



# MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

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

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## DIRECTORS

THOMAS P. MOORE  
*President*

JAN SHRINER  
*Vice President*

HERBERT CORTEZ  
PETER LE  
MATT ZEFFERMAN

## Agenda

**Regular Board Meeting, Board of Directors  
Marina Coast Water District**

**and**

**Regular Board Meeting, Board of Directors  
Marina Coast Water District Groundwater Sustainability Agency**

Marina Council Chambers

211 Hillcrest Avenue, Marina, California

Monday, May 20, 2019, 6:30 p.m. PST

*This meeting has been noticed according to the Brown Act rules. The Board of Directors meet regularly on the third Monday of each month with workshops scheduled for the first Monday of some months. The meetings normally begin at 6:30 p.m. and are held at the City of Marina Council Chambers at 211 Hillcrest Avenue, Marina, California.*

***Our Mission:*** We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.

**1. Call to Order**

**2. Roll Call**

**3. Public Comment on Closed Session Items** *Anyone wishing to address the Board on matters appearing on Closed Session may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

**4. Closed Session**

A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation

- 1) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission Application ("A.") 12-04-019

This agenda is subject to revision and may be amended prior to the scheduled meeting. Pursuant to Government Code section 54954.2(a)(1), the agenda for each meeting of the Board shall be posted at the City of Marina Council Chambers. The agenda shall also be posted at the following locations but those locations are not official agenda posting locations for purposes of section 54954.2(a)(1): District offices at 11 Reservation Road, Seaside City Hall, the City of Marina Library, and the City of Seaside Library. A complete Board packet containing all enclosures and staff materials will be available for public review on Wednesday, May 15, 2019. Copies will also be available at the Board meeting. Information about items on this agenda or persons requesting disability related modifications and/or accommodations should contact the Board Clerk 48 hours prior to the meeting at: 831-883-5910.

- 2) In the Matter of the Application of California-American Water Company (U 210 W) for an Order (1) Approving a Settlement Agreement with the County of Monterey and the Monterey County Water Resources Agency to Settle and Resolve Claims and Issues Between the Parties and to Promote the Development, Construction and Operation of a Water Supply Project for Monterey County on an Expedited Basis, and (2) Authorizing the Transfer of Authorized Costs Related to the Settlement Agreement to Its Special Request 1 Surcharge Balancing Account, California Public Utilities Commission Application ("A.") 13-05-017, and related California Supreme Court petition for writ of review.
  - 3) City of Marina and Marina Coast Water District, Petitioners v. Public Utilities Commission of the State of California, Respondent (California-American Water Company, et al., Real Parties in Interest), Petitions for Writ of Review, California Supreme Court Case No. S253585
  - 4) Marina Coast Water District vs California-American Water Company, Monterey County Water Resources Agency; and, California-American Water Company, Monterey County Water Resources Agency vs Marina Coast Water District, San Francisco Superior Court Case Nos. CGC-15-547125, CGC-15-546632 (Complaint for Damages, Breach of Warranties, etc.)
  - 5) Marina Coast Water District v, California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. 15CV00267, Sixth Appellate District Court of Appeals Case No. H045468
  - 6) Bay View Community DE, LLC; Bryan Taylor; Greg Carter; and Brooke Bilyeu vs Marina Coast Water District; Board of Directors of Marina Coast Water District; County of Monterey and Does 1-25, inclusive, Monterey County Superior Court Case No. 18CV000765 (Petition for Writ of Mandate or Administrative Mandate, and Complaint for Declaratory and Injunctive Relief and Breach of Contract)
  - 7) Marina Coast Water District, and Does 1-100 v, County of Monterey, County of Monterey Health Department Environmental Health Bureau, and Does 101-110, Monterey County Superior Court Case No. 18CV000816 (Petition for Writ of Mandate and Complaint for Injunctive Relief)
- B. Pursuant to Government Code 54957.6  
Conference with Labor Negotiators  
Agency Negotiators (Keith Van Der Maaten, Jan Shriner)  
Employee Organization: Marina Coast Water District Employees Association
- C. Pursuant to Government Code 54957.6  
Conference with Labor Negotiators  
Agency Negotiators (Keith Van Der Maaten, Jan Shriner)  
Employee Organization: Teamsters Local 890

**7:00 p.m. Reconvene Open Session**

**5. Reportable Actions Taken During Closed Session** *The Board will announce any reportable action taken during closed session and the vote or abstention on that action of every director present, and may take additional action in open session as appropriate. Any closed session items not completed may be continued to after the end of all open session items.*

**6. Pledge of Allegiance**

**7. Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

**8. Presentations**

A. [Consider Adoption of Resolution No. 2019-27 in Recognition of Thomas Barkhurst, Laboratory Supervisor, for 20 Years of Service to the Marina Coast Water District](#)

*Action: The Board will consider adopting Resolution No. 2019-27 recognizing Thomas Barkhurst, Laboratory Supervisor, and awarding him a gift certificate for twenty years of service to the Marina Coast Water District.*

B. [Consider Adoption of Resolution No. 2019-28 in Recognition of Susan Kiefert, Customer Service/Billing Representative II, for 35 Years of Service to the Marina Coast Water District](#)

*Action: The Board will consider adopting Resolution No. 2019-28 recognizing Susan Kiefert, Customer Service/Billing Representative II, and awarding her a gift certificate for thirty-five years of service to the Marina Coast Water District.*

C. [Consider Adoption of Resolution No. 2019-29 Proclaiming the Week of May 19-25, 2019 National Public Works Week](#)

*Action: The Board will consider adopting Resolution No. 2019-29 proclaiming the week of May 19-25, 2019 National Public Works Week.*

\* \* \* \* \*

**9. Marina Coast Water District Groundwater Sustainability Agency Matters**

**A. Staff Report**

1. [Receive an Update on the 180/400 Foot Aquifer Groundwater Sustainability Planning Process](#)

*Action: The Board of Directors will receive an update on the Groundwater Sustainability Planning process for the 180/400' Aquifer.*

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**10. Return to Marina Coast Water District Matters**

## 11. Consent Calendar

- A. Receive and File the Check Register for the Month of April 2019
- B. Receive the Quarterly Financial Statements for January 1, 2019 to March 31, 2019
- C. Approve the Draft Minutes of the Joint Board/GSA Meeting of April 15, 2019
- D. Approve the Draft Minutes of the Special Joint Board/GSA Meeting of May 1, 2019
- E. Consider Adoption of Resolution No. 2019-30 to Award a Contract to Don Chapin Company, Inc. for Construction On-Call Services
- F. Consider Adoption of Resolution No. 2019-31 to Amend the On-Call Engineering Services Agreement with Schaaf & Wheeler for the A1/A2 Reservoirs and B/C Booster Pump Station Design Services
- G. Consider Adoption of Resolution No. 2019-32 to Approve a Tree Replacement Funding Agreement between Marina Coast Water District and California State University at Monterey Bay
- H. Consider Adoption of Resolution No. 2019-33 to Approve Amendment No. 1 to the Professional Services Agreement with GHD, INC. for Design and Construction Support Services for the Imjin Lift Station Improvement Project
- I. Consider Adoption of Resolution No. 2019-34 to Approve Task Order 10 for Inspection and Construction Support Services for the Sea Haven Development Phase 5A as Part of the On-Call Professional Services Agreement with Harris & Associates

## 12. **Action Items** *The Board will review and discuss agenda items and take action or direct staff to return to the Board for action at a following meeting. The public may address the Board on these items as each item is reviewed by the Board. Please limit your comment to four minutes.*

- A. Consider Adoption of Resolution No. 2019-35 to Approve Amendment 1 with Monterey One Water for NPDES Permitting Work on the Pure Water Advanced Water Treatment and Outfall Wastewater Disposal for the Regional Urban Water Augmentation Project

*Action: The Board of Directors will consider approving Amendment 1 with Monterey One Water for NPDES Permitting Work on the Pure Water Advanced Water Treatment and Outfall Wastewater Disposal for the Regional Urban Water Augmentation Project.*

- B. [Consider Adoption of Resolution No. 2019-36 to Authorize the General Manager to Submit an Application and Execute a Grant Agreement with the United States Bureau of Reclamation for a WaterSMART: Title XVI Water Reclamation and Reuse Program Grant for the Regional Urban Water Augmentation Project](#)

*Action: The Board of Directors will consider authorizing the General Manager to submit an application and execute a Grant Agreement with the United States Bureau of Reclamation for a WaterSMART: Title XVI Water Reclamation and Reuse Program Grant for the Regional Urban Water Augmentation Project.*

- C. [Consider Adoption of Resolution No. 2019-37 to Approve the 2018 Memorandum of Understanding Update with the Monterey Peninsula, Carmel Bay, and South Monterey Bay Integrated Regional Water Management Group and Approve a Reimbursement to the Monterey Peninsula Water Management District for Prop 1 Funding Grant Preparation Costs](#)

*Action: The Board of Directors will consider approving an update to the 2018 MOU with the Monterey Peninsula, Carmel Bay, and Southern Monterey Bay Integrated Regional Water Management Plan Program.*

- D. [Discuss, Consider, and Determine Action on Vice President Jan Shriner's Request for Censure as to Director Peter Le](#)

*Action: The Board of Directors will discuss Vice President Jan Shriner's request for censure of Director Peter Le and determine what action should be taken.*

- E. [Discuss, Consider, and Determine Action on Director Peter Le's Harassment Complaint against Vice President Jan Shriner](#)

*Action: The Board of Directors will discuss Director Peter Le's harassment complaint against Vice President Jan Shriner and determine what action should be taken.*

**13. Informational Items** *Informational items are normally provided in the form of a written report or verbal update and may not require Board action. The public may address the Board on Informational Items as they are considered by the Board. Please limit your comments to four minutes.*

A. General Manager's Report

B. Counsel's Report

C. Committee and Board Liaison Reports

- |                                   |   |
|-----------------------------------|---|
| 1. Water Conservation Commission  | 7. LAFCO Liaison                        |
| 2. Joint City-District Committee  | 8. FORA                                 |
| 3. Executive Committee            | 9. WWOC Report                          |
| 4. Community Outreach Committee   | 10. JPIA Liaison                        |
| 5. Budget and Personnel Committee | 11. Special Districts Association       |
| 6. M1W Board Member Liaison       | 12. SVBGSA Liaison (Steering Committee) |

**14. Board Member Requests for Future Agenda Items**

**15. Director's Comments** *Director reports on meetings with other agencies, organizations and individuals on behalf of the District and on official District matters.*

**16. Adjournment** *Set or Announce Next Meeting(s), date(s), time(s), and location(s):*

*Regular Meeting: Monday, June 25, 2019, 6:30 p.m.,  
District Office, 11 Reservation Road, Marina*

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-A

Meeting Date: May 20, 2019

Prepared By: Derek Cray

Approved By: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2019-27 in Recognition of Thomas Barkhurst, Laboratory Supervisor, for 20 Years of Service to MCWD

Staff Recommendation: Staff recommends the Board of Directors adopt Resolution No. 2019-27 in recognition of Thomas Barkhurst for 20 years of service with MCWD and provide him with a gift certificate.

Background: *5-Year Strategic Plan, Strategic Goal No. 5.1 – Recruit and retain high-performing, engaged personnel.*

Discussion/Analysis: Thomas Barkhurst started with Marina Coast Water District (District) on April 19, 1999, as a Water Quality Chemist. During his time as a Water Quality Chemist, Thomas was responsible for performing a wide range of water sampling for the District. Some of his duties included: general, physical, chemical and bacteriological sampling of the District water sources and distribution system.

In 2012, Thomas was promoted to the Laboratory Supervisor. Along with his duties as a Water Quality Chemist, Thomas took on the additional roles of ensuring the District met compliance, State reporting and quality control and assurance programs. Thomas has also been the direct supervisor over several Laboratory Interns throughout the years and has done a good job at mentoring the students and giving the students real hands on experience that will help the students in their future careers.

Thomas has a Bachelor of Science in Biological Science from UC Davis along with a Grade 2 certification from the American Water Works Association as a Water Quality Analyst. Thomas' hard work and expertise ensure that the District provides safe water for the District's customers.

It is with great pleasure that the District hereby recognizes Thomas Barkhurst's twenty years of service, and thanks him for his hard work and dedication.

Environmental Review Compliance: None required.

Financial Impact:  Yes  No Funding Source/Recap: Expenditures for gift card are allocated across four cost centers; 01-Marina Water, 02-Marina Sewer, 03-Fort Ord Water, and 04-Fort Ord Sewer.

Other Considerations: None

Material Included for Information/Consideration: Resolution No. 2019-27.

Action Required:  Resolution  Motion  Review  
(Roll call vote is required.)

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_

Abstained \_\_\_\_\_

Noes \_\_\_\_\_

Absent \_\_\_\_\_



May 20, 2019

Resolution No. 2019-27  
Resolution of the Board of Directors  
Marina Coast Water District  
Recognizing Thomas Barkhurst, Laboratory Supervisor,  
For 20-Years of Service to MCWD

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District” or “MCWD”), at a regular meeting duly called and held on May 20, 2019 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, Thomas Barkhurst started with Marina Coast Water District (District) on April 19, 1999, as a Water Quality Chemist, and in 2012 was promoted to a Laboratory Supervisor; and,

WHEREAS, Thomas performs general, physical, chemical and bacteriological sampling analysis of the District water sources and distribution system to ensure the District meets strict State and Federal drinking water regulations; and,

WHEREAS, Thomas ensures the District’s laboratory maintains its ELAP certification through stringent performance testing demonstrated to the State; and,

WHEREAS, Thomas has mentored numerous college interns, giving them real world experience and guidance to assist them throughout their career endeavors; and,

WHEREAS, Thomas holds a Grade 2 Water Quality Analyst certification through the American Water Works Association and a Bachelor of Science degree in Biological Science; and,

WHEREAS, Thomas’ duties play a key role in maintaining safe and aesthetically pleasing, potable water for the District’s customers.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby recognize and appreciate Thomas Barkhurst for twenty years of service to the Marina Coast Water District, hereby presenting him with a gift certificate, and wishes him continued success with the District.

PASSED AND ADOPTED on May 20, 2019, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

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Thomas P. Moore, President

ATTEST:

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Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-27 adopted May 20, 2019.

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Keith Van Der Maaten, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-B

Meeting Date: May 20, 2019

Prepared By: Kelly Cadiente

Approved By: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2019-28 in Recognition of Susan Kiefert, Customer Service/Billing Technician II, for 35 Years of Service to MCWD

Staff Recommendation: The Board of Directors recognize Susan Kiefert, Customer Service/Billing Technician II, and awarding a gift certificate for 35 years of service to MCWD.

Background: *5-Year Strategic Plan, Strategic Goal No. 5.1 – Recruit and retain high-performing, engaged personnel.*

Detailed Description: Susan Kiefert joined the District on April 30, 1984, as a Customer Service Specialist. In 2011, the Finance Department went through a reorganization whereby after meeting certain criteria, Susan became a Customer Service Representative II. In 2018, the District completed a classification and compensation study which re-titled the position to Customer Service/ Billing Technician II. During her 35-year tenure, Susan has played an integral role in this District. Her contributions include working with O&M and Conservation during the acquisition of Fort Ord, setting up and maintaining the billing portion of the Backflow Programs, and numerous projects for the Engineering and Conservation Departments. Most recently, Susan set up the majority of the 1,200+ new customer accounts for the Monterey Bay Military Housing meter installation project.

Susan's responsibilities as the Customer Service/Billing Technician II include monitoring meter read reports, billing customers and providing service to the customers in person and over the phone. She has the ability to effectively communicate with District customers, sometimes in difficult situations. Susan has received more than seven positive Customer Comment Cards over the past year alone.

It is with great pleasure that the District recognizes Susan Kiefert's 35 years of service to the Marina Coast Water District. We collectively thank her for her many years of outstanding service and wish her well in her continued service to the District.

Financial Impact:  Yes  No Funding Source/Recap: Expenditures for gift card are allocated across four cost centers; 01-Marina Water, 02-Marina Sewer, 03-Fort Ord Water, and 04-Fort Ord Sewer.

Material Included for Information/Consideration: Resolution No. 2019-28.

Action Required:  Resolution  Motion  Review  
(Roll call vote is required.)

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_

Abstained \_\_\_\_\_

Noes \_\_\_\_\_

Absent \_\_\_\_\_

May 20, 2019

Resolution No. 2019-28  
Resolution of the Board of Directors  
Marina Coast Water District  
Recognizing Susan Kiefert, Customer Service/Billing Technician II,  
For 35 Years of Service to MCWD

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on May 20, 2019 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, Susan Kiefert joined the District on April 30, 1984 as a Customer Service Specialist; and,

WHEREAS, Susan is now a Customer Service/Billing Technician II; and,

WHEREAS, Susan’s outgoing personality and customer service skills have served her well in this position; and,

WHEREAS, during her thirty-five years with the District, Susan has played an integral role in the District; and,

WHEREAS, Susan’s contributions include working with O&M and Conservation during the acquisition of Fort Ord, setting up and maintaining the billing portion of the Backflow Programs, and numerous projects for the Engineering and Conservation Departments. Most recently, Susan set up the majority of the 1,200+ new customer accounts for the Monterey Bay Military Housing meter installation project.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby express its gratitude and recognizes Susan Kiefert for thirty-five years of service to the Marina Coast Water District, presents her a gift certificate and wishes her continued success with the District.

PASSED AND ADOPTED on May 20, 2019 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

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Thomas P. Moore, President

ATTEST:

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Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-28 adopted May 20, 2019.

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Keith Van Der Maaten, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-C

Meeting Date: May 20, 2019

Prepared By: Michael Wegley

Approved By: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2019-29 Proclaiming the Week of May 19-25, 2019 National Public Works Week

Staff Recommendation: The Board of Directors consider adoption of Resolution No. 2019-29 in recognition of National Public Works Week.

Background: *5-Year Strategic Plan Mission Statement – We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Discussion/Analysis: Public works infrastructure, facilities and services including the water and wastewater collection systems of the Marina Coast Water District are of vital importance to sustainable communities and to the health, safety and well-being of the people of this community. Such facilities and services could not be provided without the dedicated efforts of public works professionals, engineers, managers and employees from State and local units of Government and the private sector, who are responsible for and must plan, design, build, operate, and maintain the water supply, waste water, transportation and solid waste systems, public buildings, and other structures and facilities essential to serve our citizens.

The health, safety and comfort of this community greatly depends on these facilities and services. It is in the public interest for the citizens, civic leaders and children in the United States of America to gain knowledge of and maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities.

2019 marks the 59<sup>th</sup> annual National Public Works Week sponsored by the American Public Works Association.

Environmental Review Compliance: None required.

Financial Impact:     \_\_\_Yes   \_\_\_X\_\_\_No           Funding Source/Recap: None.

Other Consideration: None.

Material Included for Information/Consideration: Resolution No. 2019-29.

Action Required:     \_\_\_X\_\_\_Resolution     \_\_\_Motion     \_\_\_Review  
(Roll call vote is required.)

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_

Abstained \_\_\_\_\_

Noes \_\_\_\_\_

Absent \_\_\_\_\_



May 20, 2019

Resolution No. 2019-29  
Resolution of the Board of Directors  
Marina Coast Water District  
Proclaiming the Week May 19-25, 2019  
National Public Works Week

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on May 20, 2019 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, public works infrastructure, facilities and services are of vital importance to sustainable communities and to the health, safety and well-being of the people of this community; and,

WHEREAS, such facilities and services could not be provided without the dedicated efforts of public works professionals, engineers, managers and employees from State and local units of Government and the private sector, who are responsible for and must plan, design, build, operate, and maintain the water supply, waste water, transportation and solid waste systems, public buildings, and other structures and facilities essential to serve our citizens; and,

WHEREAS, the health, safety and comfort of this community greatly depends on these facilities and services; and,

WHEREAS, it is in the public interest for the citizens, civic leaders and children in the United States of America to gain knowledge of and maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and,

WHEREAS, the year 2019 marks the 59<sup>th</sup> annual National Public Works Week sponsored by the American Public Works Association.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby proclaim the week May 19-25, 2019 as National Public Works Week; and urge all our people to join with representatives of the American Public Works Association and government agencies in activities and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they have made to our national health, safety, welfare and quality of life.

PASSED AND ADOPTED on May 20, 2019, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

\_\_\_\_\_  
Thomas P. Moore, President

ATTEST:

\_\_\_\_\_  
Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-29 adopted May 20, 2019.

\_\_\_\_\_  
Keith Van Der Maaten, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-A1

Meeting Date: May 20, 2019

Prepared By: Patrick Breen

Approved By: Keith Van Der Maaten

Agenda Title: Receive an Update on the 180/400 Foot Aquifer Groundwater Sustainability Planning Process

Staff Recommendation: The Board receive an update on the 180/400 Foot Aquifer Groundwater Sustainability Planning Process.

Background: *5-Year Strategic Plan, Goal No. 1.6 – Establish goals and objectives that promote protecting our current groundwater sources from seawater intrusion and other forms of contamination.*

In 2014, the State of California enacted the Sustainable Groundwater Management Act (SGMA). This law required groundwater basins or subbasins that are designated as medium or high priority to be managed sustainably. The Salinas Valley Groundwater Basin comprises seven subbasins. The subject of this report is one of those subbasins, known as the 180/400 Foot Aquifer Subbasin.

Marina Coast Water District formed a Groundwater Sustainability Agency (MCWDGSA) in 2014. The MCWDGSA primarily overlies the Monterey Subbasin of the Salinas Valley Basin and a portion of the 180/400 Foot Subbasin.

The Salinas Valley Basin Groundwater Sustainability Agency (SVBGSA) has been developing the 180/400 GSP with coordination from the Marina Coast Water District (MCWD) GSA. The 180/400 GSP is also developed in concert with GSPs for five other Salinas Valley subbasins under SVBGSA jurisdiction: the East Side Aquifer Subbasin (DWR subbasin number 3-004.02), the Forebay Aquifer Subbasin (DWR subbasin number 3-004.04), the Upper Valley Aquifer Subbasin (DWR subbasin number 3-004.05), the Langley Area Subbasin (DWR subbasin number 3-004.09) and the Monterey Subbasin (DWR subbasin number 3-004.10). The projects and programs presented in this GSP are part of a cohesive set of projects and programs designed to achieve sustainability throughout the entire Salinas Valley groundwater basin.

Discussion/Analysis: The District's GSP Consultant EKI Environmental and Water will provide a presentation that details the 180/400 GSP progress and the Marina Coast Water District GSA's comments and concerns thus far. The plan is currently in development and will be completed this Fall.

The SVBGSA has posted the draft 180/400 GSP Chapters presented thus far on their website at <https://svbgsa.org/groundwater-sustainability-plan/180-400-ft-aquifer/>.

Environmental Review Compliance: Noe required.

Financial Impact: \_\_\_\_\_Yes      X  No                      Funding Source/Recap: none

Material Included for Information/Consideration: None.

Action Required:    \_\_\_\_\_Resolution    \_\_\_\_\_Motion      X  Review

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Board Action

Motion By\_\_\_\_\_    Seconded By\_\_\_\_\_    No Action Taken\_\_\_\_\_

Ayes\_\_\_\_\_    Abstained\_\_\_\_\_

Noes\_\_\_\_\_    Absent\_\_\_\_\_

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 11

Meeting Date: May 20, 2019

Prepared By: Paula Riso

Approved By: Keith Van Der Maaten

Agenda Title: Consent Calendar

Staff Recommendation: The Board of Directors approve the Consent Calendar as presented.

Background: *5-Year Strategic Plan Mission Statement – We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Consent calendar consisting of:

- A) Receive and File the Check Register for the Month of April 2019
- B) Receive the Quarterly Financial Statements for January 1, 2019 to March 31, 2019
- C) Approve the Draft Minutes of the Joint Board/GSA Meeting of April 15, 2019
- D) Approve the Draft Minutes of the Special Joint Board/GSA Meeting of May 1, 2019
- E) Consider Adoption of Resolution No. 2019-30 to Award a Contract to Don Chapin Company, Inc. for Construction On-Call Services
- F) Consider Adoption of Resolution No. 2019-31 to Amend the On-Call Engineering Services Agreement with Schaaf & Wheeler for the A1/A2 Reservoirs and B/C Booster Pump Station Design Services
- G) Consider Adoption of Resolution No. 2019-32 to Approve a Tree Replacement Funding Agreement between Marina Coast Water District and California State University at Monterey Bay
- H) Consider Adoption of Resolution No. 2019-33 to Approve Amendment No. 1 to the Professional Services Agreement with GHD, INC. for Design and Construction Support Services for the Imjin Lift Station Improvement Project
- I) Consider Adoption of Resolution No. 2019-34 to Approve Task Order 10 for Inspection and Construction Support Services for the Sea Haven Development Phase 5A as Part of the On-Call Professional Services Agreement with Harris & Associates

Discussion/Analysis: See individual transmittals.

Environmental Review Compliance: None required.

Other Considerations: The Board of Directors can approve these items together or they can pull them separately for discussion.

Material Included for Information/Consideration: Check Register for April 2019; Quarterly Financial Statements for January 1, 2019 to March 31, 2019; draft minutes of April 15, 2019; draft minutes of May 1, 2019; Resolution No. 2019-30; a copy of the RFQ for Don Chapin Company, Inc.; Resolution No. 2019-32; Attachment 1 – Tree Replacement Funding Agreement; Resolution No. 2019-33; Attachment 1 – Amendment No. 1 for GHD, INC.; Resolution No. 2019-34; and, Task Order No. 10.

Action Required: \_\_\_\_\_ Resolution      X   Motion    \_\_\_\_\_ Review  
(Roll call vote is required.)

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 11-A

Meeting Date: May 20, 2019

Prepared By: Kelly Cadiente

Approved By: Keith Van Der Maaten

Agenda Title: Receive and File the Check Register for the Month of April 2019

Staff Recommendation: The Board of Directors receive and file the April 2019 expenditures totaling \$2,057,386.13.

Background: *5-Year Strategic Plan, Objective No. 3 – Our objective is to manage public funds to assure financial stability, prudent rate management and demonstrate responsible stewardship. Our fiscal strategy is to forecast, control and optimize income and expenditures in an open and transparent manner. We will efficiently use our financial resources to assure availability to fund current and future demands.*

Discussion/Analysis: These expenditures were paid in April 2019 and the Board is requested to receive and file the check register.

Environmental Review Compliance: None required.

Financial Impact:  Yes  No Funding Source/Recap: Expenditures are allocated across the six cost centers; 01-Marina Water, 02-Marina Sewer, 03- Ord Water, 04- Ord Sewer, 05-Recycled Water, 06-Regional Water.

Other Consideration: None.

Material Included for Information/Consideration: April 2019 Summary Check Register.

Action Required:  Resolution  Motion  Review  
(Roll call vote is required.)

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

**April 2019 SUMMARY CHECK REGISTER**

<b>DATE</b>	<b>CHECK #</b>	<b>CHECK DESCRIPTION</b>	<b>AMOUNT</b>
04/01/2019	WIRE	Mountain Cascade, Inc.	591,104.76
04/04/2019	67442 - 67519	Check Register	666,757.94
04/15/2019	67520 - 67560	Check Register	350,006.57
04/05/2019	500298 - 500302	Payroll Checks and Direct Deposit	94,167.59
04/05/2019	500303 - 500304	Payroll Withholdings, Period Ended 03/29/19	1,218.23
04/05/2019	ACH	Internal Revenue Service	40,954.67
04/05/2019	ACH	State of California - EDD	9,222.56
04/05/2019	ACH	MassMutual Retirement Services, LLC	8,518.57
04/05/2019	ACH	CalPERS	21,462.01
04/19/2019	500305 - 500308	Payroll Checks and Direct Deposit	91,129.69
04/19/2019	500309	Payroll Withholdings, Period Ended 04/12/19	619.23
04/19/2019	ACH	MassMutual Retirement Services, LLC	8,498.57
04/19/2019	ACH	Internal Revenue Service	38,430.42
04/19/2019	ACH	State of California - EDD	8,587.25
04/19/2019	ACH	CalPERS	21,428.71
04/25/2019	500310 - 500326	Check Register	13,435.99
04/26/2019	500327 - 500336	Check Register	91,843.37
<b>TOTAL DISBURSEMENTS</b>			<b><u>2,057,386.13</u></b>



Check No	Invoice Date	Check Date	Vendor Name	Description	Amount
WIRE	02/25/2019	04/01/2019	Mountain Cascade, Inc.	24" Transmission Main, Mobilization and Demobilization - RUWAP	591,104.76
67442	03/21/2019	04/04/2019	Alhambra and Sierra Springs	Lab Grade Water	95.97
67443	03/27/2019	04/04/2019	Insight Planners	Web Development/ Maintenance, Hosting 03/2019	812.00
67444	03/13/2019	04/04/2019	PG&E	Gas and Electric Service 02/2019	49,916.02
67445	02/28/2019	04/04/2019	Home Depot Credit Services	General Supplies	367.39
67446	03/13/2019	04/04/2019	Jane's Answering Service	Answering Service 03/2019	172.60
67447	03/07/2019	04/04/2019	Pitney Bowes Purchase Power (Postage)	Postage Meter Refill	1,026.99
67448	03/11/2019	04/04/2019	Environmental Resource Associates	Laboratory Contract Testing	817.80
67449	03/15/2019	04/04/2019	Water Awareness Comm Mtry	ZunZun Performances - (2) Olson and Marshall Elementary, Dual Language Academy	2,600.00
67450	02/07/2019	04/04/2019	Fast Response On-Site Testing	Mask Fit/ Hearing Testing	1,770.80
67451	03/18/2019	04/04/2019	Verizon Wireless	Cell Phone Service 03/2019	1,197.29
67452	03/15/2019	04/04/2019	Harris & Associates	CSUMB Student Union - Inspection Services	660.00
67453	03/27/2019	04/04/2019	Orkin Franchise 925	IOP/ BLM Pest Control 03/2019	191.00
67454	03/14/2019	04/04/2019	Valley Electric Motor Service	(2) New Motors - Pumps 1 and 2 at Marina Booster Station	8,121.35
67455	03/15/2019	04/04/2019	Federal Express	Shipping Charges	287.76
67456	03/08/2019	04/04/2019	Maynard Group	Network Repair - Phone Line	205.44
67457	03/13/2019	04/04/2019	Shape Incorporated	Parts - Lift Stations	3,393.00
67458	03/07/2019	04/04/2019	USABluebook	Rubber Fill Hose - Jetter #0801, Blue Marking Paint, (6) Float Switches	1,340.64
67459	03/18/2019	04/04/2019	Core & Main LP	(85) 1" Multi-Jet Meter with 3G Dialog, (144) 1" 3G-DS Registers, Meter Parts - Child Development Center/ VA Clinic	50,894.98
67460	03/22/2019	04/04/2019	NEC Financial Services, Inc.	Phone Equipment Lease 03/2019	335.76
67461	03/12/2019	04/04/2019	Pitney Bowes, Inc. (Supplies)	Postage Machine Supplies	258.80
67462	03/05/2019	04/04/2019	Federico Imprints	Yellow Safety Shirts - O&M	272.72
67463	03/28/2019	04/04/2019	O'Reilly Automotive Stores, Inc.	Auto/ General Supplies	73.45
67464	03/18/2019	04/04/2019	Associated Services Company	Coffee Supplies	351.47
67465	03/11/2019	04/04/2019	Val's Plumbing & Heating, Inc.	BLM Boiler/ HVAC Preventative Maintenance	3,001.58
67466	03/05/2019	04/04/2019	Integrity Print & Design LLC	Graph Paper Pads - Engineering	166.39
67467	02/27/2019	04/04/2019	Calcon Systems, Inc.	Programming - Sewer System, Win/ Mobile - 911 Installation/ Configuration	9,795.00
67468	03/20/2019	04/04/2019	Univar USA, Inc.	(1,500) gals of Sodium Hypochlorite - Wells 10, 11, Intermediate Reservoir CL2 Systems	3,000.12
67469	03/20/2019	04/04/2019	Bay Area Coating Consultants, Inc.	Tank Inspection Services - Reservoir 2	844.72
67470	03/20/2019	04/04/2019	S.G.S. Recycling Enterprises, Inc.	Disposal of Old Diesel Tanks - Ord Village LS, Wells 30, 31	818.15
67471	02/28/2019	04/04/2019	West Yost Associates	Develop Work Plan/ Project Management - Watkins Gate Well Rehabilitation	2,700.00
67472	03/26/2019	04/04/2019	Conservation Rebate Program	356 Reservation Rd #52 - Toilet Rebate	125.00

Check No	Invoice Date	Check Date	Vendor Name	Description	Amount
67473	03/29/2019	04/04/2019	Conservation Rebate Program	304 Brittany Rd - Washer Rebate	150.00
67474	03/26/2019	04/04/2019	Monterey County Petroleum	Hydraulic Oil - Vactor #0303	652.98
67475	03/13/2019	04/04/2019	Green Rubber-Kennedy AG, LP	General Supplies	125.78
67476	03/07/2019	04/04/2019	Environmental Safety Training Professionals	Asbestos Cement Pipe Training - O&M Dept	1,200.00
67477	03/06/2019	04/04/2019	U.S. Bank Corporate Payment Systems	Employee Training/ Travel Expenses: CA-NV AWWA Spring Conference/ Hotel - Barkhurst, Springbrook User's Conference Hotel/ Airfare - Espero, CA Irrigation Conference/ Hotel - Lord, S.F. CalAm Settlement Hearing Parking - Van Der Maaten; Advertisement - Senior Engineer; Cloud Hosted Server - CityWorks/ ESRI; General Supplies	4,918.52
67478	03/20/2019	04/04/2019	Marina Tire & Auto Repair	Oil Change - Vehicles #1305, #1239, #1305	114.00
67479	03/11/2019	04/04/2019	Friedman & Springwater LLP	MCWD v CPUC Legal Fees, RDP Superior Court Damages Cases 02/2019	93,241.21
67480	03/25/2019	04/04/2019	Richards, Watson & Gershon	Regional Project Litigation 02/2019 - 03/2019	123,682.07
67481	03/15/2019	04/04/2019	Remy Moose Manley, LLP	CPUC 02/2019	76,374.60
67482	03/29/2019	04/04/2019	Monterey Bay Technologies, Inc.	IT Support Services 04/2019	3,450.00
67483	03/29/2019	04/04/2019	ICONIX Waterworks (US), Inc.	Gate Valve/ Parts - Ord Village LS Project, Flanges - Well 12	1,284.85
67484	03/28/2019	04/04/2019	Eurofins Eaton Analytical, Inc.	Laboratory Contract Testing	1,275.00
67485	03/12/2019	04/04/2019	Griffith & Masuda	General Matters, Groundwater - GSA, CPUC Proceedings, Local Coastal Plan, Water Supply, Annexation, Bay View Mobile Home Park, City of Seaside, CSUMB, Del Rey Oaks, PRA Request, Regional Desalination Project Litigation, Developer (Campus Town Project) 02/2019	14,600.48
67486	03/20/2019	04/04/2019	Conservation Rebate Program	3019 Bayer Dr - Toilet Rebate	89.00
67487	03/18/2019	04/04/2019	Gavilan Crane & Rigging, Inc.	Hoist Old Diesel Tanks - Ord Village LS, Wells 30, 31	1,755.00
67488	03/14/2019	04/04/2019	Aleshire & Wynder, LLP	Opinion for Bay View Community vs MCWD 02/2019	7,442.70
67489	03/31/2019	04/04/2019	Peninsula Messenger LLC	Courier Service 04/2019	145.00
67490	03/21/2019	04/04/2019	Dataflow Business Systems, Inc.	Ord Copier Maintenance (5551ci) 02/23 - 03/22	330.69
67491	04/01/2019	04/04/2019	Simpler Systems, Inc.	UB Datapp Maintenance 04/2019	500.00
67492	04/01/2019	04/04/2019	Pure Janitorial, LLC	BLM Janitorial Services 03/2019	1,850.00
67493	03/22/2019	04/04/2019	EKI Environment & Water, Inc.	Groundwater Planning Sustainability Study	24,977.95
67494	03/07/2019	04/04/2019	Akel Engineering Group, Inc.	Master Plans/Capacity Fees Study - Water, Sewer, Recycled Water	32,605.10
67495	03/15/2019	04/04/2019	R&B Company	PVC Ells - Intermediate Reservoir CL2 System	4.22
67496	02/25/2019	04/04/2019	MWH Constructors Inc.	Construction Management Services 11/2018 - 01/2019	127,120.32
67497	03/13/2019	04/04/2019	Ferguson Enterprises, Inc #686	General Supplies	13.68
67498	03/01/2019	04/04/2019	Greenwaste Recovery, Inc.	Garbage Collection & Recycling Services 03/2019	697.75
67499	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 18243 Caldwell St	291.89
67500	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - Hydrant Meter	101.12
67501	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 3061 California Ave	10.59

Check No	Invoice Date	Check Date	Vendor Name	Description	Amount
67502	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - Irrigation Meter	21.98
67503	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 2953 Carpenter Ct	5.11
67504	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 2608 Bluewater Ct	16.56
67505	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - Hydrant Meter	1,680.39
67506	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 600 Malmedy Rd	35.00
67507	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 111 Nijmegen Rd	30.87
67508	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 3271 Cove Way	22.50
67509	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 16614 Early Ln	14.62
67510	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 205 Monterey Rd	12.36
67511	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 19235 Coliseum Ln	43.88
67512	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 19130 Fallingwater Ln	38.72
67513	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 343 Ardennes Cir	35.00
67514	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 2979 Bluffs Dr	35.00
67515	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 344 Ardennes Cir	20.00
67516	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 121 Robin Dr	35.00
67517	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 167 Pebble Pl	4.74
67518	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 3106 Messenger Dr	52.52
67519	03/19/2019	04/04/2019	Customer Service Refund	Refund Check - 308 Mulheim Rd	35.00
67520	03/31/2019	04/15/2019	Ace Hardware	Chain Coil - BLM Building	542.60
67521	04/02/2019	04/15/2019	Carlons Fire Extinguisher	First Aid Supplies - Beach Office	75.49
67522	03/31/2019	04/15/2019	City of Marina	Franchise Tax Fee 01/2019 - 03/2019	29,887.85
67523	03/14/2019	04/15/2019	Monterey Peninsula Unified School District	Conservation Education 02/2019	4,112.09
67524	03/31/2019	04/15/2019	Fort Ord Reuse Authority	Franchise Tax Fee 01/2019 - 03/2019	118,222.02
67525	02/28/2019	04/15/2019	Schaaf & Wheeler	Staff Meetings, Master Plan Review, Pump Sizing - Booker LS, Ord Village LS/ Force Main 02/2019	22,477.75
67526	03/26/2019	04/15/2019	3T Equipment Company, Inc.	Pump Stud Bolts/ Nuts - Jetter #0801	115.05
67527	03/31/2019	04/15/2019	Peninsula Welding Supply	Gas Cylinder Tank Rental Fee - Welding Supplies	12.90
67528	03/31/2019	04/15/2019	Monterey One Water	Sewer Treatment Charge 03/2019 - 04/2019	123.50
67529	03/17/2019	04/15/2019	Master Meter, Inc.	Mobile Annual Support/ Maintenance 05/2019 - 04/2020	2,100.00
67530	03/15/2019	04/15/2019	Harris & Associates	Developer Inspection Services (Dunes, Junsay Oaks, Marina Heights, LAYIA Sea Haven, East Garrison) 02/2019	19,845.00
67531	04/01/2019	04/15/2019	Cypress Coast Ford	Maintenance/ Repair - Vehicle #1239	1,643.94
67532	04/01/2019	04/15/2019	Maynard Group	NEC Phone Equipment Maintenance, AT&T Wireless Backup, eMVS Cloud, VoIP Services 04/2019	2,866.96
67533	03/27/2019	04/15/2019	USABluebook	Jet Nozzle - Sewer Equipment	46.56
67534	03/31/2019	04/15/2019	DataProse, LLC	Customer Billing Statements 03/2019	6,591.13
67535	03/26/2019	04/15/2019	CSC of Salinas	Hydraulic Hoses - Vactor #0303	559.16
67536	03/15/2019	04/15/2019	Monterey County-Election Dept	Election Services 11/2018	27,759.62
67537	03/29/2019	04/15/2019	American Supply Company	Janitorial Supplies	294.44

Check No	Invoice Date	Check Date	Vendor Name	Description	Amount
67538	03/31/2019	04/15/2019	Credit Consulting Services, Inc.	Commission on Collection of Past Due Accounts 03/2019	14.02
67539	04/10/2019	04/15/2019	Conservation Rebate Program	2203 15th Infantry Ave - Washer Rebate	25.00
67540	03/21/2019	04/15/2019	Oldcastle Infrastructure, Inc.	Diesel Tanks - Ord Village LS, Wells 30, 31	44,997.68
67541	04/02/2019	04/15/2019	Sturdy Oil Company	(1,000) gals Red Diesel - Ord Village LS, Wells 30, 31 Fuel Tanks	2,984.11
67542	03/25/2019	04/15/2019	Dwyer Instruments, Inc.	Level Transmitter - Wells 10, 11	2,734.99
67543	04/02/2019	04/15/2019	Conservation Rebate Program	482 Jean Cir - (2) Toilet Rebates	198.00
67544	04/02/2019	04/15/2019	Conservation Rebate Program	3208 Susan Ave - Washer Rebate	100.00
67545	03/24/2019	04/15/2019	Voyager Fleet Systems, Inc.	Fleet Gasoline	2,354.19
67546	04/04/2019	04/15/2019	Access Monterey Peninsula, Inc.	Filming and Production 03/2019	360.00
67547	04/04/2019	04/15/2019	Dataflow Business Systems, Inc.	Freight Fee - Waste Toner	7.50
67548	03/31/2019	04/15/2019	Western Exterminator Company	Pest Control - Beach Office 03/2019	86.50
67549	04/06/2019	04/15/2019	TIAA Commercial Finance, Inc.	(3) Office Copiers (C754E, 454E, 5551ci), eCopy ScanStation Leases 04/2019	912.39
67550	03/31/2019	04/15/2019	Iron Mountain, Inc.	Shredding Service 03/2019	101.88
67551	03/28/2019	04/15/2019	AT&T	Ord/ Beach Alarm, IOP Fire Alarm, Main Frame Computer, Modem Line 03/2019	199.85
67552	03/29/2019	04/15/2019	Marina Coast Water District (BLM)	BLM Water, Sewer, Fire Service 03/2019	395.15
67553	02/26/2019	04/15/2019	Aqua Geo Frameworks LLC	Hydrogeologic Framework	18,095.78
67554	04/04/2019	04/15/2019	Scudder Roofing Co.	Repair Roof Cricket Area - IOP Building	6,057.00
67555	04/01/2019	04/15/2019	Verizon Connect NWF, Inc.	GPS Service - (2) Meter Reader Trucks	38.00
67556	03/28/2019	04/15/2019	MWH Constructors Inc.	Construction Management Services/ Labor 02/2019	18,886.63
67557	03/27/2019	04/15/2019	Ferguson Enterprises, Inc #686	Portable Pipe - Threader Equipment	1,799.76
67558	03/06/2019	04/15/2019	Interstate Battery of San Jose	(14) Batteries - Sewer SCADA	638.11
67559	03/31/2019	04/15/2019	City of Seaside	City Utility Tax 01/2019 - 03/2019	11,623.97
67560	03/13/2019	04/15/2019	Costco Wholesale Membership	Membership Renewal - Riso, Gonzalez	120.00
500298-500302	04/05/2019	04/05/2019	Payroll Checks and Direct Deposit	Payroll Ending 03/29/19	94,167.59
500303	04/05/2019	04/05/2019	General Teamsters Union	Payroll Ending 03/29/19	599.00
500304	04/05/2019	04/05/2019	WageWorks, Inc.	Payroll Ending 03/29/19	619.23
ACH	04/05/2019	04/05/2019	Internal Revenue Service	Payroll Ending 03/29/19	40,954.67
ACH	04/05/2019	04/05/2019	State of California - EDD	Payroll Ending 03/29/19	9,222.56
ACH	04/05/2019	04/05/2019	MassMutual Retirement Services, LLC	Payroll Ending 03/29/19	8,518.57
ACH	04/05/2019	04/05/2019	CalPERS	Payroll Ending 03/29/19	21,462.01
500305-500308	04/19/2019	04/19/2019	Payroll Checks and Direct Deposit	Payroll Ending 04/12/19	91,129.69
500309	04/19/2019	04/19/2019	WageWorks, Inc.	Payroll Ending 04/12/19	619.23
ACH	04/19/2019	04/19/2019	MassMutual Retirement Services, LLC	Payroll Ending 04/12/19	8,498.57
ACH	04/19/2019	04/19/2019	Internal Revenue Service	Payroll Ending 04/12/19	38,430.42

Check No	Invoice Date	Check Date	Vendor Name	Description	Amount
ACH	04/19/2019	04/19/2019	State of California - EDD	Payroll Ending 04/12/19	8,587.25
ACH	04/19/2019	04/19/2019	CalPERS	Payroll Ending 04/12/19	21,428.71
500310	04/17/2019	04/25/2019	Becks Shoe Store, Inc. - Salinas	Boot Benefit - O&M	179.22
500311	03/05/2019	04/25/2019	CWEA - Monterey Bay Section	Membership Renewal - Foster, Pineda	376.00
500312	03/25/2019	04/25/2019	AFLAC	Employee Paid Benefits 03/2019	2,783.32
500313	04/10/2019	04/25/2019	Beck's Shoe Store, Inc. - Monterey	Boot Benefit - O&M	180.25
500314	03/19/2019	04/25/2019	Thomas P. Moore	Board Compensation 03/2019	100.00
500315	04/16/2019	04/25/2019	Special District Association	Quarterly Meeting - Moore, Shriner, Le	93.00
500316	04/05/2019	04/25/2019	LegalShield	Employee Paid Benefits 04/2019	25.90
500317	03/19/2019	04/25/2019	Matthew Zefferman	Board Compensation 03/2019	50.00
500318	04/16/2019	04/25/2019	Pinnacle Medical Group, Inc.	DMV Physical, Pre-Employment Physical - New Hire	330.00
500319	04/17/2019	04/25/2019	Principal Life	Employee Paid Benefits 05/2019	1,045.82
500320	04/10/2019	04/25/2019	Lincoln National Life Insurance Company	Life, Short/Long Term, AD&D Insurance 04/2019	4,218.34
500321	03/19/2019	04/25/2019	Peter Le	Board Compensation 03/2019	100.00
500322	03/19/2019	04/25/2019	Herbert Cortez	Board Compensation 03/2019	100.00
500323	03/15/2019	04/25/2019	Transamerica Employee Benefits	Employee Paid Benefits 03/2019	1,205.30
500324	03/31/2019	04/25/2019	Cintas Corporation No. 630	Uniforms, Towels, Rugs 03/2019	588.84
500325	03/19/2019	04/25/2019	Jan Shriner	Board Compensation 03/2019	100.00
500326	03/31/2019	04/25/2019	Liebert Cassidy Whitmore	General Matters 03/2019	1,960.00
500327	04/24/2019	04/26/2019	ACWA Joint Power Ins Authority	Workers Compensation Insurance 01/2019 - 03/2019	21,169.67
500328	04/02/2019	04/26/2019	ACWA/ JPIA	Medical, Dental, Vision, EAP Insurance 05/2019	70,045.70
500329	04/24/2019	04/26/2019	Jose Rodriguez	DMV Physical	150.00
500330	04/26/2019	04/26/2019	Thomas P. Moore	Board Compensation 04/2019	50.00
500331	04/11/2019	04/26/2019	Jonathan P Lord	2019 NALP Certification	100.00
500332	04/26/2019	04/26/2019	Matthew Zefferman	Board Compensation 04/2019	50.00
500333	04/15/2019	04/26/2019	WageWorks, Inc.	FSA Admin Fees 03/2019	128.00
500334	04/26/2019	04/26/2019	Peter Le	Board Compensation 04/2019	50.00
500335	04/26/2019	04/26/2019	Herbert Cortez	Board Compensation 04/2019	50.00
500336	04/26/2019	04/26/2019	Jan Shriner	Board Compensation 04/2019	50.00
<b>Total Disbursements for April 2019</b>					<b>2,057,386.13</b>

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 11-B

Meeting Date: March 20, 2019

Prepared By: Kelly Cadiente

Approved By: Keith Van Der Maaten

Agenda Title: Receive the Quarterly Financial Statements for January 1, 2019 to March 31, 2019

Staff Recommendation: The Board receives the Quarterly Financial Statements for January 1, 2019 to March 31, 2019.

Background: *5-Year Strategic Plan, Strategic Element No. 3.2 – Regular Financial Updates to Policymakers and Managers.*

Discussion/Analysis: All figures reported for the quarter are based on accrual basis accounting. The District's consolidated financial statement for the quarter includes operating revenues of \$3.682 million and expenses of \$3.031 million, resulting in a net gain from operations of \$0.651 million. The District budget projected net gain from operations of \$0.584 million for the same period.

The difference between the actual net gain from operations for the quarter from the budget gain expectation is \$0.067 million due to the timing of when revenues are earned and expenses are accrued producing different results than those in which the annual budget amounts are divided evenly by quarter.

Summary of Cost Centers:

<u>Description</u>	<u>Actual Qtr</u>	<u>Budget Qtr</u>	<u>Actual FYTD</u>	<u>Budget FYTD</u>
<b>Marina Water</b>				
Revenue	912,618	1,015,715	2,996,179	3,047,146
Expenses	<u>734,270</u>	<u>785,151</u>	<u>2,039,398</u>	<u>2,355,451</u>
Net Gain/(Loss)	178,348	230,564	956,781	691,695
<b>Marina Sewer</b>				
Revenue	348,803	356,468	1,021,440	1,069,405
Expenses	<u>178,254</u>	<u>194,538</u>	<u>535,162</u>	<u>583,614</u>
Net Gain/(Loss)	170,549	161,930	486,278	485,791
<b>Ord Community Water</b>				
Revenue	1,674,864	1,848,868	5,726,624	5,546,603
Expenses	<u>1,670,398</u>	<u>1,770,729</u>	<u>4,959,281</u>	<u>5,312,181</u>
Net Gain/(Loss)	4,466	78,139	767,343	234,422
<b>Ord Community Sewer</b>				
Revenue	745,456	687,798	2,152,966	2,063,396
Expenses	<u>423,676</u>	<u>486,153</u>	<u>1,266,282</u>	<u>1,458,455</u>
Net Gain/(Loss)	321,780	201,645	886,684	604,941

<b>Recycled Water Project</b>				
Revenue	-	9	95	26
Expenses	<u>24,444</u>	<u>88,160</u>	<u>207,638</u>	<u>264,481</u>
Net Gain/(Loss)	(24,444)	(88,151)	(207,543)	(264,455)
<b>Regional Project</b>				
Revenue	-	-	-	-
Expenses	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Net Gain/(Loss)	-	-	-	-
<b>Consolidated Cost Centers</b>				
Revenue	<b>3,681,741</b>	<b>3,908,858</b>	<b>11,897,304</b>	<b>11,726,576</b>
Expenses	<u><b>3,031,042</b></u>	<u><b>3,324,731</b></u>	<u><b>9,007,761</b></u>	<u><b>9,974,182</b></u>
Net Gain/(Loss)	<b>650,699</b>	<b>584,127</b>	<b>2,889,543</b>	<b>1,752,394</b>

As of March 31, 2019, the District had \$20.524 million in liquid investments. The District also had \$0.857 million of 2010 refunding bond proceeds for debt reserve purposes in the bank.

The District owed \$28.005 million for the 2015 Senior Revenue Refunding Bonds Series A as well as \$2.585 million for the 2010 Subordinate Revenue Refunding Bonds, \$2.640 million to Holman Capital Corporation for the conversion of the Rabobank N.A. construction loan for the BLM building, and \$3.149 million to BVAA Compass Bank Line of Credit for the Regional Urban Water Augmentation Project as of March 31, 2019.

Environmental Review Compliance: None required.

Financial Impact:        Yes   X   No                      Funding Source/Recap: None

Other Considerations: None

Material Included for Information/Consideration: Quarterly Financial Statements, Investments and Debt Summary Statements.

Action Required:        Resolution        Motion   X   Review

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

MARINA COAST WATER DISTRICT  
INCOME STATEMENT  
JANUARY 1, 2019 TO MARCH 31, 2019  
(UNAUDITED)

CONSOLIDATED

	CURRENT QUARTER				YEAR-TO-DATE			
	2018/2019	2017/2018	\$ VARIANCE	% VARIANCE	2018/2019	2017/2018	\$ VARIANCE	% VARIANCE
<b>REVENUES</b>								
WATER SALES	2,338,300	2,489,013	(150,713)	(6.06%)	7,990,943	8,104,124	(113,181)	(1.40%)
SEWER SALES	1,074,447	993,545	80,902	8.14%	3,108,628	2,824,100	284,528	10.07%
INTEREST INCOME	56,170	34,294	21,876	63.79%	158,880	88,851	70,029	78.82%
OTHER REVENUE	212,824	415,519	(202,695)	(48.78%)	638,853	938,661	(299,808)	(31.94%)
<b>TOTAL REVENUES</b>	<b>3,681,741</b>	<b>3,932,371</b>	<b>(250,630)</b>	<b>(6.37%)</b>	<b>11,897,304</b>	<b>11,955,736</b>	<b>(58,432)</b>	<b>(0.49%)</b>
<b>EXPENSES</b>								
ADMINISTRATIVE	1,375,499	1,012,556	362,943	35.84%	3,635,142	3,101,536	533,606	17.20%
OPERATING & MAINTENANCE	812,951	778,184	34,767	4.47%	2,625,066	2,368,769	256,297	10.82%
LABORATORY	63,091	57,774	5,317	9.20%	198,169	180,839	17,330	9.58%
CONSERVATION	63,290	109,664	(46,374)	(42.29%)	210,210	248,953	(38,743)	(15.56%)
ENGINEERING	293,005	383,315	(90,310)	(23.56%)	750,192	1,000,678	(250,486)	(25.03%)
WATER RESOURCES	173,630	-	173,630	100.00%	415,613	-	415,613	100.00%
INTEREST EXPENSE	101,466	82,710	18,756	22.68%	762,176	713,126	49,050	6.88%
FRANCHISE FEE	148,110	142,553	5,557	3.90%	411,193	470,870	(59,677)	(12.67%)
<b>TOTAL EXPENSES</b>	<b>3,031,042</b>	<b>2,566,756</b>	<b>464,286</b>	<b>18.09%</b>	<b>9,007,761</b>	<b>8,084,771</b>	<b>922,990</b>	<b>11.42%</b>
<b>NET GAIN (LOSS) FROM OPERATIONS</b>	<b>650,699</b>	<b>1,365,615</b>	<b>(714,916)</b>	<b>(52.35%)</b>	<b>2,889,543</b>	<b>3,870,965</b>	<b>(981,422)</b>	<b>(25.35%)</b>
CAPACITY FEE/ CAPITAL SURCHARGE	1,050,464	916,057	134,407	14.67%	3,200,184	4,067,753	(867,569)	(21.33%)
CONTRIBUTIONS/ GRANT REVENUE	4,251,265	-	4,251,265	100.00%	4,251,265	-	4,251,265	100.00%
NON-OPERATING REVENUE	97,678	129,050	(31,372)	(24.31%)	346,464	394,548	(48,084)	(12.19%)
CAPITAL IMPROVEMENT PROJECT	1,741,970	7,473,018	(5,731,047)	(76.69%)	8,584,117	10,624,199	(2,040,083)	(19.20%)
DEVELOPER REVENUE	100,831	127,263	(26,432)	(20.77%)	322,713	373,151	(50,438)	(13.52%)
DEVELOPER EXPENSES	109,141	148,629	(39,488)	(26.57%)	349,314	380,242	(30,928)	(8.13%)



MARINA COAST WATER DISTRICT  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES  
JANUARY 1, 2019 TO MARCH 31, 2019  
(UNAUDITED)

CONSOLIDATED

	MW FUND		MS FUND		OW FUND		OS FUND		RW FUND		RP FUND		CONSOLIDATED		CONSOLIDATED (YTD)	
	ACTUAL	BUDGET	ACTUAL	BUDGET	ACTUAL	BUDGET	ACTUAL	BUDGET	ACTUAL	BUDGET	ACTUAL	BUDGET	ACTUAL	BUDGET	ACTUAL	BUDGET
REVENUES																
WATER SALES	860,783	1,001,002	-	-	1,477,517	1,701,668	-	-	-	-	-	-	2,338,300	2,702,670	7,990,943	8,108,009
SEWER SALES	-	-	338,623	350,712	-	-	735,824	683,164	-	-	-	-	1,074,447	1,033,876	3,108,628	3,101,630
INTEREST INCOME	16,696	1,788	9,664	4,406	22,962	6,500	6,848	434	-	9	-	-	56,170	13,137	158,880	39,412
OTHER REVENUE	35,139	12,925	516	1,350	174,385	140,700	2,784	4,200	-	-	-	-	212,824	159,175	638,853	477,525
TOTAL REVENUES	912,618	1,015,715	348,803	356,468	1,674,864	1,848,868	745,456	687,798	-	9	-	-	3,681,741	3,908,858	11,897,304	11,726,576
EXPENSES																
ADMINISTRATIVE	327,808	228,307	56,807	62,912	864,992	520,359	125,807	140,749	85	1,000	-	-	1,375,499	953,327	3,635,142	2,859,979
OPERATING & MAINTENANCE	206,509	253,159	95,146	93,989	314,855	473,850	196,441	202,582	-	-	-	-	812,951	1,023,580	2,625,066	3,070,736
LABORATORY	19,292	28,145	-	-	43,799	61,310	-	-	-	-	-	-	63,091	89,455	198,169	268,365
CONSERVATION	24,932	39,191	-	-	38,358	60,476	-	-	-	-	-	-	63,290	99,667	210,210	299,000
ENGINEERING	69,330	73,658	20,132	16,624	158,648	160,923	44,895	45,819	-	-	-	-	293,005	297,024	750,192	891,069
WATER RESOURCES	64,809	123,063	-	-	108,821	184,593	-	-	-	-	-	-	173,630	307,656	415,613	922,966
INTEREST EXPENSE	21,590	39,628	6,169	21,013	38,553	174,852	10,795	57,229	24,359	87,160	-	-	101,466	379,882	762,176	1,139,649
FRANCHISE FEE	-	-	-	-	102,372	134,366	45,738	39,774	-	-	-	-	148,110	174,140	411,193	522,418
TOTAL EXPENSES	734,270	785,151	178,254	194,538	1,670,398	1,770,729	423,676	486,153	24,444	88,160	-	-	3,031,042	3,324,731	9,007,761	9,974,182
NET GAIN (LOSS) FROM OPERATIONS	178,348	230,564	170,549	161,930	4,466	78,139	321,780	201,645	(24,444)	(88,151)	-	-	650,699	584,127	2,889,543	1,752,394
CAPACITY FEE/ CAPITAL SURCHARGE	-	64,722	933	46,660	756,847	850,585	292,684	298,159	-	-	-	-	1,050,464	1,260,126	3,200,184	3,780,377
CONTRIBUTIONS/ GRANT REVENUE	-	61,717	-	-	-	92,576	-	-	4,251,265	300,000	-	-	4,251,265	454,293	4,251,265	1,362,878
NON-OPERATING REVENUE	27,350	36,895	7,814	10,542	48,839	65,884	13,675	18,448	-	-	-	-	97,678	131,769	346,464	395,307
CAPITAL IMPROVEMENT PROJECT	241,858	-	-	-	53,256	-	52,745	-	920,811	-	473,300	-	1,741,970	-	8,584,117	-
DEVELOPER REVENUE	4,809	-	877	-	54,555	118,125	40,590	27,500	-	-	-	-	100,831	145,625	322,713	436,875
DEVELOPER EXPENSES	4,729	2,500	797	500	68,069	95,000	35,546	22,500	-	-	-	-	109,141	120,500	349,314	361,500

MARINA COAST WATER DISTRICT  
INCOME STATEMENT  
JANUARY 1, 2019 TO MARCH 31, 2019  
(UNAUDITED)

MARINA WATER FUND

	CURRENT QUARTER				YEAR-TO-DATE			
	ACTUAL	BUDGET	\$ VARIANCE	% VARIANCE	ACTUAL	BUDGET	\$ VARIANCE	% VARIANCE
<b>REVENUES</b>								
WATER SALES	860,783	1,001,002	(140,219)	(14.01%)	2,885,062	3,003,006	(117,944)	(3.93%)
SEWER SALES	-	-	-	-	-	-	-	-
INTEREST INCOME	16,696	1,788	14,908	833.78%	47,009	5,365	41,644	776.22%
OTHER REVENUE	35,139	12,925	22,214	171.87%	64,108	38,775	25,333	65.33%
<b>TOTAL REVENUES</b>	<b>912,618</b>	<b>1,015,715</b>	<b>(103,097)</b>	<b>(10.15%)</b>	<b>2,996,179</b>	<b>3,047,146</b>	<b>(50,967)</b>	<b>(1.67%)</b>
<b>EXPENSES</b>								
ADMINISTRATIVE	327,808	228,307	99,501	43.58%	851,066	684,920	166,146	24.26%
OPERATING & MAINTENANCE	206,509	253,159	(46,650)	(18.43%)	642,780	759,476	(116,696)	(15.37%)
LABORATORY	19,292	28,145	(8,853)	(31.45%)	58,978	84,436	(25,458)	(30.15%)
CONSERVATION	24,932	39,191	(14,259)	(36.38%)	82,222	117,573	(35,351)	(30.07%)
ENGINEERING	69,330	73,658	(4,328)	(5.88%)	167,907	220,973	(53,066)	(24.01%)
WATER RESOURCES	64,809	123,063	(58,254)	(47.34%)	154,156	369,188	(215,032)	(58.24%)
INTEREST EXPENSE	21,590	39,628	(18,038)	(45.52%)	82,289	118,885	(36,596)	(30.78%)
FRANCHISE/MEMBERSHIP FEES	-	-	-	-	-	-	-	-
<b>TOTAL EXPENSES</b>	<b>734,270</b>	<b>785,151</b>	<b>(50,881)</b>	<b>(6.48%)</b>	<b>2,039,398</b>	<b>2,355,451</b>	<b>(316,053)</b>	<b>(13.42%)</b>
<b>NET GAIN (LOSS) FROM OPERATIONS</b>	<b>178,348</b>	<b>230,564</b>	<b>(52,216)</b>	<b>(22.65%)</b>	<b>956,781</b>	<b>691,695</b>	<b>265,086</b>	<b>38.32%</b>
CAPACITY FEE/ CAPITAL SURCHARGE	-	64,722	(64,722)	(100.00%)	15,796	194,166	(178,370)	(91.86%)
CONTRIBUTIONS/ GRANT REVENUE	-	61,717	(61,717)	(100.00%)	-	185,151	(185,151)	(100.00%)
NON-OPERATING REVENUE	27,350	36,895	(9,545)	(25.87%)	97,010	110,686	(13,676)	(12.36%)
CAPITAL IMPROVEMENT PROJECT	241,858	-	241,858	100.00%	448,356	-	448,356	100.00%
DEVELOPER REVENUE	4,809	-	4,809	100.00%	15,220	-	15,220	100.00%
DEVELOPER EXPENSES	4,729	2,500	2,229	89.16%	15,427	7,500	7,927	105.69%

MARINA COAST WATER DISTRICT  
INCOME STATEMENT  
JANUARY 1, 2019 TO MARCH 31, 2019  
(UNAUDITED)

MARINA SEWER FUND

	CURRENT QUARTER				YEAR-TO-DATE			
	ACTUAL	BUDGET	\$ VARIANCE	% VARIANCE	ACTUAL	BUDGET	\$ VARIANCE	% VARIANCE
<b>REVENUES</b>								
WATER SALES	-	-	-	-	-	-	-	-
SEWER SALES	338,623	350,712	(12,089)	(3.45%)	992,219	1,052,137	(59,918)	(5.69%)
INTEREST INCOME	9,664	4,406	5,258	119.34%	27,191	13,218	13,973	105.71%
OTHER REVENUE	516	1,350	(834)	(61.78%)	2,030	4,050	(2,020)	(49.88%)
<b>TOTAL REVENUES</b>	<b>348,803</b>	<b>356,468</b>	<b>(7,665)</b>	<b>(2.15%)</b>	<b>1,021,440</b>	<b>1,069,405</b>	<b>(47,965)</b>	<b>(4.49%)</b>
<b>EXPENSES</b>								
ADMINISTRATIVE	56,807	62,912	(6,105)	(9.70%)	170,233	188,737	(18,504)	(9.80%)
OPERATING & MAINTENANCE	95,146	93,989	1,157	1.23%	275,777	281,966	(6,189)	(2.19%)
LABORATORY	-	-	-	-	-	-	-	-
CONSERVATION	-	-	-	-	-	-	-	-
ENGINEERING	20,132	16,624	3,508	21.10%	51,023	49,872	1,151	2.31%
WATER RESOURCES	-	-	-	-	-	-	-	-
INTEREST EXPENSE	6,169	21,013	(14,844)	(70.64%)	38,129	63,039	(24,910)	(39.52%)
FRANCHISE/MEMBERSHIP FEES	-	-	-	-	-	-	-	-
<b>TOTAL EXPENSES</b>	<b>178,254</b>	<b>194,538</b>	<b>(16,284)</b>	<b>(8.37%)</b>	<b>535,162</b>	<b>583,614</b>	<b>(48,452)</b>	<b>(8.30%)</b>
<b>NET GAIN (LOSS) FROM OPERATIONS</b>	<b>170,549</b>	<b>161,930</b>	<b>8,619</b>	<b>5.32%</b>	<b>486,278</b>	<b>485,791</b>	<b>487</b>	<b>0.10%</b>
CAPACITY FEE/ CAPITAL SURCHARGE	933	46,660	(45,727)	(98.00%)	933	139,980	(139,047)	(99.33%)
CONTRIBUTIONS/ GRANT REVENUE	-	-	-	-	-	-	-	-
NON-OPERATING REVENUE	7,814	10,542	(2,728)	(25.88%)	27,717	31,625	(3,908)	(12.36%)
CAPITAL IMPROVEMENT PROJECT	-	-	-	-	36	-	36	100.00%
DEVELOPER REVENUE	877	-	877	100.00%	3,601	-	3,601	100.00%
DEVELOPER EXPENSES	797	500	297	59.40%	1,868	1,500	368	24.53%

MARINA COAST WATER DISTRICT  
INCOME STATEMENT  
JANUARY 1, 2019 TO MARCH 31, 2019  
(UNAUDITED)

ORD COMMUNITY WATER FUND

	CURRENT QUARTER				YEAR-TO-DATE			
	ACTUAL	BUDGET	\$ VARIANCE	% VARIANCE	ACTUAL	BUDGET	\$ VARIANCE	% VARIANCE
<b>REVENUES</b>								
WATER SALES	1,477,517	1,701,668	(224,151)	(13.17%)	5,105,881	5,105,003	878	0.02%
SEWER SALES	-	-	-	-	-	-	-	-
INTEREST INCOME	22,962	6,500	16,462	253.26%	65,190	19,500	45,690	234.31%
OTHER REVENUE	174,385	140,700	33,685	23.94%	555,553	422,100	133,453	31.62%
<b>TOTAL REVENUES</b>	<b>1,674,864</b>	<b>1,848,868</b>	<b>(174,004)</b>	<b>(9.41%)</b>	<b>5,726,624</b>	<b>5,546,603</b>	<b>180,021</b>	<b>3.25%</b>
<b>EXPENSES</b>								
ADMINISTRATIVE	864,992	520,359	344,633	66.23%	2,225,867	1,561,076	664,791	42.59%
OPERATING & MAINTENANCE	314,855	473,850	(158,995)	(33.55%)	1,176,206	1,421,549	(245,343)	(17.26%)
LABORATORY	43,799	61,310	(17,511)	(28.56%)	139,191	183,929	(44,738)	(24.32%)
CONSERVATION	38,358	60,476	(22,118)	(36.57%)	127,988	181,427	(53,439)	(29.45%)
ENGINEERING	158,648	160,923	(2,275)	(1.41%)	403,508	482,768	(79,260)	(16.42%)
WATER RESOURCES	108,821	184,593	(75,772)	(41.05%)	261,457	553,778	(292,321)	(52.79%)
INTEREST EXPENSE	38,553	174,852	(136,299)	(77.95%)	328,522	524,557	(196,035)	(37.37%)
FRANCHISE/MEMBERSHIP FEES	102,372	134,366	(31,994)	(23.81%)	296,542	403,097	(106,555)	(26.43%)
<b>TOTAL EXPENSES</b>	<b>1,670,398</b>	<b>1,770,729</b>	<b>(100,331)</b>	<b>(5.67%)</b>	<b>4,959,281</b>	<b>5,312,181</b>	<b>(352,900)</b>	<b>(6.64%)</b>
<b>NET GAIN (LOSS) FROM OPERATIONS</b>	<b>4,466</b>	<b>78,139</b>	<b>(73,673)</b>	<b>(94.28%)</b>	<b>767,343</b>	<b>234,422</b>	<b>532,921</b>	<b>227.33%</b>
CAPACITY FEE/ CAPITAL SURCHARGE	756,847	850,585	(93,738)	(11.02%)	2,258,877	2,551,755	(292,878)	(11.48%)
CONTRIBUTIONS/ GRANT REVENUE	-	92,576	(92,576)	(100.00%)	-	277,727	(277,727)	(100.00%)
NON-OPERATING REVENUE	48,839	65,884	(17,045)	(25.87%)	173,232	197,653	(24,421)	(12.36%)
CAPITAL IMPROVEMENT PROJECT	53,256	-	53,256	100.00%	93,164	-	93,164	100.00%
DEVELOPER REVENUE	54,555	118,125	(63,570)	(53.82%)	190,665	354,375	(163,710)	(46.20%)
DEVELOPER EXPENSES	68,069	95,000	(26,931)	(28.35%)	244,234	285,000	(40,766)	(14.30%)

MARINA COAST WATER DISTRICT  
INCOME STATEMENT  
JANUARY 1, 2019 TO MARCH 31, 2019  
(UNAUDITED)

ORD COMMUNITY SEWER FUND

	CURRENT QUARTER				YEAR-TO-DATE			
	ACTUAL	BUDGET	\$ VARIANCE	% VARIANCE	ACTUAL	BUDGET	\$ VARIANCE	% VARIANCE
<b>REVENUES</b>								
WATER SALES	-	-	-	-	-	-	-	-
SEWER SALES	735,824	683,164	52,660	7.71%	2,116,409	2,049,493	66,916	3.27%
INTEREST INCOME	6,848	434	6,414	1477.88%	19,395	1,303	18,092	1388.49%
OTHER REVENUE	2,784	4,200	(1,416)	(33.71%)	17,162	12,600	4,562	36.21%
<b>TOTAL REVENUES</b>	<b>745,456</b>	<b>687,798</b>	<b>57,658</b>	<b>8.38%</b>	<b>2,152,966</b>	<b>2,063,396</b>	<b>89,570</b>	<b>4.34%</b>
<b>EXPENSES</b>								
ADMINISTRATIVE	125,807	140,749	(14,942)	(10.62%)	387,801	422,246	(34,445)	(8.16%)
OPERATING & MAINTENANCE	196,441	202,582	(6,141)	(3.03%)	530,303	607,745	(77,442)	(12.74%)
LABORATORY	-	-	-	-	-	-	-	-
CONSERVATION	-	-	-	-	-	-	-	-
ENGINEERING	44,895	45,819	(924)	(2.02%)	127,754	137,456	(9,702)	(7.06%)
WATER RESOURCES	-	-	-	-	-	-	-	-
INTEREST EXPENSE	10,795	57,229	(46,434)	(81.14%)	105,773	171,687	(65,914)	(38.39%)
FRANCHISE/MEMBERSHIP FEES	45,738	39,774	5,964	14.99%	114,651	119,321	(4,670)	(3.91%)
<b>TOTAL EXPENSES</b>	<b>423,676</b>	<b>486,153</b>	<b>(62,477)</b>	<b>(12.85%)</b>	<b>1,266,282</b>	<b>1,458,455</b>	<b>(192,173)</b>	<b>(13.18%)</b>
<b>NET GAIN (LOSS) FROM OPERATIONS</b>	<b>321,780</b>	<b>201,645</b>	<b>120,135</b>	<b>59.58%</b>	<b>886,684</b>	<b>604,941</b>	<b>281,743</b>	<b>46.57%</b>
CAPACITY FEE/ CAPITAL SURCHARGE	292,684	298,159	(5,475)	(1.84%)	924,578	894,476	30,102	3.37%
CONTRIBUTIONS/ GRANT REVENUE	-	-	-	-	-	-	-	-
NON-OPERATING REVENUE	13,675	18,448	(4,773)	(25.87%)	48,505	55,343	(6,838)	(12.36%)
CAPITAL IMPROVEMENT PROJECT	52,745	-	52,745	100.00%	100,006	-	100,006	100.00%
DEVELOPER REVENUE	40,590	27,500	13,090	47.60%	113,227	82,500	30,727	37.24%
DEVELOPER EXPENSES	35,546	22,500	13,046	57.98%	87,785	67,500	20,285	30.05%





MARINA COAST WATER DISTRICT  
SCHEDULE OF INVESTMENTS SUMMARY  
JANUARY 1, 2019 TO MARCH 31, 2019  
(UNAUDITED)

ACCOUNT	ACCT TYPE	YIELD APR	12/31/2018 BALANCE	QUARTERLY ACTIVITIES		3/31/2019 BALANCE
				TRANSACTION TYPE	AMOUNT	
LAIF ACCOUNT		2.55%	7,689,190	INTEREST 01/15/2019	46,464	7,735,654
SAVINGS ACCOUNT	MM	0.20%	973,358	INTEREST 01/01/19 - 03/31/19	469	973,827
CPFCA DEPOSIT ACCOUNT	MM	0.05%	100,469	INTEREST 01/01/19 - 03/31/19	12	100,481
RESTRICTED FUNDS	MM	0.16%	6,330,052	INTEREST 01/01/19 - 03/31/19	2,442	6,332,494
RUWAP LOC PROCEEDS	CK		4,825	DEPOSITS	-	4,825
				WITHDRAWALS	-	4,825
CHECKING ACCOUNT	CK		5,468,058	QUARTERLY DEPOSITS & CREDITS	5,001,078	10,469,136
				QUARTERLY CHECKS & DEBITS	(5,092,212)	5,376,924

SUMMARY	As of March 31		RESERVES DETAIL (LAIF ACCOUNT)	As of March 31	
	2018	2019		2018	2019
LAIF ACCOUNT	7,583,306	7,735,654	MW GEN OP RESERVE	519,645	516,973
SAVINGS ACCOUNT	2,171,295	973,827	MW CAPACITY REVENUE FUND	490,837	574,636
CPFCA DEPOSIT ACCOUNT	100,431	100,481	MW CAP REPL RESERVE FUND	1,329,936	1,295,827
RESTRICTED FUNDS	6,322,398	6,332,494	MS GEN OP RESERVE	1,295,559	1,357,716
RUWAP LOC PROCEEDS	4,970	4,825	MS CAPACITY REVENUE FUND	147,074	113,900
CHECKING ACCOUNT	6,941,982	5,376,924	MS CAP REPL RESERVE FUND	1,938	1,977
<b>TOTAL INVESTMENT</b>	<b>23,124,382</b>	<b>20,524,205</b>	OW GEN OP RESERVE	323,797	83,164
			OW CAPITAL/CAPACITY REVENUE FUND	2,377,701	2,801,116
			OW CAP REPL RESERVE FUND	195,105	70,516
			OS GEN OP RESERVE	283,455	17,755
			OS CAPITAL/CAPACITY REVENUE FUND	616,593	900,375
			OS CAP REPL RESERVE FUND	1,665	1,699
			<b>TOTAL</b>	<b>7,583,305</b>	<b>7,735,654</b>



MARINA COAST WATER DISTRICT  
 SCHEDULE OF INVESTMENTS SUMMARY - BOND PROCEEDS  
 JANUARY 1, 2019 TO MARCH 31, 2019  
 (UNAUDITED)

ACCOUNT	ACCT TYPE	YIELD APR	12/31/2018 BALANCE	QUARTERLY ACTIVITIES TRANSACTION TYPE	AMOUNT	3/31/2019 BALANCE
RESERVE FUND 2010 REFUNDING BOND	TFUND	2.50%	852,468	INTEREST 01/01/19 - 03/31/19 FUNDS TRANFER	4,722 -	857,190 857,190

MARINA COAST WATER DISTRICT  
SCHEDULE OF DEBT SUMMARY  
JANUARY 1, 2019 TO MARCH 31, 2019  
(UNAUDITED)

PRINCIPAL AMOUNT	FIRST PAYMENT	FINAL PAYMENT	RATE	12/31/2018 BALANCE	QUARTERLY ACTIVITIES TRANSACTION TYPE	AMOUNT	3/31/2019 BALANCE
<b>HCC - BLM INSTALLMENT LOAN</b>							
2,799,880	07/20/2017	01/20/2037	5.750%	2,681,962	PAYMENT - PRINCIPAL	(41,588)	2,640,374
					INTEREST PAYMENT	(77,106)	
<b>2010 REFUNDING BOND - CLOSING DATE 12/23/2010</b>							
8,495,000	06/01/2011	06/01/2020	4.340%	2,585,000	PAYMENT - PRINCIPAL	-	2,585,000
					INTEREST PAYMENT	-	
<b>2015 SERIES A REFUNDING BOND - CLOSING DATE 07/15/2015</b>							
29,840,000	12/01/2015	06/01/2037	3.712%	28,005,000	PAYMENT - PRINCIPAL	-	28,005,000
					INTEREST PAYMENT	-	
<b>BVAA COMPASS RUWAP LOC</b>							
55,000	-	08/01/2020	3.118% *	3,148,798	ADVANCES	-	3,148,798
					PAYMENT - PRINCIPAL	-	3,148,798
					INTEREST PAYMENT	(24,359)	

\*Line of Credit interest calculated on a variable basis (65.01% of the 30-Day Monthly LIBOR plus 1.50%). Amount represents interest rate at 03/01/2019.

**SUMMARY**

HCC - BLM INSTALLMENT LOAN	2,640,374
2010 REFUNDING BOND	2,585,000
2015 REFUNDING BOND SERIES A	28,005,000
BVAA COMPASS RUWAP LOC	3,148,798
<b>TOTAL DEBT</b>	<b>36,379,172</b>

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 11-C

Meeting Date: May 20, 2019

Prepared By: Paula Riso

Approved By: Keith Van Der Maaten

Agenda Title: Approve the Draft Minutes of the Joint Board/GSA Meeting of April 15, 2019

Staff Recommendation: The Board of Directors approve the draft minutes of the April 15, 2019 joint Board meeting.

Background: *5-Year Strategic Plan, Mission Statement – We Provide high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Discussion/Analysis: The draft minutes of April 15, 2019 are provided for the Board to consider approval.

Environmental Review Compliance: None required.

Financial Impact:  Yes  No Funding Source/Recap: None

Other Considerations: The Board can suggest changes/corrections to the minutes.

Material Included for Information/Consideration: Draft minutes of April 15, 2019.

Action Required:  Resolution  Motion  Review

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_



## **Marina Coast Water District**

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting  
April 15, 2019

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:30 p.m. on April 15, 2019 at the Marina Council Chambers, 211 Hillcrest Avenue, Marina, California.

2. Roll Call:

Board Members Present:

Thomas P. Moore – President  
Jan Shriner – Vice President  
Herbert Cortez – arrived at 7:01 p.m.  
Peter Le  
Matt Zefferman

Board Members Absent:

None

Staff Members Present:

Keith Van Der Maaten, General Manager  
Roger Masuda, District Counsel  
Kelly Cadiante, Director of Administrative Services  
Derek Cray, Operations and Maintenance Manager  
Michael Wegley, District Engineer  
Patrick Breen, Water Resources Manager  
Thomas Barkhurst, Laboratory Supervisor  
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andrew Sterbenz, Schaaf & Wheeler  
Philip Clark, Seaside Resident, WCC Member  
Kathy Biala, Marina Resident  
Lisa Berkley, City of Marina Councilmember  
Jolene, Dezi, and Bella Green, Pacific Grove Residents  
Jorge Valenzuela, Teamster Union Representative  
MCWD Employees

3. Public Comment on Closed Session Items:

There were no public comments.

The Board entered into closed session at 6:32 p.m. to discuss the following items:

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation

- 1) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission Application (“A.”) 12-04-019
- 2) In the Matter of the Application of California-American Water Company (U 210 W) for an Order (1) Approving a Settlement Agreement with the County of Monterey and the Monterey County Water Resources Agency to Settle and Resolve Claims and Issues Between the Parties and to Promote the Development, Construction and Operation of a Water Supply Project for Monterey County on an Expedited Basis, and (2) Authorizing the Transfer of Authorized Costs Related to the Settlement Agreement to Its Special Request 1 Surcharge Balancing Account, California Public Utilities Commission Application (“A.”) 13-05-017, and related California Supreme Court petition for writ of review.
- 3) City of Marina and Marina Coast Water District, Petitioners v. Public Utilities Commission of the State of California, Respondent (California-American Water Company, et al., Real Parties in Interest), Petitions for Writ of Review, California Supreme Court Case No. S253585
- 4) Marina Coast Water District vs California-American Water Company, Monterey County Water Resources Agency; and, California-American Water Company, Monterey County Water Resources Agency vs Marina Coast Water District, San Francisco Superior Court Case Nos. CGC-15-547125, CGC-15-546632 (Complaint for Damages, Breach of Warranties, etc.)
- 5) Marina Coast Water District v, California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. 15CV00267, Sixth Appellate District Court of Appeals Case No. H045468

Agenda Item 4-A (continued):

- 6) Bay View Community DE, LLC; Bryan Taylor; Greg Carter; and Brooke Bilyeu vs Marina Coast Water District; Board of Directors of Marina Coast Water District; County of Monterey and Does 1-25, inclusive, Monterey County Superior Court Case No. 18CV000765 (Petition for Writ of Mandate or Administrative Mandate, and Complaint for Declaratory and Injunctive Relief and Breach of Contract)
- 7) Marina Coast Water District, and Does 1-100 v, County of Monterey, County of Monterey Health Department Environmental Health Bureau, and Does 101-110, Monterey County Superior Court Case No. 18CV000816 (Petition for Writ of Mandate and Complaint for Injunctive Relief)

B. Pursuant to Government Code 54957.6  
Conference with Labor Negotiators  
Agency Negotiators (Keith Van Der Maaten, Jan Shriner)  
Employee Organization: Marina Coast Water District Employees Association

C. Pursuant to Government Code 54957.6  
Conference with Labor Negotiators  
Agency Negotiators (Keith Van Der Maaten, Jan Shriner)  
Employee Organization: Teamsters Local 890

The Board ended closed session at 7:02 p.m.

President Moore reconvened the meeting to open session at 7:03 p.m.

5. Reportable Actions Taken during Closed Session:

Mr. Roger Masuda, District Counsel, stated that there were no reportable actions taken during Closed Session and direction was given.

6. Pledge of Allegiance:

Vice President Shriner led everyone present in the pledge of allegiance.

7. Oral Communications:

There were no public comments.

8. Presentation:

- A. Adopt Resolution No. 2019-20 in Recognition and Appreciation of Richard Green and to Adjourn the Meeting in his Memory:

Mr. Derek Cray, Operations and Maintenance Manager, introduced this item expressing the District's deep grief over the loss of Richard Green. He then shared his thoughts and fond memories of Richard.

President Moore made a motion to adopt Resolution No. 2019-20 recognizing and appreciating Richard Green, and to adjourn the meeting in his memory. Director Zefferman seconded the motion. The motion was passed.

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

President Moore read the narration and presented the Green family with a copy of the Board's Resolution No. 2019-20.

9. Consent Calendar:

Director Le asked to pull items A, B, C, D, and E from the Consent Calendar.

Vice President Shriner made a motion to approve the Consent Calendar consisting of: F) Consider Adoption of Resolution 2019-22 to Authorize a Notice of Completion for the Repair and Recoat of Reservoir 2 to be Filed with the Monterey County Recorder. President Moore seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

- A. Receive and File the Check Register for the Month of March 2019:

Director Le asked if the District keeps W-9's on file and questioned the process for approving invoices. Ms. Kelly Cadiente, Director of Administrative Services, answered that W-9's are kept on file if the invoice/rebate amount is over \$600, and all invoices are reviewed and approved by Department Managers prior to payment.

Director Cortez made a motion receive and file the check register for the month of March 2019. Vice President Shriner seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

B. Approve the Draft Minutes of the Joint Board/GSA Meeting of March 18, 2019:

Director Le stated that he wanted the April 15, 2019 minutes to reflect that he sent legal counsel questions following the March 18, 2019 meeting which were discussed in Closed Session on April 15, 2019.

Vice President Shriner made a motion to approve the draft minutes of the Joint Board/GSA Meeting of March 18, 2019. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Abstained	Vice President Shriner	-	Yes
Director Le	-	Abstained	President Moore	-	Yes
Director Cortez	-	Yes			

C. Consider Approval of the 2018 Consumer Confidence Report for the Marina Coast Water District Water System, Central Marina and Ord Community:

Director Le asked what locations had the positive Coliform Bacteria tests. Mr. Cray answered that he couldn't recall what locations they were but would provide that information later. Director Le inquired on the testing schedule for lead and copper, and uranium. The Board asked other clarifying questions. Director Zefferman asked to add the area code to Thomas's phone number on the first page.

Director Cortez made a motion to approve the 2018 Consumer Confidence Report for the Marina Coast Water District Water System, Central Marina and Ord Community. Vice President Shriner seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

D. Consider Approval of the Water Conservation Commission Public Outreach Event Schedule for 2019:

Director Le made a motion to approve the Water Conservation Commission Public Outreach Event Schedule for 2019 with two Marina Farmer Market events added to the schedule. Director Zefferman seconded the motion.

Vice President Shriner made a substitute motion to approve the schedule as approved by the Water Conservation Commission. Director Cortez seconded the motion. Discussion followed.

Vice President Shriner made an amendment to her substitute motion to approve the schedule as approved by the Water Conservation Commission and ask if staff could attend one or two Farmer's Markets this year. Director Cortez seconded the amended motion.



Agenda Item 9-D (continued):

The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

E. Consider Adoption of Resolution No. 2019-21 to Approve an Update to the Employee Handbook:

Director Le asked if the Human Resources Attorneys have reviewed this item. Mr. Keith Van Der Maaten, General Manager, answered that legal counsel had reviewed this item.

Vice President Shriner made a motion to adopt Resolution No. 2019-21 to approve an update to the Employee Handbook. The motion failed for lack of a second.

Director Le questioned page 52 and the removal of “more than 10 minutes”. President Moore suggested adding the language “when an employee arrives after their scheduled start time”.

Director Le questioned page 91 and why the appeal process was reduced from fifteen to five. Mr. Van Der Maaten said it was to align it with other documents.

Director Le questioned page 93 and if employees would still receive a plaque. Mr. Van Der Maaten answered that it was intended that upon retirement, employees would receive a plaque. President Moore suggested adding that to Section 14.0.

Director Le asked if the changes from the February meeting had been incorporated into this version, specifically the harassment training. Vice President Shriner answered that page 5 has the update included. Director Le stated that there was a new California law and it wasn't included. Mr. Masuda stated that the Human Resources Attorneys were responsible for making sure the Handbook was up to date.

Vice President Shriner made a motion to adopt Resolution No. 2019-21 to approve an update to the Employee Handbook with the addition of language explaining the scheduled start time. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	No	President Moore	-	Yes
Director Cortez	-	Abstained			

10. Action Items:

- A. Consider Adoption of Resolution No. 2019-23 to Approve Amendment No. 3 to the Professional Services Agreement with Akel Engineering Group, Inc. for the Master Plans and Capacity Fees Study for Sewer, Water and Recycled Water:

Mr. Michael Wegley, District Engineer, introduced this item and gave a brief presentation. The Board asked clarifying questions.

Ms. Lisa Berkley, City of Marina Councilmember, asked for a copy of the slides.

Director Cortez made a motion to adopt Resolution No. 2019-23 to approve Amendment No. 3 to the Professional Services Agreement with Akel Engineering Group, Inc. for the Master Plans and Capacity Fees Study for Sewer, Water and Recycled Water. Vice President Shriner seconded the motion. The motion was passed.

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

- B. Discuss, Consider, and Determine Action on Director Peter Le's Racial Discrimination Complaint against District Staff:

Director Le amended his complaint to specify the individuals as the General Manager and the Executive Assistant, and to hire an independent investigator.

Mr. Van Der Maaten introduced this item noting that Director Le's complaint consisted of his name being last on the letterhead and the delay in getting his picture on the District website.

Director Cortez asked if there was also a delay in getting Director Zefferman's picture on the website. Ms. Paula Riso, Executive Assistant/Clerk to the Board, answered that both pictures were delayed.

Director Zefferman suggested a policy on the order of the names on the letterhead and that could be discussed under the next item.

Vice President Shriner noted that both pictures were delayed, and asked if there was any other evidence other than the names on the letterhead.

Director Cortez noted that it was a huge leap to claim race discrimination because of the order of names on letterhead and noted that the picture delay on the website was a process issue. He stated that it was good that Director Le has the platform to let his voice be heard but cautioned against making such a huge leap from what it is.

Mr. Masuda stated that the Board needs to respond to the letter of complaint before them.

Agenda Item 10-B (continued):

Ms. Kathy Biala, Marina Resident, commented that after listening to the two issues, probably the issue of racism does not particularly relate specifically. She added that perception is critical, and perhaps Director Le may have experienced some subtle forms of racism and to not acknowledge that is the point of reference for him is to discount some of his experience.

Ms. Berkley commented that she has no doubt that at times in his life he may have experienced racism and she is sorry for that. She stated that what she sees here is not a case of injustice, but a process that failed, or got a hiccup. Ms. Berkley added that she hopes the District and City can move forward and find the line to end the sexism, racism and discrimination of any sort.

Mr. Jorge Valenzuela, Teamsters Local 890, commented that throwing an accusation of racial harassment at someone is pretty heavy and once accused of it is very hard to get rid of. He stated that maybe this could have been discussed in a different manner, e.g. by asking if there was a reason for the order of names on the letterhead and why it took so long to get the pictures on the website, instead of throwing this huge accusation on someone.

Vice President Shriner commented that the District has a very strong and diverse Board, including highly educated Directors with PhD's, and Director's that are bilingual. She said she would like the Board to stay focused on water and would like to know if there was any other evidence to this claim. Vice President Shriner commented that there has been a lot of negativism over recent months, especially through the campaign months, and encouraged everyone to move past the negativism and represent the people and solve problems in the community.

Director Le said that this allegation is very serious and if the Board were to hire an outside investigator to look at the high-level staff it would be eye opening. He said that the Board thinks they know everything but there is more to discover. Director Le said if the Board makes a decision at this meeting, it may not be the end of this.

Director Cortez said that he appreciates the opportunity to participate in things, being a first-generation citizen in the U.S., especially because he knows he has good ideas. He added that Director Le has good ideas and appreciates hearing them. Director Cortez said that he doesn't believe the problem is just the letterhead and picture, he believes there may be more and Director Le may need to bring them back in a separate item. He said that as to what was being discussed here, the letterhead and picture, the issue has been vetted and the District provided Director Le with a platform for a voice and provided a solution.

Director Cortez made a motion that Director Le's complaint does not warrant further investigation. Vice President Shriner seconded the motion. President Moore commented that this is a sensitive issue and he doesn't see that the evidence presented rises to evidence of racial discrimination and going forward everyone needs to be more sensitive to all those around us.

Agenda Item 10-B (continued):

The motion was passed.

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	No	President Moore	-	Yes
Director Cortez	-	Yes			

C. Consider Adoption of Resolution No. 2019-24 to Approve Revisions to the Board Procedures Manual:

Mr. Van Der Maaten introduced this item.

Director Zefferman asked if he and another Director are discussing an issue and then email legal counsel a question and, according to Section 16-D, having to copy the General Manager and Board President, does that pose a Brown Act violation. Mr. Masuda answered it did not as long as they do not share how they are going to vote.

Director Le suggested that Section 11. Orientation, Training and Preparation of Directors on Page 5 of the Board Procedures Manual the second paragraph read "...the General Manager or designee will make the necessary changes...". Director Le questioned Section 26. Closed Sessions on page 17 and asked if three Directors can discuss a closed session item outside of closed session. Mr. Masuda advised against it. Director Le questioned Section 23. Order of Business and noted that other agencies are very smart and only put one or two items in closed session and allow a lot more time for discussion. He noted that the District has about nine items in closed session and only allows thirty minutes for discussion. Director Le said the Board can do what they want but he doesn't think it's as smart as other agencies.

Director Zefferman suggested they go over the agenda changes first then if there are other suggested changes, they should be agenda for another meeting. The Board agreed to take the four agenda changes one at a time.

Resolution No. 2019-24 was approved with the following revisions to the Board Procedures Manual:

- Change 1, Section 38 – increase Board member compensation from \$50 to \$100 per Board meeting.

The Board asked clarifying questions. Director Cortez said he needed more justification to make this change. Director Le suggested that it would increase the number of people wanting to run for the Board.

Director Le made a motion to approve increasing the Board compensation from \$50 to \$100 per meeting. The motion failed for lack of a second.

Agenda Item 10-C (continued):

Director Zefferman made a motion to leave the compensation at \$50 per meeting. Vice President Shriner seconded the motion. The motion was passed.

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	No	President Moore	-	Yes
Director Cortez	-	Yes			

- Change 2, Section 16-D – legal counsel recommendation clarifying expectations of legal counsel.

Director Le asked clarifying questions and suggested removing “with a copy to the Board President and Legal Counsel” from Section 16-D at the top of page 12. Upon further discussion, the Board agreed to move the sentence at the top of page 12, “All individual director questions relating to an open session item shall be directed to the General Manager.” to Section 16-A.

Director Zefferman made a motion to approve the recommended change to Section 16-D and move the sentence at the top of page 12, “All individual director questions relating to an open session item shall be directed to the General Manager.” to Section 16-A and striking “with a copy to the Board President and Legal Counsel.” Vice President Shriner seconded the motion. The motion was passed.

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

- Change 3, Section 11 – include new language how the Board of Directors will be listed on the District letterhead.

President Moore made a motion to approve the recommended language with the change to the second paragraph so it reads “...the General Manager or designee will make the necessary changes...”. Director Cortez seconded the motion.

Vice President Shriner made a substitute motion to remove the Director’s names from the letterhead and list them alphabetically on the District website. Director Zefferman seconded the motion. Director Le said this is odd and most agencies in California list names of Directors. Director Cortez commented that the District is in transition and does not recommend removing the names at this time. Vice President Shriner handed President Moore samples of agencies that do not list their members. President Moore commented that he recommended leaving the names on the letterhead. The motion failed.

Director Zefferman	-	No	Vice President Shriner	-	Yes
Director Le	-	No	President Moore	-	No
Director Cortez	-	No			

Agenda Item 10-C (continued):

President Moore amended his original motion to approve the recommended language with the change to the second paragraph so it reads "...the General Manager or designee will make the necessary changes..." with an amendment to include updating all social media as well as the website and to order updated letterhead once the current stock is gone. Director Cortez seconded the amended motion. The motion was passed.

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

- Change 4, Section 23 – adding language that if there is insufficient time to cover closed session in the time allotted prior to open session, the Board may decide to adjourn to an additional closed session after the conclusion of open session.

Vice President Shriner made a motion to approve the recommended language. President Moore seconded the motion. The motion was passed.

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	No	President Moore	-	Yes
Director Cortez	-	Yes			

10. Staff Reports:

A. Receive the 1<sup>st</sup> Quarter 2019 MCWD Water Consumption Report:

Ms. Cadiente introduced this item. Director Le suggested putting numbers on the graphs for the jurisdictions instead of colors. He also asked for a copy of a total annual production report. President Moore commented that the smaller graphs will be difficult to put a number on. Ms. Cadiente said she would work on the reports to make them more readable.

B. Receive the 2019 Sewer Flow Report through March 31, 2019:

Ms. Cadiente introduced this item. The Board asked clarifying questions.

C. Receive a Status Update on the FY 2019-2020 Budget:

Ms. Cadiente introduced this item.

Director Cortez made a motion to continue past 10:00 p.m. President Moore seconded the motion. Director Cortez was asked if he intended to continue until the current item is done or until the entire agenda is done. Director Cortez withdrew his motion.

Agenda Item 10-C (continued):

Director Le made a motion to continue past 10:00 p.m. and finish the agenda including closed session. President Moore seconded the motion. The motion was passed by a vote of 3-Ayes, 2-Noes (Cortez, Shriner), 0-Absent, 0-Abstained.

The Board asked clarifying questions. Director Le pointed out some corrections to page 64 of the packet.

12. Informational Items:

A. General Manager's Report:

1. Update on the Ord Community Service Agreements:

Mr. Van Der Maaten stated that a presentation was given at the FORA Administrative Committee and key points were handed out at that meeting to which he received a lot of input. He said that drafts, with input included, would be provided at the May 1<sup>st</sup> FORA meeting.

B. Counsel's Report:

No report was given.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Shriner gave a brief update and noted the next meeting is May 2nd.

2. Joint City District Committee:

President Moore said they would be meeting on May 1st.

3. Executive Committee:

President Moore noted that the next meeting is May 14th.

4. Community Outreach Committee:

Director Cortez gave a brief update.

5. Budget and Personnel Committee:

Director Cortez gave a brief update.

6. M1W Board Member:

President Moore gave a brief update and noted the next meeting is on April 29th.

7. LAFCO Liaison:

Director Cortez noted the next meeting is April 22nd.

8. FORA:

Director Zefferman gave a brief update.

9. WWOC:

Mr. Van Der Maaten gave a brief update and noted the next meeting is April 25th.

10. JPIA Liaison:

Director Le stated that there was a meeting on May 6 and 7th.

11. Special Districts Association Liaison:

President Moore stated they met on April 16th and gave a brief update.

12. SVGSA Liaison:

No update was given.

13. Correspondence:

There were no comments.

14. Board Member Requests for Future Agenda Items:

President Moore noted that they can email in their requests.

15. Director's Comments:

Director Le, Director Cortez, Vice President Shriner, and President Moore made comments.

President Moore recessed the meeting from 10:24 to 10:29 p.m.

4. Closed Session:

The Board reentered into closed session at 10:29 p.m. to discuss the following items:



The Board ended closed session at 11:04 p.m.

President Moore reconvened the meeting to open session at 11:05 p.m.

5. Reportable Actions Taken during Closed Session:

Mr. Masuda stated that there were no reportable actions taken during Closed Session and direction was given.

16. Adjournment:

The meeting was adjourned in honor and memory of Richard Green at 11:06 p.m.

APPROVED:

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Thomas P. Moore, President

ATTEST:

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Paula Riso, Deputy Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 11-D

Meeting Date: May 20, 2019

Prepared By: Paula Riso

Approved By: Keith Van Der Maaten

Agenda Title: Approve the Draft Minutes of the Special Joint Board/GSA Meeting of May 1, 2019

Staff Recommendation: The Board of Directors approve the draft minutes of the May 1, 2019 joint Board meeting.

Background: *5-Year Strategic Plan, Mission Statement – We Provide high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Discussion/Analysis: The draft minutes of May 1, 2019 are provided for the Board to consider approval.

Environmental Review Compliance: None required.

Financial Impact:     \_\_\_ Yes     \_\_\_ X No     Funding Source/Recap: None

Other Considerations: The Board can suggest changes/corrections to the minutes.

Material Included for Information/Consideration: Draft minutes of May 1, 2019.

Action Required:     \_\_\_ Resolution     \_\_\_ X Motion     \_\_\_ Review

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_



## **Marina Coast Water District**

Special Board Meeting/Groundwater Sustainability Agency Board Meeting  
May 1, 2019

### Draft Minutes

#### 1. Call to Order:

President Moore called the meeting to order at 6:01 p.m. on May 1, 2019 at the District office, 11 Reservation Road, Marina, California.

#### 2. Roll Call:

##### Board Members Present:

Thomas P. Moore – President  
Jan Shriner – Vice President  
Herbert Cortez  
Peter Le  
Matt Zefferman

##### Board Members Absent:

None

##### Staff Members Present:

Keith Van Der Maaten, General Manager  
Roger Masuda, District Counsel  
Derek Cray, Operations and Maintenance Manager  
Paula Riso, Executive Assistant/Clerk to the Board

##### Audience Members:

Philip Clark, Seaside Resident, WCC Member

#### 3. Pledge of Allegiance:

Mr. Keith Van Der Maaten, General Manager, led everyone present in the pledge of allegiance.

#### 4. Oral Communications:

There were no public comments.

5. Action Items:

- A. Consider Adoption of Resolution No. 2019-25 to Approve the Purchase of a New 2100 i Combination Cleaner Vactor from Owens Equipment for the Operations and Maintenance Department:

Mr. Derek Cray, Operations and Maintenance Manager, introduced this item. The Board asked clarifying questions including why this purchase can't wait until after the budget is adopted and in place, July 1, 2019. Staff answered that since the vehicle is built to order and there is currently a back-log, it will be at least eight months before the vehicle will be delivered. The Board suggested looking into different options of what to do with the old vactor. Director Le suggested adding a finding to the Resolution as to why they are purchasing a vactor through Sourcewell and not going out to bid.

Director Cortez made a motion to adopt Resolution No. 2019-25 approving the purchase of a new 2100 i Combination Cleaner Vactor from Owens Equipment for the Operations and Maintenance Department. Vice President Shriner seconded the motion. The motion was passed.

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	No	President Moore	-	Yes
Director Cortez	-	Yes			

- B. Consider Adoption of Resolution No. 2019-26 to Award Contracts to Calcon Systems and Telstar Instruments for Supervisory Control and Data Acquisition and Motor Control Centers for On-Call Services:

Mr. Cray introduced this item. The Board asked clarifying questions and if there one firm would be primary over the other. Staff answered that these firms responded to a Request for Qualifications and there would not be a primary firm. Staff would use their judgement at the time of need as to which firm to call for assistance.

Vice President Shriner made a motion to award contracts to both Calcon Systems and Telstar Instruments for Supervisory Control and Data Acquisition and Motor Control Centers for on-call services. Director Cortez seconded the motion. The motion was passed.

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	No	President Moore	-	Yes
Director Cortez	-	Yes			

6. Public Comment on Closed Session Items:

There were no public comments.

President Moore recessed the meeting from 6:25 p.m. until 6:30 p.m.

The Board entered into closed session at 6:31 p.m. to discuss the following items:

7. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation

- 1) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission Application (“A.”) 12-04-019
- 2) In the Matter of the Application of California-American Water Company (U 210 W) for an Order (1) Approving a Settlement Agreement with the County of Monterey and the Monterey County Water Resources Agency to Settle and Resolve Claims and Issues Between the Parties and to Promote the Development, Construction and Operation of a Water Supply Project for Monterey County on an Expedited Basis, and (2) Authorizing the Transfer of Authorized Costs Related to the Settlement Agreement to Its Special Request 1 Surcharge Balancing Account, California Public Utilities Commission Application (“A.”) 13-05-017, and related California Supreme Court petition for writ of review.
- 3) City of Marina and Marina Coast Water District, Petitioners v. Public Utilities Commission of the State of California, Respondent (California-American Water Company, et al., Real Parties in Interest), Petitions for Writ of Review, California Supreme Court Case No. S253585
- 4) Marina Coast Water District vs California-American Water Company, Monterey County Water Resources Agency; and, California-American Water Company, Monterey County Water Resources Agency vs Marina Coast Water District, San Francisco Superior Court Case Nos. CGC-15-547125, CGC-15-546632 (Complaint for Damages, Breach of Warranties, etc.)
- 5) Marina Coast Water District v. California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. 15CV00267, Sixth Appellate District Court of Appeals Case No. H045468

President Moore reconvened the meeting to open session at 9:40 p.m.

8. Reportable Actions Taken during Closed Session:

Mr. Roger Masuda, District Counsel, stated that there were no reportable actions taken during Closed Session.

Special Joint Board/GSA Meeting  
May 1, 2019  
Page 4 of 4

9. Director's Comments:

Director Zefferman, Director Cortez, Vice President Shriner, and President Moore made comments.

10. Adjournment:

The meeting was adjourned at 9:42 p.m.

APPROVED:

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Thomas P. Moore, President

ATTEST:

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Paula Riso, Deputy Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 11-E

Meeting Date: May 20, 2019

Prepared By: Derek Cray

Approved By: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2019-30 to award a Contract to Don Chapin Company, Inc. for Construction On-Call Services

Staff Recommendation: The Board of Directors award a contract to the Don Chapin Company, Inc. for construction on-call services and authorize the General Manager to sign the contracts and all necessary documents.

Background: *5-Year Strategic Plan Mission Statement – We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Marina Coast Water District (District) operates and maintains the water (CA 271007) and wastewater system (3SSO 10287) for Central Marina and the Ord Community. The District's Operations and Maintenance department operates and maintains 162 miles of water distribution pipe ranging in size from 2"- 24". Distribution pipeline material is comprised of: PVC plastic, steel, ductile iron and asbestos cement. The District also operates and maintains approximately 143.6 miles of sewer gravity mains ranging in size from 4" to 72" and approximately 6.4 mile of force mains ranging in size from 4" to 42". The sewer system pipeline is comprised of: PVC plastic, steel, ductile iron, asbestos cement and vitrified clay pipe.

Discussion/Analysis: The Operations and Maintenance Department's water and sewer systems are very complex with many large transmission and trunk lines. Typically, Operations and Maintenance do all repairs on pipelines in house. However, due to the nature of the size of some of these lines and their depth, staff would be unable to repair these in an emergency as the District is not equipped to handle extremely large pipe repair or replacement in house. This is due to not having large heavy machinery, such as excavators and a stock of large pipe. Since the nature of these repairs are infrequent, it doesn't make financial sense to purchase large equipment and pipe to do these repairs. Therefore, it is in the best interest of the District to have a contractor on-call for construction services that are outside of the District's capability to do in house.

Therefore, a request for qualifications (RFQ) was sent out to five nearby and capable contractors for on-call construction work. The five contractors the RFQ were sent to were: Don Chapin Company, Inc., Monterey Peninsula Engineering (MPE), Granite Construction, Sanco Pipelines, and James Sommerville Inc. The closing date for the RFQ was May 3, 2019, and the District received one (1) RFQ responses from the Don Chapin Company, Inc. The District has utilized the Don Chapin Company, Inc. in the past and was pleased with their work and responsiveness. Therefore, staff is recommending the Board of Directors approve and award a two-year contract to the Don Chapin Company, Inc. for on-call construction work with the possibility of two additional one-year extensions.

Environmental Review Compliance: None required.

Financial Impact:  Yes  No Funding Source/Recap: Funding for pipeline work will come from each cost centers budgeted General Operations and Maintenance fund or the Maintenance and Equipment fund for each pump station.

Other Considerations: None

Material Included for Information/Consideration: Resolution No. 2019-30; and, a copy of the RFQ for Don Chapin Company, Inc.

Action Required:  Resolution  Motion  Review  
(Roll call vote is required.)

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_



May 20, 2019

Resolution No. 2019 - 30  
Resolution of the Board of Directors  
Marina Coast Water District  
Awarding a Contract to Don Chapin, Inc. for Construction On-Call Services

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on May 20, 2019 at 211 Hillcrest Avenue, Marina, California.

WHEREAS, the District operates and maintains the water (CA 271007) and wastewater system (3SSO 10287) for Central Marina and the Ord Community; and,

WHEREAS, the District’s Operations and Maintenance department operates and maintains 162 miles of water distribution and 143.6 miles of sewer gravity mains; and,

WHEREAS, the Operations and Maintenance department is not equipped to repair large pipe in-house; and,

WHEREAS, the District sent out a Request for Qualifications to five local and capable contractors; and,

WHEREAS, the Don Chapin Company, Inc. was the only responsive contractor; and,

WHEREAS, the Don Chapin Company, Inc. is capable of a 4-hour response for emergencies and qualified to perform the work required by the District.

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors of the Marina Coast Water District does award a two-year contract, with the option to extend two additional one-year extensions, to the qualified contractor, the Don Chapin Company, Inc. for construction on-call services and authorizes the General Manager to sign all the contract and necessary documents.

PASSED AND ADOPTED on May 20, 2019 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

\_\_\_\_\_  
Thomas P. Moore, President

ATTEST:

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Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-30 adopted May 20, 2019.

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Keith Van Der Maaten, Secretary

<p><b>MARINA COAST WATER DISTRICT</b>  11 Reservation Road  Marina, CA 93933  (831) 883-5903 FAX (831) 384-0267  Email: dcray@mcwd.org</p>	<p><b>Improvement Districts-2019</b></p> <p><b>Request for Qualification</b></p> <p><b>On-Call Services</b></p>
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To:

Sent via email  
Don Chapin Company

Date: April 18, 2019

**"THIS IS NOT AN ORDER"**

You are invited to participate on the articles listed below. No substitutions will be allowed. Attachments are acceptable as an addendum, not in lieu of this form. Please ensure that all appropriate areas are completed.

**DESCRIPTION:** Request for Qualification for Marina Coast Water District's (MCWD, or District) water, sewer, and non-potable water repairs and related services agreement. Installation and repair work shall consist of all components within the District's pump stations and the District's control room. A four (4) hour response time to the District's boundaries is required if called upon in an emergency.

**BACKGROUND:** The District operates and maintains 8 drinking water wells, 5 water pump stations, 9 storage reservoirs and 20 sewer lift stations. The District also operates and maintains approximately 162 miles of water pipe ranging in sizes from ¾"-27" and sewer pipe ranging in size from 4"-72".

**ESTIMATED USAGE:** If approved, MCWD neither implies nor guarantees a specific level of usage, if any, as a result of that approval.

**PRICING AND CONTRACT TERM:** All prices shall remain firm for the entire agreement period. It is the intent of the District to enter into a two (2) year agreement for the above work for the period June 1, 2019 through May 30, 2021, with the option to extend for two (2) additional, one (1) year periods.

**DELIVERY OF SERVICES:** It is the intent of the District to qualify multiple vendors for the repair and related services (stated in detail below) throughout the Marina Coast Water District's service area in Monterey county. Requests for service will be initiated by MCWD staff and are subject to approval by MCWD on the basis of pricing, availability and appropriate qualification level.

**REQUIREMENTS:** Awarded contractor(s) shall be required to provide certificates of insurance listing MCWD as additional insured per the attached excerpt of the General Provisions. If an individual job is to cost \$1,000.00 or more, not less than the general prevailing wage of per diem wage shall be paid for work of a similar character in the locality to which this contract is to be performed.

Awarded supplier(s) are responsible for ensuring compliance with all Federal, State and local laws and follow the Marina Coast Water District's "Injury and Illness Prevention Program". Copies of the program are available upon request. Supplier must comply with the Department of Industrial Relations Contractor Registration requirements and certify such compliance by completing and submitting the attached Certification. If the supplier intends to be available to work inside pipelines or other confined spaces, he must have a confined-space training program in place and provide a written copy of the program with this request. The program must be in compliance with the California Code of Regulations, Title 8, and Section 5156-58 of the General Industry Safety Orders.

This is *not* a "bid", it is a Request for Qualification. It is the intent that multiple requests will be approved and agreement awarded in areas that the supplier has experience with.

Description	Cost
<p>Supplier shall provide all equipment, materials, labor, tools and permits (if applicable) to perform the following services*:</p> <p><u>Pipeline</u></p> <ul style="list-style-type: none"> <li>- Jack and bore of pipe</li> <li>- Pipeline repairs over 5' deep utilizing shoring</li> </ul> <p><u>Water &amp; Non-Potable Water</u></p> <ul style="list-style-type: none"> <li>- Installation and repair of: PVC, Ductile Iron, Cast Iron, Asbestos Cement, Steel, and Concrete pipe in all sizes ranging: 3/4"-12" , 12"-27"</li> <li>- Install, replace mainline shutoff valves: Gate, Butterfly, Plug</li> <li>- Install, repair, replace fire hydrants</li> <li>- Install, repair, replace blow-offs</li> <li>- Install, repair, replace water valve boxes and lids</li> <li>- Performing emergency bypass pumping</li> <li>- Install, repair, replace pump station piping and apparatuses</li> </ul> <p><u>Sewer</u></p> <ul style="list-style-type: none"> <li>- Installation and repair of: PVC, Ductile Iron, Cast Iron, Asbestos Cement, Steel, Concrete, and Clay pipe in all sizes ranging from 4"- 12" , 12"-72".</li> <li>- Installation and repair of manholes</li> <li>- Installation, repair of sewer lift station wetwell, piping and apparatuses</li> <li>- Performing emergency bypass pumping</li> <li>- Slip lining sewer mains</li> </ul> <p><u>Concrete &amp; Asphalt</u></p> <ul style="list-style-type: none"> <li>- Sidewalk, and curb and gutter replacement</li> <li>- Asphalt repair work including paving</li> </ul> <p><u>Miscellaneous</u></p> <ul style="list-style-type: none"> <li>- Dirt work</li> <li>- Confined space entry</li> <li>- Demo work</li> <li>- Crane work</li> </ul> <p>*NOTE: Circle the Work that supplier is experienced with and may be called upon to perform. Circle range of pipe size experienced in working with.</p> <p>Straight time hourly rate (normal business hours)            for work in Monterey County.</p> <p>Contractors License # <u>406512</u>            (if applicable)</p> <p>Hourly rate for non-prevailing wage jobs:            (Jobs under \$1,000.00) \$ _____/hr.</p> <p>Hourly rate for prevailing wage jobs: \$ _____/hr.</p>	
<p>Contractor's normal business hours <u>8AM</u> a.m. to <u>5PM</u> p.m.</p>	

SEE ADDITIONAL SHEET

Description		Cost
Overtime rate over eight (8) hours	Hourly rate for non-prevailing wage jobs	\$ _____/hr.
	Hourly rate for prevailing wage jobs:	\$ _____/hr.
Emergency/Weekend/Holiday Non-normal business hours:	Hourly rate for non-prevailing wage jobs:	\$ _____/hr.
	Hourly rate for prevailing wage jobs:	\$ _____/hr.
Parts and Supplies price <u>15</u> (i.e. actual invoice cost, or cost plus a percentage mark up, or list plus a percentage or discount, etc. please specify)		
Mileage cost: _____ per mile (if applicable)		
Other miscellaneous cost(s) (please specify) _____		
<p align="center"><b>NOTE:</b> REQUEST MUST BE SUBMITTED ON THIS FORM.            USE ADDITIONAL SHEETS IF NECESSARY</p>		

**Marina Coast Water District  
Request for Qualification  
Page 4 of 6**

**Payment Terms:** NET 30

**Warranty Terms:** \_\_\_\_\_

**Prices Firm For:** \_\_\_\_\_ days **Ship Via:** \_\_\_\_\_

**Lead Time:** \_\_\_\_\_

**Business Name:** THE DON CHAPIN CO., INC.

**Date:** APRIL 29, 2019

**Address:** 560 CRAZY HORSE CYN RD

**City, State:** SALINAS CA 93907

**Submitted By:** 

CAROLINE CHAPIN HODGES

(signature)

(print name)

**Phone #** 831-444-4134 **Fax #** 831-449-0700

**Emergency Contact #** RICK NICKLE

831-296-9695

Please return this Request for Qualification to the attention of **Derek Cray**, Operations and Maintenance Manager, no later than **4:00 p.m. P.T. on Friday, May 3, 2019**. If you have any questions, please contact Derek at 831-883-5903.

**GENERAL PROVISIONS  
(July 2007 Edition)**

**WORKER'S COMPENSATION AND PUBLIC LIABILITY INSURANCE**

a. Worker's Compensation and Employer's Liability Insurance

(1) The awarded contractor shall take out and maintain during the life of the contract, Worker's Compensation and Employer's Liability Insurance for all of its employees on the project and shall comply with Labor Code Section 3700. In lieu of evidence of Worker's Compensation Insurance, the District will accept a Self-Insuring Certificate from the State of California.

(2) The following certification, required by Labor Code Section 1861, is incorporated by reference into this contract:

"I am aware of the provision of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

By signing the contract with the District, the awarded contractor is signing and filing the above certification with the District.

(3) The awarded contractor shall require all subcontractors to provide the Contractor with evidence of Worker's Compensation and Employer's Liability Insurance, all in strict compliance with California State Law.

b. Public Liability Insurance

(1) The awarded contractor shall take out and maintain during the life of the contract Comprehensive Automobile Insurance and General Liability Insurance that provide protection for claims which may arise out of or result from operations or performance under the contract, whether such operations or performance be by the Contractor or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

(2) The amount of insurance shall be not less than the following:

Single Limit Coverage applying to  
Bodily and Personal Injury Liability  
and Property Damage . . . . .  
\$1,000,000.00 each occurrence

(3) Coverage must include the following provisions and must be indicated on the certificate or by endorsement to the policy:

(i) The District and the Architect-Engineer, their respective Directors, officers, employees, and agents are named as Additional Insured in the policy with respect to the contract;

(ii) The coverage is PRIMARY and no other insurance carried by the District will be called upon to contribute to a loss under this coverage;

(iii) The policy covers Blanket Contractual Liability;

(iv) The policy limits of liability are provided on an Occurrence basis;

(v) The policy covers Broad Form Property Damage Liability;

- (vi) The policy covers Personal Injury as well as Bodily Injury Liability including coverage for personal injury claims against any insured by employees of any other insured;
- (vii) The policy covers Products and Completed Operations for a period of not less than three (3) years following final completion or termination of this contract.
- (viii) The policy covers use of Non-owned Autos;
- (ix) The coverage shall not be canceled nor materially altered unless 30 days written notice is given to the District;
- (x) "Cross Liability" or "Severability of Interest" clause.
- (xi) An insurer's waiver of subrogation in favor of all insured and additionally insured under the policies of insurance provided.





## 2019 PUBLIC WORK LABOR RATES

*Effective 5/1/2019, All inclusive; Includes Contractor's OH & Profit*

<b>Craft</b>	<b>Regular Time</b>	<b>Overtime</b>
Cement Mason	\$88.55	\$116.86
Cement Mason – Foreman	\$91.40	\$120.51
Cement Mason – Apprentice	\$77.23	\$99.87
Laborer -1	\$80.79	\$106.42
Laborer -2	\$80.46	\$105.94
Laborer-3	\$80.30	\$105.70
Laborer – Const Specialist	\$81.84	\$108.00
Laborer – Foreman	\$83.25	\$108.89
Laborer – Apprentice	\$67.69	\$87.51
Operator-2	\$115.11	\$153.55
Operator-3	\$112.72	\$149.97
Operator-3A	\$113.35	\$150.91
Operator-4	\$110.49	\$146.62
Operator-5	\$108.44	\$143.55
Operator-6	\$106.31	\$140.35
Operator-7	\$104.47	\$137.59
Operator-8	\$102.63	\$134.82
Operator-Foreman	\$111.73	\$147.86
Operator – Apprentice	\$81.39	\$103.63
Teamster-1	\$89.35	\$116.48
Teamster-2	\$89.84	\$117.20
Teamster-3	\$90.32	\$117.93
Teamster-4	\$90.89	\$118.78
Project Engineer	\$150.00	\$185.00
Superintendent	\$195.00	\$265.00



**EQUIPMENT RENTAL RATES**

<u>Description</u>	<u>Bare Hourly Rate</u>	<u>Month</u>
Cozad Transport	\$ 90.00	
Roll-Back Transport	\$ 80.00	
4,000 Gal. Wtr. Truck (3 Axle)	\$ 80.00	
2,000 Ga. Wtr. Truck (2 Axle)	\$ 75.00	
Water Reel	\$ 22.00	
Water Wagon	\$ 49.00	
10,000 Gal. Wtr. Tower	120.00/Day	1320.00/Mo.
Peterbilt 15 Ton Crane	N/A	
F250 Foreman Truck	\$ 35.00	
F350 Foreman Truck	\$ 45.00	
Dump Truck (5CY)	\$ 69.00	
10 CY Truck	\$ 85.00	
Service Truck	\$ 90.00	
2 Ton Flatbed (Gang Truck)	\$ 69.00	
J.D. 4400 Tractor	\$ 60.00	
Atlas Drag Scraper	\$ 50.00	
Towner 16" Disc	\$ 50.00	
CAT 416C Backhoe	\$ 69.00	
CAT 420D Backhoe	\$ 69.00	
CAD 420F Backhoe	\$ 75.00	
CAT 446B Backhoe	\$ 85.00	
CAT Backhoe W/Hoe-Ram	\$ 118.50	
CAT Backhoe W/24" Entek Wheel	\$ 118.50	
CAT Backhoe W/Auger	\$ 118.50	
Bobcat Skid-Steer	\$ 63.00	
Bobcat Skid-Steer W/AC Planer	\$ 118.00	
Bobcat Skid-Steer W/Sweeper	\$ 118.00	
Case 570 Loader/Scraper	\$ 69.00	
Volvo Articulated Haul Truck	\$ 135.00	
Volvo L90 Loader	\$ 125.00	
Volvo L110 Loader	\$ 145.00	
Volvo L120 Loader	\$ 160.00	
Volvo L150 Loader	\$ 230.00	
Volvo 220 E Loader	\$ 135.00	
CAT 950E Loader	\$ 130.00	
CAT 950F Loader	\$ 135.00	
CAT 962G Loader	\$ 175.00	
CAT 615 Scraper	\$ 170.00	
J.D. 862B Scraper	\$ 190.00	

CAT 623E Scraper	\$ 255.00
CAT 623F Scraper	\$ 265.00
J.D. 490E Excavator	\$ 125.00
CAT 303CR Mini Excavator	\$ 49.00
CAT 308ECR Mini Excavator	\$ 75.00
CAT 315CL Excavator	\$ 140.00
CAT 315 Excavator W/Auger	\$ 189.00
CAT 320C Excavator	\$ 160.00
CAT 325CL Excavator	\$ 180.00
CAT 325DL Excavator	\$ 180.00
CAT 330BL Excavator	\$ 210.00
CAT 330BL Excavator W/Thumb	\$ 255.00
CAT 336EL Excavator	\$ 230.00
CAT 336 Excavator W/Thumb	\$ 279.50
Felco Underbelt / Conveyor	\$ 49.00
Entek Wheel on Exc. (2', 3', 4')	\$ 49.50
CAT D5C Dozer	\$ 80.00
CAT D6R Dozer	\$ 130.00
CAT D7H Dozer	\$ 165.00
J.D. 555G Crawler	\$ 88.00
CAT 12G Motor Grader	\$ 125.00
140-H Motor Grader	\$ 149.00
14-H Motor Grader	\$ 169.00
J.D. 872D Motor Grader	\$ 180.00
Gilcrest 813 Paver	\$ 140.00
BG-260B Paver	\$ 265.00
CAT 1000B Asphalt Paver	\$ 265.00
Gomaco GT3600 Slipform Paver	\$ 330.00
Dynapak AC Roller	\$ 119.00
CAT CB224E 48" AC Roller	\$ 85.00
Oil Pot	\$ 47.00
AC Berm Machine	285.00/Day or \$60/Hr.
Arrow Board Trailer Mount	\$ 35.00
Traffic Truck W/Arrow Board	\$ 90.00
I.R. / CAT Smooth 84" Roller	\$ 110.00
Bomag or CAT 84" Pad Foot Pactor	\$ 140.00
CAT 815F Compactor	\$ 185.00
Wacker 24" Vibra Turtle	\$ 49.00
Air Compressor (185 CFM)	\$ 49.00
Lay-Mor Power Broom	\$ 90.00
Elgin 'Eagle' Broom (745)	\$ 150.00
Large Forklift (482)	\$ 160.00
10-KW Gen-Set	\$ 27.50
110-KW Gen-Set	\$ 70.00
150-KW Gen Set	\$ 75.00
Honda Quadrunner	\$ 25.00
Laser Equipment	\$ 30.00

Boot Truck / Oil Spreader \$ 47.00

**TRENCH PLATE RENTALS**

6 x 8 Plate	36.00 / Wk	\$ 125.00
8 X 12 Plate	48.00 / Wk	\$ 160.00

**NOTE:** This list is not a complete list of all Chapin equipment that could be used on this project. Other equipment may be used and billed accordingly.

**PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION**

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

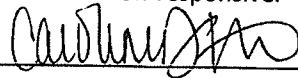
Bidder hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.

Name of Bidder: THE DON CHAPIN CO., INC.

DIR Registration Number: 1000001363

Bidder further acknowledges:

1. Bidder shall maintain a current DIR registration for the duration of the project.
2. Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.
3. Bidder shall submit certified payroll through the DIR.
4. Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Bidder's Signature: 

Bidder's Name and Title: CAROLINE CHAPIN HODGES

Firm: THE DON CHAPIN CO., INC.

Date: 4/26/2019

END OF DOCUMENT

\_\_\_\_\_  
\_\_\_\_\_

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 11-F

Meeting Date: May 20, 2019

Prepared By: Brian True

Approved By: Keith Van Der Maaten

Reviewed By: Michael Wegley

Agenda Title: Consider Adoption of Resolution No. 2019-31 to Amend the On-Call Engineering Services Agreement with Schaaf & Wheeler for the A1/A2 Reservoirs and B/C Booster Pump Station Design Services

Staff Recommendation: Staff recommends that the Board of Directors of the Marina Coast Water District adopt Resolution No. 2019-31 and authorize the General Manager to take all actions and execute all documents as may be necessary or appropriate for Amendment No. 5 to On-Call Engineering Professional Services Agreement No. 2017-67 with Schaaf & Wheeler for the A1/A2 Reservoirs and B/C Booster Pump Station Improvements (CIP # GW-0112) not-to-exceed \$868,905.

Background: *5-Year Strategic Plan Mission Statement – To provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

The District's water system has experienced a need to increase A-zone reservoir water storage since the eastward expansion of Central Marina past Crescent Avenue. The need increased when the Former Fort Ord commenced redevelopment with the Dunes on Monterey Development Project. This will be addressed via the District's Capital Improvement project for the construction of the A1/A2 tanks and new B/C booster station. The A1/A2 tanks and new B/C booster pump station will replace the existing B/C booster pump station and existing Sand Tank at a new location. Records of the existing pump station and tank are limited with parts of the system built by the US Army dating back to the 1950's still in use today.

An RFP for the design of the A1/A2 tanks and new B/C booster pump station was distributed to the three engineering consultants that have on-call contracts with MCWD: Schaff & Wheeler, Carollo Engineers, and Harris & Associates. Their proposals were due to MCWD on April 22, 2019. MCWD received proposals from Carollo Engineers and Schaaf & Wheeler. Harris & Associates declined to propose on the project.

Discussion and Analysis: District staff has reviewed the proposals and have selected Schaaf & Wheeler as the superior proposal. Their level of effort and costs are consistent and competitive with industry norms and within MCWD's expectations, and this particular consultant has the long-term institutional knowledge of MCWD's potable water network to execute this complicated project design. Their proposal is for a not-to-exceed value of \$868,905. The On-call contract stipulates that tasks exceeding \$45,000 in magnitude be brought to the Board for authorization.

The tasks Schaaf & Wheeler will undertake include the following:

- Gather Design Information and Basis of Design – Schaaf will coordinate the work of subconsultants to gather the needed data to generate the design. Significant tasks include topographic surveying and mapping, geotechnical assessments, and biological assessments for CEQA compliance/permitting. Schaaf will synthesize the information into a Basis of Design Technical Memorandum.
- Preliminary Designs and CEQA – Schaaf will prepare 60-percent and 90-percent design drawings. Cost estimates and construction and material specifications will be prepared for each stage. Simultaneously, the environmental Initial Study will be prepared and accepted by the MCWD Board in accord with CEQA requirements. District staff will be afforded the opportunity to review and comment on each task and will drive the timeline of submittals.
- Design Construction (Bid) Document – Schaaf will prepare the 100-percent Design Construction documents that will be used to conduct a bid to construct the project. The work will include the instructions to contractors and process for bidding on the project, a clear bidding scope of work, the contract between the MCWD and the successful bidder, project construction and material specifications, and the project Design itself.
- Bid Phase and Construction Phase Support – Schaaf has provided budget hours in this current scope of work to assist MCWD at a minimum level through the bidding and construction phases of the project; during contract award (a decision brought to the MCWD Board to authorize the totality of the expected project expenditures), a contract amendment to alter Schaaf’s labor hours for construction phase support may be included.

The duration of the design portion of this contract is roughly 18-months and should be completed by the end of April 2020. There is an expectation that Schaaf will participate in the on-going work to construct the design after April 2020.

The District obtained the easements for the new A1/A2 tanks and B/C booster pump station from California State University Monterey Bay (CSUMB). The terms and conditions of the easements contain a provision that the District pay for any and all reasonable architectural treatments CSUMB may require up to ten percent (10%) of the base cost of each reservoir and the District shall work closely with CSUMB during the design process and through the duration of the project completion to develop the needed architectural treatments. As such, Schaaf will be working closely with CSUMB on the design.

Environmental Review Compliance: This contract amendment is not a project under CEQA; the project scope does include conducting the CEQA compliance work dictated by a “project” as defined by CEQA.

Financial Impact:  Yes  No Funding Source/Recap: CIP# - GW-0112 is funded in the fiscal year capital improvement projects budget from both water cost centers.

Other Considerations: None.

Material Included for Information/Consideration: Resolution No. 2019-31; Schaaf & Wheeler Amendment #5; Schaaf & Wheeler A Tank Proposal; and, Fee Estimate.

Action Required:  Resolution  Motion  Review  
(Roll call vote is required.)

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Board Action

Motion By\_\_\_\_\_ Seconded By\_\_\_\_\_ No Action Taken\_\_\_\_\_

Ayes\_\_\_\_\_

Abstained\_\_\_\_\_

Noes\_\_\_\_\_

Absent\_\_\_\_\_



May 20, 2019

Resolution No. 2019 – 31  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving Amendment No. 5 to the On-Call Engineering Services Agreement with  
Schaaf & Wheeler for Design Services for  
CIP# GW-0112 – A1/A2 Reservoirs and B/C Booster Pump Station

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on May 20, 2019, at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS the District’s water system has experienced a need to increase A-zone reservoir water storage since the eastward expansion of Central Marina past Crescent Avenue. The need increased when the Former Fort Ord commenced redevelopment with the Dunes on Monterey Development Project; and,

WHEREAS the need for additional water storage in the A-zone will be addressed via the District’s Capital Improvement project (GW-0112) for the construction of the A1/A2 tanks and new B/C booster station; and,

WHEREAS the District requested proposals from the three engineering consultants that have on-call contracts with MCWD to perform the design services for the A1/A2 tanks and new B/C booster station; and,

WHEREAS the District reviewed the proposals and have selected Schaaf & Wheeler as having the superior proposal; and,

WHEREAS the proposal is for a not-to-exceed value of \$868,905 and the proposal amount is consistent with current MCWD practice and industry standard for the planned project work; and,

WHEREAS the On-call contract stipulates that tasks exceeding \$45,000 in magnitude be brought to the Board for authorization.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager to execute Amendment No. 5 to the On-Call Engineering Services with Schaaf & Wheeler for Design Services for CIP# GW-0112 – A1/A2 Reservoirs and B/C Booster Pump Station for a not-to-exceed value of \$868,905 and directs the General Manager to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED on May 20, 2019 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

---

Thomas P. Moore, President

ATTEST:

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Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-31 adopted on May 20, 2019.

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Keith Van Der Maaten, Secretary

**Schaaf & Wheeler**  
CONSULTING CIVIL ENGINEERS

Client: Marina Coast Water District  
 Project: A1/A2 Tanks and B/C Booster Pump Station  
 Task: Design, Bid and Construction Phases  
 Estimate Date: 5/13/2019 Rates: 2019 with 6% Discount

NO.	TASK ITEMS DESCRIPTION	PRINCIPAL PM \$221	SENIOR PM \$212	SENIOR ENG \$197	ASSOC. ENG \$179	ASST. ENG \$160	JUNIOR ENG \$150	DESIGNER \$141	SUBTOTAL M.H.'S	IN-HOUSE LABOR COSTS \$	IN-HOUSE MATERIAL COSTS \$	Whitson Engineers Surveying	CEG Geotech	TJCAA Elec. & Struct.	Paul Davis Partnership Architect	Denise Duffy CEQA	TOTAL COSTS \$ W/ MARK-UP
<b>Task 1</b>	<b>Project Management</b>																\$28,984
1.1	Meetings and Management	4	48			32			84	\$16,180							\$16,180
1.2	Outreach and Stake Holder Engagement		32			12			44	\$8,704						\$4,100	\$12,804
<b>Task 2</b>	<b>Preliminary Design</b>																\$189,287
2.1	Design Kickoff Meeting	4	8	4		8			24	\$4,648						\$2,700	\$7,348
2.2	Facility Sizing Analysis	4	12	12		12			40	\$7,712							\$7,712
2.3	Basis of Design Memorandum	4	12	20		60		40	136	\$22,608	\$50		\$44,700	\$6,000			\$73,358
2.4	Geotechnical Assessment		4						4	\$848		\$26,877					\$27,725
2.5	Biological Reconnaissance Report		4						4	\$848						\$8,000	\$8,848
2.6	Topographic Base Mapping/Utility Locating		2			4			6	\$1,064	\$12,000	\$38,000					\$51,064
2.7	Surge Modeling	16	16	32					64	\$13,232							\$13,232
<b>Task 3</b>	<b>60% Design Construction Documents</b>																\$225,960
3.1	60% Design Plans with Specifications	20	80	60		120		120	400	\$69,320	\$100	\$7,000	\$137,900	\$6,000			\$220,320
3.2	60% Design Cost Estimate		4			16			20	\$3,408							\$3,408
3.3	Review Documents with District Staff		6			6			12	\$2,232							\$2,232
<b>Task 4</b>	<b>CEQA and Permitting</b>																\$46,700
4.1	Prepare CEQA Initial Study		8			16			24	\$4,256						\$25,900	\$30,156
4.2	Resource Agency Coordination		12						12	\$2,544						\$14,000	\$16,544
<b>Task 5</b>	<b>90% Design Construction Documents</b>																\$119,252
5.1	90% Design Plans with Specifications	4	40	24		120		40	228	\$38,932	\$100	\$1,680	\$68,900	\$4,000			\$113,612
5.2	90% Design Cost Estimate		4			16			20	\$3,408							\$3,408
5.3	Review Documents with District Staff		6			6			12	\$2,232							\$2,232
<b>Task 6</b>	<b>100% Design Construction Documents</b>																\$37,886
6.1	Final Design Plans with Specifications	2	20			40			62	\$11,082	\$100		\$23,000	\$2,000			\$36,182
6.2	Final Design Cost Estimate		2			8			10	\$1,704							\$1,704
									0	\$0							\$0
<b>Task 7</b>	<b>Bid Phase Services</b>																\$8,418
7.1	Attend pre-bid conference		6			6			12	\$2,232							\$2,232
7.2	Respond to RFI's, prepare clarifications and addenda	2	12			20			34	\$6,186							\$6,186
	<b>Total</b>	<b>60</b>	<b>338</b>	<b>152</b>	<b>0</b>	<b>502</b>	<b>0</b>	<b>200</b>	<b>1252</b>	<b>\$223,380</b>	<b>\$12,350</b>	<b>\$45,000</b>	<b>\$28,557</b>	<b>\$274,500</b>	<b>\$18,000</b>	<b>\$54,700</b>	<b>\$656,487</b>
<b>ROUNDED TOTAL, Design and Bid Phase</b>																	<b>\$656,500</b>

NO.	TASK ITEMS DESCRIPTION	PRINCIPAL PM \$221	SENIOR PM \$212	SENIOR ENG \$197	ASSOC. ENG \$179	ASST. ENG \$160	JUNIOR ENG \$150	DESIGNER \$141	SUBTOTAL M.H.'S	IN-HOUSE LABOR COSTS \$	IN-HOUSE MATERIAL COSTS \$	Whitson Engineers Surveying	CEG Geotech	TJCAA Elec. & Struct.	Paul Davis Partnership Architect	Denise Duffy CEQA	TOTAL COSTS \$ W/ MARK-UP
<b>Task 8</b>	<b>Construction Phase Services (18-months)</b>																\$206,242
8.1	Attend pre-bid conference	2	4			4			10	\$1,930							\$1,930
8.2	Attend Progress meetings (assume 60)		32			8			40	\$8,064							\$8,064
8.3	Respond to RFI's, prepare clarifications and revisions		24			40			64	\$11,488			\$92,300	\$5,000			\$108,788
8.4	Review Submittals (assume 120)		40			160			200	\$34,080							\$34,080
8.5	Site visits & start-up support		40			60			100	\$18,080							\$18,080
	Environmental Compliance During Construction									\$0						\$35,300	\$35,300
<b>Task 9</b>	<b>Record Drawings and Close-Out</b>																\$6,176
9.1	Prepare Record Drawings		4			16			20	\$3,408							\$3,408
9.2	Assist with tabulation for CMS entry		4			12			16	\$2,768							\$2,768
									0	\$0							\$0
	<b>Total</b>	<b>2</b>	<b>148</b>	<b>0</b>	<b>0</b>	<b>300</b>	<b>0</b>	<b>0</b>	<b>450</b>	<b>\$79,818</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$92,300</b>	<b>\$5,000</b>	<b>\$35,300</b>	<b>\$212,418</b>
<b>ROUNDED TOTAL, Construction Phase (Estimated)</b>																	<b>\$212,500</b>

<b>Total, All Phases</b>	<b>62</b>	<b>486</b>	<b>152</b>	<b>0</b>	<b>802</b>	<b>0</b>	<b>200</b>	<b>1702</b>	<b>\$303,198</b>	<b>\$12,350</b>	<b>\$45,000</b>	<b>\$28,557</b>	<b>\$366,800</b>	<b>\$23,000</b>	<b>\$90,000</b>	<b>\$868,905</b>
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Subconsultant Mark-up 10.0%

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8.3	Respond to RFI's, prepare clarifications and revisions		24			40			64	\$11,488			\$92,300	\$5,000			\$108,788
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	<b>Total</b>	<b>2</b>	<b>148</b>	<b>0</b>	<b>0</b>	<b>300</b>	<b>0</b>	<b>0</b>	<b>450</b>	<b>\$79,818</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$92,300</b>	<b>\$5,000</b>	<b>\$35,300</b>	<b>\$212,418</b>
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8.5	Site visits & start-up support		40			60			100	\$18,080							\$18,080
	Environmental Compliance During Construction									\$0						\$35,300	\$35,300
<b>Task 9</b>	<b>Record Drawings and Close-Out</b>																\$6,176
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									0	\$0							\$0
	<b>Total</b>	<b>2</b>	<b>148</b>	<b>0</b>	<b>0</b>	<b>300</b>	<b>0</b>	<b>0</b>	<b>450</b>	<b>\$79,818</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$92,300</b>	<b>\$5,000</b>	<b>\$35,300</b>	<b>\$212,418</b>
<b>ROUNDED TOTAL, Construction Phase (Estimated)</b>																	<b>\$212,500</b>

<b>Total, All Phases</b>	<b>62</b>	<b>486</b>	<b>152</b>	<b>0</b>	<b>802</b>	<b>0</b>	<b>200</b>	<b>1702</b>	<b>\$303,198</b>	<b>\$12,350</b>	<b>\$45,000</b>	<b>\$28,557</b>	<b>\$366,800</b>	<b>\$23,000</b>	<b>\$90,000</b>	<b>\$868,905</b>
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Subconsultant Mark-up 10.0%



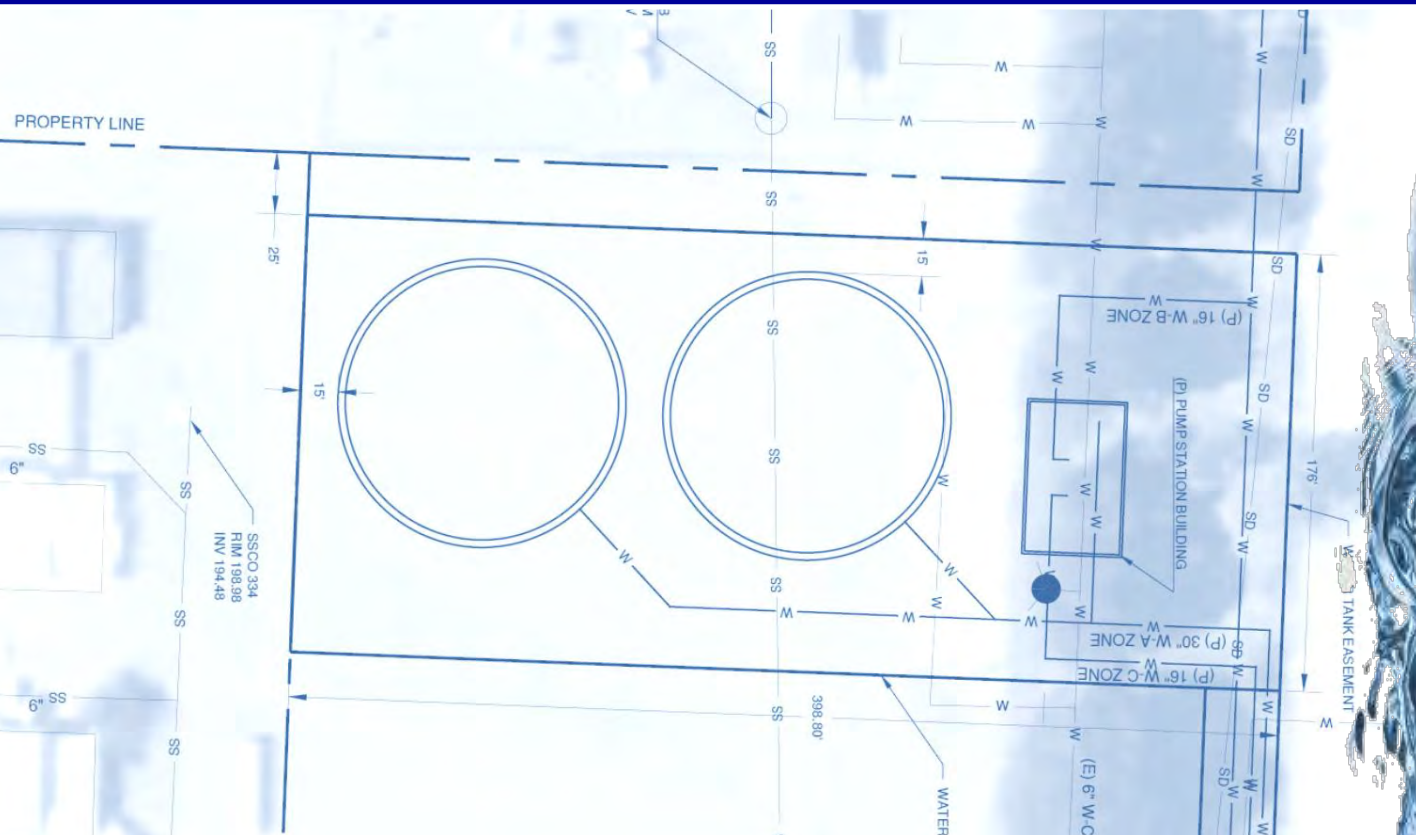
Proposal for

Marina Coast Water District

Design Services for

A1/A2 Reservoirs and B/C Booster Pump Station

GW-0112



April 22, 2019

Schaaf & Wheeler  
CONSULTING CIVIL ENGINEERS

**Schaaf & Wheeler**  
CONSULTING CIVIL ENGINEERS

3 Quail Run Circle, Suite 101  
Salinas, CA 93907  
831-833-4848  
Fax 831-758-6328

April 22, 2019

Mr. Michael Wegley, PE  
District Engineer  
Marina Coast Water District  
11 Reservation Road  
Marina, CA 93933

**Subject: Proposal for Design of the A1/A2 Reservoirs and B/C Booster Pump Station**

Dear Mike:

Schaaf & Wheeler is pleased to propose engineering services for the **Design of the A1/A2 Reservoirs and B/C Booster Pump Station**. We are thoroughly familiar with this project and the District's water system, having prepared the 2008 Basis of Design Report for the same project and supporting the District for over twenty years. Our engineers have decades of experience with municipal water systems.

We have assembled an experienced team of engineering design professionals, selected specifically for this project. **TJC & Associates** will provide structural, electrical and controls design. We have worked with TJC on many pump stations, and invited them for this project because of their controls expertise. Replacing the Sand Tank and current B/C booster station will affect the well-field controls, so it is imperative that the SCADA design and implementation be correct. **Cornerstone Earth Group** prepared the 2008 geotechnical report for the project, so we have brought them back to assess the new site. **The Paul Davis Partnership** provides architectural support services to CSUMB, so we have included them on the team to design architectural features consistent with the campus architecture. **Denise Duffy & Associates** will provide CEQA and permitting support. DD&A has prepared numerous CEQA studies and reports for the District, and they are currently conducting the seasonal field surveys for this project.

Our project manager, **Andy Sterbenz**, will coordinate the team and ensure that information flows to the design engineers in a timely manner. He will provide formal and informal updates to the District's project manager. As principal-in-charge, I will be conducting QC reviews of all deliverables. I have worked on MCWD's system since 2003, including the Marina-Ord Inter-tie, Watkins Gate Well, review of the major subdivision master plans and preparing the 2008 Basis of Design Report for this project.

The proposed schedule is aggressive. The project includes not just the tanks and booster station, but bypassing of the existing booster pump station, decommissioning the Sand and Intermediate Tanks and updating a significant portion of the water system SCADA controls. As a condition of the site easement, CSUMB has retained the right to review the design for aesthetics. To be able to meet this tight schedule and provide the District with a jumping off point, we have updated the proposed site plan and pump station layout as included in the proposal.

Our fee estimate and rate schedules are provided in a separate sealed envelope. If selected, we recommend that we meet and review the full project requirements to ensure that all off-site and ancillary work is included before taking the contract to the Board for approval.

We look forward to working with you on the Design of the A1/A2 Reservoirs and B/C Booster Pump Station. If you have any questions, feel free to contact Andy Sterbenz at (831) 883-4848, or by e-mail, [asterbenz@swsv.com](mailto:asterbenz@swsv.com).

Sincerely,  
Schaaf & Wheeler

**Leif M. Coponen, PE**  
Vice President





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<b>Qualifications and References .....</b>	<b>11</b>
<b>Work Plan and Schedule .....</b>	<b>17</b>
<b>Resumes .....</b>	<b>23</b>
 <b><i>Appendix - Key Subconsultants Scope of Work</i></b>	
<b><i>Fee Proposal - Separately Sealed</i></b>	
<b><i>Agreement and Evidence of Insurance (Ink Signed) - In a Separate Envelope</i></b>	



## Approach to the Project

### Project Overview and Understanding

MCWD Project GW-0112 will add two A-Zone water storage reservoirs to the system, and replace the B/C Zone booster pump station. The new A-Zone tanks will raise the HGL in the A-Zone by several feet, and add emergency and fire storage which may be provided by gravity. The tanks will also serve as the forebay for the B/C Zone booster pump station. The current B/C Zone booster pump station is over 50 years old and has exceeded its service life, and the Sand Tank is not high enough to provide gravity flow into the A-Zone. The existing C-Zone transmission main will be converted to an A-Zone transmission main from the existing Sand Tank to the new tank site. Once the new facilities are completed and on-line, the existing B/C Booster Station, the Sand Tank and the Intermediate Reservoir may be decommissioned.

### Project Approach

The project description differs from the previous master plan. Schaaf & Wheeler will first confirm the project sizing, in particular the tank sizes, to ensure the facilities are not undersized due to the difficulty in obtaining the existing easement. We will review the project parameters with the District staff and confirm the project size as part of the preliminary design effort.

The proposed schedule is very aggressive for the size of the project. To stay on schedule, Schaaf & Wheeler will continually interact with the District staff and local agencies in order to keep the design moving forward. We will develop the site and pump station layouts while the topographic surveys and geotechnical investigation are on-going. Conceptual plans are included in this proposal.

Schaaf & Wheeler is located near the District, and the project manager can readily attend meetings and site visits to resolve design issues. Formal progress meetings will be held monthly, but additional calls, meetings and site visits will be held as needed to advance the project.

Public outreach is anticipated to be focused on the bid and construction phases, but we will prepare an information briefing on the project to present to the FORA water and wastewater oversight committee, which may then be shared with other agencies as needed.

### Challenges and Issues

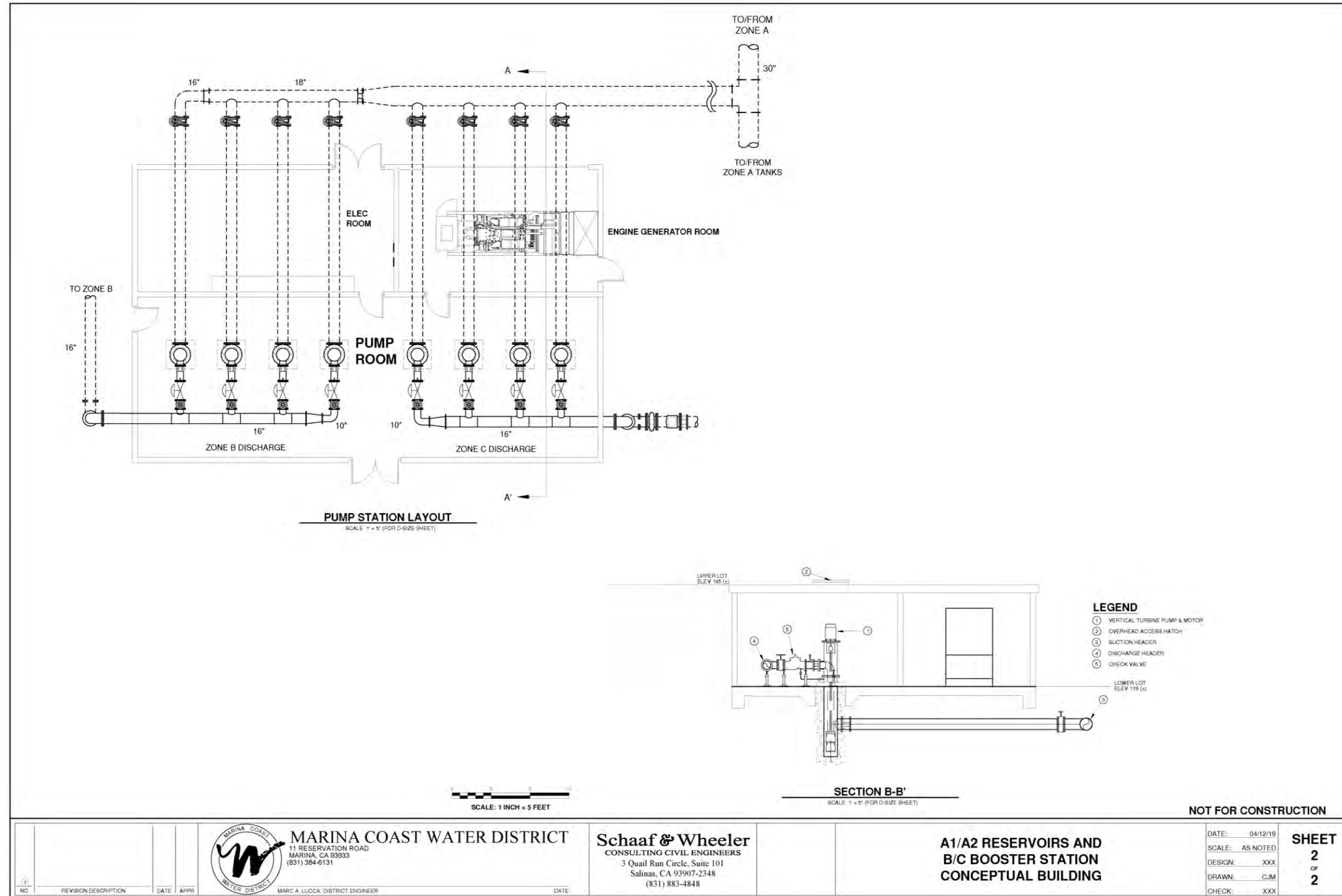
1. Utility Conflicts. The existing system maps are schematic and provide only a starting point for locating. We know that a gravity sewer crosses between the proposed tanks, which should be replaced and realigned as part of the project. A 27-inch storm drain crosses the north end on the easement, which may also require relocation. There are gas, power and communication lines in the area, potentially near the pump station. **Whitson Engineers will bring in a locator to find as much as possible during the base mapping.** In addition to the new facility site, locating pipelines around the Bermad Valve and Sand Tank is critical, since all of the surface landmarks have been removed and portions of the pipelines were replaced under Phase 1 of the Marina Heights project.
2. There is a significant grade break at the north end of the easement (approximately 17-ft difference between the upper and lower parking lots). **This grade change allows for constructing a more compact pump station, with the roof deck providing access for lifting equipment.** Access hatches in the upper deck would facilitate replacing pumps and motors using lift trucks. See the attached conceptual building layout for this arrangement. The building walls will need to act as retaining walls similar to basement walls.
3. SCADA and Controls. The District has been working to upgrade their SCADA system for some time. TJC & Associates prepared a SCADA master plan for the District in 2010. **Their controls engineer is on our team, ready to work with O&M** to provide the equipment and programming needed for this new facility. The new tanks should be tall enough to serve as a **new repeater station** within the District's radio network.
4. The water tanks will need access to a stormwater percolation basin for disposal of testing water and protection from overflows. The existing storm drain runs to the City of Marina's percolation lot at the corner of 5<sup>th</sup> Ave and 8<sup>th</sup> St Cut-Off (locally known as Pete's Pond). We will evaluate the pond capacity



- for this use, which would be preferable to adding a new perc lot on-site. Denise Duffy & Associates will evaluate this site for special status plants early in the design process. Assuming this is a viable option, **we will coordinate directly with the City on any required basin modifications.**
5. CSUMB Architectural Review. This provision in the easement agreement has the greatest potential to delay the project. CSUMB has published some broad design guidelines in their draft master plan, but they are not specific enough to apply formulaically. The Paul Davis Partnership provides on-call architectural support service to the campus planning office, and is currently working on several of the nearby buildings on Inter-Garrison Road, so **we have a head start on identifying the preferred sight lines and textures for the hardscapes.**
  6. The off-site work at the existing B/C BPS may disturb sensitive habitat, requiring mitigation planting. Sand Gilia is known to occur in that area. DD&A will conduct pre-design and pre-construction surveys, and provide monitoring when these sights are under construction.
  7. The Marina Heights Water Master Plan (now Sea Haven) routes the A-Zone trunk main into California Avenue. The developer has only completed a portion of the work, so **the District may want to consider including that pipeline in this project.** The alternative is to convert the C-Zone main with the Sea Haven boundary, and rely on the developer protecting it in-place during build-out of that project. At a minimum, the new piping installed in that vicinity must allow for the future rerouting and connection of the A-zone pipeline.
  8. Sequencing Plan. The phased transition from the existing BPS to the new station will require certain pieces of the work to be completed in sequence. Some of those items will affect critical infrastructure, such as cutting in tees and valves in the C-Zone transmission main. **We will work with O&M to develop a detailed outage plan** so that the Contractor, Inspector and Staff are all working from the same procedural checklist. We anticipate that certain items will require adjustments to other portions of the system during the work, such as running the F-Booster exclusively while the C-Zone transmission main is shut down, and supplying the B-Zone directly from Wells 10 and 11.
  9. Delays associated with reviews. The proposed schedule is extremely aggressive, considering the time required to complete the initial surveying and geotechnical field work. To the greatest extent possible, we will submit information requests as they arise rather than waiting for design milestones. **We will schedule joint review workshops** for District and Campus staff to collect comments and resolve conflicting comments.
  10. PG&E delays. The project will require a new PG&E electrical service, which is very likely to become a source of delay. We will **prepare and submit a PG&E service application as early as possible** in the design process, so that we have a PG&E service design as part of the bid package. We will schedule a meeting with PG&E at that time to determine if a dedicated easement will also be required, and work with the District to coordinate this easement, if needed.

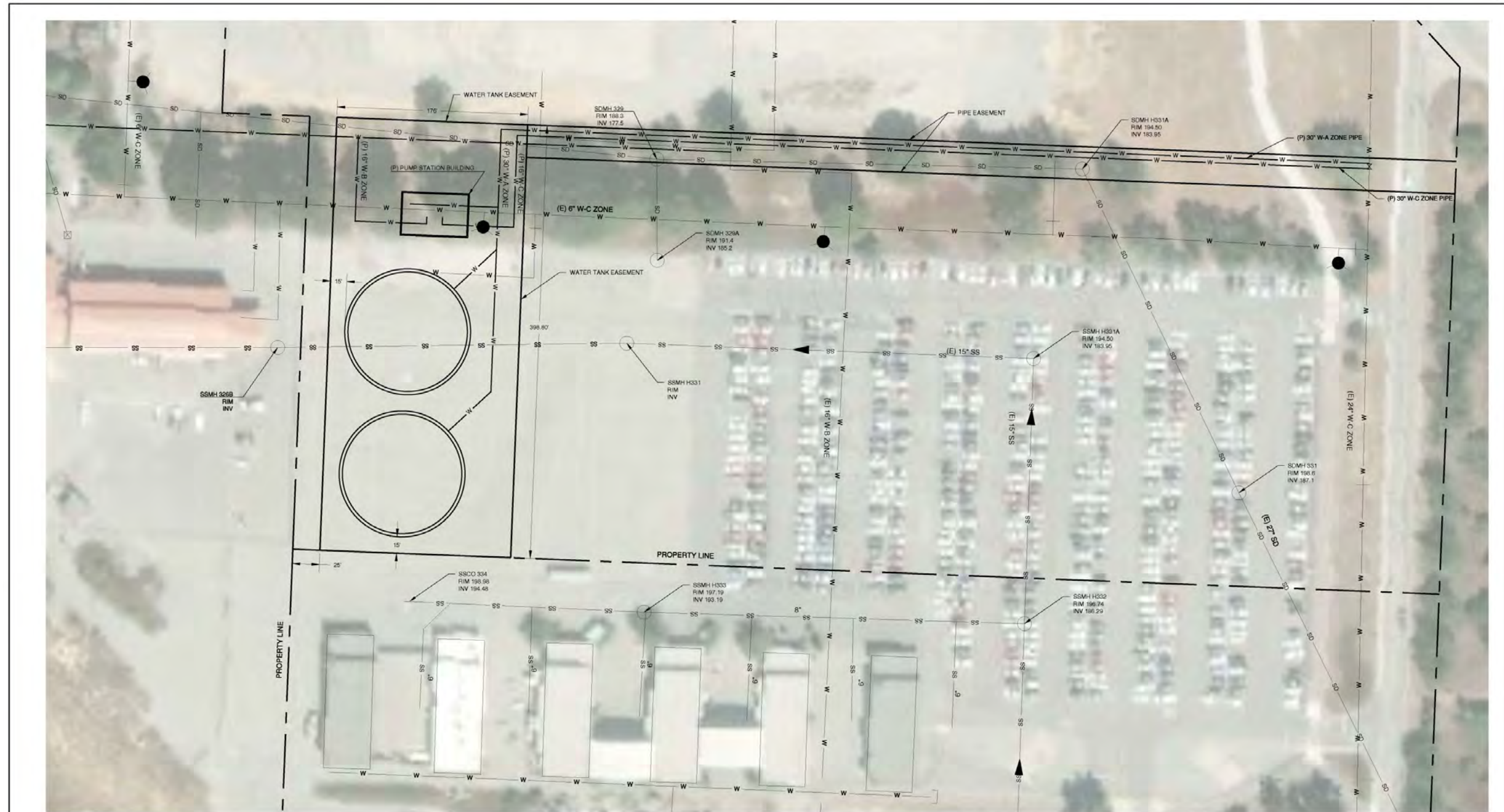


### CONCEPTUAL BUILDING PLAN





### CONCEPTUAL SITE PLAN



- NOTES:**
1. SS BASED ON MAN-HOLES
  2. SD BASED ON SYSTEM MAPS (SCHEMATIC)
  3. W BASED ON SYSTEM MAPS (SCHEMATIC)

**CONCEPTUAL SITE PLAN**  
SCALE: 1"=40' (FOR D-SIZE SHEET)



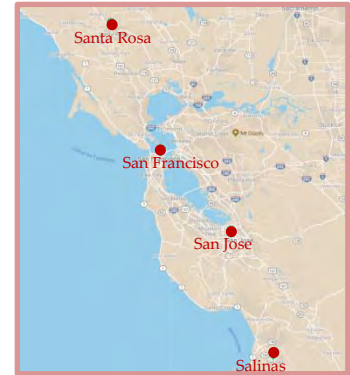
NOT FOR CONSTRUCTION

<table border="1"> <thead> <tr> <th>NO.</th> <th>REVISION DESCRIPTION</th> <th>DATE</th> <th>APPR.</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	REVISION DESCRIPTION	DATE	APPR.					<p><b>MARINA COAST WATER DISTRICT</b> 11 RESERVATION ROAD MARINA, CA 93933 (831) 384-6131</p> <p>MARC A. LUCCA, DISTRICT ENGINEER</p>	<p><b>Schaaf &amp; Wheeler</b> CONSULTING CIVIL ENGINEERS 3 Quail Run Circle, Suite 101 Salinas, CA 93907-2348 (831) 883-4848</p>	<p><b>A1/A2 RESERVOIRS AND B/C BOOSTER STATION CONCEPTUAL SITE PLAN</b></p>	<table border="1"> <tr> <td>DATE:</td> <td>04/12/19</td> </tr> <tr> <td>SCALE:</td> <td>AS NOTED</td> </tr> <tr> <td>DESIGN:</td> <td>XXX</td> </tr> <tr> <td>DRAWN:</td> <td>CJM</td> </tr> <tr> <td>CHECK:</td> <td>XXX</td> </tr> </table>	DATE:	04/12/19	SCALE:	AS NOTED	DESIGN:	XXX	DRAWN:	CJM	CHECK:	XXX	<p><b>SHEET</b> <b>1</b> OF <b>2</b></p>
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## Firm Experience

### About Schaaf & Wheeler

Schaaf & Wheeler is a civil engineering firm focused in water resources. With over thirty years of commitment to bringing feasible solutions to flood control, stormwater, wastewater, potable water and recycled water problems; Schaaf & Wheeler is recognized by public and private sector clients for value-adding engineering. Certified as a small business enterprise (Certification No. 40527) by the State of California, Schaaf & Wheeler engineers operate from four locations: Santa Clara, San Francisco, Santa Rosa and Salinas.



### Our Areas of Focus

Schaaf & Wheeler has ten areas of focus within the water resources discipline.

- Potable water system master planning, modeling, engineering; and design of supply, storage, distribution systems, including tanks and booster stations;
- Waste water system master planning, engineering, and design of conveyance systems, including lift stations;
- Storm water management and drainage services, including master planning, engineering, and design of urban storm drain systems and pump stations;
- Recycled water systems planning, engineering, and design; including reclamation feasibility studies and customer retrofits;
- Construction management, construction site observation, construction inspection services, value engineering, construction cost analysis, and constructability reviews;
- Hydrology and hydraulics analyses, including site evaluations and modeling;
- Flood control analyses, including floodplain studies and channel design, filing of letters of map revision, and FEMA coordination;
- Watershed assessments, erosion and sediment control, and bioengineered channel stabilization;
- Water quality, including design or review of best management practices (BMPs) for storm water treatment and hydromodification flow control facilities;
- Program management, including management of subconsultants, containment of schedule and cost, and communications with client and stakeholders.

### Our Subconsultants

*Schaaf & Wheeler engineers have been working with our proposed subconsultants for over a decade now and have a collaborative professional relationship. This proposed team has successfully completed several water resource infrastructure design and construction support projects for public agencies throughout Bay Area and the Central Coast.*



**TJC & Associates, Inc. – Electrical and Structural Engineering.** TJC & Associates, Inc. (TJCAA) will provide electrical and structural design services. Located at 1330 Broadway, Ste. 1101 in Oakland, TJCAA is a certified small business enterprise providing engineering services to Bay Area and Sacramento Area clients, as well as to clients throughout the United States. Founded in 1998 as a structural firm, TJCAA has expanded over the years, now providing electrical engineering and instrumentation and control design. Over the past 15 years, TJCAA has been involved with the design of a multitude of potable water system and sanitary sewer system projects, providing design for all structural and electrical aspects of pump stations.

*TJCAA performed a variety of SCADA support services for the Marina Coast Water District including review of existing system deficiencies; development of new RTU and radio standard hardware specifications for new construction; development of standard programming, submittal, and well control descriptions; and preparation of bid documents for an interim “quick fix” solution to chronic failures within the MCWD’s existing radio system.*

*Schaaf & Wheeler and TJCAA are currently working together on pump station projects for the City of Oakland, City of East Palo Alto, the East Bay Municipal Utility District and the Port of Oakland.*



**CORNERSTONE EARTH GROUP** **Cornerstone Earth Group – Geotechnical Engineering.** Cornerstone Earth Group (CEG) integrates geotechnical engineering, environmental services, engineering geology, and construction services to facilitate cost-effective site selection, project design, and site development. Their staff includes registered civil and geotechnical engineers, registered geologists, certified engineering geologists, certified hydrogeologists, and registered environmental assessors. Cornerstone’s principal geotechnical group has over 115 years of combined geotechnical experience, and has completed thousands of projects throughout the Bay Area and California. Their project experience includes the evaluation and design for repairs, upgrades and the installation of new utilities throughout California, including open cuts, bore and jack, micro-tunneling, direction drilling installation, and trenchless methods. Understanding the subsurface conditions is critical to any utility project – ground water, caving soils, soft or wet clays, dense gravels, the presence of bedrock, or other conditions can significantly impact your choices regarding installation methods, techniques, timing, and planned costs.

*Cornerstone has completed several projects with Schaaf & Wheeler including the Marsten Road Pump Station, City of Burlingame; Kingridge Drive Sewer Evaluation, City of San Mateo; East San Mateo Sanitary Sewer Lift Stations Rehabilitation, San Mateo; and El Camino Real Sanitary Sewer Rehabilitation, San Mateo to name a few.*

*Cornerstone prepared the Geotechnical site assessment for the 2008 A1/A2 Basis of Design Study.*



**Whitson Engineers – Survey and Mapping** – Whitson Engineers (WE) is a general civil engineering and land surveying firm, founded in 1979, with focus in governmental, residential and commercial land development services. The firm's projects are located primarily in Monterey, Santa Cruz, Santa Clara, San Benito and Los Angeles counties. Utilizing the latest in Trimble global positioning systems (GPS), total robotic stations, unmanned aerial vehicles and digital levels, WE’s professional staff has the latest in technology at their disposal to provide innovative solutions and an increase in productivity for clients. Whitson Engineers surveying services include Boundary/Right-of-Way Surveys, Topographic Surveys, Aerial Mapping, underground Utility Mapping, A.L.T.A. Surveys, Final Maps, Legal Descriptions, and Construction Staking.

*Schaaf & Wheeler has been working with Whitson Engineers for over 20 years and has completed the design of Watkins Gate Well, Tanimura Lift Station for Tanimura & Antle. Currently, Schaaf & Wheeler is working with Whitson on several development projects in Monterey and San Benito Counties.*



**Denise Duffy & Associates – Environmental** – Denise Duffy & Associates, Inc. (DD&A) provides environmental sciences, planning, and biological consulting services throughout Central and Northern California. Since 1984, they have been providing high-level professional services to public and private sector clients. As a planning and environmental consulting firm with a full range of biological and ecosystem services, DD&A services include environmental impact assessments, resource agency permitting assistance, biological assessments in support of CEQA and NEPA documents, wetland delineations, restoration plans, special-status species surveys and management, and most importantly, identification of innovative solutions for avoiding impacts.

DD&A has over 30 years of local experience working on projects within the City and County of Monterey. DD&A will serve as the environmental lead for the project. This includes managing tasks and conducting work related to California Environmental Quality Act (CEQA) documentation and processes, and regulatory permitting.

*Schaaf & Wheeler has worked with DD&A on numerous projects for Marina Coast Water District, including the Regional urban Water Augmentation Project and the Ord Community Annexation. Our engineers also worked with DD&A on the EIR for Monterey One Water’s Pure Water Monterey Project.*



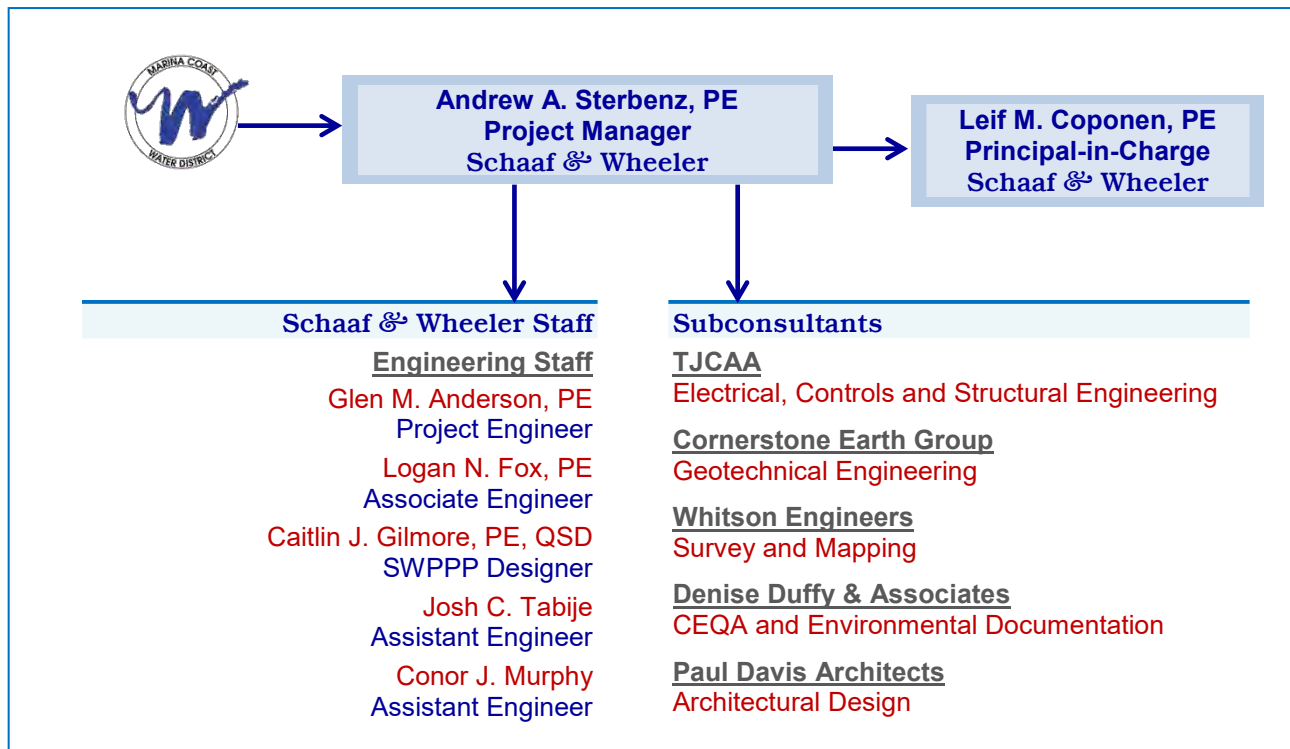
**Paul Davis Partnership – Architecture Design** - The Paul Davis Partnership is a local architectural and planning firm established in 1987. The Paul Davis Partnership serves many different types of clients on a wide range of projects from the rehabilitation of historic adobes to the design of low-income housing to upscale resorts, from academic facilities to residential additions and major industrial projects. The firm has also been involved in community-based projects that helped produce façade improvements, community design standards, land use plans and solving urban design issues. They are familiar with the area’s unique history and architecture and strive to keep it alive through their design and involvement in the community.

*Schaaf & Wheeler is currently working with Paul Davis on the Rancho Toro Farmworker Housing expansion. Paul Davis provides on-call services to CSUMB, and is currently working on several campus buildings near this project site.*

### Team Organization

The proposed Schaaf & Wheeler team organization chart is shown below:

### Organization Chart







## Team Members

Schaaf & Wheeler has selected a highly skilled project team to assist MCWD on the A1/A2 Reservoirs and B/C Booster Pump Station project. Each member of this team has immense experience in potable water infrastructure condition assessment, design and construction support along with planning and modeling. Members of this team will not be removed or replaced without prior approval of the District.

Our approach of putting together a team with qualified professionals to address each aspect of the project will provide for efficient, complete and implementable solutions for the District.

**Andrew A. Sterbenz, P.E. – Project Manager** - The team will be led by **Andrew A. Sterbenz, PE**. He is an owner and Senior Project Manager at Schaaf & Wheeler, with more than 25 years of experience in water related projects. Andrew Sterbenz has led multi-disciplinary teams for water supply, wastewater, and drainage projects from planning through construction. *He has served twice as the Interim District Engineer for the Marina Coast Water District, so he fully understands how the system is laid out and is intended to operate.* He is currently working on implementation projects for the Pure Water Monterey Groundwater Replenishment Project.

Andrew Sterbenz will be responsible for day-to-day project management for the entire duration of the project. He will maintain the project schedule and budget and assume ultimate responsibility for the quality of all work products as the engineer of record. He will hold regular team meetings to make sure issues are resolved effectively and to allocate resources to critical tasks.

**Leif M. Coponen, P.E. - Principal-in-Charge and QC and Modeling Lead** - Leif Coponen is a Vice President and owner at Schaaf & Wheeler. He brings forth in-depth understanding of analysis and design of water infrastructure projects. Leif Coponen has more than 16 years of experience leading multi-disciplinary teams for potable water projects from assessment through design and construction. He has designed cost-effective water supply and distribution systems for private developments and public agencies across the Bay Area and the Central Coast. Leif Coponen regularly provides CEQA support for water and wastewater CIPs and public works projects. His project management skills and in-depth knowledge of the design and analysis of both new and rehabilitated potable water, stormwater and sanitary sewage systems and pumping stations has always been a major factor for repeat clientele. Leif Coponen has extensive experience working on projects for MCWD since 2002, including the Marina-Ord inter-tie project, system modeling, system map updating, land development infrastructure review, capital project design of pipelines, wells, and preliminary design of storage reservoirs and booster pump stations. He also updated the District's water distribution system model in H2O Map to assist MCWD in system planning for many years.

*Leif Coponen brings the veteran knowledge of this project from his work on the A1/A2 Reservoirs and the B/C Booster Pump Station project back in 2008. He also designed the District's Watkins Gate Well, and worked on the design of the Marina-Ord Community Inter-tie Project in addition to review services for MCWD Master Plan projects.*

## Other Key Team Members

**Glen M. Anderson, P.E. - Pump Station Lead** – Glen Anderson is an owner and Senior Project Manager at Schaaf & Wheeler. He has 12 years of experience in potable water, sanitary sewer system, and storm water assessment and design as well as the associated construction support and management associated with those projects. Glen Anderson has worked on numerous pump station rehabilitation/replacement projects throughout the Bay Area. Additionally, Glen Anderson has performed condition assessments for more than 150 pump stations. His potable water experience projects include the assessment and rehabilitation of booster pump stations, design of a water tanks and planning and design for potable water wells and pipelines. In addition to design, Glen Anderson has provided construction support and management services for a variety of projects, including wells, pipelines, storage tanks, pump stations, and generator installations.

**Caitlin J. Gilmore, PE, QSD, CPSWQ – SWPPP Developer** – Caitlin Gilmore is an owner and a Senior Project Manager at Schaaf & Wheeler and brings forth in-depth understanding of urban drainage systems. Caitlin Gilmore is certified by the state of California as a Qualified Stormwater Pollution Prevention Plan (SWPPP) Developer and Practitioner, is a Certified Professional in Storm Water Quality and brings in more than 11 years of experience in stormwater systems, hydrology and hydraulics, open channel design and bridge scour analysis. She is accomplished in full trash capture planning and design, NPDES permit



compliance and storm sewer system design. Caitlin Gilmore augments her skills regularly through training and she has provided numerous third-party reviews of stormwater management and pollution prevention plans. Recently, she conducted new development workshops for municipal stormwater staff at SCVURPPP and San Mateo County's Countywide Water Pollution Prevention Program (SMCWPPP). Caitlin Gilmore is currently assisting several California municipalities including San Jose, South San Francisco, San Bruno, Mountain View, San Mateo, Hermosa Beach, Palo Alto and Livermore to comply with the Regional Municipal Permit Section C.10 to achieve their trash capture reduction goals.

The table below presents our team's role, experience and qualifications.

**Schaaf & Wheeler Team: Key Personnel Role, Experience and Qualifications**

<b>Name &amp; Firm</b>	<b>Role</b>	<b>Years of Exp.</b>	<b>Certification and Education</b>
Andrew A. Sterbenz, PE Schaaf & Wheeler	Project Manager	25	Registered Civil Engineer California C69703 Texas 93537 MSCE, University of Texas at San Antonio BSCE, Massachusetts Institute of Technology
Leif M. Coponen, PE Schaaf & Wheeler	Principal-in-Charge	16	Registered Civil Engineer, California C70139 BSCE, Michigan Technological University, Michigan
Glen M. Anderson, PE, PACP Schaaf & Wheeler	Project Engineer	12	Registered Civil Engineer, California C76720 BSCE, Civil and Environmental Engineering, University of California, Davis NASSCO PACP Cert. U-714-06021855 Hydraulic Institute, Pump System Assessment Certified
Logan N. Fox, PE Schaaf & Wheeler	Design Engineer	6	Registered Civil Engineer - California C84797 MSCE, San Jose State University BSCE, Santa Clara University
Caitlin J. Gilmore, PE Schaaf & Wheeler	QSD	11	Registered Civil Engineer California C76810 MS, Environmental Engineering, University of Southern California BSCE, Civil and Environmental Engineering, California Polytechnic University, San Luis Obispo
Josh C. Tabije Schaaf & Wheeler	Assistant Engineer	11	BSCE, Colorado State University
Conor J. Murphy Schaaf & Wheeler	Assistant Engineer	2	MSCE, University of California, Berkeley BSCE, Loyola Marymount University
<b>Subconsultants</b>			
Paul Giorsetto, PE, LEED AP TJCAA	Electrical Engineer	30	Registered Electrical Engineer, California E 11674 Registered Control Systems Engineer CS 7106 MBA, University of California, Berkeley. MS, Electrical Engineering and Computer Science, University of California, Berkeley BS, Electrical Engineering and Computer Science, University of California, Berkeley



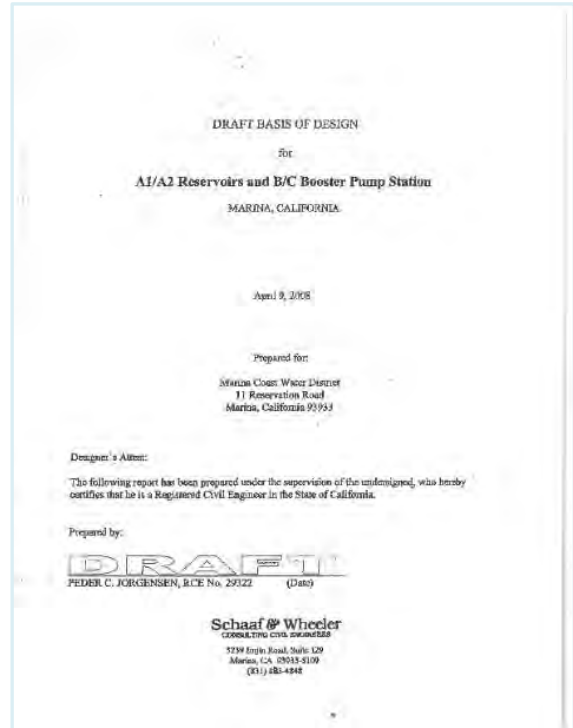
Name & Firm	Role	Years of Exp.	Certification and Education
Richard K. Thow, PE TJCAA	Structural Engineer	30	Registered Structural Engineer, California S 5320 Registered Civil Engineer, California C 62055 BSCE, with honors; University of Abertay, Scotland Confined Space Entry (CA)
Helen Tran TJCAA	Controls Engineer	15	BS, Electrical Engineering, University of CA, San Diego
Scott E. Fitinghoff, PE, GE Cornerstone Earth Group	Geotechnical Engineer	29	Registered Civil Engineer, California C48261 Registered Geotechnical Engineer, California 2379 Master of Science, Geotechnical Engineer, UC Berkeley BSCE, San Jose State University
Nicholas S. Devlin, PE Cornerstone Earth Group	Geotechnical Engineer	13	Registered Civil Engineer, California C75613 Master of Science, Geotechnical Engineering, University of California Berkeley, 2011 BSCE, San Jose State University, San Jose, 2006
Charles Pugh, PLS Whitson Engineers	Survey & Mapping	15	California Licensed Land Surveyor #9167 Bachelor of Science in Earth Systems Science and Policy California State University Monterey Bay
Denise Duffy Denise Duffy & Associates	CEQA & Permitting	30	Bachelor of Arts, Environmental Science, University of California, Santa Barbara
Erin Harwayne, AICP Denise Duffy & Associates	CEQA & Permitting	19	Bachelor of Science, Earth Systems Science & Policy (Marine and Coastal Ecology), California State University Monterey Bay Continuing Education, Land Use/Natural Resources Topics, through University of California Extension Program and CLE International
Paul W. Davis, AIA Paul Davis Partnership	Building Design	35	Bachelor of Architecture, California Polytechnic State University, San Luis Obispo



## Qualifications and References

Schaaf & Wheeler team brings a number of assets that the Marina Coast Water District can benefit from. These are as follows;

1. We are a small local firm that is responsive towards clients and specializes in potable water, wastewater and recycled water systems design and engineering.
2. Schaaf & Wheeler completed the Basis of Design for the same project - Reservoirs A1/A2 and Booster Pump Station back in 2008 and is familiar with the issues related to the project.
3. We will be able to provide cost-effective, implementable solutions and designs that expedite the project completion and have demonstrated the ability to meet tight deadlines (Grant Funding Wells Projects).
4. Our firm has provided On-Call services to Marina Coast Water District for over two decades and is thoroughly familiar with the systems and the service areas.
5. Schaaf & Wheeler has a continued direct relationship with MCWD and has a comprehensive understanding of the District's current capital projects strategy as we are assisting with technical review of the District's Master Plan Update Project.
6. We bring a strong team under the leadership of a detail-oriented, experienced, and skillful Project Manager – Andrew A. Sterbenz, PE who has more than 20 years of experience. He will provide expert engineering and strategic management services to keep the project under control and within schedule and budget.
7. Leif M. Coponen, PE will bring in veteran knowledge regarding the project and provide direct input in resolving critical issues.
8. Our sub-consultants bring in specialized services with local knowledge and understanding: Cornerstone and Denise Duffy & Associates are also familiar with the project from their previous work back in 2008.
9. TJCAA our electrical and structural sub-consultant is familiar with the District's standards and procedures from the variety of SCADA support services they provide to the District.
10. Paul Davis Partnership – Our building design sub-consultant is a specialist in central coast architectural design and will provide a design that blends in with the community architecture.
11. We bring together a comprehensive team with past-project knowledge combined with value-added engineering.
12. Schaaf & Wheeler brings unique direct tank experience, having performed construction management services for the recent MCWD D Reservoir and EBPS Project.





### Pump Station and Well Design Experience

Project	Location	Type	Capacity	Year
Petaluma Victoria and Country Club Pump Stations	City of Petaluma	Rehabilitation	400 gpm 500 gpm	2019
Cherry Creek Pump Station, City of Hillsborough	Hillsborough	Replacement	1,000 gpm	2017-2018
Gilroy Booster Pump Station Lift Station No. 5	Gilroy	Upgrade	1200 gpm	2018
Aptos Pump Station, Soquel Creek Water District	Aptos	New	460 gpm	2015
McGregor Pump Station, Soquel Cr. Water District	Capitola	New	1.0 – 2.5 mgd	2015
Vista Booster Pump Station	Hillsborough	Upgrade	600 gpm	2014
Tournament Pump Station	Hillsborough	Upgrade	800 gpm	2013
Watkins Gate Well and Well 34	Marina	New	2,400 gpm	2011-2012
Segunda Pump Station, Cal-Am	Monterey	Replace	7,500 gpm	2011



### Potable Water Storage Tank Design Experience

Project Title	Client	Type	Capacity	Date
Country View	Great Oaks Water Company	Bolted Steel	90,000 gal	2018
Probation Tank	Mesiti-Miller / San Lorenzo Valley Water District	Welded Steel	0.5 MG	2017
Camp Saratoga	Basin Construction	Bolted Steel	50,000 gal	2015
Saratoga Rescue Center	Peninsula Humane Society	Welded Steel	180,000 gal	2019
Highlands	San Jose Water Company	Welded Steel	0.3 MG	2012
San Jerardo	Monterey County Public Works	Bolted Steel	0.3 MG	2010
Reservoir D	Marina Coast Water District	Welded Steel	2.0 MG	2008
Boys Ranch	City of Morgan Hill	Welded Steel	1.0 MG	2006





## Reference Projects



### Probation Tank Replacement

San Lorenzo Valley Water District is planning to replace the existing current redwood storage tank at the Santa Cruz County Probation Center with a new welded steel tank of 0.5 million gallons. Schaaf and Wheeler is providing engineering design support services including tank layout plans, tank details, tank specifications, and estimates to Mesiti-Miller for the tank replacement.

Schaaf & Wheeler determined storage requirements partially based on the highest demand during a 24-hour period and fire flows for the service area. The new welded steel tank with a cone roof is designed with a dead volume height of 16 inches from the floor. The outlet height is mitigated by installing a down turned suction elbow inside the tank. Fire Storage is based on the largest possible fire event in the tank service area or zone. A minimum emergency storage of 25% or maximum day demand is recommended for the new tank.

The new tank design utilizes the latest industry standard: AWWA D100-11. It is sized to meet the storage requirement along with the addition of freeboard and design constraints. The outlet to the tank is designed to have a flexible joint between the tank and where the piping enters the ground to prevent damage to the tank during a seismic event.

The new tank is currently under construction, sited at the same location of the existing tank. Temporary polyethylene tanks have been installed on the site to provide operational storage while the new tank is constructed.

**Project Owner:**

San Lorenzo Valley Water District  
Rick Rogers, District Manager  
13060 Hwy 9  
Boulder Creek, CA 95006  
(831) 430-4625  
rrogers@slvwd.com

**Client and Contact:**

Rodney Cahill  
Mesiti-Miller Engineering, Inc.  
224 Walnut Ave  
Santa Cruz, CA 95060  
831.426.3186  
Rodney@m-me.com

**Contract Value:** \$55,000

**Construction Cost:**  
\$1,460,000 (estimated)

**Project Duration:** 2014-2015

**Project Staff:**

Logan N. Fox, PE  
Peder C. Jorgensen, PE



## Water System Upgrade for San Benito County Fair Grounds

The 33rd District Agricultural Association (San Benito County Fair) needs to upgrade the fairgrounds water system to provide required fire flows. The 33rd District operates a permitted non-community water system, which serves the fairgrounds and the county golf course. The current system consists of two wells (nominally 400 gpm and 50 gpm) and a 10,000 gallon hydro-pneumatic pressure tank. The system is not designed to meet the required fire flow and duration for the site.

Schaaf & Wheeler conducted a preliminary site assessment and recommended several options to address the fire flow deficiency: (1) add a potable water tank to the system on a nearby hill and provide flows by gravity; (2) add a potable water tank and booster pump system within the fairgrounds property; or (3) add additional water wells to the system. The Association could not coordinate an easement for Option 1, so Option 2 was selected.

Schaaf & Wheeler's team designed a 300,000 gallon water storage tank, a booster pump station with a 182 gpm domestic capacity and 2,000 gpm fire capacity. And 2,000 LF of on-site pipelines, along with associated valve and hydrant upgrades. We prepared a Basis of Design technical memorandum documenting the design calculations for the selected system. The memorandum addresses flow rates and water storage requirements, tank siting considerations, pump sizing and equipment recommendation, and electrical power and controls.

The Construction is grant funded, so the system improvements were phased to best use the available funds. Phase 1 was the addition of an emergency generator at the primary well to ensure a minimum amount of water supply during fires and emergencies. Phase 2 was the addition of 4-inch through 10-inch pipelines to the distribution system. Phase 3 will be the addition of a water storage tank and booster pumping station to provide the required fire storage and flow, additional pipelines and new hydrants. The generator will be moved to the booster pump station in Phase 3.

The existing wells and hydro-pneumatic tank are located within a FEMA flood zone, so the generator was placed on a filled pad. The tank and booster pump station are outside the floodplain, so no mitigations were required for that site.

**Project Owner:**  
33rd District Agricultural Assn.

**Contact:**  
Michael Sellens  
California Fairs Financing Authority  
1776 Tribute Road, Suite 220  
Sacramento, CA 95815  
Ph: 916.263.6100  
msellens@cfsa.org

**Contract Value:** \$103,500

**Construction Cost:**  
\$2.0 M (estimated)

**Project Duration:** 2018

**Project Staff:**  
Andrew A. Sterbenz, PE  
Conor J. Murphy  
Josh C. Tabije



## September Ranch Water System Design and Construction Support

The September Ranch Project (Project) proposes a new residential development on approximately 891 acres, located adjacent to the Carmel Valley Road about 2.5 miles east of State Highway 1 in Monterey County. The project has two phases, with work on the eastern ridge occurring in Phase 1, and the western ridge in Phase 2. Whitson Engineers is preparing the civil design for the project.

The project includes the development of a new community water system and a sanitary sewer collection system. Sanitary sewage from the project will be collected in a gravity sewer system, and conveyed to the Carmel Area Wastewater District (CAWD) via a new lift station and force main. The potable water system serving the Project is comprised of:

- Two groundwater wells
- Network of 6-inch, 8-inch, 10-inch, and 12-inch water mains
- Four pressure zones
- Two 200,000 gallon storage tanks and three intermediate 20,000 gallon tanks
- Two boosted zones (hydro-pneumatic)(5 lots and 7 lots)
- Storage tank operating levels of 950 feet, 810 feet, 700 feet, and 490 feet (hydraulic grade line)
- Service area ground elevation range between 120 and 930 feet.

**Project Owner:**  
Carmel Reserve LLC

**Contact:**  
Johannes Peter  
1625 The Alameda, Suite 625  
San Jose, CA 95126  
Ph: 415.349.1229  
jpeter@clearpeakgroup.com

**Contract Value:** \$426,200

**Construction Cost:**  
not yet constructed

**Project Duration:** 2018 - 2019

**Project Staff:**  
Andrew A. Sterbenz, PE  
Josh C. Tabije  
Conor J. Murphy

Schaaf & Wheeler analyzed the lift station requirements for Phase 1 and for the combined Phases 1 and 2, and determined the required sizing of the main sewer pump station and of smaller pump stations within each Phase. The analysis includes pump and force main sizing. Schaaf & Wheeler prepared plans and specifications for the main sewer pump station and a typical smaller pump station for inclusion in the Phase 1 Civil Plan Set. The lift station is proposed to be wet-well type with submersible pumps and an emergency generator to prevent spills during power outages.

Schaaf & Wheeler developed a water system model using EPANET to ensure that pumps and pipelines are adequately sized to meet the peak hour demands as well as fire flows during maximum day conditions. We are currently working on the water system design, including the tanks, pump stations, pressure reducing valve stations and well-head water treatment, as well as the Title 22 Report for the water system permit application.





## Soquel Creek Water District Aptos and McGregor Pump Stations

The Soquel Creek Water District (SqCWD) provides municipal water service in four service areas and seven primary pressure zones. The system is currently supplied solely with groundwater, with wells located in each of the four service areas. The District proposed to construct new wells in Service Areas 1 & 2, and planned system improvements to facilitate the movement of water between service areas. The District engaged Schaaf & Wheeler to design the two new booster pump stations – Aptos and McGregor.

**Project Owner:**  
Soquel Creek Water District

**Contact:**  
Mike Wilson, P.E.  
Soquel Creek Water District  
5180 Soquel Drive  
Soquel, CA 95073  
Ph: 831.475.8501x122  
michaelw@soquelwater.org

**Contract Value:**  
Aptos PS: \$116,000  
McGregor PS: \$155,766

**Construction Cost:**  
Aptos PS: \$639,910  
McGregor PS: \$819,700

**Project Duration:** 2012 - 2015

**Project Staff:**  
Andrew A. Sterbenz, PE  
Peder C. Jorgensen, PE  
Glen M. Anderson, PE  
Logan N. Fox, PE

**Aptos Pump Station** is one of several planned improvements that allows the District to move water east into Service Areas 3 & 4. This station will boost water from 242-ft pressure zone in service Area 2 into the 359-ft pressure zone in Service Area 3. The station has an initial design capacity of 460 gpm, but may be expanded in the future to 690 gpm. The District is modifying its well operations based upon new water quality rules and the effects of seawater intrusion into coastal aquifers. To meet these varied conditions, several pump types and configurations were analyzed. The preferred solution was a set of three vertical multistage pumps, with two operating and one in stand-by. To meet the future condition, the station is configured to accommodate a fourth pump which will allow three pumps to operate simultaneously.

**McGregor Drive Pump Station** is one of several planned improvements that allows the District to move water between Service Areas 1 and 2. Service Areas 1 and 2 operate at the same hydraulic gradient. Although the systems are inter-connected, little water transfers between them because of the significant physical separation. The pump station is needed to overcome the friction associated with the transfer of water over long pipe reaches. The station had to be configured to move flow in either direction between the two service areas. The initial station capacity required is 1.0 mgd, with a future peak capacity of 2.5 mgd peak. A range of pump sizes were analyzed based on the various duty conditions and the range of target flows. Because the station is only pumping against friction loss in the pipelines, it was determined that a single duty pump with a variable frequency drive is required (plus one standby pump). Based on the District's master planning timeline for when the station will need to exceed the initial capacity, it was decided that 25 hp pumps will be installed initially, with a future configuration to accommodate 50 hp pumps.

Both the project sites presented design challenges. Located in the Coastal Zone on a slope, the lower portion of the lot contains a wetland supplied by a groundwater seep. Constructing a building foundation uphill required addressing the saturated soils during construction and providing a permanent drain system to move the groundwater past the foundation and into the wetland. The final site design includes a gravity retaining wall to provide a level pump station site. The pumps and electrical equipment are enclosed in a CMU building. The project included subconsulting for electrical design as well. Schaaf & Wheeler coordinated the design work with the Surveyor and Geotechnical Engineer, who were under a separate contract with the District.



## Work Plan and Schedule

Our scope of work by task is outlined below. Detailed scopes for our environmental, structural and electrical/ instrumentation sub-consultants are provided in the appendix.

### Task 1 Project Management

Schaaf & Wheeler will manage the design team, and ensure required members participate in meetings with the District and Campus staff. We will interact with District staff throughout the design process and provide monthly updates to the project manager. We expect the District to hire a third-party construction manager to assist with the bid and construction phases of the work.

- 1.1 Meetings and Management. The Schaaf & Wheeler team will attend the design kick-off meeting and participate in monthly progress meetings. We will schedule formal review workshops at the 30%, 60% and 90% reviews.
- 1.2 Stakeholder Engagement and Meetings. The Schaaf & Wheeler team will meet with CSUMB Staff, City of Marina Permitting, the Sea Haven developer and other entities as needed during the design phase to present and review designs and schedules. We anticipate two to four meetings with CSUMB and two meetings with the City of Marina and Sea Haven.

#### Deliverables:

- Meeting agendas, meeting notes and action items lists
- Monthly progress reports to accompany invoices

### Task 2 Preliminary Design

The preliminary design phase will include facility sizing, base mapping, equipment selection, site layout, geotechnical investigation and special status species mapping (this last item under Task 4). We are assuming that the tanks will be steel on concrete ring foundations, and the pump station will use vertical turbine booster pumps. As discussed in the project approach, the facility sizing is a required first step to ensure the tanks, building and pipelines are not undersized for system build-out. If all booster pumps are not required for the initial system demand, the station will be configured with empty pump bays to accommodate future additions. Because we are boosting to zones with storage tanks, variable frequency drives are not required but may be requested by staff to provide operational flexibility. The start-up and transition plan will be outlined in sufficient detail to identify required off-site improvements such as pipelines and radio stations. Meetings and calls with staff will be scheduled as needed. A review workshop will be scheduled at the end of this phase. The District may elect to include DDW staff at this point in the design to solicit input. We assume that the District staff will prepare the system permit amendment application for DDW, and that the Basis of Design report will be included in the application package. Key activities and deliverables are listed below.

- 2.1 Facility Sizing Analysis
- 2.2 Surge Analysis Modeling
- 2.3 Upgrade Ord Wellfield chlorination station with flow meter and controlled dosing.
- 2.4 Prepare Basis of Design Memorandum, with supporting calculations and conceptual design plans.
- 2.5 Geotechnical Investigation
- 2.6 Biological Reconnaissance
- 2.7 Topographic Base Mapping and Utility Locating. Includes expense budget for potholing or sewer video.

#### Deliverables:



- Facility Sizing Technical Memorandum
- Basis of Design Technical Memorandum
- Initial Phasing Plan
- Initial Construction and Permitting Risk Register
- Geotechnical Site Investigation Report
- Topographic Base Map
- Conceptual Design Plans and Architectural Conceptual Design
- Conceptual Design Cost Estimate

### Task 3 60% Design Construction Documents

The 60% design effort will incorporate structural, electrical and control details sufficient to begin the CEQA planning analysis. Comments received on the 30% design will be tabulated and addressed. Review of the architectural plans by the Campus will be needed during this phase, so that any building changes can be addressed in the structural design. The start-up and transition plan will be advanced to ensure all off-site requirements are included in the project. The controls engineer will prepare a radio path survey based upon the site topography. Controls modifications for the Ord Chlorination Site will be designed to allow dosing based on flow. Based upon the height of the tanks and the MCWD base station antenna, the need for a repeater station is not anticipated. The existing B- and C-Zone transition mains are pre-stressed concrete cylinder pipe. We will contact Hanson pipe and determine what will be the best method for (1) tapping a tee onto the B-Zone main and (2) inserting tees and a valve into the C-Zone main, and reflect the manufacturer's recommendation in the design. We will prepare project information materials for informing the FORA WWOC about the project, which may be used for additional outreach efforts. A review workshop will be scheduled following submission of the 60% design documents.

- 3.1 Prepare 60% Design Plans with Specifications. A preliminary sheet list is provided. Not all sheets will be included in the 60% design submittal.
- 3.2 Prepare 60% Design Cost Estimate
- 3.3 Review Documents with District and Campus Staff

#### Deliverables:

- 60% Plans
- 60% Specifications (full index and specifications for key equipment)
- 60% Design Cost Estimate
- Updated Construction and Permitting Risk Register
- 30% Comments response log

#### PRELIMINARY DRAWING LIST

##### GENERAL

- G-01 - Title Sheet and Project Location
- G-02 - Sheet List
- G-03 - General and Civil Legends, Symbols, and Abbreviations
- G-04 - General Notes
- G-05 - Site Plan, Access and Survey Control

##### CIVIL

- C-001 - Erosion Control Plan/Site Plan
- C-002 - SWPPP Details
- C-005 - Traffic Control Plan
- C-010 - Pipeline Notes and Details
- C-011 - Pipeline Details
- C-012 - Pipeline Plan and Profile
- C-100 - Site Horizontal Control and Work Limits

- C-101 - Grading and Drainage Plan
- C-102 - Paving and Site Layout
- C-103 - Yard Piping Plan
- C-104 - Sewer Plan & Profile
- C-105 - Storm Drain Plan & Profile
- C-110 - Tank Plan View
- C-111 - Tank Elevations
- C-112 - Tank Details
- C-120 - Pump Station Plan
- C-121 - Pump Station Elevations
- C-122 - Pump Station Details
- C-130 - Chlorination Station - Pump Modifications
- C-130 - Chlorination Station - Meter
- C-140 - Intermediate Reservoir Altitude Valve



## **PRELIMINARY DRAWING LIST**

### ARCHITECTURAL

GA-1 – General Notes, Legend, and Abbreviations, Special Inspection

A-1 – Pump Station Floor Plan

A-2 – Exterior Elevations

A-3 – Interior and Exterior Details

A-4 – Building Sections

### STRUCTURAL

GS-1 – General Notes

GS-2 – General Notes, Legend, and Abbreviations

GS-3 – General Notes, Special Inspection

GS-4 – Standard Details – Concrete I

GS-5 – Standard Details – Concrete II

GS-6 – Standard Details – Masonry

GS-7 – Standard Details – Ladders and Misc. Metals

GS-8 – Standard Details – Grating

GS-9 – Standard Details – Cover Plates

S-1 – Booster Pump Station – Foundation Plan

S-2 – Booster Pump Station – Floor Plan

S-3 – Booster Pump Station – Roof Plan

S-4 – Booster Pump Station – Primary Sections

S-5 – Booster Pump Station – Sections & Details

S-6 – Reservoirs A1/A2 – Plans and Details

S-7 – Reservoirs A1/A2 – Details

S-8 – Reservoirs A1/A2 – Ladder Details

S-9 – Retaining Wall Details

### INSTRUMENTATION, CONTROLS AND ELECTRICAL

GE-1 Electrical Legends and Abbreviations

GE-2 Electrical Standard Details I

GE-3 Electrical Standard Details II

E-1 Electrical Single-Line Diagram

E-2 Electrical Equipment Elevations and Schedules

E-3 A1/A2 Reservoirs Plan Drawing

E-4 B/C Booster Pump Station - Power and Signal Plan

E-5 B/C Booster Pump Station - Lighting Plan

E-6 Interconnection Details

E-7 Control Schematics I

E-8 Control Schematics II

E-9 Control Panel Elevations

E-10 Communication block Diagram

GI-1 I&C Legend and Abbreviations 1 of 2

GI-2 I&C Legend and Abbreviations 2 of 2

I-1 P&ID, Distribution System

I-2 P&ID, Disinfection System Modifications

## **Task 4 CEQA and Permitting**

Denise Duffy & Associates will prepare a Draft CEQA Initial Study for the project, based upon the 60% design submittal. They will prepare a special status species survey (pre-proposal site walks, with mapping during the preliminary design phase), which will be used to inform the conceptual design. If the preliminary design has the potential to impact listed species, they will coordinate consultation with the applicable regulatory agencies. If an incidental take permit is required, we cannot guarantee the time it will take the regulatory agencies to review and approve the mitigations. The project does not impact wetlands or aquatic habitats, but a portion of the work may affect listed plant species. Depending upon the permit and mitigation requirements, the CEQA IS/MND may need to be adopted in advance of awarding the project in order to submit a complete regulatory permit application. Public outreach meetings are anticipated to occur during the bid and construction phases (listed here to group with DD&A's other efforts). The key activities and deliverables are listed below.

- 4.1 Biological Reconnaissance and Research
- 4.2 Prepare CEQA Initial Study
- 4.3 Resource Agency Coordination
- 4.4 Prepare permit applications, if needed
- 4.5 Public Outreach Meeting preparation and support

### **Deliverables:**

- *Special Status Species Map*
- *Administrative Draft Initial Study/Mitigated Negative Declaration*
- *Public Review Draft Initial Study/Mitigated Negative Declaration*



- *Final Initial Study/Mitigated Negative Declaration*
- *Resource Agency Permit Applications*
- *Public Outreach Meeting(s)*

### **Task 5 90% Design Construction Documents**

The 90% design package will add the remaining technical specifications and drawings. The bid documents (Division 00) will be populated except for the key dates. Comments received on the 60% design will be tabulated and addressed. If encroachment permits are required, this plan set will be submitted to the City and/or Campus staff for permit-level review.

- 5.1 90% Design Plans with Specifications. All technical sections and plan sheets, including SWPPP and traffic control plan.
- 5.2 90% Design Cost Estimate
- 5.3 Review Documents with District Staff

#### **Deliverables:**

- *90% Plans*
- *90% Specifications*
- *90% Design Cost Estimate*
- *Updated Construction and Permitting Risk Register*
- *60% Comments response log*

### **Task 6 100% Design Construction Documents**

The 100% Issued for Bid design package will be prepared, addressing any comments received on the 90% submittal and any final changes required under the permit agreements.

- 6.1 Final Design Plans and Specifications
- 6.2 Final Design Cost Estimate

#### **Deliverables:**

- *Final Construction plans and specifications, sealed by California professional engineers*
- *Final Engineer's Estimate, sorted by bid item*
- *90% comments response log*

### **Task 7 Bid Phase Services**

Schaaf & Wheeler will support the District staff and Construction Manager during the bid phase, attending meetings and site walks. If requested, we will assist with the bid tabulation and evaluation. Key tasks include:

- 7.1 Attend pre-bid conference (Civil, Electrical, Controls and CEQA) and explain the design concept and key project elements to the bidders.
- 7.2 Respond to RFI's, prepare clarifications and addenda

#### **Deliverables:**

- *RFI responses*
- *Design clarifications*
- *Design addenda, if required*



## Task 8 Construction Phase Services

The construction phase is anticipated to take 18- to 24-months, depending upon the start-up and transition schedule. A better estimate of the construction duration will be made as the design progresses. We anticipate holding two public information meetings prior to the contractor mobilizing to the site, ideally with one on-campus. Additional meetings may be required during the transition to the new system. Engineering services during construction will include the following tasks:

- 7.1 Attend pre-construction conference (full design team)
- 7.2 Attend progress meetings (assume 40). The civil designer will attend all meetings. The CEQA, structural, electrical and controls designers will attend as needed, depending on phase of the work.
- 7.3 Respond to RFI's, prepare clarifications and addenda
- 7.4 Review Submittals (assume 120)
- 7.5 Site visits & start-up support
- 7.6 Public Information Meetings (assume 2)

### Deliverables:

- *Submittal reviews with transmittals*
- *RFI responses*
- *Design clarifications*
- *Design revisions, if required*
- *Technical support during SCADA integration*
- *Technical support during start-up*

## Task 9 Record Drawings and Close-Out

The Schaaf & Wheeler team will prepare record drawings for the project, based on the Contractor's and Inspector's red-lined plans. Record drawings will be submitted in hard copy, as pdf plots and in AutoCAD. We will assist with the cataloging of equipment data for import into the District's asset management system. Subtasks are:

- 9.1 Prepare Record Drawings
- 9.2 Assist with cataloging equipment data

### Deliverables:

- *Project record drawings in hard copy and electronic files*
- *Excel tables with asset management data*

## Assumptions and Limitations

Key Assumptions:

- The site and building layout will be agreed upon during the preliminary design phase. No changes requiring redesign will be required during later submittal reviews.
- Artwork or logos required on the tanks will be provided by CSUMB, ready for inclusion in the bid documents. No modifications other than size will be required.

Items not included in scope:

- Preparing a Title 22 Report or revised water sampling plan for updating the DDW Permit
- Preparing printed plan sets for bidders (electronic distribution is assumed)



- Providing construction management web services (ProCore or similar). We assume the District will hire an independent construction manager.
- Construction staking. We assume the Construction Contractor will be responsible for this task.
- Materials testing during construction. We assume these services will fall under inspection by the construction manager.



## Level of Services:

The Schaaf & Wheeler Team will provide a complete design for the project, including off-site improvements and controls analysis. The project will be designed in accordance with the AWWA standards for water tanks, the Hydraulic Institute standards for pump stations, the California Building and Electrical Codes and the District Design Guidelines. Construction documents will include EJCDC series contract documents, CSI formatted technical specifications and Arch-D sized plan sheets. The Initial Study will follow the California Environmental Quality Act guidelines and requirements.

Our design team is extremely familiar with the District. Schaaf & Wheeler has worked with MCWD for over 25 years. Our project manager served as the acting District Engineer twice, and currently provides on-call engineering services. CEQA and permitting is by Denise Duffy & Associates, who have worked with the District for over 20 years, supporting the CEQA and permitting for the RUWAP and the PWM projects. Our surveyor is Whitson Engineers, a local civil and land surveying firm. Cornerstone Earth group prepared the geotechnical report for the 2008 basis of design report, so they have an understanding of the site conditions. Finally, TJC & Associates has worked with the District's controls in the past, and will bring that institutional knowledge back to this project.

The three largest challenges to this project are (1) working with CSUMB, (2) obtaining a new PG&E service, and (3) obtaining take permits for special status plants. All of these components have the potential to delay the project construction. Involving the Campus staff in all design reviews and aggressively following up for approvals can mitigate this risk, but not eliminate it. Similarly, coordinating with PG&E during design, submitting the service application and obtaining their trench package in advance of the bid does not guarantee that they will be available to pull conductors and set a transformer when the Contractor is ready for it. Understanding that risk going in, we can structure the bid documents to accommodate a second mobilization for electrical start-up, if necessary. The majority of the site work will be within the existing parking lot and landscaped area, so the project could begin in advance of a final regulatory permit, but there would be some risk of encountering a change order or a delay during construction.

## Current Workload

The Schaaf & Wheeler Team is busy with current projects, as are all engineering firms in the area. We have the ability to prioritize this effort, but more importantly, the majority of the team is already familiar with the local area, the water system, the project and the District's design standards. We can therefore utilize our time spent on the project advancing the design and resolving conflicts and issues, rather than climbing the learning curve.





## Resumes

### Andrew A. Sterbenz, P.E. – Senior Project Manager – Schaaf & Wheeler

#### Education

BSCE, Massachusetts  
Institute of Technology  
MSCE, University of  
Texas at San Antonio

#### Licenses

Registered Civil Engineer  
California C69703  
Texas 93537

#### Affiliations

American Water Works  
Association  
Society of American  
Military Engineers  
American Public Works  
Association  
Monterey Bay Water  
Works Association



**Andrew A. Sterbenz, P.E.**, has over 25 years of experience managing engineering organizations and solving engineering problems, and is recognized for developing and implementing creative solutions to complex problems. In 2006-2007 and 2012-2013 he served as the full-time District Engineer for the Marina Coast Water District, managing a \$150 million water and sewer capital improvements budget that includes the development of new groundwater, recycled and desalinated water supplies for the former Fort Ord. He has prepared long-range water supply plans in California and Texas. Plans include the projection of population and water demands, the assessment of current water supply availability, and the analysis of water management strategies to meet projected shortages. He is adept at analyzing, researching, planning, coordinating and executing strategies to achieve organizational goals. Andy has prepared detailed plans and specifications for bidding and construction for public agencies, and managed construction projects for the client agencies. He has conducted environmental studies and remediation design, and assisted with environmental permitting. He is well experienced with state and federal environmental regulations.

#### Relevant Projects:

##### Water Supply Planning

Water Supply Assessment for 2018 General Use Permit – Stanford University (2016-17)  
2015 Urban Water Management Plan – Marina Coast Water District – Marina, CA (2015--2016)  
2010 Urban Water Management Plan – Marina Coast Water District – Marina, CA (2010-2011)  
Regional Urban Water Augmentation Project - Marina Coast Water District - Marina, CA (2006-2007)  
Region H Water Plans (2001 and 2006) - San Jacinto River Authority - Conroe, Texas (1998-2001, 2002-2006)  
Colorado River Water Availability Model - Texas Natural Resource Conserv. Comm. – Austin, TX (2002)

##### Water and Wastewater Systems Planning and Design

Anderson Dam Seismic Retrofit Project, Project Management Team – Black & Veatch for Santa Clara Valley Water District – Morgan Hill, CA (2012 – Present)  
Pure Water Monterey Injection Well Field – Kennedy/Jenks Consultants for Monterey Regional Water Pollution Control Agency - Monterey County, CA (2016-Present)  
Reclamation Ditch Diversion Pump Station – E2 Consulting Engineers for Monterey Regional Water Pollution Control Agency - Monterey County, CA (2016-19)  
Lightfighter Drive Water Main – Marina Coast Water District – Seaside, CA (2016)  
Pure Water Monterey Groundwater Replenishment Project – Monterey Regional Water Pollution Control Agency – Monterey County, CA (2015-17) and under Denise Duffy & Assoc. (2013-2015)  
Truck Yard Lift Station and Water System Improvements – Monterey Regional Waste Management District – Marina, CA (2014-16)  
Reclamation Ditch Yield Study – Monterey Peninsula Water Management District - Monterey County, CA (2013-2014)  
Blanco Drain Yield Study – Monterey Peninsula Water Management District - Monterey County, CA (2013-2014)  
Aptos Booster Pump Station – Soquel Creek Water District – Aptos, CA (2012-2015)  
McGregor Drive Booster Pump Station – Soquel Creek Water District – Capitola, CA (2012-2015) Interim District Engineer - Marina Coast Water District - Marina, CA (2006-2007, 2012-2013)  
Soquel Drive Cast Iron Main Replacement-Soquel Creek Water District-Soquel, CA (2012)  
Watkins Gate Well and Pipeline– Marina Coast Water District – Marina, CA (2011-2012)  
Stonegate Water Supply Project – San Benito County Public Works - Hollister, CA (2011-2013)  
Sewer Feasibility Study for Commercial Parkway – Monterey County Redevelopment Agency – Castroville, CA (2010)  
Modular Wastewater Treatment System - LOGCAP – Balkans, Yugoslavia (1999)  
Raw Water Pump Station Design and Construction - Coastal Water Authority - Houston, Texas (2000)  
Moses Bayou 84-Inch Siphon – Gulf Coast Water Authority – Texas City, Texas (2001)

##### Stormwater Planning and Design

Bryant Canyon Channel – Monterey County Water Resources Agency – Soledad, CA (2013 –2014, 2017)  
Wrigley-Ford Creeks Maintenance Project – City of Milpitas – Milpitas, CA (2011-2012)



## Leif M. Coponen, P.E. – Principal-in-Charge - Schaaf & Wheeler

### Education

BSCE, Michigan  
Technological University,  
Michigan

### Licenses

Registered Civil Engineer  
California C70139

### Affiliations

American Water Works  
Association  
North American Society of  
Trenchless Technology  
Pipe Users Group - NorCal



**Leif M. Coponen, P.E.**, has more than sixteen years of experience in water, waste water and storm water systems engineering. He has designed cost-effective water supply and distribution systems for private developments and public agencies across the Bay Area. Leif regularly provides CEQA support for private developments, water and wastewater CIPs and public works projects. His project management skills and in-depth knowledge of the design and analysis of both new and rehabilitated potable water, stormwater and sanitary sewage systems and pumping stations has always been a major factor for repeat clientele. Leif has expertise in modeling water systems with Bentley's WaterCAD, and Innovyze's H2Omap and InfoWATER, INFOSWMM software platforms. Leif is also skilled at preparing detailed plans and specifications for bidding and construction of infrastructure projects for public agencies, and providing construction support services.

### Relevant Projects

#### Potable Water Planning and Design

Old County Road Water Main Replacement, Mid-Peninsula Water District  
Saratoga Wildlife Care Center Water Planning and Design, The Lawrence Ellison Foundation  
750 Moffett Boulevard – Moffett Gateway Water Supply Assessment and UIS, David J. Powers & City of Mountain View  
El Camino Hospital Campus Project – Water Supply Assessment and UIS, David J. Powers & City of Mountain View  
North Bayshore Precise Plan - Water & Wastewater System Planning, City of Mountain View  
Stanford Next GUP Water Supply Assessment – Leland Stanford Junior University  
On-Call Water and Wastewater Modeling Support, City of Mountain View  
Castroville Seawater Intrusion Project, Espinosa Booster PS Modifications & System Assessments - MCWRA  
On-Call Water and Wastewater Modeling Support, Marina Coast Water District  
Reservation Road Pipeline Project, Marina Coast Water District  
Watkins Gate Well and Pipeline Project, Marina Coast Water District  
Well 34 Site Improvements, Marina Coast Water District  
California Avenue Extension Pipeline Project, Marina Coast Water District  
Bayer Tank Structural / Marina-Ord Inter-Tie Project, Marina Coast Water District  
A1/A2 Reservoirs and B/C Booster Pump Station Basis of Design, Marina Coast Water District  
Communications Hill Water Distribution System, KB Home/San Jose Water Company  
Coyote Road Pump Station, Great Oaks Water Co.  
East Palo Alto General Plan Update, City of East Palo Alto  
Service Area 3 Planning Study, Soquel Creek Water District

#### Storm Water Pump Stations

Laurelwood Stormwater Pumps Station Improvement Project, City of Santa Clara  
Westside Stormwater Pump Station Project and Westside Basin Desilting Project, City of Santa Clara  
Marsten Storm Drain Pump Station, City of Burlingame  
Baylands Stormwater Pump Station No.1 Rehabilitation, City of Sunnyvale  
Matadero Creek Pump Station, City of Palo Alto  
San Francisquito Creek Stormwater Pump Station, City of Palo Alto  
Coyote Point and Poplar Avenue Stormwater Pump Station Rehabilitation, City of San Mateo  
Santa Rita Storm Water Pump Station, Monterey County Water Resources Agency

#### Sanitary Sewer Pump Stations

Aquatic Park, Mariner's Island #5 and #6 Sanitary Sewer Pump Station Rehab, City of San Mateo  
Spreckels Subdivision Sanitary Sewer Pump Station, Standard Pacific Homes  
Mariner's Island No.2 Sanitary Sewage Pump Station Rehabilitation, City of San Mateo  
S. San Francisco Industrial Sewage Pumping Stations No.3 and No.4 Rehabilitation, City of South San Francisco

#### Sanitary Sewer Planning and Design

Shoreline Sewage Lift Station Assessment and Trunk Sewer Alignment & Constructability, City of Mountain View  
South Trunk Sanitary Sewer Relief Line, City of San Mateo  
Sanitary Sewer Master Planning and Design Review, Marina Coast Water District

#### Recycled Water Systems

Pico Power Plant Recycled Water Distribution, Silicon Valley Power  
Smurfit-Stone Recycled Water Retrofit, City of Santa Clara; Intel Co. Recycled Water Retrofit, City of Santa Clara



## Glen M. Anderson, PE – Project Engineer - Schaaf & Wheeler

### Education

BSCE, Civil and Environmental Engineering, University of California, Davis

### Licenses

Registered Civil Engineer  
California C76720

### Certifications

NASSCO PACP, MACP and LACP Certified, Cert. No. U-714-06021855  
Hydraulic Institute, Pump System Assessment Certified

### Affiliations

Pipe Users Group - NorCal



**Glen M. Anderson, P.E.**, has 12 years of experience in sanitary sewer system, potable water, and stormwater assessment and design as well as the associated construction support and management associated with those projects. Glen has successfully completed work on several sanitary sewer main and trunk rehabilitation projects. He has worked on sanitary sewer pump station rehabilitation projects throughout the Bay Area. Additionally, Glen has performed condition assessments for more than 150 sanitary sewer and stormwater pump stations. Glen's potable water experience projects include the assessment and rehabilitation of booster pump stations, design of a water tanks and planning and design for potable water wells and pipelines. In addition to design, Glen has provided design, construction support and management services for a variety of projects, including wells, pipelines, storage tanks, pump stations, and generator installations.

## Relevant Projects

### Water Delivery Systems

Water Mains Replacement Design at Bridge Crossings, City of Santa Clara (2018 – 2020)  
Country Club and Victoria Water Booster Pump Stations, City of Petaluma (2018)  
Cherry Creek Water Pump Station, City of Hillsborough (2016)  
Assessment of City Wells, City of Santa Clara (2014)  
Great Oaks Water Company. Water System Modeling (2013)  
Watkins Gate Well and Pipeline Project and Well 34 Site Improvements, Marina Coast Water District (2012)  
Shady Lane Water System Improvement Stonegate Water Supply Project, County of San Benito (2011)  
San Jerardo Water System Improvements, County of Monterey (2010)  
Segunda Pump Station Pump replacement, California American Water (2009)  
El Torro Wells, California American Water (2008)  
Valley Christian School Pump Station Rehabilitation, Valley Christian School (2008)

### Wastewater Systems

Sanitary Sewer Lift Station Rehabilitation Design (5 Lift Stations), City of San Mateo (2016 – 2017)  
Wastewater Pump Stations Assessment (6 Stations), Delta Diablo (2016 – 2017)  
Crestmoor and Lomita Pump Stations and Forcemain, City of San Bruno (2016 – 2017)  
City of San Mateo Basin 2/3 – Pump Station Alternatives, MWH/City of San Mateo (2016)  
Lift Stations J&K and D, F & W, City of Morgan Hill (2015-2016)  
PSQ Reserve Flow and URD Project, East Bay Municipal Utility District (2014 - 2015)  
Assessment and Engineering for Sanitary Sewer Main Rehabilitation, City of San Mateo (2014 -2015)  
Force Main Appurtenance Projects ESDC, Ross Valley Sanitary District (2014-2015)  
Cabrillo Avenue Sewer Main Abandonment and Replacement, City of Santa Clara (2013 – 2014)  
South Trunk Sewer Relief Line, City of San Mateo (2013 – 2014)  
Madera Lift Stations, of Madera (2014-2015)  
Mariner's Island No. 5 and No. 6 Pump Station Rehabilitation, City of San Mateo (2011)  
Sanitary Sewer Pump Station Repairs, City of Fontana (2012)  
Pump Station Rehabilitations, City of Alameda (2012)  
Sanitary Sewer Lift Station M, City of Morgan Hill (2010)  
S. San Francisco Sanitary Sewer Pump Station No. 8 Rehabilitation, City of S. San Francisco (2010)  
City of San Mateo Sanitary Sewer Pump Station Assessment, City of San Mateo (2010)  
Morgan Hill Trunk Sewer No. 2, City of Morgan Hill (2006)  
S. San Francisco Sanitary Sewer Pump Station No. 4 Rehabilitation, City of S. San Francisco (2006)

### Stormwater Systems

Baylands Stormwater Pump Station No. 2; Pump Station No. 1, City of Sunnyvale (2013 – 2017) (2006)  
Rehabilitation of Failed 96" Stormwater Corrugated Metal Pipe, Town of Moraga (2016)  
O'Connor Pump Station Improvement Feasibility and Design; Trash Capture Retrofit, City of East Palo Alto (2016 - 2018)  
Vista Bella Stormwater Pump Station Design, Half Moon Bay, Ruggeri-Jensen-Azar (2015)  
Citrix Stormwater Pump Station Design, Santa Clara, Kier & Wright (2014 – 2015)  
Silviera Stormwater Pump Station Design, Gilroy, Ruggeri-Jensen-Azar (2014 – 2015)  
Sears Point Stormwater Pump Stations Design, 2 Stations, Ducks Unlimited, Inc. (2014)  
Marsten Pump Station, City of Burlingame (2011); Hope Street Stormwater Pump Station - City of San Jose (2007)  
San Francisquito Creek Stormwater Pump Station, City of Palo Alto (2008)  
Blanco Drain Stormwater Pump Station, Monterey County Water Resources Agency (2008)

## Caitlin J. Gilmore, P.E., QSD/QSP, CPSWQ, LEED AP - Schaaf & Wheeler

### Education

BSCE, Civil and Environmental Engineering, California Polytechnic University, San Luis Obispo

MS, Environmental Engineering, University of Southern California

### License

Registered Civil Engineer, California C76810

### Certifications

LEED AP, QSD/QSP, CPSWQ



**Caitlin J. Gilmore, P.E., QSD, CPSWQ, LEED AP**, has 11 years of experience with trash capture, water quality, water supply and distribution, hydrology and hydraulics, stormwater systems, open channel design, bridge scour analysis and sea level rise design. Caitlin regularly prepares hydrology and water quality reports for EIRs of residential, commercial and urban/mixed-use projects. Caitlin is also accomplished in assessment and design of trash capture infrastructure; SWMP Inspection and Review; NPDES permit compliance, and storm system design. She is currently assisting several Bay Area cities

to comply with the Regional Municipal Permit Section C.10 to achieve their trash capture reduction goals. These projects include feasibility and design of trash capture devices. In the last 5 years, Caitlin has conducted more than 40 third party development plan reviews for different Bay Area Agencies and Developers. She is adept at conducting training workshops for BMPs and awareness of Federal, State and Bay Area Regulatory requirements related to urban developments and water pollution. Caitlin is proficient in MikeUrban, AutoCAD, StormCAD, FlowMaster, BAHM, HEC-RAS, HEC-HMS, HEC-1, and geoRAS.

### Relevant Projects:

#### Trash Capture

Trash Capture Design – City of Emeryville (2019)  
Large and Small Scale Trash Capture Design – City of Livermore (2018)  
Trash Capture Phase VI Preliminary Design and Design Support – City of San Jose (2018)  
Trash Capture Device Feasibility Study and Design – City of San Bruno (2017)  
Trash Capture Feasibility Study for Athlone Pump Station – County of San Mateo (2017)  
Trash Capture Design at Dore Avenue – City of San Mateo (2017-2018)  
Trash Capture Feasibility Study and Preliminary Design – City of South San Francisco (2016 – 2017)  
NPDES Trash Capture Feasibility Study and Trash Capture Design – City of Mountain View (2015 - 2016)  
Design of Trash Capture Device for Matadero Stormwater Pump Station – City of Palo Alto (2015-16)  
Design of Trash Capture Device for Coyote Stormwater Pump Station – City of San Mateo (2015-16)  
Trash Capture Feasibility Study for 5 Pump Stations – City of San Mateo – (2016)  
NPDES Trash Capture Feasibility Study – City of Livermore (2014)  
Esplanade Trash Capture Device – Cotton Shires & Associates/City of Pacifica (2013)

#### Water Quality/Environmental

Heritage House CEQA Hydrology and Water Quality Study – Napa County (2018)  
Green Stormwater Infrastructure Plan – City of Palo Alto (on-going)  
On-Call BART/VTA Extension NPDES Compliance and storm system review - Milpitas (2015-2017)  
Butterfield Village Detention and Stormwater Quality Design – Morgan Hill (2015-current)  
Stevenson and Mission Developments BAHM Modeling and HMP design – Fremont (2015)  
City of Palo Alto Library and El Camino Park 3<sup>rd</sup> Party plan review and inspection (2012-2015)  
City of Daly City Serramonte Mall 3<sup>rd</sup> Party C.3 Treatment Review and Inspection (2015-2018)  
North Gilroy Neighborhood Districts NPDES Compliance Analysis and Preliminary Design (2014-2017)  
Coyote Highlands Hydrology and Water Quality Study – San Martin (2013)  
San Sebastian Hydrology and Water Quality Study – Morgan Hill (2012)  
Cochrane-Borello Hydrology and Water Quality – David J. Powers & Assoc./City of Morgan Hill (2011)  
Freeman Quarry Erosion Control and Water Quality Review – Gilroy (2011)

#### Stormwater Systems Planning and Design

Woodside Storm System Inventory and Prioritized Repair and Replacement Program (2015)  
Milpitas Storm Drainage Master Plan - Milpitas (2014)  
Los Trancos Flood Remediation – Los Trancos Water District, Portola Valley/Kier & Wright (2011-2012)  
Baylands No. 2 Stormwater Pump Station – City of Sunnyvale (2011-2013)  
North San José Storm Drain Master Plan – City of San José (2011-2012)

#### Water Supply

San Jose General Plan Update UWMP Summary – San Jose (2016)  
Stanford Next GUP Water Supply Assessment – Leland Stanford Junior University (2015-2016)  
Moffett Gateway and El Camino Hospital Water Supply Assessment – Mountain View (2015)  
Kahakuloa Acres Water Supply System Modeling and Storage Tank Design – Maui (2012-2014)



## Logan N. Fox, P.E. – Associate Engineer - Schaaf & Wheeler

### Education

BS, Civil Engineering,  
Santa Clara University  
MS, Civil Engineering,  
San Jose State University

### Licenses

Registered Civil Engineer  
California C84797



**Logan N. Fox, P.E.** has more than six years of experience in potable water tank, pump station and pipeline design. He also specializes in wastewater and stormwater systems. Other design experience includes water well improvements. Logan Fox is proficient in assisting right from planning through design and construction support. He is skilled at utilizing AutoCAD for the preparation of project plans for capital improvement projects. He also conducts project feasibility assessments as well as hydraulic and hydrology studies.

### Relevant Projects

#### Water Delivery Systems

Lompico Tanks Replacement – San Lorenzo Valley Water District (2018-2019)  
Cherry Creek Pump Station – Town of Hillsborough (2017 – 2018)  
Conservation Center for Wildlife Care – Peninsula Humane Society/Lawrence Ellison Foundation (2016 – 2018)  
Gilroy Pump Station No. 5 Improvement – RJA/City of Gilroy (2015 – 2018)  
Probation Tank Replacement – Mesiti-Miller Engineering/San Lorenzo Valley Water District (2015 – 2016)  
Camp Saratoga Water System – Camp Saratoga (2014 – 2015)  
Well 30 Pump Replacement – Marina Coast Water District (2015)  
Well 5-02 Improvement – City of Santa Clara (2014)  
Assessment of City Wells – City of Santa Clara (2014)  
Pressure Reducing Valve Replacement – Valley Christain School (2014)  
McGregor Drive Pump Station – Soquel Creek Water District (2013 – 2015)  
Aptos Pump Station – Soquel Creek Water District (2013 – 2015)  
Hydropneumatic Tanks – CSG Consultants/Town of Hillsborough (2013)  
Northside Tanks Rehabilitation – City of Santa Clara, 2013  
Winchester Main Replacement – City of Santa Clara, 2013

#### Wastewater Systems

Dale Avenue Pump Station Rehabilitation – Stantec/City of San Mateo (2016 – 2019)  
38<sup>th</sup> Avenue and 41<sup>st</sup> Avenue Lift Stations Replacement – Stantec/City of San Mateo (2016 – 2019)  
Crestmoor and Lomita Pump Stations Replacement – City of San Bruno (2017 – 2019)  
East Basin Pump Station Rehabilitations – City of San Mateo (2016 – 2018)  
Lift Stations J and W Rehabilitation – City of Morgan Hill (2016 – 2018)  
Forcemain Flow Meter Cathodic Protection – JDH Corrosion Consultants/City of Milpitas (2016)  
42<sup>nd</sup> Avenue Pump Station Rehabilitation – City of San Mateo (2015 – 2018)  
Crown-Merrill Pump Station Replacement – Mesiti-Miller Engineering/UC Santa Cruz (2016)  
Cabrillo Avenue Main Replacement – City of Santa Clara (2013 – 2014)

#### Stormwater Systems

Poplar Avenue Pump Station Replacement – City of San Mateo (2014 – 2018)  
Rollins Area Pump Station Feasibility Study – City of Burlingame (2014)  
Stormwater Conveyance Facility Inventory and Analysis, and Prioritized Repair/Replacement Program – Town of Woodside (2014 – 2015)  
Westside Detention Basin Desilting – City of Santa Clara (2013 – 2016)  
Baylands Storm Water Pump Station No. 2 Rehabilitation – City of Sunnyvale (2013 – 2016)  
US-101 Storm Drain Crossing Feasibility Study – City of Burlingame (2013)

#### Hydraulics and Hydrology

Moraga Storm Drain Master Plan – Town of Moraga (2015)  
Old Canyon Road Bridge Foundation Repair – City of Fremont (2015)  
Westside Retention Basin Alternative Analysis – City of Santa Clara (2014)



## Josh C. Tabije – Assistant Engineer - Schaaf & Wheeler

### Education

BSCE, Colorado State University

Continuing Education, Construction & Energy Management, Cabrillo College

### Affiliations

American Society of Civil Engineers



proficient in HYDRA 6.0, HEC-RAS, StormCAD, FlowMaster, and HEC-2.

**Josh C. Tabije** has 11 years of experience in the areas of flood control and drainage, creek restoration, water distribution and supply, and physical and numerical modeling with HYDRA. In each of these areas, Mr. Tabije has been involved in site assessment, feasibility studies and construction document preparation. More recently, Josh has been providing construction management, Assistant Resident Engineer and Interim Resident Engineer responsibilities for two projects for the Marina Coast Water District. He is also

### Relevant Projects

#### Water Delivery Systems

Reservation Road Pipeline – Marina Coast Water District  
Soquel Drive Cast Iron Main Replacement - Soquel Creek Water District  
Oakhill Rd. & Poplar St. Main Replacement - Soquel Creek Water District

#### Construction Management & Inspection

City of San Mateo Levee Inspection - City of San Mateo  
Chualar Sanitary Sewer Rehabilitation - Monterey County Public Works  
3rd Avenue Water Main Extension – Marina Coast Water District  
New Garage – Castroville Community Services District  
Marina Sewer Improvements Construction Management – Marina Coast Water District  
D-E Reservoir & Hydro-pneumatic Pump Station Construction Management - Marina Coast Water District

#### Stormwater System Planning and Design

City of Palo Alto Storm Drain Master Plan  
City of Los Altos Storm Water Master Plan  
City of Santa Cruz Storm Water Master Plan  
Storm Drainage Design: Subwatersheds A8, B1, B4, C3 – California State University, Monterey Bay  
CSUMB Stormwater Master Plan – California State University, Monterey Bay  
City of Hollister Storm Drain Master Plan – City of Hollister  
Castroville Storm Drain Improvements – Bestor Engineers  
Cypress Point Country Club Storm Drain - Cypress Point Country Club

#### Water and Wastewater Systems Planning and Design

Reclamation Ditch Pump Station - Pure Water Monterey Groundwater Replenishment Project – E2 Consulting Engineers for Monterey Regional Water Pollution Control Agency – Monterey County, CA  
Potable Water System Improvements – Monterey Regional Waste Management District  
Sewer Lift Station and Force Main - Monterey Regional Waste Management District  
Plan Review - Marina Coast Water District  
3rd Avenue Water Main Extension – Marina Coast Water District  
George Chiala Farms Private Fire System Improvements - George Chiala Farms  
Sanitation Systems – Monterey County Public Works  
Castroville Community Plan – City of Castroville  
Fort Ord Valve Replacement Study – Marina Coast Water District

#### Hydrology and Hydraulics

Santa Rita Creek Site Hydrology – Monterey County Flood Control  
Orphan Residence Hydrology – John Lien Architecture  
Gates Property Hydrology – Robert Dewitt Engineering  
Highway 25 Hollister Bypass Drainage Design – Parsons Engineering

#### River and Stream Enhancement

Wrigley and Ford Creeks Dredging Design  
Iris Canyon Creek Reparation – City of Monterey



## Conor J. Murphy – Assistant Engineer - Schaaf & Wheeler

### Education

BSCE, Loyola Marymount University

MSCE, University of California, Berkeley

### Affiliations

American Society of Civil Engineers



**Conor J. Murphy** has experience in wastewater and potable water infrastructure modeling, design and construction support. He has experience in construction management, inspection and material testing. His academic work focused on potable water infrastructure design. Conor's modeling and design software knowledge includes AutoCAD, HEC-HMS, HEC-RAS, EPANET, Visual MODFLOW, and Matlab.

### Relevant Projects

#### Water and Wastewater Systems Planning and Design

San Lorenzo Valley Water District – Lompico Water Tank Replacements (2019)

Anderson Dam Seismic Retrofit—Santa Clara Valley Water District (2018)

Garden Road Re-Zone-Sewer and Storm Capacity—EMC Planning Group (2018)

Sywak Property Sewer Study—Alexander Sywak (2018)

Pouge Residence Pump Station (2018)

San Mateo Pump Stations—City of San Mateo (2018)

San Benito County Fair Fire Flow Improvements—California Fairs Financing Authority (2018)

September Ranch Water and Wastewater Civil Design—Carmel Reserve (2018-2019)

Valley Gardens Fire Flow Analysis—Robson Homes (2018)

Farmworker Housing Wastewater Service Extension Project—Monterey One Water (2017)

Pure Water Monterey Groundwater Replenishment Project—Monterey Regional Water Pollution Control Agency (2017)

Ord Village Lift Station—Marina Coast Water District (2017-2019)

Casa Boronda Sewer Capacity Analysis—Whitson Engineers (2017)

Redhunt Sanitary Sewer Lift Station—Whitson Engineers (2017)

#### Construction Management & Inspection

Las Palmas Ranch Drainage Report—Las Palmas Ranch Master Association No. 2 (2017)

Spokane International Airport Taxiway Reconstruction—Spokane International Airport (2015)

Rowan Ave Pipeline and Roadway Reconstruction—City of Spokane (2015)

#### Materials Testing

Work on gradations of aggregates for concrete and asphalt—Central Pre-Mix Concrete Co. (2012-2013)

Testing concrete for air and slump both on site and in lab—Central Pre-Mix Concrete Co. (2012-2013)

#### Student Projects

Design of dam, reservoir, and water treatment plant in San Bernardino, CA—Loyola Marymount University

Surveying and drafting project of campus dormitory—Loyola Marymount University





*Paul Giorsetto, P.E., LEED AP - Vice President*

*Experience*

Paul Giorsetto, a licensed engineer since 1984, has extensive design experience in the areas of electrical power distribution, electrical industrial applications, control systems, and instrumentation. His specific experience includes electrical system modeling and planning; medium and low-voltage electrical distribution designs of water, wastewater and industrial waste treatment facilities; plant instrumentation; and SCADA systems for in-plant and telemetry-based systems.

Education  
MBA, University of CA, Berkeley, 1988  
MS, Electrical Engineering and Computer Science; University of CA, Berkeley; 1980  
BS, Electrical Engineering and Computer Science; University of CA, Berkeley; 1978

Professional Registrations  
Electrical: CA, WA, NV, HI, WY, CO, OR, AZ, ID, AK  
PE: UT, NM, WI, OH  
Control Systems: CA  
LEED Accredited Professional

Professional Memberships  
Institute of Electrical and Electronics Engineers  
Instrumentation, Systems, and Automation Society



- *SCADA System Improvements; Marina Coast Water District, Marina CA; Project Manager.* Developed SCADA system rehabilitation, implementation, and standardization strategies. The existing system suffered from a variety of chronic radio system failures, poor remote site component performance, absence of standardization strategies, and lack of hardware or software documentation procedures. This effort included development of standardized remote telemetry unit bid specifications for new construction, associated submittal requirements, radio path analysis for converting from 900-MHz unlicensed to 450-MHz licensed radios, control strategy and programming standards, and "quick fix" design for addressing system failure symptoms before development of the systemwide Master Plan.
- *Arc Flash Hazard Assessment, Monterey Regional Water Pollution Control Agency; Marina, CA; Project Manager.* TJCAA provided an arc flash hazard analysis for MRWPCA's remote lift and pump stations. The study analyzed 51 sites, determined the risk of an arc flash at each facility, developed recommendations for improvements to reduce or eliminate the identified risks. Using SKM PowerTools®, TJCAA prepared models for each site, analyzing existing equipment ratings, protection, device coordination, and arc flash levels. TJCAA made recommendations for equipment upgrades and protective device settings to improve coordination and/or reduce arc flash energy and established documentation.
- *Graham Hill Water Treatment Plant Electrical Improvements Project; City of Santa Cruz Water Department, Santa Cruz, CA; Project Engineer and TJCAA Project Manager.* Renovation, expansion, and improvements to the electrical distribution system at the City's main Graham Hill WTP. This project included verification and design validation to establish the conceptual approach. Final design for upgrades to the electrical system included a new utility 21-kV primary service, 480-V main-tie-main switchgear with source transfer logic, remote switchgear console for arc-flash considerations, 1,500-kW engine-generator set, and a dedicated electrical building.
- *Pressure Zones 2 and 3 Pump Station Improvements; Dublin San Ramon Services District, Pleasanton, CA; Project Engineer and TJCAA Project Manager.* Project Lead electrical and I&C engineer for preliminary design, final design, and construction services for electrical and mechanical renovations at four drinking water pump stations. Work included field inspections, conceptual approaches, use of reduced voltage starters for hydraulic surge control, replacement of all electrical equipment, and interfacing to DSRSD's radio-based SCADA system. This project also resulted in relocating several PG&E service points at each pump station and developing bid documents to incorporate a sole-sourced DSRSD programmer for performing SCADA system upgrades.
- *Rinconada Water Treatment Plant (WTP) Reliability Improvement Project; Santa Clara Valley Water District; Los Gatos, CA; I&C and Electrical Discipline Lead.* Oversaw the electrical engineering and control systems design work for the \$180 million water treatment plant modernization. ICE design included new 12-kV distribution, arc flash protection strategies, a new 3-MW diesel standby generator, and new distributed motor control centers with smart motor starters and variable frequency drive (VFD) equipment. I&C design incorporated a new distributed programmable logic controller (PLC) architecture coordinated with construction phasing and new processes. Final design included over 400 electrical, instrumentation, and controls design drawings.



## Richard K. Thow, S.E. - Associate

### Experience

Richard Thow has worked in the structural design and seismic evaluation fields since 1986. He has designed and evaluated facilities including water treatment plant (WTP) structures, wastewater treatment plant (WWTP) structures, bridges, chemical storage facilities, pump stations, and storage tanks/reservoirs. Mr. Thow's experience also comprises extensive evaluation and analysis for nuclear facilities, including regulatory interpretation and compliance, structural evaluation, and facility design and modification. His specific project experience includes the following:

#### Education

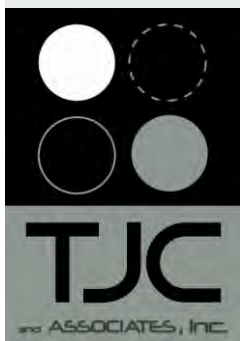
BS, Civil Engineering, with honors; University of Abertay, Scotland; 1986

#### Professional Registrations

Structural: CA  
Civil: CA

#### Specialized Training Certification

Confined Space Entry: CA



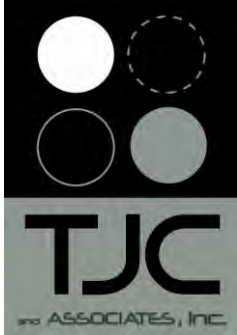
- *WWTP Expansion; Delta Diablo, Antioch, CA; Project Engineer.* Structural engineering support for design of a 12.2-mgd plant expansion to provide recycled water. Specific elements included filters, clarifiers, chlorine contact basins, and a 1.8-MG steel reservoir.
- *T4 3-MG Water Tank and Booster Pump Station Project; City of Fresno, CA; Project Engineer.* Engineering services during construction on behalf of the City of Fresno for design-build of DN Tanks 3-MG prestressed concrete water tank.
- *Alta Vista Tank No. 2; Montara Water and Sanitary District, Montara, CA; Project Engineer.* Engineering services during construction on behalf of the Montara Water and Sanitary District for design-build of a DN Tanks 0.5-MG prestressed concrete water tank. Provided on-site inspections.
- *Donnelly Reservoir Refurbishment; City of Burlingame, CA; Project Engineer.* Structural consulting services in support of two existing welded steel tanks.
- *Clayton Regency Potable Water Storage Project; Contra Costa County, CA; Project Engineer.* Structural consulting services for a 1-MG bolted steel water tank.
- *Rinconada WTP Reliability Improvement Project; Santa Clara Valley Water District; Los Gatos, CA; Project Engineer.* Structural design for a new ozone generation building, LOX facility, flocculation/sedimentation basins, filters, wastewater recovery facility, chlorine contact basin, elevated concrete platform.
- *Wet Weather Facility Upgrade; City and County of San Francisco Department of Public Works, San Francisco, CA; Project Engineer.* Seismic evaluations and retrofit designs for a conceptual design report for the upgrade of the North Point Wet Weather Facility.
- *Northern Dougherty Valley Zone 3 Potable Water Facilities Reservoir 300B and Pump Station 300C; Dublin San Ramon Services District, CA; Project Engineer.* Engineering services during construction of a 1.5-MG, prestressed concrete potable water storage tank and masonry block pump station. Structural elements of this project were not designed by TJCAA.
- *Drinking Water Improvement Project; City of Folsom, CA; Project Engineer.* Engineering for the design of a 10-mgd WTP expansion. Specific elements included Actiflo pretreatment structure, filters, and partially buried, prestressed concrete chlorine contact tank. Provided engineering services during construction.
- *McCloud Reservoir Assessment; City of Pleasanton, CA; Project Manager.* Assessment of a 2-MG, prestressed, cast-in-place concrete tank. Developed retrofit recommendations.
- *Advanced Flootation Tank Replacement Project; City of Sunnyvale, CA;*

*Design Engineer.* This structural evaluation included field investigation of tank vulnerability to seismic events. The final design required sequencing considerations to maintain plant operations throughout the various tank retrofits, maintaining at least two tanks in operation at all times.

- *Ridgemark WWTP Expansion; Sunnyslope County Water District, Ridgemark, CA; Design Engineer.* Structural engineering support for modification and expansion of the headworks, membrane bioreactors, blower building, and solids handling storage tank on a fault rupture site.



Education  
BS, Electrical  
Engineering;  
University of  
CA, San  
Diego; 2004



## Helen Tran - Senior Controls Technician

### Experience

Helen Tran is an automation engineer with nearly 15 years' experience in instrumentation and controls (I&C) and system integration. She has performed a variety of electrical and I&C designs for process equipment and utility systems. With a background in the electric power, biotechnology, and water treatment industries, Ms. Tran applies practical knowledge in design, documentation, programming, and configuration of control system hardware and software components. She is adept at interpreting client processes and operations; planning, design, and implementation of automation; and providing support for system integration projects under a variety of automation hardware and software platforms.

- *Control System Expansion Project; White Slough Wastewater Treatment Plant (WWTP), City of Lodi, CA; Senior Controls Technician.* Design and engineering support for new control system facilities for the White Slough WWTP for the City of Lodi. Work included facility reconnaissance and inventory, development of conceptual level design, establishing new control system design criteria and standards, and preparation of new control system phased installation prepared to match the City's existing annual budget allocations. The approach applied new Rockwell Automation-based hot standby ControlLogix processors allocated along geographic areas of the plant. Remote I/O drops were also incorporated to reuse existing wiring to the plant's obsolete SLCs and programmable logic controller (PLC) 5 hardware.

- *WWTP; City of Malibu, CA; Senior Controls Technician.* Design and system integration/programming including operator interface terminal (OIT) graphics development for the City of Malibu's new greenfield WWTP and collection system. Ms. Tran's efforts include new OIT graphics using PanelView hardware and software, configured to match the main plant look and feel of the graphics developed under the main plant Ignition software. This project I&C design incorporates distributed controls based on Rockwell Automation PLCs and integration of control platforms provided by process package suppliers. Remote lift

stations and injection wells featured stand-alone PLC controls interconnected to the WWTP via a new fiber-optic cable system installed with new collection system pipelines.

- *Glen Park Pump Station Improvements; City of Brisbane, CA; Electrical Designer.* Work included field inspections, development of conceptual approaches, use of reduced-voltage starters for limiting motor inrush and hydraulic surge control, replacement of all electrical equipment, new utility service, and interfacing to the City's radio-based SCADA system. Project included dual main breakers in the switchboard and motor control center to limit risk from arc flash hazards. New facility also included new standby engine generator with sound attenuation to limit impacts on neighboring residences.

- *Design/Build SCADA System; City of Brisbane, CA; Project Manager.* City water and wastewater facilities rely on an obsolete Telekey telemetry system installed in the early 1990s; Telekey is no longer in business and the City has been operating without technical support or access to spare parts. TJCAA was tasked with developing a design/build preliminary design document that could be used to obtain proposals for replacing the obsolete SCADA system. Ms. Tran is performing site reconnaissance; managing a radio path survey; establishing system-wide SCADA hardware, software, and control panel design criteria; and developing a quantitative method for design/build proposal evaluation and selection. Work also includes support during construction, consisting of technical review of designer/builder design and equipment submittals, witness testing, construction observation, and assistance during startup.

- *SCADA System Standards; City of Bend, OR; Control System Designer* Prepared a set of new SCADA standards for use by the City on upcoming design projects. New standards consisted of establishing equipment and SCADA tagging specifications, PLC programming requirements and techniques, and human-machine interface (HMI) graphic development. Work included document review, facilitating development and needs assessment workshops for each of the three new standards, and developing the formal standards documents. Ms. Tran was the lead standard developer for the PLC standard, which was prepared based on Rockwell Automation PLC characteristics, add-on-instructions, program structure, and program documentation.



## Scott E. Fitinghoff, P.E., G.E. Principal Engineer

Scott E. Fitinghoff, P.E., G.E., Principal Engineer, has over 32 years of experience in geotechnical engineering. He has performed geotechnical investigations for pipelines, pump stations, water storage tanks, parks and recreation projects, hospital and health care facilities, commercial facilities, public works, energy, retail, institutional (K-14 school and university) and residential projects throughout the San Francisco Bay Area and California. Mr. Fitinghoff has significant experience in foundation design, excavation shoring and dewatering, soil stabilization, earthwork operations, geologic hazards evaluations, liquefaction analysis, ground improvement, slope stability, pavement design and rehabilitation, and geotechnical value engineering.

Mr. Fitinghoff's expertise in foundation analysis includes the design and analysis of both shallow and deep foundations for complex projects, including wet wells, shallow footings, conventional and post-tension mat foundations, driven concrete and steel piles, augercast piles, micropiles, and large diameter drilled shafts. Mr. Fitinghoff's experience also includes projects with significant ground improvement programs.

- Relevant Project Experience
- Two 2MG Water Reservoirs and Booster Pump Stations, Marina Coast Water District, Marina, CA
- Boys Ranch Water Tank and Pipeline, Morgan Hill
- Edmondson Water Tank and Pipeline, Morgan Hill
- Glen Park Pump Station Upgrades and Tank Improvements, Brisbane
- Cherry Creek Water Pump Station, Hillsborough
- Ocean Colony Pump Station and Force Main, Half Moon Bay
- Crestmoor-Lomita Pump Stations, San Bruno
- Mitten Sanitary Pump Station Force Main, Burlingame
- Shoreline Sewage Lift Station, Mountain View
- Chrysler Pump Station Rehabilitation Phase B, Menlo Park
- Coyote Point – Poplar Avenue Pump Stations, San Mateo
- Rollins Road Pump Station, Burlingame
- Marsten Pump Station, Burlingame
- City of Alameda Sewer Pump Stations, Alameda
- Mariner's Island Pump Station, San Mateo
- Victor Pump Station, Santa Clara
- Main Sewage Pump Station, Milpitas

### Education

Master of Science, Geotechnical Engineering, University of California at Berkeley, 1989

Bachelor of Science, Civil Engineering, San Jose State University, San Jose, 1987

### Professional Registrations

Registered Civil Engineer: No. 48261, State of California

Registered Geotechnical Engineer: No. 2379, State of California

### Professional Organizations

ASCE - American Society of Civil Engineers

CELSOC - Consulting Engineers and Land Surveyors of California

U.C. Berkeley Geotechnical Society

### Teaching Experience

Part-time Faculty in Civil Engineering at San Jose State University, Spring 2006, 2007, and 2008, taught Soil Mechanics



## Nicholas S. Devlin, P.E. Senior Project Engineer

Nicholas S. Devlin, P.E., Senior Project Engineer, has over 13 years of experience in geotechnical engineering. He has performed geotechnical investigations for commercial, public works, school district, residential and energy projects throughout the San Francisco Bay Area and California. Mr. Devlin also has experience in deep foundations, pavement rehabilitation, excavation shoring and dewatering, soil stabilization, earthwork operations, seismic design, liquefaction analysis, ground improvement, and slope stability.

Mr. Devlin has been involved in a wide variety of civil and geotechnical engineering projects. Included in his background is the development of recommendations for many linear infrastructure projects including open-cut excavations, shoring, dewatering, trenchless installations, jacking criteria, backfill criteria, and pavement design and evaluation.

### Select Project Experience

Mr. Devlin's representative local experience includes the following projects.

- EBMUD Digester Upgrades, Oakland
- Glen Park Pump Station/Tank Facility Improvements, Brisbane
- Laurelwood/Victor Stormwater Pump Station Renovation, Santa Clara
- Chrysler Pump Station Rehabilitation Phase B, Menlo Park
- City of Alameda Sewer Pump Stations Upgrades – Phase 4, Alameda
- Crestmoor-Lomita Pump Stations, San Bruno
- College Avenue Pump Station, San Bruno
- Poplar Pump Station Trash Capture Devices, San Mateo
- Ocean Colony Pump Station and Force Main, Half Moon Bay
- Cherry Creek Water Pump Station, Hillsborough
- Matadero Creek Storm Water Pump Station, Palo Alto
- Sanitary Sewer Lift Station Rehabilitation, San Mateo
- North Road Pump Station Rehabilitation Project, Belmont
- Citywide Trash Capture Project, Mountain View
- Trash Capture Devices Project No. 2, Sunnyvale
- Trash Control Units, Oakland
- Livermore Trash Capture Devices Project, Livermore
- Leong Drive Water & Sewer Mains Replacement, Mountain View
- Santa Clara Flow Meters and Outfall Structure, San Jose

### Education

Master of Science, Geotechnical Engineering, University of California Berkeley, 2011

Bachelor of Science, Civil Engineering, San Jose State University, San Jose, 2006

### Professional Registrations

Registered Civil Engineer:  
No. 75613, State of California

### Professional Organizations

ASCE - American Society of Civil Engineers  
U.C. Berkeley Geotechnical Society

### Recent Professional Education

Cone Penetrometer Testing (CPT) Training (2007)  
APACA Hot Mix Asphalt (HMA) Design Course (2008)  
ASCE Rock and Slope Stability Course (2008)  
AIA Professional Development Certification (2009)



**CHARLES PUGH, PLS | Land Surveyor**



**California Licensed Land Surveyor #9167**

**EDUCATION:** B.S. – Earth Systems Science and Policy  
CSU at Monterey Bay, Seaside, California

**QUALIFICATIONS:**

Fourteen years of experience performing most types of general land surveying practices including: boundary, topographic, A.L.T.A., land division, photogrammetric control, mapping, construction staking and legal description preparation. Sixteen years of experience using Real-Time GNSS.

**REPRESENTATIVE PROJECT EXPERIENCE:**

- **Marina Coast Water District – Well Lot 33** – Performed aerial mapping and surveying associated with pre-design planning for a 2.6 mile main extension and well site.
- **Seaside County Sanitation District 2012 CIP Projects** – Provided topographic mapping, utility locating and legal description preparation.
- **Monterey County Water Resources Agency – Salinas River Diversion Facility** – Provided construction staking and boundary surveying related to the diversion facility on the Salinas River.
- **Santa Cruz County Sanitation District – Aptos Transmission Main** – Managed project construction staking and land surveying for 3.5 miles of sewer main and pump stations.
- **Monterey County - San Jerardo Water System Aerial Topographic Mapping** – Provided aerial topographic mapping and right of way mapping for 2.6 miles of the water transmission line corridor and treatment facilities.
- **Carmel Area Wastewater District - Reverse Osmosis Treatment Facility** - Provided construction staking for the reverse osmosis treatment facility at Carmel Area Wastewater Treatment Plant.
- **Santa Cruz County Sanitation District – 2006-2012 CIP** – Provided project topographic surveying, right-of-way mapping and legal description preparation for 12 miles of sewer main replacement at various locations.
- **Pebble Beach Community Services District – Forest Lake Reservoir** – Provided construction staking and settlement monitoring of reservoir dam embankments.
- **Pebble Beach Community Services District – On-Call Surveying** – On-call surveying for all PBCSD projects, including drafting of legal descriptions and plats, right-of-way surveying, water tank and pump station surveying and staking.
- **Golden State Vintners – Wastewater Storage Tank** – Provide topographic, right of way and construction staking for storage tank and 0.25 mile main extension on State Route 146.
- **Granite Construction, Inc. - U.S. Route 101/ Alta Street Interchange Improvements** – Highway and County road control surveying, right of way mapping and construction staking for 5 miles of road improvements.
- **Monterey County Public Works – Boronda Area Storm Drain – Fontes Lane and Hyland Drive** – Provided topographic, utility and boundary surveying for the Storm Drain Master Plan.
- **Monterey County Public Works – On-Call Surveying** – On-call surveying for Monterey County Public Works department.
- **Salinas Valley Solid Waste Authority – Crazy Horse Landfill** – Provided construction staking and as-built surveying for gas collection system associated with landfill closure.

**PROFESSIONAL ORGANIZATIONS:**

California Land Surveyors Association



## Denise Duffy

Principal

### Education

Bachelor of Arts,  
Environmental Studies,  
University of California  
at Santa Barbara, 1979

### Work Experience

*Principal/President, DD&A,  
Inc.*

*Senior Manager/  
Environmental Planner,  
EMC Planning*

*Assistant Planner, City of  
Fresno*

*Intern, California  
Department of  
Fish and Game*

### Professional Affiliations

American Planning  
Association

Association of  
Environmental  
Professionals (AEP)

National Environmental  
Policy Act  
(NEPA) Professionals

Planning & Conservation  
League

### Additional Affiliations/ Volunteer Experience

*Guest Lecturer/Speaker for  
Monterey College of  
Law, California State  
University*

*Vice President, Board of  
Santa  
Lucia Conservancy*

*Past Board Member of:  
Big Sur Land Trust  
Monterey Open Space  
Trust*

*Monterey Federal Credit  
Union*

Denise Duffy is founder and president of the company, and has extensive experience in public involvement, environmental analysis, project management, entitlement processing, and interagency coordination. Ms. Duffy is a leader in the field of land use planning and environmental and public policy in the Central Coast area. She brings over 30 years of experience in CEQA and NEPA processing, public involvement, and project management for major infrastructure studies. Ms. Duffy has prepared, managed and participated in hundreds of environmental analyses and reports including EIRs, EAs, EISs and IS/MNDs. Ms. Duffy's experience includes environmental reports and analysis that have been conducted for and/or been accepted by a variety of State and Federal agencies. Her experience qualifies her as project manager, development expert, and land use consultant for major facility and planning projects in California.



Ms. Duffy has extensive experience managing and authoring environmental assessment documents for private and public developments and in the management of complex water resource planning processes for large transportation planning projects. Her recent project experience includes preparing EIRs under CEQA and Environmental Assessments under NEPA for major infrastructure projects for Caltrans, the Marina Coast Water District, the Santa Clara Valley Water District, the Monterey Peninsula Water Management District, the Department of Water Resources, the Fort Ord Reuse Authority, the Carmel Area Wastewater District, the Pebble Beach Community Services District, and other agencies. Past project experience includes preparation of environmental documentation for Department of Water Resources and California-American Water Company. Ms. Duffy has extensive experience in public involvement, including the development of policy consensus in planning projects; she has worked in a variety of positions that require governmental cooperation and citizen involvement.

### Project Experience:

#### Water Infrastructure Projects:

- *Regional Urban Water Augmentation Project, Marina Coast Water District*
- *Eastern Distribution Water System Initial Study, Marina Coast Water District*
- *Coastal Water Project, Regional Desalination Plant NEPA Compliance, for Marina Coast Water District and United States Bureau of Reclamation*
- *Three Way Recycled Water Agreement, Marina Coast Water District*
- *Regional Water and Reclamation Project EIR, former Fort Ord and Marina*
- *Pure Water Monterey/Groundwater Replenishment Project, Monterey One Water*
- *Holly Hills Initial Study/Notice of Exemption, Pajaro/Sunny Mesa Community Services District*
- *Well 52 and Tie In, CEQA Preparation, Santa Lucia Preserve Community Services District (CSD)*
- *Lessalt Water Treatment Plant Initial Study, City of Hollister*
- *San Lorenzo Water District Monitoring Work*
- *San Clemente Dam EIR, State Department of Water Resources*

#### Wastewater Infrastructure Projects:

- *Outfall Brine Disposal Agreement, Marina Coast Water District*
- *CAWD/PBCSD Wastewater Reclamation Project, Carmel Area Wastewater District and Pebble Beach Community Services District*
- *CAWD Sphere of Influence Amendment, Carmel Area Wastewater District*
- *Carmel Highlands Onsite Wastewater Management Plan, Initial Study, Monterey County Health Division*
- *CAWD Reclamation Project EIR, Carmel Area Wastewater District*
- *City of Hollister Wastewater Treatment Plant Negative Declaration*



## Erin Harwayne, AICP

### Senior Environmental Scientist / Planner / Project Manager

#### Education

Bachelor of Science, Earth Systems Science & Policy (Marine and Coastal Ecology), California State University Monterey Bay, 2000

Continuing Education, Land Use/Natural Resources Topics, through University of California Extension Program and CLE International

#### Work Experience

*Senior Environmental Scientist/ Planner/ Project Manager, DD&A*

*Research Assistant, Monterey Bay National Marine Sanctuary*

#### Professional Affiliations

Member, Association for Environmental Professionals

Member, American Planning Association

Member, California Native Plant Society

#### Registrations/Certifications

American Institute of Certified Planners (AICP)

CEQA and NEPA Intensive Workshop Certifications

Fairy and Tadpole Shrimp Identification Class and Service Test Certification

PADI Certified SCUBA Diver

Service Federal Recovery Permit No. TE-091857-0 - California tiger salamander

DFG Research Permit for Listed Plant Species No. 04-08-RP - Sand gilia

DFG Scientific Collection Permit No. CS-007722 - Aquatic invertebrates

With over 18 years at DD&A, Erin Harwayne, AICP, has extensive experience in managing complex projects where interagency coordination, resource management, and public outreach were integrally important. Ms. Harwayne has managed and prepared numerous environmental documents in compliance with CEQA and NEPA for a wide variety of projects involving educational facilities, natural resources management, water supply and distribution, military base reuse, public works, and transportation and transit infrastructure. She has experience preparing all types and levels of environmental documents. Integrating her extensive background in ecology with land use planning, Ms. Harwayne utilizes an innovative approach toward solving complex environmental issues.



Her technical capabilities are as follows:

- Facilitating Public Meetings, Community Workshops, and other outreach programs to solicit public opinion for development and infrastructure projects.
- Excellent communication and presentation skills
- Adeptness in regulatory permitting processes, including Clean Water Act Section 401 and 404, California Department of Fish and Wildlife (DFW) 1602 Lake and Stream Alteration Program, Federal Endangered Species Act Section 7 consultation and Section 10 permit processes, California Endangered Species Act Section 2081 Incidental Take Permits, and Coastal Development Permits.
- Management and preparation of environmental documents in accordance with CEQA and NEPA requirements and local, state, and federal policies and regulations.
- Experience in conducting wetland delineations per United States Army Corps of Engineers (ACOE) and California Coastal Act criteria.
- Expertise in the environmental review processes for the California State University and University of California systems
- Highly skilled in technical writing and editing
- Expertise in preparing scopes, managing sub-consultants, and keeping projects within established budgets and timeframes

#### Project Experience:

##### Water Facilities Projects:

- *Regional Urban Water Augmentation Project, Marina Coast Water District*
- *Tank Design and Improvements Project EA/IS, MCWD*
- *Water Supply Master Plan EIR, MCWD*
- *Endangered Species Act Educational Workshop/Staff Training, MCWD*
- *Recycled Water Project Biological Assessment – MCWD & U.S. Bureau of Reclamation*
- *Monterey Bay Regional Desalination Project Biological Assessment – MCWD, Cal-American Water, and U.S. Bureau of Reclamation*
- *Castroville Storm Drain Master Plan Improvements Project – Monterey County Department of Public Works*





**PAUL W. DAVIS, AIA**  
Architect

**Licensed Architect**  
C-15182 California

1984

**Bachelor of Architecture**

California Polytechnic State University, San Luis Obispo

1982

**PROFESSIONAL EXPERIENCE**

Paul W. Davis has been a licensed architect for 35 years, first as a Project Architect for Davis, Jacobowsky, Hawkins and Walker Associates, Inc. and now as a The managing partner in his own firm. His experience with projects includes commercial, office, hotel/motel, industrial, institutional buildings, custom and multi-family residential. With his background in all facets of design and construction on a variety of projects, he is capable of offering skills from Conceptual Development thru Construction Administration.

**PROFESSIONAL EXPERIENCE**

**The Paul Davis Partnership**, 1987-present, Managing Partner/Principal Architect  
**Davis, Jacobowsky, Hawkins & Walker Associates, Inc.**, 1982-1987, Project Architect  
**California State University Monterey Bay**, 2002-present, Consulting Campus Architect

**PROFESSIONAL AFFILIATIONS**

**American Institute of Architects**, Monterey Bay Chapter, 1988-present  
Vice President, 1990  
Treasurer, 1989  
Secretary, 1988  
MBAIA Honor Awards Chairman  
Director, 1992  
President, 1991

**California Council, American Institute of Architects**, Board Member, 1991-1993

**U.S. Green Building Council**, Member , 2006-present

**Construction Specification Institute**, Member, current

**International Conference Of Building Officials**, Professional Member, current

**BOARDS/COMMISSIONS**

**Planning Commission**, City of Monterey  
Chair - 2002-2017, 2004-2005 , 2011-2012  
Vice Chair - 2003-2004, 2010-2011

**Historic Preservation Commission**, City of Monterey  
Served as Chair & Vice Chair, 1992-2002

**General Plan Update Committee**, City of Monterey, 2002-2004

**Old Monterey Business Association**, Board Of Directors, 1999-present

**Architectural Review Board**, Sand City, Chair, 1998-present

**Architectural Review Committee**, City of Marina, 1990-1998

**CIVIC/GOVERNMENTAL/ COMMUNITY SERVICE**

**Leadership Monterey Peninsula**, 1982  
Director, Alumni Association, 1987-1988  
President, Alumni Association, 1983-1984

**Monterey Peninsula Jaycees**, 1983-1993  
Chairman of the Board, 1987-1988  
President, 1986-1987  
Management Development Vice President, 1985-1986  
Membership Director, 1984-1985

**Mariposa Hall, Inc.**, 1988-1992  
Member, Board of Directors, 1991-1992  
President

**Old Monterey Foundation**, Member, present

**Pacific Grove Museum of Natural History**, Board Member, 2013-present

**Monte Vista Elementary School – Site Council**  
Chair, 1995-1999



**PAUL W. DAVIS, AIA**  
Architect

**Monterey Peninsula School District**

Regional Occupational Program Construction Advisory Committee

**Monterey Academy of Oceanographic Sciences,  
Monterey High School**

Board Member – Friends of MAOS, 2004- 2007

**Mayflower Presbyterian Church, City Of Pacific Grove**

Elder, 1962-present

Chairman, Stewardship Committee, 2017-present

Sunday School Coordinator, 1995 – 2001, 1989-2001, 1985-1987

**Cypress Coast Bank, Board of Directors, 1994-1996**

**Family Service Agency, Board of Directors, 1995-1997, 1984-1990**

President, 1987-1988

Vice President, 1986-1987

**United Way, 1984-1996**

Campaign Volunteer, 1988-1994

Member, Board of Directors, 1989

Campaign Chairperson, 1988

Assistant Campaign Chairperson

**PROJECT AWARDS**

**Castroville Castro Plaza and Library**

2008 Public/Private Economic Development Partnership Award

Monterey County Business Council

**Sherwood Village Affordable Seniors Community, Salinas for CHISPA**

2009 HAHB Best of 50+ Housing Award Finalist

**286 El Dorado Street The Paul Davis Partnership Office & Residence**

2002 Award of Merit, Mixed-Use Category

**Beach House Inn, Half Moon Bay**

1998 Gold Nugget Best in the West, Award of Merit – Best Specialty Project

**Watsonville Youth Center - Watsonville**

1994 Award of Merit from The Santa Cruz Organization for Progress and Euthenics

**Fort Ord Reuse Plan and Environmental Impact Report**

1997 Outstanding Planning Award, American Planning Association

**Greenfield Downtown Improvement Program**

-2001-02 Ahwahnee Award, Certificate of Merit presented by the Local Government Commission

-2002 California Downtown Association "Crystal Eagle" Award presented to the Greenfield Redevelopment Agency, honoring achievement in physical improvement

**Monterey Regional Waste Management District New materials recovery facility (MRF) 1996 "Steel**

Building of the Year Award" by Systems Builders Association

**The Hotel Pacific - Monterey**

1988 Award of Merit from the American Institute of Architects Monterey Bay Chapter

**PROFESSIONAL AWARDS**

**Outstanding Young Citizen of the Year**

Monterey Peninsula Jaycees, 1988

**Key Member of the Year**

Monterey Peninsula Jaycees, 1987-1988



## **Appendix – Key Sub-Consultant Scopes**

Enclosed are the scopes of work for the Environmental, Structural and Electrical/Instrumentation sub-consultants.



## **Denise Duffy & Associates, Inc.**

PLANNING AND ENVIRONMENTAL CONSULTING

### **DD&A Proposal and Cost to Prepare the Environmental Documentation for the A1/A2 Reservoirs and B/C Booster Pump Station Project**

#### **INTRODUCTION**

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The following work program to be performed by DD&A is based on our review of the applicable sections of local, state and federal environmental guidelines and existing materials.

The scope of work includes the following tasks: 1) Project Initiation and Review of Available Data; 2) Field Surveys; 3) Preparation of Biological Resources Report; 4) Preparation of administrative Draft IS/MND; 5) Response to Public Comments and Preparation of Final IS/MND; 6) Preparation of Mitigation Monitoring Report, and; 7) Attendance at Public Hearing. In addition, this scope includes two optional tasks: Preparation of Archaeological Report and AB 52 Consultation and Air Quality and Greenhouse Gas Emissions Modeling.

#### **PROJECT UNDERSTANDING**

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The project involves the replacement of the existing B/C booster pump station and existing sand tank with a new B/C booster pump station, modification to the wellfield chlorination system on Old County Road, and new A1/A2 storage tanks. The existing pump station and sand tank have been in use since the 1950s when they were initially built by the U.S. Army.

MCWD has obtained easements from California State University Monterey Bay (CSUMB) to allow for the construction of the new A1/A2 tanks and the B/C booster pump station. Additionally, the existing B and C transmission mains will be repurposed for the project. The project proposes to convert part of the existing C zone transmission main to an A zone transmission main and to connect to the existing A zone piping in order to bypass the Sand Tank and existing booster pump station.

#### **WORK PLAN**

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##### **Task 1. Project Initiation and Review of Available Data**

DD&A will initiate the project by consulting with Schaaf & Wheeler and MCWD to obtain pertinent reports, project information, and needed design plans. Project initiation will include the following tasks:

- Review of additional available background information,
- Conduct initial project management and subconsultant coordination,
- Attend a kick-off meeting with the project team to discuss the project documentation approach and finalize the scope of work,
- Identify data and documentation needs,
- Confirm format, quantities and distribution of deliverables, and
- Establish schedules and protocols for communication.

DD&A assumes maximum use of available data for this analysis. Review of additional available background information will including the existing condition and impact evaluation information available from the Fort Ord Reuse Plan Final Environmental Impact Report (Volume Four) (1997), 1997 Installation-wide

Multispecies Habitat Management Plan for Former Fort Ord, the most recent available draft Fort Ord Habitat Conservation Plan (HCP) and supplemental resource studies, recently completed area biological and traffic studies, and other available environmental studies and/or EIRs. During this task, DD&A will complete review and assessment of the information already available and identify any outstanding data needs.

## **Task 2. Field Surveys**

DD&A will visit the sites to assess the environmental conditions of the sites and its surroundings. DD&A will collect, compile, and refine data needed to complete the environmental documentation. Where applicable, the data assembled will be incorporated into a Geographic Information System (GIS) database to assist in the environmental evaluation. Data gathered as part of this task will be reviewed and used to develop a comprehensive picture of the environmental resources that may be affected by the proposed project.

*NOTE: DD&A is conducting spring and summer survey efforts under a separate contact with MCWD due to need to complete survey efforts during the proper blooming periods. The field review will provide an evaluation of general habitat features and environmental constraints at the sites and within the local vicinity. Thus, no costs for this effort are included in this Scope of Services.*

This task will include conducting other needed pre-survey research and reaching out as needed to California Department of Fish and Wildlife (CDFW), California Natural Diversity Data Base (CNDDDB), California Native Plant Society (CNPS), local experts, and accessing other published and unpublished materials as related to CEQA and regulatory permitting requirements. This task includes the identification of any sensitive habitats occurring within or adjacent to the project sites.

## **Task 3. Preparation of Biological Resources Report**

DD&A's Natural Resources Division (NRD) will prepare a biological resources analysis for the sites to document the potential impacts of the project on sensitive biological resources. *This scope does not include costs for conducting protocol-level plant surveys for the proposed project as explained above in Task 2.* The Biological Resources Report will include identification of known and potential sensitive biological resources within the project sites.

The results of the biological investigation will be incorporated into a technical memorandum and summarized in the IS/MND. The Biological Resources Report will address the following items:

- A description of the existing biological resources on and surrounding the sites.
- Maps and descriptions of habitats and special-status plant and animal species known or anticipated to be present.
- An assessment of the direct and indirect impacts to sensitive biological resources, including potential impacts from construction disturbance and maintenance activities.
- Identification of mitigation for any significant biological impacts.

This scope does not include protocol-level wildlife species surveys or a jurisdictional wetland delineation.

## **Task 4 Preparation of Administrative Draft IS/MND**

DD&A will prepare an Administrative Draft IS/MND for the project in accordance with CEQA requirements. The IS/MND will be prepared using a format similar to Appendix G of the CEQA Guidelines (2019). The IS/MND will be the basis for the District; determination of whether the project qualifies for a Negative Declaration or a Mitigated Negative Declaration, or whether the preparation of an EIR is warranted. Thresholds of significance will be determined based on State, regional, or local criteria.

The proposed IS/MND will contain the following sections:

1. **Project Description.** Description of project background, location, elements, and objectives supplemented with graphics to illustrate the proposed improvements. This section will identify the characteristics of the Project and construction details.
2. **Environmental Setting, Impacts, and Mitigation.** Description of the setting for each impact area, evaluation of impacts based on established CEQA thresholds, and identification of mitigation for significant impacts.
3. **Completed CEQA Checklist.** Site survey and analysis to identify the significance of impacts for each impact area.
4. **Graphics.** Preparation of appropriate graphics and tables to present the environmental analysis.
5. **References.** Identification of all sources and persons contacted during preparation of the document.

The IS/MND will address all issue areas identified in the most current version of the CEQA Environmental Checklist, including aesthetics, agricultural resources, air quality, biological resources, cultural/tribal resources, energy, geology/soils, greenhouse gas emissions, hazardous materials, land use/planning, mineral resources, population/housing, public services, recreation, transportation, utilities, and wildfire. The primary areas of analysis are summarized below.

**Aesthetics:** The IS/MND will describe the visual and aesthetic quality of the project area and assess potential visual impacts from the construction of the new and replacement facilities on nearby public viewpoints (e.g., along adjacent public roads). This section will describe the physical characteristics of the new facilities and identify landscape screening or other measures proposed to minimize visual effects. The IS/MND will address before and after views of the removal area.

**Air Quality/Greenhouse Gas Emissions:** The IS/MND will address potential air quality (dust/exhaust) impacts occurring during construction activities associated with the project. This evaluation will consider impacts to nearby sensitive receptors, if applicable. The IS/MND will also discuss increases in car and truck traffic on the immediate local roadway system during construction. Mitigation will be identified to reduce the effects of construction activities on affected sensitive receptors. This task will involve the identification, collection and evaluation of applicable information from Monterey Bay Air Resources Board (MBARD), as well as State resources related to GHGs, for example, the California Climate Change Portal. It is assumed that no emission modeling for proposed project land use changes will be required. However, should it be necessary after consultation with MBARD, DD&A will use MBARD-recommended methodology (i.e., CalEEMod), which uses estimates of future land use and other activities, and provides an analysis of both air quality and GHG emissions. A discussion of the proposed project's consistency with State implementation plans (SIPs), air quality management plans (AQMPs), and climate action plans (CAPs) will be provided.

**Biological Resources:** As discussed in Task 3, above, DD&A's NRD will prepare a Biological Resources Report for the project to determine the potential impacts of the project on vegetation and wildlife. The results of the biological investigation, including any proposed mitigation to reduce impacts to vegetation and wildlife to a less than significant level, will be summarized in the IS/MND.

**Cultural/Tribal Resources:** Under Assembly Bill (AB) 52 requirements, tribal consultation should be completed by the MCWD, as the CEQA lead agency, or through an authorized agent of the lead agency. DD&A will work with a cultural consultant to complete consultation per AB 52 requirements. DD&A will contact the California Native American Heritage Commission (NAHC) for a review of their Sacred Lands File. The NAHC will determine if any NAHC-listed Native American sacred lands are located within or adjacent to the project area. In addition, the NAHC will provide a list of Native American contacts for the project that they believe should be contacted for additional information. DD&A will provide this contact list to the District to facilitate its obligations under AB 52, as applicable. Under this task, DD&A will provide the District with an agency and tribal list as well as draft coordination letters that can be used to reach out to agencies and tribes that might have input into the environmental review process prior to the environmental analysis being finalized. NOTE: These letters will need to be sent out by the District on MCWD letterhead. This section will also summarize the results of the Native American notification and consultation per the requirements of AB 52.

In addition, this task assumes all the cultural/tribal resources information required for the proposed project sites is covered under the Fort Ord Base Reuse Plan and a separate new Cultural Resources Report will not be required. The findings of the Fort Ord Base Reuse including recommendations for proposed mitigation to reduce impacts to cultural/tribal resources to a less-than-significant level, will be summarized in the IS/MND.

An optional task is included below for a formal Cultural Resources Report for the project should initial consultation and findings determine this to be warranted.

**Geology:** The IS/MND will describe the geologic characteristics of the project sites and area, based on the geologic study prepared for the project and provided to DD&A by MCWD. This section will identify the potential geologic hazards at the tank site such as erosion, slope instability, seismic effects, and soil hazards. Mitigation will be identified based on the results and recommendations of the geologic analysis.

**Hazardous Materials:** The IS/MND will utilize the information in the Army's Finding of Suitability from the Early Transfer Report (FOSET 2) to describe the potential for contamination on the sites and propose mitigation consistent with previous documentation. *This scope assumes the FOSET 2 will be adequate for the analysis and a Phase 1 report will not be required.*

**Hydrology/Water Quality:** Given the relatively small size of the project sites, no long-term adverse impacts are anticipated to hydrology and water quality. The project includes new drainage improvements that will be described in the IS. The existing drainage regime on the sites and area will be described. Best management practices (BMPs) will be identified to minimize water quality impacts during construction activities.

**Traffic/Transportation:** The IS/MND will analyze temporary impacts to traffic caused by construction on Imjin Parkway and California/5th Avenue, and propose mitigation, if needed, to reduce any impacts to a less than significant level.

**Land Use:** The majority of the project consists of a paved parking lot within the CSUMB Campus. The project will require removing several trees in a landscaped area on the edge of the lot. Off-site pipeline work will affect paved roadways and adjacent unpaved areas, because the existing pipelines are generally installed parallel to but outside of paved roadways. The project sites are also within the former Fort Ord. Land use jurisdictions and applicable plans and policies will be addressed in this section.

**Other CEQA Requirements:** The IS/MND will also address all other CEQA-required issues such as agricultural/forestry resources, energy, mineral resources, public services, utilities, wildfire, mandatory findings of significance, and references.

DD&A will submit five (5) hard copies and one electronic copy of the Administrative Draft IS/MND to Schaaf & Wheeler and MCWD for review and comment. Comments and revisions on the Administrative Draft IS/MND will be incorporated into the Public Review Draft IS/MND. Upon authorization, DD&A will submit ten (10) hardcopies and (10) copies on compact disk (CD) of the public review Draft IS/MND to MCWD for the mandatory 30-day public review period. If it is determined that the document has regional or statewide affect and the State Clearinghouse is used for distribution purposes, fifteen (15) of the Draft Initial Study copies will be provided to the State Office of Planning and Research by the District or by DD&A on behalf of the District.

### **Task 5. Response to Public Comments and Preparation of Final IS/MND**

Following the 30-day public review period, DD&A, in consultation with the project team and MCWD, will prepare written responses to any comments received on the IS/MND. Written responses will be included, along with any necessary revisions, in the Final IS/MND. *This proposal assumes ten (10) hours of staff time to complete the responses to comments. Additional work effort to respond to comments in excess of this estimate would require a budget amendment.*

## **Task 6. Preparation of Mitigation Monitoring Report**

DD&A will prepare a Mitigation Monitoring and Reporting Program (MMRP) in accordance with CEQA (Section 21081.6). DD&A will follow applicable guidelines for form/content. A Draft MMRP will be submitted to MCWD for review and comment, prior to preparation of the Final MMRP.

## **Task 7. Meetings/Attendance at Public Hearings**

This scope of work assumes attendance at five meetings at District offices (within the scope and costs of the previous tasks) and attendance at two public District Board Meetings for Board approval of the project, MMRP and permitting discussed below for CDFW. If requested, DD&A can be available to attend additional hearing(s) on a time-and-materials basis.

## **Task 8. Additional Permitting and Coordination Tasks**

After approval and development of the MMRP, DD&A will work with the design engineer and MCWD to ensure that the contract documents including Plans and Specifications incorporate all applicable permit conditions and applicable MMRP requirements.

This scope of work assumes the development of the above MMRP. DD&A will also assist the District in filing a CEQA notice of determination with the State Clearinghouse and with the County Clerk.

While the RFP mentioned obtaining a CDFW Biological Opinion (BO), DD&A biologists noted that if a CDFW permit is required, it would be an incidental take permit. DD&A will identify the resources in the field to be avoided in order to try and avoid permit under CDFW- but such avoidance may not be feasible.

For this task, DD&A will conduct required studies and consultation to confirm if the project will affect species including initial consultation with CDFW (Request for California Endangered Species Act coordination). If CDFW determines that the project is likely to result in take of state listed species, DD&A will prepare required application materials and consultation needed for a state incidental take permit. The entire process includes CDFW review to determine that the application for a take permit is complete and additional requests for information for CDFW to deem the application complete. DD&A will oversee the permit process with CDFW and work with this agency to process and issue the permit. DD&A will develop measures to minimize the take of species covered by the permit (Covered Species) and to mitigate the impacts caused by the take; this will be set forth in one or more attachments to the permit.

In addition, DD&A services for with staff from CSUMB, the owners of the project sites, the City of Marina and any local or state agencies related to the CEQA process is also included. These coordination tasks assume attendance at two additional meetings at District offices. If requested, DD&A can be available to attend hearing(s) on a time-and-materials basis.

## **Task 9 Environmental Compliance During Construction**

This scope of work DD&A staff will provide environmental compliance services during the construction period that will include the following steps and product delivery: Project Initiation, an Environmental Compliance Plan and Mitigation Matrix, Employee Education Program, Pre-Construction Biological Surveys, California Department of Fish and Wildlife Memorandum of Understanding, Revegetation and Rare Plant Restoration Plan, Construction Monitoring, Pre-construction and Construction Progress Meetings, Contractor Documentation Review, Compliance Tracking Documentation and Memoranda.

The tasks are further described according to project phases, including pre-construction, construction, and post construction. The tasks are related to ensuring all permit conditions and MMRP requirements are fully integrated into construction plans or final specifications to ensure compliance with the MMRP, as well as



ensuring environmental compliance associated with the permit conditions and individual MMRPs from other permits applicable to the individual project components.

## **OPTIONAL TASKS**

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### **Cultural Resources Record Search and Literature Review**

DD&A and its cultural consultant will perform a records search for the project area at the Northwest Information Center (NWIC) at Sonoma State University (the regional office of the California Historical Resources Information System). A cultural resources letter report will be prepared to summarize results of the cultural resources background research and records search. The report will be used for the cultural resource assessment in the IS/MND and to provide guidance on mitigation measures as needed.

### **Air Quality and Greenhouse Gas Emissions Modeling**

It is assumed that no emission modeling for proposed project land use changes will be required. However, should it be necessary after consultation with MBARD, DD&A will use MBARD-recommended methodology (i.e., CalEEMod), which uses estimates of future land use and other activities, and provides an analysis of both air quality and GHG emissions.

## **PREDICTED PROJECT CHALLENGES**

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The unique nature of this project and constraints of the project sites have been factored into this scope, budget and schedule. DD&A understands that the sites contain one or more populations of protected Sand Gilia, and we therefore recommend that survey work be commenced early in the process in order to develop a full understanding of the project sites and any constraints that may be posed by the presence of this protected plant species. DD&A will also work closely with MCWD and Schaaf & Wheeler in order to stay on the agreed-upon schedule for project completion. Close collaboration and communication will be an integral part of this project as design and environmental will be worked on concurrently.

## **SCHEDULE AND COST ESTIMATE**

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DD&A will prepare the IS/MND for the project approximately seven to eight (7- 8) weeks after receipt of authorization to proceed and all project information has been received. This includes a six (6) weeks for completion of the AB 52 consultation and cultural resources study.

The cost for preparation of the IS/MND, permitting and environmental compliance is included on the attached spreadsheet. All work will be billed monthly based on tasks completed. Expenses associated with the environmental services include, but are not limited to, mileage, graphics, delivery, and copying.

Construction timing for mitigation compliance and construction monitoring is assumed to be a total of 18 months.



May 13, 2019

Structural  
Engineering

SCADA

Electrical  
Engineering

Instrumentation

Controls

Control Systems  
Programming

Mr. Andrew A. Sterbenz, P.E.  
Schaaf & Wheeler Consulting Civil Engineers  
3 Quail Run Circle, Suite 101  
Salinas, CA 93907

Subject: Marina Coast Water District Design Services for GW-0112 A1/A2 Reservoirs and B/C Booster Pump Station;  
Structural, Electrical, Instrumentation and Controls Engineering Design  
(TJCAA Project No. 119038)

Dear Andy:

The purpose of this letter is to provide a scope for work for:

- Structural (STRU) Engineering
- Instrumentation, Controls, and Electrical (ICE) Engineering

as requested by Schaaf & Wheeler Consulting Civil Engineers (S&W) for the Marina Coast Water District Design Services for GW-0112 A1/A2 Reservoirs and B/C Booster Pump Station (Project). This letter summarizes the scope of work that will be provided by TJC and Associates, Inc. (TJCAA). Please review, and if acceptable, this letter may serve as the basis for a Scope of Work to be included in an agreement for engineering services.

#### Project Understanding

Marine Coast Water District (MCWD) provides water service and wastewater collection service to approximately 40,000 residents in and adjacent to the District of Marina and the former Fort Ord military facility. MCWD currently pumps all its water supply from groundwater wells within the Salinas Valley Groundwater Basin. MCWD conveys its effluent to Monterey One Water through their interceptor network for treatment.

MCWD obtained an easement from California State University Monterey Bay (CSUMB) and is looking to construct two welded steel potable water reservoirs and an associated booster pump station. Specific elements that are included within the Scope of Work defined below are:

- Development of structural performance specification and conceptual layout drawings for two 1.6 MG welded steel water tanks.
- Development of minimum foundation and anchorage design requirements
- Structural design and drawings for concrete masonry unit booster pump station.
  - The back wall of the pump station may be required to support a full height surcharge. The retaining elements of the pump station will be concrete.

Sacramento Office:  
2356 Gold Meadow Way,  
Suite 250  
Gold River, CA 95670  
p 916.853.9658

Oakland Office:  
1330 Broadway,  
Suite 1101  
Oakland, CA 94612  
p 510.251.8980

Walnut Creek Office:  
2890 North Main St.,  
Suite 303  
Walnut Creek, CA 94597  
p 925.357.2676

f 800.948.5604

www.tjcaa.com

- The roof of the pump station will be strong enough to support the motors when pulled through a roof hatch.
- Structural design and drawings of a retaining wall running along the north edge of the parking lot from 6<sup>th</sup> street to the pump station. The anticipated maximum height of the retaining wall is 4 feet.
- Electrical design and technical assistance for new electrical distribution at the tanks and booster pump station.
- Establishment of a SCADA/RTU system and telemetry for the tanks, booster pump station and security, to be integrated with MCWD's central SCADA infrastructure.

## I. Scope of Work

### Task 1. Preliminary Design

#### *Task 1.1. Review of Existing Documents*

TJCAA will review District Code and Engineering Procedures, Guidelines and Design Requirements, other jurisdictional codes within the District's boundaries and other applicable local, state and federal laws and regulations that are directly associated with the Project. TJCAA's review will be limited to codes and standards impacting the A1/A2 welded steel water reservoirs and B/C Booster Pump Station.

#### *Task 1.2. Develop Basis of Design Report (BODR)*

TJCAA Electrical and Structural personnel will provide descriptive narratives for inclusion in a Basis of Design Report authored by S&W.

#### *Task 1.3. Coordination with CSUMB*

TJCAA personnel do not anticipate participating or providing materials in support of CSUMB outreach. This activity has not been included in the Scope of Work detailed here or the Design Fee quoted.

#### *Task 1.4. Construction Sequencing*

TJCAA personnel will be available to discuss and answer questions relating to construction sequencing. However direct involvement in the development of a work product for this activity has not been included within the Scope of Work detailed here or the Design Fee quoted.

Task 2. Design

Task 2.1. Design Submittals

TJCAA will provide engineering and drafting services necessary to define the elements of the Project that are included within its scope of work. TJCAA’s design role for the tanks is limited to developing a performance specification for the construction of two welded steel tanks. Conceptual drawings of the tank, foundation and anchorage (if required) will be developed. Minimum sizes will be provided for the contractor along with requirements for a deferred submittal for the tank and associated appurtenances.

Specific elements are defined above in the Project Understanding. Submittals will be provided to S&W in the following packages:

- 30% design package
- 60% design package
- 90% design package
- Draft 100% design package
- Final design package

Each design package will incorporate appropriate S&W comments based on previous submittals and will update presented information consistent with the level of completion for that submittal. Design submittals will include elements defined in the table below.

Deliverables Included in Submittals					
Submittal	Calculations (PDF)	Design Drawings <sup>1</sup> (PDF)	Specs <sup>3</sup> (PDF)	Engineer’s Opinion of Probable Cost (PDF)	Signed Copies <sup>4</sup> (PDF)
30%		✓ <sup>2, 5</sup>		✓	
60%		✓	✓	✓	
90%		✓	✓	✓	
100%		✓	✓	✓	
Final	✓	✓	✓	✓	✓

Notes:

1. Drawings will be provided in half-size (11 x 17) PDF format and delivered via e-mail.
2. STRU submittal includes Major Plans, Primary Sections, Standard Details and General Notes.
3. Specifications will be provided in traditional CSI format using MS-Word and delivered via e-mail.
4. Drawings will be provided in full-size (22 x 34) PDF format, electronically stamped and signed and delivered via e-mail.
5. ICE submittal includes Electrical Single-Line Diagrams, Area Plans including placement of major equipment, Standard Details, and General Notes.

### Task 2.1.1. Anticipated List of Specifications

#### **Structural:**

- 01612 – Seismic Design Criteria
- 01614 – Wind Design Criteria
- 02313 – Controlled Low-Strength Material
- 03100 – Concrete Forms and Accessories
- 03150 – Concrete Joints and Accessories
- 03200 – Concrete Reinforcement
- 03300 – Cast-in-Place Concrete
- 03305 – Electrical and Instrumentation Duct Encasement Concrete
- 03350 – Concrete Finishing
- 03600 – Grouts
- 04200 – Masonry
- 05120 – Structural Steel
- 05210 – Steel Joists
- 05310 – Steel Deck
- 05500 – Miscellaneous Metals
- 05513 – Metal Ladders and Accessories
- 33160 – Above Ground Water Utility Storage Tank (Structural Requirements ONLY)

#### **Instrumentation, Controls, and Electrical:**

##### *Division 13 – Instrumentation and Control System Specifications*

- 13400 – Common Work Results Process Instrumentation and Controls
- 13420 – Control Panels and Hardware
- 13421 – Process Control System Hardware and Software
- 13422 – Radio Communications Hardware
- 13430 – Field Instrument Index
- 13431 – Analytical Devices
- 13432 – Flow Measurement
- 13433 – Level Measurement
- 13434 – Pressure Measurement
- 13435 – Temperature Measurement
- 13482 – Process Control Descriptions

##### *Division 16 – Electrical Specifications*

- 16000 – Common Work Results for Electrical
- 16060 – Grounding System
- 16080 – Electrical System Analyses and Commission Field Testing
- 16120 – Low Voltage Conductors and Cables
- 16130 – Raceway and Boxes
- 16140 – Wiring Devices
- 16145 – Miscellaneous Electrical Equipment
- 16220 – Low Voltage Motors
- 16230 – Standby Diesel Engine Driven Generators
- 16260 – Variable Frequency Drives Controllers
- 16440 – Switchboards
- 16441 – Panelboards
- 16442 – Motor Control Centers
- 16460 – Low Voltage Distribution Transformers
- 16500 – Lighting Systems
- 16600 – Underground Raceway System

## Task 2.1.2. Anticipated Sheet List

### **Structural:**

- GS-1 – General Notes
- GS-2 – General Notes, Legend, and Abbreviations
- GS-3 – General Notes, Special Inspection
- GS-4 – Standard Details – Concrete I
- GS-5 – Standard Details – Concrete II
- GS-6 – Standard Details – Masonry
- GS-7 – Standard Details – Ladders and Misc. Metals
- GS-8 – Standard Details – Grating
- GS-9 – Standard Details – Cover Plates
- S-1 – Booster Pump Station – Foundation Plan
- S-2 – Booster Pump Station – Floor Plan
- S-3 – Booster Pump Station – Roof Plan
- S-4 – Booster Pump Station – Primary Sections
- S-5 – Booster Pump Station – Sections & Details
- S-6 – Reservoirs A1/A2 – Plans and Details
- S-7 – Reservoirs A1/A2 – Details
- S-8 – Reservoirs A1/A2 – Ladder Details
- S-9 – Retaining wall details.

### **Instrumentation, Controls and Electrical:**

- GE-1 Electrical Legends and Abbreviations
- GE-2 Electrical Standard Details I
- GE-3 Electrical Standard Details II
- E-1 Electrical Single-Line Diagram
- E-2 Electrical Equipment Elevations and Schedules
- E-3 A1/A2 Reservoirs Plan Drawing
- E-4 B/C Booster Pump Station - Power and Signal Plan
- E-5 B/C Booster Pump Station - Lighting Plan
- E-6 Interconnection Details
- E-7 Control Schematics I
- E-8 Control Schematics II
- E-9 Control Panel Elevations
- E-10 Communications Block Diagram
  
- GI-1 I&C Legend and Abbreviations 1 of 2
- GI-2 I&C Legend and Abbreviations 2 of 2
  
- GI-3 I&C Standard Details
  
- I-1 P&ID Distribution System
- I-2 P&ID Disinfection System Modifications

a

### *Task 2.2. Project Management*

TJCAA will provide Project Management associated with its elements of the project, including but not limited to the following:

- Coordination with S&W throughout the duration of the project as well as Quality Assurance/Quality Control (QA/QC) activities for project deliverables
- Management of team activities consistent with the direction from S&W in order to meet project schedule and budgets

### *Task 3. Bid Period Assistance*

TJCAA engineers will be available to answer questions and clarify issues associated with aspects of the design within its Scope of Work. If required, a representative of TJCAA can be present at the pre-bid meeting and/or site walk-through. TJCAA does not anticipate any involvement in bid evaluations; however, TJCAA will be available for consultation on an as-needed basis.

### *Task 4. Engineering Services During Construction (ESDC)*

#### *Task 4.1. Construction Meetings*

TJCAA personnel do not anticipate attending the pre-construction meeting and subsequent periodic construction meetings. For budgeting purposes, TJCAA has assumed three (3) special, as-needed Structural observational field visits and three (3) Electrical, Instrumentation and Controls observation field visits associated with the design elements within its Scope of Work.

#### *Task 4.2. Requests for Information*

TJCAA personnel will provide written answers to Requests for Information (RFIs) including sketches and/or drawing revisions as appropriate. For budgeting purposes, TJCAA has included seven (7) Structural and twenty (20) Electrical, Instrumentation and Controls RFIs associated with the design elements within its Scope of Work.

#### *Task 4.3. Contract Document Clarifications (CDCs)*

TJCAA personnel will provide written answers to CDCs including sketches and/or drawing revisions as appropriate. For budgeting purposes, TJCAA has included two (2) Structural and two (2) Electrical, Instrumentation and Controls CDCs associated with the design elements within its Scope of Work.

#### *Task 4.4. Submittals*

TJCAA personnel will review shop drawings and catalog data and other materials that the contractor is required to submit in accordance with Contract Documents. For budgeting purposes, TJCAA has included twelve (12) Structural and thirty (30) Electrical, Instrumentation and Controls discipline-specific Submittals, with a 35% resubmission rate, within its Scope of Work.

#### *Task 4.5. Construction Change Orders*

TJCAA personnel will provide written answers to Construction Change Orders, including sketches and/or drawing revisions as appropriate. For budgeting purposes, TJCAA has included one (1) Structural and three (3) Electrical, Instrumentation and Controls Change Orders associated with the design elements within its Scope of Work.

## Task 5. Record Drawings and Project Close-Out

At the completion of the construction phase, TJCAA will incorporate mark-ups provided by S&W into the design drawings to reflect changes made in the field. It is anticipated that one set of clear mark-ups will be provided by S&W and all necessary information for the development of Record Drawings will be included in said mark-ups.

## II. Assumptions

The scope of work detailed above is based on TJCAA's current understanding of the project requirements and is based on the following assumptions.

### 1. General

- Copies of Record Drawings of the facilities will be provided to TJCAA for reference.
- Preliminary design will not include any formal electrical discussion. However, input for the electrical cost elements will be provided to S&W for the preliminary Opinion of Probable Costs.
- Formal City or County permit review, Title 24 energy calculations, and completion of forms will not be required.
- Design documents for civil, mechanical, and other disciplines will be completed by S&W.
- AutoCAD site and building plan drawings in ".DWG" format will be provided by S&W suitable for use as background files.
- Design will comply with the requirements of the 2016 California Building Code.
- Design fees quoted assume that the design portion of the project will commence in 2019 and be completed in the first quarter of 2020.
- ESDC fees quoted assume that construction will commence in 2020 and be completed in 2021.
- Drawings will be provided in TJCAA's standard format, developed using AutoCAD.
- The title block will be provided by S&W in AutoCAD format suitable for use as a Reference File.
- TJCAA assumes that geotechnical information is available for the Project area and will be provided to TJCAA before commencement of the work.
- Drawings will be provided to S&W in electronic format for publishing and distribution by S&W. Printing costs are not included in this proposal.
- Special foundations systems (e.g., piers/piles) are not required and are not included within the Scope of Work or Design Fee quoted.
- Existing communication medium is available to integrate new control and monitoring equipment to the existing SCADA system.



- TJCAA will submit new service requests forms, calculations, and drawings suitable for PG&E to begin the service request effort. Any payments directly to PG&E for engineering effort or service fees shall be paid by MCWD.
- Process control changes for the Ord Well fields will be included to modify the control reservoir from the Intermediate Reservoir to the new tanks. Work shall include revisions to process controls and communication schemes to support the change in controls.
- Process control changes will be incorporated to modify the hypochlorite dosing of raw water from the Ord Wells. Changes shall include new flowmeter and development of new control strategy to control pump dosing based on total raw water flow.
- New P&IDs for distribution system and disinfection system modifications will be developed in draft by Schaaf & Wheeler. Draft P&IDs will be completed to final by TJCAA to incorporate equipment tagging, instrumentation, and control features.
- Communication scheme will be modified to use the Intermediate Reservoir as a repeater site for the new tanks' communication link to SCADA Central. Work shall include an on site radio path survey to confirm signal strength between the new tanks and the Intermediate Reservoir and from the Intermediate Reservoir to SCADA Central. Recommendations from the radio path survey are assumed to confirm that suitable communication quality can be achieved between all sites by increasing antennae mast height and/or changing the antennae mast location on the property. Development of a new repeater site at a new location is not included.
- Field radio path survey has been included based on an allowance figure of \$15,000 for site investigations and communication viability.
- Material Specifications will conform to traditional CSI format, developed in MS-Word and will be provided to S&W via e-mail.
- Attendance at one (1) kick-off by TJCAA Engineering Staff at S&W's offices (or Project site) is included. All other meetings are assumed to occur via teleconference.
- Design calculations will be provided with the Bid Documents. Interim design calculations will not be provided.

2. Items that are NOT included within the Scope of Work
- The following items were identified within MCWD's Request for Proposals, and are not include within the Scope of Work delineated herein or the Design Fee quoted:
    - Coordination and outreach to California State University Monterey Bay
    - Project maps from GIS data and other publicly available information
    - Preliminary investigations for the purpose of confirming water system zone configurations, either during or post construction
    - Assistance with preliminary siting confirmation and layout of the Project
    - An update of the entire MCWD central SCADA system
    - Site Survey and/or mapping
    - Geotechnical evaluations
    - Environmental and CEQA assessments and reports
    - Field investigations and assessments of existing facilities for reconfiguration
    - Stakeholder and public outreach
    - Environmental compliance activities during construction
  - Responding to questions and/or comments generated during the permitting process or generated by the local jurisdiction
  - Specifications addressing the following:
    - Backfill materials
    - Precast concrete structures
    - Underdrain system
    - Wall drainage materials and geotextiles
    - Damp-proofing/waterproofing of concrete
    - Sealants
    - Paints and coatings for corrosion protection
  - Engineering services in support of miscellaneous civil, mechanical and piping, etc.
  - Assistance with obtaining construction permitting
  - Construction inspections, including but not limited to Special Inspections
  - Supervision of construction
  - Material testing

- Maintaining and/or updating Construction Drawings and documents with changes made during construction

### III. Additional Services

No "Additional Services" are anticipated at this time. Should "Additional Services" be identified, TJCAA will perform such "Additional Services" only if mutually agreed to in writing by S&W and TJCAA.

Moreover, TJCAA does not anticipate any involvement and/or support for Environmental Documentation filing activities. These activities have not been included within the Scope of Work detailed here or the Design Fee quoted.

### IV. Deliverables

The Consultant will provide the items shown in the "Deliverables Included in Submittals" table above to S&W as part of this agreement.

TJCAA will provide monthly project progress reports to S&W, including budget status, schedule status, and summary of key activities performed during the billing period, for inclusion in the Project's overall status report.

### V. Schedule

TJCAA will coordinate the design schedule with S&W before the start of design.

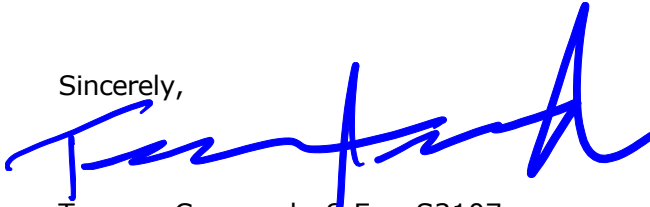
TJCAA has assumed that:

- Predesign begins in 2019 and is completed in 2019
- Design begins in 2019 and is completed in the first quarter 2020
- ESDC begins in 2020 and is completed in 2021

TJCAA will invoice services on a monthly basis.

TJCAA looks forward to working with S&W on this project. Please feel free to call me at (916) 853-9658 should you have any questions or require any additional information.

Sincerely,



Terence Cavanagh, S.E. - S3107  
Senior Vice President  
TJC and Associates, Inc.

file: 119038 - 1.02

**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN MARINA COAST WATER DISTRICT  
AND SCHAAF & WHEELER FOR  
ON-CALL GENERAL, CIP, AND DEVELOPMENT  
ENGINEERING SUPPORT SERVICES**

**AMENDMENT NO. 5**

Article II - Scope of Services shall be per the attached proposal for GW-0112 A1/A2 Reservoirs and Booster Pump Station.

Article IV – The Work under this AMENDMENT is scheduled for Completion by December 31, 2021.

Article IX - Payment shall be per the attached Proposal for A1/A2 Reservoirs and Booster Pump Station on a time and expense basis not to exceed \$868,905.

All other articles of the November 20, 2017 AGREEMENT FOR ON-CALL GENERAL, CIP AND DEVELOPMENT ENGINEERING SUPPORT SERVICES remain the same.

OWNER and ENGINEER have caused this Agreement to be amended by representatives duly authorized to act, all as of the effective date of \_\_\_\_\_.

Prepared by: \_\_\_\_\_ Date \_\_\_\_\_  
(DISTRICT REPRESENTATIVE)

ENGINEER  
Schaaf & Wheeler

OWNER  
Marina Coast Water District

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title: General Manager

Date \_\_\_\_\_

Date \_\_\_\_\_

**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN MARINA COAST WATER DISTRICT  
AND SCHAAF & WHEELER FOR  
ON-CALL GENERAL, CIP, AND DEVELOPMENT  
ENGINEERING SUPPORT SERVICES**

**AMENDMENT NO. 5**

Proposal for A1/A2 Reservoirs and Booster Pump Station

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 11-G

Meeting Date: May 20, 2019

Prepared By: Michael Wegley

Approved By: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2019-32 to Approve a Tree Replacement Funding Agreement between Marina Coast Water District and California State University at Monterey Bay

Staff Recommendation: The Board of Directors adopt Resolution No. 2019-32 approving the Tree Replacement Funding Agreement to fulfill a requirement of the Recycled Water Temporary Permit and Easement Agreement between MCWD and California State University of Monterey Bay for the Regional Urban Water Augmentation Project Recycled Water Pipeline and Blackhorse Recycled Water Reservoir.

Background: *5-Year Strategic Plan Mission Statement – To provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

On March 19, 2018, the Board of Directors adopted Resolution No. 2018-45 approving the Recycled Water Permit and Easement Agreement between MCWD and California State University of Monterey Bay (CSUMB) for the Regional Urban Water Augmentation Project (RUWAP) Recycled Water Pipeline and Blackhorse Recycled Water Reservoir. CSUMB previously approved and allowed installation of a portion of the recycled water pipeline on CSUMB in Inter-Garrison Road and Fifth Avenue to coordinate with CSUMB development.

The permit and easement agreement under Resolution No. 2018-45 allowed for completion of the remaining pipeline segments for RUWAP to extend across CSUMB from Marina to Seaside. The District continues to negotiate with CSUMB for more favorable amendments to the 2006 settlement agreement.

Discussion/Analysis: The Board of Directors is requested to approve the attached Tree Replacement Funding Agreement (Attachment 1) based upon the CSUMB permitting requirements previously approved by Resolution No. 2018-45. An aerial plan view of the pipeline easement is shown on Attachment 2.

CSUMB requires the establishment of two trees for each tree removed. A total of 18 trees were removed for the RUWAP on CSUMB grounds. Denise Duffy and Associates will be documenting the tree installation and growth progress for five years in accordance with the projects mitigation and monitoring requirements. The Tree Replacement Funding Agreement is for a one-time payment to CSUMB of \$91,026.

Environmental Review Compliance: The RUWAP Environmental Impact Report meets both California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA) requirements.

Other Considerations: The Board may desire to consider other alternatives to adopting the motion as recommended by staff including:

1. Modifying or conditioning the action; or,
2. Direct further staff work; or,
3. Deny the action.

Financial Impact: \_\_\_\_\_ Yes  No Funding Source/Recap: Financial impacts will be reimbursed as part of the project costs by FORA.

Material Included for Information/Consideration: Resolution No. 2019-32; Attachment 1 – Tree Replacement Funding Agreement.

Action Required:  Resolution \_\_\_\_\_ Motion \_\_\_\_\_ Review \_\_\_\_\_  
(Roll call vote is required.)

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_



May 20, 2019

Resolution No. 2018-32  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving a Tree Replacement Funding Agreement between  
Marina Coast Water District and California State University Monterey Bay

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on May 20, 2019 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, California State University of Monterey Bay (CSUMB) has coordinated with the District on their Regional Urban Water Augmentation Project (RUWAP) Recycled Water Pipeline and Blackhorse Recycled Water Reservoir, consisting of new construction and related infrastructure, within the CSUMB portion of the Ord Community; and,

WHEREAS, the Fort Ord Reuse Authority has allocated a portion of its former Fort Ord water supply allocation for CSUMB’s use in developing the University, and,

WHEREAS, the District and CSUMB are working cooperatively regarding RUWAP and amending the 2006 settlement agreement; and,

WHEREAS, the District and CSUMB have agreed upon the Temporary Permit and Easement Agreement with additional conditions approved by Resolution No. 2018-45.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager to execute the Tree Replacement Funding Agreement between MCWD and California State University of Monterey Bay for the Regional Urban Water Augmentation Project Recycled Water Pipeline and Blackhorse Recycled Water Reservoir and to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED May 20, 2019, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

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Thomas P. Moore, President

ATTEST:

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Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-32 adopted May 20, 2019.

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Keith Van Der Maaten, Secretary



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## TREE REPLACEMENT FUNDING AGREEMENT

**THIS AGREEMENT**, made and entered into this **30<sup>th</sup> Day of April, 2019**, in the State of California, by and between the Trustees of the California State University, which is the State of California acting in a higher education capacity, through its duly appointed and acting officer, on behalf of **California State University, Monterey Bay**, hereinafter referred to as "**CSUMB**", and **Marina Coast Water District**, hereinafter referred to as "MCWD." Hereinafter individually referred to as "Party" or collectively referred to as "Parties."

**WITNESSETH:** That MCWD does hereby agree to pay CSUMB a one-time payment of \$91,026.00 payable to the CSUMB Habitat Restoration Trust. This Payment fulfills the MCWD's campus tree replacement obligations as set forth in condition 2a of the Temporary Permit between the Trustees of the California State University and MCWD dated April 26<sup>th</sup> 2018. Payment covers all costs associated with replacing trees removed on campus property as a result of the installation of the Regional Urban Water Augmentation Project (RUWAP) pipe installation.

### 1) Scope of Work

RUWAP project campus removed trees were identified in by the *Kurt Fouts Arborist Consultant Report (06/07/18)* and tree mitigation costs were determined by *California State University, Monterey Bay CSUMB RUWAP Coast Live Oak Tree Mitigation Plan, Installation, and Monitoring proposal* submitted by Denise Duffy & Associates (11/8/18). Trees will not be planted within the RUWAP Easement.

### 2) Point of Contact

CSUMB Point of Contact:

Name: Anya Spear  
Title: Associate Director of Campus Planning  
Phone Number: (831) 582-5098  
Email: [aspear@csumb.edu](mailto:aspear@csumb.edu)

Contractor Point of Contact:

Name: Michael Wegley  
Title: District Engineer  
Phone Number: (831) 384-6131  
Email: [mwegley@mcwd.org](mailto:mwegley@mcwd.org)



### TREE REPLACEMENT FUNDING AGREEMENT

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto, and is effective upon the date first above written.

**California State University, Monterey Bay  
Trustees of the California State University**

**Contractor**

BY (AUTHORIZED SIGNATURE)

\_\_\_\_\_  
BY (AUTHORIZED SIGNATURE)

Marcel Forte  
PRINT NAME

Keith Van Der Maaten  
PRINT NAME

Associate Vice President Facilities Services & Operations  
TITLE

General Manager  
TITLE

4/30/19  
DATE

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
DATE

BY:

Arthur J. Evjen  
Director of Business and Support Services  
California State University, Monterey Bay  
100 Campus Ctr, Mountain Hall Suite B  
Seaside, CA 93955-8001  
aevjen@csumb.edu

4/30/19  
DATE



Campus Utilities Infrastructure  
Date: 9/4/2018

X - 36 tree  
- - - - - area highlight

Attachment A - Proposed MCWD Tree Restoration Site

- Public View
- Rehabilitated Water
- Hatched Red Water Walk Water
- Fire Hydrant
- Campus Polyline
- Midstation\_GCP
- Some Lateral Lines
- Gas
- Senior Gravity Main
- ACM



April 30, 2019

Mr. Michael Wegley, District Engineer  
Marina Coast Water District  
2840 4th Avenue, Marina, CA 93933

Subject: Regional Urban Water Augmentation Project CSU Monterey Bay Tree Replacement

Dear Mr. Wegley,

Installation of the Regional Urban Water Augmentation Project (RUWAP) project on California State University, Monterey Bay (CSUMB) property led to the removal of trees as identified in the *Kurt Fouts Arborist Consultant Report (06/07/18)*. The cost of replacing trees at a 1:2 (lost to survival) rate was determined by the *California State University, Monterey Bay CSUMB RUWAP Coast Live Oak Tree Mitigation Plan, Installation, and Monitoring proposal* submitted by Denise Duffy & Associates (11/8/18).

Upon approval, signature and submittal of the attached Tree Replacement Funding Agreement, Marina Coast Water District agrees to furnish to CSUMB a one-time payment of \$91,026.00 to the campus Habitat Restoration Trust. Before payment, an invoice will be generated by CSUMB and sent to MCWD. After receiving payment, CSUMB will provide a receipt of payment to MCWD.

Upon payment of the fee, MCWD will have fulfilled CSUMB's tree replacement conditions set forth by the CSUMB Temporary Permit, which is required of external entities who perform work on campus. Payment covers all costs associated with replacing trees identified by the arborist report, on campus property, as a result of the installation of the RUWAP project. It is the intent that the replacement trees will be planted in approximately the location identified in Attachment A; however, CSUMB retains the right to plant the replacement trees in other campus location as best meets the needs of the University.

Should you have any questions please feel free to contact me.

Sincerely,

Anya Spear  
Associate Director of Campus Planning  
CSU Monterey Bay  
(831) 332-0865

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 11-H

Meeting Date: May 20, 2019

Prepared By: Jaron Hollida

Approved By: Keith Van Der Maaten

Reviewed By: Michael Wegley

Agenda Title: Consider Adoption of Resolution No. 2019-33 to Approve Amendment No. 1 to the Professional Services Agreement with GHD, INC. for Design and Construction Support Services for the Imjin Lift Station Improvement Project

Staff Recommendation: Staff recommends that the Board of Directors adopt Resolution No. 2019-33 to approve Amendment No. 1 to the Professional Services Agreement with GHD, INC. for Design and Construction Support Services for the Imjin Lift Station Improvement Project (OS-0205) to add \$38,454 to the total dollar amount for a not-to-exceed amount of \$77,092.00 and authorize the General Manager to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

Background: *5-Year Strategic Plan Mission Statement – To provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

On September 18, 2018, the District's General Manager authorized a Professional Services Agreement to GHD, INC. for Design Services on the Imjin Lift Station Improvement Project (OS-0205) by agreement number GM 2019-01 in the amount of \$38,638. The design began January 15, 2019 and the District received a complete design submittal March 20, 2019. The District provided GHD, INC. a few design parameters to be revisited, including pump resizing, and added that GHD will provide support during bidding and engineering services during construction.

Discussion and Analysis: The remainder of design, bidding and construction support services by GHD, INC. for the extended construction completion date totals \$38,454. GHD, INC. has submitted a scope of work cost proposal detailing the additional services and signed Amendment No. 1 that is included as Attachment 1.

Environmental Review Compliance: None required.

Financial Impact:  Yes  No Funding Source/Recap: Funded through the FY 2018/2019 Engineering Capital Improvement Budget For the Imjin Lift Station Improvement Project (OS-0205).

Other Considerations: Provide staff direction for revisions to the proposed amendment.

Material Included for Information/Consideration: Resolution No. 2019-33; Attachment 1 – Amendment No. 1 for GHD, INC.

Action Required:     Resolution    Motion    Review  
(Roll call vote is required.)

---

Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_

Abstained \_\_\_\_\_

Noes \_\_\_\_\_

Absent \_\_\_\_\_



May 20, 2019

Resolution No. 2019-33  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving Amendment No. 1 to the Professional Services Agreement with  
GHD, INC. for Design and Construction Support Services  
for the Imjin Lift Station Improvement Project (OS-0205)

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on May 20, 2019, at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, GHD, INC. is providing Engineering Design Support Services for the Imjin Lift Station Improvement Project (OS-0205); and,

WHEREAS, the design work requires additional work and the addition of bidding and construction support services from GHD, INC. through the end of construction; and,

WHEREAS, GHD, INC. is knowledgeable and experienced with the design and construction of Lift Stations for the District; and,

WHEREAS, GHD, INC. has proposed a scope of fees for completion of the design, bidding and construction support services for completion of the project and staff agrees that the proposal is reasonable.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve Amendment No. 1 to the Professional Services Agreement with GHD, INC. for the Imjin Lift Station Improvement Project (OS-0205) to add \$38,454 to the total dollar amount for a not-to-exceed amount of \$77,092 and authorize the General Manager to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED on May 20, 2019 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

\_\_\_\_\_  
Thomas P. Moore, President

ATTEST:

\_\_\_\_\_  
Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-33 Adopted May 20, 2019.

\_\_\_\_\_  
Keith Van Der Maaten, Secretary



May 7, 2019

Jaron Hollida  
Assistant Engineer  
Marina Coast Water District  
11 Reservation Road  
Marina, CA 93933

**RE: Proposal for Amendment for MCWD Imjin Lift Station Improvements Project Design and Construction Support Services**

Dear Mr. Hollida,

GHD is submitting this amendment request for your consideration to include additional project budget for the following additional services:

1. District-initiated design parameter changes at the 100% design level requiring additional engineering, evaluation, and redesign.
2. Additional design review submittal.
3. Bidding Support Services.
4. Engineering Services During Construction.

The total amount of the proposed Amendment #1 is \$38,454. As with our existing contract, GHD proposes to perform these services on a time and materials basis in accordance with our Standard Fees and Conditions.

The attached spreadsheet shows the fee breakdown for this proposed Amendment.

The accounting of the original contract amount, previous amendments, and the proposed amendment is as follows:

Original Contract Amount:	\$ 38,638
<u>Amendment #1 :</u>	<u>\$ 38,454</u>
Proposed New Contract Total:	\$ 77,092

Please let me know if you have any questions.

Yours sincerely,  
GHD, Inc.

A handwritten signature in blue ink that reads "Raymond Wong".

**Raymond Wong, PhD, PE, CFM,  
LEED AP Project Manager**

Attachments: Fee Proposal

**Budget Estimation Spreadsheet**

Project: MCWD Imjin Lift Station Improvements Project Design and Construction Support Services  
 Prepared By: Stacy Creviston  
 Reviewed By: Raymond Wong  
 Date: 7-May-19  
 Proposal Number: 11184901 **AMENDMENT #1 FEE PROPOSAL**

	GHD										Subconsultants					TOTAL
	Allen	Wong	Sullivan	Pan	Guggiana	Scheetz		Hours	Labor	Consumables						
	PIC \$260	PM \$210	Civil/Mech \$185	Structural \$165	Electrical \$210	CADD \$175	Admin \$105							Sub Subtotal	10% Sub markup	
<b>Task 4 - Construction Documents</b>																
Task 4.1 Additional 100% Design Submittal		4	24	4	4	16	4	56	\$ 10,000	\$ 336				\$ -	\$ -	\$10,336
Task 4.2 Final Design Documents Submittal		4	12	2	2	12	4	36	\$ 6,330	\$ 216				\$ -	\$ -	\$6,546
<b>SUBTOTAL Task 4</b>								<b>92</b>	<b>\$ 16,330</b>	<b>\$ 552</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$16,882</b>
<b>Task 5 - Bid Period Support</b>																
Task 5.1 Bidding Period Assistance (up to 3 RFIs and 2 Addenda)		6	20	2	2	4		34	\$ 6,410	\$ 204				\$ -	\$ -	\$6,614
<b>SUBTOTAL Task 5</b>								<b>34</b>	<b>\$ 6,410</b>	<b>\$ 204</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$6,614</b>
<b>Task 6 - Engineering Services During Construction</b>																
Task 6.1 Submittal Review (10)		2	16	2	2			22	\$ 4,130	\$ 132				\$ -	\$ -	\$4,262
Task 6.2 RFI and Clarification Review and Response (10)		2	20	2	2			26	\$ 4,870	\$ 156				\$ -	\$ -	\$5,026
Task 6.3 Assist with Change Orders (2)		2	8	2	2	4		18	\$ 3,350	\$ 108				\$ -	\$ -	\$3,458
Task 6.4 Preparation and Submittal of Digital Record Drawings			4			8		12	\$ 2,140	\$ 72				\$ -	\$ -	\$2,212
<b>SUBTOTAL Task 6</b>								<b>78</b>	<b>\$ 14,490</b>	<b>\$ 468</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$14,958</b>
<b>TOTALS</b>	<b>0</b>	<b>20</b>	<b>104</b>	<b>14</b>	<b>14</b>	<b>44</b>	<b>8</b>	<b>204</b>	<b>\$ 37,230</b>	<b>\$ 1,224</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 38,454</b>

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 11-I

Meeting Date: May 20, 2019

Prepared By: Andrew Racz  
Reviewed By: Michael Wegley

Approved By: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2019-34 to Approve Task Order 10 for Inspection and Construction Support Services for the Sea Haven Development Phase 5A as Part of the On-Call Professional Services Agreement with Harris and Associates

Staff Recommendation: The Board adopt Resolution No. 2019-34 approving Task Order 10 for Inspection and Construction Support Services for the Sea Haven Development Phase 5A as part of the on-call Professional Services Agreement (PSA) with Harris and Associates for a not-to-exceed amount of \$112,500.

Background: *5-Year Strategic Plan, Strategic Element No. 2 Infrastructure – Our objective is to provide a high quality water distribution system and an efficiently operating wastewater collection system to serve existing and future customers. Through the master planning process, our infrastructure strategy is to carefully maintain our existing systems and ensure future additions and replacements will meet District standards.*

The first phases of land development in Sea Haven (formerly Marina Heights) began in 2006. Construction of the development's large arterial roadways (Phase 1) and secondary neighborhood streets (Phase 2), along with the associated subsurface sewer, water and recycled water infrastructure, took place between 2006 and 2008. This land development work was largely finished when the housing downturn of 2008 hit and remaining construction activity was placed "on-hold". Activity at the site resumed in 2016, when the first new homes in Sea Haven were built. Since that time, nearly 200 homes have been completed, and Sea Haven Phase 2 is projected to reach buildout in the current calendar year. The current owner of the development, Wathen-Castanos Homes (Developer), entered into an Infrastructure Agreement with MCWD in October 2018 to begin the first new land development at the site since the mid-2000s. The project, known as Sea Haven Phase 5A (phases are named out of sequence), will eventually contain 60+ new homes, but first requires massive grading work and the construction of new neighborhood streets and associated water/sewer infrastructure which will eventually enter MCWD ownership. This work began in May 2019.

The Board of Directors adopted Resolution No. 2017-66 on November 20, 2017, authorizing an On-Call Professional Services Agreement with Harris & Associates (Harris) to provide engineering consulting services, construction management support and on-call inspections for new and ongoing MCWD projects. Board approval is required for all new Task Orders exceeding \$45,000. The proposed Task Order 10 is for a not-to-exceed amount of \$112,500, which will fund construction management and inspection services through the end of calendar year 2019.

Discussion/Analysis: The Board of Directors is requested to approve Task Order 10 as part of the on-call PSA with Harris & Associates to provide inspection and construction support services for Sea Haven Phase 5A. The task order is for a not-to-exceed amount of \$112,500 and is to be paid

for entirely by the Developer (Wathen-Castanos Homes). The Developer and MCWD staff agree that contract inspection and construction support labor is warranted due to the large but temporary work-load needed to support the on-going construction work.

Specific scope elements with this task order include: inspection and observation of sanitary sewer system testing for pipeline leakage, pipeline deflection, and manhole leakage; inspection of any new sanitary sewer infrastructure installed or repaired; inspection and observation of potable and recycled water systems testing for pipeline acceptance; inspection of any new water system infrastructure installed or repaired; inspection and observation of the potable water system disinfection and sampling procedures; preparing a final report compiling the inspection results and providing a recommendation regarding the suitability of the infrastructure for ownership by MCWD; verifying the landscape and conservation process compliance; and reviewing meter requests and conducting walk-throughs of all structures to receive water meters.

Harris & Associates has provided excellent on-going inspection and construction support services for MCWD. They maintain a local office in the City of Salinas with assigned project personnel present locally. District staff have reviewed the proposed scope of work and fee estimate for this planned task order and find that the scope is reasonable. The rates are comparable and competitive with other engineering firms providing services to MCWD based on general industry standards.

This proposed Task Order 10 will be paid for entirely by the Developer through the existing well-established large development accounting procedure. Prior to Harris & Associates performing any work under this task order, the Developer will be required to have the total or substantial percentage thereof on deposit with MCWD and held in the Wathen-Castanos Homes development account. At no time will payments be made to Harris without corresponding resources in-hand from the Developer to cover the expense. The task order is on a time and materials expense basis.

Environmental Review Compliance: Not Applicable; this action approving a task order is not a “project” under the California Environmental Quality Act (CEQA).

Financial Impact: \_\_\_\_\_Yes  X No Funding Source/Recap: There is no financial impact to the MCWD from this action; the Developer will be required to resource the entire amount through deposited funds with MCWD in advance of payment to Harris & Associates.

Other Considerations: None.

Material Included for Information/Consideration: Resolution No. 2019-34; and, Task Order No. 10.

Action Required:  X Resolution \_\_\_\_\_Motion \_\_\_\_\_Review \_\_\_\_\_  
(Roll call vote is required.)

---

Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

May 20, 2019

Resolution No. 2019 – 34  
Resolution of the Board of Directors  
Marina Coast Water District

Approving Task Order 10 for Inspection and Construction Support Services for the Sea Haven Development Phase 5A as Part of the On-Call Professional Services Agreement with Harris and Associates

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on May 20, 2019 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, Wathen-Castanos Homes (“Developer”) have coordinated with MCWD on their Sea Haven Phase 5A consisting of the new construction and related infrastructure on the Former Fort Ord lands within Monterey County, CA; and,

WHEREAS, the District and the Developer are working cooperatively regarding proposed water, recycled water and sewer system improvements and the District and the Developer have entered into an Infrastructure Agreement for Phase 5A of the Sea Haven development project; and,

WHEREAS, the District and the Developer agree that outside assistance for inspection and construction support labor is warranted to achieve the objective of transferring ownership of infrastructure to the District and that the Developer will pay for the inspection services as required by the Infrastructure Agreements; and,

WHEREAS, Harris & Associates has an existing contractual relationship with the District, they have long association with local jurisdictions in similar capacities, and Harris & Associates maintains a local office; and,

WHEREAS, District staff finds that the Harris & Associates current scope and fee proposal to conduct the work is reasonable, their charge rates are comparable to other engineering firms providing services to the District and their charge rates are competitive based on general industry-wide standards.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve Task Order 10 for Inspection and Construction Support Services for the Sea Haven Development Phase 5A as part of the on-call Professional Services Agreement (PSA) with Harris and Associates for a not-to-exceed amount of \$112,500, and authorize the General Manager to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution, the total dollar amount not-to-exceed \$112,500.

PASSED AND ADOPTED on May 20, 2019 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_  
Noes: Directors \_\_\_\_\_  
Absent: Directors \_\_\_\_\_  
Abstained: Directors \_\_\_\_\_

\_\_\_\_\_  
Thomas P. Moore, President

ATTEST:

\_\_\_\_\_  
Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-34 Adopted May 20, 2019.

\_\_\_\_\_  
Keith Van Der Maaten, Secretary





May 10, 2019

Marina Coast Water District  
Andrew Racz, Project Manager  
2840 4th Avenue  
Marina, CA 93933

RE: Letter proposal - Task Order #10 – Seahaven 5A Construction Support

Andrew –

We are requesting a task order in the amount of \$112,500 for construction support services for inspection of District infrastructure on the Seahaven 5A development. Our services will include:

- Inspection of construction activities related to District infrastructure for conformance to approved plans and specifications
- Weekly report of the developer’s construction daily activities (including photos)
- Review of proposed testing plans
- Observation and documentation of testing related to District facilities (e.g. hydrostatic pressure testing of water & sewer lines)

I have included a breakdown of estimated hours and budget on the attached spreadsheets. The estimated hours and budget are based on a schedule (Marina 5A – Land Dev., dated 5-7-2019) provided by the developer. All work will be performed and invoiced on an “hourly not-to-exceed” basis.

We look forward to this opportunity to provide professional services for Seahaven 5A and continuing our long-standing relationship with the District. Please contact me at your convenience with any questions you may have.

Regards,  
**Harris & Associates, Inc.**

A handwritten signature in blue ink, appearing to read "Dana Van Horn", is written over a white background.

Dana Van Horn, PE, QSD  
*Senior Construction Manager*  
Dana.vanhorn@WeAreHarris.com  
(831) 419-7234

attach

**MARINA COAST WATER DISTRICT - TASK ORDER - SEAHAVEN 5A**

**CONSTRUCTION SUPPORT SERVICES**

		2019										
	Rate	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Hrs	Total
		168	176	160	176	176	160	176	144	168		
Dana Van Horn Construction Manager	\$ 200.00		10	4	5	5	4	1	1	5	35	\$ 7,000
Patrick Imperatrice Inspector	\$ 170.00	12	138	120	138	60	40	16	16	60	600	\$ 102,000
TBD Admin Support	\$ 120.00	1	8	2	2	2	2	2	2	8	29	\$ 3,480
Hours/month		13	156	126	145	67	46	19	19	73		
											<b>664</b>	<b>\$ 112,480</b>

Assumptions:

1. This estimate of hours is for the period through Decemer 2019 and does not include service related to home construction.
2. This budget is based on the activities & durations shown on the schedule provided on 5/9/2019 (Marina 5A - Land Dev., dated 5/7/2019)
3. Standard 8 hour work day, 5 days per week; no holidays have been included
4. Overtime hours, if necessary, to be determined; may require task order amendment/additional task order.
5. Vehicles, equipment, supplies and incidental costs included

# MARINA COAST WATER DISTRICT - TASK ORDER - SEAHAVEN 5A

## CONSTRUCTION SUPPORT SERVICES EFFORT BY TASK

		CONSTRUCTION		
	Hourly Rate	Contract Administration	Inspection	Total Hours
Dana Van Horn Construction Manager	\$200	35		35
Patrick Imperatrice Asst. CM/Lead Inspector	\$170	0	600	600
Administrative - TBD	\$120	29		29
Task Hours =		64	600	664
Task Fee =		\$10,480	\$102,000	
Estimated Fee =		\$112,480		

**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN MARINA COAST WATER DISTRICT  
AND HARRIS & ASSOCIATES FOR  
ON-CALL GENERAL, CIP, AND DEVELOPMENT  
ENGINEERING SUPPORT SERVICES**

**TASK ORDER NO. 10**

Article II - Scope of Services shall be to provide construction support services for inspection of Sea Haven Phase 5A infrastructure development, including the construction of new water, sewer and recycled water lines; connections/modifications to existing MCWD facilities; park landscape irrigation; and grading impacts, as described in the Scope of Work and Fee Estimate.

Article IV – The Work under this Task Order is scheduled for Completion by December, 2019.

Article IX - Payment shall be amended by a not-to-exceed contract amount of \$112,500 on a time and expense basis.

All other articles of the November 20, 2017 AGREEMENT FOR ON-CALL GENERAL, CIP AND DEVELOPMENT ENGINEERING SUPPORT SERVICES remain the same.

OWNER and ENGINEER have caused this Agreement to be amended by representatives duly authorized to act, all as of the effective date of \_\_\_\_\_.

Prepared by: Andrew Racz Date May 10, 2019  
(DISTRICT REPRESENTATIVE)

ENGINEER  
Harris & Associates

OWNER  
Marina Coast Water District

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title: General Manager

Date \_\_\_\_\_

Date \_\_\_\_\_

**AGREEMENT FOR PROFESSIONAL SERVICES**  
**BETWEEN MARINA COAST WATER DISTRICT**  
**AND HARRIS & ASSOCIATES FOR**  
**ON-CALL GENERAL, CIP, AND DEVELOPMENT**  
**ENGINEERING SUPPORT SERVICES**

**TASK ORDER NO. 10**

Task Order for Construction Support Services –  
Sea Haven Phase 5A

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 12-A

Meeting Date: May 20, 2019

Prepared By: Michael Wegley

Approved By: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2019-35 to Approve Amendment 1 with Monterey One Water for NPDES Permitting Work on the Pure Water Advanced Water Treatment and Outfall Wastewater Disposal for the Regional Urban Water Augmentation Project

Staff Recommendation: The Board of Directors is requested to:

1. Approve Amendment 1 to the Reimbursement Agreement with Monterey One Water (“M1W” formerly known as Monterey Regional Water Pollution Control Agency) for the technical activities associated with obtaining the NPDES Permit amendment and other regulatory approvals on the Pure Water Monterey (PWM) Advanced Water Treatment (“AWT”) and Outfall Wastewater Disposal (“OWD”) for the Regional Urban Water Augmentation Project (“RUWAP”); and,
2. Authorize the General Manager to execute all documents as may be necessary or appropriate to give effect to this resolution to reimburse M1W.

Background: *5-Year Strategic Plan Mission Statement – To provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

On May 15, 2017, the District Board adopted Resolution No. 2017-32 approving a reimbursement agreement with M1W for EIR and NPDES Permitting work on the Pure Water AWT and OWD for the Regional Urban Water Augmentation Project (“RUWAP”) for a total cost of \$263,319. The work was required to support combining the separate projects between M1W and MCWD for the AWT and OWD to support the RUWAP. M1W updated the Groundwater Recharge (GWR) project environmental documents at their own expense.

Discussion/Analysis: M1W and MCWD have now received comments on their respective Title 22 engineering reports from the State Water Resources Control Board, Division of Drinking Water (DDW). MCWD also has to obtain approval of a Notice of Intent (NOI) to distribute recycled water from the Central California Regional Water Quality Control Board (CCRWQCB). Amendment 1 to the M1W reimbursement agreement is necessary to coordinate revisions between overlapping sections of the M1W and MCWD engineering reports to ensure accuracy and consistency between the agencies documents and manage submittal of the engineering reports to the State Water Resources Control Board, Division of Drinking Water and the Central California Regional Water Quality Control Board.

LWA will be coordinating the overlapping sections of the M1W and MCWD engineering reports and will manage both agencies submittals to DDW and CCRWQCB.

Amendment 1 to the Reimbursement Agreement with M1W is attached for reference. The proposal estimates a total cost of \$20,066 for MCWD and \$110,445 for M1W.

Environmental Review Compliance: None required.

Financial Impact:  Yes  No Funding Source/Recap: FORA will provide up to \$4,500,000 to MCWD for RUWAP, RW-156, in accordance with the agreement annual reimbursement schedule.

Other considerations: Refer back to staff with further direction.

Material Included for Information/Consideration: Resolution No. 2019-35; Amendment 1; LWA Request for Amendment of GWR2017-02; and, Reimbursement Agreement.

Action Required:  Resolution  Motion  Review  
(Roll call vote is required.)

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

May 20, 2019

Resolution No. 2019-35  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving Amendment 1 with  
Monterey One Water for  
Technical Activities Associated with Obtaining the NPDES Permit Amendment and  
Other Regulatory Approvals Needed for the Advanced Water Treatment and Outfall  
Wastewater Disposal for the RUWAP Recycled Project between M1W and MCWD

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District” or “MCWD”), at a regular meeting duly called and held on May 20, 2019 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, an agreement dated May 15, 2017 established the reimbursement of costs to M1W from MCWD for technical activities associated with obtaining the NPDES permit amendment and other regulatory approvals needed for the AWT and Outfall Wastewater Disposal (OWD) for the RUWAP Recycled Project; and,

WHEREAS, Amendment 1 to the M1W reimbursement agreement will coordinate revisions between overlapping sections of the M1W and MCWD engineering reports to ensure accuracy and consistency between the agencies documents and manage submittal of the engineering reports to the State Water Resources Control Board, Division of Drinking Water and the Central California Regional Water Quality Control Board.

NOW, THEREFORE, BE IT RESOLVED, that Board of Directors hereby approves Amendment 1 to the Reimbursement Agreement for the RUWAP Recycled Project with Monterey One Water for technical activities associated with obtaining the NPDES permit amendment and other regulatory approvals needed for the AWT and OWD for the RUWAP Recycled Project between M1W and MCWD for a not-to-exceed amount of \$20,066 for MCWD’s costs; and,

FURTHER RESOLVED, that the Directors authorize the General Manager to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED on May 20, 2019, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_



\_\_\_\_\_  
Thomas P. Moore, President

ATTEST:

\_\_\_\_\_  
Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-35 adopted May 20, 2019.

\_\_\_\_\_  
Keith Van Der Maaten, Secretary

**AMENDMENT TO THE  
REIMBURSEMENT AGREEMENT FOR THE  
TECHNICAL ACTIVITIES ASSOCIATED WITH OBTAINING THE NPDES PERMIT  
AMENDMENT AND OTHER REGULATORY APPROVALS FOR THE ADVANCED  
WATER TREATMENT AND OUTFALL WASTEWATER DISPOSAL FOR THE  
RUWAP RECYCLED PROJECT  
BETWEEN  
MARINA COAST WATER DISTRICT  
AND  
MONTEREY ONE WATER**

**AMENDMENT NO. 1**

This Amendment No. 1 to the Reimbursement Agreement For the Technical Activities Associated with Obtaining the NPDES Permit Amendment and Other Regulatory Approvals for the Advanced Water Treatment and Outfall Wastewater Disposal for the RUWAP Recycled Water Project (the “Amendment”) is made and entered into as of \_\_\_\_\_, 2019 by and between the Marina Coast Water District (“MCWD”) and Monterey One Water (“M1W”, formerly known as Monterey Regional Water Pollution Control Agency).

RECITALS

A. WHEREAS, MCWD and M1W have been operating pursuant to that certain Reimbursement Agreement For the Technical Activities Associated with Obtaining the NPDES Permit Amendment and Other Regulatory Approvals for the Advanced Water Treatment and Outfall Wastewater Disposal for the RUWAP Recycled Water Project dated May 15, 2017 (the “Agreement”); and

B. WHEREAS, the Agreement requires MCWD to, among other things, provide reimbursement funds to M1W as set forth therein; and

NOW THEREFORE for and in consideration of the mutual covenants and agreements contained in the Agreement and this Amendment, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the parties, MCWD and M1W hereby agree as follows:

A G R E E M E N T

1. INCORPORATION OF RECITALS. The Recitals set forth above are each incorporated into the body of this Agreement as if set forth in full. Further, any terms, conditions, and obligations set forth in the Agreement, not amended or modified by this Amendment shall remain in full force and effect.

2. Additional Consulting Fees. As part of its obligations under the Agreement, M1W entered into the Master Professional Agreement (RFS No. GWR 2017-02) with Larry Walker and Associates, Inc. M1W desires to amend its agreement with Larry Walker and Associates, Inc., in accordance with Attachment A1, incorporated herein by this reference. The parties agree they will provide payment in an amount not to exceed the schedule set forth in Attachment A1, page 3.

WHEREFORE, the parties have caused this Amendment No. 1 to the Reimbursement Agreement For the Technical Activities Associated with Obtaining the NPDES Permit Amendment and Other Regulatory Approvals for the Advanced Water Treatment and Outfall Wastewater Disposal for the RUWAP Recycled Water Project, effective on the date of the last signature.

Prepared by: \_\_\_\_\_  
Michael Wegley  
District Engineer

Date: May 6, 2019

Accepted: Marina Coast Water District

Monterey One Water

By \_\_\_\_\_  
Keith Van Der Maaten

By \_\_\_\_\_  
Paul Sciuto

Title \_\_\_\_\_  
General Manager

Title \_\_\_\_\_  
General Manager

**ATTACHMENT A1**

Larry Walker and Associates  
Scope of Work and Fee Estimate  
For Amendment 1

[As set forth in the attached letter dated March 25, 2019, from Denise Connors (with LWA) to  
Bob Holden (with M1W)]



March 25, 2019

*DRAFT*

Mr. Bob Holden  
Recycled Water Program Manager/Principal Engineer  
Monterey One Water  
5 Harris Court, Building D  
Monterey, CA 93940

**Subject: Request for Amendment of RFS No. GWR 2017-02 (NPDES Permitting and Other Regulatory Services) – 3/1/19 to 9/30/19**

Dear Bob:

Larry Walker Associates (LWA) and Trussell Technologies (TT) are providing assistance to Monterey One Water (M1W) and Marina Coast Water District (MCWD) to secure regulatory approval for the Pure Water Monterey Project. The Master Professional Agreement (RFS No. GWR 2017-02) was initially approved for \$556,500 on June 27, 2016. The agreement has been revised three times as detailed below.

Rev. 1 – Extended project completion date from July 31 to December 31, 2018.

Rev. 2 – Added \$50,000 to increase the total compensation to \$605,500.

Rev. 3 – Extended project completion date from December 31, 2018 to March 31, 2019.

Additional funding and a time extension will be needed to complete activities anticipated from March 1 through September 30, 2019. The projected activities and requested funds are described below in terms of the current approved tasks.

**Scope of Work – Additional Activities**

***Task 1. Project Management and Coordination***

LWA will provide project oversight, budget accounting, and contract implementation. LWA and TT will coordinate with M1W, MCWD, Central Coast Regional Water Quality Control Board (Regional Water Board), and Division of Drinking Water (DDW) staff on project issues and schedules via emails and phone calls as directed by M1W. TT will review and provide edits to the final Independent Advisory Panel (IAP) Report and assistance in responding to comments/questions about treatment provided through the Advanced Water Purification Facility (AWPF).

***Task 2. Data/Report Review and Modeling***

This task has been completed. No additional activities are anticipated.

***Task 3. Ocean Plan Compliance Assessment***

This task has been completed. No additional activities are anticipated.

***Task 4. Develop NPDES Permitting Approach***

This task has been completed. No additional activities are anticipated.

***Task 5. CEQA/NEPA***

This task has been completed. No additional activities are anticipated.

***Task 6. Prepare ROWD***

This task has been completed. No additional activities are anticipated.

***Task 7. NPDES Permit Adoption***

LWA and TT will prepare presentation materials and participate in a workshop for M1W staff to explain the basis for and the requirements of the new NPDES permit (Order No. R3-2018-0017). As the new permit is implemented, LWA and TT will support M1W staff by answering questions, interpreting requirements, and providing reporting assistance.

***Task 8. Revise Engineering Report***

LWA and TT will work with M1W and Todd Groundwater to revise the 2017 M1W Engineering Report to describe planned operations and address comments received from DDW. The revisions will include updated groundwater modeling results, changes to injection well operations, plans to revise Local Limits, new monitoring requirements for Constituents of Concern (CECs), and a request for additional pathogen removal credits. This task also includes preparation of Technical Memorandum (TM) to support the additional pathogen removal credits using strontium and total organic carbon (TOC) as indicators of pathogen removal across the reverse osmosis membranes. Draft versions of the revised Engineering Report and the TM will be provided to M1W for review and approval before submittal to DDW and the Regional Water Board. LWA will prepare a cover letter and manage submittal of the M1W and MCWD Engineering Reports to DDW and the Regional Water Board.

The Regional Water Board will be modifying the Pure Water Monterey Waste Discharge Requirements and Water Recycling Requirements (WDRs/WRRs, Order No. R3-2017-0003) or its Monitoring and Reporting Program (MRP) to reflect conditions in the revised M1W Engineering Report. LWA will review the Regional Water Board's proposed modifications for accuracy and assist M1W with preparing comments and questions for Regional Water Board consideration.

LWA and TT will prepare presentation materials and participate in a workshop for M1W staff to explain the basis for and the requirements of the Pure Water Monterey Waste Discharge Requirements and Water Recycling Requirements (Order No. R3-2017-0003). As the permit is implemented, LWA and TT will support M1W staff by answering questions, interpreting requirements, and providing reporting assistance.

***Task 9. Additional Regulatory Assistance (MCWD Activities)***

LWA and TT will coordinate revisions between overlapping sections of the M1W and MCWD Engineering Reports via emails and conference calls with M1W, MCWD, Regional Water Board, and DDW staff. LWA will provide assistance during M1W's review of the revised MCWD Engineering Report to ensure accuracy and consistency between the agencies' respective documents. LWA will prepare a cover letter and

manage submittal of the M1W and MCWD Engineering Reports to DDW and the Regional Water Board.

### Funding Request – Additional Activities

The above activities will be conducted by the LWA Project Team on a time and materials basis for a cost not-to-exceed \$130,511. A cost breakdown by task and funding sources is presented in the following table. As of February 28, 2019, there is \$577.47 in available funds for RFS No. GWR 2017-02 (M1W Funds = \$379.04, MCWD Funds = \$198.43).

<b>Task</b>	<b>Description</b>	<b>M1W Estimated Costs</b>	<b>MCWD Estimated Costs</b>
1	Project Management and Coordination	\$32,054	0
7	NPDES Permit Adoption	\$30,178	0
8	Revise Engineering Report	\$48,213	0
9	Additional Regulatory Assistance (MCWD Activities)	0	\$20,066
<b>M1W Funds Requested</b>		<b>\$110,445</b>	
<b>MCWD Funds Requested</b>		<b>\$20,066</b>	
<b>Total</b>		<b>\$130,511</b>	

Thank you for the opportunity to work on this important water supply project for the Monterey Peninsula. Please contact me at 530.753.6400 or [denisec@lwa.com](mailto:denisec@lwa.com) if you have any questions regarding the proposed scope of work and budget.

Sincerely,



Denise H. Connors  
Associate

This **REIMBURSEMENT AGREEMENT FOR THE Technical Activities associated with obtaining the NPDES permit amendment and other regulatory approvals needed for the Advanced Water Treatment and Outfall Wastewater Disposal for the RUWAP Recycled Project** (this “Agreement”) is made this 15 day of may, 2017 (“Effective Date”), by and between Marina Coast Water District (“MCWD”) and Monterey Regional Water Pollution Control Agency (“MRWPCA”) and hereinafter the “Parties.”

### **RECITALS**

- A.** The 1997 Fort Ord Base Reuse Plan (“BRP”) identifies the availability of water as a resource constraint and the BRP estimates that an additional 2,400 AFY of water is needed to augment the existing groundwater supply to achieve the permitted development level as reflected in the BRP (Volume 3, figure PFIP 2-7).
- B.** The Fort Ord Reuse Authority (“FORA”) agreed under the 1998 Water/Wastewater Facilities Agreement that ownership of all of the then existing Fort Ord water and sewer facilities should be transferred to the MCWD subject to their conveyance from the Army to FORA; title to the Fort Ord water and sewer facilities and rights to water and sewage treatment capacity, except for those rights reserved by the Army, was transferred to MCWD in October 2001.
- C.** Under Section 3.2.2 of the 1998 Water/Wastewater Facilities Agreement, FORA has the responsibility to determine, in consultation with MCWD, what additional water and sewer facilities are necessary for MCWD’s Ord Community service area in order to meet the BRP requirements, and that, once FORA determines that additional water supply and/or sewer conveyance capacity is needed, under Section 3.2.1, it is MCWD’s responsibility to plan, design, and construct such additional water and sewer facilities. Section 7.1.2 requires FORA to insure that MCWD recovers all of its costs for the new facilities and their operation.
- D.** In 2002, MCWD, in cooperation with FORA, initiated the Regional Urban Water Augmentation Project (“RUWAP”) to explore water supply alternatives to provide the additional 2,400 AFY of water supply needed under the BRP.
- E.** As a result of an extensive environmental review, FORA and MCWD agreed to adopt a modified Hybrid Alternative, which would provide 1,427 AFY of recycled water to the Ord Community without the need for seasonal storage, and this in turn resulted in the FORA Board adopting Resolution 07-10 (May 2007), which allocated that 1,427 AFY of RUWAP recycled water to its member agencies having land use jurisdiction.
- F.** In June 2009, the Monterey Regional Water Pollution Control Agency (“MRWPCA”) and MCWD entered into a 50-year RUWAP Memorandum of Understanding, in which, subject to certain conditions specified therein, (a) MRWPCA committed 650 AFY of summer recycled water to MCWD for the Ord Community; (b) MCWD affirmed its separate commitment of 300 AFY of summer recycled water to the Ord Community; and (c) MRWPCA and MCWD committed to supply 477 AFY of recycled water during other months to the Ord Community - for a total of 1,427 AFY.



- G.** MCWD has been and continues to work collaboratively with FORA and with the MRWPCA to carry out MCWD's obligation to provide the 1,427 AFY of recycled water for the Ord Community. On March 30, 2013, MRWPCA commenced environmental review of its Pure Water Monterey Project ("PWM"). The PWM is a water supply project that would serve northern Monterey County by providing: (1) purified recycled water for recharge of a groundwater basin that serves as drinking water supply; and (2) recycled water to augment the existing Castroville Seawater Intrusion Project's agricultural irrigation supply. The PWM includes a new pipeline to transport purified recycled water from a new Advanced Water Treatment Plant ("AWT") at MRWPCA's Regional Treatment Plant to new Injection Well Facilities overlying the Seaside Groundwater Basin ("Product Water Conveyance Pipeline"). The Environmental Impact Report ("EIR") for the PWM evaluated two alternative alignments for the Product Water Conveyance Pipeline, a Coastal Alignment and an alignment that follows the right-of-way for the existing and future RUWAP pipeline ("RUWAP Alignment"). The PWM EIR identified the environmental effects of constructing the Product Water Conveyance Pipeline along the RUWAP Alignment, and operating the Product Water Conveyance Pipeline for the PWM; however the EIR recognized that shared use of a single Product Water Conveyance Pipeline for both the PWM to supply recycled water to MCWD for the RUWAP would result in project cost savings but would necessitate further review under the California Environmental Quality Act ("CEQA"). Shared use of a single Product Water Conveyance Pipeline would necessitate expansion of the AWT in order to purify the recycled water destined for the RUWAP because all water flowing in the shared pipeline must be purified; by contrast if water to serve the RUWAP were conveyed in its own separate pipeline only tertiary treatment would be needed ("AWT Expansion").
- H.** On September 8, 2015, MCWD and MRWPCA tentatively agreed to work together on the PWM.
- I.** On October 8, 2015, the MRWPCA Board unanimously voted to certify the EIR for the PWM and to approve the PWM. The MRWPCA Board selected the RUWAP Alignment for the Product Water Conveyance Pipeline.
- J.** On October 9, 2015, the FORA Board unanimously voted to adopt a resolution to endorse the PWM as an acceptable option as the recycled component of the Fort Ord Regional Urban Water Augmentation Program.
- K.** On November 17, 2015, the MCWD Board unanimously voted to submit a Clean Water State Revolving Fund Financial Assistance Application to the State Water Resources Control Board for the Regional Urban Water Augmentation Project.
- L.** On April 8, 2016, MCWD and MRWPCA entered into the Pure Water Delivery and Supply Project Agreement pursuant to which the Pure Water Monterey's Product Water Conveyance Pipeline will be designed, constructed, owned, and operated by MCWD in accordance with the 1998 MCWD-FORA Water/Wastewater Facilities Agreement. Under this 2016 Agreement, MCWD will have the right to utilize for the Ord Community up to and including a net 600 AFY during Phase 1 and a net 1,427 AFY during Phase 2 to implement FORA Board Resolution 07-10.

- M. MRWPCA must update their PWM environmental and regulatory documents to combine the PWM with RUWAP and to amend its NPDES permit for RUWAP.
- N. An agreement is required to establish the reimbursement of costs to MRWPCA from MCWD for Technical Activities associated with obtaining the NPDES permit amendment and other regulatory approvals needed for the AWT and OWD for the RUWAP Recycled Project.

**NOW, THEREFORE**, for and in reliance of the foregoing, the Parties hereby agree as follows:

1. **PURPOSE**. The purpose of this Agreement is to establish the extent and manner in which MCWD will contribute to MRWPCA's costs to Technical Activities associated with obtaining the NPDES permit amendment and other regulatory approvals needed for AWT and Outfall Waste Discharge ("OWD") for the RUWAP Recycled Project between MRWPCA and MCWD.

2. **DEFINITIONS**. For the purposes of this Agreement, unless expressly provided otherwise in this Agreement, the terms used in this Agreement shall have the same meaning as the same terms are defined in the 2016 MRWPCA-MCWD Agreement. As used in this Agreement, the term "Parties" or "Both Parties" shall mean MCWD and MRWPCA and their respective Boards.

### 3. **OBLIGATIONS**

#### 3.01 MCWD Financial Obligation

(a) MCWD shall provide a total of \$263,319 towards the environmental and regulatory documents for AWT and OWD to be updated and to amend the NPDES permit for RUWAP with 1 MGD for a total of 5 MGD AWT production and waste discharge for the PWM and RUWAP. The total expenditure limit for MCWD's cost share of the environmental and regulatory documents for Phase 1 AWT and OWD shall not exceed 13.953% per Section 4.01(b) of the MRWPCA-MCWD Pure Water Delivery and Supply Project Agreement.

(b) Subject to the limits stated in subsection 3.01(a) above and in accordance with Section 3.02 below, MCWD shall honor and pay invoices for services rendered by MRWPCA's consultant, Larry Walker and Associates, Inc, and subconsultants as invoiced in providing the services enumerated below after the execution of this Agreement.

- i. Scope and Fee Schedule for "Project Path 2 – Regulatory Compliance Analysis and documentation for MCWD RUWAP", Proposal for Pure Water Monterey Groundwater Replenishment Project NPDES Permitting and Other Regulatory Services submitted by Larry Walker Associates, dated April 17, 2017.

(c) Additionally, as part of the total amount for the contract services stated above, the sum of \$65,000 shall be paid by MCWD to MRWPCA, within ten (10) business days after the execution of this Agreement and receipt of a consultant invoice requiring the deposit of

these funds on account of the above described services to be performed by LWA on behalf of MCWD, with the Notice to Proceed for said services to be issued by MRWPCA to LWA upon receipt of that deposit. Monthly invoices from LWA showing the services performed and the deposit account credits for same shall be provided to MRWPCA, as the services are provided. At such time as the deposit balance is reduces to \$15,000 or less, by the payment of LWA invoices for the services performed, MRWPCA shall so notify MCWD in writing, MCWD shall make a payment to MRWPCA to increase the deposit fund back up to the original \$65,000 for the payment of further invoices for contract services to be rendered by LWA on behalf of MCWD provided MCWD's total cost share of AWT environmental and regulatory documents do not exceed the limits set forth in Section 3.01(a).

(d) MCWD shall have sole discretion as to the source of funds for use in satisfying its obligation under this Agreement.

### 3.02 Timing of MCWD Reimbursements

(a) Pursuant to the deposit account described in subsection 3.01(c) above, MCWD shall reimburse MRWPCA for the total cost described in subsection 3.01(a) and incurred after the execution of this Agreement, based on the invoices for the progress and completion of work by LWA.

(b) MCWD shall review invoices submitted by MRWPCA and shall within ten (10) business days following receipt either approve such invoices or notify MRWPCA as to why such invoices are not approved. MRWPCA shall disburse RUWAP payment within ten (10) business days of approval of the invoices. MRWPCA reserves the right to exclude disputed elements of any invoice from payment until any such dispute is resolved.

(c) In the event of a dispute regarding the approval of invoices as described in subsection 3.02(b) above, the Contract Administrators (identified in Section 6.04 below) shall work to resolve the dispute within ten (10) business days. If no resolution can be achieved it shall be resolved according the Dispute Resolution Process in the 2016 Agreement.

### 3.03 MCWD coordination with MRWPCA

(a) MCWD will support MRWPCA in obtaining or acquiring any data or information necessary, facilitating meetings and assisting with implementation of the technical activities associated with obtaining the NPDES permit amendment and other regulatory approvals needed for the AWT and OWD for the RUWAP.

### 3.04 MRWPCA Obligations

(a) In accordance with subsection 3.03 (a) MRWPCA will cooperate and coordinate with MCWD to obtain NPDES permit amendment and other regulatory approvals.

(b) MRWPCA will apply MCWD's financial contributions only towards the types of costs listed in Section 3.01.

(c) MRWPCA shall provide MCWD the right to review and comment on the technical activities associated with obtaining the NPDES permit amendment and other regulatory approvals.

(d) MRWPCA shall provide status updates on the progress of the project to MCWD staff which will include current and cumulative information on the project in support of reimbursement invoicing.

(e) MRWPCA shall submit invoices and reimbursement(s) requests to:

Marina Coast Water District  
Attn: Accounting Services  
11 Reservation Road  
Marina, CA 93933

(f) Upon completion of the Project, MRWPCA shall provide proof of payment in full to the consultant for the project.

### 3.05 Pure Water Coordinating Committee

(a) Section 2.2, Pure Water Coordination Committee, of the MRWPCA-MCWD Pure Water Delivery and Supply Project Agreement shall apply to this agreement.

**4. INDEMNIFICATION.** MRWPCA agrees to indemnify, defend and hold MCWD harmless from and against any loss, cost, claim, or damages directly related to MRWPCA's actions or inactions under this Agreement. MCWD agrees to indemnify, defend and hold MRWPCA harmless from and against any loss, cost, claim, or damage directly related to MCWD's actions or inactions under this Agreement.

**5. DISPUTE RESOLUTION.** All disputes arising under this Agreement shall be submitted to the Dispute Resolution Procedure in the 2016 Agreement.

## **6. GENERAL PROVISIONS**

6.01 Governing Law. This Agreement shall be governed by and interpreted by and in accordance with the laws of the State of California.

6.02 Attorney's fees. If either Party commences an action against the other Party arising out of or in connection with this Agreement, the prevailing Party shall be entitled to have and recover from the losing Party reasonable attorneys' fees and costs.

6.03 Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the Parties concerning the specific subject matter hereof. No amendment or modification shall be made to this Agreement, except in writing, approved by the respective Boards and duly signed by both Parties.

#### 6.04 Contract Administrators

(a) MCWD hereby designates its General Manager as its contract administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of MCWD shall be under the direction of or shall be submitted to the General Manager or such other MCWD employee in MCWD as the General Manager may appoint. MCWD may, in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to MRWPCA of any such change.

(b) MRWPCA hereby designates its General Manager as its contract administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of MRWPCA shall be under the direction of or shall be submitted to the Executive Officer or such other MRWPCA employee in MRWPCA as the Executive Officer may appoint. MRWPCA may, in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to MCWD of any such change.

6.05 Assignment. Any assignment of this Agreement shall be void without the written consent of the non-assigning Party.

6.06 Negotiated Agreement. This Agreement has been arrived at through negotiation between the Parties. Neither Party is to be deemed the Party which prepared this Agreement within the meaning of Civil Code Section 1654.

6.07 Time is of Essence. Time is of the essence of this Agreement.

6.08 Headings. The article and paragraph headings are for convenience only and shall not be used to limit or interpret the terms of this Agreement.

6.09 Notices. All notices and demands required under this Agreement shall be deemed given by one Party when delivered personally to the principal office of the other Party; when faxed to the other Party, to the fax number provided by the receiving Party; or five (5) days after the document is placed in the US mail, certified mail and return receipt requested, addressed to the other Party as follows:

To MRWPCA:

General Manager  
MRWPCA  
5 Harris Court, Bldg D  
Monterey, CA 93940  
Fax: (831) 372-6178

To MCWD:

General Manager  
MCWD  
11 Reservation Road  
Marina, CA 93933  
Fax: (831) 883-5995

6.10 Execution of Documents. The Parties will execute all documents necessary to complete their performance under this Agreement.

6.11 Waiver. No waiver of any right or obligation of any of the Parties shall be effective unless in writing, specifying such waiver, executed by the Party against whom such waiver is sought to be enforced. A waiver by any of the parties of any of its rights under this Agreement on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

6.12 Written Authorization. For any action by any Party which requires written authorization from the other Party, the written authorization shall be signed by authorizing Party's General Manager, or the written designee.

In witness whereof, the Parties execute this Agreement as follows:

**MRWPCA**

Dated: June 5, 2017  
Rudy Fischer  
Board Chair, Board of Directors

**MCWD**

Dated: May 26, 2017  
[Signature]  
President, Board of Directors

Approved as to form:

Dated: June 5, 2017  
John R. Wellington  
Counsel, MRWPCA

Dated: MAY 24, 2017  
Roger K. Masuda  
Counsel, MCWD

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 12-B

Meeting Date: May 20, 2019

Prepared By: Michael Wegley

Approved By: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2019-36 to Authorize the General Manager to Submit an Application and Execute a Grant Agreement with the United States Bureau of Reclamation for a WaterSMART: Title XVI Water Reclamation and Reuse Program Grant for the Regional Urban Water Augmentation Project

Staff Recommendation: The Board of Directors adopt Resolution No. 2019-36 to authorize the General Manager to review and support the submittal and execute a grant agreement with the United States Bureau of Reclamation (USBR) for a WaterSMART: Title XVI Water Recycling Project Grant under the Water Infrastructure Improvements for the Nation Act (WIIN) to partially fund the Regional Urban Water Augmentation Project.

Background: *5-Year Strategic Mission Statement – We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

The District has been presented with an opportunity to apply for grant funds through the USBR WaterSMART: Title XVI Water Recycling Grant Program under the WIIN Act to partially fund the RUWAP pipeline. In April 2019, the District was notified that its RUWAP Feasibility Study (Report) is complete and meets USBR requirements (Attachment 1). The Funding Opportunity Announcement was issued later in April. Thus, the project is eligible to apply for the WaterSMART WIIN Grant Program. The submission deadline is June 28, 2019.

Discussion/Analysis: This opportunity is a cost-shared funding grant for the planning, design and/or construction of recycled water and reuse projects. The grant would fund up to 25% of allowable costs, less any other federal assistance awarded to the project. The costs eligible would encompass costs incurred through September 2021. If the project is not completed by that date, the District would be eligible for additional grant funds in the next funding period for USBR.

This competitive grant program has a total of \$20 million available to award in FY 2019. Based on the funding criteria, the District would be eligible for \$3.2 million of grant funds. Staff therefore requests the Board consider adoption of Resolution No. 2019-36 to authorize the General Manager to review and support the submittal application for this grant program and to execute a grant agreement acceptable to the General Manager upon award from USBR.

Environmental Review Compliance: None required.

Other Considerations: The Board may desire to consider other alternatives to adopting the motion as recommended by staff including:

1. Modifying or conditioning the action; or,
2. Direct further staff work; or,
3. Deny the action.

Financial Impact:    \_\_\_ Yes    \_\_\_ X No                      Funding Source/Recap: None

Material Included for Information/Consideration:    Resolution No. 2019-36; and, Attachment 1 – Feasibility Report.

Action Required:    \_\_\_ X Resolution    \_\_\_ Motion    \_\_\_ Review  
(Roll call vote is required.)

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_



May 20, 2019

Resolution No. 2019-36  
Resolution of the Board of Directors  
Marina Coast Water District

Authorizing the General Manager to Submit an Application and Execute a Grant Agreement  
with the United States Bureau of Reclamation for a WaterSMART: Title XVI Water  
Reclamation and Reuse Program Grant for the Regional Urban Water Augmentation Project

RESOLVED by the Board of Directors (“Board”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on May 20, 2019 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, the District prepared a Title XVI Program Feasibility Study meeting the requirements of a complete feasibility study as reviewed by the United States Bureau of Reclamation (“USBR”); and,

WHEREAS, the USBR WaterSMART Title XVI Water Reclamation and Reuse Project for fiscal year 2019 is accepting applications for the congressionally authorized Title XVI Projects (Public Law 102-575), as amended (43 United States Code [U.S.C.] 390h) including amendments in Title II, Subtitle J of the Water Infrastructure Improvements for the Nation Act (WIIN), Public Law 114-322; and,

WHEREAS, the District’s Regional Urban Water Augmentation Project (“RUWAP”) is eligible for the USBR’s grand funding pursuant to the WaterSMART Title XVI Water Reclamation Reuse Program guidelines and published eligibility guidelines; and,

WHEREAS, the Board seeks to authorize such application to the USBR WaterSMART Title XVI Water Reclamation and Reuse Program for fiscal year 2019; and,

WHEREAS, the USBR requires grant applicants to provide a resolution adopted by the applicant’s governing body designating an authorized representative to submit the grant application and execute an agreement with the USBR for the grant; and,

WHEREAS, the Board seeks to authorize the General Manager to sign the USBR WaterSMART Grant Agreement and any amendments hereto.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Marina Coast Water District:

1. That the Board hereby authorizes the General Manager to review and support the submittal of a grant application requesting up to \$3.2 million for the RUWAP on behalf of the Marina Coast Water District, to the USBR; and,
2. That the General Manager is hereby designated as the District’s authorized representative and authorized and directed to prepare the necessary data, conduct investigations, file such application, and, if a grant is awarded and if the General Manager finds that it is in the best interests of the District to do so, execute in the name of Marina Coast Water District all necessary grant documents, including, but not limited to, agreements, amendments,

payment requests and so on, which may be necessary for the grant and funding of the RUWAP, provided that the District can satisfy the grant terms, conditions, and requirements, and comply with all applicable state and federal laws and regulations.

3. Funds are available in the District's Capital Improvement Program to provide the District's required funding and/or in-kind contributions for the \$3.2 million grant, if awarded.
4. That the General Manager is authorized and directed, if the grant is awarded, to administer the grant on behalf of the District and to apply the monies received to the appropriate Marina Coast Water District Fund.
5. The District will work with Reclamation to meet established deadlines for entering into a grant or cooperative agreement.

PASSED AND ADOPTED on May 20, 2019 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

\_\_\_\_\_  
Thomas P. Moore, President

ATTEST:

\_\_\_\_\_  
Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-36 adopted May 20, 2019.

\_\_\_\_\_  
Keith Van Der Maaten, Secretary



# United States Department of the Interior

BUREAU OF RECLAMATION  
Mid-Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825-1898

IN REPLY REFER TO:

MP-720  
2.2.4.22

**APR 22 2019**

Mr. Keith Van Der Maaten  
Marina Coast Water District  
11 Reservation Road  
Marina, CA 93933

Subject: Title XVI – Marina Coast Regional Urban Water Augmentation Project Feasibility Study

Dear Mr. Van Der Maaten:

The Bureau of Reclamation is pleased to inform you that the feasibility study for the Marina Coast Regional Urban Water Augmentation Project has been found to be in accordance with our Directives and Standards; therefore, it meets the requirements of a feasibility study as defined under Section 1604 of Public Law 102-575, as amended. Enclosed for your information is a copy of the formal memorandum approved on April 12, 2019.

If you have further questions, please contact Mr. Ankur Bhattacharya, Title XVI Program Manager, at [ankurbhattacharya@usbr.gov](mailto:ankurbhattacharya@usbr.gov) or (916) 978-5348.

Sincerely,

David van Rijn  
Regional Planning Officer

Enclosure



# United States Department of the Interior

BUREAU OF RECLAMATION  
Mid-Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825-1898

IN REPLY REFER TO:

MP-720  
2.2.4.21

VIA ELECTRONIC MAIL ONLY

## Memorandum

To: Director, Policy and Administration  
Attention: 84-51000

Through: Ernest A. Conant  
Regional Director

APR 11 2019

From: David van Rijn  
Regional Planning Officer

APR -2 2019

Subject: Review Team Recommendation That the Marina Coast Regional Urban Water Augmentation Project Feasibility Study (Report) Is Complete

The purpose of this memorandum is to request your concurrence with the Review Team's findings for the Marina Coast Water District's Report. For the reasons outlined below, the Review Team finds the Report is complete and meets the requirements of Public Law (P.L.) 102-575, as amended, and the Bureau of Reclamation's Directives and Standards (WTR 11-01), *Title XVI Water Reclamation and Reuse Program Feasibility Study Review Process*. Therefore, the Mid-Pacific Region recommends Reclamation find that the Report meets the requirements of a feasibility study, as defined under Section 1604 of P.L. 102-575, as amended.

Reclamation received an official copy of the Report on November 27, 2018. The MP Region conducted an initial review of the report and determined there was sufficient information to begin the review process. In a memorandum to you dated January 17, 2019, the MP Region recommended establishment of a Review Team to include Ms. Maribeth Menendez (Policy and Administration), Ms. Meghan Thiemann (Southern California Area Office), and Mr. Michael Mosley (MP Region/MP-700). The Director, Policy and Administration, concurred, and the Review Team was established.

The Report was reviewed and compared to the criteria identified in the Directives and Standards for the review process on feasibility study reports. By letter dated February 26, 2019, the District was requested to revise the Report to provide additional information on projected water demands, estimated costs, and the non-Federal funding condition, as required by the Directives and Standards as they relate to the proposed recycled water project. Additional information was submitted in an email dated March 18, 2019.

Based on the review of the Report and additional information provided, the Review Team finds the Report meets the requirements of a complete feasibility study as identified in WTR 11-01 and, therefore, meets the requirements of a feasibility study as defined in Section 1604 of P.L. 102-575, as amended. The MP Region requests your concurrence and approval of the Review Team's finding.

The following documents are included as attachments for your reference: the Summary of Findings, the Title XVI Feasibility Study Review Process (WTR 11-01 Appendix B), the Request for Additional Information memo, the District's response, and the e-mail chain with the Review Team's Concurrence.

If you have questions, please contact Mr. Ankur Bhattacharya at [ankurbhattacharya@usbr.gov](mailto:ankurbhattacharya@usbr.gov) or (916) 978-5348.

Concur:



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Karl Stock  
Acting Director, Policy and Administration

4/12/19

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Date

Attachments

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 12-C

Meeting Date: May 20, 2019

Submitted By: Andrew Racz  
Reviewed By: Michael Wegley

Approved By: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2019-37 to Approve the 2018 Memorandum of Understanding Update with the Monterey Peninsula, Carmel Bay, and South Monterey Bay Integrated Regional Water Management Group and Approve a Reimbursement to the Monterey Peninsula Water Management District for Prop 1 Funding Grant Preparation Costs

Staff Recommendation: The Board adopt Resolution No. 2019-37 to Approve the 2018 Memorandum of Understanding (MOU) Update with the Monterey Peninsula, Carmel Bay, and South Monterey Bay Integrated Regional Water Management Group, approve a Reimbursement to the Monterey Peninsula Water Management District (MPWMD) for Prop 1 Funding Grant Preparation Costs at a not-to-exceed amount of \$23,900, and authorize the General Manager to execute all documents as may be necessary or appropriate to give effect to this resolution.

Background: *5-Year Strategic Mission Statement – We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Detailed Description: Marina Coast Water District (MCWD, District) is a member agency of the Monterey Peninsula, Carmel Bay, and South Monterey Bay Integrated Regional Water Management Group (MPIRWMG). The intent of the Integrated Regional Water Management (IRWM) program is to encourage local and regional agencies to implement projects focused on meeting multiple water resources needs on a regional basis. The California Department of Water Resources (DWR) and the State Water Resources Control Board (SWRCB) have encouraged local and regional water resource management entities to establish integrated regional water management plans (IRWMPs) through the collaboration of planning efforts and project coordination.

In late 2019, the DWR will begin releasing new Proposition 1 IRWM Round 1 implementation grant funding. In 2016, the six Central Coast IRWM funding regions entered into a Memorandum of Agreement to share \$43M in Prop 1 funding in a fair and equitable manner based on a base amount, and a proportional amount by population and total acreage of the planning area. This agreement was reached in part because some regions have received a disproportionate amount of past IRWM funding. As a result, the MPIRWMG funding area is slated to receive approximately \$4.2M in Prop 1 IRWM funding, including 10% for Disadvantaged Community (DAC) Involvement and 10% for DAC Projects. In early 2019, MCWD submitted an application requesting \$285,000 in funding for the Coe Avenue Recycled Water Distribution Pipeline, a proposed CIP that will provide advance-treated recycled water for landscape irrigation to MCWD customers in Seaside Highlands and adjacent areas within the City of Seaside. The pipeline is one of several distribution pipelines being planned by MCWD as part of the Regional Urban Water Augmentation Project (RUWAP) to distribute recycled water to potential end-users who currently use potable water to meet outdoor irrigation needs (see attached map). In March 2019, the MPIRWMG finished evaluating all submitted project proposals and voted to include MCWD's

proposed project and full funding request in the MPIRWMG's Prop 1 grant application. Along with MCWD's Coe Avenue project, three additional projects put forth by the Cities of Seaside, Sand City and Monterey comprise the MPIRWMG's grant application.

### **Action Item 1: Approve 2018 MOU Update**

The District Board is being asked to authorize execution of the MPIRWMG's updated 2018 MOU. The revision added new members to the MOU and updated information about the 2016 and 2018 DWR Program Guidelines. In order to be eligible for State IRWM grant funds under the California voter-approved Proposition 1, the MOU must be adopted by the agencies comprising the MPIRWMG and by agencies that apply for grant funds. The alternative is to not adopt the MOU and be eliminated from participating within this particular MPIRWMG (i.e. the MPIRWMG will advance regardless of MCWD's participation).

As part of the plan update and project solicitation process, new members were given the opportunity to join the MPIRWMG and sign onto the MOU that forms the group. Participation as a member of the MPIRWMG entitles a member with the ability to vote on the prioritization process for projects that are put forward for the available IRWM grant funding. Potential new members were asked to provide a letter request to the MPIRWMG to join, pursuant to the MOU's Mutual Understanding, which currently states:

*6.12 Participation in Regional Water Management Group (RWMG). Any qualified stakeholder may petition to become a member of the RWMG. A qualified stakeholder must demonstrate the following: a) an interest, responsibility or authority over multiple resources within the region; or b) a unique interest, responsibility, authority, or asset not shared by any other entity within the RWMG. The RWMG shall consider such a request for a change to the RWMG and shall vote by majority to accept or reject the request.*

Ten organizations have provided letters requesting to join the MPIRWMG: California State University Monterey Bay, Carmel Area Wastewater District, Carmel River Watershed Conservancy, Carmel Valley Association, City of Carmel-by-the-Sea, City of Del Rey Oaks, City of Pacific Grove, City of Sand City, City of Seaside, and Monterey County Resource Management Agency.

### **Action Item 2: Approve Prop 1 Grant Application Funding**

The MPWMD has retained Dudek for services to prepare a proposal to the DWR for Proposition 1 IRWM grant funds. The contract between MPWMD and Dudek is for a maximum amount of \$95,600. MCWD's Coe Avenue project is one of four projects comprising the MPIRWMG's overall funding proposal. As such, MPWMD has requested that MCWD agree to reimburse up to \$23,900, or one-fourth of the total cost.

A funding award of \$285,000 would represent a nearly twelve-fold return on investment of the proposed grant preparation costs, and the probability of receiving this award is high. All submitted Round 1 implementation project proposals were competitively ranked and technically vetted by the MPIRWMG's technical advisory committee, then voted upon for inclusion in the grant funding proposal by participating member agencies. As the six Central Coast IRWM funding regions have already agreed to an equitable distribution of available funds, it seems likely that the full funding request will be granted. Staff recommends that the District Board approve the establishment of a

reimbursement agreement between MCWD and MPWMD to cover IRWM grant preparation costs, and grant the District General Manager signing authority for said agreement.

**Additional Information:**

For the first Monterey Peninsula IRWM Plan adopted in 2007, the MPIRWMG was comprised of representatives from the Big Sur Land Trust (BSLT), the City of Monterey, the Monterey County Water Resources Agency (MCWRA), the Monterey Regional Water Pollution Control Agency (MRWPCA), and the Monterey Peninsula Water Management District (MPWMD). Marina Coast Water District (MCWD) and the Resource Conservation District of Monterey County (RCDMC) joined the MPIRWMG in 2014.

Integrated Regional Water Management (IRWM) is a collaborative effort to manage all aspects of water resources in a region. IRWM crosses jurisdictional, watershed, and political boundaries; involves multiple agencies, stakeholders, individuals, and groups; and attempts to address the issues and differing perspectives of all the entities involved through mutually beneficial solutions.

The State of California’s Department of Water Resources (DWR) has divided the state into 48 sub-regions (planning areas) for funding purposes. Locally, the Central Coast funding region is comprised of coastal watersheds in the counties of Santa Cruz, Santa Clara, San Benito, Monterey, San Luis Obispo and Santa Barbara. Within the Central Coast funding region, there are six IRWM planning areas.

The formation of the Monterey Peninsula planning area was based on watershed and groundwater basin limits, portions of the near-shore environment areas affected by inland area activities, and takes into consideration jurisdictional limits, powers and responsibilities for water resource management. The Monterey Peninsula planning area is approximately 347 square miles and consists of coastal watershed areas in Carmel Bay and south Monterey Bay between Pt. Lobos on the south and Sand City on the north – a 38.3-mile stretch of the coast that includes three Areas of Special Biological Significance (Pt. Lobos, Carmel Bay, and Pacific Grove), several Marine Protected Areas, and a portion of the Monterey Bay National Marine Sanctuary. The area encompasses the six Monterey Peninsula Cities of Carmel-by-the Sea, Del Rey Oaks, Pacific Grove, Monterey, Sand City, Seaside, and extends into portions of the unincorporated area of Monterey County at the former Fort Ord, in the Carmel Highlands, Pebble Beach, the inland areas of Carmel Valley and the Laguna Seca area.

Environmental Review Compliance: None required.

Other Considerations: The Board may desire to consider other alternatives to adopting the motion as recommended by staff including:

1. Modifying or conditioning the action; or,
2. Direct further staff work; or,
3. Deny the action.

Financial Impact:   X   Yes        No Funding Source/Recap: Funded through the Engineering Capital Improvement Budget (CIP #0158).

Materials Included for Information/Consideration: Resolution No. 2019-37; Updated 2018 MOU; and, RUWAP Alignment Map.



Action Required:   X   Resolution        Motion        Review  
(Roll call vote is required.)

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Board Action

Motion By                    Seconded By                    No Action Taken                   

Ayes                                    Abstained                                   

Noes                                    Absent

May 20, 2019

Resolution No. 2019-37  
Resolution of the Board of Directors  
Marina Coast Water District

Adopting the Updated 2018 Monterey Peninsula Integrated Regional Water Management Group  
Memorandum of Understanding and Approve Reimbursement to MPWMD for Preparing a  
Proposition 1 Grant Application Funding

RESOLVED by the Board of Directors (“Board”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on May 20, 2019 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, the State of California desires to foster Integrated Regional Water Management (IRWM) planning and encourages local public, non-profit, and private (for profit) entities to define planning regions appropriate for managing water resources and to integrate strategies within these planning regions; and,

WHEREAS, the water resources management authority and interests in the planning area are currently distributed among various public agencies and other entities with a range of legal powers, regulatory responsibilities and interests; and,

WHEREAS, sensible water resources planning and management frequently requires actions in multiple jurisdictions; and,

WHEREAS, the Monterey Peninsula Integrated Water Resources Management Group (MPIRWMG) undertakes collaborative planning efforts with the stakeholders in the planning Region including public agencies, water providers, non-profit entities, residential water users, community, recreation, and environmental organizations to formulate water management goals, strategies, and objectives for the planning Region and to prioritize projects that address watershed and regional issues; and,

WHEREAS, the Memorandum of Understanding (MOU) among the member agencies is intended to be a living document, reviewed and updated over time; and,

WHEREAS, the MPWMD has retained Dudek for services to prepare a proposal to the DWR for Proposition 1 IRWM grant funds. The contract between MPWMD and Dudek is for a maximum amount of \$95,600. MCWD’s Coe Avenue project is one of four projects comprising the MPIRWMG’s overall funding proposal. As such, MPWMD has requested that MCWD agree to reimburse up to \$23,900, or one-fourth of the total cost; and,

WHEREAS, the Marina Coast Water District Board of Directors reviewed the MOU Update with its staff and the general public at its regular Board meeting on May 20, 2019 with the intent to adopt said MOU.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby adopt Resolution No. 2019-37 approving the Monterey Peninsula Integrated Regional Water Management Group 2018 MOU update and approve reimbursement to MPWMD in an amount not-to-exceed \$23,000 for Prop 1 Funding Grant Preparation Costs, and

to authorize the General Manager to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED on May 20, 2019, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

\_\_\_\_\_  
Thomas P. Moore, President

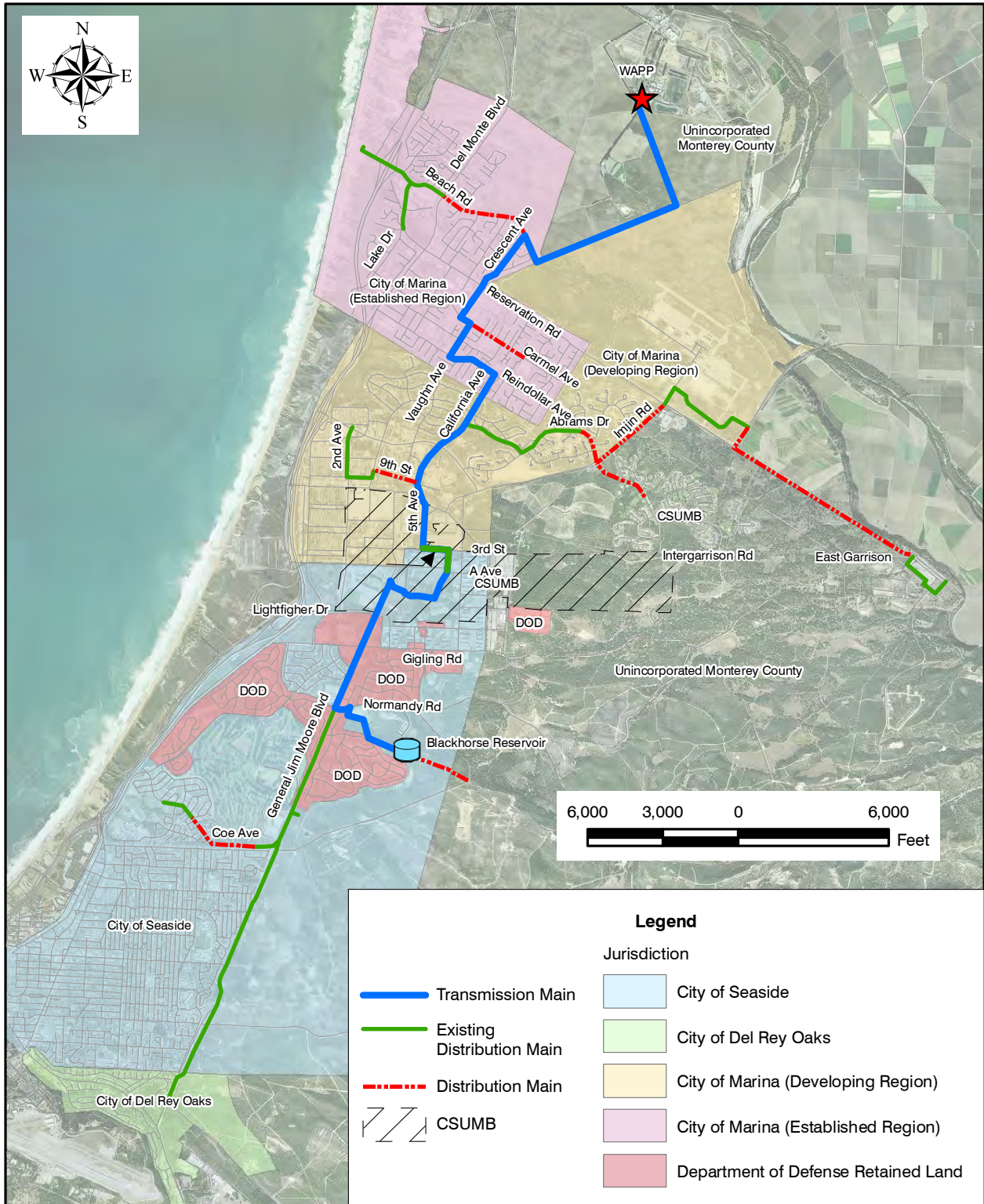
ATTEST:

\_\_\_\_\_  
Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2019-37 adopted May 20, 2019.

\_\_\_\_\_  
Keith Van Der Maaten, Secretary



**Figure 1**  
**RECYCLED WATER PROJECT ALIGNMENT**  
**MARINA COAST WATER DISTRICT**



**AMENDED**  
**Memorandum of Understanding for  
Integrated Regional Water Management in the  
Monterey Peninsula, Carmel Bay, and South Monterey Bay Region**

**1. PURPOSE**

The purpose of this Memorandum of Understanding (MOU) is to recognize a mutual understanding among entities in the southern Monterey Bay area regarding their joint efforts toward Integrated Regional Water Management (IRWM) planning. That understanding will continue to increase coordination, collaboration and communication for comprehensive management of water resources in the cities and unincorporated portions of the Monterey Peninsula, Carmel Bay, and South Monterey Bay Region (Region).

- A. **Background and Description of Amendments.** The initial MOU to form a Regional Water Management Group (RWMG) was fully executed on July 22, 2008 by the Big Sur Land Trust (BSLT), a 501 (c) 3 organization, the City of Monterey, the Monterey Regional Water Pollution Control Agency (MRPWCA, now known as Monterey One Water or M1W), the Monterey County Water Resources Agency (MCWRA), and the Monterey Peninsula Water Management District (MPWMD). The MOU formed a Regional Water Management Group (RWMG) for the purposes of developing and implementing projects consistent with the guidelines set by the State of California for IRWM.

Subsequently, the Marina Coast Water District (MCWD) requested approval to become part of the RWMG and signed an amended MOU in June 2011 that includes MCWD as a member of the RWMG. In 2012, the MOU was amended to include the Resource Conservation District of Monterey County (RCD) as a member of the RWMG. In 2018, a number of additional organizations requested approval to become part of the MOU, including California State University Monterey Bay, Carmel Area Wastewater District, Carmel River Watershed Conservancy, Carmel Valley Association, City of Carmel-by-the-Sea, City of Del Rey Oaks, City of Pacific Grove, City of Sand City, City of Seaside, and Monterey County Resource Management Agency.

In 2014, voters passed Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act (Public Resources Code, sections 79700 - 79798), which authorizes the Legislature to appropriate funding for competitive grants for Integrated Regional Water Management (IRWM) projects. Funding is administered by the Department of Water Resources (DWR).

In 2015, representatives from the RWMGs representing the Central Coast region entered into discussions about a funding area agreement for Proposition 1 funds allocated to the Central Coast funding area. In 2016, the Central Coast RWMGs entered into a Memorandum of Agreement for Integrated Regional Water Management Planning and Funding in the Central Coast Funding Area to share Proposition 1 funding for the IRWM grant program among the six Parties in a fair and equitable manner, and to reduce the need

for the Parties to compete against each other for grant funds, which creates unnecessary economic inefficiencies in implementing each Planning Region's IRWM Plan.

(Pending approval by a majority of current RWMG members) This amended MOU reflects the addition of California State University Monterey Bay, Carmel Area Wastewater District, Carmel River Watershed Conservancy, Carmel Valley Association, City of Carmel-by-the-Sea, City of Del Rey Oaks, City of Pacific Grove, City of Sand City, City of Seaside, and Monterey County Resource Management Agency as members of the RWMG.

## **2. RECITALS**

- A. The State of California desires to foster Integrated Regional Water Management (IRWM) planning and encourages local public, non-profit, and private (for profit) entities to define planning regions appropriate for managing water resources and to integrate strategies within these planning regions.
- B. Water resources management authority in the Region is currently distributed among various public agencies with a range of legal powers and regulatory responsibilities. These public agencies have definite jurisdictional boundaries, whereas sensible water resources planning and management frequently requires actions in multiple jurisdictions. Non-public entities within the Region have considerable interests in cooperating with public entities to protect, manage, and enhance water resources within the Region.
- C. (Pending approval by current RWMG members) Thirteen public entities and three non-profit entities in the Region with responsibility and interests in the management of water resources have agreed to form a Regional Water Management Group for the purposes of developing and implementing projects consistent with the guidelines set by the State of California for IRWM. These entities are:
  - Big Sur Land Trust (BSLT), a 501 (c) 3 organization;
  - California State University Monterey Bay
  - Carmel Area Wastewater District;
  - Carmel River Watershed Conservancy, a 501 (c) 3 organization;
  - Carmel Valley Association;
  - City of Carmel-by-the-Sea;
  - City of Del Rey Oaks
  - City of Monterey;
  - City of Pacific Grove;
  - City of Seaside;
  - City of Sand City; Monterey One Water (M1W));
  - Monterey County Resource Management Agency;
  - Monterey County Water Resources Agency (MCWRA);
  - Marina Coast Water District (MCWD);
  - Resource Conservation District of Monterey County; and

- Monterey Peninsula Water Management District (MPWMD).
- D. The RWMG has defined an appropriate planning Region that takes into consideration jurisdictional limits, powers and responsibilities, and watershed and groundwater basin boundaries. The RWMG is taking the lead in overseeing and implementing a detailed IRWM Plan within the planning Region. The Region is generally described as encompassing approximately 347 square miles and consists of groundwater basins and coastal watershed areas contributing to the Carmel Bay and south Monterey Bay. The Region includes coastal watersheds from the southernmost portion of the San Jose Creek watershed north to the northern limit of the Seaside Groundwater Basin. The inland area is bounded by the Seaside Groundwater Basin to the north and by the Carmel River watershed to the south and east. The western limit of the planning Region generally coincides with the land and Pacific Ocean interface, but includes the Pt. Lobos, Carmel Bay, and Pacific Grove Areas of Special Biological Significance (ASBS) adjacent to the coastal portion of the Region.

The principal groundwater basins in the planning Region are the Seaside Groundwater Basin and the Carmel Valley Aquifer. The Region includes about 38 miles of the coast within the Monterey Bay National Marine Sanctuary, three ASBS, the Cities of Carmel-by-the Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, Seaside, and unincorporated portions of Monterey County including the Carmel Valley watershed (255 square miles), Pebble Beach, the Carmel Highlands and portions of the Seaside Groundwater Basin adjacent to Highway 68 (also known as Canyon Del Rey). This description of the planning Region is not intended to be a limitation on projects and resource planning that may be shared between adjacent IRWM planning Regions (e.g., the Greater Monterey County IRWM planning Region to the north and east).

- E. The entities signatory to this MOU desire to link and integrate efforts to jointly oversee the development and implementation of a comprehensive Integrated Regional Water Management Plan for the Region and to allocate IRWM funding within the planning Region.

### 3. GOALS

The goals of the collaborative effort undertaken pursuant to this MOU are:

- 3.1 To implement a comprehensive IRWMP for the Region that will consider the strategies that are required by the State under CWC 79562.5 and 79564 and subsequent modifications required under Proposition 1. Eligible projects must yield multiple benefits and include one or more of the following elements

**(Water Code §79743 (a - j)):**

- ✓ **Water reuse and recycling for non-potable reuse and direct and indirect potable reuse**
- ✓ **Water-use efficiency and water conservation**

- ✓ **Local and regional surface and underground water storage, including groundwater aquifer cleanup or recharge projects**
  - ✓ **Regional water conveyance facilities that improve integration of separate water systems**
  - ✓ **Watershed protection, restoration, and management projects, including projects that reduce the risk of wildfire or improve water supply reliability**
  - ✓ **Stormwater resource management, including, but not limited to, the following:**
    - **Projects to reduce, manage, treat, or capture rainwater or stormwater**
    - **Projects that provide multiple benefits such as water quality, water supply, flood control, or open space**
    - **Decision support tools that evaluate the benefits and costs of multi-benefit stormwater projects**
    - **Projects to implement a stormwater resource plan developed in accordance with Part 2.3 (commencing with Section 10560) of Division 6 including Water Code § 10562 (b)(7)**
  - ✓ **Conjunctive use of surface and groundwater storage facilities**
  - ✓ **Water desalination projects**
  - ✓ **Decision support tools to model regional water management strategies to account for climate change and other changes in regional demand and supply projections**
  - ✓ **Improvement of water quality, including drinking water treatment and distribution, groundwater and aquifer remediation, matching water quality to water use, wastewater treatment, water pollution prevention, and management of urban and agricultural runoff**
  - ✓ **Regional projects or programs as defined by the IRWM Planning Act (Water Code §10537)**
- 3.2 To implement a comprehensive IRWMP for the Region that incorporates water supply, water quality, flood and erosion protection, and environmental protection and enhancement objectives.
- 3.3 To improve and maximize coordination of individual public, private, and non-profit agency plans, programs and projects for mutual benefit and optimal gain within the Region.
- 3.4 To help identify, develop, and implement collaborative plans, programs, and projects that may be beyond the scope or capability of individual entities, but which would be of mutual benefit if implemented in a cooperative manner.



- 3.5 To facilitate regional water management efforts that include multiple water supply, water quality, flood control, and environmental protection and enhancement objectives.
- 3.6 To foster coordination, collaboration and communication between stakeholders and other interested parties, to achieve greater efficiencies, enhance public services, and build public support for vital projects.
- 3.7. To realize regional water management objectives at the least cost possible through mutual cooperation, elimination of redundancy, and enhanced regional competitiveness for State and Federal grant funding.
- 3.8 To satisfy State requirements for incorporation of a Storm Water Resource plan developed for the Region in accordance with Part 2.3 (commencing with Section 10560) of Division 6 including Water Code § 10562 (b)(7)

#### 4. DEFINITIONS

- 4.1 **Funding Area Agreement.** The agreement entered into between the six regions within the Central Coast funding area to allocate a portion of Proposition 1 IRWM funds to each planning region.
- 4.2 **Integrated Regional Water Management Plan (IRWMP or IRWM Plan).** The plan envisioned by state legislators and state resource agencies that integrates the strategies, objectives, and priorities for projects to manage water resources proposed by public entities, non-profit entities, and stakeholders within a defined Planning Region. The minimum plan standards are as shown in Appendix A of “Integrated Regional Water Management Grant Program Guidelines, November 2004, Department of Water Resources and State Water Resources Control Board, Proposition 50, Chapter 8,” as revised. Minimum IRWM Plan standards may be revised from time to time by the State of California.
- 4.3 **Integration.** The combining of water management strategies and projects to be included in an IRWMP.
- 4.4.a **Lead Agency for IRWM Plan Development.** The Monterey Peninsula Water Management District is designated by the Regional Water Management Group to lead the development or implementation of an Integrated Regional Water Management Plan for the Region.
- 4.4.b **Lead Agency for IRWM Grant Applications.** The Regional Water Management Group may designate any entity in the Regional Water Management Group to be the Lead Agency in making application to the State for grant funds.
- 4.4.c **Lead Agency for Executing a Central Coast funding area agreement.** The entity the Regional Water Management Group designates to represent the Monterey Peninsula Region to execute a Funding Area Agreement.
- 4.5 **Non-profit Agency.** A 501 (c) (3) corporation, conservancy, group or other organization involved in water resources management in the Region.
- 4.6 **Private Agency.** A private or publicly held for-profit corporation or property owner involved in water resources management in the Region
- 4.7 **Project.** A specific project that addresses a service function.
- 4.8 **Public Agency.** A state-authorized water district, water agency, water management agency or other public entity, be it a special district, city or other governmental entity, responsible for providing one or more services in the areas of water supply, water

- quality, wastewater, recycled water, water conservation, stormwater/flood control, watershed planning and aquatic habitat protection and restoration.
- 4.9 **Region.** The area defined by the Regional Water Management Group (RWMG) consisting of watersheds, sub-watersheds and groundwater basins under the jurisdiction of one or more entities within the RWMG.
  - 4.10 **Service Function.** A water-related individual service function provided by a private, public, or non-profit entity, i.e. water supply, water quality, wastewater, recycled water, water conservation, stormwater/flood protection, watershed planning, recreational facilities, and habitat protection and restoration.
  - 4.11 **Signatory Entity.** A public, private, or non-profit entity within the Region that is signatory to this MOU.
  - 4.12 **Stakeholder.** A non-signatory public, private, or non-profit agency identified in the IRWM Plan with an interest in water resources management within the Region.
  - 4.13 **Stormwater Resource Plan.** The plan developed for the Region that identifies stormwater capture project opportunities.
  - 4.14 **Technical Advisory Committee.** The committee organized to advise the Regional Water Management Group and Stakeholders concerning the IRWM Plan. Normally, the group will be comprised of individuals with technical backgrounds in the fields of marine and freshwater biology, ecology, geology, engineering, hydrogeology, planning, resource conservation, riparian systems, water conservation, and water quality. However, stakeholders with interests in a particular aspect of resource or project management, but not necessarily a technical background, may also be considered for inclusion in the TAC.
  - 4.15 **Regional Water Management Group.** The group of entities that takes the lead in overseeing the development and implementation of the Integrated Regional Water Management Plan within the Planning Region. (a list of members of the Regional Water Management Group is provided in Recital C)
  - 4.16 **Water Management Strategies.** Plans for and activities to be considered in an IRWMP include, but are not limited to, ecosystem restoration, environmental and habitat protection and improvement, water-supply reliability, flood management, groundwater management, recreation and public access, storm water capture and management, water conservation, water quality improvement, water recycling, and wetlands enhancement and creation.

## 5. IRWMP PARTICIPANTS

- 5.1 **Adopting Entities.** The entities in the Region that participate in the development, adoption, and implementation of the Integrated Regional Water Management Plan for the Region. Each entity intending to carry out a project proposed in the IRWMP must formally adopt the IRWMP or provide written substantiation of acceptance by the governing authority of the entity. For a public agency, adoption of the IRWMP is by formal resolution of the governing body. For a non-profit or for-profit entity, proof of acceptance of the IRWMP by the equivalent of a public agency governing body is required (e.g., by a board of directors or other management entity).
- 5.2 **Stakeholders.** Entities, such as other public, private, and non-profit entities, business and environmental groups, that are considered valuable contributors to the understanding and management of the Region's water resources.

- 5.3. **Regulatory Agencies.** These agencies, including, but not limited to, the State Water Resources Control Board, Central Coast Regional Water Quality Control Board, California Coastal Commission, U.S. Army Corps of Engineers, California Public Utilities Commission, National Marine Fisheries Service (NOAA Fisheries), U.S. Fish and Wildlife Service, and the California Department of Fish and Wildlife, will be invited to participate in the development and implementation of the IRWMP.
- 5.4. **Regional Water Management Group.** The group of entities that takes the lead in developing and implementing an Integrated Regional Water Management Plan within the Planning Region.

## 6. MUTUAL UNDERSTANDING

- 6.1. **Subject matter scope of the IRWMP.** The IRWMP for the Region will include, but is not limited to, water supply, water quality, wastewater, recycled water, water conservation, stormwater/flood control, watershed planning, erosion prevention, and habitat protection and restoration. It is acknowledged that the proposals contained in the IRWMP may be based, in part, on the land-use plans of the member entities local governments such as Cities, Monterey County, and special districts located within the Region. Therefore, the resultant IRWMP will by design have incorporated the land-use plans and assumptions intrinsic to the respective water-related service function.
- 6.2. **Geographical scope of the IRWMP.** The area for this Memorandum is generally defined as the watersheds and associated groundwater basins contributing to the south Monterey Bay and Carmel Bay as shown in Figure 3-1: Map of Monterey Peninsula Integrated Regional Water Management Planning Region in the IRWM Plan.

The Region includes coastal watersheds from the southernmost portion of the San Jose Creek watershed north to the northern limit of the Seaside Groundwater Basin. The inland area is bounded by the Seaside Groundwater Basin to the north and by the Carmel River watershed to the south and east. The western limit of the planning Region generally coincides with the land and Pacific Ocean interface, but includes the Pt. Lobos, Carmel Bay, and Pacific Grove Areas of Special Biological Significance (ASBS) adjacent to the coastal portion of the Region.

However, it is recognized that the geographic scope represented in the IRWM Plan may be amended to include projects that are implemented cooperatively between IRWM planning regions (e.g., with the Greater Monterey County IRWM planning region) and is not intended to be a rigid boundary.

- 6.3. **Approach to developing the IRWMP.** It will be the responsibility of each entity signatory to this Memorandum to provide the Lead Agency with information for the IRWMP concerning project proposals or to identify the need for a water management strategy for each service function provided by a signatory entity.

In order to be included in the IRWMP, all proposals for development of water management plans and water development project proposals related to the IRWMP must meet the standards identified in the IRWM Plan for the Region.

A technical advisory committee consisting of staff representatives from the Regional Water Management Group, other Stakeholders and such other organizations as may become contributing entities, will review proposed management plans and project proposals for consistency with the IRWMP and recommend a prioritized list of projects to be carried out within the Region. The Regional Water Management Group and Stakeholders will meet to review the recommendation made by the TAC.

- 6.4. **Approval of prioritized project list.** Approval of the prioritized project list should occur by consensus of the Regional Water Management Group and Stakeholders and should be based on the prioritization process described in the IRWMP and the recommendations of the Technical Advisory Committee. However, if a consensus cannot be reached among the Stakeholders and Regional Water Management Group, the Regional Water Management Group may make a final determination of the prioritized project list.
- 6.5. **Adoption of the IRWMP.** Plan adoption will occur by approval of the governing board of each entity. Each member of the RWMG shall adopt the IRWM Plan or an amended IRWM Plan, when the Plan becomes available. Project proponents named in an IRWM grant application shall adopt the IRWM Plan or amended IRWM Plan prior to submittal of the grant application. It should be noted that the adopted Plan and project list may be amended from time to time as described below.
- 6.6. **Amendment of IRWMP or Prioritized Project list.** The IRWM Plan and prioritized project list may be amended from time to time. Any member of the Regional Water Management Group or Stakeholders may request that the Lead Agency convene a meeting of the Regional Water Management Group and Stakeholders for the purposes of amending the IRWM Plan or the prioritized project list. However, it is anticipated that the IRWMP or prioritized project list will be amended no more frequently than annually, unless more frequent amendments are required to meet State IRWM standards or grant application cycles. An amended IRWM Plan must be consistent with State IRWM standards as described in Definition 4.1 “Integrated Regional Water Management Plan” and any subsequent revisions by the State to IRWM guidelines.
- 6.7. **Project Implementation.** Project proponents will be responsible for completing proposed projects and providing project reports to the Lead Agency.
- 6.8. **Project Monitoring.** The Regional Water Management Group will be responsible for monitoring the implementation of the IRWMP. The technical advisory committee will regularly report to the General Managers and Governing Boards of the Regional Water Management Group regarding progress on the development and implementation of the IRWMP. The Lead Agency will be responsible for coordinating data collection and dissemination.
- 6.9. **Grant Applications.** The Regional Water Management Group will designate a Lead Agency to apply for grant funds. The Lead Agency for each grant application should have a mission and expertise that is consistent with the purpose of the grant being applied for.
- 6.10. **Central Coast funding area agreement.** The RWMG designates MPWMD to execute a funding area agreement on behalf of the Monterey Peninsula Planning Region.

- 6.11 **Grant Awards and Agreement.** The Lead Agency will be the grantee and administer the grant on behalf of the Regional Water Management Group and Stakeholders.
- 6.12 **Participation in Regional Water Management Group (RWMG).** Any qualified stakeholder may petition to become a member of the RWMG. A qualified stakeholder must demonstrate an interest, responsibility or authority over one or more resources within the region; The RWMG shall consider such a request for a change to the RWMG and shall vote by majority to accept or reject the request.
- 6.13 **Length of Term in Regional Water Management Group.** Members of the RWMG may change from time to time, depending on the level of resources available to each entity. However, there is no required minimum or maximum length of time required as a member of the RWMG. If an entity withdraws from the RWMG, the remaining entities should attempt to replace the interest, responsibility or authority lost by the withdrawal.
- 6.14 **Rights of the Parties and Constituencies:** This MOU does not provide any added legal rights or regulatory powers to any of the signatory parties, or to the RWMG as a whole. This MOU does not of itself give any party the power to adjudicate water rights, or to regulate or otherwise control the private property of other parties. This MOU does not contemplate the parties taking any action that would adversely affect the rights of any of the parties, or that would adversely affect the customers or constituencies of any of the parties.
- 6.15 **Termination.** An entity signatory to this MOU may withdraw from participation upon 30 days advance notice to the other signatory entities, provided it agrees to be financially responsible for any previously committed, but unmet resource commitment.
- 6.16. **Personnel resources.** It is expected that the General Managers and/or other officials of each entity signatory to this MOU will periodically meet to insure that adequate staff resources are available to implement the IRWM Plan.
- 6.17. **Other on-going regional efforts** Development of the IRWMP is separate from efforts of other organizations to develop water-related plans on a regional basis around Monterey Bay and the Central Coast. As the IRWMP is developed and implemented, work products may be shared to provide other entities and groups with current information.

## 7. RECORD OF AMENDMENTS

- 7.1 June 2010 – add Marina Coast Water District to RWMG. Revise Goals, Definitions and MOU terms to reflect Proposition 84 requirements.
- 7.2 March 2012 – add process to change RWMG, define when plan is to be adopted, revise to Proposition 84 standards
- 7.3 August 2012 – add Resource Conservation District of Monterey County to RWMG
- 7.4 DATE (by February 2019) – add California State University Monterey Bay, Carmel Area Wastewater District, Carmel River Watershed Conservancy, Carmel Valley Association, City of Carmel-by-the-Sea, City of Del Rey Oaks, City of Pacific Grove, City of Sand City, City of Seaside, and Monterey County Resource Management Agency to RWMG

**8. SIGNATORIES TO THE MEMORANDUM OF UNDERSTANDING**

We, the duly authorized undersigned representatives of our respective entities, acknowledge the above as our understanding of the intent and expected outcome in overseeing the development and implementation of an Integrated Regional Water Management Plan for the Monterey Peninsula, Carmel Bay, and South Monterey Bay Region.

<p><b>Big Sur Land Trust</b></p> <p>By: _____</p> <p>Date: _____, 20__</p>	<p><b>Monterey County Water Resources Agency</b></p> <p>By: _____</p> <p>Date: _____, 20__</p>
<p><b>Monterey Regional Water Pollution Control Agency</b></p> <p>By: _____</p> <p>Date: _____, 20__</p>	<p><b>City of Monterey</b></p> <p>By: _____</p> <p>Date: _____, 20__</p>
<p><b>Monterey Peninsula Water Management District</b></p> <p>By: _____</p> <p>Date: _____, 20__</p>	<p><b>Marina Coast Water District</b></p> <p>By: _____</p> <p>Date: _____, 20__</p>
<p><b>Resource Conservation District of Monterey County</b></p> <p>By: _____</p> <p>Date: _____, 20__</p>	<p><b>California State University Monterey Bay</b></p> <p>By: _____</p> <p>Date: _____, 20__</p>

<p><b>Carmel Area Wastewater District</b></p> <p><b>By:</b></p> <p><b>Date:</b> _____, 20____</p>	<p><b>Carmel River Watershed Conservancy</b></p> <p><b>By:</b></p> <p><b>Date:</b> _____, 20____</p>
<p><b>Carmel Valley Association</b></p> <p><b>By:</b></p> <p><b>Date:</b> _____, 20____</p>	<p><b>City of Carmel-by-the-Sea</b></p> <p><b>By:</b></p> <p><b>Date:</b> _____, 20____</p>
<p><b>City of Del Rey Oaks</b></p> <p><b>By:</b></p> <p><b>Date:</b> _____, 20____</p>	<p><b>City of Pacific Grove</b></p> <p><b>By:</b></p> <p><b>Date:</b> _____, 20____</p>
<p><b>City of Sand City</b></p> <p><b>By:</b></p> <p><b>Date:</b> _____, 20____</p>	<p><b>City of Seaside</b></p> <p><b>By:</b></p> <p><b>Date:</b> _____, 20____</p>

**Monterey County Resource Management Agency**

**By:**

**Date:** \_\_\_\_\_, 20\_\_\_\_



Marina Coast Water District  
Agenda Transmittal

Agenda Item: 12-D

Meeting Date: May 20, 2019

Prepared By: David Hobbs, Legal Counsel

Approved By: Keith Van Der Maaten

Agenda Title: Discuss, Consider and Determine Action on Vice President Jan Shriner's Request for Censure as to Director Peter Le

Staff Recommendation: The Board of Directors discuss, consider, and determine action on Vice President Jan Shriner's request for censure as to Director Peter Le.

Background: *5-Year Strategic Plan Mission Statement – We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

On April 19, 2019, Vice President Shriner emailed President Moore requesting an agenda item be placed on the MCWD Board agenda "to consider censure for Director Le for expectations described by Board Procedures Manual." (See Attachment No. 1.) In response to that request, President Moore sent Vice President Shriner a letter dated May 1, 2019. (See Attachment No. 2.) The May 1, 2019 letter requested that Vice President Shriner provide specificity with regards to the basis of the request, along with any documents or facts she alleges would support her request such that the Board could make an informed decision. On May 8, 2019, Vice President Shriner provided an email explanation and documents she believes relevant to her request. (See Attachment No. 3.)

Discussion/Analysis: Board Procedures Manual ("BPM") Section 41 (Director's Violations of Policies) states:

Whenever the District, a Director or the General Manager receives a complaint or concern regarding potential or alleged violation of policies by a Director or Directors, the matter shall be reported immediately to the Board President. If the President is the subject of the complaint, the matter shall be reported immediately to the Vice President. The Board President or Vice President shall immediately place the matter on the Board agenda for the Board to discuss the alleged violation(s) and take appropriate action. If the matter(s) is serious, the Board President or Vice President may call a special meeting to address the complaint. If a Director breaches any of the policies contained in Sections 5, 6, 8, 13, 14, 15, 16, 26, 38, and 40 the Board may, in addition to other consequences provided by law, publicly censure the offending Director and may as part of the censure take any or all of the following other actions, to be effective for a time determined by the Board:

- a) Remove the offending Director from committees and representative positions to which the Director has been appointed or designated by the Board or by the President,
- b) Prevent the offending Director from placing items on the agenda without the specific, advance authorization of the Board.

Vice President Shriner's May 8, 2019 email states that her request for censure is predicated on her allegations that Director Le's conduct violates BPM Sections 13 [**Communications**], 14 [**Code of Ethics**] or 15 [**Comments by Directors Concerning District Staff Members**].

Recommended Action: The Board should vote on whether or not Vice President Shriner's request for censure warrants an investigation by the Board and, if an investigation is warranted, what form that investigation should take, i.e., hiring of an independent firm to investigate and provide a determination to the Board. In the event the Board determines to hire an independent investigator, the Board should consider holding a special meeting in the future in order to expedite the process, which is expected to take several months.

Environmental Review Compliance: None required.

Financial Impact:     \_\_\_\_\_Yes     \_\_\_X\_\_\_No     Funding Source/Recap: None

Other Considerations: The Board may suggest changes to the response or provide additional direction on how to respond.

Material Included for Information/Consideration: Attachment No. 1; Attachment No. 2; and, Attachment No. 3 with back up.

Action Required:     \_\_\_\_\_Resolution     \_\_\_X\_\_\_Motion     \_\_\_\_\_Review  
(Roll call vote is required.)

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Board Action

Motion By\_\_\_\_\_ Seconded By\_\_\_\_\_ No Action Taken\_\_\_\_\_

Ayes\_\_\_\_\_ Abstained\_\_\_\_\_

Noes\_\_\_\_\_ Absent\_\_\_\_\_

**From:** Jan Shriner <[DirectorShriner@mcwd.org](mailto:DirectorShriner@mcwd.org)>

**Sent:** Friday, April 19, 2019 6:07 PM

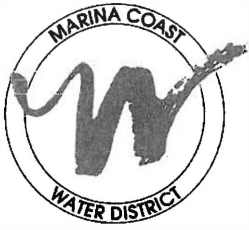
**To:** Thomas Moore <[directormoore@mcwd.org](mailto:directormoore@mcwd.org)>

**Cc:** Keith Van Der Maaten <[KVanDerMaaten@mcwd.org](mailto:KVanDerMaaten@mcwd.org)>; Roger Masuda <[rmasuda@calwaterlaw.com](mailto:rmasuda@calwaterlaw.com)>

**Subject:** Request for agenda item for consideration

I would like to place on a Board agenda the Board to consider censure for Director Le for expectations described by Board Procedures Manual.

Jan



# MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

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

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## DIRECTORS

THOMAS P. MOORE  
*President*

JAN SHRINER  
*Vice President*

HERBERT CORTEZ  
PETER LE  
MATT ZEFFERMAN

May 1, 2019

Dear Vice President Shriner,

As President of the Board of Directors, I have received your April 19, 2019 email, subject: "Request for agenda item for consideration," wherein you requested "to place on a Board agenda the Board to consider censure for Director Le for expectations described by Board Procedures Manual." As you know, the Board treats all requests for censure of a director very seriously, but the party seeking the censure against a sitting director must provide the Board with sufficient evidence supporting the request in order for the Board to determine whether an investigation is warranted. If an investigation is authorized by the Board, then the Board will consider the final investigation report and act on your censure request.

Please provide me as Board President the following:

1. A statement setting forth the specific sections of the Board Procedures Manual upon which you base your request, and any other basis for your request.
2. Copies of all documentary evidence in support of your request.
3. All other evidence you believe supports your request.

Please provide all of the above to me by not later than 5 PM, Thursday, May 9, 2019. All materials and information you provide me will in turn be provided to the other Board members, including Director Le. If you need an extension of time to provide all of the above, please don't hesitate to write me requesting an extension and your requested extension date.

This letter also informs you that, as Board President, I have received an April 20, 2019 email, "Re: Complaint of Harassment" from Director Le against you. It is anticipated that your request and his complaint will be handled in parallel or jointly as determined by the Board.

Please be advised that because both matters are against sitting directors that all evidence and statements are public records and must be publicly disclosed.

Very truly yours,

A handwritten signature in black ink that reads "Thomas P. Moore". The signature is written in a cursive style.

Thomas P. Moore  
President, Board of Directors

cc: Directors Cortez, Le, and Zefferman  
Roger Masuda, Legal Counsel  
Keith Van Der Maaten, Board Secretary

**From:** Jan Shriner  
**Sent:** Wednesday, May 8, 2019 8:09:32 PM  
**To:** Thomas Moore; Roger Masuda  
**Subject:** Supporting evidence consideration of censure Le

Please confirm you received this email.

At the time I first requested the agenda item on April 19, 2019, I was thinking that the behavior of Director Le has been deteriorating to poor behavior choices of 2013-2015. I do not want to return to challenges associated with impacting morale of the staff and increasing absenteeism of the Board.

During his previous term Director Le was serving as an officer of the Board while I was not. He had been elected Vice President by the Board to serve with President Gustafson. At that time, I was more cautious about criticising or offering guidance to the Board officers. Now, I am attempting to offer some guidelines and reminders as an officer of the Board with 8 years of experience.

The Board majority recently negotiated the contract for the current General Manager. He is generally held in high regards as a fair minded, intelligent, and reasonable representative of the District. He has treated me, the same way he treats other members of the Board, with respect. The Executive Assistant is also highly regarded in the community of public agencies of our region. Any criticism of the GM or any other District Staff work needs to be handled within the District process. The Board has the ultimate responsibility for the direction and policies of the District. Therefore, any criticism of Board decisions, such as lack of policy for letterhead, should stay with the Board.

The Board Procedures Manual (BPM) was again updated by the Board on April 15, 2019 Sections (13 Communications, 14 Code of Ethics, as well as 15 Comments by Directors Concerning District Staff Members) are clearly being tested by Director Le while the Board is in Open Session. The BPM states that censure is possible for any breaches of policies contained in Sections 13, 14 or 15.

Due to the allegations about me made by Director Le dating back to 1995, I will include the evidence collected by investigators dating back to 2013 for complaints about Director Le's behavior toward staff during open public meetings. The allegation of bullying and racism that the few emails I have sent (with the intent to offer guidance from the Board Vice President to a new Boardmember) is in itself a breach of 14.

There was also a 2013 allegation of a Brown Act violation with the idea of making Director Le the General Manager. I will include the communications and findings of the alleged Brown Act violation with the evidence of his behavior toward District Staff.

I have reviewed the digital recordings for the 2019 Board meetings and located approximate timings for the following recordings for criticisms of staff and occasional insults from Dir Le. The recordings can be found through the District website, [https://mcwd.org/governance\\_meetings.html](https://mcwd.org/governance_meetings.html)

February 19, 2019:

Two Consent Agenda Items are pulled by Dir. Le.

60 minutes, item 9D. Dir. Le: Well failure before you came on with the District or after you came on? Why wait so long? If process doesn't work? BPM Section 15

70 minutes, item 9E. Dir. Le: Anything in writing from City of Seaside? Spend money, nothing in writing? We spend money, they say "oh sorry." (staff explain process) Dir Le: Willing to sell? (He interrupts answer) to say So I read through staff report. I didn't see any mention of standby generator. (Staff explain.) Dir Le: concern for something in writing, on new lift station need a standby generator. Fifty year working no surprise fill up pond. Pond only designed for 10 year. Either do it right (trails off) BPM Section 14E

94 minutes Dir Le makes a motion after clarifications by President Moore. Motion Dir Le: Obtain easement from City of Seaside before proceeding. Look at why you didn't negotiate with City. Stop hours. Additional planning for perc pond. Standby generator. Wording corrections. (Staff clarify that the motion is what they do, President Moore says this kind of motion just makes the direction for the work sound more explicit by the Board Members.) BPM Section 14D

124 minutes Director Comments, Dir. Le states he has a matter for Board to address, give it to President. It is not seen by camera but apparently a letter in a sealed envelope marked confidential is passed from Dir. Le to Board President. BPM Section 13

March 18, 2019:  
No consent agenda items pulled

16 minutes, Dir Le corrects speaker without waiting to be recognized by presiding chair. BPM Sections 13, 14B, and 27.

83 minutes, 9B Maintenance Management Plan, Dir Le: So looking one year out, CIP replacement in draft budget we reserve so little (laughing) 100 to 200 thousand not meet the uh (trails off) BPM Sections 13, 14 E and 14G

100 minutes, RUWAP construction contract amendment agenda item, Dir Le: What consultant do to submit final report to State or who will do it? When to file Notice of Condition (Completion)? Consultant and Sub-Consultant what report of labor compliance? So by the time they leave we're supposed to have 100% right? (A question from a different Director is being responded to by Staff but Dir Le interrupts to correct staff.) BPM Sections 13, 14 D and J, 27

107 minutes, BPM Agenda Item

Dir Le: I request changes two months ago. My requested items not included. Can discuss my items and request manual to August. Very disappointed my requests on this item and now it's not, can not be discussed, restricted to this changes only so have to bring it back again.

Dir Le: (for 5 more minutes) Page 8 Joint City District couple options but current format do we have a section on meeting of Board but I tried to find it so I didn't want to conflict with MSR so I didn't want to bring it up. (VP Shriner had mentioned it during MSR discussion) I don't know Staff can look in MSR I don't think it is correct. (VP starts to explain and is interrupted) Dir Le: I have request in January request in writing, Staff bring back. That's two-three months waiting for just two items. BPM Sections 14 B and E, 27.

120 minutes same BPM

Dir Le: Ask question in January in written format. Closed session 30 minutes is not enough, Four to five minutes per item not enough. My request for one hour. Not enough. Section 38 email about Board

compensation \$50 to \$100. Waiting very long already that is my second request. BPM Sections 13, 14 C and E

154 minutes Strategic Plan update

Dir Le: page 175 first paragraph last sentence doesn't make any sense, re-work it. Page 181 Section 1.2 target complete date that same question I asked on MSR. (During the clarifying comments Dir Le interrupts Keith 195, 196, 197 Keith tries to continue to explain but Dir Le interrupts Section 3, 4, 5, 6 update. Dir Le is dismissive.) BPM Sections 13, 14 B, E, L and 27

There needs to be a motion to go beyond 10 pm

168 minutes Request for future agenda items

Dir Cortez 2 items for Dir Le

Dir Le: two items pending since January same two items on BPM. (no acknowledgement of hearing Dir Cortez.)

April 15, 2019:

Dir Le pulled consent agenda A-E, leaving one item on consent and the took 69 minutes to complete consent agenda.

17 minutes, Check Register, Dir Le starts by asking about water conservation incentive rebates and then switches to ask about staff processing methods for all invoices. BPM Section 14 D

19 minutes, Approval of Minutes, Dir Le: Submit written questions at previous Board meeting so Board not surprised so decision of Board.(Pres Moore interrupts for clarification for Minutes?) Dir Le: Review questions of letter and discuss in closed session then consider the minutes after discussion. Closed session Item 4A I submitted to you. I made disclosure submitted questions last week after March 18.

(Agency Counsel, Board President, and Dir Cortez all try to clarify for the Agenda Item to approve minutes of March 18.)

Dir Le: No after March 18 have question emailed to District now disclosing. BPM Sections 13, 14 , 15 and 32.

24 minutes, Consumer Confidence Report

Dir Le: So well 12 never worked never source of water? CCR shows 2 tests (out of several hundred) positive what location? Copper and lead when test again? Uranium when next test? 2013 in table. On the Radon 222 when the next test and last question for hardness what numerical value defines hardness? BPM Section 14

35 minutes, 9E, Employee Handbook

Dir Le: Was a personnel attorney consulted for Handbook? Ask question and no one can answer (laughs) postpone to next meeting. Quickly 52 section 9 why delete "10 minutes" how do you have consistency? Supervisor 5 minutes etc. Several questions more complicated, move to next meeting.

(Discussion by other Board Members to limit the comments to 15 minutes.)

Dir Le: Handbook approve two meetings ago for update on harassment, comment from Shriner smoking

or something. Those are my questions. If we don't have staff here, to through my questions. What does Board want? I can go through all my questions. February approve certain conditions. I mentioned harassment training, Dir Shriner something smoking. This version include changes? I don't know where the changes. Staff report doesn't refer to the pages. Page 52 boss say late, I can sue the District, Maintenance can be 20 minutes late, how address no standard? One boss its ok another supervisor write it up. That's my first question.

Page 91 Section13 explain 15 days changed to 5 days. (appeal process)

Page 93 staff report page 31, first paragraph, upon retirement employee get a plaque but no mention of plaque. Those are all of my questions.

(Some discussion of questions.)

44 minutes, same item, Employee Handbook

Dir Le: not to my satisfaction. I don't know which page is the smoking. Missing the latest California law, I don't have the latest bill number. I read it and I don't have the number with me. The way I read the article, they amend and adopt last month or so.

82 minutes, Allegations by Dir Le for the placement of names on letterhead and delay with website content as symptoms of racism.

Dir Le: Light on for one minute for original complaint amend to include two employees, General Manager and Executive Assistant and request Board hire investigator.

Dir Le: Allegations very serious. Staff involved are top level. Only thing to end this will be investigation to make a decision. Hire investigator, when you read the report, eye open for you. Not end tonight. Hire investigator, interview, you think you know everything. Quick way to make decision will not end. Public can read this finding.

110-118 minutes, Agenda Item BPM Four changes,

Dir Le: GM says I can have some question before I come here. Page 5 something about GM, GM make necessary changes. No revise order Staff to make someone responsible for this. Add one word staff. Need specific and clear who responsible. GM will direct staff to make changes. (Keith clarifies, for website, GM or designee) Dir Le: I want to skip 16D to come back later fairly complicated. Section 26 page 17 Closed Session, Brown Act, my question one time for closed session, one item, can three directors discuss the one item outside closed session? (not recommended) Dir Le: for example, Cal Am closed session, not allowed? (attorney clarifies only 2) Dir Le: Section 23 page 15 ok I look at agenda for M1W, City of Marina, FORA, MPWMD, they very smart. Two item In closed session. Time to discuss important item. Marina one item, 2.5 hours, one item, one hour, they smart. We have 9 item, 30 minute, never never enough time. MPWMD smart, real smart. One item, one-hour. That item very important. Other city thinking ahead. We just fixed. We vote to extend. We do what you want, not as smart as other cities. Arrange to have enough time.

120 minutes, still BPM

Dir Le: as counsel said, we have very restrictive compensation, \$100 make it simple. Hourly increase \$1/hour now \$1.60/hour, nothing complicated. (other discussion regarding justification) Only justification we discussed a couple of times before more candidate for office only justification we discussed a couple of times before.



134 minutes, still BPM but now the Section 16 regarding recusal, attorney communications  
Dir Le: page 11, item c someone explain to me what it means. Page 12 start at second sentence open session questions GM, President, Legal Counsel give examples I believe if question need to be ask of counsel then President and GM then cost to District. Say I have a question: 7 wells or 10 wells? Then I email that to GM and President. I don't need legal counsel. Do you pay X company \$10,000 or \$15,000? No need legal counsel. (others respond) Dir Le: I can keep going on and on. Should copy to Board President because you need to know before the meeting. Right now, no flexibility. You have started. You have urgency. GM may not know. You the only one. Go back to page 11. Some circumstance hard to work with. We can adopt way it is. Come back later. Today board meeting, I received three documents from attorney. But only has 5 pages of 15. I ask email other pages. Is that direction? Attorney say Board must agree. ( he laughs) Go with current version but some exception. We don't have full input. BPM Sections 13 and 14.

165 minutes, BPM letterhead

Dir Le: first of all is very odd. Look at 100,000 organizations In California normally list members, who are the members what they do, very odd. BPM Section 14 A

209 minutes, Director Comments

Dir Le: As I mentioned I like to see budget for RUWAP. See millions M1W, loans, pay to M1W, budget O & M. I like to see somehow I can find In budget. BPM Section 14

In addition to these recordings, please review the attached documents. These are submitted as evidence to support assertion of a pattern of breaching BPM Sections 13, 14 and 15.

For the behavior described in closed session or for emails received from Director Le with content that should be only discussed in closed session, I will not be submitting any evidence to support what I have stated earlier via email.

Although some of us remember the negative social media campaigning, I have looked at "Next door" and not found the postings of 2018 campaign of Peter Le for Director. I have no evidence to offer about that comment in open Session.

Jan

---

**From:** Paula Riso  
**Sent:** Friday, March 1, 2019 8:49:49 AM  
**To:** Jan Shriner  
**Subject:** Peter Le Documents

Hi Jan,

Here are the documents surrounding Peter Le's censure and the investigations related to the harassment claims.

Thank you,  
Paula

*Paula Riso  
Executive Assistant  
Marina Coast Water District  
11 Reservation Road, Marina, CA 93933  
Direct 831-883-5910  
Fax 831-883-5960*

NOTICE: This communication may contain privileged or other confidential information. If you are not the intended recipient of this communication, or an employee or agent responsible for delivering this communication to the intended recipient, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

Attachment 3 – Back up  
MCWD Board Items



# MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

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

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## DIRECTORS

THOMAS P. MOORE  
*President*

JAN SHRINER  
*Vice President*

HOWARD GUSTAFSON  
WILLIAM Y. LEE  
PETER LE

## Agenda

### Regular Board Meeting, Board of Directors Marina Coast Water District

211 Hillcrest Avenue, Marina, California

Monday, January 6, 2014, 6:00 p.m. PST

(Please note the earlier start time)

*This meeting has been noticed according to the Brown Act rules. The Board of Directors meet regularly on the first and third Monday of each month. The meetings normally begin at 6:45 p.m. and are held at the City of Marina Council Chambers at 211 Hillcrest Avenue, Marina, California.*

**Mission:** Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.

**Vision:** The Marina Coast Water District will be the leading public supplier of integrated water and wastewater services in the Monterey Bay Region.

1. Call to Order

2. Roll Call

3. **Public Comment on Closed Session Items** *Anyone wishing to address the Board on matters appearing on Closed Session may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

4. Closed Session

A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

This agenda is subject to revision and may be amended prior to the scheduled meeting. A final agenda will be posted at the District office at 11 Reservation Road, Marina, 72 hours prior to the meeting. Copies will also be available at the Board meeting. A complete Board packet containing all enclosures and staff materials will be available for public review on Thursday, January 2, 2014 at the District office, Marina and Seaside City Halls, and at the Marina and Seaside Libraries. Information about items on this agenda or persons requesting disability related modifications and/or accommodations can contact the Board Clerk at: 831-883-5910. The next regular meeting of the Board of Directors is scheduled for January 21, 2014.

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

- B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Initiation of Litigation Pursuant to Subdivision (c) of 54956.9  
One Potential Case
- C. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
One Potential Case

**7:00 p.m. Reconvene Open Session**

**5. Possible Action on Closed Session Items** *The Board will report out on any action taken during Closed Session, and may take additional action in Open Session, as appropriate. Any closed session items not completed will be discussed at the end of the meeting.*

**6. Pledge of Allegiance**

**7. Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

**8. Election of Board President and Vice-President**

*Action: The Board will elect two Directors to serve as President and Vice President of the Board until December 2014.*

**9. Consent Calendar** *Board approval can be taken with a single motion and vote. A Board member or member of the public may request that any item be pulled from the Consent Calendar for separate consideration at this meeting or a subsequent meeting. The public may address the Board on any Consent Calendar item. Please limit your comment to four minutes.*

- A. Receive the Quarterly Financial Statements for April 1, 2013 to June 30, 2013
- B. Receive the Quarterly Financial Statements for July 1, 2013 to September 30, 2013
- C. Approve the Expenditures for the Month of November 2013

D. Approve the Revised Draft Minutes of the Regular Board Meeting of November 18, 2013

E. Approve the Draft Minutes of the Regular Board Meeting of December 2, 2013

**10. Action Items** *The Board will review and discuss agenda items and take action or direct staff to return to the Board for action at a following meeting. The public may address the Board on these Items as each item is reviewed by the Board. Please limit your comment to four minutes.*

A. Receive Report from Staff Regarding the Results of Checking All the Mailing Data Records for the Ord Community; Consider Validating the Number of Propositions 218 Protests Tabulated on October 21, 2013 for the Proposed Increase in District Rates, Fees, and Charges for the Ord Community or Providing Other Direction to Staff

*Action: The Board of Directors will consider validating the number of protests tabulated on October 21, 2013 for the proposed increases in District rates, fees, and charges for the Ord Community or providing other direction to staff.*

B. Consider Completing the Remainder of the 2013/2014 MCWD Budget Year Under the Continuing Budget Resolution No. 2013-34, adopted June 17, 2013

*Action: The Board of Directors will consider staff request to complete the remainder of the 2013/2014 MCWD Budget Year under the Continuing Budget Resolution 2013-34, adopted June 17, 2013.*

C. Receive Report from Special Legal Counsel on Employee Complaints Against Director Peter Le and the Board's Responsibilities in Reviewing and Acting on Such Complaints

*Action: The Board of Directors will consider the report and the next steps to take, including, but not limited to, retaining an investigator and setting a meeting date to consider the evidence. No action on the employee complaints will be taken at this Board meeting.*

D. Receive Report from Legal Counsel on a Complaint by Director Gustafson as to an Alleged Attempt in Closed Session to Appoint Director Peter Le as Interim General Manager and the Board's Options Regarding Such Complaint

*Action: The Board of Directors will consider the report and determine the next step to be taken.*

E. Receive Report from Special Legal Counsel on Brown Act and Board Procedures Manual Requirements and Potential Legal Consequences for Disclosing Publicly Board Discussions Occurring in Closed Session

*Action: The Board of Directors will consider the report and determine if further action is needed.*

- F. Consider Action Regarding the January 11<sup>th</sup>, 2014 Strategic Planning Session and Draft Strategic Plan

*Action: The Board will consider providing direction to staff regarding the January 11<sup>th</sup>, 2014 Strategic Planning Session and current draft of the Strategic Plan.*

- G. Consider Adopting Resolution No. 2014-01 to Appoint an Ad Hoc Committee to Discuss the Recycled Water Pipeline with the Monterey Regional Water Pollution Control Agency and Specifying the Scope of the Committee's Duties and Legal Authority

*Action: The Board of Directors will consider establishing an Ad Hoc Committee to discuss the Recycled Water Pipeline with the Monterey Regional Water Pollution Control Agency and adopting a resolution specifying the scope of the Committee's duties and legal authority pursuant to Board Procedures Manual Sections 12.A and 12.C.*

- H. Consider Adopting Resolution No. 2014-02 to Appoint an Ad Hoc Committee to Discuss the Annexation of the Ord Community and Specifying the Scope of the Committee's Duties and Legal Authority

*Action: The Board of Directors will consider establishing an Ad Hoc Committee to discuss the Annexation of the Ord Community and adopting a resolution specifying the scope of the Committee's duties and legal authority pursuant to Board Procedures Manual Sections 12.A and 12.C.*

- I. Consider a Scope of Topics for the Community Outreach Committee to Discuss with the Community

*Action: The Board of Directors will consider a scope of topics for the Community Outreach Committee to discuss when meeting with the Community at large.*

- J. Consider Adopting a Policy for Board Review of Invoices

*Action: The Board of Directors will consider providing direction to staff regarding creation of an Invoice Review Policy.*

- K. Consider Holding, Changing, or Canceling the January 21, 2014 Board Meeting

*Action: The Board of Directors will consider whether to hold the January 21, 2014 Board meeting, change the date or cancel it.*





Marina Coast Water District  
Agenda Transmittal

Agenda Item: 10-C

Meeting Date: January 6, 2014

Submitted By: Jeanine DeBacker  
Reviewed By: Brian C. Lee

Presented By: Jeanine DeBacker

Agenda Title: Receive Report from Special Legal Counsel on Employee Complaints Against Director Peter Le and the Board's Responsibilities in Reviewing and Acting on Such Complaints

Detailed Description: The Board of Directors is requested to discuss Special Legal Counsel's verbal and written Report regarding employee complaints and to consider next steps. These next steps may include, but are not limited to, determining whether to retain an investigator and setting a meeting date to consider the evidence. No action will be taken on the employee complaints at this meeting.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact:  Yes  No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Memorandum from Special Legal Counsel.

Staff Recommendation: None.

Action Required:  Resolution  Motion  Review

Board Action

Resolution No  Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

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ANNE C. STROMBERG  
N. DAVID THOMAS

December 30, 2013

To: Board of Directors, Marina Coast Water District

From:   
Jeanine DeBacker, Special Counsel

Subject: Employee Complaints Against Director Peter Le and the Board's Responsibilities in Response

On about December 3, 2013, District staff telephoned Special Legal Counsel and stated that a pattern of what staff believes constitute inappropriate, unprofessional, and potentially harassing behavior by Director Peter Le that had been a regular part of Board meetings had continued and apparently escalated during the December 2, 2013 meeting. A copy of the video for that meeting was forwarded to Counsel for review. On December 17, 2013, District staff repeated the complaint to Counsel based on conduct at the December 16 Board meeting.

At your meeting, Special Legal Counsel will present information regarding applicable California and federal laws, as well as the District's policies and the Board Procedure Manual. These rules, policies and laws require that the District take complaints of inappropriate behavior seriously and, if confirmed, take action to prevent such conduct in the future. Complaints by employees need not be made in writing; the District is legally obligated to investigate verbal complaints. Generally, the District must determine what has occurred, whether the conduct violates the law, and/or any policies or the Board Procedures Manual, and determine what actions should be undertaken to prevent such conduct from happening again.

Counsel reviewed a DVD of the December 2 Board meeting and spoke with District Legal Counsel Roger Masuda and three members of District staff. The recording of the December 16, 2013 meeting has not yet been reviewed, but it is anticipated that the recording will be available to Counsel prior to your January 6, 2014 meeting and Counsel will be prepared to discuss the content at that time.

Counsel sought to meet informally with Dir. Le to make him aware of the various state and federal laws and the rules of the District that place limitations on all Directors' conduct so as to ensure that violations those laws, policies and rules do not occur. Dir. Le was reminded that, in lieu of an informal resolution

of the matter, California's Brown Act requires that complaints against a public agency director, when considered by the public agency's Board of Directors, must be conducted at a noticed public meeting in open session. The Brown Act provides that an elected director is not considered an "employee" entitled to a closed session when the Board considers the specific complaints brought against the director. (Cal. Gov. Code § 54957(b)(4)).

Dir. Le refused the request to resolve this meet on this matter. Therefore, in order to satisfactorily address the complaints of District staff, the Board must investigate the employees' complaints and take appropriate action based upon the Board's findings. To collect information for its review, the Board may either:

1. Rely upon the recordings of the December 2, 2013 and December 16, 2013 meetings, and the statements of complaint made to Special Legal Counsel; and/or
2. Retain an outside investigator to determine if there is any additional, relevant evidence of allegedly inappropriate conduct by Dir. Le in his communications with District staff and consultants.

Once the Board provides direction on the collection of information, the Board must set a meeting date to review the evidence and determine the appropriate response to the employees' complaints.

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 10-D

Meeting Date: January 6, 2014

Submitted By: Roger Masuda, Legal Counsel

Presented By: Roger Masuda

Agenda Title: Receive Report from Legal Counsel on a Complaint by Director Gustafson as to an Alleged Attempt in Closed Session to Appoint Director Peter Le as Interim General Manager and the Board's Options regarding such Complaint

Detailed Description: The Board of Directors is requested to discuss Legal Counsel's Report and consider the next step to be taken. The next step could include, but not be limited to, (1) determine that the closed sessions was properly noticed and held in accordance with the Brown Act and that no vote was taken in closed session to appoint Director Peter Le as Interim General Manager, or (2) determine that Director Gustafson's allegation should be investigated further by the Board, waive any applicable attorney-client and deliberative legal privileges and Board Procedures Manual sections regarding any closed session in question, retain an investigator, and set a meeting date to consider the results of the investigation.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact:  Yes  No

Funding Source/Recap: N/A

Material Included for Information/Consideration: None.

Staff Recommendation: None.

Action Required:  Resolution  Motion  Review

Board Action

Resolution No  Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

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Founded 1920

W. Coburn Cook, 1892-1953  
Lin H. Griffith, retired

Roger K. Masuda  
[rmasuda@calwaterlaw.com](mailto:rmasuda@calwaterlaw.com)

*Celebrating Our  
93<sup>rd</sup> Anniversary*

December 30, 2013

To: Board of Directors, Marina Coast Water District

From:   
Roger K. Masuda, Legal Counsel

Subject: Complaint by Director Gustafson as to an Alleged Attempt in Closed Session to Appoint Director Peter Le as Interim General Manager and the Board's Options regarding such Complaint

By email dated December 19, 2013, from Director Howard Gustafson to Paula Riso, Director Gustafson requested the following:

"I would like to place on the agenda action relating to the attempt by Peter Le, Tom Moore and Jan Shriner to hire Mr. Le as the General manager of MCWD. There was no agenda for the closed session action and a vote was attempted. We need to send this the FPPC and the District Attorney. There are specific dates that will be addressed in the item description."

Director Gustafson did not provide any specific dates. The following gives the chronology for the appointment of Brian Lee as Interim General Manager and the Board approval of his Employment Agreement:

June 17, 2013 – Vice President Shriner moved to appoint Brian Lee as the Interim General Manager, seconded by Director Gustafson, passed 3-1 (Dir. Bill Lee). President Moore moved to appoint Director Gustafson as the Labor Negotiator for negotiating the terms of Brian Lee's Interim GM employment agreement, seconded by Director Gustafson, passed 3-1 (Dir. Lee). Director Peter Le was absent.

July 15, 2013 – Board went into closed session at 6:46 PM; Directors Moore, Shriner, Gustafson, and Lee were present. One closed session item was to confer with Labor Negotiator Howard Gustafson regarding salary and benefits for the Interim General Manager, an Unrepresented Employee, pursuant to Government Code Section 54957.6. Director Le arrived at the Board chambers at 7:02 PM and did not participate in the closed session. The Board ended the closed session at 7:12 PM. No reportable action was taken.

August 5, 2013 – After the closed session items and in open session, President Moore moved to direct Special Legal Counsel Jeanine DeBacker to prepare an Interim General Manager employment agreement with Brian Lee with an annual compensation of \$190,000, plus a \$500 monthly car allowance and the other terms agreed upon in a proposed draft contract, for approval at the August 19<sup>th</sup> Board meeting. Passed 3-1 (Dir. Lee). Director Le was present and participated in the closed session and in open session voted in favor of the employment agreement terms for Brian Lee. Director Gustafson was absent. Jeanine DeBacker was present.

August 19, 2013 – Board in open session adopted Resolution No. 2013-44 approving an Employment Agreement with Brian Lee for the Position of Interim GM. Passed 4-1 (Dir. Bill Lee). Both Director Le and Director Gustafson voted in favor of the Employment Agreement. Jeanine DeBacker was present.

Director Gustafson made a presentation to the Marina City Council at the Council's December 17 meeting, which included his version of what transpired during a MCWD Board closed session. Based upon his public comments and his December 19 email, Director Gustafson appears to be referring to the July 15, 2013 closed session at which he was present.

Closed session deliberations are confidential and protected against disclosure by the attorney-client and deliberative legal privileges and by Board Procedures Manual (BPM) Sections 14.Q, 26, and 43. The Board may vote to waive those privileges and the BPM. MCWD Special Legal Counsel Jeanine DeBacker will have a separate presentation to the Board on the legal requirements and potential legal consequences for disclosing publicly Board discussion occurring in closed sessions. That separate issue will not be addressed in this memorandum.

Upon review of the posted agendas and minutes of the above Board meetings, the Board agenda items, including closed sessions, pertaining to the position and employment agreement of the Interim General Manager were properly noticed and held.

In particular, the July 15 closed session was properly noticed and held to discuss a salary and benefits package for the Interim General Manager and to provide negotiation instructions to Director Gustafson as the designated Labor Negotiator. Director Gustafson himself admits that no vote was taken in closed session to appoint Director Peter Le as Interim General Manager. No such vote would have been proper since appointment of Peter Le as Interim General Manager was not the noticed subject of the closed session. In addition, three different rules of law prohibit Director Peter Le from serving as MCWD's interim or permanent General Manager while remaining a MCWD Director.

First and foremost, the County Water District Law, Water Code Section 30541 states, "A director shall not be the general manager, secretary, treasurer, or auditor."

Second, holding both positions would appear to violate Government Code Section 1090 violation. The first sentence of Government Code Section 1090 states, "Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or

board of which they are members.” Whether or not Peter Le received any salary or benefits from the District while acting as General Manager, he would still be entering into a contract of employment with the Board of Directors of which he would be a member.

Third, the common law doctrine of incompatible offices would require that Peter Le forfeit his position as Director upon accepting appointment as General Manager. Under the common law doctrine of incompatible offices, which is part of California law, the same person may not hold two public offices where there is any significant clash of duties or loyalties between the offices, if the dual office holding would be improper for reasons of public policy, or if either officer exercises a supervisory, auditory, or removal power over the other. The consequences of holding incompatible offices is that the person is deemed to have forfeited the first office upon accepting the second.

The Board has the following options:

1. Find that the closed session held on July 15, 2013, to confer with Labor Negotiator Howard Gustafson regarding salary and benefits for the Interim General Manager, an Unrepresented Employee, pursuant to Government Code Section 54957.6, was properly noticed and held in accordance with the Brown Act and determine that no further action need be taken.
2. Specifically waive the Board’s attorney-client and deliberative legal privileges and applicable Board Procedures Manual sections and determine that Director Gustafson’s allegations concerning the closed session held on July 15, 2013, to confer with Labor Negotiator Howard Gustafson regarding salary and benefits for the Interim General Manager, an Unrepresented Employee, pursuant to Government Code Section 54957.6, should be investigated further by the Board, including, but not limited to, by retaining an independent investigator, and to bring the results of any such investigation back to the Board for further consideration by a date certain.

[end of memorandum]

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 10-E

Meeting Date: January 6, 2014

Submitted By: Jeanine DeBacker  
Reviewed By: Brian C. Lee

Presented By: Jeanine DeBacker

Agenda Title: Receive Report from Special Legal Counsel on Brown Act and Board Procedures Manual Requirements and Potential Legal Consequences for Disclosing Publicly Board Discussions Occurring in Closed Session

Detailed Description: The Board of Directors is requested to discuss Special Legal Counsel's verbal and written Report regarding the Brown Act and the Board Procedures Manual with regard to disclosure of information from Closed Sessions and to determine if further action is needed.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact:  Yes  No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Memo on Brown Act and Board Procedures Manual Requirements.

Staff Recommendation: None.

Action Required:  Resolution  Motion  Review

Board Action

Resolution No  Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

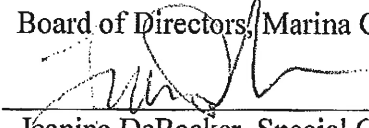


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N. DAVID THOMAS

December 30, 2013

To: Board of Directors, Marina Coast Water District  
From:   
Jeanine DeBacker, Special Counsel

Subject: The Brown Act and Board Procedures Manual Requirements and Potential Legal  
Consequences for Disclosing Publicly Board Discussions Occurring in Closed Session.

This memorandum is to provide a brief overview of each Board member's obligations under both the Brown Act and the Board Procedures Manual to maintain the confidentiality of closed session discussions. At your meeting, Special Legal Counsel will present additional information regarding applicable California law and the Board Procedures Manual.

**Limited Scope of Closed Sessions**

The primary intent of California's Brown Act is that the deliberations and actions of government bodies be conducted openly for the benefit of the public. Closed sessions are an exception to the open meeting requirements and the authority for such sessions is narrowly construed. Closed sessions require three types of notice: a listing in the agenda, a pre-closed session announcement, and a post-closed session report of action taken. All closed sessions must be conducted pursuant to expressly authorized statutory exceptions. The permitted reasons for a closed session are generally limited to the following: the personnel exception; pending litigation and the attorney-client privilege; real estate negotiations; labor negotiations; and public security. (Gov. Code §54962)

The discussions, deliberations and actions of the Board in closed session must not range beyond the limited scope and purpose of the closed session. Only information that is pertinent to the purpose of the closed session can be discussed in closed session. Moreover, if specific legal authorization for a closed session does not exist, the matter must be conducted in public regardless of whether the matter is sensitive, embarrassing or controversial.

### **Closed Session Confidentiality Requirements**

The Brown Act provides that a person may not disclose confidential information that *has been acquired by being present in closed session unless authorized by the governing board*. Except for meeting the reporting-out requirements for closed sessions, there are important legal and practical reasons for public agencies to preserve the confidentiality of closed session matters – to preserve the board’s negotiating position, for example. (Gov. Code §54963.)

Confidential information means “a communication made in a closed session that is specifically related to the basis for meeting lawfully in closed session.” Information shared or discussed in closed session which extends beyond the subject matter which forms the legal basis for the closed session is not considered confidential information. Generally, the Brown Act does not permit discussions and deliberations in closed session to range beyond the proper scope of the closed session. If discussions by a board in closed session do go beyond the authorized basis for being in closed session, such information does not have the protection of confidentiality provided by the Brown Act. (Gov. Code §54963)

### **Exceptions to Confidentiality Requirements**

It is not considered a violation of the confidentiality requirement when a person does the following:

- Makes a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law and discloses facts necessary to establish the illegality of an action taken by a governing body, or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by the body. However, this exception does not likely protect a person who discloses information from closed session that does not establish illegality.
- Expresses an opinion concerning the propriety or legality of actions taken by a governing body in closed session including disclosure of the nature and extent of the illegal or potentially illegal action. However, this exception does not likely protect a person who discloses information that does not amount to illegal action.
- Discloses information acquired by being present in a closed session that is not confidential information as defined in the statute. This would include information that was discussed that is not specifically related to the subject of the closed session.
- Disclosures under various “whistleblower” statutes (generally, those contained in Labor Code § 1102.5 or Government Code § 53296).

## **The District's Board Procedures Manual**

Section 26 of the Board Procedures Manual provides as follows:

Meetings of the Board are either open or closed. The Brown Act strongly favors open meetings; private discussions among a majority of a legislative body are prohibited, unless expressly authorized under the Brown Act. The most common purpose of a closed session is to avoid revealing confidential information that may, in specified circumstances, prejudice the legal or negotiating position of the Board or compromise the privacy interests of employees. Closed meetings should involve only directors, plus any additional support staff required, legal counsel, a supervisor involved in a disciplinary matter, consultants, a labor negotiator or any witnesses in the case where the Board is hearing complaints and charges against an employee. Specific authority must be used in agendizing a closed session. Directors have a fiduciary duty to protect the confidentiality of closed session discussions. The California Attorney General has issued an opinion that includes sanctions that could apply to a person who discloses closed session information. For more detailed information on closed sessions see the California Attorney General's web site and publications. (Emphasis added).

Section 26 is not included in the listing of sections in Section 42 regarding a Director's breach of any policies and the potential censure of a director. Instead, potential violations of the confidentiality provisions of the Brown Act are to be addressed using the sanctions set forth in the Act itself.

### **Violations of the Brown Act's Confidentiality Provisions**

Under the Brown Act, if a Board member violates the confidentiality requirement by disclosing confidential information is violated, the District may seek injunctive relief to prevent the disclosure of confidential information and may refer any Board member who willfully disclosed confidential information to the grand jury. (Gov. Code §54963).

(If a District employee willfully disclosed confidential information in violation of this prohibition, he or she may be disciplined. Of note, Board members are specifically not employees of the District.)

Further, a Board member who discloses confidential closed session information regarding an employee can be sued for slander, and one court found that the director's free speech rights did not outweigh the disclosure of confidential private information.

### **Confidentiality Requirement Not a Shield for Illegal Action**

The Brown Act's confidentiality requirement may not be used to protect a board from legal consequences for discussions or actions it conducts in closed session that fail to adhere strictly to Brown Act closed session requirements and restrictions. Conversely, a governing body which adheres carefully to closed session requirements will be able to preserve the confidentiality of closed session information,

The Brown Act and Board Procedures Manual Requirements and Potential Legal Consequences for Disclosing Publicly Board Discussions Occurring in Closed Session

December 30, 2013

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and will be able to prevent an employee or individual board member from violating the confidentiality requirements.

###

I hope this information is helpful. I will be available to discuss this memorandum at your January 6, 2014 meeting.

Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue  
Marina, California

Regular Board Meeting  
January 6, 2014  
6:00 p.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on January 6, 2014.

2. Roll Call:

Board Members Present:

Tom Moore – President  
Jan Shriner – Vice President  
Howard Gustafson  
Bill Lee

Board Members Absent:

Peter Le

Staff Members Present:

Brian Lee, Interim General Manager  
Roger Masuda, Legal Counsel  
Jean Premutati, Management Services Administrator  
Kelly Cadiente, Director of Administrative Services  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Kenneth Nishi, Marina Resident  
Paula Pelot, Preston Park Tenants Association

3. Public Comment on Closed Session Items:

No comments.

The Board entered into closed session at 6:02 p.m.

4. Closed Session:

- A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

Regular Board Meeting  
January 6, 2014  
Page 2 of 10

Agenda Item 4 (continued):

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

- B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Initiation of Litigation Pursuant to Subdivision (c) of 54956.9  
One Potential Case
- C. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
One Potential Case

The Board ended closed session at 6:57 p.m.

President Moore reconvened the meeting to open session at 7:00 p.m.

5. Possible Action on Closed Session Items:

President Moore stated, and Mr. Roger Masuda confirmed, that no reportable actions were taken in closed session.

6. Pledge of Allegiance:

President Moore asked Director Lee to lead everyone present in the pledge of allegiance.

7. Oral Communications:

Mr. Kenneth Nishi, Marina resident, stated that under President Moore's leadership, the District lost \$3 million they could have collected from Ag Land Trust by not following through on the desal project. He voiced his concern over the District requesting surface water from the Salinas Basin. Mr. Nishi commented that the District lost out on \$20 million from the CalAm lawsuit by not sending the right attorneys to negotiate. He also asked when his questions from previous meetings would be answered. Mr. Nishi claimed that President Moore favored a certain class of citizens and showed them preferential treatment.

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Agenda Item 7 (continued):

Ms. Paula Pelot, Preston Park Tenants Association, commented that she didn't feel President Moore showed preferential treatment to any class in particular, because she didn't always get answers to her questions either.

8. Election of Board President and Vice President:

Director Shriner nominated Director Moore for President. Director Moore seconded the nomination.

Mr. Nishi commented that the preferential treatment has been shown at previous meetings. He voiced his concerns over Directors Lee and Gustafson for not giving Marina another option and that the ratepayers cannot afford another year of President Moore's lack of leadership. Mr. Nishi commented that he was glad the election was scheduled when the meeting was being videotaped. He also commented on the budget and how the Board wasn't getting creative in finding alternate sources of revenue and asked if there was a decrease in the expenditures.

The nomination failed.

Director Lee	-	No	Vice President Shriner	-	Yes
Director Gustafson	-	No	President Moore	-	Yes
Director Le	-	Absent			

Director Moore made a motion to nominate Director Shriner for Vice President. Director Shriner seconded the nomination. The nomination failed.

Director Lee	-	No	Vice President Shriner	-	Yes
Director Gustafson	-	No	President Moore	-	Yes
Director Le	-	Absent			

9. Consent Calendar:

Mr. Nishi requested to pull item 9-A from the Consent Calendar.

Vice President Shriner made a motion to approve the Consent Calendar consisting of the following items:

- B) Receive the Quarterly Financial Statements for July 1, 2013 to September 30, 2013
- C) Approve the Expenditures for the Month of November 2013
- D) Approve the Revised Draft Minutes of the Regular Board Meeting of November 18, 2013
- E) Approve the Draft Minutes of the Regular Board Meeting of December 2, 2013

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Agenda Item 9 (continued):

Director Gustafson seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

Director Gustafson asked the record to show that he wanted to abstain from the vote on item 9-E as he was absent from that meeting.

A. Receive the Quarterly Financial Statements for April 1, 2013 to June 30, 2013:

Mr. Nishi asked what the percentage of decrease from the expenditures was.

Vice President Shriner made a motion to receive the Quarterly Financial Statements for April 1, 2013 to June 30, 2013. Director Gustafson seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

10. Action Items:

A. Receive Report from Staff Regarding the Results of Checking All the Mailing Data Records for the Ord Community; Consider Validating the Number of Proposition 218 Protests Tabulated on October 21, 2013 for the Proposed Increases in District Rates, Fees, and Charges for the Ord Community or Providing Other Direction to Staff:

Mr. Lee requested to defer this item until the next meeting.

Vice President Shriner made a motion to defer this item until the next meeting. Director Gustafson seconded the motion. Ms. Pelot commented that the Proposition 218 proposed rate increase was improperly noticed. She stated that she was still waiting for the remaining information she requested in her Public Records Request to be provided. Ms. Pelot also commented that she was concerned by the errors made during the Proposition 218 process and encouraged the Board to do the process properly. Mr. Nishi stated that he agreed with Ms. Pelot that the process was flawed. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			



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B. Consider Completing the Remainder of the 2013/2014 MCWD Budget Year Under the Continuing Budget Resolution No. 2013-34, adopted June 17, 2013:

Vice President Shriner made a motion to complete the remainder of the 2013/2014 MCWD budget year under the continuing budget Resolution No. 2013-34, adopted June 17, 2013. Director Gustafson seconded the motion. Mr. Nishi asked how the District would make up the missed rate increase if they didn't adopt a new budget until July. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

C. Receive Report from Special Legal Counsel on Employee Complaints Against Director Peter Le and the Board's Responsibilities in Reviewing and Acting on Such Complaints:

Following a report from Ms. Jeanine DeBacker, Vice President Shriner made a motion for the following option: 1. Rely upon the recordings of the December 2, 2013 and December 16, 2013 meetings, and the statements of complaint made to Special Legal Counsel; to include the specific comments thought to be in violation and what the improvement would need to be. The motion failed for lack of a second.

Director Gustafson made a motion to hire an investigator to determine if there is any additional, relevant evidence of allegedly inappropriate conduct by Dir. Le in his communications with District staff and consultants. Director Lee seconded the motion. Mr. Nishi voiced his concerns that Director Le never got the proper training after he was elected to the Board. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

Director Gustafson made a motion to direct Jeanine DeBacker to select a legal investigator. Director Lee seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

D. Receive Report from Legal Counsel on a Complaint by Director Gustafson as to an Alleged Attempt in Closed Session to Appoint Director Peter Le as Interim General Manager and the Board's Options Regarding Such Complaint:

Vice President Shriner made a motion for the following option: 1. Find that the closed session held on July 15, 2013, to confer with Labor Negotiator Howard Gustafson regarding salary and benefits for the Interim General Manager, an Unrepresented Employee, pursuant to Government

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Agenda Item 10-D (continued):

Code Section 54957.6, was properly noticed and held in accordance with the Brown Act and determine that no further action need be taken. The motion failed for lack of a second.

Director Gustafson made a motion to hire an investigator to investigate his assertion that there was an attempt to make Director Le the interim general manager at the July 15<sup>th</sup> meeting and waive the Board's attorney-client and deliberative legal privileges to that one incident only. The motion failed for lack of a second.

Mr. Nishi commented that he agrees that Mr. Masuda has a conflict on this item and asked why Director Le wasn't present during the closed session on July 15<sup>th</sup>. He suggested the District use the Brown Act attorney they always use, Doug White.

Following discussion, Director Gustafson made a motion to have Jeanine DeBacker bring back a proposal from an investigator with expertise in Brown Act issues and for herself to be available for any possible personnel issues that may arise. President Moore seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

E. Receive Report from Special Legal Counsel on Brown Act and Board Procedures Manual Requirements and Potential Legal Consequences for Disclosing Publicly Board Discussions Occurring in Closed Session:

Director Gustafson made a motion to postpone this item until the next meeting. Director Lee seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	No
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

F. Consider Action Regarding the January 11, 2014 Strategic Planning Session and Draft Strategic Plan:

Vice President Shriner asked to add an item regarding the District's historical building in Fort Ord to the agenda; and, following the Strategic Planning session have a "Next Steps" item. President Moore made a motion to allow Director Le to attend the meeting on January 11, 2014 via teleconference. Vice President Shriner seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	No	President Moore	-	Yes
Director Le	-	Absent			

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- G. Consider Adopting Resolution No. 2014-01 to Appoint an Ad Hoc Committee to Discuss the Recycled Water Pipeline with the Monterey Regional Water Pollution Control Agency and Specifying the Scope of the Committee’s Duties and Legal Authority:

Vice President Shriner made a motion to postpone this item until the full Board is present. Director Gustafson seconded the motion. Mr. Nishi stated that he had concerns over this item and the next several items regarding Ad Hoc Committees. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

- H. Consider Adopting Resolution No. 2014-02 to Appoint an Ad hoc Committee to Discuss the Annexation of the Ord Community and Specifying the Scope of the Committee’s Duties and Legal Authority:

- I. Consider a Scope of Topics for the Community Outreach Committee to Discuss with the Community:

Director Gustafson made a motion to postpone items 10-H and 10-I until the next meeting. Director Lee seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

- J. Consider Adopting a Policy for Board Review of Invoices:

Director Lee made a motion to continue the meeting until 2:00 a.m. unless finished earlier. Vice President Shriner seconded the motion. With a vote of 3-Ayes, 1-Noes, 1-Absent, the motion was passed.

Following discussion, no action was taken on this item.

- K. Consider Holding, Changing, or Canceling the January 21, 2014 Board Meeting:

Director Gustafson made a motion to cancel the January 21, 2014 Board meeting. Director Lee seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	No
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

Director Gustafson left the meeting at 10:09 p.m.

Regular Board Meeting  
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11. Informational Items:

A. General Manager's Report:

No report.

B. Counsel's Report:

No report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Shriner stated the next meeting was January 9, 2014.

2. Joint City District Committee:

President Moore commented that the next meeting was scheduled for January 22<sup>nd</sup>.

3. Executive Committee:

No meeting was held.

4. Community Outreach Committee:

Vice President Shriner gave an update.

5. MRWPCA Board Member:

President Moore stated that the next meeting is January 27<sup>th</sup>.

6. LAFCO Liaison:

No report.

7. FORA:

President Moore stated that the next meeting was January 10<sup>th</sup>.

8. WWOC:

No report.

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9. JPIA Liaison:

No report.

10. Special Districts Association Liaison

The next meeting is scheduled for January 21, 2014.

12. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Vice President Shriner made requests.

13. Director's Comments:

Vice President Shriner and President Moore made comments.

The Board returned to closed session at 10:15 p.m.

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

B. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Anticipated Litigation  
Initiation of Litigation Pursuant to Subdivision (c) of 54956.9  
One Potential Case

Regular Board Meeting  
January 6, 2014  
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- C. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
One Potential Case

The Board ended closed session at 10:56 p.m.

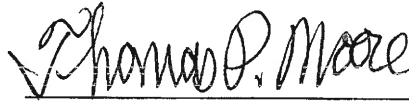
5. Possible Action on Closed Session Items:

Mr. Masuda reported that the Board authorized legal counsel to obtain proposals from Proposition 218 expert attorneys to advise the Board and District staff on Proposition 218 issues. The motion was made by Vice President Shriner, seconded by Director Lee and passed by a vote of 3-Ayes, 0-Noes, 2-Absent.

14. Adjournment:

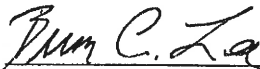
The meeting was adjourned at 10:57 p.m.

APPROVED:

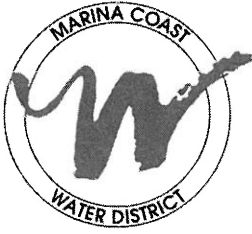


Thomas P. Moore, President

ATTEST:



Brian C. Lee, Deputy Secretary



# 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

THOMAS P. MOORE  
*President*

JAN SHRINER  
*Vice President*

HOWARD GUSTAFSON  
WILLIAM Y. LEE  
PETER LE

## Agenda Special Board Meeting Board of Directors Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue, Marina, California  
Saturday, January 11, 2014, 9:00 a.m.

*This meeting has been noticed according to the Brown Act rules.*

**Mission:** *Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

**Vision:** *The Marina Coast Water District will be the leading public supplier of integrated water and wastewater services in the Monterey Bay Region.*

**1. Call to Order – 9:00 AM**

**2. Roll Call**

**3. Pledge of Allegiance**

**4. Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

**5. Action Items** *The Board will review and discuss agenda items and take action or direct staff to return to the Board for action at a following meeting. The public may address the Board on these Items as each item is reviewed by the Board. Please limit your comment to four minutes.*

**A. Consider a One-Time Waiving of the Requirement in Section 17 of the Board Procedures Manual Where a Request for an Agenda Item be Submitted Seventeen Days Prior to the Board Meeting**

*Action: The Board of Directors will consider waiving of the requirement in Section 17 of the Board Procedures Manual where a request for an agenda item be submitted seventeen days prior to the Board meeting for this one-time basis.*

This agenda is subject to revision and may be amended prior to the scheduled meeting. A final agenda will be posted at the District office at 11 Reservation Road, Marina, 24 hours prior to the meeting. Copies will also be available at the Board meeting. A complete Board packet containing all enclosures and staff materials will be available for public review on Thursday, January 9, 2014 at the District office, Marina and Seaside City Halls, and at the Marina and Seaside Libraries. Information about items on this agenda or persons requesting disability related modifications and/or accommodations can contact the Board Clerk at: 831-883-5910. The next regular meeting of the Board of Directors is scheduled for February 3, 2014.

- B. Consider Adoption of Resolution No. 2014-03 to Provide Legal Representation for Director Le During the Investigation of Employee Complaints Against His Actions

*Action: The Board of Directors will consider whether to provide legal representation for Director Le during the investigation of employee complaints against his actions.*

- C. Election of Board President and Vice-President

*Action: The Board will elect two Directors to serve as President and Vice President of the Board until December 2014.*

- D. Consider Adoption of Resolution No. 2014-04 to Fund Weatherization of the Fort Ord Station Veterinary Hospital Barracks Located at 2872 Fifth Avenue

*Action: The Board of Directors will consider contributing funds towards weatherizing the District-owned Fort Ord Station Veterinary Hospital Barracks and designating the source of those funds.*

## 6. Workshop

- A. Strategic Planning Workshop

*The Board of Directors will consider the District's mission, vision and core values statements, and discuss a five year strategy for the District and provide direction to staff on compilation of the final document.*

## Noon – Recess

1:00 PM

7. **Public Comment on Closed Session Items** *Anyone wishing to address the Board on matters appearing on Closed Session may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

## 8 Closed Session

- A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550



2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

- B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
One Potential Case

**9. Possible Action on Closed Session Items** *The Board will report out on any action taken during Closed Session, and may take additional action in Open Session, as appropriate. Any closed session items not completed will be discussed at the end of the meeting.*

**10. Directors Comments**

**11. Adjournment** *Set or Announce Next Meeting(s), date(s), time(s), and location(s):*

*Regular Meeting: Monday, February 3, 2014, 6:45 p.m.,  
211 Hillcrest Avenue, Marina*

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 5-B

Meeting Date: January 11, 2014

Requested By: Director Le

Presented By: Brian C. Lee

Agenda Title: Consider Adoption of Resolution No. 2014-03 to Provide Legal Representation for Director Le During the Investigation of Employee Complaints Against His Actions

Detailed Description: This item will be considered at this meeting only upon a majority approval of Agenda Item 5-A.

The Board of Directors is requested to consider provide legal representation for Director Le during the investigation of employee complaints against him.

Director Le stated that since the District recommended hiring a qualified investigator to look into complaints made against him, he was requesting that the District provide legal representation for him during the investigation as he was acting as a Director during the complaint periods.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement – Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact:     \_\_\_ Yes     \_\_\_ X No

Funding Source/Recap: None.

Material Included for Information/Consideration: Resolution No. 2014-03.

Staff Recommendation: Staff has no recommendation as this is a Board requested item.

Action Required:     \_\_\_ X \_\_\_ Resolution     \_\_\_ \_\_\_ Motion     \_\_\_ \_\_\_ Review

---

Board Action

\_\_\_ Resolution No \_\_\_     Motion By \_\_\_     Seconded By \_\_\_

Ayes \_\_\_     Abstained \_\_\_

Noes \_\_\_     Absent \_\_\_

Reagendized \_\_\_     Date \_\_\_     No Action Taken \_\_\_

January 11, 2014

Resolution No. 2014-03  
Resolution of the Board of Directors  
Marina Coast Water District  
Providing Legal Representation for Director Le During the Investigation  
of Employee Complaints Against His Actions

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a special meeting duly called and held on January 11, 2014, at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, on December 3, 2013, District staff telephoned Special Legal Counsel and stated that a pattern of what staff believes constitute inappropriate, unprofessional, and potentially harassing behavior by Director Peter Le that had been a regular part of Board meetings had continued and apparently escalated during the December 2, 2013 meeting; and,

WHEREAS, on December 17, 2013, District staff repeated the complaint to Counsel based on conduct at the December 16 Board meeting; and,

WHEREAS, on January 6, 2014, the Board of Directors approved retaining an outside investigator to determine if there is any additional, relevant evidence of allegedly inappropriate conduct by Director Le in his communications with District staff and consultants; and,

WHEREAS, on January 8, 2014, Director Le requested the Board consider providing him legal representation during the investigation.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize legal representation for Director Le during the investigation of complaints against him.

PASSED AND ADOPTED on January 11, 2014 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

\_\_\_\_\_  
Thomas P. Moore, President

ATTEST:

\_\_\_\_\_  
Brian C. Lee, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2014-03 adopted January 11, 2014.

\_\_\_\_\_  
Brian C. Lee, Secretary

**MCPHARLIN  
SPRINKLES &  
THOMAS LLP**  
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JANE P. RELYEA  
ELAINE M. SEID  
CATHERINE C. SPRINKLES  
ANNE C. STROMBERG  
N. DAVID THOMAS

January 9, 2014

To: Board of Directors, Marina Coast Water District  
From: Jeanine DeBacker, Special Legal Counsel  
Subject: Director Request for Representation during Administrative Investigation/Proceeding

The Board moved at its January 6, 2014 meeting for Special Legal Counsel to engage an investigator to investigate what complainant staff members believe constitute inappropriate, unprofessional, and potentially harassing behavior by Director Peter Le during Board meetings. The investigator is to serve as a neutral fact finder to gather information for the Board's review and action.

The investigator will be provided with the statements of complaint made by the staff members, along with the recordings of the meetings at issue. The investigator will also determine if there is any additional, relevant evidence of allegedly inappropriate conduct by Director Le in his communications with District staff and consultants. The investigator will provide findings of fact as to the conduct of Director Le and suggest potential corrective action, if appropriate. The Board will review these findings and suggestions in light of anti-harassment employment laws and sections 5, 13 and 15 (among others, potentially) of the Board Procedures Manual.

**Director Le's Request for Representation**

On January 7, 2014, Director Peter Le requested the following to be considered by the Board at its January 11, 2014 meeting:

“Now that the Board has decided to hire an investigator to investigate complaints made against me, I would like to request the Board to appoint counsel to represent me during the investigation. Please place this request on the Jan 11, 2014 Board meeting so that it will not delay the investigation.”

While not explicitly stated, for purposes of this memorandum, this request is read to be a request both the appointment of an attorney and for the District to pay the legal fees for that attorney.

### **The Scope of the District's Obligation to Provide a Defense to Director Le**

The Marina Coast Water District, as a public entity, is subject to several sections of the Government Code with regard to its obligation to provide a defense (i.e., pay for an attorney) for employees and former employees. Under these code sections, Directors of the District are considered officers of the entity and eligible for consideration.

The Government Code divides the District's defense obligation between those that are mandatory (generally civil lawsuits) and those that are discretionary (generally criminal actions and administrative proceedings).

Director Le's request is in the context of an internal administrative proceeding. After conducting the appropriate investigation, the investigator will present findings to the Board and the Board will take appropriate action based upon this information. As discussed at your January 6, 2014 meeting, such action could include training sessions, or actions up to and including censure by the Board of Director Le.

For an administrative proceeding, Government Code Section 995.6 states as follows:

995.6. A public entity is not required to provide for the defense of an administrative proceeding brought against an employee or former employee, but a public entity may provide for the defense of an administrative proceeding brought against an employee or former employee if:

- (a) The administrative proceeding is brought on account of an act or omission in the scope of his employment as an employee of the public entity; and
- (b) The public entity determines that such defense would be in the best interests of the public entity and that the employee or former employee acted, or failed to act, in good faith, without actual malice and in the apparent interests of the public entity.

Section 995.6 provides that the Board's decision on providing an attorney for Director Le in this type of proceeding is discretionary, and the Board may approve such a request **only if** the Board determines that the elements set forth in the code section are met. That is:

1. The proceeding is brought on account of an act or omission in the scope of Director Le's position as a Director; and
2. The Board determines that providing (and paying for) the defense is in the best interests of the District; and
3. Director Le acted or failed to act in good faith, without actual malice and in the apparent interests of the District.

Director Request for Representation during Administrative Investigation/Proceeding

January 9, 2014

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### **Director Le Cannot Participate in the Decision to Provide him with a Defense**

Since Director Le has a direct financial interest in the outcome of the Board's determination, he is prohibited by Government Code Section 87100 from participating in and voting on the above determination. (Director Le's financial interest in the outcome is that he is asking the District to pay for the attorney).

Section 87100 states, "No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest." FPPC staff has advised that the public official not be present in the board chambers when the matter is being considered by the governing body.

### **Complainant Staff Members are Protected from Retaliation**

As briefly mentioned during your January 6 meeting, the complainant staff members and the Interim General Manager, based on his role in the matter, are protected from retaliation under state and federal law and District policy. Generally, this means that they are each protected from any adverse employment action that occurs because of their participation in the complaint or the investigation. Retaliation is a separate claim under employment law that an employee may bring and the claim survives even if it is later determined that there was no prohibited conduct, so long as the complaint was made in good faith.

###

I hope this information is helpful. I will be available by telephone to discuss this memorandum at your January 11, 2014 meeting.

Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue  
Marina, California

Special Board Meeting  
January 11, 2014  
9:00 a.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 9:00 a.m. on January 11, 2014.

2. Roll Call:

Board Members Present:

Tom Moore – President  
Jan Shriner – Vice President  
Howard Gustafson  
Bill Lee

Board Members Absent:

Peter Le

Staff Members Present:

Brian Lee, Interim General Manager  
Roger Masuda, Legal Counsel  
Jean Premutati, Management Services Administrator  
Kelly Cadiente, Director of Administrative Services  
James Derbin, Operations and Maintenance Superintendent  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Brent Ives, BHI Consulting  
Kenneth Nishi, Marina Resident  
Dan Amadeo, Marina Resident

3. Pledge of Allegiance:

President Moore asked Ms. Paula Riso to lead everyone present in the pledge of allegiance.

4. Oral Communications:

None.



Special Board Meeting  
January 11, 2014  
Page 2 of 5

5. Action Items:

- A. Consider a One-Time Waiving of the Requirement in Section 17 of the Board Procedures Manual Where a Request for an Agenda Item be Submitted Seventeen Days Prior to the Board Meeting:

Vice President Shriner made a motion to a one-time waiving of the requirement in Section 17 of the Board Procedures Manual where a request for an agenda item be submitted seventeen days prior to the Board meeting. President Moore seconded the motion. The motion failed.

Director Lee	-	No	Vice President Shriner	-	Yes
Director Gustafson	-	No	President Moore	-	Yes
Director Le	-	Absent			

- B. Consider Adoption of Resolution No. 2014-03 to Provide Legal Representation for Director Le During the Investigation of Employee Complaints Against His Actions:

With the failure of the motion on item 5-A, this item was not considered.

C. Election of Board President and Vice President:

Director Shriner nominated Director Moore for President. Director Moore seconded the nomination.

Director Lee nominated Director Gustafson for President. Director Gustafson seconded the nomination.

Director Le was absent.

Director Lee voted for Director Gustafson.

Director Gustafson voted for Director Gustafson.

Director Shriner voted for Director Moore.

Director Moore voted for Director Moore.

A majority vote did not occur for either nomination.

Director Moore nominated Director Shriner for Vice President. Director Shriner seconded the nomination.

Director Gustafson nominated Director Lee for Vice President. Director Lee seconded the nomination.

Director Le was absent.

Director Lee voted for Director Lee.

Director Gustafson voted for Director Lee.

Director Shriner voted for Director Shriner.

Director Moore voted for Director Shriner.

Special Board Meeting  
January 11, 2014  
Page 3 of 5

Agenda Item 5-C (continued):

A majority vote did not occur for either nomination.

D. Consider Adoption of Resolution No. 2014-04 to Fund Weatherization of the Fort Ord Station Veterinary Hospital Barracks Located at 2872 Fifth Avenue:

Vice President Shriner made a motion to direct staff to communicate with the Marina City Manager to see if the District could work with the City's contractor and get a rough estimate on keeping the rain and animals out of the building at a cost not-to-exceed \$5,000. Director Gustafson seconded the motion. Mr. Dan Amadeo, Marina resident, commented that the City of Marina was paying for their project from the National Park Service parcels and suggested the District see if their building could be included in those funds or asking if the Fort Ord War Horse could donate funds toward the project. Mr. Kenneth Nishi, Marina resident, voiced his concern over the District spending public funds on something that is not a mission of the District. He suggested the Board members interested in weatherizing the building contribute their personal money.

Vice President Shriner amended her motion to include looking into private funding or funding through the National Park Service. Director Gustafson seconded the motion. The motion was passed.

Director Lee	-	No	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

6. Workshop:

A. Strategic Planning Workshop:

Mr. Brent Ives, BHI Consulting, reviewed the latest draft of the Five-Year Strategic Plan. The Board provided comments and suggested changes to the draft Plan. Mr. Ives will provide a final draft by February 18<sup>th</sup> and bring back to the Board for consideration as soon as possible after that.

President Moore recessed the meeting from 12:16 p.m. until 1:00 p.m.

7. Public Comment on Closed Session Items:

No comments.

The Board entered into closed session at 1:01 p.m.

Special Board Meeting  
January 11, 2014  
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8. Closed Session:

- A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

- B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
One Potential Case

Director Gustafson left the meeting at 2:15 p.m.

The Board ended closed session at 2:22 p.m.

President Moore reconvened the meeting to open session at 2:23 p.m.

9. Possible Action on Closed Session Items:

Mr. Roger Masuda, Legal Counsel, stated that no reportable actions were taken in closed session.

10. Director's Comments:

Director Lee, Vice President Shriner, and President Moore made comments.

11. Adjournment:

The meeting was adjourned at 2:24 p.m.

Special Board Meeting  
January 11, 2014  
Page 5 of 5

APPROVED:



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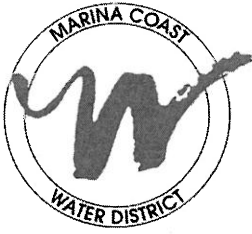
Thomas P. Moore, President

ATTEST:



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Brian C. Lee, Deputy Secretary



# 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

THOMAS P. MOORE  
*President*

JAN SHRINER  
*Vice President*

HOWARD GUSTAFSON  
WILLIAM Y. LEE  
PETER LE

## Agenda

### Regular Board Meeting, Board of Directors Marina Coast Water District

211 Hillcrest Avenue, Marina, California

Monday, February 3, 2014, 6:00 p.m. PST

(Please note the earlier start time)

*This meeting has been noticed according to the Brown Act rules. The Board of Directors meet regularly on the first and third Monday of each month. The meetings normally begin at 6:45 p.m. and are held at the City of Marina Council Chambers at 211 Hillcrest Avenue, Marina, California.*

**Mission:** *Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

**Vision:** *The Marina Coast Water District will be the leading public supplier of integrated water and wastewater services in the Monterey Bay Region.*

1. **Call to Order**

2. **Roll Call**

3. **Public Comment on Closed Session Items** *Anyone wishing to address the Board on matters appearing on Closed Session may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

4. **Closed Session**

A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case Nos. H038550 and H039559

This agenda is subject to revision and may be amended prior to the scheduled meeting. A final agenda will be posted at the District office at 11 Reservation Road, Marina, 72 hours prior to the meeting. Copies will also be available at the Board meeting. A complete Board packet containing all enclosures and staff materials will be available for public review on Thursday, January 30, 2014 at the District office, Marina and Seaside City Halls, and at the Marina and Seaside Libraries. Information about items on this agenda or persons requesting disability related modifications and/or accommodations can contact the Board Clerk at: 831-883-5910. The next regular meeting of the Board of Directors is scheduled for February 18, 2014.

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, San Francisco Superior Court Case No. CGC-13-528312 (Complaint for Declaratory Relief)

- B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
One Potential Case, Including Appointment of Special Legal Counsel
- C. Pursuant to Government Code 54957  
Public Employee Performance Evaluation  
Title: Interim General Manager  
(Requested by Peter Le)

**7:00 p.m. Reconvene Open Session**

**5. Possible Action on Closed Session Items** *The Board will report out on any action taken during Closed Session, and may take additional action in Open Session, as appropriate. Any closed session items not completed will be discussed at the end of the meeting.*

**6. Pledge of Allegiance**

**7. Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

**8. Election of Board President and Vice-President**

*Action: The Board will elect two Directors to serve as President and Vice President of the Board until December 2014.*

**9. Consent Calendar** *Board approval can be taken with a single motion and vote. A Board member or member of the public may request that any item be pulled from the Consent Calendar for separate consideration at this meeting or a subsequent meeting. The public may address the Board on any Consent Calendar item. Please limit your comment to four minutes.*

- A. Receive and File the Check Register for the Month of December 2013
- B. Approve the Draft Minutes of the Regular Board Meeting of December 16, 2013
- C. Approve the Draft Minutes of the Regular Board Meeting of January 6, 2014
- D. Approve the Draft Minutes of the Special Board Meeting of January 11, 2014

**10. Action Items** *The Board will review and discuss agenda items and take action or direct staff to return to the Board for action at a following meeting. The public may address the Board on these Items as each item is reviewed by the Board. Please limit your comment to four minutes.*

- A. Review the Status of the Public Information Request of Paula Pelot (Requested by Peter Le)

*Action: The Board of Directors will review the status of the Public Information Request of Paula Pelot.*

- B. Review the Status of the Response to Questions on the Teen Center (Requested by Peter Le)

*Action: The Board of Directors will review the status of the response to questions on the Teen Center.*

- C. Consider Declaring the Fort Ord Station Veterinary Hospital Barracks as Surplus District Real Property, Appointing District Negotiator(s), and Specifying Conditions for Sale (Requested by Staff)

*Action: The Board of Directors will consider whether to declare the Barracks property as Surplus District real property, appoint District negotiator(s), and specify conditions for sale.*

- D. Discussion and Possible Action regarding January 23, 2014 request by City of Marina Staff for a Planning Commission Interpretation of Marina Municipal Code Chapter 17.55, Surface Mining and Reclamation Standards, That The Extraction of Water to Determine Its Mineral Content is a Surface Mining Operation

*Action: The Board of Directors will review available material, determine the District's position, if required, and provide direction to staff.*

- E. Consider Director Appointments to Standing Committees of the Board and to Outside Agencies for 2014 (Requested by Tom Moore)

*Action: The Board of Directors will consider Director appointments to Standing Committees of the Board and to outside agencies for 2014.*

- F. Consider Adopting Resolution No. 2014-01 to Appoint an Ad Hoc Committee to Discuss the Recycled Water Pipeline with the Monterey Regional Water Pollution Control Agency and Specifying the Scope of the Committee's Duties and Legal Authority (Requested by Peter Le)

*Action: The Board of Directors will consider establishing an Ad Hoc Committee to discuss the Recycled Water Pipeline with the Monterey Regional Water Pollution Control Agency and adopting a resolution specifying the scope of the Committee's duties and legal authority pursuant to Board Procedures Manual Sections 12.A and 12.C.*

- G. Consider Adopting Resolution No. 2014-02 to Appoint an Ad Hoc Committee to Discuss the Annexation of the Ord Community and Specifying the Scope of the Committee's Duties and Legal Authority (Requested by Peter Le)

*Action: The Board of Directors will consider establishing an Ad Hoc Committee to discuss the Annexation of the Ord Community and adopting a resolution specifying the scope of the Committee's duties and legal authority pursuant to Board Procedures Manual Sections 12.A and 12.C.*

- H. Consider Preliminary Draft 2014 Agenda, Goals, and Work Program (Requested by Peter Le)

*Action: The Board of Directors will consider a preliminary draft 2014 Agenda, Goals, and Work Program.*

- I. Consider a Scope of Topics for the Community Outreach Committee to Discuss with the Community (Requested by Jan Shriner)

*Action: The Board of Directors will consider a scope of topics for the Community Outreach Committee to discuss when meeting with the Community at large.*

- J. Review the Non-Conformance of Section 16 of the Board Procedures Manual (Requested by Peter Le)

*Action: The Board of Directors will consider the non-conformance of Section 16 of the Board Procedures Manual.*

- K. Consider Revising Sections 9, 17, 23, and 42 of the Board Procedures Manual (Requested by Peter Le)

*Action: The Board of Directors will consider revising Sections 9, 17, 23, and 42 of the Board Procedures Manual.*

- L. Consider Adoption of Resolution No. 2014-03 to Provide Legal Representation for Director Le During the Investigation of Employee Complaints Against His Actions (Requested by Peter Le)

*Action: The Board of Directors will consider whether to provide legal representation for Director Le during the investigation of employee complaints against his actions.*

**11. Informational Items** *Informational items are normally provided in the form of a written report or verbal update and may not require Board action. The public may address the Board on Informational Items as they are considered by the Board. Please limit your comments to four minutes.*

- A. General Manager's Report

- Correspondence Received by Board or General Manager





Marina Coast Water District  
Agenda Transmittal

Agenda Item: 10-L

Meeting Date: February 3, 2014

Requested By: Peter Le

Agenda Title: Consider Adoption of Resolution No. 2014-03 to Provide Legal Representation for Director Le During the Investigation of Employee Complaints Against His Actions

Detailed Description: This agenda item was requested by Director Peter Le.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement – Providing high quality water, wastewater and recycled water services to the District’s expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact:     \_\_\_ Yes      X  No

Funding Source/Recap: None.

Material Included for Information/Consideration: Resolution No. 2014-03; and, attachment provided by Director Le.

Staff Recommendation: This is a Board requested item.

Action Required:      X  Resolution     \_\_\_ Motion     \_\_\_ Review  
(Roll call vote is required.)

---

Board Action

\_\_\_ Resolution No \_\_\_     Motion By \_\_\_     Seconded By \_\_\_

Ayes \_\_\_     Abstained \_\_\_

Noes \_\_\_     Absent \_\_\_

Reagendized \_\_\_     Date \_\_\_     No Action Taken \_\_\_

February 3, 2014

Resolution No. 2014-03  
Resolution of the Board of Directors  
Marina Coast Water District  
Providing Legal Representation for Director Le During the Investigation  
of Employee Complaints Against His Actions

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on February 3, 2014, at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, on December 3, 2013, District staff telephoned Special Legal Counsel and stated that a pattern of what staff believes constitute inappropriate, unprofessional, and potentially harassing behavior by Director Peter Le that had been a regular part of Board meetings had continued and apparently escalated during the December 2, 2013 meeting; and,

WHEREAS, on December 17, 2013, District staff repeated the complaint to Counsel based on conduct at the December 16 Board meeting; and,

WHEREAS, on January 6, 2014, the Board of Directors approved retaining an outside investigator to determine if there is any additional, relevant evidence of allegedly inappropriate conduct by Director Le in his communications with District staff and consultants; and,

WHEREAS, on January 8, 2014, Director Le requested the Board consider providing him legal representation during the investigation.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize legal representation for Director Le during the investigation of complaints against him.

PASSED AND ADOPTED on February 3, 2014 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

\_\_\_\_\_  
Thomas P. Moore, President

ATTEST:

\_\_\_\_\_  
Brian C. Lee, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2014-03 adopted February 3, 2014.

\_\_\_\_\_  
Brian C. Lee, Secretary

January 7, 2014

Dear Tom and Roger,

Now that the Board has decided to hire an investigator to investigate complaints made against me, I would like to request the Board to appoint counsel to represent me during the investigation. Please place this request on the Jan 11, 2014 Board meeting so that it will not delay the investigation.

Additionally, I would like to receive actual details of the complaints so that I can review and discuss with my counsel before meeting with the investigator.

Let me know if you have any questions on my requests.

Peter

January 12, 2014

Dear Board of Directors,

I am requesting the Board to provide me with details and information on the complaints made against me. The memo from Ms. DeBacker as part of the Jan 6, 2014 Board agenda did not provide much details on the complaints.

I am requesting the Board to provide me with the specifics and details of the complaints, statements of the complaints, the complaining parties and other relevant information so that I can review and provide responses.

I also am requesting the Board to provide me with the District's approved procedures, rules, policies, MOUs, and other documents that describes procedures in handling this type of complaints.

Since I could not attend the Board meetings on Jan 6 and Jan 11, 2014, I request that the Board provides me with copies of materials that were handed out or provided to the Directors. I also request the Board to provide me with copies of the video and/or audio recordings of the Board meeting on Jan 11, 2014.

Please do not discuss my requests between yourselves or in a chained discussion that may violate the Brown Acts.

I would like to obtain the above materials to review and provide responses to the Board; preferably before the investigator interviews me, if applicable, or before the investigation concludes.

Sincerely,

Peter Le  
Director

January 21, 2014

Dear Board of Directors:

I have the following questions on the proposed interviews from Ms. DeBacker:

1. When will I receive the documents that I have asked for from the Board? I like to review them before the complaint interview. I do not want to have the complaint interview without first reviewing them. Additionally, the Board has not made a decision on my request for legal representation. I cannot have any complaint interview until the Board makes a decision on my request.
2. I like the Brown Act interview at the Marina City Council Chamber or at the Marina Conference Room.
3. I have not received the contact information on both investigators.
4. Please also forward my questions to the investigators.
5. It appears that Ms. DeBacker involved in these investigations and will affect the neutrality of the investigations. I did not see that the Board authorized Ms. DeBacker to set up any interview on behalf of the investigators. I did not believe that the Board authorized Ms. DeBacker to approve the investigators on behalf of the Board either. Ms. DeBacker should have stepped out and let the Board approved the investigators first and let the investigators contact all the Directors to set up the interviews and answer my questions.
6. I previously provided Ms. DeBacker with my available interview schedule assuming that I would receive all the requested documents and contact information of the investigators so that I could discuss my questions before the actual interview on the complaints.
7. I like to have the investigators contact me directly. I do not wish to have Ms. DeBacker contact me on these investigations since she may have undue influence on the investigations.

Please provide me with responses on the above questions and ask the investigators to contact me directly, preferably by emails.

Peter Le  
Director

**Jeanine DeBacker**

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**From:** PETER LE [mailto:peter381@sbcglobal.net]  
**Sent:** Tuesday, January 21, 2014 1:30 PM  
**To:** Tom Moore; janet shriner; bill lee; Howard Gustafson  
**Cc:** Roger Masuda  
**Subject:** Questions on Investigations & Interviews

January 21, 2014

Dear Board of Directors:

I have the following questions, comments and requests on the proposed interviews from Ms. DeBacker:

1. When will I receive the documents on the complaints that I have previously asked for from the Board? I like to review them before the interview. Additionally, the Board has not made a decision on my request for legal representation. I cannot have any complaint interview until the Board makes a decision on my request and I have reviewed details of the complaints and the District approved procedures handling this type of complaint.
2. I like the Brown Act interview at the Marina City Council Chamber or at the Marina Conference Room.
3. I have not received the contact information on both investigators so that I can ask questions on the interviews.
4. Please also forward my questions to the investigators so that they can address my questions.
5. It appears that Ms. DeBacker has unnecessarily involved in these investigations and will affect the neutrality of the investigations. I did not see that the Board authorized Ms. DeBacker to set up any interview on behalf of the investigators. I did not believe that the Board authorized Ms. DeBacker to approve the investigators on behalf of the Board either. Ms. DeBacker should not be involved in the investigations once the investigators have been identified and later approved by the Board. The Board needs to approve the investigators first and let the investigators contact all the Directors to set up the interviews and answer my questions. The District Counsel needs to provide the Board his opinion on the actions the Board took at the Board meetings on January 6 and 11, 2014. The Board also needs to ask Ms. DeBacker to remove herself immediately from the investigation processes to maintain the integrity of the investigations.
6. I previously provided Ms. DeBacker with my available interview schedule assuming that I would receive all the requested documents and contact information of the investigators so that I could discuss my questions before the actual interview on the complaints.
7. I like to have the investigators contact me directly. I do not wish to have Ms. DeBacker contact me on these investigations since she may have undue influence on the investigations.
8. I do not believe Ms. DeBacker conducted the complaint made against me properly and appropriately. I do not believe Ms. DeBacker has any authority whatsoever to request me to meet her to resolve the complaint unless the Board can provide me with District written and approved procedures, policies, signed MOU's, ordinances, resolutions or any other document that indicate she has such authority. The District Counsel needs to provide the Board his opinion on these matters.

9. Once the complaints were expressed, the District needed to write down the verbal complaints and other pertinent information of the complaints. Since the complaints were made against me, I am entitled to received full and specific details of the complaints such as statements of the complaints, the complaining parties, etc. so that I can respond to the complaints. Without providing me full details of the complaints, it will be very difficult for me to prepare and provide responses to the investigator at or after the interviews. I have not received any specific and full details of the complaints and the proper procedure to handle these complaints as of today.

10. As usual, you cannot discuss my questions, requests or comments between yourselves or in a chained discussion due to the prohibition of the Brown Act. I hope you will place my previous request and this email on the February 3, 2014 Board agenda for consideration by the Board.

Please provide me with responses on the above questions and ask the investigators to contact me directly, preferably by emails. Once I receive the complaint documents and the Board decision on my legal representation request, I will contact the investigator to set up an interview.

Peter Le  
Director

----- Original message -----

From: Jeanine DeBacker  
Date: 01/21/2014 10:20 AM (GMT-08:00)  
To: [peter381@sbeglobal.net](mailto:peter381@sbeglobal.net)  
Subject: Investigation interviews

Dir. Le:

Please let me know if the following will work:

1. Brown Act interview on Friday, 1/24 at 2:30 at Reservation Road office.
2. Complaint interview on Thursday, 1/23 at 9:30 AM at Reservation Road office.

If you have an alternative location that works better for a face-to-face meeting, please let me know and I'll see if that will work.

Best,  
Jeanine

---

Jeanine D. DeBacker | McPharlin Sprinkles & Thomas LLP  
160 West Santa Clara Street, Suite 400 | San Jose, CA 95113  
Phone: 408.293.1900 | Facsimile: 408.293.1999  
Email: [jdebacker@mstpartners.com](mailto:jdebacker@mstpartners.com) | [mstpartners.com](http://mstpartners.com)

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ELAINE M. SEID  
CATHERINE C. SPRINKLES  
ANNE C. STROMBERG  
N. DAVID THOMAS

January 29, 2014

To: Board of Directors, Marina Coast Water District  
From: Jeanine DeBacker, Special Legal Counsel  
Subject: Investigation Regarding Closed Session of July 15, 2013

This memorandum is to provide a brief update of the status of the investigation regarding the closed session on July 15, 2013 (the "Brown Act investigation") and to answer questions posed by Director Le via email.

**Engagement of Outside Investigator**

At the January 6, 2014 meeting, the Board discussed a complaint by Director Gustafson as to an alleged attempt in closed session to appoint Director Peter Le as Interim General Manager and the Board's options regarding such complaint. The Board directed Special Legal Counsel to ask attorney Doug White of Churchwell White for recommendations of an investigator to investigate the matter.

Mr. White provided his highest recommendation on behalf of Ms. Hilda Cantu Montoy of Fresno. Ms. Montoy represents public agencies as general counsel and special counsel in a broad spectrum of public agency law matters. Ms. Montoy was the City Attorney for the City of Fresno for over a decade. She has extensive public sector experience in governance and the critical transparency requirements under the Brown Act, the Public Records Act, and the rules governing conflicts of interest in public entities.

Ms. Montoy was retained on January 14, 2014 to serve as a neutral fact-finder to conduct an independent fact investigation. Given the depth and breadth of Ms. Montoy's experience with public governance, she was asked to make conclusions of law as well as findings of fact, and, if appropriate, recommend a course of action for the Board to pursue.

Ms. Montoy asked that the District arrange for the interviews of appropriate persons as identified by her. As the Board is aware, there is another, unrelated, investigation taking place at this time. Given that District staff and Directors are involved in that second investigation, and since Special Legal Counsel

was not at the July 15, 2013 meeting involved in the Brown Act investigation, Special Legal Counsel made arrangements for meetings via email with the persons identified by Ms. Montoy.

**Status of Investigation**

As of the date of this memorandum, the Brown Act investigation is ongoing and will not conclude prior to your February 3, 2014 meeting.

**Questions Posed by Director Le Regarding the Investigation**

In emails dated January 21, 2014 and January 22, 2014, Director Peter Le posed several questions about the investigation. Attached to this memorandum are the two emails for your reference.

Below are the questions posed by Director Le regarding the Brown Act investigation, grouped according to the general theme of his question. Special Legal Counsel's responses follow.

In a second memorandum to the Board, Special Legal Counsel responded to questions regarding the separate investigation.

^^^

- “2. I like the Brown Act interview at the Marina City Council Chamber or at the Marina Conference Room.”

When the City of Marina meeting spaces are available, the District may use them for meetings and interviews.

For the Brown Act interviews, the Beach location was chosen as the default location primarily for convenience to the investigator and the interviewees and the opportunity for a more private setting. In the future, if an alternative location is desired, please make this known.

^^^

- “3. I have not received the contact information on both investigators so that I can ask questions on the interviews.”
- “3. Please also forward my questions to the investigators so that they can address my questions.”
- “6. I previously provided Ms. DeBacker with my available interview schedule assuming that I would receive all the requested documents and contact information of the investigators so that I could discuss my questions before the actual interview on the complaints.”

- “7. I like to have the investigators contact me directly. I do not wish to have Ms. DeBacker contact me on these investigations since she may have undue influence on the investigations.”

Each Director has been provided the contact information for Ms. Montoy. For those individuals, including Directors, who have been interviewed by Ms. Montoy, each received her contact information at the meeting. In response to this email, Special Legal Counsel emailed Ms. Montoy, informed her of the request by Director Le and provided the investigator with Director Le’s email address in the event she elected to contact him.

Ms. Montoy asked that the District set up the interviews. Due to the other pending investigation, Special Legal Counsel sought to reduce the need for contact between the Board and District staff. Special Legal Counsel contacted the requested interviewees at the direction of Ms. Montoy.

Please note, no one can be compelled to meet with Ms. Montoy for this investigation.

^^^

- “5. It appears that Ms. DeBacker has unnecessarily involved in these investigations and will affect the neutrality of the investigations. I did not see that the Board authorized Ms. DeBacker to set up any interview on behalf of the investigators. I did not believe that the Board authorized Ms. DeBacker to approve the investigators on behalf of the Board either. Ms. DeBacker should not involved in the investigations once the investigators have been identified and later approved by the Board. The Board needs to approve the investigators first and let the investigators contact all the Directors to set up the interviews and answer my questions. The District Counsel needs to provide the Board his opinion on the actions the Board took at the Board meetings on January 6 and 11, 2014. The Board also needs to ask Ms. DeBacker to remove herself immediately from the investigation processes to maintain the integrity of the investigations.”

[January 22, 2014 email from Director Le to the Board, District Legal Counsel and Special Legal Counsel: ]

Dear Ms. DeBacker:

At the Board meeting of January 6, 2014, the Board authorized you to search for an independent investigator to investigate the alleged Brown Act violation. I did not hear that the Board authorized you to approve the agreement or services of the independent investigator. I did not hear that the Board authorize you to schedule the interviews or a go between the investigator and the directors either. There may be some conflicts of interests if you took these actions.

Investigation Regarding Closed Session of July 15, 2013  
January 29, 2014  
Page 4

I believe that once you selected or recommended an investigator, the Board will need to approve an agreement with the investigator. I copy this email to the entire Board and the District Counsel so that they can recall the actions they took on this matter. Obviously, the directors cannot discuss this email between themselves or in a chained discussion due to the prohibition of the Brown Act.

Due to the above concerns, I asked that you remove yourself from the Brown Act investigation process and let the investigator does her work assuming that the Board approves her services.

Peter Le

At the January 6, 2014 meeting, the Board directed Special Legal Counsel to ask attorney Doug White of Churchwell White for recommendations for an independent investigator.

Ms. Montoy was retained on January 14, 2014 to serve as a neutral fact-finder to conduct an independent fact investigation.

The purpose of Ms. Montoy's review of the matter is to provide an independent analysis of the events and actions. The best course of action, then, was to not include the Board in the selection process so as to maintain the investigator's neutrality. Further, Special Legal Counsel was directed to engage the investigator in part due to her absence from the closed session at issue.

Ms. Montoy is charged with using her experience, skills and knowledge to determine the best steps to conduct the investigation, including but not limited to the order of obtaining information. Ms. Montoy is to determine the information to be provided in advance to each interviewee. Among other things, such determinations are designed to help the investigator obtain responses from each interview based on personal knowledge to the extent possible.

Ms. Montoy asked that the District arrange for the interviews of appropriate persons as identified by her. As the Board is aware, there is another, unrelated, investigation taking place at this time. Given that District staff and Directors are involved in that investigation as well, and since Special Legal Counsel was not at the July 15, 2013 meeting involved in the Brown Act investigation, Special Legal Counsel made arrangements for meetings via email with the persons identified by Ms. Montoy.

###

I hope this update is helpful. I will be available to discuss this memorandum at your February 3, 2014 meeting.

**Jeanine DeBacker**

---

**From:** PETER LE [mailto:peter381@sbcglobal.net]  
**Sent:** Tuesday, January 21, 2014 1:30 PM  
**To:** Tom Moore; janet shriner; bill lee; Howard Gustafson  
**Cc:** Roger Masuda  
**Subject:** Questions on Investigations & Interviews

January 21, 2014

Dear Board of Directors:

I have the following questions, comments and requests on the proposed interviews from Ms. DeBacker:

1. When will I receive the documents on the complaints that I have previously asked for from the Board? I like to review them before the interview. Additionally, the Board has not made a decision on my request for legal representation. I cannot have any complaint interview until the Board makes a decision on my request and I have reviewed details of the complaints and the District approved procedures handling this type of complaint.
2. I like the Brown Act interview at the Marina City Council Chamber or at the Marina Conference Room.
3. I have not received the contact information on both investigators so that I can ask questions on the interviews.
4. Please also forward my questions to the investigators so that they can address my questions.
5. It appears that Ms. DeBacker has unnecessarily involved in these investigations and will affect the neutrality of the investigations. I did not see that the Board authorized Ms. DeBacker to set up any interview on behalf of the investigators. I did not believe that the Board authorized Ms. DeBacker to approve the investigators on behalf of the Board either. Ms. DeBacker should not involved in the investigations once the investigators have been identified and later approved by the Board. The Board needs to approve the investigators first and let the investigators contact all the Directors to set up the interviews and answer my questions. The District Counsel needs to provide the Board his opinion on the actions the Board took at the Board meetings on January 6 and 11, 2014. The Board also needs to ask Ms. DeBacker to remove herself immediately from the investigation processes to maintain the integrity of the investigations.
6. I previously provided Ms. DeBacker with my available interview schedule assuming that I would receive all the requested documents and contact information of the investigators so that I could discuss my questions before the actual interview on the complaints.
7. I like to have the investigators contact me directly. I do not wish to have Ms. DeBacker contact me on these investigations since she may have undue influence on the investigations.
8. I do not believe Ms. DeBacker conducted the complaint made against me properly and appropriately. I do not believe Ms. DeBacker has any authority whatsoever to request me to meet her to resolve the complaint unless the Board can provide me with District written and approved procedures, policies, signed MOU's, ordinances, resolutions or any other document that indicate she has such authority. The District Counsel needs to provide the Board his opinion on these matters.

9. Once the complaints were expressed, the District needed to write down the verbal complaints and other pertinent information of the complaints. Since the complaints were made against me, I am entitled to received full and specific details of the complaints such as statements of the complaints, the complaining parties, etc. so that I can respond to the complaints. Without providing me full details of the complaints, it will be very difficult for me to prepare and provide responses to the investigator at or after the interviews. I have not received any specific and full details of the complaints and the proper procedure to handle these complaints as of today.

10. As usual, you cannot discuss my questions, requests or comments between yourselves or in a chained discussion due to the prohibition of the Brown Act. I hope you will place my previous request and this email on the February 3, 2014 Board agenda for consideration by the Board.

Please provide me with responses on the above questions and ask the investigators to contact me directly, preferably by emails. Once I receive the complaint documents and the Board decision on my legal representation request, I will contact the investigator to set up an interview.

Peter Le  
Director

----- Original message -----

From: Jeanine DeBacker  
Date: 01/21/2014 10:20 AM (GMT-08:00)  
To: [peter381@sbcglobal.net](mailto:peter381@sbcglobal.net)  
Subject: Investigation interviews

Dir. Le:

Please let me know if the following will work:

1. Brown Act interview on Friday, 1/24 at 2:30 at Reservation Road office.
2. Complaint interview on Thursday, 1/23 at 9:30 AM at Reservation Road office.

If you have an alternative location that works better for a face-to-face meeting, please let me know and I'll see if that will work.

Best,  
Jeanine

---

Jeanine D. DeBacker | McPharlin Sprinkles & Thomas LLP  
160 West Santa Clara Street, Suite 400 | San Jose, CA 95113  
Phone: 408.293.1900 | Facsimile: 408.293.1999  
Email: [jdebacker@mstpartners.com](mailto:jdebacker@mstpartners.com) | [mstpartners.com](http://mstpartners.com)

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**Jeanine DeBacker**

---

**From:** PETER LE <peter381@sbcglobal.net>  
**Sent:** Wednesday, January 22, 2014 9:56 AM  
**To:** Jeanine DeBacker  
**Cc:** Tom Moore; Janet Shriner; Bill Lee; Howard Gustafson; Roger Masuda; Hilda Cantu Montoy  
**Subject:** MCWD Investigation interviews

Dear Ms. DeBacker:

At the Board meeting of January 6, 2014, the Board authorized you to search for an independent investigator to investigate the alleged Brown Act violation. I did not hear that the Board authorized you to approve the agreement or services of the independent investigator. I did not hear that the Board authorize you to schedule the interviews or a go between the investigator and the directors either. There may be some conflicts of interests if you took these actions.

I believe that once you selected or recommended an investigator, the Board will need to approve an agreement with the investigator. I copy this email to the entire Board and the District Counsel so that they can recall the actions they took on this matter. Obviously, the directors cannot discuss this email between themselves or in a chained discussion due to the prohibition of the Brown Act.

Due to the above concerns, I asked that you remove yourself from the Brown Act investigation process and let the investigator do her work assuming that the Board approves her services.

Peter Le

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---

**From:** Jeanine DeBacker <jdebacker@mstpartners.com>  
**To:** "peter381@sbcglobal.net" <peter381@sbcglobal.net>  
**Sent:** Tuesday, January 21, 2014 1:38 PM  
**Subject:** FW: Investigation interviews

Dir. Le:  
For FRIDAY, the investigator has asked to move your meeting to 3:00 PM.  
Thanks,  
Jeanine DeBacker

---

**From:** Jeanine DeBacker  
**Sent:** Tuesday, January 21, 2014 10:20 AM

To: [peter381@sbcglobal.net](mailto:peter381@sbcglobal.net)  
Subject: Investigation interviews

Dir. Le:

Please let me know if the following will work:

1. Brown Act interview on Friday, 1/24 at 2:30 at Reservation Road office.
2. Complaint interview on Thursday, 1/23 at 9:30 AM at Reservation Road office.

If you have an alternative location that works better for a face-to-face meeting, please let me know and I'll see if that will work.

Best,  
Jeanine

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Jeanine D. DeBacker | McPharlin Sprinkles & Thomas LLP  
160 West Santa Clara Street, Suite 400 | San Jose, CA 95113  
Phone: 408.293.1900 | Facsimile: 408.293.1999  
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JANE P. RELYEA  
ELAINE M. SEID  
CATHERINE C. SPRINKLES  
ANNE C. STROMBERG  
N. DAVID THOMAS

January 29, 2014

To: Board of Directors, Marina Coast Water District  
From: Jeanine DeBacker, Special Legal Counsel  
Subject: Investigation Regarding Complaints against Director Peter Le

This memorandum is to provide a brief update of the status of the investigation regarding the employee complaints against Director Peter Le (the "harassment investigation") and to answer questions posed by Director Le via email.

**Engagement of Outside Investigator**

At the January 6, 2014 meeting, Special Legal Counsel was directed to hire an investigator to investigate complaints against Director Peter Le.

On January 20, 2014, Anne Olsen of Ottone Leach Olsen & Ray LLP in Salinas was retained as the investigator. She was engaged to investigate allegations of inappropriate, unprofessional, and potentially harassing behavior. Ms. Olsen's role is to act as a neutral fact-finder to conduct an independent fact investigation. Ms. Olsen began her investigation on January 21, 2014.

Ms. Olsen asked that the District arrange for interviews of persons identified by her. Special Legal Counsel made arrangements for meetings via email with the persons identified by Ms. Olsen.

**Status of Investigation**

As of the date of this memorandum, the investigation is ongoing and will not conclude prior to your February 3, 2014 Board meeting.

### Questions Posed by Director Le Regarding the Investigation

In an email dated January 21, 2014, Director Peter Le posed several questions about the harassment investigation. Attached to this memorandum is the email for your reference.

Below are Director Le's questions regarding the harassment investigation, grouped according to their general theme. Special Legal Counsel's responses are also below. In a second memorandum, Special Legal Counsel has responded to questions regarding the Brown Act investigation.

\* \* \*

- "3. I have not received the contact information on both investigators so that I can ask questions on the interviews."
- "3. Please also forward my questions to the investigators so that they can address my questions."
- "6. I previously provided Ms. DeBacker with my available interview schedule assuming that I would receive all the requested documents and contact information of the investigators so that I could discuss my questions before the actual interview on the complaints."
- "7. I like to have the investigators contact me directly. I do not wish to have Ms. DeBacker contact me on these investigations since she may have undue influence on the investigations."

In response to Director Le's January 21, 2014 email, Special Legal Counsel emailed Ms. Olsen, informed her of the request by Director Le and provided the investigator with Director Le's email address in the event she elected to contact him. Please note, no one can be compelled to speak with Ms. Olsen for her investigation.

\* \* \*

- "1. When will I receive the documents on the complaints that I have previously asked for from the Board? I like to review them before the interview. Additionally, the Board has not made a decision on my request for legal representation. I cannot have any complaint interview until the Board makes a decision on my request and I have reviewed details of the complaints and the District approved procedures handling this type of complaint."
- "5. It appears that Ms. DeBacker has unnecessarily involved in these investigations and will affect the neutrality of the investigations. I did not see that the Board authorized Ms. DeBacker to set up any interview on

behalf of the investigators. I did not believe that the Board authorized Ms. DeBacker to approve the investigators on behalf of the Board either. Ms. DeBacker should not be involved in the investigations once the investigators have been identified and later approved by the Board. The Board needs to approve the investigators first and let the investigators contact all the Directors to set up the interviews and answer my questions. The District Counsel needs to provide the Board his opinion on the actions the Board took at the Board meetings on January 6 and 11, 2014. The Board also needs to ask Ms. DeBacker to remove herself immediately from the investigation processes to maintain the integrity of the investigations.”

8. I do not believe Ms. DeBacker conducted the complaint made against me properly and appropriately. I do not believe Ms. DeBacker has any authority whatsoever to request me to meet her to resolve the complaint unless the Board can provide me with District written and approved procedures, policies, signed MOU's, ordinances, resolutions or any other document that indicate she has such authority. The District Counsel needs to provide the Board his opinion on these matters.
9. Once the complaints were expressed, the District needed to write down the verbal complaints and other pertinent information of the complaints. Since the complaints were made against me, I am entitled to receive full and specific details of the complaints such as statements of the complaints, the complaining parties, etc. so that I can respond to the complaints. Without providing me full details of the complaints, it will be very difficult for me to prepare and provide responses to the investigator at or after the interviews. I have not received any specific and full details of the complaints and the proper procedure to handle these complaints as of today.

This memorandum will not address the request for legal representation. A memorandum dated January 9, 2014 was presented to the Board on this issue.

Special Legal Counsel's function is to provide labor and employment law advice and counsel to the District. Under state and federal law, employers such as the District must undertake reasonable care to prevent and promptly correct harassment. Such steps can include training, internal or external investigation, discipline, and counseling an individual in a manner likely to stop the harassment.

Prior to the January 6, 2014 meeting, Special Legal Counsel sought to meet informally with Director Le in order to prevent any alleged behavior from recurring. The purpose of the meeting was to make him aware of the various state and federal laws and the rules of the District that place limitations on all Directors' conduct so as to ensure that violations of those laws, policies and rules do not occur. Director Le was reminded that, in lieu of an informal resolution of the matter, California's Brown Act requires that complaints against a public agency director, when considered by the public agency's Board of

Investigation Regarding Complaints Against Director Peter Le  
January 29, 2014  
Page 4

Directors, must be conducted at a noticed public meeting in open session. The Brown Act provides that an elected director is not considered an "employee" entitled to a closed session when the Board considers the specific complaints brought against the director. (Cal. Gov. Code § 54957(b)(4)).

Director Le refused the request to meet with Special Legal Counsel. Therefore, in order to satisfactorily address the complaints of District staff, the Board was advised that it must investigate the employees' complaints and take appropriate action based upon the Board's findings. At the January 6, 2014 meeting, Special Legal Counsel was directed to hire an investigator to investigate complaints against Director Peter Le. Ms. Olsen was thereafter retained.

Ms. Olsen has been hired to act as a neutral fact-finder to conduct an independent fact investigation. Ms. Olsen is charged with using her experience, skills and knowledge to determine the best steps to conduct the investigation, including but not limited to the order of obtaining information from the complaining parties and the alleged harasser. The investigator is to determine the information to be provided in advance to each interviewee. Among other things, such determinations are designed to help the investigator obtain responses from each interview based on personal knowledge to the extent possible.

Special Legal Counsel sought to arrange the interviews for Ms. Olsen at her request. The entity hiring the investigator normally handles such scheduling so communications go smoothly. Special Legal Counsel is handling the scheduling because the very matter at issue relates to communications by and between District staff and Directors.

###

I hope this brief update is helpful. I will be available to discuss this memorandum at your February 3, 2014 meeting.

**Jeanine DeBacker**

---

**From:** PETER LE [mailto:peter381@sbcglobal.net]  
**Sent:** Tuesday, January 21, 2014 1:30 PM  
**To:** Tom Moore; janet shriner; bill lee; Howard Gustafson  
**Cc:** Roger Masuda  
**Subject:** Questions on Investigations & Interviews

January 21, 2014

Dear Board of Directors:

I have the following questions, comments and requests on the proposed interviews from Ms. DeBacker:

1. When will I receive the documents on the complaints that I have previously asked for from the Board? I like to review them before the interview. Additionally, the Board has not made a decision on my request for legal representation. I cannot have any complaint interview until the Board makes a decision on my request and I have reviewed details of the complaints and the District approved procedures handling this type of complaint.
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9. Once the complaints were expressed, the District needed to write down the verbal complaints and other pertinent information of the complaints. Since the complaints were made against me, I am entitled to received full and specific details of the complaints such as statements of the complaints, the complaining parties, etc. so that I can respond to the complaints. Without providing me full details of the complaints, it will be very difficult for me to prepare and provide responses to the investigator at or after the interviews. I have not received any specific and full details of the complaints and the proper procedure to handle these complaints as of today.

10. As usual, you cannot discuss my questions, requests or comments between yourselves or in a chained discussion due to the prohibition of the Brown Act. I hope you will place my previous request and this email on the February 3, 2014 Board agenda for consideration by the Board.

Please provide me with responses on the above questions and ask the investigators to contact me directly, preferably by emails. Once I receive the complaint documents and the Board decision on my legal representation request, I will contact the investigator to set up an interview.

Peter Le  
Director

----- Original message -----

From: Jeanine DeBacker  
Date: 01/21/2014 10:20 AM (GMT-08:00)  
To: [peter381@sbcglobal.net](mailto:peter381@sbcglobal.net)  
Subject: Investigation interviews

Dir. Le:

Please let me know if the following will work:

1. Brown Act interview on Friday, 1/24 at 2:30 at Reservation Road office.
2. Complaint interview on Thursday, 1/23 at 9:30 AM at Reservation Road office.

If you have an alternative location that works better for a face-to-face meeting, please let me know and I'll see if that will work.

Best,  
Jeanine

---

Jeanine D. DeBacker | McPharlin Sprinkles & Thomas LLP  
160 West Santa Clara Street, Suite 400 | San Jose, CA 95113  
Phone: 408.293.1900 | Facsimile: 408.293.1999  
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Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue  
Marina, California

Regular Board Meeting  
February 3, 2014  
6:00 p.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on February 3, 2014.

2. Roll Call:

Board Members Present:

Tom Moore – President  
Jan Shriner – Vice President – arrived at 6:08 p.m.  
Bill Lee  
Peter Le

Board Members Absent:

Howard Gustafson

Staff Members Present:

Brian Lee, Interim General Manager  
Roger Masuda, Legal Counsel  
Jeanine DeBacker, Special Legal Counsel

Audience Members:

Kenneth Nishi, Marina Resident  
Margaret Davis, Fort Ord War Horse  
Paula Pelot, Preston Park Tenants Association  
David Burnett, Marina Resident  
Jim Cullen, Monterey Peninsula Regional Water Authority  
George Riley, Public Water Now  
Robert Donlan, Ellison, Schneider & Harris  
Uli Siebeneick, Seaside Resident  
Efron Lopez, Marina Resident  
Ian Crooks, California American Water Company

3. Public Comment on Closed Session Items:

No comments.

The Board entered into closed session at 6:04 p.m.

Regular Board Meeting  
February 3, 2014  
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4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

B. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
One Potential Case, Including Appointment of Special Legal Counsel

C. Pursuant to Government Code 54957

Public Employee Performance Evaluation  
Title: Interim General Manager  
(Requested by Peter Le)

The Board ended closed session at 7:00 p.m.

President Moore reconvened the meeting to open session at 7:02 p.m.

5. Possible Action on Closed Session Items:

Mr. Roger Masuda, Legal Counsel, stated that no reportable actions were taken in closed session and the Board would return to closed session at the end of the meeting to complete discussion of the items.

6. Pledge of Allegiance:

President Moore asked Mr. Brian Lee, Interim General Manager, to lead everyone present in the pledge of allegiance.



Regular Board Meeting  
February 3, 2014  
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7. Oral Communications:

Mr. Kenneth Nishi, Marina resident, asked what Attorney Masuda fees were and if travel costs were paid by the District.

Mr. Uli Siebeneick, Seaside resident, asked for an update on the discussions with Seaside County Sanitation District with regards to jurisdictional borderlines.

8. Election of Board President and Vice President:

Director Shriner nominated Director Moore for President. Director Moore seconded the nomination.

Director Lee nominated Director Gustafson for President. The nomination failed for lack of a second.

Ms. Paula Pelot, Preston Park Tenants Association, commented that she agrees with the description of the President and Vice President positions and that the only power the President holds is to make appointments. She added that she didn't understand what the discomfort was and noted that the meetings have been very difficult because of actions of the public and the Board, and other than that, the President has done a very good job of running the meetings.

Mr. David Burnett, Marina Resident, voiced his support of Director Moore for President.

Ms. Margaret Davis, Fort Ord War Horse, voiced her support of Director Moore for President.

Mr. Nishi commented that this was a Board decision and three Board members obviously disagreed with the public comments. He stated that Director Moore showed a lack of leadership.

The nomination of Director Moore for President failed.

Director Lee	-	No	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	No			

Director Moore made a motion to nominate Director Shriner for Vice President. Director Shriner seconded the nomination. The nomination failed.

Director Lee	-	No	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	No			

Regular Board Meeting  
February 3, 2014  
Page 4 of 10

9. Consent Calendar:

Vice President Shriner made a motion to approve the Consent Calendar consisting of the following items:

- A) Receive and File the Check Register for the Month of December 2013
- B) Approve the Draft Minutes of the Regular Board Meeting of December 16, 2013
- C) Approve the Draft Minutes of the Regular Board Meeting of January 6, 2014
- D) Approve the Draft Minutes of the Special Board Meeting of January 11, 2014

Director Lee seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

Director Le noted that he was voting yes for item 9-B and abstaining from items 9-A, C, and D.

10. Action Items:

A. Review the Status of the Public Information Request of Paula Pelot:

Ms. Pelot noted that there were several items she didn't believe she received and wanted clarification on those items. She suggested that she and the General Manager meet and discuss those items to resolve this issue.

B. Review the Status of the Response to Questions on the Teen Center:

Mr. Nishi commented that he had not received answers to his questions and voiced his concern over the decision made by the General Manager/District Engineer.

C. Consider Declaring the Fort Ord Stations Veterinary Hospital Barracks as Surplus District Real Property, Appointing District Negotiator(s), and Specifying Conditions for Sale:

Ms. Davis thanked the Board for sending their support of recognizing the Fort Ord Stations Veterinary Hospital Barracks as a historical site. She suggested the District and the City of Marina work together and get creative in looking for a way to use the building.

Mr. Efron Lopez, Marina resident, commented that too many of the old buildings have been torn down and he would like to see the history of the military be saved by restoring the old buildings.

Regular Board Meeting  
February 3, 2014  
Page 5 of 10

Agenda Item 10-C (continued):

President Moore made a motion to direct this issue to be discussed at the Joint City District Committee and for staff to prepare a report on limitations, if any, that are in the No-Cost Economic Benefit Conveyance of the property. Vice President Shriner seconded the motion. Ms. Pelot suggested that the Friends of the Fort Ord War Horse be included in the Committee meeting as well. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

D. Discussion and Possible Action Regarding January 23, 2014 request by City of Marina Staff for a Planning Commission Interpretation of Marina Municipal Code Chapter 17.55, Surface Mining and Reclamation Standards, that the Extraction of Water to Determine Its Mineral Content is a Surface Mining Operation:

Mr. Ian Crooks, California American Water Company, explained to the Board what a test borehole entailed.

Mr. Jim Cullen, Monterey Peninsula Regional Water Authority, encouraged everyone to work together and support the water testing without delaying the process.

Mr. Robert Donlan, Ellison, Schneider & Harris, asked for the District's support in the borehole water testing to avoid any further delay.

Mr. George Riley, Public Water Now, asked for clarification on the role the Mayor's Group played in this testing.

Mr. Nishi stated that the comments on the transmittal were false and the District needed to protect the City of Marina.

Vice President Shriner made a motion for the District to send a letter to the Marina Planning Commission with several recommendations. Director Le seconded the motion. President Moore suggested some additions to the motion. Vice President Shriner restated her motion as the following:

1. Allowing the borehole testing could undermine some agreements within the District's 1996 Annexation Agreement
2. The boreholes are not for test well purposes
3. The testing would be limited to this one instance on the CEMEX property
4. There is an on-going dispute between the District, Cal Am and the County of Monterey for approximately \$20 million
5. The District has direct access to all the data from the boreholes and test wells
6. Cal Am makes assurances that there will be no negative impact to the 180 and 400 foot aquifers

Regular Board Meeting  
February 3, 2014  
Page 6 of 10

Agenda Item 10-D (continued):

Director Lee called for the question.

The motion was passed.

Director Lee	-	No	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

E. Consider Director Appointments to Committees of the Board and to Outside Agencies for 2014:

Vice President Shriner made a motion to continue the current committee assignments with the exception of FORA and LAFCO and requested those committee appointments be brought back to the next meeting. Director Le seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

F. Consider Adopting Resolution No. 2014-01 to Appoint an Ad Hoc Committee to Discuss the Recycled Water Pipeline with the Monterey Regional Water Pollution Control Agency and Specifying the Scope of the Committee's Duties and Legal Authority:

Director Le made a motion to appoint himself and President Moore to an Ad Hoc Committee to discuss the existing water line and any proposal from FORA, the Monterey Regional Water Pollution Control Agency or any other agency with the following specifications:

1. The Committee has no legal authority other than to direct staff to provide information to the Committees
2. The Committee will provide a report to the Board every regular Board meeting
3. The Ad Hoc Committee doesn't have authority to act on behalf of the Board.

Vice President Shriner seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

G. Consider Adopting Resolution No. 2014-02 to Appoint an Ad Hoc Committee to Discuss the Annexation of the Ord Community and Specifying the Scope of the Committee's Duties and Legal Authority:

Director Le made a motion to appoint himself and President Moore to an Ad Hoc Committee to discuss the annexation of the Ord Community with the following specifications:

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Agenda Item 10-G (continued):

1. The Committee has no legal authority other than to direct staff to provide information to the Committees
2. The Committee will provide a report to the Board every regular Board meeting
3. The Ad Hoc Committee doesn't have authority to act on behalf of the Board.

Vice President Shriner seconded the motion. Mr. Siebeneick asked when the public would be informed of the discussions of the jurisdictional boundaries and why nothing has been done for over seven years. Mr. Siebeneick was informed that there have been discussions between the District and the Seaside County Sanitation District over the past several years. The motion was passed.

Director Lee	-	No	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

H. Consider Preliminary Draft 2014 Agenda, Goals, and Work Program:

No action was taken on this item.

I. Consider a Scope of Topics for the Community Outreach Committee to Discuss with the Community:

Director Lee made a motion to continue the meeting until 2:00 a.m. unless finished earlier. President Moore seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

Ms. Pelot asked for clarification on what the Community Outreach Committee's duties were. Direction was given and no action was taken on this item.

J. Review the Non-Compliance of Section 16 of the Board Procedures Manual:

No action was taken on this item.

K. Consider Revising Sections 9, 17, 23, and 42 of the Board Procedures Manual:

Direction was given for staff to bring revisions to section 42 of the Board Procedures Manual in March and a complete revision of the Board Procedures Manual to a meeting in May. No action was taken on this item.

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- L. Consider Adoption of Resolution No. 2014-03 to Provide Legal Representation for Director Le During the Investigation of Employee Complaints Against His Actions

Director Le removed himself from the dais and the Council Chambers.

Vice President Shriner made a motion to adopt Resolution No. 2014-03 to provide legal representation for Director Le during the investigation of employee complaints against his actions for a maximum of six hours. The motion died for lack of a second.

Director Le returned to the dais.

#### 11. Informational Items:

##### A. General Manager's Report:

Mr. Lee reviewed the items provided in the Board packet.

##### B. Counsel's Report:

No report.

##### C. Committee and Board Liaison Reports:

###### 1. Water Conservation Commission:

Vice President Shriner stated the next meeting was scheduled for February 6, 2014.

###### 2. Joint City District Committee:

President Moore commented that the January meeting was canceled and the next meeting was scheduled for February 26, 2014.

###### 3. Executive Committee:

No meeting was held.

###### 4. Community Outreach Committee:

Vice President Shriner noted that there would be a meeting soon. Director Le stated that they would be meeting with CSUMB students in February and March.

###### 5. MRWPCA Board Member:

President Moore gave a brief update of the January 27, 2014 meeting.

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6. LAFCO Liaison:

No report.

7. FORA:

President Moore gave a brief update of the January 10, 2014 meeting.

8. WWOC:

No report.

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison

Vice President Shriner gave a brief update of the January 21, 2014 meeting.

12. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Vice President Shriner made a request.

President Moore made a request.

Director Lee made a request.

13. Director's Comments:

Director Lee, Director Le, Vice President Shriner and President Moore made comments.

President Moore recessed the meeting from 11:23 to 11:27 p.m.

The Board returned to closed session at 11:27 p.m.

4. Closed Session:

- A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

Regular Board Meeting  
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1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
One Potential Case, Including Appointment of Special Legal Counsel

C. Pursuant to Government Code 54957  
Public Employee Performance Evaluation  
Title: Interim General Manager  
(Requested by Peter Le)

The Board ended closed session at 12:20 a.m.

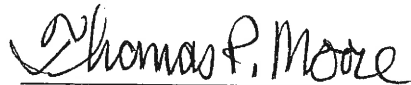
5. Possible Action on Closed Session Items:

Mr. Masuda reported that with a vote of 4-Ayes (Le, Lee, Shriner, Moore), 0-Noes, 1-Absent (Gustafson), the Board authorized hiring Special Proposition 218 Counsel, Ms. Patty Quilizapa, Aleshire & Wynder, to advise the Board and District staff on Proposition 218 issues.

14. Adjournment:

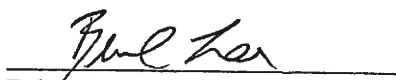
The meeting was adjourned at 12:22 a.m.

APPROVED:



Thomas P. Moore, President

ATTEST:

  
Brian C. Lee, Deputy Secretary





# 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

Attachment 3 - Back up  
DIRECTORS

THOMAS P. MOORE  
President

JAN SHRINER  
Vice President

HOWARD GUSTAFSON  
WILLIAM Y. LEE  
PETER LE

## Agenda

### Regular Board Meeting, Board of Directors Marina Coast Water District

211 Hillcrest Avenue, Marina, California  
Monday, March 3, 2014, 6:00 p.m. PST  
(Please note the earlier start time)

*This meeting has been noticed according to the Brown Act rules. The Board of Directors meet regularly on the first and third Monday of each month. The meetings normally begin at 6:45 p.m. and are held at the City of Marina Council Chambers at 211 Hillcrest Avenue, Marina, California.*

**Mission:** Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.

**Vision:** The Marina Coast Water District will be the leading public supplier of integrated water and wastewater services in the Monterey Bay Region.

#### 1. Call to Order

#### 2. Roll Call

**3. Public Comment on Closed Session Items** *Anyone wishing to address the Board on matters appearing on Closed Session may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

#### 4. Closed Session

A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case Nos. H038550 and H039559  
(Requested by the Board)

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019  
(Requested by the Board)

This agenda is subject to revision and may be amended prior to the scheduled meeting. A final agenda will be posted at the District office at 11 Reservation Road, Marina, 72 hours prior to the meeting. Copies will also be available at the Board meeting. A complete Board packet containing all enclosures and staff materials will be available for public review on Thursday, February 27, 2014 at the District office, Marina and Seaside City Halls, and at the Marina and Seaside Libraries. Information about items on this agenda or persons requesting disability related modifications and/or accommodations can contact the Board Clerk at: 831-883-5910. The next regular meeting of the Board of Directors is scheduled for March 17, 2014.

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, San Francisco Superior Court Case No. CGC-13-528312 (Complaint for Declaratory Relief)  
(Requested by the Board)

- B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
One Potential Case  
(Requested by the Board)
- C. Pursuant to Government Code 54957  
Public Employee Performance Evaluation  
Title: Interim General Manager  
(Requested by the Board)

#### **7:00 p.m. Reconvene Open Session**

**5. Possible Action on Closed Session Items** *The Board will report out on any action taken during Closed Session, and may take additional action in Open Session, as appropriate. Any closed session items not completed will be discussed at the end of the meeting.*

#### **6. Pledge of Allegiance**

**7. Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

#### **8. Special Legal Counsel Investigation Results and Possible Action**

- A. Receive a Report from Special Legal Counsel Regarding the Investigation on Employee Complaints Against Director Peter Le  
(Requested by the Board)

*Action: The Board of Directors will receive a report from special legal counsel regarding the investigation on employee complaints against Director Peter Le and consider if any action will be taken.*

- B. Receive a Report from Special Legal Counsel Regarding the Investigation on the Complaint by Director Gustafson as to an Alleged Attempt in Closed Session to Appoint Director Peter Le as Interim General Manager  
(Requested by the Board)

*Action: The Board of Directors will receive a report from special legal counsel regarding the investigation on the complaint by Director Gustafson as to an alleged attempt to appoint Director Peter Le as Interim General Manager during closed session and consider if any action will be taken.*

- C. Receive a Report from Special Legal Counsel on Brown Act and Board Procedures Manual Requirements and Potential Legal Consequences for Disclosing Publicly Board Discussions Occurring in Closed Session  
(Requested by the Board)

*Action: The Board of Directors will consider the report and determine if further action is needed.*

- D. Receive a Report from Special Counsel Regarding the Proposition 218 Process  
(Requested by the Board)

*Action: The Board of Directors will receive a report from special counsel regarding the Proposition 218 Process the District should follow and consider next steps.*

## 9. Presentation

- A. Receive a Presentation from Brent Ives, BHI Consulting, on the District's Draft Five-Year Strategic Plan and Consider Accepting the Five-Year Strategic Plan for Marina Coast Water District  
(Requested by the Board)

**10. Consent Calendar** *Board approval can be taken with a single motion and vote. A Board member or member of the public may request that any item be pulled from the Consent Calendar for separate consideration at this meeting or a subsequent meeting. The public may address the Board on any Consent Calendar item. Please limit your comment to four minutes.*

- A. Adopt Resolution No. 2014-09 to Approve a Change in Vendors for the Life and Accidental Death and Dismemberment Insurance and Short-Term/Long-Term Disability Benefits for District Employees  
(Requested by Staff)
- B. Adopt Resolution No. 2014-10 to Extend a Certificate of Deposit Secured Non-Revolver Line of Credit from Rabobank, N.A. for \$3,276,000  
(Requested by Staff)
- C. Approve the Draft Minutes of the Regular Board Meeting of February 3, 2014  
(Requested by Staff)
- D. Approve the Draft Minutes of the Regular Board Meeting of February 18, 2014  
(Requested by Staff)

**11. Action Items** *The Board will review and discuss agenda items and take action or direct staff to return to the Board for action at a following meeting. The public may address the Board on these Items as each item is reviewed by the Board. Please limit your comment to four minutes.*

- A. Meet with Neher & Associates and Provide Direction Regarding Recruitment of a General Manager  
(Requested by the Board)

*Action: The Board of Directors will meet with Neher & Associates and provide direction regarding recruitment of a General Manager.*

- B. Consider Adoption of Resolution No. 2014-11 to Approve the District Technology Plan Appendix for FY 2014-2015  
(Requested by Staff)

*Action: The Board of Directors will consider approving the District Technology Plan Appendix for FY 2014-2015.*

- C. Receive a Report on the Schedule to Provide All Developer Account Balances Showing all Deposits and Expenditures  
(Requested by Director Le)
- D. Receive a Report on the Status and Updated Project Schedule on the BLM Building Including any issues such as cost overrun, Delay in Schedule, Etc.  
(Requested by Director Le)
- E. Receive a Report from the Meetings Between President Moore and Interim General Manager with Seaside County Sanitation District  
(Requested by Director Le)
- F. Receive a Report on the Meetings Between the Interim General Manager and MRWPCA  
(Requested by Director Le)

## **12. Staff Report**

- A. Receive 4<sup>th</sup> Quarter 2013 Ord Community Water Consumption and Sewer Flow Reports

**13. Informational Items** *Informational items are normally provided in the form of a written report or verbal update and may not require Board action. The public may address the Board on Informational Items as they are considered by the Board. Please limit your comments to four minutes.*

- A. General Manager's Report
  - Correspondence Received by Board or General Manager

- B. Counsel's Report

- C. Committee and Board Liaison Reports

- |                                  |                                   |
|----------------------------------|-----------------------------------|
| 1. Water Conservation Commission | 6. LAFCO Liaison                  |
| 2. Joint City-District Committee | 7. FORA                           |
| 3. Executive Committee           | 8. WWOC Report                    |
| 4. Community Outreach            | 9. JPIA Liaison                   |
| 5. MRWPCA Board Member Liaison   | 10. Special Districts Association |

## **14. Board Member Requests for Future Agenda Items**

A. Board Member Requests

**15. Director's Comments**

**16. Adjournment**      *Set or Announce Next Meeting(s), date(s), time(s), and location(s):*

*Regular Meeting:*                      *Monday, March 17, 2014, 6:00 p.m.,  
Marina Council Chambers  
211 Hillcrest Avenue, Marina*

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-A

Meeting Date: March 3, 2014

Submitted By: Anne Olsen, Esq.  
Reviewed By: Brian C. Lee

Presented By: Anne Olsen, Esq.

Agenda Title: Receive Report from Special Legal Counsel on Employee Complaints Against  
Director Peter Le

Detailed Description: The Board of Directors is requested to receive and discuss Special Legal Counsel's verbal and written Report regarding employee complaints against Director Peter Le and to consider possible next steps.

Environmental Review Compliance: None required.

Prior Committee or Board Action: On January 6, February 3, and February 18, 2014 the Board discussed this issue.

Board Goals/Objectives: *Strategic Plan, Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact:  Yes  No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Final Report on Investigation of Employee Complaint against Director Peter Le.

Staff Recommendation: None.

Action Required:  Resolution  Motion  Review

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Board Action

Resolution No  Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

## LAW OFFICES OF ANNE FRASSETTO OLSEN

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February 25, 2014

To: Board of Directors, Marina Coast Water District

From:   
Anne Frassetto Olsen, Esq., Investigator

Subject: Final Report on Investigation of Employee Complaints against Director Peter Le

On or about January 20, 2014, I was retained to complete a fact investigation on allegations made by employees of the Marina Coast Water District against Director Peter Le. I met with multiple staff members, Board President Tom Moore and Director Peter Le.

The complaints can be summarized as follows:

1. During the open session of the Board meeting on December 2, 2013, Director Le inappropriately and unprofessionally accused Interim General Manager Brian Lee of interfering with the audit process performed by Kenneth Pun, an Independent Auditor retained by the District. In addition, Director Le inappropriately and unprofessionally accused the District's staff of interfering with his role as a member of the ad hoc audit committee by not providing required information during the audit process and not providing the draft audit to him as a member of the ad hoc audit committee.
2. During the open session of the Board meeting on December 16, 2013, Director Le inappropriately and unprofessionally accused Interim General Manager Brian Lee of having no authority to present the District budget to the FORA Water/Wastewater Oversight Committee without including a proposed rate increase.
3. Director Le often requests information relating to matters on the agenda without giving sufficient time for the staff to compile the requested information and then complains in open session about the failure of the staff to provide needed information.

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307 Main Street, Suite 310, Salinas, CA 93901  
Telephone: 831-800-7298  
Facsimile: 831-417-2428  
Email: [aolsen@afolaw.com](mailto:aolsen@afolaw.com)

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4. These actions by Director Le form a pattern of conduct that has been evident within a few months of his election onto the Board and these behaviors have continued to the present time. His negative comments are having a negative impact on staff morale. His comments during open session are being taken by the staff as a lack of respect for their competence and work ethic.

Pertinent Board Policies and Government Code Sections:

Marina Coast Water District has implemented a Board Procedures Manual, recently amended on December 2, 2013. Pertinent provisions (italicized) are as follows:

#### **1. Purpose of Board Procedures Manual.**

*The purpose of this Board Procedures Manual is to provide a composite of information on procedures approved by the Board of Directors to be used in the conduct of Board business to provide for the fair and efficient consideration of said matters, to ensure that the public is informed of the matters coming before the Board and has an opportunity to witness the deliberations of the members thereof in the conduct of the Board's business, and to encourage proper public involvement in the deliberations of the Board. Each Director, upon assuming office, shall be given a copy of this Board Procedures Manual, shall be asked to acknowledge receipt of the copy in writing and shall be asked to affirm in writing the Director's intent to comply with the policies and procedures in this Board Procedures Manual.*

#### **5. Harassment-Free Work Environment.**

*The Board is committed to providing a work environment free of harassment, disrespectful or other unprofessional conduct.*

#### **7. Duties of the Directors Acting as Members of the District Board of Directors.**

The duties of the directors include:

G. *assuring that each employee of the District and each constituent of the District is treated courteously and fairly by the District, and that privacy rights of District employees and constituents are safeguarded in accordance with law;*

#### **13. Communications.**

*The Board and the individual board members will be committed to establishing and maintaining an environment that encourages the open exchange of ideas and information among Board members, the staff and the public, that is positive, honest, respectful, concise, understandable, responsive, and cost-efficient.*



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**15. Comments by Directors Concerning Staff Members.**

*Board members shall refrain from publicly censuring or criticizing members of the District staff, but shall instead relay any criticism or problems relating to staff members or the General Manager to the General Manager through private discussions.*

In addition to Board Policies, California Government Code Section 54957 provides that the legislative body of a local agency may hold during closed sessions the consideration of the evaluation of performance, discipline or dismissal of a public employee or hear complaints or charges brought against the employee unless the employee requests a public session.

**Results of Investigation**

**Complaint No. 1: December 2, 2013 Board Meeting**

It is clear from the video tape of the December 2, 2013 meeting that Director Le accused Interim General Manager Brian Lee of interfering with the audit process and made a general criticism of staff that they had not provided requested information during the audit process. These are serious allegations. Furthermore, the inquiry should have been made to the auditor as it would have been the duty of Kenneth Pun, the auditor, to report to the Board if staff had not properly cooperated in his task as an independent auditor. Therefore, the staff complaint was valid and Director Le violated the Board policies that require the Board directors to treat the District staff courteously and respectfully and to refrain from publicly censuring or criticizing staff. His actions further violated the Interim General Manager's privacy rights as any evaluation of his job performance or complaint is required to be held in closed session per Government Code Section 54957.

Director Le explained his actions by stating that it was his belief that the ad hoc audit committee was to participate in the review of the draft audit and to determine the scope of work for a forensic audit on two district projects and on cost allocation between cost centers. It was his belief that once authorized by the Board, the auditor would perform all of these tasks and the results of his investigation would be contained in one audit report. He was therefore upset that the audit had been submitted for board approval before he had the opportunity to review it and before the forensic audits had been completed. It was not within the purview of my engagement to determine whether or not Director Le's understanding of his role in the ad hoc audit committee was accurate. It is irrelevant to my inquiry as to whether or not it was appropriate for Director Le to make the accusation that he did against Interim General Manager Brian Lee and the District Staff.

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As noted above, if the staff acted inappropriately, the discipline for those actions must remain confidential. The Board is to evaluate the performance of the Interim General Manager in closed session unless and only if the Interim General Manager requests that any such evaluation be handled in open session. It is inappropriate and a violation of board policy and Government Code Section 54947 for a board member to complain or criticize District staff and, specifically, the Interim General Manager, in open session. As to issues of performance of any employee other than the Interim General Manager position, any complaints by a board member should be directed to the Interim General Manager for action.

**Complaint No. 2 – December 16, 2013 Board Meeting**

Similarly, the video tape of the December 16, 2013 board meeting clearly demonstrates that Director Le accused Interim Director Brian Lee of conduct unauthorized by the Board in his presentation of his report to the FORA Water/Wastewater Oversight Committee. As noted above, it is not within my purview to determine the accuracy of Director Le's statement but, rather, whether or not he made the statement in the appropriate venue. He clearly did not. As discussed above, any complaint on the performance of a district employee must be handled confidentially or during closed session. Director Le did not handle this complaint confidentially or during closed session. He therefore violated the district's policies and the provisions of Government Code Section 54957.

**Complaint No. 3 – Information Requests**

I reviewed numerous emails from Director Le addressed to Interim General Manager Brian Lee asking for additional information for upcoming Board meetings. Some, but not all, were sent within 24 – 48 hours of the actual board meeting. District staff complained that they had insufficient time in which to respond. They further complained that Director Le would generally criticize staff during open session of the board meetings about the staff's inability to timely provide the required information. This was a general complaint and the complainants did not direct me to a specific request or board meeting. Therefore, there is insufficient information for me to conclude that any violation occurred.

Director Le informed me that he had not been made aware of this issue. Interim General Manager Brian Lee had emailed Director Le in July, 2013 and asked Director Le to meet with him on a regular basis to discuss issues and solutions to any problems that Director Le had. Director Le has admittedly not met with the interim general manager as he works full-time and he does not have the time to do so. Director Le did express frustration that staff did not provide responses to his inquiries on many occasions. It is suggested that Director Le take the opportunity to meet with Interim General Manager Brian Lee to discuss how best the staff can meet Director Le's requests and for Director Le to learn how the staff operates and the limitations they have in meeting requests in the timeframe requested.

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#### **Complaint No. 4 - Pattern of Negative Comments**

The staff generally complained that Director Le made negative comments about staff and that it has caused a negative downturn on staff morale. It was quite evident that staff do feel demoralized and are upset that none of the other board members have interceded. The staff interviewed are upset about Director Le's treatment of the interim general manager. It should be noted that the Interim General Manager is not one of the complainants. The staff members interviewed do acknowledge that, as an elected official, Director Le has the duty to represent his constituents, but they feel that his negative comments are inappropriate and unnecessary to fulfill his duties as an elected official. I did review the video tapes of the two board meetings on December 2, 2013 and December 16, 2013 and several times Director Le would criticize staff and be dismissive of their comments. Board policies require that the directors be courteous, professional and respectful and Director Le should modify the tone of his statements in order to comply with Board policies.

#### **Conclusion**

As discussed above, the staff brought forth valid complaints against Director Le. When I met with Director Le, he did acknowledge that public employees have rights of privacy and he has learned about the provisions of Government Code Section 54597. He did request to know the names of the complainants. Pursuant to Board policies provided in the employee handbook, which require that the confidentiality of an employee who has reported an incident be protected against unnecessary disclosure, I declined Director Le's request to disclose the names of the complainants as that information was not necessary for Director Le to respond to the issues brought forward. He has been made aware and fully acknowledges that there can be no retaliation against any employee who brings a complaint or cooperates in any investigation.

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-B

Meeting Date: March 3, 2014

Submitted By: Hilda Montoy, Special Counsel  
Reviewed By: Brian C. Lee

Presented By: Hilda Montoy, Special Counsel

Agenda Title: Receive a Report from Special Legal Counsel Regarding the Investigation on the Complaint by Director Gustafson as to an Alleged Attempt in Closed Session to Appoint Director Peter Le as Interim General Manager

Detailed Description: The Board of Directors is requested to receive and discuss Special Legal Counsel's verbal and written Report and consider possible next steps.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact:  Yes  No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Final Report concerning Brown Act Investigation.

Staff Recommendation: None.

Action Required:  Resolution  Motion  Review

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Board Action

Resolution No  Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

**MONTOY LAW**  

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**CORPORATION**

**REPORT TO THE MARINA COAST WATER DISTRICT  
CONCERNING BROWN ACT INVESTIGATION**

By: Hilda Cantú Montoy  
Montoy Law Corporation

Date: February 21, 2014

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APPENDIX B: Exhibits

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**MONTOY LAW**  
**CORPORATION**

Attachment 3 - Back up

HILDA CANTÚ MONTOY

February 22, 2014

Ms. Jeanine DeBacker  
Marina Coast Water District  
11 Reservation Road  
Marina, California 93933

Re: Marina Coast Water District— Investigation Report

Dear Ms. DeBacker:

I was retained by the District to conduct an investigation relating to allegations of a Brown Act violation. This letter serves as my report to you pursuant to the engagement letter of January 16, 2014. My understanding is that you will submit the Investigation Report to the Board of Directors at a duly noticed meeting and that I may be asked to attend the Board meeting.

**SCOPE OF ENGAGEMENT**

The scope of this examination was restricted to allegations by Director Howard Gustafson that there was an attempt to appoint Director Peter Le as Interim General Manager and to take a vote in violation of the Brown Act. The conduct in question allegedly occurred during a closed session of the Board of Directors held on July 15, 2013.

I was asked to serve as a neutral fact-finder to conduct an independent investigation including speaking with persons with knowledge of the matters, the persons involved in the conduct, and any additional persons with relevant information. The purpose of the investigation is to determine and report on what happened at the July 15, 2013, Closed Session and to prepare a written report with findings, conclusions of law, and recommendations.

**METHODOLOGY**

Interviews were conducted with the following members of the Board of Directors: Howard Gustafson, Tom Moore, Bill Lee, and Jan Shriner. I also conducted an interview of Roger Masuda, General Counsel. Director Peter Le declined to be interviewed.

At the outset, I determined that it would be necessary to inquire not only as to what happened at the July 15, 2013, Closed Session, but also to delve into prior and subsequent meetings wherein the hiring of Brian Lee as Interim General Manager was discussed as this helped to provide context for the July 15, 2013, Closed Session as well as to assess credibility relating to what transpired at the closed session. Inquiry was also made as to conversations held by those

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interviewed and documents received concerning the subject of this investigation outside of the closed session at issue.

Extensive handwritten notes were taken contemporaneously with the interviews. These notes were reduced to individual typewritten interview summaries and used for preparation of this Investigation Report. Quoted text in this Investigation Report is from the interview summaries. As part of the investigative process, I reviewed the documents and watched the DVDs of meetings listed in Appendix A. Appendix B comprises exhibits cited in this report. The detailed interview summaries are set forth in Appendix C.

At the conclusion of the interviews and after a review of items listed in Appendix A, an analysis was made wherein I considered all statements and information that I received, made credibility assessments, and weighed the evidence to make factual findings. Once the factual findings were made, a legal analysis was conducted for the making of conclusions of law followed by a listing of recommendations.

## **BACKGROUND**

This investigation was prompted by an email from Director Gustafson to Paula Riso dated December 19, 2013, requested an agenda item for board action as follows:

I would like to place on the agenda action relating to the attempt by Peter Le, Tom Moore and Jan Shriner to hire Mr. Le as the General Manager of MCWD. There was no agenda for the closed session action and a vote was attempted. We need to send this the FPPC and the District Attorney. There are specific dates that will be addressed in the item description.

The email is attached as Exhibit 1. On January 6, 2014, the requested agenda item was considered in open session by the Board of Directors. At that meeting, the District's General Counsel submitted a written report wherein he outlined the agenda item and noted that although no specific date had been provided, it appeared the alleged conduct occurred at the Board's July 15, 2013, Closed Session. See Exhibit 2. The Board deliberated and made a determination to have the subject investigation conducted.

## **FACTUAL ANALYSIS AND SUMMARY**

I received full cooperation from all persons interviewed. The recollection of persons was general in nature. Interviewees not only waited to respond to questions but also made voluntary comments.

### **A. The Complaint**

The complaint by Director Gustafson per his December 19, 2013, email alleges:



1. An attempt by Directors Moore, Shriner, and Le to hire Director Peter Le as general manager at a closed session;
2. An attempted vote in the closed session; and
3. The lack of an agenda for holding the closed session.

B. Negotiations Between Board and Brian Lee

All persons interviewed confirmed that the Board had designated Director Gustafson to negotiate the terms and conditions of an employment agreement with Brian Lee.

On June 17, 2013, in open session, the Board approved the appointment of Brian Lee as Interim General Manager and designated Director Gustafson as the District's negotiator for negotiating the terms Brian Lee's employment agreement. Director Le was absent from the June 17, 2013, Board meeting. See Exhibit 3.

The closed session in question occurred on July 15, 2013. Both Director Gustafson and General Counsel Masuda agreed this was the closed session in question. Per Mr. Masuda, Director Gustafson nodded when Mr. Masuda went over his memo to the Board. In describing his role as negotiator in the negotiation process with Brian Lee, Director Gustafson in his interview stated, "That was the purpose of the July 15, 2013, meeting."

C. The July 15, 2013, Closed Session Agenda

The published agenda for the July 15, 2013, Board meeting included several closed session items. See Exhibit 4. Pertinent to the matter at hand was Closed Session Agenda Item 4D which provided as follows:

4. Closed Session
  - D. Pursuant to Government Code Section 54957.6
    - Conference with Labor Negotiator (Howard Gustafson)
    - Unrepresented Employee (Interim General Manager)

The placement of this closed session item on the agenda is consistent with action taken by the Board on June 17, 2013.

D. Director Le Expresses Interest in Interim General Manager Position

Director Moore in his interview stated that after the June 17, 2013 meeting, Director Le approached him to let him know he was interested in the position of Interim General Manager. The assumption discerned from Director Moore is that Director Le approached him as he is the President of the Board. This likely occurred a few days before the July 15, 2013, Board meeting as Director Moore explained that "within 24 to 48 hours" he contacted Special Counsel Jeanine DeBacker and the responsive email correspondence from her is dated July 14 and 15, 2013. Director Moore expressed concerns to Ms. DeBacker regarding conflicts of interest and Peter Le's participation in the contract negotiations with Brian Lee.

There is no evidence to support any contention that Director Le spoke to any other Board Member as to his interest in the Interim General Manager Position. Director Shriner's comments as to her surprise upon hearing of his interest at the July 15, 2013, closed session and Director Lee's absolute statement that he has never spoken to Peter Le other than at Board meetings were credible. It is also obviously clear that Peter Le had not spoken to Director Gustafson about his interest in the position.

E. Special Counsel's Email Correspondence Regarding Conflict of Interest

On July 14, 2013, Special Counsel DeBacker emailed Director Peter Le regarding his conflict of interest and required recusal relating to the general manager position. She copied Director Moore as he had been the one to initiate the inquiry and also copied General Counsel Masuda. Ms. DeBacker's email stated that Peter Le could not be allowed to participate in discussions regarding Brian Lee's contract. At the outset her email states: "You must recuse yourself from the Closed Session and any discussion or vote (closed or public) regarding Brian Lee's candidacy for Interim GM – at the July 15 meeting and any meeting thereafter." See Exhibit 5. Mr. Masuda, followed up and gave further legal reasoning as to why Peter Le could not serve as Interim General Manager. See Exhibit 6.

F. The Closed Session Meeting of July 15, 2013

On July 15, 2013, the Board met in the Marina City Council Chamber. The Board meeting minutes reflect the meeting commenced at 6:45 p.m.; the Board entered closed session at 6:46 p.m.; and the closed session ended at 7:12 p.m. Thus, the Board met in closed session for 26 minutes. The 26 minute closed session includes meeting for other closed session matters not germane to this investigation. Interviewees all recalled that other closed session matters that were on the agenda were discussed at said closed session.

The closed session was held in a different conference room from the Council Chamber. Present in the closed session were General Counsel Masuda and Directors Moore, Gustafson, Shriner and Lee. Everyone interviewed confirmed that Director Le was not present in the closed session. The Board meeting minutes reflect that Director Le arrived at the Council Chamber at 7:02 p.m. All persons interviewed agreed that Peter Le did not enter the closed session meeting. General Counsel Masuda noted that the minutes had been corrected at a subsequent meeting when a member of the community, Mr. Nishi, raised an issue with the minutes as they implied that Director Le was present when roll call was held.

The memories of the four Board Members and of General Counsel as to what transpired in the July 15, 2013, closed session were blurry. They remember generally what happened but not in great detail. Based on what they said and upon a review of minutes of subsequent meetings, it appears the Board Members and General Counsel may have muddled memories as to what transpired at subsequent meetings concerning negotiations with Brian Lee and concerning Director Le's interest in the general manager position. Director Lee explained upfront that he remembered events but not what happened at each specific meeting.

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Director Moore stated that he explained at the outset of the closed session that Peter Le was not present because he had expressed an interest in the general manager position. Such explanation is consistent with the email correspondence that Ms. DeBacker had transmitted to Peter Le. Ms. DeBacker had copied Director Moore with the email correspondence presumably because he initiated the inquiry. Thus, Director Moore knew that Peter Le had a conflict of interest.

Director Shriner recalled that “as the board members took their seats,” Director Moore stated that Peter Le would not be joining the meeting because he had expressed an interest as a volunteer and wanted to avoid any impropriety so he would not be present in the meeting. Director Shriner described what was said as more of an “announcement” rather than a discussion. Director Lee said that Director Moore said, “He’s not here because he has volunteered to be General Manager.”

Director Gustafson’s recollection that Director Moore stated “first thing right off [that] Peter Le is not here but we have a proposal” was not corroborated by anyone else’s recollection. When asked who “we” meant, Director Gustafson stated he assumed that Director Moore was referring to Director Shriner but that he did not recall her saying anything else. He said “she did not say anything. She is supportive of Tom.” General Counsel Masuda did not recall that she said anything. Director Lee could not recall what she said.

Upon hearing Director Moore’s announcement, Director Shriner said she asked “For free? As a volunteer?” Director Moore responded “That’s right. She then exclaimed, “Wow.” Director Lee also asked “is he willing to resign?” and stated “[that] will never happen. That’s ridiculous.”

The follow up questions and comments to Director Moore’s pronouncement as to why Director Le was not present were more in the nature of surprise and curiosity. The questions and comments were spontaneous and support the lack of knowledge that anyone other than Director Moore had with respect to Director Le’s interest in the position. They also support that prior to the July 15, 2013 Closed Session there was no intent to meet for the purpose of appointing Peter Le as general manager and there was no intent to appoint Peter Le as general manager.

General Counsel Masuda stated that “someone said ‘what about Peter Le serving as General Manager?’” As he does not recall that either Directors Shriner or Lee said anything, the “someone” likely refers to Director Moore. No one else present corroborated that statement. However, as noted below, Director Lee referenced similar language.

Director Lee stated that Director Moore had said “what does the Board think about Peter Le being volunteer General Manager until we hire one” and that Tom Moore “wanted the Board to think about it.” It is not clear this was said at the July 15, 2013, Closed Session. Assuming for the sake of argument that the statement was made on that date, there is nothing in the record to support that Director Moore wanted them to do more than “think about it.” In other words, there is no evidence to support that Director Moore wanted the Board to proceed at that closed session to deliberate and to appoint Peter Le as general manager or that he even supported Peter Le’s desire to be general manager.

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Director Lee stated, "So to my mind the question was 'Is Le willing to step down as elected official'" and that Director Moore had said, "I don't know." Director Gustafson stated, "Bill was thinking something like 'that's not going to happen, can't see how we can take this up.' But did not say anything." It is unclear how Director Gustafson knew what Director Lee was thinking since he stated that Director Lee did not say anything. Later in the interview Director Lee said he asked "Is he willing to resign?"

Director Shriner did not recall anything that Director Gustafson said. Director Gustafson stated he put a stop to further discussions and that Director Moore then said, "Let's move on."

Director Lee did not recall an admonition by General Counsel nor words used by Director Gustafson. Director Lee stated that Director Gustafson "was his standard, caustic self" but did not recall exact words and he did not corroborate that Director Gustafson put a stop to any further discussion. Director Lee stated that Director Gustafson did not raise a Brown Act problem in the closed session.

Director Gustafson stated that at the closed session he said, "This is not right. This is not going to happen. I started to get rude." From the chronology and manner in which Mr. Gustafson related what transpired, it appeared he made these comments right after Director Moore let it be known that Peter Le was interested in the position. From what Director Lee said and based on my assessment, it appears that Director Gustafson's objections were to Peter Le's interest in the position and not based on continued discussions or objections to a Brown Act violation.

General Counsel Masuda stated that Director Gustafson "objected" to the discussion. But, he did not recall the specific objection. Mr. Masuda recalled telling the Board "Yes, you should not be discussing this." Interestingly, Director Gustafson asserted that Mr. Masuda said nothing at the July 15, 2013 Closed Session. Director Lee did not remember that Mr. Masuda said anything. Director Shriner thought that Ms. DeBacker had said something and then said it may have been Mr. Masuda when it was noted to her that Ms. DeBacker was not present. Director Shriner may have been recalling Ms. DeBacker's comments at another meeting as it does not seem plausible that she would confuse Ms. DeBacker with Mr. Masuda.

The scope of the closed session was to confer with the labor negotiator regarding negotiations with Brian Lee as Interim General Manager. While members of the Board had no intent to go beyond that scope, my inquiry endeavored to ascertain if the Board Members had veered beyond the permissible scope of the closed session upon hearing of Peter Le's conflict and his interest in the general position. In the end, their recollections could not be reconciled. For example, (i) Director Gustafson said that Director Lee and General Counsel Masuda did not say anything and that he did not recall that Shriner said anything; (ii) Director Lee said he did make comments; (iii) General Counsel Masuda said he told the Board that their discussion was not appropriate; (iii) Director Shriner recalls making brief comments; (iv) Director Gustafson made comments; and (v) Director Shriner does not recall Gustafson saying anything.

There was absolutely no evidence presented by anyone that a motion was made to appoint Peter Le as Interim General, or the deliberations on his appointment ensued, or that there was an attempted vote, or that a vote was taken by the Board.

#### G. Perception As To Why Charges Raised

Significantly, although expressed in different ways, the perception of General Counsel Masuda and Directors Moore, Shriner, and Lee was that Director Gustafson has raised the Brown Act issue after the fact because Mr. Nishi, a former director who addresses the Board, persisted in raising the question as to why Director Le did not attend the closed session of July 15, 2013. Apparently, Mr. Nishi raised this issue at various meetings after July 15, 2013. While this may be interesting, the perceived motivation by Director Gustafson had no bearing on my conclusions as to what transpired in the closed session.

#### H. No Motive To Support The Charges

There was no motive to substantiate the charge that there was an attempt to have Director Le hired at the July 15, 2013, closed session. Director Moore “categorically” denied the charges. He was not interested in having Peter Le become the Interim General Manager as he did not believe it was in his interest or that of the District’s. He realized that Peter Le could not serve in both capacities and envisioned problems for the District with a vacancy, an election, and deadlock scenarios because Director Le generally votes with him and Director Shriner. This sentiment was echoed by Director Shriner who said that when she heard at the July 15, 2013, of Director Le’s interest in the general manager position, she became concerned that the majority on the Board would be lost.

Moreover, Director Moore raised the legal concerns regarding Peter Le’s desire to serve as General Manager with Special Counsel in the first instance. Director Moore was copied on email correspondence by Ms. DeBacker and Mr. Masuda who both raised legal issues and prohibitions against service by a director as general manager. Thus, Director Moore knew before he entered the closed session that Director Le’s desire to serve as general manager was accompanied by legal conflicts, prohibitions, and issues. Director Moore’s recollection concerning what he said in the closed session regarding Peter Le’s absence and interest in serving as general manager was credible.

#### I. Comments Regarding Director Lee’s Support of Director Le

Somewhat puzzling was why Directors Moore and Shriner and General Counsel Masuda volunteered that Director Lee was supportive of having Director Peter Le become Interim General Manager. They all noted this although they clarified that they did not recall that he made any supportive comments at the July 15, 2013, Closed Session. It may have been to emphasize that Director Lee was the only director to support Peter Le’s quest for the general manager position. Director Lee himself volunteered that he was supportive but only if Director Le stepped down as a director. Without prompting, Director Lee stated that he had let his favorable sentiments for Peter Le as a volunteer director become known but he was not clear when he did this. Director Lee also stated that he had voted against Brian Lee because of the compensation.

**J. The August 5, 2013 Board Meeting**

There was confusion as to what may have occurred at the July 15, 2013, closed session and what may have occurred at the August 5, 2013, closed session. When shown minutes, recollections related to the August 5, 2013, meeting. Director Moore recalled that in front of himself and Ms. DeBacker, Peter Le “repudiated” his interest in the position at the beginning of the August 5, 2013, meeting. Director Lee recalled saying he wanted to know if Peter Le would be resigning as Director. He said Director Moore went outside and came back to say that Peter Le would not be resigning. Director Shriner noted that the Board wanted to find out if Peter Le was resigning and that Ms. DeBacker went to talk to Mr. Le.

In reviewing the minutes of August 5, 2013, the Board went into closed session, came out of closed session and held open session items; it then went back into closed session and came out of open session to take action on the agreement with Interim General Manager Brian Lee per the closed session; and then returned to closed session.

**K. Brown Act Training**

The directors have received Brown Act training either online or at training sessions as part of AB 1234 training.

**FACTUAL FINDINGS**

1. At the June 17, 2013, Board of Directors meeting, Director Gustafson was appointed as the District’s negotiator to negotiate terms of an Interim General Manager employment agreement with Brian Lee.
2. Prior to the July 15, 2013, regular meeting of the Board, Director Le expressed his desire to be the General Manager to Director Moore.
3. Director Moore initiated contact with Special Counsel DeBacker to raise questions regarding Peter Le’s interest in the general manager position.
4. On July 14 and July 15, 2013, Ms. DeBacker emailed Director Le regarding the legal requirement that he must recuse himself from the July 15, 2013, and that he could not seek appointment nor be employed as general manager while serving as member of the Board of Directors. She copied Director Moore and General Counsel Masuda.
5. On July 15, 2013, General Counsel Masuda emailed Director Le with an outline of three legal reasons why he could not serve as general manager. He copied Ms. DeBacker and Director Moore.
6. The July 15, 2013, regular meeting agenda included multiple closed session items.
7. The July 15, 2013, closed session agenda included an agenda item regarding negotiations concerning the terms for a contract with Interim General Manager Brian Lee.

8. Director Peter Le was not present when roll was called at the July 15, 2013, Closed Session.
9. Director Peter Le did not declare a conflict of interest prior to the commencement of the closed session as he was not present at roll call or prior to commencement of the Closed Session.
10. Director Peter Le was not present at the July 15, 2013, Closed Session.
11. Prior to the July 15, 2013 Closed Session, Directors Lee, Gustafson, and Shriner did not know that Director Le was interested in the general manager position.
12. Director Moore stated at the outset of the July 15, 2013 Closed Session that Director Le was not present because he had an interest in being a volunteer Interim General Manager.
13. There were spontaneous comments and questions by Directors Shriner and Lee to Director Moore's announcement that Director Le had expressed an interest in the general manager position.
14. Director Gustafson objected to Director Le's interest in the general manager position.
15. The July 15, 2013 Closed Session lasted 26 minutes and during that period of time, the Board discussed Brian Lee's contract and other items on the closed session agenda for that meeting.
16. There is insufficient evidence to support that terms and conditions for appointing Director Le as general manager were discussed.
17. There is no evidence to support the claim that Directors Moore, Shriner, and Le intended to have the Board discuss the retention of Peter Le as Interim General Manager at the July 15, 2013, Closed Session.
18. There is no evidence to support any claim that a "proposal" to hire Peter Le was made in the July 15, 2013, Closed Session.
19. There is no evidence to support the allegation that Directors Le, Shriner, and Moore "attempted to hire" Director Le at the July 15, 2013, Closed Session.
20. There is no evidence that the directors deliberated on Peter Le's appointment as general manager.
21. There is no evidence that a motion was made to appoint Director Peter Le as General Manager at the July 15, 2013, Closed Session.
22. There is no evidence to support that there was an attempted vote to appoint Director Peter Le as General Manager at the July 15, 2013, Closed Session.

23. Board Members have received Brown Act training in the recent past.

### **LEGAL ANALYSIS AND CONCLUSIONS**

The Board of Directors met in closed session regarding various matters that were part of the closed session agenda. The only closed session item at issue is the one that relates to conferring with the District's labor negotiator concerning negotiations for the Interim General Manager.

#### **A. Question Raised**

The legal issue raised is whether the Board of Directors exceeded the scope of permissible discussion on the July 15, 2013 Closed Session item relating to labor negotiations concerning the general manager position.

#### **B. Analysis**

The Ralph M. Brown Act (hereafter "the Brown Act") governs meetings conducted by legislative bodies such as city councils, county boards of supervisors, and district boards of directors. It was adopted to ensure the public's right to attend the meetings of public agencies. Gov. Code Section 54950, et seq.) In general, the Brown Act requires that the legislative bodies have open and public meetings. (Gov. Code Section 54953, 54962.) The Brown Act is interpreted liberally in favor of transparency. (See *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App. 4<sup>th</sup> 547, 555.)

The Brown Act contains very specific exceptions from open meeting requirements where the governmental entity has a need for confidentiality. These exceptions are construed narrowly and only matters expressly excepted may be heard in a closed session. (Gov. Code Sections 54957, 54962; *Rowen v. Santa Clara Unified School District* (1981) 121 Cal.App.3d 231, 234.)

Public agencies such as the District must meet certain requirements before a closed session is held:

1. Each item to be transacted or discussed in a closed session must be briefly described in an agenda for the meeting. (Gov. Code Section 54954.2(a))
2. Prior to adjourning into closed session, a representative of the Board must orally announce the items to be discussed in closed session. (Gov. Code Section 54957.7(a))
3. Once the closed session is completed, the District must reconvene in open session, where it may be required to report votes and actions taken in closed session. (Gov. Code Section 54957.1)

One of the matters that may be discussed in a closed session is labor negotiations. The Brown Act provides in Section 54957.6 as follows:

- (a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's



designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

The Brown Act provides safe harbor language for agenda language relating to labor negotiations which requires that the agenda include the following text: "Conference With Labor Negotiators," Agency designated representative(s) and the Unrepresented employee. (Gov. Code Section 54954.5(f)).

Here, the July 15, 2013, agenda conformed with the foregoing language from the Brown Act. It included the following language:

4. Closed Session
  - D. Pursuant to Government Code Section 54957.6  
Conference with Labor Negotiator (Howard Gustafson)  
Unrepresented Employee (Interim General Manager)

The Board in fact met for that stated purpose. The issue presented is whether the Board exceeded the scope of the permissible closed session. As noted above in the Findings, the Board President did state at the outset that Director Le would not be attending as he had an interest in serving as Interim General Manager and, therefore, had a conflict. Based on their surprise and curiosity comments and questions ensued. One board member also objected. Thus, there was limited discussion.

It was relevant to the July 15, 2013, Closed Session that the Board President explain why Director Le was absent. The Political Reform Act provides that persons with a conflict of interest announce their conflict of interest, recuse themselves, and "leave the room until after the discussion." These rules also apply to closed sessions although the declaration of the conflict is not required to be as detailed. Thus, had Director Le been present prior to the closed session he would have been required to announce his conflict of interest. (Gov. Code Section 87105; Cal. Code Regs. Tit. 2, section 18702.5.) In response to inquiries from members of the public, it

would have been appropriate for Director Le or someone else on the Board to say in open session that Director Le was not present at the subject closed session because he had a conflict of interest.

While there was limited discussion, the findings reflect the following: (i) there was insufficient evidence to support a contention that the Board discussed terms and conditions for retaining Peter Le as general manager; (ii) there was no evidence as alleged that there was "an attempt to hire" Peter Le; (iii) there was no evidence that the Board deliberated on the hiring of Peter Le; (iv) there was no evidence of an attempted vote; and (v) there was no evidence of a vote.

Had there been a discussion on terms and conditions for hiring Peter Le, or deliberations, or a motion, or a vote to hire Peter Le, such action would have exceeded the permissible scope of the July 15, 2013 Closed Session and would have been in violation of the Brown Act. A distinct closed session item would have been required on the agenda.

Yet, it appears the Board Members may not understand the dividing line between appropriate discussion within the scope of a properly agendized closed session item and veering into unrelated discussion. It is unclear whether they stopped the discussion because they really understood the Brown Act parameters or because of an objection made or because of an admonition by General Counsel, or because they were lucky. In any event, the limited discussion regarding Peter Le stopped.

It is clear that while the Board Members may have an appreciation for the Brown Act, they need further training to ensure they do not veer off course and exceed the scope of any closed session they may be attending in the future.

Finally, it bears noting that the Brown Act authorizes but does not require the keeping of a minute book for closed sessions regarding topics discussed and decisions made. Such a minute book is not subject to disclosure under the Public Records Act and is confidential. (Gov. Code Section 54957.2.) Such a minute book may have assisted here: (i) the allegations may never have been made and (ii) it would have been better evidence than the blurry recollections. Such a record also helps governing boards who may be tempted to go off course to stay on course.

### C. Conclusion

The Board of Directors did not exceed the scope of permissible discussion at the closed session of July 15, 2013, regarding labor negotiations for the Interim General Manager position.

## **RECOMMENDATIONS**

1. Prior to going into closed session, the Board President or Clerk/Secretary to the Board should announce the agenda items to be discussed.
2. After the closed session, the Board President should announce who was present and who was absent at the closed session. This will include persons who arrive late to the closed session or who leave early from the closed session. These announcements should be

included in the open session minutes. This should be the case even when the Board meets in closed session at the outset of a meeting.

3. If present, prior to going into closed session, members of the Board who have a conflict of interest should announce in public session that they will not be attending the closed session because they have a conflict of interest.
4. Upon coming out of closed session, the Board President should not only make any announcements as required by the Brown Act but also announce if the Closed Session will resume for unfinished business after the open session items.
5. The confusion by those interviewed regarding meetings and regarding what happened at which meeting underscores the need for keeping clearer records of attendance in open and closed sessions as well as a need for the keeping of minutes. The Board should consider the appointment of a confidential level person with responsibilities as follows:
  - a. Take roll call in closed session.
  - b. Record when Directors leave after roll call or arrive after roll call.
  - c. Write down general topics discussed.
  - d. Write down motions made and seconded.
  - e. Write down votes taken by name of Director.
6. Direct the General Counsel to be vigilant and assertive in ensuring that discussion not relevant to the agenda item in the closed session, even if informational only, is not to be undertaken.
7. The District should provide a training session on the parameters of closed sessions to the Board.

Respectfully Submitted,



Hilda Cantú Montoy

# Appendix A

## APPENDIX A

### **MATERIALS REVIEWED**

- DVD: July 13, 2013 Board Meeting
- DVD: August 5, 2013 Board Meeting
- DVD: December 16, 2013 Marina City Council Meeting
- MCWD Meeting Agenda – January 6, 2014
- MCWD Meeting Agenda – January 6, 2014 Agenda Reports
- MCWD Meeting Agenda – August 19, 2013
- MCWD August 19, 2013 Item 10A – Contract with Lee
- MCWD August 5, 2013 Meeting Minutes
- MCWD Meeting Agenda – August 5, 2013
- MCWD Meeting Agenda – July 15, 2013
- MCWD July 15, 2013 Meeting Minutes
- MCWD June 17, 2013 Meeting Minutes
- Masuda/Le/DeBacker Emails July 15, 2013
- DeBacker/Le Emails July 14 and 15, 2013
- Board Resolution No. 98-1: Resolution of the Board of Directors of Marina Coast Water District Adopting Policy Regarding Directors, General Manager, Officers, Legal Counsel, District Engineer, Auditor, Financial Officer, Consultants, Committees, Enactment of Ordinances and Adoption of Resolutions and Motions
- Board Resolution Nos. 99-18, 2000-05, and 2000-07 Amending Resolution No. 98-1
- Email dated January 24, 2014, from Peter Le stating he did not want to be interviewed
- Organization Chart
- “Royal Calkins: Another Year End List” from Monterey Herald
- Report to Board from General counsel dated December 30, 2013, and considered at January 6, 2014, Meeting

# Appendix B

**APPENDIX B**

**EXHIBITS**

Exhibit 1 – Email from Director Gustafson to Paula Riso dated December 19, 2013.

Exhibit 2 – Report to Board from General Counsel dated December 30, 2013 and considered at January 6, 2014, Meeting.

Exhibit 3 – Minutes for June 17, 2013, Meeting, pages 1 to 3.

Exhibit 4 – Agenda for July 15, 2013, Meeting

Exhibit 5 – Email Correspondence to Peter Le dated July 14 and 15, 2013, from Jeanine DeBacker.

Exhibit 6 – Email Correspondence to Peter Le dated July 15, 2013, from Roger Masuda.

**EXHIBIT 1**

Email from Director Gustafson to Paula Riso dated December 19, 2013



**Hilda Cantu Montoy**

---

**From:** Jeanine DeBacker [jdebacker@mstpartners.com]  
**Sent:** Friday, January 17, 2014 9:30 PM  
**To:** Hilda Cantu Montoy  
**Subject:** Marina Coast Water District  
  
**Importance:** High

Below is the email from Director Gustafson.

---

**From:** Paula Riso  
**Sent:** Thursday, December 19, 2013 1:39 PM  
**To:** Brian Lee  
**Subject:** FW: Violation of FPPC and Brown Act Laws

FYI

*Paula Riso*

*Executive Assistant/Clerk to the Board*

*11 Reservation Road, Marina, CA 93933*

*Direct - (831) 883-5910*

*Fax - (831) 883-5960*

NOTICE: This communication may contain privileged or other confidential information. If you are not the intended recipient of this communication, or an employee or agent responsible for delivering this communication to the intended recipient, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

---

**From:** Howard Gustafson [mailto:[howardg@ci.salinas.ca.us](mailto:howardg@ci.salinas.ca.us)]  
**Sent:** Thursday, December 19, 2013 1:36 PM  
**To:** Paula Riso  
**Subject:** Violation of FPPC and Brown Act Laws

I would like to place on the agenda action relating to the attempt by Peter Le, Tom Moore and Jan Shriner to hire Mr. Le as the General manager of MCWD. There was no agenda for the closed session action and a vote was attempted. We need to send this the FPPC and the District Attorney. There are specific dates that will be addressed in the item

description. I would also like to place on the agenda recovery of moneys owed to us from Fort Ord Service area and the rates we have not been able to recover because of FORA actions. The recovery should take the form of legal action against FORA or just plain adopt the rates owed from past and then begin to apply current rates.

Regards,

Howard Gustafson

Director

831.384.7666

**EXHIBIT 2**

Report to Board from General Counsel dated December 30, 2013  
and considered at January 6, 2014, Meeting.

**GRIFFITH & MASUDA**

A PROFESSIONAL LAW CORPORATION

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Turlock, California 95380

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Founded 1920

W. Coburn Cook, 1892-1953  
Lin H. Griffith, retired

Roger K. Masuda  
[rmasuda@calwaterlaw.com](mailto:rmasuda@calwaterlaw.com)

*Celebrating Our  
93<sup>rd</sup> Anniversary*

December 30, 2013

To: Board of Directors, Marina Coast Water District

From: *Roger K. Masuda*  
Roger K. Masuda, Legal Counsel

Subject: Complaint by Director Gustafson as to an Alleged Attempt in Closed Session to Appoint Director Peter Le as Interim General Manager and the Board's Options regarding such Complaint

By email dated December 19, 2013, from Director Howard Gustafson to Paula Riso, Director Gustafson requested the following:

"I would like to place on the agenda action relating to the attempt by Peter Le, Tom Moore and Jan Shriner to hire Mr. Le as the General manager of MCWD. There was no agenda for the closed session action and a vote was attempted. We need to send this the FPPC and the District Attorney. There are specific dates that will be addressed in the item description."

Director Gustafson did not provide any specific dates. The following gives the chronology for the appointment of Brian Lee as Interim General Manager and the Board approval of his Employment Agreement:

June 17, 2013 – Vice President Shriner moved to appoint Brian Lee as the Interim General Manager, seconded by Director Gustafson, passed 3-1 (Dir. Bill Lee). President Moore moved to appoint Director Gustafson as the Labor Negotiator for negotiating the terms of Brian Lee's Interim GM employment agreement, seconded by Director Gustafson, passed 3-1 (Dir. Lee). Director Peter Le was absent.

July 15, 2013 – Board went into closed session at 6:46 PM; Directors Moore, Shriner, Gustafson, and Lee were present. One closed session item was to confer with Labor Negotiator Howard Gustafson regarding salary and benefits for the Interim General Manager, an Unrepresented Employee, pursuant to Government Code Section 54957.6. Director Le arrived at the Board chambers at 7:02 PM and did not participate in the closed session. The Board ended the closed session at 7:12 PM. No reportable action was taken.

Board of Directors, Marina Coast Water District

December 30, 2013

August 5, 2013 – After the closed session items and in open session, President Moore moved to direct Special Legal Counsel Jeanine DeBacker to prepare an Interim General Manager employment agreement with Brian Lee with an annual compensation of \$190,000, plus a \$500 monthly car allowance and the other terms agreed upon in a proposed draft contract, for approval at the August 19<sup>th</sup> Board meeting. Passed 3-1 (Dir. Lee). Director Le was present and participated in the closed session and in open session voted in favor of the employment agreement terms for Brian Lee. Director Gustafson was absent. Jeanine DeBacker was present.

August 19, 2013 – Board in open session adopted Resolution No. 2013-44 approving an Employment Agreement with Brian Lee for the Position of Interim GM. Passed 4-1 (Dir. Bill Lee). Both Director Le and Director Gustafson voted in favor of the Employment Agreement. Jeanine DeBacker was present.

Director Gustafson made a presentation to the Marina City Council at the Council's December 17 meeting, which included his version of what transpired during a MCWD Board closed session. Based upon his public comments and his December 19 email, Director Gustafson appears to be referring to the July 15, 2013 closed session at which he was present.

Closed session deliberations are confidential and protected against disclosure by the attorney-client and deliberative legal privileges and by Board Procedures Manual (BPM) Sections 14.Q, 26, and 43. The Board may vote to waive those privileges and the BPM. MCWD Special Legal Counsel Jeanine DeBacker will have a separate presentation to the Board on the legal requirements and potential legal consequences for disclosing publicly Board discussion occurring in closed sessions. That separate issue will not be addressed in this memorandum.

Upon review of the posted agendas and minutes of the above Board meetings, the Board agenda items, including closed sessions, pertaining to the position and employment agreement of the Interim General Manager were properly noticed and held.

In particular, the July 15 closed session was properly noticed and held to discuss a salary and benefits package for the Interim General Manager and to provide negotiation instructions to Director Gustafson as the designated Labor Negotiator. Director Gustafson himself admits that no vote was taken in closed session to appoint Director Peter Le as Interim General Manager. No such vote would have been proper since appointment of Peter Le as Interim General Manager was not the noticed subject of the closed session. In addition, three different rules of law prohibit Director Peter Le from serving as MCWD's interim or permanent General Manager while remaining a MCWD Director.

First and foremost, the County Water District Law, Water Code Section 30541 states, "A director shall not be the general manager, secretary, treasurer, or auditor."

Second, holding both positions would appear to violate Government Code Section 1090 violation. The first sentence of Government Code Section 1090 states, "Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or

board of which they are members." Whether or not Peter Le received any salary or benefits from the District while acting as General Manager, he would still be entering into a contract of employment with the Board of Directors of which he would be a member.

Third, the common law doctrine of incompatible offices would require that Peter Le forfeit his position as Director upon accepting appointment as General Manager. Under the common law doctrine of incompatible offices, which is part of California law, the same person may not hold two public offices where there is any significant clash of duties or loyalties between the offices, if the dual office holding would be improper for reasons of public policy, or if either officer exercises a supervisory, auditory, or removal power over the other. The consequences of holding incompatible offices is that the person is deemed to have forfeited the first office upon accepting the second.

The Board has the following options:

1. Find that the closed session held on July 15, 2013, to confer with Labor Negotiator Howard Gustafson regarding salary and benefits for the Interim General Manager, an Unrepresented Employee, pursuant to Government Code Section 54957.6, was properly noticed and held in accordance with the Brown Act and determine that no further action need be taken.
2. Specifically waive the Board's attorney-client and deliberative legal privileges and applicable Board Procedures Manual sections and determine that Director Gustafson's allegations concerning the closed session held on July 15, 2013, to confer with Labor Negotiator Howard Gustafson regarding salary and benefits for the Interim General Manager, an Unrepresented Employee, pursuant to Government Code Section 54957.6, should be investigated further by the Board, including, but not limited to, by retaining an independent investigator, and to bring the results of any such investigation back to the Board for further consideration by a date certain.

[end of memorandum]

**EXHIBIT 3**

Minutes for June 17, 2013, Meeting, pages 1 to 3

Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue  
Marina, California

Regular Board Meeting  
June 17, 2013  
6:45 p.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 6:45 p.m. on June 17, 2013.

2. Roll Call:

Board Members Present:

Tom Moore – President  
Jan Shriner – Vice President  
Howard Gustafson  
Bill Lee

Board Members Absent:

Peter Le

Staff Members Present:

Brian Lee, Deputy General Manager/District Engineer  
James Derbin, Operations and Maintenance Superintendent  
Jean Premutati, Management Services Administrator  
Kelly Cadiente, Director of Administrative Services  
Brian True, Capital Projects Manager  
Sean Knight, Associate Engineer  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Andy Sterbenz, Schaaf & Wheeler  
Kenneth Nishi, Marina Resident  
Ben Smith, Marina Resident  
Amelia Dow, Marina Resident  
Mike McCullough, MRWPCA  
Margaret Davis, Friends of the Fort Ord War Horse

3. Public Comment on Closed Session Items:

No comments.

The Board entered into closed session at 6:46 p.m.



Regular Board Meeting

June 17, 2013

Page 2 of 11

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation

(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

4) State Water Resources Control Board's Proposed Revocation of Monterey County Water Resources Agency Water Right Permit 11043 authorizing the diversion of up to 168,538 acre-feet per year from the Salinas River

B. Pursuant to Government Code Section 54956.9 (c)

Conference with Legal Counsel – Anticipated Litigation

Potential Initiation of Litigation

One Case – MCWD Claims against Monterey County and MCWRA

C. Pursuant to Government Code Section 54956.9(b)(1) and 54956.9(b)(3)(C)

Conference with Legal Counsel – Anticipated Litigation

Potential Litigation

Two Cases

1) Claims of MCWRA and Monterey County against MCWD

2) Claims of California–American Water Company against MCWD

D. Pursuant to Government Code 54956.8

Conference with Real Property Negotiator (General Manager, District Counsel)

Property: Water Rights

Negotiating Parties: Clark Colony Water Company and MCWD

Under Negotiations: Price and Terms

The Board ended closed session at 7:01 p.m.

President Moore reconvened the meeting to open session at 7:05 p.m.

Regular Board Meeting  
June 17, 2013  
Page 3 of 11

5. Possible Action on Closed Session Items:

President Moore stated that no reportable actions were taken in closed session.

6. Pledge of Allegiance:

President Moore asked Director Gustafson to lead everyone present in the pledge of allegiance.

7. Oral Communications:

Mr. Ben Smith, Marina resident, commented that backflow devices are not being installed to plumbing codes and suggested working with the City of Marina and local contractors to make sure the requirements are the same with all entities.

Ms. Amelia Dow, Marina resident, commented that her bill was very high over the last several months although she is very conscious of conserving water. She asked for consideration on her bill.

Mr. Kenneth Nishi, Marina resident, commented that it wasn't appropriate for a Board member to write a guest commentary in the newspaper expressing their own personal opinion and not clarifying that it wasn't a Board policy. He added that if it was on behalf of the Board, he wanted to know when it was discussed.

8. Consent Calendar:

President Moore stated that staff requested to pull agenda items 8-A, 8-E, and 8-F from the Consent Calendar. Mr. Nishi requested to pull agenda items 8-D, 8-F, 8-G, 8-H, 8-I, and 8-J from the Consent Calendar.

Director Gustafson made a motion to approve the Consent Calendar consisting of the following items:

- B) Adopt Resolution No. 2013-34 to Extend the Current FY 2012-2013 District Budget;
- C) Adopt Resolution No. 2013-35 to Approve a Professional Services Agreement with Mr. Ron Allen to Provide Consultant Services for the Water Conservation Education Program;
- K) Receive the Draft Notes of the Adjourned Regular Board Meeting of June 10, 2013.

Vice President Shriner seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Absent			

**EXHIBIT 4**

Agenda for July 15, 2013, Meeting



# 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

THOMAS P. MOORE  
*President*

JAN SHRINER  
*Vice President*

HOWARD GUSTAFSON  
WILLIAM Y. LEE  
PETER LE

## Agenda

### Regular Board Meeting, Board of Directors Marina Coast Water District

211 Hillcrest Avenue, Marina, California

Monday, July 15, 2013, 6:45 p.m. PST

*This meeting has been noticed according to the Brown Act rules. The Board of Directors meet regularly on the first and third Monday of each month. The meetings normally begin at 6:45 p.m. and are held at the City of Marina Council Chambers at 211 Hillcrest Avenue, Marina, California.*

**Mission:** Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.

**Vision:** The Marina Coast Water District will be the leading public supplier of integrated water and wastewater services in the Monterey Bay Region.

1. **Call to Order**
2. **Roll Call**
3. **Public Comment on Closed Session Items** *Anyone wishing to address the Board on matters appearing on Closed Session may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*
4. **Closed Session**
  - A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)
    - 1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

This agenda is subject to revision and may be amended prior to the scheduled meeting. A final agenda will be posted at the District office at 11 Reservation Road, Marina, 72 hours prior to the meeting. Copies will also be available at the Board meeting. A complete Board packet containing all enclosures and staff materials will be available for public review on Thursday, July 11, 2013 at the District office, Marina and Seaside City Halls, and at the Marina and Seaside Libraries. Information about items on this agenda or persons requesting disability related modifications and/or accommodations can contact the Board Clerk at: 831-883-5910. The next regular meeting of the Board of Directors is scheduled for August 5, 2013.

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

4) State Water Resources Control Board's Proposed Revocation of Monterey County Water Resources Agency Water Right Permit 11043 authorizing the diversion of up to 168,538 acre-feet per year from the Salinas River

- B. Pursuant to Government Code 54956.9(b)(1)  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation: One Potential Case
- C. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator (General Manager, District Counsel)  
Property: Water Rights  
Negotiating Parties: Clark Colony Water Company and MCWD  
Under Negotiations: Price and Terms
- D. Pursuant to Government Code 54957.6  
Conference with Labor Negotiator (Howard Gustafson)  
Unrepresented Employee (Interim General Manager)

**7:00 p.m. Reconvene Open Session**

**5. Possible Action on Closed Session Items** *The Board will report out on any action taken during Closed Session, and may take additional action in Open Session, as appropriate. Any closed session items not completed will be discussed at the end of the meeting.*

**6. Pledge of Allegiance**

**7. Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

**8. Consent Calendar** *Board approval can be taken with a single motion and vote. A Board member or member of the public may request that any item be pulled from the Consent Calendar for separate consideration at this meeting or a subsequent meeting. The public may address the Board on any Consent Calendar item. Please limit your comment to four minutes.*

- A. Approve the Expenditures for the Month of June 2013
- B. Approve the Draft Minutes of the Regular Board Meeting of July 1, 2013

**9. Action Items** *The Board will review and discuss agenda items and take action or direct staff to return to the Board for action at a following meeting. The public may address the Board on these items as each item is reviewed by the Board. Please limit your comment to four minutes.*

A. Consider Public Appointments to the Water Conservation Commission

*Action: The Board of Directors will making public appointments to the Water Conservation Commission for one and two-year terms.*

B. Receive Presentation of the Preliminary Findings of the Draft 5-Year Rate Study Financial Plan; and Provide Direction to Staff Regarding Preparation of the Final Rate Study

*Action: The Board of Directors will receive a draft Rate Study presentation and provide direction to staff regarding final preparation of the Rate Study.*

C. Consider Adoption of Resolution No. 2013-42 to Approve an Agreement with Monterey Peninsula Unified School District for Construction and Transfer of Water Infrastructure at Marina High School

*Action: The Board of Directors will consider approving an agreement with Monterey Peninsula Unified School District for construction and transfer of water infrastructure at Marina High School.*

D. Consider Authorizing the Consent and Waiver of 90-Day Time Limit for a Special Election for East Garrison Public Financing Authority

*Action: The Board of Directors will consider approving the Monterey County proposed Consent and Waiver regarding the East Garrison project.*

E. Discuss Possible Participation in the Community Labor Day Parade

*Action: The Board of Directors will discuss whether to participate in the Community Labor Day Parade.*

F. Discuss Director Participation at the California Special Districts Association Conference in Monterey, September 2013

*Action: The Board of Directors will discuss whether to participate in the California Special Districts Association Conference.*

G. Discuss Communication Flow Between Directors and Staff Regarding Board Packet Items

*Action: The Board of Directors will discuss how to create a stress-free communication flow between Directors and staff.*

H. Discuss How to Address Director's Comments in Action Minutes

*Action: The Board of Directors will discuss how to capture Director's comments while preparing action minutes.*

**10. Informational Items** *Informational items are normally provided in the form of a written report or verbal update and may not require Board action. The public may address the Board on Informational Items as they are considered by the Board. Please limit your comments to four minutes.*

A. General Manager's Report

- Correspondence Received by Board or General Manager

B. Counsel's Report

C. Committee and Board Liaison Reports

- |                                  |                                   |
|----------------------------------|-----------------------------------|
| 1. Water Conservation Commission | 6. LAFCO Liaison                  |
| 2. Joint City-District Committee | 7. FORA                           |
| 3. Executive Committee           | 8. WWOC Report                    |
| 4. Community Outreach            | 9. JPIA Liaison                   |
| 5. MRWPCA Board Member Liaison   | 10. Special Districts Association |

**11. Board Member Requests for Future Agenda Items**

A. Board Member Requests

**12. Director's Comments**

**13. Adjournment** *Set or Announce Next Meeting(s), date(s), time(s), and location(s):*

*Regular Meeting: Monday, August 5, 2013, 6:45 p.m.,  
211 Hillcrest Avenue, Marina*

**EXHIBIT 5**

Email Correspondence to Peter Le dated July 14 and 15, 2013, from Jeanine DeBacker



**Hilda Cantu Montoy**

---

**From:** Jeanine DeBacker [jdebacker@mstpartners.com]  
**Sent:** Monday, July 15, 2013 9:10 AM  
**To:** peter381  
**Cc:** moore4mcwd@redshift.com; rmasuda@calwaterlaw.com  
**Subject:** Re: Marina Coast Water District

Director Le: As counsel for the District, my response is yes due to the inherent uncertainty of future events.  
Thanks, Jeanine.

Jeanine DeBacker  
Sent from my iPhone

On Jul 14, 2013, at 3:52 PM, "peter381" <peter381@sbcglobal.net> wrote:

Dear Ms. DeBacker,

Do your opinions still apply if there is no financial interests such as I do not receive any salary or benefits from the District?

I could perform the temporary position with no financial interests during the transition to carry out important projects for the District.

Peter

----- Original message -----

**From:** Jeanine DeBacker <jdebacker@mstpartners.com>  
**Date:** 07/14/2013 12:17 PM (GMT-08:00)  
**To:** peter381@sbcglobal.net  
**Cc:** moore4mcwd@redshift.com,"Roger Masuda (rmasuda@calwaterlaw.com)"  
<rmasuda@calwaterlaw.com>  
**Subject:** Marina Coast Water District

Director Le:

I spoke with President Moore, who has explained to me your desire to be appointed / named Interim General Manager (GM) for the Marina Coast Water District. So that we are all on the same page, I have copied both President Moore and Roger Masuda on this email.

Your discussion with President Moore raises two distinct issues: (1) your ability to participate in the discussions in Closed and public sessions regarding Brian Lee's candidacy for Interim GM

(and any vote thereon) and (2) your ability to seek the Interim GM or GM position while a member of the Board of Directors.

1. You must recuse yourself from the Closed Session and any discussion or vote (closed or public) regarding Brian Lee's candidacy for Interim GM – at the July 15 meeting and any meeting thereafter. (We can discuss whether this conflict is still present during any votes for a permanent or future GM candidate. It may be that circumstances change in the future, but at this point I cannot think of a scenario where you would not be acting under a conflict of interest.)

As a Director of the District, you are subject to California Government Code section 1090, which provides:

Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity. As used in this article, "district" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

Section 1090 has been found by several California courts to apply to "any contract," with no express exclusion for employment contracts.

You have expressed a desire to be named to the Interim GM position – to enter into an employment contract with the District – and thus for Brian Lee not to be named to that position so that you can hold the position. While participating as a Director, then, you will be acting from a position of personal interest which will likely interfere with your unbiased discharge of your duty to the public, or which might prevent your exercise of absolute loyalty and undivided allegiance to the best interests of the District. (See, People v. Elliott (App. 2 Dist. 1953) 115 Cal.App.2d 410). Section 1090 is "concerned with any interest, other than perhaps a remote or minimal interest, which would prevent [public] officials from exercising absolute loyalty and undivided allegiance" to the 558 public entity they serve. Its object is to "remove or limit the possibility of any personal influence, either directly or indirectly, which might bear on an official's decision as well as to void contracts which are actually obtained through fraud or dishonest conduct." (Stigall v. City of Taft, 58 Cal.2d 565, 569).) Thus, section 1090 is "aimed at eliminating temptation, avoiding the appearance of impropriety, and assuring the government of the officer's undivided and uncompromised allegiance." (People v. Honig (1996) 48 Cal.App.4th 289, 314)

At this point, we cannot avoid the appearance of bias on this issue and you must recuse yourself from the consideration of Mr. Lee's employment/appointment as Interim GM.

2. You cannot seek appointment, nor be appointed to the Interim GM or GM position while a member of the Board of Directors.

As above, as a Director of the District, you are subject to the conflict of interest provisions of California Government Code section 1090, which covers employment agreements.

By its terms, Section 1090 prohibits you from being named the General Manager (interim or otherwise) while a member of the District's Board of Directors. This is the rule even if you recuse yourself from any discussion or vote on the matter. As a basic starting point, California law prohibits a public official from entering into a contract with himself. (15 Op.Atty.Gen. 123 (1950).) In addition, we have case law directly on point on this matter. In 2001, an California Appellate Court found that a member of board of directors of local sanitary district violated statute prohibiting public officials and employees from having a financial interest in any contract made by them in their official capacity, or by any body or board of which they are members, when he accepted a position as district manager without first resigning his position as member of board. Finnegan v. Schrader (App. 1 Dist. 2001) 91 Cal.App.4th 572.

The issues raised above affect you as an individual and the District (my client). If any litigation results from the matters discussed in this email, it would be legally appropriate for the District to be named a party.

I hope this information is helpful. If you have any questions, please do not hesitate to contact me. I am best reached by email as I am out of state (and in a different time zone) but will check my emails regularly.

Jeanine DeBacker

**EXHIBIT 6**

Email Correspondence to Peter Le dated July 15, 2013, from Roger Masuda

**Hilda Cantu Montoy**

---

**From:** Roger Masuda [rmasuda@calwaterlaw.com]  
**Sent:** Monday, July 15, 2013 10:48 AM  
**To:** 'Jeanine DeBacker'; 'peter381'  
**Cc:** moore4mcwd@redshift.com  
**Subject:** RE: Marina Coast Water District

Director Le:

First, the County Water District Law, Water Code Section 30541 states, "A director shall not be the general manager, secretary, treasurer, or auditor."

Second, probable Government Code Section 1090 violation. The following for your reference is the first sentence of Government Code Section 1090 (which Ms. DeBacker set forth in full below) and the entire Section 1097:

1090. Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.

1097. Every officer or person prohibited by the laws of this state from making or being interested in contracts, or from becoming a vendor or purchaser at sales, or from purchasing script, or other evidences of indebtedness, including any member of the governing board of a school district, who willfully violates any of the provisions of such laws, is punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the state prison, and is forever disqualified from holding any office in this state.

While somewhat different from the Steve Collins case, both your issue and Steve Collins' case center on Section 1090. Whether or not you received any salary or benefits from the District while acting as Interim General Manager, you would still be entering into a contract of employment with the District. I believe you are focusing on the term "financially interested in any contract." While you might not actually be paid anything as essentially a volunteer, there may be other things, which might be deemed to cause you to have a financial interest in the employment contract. Without additional facts, I don't know what they might be. But will you receive time served credit from PERS even though you are not being paid? Could it be found that you have a financial interest if you intended to apply for the paid permanent General Manager position? Don't know, but it could be a factor.

An important consideration for you is the stated penalties under Section 1097 for violation of Section 1090, namely being forever disqualified from holding any office in California and being possibly prosecuted for committing a felony (by imprisonment in the state prison). Penal Code Section 17(a).

Third, the common law doctrine of incompatible offices would be deemed that you forfeit your position as director upon accepting appointment as Interim General Manager. Under the common law doctrine of incompatible offices, which is part of California law, the same person may not hold two public offices where there is any significant clash of duties or loyalties between the offices, if the dual office holding would be improper for reasons of public policy, or if either officer exercises a supervisory, auditory, or removal power over the other. The consequences of holding incompatible offices is that the person is deemed to have forfeited the first office upon accepting the second. The California Attorney General has determined that a city administrator and a fire chief are both public offices for purposes of the doctrine and specifically found that a person may not serve simultaneously as the City Administrator and Fire Chief of the City of Oroville. The AG has also found that a water district general manager constitutes a public office, but I could not readily find the opinion this morning. A director of the MCWD definitely holds a public office. Therefore, if you were appointed Interim General Manager, you would forfeit your position as a director under the common law doctrine of incompatible offices.

Roger K. Masuda  
Griffith & Masuda  
A Professional Law Corporation  
517 E. Olive Street  
Turlock, CA 95380  
[www.calwaterlaw.com](http://www.calwaterlaw.com)  
voice (209) 667-5501  
fax (209) 667-8176  
Founded 1920

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**From:** Jeanine DeBacker [mailto:[jdebacker@mstpartners.com](mailto:jdebacker@mstpartners.com)]  
**Sent:** Monday, July 15, 2013 8:10 AM  
**To:** peter381  
**Cc:** moore4mcwd@redshift.com; rmasuda@calwaterlaw.com  
**Subject:** Re: Marina Coast Water District

Director Le: As counsel for the District, my response is yes due to the inherent uncertainty of future events.  
Thanks, Jeanine.

Jeanine DeBacker  
Sent from my iPhone

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Do your opinions still apply if there is no financial interests such as I do not receive any salary or benefits from the District?

I could perform the temporary position with no financial interests during the transition to carry out important projects for the District.

Peter

----- Original message -----

From: Jeanine DeBacker <[jdebacker@mstpartners.com](mailto:jdebacker@mstpartners.com)>  
Date: 07/14/2013 12:17 PM (GMT-08:00)  
To: [peter381@sbcglobal.net](mailto:peter381@sbcglobal.net)  
Cc: [moore4mcwd@redshift.com](mailto:moore4mcwd@redshift.com), "Roger Masuda ([rmasuda@calwaterlaw.com](mailto:rmasuda@calwaterlaw.com))" <[rmasuda@calwaterlaw.com](mailto:rmasuda@calwaterlaw.com)>  
Subject: Marina Coast Water District

Director Le:

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(and any vote thereon) and (2) your ability to seek the Interim GM or GM position while a member of the Board of Directors.

1. You must recuse yourself from the Closed Session and any discussion or vote (closed or public) regarding Brian Lee's candidacy for Interim GM – at the July 15 meeting and any meeting thereafter. (We can discuss whether this conflict is still present during any votes for a permanent or future GM candidate. It may be that circumstances change in the future, but at this point I cannot think of a scenario where you would not be acting under a conflict of interest.)

As a Director of the District, you are subject to California Government Code section 1090, which provides:

Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity. As used in this article, "district" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

Section 1090 has been found by several California courts to apply to "any contract," with no express exclusion for employment contracts.

You have expressed a desire to be named to the Interim GM position – to enter into an employment contract with the District – and thus for Brian Lee not to be named to that position so that you can hold the position. While participating as a Director, then, you will be acting from a position of personal interest which will likely interfere with your unbiased discharge of your duty to the public, or which might prevent your exercise of absolute loyalty and undivided allegiance to the best interests of the District. (See, People v. Elliott (App. 2 Dist. 1953) 115 Cal.App.2d 410). Section 1090 is "concerned with any interest, other than perhaps a remote or minimal interest, which would prevent [public] officials from exercising absolute loyalty and undivided allegiance" to the 558 public entity they serve. Its object is to "remove or limit the possibility of any personal influence, either directly or indirectly, which might bear on an official's decision as well as to void contracts which are actually obtained through fraud or dishonest conduct." (Stigall v. City of Taft, 58 Cal.2d 565, 569).) Thus, section 1090 is "aimed at eliminating temptation, avoiding the appearance of impropriety, and assuring the government of the officer's undivided and uncompromised allegiance." (People v. Honig (1996) 48 Cal.App.4th 289, 314)

At this point, we cannot avoid the appearance of bias on this issue and you must recuse yourself from the consideration of Mr. Lee's employment/appointment as Interim GM.

2. You cannot seek appointment, nor be appointed to the Interim GM or GM position while a member of the Board of Directors.



As above, as a Director of the District, you are subject to the conflict of interest provisions of California Government Code section 1090, which covers employment agreements.

By its terms, Section 1090 prohibits you from being named the General Manager (interim or otherwise) while a member of the District's Board of Directors. This is the rule even if you recuse yourself from any discussion or vote on the matter. As a basic starting point, California law prohibits a public official from entering into a contract with himself. (15 Op.Atty.Gen. 123 (1950).) In addition, we have case law directly on point on this matter. In 2001, an California Appellate Court found that a member of board of directors of local sanitary district violated statute prohibiting public officials and employees from having a financial interest in any contract made by them in their official capacity, or by any body or board of which they are members, when he accepted a position as district manager without first resigning his position as member of board. Finnegan v. Schrader (App. 1 Dist. 2001) 91 Cal.App.4th 572.

The issues raised above effect you as an individual and the District (my client). If any litigation results from the matters discussed in this email, it would be legally appropriate for the District to be named a party.

I hope this information is helpful. If you have any questions, please do not hesitate to contact me. I am best reached by email as I am out of state (and in a different time zone) but will check my emails regularly.

Jeanine DeBacker

# Appendix C

## APPENDIX C

### INTERVIEW SUMMARIES

#### HOWARD GUSTAFSON

Howard Gustafson has served on the District Board for 20 years. He has tried to raise the issue of the illegal conduct at the closed session before but was “shut down” as a “point of order” raised by Director Shriner. On one such occasion he got upset and left early. He said he finally went to the Marina City Council meeting in December and brought it up there. After that, he asked that it be placed on the agenda for the District.

I asked him regarding his selection as negotiator at the June 2013, Board Meeting. Director Gustafson was selected by the Board to be the negotiator for selection of the Interim General Manager. He understood he was only to negotiate with Brian Lee and return to the Board with “contract information” and the “monetary amount” for the Board’s review. “That was the purpose of July 15, 2013.”

On July 15, 2013, Director Gustafson showed up at the City Council Chamber for the District Board Meeting. “Peter Le was not there. I was surprised. We went to closed session at the Council office.” Director Gustafson said no one said where Peter Le was when the roll was taken but then said, “Paula may have said ‘Peter will be here later.’” The Council office is about 1 and ½ minutes away from the Chambers. Peter Le was not there. Present were “Roger Masuda, Tom Moore, Bill Lee, Jan Shriner, and me.” Everyone was sitting down during the closed session.

“The first thing, right off,” Tom Moore said “Peter Le is not here but we have a proposal.” Tom Moore said Peter Le was willing to be General Manager for nothing—just for the experience.

Director Gustafson said, “This is not right. This is not going to happen. I started to get rude.” “Tom then said, ‘that’s enough. We’re not getting anywhere. Let’s move on.’”

Director Gustafson said Tom Moore had spoken in closed session about “how much savings there would be for the District, working free, available all the time and his experience as an engineer.” Director Gustafson said “Jan Shriner and Tom were fighting for it.” By that he said he meant fighting for Peter Le to be hired. When asked who he meant when Tom Moore used the term “we” at the beginning of the closed session, he said “he made the assumption that “we” meant Jan Shriner.

I asked what Jan Shriner said. Director Gustafson said Jan Shriner “did not say anything. She is supportive of Tom.” He then said that she made an “inferential comment” but did not remember it: “something like ‘this would save money.’ The exact words elude me.” He said that “Bill was

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thinking something like ‘that’s not going to happen, can’t see how we can take this up.’ But [Bill] did not say anything.”

I asked him if a vote was taken. He said no vote was taken and that he had said, “No way in hell a vote is going to happen.”

Director Gustafson spoke about Peter Le having a chip on his shoulder, that his way is the only way and that he wants to take over.

Director Gustafson “looked at Roger Masuda; his lips were sealed.” He was “expecting Roger to say if he’s on the Board, must wait six months or a year; rules are set.” It’s a revolving door rule. “Roger probably assumed that because there was no money involved, it was okay.” He was thinking “of the potential to make money.” Gustafson then said “This is totally illegal—what the hell are you doing? We are not going to take a vote. Tom then ended it.”

Roger Masuda “did not do a thing, did not say anything. . . I was flabbergasted.” Director Gustafson said he “suspected Roger had a conversation before the meeting; it was reported so innocently. I was amazed.”

After the Board stopped talking about Peter Le, there was discussion regarding the Brian Lee contract and discussion on the status of other items in closed session.

Director Gustafson did not recall any documents concerning this matter and that there may have been documents on another matter from a law firm. Director Gustafson did not take notes. He said Jan Shriner takes notes and that Peter Le “profusely writes [notes].” Roger Masuda did not take notes as his “arms were crossed and his mouth tight.”

Director Gustafson said the Peter Le discussion took ten minutes. “There was Tom’s explanation; Jan Shriner and everyone listening. Then listening to my ‘not going to happen, where in the hell is Peter Le—is this why he is not here.’” He said there was no response and “Tom was just red in the face.”

Director Gustafson was later told that during the closed session Peter Le walked into the Council Chamber, but he did not go to the Closed Session. “He [Peter Le] expected a vote.” He believes that Roger Masuda is back pedaling in that he told Ken Nishi: “There was no money discussed.” He said that Ken Nishi has questioned the Board. Ken Nishi is a former director.

The District has provided training in the form of AB 1234 every two years; he does his online. There has been training on the Brown Act and conflicts of interest, and the former General Manager provided “HR training.”

### **ROGER MASUDA**

Roger Masuda started out by clarifying the minutes of July 15, 2013. He noted that a Ken Nishi who used to be on the Board attends the meetings and speaks to various items. He said that during public comments Ken Nishi questioned the July 15, 2013, minutes. There was in fact a

correction to the minutes on the floor to reflect that Peter Le was not present at 6:45. But the minutes have not been technically corrected.

He thinks the first time the July 15 closed session came up was at the December 17, 2013, Marina City Council meeting. He made reference to the DVD from the Marina City Council meeting.

When asked if the July 15 closed session is the meeting at issue, he responded that "it is obvious to me that it was the July 15, 2013, meeting." At the January 6, 2014, Board meeting, Director Gustafson confirmed it was the July 15 Board meeting. Director Gustafson said "yes" and "nodded" when the date July 15 was referenced.

Background on the directors was brought up by Mr. Masuda. Gustafson has been on the Board 20 years; Tom Moore has been on the board for 16 years, lost his seat in 2010, and regained his seat in 2012. He explained the board members are elected at large.

At some point Peter Le talked to Tom Moore regarding serving as General Manager. Tom Moore conveyed that to special counsel Jeanine DeBacker. She sent an email to Peter Le regarding legal issues presented and copied Tom Moore as he had been the person who raised legal questions with Ms. DeBacker and also copied Mr. Masuda. Peter Le responded and said there would be no salary or benefits then Roger Masuda "chimed in on the emails" and gave his reasons why Peter Le could not serve. "The Water Law was only one law."

Roger Masuda checked his time records and saw no entries regarding telephone calls with Peter Le. He "probably" talked to Tom Moore who knew that Peter Le could not serve based on the emails. Peter Le did not show up at the July 15, 2013, closed session. The closed session was held at a separate conference room. He does not maintain closed session notes. He has started informal notes because of questions and issues raised concerning litigation matters. But he has no notes for this meeting. He doubts that other items listed on agenda were discussed at the July 15, 2013, closed session and does not recall the "anticipated litigation" item at all. He has no notes for the July 15, 2013, closed session.

Item D on the agenda regarding the Interim General Manager was discussed. He explained confusion on this item as the Board was not sure what to pay Brian Lee.

Mr. Masuda volunteered background regarding the directors. Peter Le and Tom Moore were elected in November 2012. Peter Le was vocal regarding the then General Manager. The General Manager eventually went on stress leave; at the time of the July 15, 2013, closed session, the Board was also negotiating with the release of the General Manager. Peter Le is a registered Civil Engineer, WWTP Operator at Soledad.

During the closed session someone brought up, "What about Peter Le serving as Interim General Manager?" Jan Shriner did not say anything. He had no recollection that she said anything. Jan Shriner is very upset about Gustafson's allegations and feels falsely accused.

“Howard objected to the discussion.” Mr. Masuda then said, “Yes, you should not be discussing this. We should not be talking about this.” He told the Board it was not appropriate and that Peter Le could not serve as Interim or otherwise. Mr. Masuda had already sent an email to Peter Le that “you can’t do both.” By “both” he meant “be on the board and Interim General Manager.” The Board went on to talk about Brian Lee and parameters for compensation and benefits.

Mr. Masuda stated the only director that supported Peter Le was Bill Lee. But he did not recall when or where Bill Lee said he was “pro Peter Le and had lots of respect for him.” Mr. Masuda did not recall that Bill Lee said anything on July 15, 2013. He noted that Bill Lee had voted no on action items regarding the ultimate contract between the District and Brian Lee and said in open session that Brian Lee should not be paid more. Brian Lee was making \$160,000 as District Engineer and \$170,000 as Acting General Manager.

Mr. Masuda “matter of factly” told the Board they should not talk about Peter Le. He does not remember much about the July 15, 2013, meeting. Tom Moore started talking about Peter Le; Gustafson “objected;” and discussion ceased when Roger Masuda said discussion was inappropriate. Roger Masuda referenced page 2 of his memo to the Board at January 6, 2014, meeting wherein he discussed Director Gustafson’s presentation before the Marina City Council on December 17, 2013. Mr. Masuda stated that in the DVD Director Gustafson “never says a vote was taken.” And Mr. Masuda also stated that no motion was made to hire Peter Le.

I inquired as to whether the hiring of Peter Le came up at the August 5, 2013, closed session. He answered “doubt it because Peter Le was present. At some point, he said I am not interested in being General Manager.” He does not recall when Peter Le said that but he assumes it occurred before the August 5, 2013, meeting and said he assumed Jeanine Backer talked to him before the August 5, 2013, meeting. On August 19, 2013, the Board voted on the formal resolution and employment contract for Brian Lee. Because of the detail provided at the August 5, 2013, meeting, there was not much discussion other than Bill Lee saying the salary was too high. Ms. DeBacker had done a lot of the work because Howard Gustafson [the named negotiator] was not participating.

Roger Masuda does not know why Director Gustafson waited until December to raise the issue regarding an incident that occurred in July. He then said, “Gustafson is sick and tired of Peter Le; they did not see eye to eye.”

### **TOM MOORE**

Tom Moore commenced his relationship with the District in the late 80’s when the Board asked him to be on the Water Conservation Committee. He was then appointed to office and subsequently ran and succeeded. This is his 18<sup>th</sup> year on the Board. He has participated in various Brown Act trainings by CSDA and ACSA.

Mr. Heintzman’s last day as General Manager was May 31, 2013. Brian Lee, Deputy General Manager/District Engineer, became the Acting General Manager. “I advocated for Brian Lee.” There was a need to negotiate with him while he was Acting General Manager. The Board

needed to do something for Brian Lee to be Interim General Manager. Tom Moore has no recollection of the June 17, 2013, Board meeting when Howard Gustafson was selected by the Board as its negotiator to negotiate terms and conditions of a contract with Brian Lee. Howard Gustafson was not his first choice. But, he “went with it.”

He stressed “this is my opinion only. Bill Lee voted no for Brian Lee’s contract because Bill Lee is an advocate of Peter Le.” Bill’s opinion of Peter Le was very high through June 2013.

Tom Moore realized that if the Board made Peter Le General Manager then Peter Le would have to step down. He envisioned problems: a vacancy, election, deadlock scenarios because Peter Le generally votes with Moore and Shriner.

“After the June 17 Board meeting, Peter Le met with me. Peter Le said he’d like to be Interim General Manager and “I was very surprised.” Within 24-48 hours he contacted Jeanine DeBacker or Roger Masuda and reported Le’s “desire” and expressed concerns regarding conflicts of interest and participation in Brian Lee’s negotiations. She responded that Peter Le could not be allowed to participate in discussions regarding Brian Lee’s contract. Tom Moore later said he had “triggered” the communication with Jeanine DeBacker.

“Peter Le works very hard, but I’m not sure he works effectively.” Peter Le had looked into it and told him there were other districts where a board member was Interim General Manager. Peter Le has subsequently learned that cannot be true. “Peter finds sources and grabs on hard. If clearly shown, then backs off.”

With respect to the August 5, 2013, Board session, as “walking over to closed session—no that happened after Peter learned couldn’t possibly do that,” Jeanine DeBacker and Tom asked Peter Le: “Do you repudiate?” In front of the two of them, Peter Le repudiated. Questions were raised as to when exactly that happened since the minutes reflect the Board met three different times in closed session on August 5, 2013. Tom Moore said he was “95% confident” the repudiation occurred prior to the first closed session held on August 5, 2013.

Tom Moore spoke of Ken Nishi, a former director, who “loves gotchas.” He sits in Chamber while closed sessions are held. “This whole issue arises from Nishi’s puzzlement as to why Le was not there.”

The request from Peter Le occurred before the July 15, 2013, Board meeting. Peter Le was not present on July 15. “I had no interest in Le being General Manager. I did not attempt to make him General Manager. My closest was to explain why he was not present. I categorically deny the allegation.”

Inquiry was made not as to what was discussed but whether the other July 15 closed session items were discussed. He said Item A was typically a progress report; he did not remember Item B; “maybe Item C.” He was not sure of the sequence for closed session items. “Howard was difficult as a negotiator.” He was not doing what he was supposed to do in a timely manner.

Between June 19 and July 15, the Board was struggling on the amount of pay and benefits for Brian Lee. "I tried to figure how to make it work." Mark Armstrong Luca had been hired for \$140,000; Jim Heintzman was hired at \$238,000. Former director Nishi and Gustafson negotiated with Jim Heintzman. There was tension; no one wanted to pay Brian Lee more than \$200,000.

Tom Moore is unable to remember details of the July 15 closed session. He remembers discussing the car allowance for Brian Lee. The only thing he said he recalled was "He has expressed an interest; that's a conflict; and that is why he [Le] is not here. Now let's talk about Brian Lee." He turned over to Roger Masuda. "Unless Bill Lee chimed in and I don't have specific recollection. "The closest I would have said is 'Peter Le has proposed this; that is why he's not here. Roger explain."

Tom Moore vehemently said, "I absolutely did not promote it [Le's hiring]. It was not in my interest, nor in the interest of the District." There was no vote regarding Peter Le; no consensus regarding hiring Peter Le. They proceed with discussions on negotiating with Brian Lee.

Question was asked as to why he believes that Director Gustafson raised the issue in December. "I am convinced that Howard hears what he wants to hear." As an example, he explained how newspaper editor Royal Calkins named him "one of the ten most interesting politicians." But "Howard says Royal named him number two 'best' politician in Monterey County." He said that Mr. Nishi helps Howard interpret things: "explains why [Le] not there at the closed session because Moore was promoting him." Gustafson dislikes Peter Le.

"Bill Lee was a promoter of Peter Le but whether he was backer of Peter Le in that closed session, I don't know." Tom Moore "speculated" that Bill Lee voted no for Howard Gustafson as negotiator because Bill Lee knew that Howard does not like Peter Le.

When asked if Howard Gustafson put a stop to the discussion of Peter Le in closed session, Tom Moore laughed and said, "classic Howard, classic Walter Mitty. Howard stopped the Board. No."

As to notes in closed session, Tom Moore said the closest is Roger Masuda. Some directors takes notes; no one takes minutes. The previous Board Counsel advised against it.

As to Howard Gustafson bringing up the allegations regarding the July 15 closed session, he said that Howard may have raised something on "a couple of occasions, maybe three." It was basically Ken Nishi demanding to know why Peter Le was not at the July 15 closed session.

### BILL LEE

At the outset, Bill Lee stated he remembers events but does not recall what happened at each specific meeting. As to July 15 closed session, the Board left the Council room and went to the city offices. The members sat down in closed session. President Moore explained Director Le was not present because something in meeting was going to come up regarding Le. Tom Moore said "What does the Board think about Peter Le being volunteer General Manager until we hire



one.” The Board did not hear from Peter Le; it heard from Moore. “So, to my mind, the question was ‘Is Le willing to step down as elected official?’” Tom Moore said: “I don’t know.”

Howard Gustafson was negotiating with Brian Lee who was already hired as Engineer. Peter Le was brought up: that he may be Interim Manager. Tom Moore brought it up. He said that Peter Le told him to address this issue, “I will volunteer on an interim basis.” Moore told him “don’t come because we are going to talk about you.” Bill Lee said, “Peter Le never talked to me.” Tom Moore said, “He’s not here because he has volunteered to be General Manager.” I asked, “Is he willing to resign?” “Peter is a strict disciplinarian.”

Director Lee said “Gustafson has a problem that this was not on the agenda.” He stated Director Gustafson had “no problem [with conversation in closed session] until a member of the public started asking questions.” When asked who that was, he said “Nishi.” Bill Lee said Nishi asked “Why would he come in here [Council Chamber] and not to a closed session?” Nishi was curious that Le was excluded from the meeting. “Nishi kept pushing, pushing the issue at meetings.” At some point, Gustafson said, “[the] member of the public is right; he was excluded because we talked about things.”

Tom Moore said they would only be appointing him as a temporary General Manager without pay. “He wanted us to think about it.” Bill Lee viewed it as an alternative to Brian Lee as Interim; “We can have Peter Le be a Volunteer General Manager versus hiring. We already had Brian; I was not in a hurry to hire him.” “We left [the closed session] reporting nothing happened.” Howard went back and negotiated with Brian.

I asked Director Lee why he voted “no” on August 5, 2013, for Brian Lee contract terms. He said he was willing to pay more to Mr. Heintzman the prior General Manager because he was a specialist with huge a project and, therefore, willing to pay him \$200,000; that is too much money now as the District is “in maintenance mode.” He went on to say, “Before the closed session, I asked President Moore, ‘I want to know now is he going to resign.’” Director Lee was not definite at which meeting he asked this, but after looking at the agendas, he said it was likely August 5. He said, Tom went outside and then reported that Peter Le would not resign. “Peter says he will not be resigning.”

Direct Lee described Director Peter Le as “a savant.” He said that if Peter Le had not been a director he would have considered him as Interim General Manager; he would not consider him if a Director. At one point, Bill Lee told Tom Moore: “I don’t think that is a bad option. We should consider all options.” Bill Lee does not recall when he may have said this. He does not remember when but he said that would be “saving money – lots of money.”

Bill Lee has “never spoken to Peter Le other than at District for anything.” He doesn’t read emails from other directors.

Director Lee remembers Jan Shriner talking at the meeting but does not remember what she said. As to Roger Masuda saying something in the closed session, Bill Lee said, “Don’t remember. He’s a nice guy, a benign dictator.”

When asked if Howard Gustafson said anything at the July 15, 2013, closed session, he responded, "He was his standard, caustic self. He hates Peter Le. He is an adversary of Peter's. All that other stuff [alleged Brown Act violation] is after the fact. It is because of Gustafson's constituent Nishi pushing him."

### JAN SHRINER

Jan Shriner was elected to the District Board of Directors in November 2010. Before that, she was "an activist" and used to film meetings of the Board. She and Tom Moore ran as individuals. The Lee, Eads, and Gustafson slate were fined by FPPC. She has tried to be forgiving and civil but it is a difficult situation among board members.

She noted that the former General Manager left based on hostile work environment. "The new General Manager is better."

Director Shriner explained this is the second investigation for an alleged Brown Act violation. She has taken ethics training already. A blog said that there would be a press release. Comments were attributed to her and "the men [Board of Directors] said I should be censored." There has been a lot of scrutiny by the Weekly and Herald.

Director Shriner said she wanted to mention all the foregoing because this "isn't the first strange allegation." She said there is "not any evidence of wrongdoing."

With respect to the July 15, 2013 Closed Session, Items A2 and 3 were updates. She does not recall if the Board actually discussed Item A4. The meeting was held in a small conference room. "I did not see Peter Le at all, unusual." As they took seats, Tom Moore said that Peter Le would not be joining because he had expressed an interest as a volunteer and that he wanted to avoid impropriety so he would not be present at all in closed session.

Director Moore said "Peter Le made his interest known and he is not here." He opened up why Peter was not joining the meeting. "It was a matter of fact discussion." She recalls "thinking it was odd" – "surprised because he was doing well as a Board member." She says she may have said something like "For free? As a volunteer?" Moore said, "That's right." She said, "Wow." Bill Lee said "Will never happen. That's ridiculous."

Director Shriner does not remember Howard saying anything. She said that "Howard says things that are off so [she] may have blanked him out."

She thought Jeanine DeBacker may have said something but when reminded that minutes did not reflect her presence, said "it may have been Roger" who said "He wants no appearance of impropriety; that is why he could not be present." She explained that it was "more of an announcement" by Tom Moore than a discussion. Howard Gustafson then presented a compensation package regarding Brian Lee. Bill Lee was concerned about the high level of compensation.

I asked Director Shriner, "Did anyone say 'we should not be talking about this?'" Ms. Shriner said, "No."

Director Shriner had not talked about Peter Le wanting to be Interim General Manager before the July 15 meeting; and she had no emails about that before the meeting. She explained Marina is a small town and she had heard nothing.

At the August 5, 2013, meeting, Howard did not show up and she recalls being disappointed because Howard was the negotiator. She was not sure at which meeting, it was noted that if a Board member wants to be General Manager, he cannot be on the Board. She said she thought "that cannot happen because then there were no more three votes." She has never had an email or phone call regarding Peter Le as Interim General Manager. She believes that at that meeting Bill Lee said "I would support Peter." Jeanine DeBacker went to talk to Peter Le to explain the situation. There was a request of the Board; "the Board needed to be sure and he must step down from the Board. Peter Le was outside." She believes that if someone is recused from closed session, the person should announce that.

This November terms expire for Jan Shriner, Howard Gustafson, and Bill Lee. Howard mentioned that this would be a tough campaign season and that "Blood on the sidewalk is nothing." She noted that Police found blood on the sidewalk in front of her house; closed street for half a day. She said "people are full of intimidation."

Director Shriner did not promote hiring Peter Le. She never met with Peter Le about it. Ken Nishi started asking questions about what was going on and why was Peter Le in Chambers when the rest of the Board was in closed session? Tom Moore asked Agency Counsel "was there anything inappropriate at closed session?" Roger said, "No." She said that in late summer to fall there were "reoccurring, subtle accusations until Howard showed up at the City Council meeting; then Howard's email that it be on an agenda." At that point, she thought Howard would be investigated regarding closed session disclosures.

Director Shriner summarized that she never wanted to hire Peter Le. At the July 15 meeting, "no vote was attempted;" Tom Moore only "announced that he [Peter Le] was not there because he was interested as a volunteer;" Tom Moore was not advocating for Peter Le; Bill Lee said "That will never happen;" and "Howard was fairly quiet at that meeting." Then the Board went on to contract terms with Brian Lee.

At the second meeting Bill Lee was in favor of Peter Le. At some point Bill Lee said "I would supply my vote." The offer to serve as Interim General Manager was retracted by Peter Le.

Director Shriner does not recall taking notes at July 15 closed session. She followed up after the interview by email. She did not remember any documents regarding Peter Le.

One thing troubling to Director Shriner is the way the issue was announced. She is not sure what the goal is and if the goal is to improve the situation or if it is political. Her hope is for District to "work with the law to minimize negative impacts to the District for political gain." She is "concerned about wild allegations" and believes "memories have merged on the events."

Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue  
Marina, California

Regular Board Meeting  
March 3, 2014  
6:00 p.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on March 3, 2014.

2. Roll Call:

Board Members Present:

Tom Moore – President  
Jan Shriner – Vice President  
Howard Gustafson  
Bill Lee  
Peter Le

Board Members Absent:

None

Staff Members Present:

Brian Lee, Interim General Manager  
Roger Masuda, Legal Counsel  
Jeanine DeBacker, Special Legal Counsel  
Anne Olsen, Special Legal Counsel  
Hilda Montoy, Special Legal Counsel  
Patricia Quilizapa, Special Legal Counsel  
Kelly Cadiente, Director of Administrative Services  
Jean Premutati, Management Services Administrator  
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Brent Ives, BHI Management Consultants  
Bob Neher, Neher & Associates  
Kenneth Nishi, Marina Resident  
Paula Pelot, Marina Resident  
Alan Groves, Seaside Resident  
Camilla Groves, Seaside Resident

3. Public Comment on Closed Session Items:

No comments.

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March 3, 2014  
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The Board entered into closed session at 6:03 p.m. to discuss the following items:

4. Closed Session:

- A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

- B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
One Potential Case, Including Appointment of Special Legal Counsel

- C. Pursuant to Government Code 54957  
Public Employee Performance Evaluation  
Title: Interim General Manager  
(Requested by Peter Le)

The Board ended closed session at 6:59 p.m.

President Moore reconvened the meeting to open session at 7:01 p.m.

5. Possible Action on Closed Session Items:

Mr. Roger Masuda, Legal Counsel, stated that all five Directors were present for closed session the entire time and no reportable actions were taken in closed session. He added that the Board would not return to closed session at the end of the meeting.

6. Pledge of Allegiance:

President Moore asked Ms. Paula Riso, Executive Assistant/Clerk to the Board, to lead everyone present in the pledge of allegiance.

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7. Oral Communications:

Mr. Kenneth Nishi, Marina resident, commented that the leadership of President Moore and Vice President Shriner has led the District to the following: 1) not passed the Ord budget for the last two years; 2) Central Marina continues to subsidize the former Fort Ord and requested that the total amount that is subsidized be returned to Marina; 3) projected projects have been postponed and reduced and asked for a list of the postponements and reductions; 4) what was the total cost of the Proposition 218 process for this year and prior years; 5) Counsel Masuda's costs – why do the ratepayers have to pay for travel costs for any additional meetings after the first meeting of the month; 6) the leadership does not follow rules of the Board Procedures Manual or Board Policy because of fear of not getting three votes as reported by item 3 on the agenda; 7) not providing a work environment free of harassment, disrespect and other unprofessional conduct. The leadership has not committed to establish and maintain an environment that encourages an open exchange of ideas and information among Board members, staff and the public. One that is positive, honest, respectful, concise, understandable, responsive and cost effective...no more three votes; 8) leadership by not keeping Board members to refrain from publically censuring or criticizing members of the District staff but shall instead relay any criticism problems relating to staff members or the GM or the GM through private discussions...no more three votes; 9) President Moore has been made aware that the timing does not give the public four minutes as stated on the agenda and it still has not been corrected.

8. Special Legal Counsel Investigation Results and Possible Action:

- A. Receive a Report from Special Legal Counsel Regarding the Investigation on Employee Complaints Against Director Peter Le:

Ms. Jeanine DeBacker, Legal Counsel, introduced Ms. Anne Olsen, Special Counsel to the Board and public.

Ms. Olsen presented her report of the investigation concluding that the staff brought forth valid complaints against Director Le. Director Le gave his rebuttal. Ms. DeBacker finalized the investigation report. The Board directed Ms. DeBacker to bring back censure options to the next meeting.

Ms. Paula Pelot, Marina resident, asked that the Board not discourage Directors from asking questions.

Mr. Nishi commented that it was late in the game to do what the Board was doing. He stated that the leadership group didn't have a workshop to introduce the new Directors on how things work and the Legal Counsel, while present at the meetings, never spoke up to discourage the behavior.

Regular Board Meeting  
March 3, 2014  
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- B. Receive a Report from Special Legal Counsel Regarding the Investigation on the Complaint by Director Gustafson as to an Alleged Attempt in Closed Session to Appoint Director Peter Le as Interim General Manager:

Ms. DeBacker introduced Ms. Hilda Montoy, Special Counsel, to the Board and public.

Ms. Montoy presented her report of the investigation concluding that the Board of Directors did not exceed the scope of permissible discussion at the closed session on July 15, 2013.

Mr. Nishi commented that on the July 15, 2013 agenda, the closed session title didn't allow any discussion other than that of the negotiator and the Interim General Manager's position. He disputed the fact that there was no Brown Act violation.

- C. Receive a Report from Special Legal Counsel on Brown Act and Board Procedures Manual Requirements and Potential Legal Consequences for Disclosing Publicly Board Discussions Occurring in Closed Session:

Ms. DeBacker gave a brief presentation on the Brown Act and Board Procedures Manual requirements and potential legal consequences for disclosing publicly Board discussions occurring in closed session. The Board directed Ms. DeBacker to return with suggestions on training possibilities for the Brown Act including cost and recommendations.

- D. Receive a Report from Special Legal Counsel Regarding the Proposition 218 Process:

Ms. Patricia Quilizapa, Special Counsel, gave a report on the Proposition 218 process and concluded that Proposition 218 requires the District to hold a single protest procedure for its entire service area, specifically for the entire area where a rate is being proposed, whether new or proposed.

Ms. Pelot presented written comments to Ms. Riso. She then presented her case for holding two separate rate increase protest processes.

Mr. Alan Groves, Ord Community, questioned if these were two separate increases that should be held separately.

Director Gustafson left the meeting at 9:21 p.m.

Ms. Quilizapa responded to the questions and comments of the Board and public. President Moore asked Ms. Riso to send Ms. Quilizapa a copy of the meeting video so that she could respond to the questions posed.

Regular Board Meeting  
March 3, 2014  
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9. Presentation:

- A. Receive a Presentation from Brent Ives, BHI Consulting, on the District's Draft Five-Year Strategic Plan and Consider Accepting the Five-Year Strategic Plan for Marina Coast Water District:

Mr. Brent Ives, BHI Consulting, gave a brief presentation on the Strategic Plan.

President Moore made a motion to accept the Five-Year Strategic Plan for Marina Coast Water District with modifications to the typos and formatting. Vice President Shriner seconded the motion.

Director Lee commented that they should wait until all Board members were present.

President Moore withdrew his motion. Vice President Shriner withdrew her second.

10. Consent Calendar:

Director Le pulled items 10-B and 10-C from the Consent Calendar.

Vice President Shriner made a motion to approve the Consent Calendar consisting of the following items:

- A) Adopt Resolution No. 2014-09 to Approve a Change in Vendors for the Life and Accidental Death and Dismemberment Insurance and Short-Term/Long Term Disability Benefits for District Employees
- D) Approve the Draft Minutes of the Regular Board Meeting of February 18, 2014

President Moore seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

- B. Adopt Resolution No. 2014-10 to Extend a Certificate of Deposit Secured Non-Revolving Line of Credit from Rabobank, N.A. for \$3,276,000:

Director Le made a motion to Adopt Resolution No. 2014-10 to Extend a Certificate of Deposit Secured Non-Revolving Line of Credit from Rabobank, N.A. for \$3,276,000 until December 1, 2014. Director Lee seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			



Regular Board Meeting  
March 3, 2014  
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C. Approve the Draft Minutes of the Regular Board Meeting of February 3, 2014:

Director Le requested tabling this item to allow staff to make suggested changes and review the audio.

Director Le made a motion to table the draft minutes of the regular Board meeting of February 2, 2014. Director Shriner seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

President Moore made a motion to continue the meeting past 10:00 p.m. only to complete item 11-A with the other agenda items deferred until the next meeting. Director Lee seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

11. Action Item:

A. Meet with Neher & Associates and Provide Direction Regarding Recruitment of a General Manager:

Mr. Bob Neher, Neher & Associates gave a briefing on the recruitment process.

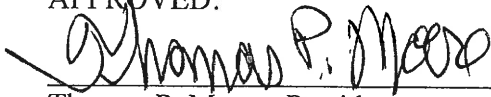
Director Le nominated President Moore and Vice President Shriner as the direct Board contact for Mr. Neher. Director Shriner seconded the motion. The motion was passed.

Director Lee	-	No	Vice President Shriner	-	Yes
Director Gustafson	-	Absent	President Moore	-	Yes
Director Le	-	Yes			

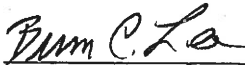
14. Adjournment:

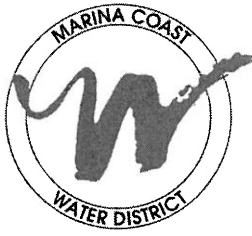
The meeting was adjourned at 10:22 p.m.

APPROVED:

  
\_\_\_\_\_  
Thomas P. Moore, President

ATTEST:

  
\_\_\_\_\_  
Brian C. Lee, Deputy Secretary



# 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

THOMAS P. MOORE  
*President*

WILLIAM Y. LEE  
*Vice President*

HOWARD GUSTAFSON  
JAN SHRINER  
PETER LE

## Agenda

### Regular Board Meeting, Board of Directors

#### Marina Coast Water District

211 Hillcrest Avenue, Marina, California

Monday, December 1, 2014, 6:00 p.m. PST

*This meeting has been noticed according to the Brown Act rules. The Board of Directors meet regularly on the first and third Monday of each month. The meetings normally begin at 6:00 p.m. and are held at the City of Marina Council Chambers at 211 Hillcrest Avenue, Marina, California.*

***Our Mission:*** We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.

#### 1. Call to Order

#### 2. Roll Call

**3. Public Comment on Closed Session Items** *Anyone wishing to address the Board on matters appearing on Closed Session may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

#### 4. Closed Session

A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case Nos. H038550 and H039559

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019 & A.13-05-017 Settlement Agreement

This agenda is subject to revision and may be amended prior to the scheduled meeting. A final agenda will be posted at City of Marina Council Chambers (211 Hillcrest Avenue, Marina) and the District office (11 Reservation Road, Marina) no less than 72 hours prior to the meeting. A complete Board packet containing all enclosures and staff materials will be available for public review on Thursday, November 26, 2014. Copies will also be available at the Board meeting. Information about items on this agenda or persons requesting disability related modifications and/or accommodations should contact the Board Clerk 48 hours prior to the meeting at: 831-883-5910.

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, San Francisco Superior Court Case No. CGC-13-528312 (Complaint for Declaratory Relief)

4) Appeal by California-American Water Co. of City of Marina decision denying permit for construction, operation, and decommissioning of slant test well, up to 4 monitoring well clusters, and related infrastructure at CEMEX sand mining plant, Lapis Road, Marina, Monterey County (California Coastal Commission Appeal No. A-3-MRA-14-0050).

5) Application of California-American Water Co. for permit to construct, operate, and decommission test slant well at CEMEX sand mining facility on Monterey Bay shoreline, Marina, Monterey County (California Coastal Commission Application No. 9-14-1735), this pertains to that portion of the proposed slant test well project below the mean-tide line for which the Coastal Commission has original jurisdiction.

- B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
Two Potential Cases
- C. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Initiation of Litigation Pursuant to Subdivision (c) of 54956.9  
One Potential Case
- D. Pursuant to Government Code 54957  
Public Employee Appointment  
Title: General Manager
- E. Pursuant to Government Code 54957  
Public Employee Performance Evaluation  
Title: Legal Counsel
- F. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Recycled Water Pipeline, Recycled Water  
Negotiating parties: Tom Moore and Peter Le  
Under Negotiation: Price and Terms
- H. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Sewer Infrastructure  
Negotiating parties: Tom Moore and Peter Le  
Under Negotiation: Price and Terms

**7:00 p.m. Reconvene Open Session**

**5. Reportable Actions Taken during Closed Session.** *The Board will announce any reportable action taken during closed session and the vote or abstention on that action of every director present, and may take additional action in open session as appropriate. Any closed session items not completed may be continued to after the end of all open session items.*

**6. Pledge of Allegiance**

**7. Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

**8. Consent Calendar** *Board approval can be taken with a single motion and vote. A Board member or member of the public may request that any item be pulled from the Consent Calendar for separate consideration at this meeting or a subsequent meeting. The public may address the Board on any Consent Calendar item. Please limit your comment to four minutes.*

A. Receive the Quarterly Financial Statements for April 1, 2014 to June 30, 2014

B. Receive the Quarterly Financial Statements for July 1, 2014 to September 30, 2014

C. Approve the Draft Minutes of the Regular Board Meeting of November 17, 2014

**9. Action Items** *The Board will review and discuss agenda items and take action or direct staff to return to the Board for action at a following meeting. The public may address the Board on these Items as each item is reviewed by the Board. Please limit your comment to four minutes.*

A. Receive a Report from Special Legal Counsel Regarding the Investigation on Director Peter Le's Actions at a Public Meeting and Consider Adoption of Resolution No. 2014-49 to Censure Director Peter Le

*Action: The Board of Directors will receive a report from Special Counsel regarding the complaint made by Brian Lee against Director Peter Le and consider censuring Director Le.*

B. Discussion and Possible Action to Consider Second Reading of Amended Ordinance No. 58 Amending Section 6.08.080 of the District Code

*Action: Several members of the public requested that the Board of Directors discuss the private fire service fees that were implemented as part of the Proposition 218 process and budget adoption. The Board will consider a second reading of Ordinance No. 58 amending Section 6.08.080 of the District Code.*

C. Discussion and Possible Action to Consider Adoption of Resolution No. 2014-50 to Establish a Fire Service Policy

*Action: The Board of Directors will consider establishing a fire service policy.*

- D. Discussion and Possible Action to Consider Adoption of Resolution No. 2014-51 to Amend the Professional Services Agreement with Neher & Associates to Conduct an Executive Search and Placement for the Position of General Manager

*Action: The Board of Directors will consider amending the Professional Services Agreement with Neher & Associates to conduct an executive search and placement for the position of General Manager.*

- E. Discussion and Provide Direction to Staff Regarding Agendizing Items Requested by the Board in Support of the District's Strategic Plan Goals

*Action: The Board of Directors will discuss agendizing items supporting Strategic Plan goals for 2015.*

**10. Informational Items** *Informational items are normally provided in the form of a written report or verbal update and may not require Board action. The public may address the Board on Informational Items as they are considered by the Board. Please limit your comments to four minutes.*

A. General Manager's Report

1. Correspondence Received by Board or General Manager

B. Counsel's Report

1. District Legal Counsel  
2. Special Legal Counsel

C. Committee and Board Liaison Reports

- |                                  |                                   |
|----------------------------------|-----------------------------------|
| 1. Water Conservation Commission | 6. LAFCO Liaison                  |
| 2. Joint City-District Committee | 7. FORA                           |
| 3. Executive Committee           | 8. WWOC Report                    |
| 4. Community Outreach            | 9. JPIA Liaison                   |
| 5. MRWPCA Board Member Liaison   | 10. Special Districts Association |

**11. Board Member Requests for Future Agenda Items**

**12. Director's Comments**

**13. Adjournment** *Set or Announce Next Meeting(s), date(s), time(s), and location(s):*

*Regular Meeting: Monday, December 15, 2014, 6:00 p.m.,  
Marina Council Chambers  
211 Hillcrest Avenue, Marina*

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-A

Meeting Date: December 1, 2014

Submitted By: Jeanine DeBacker  
Reviewed By: Brian C. Lee

Presented By: Jeanine DeBacker

Agenda Title: Consider Adoption of Resolution No. 2014-49 to Censure Director Peter Le

Detailed Description: By this action, the Board will decide whether to proceed with censure of Director Peter Le for actions inconsistent with the Board's Policy Procedure Manual and California Government Code Section 54957.

Special Legal Counsel received a complaint regarding Director Peter Le's comments and conduct during a November 5, 2014 negotiation meeting between the District and the Monterey Regional Water Pollution Control Agency.

Special Legal Counsel communicated with four attendees of the meeting – District President Tom Moore, District Interim General Manager Lee, PCA Director Libby Downing (City of Monterey) and PCA General Manager Israel. Each attendee confirmed that during the meeting, IGM Lee sought to verbally correct a statement or assertion made by Director Le. In response, Director Le told IGM Lee to "Shut Up!" Three of the four attendees stated that Director Le also said, "You aren't even authorized to be here. I'm allowing you to be here!" and "I am a Director. You don't interrupt me." All of the witnesses said that the statements were yelled (or screamed) at IGM Lee. President Moore also confirmed that he had asked IGM Lee to attend the meeting.

In April 2014, Director Le was censured for inappropriate, unprofessional, and potentially harassing behavior towards District staff. An independent investigator (Anne Olsen) determined that Director Le's public comments had a demoralizing effect on staff. Director Le was reminded that Board policies require that the directors be courteous, professional and respectful.

Description of Proposed Action:

The proposed action is to determine if the other Board members wish to censure Director Le for his above described actions.

Censure is an official reprimand of a Board member by the Board, normally based on a violation of Board policy or other behavior considered inappropriate by the Board. The Board Procedures Manual provides that the Board may elect to publicly censure a Director for his conduct, as well as removing him from committees and positions for a limited period of time and/or limiting his ability to place items on the meeting agenda for a limited period of time. A majority vote is required to adopt a resolution or pass a motion for censure.

The Board has given Director Le adequate notice of the proposed action and an opportunity to respond. The Board should review this Transmittal and the proposed Resolution, memorandum from Special Legal Counsel dated November 17, 2014 and presentation by Special Legal Counsel of that same date, and decide whether the actions of Director Le support censure.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact:  Yes  No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Special Legal Counsel memorandum dated November 17, 2014; and Resolution No. 2014-49.

Staff Recommendation: None.

Action Required:  Resolution  Motion  Review

Board Action

Resolution No  Motion By  Seconded By

Ayes  Abstained

Noes  Absent

Reagendized  Date  No Action Taken

December 1, 2014

Resolution No. 2014-49  
Resolution of the Board of Directors  
Marina Coast Water District Issuing  
Censure of Director Le

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regularly scheduled meeting duly called and held on December 1, 2014 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, Director Peter Le is a member of the Marina Coast Water District Board of Directors; and,

WHEREAS, after a November 5, 2014 negotiation meeting between the District and the Monterey Regional Water Pollution Control Agency, District staff complained of harassing, inappropriate and unprofessional conduct by Director Le during the meeting and directed at the Interim General Manager; and,

WHEREAS, Special Legal Counsel interviewed several participants of the meeting, and detailed her findings in a memorandum to the Board dated November 17, 2014 that included a summary of potential actions that the Board could elect to take; and,

WHEREAS, Special Legal Counsel presented her findings to the full Board in open session on November 17, 2014; and,

WHEREAS, a Board member requested that the matter of potential censure of Director Le be placed on the agenda for the next Board meeting; and,

WHEREAS, the Board is thus being asked to censure Director Le for actions that violated Sections 5 [Harassment-Free Work Environment], 13 [Communications] and 15 [Comments by Directors Concerning Staff Members] of the District’s Board Procedures Manual and for actions that violated the Interim General Manager’s right to privacy per Government Code Section 54957; and,

WHEREAS, censure is an official reprimand of a Board member by the Board; and,

WHEREAS, per Board Policy Manual Section 43 censure may include any or all of the following other actions, to be effective for a time determined by the Board:

- remove the offending Director from committees and representative positions to which the Director has been appointed or designated by the Board; and/or
- prevent the offending Director from placing items on the agenda without the specific advance authorization of the Board.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby find:



- 1) The Board confirms that District staff brought forth valid complaints against Director Le; and,
- 2) Director Le violated the Board policies that require the Board of Directors to treat the District staff courteously and respectfully and to refrain from publicly censuring or criticizing staff; and,
- 3) Director Le further violated the Interim General Manger's privacy rights per Government Code Section 54957; and,
- 4) Director Le shall be removed from all standing and ad-hoc committees he currently serves on; and,
- 5) Director Le shall be removed from all District representative positions he currently holds; and,
- 6) Director Le shall not serve as a representative of the District or on any committee of the District until the first regularly scheduled Board meeting of January 2016, when during the course of normal elections committee and representative nominations are considered; and,
- 7) Director Le is requested to refrain from engaging in similar conduct in the future.

PASSED AND ADOPTED on December 1, 2014, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors \_\_\_\_\_

Noes: Directors \_\_\_\_\_

Absent: Directors \_\_\_\_\_

Abstained: Directors \_\_\_\_\_

\_\_\_\_\_  
Thomas P. Moore, President

ATTEST:

\_\_\_\_\_  
Brian C. Lee, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2014-49 adopted December 1, 2014.

\_\_\_\_\_  
Brian C. Lee, Secretary

**MCPHARLIN  
SPRINKLES &  
THOMAS LLP**  
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ELAINE M. SEID  
CATHERINE C. SPRINKLES  
ANNE C. STROMBERG  
N. DAVID THOMAS

November 17, 2014

To: Board of Directors, Marina Coast Water District  
From: Jeanine DeBacker, Special Legal Counsel  
Subject: Director Comments Regarding Staff

Special Legal Counsel received a complaint regarding Director Peter Le's comments and conduct during a November 5, 2014 negotiation meeting between the District and the Monterey Regional Water Pollution Control Agency.

The following individuals were at the meeting: Director Peter Le, President Tom Moore, Interim General Manager Brian Lee, PCA Director Libby Downing (City of Monterey), PCA Director Ron Stefani (Castroville Community Services District), PCA General Manager Keith Israel, PCA DGM Paul Sciuto, and PCA employee Bob Holden.

I spoke with, or received an email response from, four attendees of the meeting – President Moore, IGM Lee, Director Downing and PCA General Manager Israel. Each attendee confirmed that during the meeting, IGM Lee sought to verbally correct a statement or assertion made by Director Le. In response, Director Le told IGM Lee to “Shut Up!” Three of the four attendees stated that Director Le also said, “You aren't even authorized to be here. I'm allowing you to be here!” and “I am a Director. You don't interrupt me.” All of the witnesses said that the statements were yelled (or screamed) at IGM Lee.

I confirmed that on November 3, 2014, President Moore asked IGM Lee to attend the meeting.

On November 13, 2014, Special Legal Counsel emailed Director Le informing him that a complaint had been made about conduct at the meeting and possible noncompliance with the Board Procedure Manual regarding criticizing staff in public. Director Le was invited to provide his version of events. No response was received as of the date of this memorandum.

Re: Director Comments Regarding Staff  
November 17, 2014  
Page 2

### **Rules Governing the Directors**

Section 5 of the Board Procedures Manual provides that “The Board is committed to providing a work environment free of harassment, disrespectful or other unprofessional conduct.”

Section 13 of the Board Procedures Manual provides that “The Board and the individual board members will be committed to establishing and maintaining an environment that encourages the open exchange of ideas and information among Board members, the staff and the public, that is positive, honest, respectful, concise, understandable, responsive and cost-efficient.”

Section 15 of the Board Procedures Manual states: “Board members shall refrain from publicly censuring or criticizing members of the District staff, but shall instead relay any criticism or problems relating to staff members or the General Manager to the General Manager through private discussions.”

### **Potential Board Actions in Response**

The Board may elect to take any, all, or none of the following options: additional training for all or some Directors; public censure of a Director; removal of a Director from committees and positions for a period of time; preventing a Director from placing items on the agenda without authorization for a period of time.

The Board may elect to publicly censure a Director for his conduct, as well as removing him from committees and positions for a limited period of time and/or limiting his ability to place items on the meeting agenda for a limited period of time.

The Board Procedures Manual provides that “If a Director breaches any of the policies contained in Sections 5 [Harassment-Free Work Environment] . . . 13 [Communications]. . . [and] 15 [Comments by Directors Concerning Staff Members]. . . the Board may, in addition to any other consequences provided by law, publicly censure the offending Director and may as part of the censure take any or all of the following other actions, to be effective for a time determined by the Board: (a) remove the offending Director from committees and representative positions to which the Director has been appointed or designated by the Board, and/or (b) prevent the offending Director from placing items on the agenda without the specific, advance authorization of the Board. (Section 43)”

### **Conclusion**

When considering the options above, please recall past presentations regarding the obligation of each Director to protect staff privacy, to undertake reasonable care to prevent and promptly correct harassment, and to act with professionalism and respect.

###

Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue  
Marina, California

Regular Board Meeting  
December 1, 2014  
6:00 p.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on December 1, 2014.

2. Roll Call:

Board Members Present:

Tom Moore – President  
Bill Lee – Vice President  
Howard Gustafson  
Jan Shriner  
Peter Le

Board Members Absent:

None

Staff Members Present:

Brian Lee, Interim General Manager  
Roger Masuda, Legal Counsel  
Jeanine DeBacker, Special Counsel  
Kelly Cadiente, Director of Administrative Services  
Jean Premutati, Management Services Administrator  
Paula Riso, Executive Assistant

Audience Members:

Andy Sterbenz, Schaaf & Wheeler Engineering  
Melvin Mason, Jr., Marina Resident

3. Public Comment on Closed Session Items:

No comments.

President Moore stated that the Board would enter into closed session to discuss the following items as time permits and may go into closed session at the end of the meeting to discuss any remaining items:

Regular Board Meeting  
December 1, 2014  
Page 2 of 10

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case Nos. H038550 and H039559

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019 – & A.13-05-017 Settlement Agreement

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, San Francisco Superior Court Case No. CGC-13-528312 (Complaint for Declaratory Relief)

4) Appeal by California-American Water Co. of City of Marina decision denying permit for construction, operation, and decommissioning of slant test well, up to 4 monitoring well clusters, and related infrastructure at CEMEX sand mining plant, Lapis Road, Marina, Monterey County (California Coastal Commission Appeal No. A-3-MRA-14-0050).

5) Application of California-American Water Co. for permit to construct, operate, and decommission test slant well at CEMEX sand mining facility on Monterey Bay shoreline, Marina, Monterey County (California Coastal Commission Application No. 9-14-1735), this pertains to that portion of the proposed slant test well project below the mean-tide line for which the Coastal Commission has original jurisdiction.

B. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
Two Potential Cases

C. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Anticipated Litigation  
Initiation of Litigation Pursuant to Subdivision (c) of 54956.9  
One Potential Case

D. Pursuant to Government Code 54957

Public Employee Appointment  
Title: General Manager

Regular Board Meeting  
December 1, 2014  
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- E. Pursuant to Government Code 54957  
Public Employee Performance Evaluation  
Title: Legal Counsel
  
- F. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Recycled Water Pipeline, Recycled Water  
Negotiating parties: Tom Moore and Peter Le  
Under Negotiation: Price and Terms
  
- G. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Sewer Infrastructure  
Negotiating parties: Tom Moore and Peter Le  
Under Negotiation: Price and Terms

The Board entered closed session at 6:03 p.m. The Board ended closed session at 6:58 p.m.

President Moore reconvened the meeting to open session at 7:00 p.m.

5. Possible Action on Closed Session Items:

President Moore reported that the Board discussed items 4-A1, 4-A2, 4-A3, 4-A4, 4-A5, and 4-D during closed session and stated that no reportable actions were taken during closed session.

6. Pledge of Allegiance:

Vice President Lee led everyone present in the pledge of allegiance.

7. Oral Communications:

No comments.

8. Consent Calendar:

Director Le pulled items A, B and C from the Consent Calendar.

- A. Receive the Quarterly Financial Statements for April 1, 2014 to June 30, 2014:

Director Le asked clarifying questions.

Regular Board Meeting  
December 1, 2014  
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Agenda Item 8-A (continued):

Director Gustafson made a motion to receive the Quarterly Financial Statements for April 1, 2014 to June 30, 2014. Vice President Lee seconded the motion. The motion was passed.

Director Shriner	-	Yes	Vice President Lee	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Abstained			

B. Receive the Quarterly Financial Statements for July 1, 2014 to September 30, 2014:

Director Le asked clarifying questions.

Director Shriener made a motion to receive the Quarterly Financial Statements for July 1, 2014 to September 30, 2014. Vice President Lee seconded the motion. The motion was passed.

Director Shriner	-	Yes	Vice President Lee	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Abstained			

C. Approve the Draft Minutes of the Regular Board Meeting of November 17, 2014

Director Le asked clarifying questions.

Director Gustafson made a motion to approve the draft minutes of the regular Board meeting of November 17, 2014. Vice President Lee seconded the motion. The motion was passed.

Director Shriner	-	Yes	Vice President Lee	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Abstained			

9. Action Items:

A. Receive a Report from Special Legal Counsel Regarding the Investigation on Director Peter Le's Actions at a Public Meeting and Consider Adoption of Resolution No. 2014-49 to Censure Director Peter Le:

Director Gustafson made a motion to drop this item from the agenda. Vice President Lee seconded the motion. Discussion followed.

Vice President Lee called for the question. Director Gustafson seconded the call for the question.



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Agenda Item 9-A (continued):

Ms. Jeanine DeBacker spoke as a member of the public. She cautioned that Director to Director comments were treated differently than Director to Staff comments. Ms. DeBacker stated that staff members were protected under privacy considerations in the Government Code as well as the Board Procedures Manual. She added that this Director was censured in April 2014 and there was discussion about leaving some leeway to allow for additional training and guidance. Ms. DeBacker again cautions that staff members were protected under privacy considerations in the Government Code as well as the Board Procedures Manual.

The motion for the call to question was passed.

Director Shriner	-	No	Vice President Lee	-	Yes
Director Gustafson	-	Yes	President Moore	-	No
Director Le	-	Yes			

Director Shriner made a substitute motion to remove Director Le from all Committees for six months. President Moore seconded the motion. The substitute motion failed.

Director Shriner	-	Yes	Vice President Lee	-	No
Director Gustafson	-	No	President Moore	-	Yes
Director Le	-	No			

The main motion to drop this item from the agenda was passed.

Director Shriner	-	No	Vice President Lee	-	Yes
Director Gustafson	-	Yes	President Moore	-	No
Director Le	-	Yes			

B. Discussion and Possible Action to Consider Second Reading of Amended Ordinance No. 58 Amending Section 6.08.080 of the District Code:

Mr. Brian Lee, Interim General Manager, stated that this was the second reading of Ordinance No. 58.

Director Gustafson made a motion to waive the entire reading of amended Ordinance No. 58 amending Section 6.08.080 of the District Code. Director Shriner seconded the motion. The motion to waive the reading of Ordinance No. 58 was passed.

Director Shriner	-	Yes	Vice President Lee	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Yes			

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Agenda Item 9-B (continued):

Director Gustafson made a motion to approve the amended Ordinance No. 58 amending Section 6.08.080 of the District Code. Vice President Lee seconded the motion. The motion to approve the amended Ordinance No. 58 was passed.

Director Shriner	-	Yes	Vice President Lee	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Yes			

C. Discussion and Possible Action to Consider Adoption of Resolution No. 2014-50 to Establish a Fire Service Policy:

The Board asked clarifying questions and suggested some changes to the policy.

Director Le made a motion to adopt Resolution No. 2014-50 to establish a fire service policy removing the following items from the policy:

- 1) Approved building plans showing the fire system piping and sizes,
- 2) Fire system design calculations for the building, signed by the system designer, showing the piping sizes, and
- 4) Photographs of the building fire riser. Include a ruler or tape measure in the photograph to provide a scale. Note that a site inspection will be required to verify the riser size and verify that it is the only fire pipeline to the building, and
  - the last sentence under APPEALS "The decision of the General Manager shall be final and conclusive." be deleted.

Director Gustafson seconded the motion.

Director Shriner made a substitute motion to approve the policy to include all five items listed with the last sentence under APPEALS amended to read, "A final appeal can come before the Board." or to delete the last sentence altogether as long as it is understood that any appeal can come before the Board. President Moore seconded the motion. The motion failed.

Director Shriner	-	Yes	Vice President Lee	-	No
Director Gustafson	-	No	President Moore	-	Yes
Director Le	-	No			

The original motion was passed.

Director Shriner	-	No	Vice President Lee	-	Yes
Director Gustafson	-	Yes	President Moore	-	No
Director Le	-	Yes			

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D. Discussion and Possible Action to Consider Adoption of Resolution No. 2014-51 to Amend the Professional Services Agreement with Bob Neher and Associates to Conduct an Executive Search and Placement for the Position of General Manager:

Director Shriner made a motion to adopt Resolution No. 2014-51 to amend the Professional Services Agreement with Bob Neher and Associates up to \$4,000 in direct costs to hire a temporary General Manager and a permanent General Manager. The motion failed for lack of a second.

President Moore made a motion to adopt Resolution No. 2014-51 to amend the Professional Services Agreement with Bob Neher and Associates up to \$2,000 in direct costs to hire a temporary General Manager and a permanent General Manager. Director Shriner seconded the motion.

President Moore amended his motion to include a time limit of 60 days. Director Shriner seconded the amended motion. Mr. Masuda clarified the motion. The motion was passed.

Director Shriner	-	Yes	Vice President Lee	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Yes			

E. Discussion and Possible Action to Staff Regarding Agendizing Items Requested by the Board in Support of the District's Strategic Plan Goals:

Director Le made a motion to direct staff to agendize the items in the following months:

a. February 2015	g. January 2015	m. June 2015
b. February 2015	h. March 2015	n. January 2015
c. February 2015	i. April 2015	o. April 2015
d. March 2015	j. March 2015	p. May 2015
e. January 2015	k. March 2015	q. May 2015
f. January 2015	l. April 2015	

Director Gustafson seconded the motion. The motion was passed.

Director Shriner	-	No	Vice President Lee	-	Yes
Director Gustafson	-	Yes	President Moore	-	Yes
Director Le	-	Yes			

10. Informational Items:

A. General Manager's Report:

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1. Correspondence Received by Board or General Manager:

No report.

B. Counsel's Report:

1. General Counsel's Report:

No report.

2. District Special Counsel:

No report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Shriner noted that the next meeting was December 4<sup>th</sup> meeting.

2. Joint City District Committee:

President Moore gave a brief update.

3. Executive Committee:

No meeting was held.

4. Community Outreach Committee:

Director Shriner commented that they would like to meet again in January 2015.

5. MRWPCA Board Member:

President Moore gave a brief update.

6. LAFCO Liaison:

Director Shriner gave a brief update.

7. FORA:

President Moore noted they were meeting on December 12<sup>th</sup>.

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Agenda Item 10-C (continued):

8. WWOC:

No report.

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison:

The next meeting is January 20, 2015.

11. Board Member Requests for Future Agenda Items:

Director Le asked for: 1) RFP for forensic audit of two projects; and 2) review responses to the SCSD engineering report.

Mr. Masuda advised that the forensic audit of the Regional Project should be run through Attorney Markman's office as they are the ones working on the litigation and the information is confidential.

12. Director's Comments:

Director Shriner, Director Gustafson, and President Moore made comments.

The Board returned to closed session at 8:10 p.m. to discuss items 4-B, 4-C, 4-F, and 4-G.

3. Closed Session:

B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9  
Two Potential Cases

C. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Initiation of Litigation Pursuant to Subdivision (c) of 54956.9  
One Potential Case

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F. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Recycled Water Pipeline, Recycled Water  
Negotiating parties: Tom Moore and Peter Le  
Under Negotiation: Price and Terms

G. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Sewer Infrastructure  
Negotiating parties: Tom Moore and Peter Le  
Under Negotiation: Price and Terms

The Board ended closed session at 8:28 p.m.

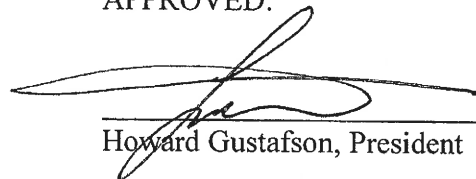
5. Possible Action on Closed Session Items:

Mr. Masuda stated that items 4-B, 4-C, 4-F and 4-G were discussed during closed session and that no reportable action was taken on any item during closed session.

13. Adjournment:

The meeting was adjourned at 8:28 p.m.

APPROVED:



Howard Gustafson, President

ATTEST:



Paula Riso, Deputy Secretary

Attachment 3 – Back up  
Nextdoor Marina Comments



Peter Le  
 , Marina Station7

## 2018 Water Board (MCWD) Election

Introduction of Candidate for Director of Marina Coast Water District Peter Le P.E. Age: 63 Former MCWD Director Who am I? After graduating from THD high school in Da Lat, Viet Nam, with a highest school grade in 1973, I attended the University of Auckland, New Zealand. I completed my civil engineering degree in 1977 and worked in New Zealand and Australia for three years. In 2007 I received an Executive Master of Public Administration degree from Golden Gate University, San Francisco. I also had a Wastewater Operator Certificate, Grade III. I first visited the USA in 1979 and immigrated to Marina in 1981. I have been to many countries. I have lived in Marina since 1981 and worked for cities of Salinas, Marina and Soledad, and County of Monterey. I worked for the City of Marina for about 22 years and involved in the review, management, design, construction and inspection of several city parks, a skate park, several subdivisions, new shopping centers, traffic signals, streets, bike paths, storm drain and percolation pond systems, Marina new post office, etc. I obtained about five millions for the City from various grants. I am a licensed Civil Engineer in California and familiar with water, recycled water and wastewater issues. I worked with Marina Coast Water District staff on many water, recycled water and wastewater projects. My wife has lived in Marina since 1975. She taught English as a Second Language at Fitch Middle School (ESL), math and ESL at Los Arboles Middle School, and French at Seaside High. We have two grown-up daughters and one grandson. Our daughters are pharmacists. I was elected to Marina Coast Water District (MCWD) Board of Directors in 2012 and served for three years. Previously, I served as Chair of the Planning Commission of City of Marina and a member of the Design Review Board. I reviewed and processed some of the large projects such as the Montage or CHOMP Wellness Center, the recently completed VA DoD Clinic, and the CHISPA senior apartment project. At Marina Coast Water District I served as Vice President and was members of the Executive, Budget and Personnel, Community Outreach and Joint City District committees. I also was Board Liaison at Water Conservation Commission. I was Board representative at Fort Ord Reuse Authority (FORA), Monterey Regional Water Pollution Control Agency (MRWPCA) (now Monterey One Water), Local Agency Formation of Monterey County (LAFCO), Special District Association, and FORA Water and Wastewater Oversight Committee. I also was a member of the MCWD negotiation team negotiating with MRWPCA (M1W), Seaside County Sanitation District, Monterey County, CSUMB, and Cal Am on many issues. During my term I spent an average of 20 hours per week of my own time on District business. I had used my vacation time to attend many meetings during working hours. I believe I was the only Director who completed all the classes of the Board Leadership Academy organized by California Special District Association. I attended some workshops and conferences that were useful and relevant to the District such as slant wells, sustainable groundwater management act, aquifer storage and recharge, dealing with the drought, water rights, etc. I generally paid the transportation and accommodation expenses for these workshops and conferences from my own money. I made contributions to the District in revising the Board Procedures Manual, completing the first Strategic Plan, updating the Water and Sewer Master Plans, initiating the rates study, updating the Urban Water Management Plan, refinancing the bond and loan, proposing new water supply sources and a new smaller desal plan, etc. I provided technical knowledge, expertise and relevant experience to the Board in addition to writing and submitting various reports from the workshops and conferences that I attended. I discovered the potential conflict of interests of the slant well designer and pattern holder. This discovery caused the CPUC to hire new consultants to evaluate the test slant well results and model, and redid the EIR. I want to provide more transparency, avoid costly blunders such as the failed Regional Desalination Project, and keep low cost delivery of water, recycled water



and wastewater collection in City of Marina and the Ord Community. I also want the Ord Community to be annexed to the District. I now can dedicate a lot of my time to make meaningful contributions to the District. How much do you pay for the failed Regional Desalination Plant? Annually, the Board of Directors must inform all ratepayers how much money has been spent to date on the failed Regional Desalination Project, currently over 20 million dollars, and how long it takes, by raising the water rates, to recover expenses on this major blunder. Beginning on January 1, 2019, MCWD will substantially increase water rates. For Central Marina customers, water rate will increase 17 percent for Tier 1 and 55 percent for Tier 2, in addition to an 8 percent increase in the fixed monthly charge. For Ord Community customers, water rate will increase 12 percent for Tier 1 and 42 percent for Tier 2, in addition to a 6 percent increase in the fixed monthly charge. I truly hope that you will scrutinize all the candidates before casting your votes. You must demand certain candidates to be accountable for the costly failure of the Regional Desalination Plan. You must ask which Directors approved the contracts that caused the failure of this project due to the conflict of interests. Additionally, some candidates have been fined from \$200 to \$4,500 by the California Fair Political Practices Commission for violating campaign laws. Some have brought bad reputation to the District. Do you really want to re-elect these candidates? Haven't these candidates caused enough damages, in both finances and reputation, to the District? You also need to review all the submitted financial forms that show how much money each candidate receives. You must also ask each candidate which special interest groups contribute to his/her campaign and how much. The three selected candidates must have genuine desire to serve this diverse community. They must make personal commitment to satisfy his/her time from his/her family and from work for District businesses. They must also be honest, ethical, good character, not bias nor prejudicial, and accountable to the community. I appreciate your vote and support. Please email me at [peter381@sbcglobal.net](mailto:peter381@sbcglobal.net) if you have any questions. My Facebook screen name is Peter Le, Twitter is @peter381van, and Instagram is @van381. I can also meet with individuals or groups to discuss my candidacy and answer questions. I want to participate in all candidate debates if I am invited. Peter Le P.E. See more...

Edited 10 Aug · 6 neighborhoods in [General](#)



[Christine Le](#)

, The Dunes on Monterey Bay · 9 Aug

Thank you for your introduction Mr. Le. Impressive resume and qualifications!



[Nan Dillon](#)

, Central Marina · 9 Aug

Sounds like a quality candidate 🍷🍷



[Grace Silva-Santelia](#)

, Marina Station · 9 Aug

I hope we have an upcoming candidates forum so we can hear what the positions and policies from all the candidates for MCWD and City Council . Hopefully Marina In Motion will sponsor such a forum.



Peter Le

, Marina Station · 10 Aug

As of today there are 5 persons running for 3 seats on the MCWD Water Board as follows: 1. Howard Gustafson Incumbent Email: [hgustafson@sbcglobal.net](mailto:hgustafson@sbcglobal.net) 2. Jan Shriner Incumbent Mailing Address: 412 South Main Street, Salinas, CA 93901, Website: [www.shriner4water.com](http://www.shriner4water.com) 3. Matt Zefferman Scientist/University Educator Mailing Address: 3114 Bayer St, Marina, CA 93933, Email: [vote@zefferman4water.com](mailto:vote@zefferman4water.com) Website: [www.zefferman4water.com](http://www.zefferman4water.com) 4. Peter N. Le Retired MCWD Director Daytime Phone: (831)384-3572 Email: [peter381@sbcglobal.net](mailto:peter381@sbcglobal.net) 5. William "Bill" Lee Incumbent Mailing Address: 3167 Eucalyptus St, Marina, CA 93933, Daytime Phone: (831)905-9299 Email: [nobadwater@aol.com](mailto:nobadwater@aol.com)



Grace Silva-Santella

, Marina Station · 10 Aug

Are there any candidate forums scheduled



Peter Le

, Marina Station · 10 Aug

I have not heard of any scheduled forum yet.



Kathy Biala

, Central Marina · 10 Aug

Grace, I certainly hope there are, though I do not know the answer to your question! We are entering extremely important times from now until Dec. when decisions will be made on whether the CalAm Slant Well project will go forward and be built in Marina, or if other options can be pursued for the Peninsula's needs! Personally, I need to know candidates' commitments to be involved! Marina, without water, spells disaster for our city's future.



Grace Silva-Santella

, Marina Station · 10 Aug

Agree! Also important is how each candidate will successfully work as a 'team' to protect Marina and the Ord Community's water supply.



Liesbeth Visscher

, The Dunes on Monterey Bay · 10 Aug

I wish that the Ord communities were annexed so that we could vote. Hopefully next time!



Grace Silva-Santella

, Marina Station · 10 Aug

I would recomend everyone in MCWD Service Area and Marina city limits pay attention to this upcoming election and know all of the candidates, not just those posting on Nextdoor. If there is someone you think will do a good job representing your concerns you can always contribute financially to that individuals campsign.



Peter Le

, Marina Station · 10 Aug

All the candidates should post their candidate statements on Nextdoor so that their constituents know about their policies and priorities. The candidates submitted their papers to the County Election Office about 2 weeks ago with their candidate statements. However, none has posted their statements on Nextdoor. Their supporters need to encourage them to post at least an introduction on Nextdoor.



Peter Le

, Marina Station · 10 Aug

All the candidates should post their candidate statements or an introduction on Nextdoor unless they don't need the votes nor support from Nextdoor members.



Peter Le

, Marina Station · 11 Aug

Can the current MCWD Board of Directors, candidates and District staff tell all MCWD customers how much money has been spent to date on the now-defunct Regional Desalination plant? Is it 22 million dollars, 25 millions or even more? Can MCWD Directors, candidates and District staff tell us where the spent money came from (sources)? If the information has been provided to us in the last six years, please let us know when and how the information was provided to us. It's time to be honest and truthful to all customers; nothing to be ashamed of.



Peter Le

, Marina Station · 12 Aug

On the now-defunct Regional Desalination plant project, can MCWD Directors, candidates and District staff briefly tell MCWD customers why the San Francisco Superior Court, First District Court of Appeal, and Sixth District Court of Appeal ruled in favor of Cal Am and County of Monterey and against MCWD? Was it because of the conflict of interest? Have you informed MCWD customers of these legal outcomes in the last three years?



Christine Le

, The Dunes on Monterey Bay · 12 Aug

Mr. Le, pls share the link to the court case. I am interested to learn more about it.



Peter Le

, Marina Station · 12 Aug

Anyone can learn about these cases by going to the website of each court and search the case by name and type "Marina Coast Water District" in the search box. I didn't save the links. The information is public.



Peter Le

, Marina Station · 12 Aug

On March 12, 2018, Marina Coast Water District Board of Directors approved the new water and wastewater rates to be effective on January 1, 2019 for CENTRAL MARINA as follows: Tier 1 water will be increased by 17 percent. Tier 2 water will be increased by 55 percent. Fixed monthly water charge will be increased by 8 percent. Sewer monthly charge will be increased by 4 percent. Below are some examples how your monthly water bill be on January 1, 2019: 1. If you don't use any water at all for a month, your monthly water bill be increased from \$37.14 to \$39.61, a 6.65 percent increase. 2. If your current water bill is \$51.04, your new water bill on January 1, 2019 will be \$55.86, a 9.44 percent increase. 3. If your current water bill is \$72.23, your new water bill on January 1, 2019 will be \$94.06, a 30.22 percent increase. 4. If your current water bill is \$88.18, your new water bill on January 1, 2019 will be \$118.81, a 34.74 percent increase. 5. If your current water bill is \$138.48, your new water bill on January 1, 2019 will be \$128.71, a 7.06 percent DECREASE. 6. If your current water bill is \$318.64.04, your new water bill on January 1, 2019 will be \$287.11, a 9.90 percent DECREASE. It appears that heavy water users or water wasters will see a reduction in their monthly water bills. There is no longer a water- conservation rate, Tier 3, or incentive to save water.



Juli Hofmann

, Marina Station · 12 Aug

Here's a fairly recent recap of the litigation and legal wrangling. Interesting to note; MCWD is asking for reimbursement for costs of the developing the failed project - CalAm wants all its legal fees covered. CalAm dropped its suit against the county with agreements by the county to not enforce its own use plan requiring any desal plant built to be publicly owned.

<http://www.montereyherald.com/environment-and-nature/20180103/cal-am-county-win-appeal-over-marina-coast-on-regional-desal-project-legal-costs>



Peter Le

, Marina Station · 12 Aug

On March 12, 2018, Marina Coast Water District Board of Directors approved the new water and wastewater rates to be effective on January 1, 2019 for ORD COMMUNITY as follows: Tier 1 water will be increased by 12 percent. Tier 2 water will be increased by 42 percent. Fixed monthly water charge will be increased by 6 percent. Sewer monthly charge will be increased by 5 percent. Below are some examples how your monthly water bill be on January 1, 2019: 1. If you don't use any water at all for a month, your monthly water bill be increased from \$70.97.14 to \$75.00, a 5.68 percent increase. 2. If your current water bill is \$89.37, your new water bill on January 1, 2019 will be \$95.65, a 7.03 percent increase. 3. If your current water bill is \$133.12, your new water bill on January 1, 2019 will be \$163.44, a 22.78 percent increase. 4. If your current water bill is \$192.89, your new water bill on January 1, 2019 will be \$203.64, a 5.57 percent increase. 5. If your current water bill is \$208.13, your new water bill on January 1, 2019 will be \$219.72, a 5.57 percent increase. 6. If your current water bill is \$451.97, your new water bill on January 1, 2019 will be \$477.00, a 5.54 percent increase. There is no longer a water- conservation rate, Tier 3, or incentive to save water. Heavy water users or water wasters will see a lower increase in their water bills than big families.



Peter Le

, Marina Station · 12 Aug

The Monterey Herald article that Juli Hofmann provided shed some lights on these cases as follows: "San Francisco Superior Court Judge Curtis Karnow ruled in 2015 that the defunct regional desal project agreements between Cal Am, Marina Coast, and the county water agency were void as a result of former water agency board member Steve Collins' criminal conflict of interest, and later decided that Marina Coast was liable for the Cal Am and the county water agency legal costs because they were the prevailing parties in the case. Marina Coast had argued the project agreements were still valid and the district should be reimbursed for about \$20 million it spent on the project, which included a district-owned and operated desal plant. Karnow's ruling on the project agreements was also upheld by the appellate court." It appears that MCWD had spent about 20 million dollars by 2015 on the now-defunct regional desalination plant and has lost on the appeal. It's time for MCWD Directors to provide up-to-date information on these cases to customers. So far MCWD customers had to learn information of these cases from local newspapers. Is it a cover up? The above Monterey Herald article did not state which MCWD Director approved the contract and payments for Steve Collins.



Juli Hofmann

, Marina Station · 12 Aug

In all fairness, these topics should probably be moved to new threads for separate discussion from the water board candidates.



Elisabeth Billingsley

, Central Marina · 12 Aug

I guess it is an election year .



Grace Silva-Santella

, Marina Station · 12 Aug

Thanks, Juli. I agree. The original post was to introduce people to one candidate. Now the thread has taken on a number of issues relative to MCWD business.



Jan Shriner

, Central Marina · 12 Aug

Whew, Peter has been busy with the Next Door postings. I like the mention of the websites to get more information about the lawsuits. These things do take time and often require discretion. I took the same Leadership Module as Peter in 2011 when I started on the Board. I also took all of the required ethics trainings where I learned about some of the nuances of conflict of interest. The main message of the trainings is to always check with your own agency's attorney if you have any doubts. Steve Collins was a public official on the Board of Monterey County Water Resource Agency. As a candidate, I have signed agreements to refrain from negatively campaigning about other candidates in my race, including "whisper campaigns." It seems like other candidates would sign this agreement but it may mean different things to the others. I will say Peter served 3 of 4 years of his term, December 2012-January 2016. I supported him in 2012 but I will not be supporting him in 2018. I don't plan to campaign on Next Door. I am hoping to have a website up soon, walk to visit with neighbors, attend forums, and make some phone calls. I hope everyone eligible will register to vote and take the responsibility to research the decisions that help our community stay peaceful and on the way to prosperity.



Peter Le

, Marina Station · 13 Aug

Any Nextdoor member can create another thread. Additionally, any candidate can create another thread to introduce himself/herself to Nextdoor members unless the candidate does not want any vote from Nextdoor members.



Peter Le

, Marina Station · 5d ago

Public Utilities Commission gives Cal Am its blessing for proposed desal plant.

[http://www.montereycountyweekly.com/blogs/news\\_blog/public-utilities-commission-gives-cal-am-its-blessing-for-proposed/article\\_58af554e-9ff2-11e8-a778-5f2b7ea1c7c2.html](http://www.montereycountyweekly.com/blogs/news_blog/public-utilities-commission-gives-cal-am-its-blessing-for-proposed/article_58af554e-9ff2-11e8-a778-5f2b7ea1c7c2.html)



Peter Le

, Marina Station · 5d ago

What can you do? Using the CPUC Commissioners' email addresses as shown below: 1. CPUC President Michael Picker: [mp6@cpuc.ca.gov](mailto:mp6@cpuc.ca.gov) 2. Commissioner Carla Peterman: [cap@cpuc.ca.gov](mailto:cap@cpuc.ca.gov) 3. Commissioner Liane Randolph: [lrl@cpuc.ca.gov](mailto:lrl@cpuc.ca.gov) 4. Commissioner Martha Guzman Aceves: [mga@cpuc.ca.gov](mailto:mga@cpuc.ca.gov) 5. Commissioner Cliff Rechtschaffen: [cr6@cpuc.ca.gov](mailto:cr6@cpuc.ca.gov) you need to send your emails in the next few days in order for the Commissioners to read before the August 22, 2018 CPUC meeting and before the September CPUC meeting. Your email can include one or more points as follows: 1. You oppose the CPUC proposed decision because this project will cause harms to Marina groundwater. Therefore, the proposed decision will potentially lead to further litigation and delay of the proposed project. 2. You oppose the proposed decision because there are other alternatives that can provide water at a lower cost and cause less impact to the environment. For example, if the CPUC approves the expansion of the aquifer recharge, it can provide additional 2,500 AFY. It also can be done within the next two years at a cost of \$2,000 per AY compared to the cost of \$7,000 per AF for desal water. This will provide a total of 5,000 AFY of recycled water. Combine with about 3,700 AFY from the Carmel River, 300 AFY from the Sand City desal plant, and groundwater from the Seaside Basin, the total available water is about 12,000 AFY. This amounts is sufficient for the foreseeable future. The additional 2,000 AFY can be provided by a regional desal plant at a future date at a lower cost and less likely to involve litigation. (Additional information is available from the comments provided by MCWD). On August 22, 2018, CPUC will meet to hear oral arguments requested by MCWD and City of Marina on the recently passed legislation and executive order from the Governor on the conservation standards; thus affecting the forecasts of water demands. Individuals are not allowed to speak at this meeting. It takes time for your emails to get to the CPUC Commissioners. Therefore, I recommend that you send your emails by this Sunday, August 19, 2018.

Peter Le, Marina Station7

## 2018 Marina Mayoral Election

There are two persons running for the Mayor position as follows: 1. Bob Nolan Retired Police Commander Email: [bob@electbobnolan.org](mailto:bob@electbobnolan.org) Website: [www.electbobnolan.org](http://www.electbobnolan.org) 2. Bruce Carlos Delgado Mayor/Botanist Residential Address: 3037 Vaughn Ave, Marina, CA 93933, Mailing Address: 3037 Vaughn Ave, Marina, CA 93933, Daytime Phone: (831)277-7690 Email: [bdelgado62@gmail.com](mailto:bdelgado62@gmail.com)

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ELECTBOBNOLAN.ORG



Kevin Mccallon

, Marina Station · 3d ago

Wow I saw a kevin sanders mayoral sign at the corner of Reservation and Blanco last night?



Peter Le

, Marina Station · 2d ago

All the candidates should post their candidate statements or an introduction on Nextdoor unless they don't need the votes nor support from Nextdoor members.



Nan Dillon

, Central Marina · 2d ago

Delgado is just getting started so he has my vote. I appreciate his patience and communication with the community 🙌🙌🙌



Jason Hicks

, Marina Station · 2d ago

Time for a change!





Angie Nader

, Marina Station · Edited 2d ago

I'm friends with both candidates. Out of respect for my friendships with both of them, I'll be the first to say....finally we have a real election 😊 Best of luck to them both!... [See more](#)



Peter Le

, Marina Station · Edited 2d ago

From Monterey County Weekly. UPDATED: As of 5pm Aug. 10, the deadline to file papers to run for the Nov. 6 election, Kevin Saunders has not filed paperwork to be a candidate for mayor, according to the Marina city clerk. Kevin Saunders, the erstwhile drug activist and repeat failed candidate for Marina mayor, was arrested Friday, Aug. 10, on charges that he threatened and stalked a witness in a case currently ongoing in Monterey County Superior Court. A warrant was issued yesterday on the two felony counts—threatening a witness and stalking a witness—and Saunders was arrested by Marina police today on behalf of the Monterey Police Department. He is currently in a holding cell at Monterey PD, pending transfer to the Monterey County Jail or posting \$50,000 bail. According to the complaint filed by Deputy District Attorney Sarah Ma, the threats and stalking were alleged to have occurred on or around Aug. 6. "Kevin Saunders did willfully and unlawfully use force and threaten to use force and violence against John Doe and to take, damage and destroy (Doe's) property because (Doe) had provided assistance and information to a law enforcement officer and a public prosecutor in a criminal and juvenile court proceeding," the complaint states. It adds Saunders made a "credible threat" to Doe's safety. While John Doe's identity remains unknown, Monterey Police Lt. Ethan Andrews says the person is a current law enforcement officer and formerly served on the PRVNT (Peninsula Regional Violence and Narcotics Task Force) team. The arrest has effectively derailed Saunders latest bid for Marina mayor. While 5pm today, Aug. 10, is the filing deadline for candidates to get their paperwork signed off by city clerks all over the county in various races, Saunders was unable to sign his because of his arrest. Marina City Clerk Anita Shepherd-Sharp says Saunders' campaign manager Kitty Merchant tried to file election papers on Saunders' behalf today, but because they weren't signed by Saunders, Shepherd-Sharp refused to accept them. Mayor Bruce Delgado faces a challenge from retired Marina Police Cmdr. Bob Nolan. For several days, Saunders has been sending emails to Delgado urging him not to seek re-election, and wrote that if Delgado decided not to run, he would back out of the race. "I am willing to forgo this election and NOT turn in my completed paperwork IF you rescind your own paperwork," Saunders wrote in an email Aug. 9 to Delgado, and copied members of the media. Then seeming to address the city clerk, Saunders followed up with this email Thursday: "Anita, I'll have those siggies to you ASAP, along with completed file on PDF. Getting sigs notarized this afternoon. I'll have the package at your desk by 9am, tomorrow morn. I'm sorry for the late turn in from last elections record breaking filing, but we wanted to give this full thrift. And allow Bruce to make up his mind, clearly he is out of it by not accepting my offer of a treaty." It is not the first time Saunders has faced criminal trouble. In recent years, for example, he has pleaded no contest to violating a restraining order, making harassing phone calls and violating elections code. By Mary Duan and David Schmalz of Monterey County Weekly



Pete Paluck

, Central Marina · 2d ago

WTH??? Thank goodness!!!



Hans Ongchua

, The Dunes on Monterey Bay · 2d ago

Credit goes to Mary Duan and David Schmalz for that article.

[http://www.montereycountyweekly.com/blogs/news\\_blog/updated-would-be-marina-mayoral-candidate-kevin-saunders-misses-deadline/article\\_58859490-9cee-11e8-9736-cfbb5ade265d.html](http://www.montereycountyweekly.com/blogs/news_blog/updated-would-be-marina-mayoral-candidate-kevin-saunders-misses-deadline/article_58859490-9cee-11e8-9736-cfbb5ade265d.html)



Tony Dagey

, Central Marina · 2d ago

Wow 😊



Grace Silva-Santella

, Marina Station · 2d ago

A Nextdoor poster just quoted language verbatim from Monterey County Weekly without using quotations or giving Monterey County Weekly credit?



Mariss Haupt

, Marina Abrams · Edited 2d ago

We'll like "good neighbours" we watch out for where we can help out our fellow neighbours where human shortcoming or lack of knowledge of protocol is lacking. No shame if not knowing or even forgetting to site authors or publication Thanks to helping hands.



Dana Cleary

, Central Marina · Edited 2d ago

Thank you Hans for giving credit where it is due!



Angie Nader

, Marina Station · 2d ago

Let's not give the town "whatever you choose to call him" any attention this go around. Please let's just stop mentioning his name. It wont bring any good, in fact it'll just create new targets. His next target might snap. Hurt themselves, hurt another.



Mariss Haupt

, Marina Abrams · Edited 2d ago

Yes Angie Nader. Everyone ought to know that dead wood is best for fire wood.



John Rojas

, Marina Station · 1d ago

Thank you Peter Le



Timothy Haupt

, Marina Abrams · Edited 1d ago

I don't normally discuss politics. Everyone vote your conscience. Get out there and vote. Good job.



Peter Le, Marina Station7

## 2018 Monterey Peninsula College Trustee Election, Area 2

As of today there are two persons running for one seat of Board Member Trustee of MPC as follows:

1. Margaret-Anne Mary Coppernoll Incumbent Daytime Phone: (831)578-7877 Email: [mcopperma@aol.com](mailto:mcopperma@aol.com)
2. Yuri Anderson Policy Advisor, County of Monterey Mailing Address: 215 Reservation Rd, Suite O, PMB 188, Marina, CA 93933, Daytime Phone: (831)244-0356 Email: [yuriformpcboard@gmail.com](mailto:yuriformpcboard@gmail.com) Website: [www.yurianderson.com](http://www.yurianderson.com)

WebsiteBuilder

YURIANDERSON.COM



Peter Le

, Marina Station · 2d ago

All the candidates should post their candidate statements or an introduction on Nextdoor unless they don't need the votes nor support from Nextdoor members.



Peter Le, Marina Station 7

## 2018 Marina City Council Election

As of this morning there are two persons running for two seats of the Marina City Council as follows:

1. Adam Urrutia Data Coordinator Residential Address: 3273 Michael Dr, Marina, CA 93933,

Daytime Phone: (831)276-5921 Email: [adam@adamformarina.com](mailto:adam@adamformarina.com) Website:

[www.adamformarina.com](http://www.adamformarina.com) 2. Lisa Berkley Consultant/Planning Commissioner Mailing Address: P.O.

Box 1290, Marina, CA 93933, Daytime Phone: (917)251-3360 Email: [lisa@berkley4marina.org](mailto:lisa@berkley4marina.org)

Website: [berkley4marina.org](http://berkley4marina.org)



### Adam Urrutia for Marina City Council 2018

Elect Adam Urrutia to Marina's City Council. Adam is standing up for Marina!

ADAMFORMARINA.COM



Peter Le

, Marina Station · 2d ago

All the candidates should post their candidate statements or an introduction on Nextdoor unless they don't need the votes nor support from Nextdoor members.



Hans Ongchua

, The Dunes on Monterey Bay LEADF74

## Sign the Change.org petition to save Marina's groundwater!

I created a petition on [Change.org](#) to the president and commissioners of the CPUC to stop Cal Am's threat to our drinking water. You can sign it here: <https://chn.ge/2Bh3x91> You can share that link by email, Facebook, Twitter and any other forms of social media that you have access to. Marina has a population of more than 21,000. Only 2,851 are on Nextdoor. My thanks to Kathy Biala for providing me with the talking points from the city flyer.



### Sign the Petition

Michael Picker: Stop Cal Am's threat to Marina's drinking water

CHANGE.ORG

4d ago · 7 neighborhoods in General



Hans Ongchua

, The Dunes on Monterey Bay · 4d ago

You can log-in to [Change.org](#) automatically if you have a Facebook account. If you do not have a FB account, you can quickly create an independent logon to [Change.org](#) with your email address to sign the petition. DO specify your city when creating your logon. I would also recommend passing the link to students. Our youth have as much a stake in this as we do and many have impressed me with their own zeal and determination.



Maurice Bassanello

, The Dunes on Monterey Bay · 4d ago

Done



Peter Le

, Marina Station · 4d ago

Please also try to share this petition by emails, FB messenger, Twitter, Facebook to your friends and the public.



Hans Ongchua

, The Dunes on Monterey Bay · 4d ago

This online petition is AS EASY AS IT GETS to take action. If we can't reach at least 1000 signatures (less than 5% of the city's population) then I'll be more than disappointed. As David Schmalz (reporter for the Weekly) remarked to me, Marina lacks the political muscle of Cal Am or the hospitality industry. We're badly outgunned right now. Still, this petition WILL FIRE AN EMAIL to the CPUC president and TO EACH of the commissioners. We can at least get their attention.



Matthew Zefferman

, Central Marina · 4d ago

Hans, thank you for making the petition! If you agree with the petition, please also contact the CPUC commissioners directly if you haven't already. The presenters at the Public Water Now forum reiterated that direct contact with commissioners is the most effective way to have your voice heard. Here are the updated email addresses for the commissioners: CPUC President Michael Picker: [mp6@cpuc.ca.gov](mailto:mp6@cpuc.ca.gov) Commissioner Carla Peterman: [cap@cpuc.ca.gov](mailto:cap@cpuc.ca.gov) Commissioner Liane Randolph: [liane.randolph@cpuc.ca.gov](mailto:liane.randolph@cpuc.ca.gov) Commissioner Martha Guzman Aceves: [mga@cpuc.ca.gov](mailto:mga@cpuc.ca.gov) Commissioner Cliff Rechtschaffen: [cr6@cpuc.ca.gov](mailto:cr6@cpuc.ca.gov)



Matthew Zefferman

, Central Marina · 4d ago

Hans, are you planning to send the petition results to the commissioners?



Hans Ongchua

, The Dunes on Monterey Bay · 4d ago

Thanks Matthew. I updated Liane Randolph's email address. The petition sends a separate email to each of these people, stating that the signatory is OPPOSED to the Cal-Am slant well desalination project in Marina, CA: ► Michael Picker, President, CPUC ► Carla Peterman, Commissioner, CPUC ► Liane Randolph, Commissioner, CPUC ► Martha Guzman Aceves, Commissioner, CPUC ► Cliff Rechtschaffen, Commissioner, CPUC ► John Forsythe, Senior Environmental Planner, CPUC ► Paul E. Mitchell, Superintendent, Monterey Bay National Marine Sanctuary  
Understandably, we need to see if this petition even GETS enough signatures. It would be a VERY poor showing if we can't even muster 5% of the city's population to get behind it.



Allen Bowman

, Marina Station · 3d ago

Thanks Hans - Done.



[Angie Nader](#)

, Marina Station · 3d ago

I signed it. I did however dislike that it forced me to sign 10 other petitions I wasn't familiar with.



[Hans Ongchua](#)

, The Dunes on Monterey Bay · 3d ago

Angie, that's odd but I would assume that those would have been optional petitions. There should have been a menu selection like "Sorry, I can't do anything right now", "Skip for now", "Skip", or "See news on the petition you signed".



[Liesbeth Visscher](#)

, The Dunes on Monterey Bay · 3d ago

I signed the one (thanks, Hans) and wasn't forced to sign any other petitions. I'll still send emails and hope that "everyone" will do that, too. It's important!



[Kathy Youngquist](#)

, East Garrison · 3d ago

Signed and shared on Twitter. And reposted the Petition on the East Garrison Next Door site as well.



[Angie Nader](#)

, Marina Station · 3d ago

That's weird. I literally had a countdown to the additional petitions. I was looking for skip... I must have clicked something.



[Peter Le](#)

, Marina Station · 3d ago

We need **48** more signatures to get **to** 100.



[Peggy Taranenko](#)

, Marina Station · 2d ago

I'm not sure my signature is on it. I kept skipping thru the other petitions and when I got to the end there was no acknowledgement that I had signed.



Hans Ongchua

, The Dunes on Monterey Bay · 2d ago

Peggy, I'll be able to check tomorrow after the list of supporters is updated. I suspect that your signature is on it. Typically your signature is accepted immediately. The promotions that may appear after you sign are unrelated and you can skip them (or close your browser).



Peggy Taranenko

, Marina Station · 2d ago

Nevermind. I just got an email from [change.org](http://change.org) saying I had signed it.



Jennifer Mortimer

, East Garrison · 2d ago

Signed and shared it. Thank you!!!



Hans Ongchua

, The Dunes on Monterey Bay · 2d ago

We're up to 85 supporters as of day 2 of the petition.



Hans Ongchua

, The Dunes on Monterey Bay · 1h ago

The special hearing of Cal Am's application for the Monterey Peninsula Water Supply Project (MPWSP, aka the slant well) is scheduled for August 22nd, Wednesday, from 2pm to 4pm at the CPUC's Commission Courtroom in San Francisco. At this hearing, the general public is allowed to witness but NOT to comment.

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M222/K948/222948396.PDF> I need to hear back from the CPUC if a call-in number is available for those who would like to listen-in by phone. My understanding is that public comment will be allowed on Thursday after the pledge of allegiance at 9:30am. The petition has reached 128 supporters as of this morning. We're hoping to get some additional promotion for it on Seaside's Nextdoor forums.

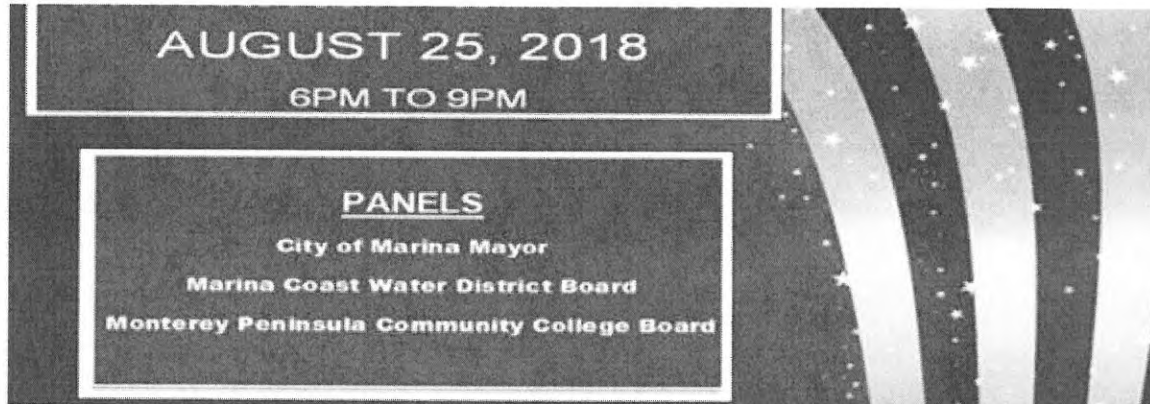




Paula Pelot  
, Marina Abrams

## Candidates Forum

The Marina Democratic Club will be hosting a Candidates Forum on August 25, 2018 from 6 pm - 9 pm at the Marina Public Library Community Room. The three panels will be for City of Marina Mayor, Marina Coast Water District Directors and the Monterey Peninsula Community College. These are non-partisan races and non-Democratic party candidates will be participating. Please plan to attend.



AUG  
25

## Candidates Forum

Going?

3d ago · 8 neighborhoods



Brian McCarthy  
, Seaside Ct · 3d ago

I hope that AMP can record this, but if not hopefully someone would be willing to record it (even with a cell phone ) and post to youtube/facebook etc.

2 Thanks



Peter Le  
, Marina Station · 2d ago

I hope Russia will not interfere with MCWD election and no candidate colludes with Russia.



Angie Nader

, Marina Station · 1d ago

I'd love to live stream it live for Marina residents if possible.



Brian McCarthy

, Seaside Ct · 1d ago

Angie, I was secretly hoping you might!!!! I hope you will be able to!!



Angie Nader

, Marina Station · 1d ago

Thanks Brian! I'll reach out to them next week and see ;)



Lisa Berkley

, Central Marina · 14h ago

The event it will be recorded by local videographer (and Salinas mayoral candidate!) Wes White. It will then be put up on a number of websites which will be announced at the debate.



Jeniffer Kocher

, Central Marina · 11h ago

Anyone know if this will be covered by AMP?



Jan Shriner

, Central Marina · 1h ago

Thank you for organizing a forum to help people make informed decisions on local candidates. I am glad it will be recorded and I hope many people will find a way to attend in person. Free Marina democracy in action.



Peter Le  
, Marina Station7

## Marina homeowners found defects in brand-new homes, and took on the bureaucracy.

[http://www.montereycountyweekly.com/news/local\\_news/marina-homeowners-found-defects-in-brand-new-homes-and-took/article\\_66809340-a0f1-11e8-aad9-eb07f152191.html](http://www.montereycountyweekly.com/news/local_news/marina-homeowners-found-defects-in-brand-new-homes-and-took/article_66809340-a0f1-11e8-aad9-eb07f152191.html)



## Marina homeowners found defects in brand-new homes, and took on the bureaucracy.

When Evy Smith first moved into her brand-new home in September 2016 in The Dunes – a development in Marina where single-family homes are still sprouting up – she noticed

MONTEREYCOUNTYWEEKLY.COM

3d ago · 6 neighborhoods in General



Brian McCarthy  
, Seaside Ct · 3d ago

This is what happens when we rush in development without all framework in place to support it. Although I understand the article that has been posted doesn't directly involve the city as much as it does MCWD, I think its a good time to re-iterate that I am an advocate for a city "lessons learned" team that goes out and looks at the Shea development (maybe more than once) and DOCUMENTS items that could have been done better. The city should then incorporate those findings into future development policies. This allows for a more robust framework for smart, WELL DESIGNED, robust development.



Liesbeth Visscher  
, The Dunes on Monterey Bay · 3d ago

We already know that Shea will be fixing this oversight, just as we could have expected from this developer. On July 9 my husband and I had sent a letter to MCWD General Manager Keith Van Der Maaten, with a copy of our letter to Shea. He immediately replied: "Upon discovery of the fact that homes within the Dunes were constructed and sold without a complete hot water recirculation system, the District met with the City and the developer to ensure all future homes would have a fully-functioning hot water recirculation system." It's unfortunate that this wasn't discovered during construction but considering that the Dunes is the first new development in Marina I can understand how this happened with the small staff at the City and MCWD. Shea now is working on a solution to make sure that the earlier homes also will be in compliance with the MCWD Ordinance. Main thing is that it will be fixed!



Dave Fleischman

, The Dunes on Monterey Bay · 3d ago

It would be interesting to hear the mayoral and MCWD candidates discuss their ideas for corrective action at the Candidates Forum on 25 Aug.



Brian McCarthy

, Seaside Ct · 3d ago

If I was a homeowner in the Dunes (I am not) I would be asking for 3 things: 1) An alternate "fix" from the developer to the problem (likely in the form of a re-circulation pump system without the additional piping). This doesn't work quite as good as a system with the piping, but it does work. 2) Monetary compensation from the developer to adjust for the reduction in value of my home vs. was perceived to have been bought (installed re-circ piping) 3) The City and/or MCWD to beef up their inspection efforts (sounds like plans are either accomplished or underway to do this).



Mike Stiller

, The Dunes on Monterey Bay · 3d ago

I find it interesting that one person seems to represent the whole community in this article. Evy Smith this, Evy Smith that, but not one other person was interviewed. Shea Homes has done a great job, and I am very satisfied with the professionalism and quick response by the customer service team.



Charles Scholl

, Marina Station · 3d ago

The same situation occurred with the first homes built in the Seaside Highlands development 15 years ago. At the time I wondered where they had found the plumbers that plumbed those homes because recirculation hot water systems have been code in California for more than 25 years. The solution at that time was, a really hokey, stupid, totally unacceptable system, but one that MCWD signed off on. The remedy was this: a second pressure control valve was put into the hot water supply side of the system set at a pressure higher than the cold water side. A device made by Grundfos was then installed connecting the hot and cold water supplies underneath each outlet, ie, faucet, shower head etc. When the hot water in the feed line drops below a particular temperature this valve opens allowing the luke warm water to flow into the cold water side until hot water of the desired temperature is again available and the valve closes. The single biggest issue with this solution is that whenever you turn on the cold water you initially get warm water. I would suggest that before anyone falls for this 'solution' they should visit Seaside Highlands and determine if this solution is acceptable.



Mariss Haupt

, Marina Abrams · 3d ago

For the cost of these homes the builder who customers and city relies on for competent workmanship should be of utmost priority and have its own quality control. God forbid they built real low cost housing. I wouldn't blame city but developers.



Kristin Marchionni

, Marina Station · 1d ago

What I want to know is who did the inspections to make sure the homes were to code? I hope Shea fits all the homes with water saving hot water heaters (on demand?), at the very least.



Peter Le

, Marina Station · 1d ago

1. City inspector inspects new homes for conformance with adopted building codes. 2. Apparently, no one from MCWD inspected the piping of the hot water re-circulation system which is required by MCWD.



Tom Moore

, Marina Station · 1d ago

Marina Coast is not staffed to do multiple building inspections during construction like the cities are. So we inspect once the home is built and rely on city inspectors to catch violations that can be seen before the sheet rock is installed. For some reason that did not happen in this case. However, the manufacturer of the instant hot water heaters has a device that can be installed in such a way as to use the cold water lines as the return line. These devices can easily be retrofit into the homes with the missing piping. I have been told that Marina Coast staff have gotten the developer to agree to retrofit those homes.



Peter Le

, Marina Station · 1d ago

The non inspection of the hot water recirculating pipes of the new homes at the Dunes development shows a current weakness in the enforcement of various requirements by MCWD for these new homes. To say that MCWD is not staffed to do multiple building inspections during construction is irresponsible and a lame excuse. Previously MCWD did have an inspector and he retired. MCWD then hires consultants to do all MCWD inspections and developers reimburses MCWD for the consultants' costs and fees as part of the inspection fees. What is sad is that MCWD did not include in the scope of work of the consultants the required inspection of the hot water recirculating pipes

and other interior inspections. Now MCWD needs to revise these consultants' scope of work to include all the required inspections inside new homes. Some of these consultants do not have experience in inspecting the interior of the new homes and certify that the completed work satisfy all MCWD requirements. Therefore, MCWD will need to hire new consultants that have the required experience and certifications. The costs will be reimbursed by developers as part of the inspection fees. If not, MCWD can establish new fees for these interior inspections. It's ridiculous to say that these interior inspections will be done by the city, free of charge. Will the city be responsible if something is wrong with the hot water recirculating pipes? Will the city guarantee that the hot water re-circulation system and other interior work have been done in accordance with all the requirements of MCWD? Fortunately, these new homes can be installed by a jumper to avoid wasting cold water. Hopefully, the costs of installing these jumpers will be paid by developers. As described by Charles Scholl, these jumpers are not as good as the actual pipes. It's annoying that MCWD kept giving excuses and did not accept responsibilities for this problem because the hot water recirculating pipes are required by MCWD. What is the point of having many requirements on the book and does not know whether these requirements are met or not?



Tom Moore

, Marina Station · 1d ago

I don't ever recall being called "irresponsible" for letting the public know a fact that falls in the category of public information. But it is a fact that Marina Coast has never been staffed to inspect multiple times the number of houses being built in the Ord Community. And you would not have wanted us to be staffed that way during the economic downturn that started in 2008 because our ratepayers would have been paying for it as there was no development happening. I do, however, agree with Peter Le's suggestion that our contract with the inspection firm should include an inspection after the rough plumbing is completed. It's just too bad that Peter failed to convince the board to do this during the three years he served of his four year term after being elected in 2012 and before he quit the board (leaving us with a vacant board seat for nearly a year). So Marina Coast relied on city inspectors to check for re-circulation lines and report to us after they inspected the rough plumbing, which they were already doing for compliance with the general plumbing code. And as Peter was formerly the Marina City Engineer, I expect he would have advised the rest of the Marina Coast board if he knew that city building inspectors were not up to this task.



Peter Le

, Marina Station · 23h ago

TOM. "I don't ever recall being called "irresponsible" for letting the public know a fact that falls in the category of public information. But it is a fact that Marina Coast has never been staffed to inspect multiple times the number of houses being built in the Ord Community. And you would not have wanted us to be staffed that way during the economic downturn that started in 2008 because our ratepayers would have been paying for it as there was no development happening." PETER. MCWD was clearly irresponsible in not inspecting the hot water recirculating pipes for the new homes. The excuse was MCWD did not have staff to do the interior inspection of the new homes. MCWD just ignored the problems. MCWD did not even consider the option of hiring a temporary inspector or contract with an inspection firm to do the interior inspection like other water districts. MCWD was irresponsible. Did MCWD inspect low flow toilets, faucets and low flow shower heads at these new homes in addition to the hot water recirculating system?



Peter Le

, Marina Station · 23h ago

TOM. " It's just too bad that Peter failed to convince the board to do this during the three years he served of his four year term after being elected in 2012 and before he quit the board (leaving us with a vacant board seat for nearly a year)." PETER. Did you still have the list of items to be done that I gave you in January 2013 after the 2012 election? If you still have it, can you post on Nextdoor so everyone can see. You seemed to blame me that I quit the Board. But you did not mention the conversation we had at Pho Lucky with your wife and my wife. Do you recall the dinner and conversation now? Does "Myanmar" mean anything to you now? After I quit, MCWD Board decided not to have an election and asked for application instead. The Board could not decide to appoint either Ken Nishi or Herbert Cortez. So the seat was vacant for a year.



Peter Le

, Marina Station · 23h ago

TOM. "So Marina Coast relied on city inspectors to check for re-circulation lines and report to us after they inspected the rough plumbing, which they were already doing for compliance with the general plumbing code. And as Peter was formerly the Marina City Engineer, I expect he would have advised the rest of the Marina Coast board if he knew that city building inspectors were not up to this task." PETER. Marina City Engineer, like City Engineers of many cities, does not involve with building permits or building inspections. You kept blaming city building inspectors for not inspecting the hot water recirculating pipes. City of Marina has stated that it's not the responsibility of city building inspectors to inspect the hot water recirculating pipes. It's time for MCWD to accept responsibility and hire a temporary inspector or contract with an inspection firm. Again, post my Jan 2013 list on Nextdoor for everyone to see.



Hans Ongchua

, The Dunes on Monterey Bay · 12h ago

Hello Tom. You mentioned that "the manufacturer of the instant hot water heaters has a device that can be installed in such a way as to use the cold water lines as the return line". I hope you're correct on this. The affected homes at The Dunes have NAVIEN heaters and I haven't found any accessory on their website that allows for a jumper connection to use the cold water pipes as a return line. Both their ComfortFlow and HotButton systems seem to require a dedicated return line. My understanding is that Shea's original plans which were approved by MCWD had RINNAI heaters. I would hope that Shea informed MCWD of the switch to NAVIEN. RINNAI does have a device called ThermaCirc360 but it's compatible only with four models of their RUR line.



Brian McCarthy  
, Seaside Ct · 10h ago

Hans, they are likely talking about simply adding another pump and the jumper. You should be able to do this in virtually any home. I've used both the jumper solution and the dedicated return line solution so I can speak to them both. Jumper solutions simply aren't as good, but definitely workable. Either way it's unfortunate it wasn't done "right" the first time.





Peter Le  
 , Marina Station7

## Cal Am Desal Plant Moves Forward, Marina Pushes Back

FROM 90.3 KAZU By KRISTA ALMANZAN • 18 HOURS AGO California American Water is moving closer to building a desalination plant on the coast in Marina. This week, the California Public Utilities Commission said the project can move forward. The plant would help solve the Monterey Peninsula's water supply problem. But Marina officials say it will hurt their community. The proposed desalination plant will get water through a series of slant wells drilled at an angle under a beach in Marina. The water will be treated at the proposed plant. Then it will be transferred through a pipeline to serve Cal Am's Monterey Peninsula customers. At issue for Marina is the water the slant wells will be sucking up. Cal Am's Environmental Impact Report says it will ultimately be 95% seawater and the rest brackish water. But the Marina Coast Water District's own research shows something else. "We're very concerned with it because the way it is being envisioned is that it will actually not be an ocean desal plant," says Keith Van Der Maaten, Marina Coast Water District's General Manager. "It will be a plant that has wells that go into the groundwater right near the ocean and then it'll pump so much water that it will bring ocean water in under the groundwater surface. So it essentially is causing additional seawater intrusion and capturing seawater inland." In effect, he says it will destroy the groundwater supply Marina residents rely on. Marina does not get its water from Cal Am, yet Mayor Bruce Delgado believes his city will be shouldering much of the burden for this new water supply. "Marina is probably the most working class and definitely the most diverse ethnically speaking town in this area. We won't get a drop of the water but our more affluent neighbors to the south will get the water on our expense, so to me, that is classic environmental injustice," says Delgado. Neither the City nor the Water District want to have sue to stop the desal plant. Instead they're pushing another idea: expand the water recycling plant known as Pure Water Monterey. That plant is currently under construction right now near the landfill in Marina. "The way we've designed it is to allow it to expand. So to be as efficient as possible to expand in the future at some point," says Paul Sciuto, General Manager of Monterey One Water, which will operate the plant. The water recycling plant already is one piece of a three-pronged solution to the Monterey Peninsula's water supply problem. The so-called Water Supply Project also includes capturing heavy winter flows off the Carmel River and the planned desalination plant. Together the three will produce enough water to stop Cal Am from taking too much water off the Carmel River. The state ordered it to drastically cut back more than two decades ago. The Water Supply Project will also meet the Peninsula's projected future water needs. But Sciuto says expanding the water recycling would only meet current demand. "I don't see it as an alternative to the desal plant and the reason being is it truly depends on the demands of the community," Sciuto says. Even if an expansion doesn't eliminate the need for a desalination plant, Marina Coast Water District's Keith Van Der Maaten says it does buy some time. "In that time we could look at a desal project that doesn't have the same concerns cause there are different ways to construct this where you wouldn't be damaging the groundwater in the way this is proposed," says Van Der Maaten. Any expansion of water recycling would require approval from the California Public Utilities Commission. The CPUC has received a proposal and will hear more about it on Wednesday, August 22. That's when the District and the City of Marina will get to share their concerns during a hearing in San Francisco. When asked about Marina's worries, Cal Am spokesperson Catherine Steadman stands by the project's Environmental Impact Report, or EIR. "We have stated, and it's written in the EIR, that if there is harm to any other pumpers in the basin that we will remediate that. But there's no evidence that our project will result in an increase taking of groundwater overtime. You know, I think your question maybe speaks to a scenario that is not at all likely," she says. The California Public Utilities Commission is also standing behind Cal Am's EIR.

This week it proposed approving the project. Making that approval final is expected to happen during CPUC meeting on Thursday, September 13. Both Monterey One Water and California American Water support KAZU. Underwriters do not affect our journalism.

2d ago · 6 neighborhoods in [General](#)



[Byron Merritt](#)

, Marina Station · 2d ago

Seems like a complex issue. I've lived in Marina for over a decade and I am worried about salt water intrusion. There are other areas around the world that may have done something similar and I'm wondering if we can find out if they had any problems with intrusion. What bothers me the most is that the city of Marina doesn't benefit from any of this new water supply. How is that fair?!



[Nan Dillon](#)

, Central Marina · 2d ago

It's not right at all and smacks of injustice!



[Bruce Delgado](#)

, Central Marina · 2d ago

No slant wells in the world have been in production for desal, only as experimental, including Dana Point and Marina.



[Juli Hofmann](#)

, Marina Station · 2d ago

Hello my neighbors, If ever there was a more urgent time for Marina and Ord communities to write a comment to the California Public Utilities Commission regarding the injustice of this project, it is NOW. I can tell you from personal experience - having attended the hearings in San Francisco - that there have been many barriers to public participation and comment, so this is perhaps the last opportunity for you, the public, to speak up. The final decision will allow CalAm to build an experimental desalination plant in our community, impacting our beaches and wildlife, that sells our groundwater to the peninsula, without our permission. The CPUC has failed in its duty to adequately consider other supply projects that would provide water to the peninsula. If you need more information about this project, please visit the website. <https://www.c4justwater.org/> Here are the California Public Utilities Commission Commissioner email addresses: CPUC President Michael Picker [mp6@cpuc.ca.gov](mailto:mp6@cpuc.ca.gov) Commissioner Carla Peterman [cap@cpuc.ca.gov](mailto:cap@cpuc.ca.gov) Commissioner Liane Randolph [liane.randolph@cpuc.ca.gov](mailto:liane.randolph@cpuc.ca.gov) Commissioner Martha Guzman Aceves [mga@cpuc.ca.gov](mailto:mga@cpuc.ca.gov) Commissioner Cliff Rechtschaffen [cr6@cpuc.ca.gov](mailto:cr6@cpuc.ca.gov)



Hans Ongchua

, The Dunes on Monterey Bay · 2d ago

Our [Change.org](https://change.org) petition has 68 signatures to-date. It will send an email to all five expressing your opposition to the project. <https://chn.ge/2Bh3x91> [https://nextdoor.com/news\\_feed/?post=89340117](https://nextdoor.com/news_feed/?post=89340117)



Nan Dillon

, Central Marina · 2d ago

Hans I signed it but what is the \$3 to get it "on the agenda" And come on Marina please sign the petition 😊



Nan Dillon

, Central Marina · 2d ago

Can we arrange a bus to transport us to the next PUC meeting? More involvement is needed to have an impact



Kristin Marchionni

, Marina Station · 1d ago

Why is this being heard in San Francisco in the middle of the week? Why isn't this being heard here, in the city they're proposing to build this experiment?



Byron Merritt

, Marina Station · 1d ago

I have a suggestion. Let's propose a slant well in Monterey and send all of the water to Marina. Let's see how the Monterey residents feel about that.



Kristin Marchionni

, Marina Station · 1d ago

I am very, very frustrated that this is taking place mid-week. Hans, are taking this petition to the meeting?



Peter Le

, Marina Station · 1d ago

Why is this being heard in San Francisco in the middle of the week? Because CPUC is situated in San Francisco and they (the Administrative Law Judge) set the date of August 22, 2018 for Oral Arguments only. No individual is allowed to speak at this August meeting. CPUC has not set the date in September for the approval of this project. The public is allowed to speak at this September meeting.



Kristin Marchionni

, Marina Station · 1d ago

Thanks, Peter.



Tom Moore

, Marina Station · 1d ago

Actually, at the hearing on August 22nd at the CPUC in San Francisco, I must take a day of annual leave from work at NPS in order to appear before the Commission so I can plead for them to disapprove the proposed Cal Am desalination plant. It's NOT presently needed by Cal Am and they have failed in their obligation to prove the desal plant won't destroy our groundwater. The CPUC has ever so generously allowed me 30 seconds to speak to them and has overall given Marina Coast a total of 12 minutes to make its case. Sarcasm aside, I am not a big fan of the CPUC and its extraordinarily complex procedures....



Kristin Marchionni

, Marina Station · 1d ago

Take what you can from this forum, maybe.



Juli Hofmann

, Marina Station · 13h ago

The CPUC has a general business meeting in its San Francisco offices on August 23. The public can speak during the general comment period that begins at 9 am. Visit the California Public Utilities Commission website for more information. <http://cpuc.ca.gov>



Peter Le  
 , Marina Station7

## Water Board (MCWD) Candidates

August 16, 2018 by Royal Calkins "In the Marina Coast Water District, the three incumbents up for re-election have all filed papers to run again. They are Bill Lee, Jan Shriner and Howard Gustafson, who manages to stir up controversy every few months by casting gratuitous insults at fellow board members and others. Most recently, he sparked a protest through a series of tweets, including one calling Barack Obama a "black bitch." Since all the incumbents are running for the water board, that filing deadline was last Friday. Making their way onto the ballot will be former water board member Peter Le, an engineer, and Matt Zefferman, who, like board member Tom Moore, is a professor at the Naval Postgraduate School in Monterey. From his web site, here's how Zefferman describes his work: "I am a quantitative social scientist who uses mathematical models and ethnographic field research to understand human ultrasociality – our ability to organize ourselves into societies capable of large-scale cooperation and large-scale conflict – especially in the contexts of war, political organization, and environmental sustainability.""

1d ago · 6 neighborhoods in [General](#)



Ruthie Krotzer  
 , Central Marina · 1d ago

Our 3 incumbents have the needed water knowledge and should be re-elected. Matt lacks that knowledge and I hope he'll continue at his current position. I wonder if he is an Agenda 21 proponent? Also, Peter Le advocates transparency but he hasn't mentioned that he RESIGNED from the MCWD BD when he previously served on it.



Peter Le  
 , Marina Station · 1d ago

In the statement of candidate and in the Nextdoor introduction, I did mention that I served only three years. I planned a major announcement on my resignation at the debate on August 25. In the mean time, I can give you a hint. The hint is to read the Board of Directors Procedure Manual, either the 2015 or 2016 edition. Some people might have some ideas. Bruce Delgado might have some ideas from the meeting at Marina Mountain Mike Pizza. Tom Moore and his wife from the conversation at Pho Lucky. Kathy Biala from the meeting at Marina McDonald. Did Bruce, Tom or Kathy talk with anyone else after these meetings?



Elisabeth Billingsley  
 , Central Marina · 21h ago

Peter, are you stirring up trouble / what is your agenda here? Are you insinuating that they broke the Brown act? Can't people get to gether and just have dinner and talk about something else?



Matthew Zefferman

, Central Marina · 21h ago

The blog post that Peter Le quoted above is not completely accurate as to my background. For example, I am not a professor at the Naval Postgraduate School (I have a postdoctoral fellowship). It also does not mention my education and experience in environmental engineering, environmental management or ecology. To clear up any confusion, I will post a brief bio below and a slightly longer one in its own Nextdoor post shortly. My plan was to have my biography up on my campaign website up by Labor Day, but it seems that these is a lot of early interest in this election!



Matthew Zefferman

, Central Marina · 21h ago

Matt Zefferman, Candidate for Marina Coast Water District director  
 Occupation: Research Scientist and University Educator  
 Education and Qualifications: Bachelor's Degree in Environmental Engineering, Cornell University  
 Master's Degree in Environmental Management, Cornell University  
 PhD in Ecology, University of California, Davis  
 I am running for Marina Coast Water District Board director because I am passionate about public service and environmental sustainability. I served 6.5 years as an officer in the US Air Force and was responsible for civil and environmental engineering projects at military bases in Texas, Alaska, and the Middle East. From 2006 to 2007, I was the chief of construction planning for the largest military base in Afghanistan, making sure our troops had the vital infrastructure they needed. After my military service, I moved to California to earn a PhD in Ecology and now teach military officers at the Naval Postgraduate School. As a MCWD director, I will support projects and policies that deliver clean, sustainable, and affordable water. I will oppose any project that allows saltwater to contaminate our groundwater or gives away our ratepayer money. With the potential annexation of the former Fort Ord into the district, I will work with the board to ensure that residents of the lower-income parts of Marina do not end up paying for capital-intensive infrastructure expansion into higher-income developments. So far, I have been endorsed by: Thomas Moore, President of the MCWD Board of Directors  
 Jan Shriner, Vice President of the MCWD Board of Directors  
 Lisa Berkley, Vice Chairperson, City of Marina Planning Commission  
 Kathy Biala, City of Marina Planning Commission, Citizens for Just Water  
 Paula Pelot, Chair of Preston & Abrams Parks Tenants Association  
 Wendy Root Askew, Board Member, Monterey Peninsula Unified School District  
 I am especially excited about representing the diverse and thriving Marina community on the MCWD board and I hope that you will support me for MCWD director



Lisa Berkley

, Central Marina · 14h ago

Matt is more than qualified for the MCWD position. If you have any doubt, join us at the August 25 candidate debate at Marina library.

Check out Candidates Forum on Sat, Aug 25

[https://nextdoor.com/events/2368800/?i=wmzffhtxpzlrxscktnp&utm\\_campaign=events&utm\\_source=link&utm\\_medium=u-mobile-ios](https://nextdoor.com/events/2368800/?i=wmzffhtxpzlrxscktnp&utm_campaign=events&utm_source=link&utm_medium=u-mobile-ios)



Peter Le

, Marina Station7

## MCWD now-defunct Regional Desalination Plant: Costs and Money Sources. Is it a cover up?

While there were recent questions on the now-defunct Regional Desalination Plant on Nextdoor, can Tom Moore, as President of the Board, provide information to MCWD customers on how much money MCWD has spent on this failed project to date and what the sources of the spent money are? For the last six years, MCWD has not provided the information in any budget documents or any public statements or public releases.



Peter Le

, Marina Station7

## California Public Utilities Commission judge grants emergency stay on release of secret regional desal invoices

By Jim Johnson, Monterey Herald "San Francisco >> A fleeting victory in the long-running battle to force the unveiled release of Monterey County Water Resources Agency legal invoice records from the defunct regional desal project didn't last long. On Wednesday, California Public Utilities Commission judge Robert Mason granted the county's motion for an emergency stay of his own order to release an unredacted version of the invoice records at the heart of a revisited settlement agreement between the county and California American Water over the project. The ruling came five days after Mason ordered Cal Am to release the unredacted records by Wednesday. Mason agreed with the county's argument, backed by Cal Am, that a previous Public Utilities Commission judge had promised the parties to the proceeding would have an opportunity to argue in formal briefings over a year-old motion from Marina Coast Water District seeking release of the records along with reconsideration of the commission's 2015 approval of the settlement agreement allowing Cal Am to charge its Monterey district customers \$1.9 million to cover the county's spending on the project. Cal Am, the county and Marina Coast are still in court arguing over the regional project, which has already been declared void by a judge, and a damages trial is set for early next year. The agreement also provides that the county will support Cal Am's current desal project and not attempt to enforce its public ownership ordinance. County Counsel Charles McKee said the judge's ruling was "the right decision" and "allows a thoughtful process" to play out, noting previous CPUC rulings in support of keeping the records confidential. "Failure to grant the stay would have caused the release of confidential attorney-client communications without the client having the opportunity to protect its rights," McKee said. In its emergency stay motion, the county argued that disclosure of unredacted records would release the genie from the bottle and could cause irreparable harm through the loss of attorney-client privilege and the potential "rapid and wide dissemination in the era of the internet" of the details, including confidential settlement discussions and personal financial information involving county water agency employees and attorneys. Cal Am agreed with the county's argument, noting that no party to the proceeding including the commissioners have seen the unredacted records other than county water agency and Cal Am officials, though a redacted version has been made available. In response, Marina Coast argued that the unredacted records should be disclosed to help the commission and the public determine if they are "just and reasonable" and should be reimbursed by Cal Am customers. The district pointed out that the genie was never in the bottle in the first place

because the county water agency previously showed the unredacted records to Cal Am in an effort to justify its spending on the regional project, thereby waiving attorney-client privilege. In addition, the district argued the agreement between the county and Cal Am was a “sham” intended to “shield imprudent behavior from commission scrutiny at the expense of Cal Am ratepayers and to gain an unfair advantage over (Marina Coast) in Superior Court litigation related to the demise of the (regional project).” Jim Johnson can be reached at 831-726-4348.

3d ago · 6 neighborhoods in General



Hans Ongchua

, The Dunes on Monterey Bay · 3d ago

Peter, as a former MCWD board member, can you provide context to this development? It would help who are new to the issue understand what's going on and whether there's anything we can do about it. I assume this is with regards to Cal Am and the Monterey County Water Resources Agency asking the Marina Coast Water District to pay \$1.9M in legal fees from an OLDER and CANCELED desalination project? [http://www.montereycountyweekly.com/blogs/news\\_blog/marina-coast-ordered-to-pay-million-to-county-cal-am/article\\_83c7b938-4dde-11e5-8b2c-2f5bdde1b109.html](http://www.montereycountyweekly.com/blogs/news_blog/marina-coast-ordered-to-pay-million-to-county-cal-am/article_83c7b938-4dde-11e5-8b2c-2f5bdde1b109.html)



Peter Le

, Marina Station · 2d ago

At least I can provide some information for now on the failed Regional Desalination Plant project as follows: 1. Before 2008, Cal Am was developing a new desalination plant for the Monterey Peninsula. 2. At the same time, MCWD was also developing a new desalination plant for the former Fort Ord and Armstrong Ranch. 3. Several people suggested that Cal Am joined MCWD to develop a single desalination plant since it would be cheaper and everyone won; a win-win case. 4. Then many issues needed to be resolved such as: who owns the wells, who owns the plant, who owns the pipe lines, who pay for what components, etc. 5. After many meetings and dispute resolutions, the consensus was: Monterey County would own the wells, MCWD would own and operate the plant, Cal Am would own the pipe lines. 6. With regards to money and funding: Cal Am would reimburse County and MCWD for environmental work, preliminary engineering, permits, etc. MCWD would obtain low interest loans from State and grants from State and Federal to build the new plant. County would also obtain low interest loan from State and grants from State and Federal for the wells. Cal Am obtained their own funding for the pipe lines. 7. MCWD prepared the EIR for the desalination project and CPUC certified the EIR and issued a CPCN for the project. But the Ag Land Trust sued MCWD on the EIR in Monterey Superior Court. 8. The project later did not get support for some parties such as Monterey Peninsula elected officials, Salinas Valley Water Coalition, Monterey County, etc. 9. In 2010, Steve Collins was hired to try to resolve all these disputes. MCWD claimed Steve Collins was hired based on discussions with former County Supervisors Lou Calcagno, Dave Porter, and Curtis Weeks (former General Manager of MCWRA). Monterey County claimed Steve Collins was hired by MCWD, mainly from Ken Nishi and Jim Heitzman. 10. People found out about Steve Collins and the conflict of interest. 11. The project fell apart and Cal Am started their own project in 2012. 12. MCWD sued Cal Am and Monterey County claiming the signed agreements were still valid and Cal Am needed to reimburse MCWD about 18 million dollars spent to date. 13. Cal Am and Monterey County also sued MCWD for about 10 million dollars and about 2 million dollars, respectively. 14. The trial was in San Francisco Superior Court. 15. In 2015, the judge ruled that all the signed agreements were not valid due to the conflict of interest. 16. Now you come to the



Weekly article where the same judge ruled that MCWD had to pay Cal Am and Monterey County for attorney fees. 17. MCWD then appealed the rulings to the Appeal Court. 18. The Appeal Court uphold the ruling from the Superior Court. 19. This is only for Phase 1. Phase 1 is to decide whether the signed agreements were still valid or not. No longer valid. 20. Now we go to Phase 2. Phase 2 will decide the damages to each party. Who has to pay \$\$\$ to what party. 21. Phase 2 is supposed to start next year. 22. Stay tune.



Hans Ongchua

, The Dunes on Monterey Bay · 2d ago

Good summary. Thanks for providing that, Peter. It seems that the Ag Land Trust (<http://aglandtrust.org>) is a notable player in water matters. Have you heard if they might challenge the Environmental Impact Report (EIR) that supports the current Cal Am Slant-Well Desalination Project?



Peter Le

, Marina Station · 2d ago

I have not heard anything yet.



Nan Dillon

, Central Marina · 2d ago

Our land Our Water!!!!



Kristin Marchionni

, Marina Station · 1d ago

I am not willing to risk our fresh water for an experiment. We need to live within our planet's ability to sustain us.



Tom Moore

, Marina Station · 1d ago

Just a couple of corrections to the Regional Desalination Project history lesson: A. MCWD did not prepare the EIR. We wanted the County to do so, but the CPUC insisted that they be in charge of the EIR (i.e. they wanted to be the so called Lead Agency). I personally visited the CPUC in San Francisco to support the County bid for the Lead status when two CPUC Commissioners told us that they were going to be the Lead. Thus the County Water Resources Agency and MCWD become just so called "responsible agencies" on the EIR. This means that while we were not in charge of doing the EIR, we would have an opportunity to say whether we approved or disapproved of it. B. Due to the timing of meetings, the MCWD Board happened to approve the EIR before the CPUC

met to do so. AgLand Trust took advantage of this to claim that MCWD was in fact the Lead Agency and to sue over the quality of the EIR. (They did so because if they tried to sue the CPUC, the only court in which they could do so (by law) was in the California Supreme Court.) So AgLand Trust sued Marina Coast in local Superior Court. Initially Judge Villarreal ruled against us. We had to appeal and eventually won the case. Unfortunately AgLand Trust's lawyers have continued to pursue the District looking for attorney's fees. C. It's important to get the order of lawsuits regarding the Regional Desalination Project: Cal Am and the County filed suit against Marina Coast first. To defend the ratepayers of the District, Marina Coast filed a counter-suit. It's been in litigation ever since. D. The litigation regarding the Regional Desalination Plan was split into two phases: 1) Determine whether or not the contracts between MCWD, the County and Cal Am were still valid in light of the conduct of the County's board member, Steve Collins; and 2) Determine who owes who and how much (called the "damages" phase). MCWD lost in phase one, and thus had to pay Cal Am and County attorney's fees. The damages phase is scheduled for trial in 2019.



[Elisabeth Billingsley](#)  
, Central Marina · 1d ago

Thank you Tom Moore, for setting then record straight,



[Peter Le](#)  
, Marina Station · 1d ago

CORRECTION: TOM. "B. Due to the timing of meetings, the MCWD Board happened to approve the EIR before the CPUC met to do so. AgLand Trust took advantage of this to claim that MCWD was in fact the Lead Agency and to sue over the quality of the EIR. (They did so because if they tried to sue the CPUC, the only court in which they could do so (by law) was in the California Supreme Court.) So AgLand Trust sued Marina Coast in local Superior Court." PETER. MCWD should have prepared the EIR. "In an amended ruling, a Monterey County Superior Court judge has found that the environmental review for the failed regional desalination project neglected to properly consider a number of issues, including water rights. The revision was released Thursday, about six weeks after Villarreal ruled that Marina Coast Water District should have prepared the EIR as the lead agency under state environmental law. The revision did not change that stance."



[Peter Le](#)  
, Marina Station · 1d ago

CORRECTION: TOM. C. It's important to get the order of lawsuits regarding the Regional Desalination Project: Cal Am and the County filed suit against Marina Coast first. To defend the ratepayers of the District, Marina Coast filed a counter-suit. It's been in litigation ever since. PETER. Tom was wrong. MCWD filed lawsuits against Cal Am and Monterey County first. "Firing back, Monterey County has filed a claim against the Marina Coast Water District alleging it was district officials' fault the regional desalination project fell apart, primarily because of "secret agreements" with former county water board member Steve Collins. Filed with Marina Coast on Monday, the claim calls out the water district's general manager, Jim Heitzman; former legal counsel Lloyd Lowrey; and all five current board members by name. It asks for unspecified punitive damages. The claim

accuses district officials of conspiracy, fraud, bribery of a public official and violation of conflict of interest laws in an attempt to gain an advantage with regard to the regional project. It alleges officials engaged in "a continuous pattern of unlawful and deceptive conduct, planned and orchestrated" by them and their co-conspirators to "profit from, interfere with and ultimately frustrate" the regional project. Their actions damaged the county, its water resources agency and county residents by delaying the development of a new water supply, squandering millions of dollars and increasing the cost of a solution, the claim said. It was filed a little more than two weeks after Marina Coast filed a claim against the county, alleging it was to blame for the regional project's demise." Five MCWD directors at that time were: Ken Nishi, Tom Moore, Dan Burns, Howard Gustafson, and Bill Lee."



Peter Le

, Marina Station · 1d ago

CORRECTION: TOM. " Initially Judge Villarreal ruled against us. We had to appeal and eventually won the case." PETER. Tom is not entirely correct. All parties to the case under consideration by the 6th District Court of Appeal agreed that the proposed Regional Desalination Plant was dead. Therefore, the appeal court judges ruled that the case was mute i.e. there was no point to argue the EIR of a dead project. The case was returned to the Monterey Superior Court. In appealing to the 6th District Court of Appeal, MCWD did not appeal the attorney's fees as part of the case; another major blunder. This is why the case of attorney fees keeps going on.



Hans Ongchua

, The Dunes on Monterey Bay LEADF74

## Not good: CPUC greenlights Cal Am's desalination plant

Just posted on the Weekly. "Marina Coast has ardently contended the project would decimate its freshwater supplies in the shallow dune aquifer, arguing that shallow aquifer is an essential bulwark against seawater intrusion into deeper aquifers. But the PUC's proposed ruling is dismissive of that concern." [http://www.montereycountyweekly.com/blogs/news\\_blog/public-utilities-commission-gives-cal-am-its-blessing-for-proposed/article\\_58af554e-9ff2-11e8-a778-5f2b7ea1c7c2.html](http://www.montereycountyweekly.com/blogs/news_blog/public-utilities-commission-gives-cal-am-its-blessing-for-proposed/article_58af554e-9ff2-11e8-a778-5f2b7ea1c7c2.html) See more...



### Public Utilities Commission gives Cal Am its blessing for proposed desal plant.

This story begins back in 1995, when California American Water regularly drew about 14,100 acre-feet of water per year from the Carmel River to supply the households of about 100,000

MONTEREYCOUNTYWEEKLY.COM

5d ago · 8 neighborhoods in General



Liesbeth Visscher

, The Dunes on Monterey Bay · 5d ago

Bad news for Marina... "Citizens 4 Just Water" is fighting hard, together with "Public Water Now".

They can use lots of support, please get informed! <https://www.c4justwater.org/>

<http://www.publicwater.org/> CalAm's goal is to make as much profit as possible. In my opinion, some things in this world shouldn't be for profit, including utilities and especially water. I hope that the Monterey voters will choose wisely in November. "Meanwhile, voters in Cal Am's service area will decide on Measure J come Election Day this November. The measure, authored by public water advocates, would direct the Monterey Peninsula Water Management District to conduct a feasibility study of a public takeover of Cal Am's system, and if it's found feasible, move forward with eminent domain."



Julius VanderSpek

, The Dunes on Monterey Bay · 5d ago

The other part of the problem is that the water that CalAm makes these profits on is first stolen from Marina's own aquifers.



Peter Le

, Marina Station · 5d ago

Will the Ag Land Trust challenge the EIR/EIS in court?



Elisabeth Billingsley

, Central Marina · 5d ago

There is something in the Herald about the water, didn't have time yet to read the whole Article. just the headlines.



Laura Blanton

, Central Marina · 5d ago

It was on the 6:00 news tonight also.



Kathy Biala

, Central Marina · 5d ago

CODE RED ALERT! PLEASE READ: Public Water Now held a very important forum at MIIS tonight with Monterey One Water, Paul Scuito, and Jonas Minton, Planning and Conservation League who talked about an expansion of a regional recycled water project that can serve as a more affordable, equitable, and viable "Plan B" to the Cal-Am Slant Well Desalination Project. Remember that the Peninsula ratepayers, under CalAm, are paying the highest rate of water in the COUNTRY, even without the \$300M plus for the proposed Desalination Project! The issues of environmental injustice to Marina of Cal-Am's Project was pointed out that would necessitate litigation should the project be approved. Although, the CPUC's "proposed decision" has been to advance the Project for a vote at a CPUC regular meeting in S.F. (possibly Sept. 13), the Project has NOT been issued a building "permit" (CPCN) until that time. Before that, on Aug. 22, all official "parties to the proceeding", including the City of Marina, Marina Coast Water District, Citizens for Just Water, and Public Water Now and several others, will get their first opportunity to be heard before the CPUC in S.F. At the Forum tonight, individuals were urged to exercise their right to contact the CPUC Commissioners regarding the Cal-Am Slant Well Project. If ever there was a more urgent time for Marina and Ord communities to write a comment, it is NOW. Here are the email addresses: CPUC President Michael Picker: [mp6@cpuc.ca.gov](mailto:mp6@cpuc.ca.gov); Commissioner Carla Peterman: [cap@cpuc.ca.gov](mailto:cap@cpuc.ca.gov); Commissioner Liane Randolph: [lrl@cpuc.ca.gov](mailto:lrl@cpuc.ca.gov); Commissioner Martha Guzman Aceves: [mga@cpuc.ca.gov](mailto:mga@cpuc.ca.gov); Commissioner Cliff Rechtschaffen: [cr6@cpuc.ca.gov](mailto:cr6@cpuc.ca.gov). For more information on the issues, please go to [c4justwater.org](http://c4justwater.org). This is A CODE RED ALERT!



Peter Le

, Marina Station · 5d ago

What can you do? Using the CPUC Commissioners' email addresses provided by Kathy above, you need to send your email in the next few days in order for the Commissioners to read before the August 22, 2018 CPUC meeting and before the September CPUC meeting. Your email can include one or more points as follows: 1. You oppose the CPUC proposed decision because this project will cause harms to Marina groundwater. Therefore, the proposed decision will potentially lead to further litigation and delay of the proposed project. 2. You oppose the proposed decision because there are other alternatives that can provide water at a lower cost and cause less impact to the environment. For example, if the CPUC approves the expansion of the aquifer recharge, it can provide additional 2,500 AFY. It also can be done within the next two years at a cost of \$2,000 per AY compared to the cost of \$7,000 per AF for desal water. This will provide a total of 5,000 AFY of recycled water. Combine with about 3,700 AFY from the Carmel River, 300 AFY from the Sand City desal plant, and groundwater from the Seaside Basin, the total available water is about 12,000 AFY. This amounts is sufficient for the foreseeable future. The additional 2,000 AFY can be provided by a regional desal plant at a future date at a lower cost and less likely to involve litigation. (Additional information is available from the comments provided by MCWD). On August 22, 2018, CPUC will meet to hear oral arguments requested by MCWD and City of Marina on the recently passed legislation and executive order from the Governor on the conservation standards; thus affecting the forecasts of water demands. Individuals are not allowed to speak at this meeting. It takes time for your emails to get to the CPUC Commissioners. Therefore, I recommend that you send your emails by this Sunday, August 19, 2018.



Hans Ongchua

, The Dunes on Monterey Bay · 4d ago

I really appreciate all the guidance being provided by Kathy and Peter. I worry though that many will find it too time consuming to get caught-up on this issue and put together six emails. Shouldn't it be easier for other Marina citizens who care about this issue but are time-constrained to make their voice heard? What about putting together a petition on [Change.org](https://www.change.org/)? <https://www.change.org/> <http://guide.change.org/home> <https://www.change.org/start-a-petition?step=ask>



Angie Nader

, Marina Station · 4d ago

As Hans said, a Big Thank You to Kathy and Peter for giving us the tools to make this easier. I do also agree with Hans, this can be easy to pass up. So what do you all think? I'd be willing to meet with whoever tomorrow, and participate figuring out how to assist Kathy and her team in collecting signatures . I believe that if Kathy writes something up, people would sign it. Let's get something planned. Times running out, and kathy has worked so hard. If this slant well project goes through, and our groundwater is contaminated, there's no going back. We cannot repair earth, the way we repair roads. I'm in for whatever.



Grace Silva-Santella

, Marina Station · 4d ago

My suggestion, do not ask Kathy to write something. She has given so much of herself to this CalAm battle. I think at times Kathy has felt like one of only a few willing to give of their free time and resources to fight CalAm. The other two Marina residents that I know of are Juli Hofmann and Lisa Berkeley. It may not be convenient but set aside a few minutes, write one draft email, and then cut and paste for the remaining individuals that need to hear from us in Marina. I also suggestion you keep each concern to a concise, single sentence.



Angie Nader

, Marina Station · 4d ago

I wouldn't know how to even start such an email. I'm terrible with email. I just opened my email for the first time in 2 weeks 🙄 Regarding water, I can support and give my time this next week. To be honest, I really dont know all the logistics. I've been tottaly complacent. I was one of those people who just trusted it wouldn't happen. I guess that's why it did happen??? We all just left it on Kathy. Hopefully someone will come up with a good solution here. Both Juli and Lisa are great! I'd be willing to give my time in order to assist them.



Kathy Biala

, Central Marina · 4d ago

This has been a long haul and so many folks have attended our Water Forums and came to speak before all kinds of legislative bodies, so let's not stop at the tail end here! There is a Peninsula effort to get a couple of hundred CalAm ratepayers to send emails to CPUC (CA Public Utilities Commission)! Let's all join together and tell CPUC about what we think about this CalAm Desalination Project...we are not alone! The messages don't have to be fancy or long! Your time to send a brief message of opposition and your name is what's important! Everyone PLEASE take the time to protest this unfair and destructive project! Get your family and neighbors to do the same! This is OUR water we are protecting! Here are the email addresses again: CPUC President Michael Picker: [mp6@cpuc.ca.gov](mailto:mp6@cpuc.ca.gov); Commissioner Carla Peterman: [cap@cpuc.ca.gov](mailto:cap@cpuc.ca.gov); Commissioner Liane Randolph: [lrl@cpuc.ca.gov](mailto:lrl@cpuc.ca.gov); Commissioner Martha Guzman Aceves: [mga@cpuc.ca.gov](mailto:mga@cpuc.ca.gov); Commissioner Cliff Rechtschaffen: [cr6@cpuc.ca.gov](mailto:cr6@cpuc.ca.gov). For more information on the issues, please go to [c4justwater.org](http://c4justwater.org). This is A CODE RED ALERT!



Grace Silva-Santella

, Marina Station · 4d ago

Correction by me, spelling for Lisa's last name, Berkley, not Berkeley. Sorry, Lisa. Thank you Kathy, Juli, and Lisa!



Kathy Biala

, Central Marina · 4d ago

Angie, thank you for your candid comments and perhaps it will inspire others to send a brief email to the CPUC commissioners! There are many past letters that were used in previous initiatives and all the information is still current today, so choose the topic that best fits your concerns! Go to the website [c4justwater.org](http://c4justwater.org) and click on "What We Can Do" section.



Elisabeth Billingsley

, Central Marina · 4d ago

I just wrote to all five of them yes it is the same letter but if even juts one reads it that will be great. So please every one can write a few lines , We need our water,



Alexander Barton

, Marina Station · 4d ago

Commissioner Liane Randolph's email has changed. You can reach her here:

[liane.randolph@cpuc.ca.gov](mailto:liane.randolph@cpuc.ca.gov)



Kathy Biala

, Central Marina · 4d ago

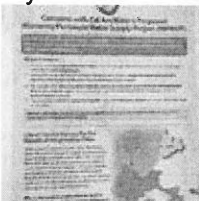
For those who may want to know what the City of Marina says about the CalAm Desalination Project, please see a sample of some flyers. You can use these ideas for your CPUC comments! Sorry, I have to post 3 different times (won't let me post all 3 at one time).



Kathy Biala

, Central Marina · 4d ago

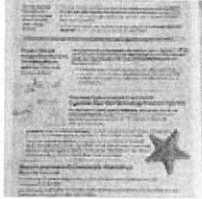
Flyer 2







Kathy Biala  
, Central Marina · 4d ago  
Flyer 3



Hans Ongchua  
, The Dunes on Monterey Bay · 4d ago  
Thanks Kathy. I created a Change.org petition using text from that flyer. <https://chn.ge/2Bh3x91>



Hans Ongchua  
, The Dunes on Monterey Bay · 1d ago

I'm still reading-up on this issue and could use some help from folks who've been engaged these past years. The project's greenlight is partly based on the Environmental Impact Report (EIR). ([http://www.cpuc.ca.gov/Environment/info/esa/mpwsp/feir-eis\\_toc.html](http://www.cpuc.ca.gov/Environment/info/esa/mpwsp/feir-eis_toc.html)) The DRAFT of this report was peer-reviewed by Lawrence Berkeley National Labs (LBNL). (<https://pubarchive.lbl.gov/islandora/object/ir%3A1006443/datastream/PDF/view>) In that peer-review, LBNL QUESTIONS the EIR's methodology. Was LBNL's peer-review taken into account to revise the FINAL EIR? From the Abstract (page. ii, par. 5) ————— "We also found that the groundwater model results may not represent the detailed response of the actual system because the conceptual model used for groundwater modeling of the shallow sands at Marina neglected to include an aquitard present in the subsurface (the Fort Ord Salinas Valley Aquitard, or FO-SVA). We recommend that future groundwater modeling include the FO-SVA."  
————— From the Section 2. Conclusions (page. 2, pars. 2 and 5)  
————— "... we find that there are shortcomings in the hydrostratigraphic model and simulation inputs that could potentially change the impact assessments." " The new simulation should be initialized with hydraulic conductivities measured from field data collected in the nearby former Fort Ord. " —————



Peter Le  
, Marina Station · 1d ago

In that peer-review, LBNL QUESTIONS the EIR's methodology. Was LBNL's peer-review taken into account to revise the FINAL EIR? YES. See 8.2-5 Master Response. pages 8.2-29 and 8.2-30



Peter Le

, Marina Station · 1d ago

What everyone should know about the test slant well is as follows: 1. "The test well results were NOT used to model the project's groundwater impacts." (See DEIR/EIS, page 2-35). What's the point of spending millions of dollars on this test slant well? And Cal Am called it a success? "Additionally, the DEIR/EIS abandoned any attempt to model the project's potential impacts in favor of a simplified superposition model that does not evaluate the amount of groundwater that will be pumped from the Marina Subarea or evaluate the project's cumulative impacts." (MCWD Comments, page 8 of 122).



Kathy Biala

, Central Marina8

## Tired of waiting for your hot water to get hot?

I want to share a service of MCWD (Marina Coast Water District-our water agency) that we finally took advantage of after hearing about this at their booth on Earth Day 2 years ago! It is great! MCWD has a reimbursement program for a hot water recirculation pump BUT you must contact them first. They come out to take before photos of your system. Then you buy the pump (we bought ours at Home Depot for under \$200), then you install it or get a handyman to install (can be done simply and reasonably for under \$100). MCWD gives you a form to sign, takes photos after you install. Then you can be reimbursed up to \$250 for the pump and related parts if needed. Installation is NOT covered. I use to waste so much water getting hot water to the master bathroom; I keep thinking "Why didn't we do this earlier!" See more...

5 Jan 17 · 7 neighborhoods in [General](#)



Nancy Amadeo

, Marina Station · 5 Jan 17

I had no idea this was available. We have already done so many things to reduce our water consumption but this was something I have always considered since so much water goes down the drain as waste just because it isn't hot yet. I hate wasting water. My grandmother used to fill buckets with water waiting for it to get hot and used that to water her plants and for cooking. And their water wasn't even metered! She did it because she lived by the adage Waste not want not.



Brian McCarthy

, Seaside Ct · 5 Jan 17

Thanks Kathy! A couple tips from my experience(s) with Hot Water Re-Circ Pumps and MCWD. 1) If your home ever had a recirc pump in the past, MCWD may or may not approve a new one. So even if you buy a house that does not have one because the previous owner took it with him/her -- MCWD may deny your application (IMO this is a flaw with MCWD but that is another discussion). 2) Hot Water Recirc pumps SAVE WATER but WASTE ENERGY (think fossil fuels used to keep the water hot constantly...) So just keep in mind it is truly a trade off (See #3) 3) You can minimize energy waste by putting your hot water recirc pump on a timer that only operates during the hours you want it to. I personally took it a step further by placing it on a WiFi enabled plug that allows me to greatly customize the on/off periods -- and even turn it on by demand with a simply click on my smartphone. Hope this helps!



Grace Silva-Santella

, Marina Station · 5 Jan 17

I love our recirculating pump. And, yes, we utilize a builtin timer that came with the pump. Some folks think it can't be done on older homes but I think MCWD staff can help plan for this when you do

line up a plumber for the install. To qualify one thing MCWD is checking for is the length of time for hot water to reach the furthest plumbing fixture in the house..



Bruce Delgado

, Central Marina·5 Jan 17

Natalie and I have had a circ pump for about two years and turn it on about 3 minutes before we need hot water. Then we turn it off when we no longer need hot water. If we forget to turn it off, which we do sometimes, we waste energy. Otherwise like Brian said above in this thread it wastes energy circulating water thru your system all night or while you are out of home. The compromise Grace mentions is using a timer for say 3 hours in the morning and 3 hours at night when you're most likely to need hot. However, that is 6 hours per day of circulating water when you aren't using it most of the time. But it is great to have hot water at the ready, immediately, cuz you save the waste of so much cold water while you wait for it to turn hot.



Elisabeth Billingsley

, Central Marina·5 Jan 17

I also have mine now for 3-4 years, I also have a device under my Bathroom sink so when I turn on the water it is hot already. Yes They reimburse you for it, my son installed ours. I Love it and it saves also water.



Kathy Biala

, Central Marina·6 Jan 17

All, many thanks for all your helpful tips! Because we are now "empty nesters", my husband says the added cost of electricity is negligible so he did not install a timer but this is an excellent suggestion. I now tolerate a bit warmer water when I brush my teeth until it turns cold, over washing my face or taking a shower with ice cold water until it turns hot! What a great invention this has been!



Jeffrey Cooper

, Marina Station·8 Jan 17

I took advantage of MCWD's rebate for a recirculator retrofit. It's been awesome, nearly instant hot water! Got a Grundfos kit off amazon, and picked up the hoses I needed from Ace. Edit: This is the one we have: <https://www.amazon.com/gp/product/B000JG81AQ/> Since it's only 1/25 horsepower it probably only draws a few watts. We use the timer to run it about an hour in the morning and an hour in the evening. There has been no noticeable increase on our gas or electric bill. Keep in mind it can increase your gas bit a bit if your hot water pipes run through a cement slab as that will cool your hot water a lot. Most plumbers wont install one that you purchase yourself. You may need to make a trip to Ace if the hoses that come with it don't fit your faucet (which was the case for us).



[Elisabeth Billingsley](#)

, Central Marina · 9 Jan 17

I love mine, there is instant hot water, never have to wait to get warm water.



[Marcie Bronzburg](#)

, Marina Abrams · 5d ago

May be a dumb question but can you use this with a tankless water heater? We have a tankless and it still takes so much time and water to get hot on the other side of our house. And this is our Master Bath.



[Grace Silva-Santella](#)

, Marina Station · 5d ago

Yes, we have a recirculating pump on a timer linked to our tankless hot water heater.



[Steffanie Hochuli](#)

, Marina Station · 4d ago

Thanks Kathy for posting this. We were told we were the 1st in Marina to take advantage of this great program 5 years ago. I can't imagine how much water we have saved in that time. Think how much water Marina could save if we all had this. It was an easy installation for my handy husband. I love turning on the shower and stepping right in!



[Kathy Biala](#)

, Central Marina · 4d ago

Wow! so you were the first! Thanks for being the "guinea pigs" or the "pioneers"! Many have now followed your lead, including my husband and I so many years later! lol!



[Matthew Zefferman](#)

, Central Marina · 4d ago

There is a similar program at MCWD for a partial rebate if you purchase a water-efficient washing machine. You just need to send them the receipt for the purchase. My wife and I submitted our receipt and received our rebate check a couple months ago.



Peter Le

, Marina Station · 4d ago

Copy from MCWD report: "MCWD found out long after the homes within the Shea Development (the Dunes) were sold and occupied that they didn't have the hot water recirculation piping, even though Shea had the correctly installed hot water heater units with the recirculation function. According to Ordinance No. 20, established in April 1991 (attached), the District's Code Section 3.36.030, states that any new construction is required to be outfitted with a fully operational hot water recirculation system. Although the developer installed the correct hot water heater unit, the hot-water recirculation system pipes were never installed. Our inspections confirmed the correct hot water unit was installed when we inspected the homes prior to setting the water meter. However, the inspectors wouldn't have been able to see the piping for the hot water recirculation as the walls/floors were complete with the plumbing behind the walls/floors at the time of inspection. In response to this discovery that these homes were constructed with the correct recirculation unit but without the recirculation piping, MCWD had meetings with the City and have now better integrated our inspection earlier on in the building inspection processes before the walls/floors are closed up, and we have ensured that all homes, following this discovery, have included both the correct hot water heater unit and recirculation system. As far as those homes that were not built with a hot water recirculation system, we are working with Shea to identify a fix they can use to respond to the complaints they've received from those residents they sold homes to that didn't have the hot water recirculation piping. There is retrofit work that can be done to achieve a similar level of water savings from the traditional recirculation piping loop without opening up the existing walls and floors."



Nan Dillon

, Central Marina · 3d ago

hot water recirculation units should be mandatory in the Monterey Coast. Anytime a home is sold or rented it must have an inspection and have a hot water recirculation pump installed. Is an inexpensive fix for an expensive waste of water.



Tom Wright  
, Central Marina

## Marina Coast Water District board member (and former Marina city councilman) Howard Gustafson

The Monterey County Weekly wrote about the political rants on social media of Marina Coast Water District board member Howard Gustafson.



### Squid nominates a friendly bulldog for a local water board seat.

Drinking the Kool-Aid...Outside of the usual snacking, napping and reading regimen, Squid didn't have any grand plans this past weekend other than a few things.

MONTEREYCOUNTYWEEKLY.COM

26 Jun · 7 neighborhoods in General



Audra Walton  
, Marina Abrams · 26 Jun  
perhaps he shouldn't be reelected?



Joseph Ricciardi  
, Marina Station · 26 Jun

Hateful comments by a former leader on our community? How sad. While I do not want to deprive folks of their political views (even on immigration), to applaud the separation of... See more



Gail Johnson  
, Central Marina · 27 Jun

Is this the same Gustafson who asks about marijuana sites? Is this the same man who claims that he has the best interest of Marina in mind? This sounds like a bitter man who has... See more



Grace Silva-Santella  
, Marina Station · 27 Jun

Thank you for posting Coast Weekly link. It's unfortunate we have an elected official in Marina that represents his perspective using this verbiage.



[Dave Fleischman](#)

, The Dunes on Monterey Bay · 27 Jun

Unbelievable. A long time ago I learned the saying "never get in a wrestling match with a pig. You'll just get dirty and the pig enjoys it." The analogy is intentional, and I... [See more](#)



[Jynae Clapper](#)

, Central Marina · 27 Jun

Wow....just wow....repulsive!



[Jan Shriner](#)

, Central Marina · 28 Jun

I am not sure that the twitter account is entirely Director Gustafson. 1500 or so tweets have occurred without interruption from any other account or advertiser. It seems odd.... [See more](#)



[Lisa Berkley](#)

, Central Marina · 28 Jun

After reading the Squid article, I checked out Director Gustafson's twitter feed. It was appalling, especially coming from an elected official representing such a diverse city. ... [See more](#)



[Nancy Amadeo](#)

, Marina Station · 28 Jun

I agree with Jan Shriner encouraging others to run for public office. I went public many months ago that I would not be seeking re-election. At the end of this term I will have... [See more](#)

11 Thanks



[Kathy Biala](#)

, Central Marina · 28 Jun

Lisa, thank you for this further information as it is vital for us to know the full extent of Mr. Gustafson's messaging. I am shocked and deeply disturbed by it. Yes, it is the... [See more](#)





Grace Silva-Santella  
, Marina Station · 29 Jun

Sadly, what comes from Gustafson's Twitter account is symbolic of the disturbing national rhetoric we hear everyday.



Brian McCarthy  
, Seaside Ct · 29 Jun

Wait a minute, forget what his twitter account says for a moment -- has anyone watched his performances on the MCWD board over the years?!? As an elected official he has... [See more](#)



Grace Silva-Santella  
, Marina Station · 29 Jun

Brian, agree, agree, agree!!! However, unless someone in Marina will take the time to run for MCWD Board and study and attend meetings, we have no replacement to vote for. Being... [See more](#)



Kathy Biala  
, Central Marina · 29 Jun

I often feel helpless to do anything about the nastiness of bigotry and sexism that has evolved at our national level, but by gosh! we CAN speak out about it when it comes to our... [See more](#)



Bruce Delgado  
, Central Marina · 29 Jun

Currently I am not aware of any Marina resident (who is not an incumbent) planning to run for one of MCWD's 3 open seats this November. Needed are people to step up to this... [See more](#)



Lisa Berkley  
, Central Marina · 29 Jun

I think for many people, running for MCWD board may seem overwhelming. If someone were considering running, there are plenty of opportunities to learn about the water issues as... [See more](#)



Kathy Biala  
, Central Marina · 29 Jun

Bruce, I also hope you condemn this kind of rhetoric while also suggesting a remedy. I would like to say that I have seriously considered running but have received legal opinion... [See more](#)



[Bruce Delgado](#)  
, Central Marina · 29 Jun

As a child I grew up in one of only two Hispanic-Mexican households in a new, virtually 100% Caucasian neighborhood of 4 streets that included 64 homes. I didn't feel different in... [See more](#)



[Deborah Bielsker](#)  
, Central Marina · 29 Jun

Anyone even curious has the opportunity to observe Marina Coast Water Board in action on July 16th at 6:30 pm!



[Jan Shriner](#)  
, Central Marina · 29 Jun

Mayor, I know you have worked hard to support MCWD non-incumbents in the past and I greatly appreciated your help in getting elected for two terms so far. It has not been very many... [See more](#)



[Liesbeth Visscher](#)  
, The Dunes on Monterey Bay · 29 Jun

Many neighbors might not be aware that several areas that are being serviced by MCWD are not (yet) annexed. Residents of the Fort Ord communities -including The Dunes and East... [See more](#)



[Kathy Biala](#)  
, Central Marina · 29 Jun

Bruce, thank you so much for sharing! This in no way implicates all "white folks" but most minorities do relate to your experiences. If we don't acknowledge these realities, how... [See more](#)



[Jan Shriner](#)  
, Central Marina · 29 Jun

\$50 for attending each regularly scheduled monthly board meeting.

G

Grace Silva-Santella  
, Marina Station · 29 Jun

For any Board Member actually doing their homework and due diligence before a meeting that probably comes out to a dollar an hour.

P

Patricia Burns  
, Central Marina · 30 Jun

Bruce, I'm so sorry that happened to you and your family. I am comforted to know that most people in California do not feel that way and embrace the diversity of our beautiful... [See more](#)



Bruce Delgado  
, Central Marina · 30 Jun

Thank you Patricia. Do you have any interest in running for the water board.

P

Patricia Burns  
, Central Marina · 30 Jun

No, but I will attend the meeting and offer support to qualified candidates.



Peter Le  
, Marina Station · 21 Jul

As of today there are 3 candidates that have filed papers for MCWD board seats. They are: 1, Howard Gustafson Incumbent Email: [hgustafson@sbcglobal.net](mailto:hgustafson@sbcglobal.net) 2. Matt... [See more](#)



Lisa Berkley  
, Central Marina · 21 Jul

Matt Zefferman is excellent!!

J

Jan Shriner  
, Central Marina · 21 Jul

I have an appointment to file Monday. I have met Matt Zefferman and he has shared with me his impressive education and experience credentials. He has a very measured and... [See more](#)



Kathy Biala

, Central Marina·21 Jul

To all those on this thread that spoke about finding additional candidates for the Marina Coast Water District, Matt Zefferman is such a solution. I also had a chance to meet him... [See more](#)



Angie Nader

, Marina Station·21 Jul

So Matt Zefferman is on my radar, thank you ladies.



Peter Le

, Marina Station·21 Jul

Please follow the Community Guideline of Nextdoor as follows: Politics and campaigning Discussions of political issues that affect your neighborhood are an important part of building community, yet these conversations can often turn heated as they can bring out deeply held opposing views. We rely on every member to use their good judgment and restraint to keep such conversations productive. In addition, neighborhoods may decide to conduct these conversations in a group -- please see our guideline on controversial issues. Allowed: Discussing local ballot measures or elections in a civil and respectful manner. Introducing yourself once if you are running for local public office. Posting local politics-related events in the Events calendar, like voter registration drives or information sessions about local political topics. Not allowed: Discussion of non-local politics or policy issues in the main feed. If you wish to discuss non-local politics or policy issues, you must create a group. Within a group, you may discuss national or state politics and other non-local campaign topics. Uncivil or inflammatory debate. Telling your neighbors how to vote on a specific issue. This is campaigning and is not allowed. Over-posting about your preferred candidate, candidacy, or issue. Do not use Nextdoor as a campaign mailing list. Leads may not remove posts merely because they are about local political topics. Our guidelines on disagreements and conflict, over-posting, and controversial issues also apply to politics and campaigning.



Hans Ongchua

, The Dunes on Monterey Bay·21 Jul

Thanks Peter for reminding folks about the Community Guidelines. Matt Zefferman's website currently has no content. While I feel that Howard Gustafson is unsuitable for this... [See more](#)



Lisa Berkley

, Central Marina·21 Jul

Hi Hans! I believe Matt website will be up in the near coming weeks or so. On August 25, At 5 PM, the Democratic club of Marina will be hosting a political debate for the... [See more](#)



[Hans Ongchua](#)

, The Dunes on Monterey Bay · 22 Jul

Good move Peter. I hope though that we can still receive one-time announcements in the General newsfeed (or the Events calendar) for opportunities to get to know the candidates.... [See more](#)



[Hans Ongchua](#)

, The Dunes on Monterey Bay · 22 Jul

Yes, Peter. That's still an existing limitation of Nextdoor. Groups that you create are restricted only to your neighborhood. Nextdoor is experimenting with "Interest Groups"... [See more](#)

- Neighborhood Comments
- State Issues
- Planning
- Emergency Preparedness (CERT/NEP)
- State & Regional History
- Local History
- National Events
- Neighbors Helping Neighbors
- Hunting
- Medicine and Healthcare



[Gary Wilmot](#)

, Marina Station · 22 Jul

I think paying people to serve in a position that has been voluntary will attract people that think the amount is worth their efforts. \$50 per hour is not going to attract... [See more](#)



[Matthew Zefferman](#)

, Central Marina · 22 Jul

Hi folks. I am excited to see that there is a lot of interest in the MCWD race! I hope to get my website up-and-running in the coming week - right now it is a place-holder. I also have a campaign Twitter account: @zefferman4water where I will start posting campaign updating. I hope that I get to meet you all and get your input about Marina's water issues between now and the election (and hopefully after if I am elected). I'm excited for the opportunity to contribute to the Marina community.



[Elisabeth Billingsley](#)

, Central Marina · 24 Jul

Matthew, you should get in touch with Marina In Motion or Nancy Amadeo, BECAUSE WE ARE HAVING A CANDIDATES DEBATE in September . that is the place to be to be heard.



Matthew Zefferman  
, Central Marina · 25 Jul  
Thank you, Elisabeth!



Peter Le  
, Marina Station · 26 Jul

With Marina Coast about to pay \$331,000 to the Army for an easement, FORA tries to make a deal.  
[http://www.montereycountyweekly.com/news/local\\_news/with-marina-coast-about-to-pay-to-the-army-for/article\\_4b985de2-9070-11e8-bcb9-c3929ca49a4b.html](http://www.montereycountyweekly.com/news/local_news/with-marina-coast-about-to-pay-to-the-army-for/article_4b985de2-9070-11e8-bcb9-c3929ca49a4b.html)



Brona Wince  
, Central Marina · 27 Jul

Is there any way to remove/prevent-from-running-again someone as board member other than to vote them out?



Peter Le  
, Marina Station · 27 Jul

A water board member's bigoted tweets come to light. He is unapologetic. Most water board meetings don't make people cry. But when the board of Marina Coast Water District met on July 16, emotions ran high. The agenda itself was stacked with the ordinary business of a water district – sorting out easements, an annexation agreement with a neighboring district. But the audience was stacked with people who had shown up to spend part of their Monday night speaking up about racist tweets sent by one board member, Howard Gustafson, some of which appeared in the Weekly's Squid column on June 25. This far into Donald Trump's presidency, we've become dangerously accustomed to offensive tweets. Even if vulgarity and insults are the norm on the national stage, when a local elected official expresses hate, it still has the ability to cut to the quick. Gustafson's Twitter feed is relentlessly pro-Trump (which should bother no one) but it's also anti-everyone else (which should bother everyone). His feed is a textbook example of the type of vitriol that's moved from the fringes to the mainstream since Trump emerged politically. "The parents of these children are hurting their kids," he tweeted June 20 in response to the zero-tolerance border policy that led to separating children from their parents. "GET RID OF THEM NOW OR THEIR WILL BE PROBLEMS LATER" (sic). On June 4: "Justices side with Colorado baker on same-sex wedding cake; Sue the crap hell out Colorado scumbags and their little wee-wee complaints. You scumbag little queers, go somewhere else, most people in USA DO NOT ACCEPT WHAT YOU DO." On May 15: "Brawl Breaks Out at Mt. Olympus Resort in Wisconsin Dells; That is what happens with human debris, white BLACK and MEXICAN, human fn' debris, we do need a civil war to take care of this and government scumbags." Five members of the public showed up at Marina Coast's meeting to express their concerns – and five is a lot for a small water district, comprising about half of the audience. "It was easy for Mr. Gustafson to tweet his hate messages. It is difficult and courageous for those members of the public who came today to speak out about this," Harvey Biala said. "How is

it possible that someone in a public leadership position can speak so disparagingly about the population he represents?” Lisa Berkley said. As water activist Kathy Biala quoted a tweet, she broke down as she read Gustafson’s term for Barack Obama: “black bitch.” “I am not merely opposed to racism, sexism and xenophobia from an intellectual standpoint,” Biala, who is Japanese-American, continued through tears: “I am deeply hurt at my very core as a person of color and as a woman.” When members of the board responded, they were courteous. They’d clearly understood that they could not forbid Gustafson from exercising free speech on his personal social media account. Board president Tom Moore acknowledged that despite their differences, he and Gustafson – a geologist who works for Salinas’ Public Works Department – generally agree on water issues. When it was Gustafson’s chance to speak, he could’ve apologized to his constituents. Instead, he doubled down. “Those tweets are my views,” he said. “What’d you go search it out for?” He went on to offer up a brief personal bio as if it’s a reasonable excuse, citing a childhood as an Army brat. “I talk about people differently than you do, because many of you come from maybe somewhere in the United States that’s a little more protected. In the Army, the only color we knew was red. And that was blood.” He then pulled out some Trumpian math: “I have 4,400 followers, including the president of the United States.” (As of July 25, he has 20 followers, not including the president.) “What I believe is what I believe,” Gustafson added. “I believe 75 percent of Marina believes as I do.” It’s up to voters to prove him wrong. The board has instructed district staff to craft a social media policy, but given First Amendment protections, that policy is unlikely to prohibit Gustafson from tweeting whatever he wants on his own time. Three board members, including Gustafson, are up for re-election this November. He’s already filed papers to run. SARA RUBIN is the Weekly’s editor. Reach her at [sara@mcweekly.com](mailto:sara@mcweekly.com). This story has been updated to reflect the following correction. Gustafson is not a current Salinas Public Works employee; he was terminated in 2017 and his termination was upheld on appeal.



Peter Le

, Marina Station 28 Jul

FPPC Enforcement Decisions: August 22, 2013 Contact: Jay Wierenga, (916) 322-7761 The following are enforcement decisions approved by the Fair Political Practices Commission at its regular monthly meeting held on Thursday, August 22, 2013. Decisions are listed by category and include a brief summary of each case and the total amount of any administrative fine or fines in each case. Additional information on each of the enforcement cases below can be found in the August agenda on the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov). FPPC agendas are distributed and posted on the agency website at least 10 days prior to each monthly meeting. The web version of the agenda includes links to the stipulations agreed to by the commission and by the individuals and organizations subject to the fines, or the default decisions proposed to the commission. Exhibits in support of the stipulations and proposed default decisions are also available on the website. If you are unable to access the FPPC website, or need further assistance, please call the FPPC communications office at (916) 322-7761. Howard Gustafson unsuccessfully ran for a seat on the Marina Coast Water District in 2010. During the campaign, Mr. Gustafson and two other candidates jointly produced and sent three sets of mass mailers. The mass mailers did not contain required identifying information for Mr. Gustafson, specifically the street address and city of his campaign committee. \$1,000 fine. William Lee ran for a Director position on the Marina Coast Water District Board in 2010. The Committee to Elect William Lee Marina Coast Water District November 2, 2010 was his campaign committee. Mr. Lee violated the Political Reform Act by using his personal bank account to deposit campaign contributions and make campaign expenditures, and failing to maintain adequate campaign records. \$4,500 fine.



Peter Le

, Marina Station·28 Jul

FINED FPPC Proposes \$1,000 Penalty for Marina Coast Director Howard Gustafson Back when Marina Coast Water District was a partner in the sunken \$400 million Regional Desalination Project, getting the correct information on a two-sided campaign mailer might've not even registered as a detail worth paying attention to. But the California Fair Political Practices Commission paid attention, and is proposing a \$1,000 fine for MCWD Board Director Howard Gustafson for a 2010 violation of the state Political Reform Act. In campaigning for the November 2010 election, Gustafson teamed up with fellow-candidates Bill Lee and George Eads to print nearly 8,000 copies of a double-sided mailer urging district residents to vote for them, according to the FPPC report. (Incumbents Lee and Gustafson won, and Eads lost.) The violation: Eads and Gustafson failed to include their mailing address on the campaign literature. "It was just a big mistake," Gustafson says. "I hired somebody, and I didn't check it over. I should've done it myself like I usually do." "This violation appears to be the result of respondent's negligence and a lack of knowledge about the law, not an intent to deceive the public or conceal information regarding the campaign," the FPPC report states. Commissioners will vote on the proposed penalty at an Aug. 22 meeting. Gustafson has already made the payment, pending final approval by the commissioners. Eads was also fined \$1,000, in a decision approved on Feb. 28 by the FPPC. Gustafson says he plans to seek re-election in 2014.



Deborah Bielsker

, Central Marina·28 Jul

Is Gustafson says he plans to seek re-election in 2014, a direct quote?



Peter Le

, Marina Station·28 Jul

He has filed papers for the 2018 election. He did seek re-election in 2014.



Nan Dillon

, Central Marina·28 Jul

I will not be voting for Howard Gustafson.



Elisabeth Billingsley

, Central Marina·28 Jul

Peter you are sounding like sour grapes, you were not re-elected to the WATER BOARD IS THIS WHY YOU ARE BRINGING UP THINGS? I'm just wondering.that would be sad on your part, i don't know what he said or or didn't ,I did not read it and i don't always believe what it says in the paper.



Every one has a right to their opinions . I don't agree if he said what you are saying but that is my opinion. I never look down on anybody because God creatad us all. I hope people will use their own minds and are not influenced by hate,



Peter Le

, Marina Station · 29 Jul

Dear Elisabeth: If you don't believe the Monterey County Weekly articles, then you should read Howard's tweets. These tweets are his own writing and he did not deny it. You need to read these tweets to convince yourself. Are you upset on these articles because Howard is your friend and you have voted for him in the past? Are you going to vote for him again? For your information, I was elected in 2012. I did not run in the 2016 election. I have not filed papers for the 2018 election. So there was no sour grapes that you incorrectly referred to. The fundamental question is should voters receive the relevant public information, not just on Howard but on other candidates too (like Bill Lee), before casting their votes?



Tom Moore

, Marina Station · 29 Jul

As of July 27th, four people had filed for the three seats up for re-election this fall on the Board of Directors of Marina Coast Water District. Three are incumbents (Jan Shriner, Bill Lee and Howard Gustafson). The fourth candidate is Matt Zefferman, a former U.S. Air Force engineering and construction management officer. Matt currently teaches at the Naval Postgraduate School and has an impressive background including Bachelor's and Master's degrees in environmental engineering from Cornell and a Ph.D. in Ecology from UC Davis. The upcoming election will present Marina voters with some excellent and clear choices for the Marina Coast Board of Directors as long as the waters aren't muddied by too many candidates.



Elisabeth Billingsley

, Central Marina · 29 Jul

Thank you Tom, I have one question where does Jan Shriner lives now? I thought I saw a Salinas Address for her? Don't the Commissioners have to live in the City they represent? Just asking? please let me know. Matt Zefferman sounds like a very good Candidate. I like to know more about him. Thank you in advance Tom.



Jan Shriner

, Central Marina · 29 Jul

My campaign treasurer has an address in Salinas and all checks are welcome to "Shriner for Water Board 2018" and mailed to 412 South Main St, Salinas, CA 93901. Thank you for asking Mrs. Billingsley. My primary residence is in the Central Marina community. I am often out and about but having dealt with stalkers, threats, and assaults through the police and attorneys, I like my political correspondence to go through the business offices. My friends keep suggesting a large dog. I love

dogs but they need so much attention. I like to say people need to treat each other with respect. Everyone of us deserves to be treated with respect and kindness.



Bruce Delgado  
, Central Marina · 29 Jul

Candidates must live in Marina but can use any mailing address for election correspondence purposes. For example a campaign manager or other helper or vendor may live in Monterey and use that address for election mail.



Elisabeth Billingsley  
, Central Marina · 29 Jul

Ms. Shriner and Bruce, Thank you for your answers ,I really appreciate it. Jan a good Security Alarm helps, I know, not for Stalking but just to be alone in the home and at night especially. Yes, pets need care.



Peter Le  
, Marina Station · 4d ago

Extract from Minutes of MCWD Board meeting. "Mr. Harvey Biala, Marina Resident, voiced his protests over Director Gustafson's tweets on Social Media stating he felt they were racist and sexist and asked that the Board listen to the public's concerns without responding to them. Ms. Lisa Berkley, Marina Resident, voiced her protests over Director Gustafson's tweets on Social Media. She shared several of the tweets she felt were racist and sexist. Mr. Mike Dinkle, Marina Resident, stated that he agreed with the comments previously made. He said that he felt Director Gustafson was an embarrassment to MCWD and the City. Mr. Dinkle encouraged the Board to create a Social Media Policy and hoped that Director Gustafson would make a public apology to the citizens of Marina. Ms. Kathy Biala, Marina Resident, voiced her protests over Director Gustafson's tweets on Social Media. She read several tweets from his Twitter account that had been removed. Ms. Biala stated that she was hurt by the racist and sexist remarks made on his Twitter account and wanted people to be aware of his views before the next election. Ms. Paula Pelot, Marina Resident, stated that she agreed with the prior speakers and finds the tweets vile and hurtful. She said they are hurtful to classes of people, races of people, the community, and hurtful to the Water District. Ms. Pelot agreed that the District needs to have a Social Media Policy and would like Director Gustafson to post that his views do not reflect the views of the District. "

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 12-E

Meeting Date: May 20, 2019

Prepared By: David Hobbs, Legal Counsel

Approved By: Keith Van Der Maaten

Agenda Title: Discuss, Consider and Determine Action on Director Peter Le's Harassment Complaint Against Vice President Jan Shriner

Staff Recommendation: The Board of Directors discuss, consider, and determine action on Director Peter Le's harassment complaint against Vice President Jan Shriner.

Background: *5-Year Strategic Plan Mission Statement – We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

On April 20, 2019 Director Le emailed the District alleging that Vice President Shriner's unsolicited email communications to him constituted a form of harassment and requested an agenda item be placed on the MCWD Board agenda "...to discuss my claim of harassment and take appropriate actions." (See Attachment No. 1.) On May 1, 2019 Director Le provided a follow up communication to correct the date on his prior email (it was incorrectly dated February 20, 2019). (See Attachment No. 2.) In response to his request, President Moore sent Director Le a letter dated May 1, 2019. (See Attachment No. 3.) The May 1, 2019 letter requested that Director Le provide specificity with regards to the basis of his request, along with any documents or facts he alleges would support his request such that the Board could make an informed decision – one of the issues with the prior communications was that only the body of Vice President Shriner's emails were "cut-and-pasted" in Director Le's letter, with no dates or source-information provided. On May 6, Director Le provided a response to the May 1, 2019 request for information. (See Attachment No. 4.)

Discussion/Analysis: Board Procedures Manual ("BPM") Section 41 (Director's Violations of Policies) states:

Whenever the District, a Director or the General Manager receives a complaint or concern regarding potential or alleged violation of policies by a Director or Directors, the matter shall be reported immediately to the Board President. If the President is the subject of the complaint, the matter shall be reported immediately to the Vice President. The Board President or Vice President shall immediately place the matter on the Board agenda for the Board to discuss the alleged violation(s) and take appropriate action. If the matter(s) is serious, the Board President or Vice President may call a special meeting to address the complaint. If a Director breaches any of the policies contained in Sections 5, 6, 8, 13, 14, 15, 16, 26, 38, and 40 the Board may, in addition to other consequences provided by law, publicly censure the offending Director and may as part of the censure take any or all of the following other actions, to be effective for a time determined by the Board:

a) Remove the offending Director from committees and representative positions to which the Director has been appointed or designated by the Board or by the President,

b) Prevent the offending Director from placing items on the agenda without the specific, advance authorization of the Board.

Director Le's letter dated May 6, 2019 (received May 8, 2019) to the District asserts Vice President Shriner's unsolicited emails violate BMP Section 5 [**Harassment-Free Work Environment**] and MCWD's Employee Handbook Section 3.2 [**Harassment**].

Director Le's letter also alleges that certain Directors are "biased" against him due to their campaigning in 2018. To the extent Director Le is claiming the named Directors must recuse themselves from hearing and/or taking any action in this matter, such a claim is incorrect. As there is no financial interest or other qualifying conflict at issue, all Directors are able to participate in this matter.

Also, Director Le's May 6, 2019 letter requests the basis upon which President Moore is authorized to request additional information. First, Director Le's own letter asking for this item to be placed on the agenda contained an invitation to "...let him know if you have any questions on my complaint." Secondly, as the Board is acting in a quasi-judicial manner regarding his request, basic rules of jurisprudence require that a party requesting the Board to take a certain action must put forth an offer of proof of the underlying claim, i.e., sufficient information such that the Board can make an informed decision as to the basis of the claim in order to move forward.

Recommended Action: The Board should vote on whether or not Director Le's complaint against Vice President Shriner warrants an investigation by the Board and, if an investigation is warranted, what form that investigation should take, i.e., hiring of an independent firm to investigate and provide a determination to the Board. In the event the Board determines to hire an independent investigator, the Board should consider holding a special meeting in the future in order to expedite the process, which is expected to take several months.

Environmental Review Compliance: None required.

Financial Impact: \_\_\_\_\_ Yes      X   No    Funding Source/Recap: None

Other Considerations: The Board may suggest changes to the response or provide additional direction on how to respond.

Material Included for Information/Consideration: Attachment No. 1; Attachment No. 2; Attachment No. 3; and, Attachment No. 4.

Action Required: \_\_\_\_\_ Resolution      X   Motion    \_\_\_\_\_ Review  
(Roll call vote is required.)

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Board Action

Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_ No Action Taken \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

From: PETER LE [<mailto:peter381@sbcglobal.net>]  
Sent: Saturday, April 20, 2019 3:46 PM  
To: Thomas Moore; Herbert Cortez; Matt Zefferman  
Subject: Complain of Harassment - PERSONAL AND CONFIDENTIAL

February 20, 2019

Board of Directors  
Marina Coast Water District  
11 Reservation Road  
Marina, CA 93933

Re: Complaint of Harassment

**PERSONAL AND CONFIDENTIAL**

Dear Fellow Directors:

Even though the Board must devote its entire energy and resources to District businesses to serve all District customers, the Board must not tolerate any form harassment. And it's unfortunate that I must inform the Board of unacceptable conduct and behavior of Director Shriner and request that the Board investigates and takes appropriate actions to address my complaint of harassment.

During my first term of service, between 2012 and 2016, I received unwanted emails from Director Shriner. I asked her to stop sending me unwanted emails and she did stop.

After the recent election in 2018, Director restarted sending me unwanted emails again.

On April 19, 2019 I received another email from Director Shriner. I replied and asked her not to send me any unwanted email. I also warned her that I would file a complaint if she ignored my request and send me additional email. Director Shriner ignored my request and sent me another unwanted email.

I also informed Director Shriner on April 19, 2019 that I did not asked for her emails and I did not want to receive her emails. I also informed Director Shriner that her unwanted emails are a form of bullying, harassment and racism. I asked her to stop sending me unwanted emails and she ignored my request.

It's strange that Director Shriner previously claimed she was a victim of harassment and now she become a harasser. In and about 1995, Director Shriner filed a harassment lawsuit against the District. Additionally, after being elected to the MCWD Board of

Directors, Director Shriner also filed a claim of harassment against the District and the MCWD General Manager at that time also filed a claim of harassment against her.

I include with this claim some unwanted emails that I received from Director Shriner.

I request that the Board place my claim on a Board agenda to discuss my claim of harassment and take appropriate actions.

I look forward to receive the responses from the Board on my complaint.

Sincerely,

Peter Le  
Director

***Past emails:***

Please refresh my memory. Are you referring to a threat you made to me of filing a formal complaint made in 2015 just before you quit the Board?

I have not received any such request or any justifiable reason for such a request from you this past year.

Please read the Board Procedures Manual for ethics and expectations of civil behaviour and revise your communications accordingly.

Vice President Shriner

Dear Jan,

I previously asked you to stop sending me email and you did stop.

Now you restart sending me emails again. I didn't want to receive your emails. I didn't ask for your emails.

To me, your emails are a form of bullying, harassment and racism.

If I receive another unwanted and not-asked email from you, I will file harassment claim against you personally. This is a final warning to you.

I also send a copy of this email to the District's Legal Counsel to put the District on notice that I will file harassment claim against you and the District.

If you want to discuss a matter related to me, place it on the Board agenda so the Board can discussed your concern.

Peter Le

Director Le,

I am offended by your statements made to media and in the open session of our last Board meeting.

There is a generally accepted expectation that board members represent a positive attitude toward the organisation that he or she serves. That would be the reason for wanting to provide public service and volunteerism. Please provide the the reasons you serve on the board as a volunteer.

Review pages 2, 9 and 10 and follow up with section 13 "The Board and the individual board members will be committed to establishing and maintaining an environment that encourages the open exchange of ideas and information among Board members, the staff and the public, that is positive, honest, respectful, concise, understandable, responsive, and cost-efficient."

Do not use any kind of comparative statement to imply other members of MCWD, volunteers or staff, are not smart. This was done in the last two board meetings and is viewed as violation of board procedure manual in my opinion.

If you have suggestions for direction and policy making, please offer those and do not take it personally if the recommendation is not affirmed by three votes.

If people are not answering your questions immediately, it may be that the topic is untimely or considered a distraction from the work immediately at hand. I recognize that you have not answered my questions since 2012. I do not take that personally or in any way as an example of disrespect as the lack of answers has nothing to do with me, only demonstrates a lack of capacity of either time or comprehension on the part of the person asked.

I noticed a degree of surprise on your face when the rest of the Board was interested in waiting for the president of the Board to adjourn the meeting while you were walking

toward the door. This activity of yours appears disrespectful to the degree might be called "contempt" of the rest of the Board and of the democratic process. In the future, I expect you to listen respectfully, wait to be called on before speaking, and wait for president to adjourn the meetings.

Show respect for staff, volunteers and consultants of MCWD. The negative campaign of Le for Director of MCWD 2018 has ended. The hard work of representing and unifying our community is the current work. Time for you to shift your thinking and behaviour to be more positive and professional, to behave consistent with the office you have been elected to as Director of the Board.

If there is uncertainty about what that would look like, there are life coaches, classes, and webinars to help you to modify your work to be more successful in collaborating. Director Cortez mentioned that he knows you are smart, you don't need to prove that. It is important to accept others are as smart. I remember former Director Bill Lee was quite proud of his affiliation with a high IQ club. My sense is that we could all be part of that if we wanted to take the test and pay the fees.

Vice President Shriner

Hello Peter,

It has been a few years since you were on the board. I would like to offer reminders.

1. During the last meeting the agenda item for the page 158 is "Receive the Developer Account Update through December 31, 2018." The action described in the title is to receive. It is also important to understand it to fully receive it so it is good to ask clarifying questions. But open session is not a time to offer advice or direction to staff about the methods of making a report. Effective Board members keep a big picture view. Brent Ives used the analogy of an airplane at 10,000 feet and the Board as pilots and navigators. We don't need to go down the aisle with the beverage cart, we trust the cabin staff to also be working hard. They trust us to communicate about turbulence and preparations for landing but pilots don't count napkins or make sure there is enough ice.
2. Recent letters to FORA and Mayor Carbone are unusual for any director of the Board. The Board is a unit and there are committees to work through. If a resident has established a pattern of writing to agencies and then joins the Board, the letter writing pattern is reasonable and would be expected to taper off with experience and knowledge of how the Board functions and how to be a most effective Board member.
3. Requesting old documents from 2010 is kind of like counting napkins. Now let's figure out the next 10-50 years.



Please bear in mind the best possible actions for the District and the direction of the future of the District. You are very intelligent and hard-working. When these characteristics are applied with future focus and empathy, we will all be a stronger team.

All the best and happy first day of spring,  
Jan

Hi Peter,

Please ask questions during closed session regarding lawsuits, such as those listed in your list 1-4.

When the president asks the Board in closed session if anyone has any other questions, then it would be appropriate to say "yes, I have more questions." then the president will know to re-open closed session after the open session.

Some of your questions in #1 are difficult to answer but maybe because so many different people are involved like a judge and opposing legal teams so please be patient for the answers.

Work with the Board president to help refine the questions for the specific legal representative instead of making this kind of complicated and broad approach.

Keep in mind, staff are burdened with grief and working on lawsuits by traveling to San Francisco this week. Practice compassion, empathy, and understanding.

Jan

This electronic mail (including any attachments) may contain information that is privileged, confidential, and/or otherwise protected from disclosure to anyone other than its intended recipient(s). Any dissemination or use of this electronic email or its contents (including any attachments) by persons other than the intended recipient(s) is strictly prohibited. If you have received this message in error, please notify us immediately by reply email so that we may correct our internal records. Please then delete the original message (including any attachments) in its entirety. Thank you.

May 1, 2019

Board of Directors  
Marina Coast Water District  
11 Reservation Road  
Marina, CA 93933

Re: Complaint of Harassment

PERSONAL AND CONFIDENTIAL

Dear Fellow Directors:

I submitted my previous Complaint on Harassment by Director Shriener by email on April 20, 2019. The date shown on that email was February 20, 2019. It should be corrected to April 20, 2019.

I am submitting a hard copy of my complaint to the Board President at the Board special meeting tonight, May 1, 2019.

Please let me know if you have any questions on my complaint.

Sincerely,



Peter Le

From: PETER LE <peter381@sbcglobal.net>  
To: Tom Moore <directormoore@mcwd.org>; Herbart Cortez <directorcortez@mcwd.org>; Matt Zefferman <directorzefferman@mcwd.org>  
Sent: Saturday, April 20, 2019, 3:45:44 PM PDT  
Subject: Complains of Harassment

PERSONAL AND CONFIDENTIAL

February 20, 2019

Board of Directors  
Marina Coast Water District  
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**Hello Peter,**

It has been a few years since you were on the board. I would like to offer reminders.

1. During the last meeting the agenda item for the page 158 is "Receive the Developer Account Update through December 31, 2018." The action described in the title is to receive. It is also important to understand it to fully receive it so it is good to ask clarifying questions. But open session is not a time to offer advice or direction to staff about the methods of making a report. Effective Board members keep a big picture view. Brent Ives used the analogy of an airplane at 10,000 feet and the Board as pilots and navigators. We don't need to go down the aisle with the beverage cart, we trust the cabin staff to also be working hard. They trust us to communicate about turbulence and preparations for landing but pilots don't count napkins or make sure there is enough ice.

2. Recent letters to FORA and Mayor Carbone are unusual for any director of the Board. The Board is a unit and there are committees to work through. If a resident has established a pattern of writing to agencies and then joins the Board, the letter writing pattern is reasonable and would be expected to taper off with experience and knowledge of how the Board functions and how to be a most effective Board member.

3. Requesting old documents from 2010 is kind of like counting napkins. Now let's figure out the next 10-50 years.

Please bear in mind the best possible actions for the District and the direction of the future of the District. You are very intelligent and hard-working. When these characteristics are applied with future focus and empathy, we will all be a stronger team.

All the best and happy first day of spring,  
Jan

Hi Peter,

Please ask questions during closed session regarding lawsuits, such as those listed in your list 1-4.

When the president asks the Board in closed session if anyone has any other questions, then it would be appropriate to say "yes, I have more questions." then the president will know to re-open closed session after the open session.

Some of your questions in #1 are difficult to answer but maybe because so many different people are involved like a judge and opposing legal teams so please be patient for the answers.

Work with the Board president to help refine the questions for the specific legal representative instead of making this kind of complicated and broad approach.

Keep in mind, staff are burdened with grief and working on lawsuits by traveling to San Francisco this week. Practice compassion, empathy, and understanding.

Jan



# 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

THOMAS P. MOORE  
*President*

JAN SHRINER  
*Vice President*

HERBERT CORTEZ  
PETER LE  
MATT ZEFFERMAN

May 1, 2019

Dear Director Le,

As President of the Board of Directors, I have received your April 20, 2019 email, "Re: Complaint of Harassment" against Vice President Shriner. As you know, the Board treats all complaints of harassment very seriously, but the party making a complaint must provide the Board with sufficient evidence supporting the complaint in order for the Board to determine whether an investigation is warranted. If an investigation is authorized by the Board, then the Board will consider the final investigation report and act one way or another on your complaint.

The "Past emails" you included with your April 20, 2019 email excluded any information as to the sender, date, addressee(s), and subject of each email. In order for the Board to consider your complaint, the Board members need all of the evidence you believe supports your complaint of "bullying, harassment and racism," including but not limited to, copies of your and her entire emails. Please provide to me those entire emails along with all other evidence, which you believe supports your complaint.

You stated in your April 20, 2019 email that "[d]uring your first term of service," you "received unwanted emails from Director Shriner." If you believe that her prior emails and your responses are relevant to your current complaint, please also provide to me your and her entire emails.

To better understand the basis for your complaint, please provide me with a statement citing the sections of the Board Procedures Manual upon which you base your complaint.

In summary, as Board President, I am requesting that you provide me with the following:

1. All emails in their complete form (e.g., sender, date, addressee(s), subject) upon which you base your complaint, including but not limited to, your current email exchange with Vice President Shriner and the email exchange during your first term of service.
2. All other evidence, which you believe supports your complaint.
3. Your statement citing the Board Procedures Manual sections and any other basis for your complaint.

Please provide all of the above to me by not later than 5 PM, Thursday, May 9, 2019. All materials and information you provide me will in turn be provided to the other Board members, including Vice President Shriner. If you need an extension of time to provide all of the above, please don't hesitate to write me requesting an extension and your requested extension date.



Director Le  
May 1, 2019  
Page 2

This letter also informs you that, as Board President, I have received from Vice President Shriner an April 19, 2019 email, subject: "Request for agenda item for consideration," wherein she requested "to place on a Board agenda the Board to consider censure for Director Le for expectations described by Board Procedures Manual." It is anticipated that your complaint and her request will be handled in parallel or jointly as determined by the Board.

Please be advised that because both matters are against sitting directors that all evidence and statements are public records and must be publicly disclosed.

Sincerely yours,

A handwritten signature in black ink that reads "Thomas P. Moore". The signature is written in a cursive style with a large, stylized 'M'.

Thomas P. Moore  
President, Board of Directors

cc: Directors Cortez and Zefferman  
Vice President Shriner  
Roger Masuda, Legal Counsel  
Keith Van Der Maaten, Board Secretary

May 6, 2019

Board of Directors  
Marina Coast Water District  
11 Reservation Road  
Marina, CA 93933

Re: Complaint of Harassment

Dear Fellow Directors:

At the special Board meeting on May 1, 2019, President (P) Moore handed me a letter regarding my complaint of harassment against Vice President (VP) Shriner and another letter addressing to VP Shriner regarding her request to censure me.

I filed the harassment complaint against VP Shriner to the Board on April 20, 2019 by email.

At the same special Board meeting, I handed a second letter regarding my complaint against VP Shriner to President Moore. In this second letter I corrected the date of the first letter to April 20, 2019. I also highlighted a portion of her email that she referred to "a threat" I made to then Director Shriner of filling a formal complaint "made in 2015 just before I quit the Board". I also highlighted on another email that VP Shriner stated that "I recognize that you have not answered my questions since 2012."

In the May 1, 2019 letter, President Moore, as President of the Board of Directors, demanded that I, the party making a complaint, must provide the Board with sufficient evidence in order for the Board to determine whether an investigation is warranted.

However, President Moore did not cite any legal authority, or Marina Coast Water District's (MCWD) adopted rules, policies or procedureS, or any State or Federal laws that allow him, as Board President, to demand me to provide additional information.

Additionally, President Moore, in his May 1, 2019 letter, did not inform me of the procedure that the Board will employ to address my complaints or the date my complaints will be placed on the Board agenda for the Board to discuss the alleged violations and take appropriate action.

**In contrast, Section 41 of the adopted Board Procedures Manual, addresses the "Director's Violation Of Policies".** It states in part "**Whenever the District, a Director or the General Manager receives a complaint or concern regarding potential or alleged violation of policies by a Director or Directors, the matter shall be reported immediately to the Board President... The Board President or Vice President shall immediately place the matter on the Board agenda for the Board to discuss the alleged violation(s) and take**

appropriate action. If the matter is serious, the Board President or Vice President may call a special meeting to address the complaint." This Section 41 does not expressly permit the Board President to demand additional information that I must provide as described in President Moore's May 1, 2019 letter before the Board considers my complaint. My April 20, 2019 letter initially contained sufficient information on the complaint and the Board can ask for additional information when they consider my complaint. It appears that President Moore tried to illegally impose mandatory requirements that are not required by the adopted Board Procedures Manual to minimize and marginalize my serious complaint so he can protect his friend, VP Shriner, and sweep my serious complaint under the rug.

**Section 5 of the Board Procedures Manual, Harassment-Free Work Environmental**, states "Each Director shall act to provide a District work environment and a Boardroom, free of harassment, disrespectful or other unprofessional conduct. The District's policy is more fully set forth in the Marina Coast Water District Employee Handbook, and each Director should become familiar with the Employee Handbook and the harassment rules contained herein."

**Section 3.2. Harassment, of the adopted Marina Coast Water District (MCWD) Employee Handbook, states** "...MCWD maintains a strict policy strictly prohibiting all forms of unlawful harassment including sexual harassment and harassment based on race, color, creed, religion, religious dress practices, religious grooming practices, sex, national origin, age, sexual orientation, gender, national origin or ancestry, physical or mental disability, medical condition, marital status, age, sexual orientation, military/veteran status or any other basis protected by federal, state or local law. MCWD also prohibits harassment based on the perception that anyone has any of those characteristics, or based on association with a person who has or is perceived as having any of those characteristics."

**Section 3.2. C. of the Employee Handbook states "It is MCWD policy to investigate all reports or complaints of harassment thoroughly, promptly, and discreetly... The outcome of the investigation and a timely resolution of each complaint will be reached and communicated to the employee and the other parties involved."**

Again, the adopted MCWD Employee Handbook does not explicitly or implicitly require that the employee, in this case, a Director, who files a complaint must provide sufficient evidence to the Board at the beginning before the Board could determine an investigation is warranted. It appears that information or additional information on the complaint will be obtained through the investigation as described in the above paragraph.

I request that the Board provides me with applicable provisions of the adopted Board Procedures Manual and the adopted Employee Handbook or any MCWD adopted rules, policies or procedures that requires me to provide sufficient evidence, as described in President Moore's May 1, 2019 letter to me, before the Board can determine whether an investigation is warranted.

**Assuming that there were some applicable provisions hidden somewhere (none shown in the adopted Board Procedures Manual and the adopted Employee Handbook as described above) that permits President Moore to demand me to provide sufficient information to support my complaint, I will provide the demanded information as shown below.**

First of all, the 2019 emails recently sent by VP Shriner to me corroborates what I claimed in my complaint. Additionally, other emails included with this letter further support my complaint.

I highlighted on her email, dated **April 19, 2019 2:48 pm**, that VP Shriner stated "I recognize that you have not answered my questions since 2012." **VP Shriner confirmed that she sent her unwanted email to me since 2012.** I never asked her to send me any email and I did not want to receive any unwanted email from her.

I also highlighted portions of her another email, dated **April 19, 2019 6:13 pm**, that she referred to **"a threat" I made to then Director Shriner of filing a formal complaint "made in 2015 just before I quit the Board"**. This confirms that I previously warned her that I would file a complaint against her if she continued to send me unwanted email. She stopped sending me any unwanted email after this warning in 2015. I also include another email from her shown below that confirms this fact.

I provide the dates to the recent unwanted emails that VP Shriner sent me in 2019. Sometimes, she also copied her emails to the General Manager. Sometimes, she also copied her email to the District Legal Counsel.

I also provide the date, April 19, 2019, to the only email I sent to VP Shriner that informed her of my final warning that I would file a complaint if she continued to send me unwanted email.

**During my first term of service, between 2012 and 2016**, I received unwanted emails from Director Shriner. I asked her to stop sending me unwanted emails twice, in 2014 and 2015, and she did stop in 2015. **VP Shriner target me as a minority on the Board to bully and harass me. I suffered in silence for three years (2013, 2014 and 2015). Every time I received her unwanted emails, I suffered stress and despair. VP Shriner did not send such emails to President Moore, Director Gustafson or Director Lee during that time.**

When I receive the first unwanted email from VP Shriner in late 2012 or early 2013, I was shocked in that how a Director could send another Director such an unwanted email.

I, at first, believed she misunderstood my actions at the Board and/or Committee meetings. Therefore, I sent her a reply email explaining my positions and the reasons I took certain actions. Then VP responded with a subsequent email that intensified her positions and was more aggressive. This went on in 2013.

**I recalled that in 2014 (shown in an email below) I sent her an email asking her not to send me any email and not to call me.** But apparently VP Shriner ignored my request. In her April 19, 2019 email to me **VP Shriner stated that I needed to provide justifiable reason to request her to stop sending me unwanted emails.**

In 2014, I realized that it was no good in replying to her unwanted emails and in trying to explain my positions or actions. Every time I received her unwanted email, I glanced over or read quickly, then ignored the unwanted email. I also deleted her unwanted emails so that I did not stress out every time I saw her unwanted email again.

In 2015 her unwanted emails were more aggressive and came with strong accusations. **She targeted me for her problems. She released her rage only on me and not on other Directors.**

**In the later part of 2015, I could not take it anymore. I have suffered enough her bullying, harassment and racism in silence for three years and gave her a warning.**

Previously, I did not complain in 2013 in the hope that I could reason to her. In 2014, I hoped that by not replying to her unwanted emails, she would be tired and stopped sending me unwanted emails. I also sent VP Shriner an email asking her to stop sending me emails or calling me in 2014 as shown in the email below. In 2015, I made the decision to warn her that I would file a complaint with the Board if she continued to send me unwanted emails. That when she stopped sending me unwanted emails. I resigned in January 2016.

Between 2013 and 2015, I received unwanted emails from VP Shriner between one email and four unwanted emails per month.

**As explained above, I deleted many her unwanted emails in the hope of reducing my stress and despair. I was able to relocate some of her unwanted emails and I include them below. However, I am prepared to give permission and consent to the Board to ask AT&T, my current email provider, to retrieve other deleted emails if the Board so desired. Alternatively, the Board can ask VP Shriner to provide the Board with all unwanted emails that she sent to me.**

**Between 2016 and 2018, I did not believe VP Shriner sent any unwanted emails to President Moore, Director Gustafson, Director Lee or Director Cortez. If any Director received any emails similar in context and content from VP Shriner, please provide these emails to the Board for consideration.**

**After the recent election in 2018, VP Shriner targeted me again and started to send me unwanted emails. I don't believe VP Shriner sent such similar emails to President Moore, Director Cortez or Director Zefferman. I am the only Director who received unwanted emails from VP Shriner. I did not want to receive her unwanted emails for another four**

**years and suffer stress and despair again.**

The three unwanted emails that I received from VP Shiner in 2019 and included with this letter represented the unwanted emails I received between 2013 and 2015.

**Unwanted emails, that were sent by VP Shiner, sustained for a period of three years (2013, 2014 and 2015) until my resignation in 2016 and started again after my election to the Board in December 2018, belittled me, disrespectful, unprofessional, intimidated and degraded me. I was her easy target because I am a quiet Asian minority on the Board, elected to the Board for the first time in 2012 and re-elected in 2018.**

On April 19, 2019 I received another email from Director Shiner. I replied and asked her not to send me any unwanted email. I also warned her that I would file a complaint if she ignored my request and send me additional email. Director Shiner ignored my request and sent me another unwanted email.

**I informed Director Shiner on April 19, 2019 that I did not ask for her emails and I did not want to receive her emails (I made similar requests in 2014 and 2015). I also informed Director Shiner that her unwanted emails are a form of bullying, harassment and racism. I asked her to stop sending me unwanted emails and she ignored my request.**

It's strange that Director Shiner previously claimed she was a victim of harassment and now she became a harasser. In or about 1995, Director Shiner filed a harassment lawsuit against the District. After being elected to the MCWD Board of Directors, the then General Manager filed a harassment complaint against her.

I include with this claim some unwanted emails that I received from Director Shiner this year and previous years as **demanding** by President Moore in his May 1, 2019 letter. Some of her unwanted emails contained confidential information and I do not include these unwanted emails.

I request that the Board properly follows the adopted procedures described in the Board Procedures and Employee Handbook as described above in considering my **complaint of harassment, bullying and racism against VP Shiner** and take appropriate actions.

**Ask yourself if you are in my position and you continually received such unwanted emails from VP Shiner for 3 years until you quit the Board, and once you were re-elected, you again received unwanted emails, is it acceptable?**

**In conclusion, VP Shiner targeted me as an Asian minority to bully and harass me in violation of certain sections of the adopted Board Procedures Manual and the adopted MCWD Employee Handbook as described in details above.**

I must also raise the issue of bias, real or perceived, of President Moore and Director Zefferman

in considering my complaint.

During the District election in 2018, President Moore actively campaigned for VP Shriner, Director Zefferman and Director Lee. On several occasions and in public forum, President Moore criticized me and asked voters not to vote for me.

Similarly, both VP Shriner and Director Zefferman criticized me in public forums and asked voters not to vote for me.

Even though it's generally accepted that candidates criticized each other during campaign season and Directors supported certain candidates and criticized other candidates, I strongly believe that President Moore, VP Shriner and Director Zefferman still support each other and protect each other, thus rendering bias in considering my complaint. I strongly believe that President Moore, VP Shriner and Director Zefferman will not provide impartial consideration and decisions on my complaints.

Sincerely,

Signed

Peter Le  
Director

**Past unwanted emails that I received from Director Shriner are shown below:**

**1. Jan Shriner**

**Fri 4/19/2019 6:13 PM**

Please refresh my memory. **Are you referring to a threat you made to me of filing a formal complaint made in 2015 just before you quit the Board?**

**I have not received any such request or any justifiable reason for such a request from you this past year.**

Please read the Board Procedures Manual for ethics and expectations of civil behaviour and revise your communications accordingly.

Vice President Shriner

**2. From: Peter Le**

**Sent: Friday, April 19, 2019 3:00:02 PM**

**To: Jan Shriner**

**Cc: rmasuda@calwaterlaw.com**

Subject: Re: Board members responsibilities

Dear Jan,

**I previously asked you to stop sending me email and you did stop.**

**Now you restart sending me emails again. I didn't want to receive your emails. I didn't ask for your emails.**

**To me, your emails are a form of bullying, harassment and racism.**

If I receive another unwanted and not-asked email from you, I will file harassment claim against you personally. This is a final warning to you.

I also send a copy of this email to the District's Legal Counsel to put the District on notice that I will file harassment claim against you and the District.

If you want to discuss a matter related to me, place it on the Board agenda so the Board can discuss your concern.

Peter Le

**3. Jan Shriner**

**Fri 4/19/2019 2:48 PM**

Director Le,

**I am offended by your statements made to media and in the open session of our last Board meeting.**

There is a generally accepted expectation that board members represent a positive attitude toward the organisation that he or she serves. That would be the reason for wanting to provide public service and volunteerism. **Please provide the the reasons you serve on the board as a volunteer.**

**Review pages 2, 9 and 10 and follow up with section 13 "The Board and the individual board**



members will be committed to establishing and maintaining an environment that encourages the open exchange of ideas and information among Board members, the staff and the public, that is positive, honest, respectful, concise, understandable, responsive, and cost-efficient."

**Do not use any kind of comparative statement to imply other members of MCWD, volunteers or staff, are not smart. This was done in the last two board meetings and is viewed as violation of board procedure manual in my opinion.**

**If you have suggestions for direction and policy making, please offer those and do not take it personally if the recommendation is not affirmed by three votes.**

If people are not answering your questions immediately, it may be that the topic is untimely or considered a distraction from the work immediately at hand. **I recognize that you have not answered my questions since 2012.** I do not take that personally or in any way as an example of disrespect as the lack of answers has nothing to do with me, only demonstrates a lack of capacity of either time or comprehension on the part of the person asked.

**I noticed a degree of surprise on your face when the rest of the Board was interested in waiting for the president of the Board to adjourn the meeting while you were walking toward the door. This activity of yours appears disrespectful to the degree might be called "contempt" of the rest of the Board and of the democratic process. In the future, I expect you to listen respectfully, wait to be called on before speaking, and wait for president to adjourn the meetings.**

**Show respect for staff, volunteers and consultants of MCWD.** The negative campaign of Le for Director of MCWD 2018 has ended. The hard work of representing and unifying our community is the current work. **Time for you to shift your thinking and behaviour to be more positive and professional, to behave consistent with the office you have been elected to as Director of the Board.**

**If there is uncertainty about what that would look like, there are life coaches, classes, and webinars to help you to modify your work to be more successful in collaborating.** Director Cortez mentioned that he knows you are smart, you don't need to prove that. It is important to accept others are as smart. I remember former Director Bill Lee was quite proud of his affiliation with a high IQ club. **My sense is that we could all be part of that if we wanted to take the test and pay the fees.**

Vice President Shriner

**4. Jan Shriner**

**Wed 3/20/2019 8:02 PM**

Hello Peter,

**It has been a few years since you were on the board. I would like to offer reminders.**

**1. During the last meeting the agenda item for the page 158 is "Receive the Developer Account Update through December 31, 2018." The action described in the title is to receive. It is also important to understand it to fully receive it so it is good to ask clarifying questions. But open session is not a time to offer advice or direction to staff about the methods of making a report.** Effective Board members keep a big picture view. Brent Ives used the analogy of an airplane at 10,000 feet and the Board as pilots and navigators. We don't need to go down the aisle with the beverage cart, we trust the cabin staff to also be working hard. They trust us to communicate about turbulence and preparations for landing but pilots don't count napkins or make sure there is enough ice.

**2. Recent letters to FORA and Mayor Carbone are unusual for any director of the Board.** The Board is a unit and there are committees to work through. If a resident has established a pattern of writing to agencies and then joins the Board, **the letter writing pattern is reasonable and would be expected to taper off with experience and knowledge of how the Board functions and how to be a most effective Board member.**

**3. Requesting old documents from 2010 is kind of like counting napkins.** Now let's figure out the next 10-50 years.

Please bear in mind the best possible actions for the District and the direction of the future of the District. You are very intelligent and hard-working. **When these characteristics are applied with future focus and empathy, we will all be a stronger team.**

All the best and happy first day of spring,  
Jan

**5. Jan Shriner**

**Thu 2/28/2019 7:51 PM**

Hi Peter,

**Please ask questions during closed session regarding lawsuits, such as those listed in your list 1-4.**

**When the president asks the Board in closed session if anyone has any other questions, then it would be appropriate to say "yes, I have more questions." then the president will know to re-open closed session after the open session.**

Some of your questions in #1 are difficult to answer but maybe because so many different people are involved like a judge and opposing legal teams so please be patient for the answers.

**Work with the Board president to help refine the questions for the specific legal representative instead of making this kind of complicated and broad approach.**

Keep in mind, staff are burdened with grief and working on lawsuits by traveling to San Francisco this week. **Practice compassion, empathy, and understanding.**

Jan

**6. Jan Shriner <DirectorShriner@mcwd.org>**

**To:Peter.Keith Van Der Maaten**

**Cc:Paula Riso,Thomas Moore**

**Aug 27, 2018 at 11:19 AM**

**I would also like to make it clear that Peter has not responded with answers to any of my questions to him since 2012.**

**In 2015, he wrote an email to me that he would file a formal complaint about me if I attempted any further contact.**

Jan

**7. Jan Shriner <DirectorShriner@mcwd.org>**

**To:PETER LE**

**Cc:Keith Van Der Maaten**

**Aug 16, 2018 at 10:28 AM**

Information requested is archives on mcwd website in existing documents and I responded to the request earlier this morning.

**Peter, in your previous work with municipalities, how many emails per week are considered normal communication and how many constitute harassment? Is there an**

industry standard or do people set a reasonable range and make that range of email requests public knowledge?

I usually have a pattern of about 4-6 per week to Keith along with 1-4 phone calls. I try to keep the tone of my writing and calls respectful and upbeat.

Jan

**8. janet shriner <directorshriner@gmail.com>**

**To:peter381@sbcglobal.net**

**Mar 3, 2014 at 11:08 PM**

**I do not understand your refusal to provide input to the strategic plan and then after several years of work by board, staff, and consultants you would not support the most important work of the District.**

**Please send me a copy of your agenda at your earliest convenience, i would like to know what you foresee for the District.**

**It was a very sad night for mcwd indeed.**

**9. janet shriner <directorshriner@gmail.com>**

**To:peter381@sbcglobal.net**

**Mar 4, 2014 at 5:50 AM**

The strategic plan is to be updated each year, that is written in but it will be difficult if each revision requires as much time.

Staff provided all comments in january and all comments were duly considered by the Board.

**You are proving your power to impede reasonable actions by the Board without providing any alternative action. If you want to take leadership role, there must be more direction than stop.**

**Please send me your list of directions for the District for the next 5 years so i might take the direction into my consideration. I want to be productively working on foundational change for the District.**

Remember, you and I are in agreement to meet regarding audit and community outreach. **It appears to me that your greatest criticisms of staff & attorneys & consultants can be seen in your behavior by me as a co-committee member. I see your behavior toward me**

**as with holding information and uncooperative.**

For the sake of the ratepayers, please consider more perspectives and a spirit of collaboration.

**10. janet shriner <directorshriner@gmail.com>**

**To:peter381@sbcglobal.net**

**Mar 29, 2014 at 4:50 PM**

**Control yourself Director Le. It is time for self-discipline.**

**Stating an opinion is good and fair but restrain yourself from emailing more than one other board member.**

**Keep the opinions clearly stated for meetings and be prepared to make creatively redundant statements of the same opinion for clarity.**

**Do not expect that the entire Board or that all staff will respect or adopt your opinions as each human being is entitled to his or her own opinion.**

**Diversity and equality are democracy. As an elected you have responsibilities under the law.**

**You can do a great job because of your technical expertise but unless you can increase your emotional intelligence, you limit yourself and your performance.**

**On Thursday, March 27, 2014, peter381 <peter381@sbcglobal.net> wrote:**

- > Why do we have to worry about these locations now or at this early stage?
- > Is this report final or still subject to revision?
- > Why not waiting until they analyze these options and make recommendations as part of the EIR? I.e. Why not waiting until the draft EIR is issued then we can review and provide comments?
- > The Board has decided not to pursue the desal plan.
- > My view is to wait and do not waste any money at this time.

**11. janet shriner <directorshriner@gmail.com>**

**To:peter381@sbcglobal.net**

**Apr 22, 2014 at 10:31 PM**

**Have you made time to clarify to staff what needs to change for the check register to be approved?**

**Have you had a chance to review the new strategic plan so that you can focus your requests for board consideration on the current work of the district?**

Jan

**12. janet shriner <directorshriner@gmail.com>**

**To:peter381@sbcglobal.net**

**Apr 24, 2014 at 9:45 AM**

**Why are you not answering the questions I have for you?**

**I had some Brown Act training last fall. One of the notes that I wrote down was about the possibility of ejecting people from meetings.**

**The grounds for definitely ejecting participants are related to threats, hate speech, and racial slurs.**

**They said the grounds for ejection are an area of grey where it is possible in some meetings to eject people are profanity and slander.**

**Today I looked up the on-line resources for the legal definition for slander and it is difficult to understand how it applies to public figures but this is the simplified version: Slander is the oral communication of false statements that are harmful to a person's reputation. If the statements are proven to be true, it is a complete defense to a charge of slander. Oral opinions that don't contain statements of fact don't constitute slander. Slander is an act of communication that causes someone to be shamed, ridiculed, held in contempt, lowered in the estimation of the community, or to lose employment status or earnings or otherwise suffer a damaged reputation. Slander is a subcategory of defamation.**

**The basic elements of a claim of slander include;**

**a defamatory statement;**

**published to third parties; and**

**which the speaker or publisher knew or should have known was false.**

**Slander is primarily covered under state law, but is subject to First Amendment guarantees of free speech. The scope of constitutional protection extends to statements of opinion on matters of public concern that do not contain or imply a provable factual assertion. If the slander unjustly accused you of a crime or reflected on your profession, the court or jury can assess the**

damages. For other types of slander you generally must prove some actual damage to be able to recover.

Slander of title is a common law tort involving a disparaging remark regarding ownership of property. It affects the owner's ability to transfer the property, resulting in a monetary loss.

**13. On Tue, Apr 22, 2014 at 10:31 PM, janet shriner <directorshriner@gmail.com> wrote:  
Have you made time to clarify to staff what needs to change for the check register to be approved?**

**Have you had a chance to review the new strategic plan so that you can focus your requests for board consideration on the current work of the district?**

Jan

**14. janet shriner <directorshriner@gmail.com>**

**To:peter381@sbcglobal.net**

**Apr 25, 2014 at 12:40 PM**

**Sorry. Let me know when you are ready to be reasonable and open to the ideas of other reasonable and respectful people.**

Jan

**15. On Apr 24, 2014 4:09 PM, "PETER LE" <peter381@sbcglobal.net> wrote:**

**Jan.**

**I do not wish to discuss MCWD businesses with you. Please stop calling me, sending me emails and asking me questions on MCWD businesses.**

**I hope you understand that if you ignore my request, I may have to file a complaint.**

**Peter**

**16. janet shriner <directorshriner@gmail.com>**

**To:Peter**

**Cc:marina 247**

**Nov 14, 2014 at 3:33 PM**

**My understanding is that your request is considered substantial. I see the Board will discuss your substantial request before committing District resources to all of it. Please review appropriate section of Board Procedure Manual.**

This was discussed during the last Board Meeting. The Board decided to discuss request of one director before anyone would be required to respond.

**It would benefit the District if we could all work together. Are you willing to work toward healthier interactions for the ratepayers?**

**17. janet shriner <directorshriner@gmail.com>**

**To:peter381@sbcglobal.net**

**Dec 11, 2014 at 7:32 AM**

**Closed session please. Complaints about staff are privately handled through GM. If Cal am can demonstrate incompetence of leadership and financial weakness of District, Lafco will support the Cal am request for Ord community service area. Look who is on Lafco. Please consider all possibilities and be deliberately cautious.**

Thanks,

Jan

**18. janet shriner <directorshriner@gmail.com>**

**To:peter381@sbcglobal.net**

**Dec 11, 2014 at 7:50 PM**

**Renters pay water bills to person with account of district at mobile home park. If district turns off master meter, then renters who paid in full would be without water.**

Hope this helps,

Jan

**19. janet shriner <directorshriner@gmail.com>**

**To:peter381@sbcglobal.net**

**Jun 27, 2015 at 6:03 PM**



**I just returned late last night.**

**In board procedures manual it clearly states that any board member may submit request for agenda item in writing 7 days in advance. It does NOT clearly state "subject to approval by president and vice president" so I believe a faulty interpretation has been made.**

**My requests have been submitted in writing to the General manager. You and the president acted in violation of the board approved process when you remove my written request from the draft agenda.**

**During board meetings I have also requested an agenda item regarding a proposal for resistivity imaging by helicopter through the work of Dr. Rosemary Knight of Stanford. The City of Marina is willing to share expense for CEMEX survey. You have been included in that request already.**

**I have previously requested in writing a board discussion of the annexation application to Lafco, which I have been told would instead be discussed at the last joint city district meeting. That request was made June 3, first violation of the newest version of the board procedures manual for you and Howard.**

**Jan,**

**I have not seen any request from you. Please email me copies of your requested agenda items.**

**The GM was supposed to list the requested agenda items and have the Board President and VP review and approve them.**

**Peter**

**20. janet shriner <directorshriner@gmail.com>  
To:peter381@sbcglobal.net,kvandermaaten@mcwd.org**

**Sep 4, 2015 at 8:49 AM**

**It is possible, more efficient, and more reasonable to have the closed session begin at 6 pm or 6:15 pm to give the directors enough time to review and discuss case updates. The emails take more time, more expense and therefore less efficient method for business of the district.**

**The people setting the agenda need to act in the best interest of the district and our**

**ratepayers. The reason for the decision to start at 6:30 is neither transparent nor serving us well.**

Please agendaize for a meeting in October for the board to discuss and take action on revising the start time before each regularly scheduled Board meeting for the closed session.

Thank you,  
Jan

**21. janet shriner <directorshriner@gmail.com>**  
**To:peter381@sbcglobal.net,kvandermaaten@mcwd.org**

**Sep 4, 2015 at 11:05 AM**

**Is bpm on the agenda for discussion? How about for November? It has been on the agenda several times but the written comments I had submitted were not incorporated and verbal discussion was not allowed by board president, another violation of policies.**

**My guess is that the president and vice president are approving a draft agenda created by staff. Please, in closed session, provide proof that staff are not following the approved versions of the Board executive officers. Otherwise, please stop writing harsh judgments of staff if executive officers are approving violations of bpm.**

Jan

**22. janet shriner <directorshriner@gmail.com>**  
**To:peter381@sbcglobal.net**

**Sep 30, 2015 at 8:26 AM**

**If using board procedures manual, use it for entire board consistently. otherwise you are making a job performance comment.**