



# Variance Request Form for Marina Coast Water District

Assigned	_____
Reviewed	_____
Granted / Denied	_____
Account No.	_____

## PART A – APPLICANT INFORMATION

Requested Variance (include District Code Section) 6.08.090 C  
~~7.08.020~~

Date of Submittal of Variance Request 8/26/10

Has applicant applied for the same or similar variance previously?  YES  NO  UNKNOWN

If YES, to above, please provide details \_\_\_\_\_

### Request:

Name of Applicant (Contact) Tami Huntley or Dr. Wm. Bruce Weaver

Applicant Relationship to Owner Administrator / Director

Billing Name (if different from above) Monterey Institute for Research in Astronomy

Street/Mailing Address for Variance 200 Eighth St. City Marina State CA Zip 93933

Street/Mailing Address for Billing (if different) \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Daytime Phone Number 831-883-1000 Fax Number 831-883-1031

## PART B – BASIS OF VARIANCE REQUEST

1. The strict application of the code would result in unfair or unequal treatment, undue hardship, or an emergency condition exists which requires that the variance be granted; and,
2. Granting the variance will not cause a significant adverse effect on the water supply or on service to other persons served by the district; and,
3. The variance is in the best interests of the district.

This variance request may only be based on the above conditions. Please briefly describe the basis of your request and provide documentation of need in Part C. If further space is required in the completion of this form, provide a note of such and attach supporting documentation with application.

See attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PART C – EVIDENCE TO SUPPORT VARIANCE**

Provide documentation to support you request. Documentation should concisely prove the need for a variance. Please list documents below and attach copies with your application. Original records will not be returned.

IRS letter - May 30, 1972  
IRS letter - Nov. 8, 1978

**PART D – REQUESTED ACTION**

What specific action are you requesting that the Board take?

This is a request for the MCWD Board to waive the water capacity charge and the water permit fee associated with the addition of the new floor at the MIRA Astronomy Center.

I understand that the application for a variance does not guarantee a variance will be granted.

I have contacted the owner and he has given his permission to process this application, or I am the property owner.

Applicant:

Applicant's Name: Tami Huntley

Applicant's Signature: Tami Huntley Date: 8/26/10

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**PART D – GENERAL MANAGER’S RECOMMENDATION (for internal use by Marina Coast Water District)**

- Having fully considered the above application for variance, I find that the Application has NOT proven by clear and convincing evidence that the requirements of Section 2.08 Variances have been met. Based on the foregoing, a VARIANCE IS NOT RECOMMENDED.
  
- Having fully considered the above application for variance, I find that the Applicant has proven by clear and convincing evidence that the requirements of Section 2.08 Variances have been met. Based on the foregoing, a VARIANCE IS RECOMMENDED.

This request will be on the Marina Coast Water District Board agenda currently scheduled for \_\_\_\_\_  
\_\_\_\_\_. Please call the District to confirm this date.

Explanation \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

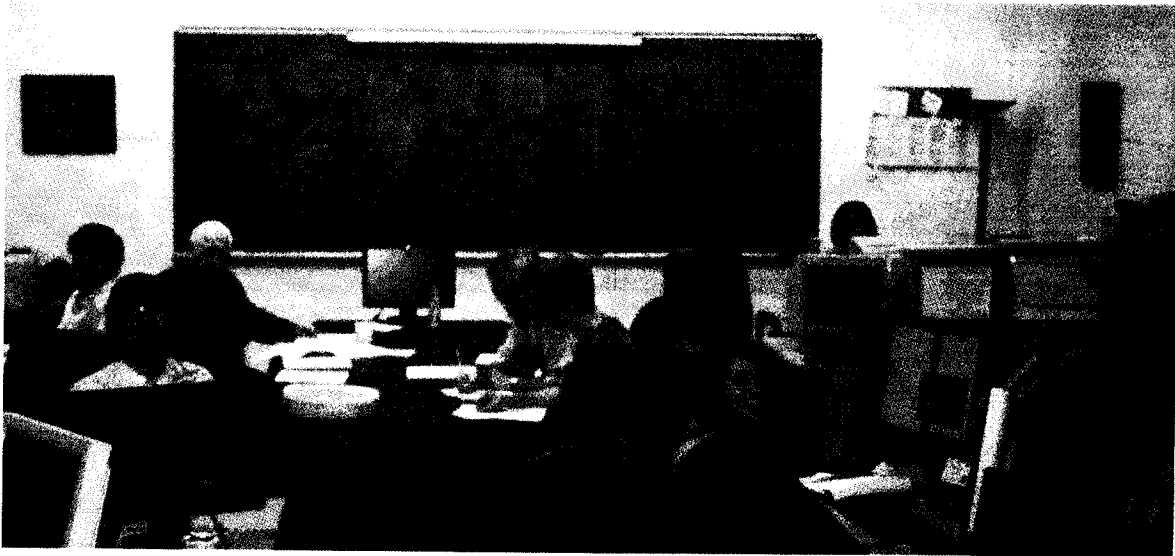
\_\_\_\_\_  
Signature of District General Manager

\_\_\_\_\_  
Date

This is a variance request for renovation of the MIRA Richard W. Hamming Astronomy Center. The Monterey Institute for Research in Astronomy is a state and federally recognized non-profit (501(c)(3) IRC) and, further, because most of our support is from contributions from the general public or government sources, MIRA is further classified as a publicly supported organization. The IRS determination letters are attached.

MIRA's purpose is research and education in astronomy. The results of the research are published in leading astronomical journals. Our education programs, all of which are free to the public, include several public lectures annually by guest astronomers, classroom visits by professional astronomers and MIRA docents, tours of the research facilities at the Oliver Observing Station on Chews Ridge, and an extensive web education program *Field Trips to the Stars*. In addition, many local classes, from early elementary school to college, visit the Astronomy Center in Marina for presentations and lectures on astronomy.

The renovation is the addition of a second floor to the current high bay. The primary purpose of the new floor is to permit expansion of the work area, especially for the students in the high school intern program, from a very small, converted classroom area on the first floor. The picture below shows the current workspace during the intern program this summer.



*MIRA interns and astronomers at work in the Richard W. Hamming Astronomy Center classroom, summer 2010. Missing from the picture are two astronomers, two college-level volunteers, and a technician. Next year we will be working in a much more spacious environment.*

Thus the renovation will not add more water use as the number of occupants will remain, on average, the same.

The additional floor will not have any water facilities. The number of sinks and toilets will remain the same as in the current configuration.

## Summary:

1. MIRA is a non-profit which derives most of its income from small grants and gifts. It took nearly ten years to raise enough money for the badly needed renovation of the high bay and the cost of the fee would directly impact the funds available for our education programs.
2. The addition of the second floor will not increase MIRA's water use and thus have no increased impact on the district's water supply.
3. MIRA's ability to provide a free educational resource to the students of the district is directly linked to the funds raised by MIRA. Funds spent on the MCWD fees will reduce our ability to provide these resources to local schools.

Internal Revenue Service

Department of the Treasury

District  
Director

450 Golden Gate Ave., Box 36030  
San Francisco, Calif. 94102

Monterey Institute for  
Research in Astronomy  
Bin 568  
Carmel Valley, CA 93924

Person to Contact:

T. Fukuchi

Telephone Number:

(415) 556-1585

Refer Reply to:

EP/EO:EO 1

Date:

NOV 8 1978

Gentlemen:

In a determination letter dated May 30, 1972, we determined that you are exempt from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954. We also held that you are a private foundation as defined under section 509(a) IRC.

Section 509(a) IRC generally defines a private foundation as any organization described in section 501(c)(3) IRC with four exceptions. Exception one, designated as paragraph one of section 509, excludes from the definition of private foundation publicly supported organizations described in section 170(b)(1)(a)(vi) IRC.

In a recently completed audit of your books and records, and a review of your operational activities, with respect to years December 31, 1975 and December 31, 1976, we found that you normally receive a substantial part of your support from government sources or from contributions from the general public or a combination thereof.

Accordingly, it is concluded that you are a publicly supported organization within the meaning of section 170(b)(1)(a)(vi), IRC and therefore, not a private foundation by reason of section 509(a)(2)(A)(i) IRC.

The non-private foundation status is effective for years beginning January 1, 1975.

This letter should be maintained with your permanent records.

Sincerely yours,

*Michael Lissi*

District Director



District Director  
Internal Revenue Service

Date:

MAY 30 1972

In reply refer to:

FL-1251, Code

A:FA1230

SF:EO:72-922

Monterey Institute for Research  
in Astronomy  
1884 Stanwood Road  
East Cleveland, Ohio 44112

Purpose: Scientific  
File Returns with Internal Revenue Service Center: Philadelphia, Pennsylvania  
Accounting Period Ending: December 31  
Address Inquiries to District Director of Internal Revenue: San Francisco, California

Gentlemen:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

We have concluded you are a private foundation under section 509(a) of the Code. Pending issuance of regulations under section 4942(j)(3) of the Code, we are unable to make a determination whether you are an operating foundation as defined in that section. When the regulations are issued, we will evaluate your application, make a determination of your status under that section, and notify you of our determination.

You are required to file Form 990, Return of Organization Exempt from Income Tax, by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, for failure to file a return on time.

You are not liable for social security (FICA) taxes unless you file a waiver of exemption certificate as provided in the Federal Insurance Contributions Act. You are not liable for the taxes imposed under the Federal Unemployment Tax Act (FUTA).

Donors may deduct contributions to you as provided in section 170 of the Code. Requests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes under sections 2055, 2106, and 2522 of the Code.

If your purposes, character, or method of operation is changed, you must let us know so we can consider the effect of the change on your exempt status. Also, you must inform us of all changes in your name or address.

You are not required to file Federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T. In this letter we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

Please keep this determination letter in your permanent records.

Sincerely yours,

  
Charles E. King  
District Director





## MARINA COAST WATER DISTRICT

11 RESERVATION ROAD • MARINA, CA 93933-2099

Home Page: [www.mcwd.org](http://www.mcwd.org)

TEL: (831) 384-6131 • FAX: (831) 883-5995

**DIRECTORS**  
KENNETH K. NISHI  
*President*

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*Vice-President*

THOMAS P. MOORE  
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DAN BURNS

August 31, 2010

Ms. Tami Huntley  
Monterey Institute for Research in Astronomy (MIRA)  
200 8<sup>th</sup> Street  
Marina, CA 93933

**Subject:** Response to Variance Request regarding capacity charges and fees associated with MIRA's building re-model at 200 8<sup>th</sup> St., Marina, CA

Dear Ms. Huntley,

Marina Coast Water District (District, MCWD) received your complete Variance Request Form on August 26, 2010. Per MCWD's Code, section 2.08.020 – Variances, this letter serves as the District's written determination of the interpretation and application of the Code and recommendation for action to the District Board of Directors regarding the variance request.

The District's General Manager has reviewed the Variance Request and will recommend to MCWD's Board that the variance be denied by the Board at the next regularly scheduled Board Meeting, September 14, 2010. The basis of the recommendation to the Board is that the applicant has not proven by clear and convincing evidence that the requirements of MCWD's Code section 2.08.020 have been met. Specifically, the variance request has not shown to meet the criteria listed under 2.08.020 D.

A copy of the Marina Water District Code Chapter 2.08 is attached.

Your Variance Request has been placed on the agenda for the MCWD Board of Directors meeting on September 14, 2010. If requested, the Variance Request can be heard at the following Board Meeting, currently scheduled for October 12, 2010. The MCWD Board meets at 11 Reservation Road, Marina at 6:45 pm.

Please contact Brian True, Capital Projects Engineer, at (831) 883-5937 if you have any questions regarding this.

Sincerely,

 FOR

Jim Heitzman  
General Manager

File

## Chapter 2.08

### VARIANCES AND APPEALS— REVENUES FROM ENFORCEMENT

#### Sections:

<b>2.08.010</b>	<b>Purpose.</b>
<b>2.08.020</b>	<b>Variations.</b>
<b>2.08.030</b>	<b>Appeals.</b>
<b>2.08.040</b>	<b>Rules and procedures.</b>
<b>2.08.050</b>	<b>Revenues received from enforcement.</b>

#### **2.08.010 Purpose.**

The purpose of this chapter is to establish a procedure for variances and appeals, when variances and appeals are allowed by other provisions of this code.

#### **2.08.020 Variations.**

A. Any person affected by this code may, at any time, apply in writing for a variance from the strict application of this code. The general manager shall prepare and maintain a form of application for variance as an element of the district's Procedures Guidelines and Design Requirements. A written application for the variance shall be filed with the district in substantially the form in the district's Procedures Guidelines and Design Requirements.

B. Within five business days after a written request for a variance is filed with the district, the general manager or the general manager's designee shall make a written determination of the interpretation and application of this code and recommendation for action to the district board of directors on the variance request, and mail the written determination and recommendation to the address supplied by the applicant with the meeting date of the next regularly scheduled

board meeting clearly stated in the letter, schedule permitting.

C. The board will take action at that meeting or defer action until a later meeting when more information can be provided if required.

D. The board shall have the power, by resolution, to approve or disapprove requests for variances, after considering recommendations received from the general manager. The board may approve variances from the requirements of this code only if the board makes the following findings:

1. The strict application of the code would result in unfair or unequal treatment, undue hardship, or an emergency condition exists which requires that the variance be granted; and

2. Granting the variance will not cause a significant adverse effect on the water supply or on service to other persons served by the district; and

3. The variance is in the best interests of the district.

If each of these findings cannot be made, the variance shall be disapproved.

E. In granting a variance, the board may impose any conditions in order to ensure that the variance is consistent with the purpose of the requirement from which the variance is granted. The granting of a variance and any conditions imposed upon such variance shall be set forth in writing by board action.

F. Decisions under this section shall be final. A written notice of the decision shall be mailed to the address supplied by the applicant. Any civil proceedings relating to the underlying violation or alleged violation, and the decision of the court in such civil proceeding shall prevail over any contrary result in the administrative appeal. (Ord. 45 § 4, 2007: amended during 3-02 supplement)