

## Monterey Town Administrator

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**From:** Steven Weisz <steve@montereyma.gov>  
**Sent:** Thursday, January 13, 2022 9:36 AM  
**To:** Monterey Town Administrator  
**Subject:** Fwd: billing for investigation

Please add "INVESTIGATORS REQUEST FOR ADDITIONAL FUNDS" to the next Selectboard meeting agenda.

Begin forwarded message:

**From:** [REDACTED]  
**Date:** January 12, 2022 at 1:43:19 PM EST  
**To:** "John F. Weingold" <[REDACTED]>, Steven Weisz <steve@montereyma.gov>, Justin Makuc <[REDACTED]>  
**Subject:** billing for investigation

Dear Selectboard members,

I am writing to update you on the status of the investigation. Shelly and I have spent numerous hours interviewing the individuals involved in the complaints and reviewing additional documents. As of this date, our current total chargeable time is approximately \$8000. We still have a few people to speak with and have to draft the report. I expect we will need an additional \$6000-\$7000 to finish this investigation. Alternatively, we can draft a basic report based on the information currently gathered at lower cost of \$2500-\$3000. However, this option would provide only our factual findings since we do not have enough information at this time to make conclusions and recommendations. Please advise how you would like us to proceed.

Thank you,  
Corinne

# OTIS

Made to move you

DATE: 01/11/2022

**TO:**

**Monterey Town Hall**  
435 Main Street

Monterey, MA 012457739

**FROM:**

**Otis Elevator Company**  
62 Crystal Street  
Lenox Dale, MA 01242

**EQUIPMENT LOCATION:**

MONTEREY TOWN HALL  
435 Main Street  
Monterey, MA 01245

Joe Potts

Phone: 413-237-7867  
Fax:

**PROPOSAL NUMBER:** AS0676

**EQUIPMENT DESCRIPTION:**

**No Of Units Type Of Units Manufacturer Customer Designation Machine Number**

0

**OTIS MAINTENANCE**

We propose to furnish Otis Maintenance on the equipment ("Units") described above. Otis Maintenance is a full preventive maintenance service intended to protect your investment, extend equipment life, and provide a high level of performance and reliability.

**OTIS MAINTENANCE MANAGEMENT SYSTEM<sup>SM</sup>**

We will use the Otis Maintenance Management System preventive maintenance program to deliver service tailored to your specific building needs. Equipment type, component life, equipment usage, and building environment will be taken into account by the OMMS<sup>®</sup> scheduling system, which will be used to plan maintenance activities in advance. The Units will be provided with devices to monitor equipment usage. We will use OMMS standard work processes developed and continuously improved by Otis.

Under this Contract, we will maintain the Units on the following terms and conditions:

**PERFORMANCE**

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**MAINTENANCE**

We will maintain the Units using trained personnel directly employed and supervised by us. The maintenance will include inspection, lubrication, and adjustment of the following parts:

- Controller parts, selectors and dispatching equipment, relays, solid-state components, transducers, resistors, condensers, power amplifiers, transformers, contacts, leads, dashpots, timing devices, computer and microcomputer devices, steel selector tapes, mechanical and electrical driving equipment, signal lamps, and position indicating equipment.
- Door operators, car door hangers, car door contacts, door protective devices, load weighing equipment, car frames, car safety mechanisms, platforms, car and counterweight guide shoes including rollers and gibs, and emergency car lighting.
- Hoistway door interlocks and hangers, bottom door guides, and auxiliary door closing devices.
- Machines, worms, gears, thrust bearings, drive sheaves, drive sheave shaft bearings, brake pulleys, brake coils, contacts, linings, and component parts.
- Motors, brushes, brush holders, and bearings.
- Governor components, governor sheaves and shaft assemblies, bearings, contacts, governor jaws, deflector or secondary sheaves, car and counterweight buffers, car and counterweight guide rails, car and counterweight sheave assemblies, top and bottom limit switches, governor tension sheave assemblies, and compensating sheave

OTIS MAINTENANCE

assemblies.

- Pumps, pump motors, operating valves, valve motors, leveling valves, plunger packings, exposed piping, above ground plungers and cylinders, and hydraulic fluid tanks.
- Escalator handrails, handrail drive chains, handrail brush guards, handrail guide rollers, alignment devices, steps, step treads, step wheels, step chains, step axle bushings, comb plates, floor plates, tracks, external gearing, and drive chains.
- Escalator upper drives, upper drive bearings, tension sprocket bearings, upper newel bearings and lower newel bearings, demarcation lights, and comb lights.

**RELIABILITY**

**PARTS COVERAGE**

If necessary, due to normal usage and wear, Otis will repair or replace any of the parts specified above at their sole discretion, unless specifically excluded elsewhere in the contract. Any parts under this Contract requiring replacement will be replaced with parts selected by Otis.

In addition, we will replace all wire ropes or coated steel belts as often as necessary to maintain an appropriate factor of safety. As conditions, usage, or Code warrants, we will equalize the tension on hoisting ropes, resocket ropes for drum machines, and repair or replace conductor cables and hoistway and machine-room elevator wiring

**PARTS INVENTORY**

We will during the term of this Contract maintain a supply of frequently used replacement parts and lubricants selected by Otis to meet the specific routine requirements of the Units. Any replacement parts stored in the machine room remain our property until installed in the Units. We further agree to maintain a supply of routine replacement parts available for express delivery in case of emergencies.

**QUALITY CONTROL**

We will periodically conduct field audits of our personnel and the Units to maintain quality standards. Otis field engineers will provide technical assistance, technical information, and Code consultation to support our maintenance organization.

**RESPONSIVENESS**

**24-HOUR DISPATCHING**

We will, at your request, provide you with access to eService and our OTISLINE 24-hour, year-round dispatching service. In the event a Unit malfunction occurs between regular examinations, you will be able to place a service call on eService or through an OTISLINE customer service representative, who will, at your request, dispatch an examiner to perform service. In the event Otis receives an emergency call from the phone in the elevator and a passenger indicates a need for assistance, Otis shall attempt to contact a building representative for an assessment of the situation and authorization to respond to the call. If Otis is unable to reach a building representative, Otis shall respond to the emergency call from the phone in the elevator. The visit will be treated as a Callback. It is your responsibility to: (a) have a representative available to receive and respond to OTISLINE calls; and (b) maintain working telephone equipment.

**COMMUNICATION**

**CUSTOMER REPRESENTATIVE**

As a service to you, and at your request an Otis representative will be available to discuss with you your elevator needs in the areas of modernization, traffic handling ability, recommendations and requirements of Code authorities, proper use and care of the Units, and the OMMS program. There is no additional charge for this consulting service, but by making this service available to you, Otis does not assume any duty to warn.

**REPORTS – eSERVICE**

We will use the OMMS program to record completion of maintenance procedures. We will, at your request, provide you access to eService. You will be able to access twelve (12) months of repair, completed maintenance procedure and service call history for the Unit(s). You will be responsible for obtaining Internet access to use eService.

**SAFETY AND ENVIRONMENT**

**SAFETY TESTS – HYDRAULIC ELEVATORS**

We will conduct an annual no load test and annual pressure relief valve test.

**SAFETY TESTS - ROPED HYDRAULIC ELEVATORS**

We will periodically examine safety devices and governors of the Unit. We will conduct an annual no load test, annual pressure relief valve test, and perform at each fifth year a full load, full speed test of safety mechanisms, overspeed governors, and car buffers. If required, the governor will be recalibrated and sealed for proper tripping speed.

**FIREFIGHTERS' SERVICE TEST**

If the equipment has firefighters' service, you assume responsibility for performing and keeping a record of any Code

required tests and for the maintenance, functioning and testing of the smoke and/or heat detectors.

If during the initial firefighters' service test any elevator firefighters' service is found to be inoperable, the building will be responsible for all of the cost associated with the repairs necessary to bring the unit in compliance with the applicable Codes.

If any applicable Code or governing authority mandates that such required tests be performed by a licensed elevator mechanic, Otis will provide such testing and service on an Open Order basis. You will be responsible for the costs associated with such testing and service.

**SAFETY TRAINING**

We will instruct our personnel to use appropriate personal protection equipment and follow safe work practices.

**ENVIRONMENTAL PROTECTION**

Otis endeavors to reduce generation of waste materials, to minimize risks to the environment, customers, the general public and Otis employees, and to comply with all federal and state environmental laws and regulations. Material Safety Data Sheet (MSDS) Manuals are available for review at your request.

You assume responsibility for removal of wastes, including but not limited to hydraulic oil, spoils, asbestos, etc., as it is not part of this Contract.

**MAINLINE DISCONNECTS**

You agree to engage a qualified electrician to service at least once annually the elevator mainline disconnects located in the elevator equipment room.

**SHARED RESPONSIBILITY**

You agree to provide us unrestricted ready and safe access to all areas of the building in which any part of the Units are located and to keep all machine rooms and pit areas free from water, stored materials, and debris. You agree to provide a safe work place for our personnel, and to remove and remediate any waste or hazardous materials in accordance with applicable laws and regulations.

If any Unit is malfunctioning or is in a dangerous condition, you agree to immediately notify us using the 24-hour OTISLINE service. Until the problem is corrected, you agree to remove the Unit from service and take all necessary precautions to prevent access or use.

You agree to properly post, maintain, and preserve any and all instructions or warnings to passengers in connection with the use of any Units.

In furtherance of OSHA's directive contained in 29 C.F.R. § 1910.147(f)(2)(i), which requires that a service provider (an "outside employer") and its customer (an "on-site employer") must inform each other of their respective lock out/tag out ("LOTO") procedures whenever outside servicing personnel are to be engaged in control of hazardous energy activities on the customer's site, Otis incorporates by reference its mechanical LOTO procedures and its electrical LOTO procedures. These procedures can be obtained at [www.otis.com](http://www.otis.com) by (1) clicking on "The Americas" tab on the left side of the website; (2) choosing "US/English" to take you to the "USA" web page; (3) clicking on the "Otis Safety" link on the left side of the page; and (4) downloading the "Lockout Tagout Policy Otis 6.0" and "Mechanical Energy Policy Otis 7.0," both of which are in .pdf format on the right side of the website page. Customer agrees that it will disseminate these procedures throughout its organization to the appropriate personnel who may interact with Otis personnel while Otis personnel are working on site at Customer's facility.

**WORK SCHEDULE**

**NORMAL HOURS**

All maintenance procedures and repairs will be performed during our regular working hours of our regular working days for the examiners who perform the service. All lamp and signal replacements will be performed during regular examinations.

For purposes of this Contract, a Callback is a response by Otis to a request for service or assistance made (a) by the customer or customer representative, (b) by the building or building representative; (c) by emergency personnel; (d) through the ADA phone line, and/or (e) through REM® monitoring system, for service or assistance, on an as needed basis, excluding regularly scheduled maintenance.

Regular working hours: 8:00 AM – 4:30 PM.

Regular working days: Monday – Friday excluding holidays.

**OVERTIME**

Callbacks outside of regular working hours will be billed at standard overtime rates.

## **OWNERSHIP AND LICENSES**

### **WIRING DIAGRAMS**

You agree to provide us with current wiring diagrams reflecting all previously made changes for Units covered by this Contract to facilitate proper maintenance of the equipment. We shall maintain the wiring diagrams so that they properly reflect any changes made by Otis to the equipment. These diagrams will remain your property.

### **OTIS SERVICE EQUIPMENT**

Any counters, meters, tools, remote monitoring devices, or communication devices which we may use or install under this Contract remain our property, solely for the use of Otis employees. Such service equipment is not considered a part of the Units. You grant us the right to store or install such service equipment in your building and to electrically connect it to the Units. You will restrict access to the service equipment to authorized Otis personnel. You agree to keep the software resident in the service equipment in confidence as a trade secret for Otis. You will not permit others to use, access, examine, copy, disclose or disassemble the service equipment or the software resident in the service equipment for any purpose whatsoever. If the service is terminated for any reason, we will be given access to your premises to remove the service equipment, including the resident software, at our expense.

### **OTIS SOFTWARE**

Software owned by Otis may be embedded in parts or otherwise provided by Otis as part of this maintenance agreement. You have the right to use this software only for operation of the units for which the part was provided. You may also make a backup or archival copy of the software, provided you reproduce the copyright notice and any other legend of ownership on the copy. You may not otherwise copy, display, adapt, modify, distribute, reverse assemble, reverse compile, or otherwise translate the software. You will not transfer possession of the software except as part of a transfer of ownership of the Units and the assumption of the rights and obligations under this agreement by the transferee.

### **NON-OTIS SOFTWARE**

You retain your rights to any software not provided by Otis contained in the Units and agree to allow Otis to make one backup or archival copy for you.

### **SERVICE TOOLS**

You are responsible to secure our right to use any special service tools required to maintain your non- Otis equipment. These tools must be provided prior to us beginning maintenance on such equipment.

### **THE UNITS**

It is agreed that we do not assume possession or control of the Units, that such Units remain yours solely as owner and operator, lessee, or agent of the owner or lessee, and that you are solely responsible for all requirements imposed by any federal, state, or local law, Code, ordinance or regulation.

### **CLARIFICATIONS**

This Contract does not cover car enclosures (including, but not limited to, wall panels, door panels, car gates, plenum chambers, hung ceilings, lighting, light diffusers, light tubes and bulbs, handrails, mirrors and floor coverings), rail alignment, hoistway enclosures, hoistway gates, hoistway inserts and brackets, mainline disconnect switches, doors, door frames, sills, swing door hinges and closing devices, below ground or unexposed hydraulic cylinders and plungers, buried or unexposed piping, escalator balustrades, escalator lighting or wedge guards. Without affecting our obligation to provide service under this Contract, you agree to permit us to train our personnel on the Units. This Contract does not cover computer and microcomputer devices, such as terminal keyboards and display units that are not exclusively dedicated to the elevator system. This Contract does not cover telephones installed by others, intercoms, heat sensors, smoke sensors, communications equipment, or safety signaling equipment, or instructions or warnings in connection with use by passengers. Calls for repairs that fall outside of the scope of this contract will incur charges for travel time, plus vehicle surcharges and expenses.

We will not be required: (i) to make any tests other than that as specifically set forth herein; (ii) to make any replacements with parts of a different design or type; (iii) to make any changes in the existing design of the Units; (iv) to alter, update, modernize or install new attachments to any Units, whether recommended or directed by governmental authorities or by any third party; (v) to make repairs or replacements necessitated by failures detected during or due to testing of the Units or buried or unexposed hydraulic cylinders or piping and (vi) to replace or repair any component or system utilizing obsolete or discontinued parts, including parts for which the original design is no longer manufactured by the original equipment manufacturers, or parts where the original item has been replaced by an item of different design or is replaceable only by fabrication; (vii) to provide reconditioned or used parts; (viii) to make any replacements, renewals, or repairs necessitated by reason of any cause beyond our control including, but not limited to, fire, explosion, theft, floods, water, weather, earthquake, vandalism, misuse, abuse, mischief, or repairs by others.

You assume responsibility for the cost of correcting all Elevator Code violations existing on the date we enter into this Contract. If such Code violations or other outstanding safety violations are not corrected in accordance with this Contract, Otis may with respect to the equipment not meeting Code requirements cancel this Contract without penalty by

providing thirty (30) days written notice.

Should you require us to interface with a third party work order, insurance or safety systems, Otis will add an appropriate fee to cover the additional cost associated with this service.

Neither party shall be liable for any loss, damage or delay due to any cause beyond our reasonable control including, but not limited to, acts of government, strikes, lockouts, other labor disputes, fire, explosion, theft, floods, water, weather, earthquake, riot, civil commotion, war, vandalism, misuse, abuse, mischief, or acts of God.

We agree that we shall be liable for accidents and injuries to person or property when adjudged to have been caused by the sole negligence or willful misconduct of Otis or our employees. In all other instances, Customer shall indemnify, defend and hold us harmless against all claims, damages, losses, costs, and expenses (including attorney's fees and other litigation costs) arising out of or connected with the use, repair, maintenance, operation or condition of the Equipment. We shall maintain worker's compensation and employers' liability insurance covering our liability for injury or death sustained by our employees, and comprehensive general liability insurance. You shall insure that all risk insurance upon the full value of the Work and material delivered to the job site is maintained at no cost to us. If either party so requires, in writing, the other party shall furnish certificates of insurance evidencing the above insurance coverages.

Notwithstanding any other agreement or provision to the contrary, under no circumstances will either party be liable for any indirect, special or consequential damages of any kind, including, but not limited to, fines or penalties, loss of profits, loss of rents, loss of good will, loss of business opportunity, additional financial costs, or loss of use of any equipment or property, whether in contract, tort, warranty or otherwise.

You agree to provide us unrestricted ready and safe access to all areas of the building in which any part of the Units are located, to keep all machine rooms and pit areas free from water, stored materials, and debris, to provide a safe work place for our personnel, to remove and remediate any waste or hazardous materials in accordance with applicable laws and regulations, and to provide a grounded, 3-prong electrical system and proper lighting in the machine rooms and pits. We shall not be obliged to perform until such unsafe condition has been remedied.

If any Unit is malfunctioning or is in a dangerous condition, you agree to notify us as soon as possible using the 24-hour OTISLINE® service. Until the problem is corrected, you agree to remove the Unit from service and take all necessary precautions to prevent access or use.

You will provide written notice within twenty-four hours after occurrence of any accident in or about the elevator (s) and/or escalator(s) to us and if required by law, to any local authorities. You further agree to preserve replaced parts.

Escalator Units are designed only for transporting passengers. For escalator Units, you agree to take all necessary measures to prevent other items from being conveyed, so that features designed to protect passengers and prevent property damage are not damaged. When stationary, escalators are to be properly barricaded and not to be used as steps.

You agree to properly post, maintain, and preserve any and all instructions or warnings to passengers in connection with the use of any Units.

In the event of an entrapment, Customer will call Otis and wait for a trained and licensed elevator mechanic to arrive, except for a medical emergency situation where it may be appropriate to summon a professional first responder such as police or firemen. Customer agrees that its agents, contractors, employees or representatives shall not attempt to extricate any passengers from an elevator that becomes stalled within the hoistway.

Otis will not be required to make renewals or repairs necessitated by fluctuations in the building AC power systems, adverse hoistway or machine room conditions (including temperature variations below 60 degrees and above 90 degrees Fahrenheit), excessive humidity, adverse environmental conditions, water damage, rust, fire, explosion, acts of God, misuse, or vandalism.

If this Agreement is terminated prematurely for any reason, other than our own default, you agree to pay as liquidated damages, and not as a penalty, one-half (50%) of the remaining amount due under this Agreement.

Should this Agreement be accepted by you in the form of a purchase order, the terms and conditions of this Agreement will take precedence over those of the purchase order.

We will not be liable for any claim, injury, delay, death or loss or property resulting from telephone equipment failure, false alarms, interruption of telephone service, or "no voice calls", i.e. calls from inside the equipment to Otisline where there is no verbal response to the Otisline operator.

## ALTERATIONS

You will not allow others to make alterations, additions, adjustments, or repairs to the equipment.

## **SPECIAL PROVISIONS**

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Notwithstanding any other provision herein to the contrary, the following provisions shall be applicable and govern in the event of conflict:

### **Massachusetts Elevator State Testing**

We have included in our price the labor to perform the annual state inspection during regular time hours. We have also included the 8/11/03 Massachusetts state testing permit fee amount of \$400 per unit. Should you request overtime testing, this cost would be billed on an as needed basis.

## **CONTRACT PRICE AND TERM**

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### **CONTRACT PRICE**

**Three hundred seventy-five dollars (\$ 375.00 ) per month, payable Monthly**

### **PRICE ADJUSTMENT**

**Three hundred seventy-five dollars (\$ 375.00)** of the original Contract Price will be increased or decreased by the percent increase or decrease in the straight time hourly labor cost under the IUEC contract on **01/01/2022** which was **105.926**. The phrase "straight time hourly labor cost" means the sum of the straight time hourly labor rate plus the hourly cost of fringe benefits paid to elevator examiners in the locality where the equipment is to be maintained.

The Contract Price will be adjusted annually on the commencement date by the percentage increase or decrease in the straight time hourly labor cost under the IUEC contract then in effect. The term "straight time hourly labor cost" means the sum of the straight time hourly labor rate plus the hourly cost of fringe benefits paid to elevator examiners in the locality where the equipment is maintained. In addition, we may adjust the Contract Price as a result of any substantial changes in service expenses, including but not limited to expenses in connection with fuel, waste disposal, environmental requirements, cost of materials, changes to government regulations or other administrative costs.

### **PRICE ADJUSTMENT**

The Contract Price will be adjusted based on the following schedule:

Pricing to remain fixed with no increases through 6-30-2023.

### **TERM**

The Commencement Date will be 07/01/2021.

The Term of this Contract unless modified under the extended term below, will be for two (2) years beginning on the Commencement Date. The Contract will automatically be renewed on the second anniversary for an additional one (1) year unless terminated by either party by giving written notice to the other party at least ninety (90) days, but no more than 120 days prior to the end of the current two (2) year term. Thereafter, the Contract will automatically be renewed on each first anniversary for an additional one (1) year term unless terminated by either party by giving written notice to the other party at least ninety (90) days, but no more than 120 days prior to the end of the then current one (1) year term.

In the event that you sell the building or your interest is terminated prior to the expiration of the Contract, you agree to assign the Contract to the new owner or successor and to cause the new owner to assume your obligations under this agreement. If the new owner or successor fails to assume your obligations under the Contract, then you agree to pay to Otis all sums due for the unexpired Term.

### **PAYMENTS**

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Beginning on the Effective Date, payments will be due and payable on or before the first day of the contract year in which services are rendered beginning on the Commencement Date.

The work shall be performed for the agreed price plus any applicable sales, excise or similar taxes as required by law. In addition to the agreed price, you shall pay to us any future applicable tax imposed on us, our suppliers or you in connection with the performance of the work described.

You agree to pay a late charge from the date such sums become due of one and one-half percent (1.5%) per month, or the highest legally permitted rate, whichever is less, on any balance past due for more than thirty (30) days, together with all costs (including, but not limited to, attorneys' fees) incurred by us to collect overdue amounts.

Failure to pay any sum due by you within sixty (60) days will be a material breach. We may at our option declare all sums due or to become due for the unexpired term immediately due and payable as liquidated damages, and until the same are paid be discharged from further obligations under the contract.

Electronic Funds Transfer Payments (ACH/EFT)

To set up automatic payments or to make one-time payments, please visit [Payinvoicedirect.com](http://Payinvoicedirect.com) to register. Please note, registration is available after your first invoice has been billed.

ACCEPTANCE

This proposal, when accepted by you below and approved by our authorized representative, will constitute the entire and exclusive contract between us for the services to be provided and your authorization to perform as outlined herein. All prior or contemporaneous oral or written representations or agreements not incorporated herein will be superseded. Any purchase order issued by you in connection with the services to be provided will be deemed to be issued for your administrative or billing identification purposes only, and the parties hereto intend that the terms and conditions contained herein will exclusively govern the services to be provided. We do not give up rights under any existing contract until this proposal is fully executed. This Contract may not be changed, modified, revised or amended unless in writing signed by you and an authorized representative of Otis. Further, any manual changes to this form will not be effective as to Otis unless initialed in the margin by an authorized representative of Otis.

**THIS QUOTATION** is valid for ninety (90) days from the proposal date.

Submitted by: Joe Potts  
Title: Account Manager  
E-mail: Joseph.Potts@otis.com

Accepted in Duplicate

**CUSTOMER**

**Otis Elevator Company**

Approved by Authorized Representative

Approved by Authorized Representative

Date:

11/19/22

Date:

Signed:

[Signature]

Signed:

Print Name:

STEWART WEISS

Print Name:

Peter Kalousdian

Title

CHAIR SELECT BOARD

Title

E-mail:

admin@montereyma.gov

Name of Company

TOWN OF MONTEREY

Principal, Owner or Authorized Representative of Principal or Owner

Agent: \_\_\_\_\_  
(Name of Principal or Owner)

**BILL TO INFORMATION**

Company Name: TOWN OF MONTEREY



Address: P.O. Box 308  
Address 2: \_\_\_\_\_  
City: Monterey  
State: MA  
Zip Code: 01245

**ACCOUNTS PAYABLE CONTACT**

Name: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
E-mail: admin@montereyma.gov

**TAX STATUS**

Are you tax exempt?  Yes  No  
If yes, please provide tax exempt certificate should be on file

Do you require a Purchase Order be listed on your invoices? Yes  No

If yes, please provide contact info for PO renewal:

Name: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

Would you like Otis to automatically debit your bank account for your maintenance invoices? Yes  No   
If yes, please provide blank check for bank routing and account information.

## Monterey Town Administrator

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**From:** Kimberly Wetherell [REDACTED]  
**Sent:** Tuesday, January 11, 2022 6:01 PM  
**To:** admin@montereyma.gov  
**Subject:** Notice

Melissa,

I don't want to make any more of an issue for you than you are already dealing with in Monterey.

I really don't give a shit what goes on there, however, when my name is mentioned, discussed, bad mouthed, and posted on the town's website in the minutes of the Con Comm's meeting of 12/8 without my prior knowledge, notice, or approval - ten months after my resignation - I believe that the Town of Monterey is violating my individual rights as a public citizen by public officials. I am putting the Town of Monterey on notice and demand that my name be removed (or blacked out) by the Town of Monterey immediately from any public documents posted on the town website after my official resignation. and a public apology from the Board of Selectmen. In case anyone wants to know, I resigned because my belief in Jesus, God, and the Christian Way got in the way of the politics of Conservation Commission of Monterey.

-Kim

*"A lie doesn't become truth, wrong doesn't become right, and evil doesn't become good, just because it's accepted by a majority."*

-Rick Warren

-Kim

*"A lie doesn't become truth, wrong doesn't become right, and evil doesn't become good, just because it's accepted by a majority."*

-Rick Warren

## Monterey Town Administrator

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**From:** Ilene Marcus [REDACTED]  
**Sent:** Tuesday, January 11, 2022 2:27 PM  
**To:** Melissa Noe Monterey Town Hall  
**Cc:** Kyle Pierce Monterey Council On Aging  
**Subject:** Resignation from CoA

Dear Melissa - please pass on to the select board:

It's been an honor and privilege to serve Monterey on the COA for the last four years. At this time I must resign.

I look forward to working again with all of you in the future.

Best, ilene

Ilene Marcus  
[REDACTED]

## Monterey Town Administrator

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**From:** michele@montereyma.gov  
**Sent:** Tuesday, January 11, 2022 10:26 AM  
**To:** Justin Makuc; Steven Weisz; Monterey Assistant; Brian Riley  
**Cc:** Peter Murkett; Monterey News  
**Subject:** [FWD: FW: [FWD: You] -- Attn: Monterey town government]

To Whom it May Concern:

As has been Sylbert's "usual practice" his mis-statements and misrepresentations of fact create an alternative reality. He adamantly refused to take the minutes ( a task all members have shared but him)and has decided to boycott the Finance Committee in order to maintain this fiction that there is a problem. Please be assured that Sylbert is free to record the meeting as all attendees are entitled to do. Since any meetings posted to the you tube channel are public record this is a moot point. Whether I have or have not been to the channel is irrelevant. Sylbert contradicts himself repeatedly and ad nauseum.

If he were truly concerned about functional government he would attend meetings as a productive member but has instead chosen to make everyone's work more difficult. Sad.

Respectfully

Michele Miller

Still Chair of the Finance Committee

----- Original Message -----

**Subject:** FW: [FWD: You] -- Attn: Monterey town government  
**From:** "Monterey Town Administrator" <admin@montereyma.gov>  
**Date:** Tue, January 11, 2022 10:04 am  
**To:** "Michele Miller" <michele@montereyma.gov>

FYI

**From:** John F. Weingold [mailto:[johnweingold@gmail.com](mailto:johnweingold@gmail.com)]  
**Sent:** Monday, January 10, 2022 9:50 AM  
**To:** Jon Sylbert <[jons@montereyma.gov](mailto:jons@montereyma.gov)>  
**Cc:** Justin Makuc [mailto:[justinmakuc@gmail.com](mailto:justinmakuc@gmail.com)]; Steve Weisz <[steve@montereyma.gov](mailto:steve@montereyma.gov)>; John Weingold <[johnw@montereyma.gov](mailto:johnw@montereyma.gov)>; Monterey Administrative Assistant <[admin@montereyma.gov](mailto:admin@montereyma.gov)>  
**Subject:** Re: [FWD: You] -- Attn: Monterey town government

Pleas add this issue to the agenda.

On Mon, Jan 10, 2022, 9:40 AM <[jons@montereyma.gov](mailto:jons@montereyma.gov)> wrote:

Dear Select Board, I have not received a response to my emails concerning the recording and posting of the Finance Committee meetings. (Please see the email thread ending on 11/19/21 attached as a pdf.)

I would like to point out the following:

The Select Board has yet to address the policy for posting meeting recordings on the Town YouTube channel.

Michele Miller has claimed that she has never gone to the Town YouTube channel.



**The Commonwealth of Massachusetts**  
William Francis Galvin, Secretary of the Commonwealth  
Public Records Division

Rebecca S. Murray  
*Supervisor of Records*

January 11, 2022  
**SPR21/3364**

Melissa Noe  
Town Administrator  
Town of Monterey  
435 Main Road  
P.O. Box 308  
Monterey, MA 01245

Dear Ms. Noe:

I have received the petition of Jon Sylbert appealing the response of the Town of Monterey (Town) to a request for public records. G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On December 13, 2021, Mr. Sylbert requested, “[a]ll communications—including texts and emails—between [named individuals] ... since October 31, 2021.”

On December 28 2021, the Town responded. Unsatisfied with the Town’s response, Mr. Sylbert petitioned this office and this appeal, SPR21/3364, was opened as a result.

Subsequently, I learned that the Town responded to Mr. Sylbert’s request with a response dated January 3, 2022. Where the basis of this appeal was opened as a result of the Town’s December 28<sup>th</sup> response, I will now consider this administrative appeal closed. Mr. Sylbert may appeal the substantive nature of the Town’s response within ninety days. See 950 C.M.R. 32.08(1).

Sincerely,

A handwritten signature in cursive script that reads "Rebecca Murray".

Rebecca S. Murray  
Supervisor of Records

cc: Jon Sylbert



Justin Makuc &lt;justinmakuc@gmail.com&gt;

**RE: Budget notes for FY23 - public meetings**

1 message

jons@montereyma.gov &lt;jons@montereyma.gov&gt;

Thu, Jan 13, 2022 at 10:35 AM

To: Justin Makuc &lt;justinmakuc@gmail.com&gt;, Steve Weisz &lt;steve@montereyma.gov&gt;, John Weingold &lt;johnw@montereyma.gov&gt;

Cc: John Weingold &lt;johnweingold@gmail.com&gt;

Dear Select Board, it has come to my attention that the chair of the Finance Committee, one member of the Select Board, and the TA have been conducting budget meetings with departments outside of public meeting.

As I wrote in my email below, on the fall, the budget process is planned out in joint meetings with the Select Board and the Finance Committee. There have been no planning meetings, no published budget schedule, the Finance Committee has never met to determine how the budget process will be conducted, and yet now budget meetings are being conducted outside of public meeting and without any procedural vote of the Finance Committee, nor, perhaps, of the Select Board.

How has it happened that budget meetings are being conducted in this way, without any transparency, outside of public meeting, by self-appointed individuals from each board? Who made the decision to proceed with budget preparations in this manner? A manner which deprives the public and the taxpayer of their right to witness and inform themselves of how their tax dollars are going to be spent?

All budget meetings should be conducted in publicly posted meetings with appropriate, detailed agendas and with detailed minutes following such meetings.

You are doing a tremendous disservice to the public we serve by denying them their right to transparency in government. This is particularly egregious considering the millions of taxpayers' dollars under consideration.

Sincerely,  
Jon

Jonathan Sylbert  
Finance Committee  
Monterey

----- Original Message -----

Subject: Re: Budget notes for FY23

From: Justin Makuc <justinmakuc@gmail.com>

Date: Mon, January 03, 2022 9:21 pm

To: JonS <jons@montereyma.gov>

Dear Jon,

Thanks for your thoughts to start the conversation. I am looking forward to fruitful discussion between the Finance Committee and Select Board at joint meetings.

Sincerely,

Justin Makuc

On Mon, Jan 3, 2022 at 10:37 AM <jons@montereyma.gov> wrote:

Dear Select Board,

It has been the usual practice of the Select Board and the Finance Committee to meet jointly in the fall to set the budget schedule and make policy recommendations for budget expectations.

Since this has not happened this year and we are into the budget season, I would like to open the discussion. Hopefully, this will prompt the Select Board to call a joint meeting.

I would like to comment on the following topics:

- a) Chronic over-budgeting
- b) Use of Free Cash
- c) Proposition 2 1/2 Underride
- d) Consolidation of extraneous Stabilization Funds
- e) Creation of Enterprise Fund for Transfer Station
- f) Increase in Reserve Fund
- g) Put Main Rd. Culvert project on hold
- i) Appropriate funds for drainage work on two sections of dirt roads

a) Chronic over-budgeting

Over the past 13 years, certified Free Cash has averaged \$405,152. (See table below.) While there is some variation depending on circumstances (storms, turnbacks, etc.), the trend is obvious. We are over-budgeting by as much as \$400,000 a year. This means we are essentially withholding nearly a half-million dollars of taxpayers' money year after year. This suggests not only poor budgeting, it does a disservice to our residents, who could better use those funds to manage their own finances.

Taking a conservative approach, we should cut \$200,000 from last year's total operating budget of \$4,937,594.77 and target for \$4.7 million.

Certified Free Cash

FY	Cert. date	\$
2010	10/01/2009	417,534
2011	11/15/2010	440,144
2012	11/08/2011	300,302
2013	12/17/2012	469,879
2014	03/24/2014	317,874
2015	02/12/2015	363,289
2016	10/30/2015	117,861
2017	11/07/2016	399,933
2018	05/04/2018	345,461
2019	04/26/2019	251,140
2020	11/26/2019	519,567
2021	10/20/2020	524,270
2022	11/01/2021	799,465

b) Use of Free Cash

The tax burden this year would have been far lower if Schedule B-1 and the Tax Recap sheet had been done correctly. Let's not allow this opportunity to give back to the taxpayers slip through our hands again. We currently have \$697,665 in Free Cash. Use all but \$25,000 to lower the tax levy. It's their money and belongs to them.

c) Proposition 2 1/2 Underride

In May of 2016, the Select Board proposed, and taxpayers passed, a \$500,000 Proposition 2 1/2 Override. Since then, Excess Levy Capacity has skyrocketed to \$773,190. This means that the town didn't need the \$500,000 override: instead, our Excess Levy Capacity has increased by \$273,000. Moreover, \$773,190 in Excess Levy Capacity is an invitation to abuse taxpayers' dollars and defeats the purpose of Proposition 2 1/2, which was an initiative petition of voters of Massachusetts to put in place a check against annual spending increases. We owe it to our residents to make that lawful check meaningful by recommending a Proposition 2 1/2 underride of \$500,000 at town meeting.

d) Consolidation of extraneous stabilization funds

As of June 30, 2021, Stabilization Fund balances are:

- \$546,994.77 General
- \$15,000.00 Fire Stabilization
- \$30,158.27 Bridges Roads & Culverts Stabilization
- \$592,153.04 TOTAL

The total represents 12% of our budget. This may or may not be too high. We have discussed the appropriate percent previously but I don't remember what we decided. More to the point, the vast majority of our expenditures from the General Stabilization Fund go to DPW and Fire Department capital expenses. There is no reason to have separate funds for those departments. Having separate, department-specific funds obscures the total amount of taxpayers' dollars we are holding—often for years at the taxpayers' expense—and also limits how we can use those funds. We should dissolve the DPW and Fire Dept. Funds and transfer their balances back into the General Fund. At that point, we can determine the appropriate amount of taxpayers' dollars we should hold to stabilize our budgets from year to year without depriving the taxpayers of the right to use their hard-earned dollars the way they choose. And let's remember: most major expenses will be covered by borrowing.

e) Creation of Enterprise Fund for Transfer Station

The Transfer Station is a revenue-generating operating budget and should be treated appropriately; that is, by placing it in an Enterprise Fund.

f) Increase in Reserve Fund

Given the uncertainty in town, an increase in reserves to \$40k may be warranted.

g) Put Main Rd. Culvert project on hold

A survey of 28 residents in a town of 1,000 is an grossly insufficient sample to make such financially consequential decisions, particularly when "No Action" received the most raw votes of 24.

Moreover, we should investigate how the reconstructed culvert over Beartown Mountain Road at the dam, under which the same Konkapot River runs, was financed.

i) Appropriate funds for drainage work on two sections of dirt roads

I had a long and fruitful conversation with Jim Hunt recently, and we agreed that we have chronic maintenance issues plaguing Monterey. We spend thousands of dollars year after year repairing the surfaces of dirt roads without addressing the cause of the problem. The symptom is muddy and impassable dirt roads, the cause is insufficient drainage. We agreed that the best approach is to identify the most problematic segments of dirt roads needing better drainage and schedule corrective measures. Jim has identified the two worst sections. We should tackle two a year, see how well our solutions work, and continue to do so until all our dirt roads have proper drainage.

Sincerely,  
Jon

Jonathan Sylbert  
Finance Committee  
Monterey





## *Town of Monterey Memorandum*

**TO:** All Department Heads, Committees, and Boards

**FROM:** The Select Board and the Finance Committee

**DATE:** November 12, 2020

**SUBJ:** FY22 Budget Planning

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The time has come to begin preparing the fiscal year 2022 budget.

The process will begin in earnest in a few days when on behalf of the Select Board and the Finance Committee, Administrative Assistant Melissa Noe sends out forms which, when completed by you and returned to her, will constitute your proposed budget for the coming year.

The second step, beginning in December, will be your individual, informal meetings for a preliminary review of your budget proposal. Those meetings will be coordinated and attended by Melissa and will involve one member of the Select Board and one member of the Finance Committee. Although budget adjustments may occur, no final determinations will be made at those preliminary meetings. But they will allow for exchanges of information that will help clarify the relevant issues and improve the efficiency of the public hearings.

The third step will be Melissa's compilation of the data and her preparation of an entirely preliminary budget for review by the members of the Select Board and the Finance Committee.

The fourth step will involve public meetings at which some department heads and committee and board representatives may be asked to appear to discuss their proposed budgets. No budget numbers will be changed unless at a public hearing. These will be joint meetings of the Select Board and the Finance Committee.

The fifth step will involve analysis by the members of the Select Board and the Finance Committee aimed at reaching consensus on as many items as possible.

The sixth step will be preparation of the final budget in the form in which it will be presented to Town Meeting. The budget form will be decided at that time.

The seventh step will be a public hearing sometime in March for the taxpayers to discuss the proposed budget prior to it being finalized. The final step will be presentation of the proposed budget to the Town Meeting by the Finance Committee.