project specific permits)

2019: November 20, received Water Quality Cert. No 32719WQ07 for “Municipal Wharves I and II Structural Maintenance Program Project” (Permit with the Central Coast Regional Water Quality Control Board authorization)

2020: January 21, City Council adopted a “Mitigated Negative Declaration for the Municipal Wharves I And II Structural Maintenance Program” (CEQA).

November 6, received Coastal Development permit (CDP) 3-20-0127 for “Monterey Wharves Maintenance” (California Coastal Commission authorization)

2021: July 7, received Regional General Permit (RGP 32) for “Monterey Municipal Wharves I and II Structural Maintenance Program” (Department of the Army, U.S. Army Corps of Engineers authorization)

December 21, received bids for “Municipal Wharves Structural Repairs FY 2021/2022” project.

2022: November 18, completed “Municipal Wharves Structural Repairs FY 2021/2022” project.

RECOMMENDATIONS

R1. The City of Monterey prepare and publish a report analyzing the discrepancies between leaseholder inspection reports and the 2024 COWI/Foth findings of “immediate” or “critical” repairs. The report must specify the necessity of each repair in accordance with ASCE standards and shall be made public by December 31, 2025.

The recommendation will not be implemented as the City is unable to compile such a report. As mentioned earlier, different qualified engineers may observe the same elements and develop differing opinions and recommendations in accordance with ASCE Standards. In order to “analyze the discrepancies between leaseholder inspection reports and the 2024 COWI/Foth findings,” a fourth qualified professional engineering opinion would be required to perform this task, causing even further expense, delays, and inaction. The City already has authority to approve and vet qualifications for preparers of lessee inspections and will continue to do so.

R2. The City of Monterey include any necessary repairs identified by the City's analysis of discrepancies between leaseholder inspection reports and the 2024 COWI/Foth findings (as specified in R1) in the Capital Improvement Programs by February 28, 2026.

The recommendation will not be implemented because it is not warranted. Please see response to R1. Lessees are required to obtain a structural inspection report and to make the necessary repairs pursuant to their lease agreement. The City provided a copy of the 2017 COWI findings to each lessee so that their engineer could consider these findings in their inspection and report. Lessees are at various stages of completing these improvements. The City will not include the lessee's repairs in the Capital Improvement Program, as the repair areas are located on leased land.

R3. The City of Monterey repeat the analysis of discrepancies between leaseholder inspection reports and the 2024 COWI/Foth findings and incorporation of discrepancies into the Capital Improvement Programs (as specified in R1 and R2) every three years.

The recommendation will not be implemented because it is not warranted, as noted in the City's response to R2. above, lessees are required to obtain a qualified structural inspection report and to make the necessary repairs pursuant to their lease agreement. The City provided a copy of the 2017 COWI findings to each lessee so that their engineer could consider these findings in their inspection and report. Lessees are at various stages of completing these improvements. Therefore, it would be impractical, unnecessary, and in conflict with the ground leases for the City to add the lessee repairs to the City's Capital Improvement Program.

R4. The City of Monterey develop a policy to provide a reasonable timeframe for leaseholders to complete repairs, accommodating the current permitting demands, instead of the six months as specified in the 1991 ground leases. The policy shall be implemented by December 31, 2025.

The recommendation has been implemented. The City has granted extended timeframes for tenants to obtain the necessary permits and complete required structural repairs. The City is not using the lease provision as a punitive measure against our tenants, but rather remains focused on supporting them through the permitting and construction phases. The City remains committed to supporting these efforts by closely monitoring tenant progress on a weekly basis and proactively reaching out to those whose repair projects appear to be stalled, ensuring continued communication and assistance throughout the process. Our approach prioritizes collaboration and flexibility, recognizing the challenges involved in completing the structural repairs. By providing extended timeframes and maintaining open lines of communication, the City continues to assist tenants in meeting their obligations without undue hardship.

R5. The City of Monterey develop, communicate, and implement a more proactive process for monitoring and enforcing required leaseholder repairs in a reasonable timeframe for

leaseholders to complete repairs, accommodating the current permitting demands (as specified in R4), by February 28, 2026.

The City Council accepts this recommendation and will implement it during the next 3-year cycle. The lessees have the contractual obligation to provide the City with a structural report every three years, and it is up to each individual lessee to track this due date and provide the structural report to the City pursuant to the lease agreement. Although the City currently has a proactive process for monitoring and enforcing leaseholder repairs, it is up to each lessee to perform the repairs to not be in breach of contract. All lessees that are required to make repairs under the current reporting cycle have initiated the permit process, and repairs should commence once building permits are issued. Please see response to R4 above.

In the past 12 months, 10 building permits have been processed and three have been finalized for structural repairs completed pursuant to lease agreements on Wharf I and Wharf II.

R6. The City of Monterey notify leaseholders of the existing Mitigated Negative Declaration (MND) for use in expediting repair permits by September 30, 2025

The City Council accepts this recommendation and will provide a copy of the Mitigated Negative Declaration to all Wharf I and Wharf II ground lessees by September 30, 2025.

R7. The City of Monterey update and publish a wharves maintenance plan that prioritizes and schedules “immediate” and “critical” repairs in accordance with ASCE standards.

The recommendation has been implemented. The maintenance plan is in place and involves cyclical, structural inspections every 3-5 years and prioritized repair projects based on the assessments. Interim inspections are also performed as necessary in the event of new or increased damage to ensure public safety. The City has and will continue to publish and present the reports to City Council and the public for full transparency. Maintenance plans are developed from the assessment reports and approved by City Council prior to construction. Plans are published online during the bidding process and available in the Office of the Engineer at Room 7 in City Hall.

R8. The City of Monterey identify funding sources to ensure ongoing structural integrity of the wharves as outlined in the report developed by ESA in 2019 by March 31, 2026.

The City Council accepts this recommendation. The City has invested over \$6 million in the wharf programmatic repairs program over the last six (6) years including over \$4 million in recent deck repairs. The City has used General Funds, Marina Funds, and Tidelands Funds for the wharf programmatic repairs program. Additionally, the City of Monterey regularly applies for grant funding opportunities to supplement local funds for infrastructure projects. The City is actively preparing a Port Infrastructure Development Program grant application for Wharf II strengthening and upgrades.

The City recently secured \$818,600 Coastal Commission LCP Local Assistance Grant to prepare a Sea Level Rise Vulnerability Assessment, Adaptation Plan, and Economic Analysis Project. As a part of this project, the City will evaluate funding strategies which include mechanisms such as establishing Hazard Abatement Districts and Climate Resilience Districts to support regional climate adaptation and resilience efforts. Hazard Abatement Districts and Climate Resilience Districts could provide on-going revenues to fund wharves maintenance without reliance on General Funds, Tidelands Funds, or grant funding.

R9. The City of Monterey complete triennial comprehensive structural inspection schedule for both wharves by November 30, 2025, and share resulting findings with all ground leaseholders within two months of receipt.

The City Council agrees with this recommendation and this was already implemented prior to the Civil Grand Jury's report. The condition assessments were recently performed in 2024 for both wharves; another assessment is planned for 2027. Findings from the reports have been incorporated into projects that are scheduled for construction in 2025 and 2026. Future findings from condition assessments will be published and shared with all Wharf I and Wharf II ground leaseholders within two months of receiving the final assessment report.

The City of Monterey appreciates the opportunity to respond to the Monterey County Civil Grand Jury's Report.

Respectfully,

Signed by:

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Tyler Williamson
Mayor