



MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

Home Page: www.mcwd.org

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DIRECTORS
HOWARD GUSTAFSON
President

WILLIAM LEE
Vice President

THOMAS P. MOORE
KENNETH K. NISHI
DAN BURNS

Agenda

Regular Board Meeting, Board of Directors Marina Coast Water District

11 Reservation Road, Marina, California

Tuesday, December 8, 2009, 6:45 p.m. PST

This meeting has been noticed according to the Brown Act rules. The Board of Directors now meets regularly on the second Tuesday of each month. The meetings normally begin at 6:45 p.m. at the District offices at 11 Reservation Road, 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. Closed Session

A. Pursuant to Government Code 54956.8

Conference with Real Property Negotiator (General Manager, Legal Counsel)

Property: Water Rights

Negotiating Parties: MCWD and Clark Colony Water Company

Under Negotiation: Price and Terms

B. Pursuant to Government Code 54956.8

Conference with Real Property Negotiator (General Manager, Legal Counsel)

Property: Desalination Plant at 11 Reservation Road, Marina

Negotiating Parties: MCWD and California American Water Company

Under Negotiation: Price and Terms

7:00 p.m. Reconvene Open Session

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, December 3, 2009 at the District office, Marina and Seaside City Halls, and at the Marina and Seaside Libraries. The next regular meeting of the Board of Directors is scheduled for January 12, 2010.

4. 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.*

- A. Consider Adoption of Resolution No. 2009-78 to Approve Extending the Negotiation Agreement with Clark Colony Water Company for an Additional 12-Months

5. Pledge of Allegiance

6. 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 three minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

7. 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 three minutes.*

- A. Appoint Members to the Water Conservation Commission
(Page 3)
- B. Adopt Resolution No. 2009-79 to Authorize District Property to be Surplused
(Page 7)
- C. Adopt Resolution No. 2009-80 to Authorize the General Manager to Sign Contracts Relating to the Imjin Office Park Project
(Page 13)
- D. Approve the Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2010
(Page 17)
- E. Receive the Quarterly Financial Statements for July 1, 2009 to September 30, 2009
(Page 19)
- F. Approve Expenditures for the Month of November 2009
(Page 31)

8. 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 three minutes.*

- A. Consider Adoption of Resolution No. 2009-74 to Accept the Infrastructure Installed by FORA as a Portion of the General Jim Moore Boulevard - Phase IV Project and to Convey Certain Portions of that Infrastructure to California American Water Company

Action: The Board of Directors will consider accepting the infrastructure installed by FORA as a portion of the General Jim Moore Boulevard - Phase IV Project and to convey certain portions of that infrastructure to California American Water Company.

(Page 39)

- B. Consider Accepting the Comprehensive Annual Financial Report and the Independent Auditor's Report for the Fiscal Year Ended June 30, 2009

Action: The Board of Directors will consider accepting the Comprehensive Annual Financial Report and the Independent Auditor's Report for the Fiscal Year Ended June 30, 2009.

(Page 54)

- C. Consider Adoption of Resolution No. 2009-81 to Authorize Expenditure of the District's Share of Construction Costs to Install Various-sized Potable Waterlines, Recycled Waterlines and a Sewer line Within the Fort Ord Reuse Authority's General Jim Moore Boulevard Phase V Improvement Project Alignment and to Amend the FY 2009/2010 Budget

Action: The Board of Directors will consider approving expenditure of the District's share of construction costs to install various sized potable water pipelines, recycled water pipelines and a sewer pipeline within the Fort Ord Reuse Authority's General Jim Moore Boulevard Phase V Improvement Project alignment and to amend the FY 2009/2010 Budget.

(Page 117)

- D. Consider Adoption of Resolution No. 2009-82 to Authorize an Agreement With California-American Water for MCWD to Obtain Ownership of the High Density Polyethylene (HDPE) Pipe Located Along the West-Side of General Jim Moore Boulevard

Action: The Board of Directors will consider approving an Agreement with California-American Water to obtain ownership of the HDPE pipe along the west-side of GJMB.

(Page 124)

9. Staff Report

- A. Receive a Report on Funding for the REPOG Program
(Page 132)

10. Workshop

- A. Ord Community Ad Hoc Recommendation Discussion
 - Discuss Boundaries, Pipelines and Flows

11. 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 2010.

12. 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 three minutes.*

- A. General Manager's Report
- B. District Engineer's Report
- C. Counsel's Report
- D. Committee and Board Liaison Reports
 - 1. Water Conservation Commission
 - 2. Joint City-District Committee
 - 3. MRWPCA Board Member
 - 4. LAFCO Liaison
 - 5. JPIA Liaison
 - 6. FORA
 - 7. Executive Committee
 - 8. Community Outreach
 - 9. Special Districts Association Liaison
- E. Director's Comments

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

*Regular Meeting: Tuesday, January 12, 2010, 6:45 p.m.,
11 Reservation Road, Marina*

Marina Coast Water District
Agenda Transmittal

Agenda Item: 7

Meeting Date: December 8, 2009

Submitted By: Paula Riso

Presented By: Paula Riso

Reviewed By: Carl Niizawa/Jim Heitzman

Agenda Title: Consent Calendar

Detailed Description: Consent calendar consisting of: A) Appoint Members to the Water Conservation Commission; B) Adopt Resolution No. 2009-79 to Authorize District Property to be Surplused; C) Adopt Resolution No. 2009-80 to Authorize the General Manager to Sign Contracts to Complete the Imjin Road Project; D) Approve the Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2010; E) Receive the Quarterly Financial Statements for July 1, 2009 to September 30, 2009; and, F) Approve Expenditures for the Month of November 2009.

Environmental Review Compliance: None required.

Prior Committee or Board Action: See individual transmittals.

Board Goals/Objectives: *2007/2008 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: See individual transmittals.

Material Included for Information/Consideration: See individual transmittals.

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

Action Required: 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 _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 7-A

Meeting Date: December 8, 2009

Submitted By: Rich Youngblood
Reviewed By: Carl Niizawa/Jim Heitzman

Presented By: Rich Youngblood

Agenda Title: Appoint Members to the Water Conservation Commission

Detailed Description: The Water Conservation Commission is authorized nine positions of which seven are presently filled. The two vacant positions are public member vacancies. Mr. Jim Felton, Mr. Dan Amadeo, and Mr. Bob Drake, all residents of the City of Marina, have submitted applications to be appointed. The public positions are appointed for a term of two years.

| | |
|------------------------------------|---|
| Board of Directors Member (1): | Bill Lee Dan Burns (alternate) |
| City of Marina Council Member (1): | Jim Ford |
| Public Members (5): | Sid Williams Nathan Chaney Richard Newhouse Vacant (2) |
| Army Member (1): | Dennis Oaks |
| CSUMB Member (1) | Bob Brown |

Environmental Review Compliance: None required.

Prior Committee or Board Action: On November 5, 2009, the Water Conservation Commission recommended forwarding the appointment of Mr. Jim Felton to the Board of Directors for consideration. This item was postponed at the November 17, 2009 Board meeting.

Board Goals/Objectives: *2007 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: Applications for appointment to the Water Conservation Commission by Mr. Jim Felton and Mr. Dan Amadeo.

Staff Recommendation: The Board of Directors appoint new members to the Water Conservation Commission.

Action Required: _____Resolution X Motion _____Review

Board Action

_____Resolution No _____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 7-B

Meeting Date: December 8, 2009

Submitted By: Jean Premutati

Presented By: Jim Heitzman

Reviewed By: Carl Niizawa/Jim Heitzman

Agenda Title: Adopt Resolution No. 2009-79 to Authorize District Property to be Surplused

Detailed Description: Section 31041 of the Water Code authorizes the District to hold, use, lease, or dispose of property within or without the District necessary to the full exercise of its power. On an annual basis, staff considers the need to bring before the Board a list of property to be declared surplus. In the past, this has included such items as computers, trucks, lab equipment, etc.

In disposing of surplus property, the Board at times has directed staff to donate surplused items to local schools, or to solicit bids for property by advertising the property in local publications. Staff requests that the Board review the attached Schedule of Property and identify the items to be declared surplus.

If the Board determines to declare one or more of the listed property items as surplus, there are certain procedures that must be followed.

The property must first be offered to other public agencies, cities, etc. If no other agency is interested in the property then it can be advertised for sale. On May 24, 2000, the District adopted a policy for the sale of surplus real property. For surplus real property that does not meet land use requirements for construction without a variance, the District will notify and negotiate for thirty days the sale or lease transaction with the property owners adjoining the surplus District property planned for disposal.

Following the process, the District can advertise the sale of these properties to the general public. All offers would be submitted by sealed bid with a deadline period for submittal. No set minimum is necessary as the Board has the right to refuse any bid presented or may decide at the time of considering the bids not to accept any offers submitted. This applies to any declared surplus property.

On October 14, 2008 the Board of Directors approved a revised Vehicle Purchase/Replacement Policy that states: 1) The General Manager shall approve and authorize all purchases. 2) District vehicles will be replaced every five (5) years, or 75,000 miles, whichever occurs first; and, 3) Exceptions to this policy shall be evaluated on a case-by-case basis.

Environmental Review Compliance: None required.

Prior Committee or Board Action: Annual review of property to be surplused. The last time the District offered surplus property was January 13, 2009.

Board Goals/Objectives: *2007/2008 Strategic Plan 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.*

Financial Impact: _____Yes ___X___No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Resolution No. 2009-79; and, List of surplus vehicles/property.

Staff Recommendation: The Board of Directors adopt Resolution No. 2009-79 authorizing District property to be surplus.

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_____

Resolution No. 2009-79
Resolution of the Board of Directors
Marina Coast Water District
Declaring Property Surplus & Providing for Disposition

December 8, 2009

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on December 8, 2009 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District is authorized by Section 31041 of the Water Code to hold, use, enjoy, lease, or dispose of property within or without the District necessary to the full exercise of its powers; and

WHEREAS, the General Manager advises that certain items of real property owned by the District, as enumerated on Schedule I to this Resolution, are no longer necessary for District purposes and are of no further use to the District, and recommends that the District dispose of such property; and,

WHEREAS, the District’s Legal Counsel advises that the District may dispose of the property to private or public sale, as is determined by the General Manager to be in the District’s best interests as to any item of property; and,

WHEREAS, it is in the best interests of the District to dispose of the property enumerated on Schedule I, in accordance with District policy and on the advice and recommendation of the General Manager and Legal Counsel.

NOW, THEREFORE, BE IT RESOLVED:

1. The personal property of the District enumerated on Schedule I to this Resolution is surplus to the needs of the District and shall be disposed of for valuable consideration in the District’s best interest as to each of the items of property enumerated on Schedule I.
2. No person who personally participates in or influences the sale or process for selling the property may acquire any of the property, including the members of the Board, the General Manager, selected management employees of the District, and District’s Legal Counsel.
3. The General Manager is authorized and directed to take such actions as are necessary or appropriate to give effect to this Resolution, and to do whatever is necessary and proper to sell or otherwise dispose of said property as provided by this Resolution.

PASSED AND ADOPTED on December 8, 2009 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 _____

Howard Gustafson, President

ATTEST:

Jim Heitzman, 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. 2009-79 adopted December 8, 2009.

Jim Heitzman, Secretary

Schedule I

OPERATIONS & MAINTENANCE SURPLUS EQUIPMENT LIST
VEHICLES

| Vehicle # | Description | VIN # | License # |
|------------------|---------------------------------|-------------------|------------------|
| 0201TN | 2002 Ford F250 Pickup | 1FTNF20L32ED13950 | E1134126 |
| 0101 | 2001 Ford F250 Pickup | 1FTNF20L41EB28546 | E4235514 |
| 0102 | 2001 Ford Focus Station Wagon | 1FAFP36341W200554 | E1073089 |
| 0103 | 2001 Ford Focus Sedan | 1FAFP33P11W301266 | E1102372 |
| 001JD | 2000 Ford F150 Pickup | 1FTZF1729YNC13210 | E1073059 |
| 9901 | 1999 Ford Ranger Pickup | 1FTYR10C8XUA49197 | E1013619 |
| 9902 | 1999 Ford Ranger Pickup w/Shell | 1FTYR10CXXUA49198 | E1013618 |

Schedule II

DISTRICT SURPLUS PROPERTY LIST

Sunset Place (Dirt Road), Marina, CA

Road size 200' x 60'

AP# 03215110

Assessment #009-009

APN# 032-151-010

Marina Coast Water District
Agenda Transmittal

Agenda Item: 7-C

Meeting Date: December 8, 2009

Submitted By: Suresh Prasad

Presented By: Suresh Prasad

Reviewed By: Carl Niizawa/Jim Heitzman

Agenda Title: Adopt Resolution No. 2009-80 to Authorize the General Manager to Sign Contracts Relating to the Imjin Office Park Project

Detailed Description: On May 12, 2009, the Board adopted Resolution No. 2009-34 approving agreements with the Fort Ord Reuse Authority (FORA) to purchase property and lease back space in the Imjin Office Park. On July 24, 2009, the District successfully closed the escrow and obtained ownership to the FORA portion of the Imjin Office Park Property.

In 2005, through competitive bid process, Ausonio Incorporated was selected as the General Contractor for the phase site improvement and construction of three of the four buildings within the Imjin Office Park Project.

A significant amount of work needs to be completed to finish the construction of the building. This Resolution will authorize the General Manager to sign for the following contracts:

| | |
|---|-----------------------|
| Ausonio Incorporated - Phase II Site Improvement Contract (District Share – 47.5% of \$1,028,204) | \$488,396.90 |
| Ausonio Incorporated - Phase III Site Improvement Contract (District Share – 47.5% of \$273,906) | 130,105.35 |
| Ausonio Incorporated - Building Construction Contract | 3,200,000.00 |
| Contingency (10%) | 381,850.00 |
| Total Aggregate Total | \$4,200,352.25 |

Prior Committee or Board Action: On May 12, 2009, the Board adopted Resolution No. 2009-34 approving agreements with the Fort Ord Reuse Authority to purchase property and lease back space in the Imjin Office Park.

Financial Impact: Yes No

Funding Source/Recap: Imjin Office Park Project Capital Accounts.

Material Included for Information/Consideration: Resolution No. 2009-80.

Staff Recommendation: The Board of Directors consider adoption of Resolution No. 2009-80 authorizing the General Manager to sign contracts relating to the Imjin Office Park Project.

Resolution No. 2009-80
Resolution of the Board of Directors
Marina Coast Water District
Authorizing General Manager to Sign
Contracts Relating to the Imjin Office Park Project

December 8, 2009

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on December 8, 2009 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, on May 12, 2009, the Board adopted Resolution No. 2009-34 approving agreements with the Fort Ord Reuse Authority (FORA) to purchase property and lease back space in the Imjin Office Park; and,

WHEREAS, on July 24, 2009, the District successfully closed the escrow and obtained ownership to the FORA portion of the Imjin Office Park Property; and,

WHEREAS, in 2005, through competitive bid process, Ausonio Incorporated was selected as the General Contractor for the phase site improvement and construction of three of the four buildings within the Imjin Office Park Project; and,

WHEREAS, a significant amount of work needs to be completed to finish the construction of the building; and,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District adopts Resolution No. 2009-80 authorizing the General Manager to sign the following contracts not to exceed the aggregate amount of \$4,009,427.25.

| | |
|---|-----------------------|
| Ausonio Incorporated - Phase II Site Improvement Contract (District Share – 47.5% of \$1,028,204) | \$488,396.90 |
| Ausonio Incorporated - Phase III Site Improvement Contract (District Share – 47.5% of \$273,906) | 130,105.35 |
| Ausonio Incorporated - Building Construction Contract | 3,200,000.00 |
| Contingency (10%) | 381,850.00 |
| Total Aggregate Total | \$4,200,352.25 |

PASSED AND ADOPTED on December 8, 2009, 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 _____

Howard Gustafson, President

ATTEST:

Jim Heitzman, 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. 2009-80 adopted December 8, 2009.

Jim Heitzman, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 7-D

Meeting Date: December 8, 2009

Submitted By: Paula Riso

Presented By: Paula Riso

Reviewed By: Carl Niizawa/Jim Heitzman

Agenda Title: Consider Approval of Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2010

Detailed Description: The Board is requested to approve the attached proposed regular Board meeting and Standing Committee meeting dates and times for 2010.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *2007/2008 Strategic Plan, Goal No. 1 - To manage and sustain the District's groundwater and desalinated water, recycled water and wastewater services, conservation activities, infrastructure and human resources at or above industry standards.*

Financial Impact: _____ Yes No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Copy of 2010 calendar showing the proposed meeting dates.

Staff Recommendation: The Board of Directors consider approving the proposed regular Board meeting and Standing Committee meeting dates and times for 2010.

Action Required: _____ Resolution Motion _____ Review

Board Action

_____ Resolution No _____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 7-E

Meeting Date: December 8, 2009

Submitted By: Suresh Prasad
Reviewed By: Carl Niizawa/Jim Heitzman

Presented By: Suresh Prasad

Agenda Title: Receive the Quarterly Financial Statements for July 1, 2009 to September 30, 2009

Detailed Description: All figures reported for the quarter are based on accrual basis accounting. The District's consolidated financial statement for the quarter includes revenues of \$3.039 million and expenses of \$1.855 million, resulting in operating reserves of \$1.184 million. The District budget projected an operating reserve of \$0.973 million for the same period. The operating reserve was higher than the budget expectation by \$0.211 million due to a reduction in expenditures for the current quarter.

Summary of Cost Centers:

| Description | Actual Qtr | Budget Qtr | Actual FYTD | Budget FYTD |
|------------------------------------|-------------------|-------------------|--------------------|--------------------|
| Marina Water | | | | |
| Revenues | 1,188,376 | 1,099,725 | 1,188,376 | 1,099,725 |
| Expenses | 433,978 | 571,276 | 433,978 | 571,276 |
| Op Reserves | 754,398 | 528,449 | 754,398 | 528,449 |
| Marina Sewer | | | | |
| Revenues | 173,877 | 183,600 | 173,877 | 183,600 |
| Expenses | 124,951 | 128,808 | 124,951 | 128,808 |
| Op Reserves | 48,926 | 54,792 | 48,926 | 54,792 |
| Ord Community Water | | | | |
| Revenues | 1,255,505 | 1,397,375 | 1,255,505 | 1,397,375 |
| Expenses | 981,054 | 1,037,622 | 981,054 | 1,037,622 |
| Op Reserves | 274,451 | 359,752 | 274,451 | 359,752 |
| Ord Community Sewer | | | | |
| Revenues | 416,803 | 399,000 | 416,803 | 399,000 |
| Expenses | 215,399 | 267,241 | 215,399 | 267,241 |
| Op Reserves | 201,404 | 131,760 | 201,404 | 131,760 |
| Regional Water Augmentation | | | | |
| Revenues | 4,536 | 4,000 | 4,536 | 4,000 |
| Expenses | 99,404 | 106,193 | 99,404 | 106,193 |
| Op Reserves | (94,867) | (102,193) | (94,867) | (102,193) |
| Consolidated Cost Centers | | | | |
| Revenues | 3,039,097 | 3,083,700 | 3,039,097 | 3,083,700 |
| Expenses | 1,854,785 | 2,111,139 | 1,854,785 | 2,111,139 |
| Op Reserves | 1,184,311 | 972,561 | 1,184,311 | 972,561 |

As of September 30, 2009, the District had \$13.327 million in liquid investments, and \$0.613 million of principal as internal loans to the Ord Community Cost Centers payable to the Marina Cost Centers. The District also had \$12.164 million of bond proceeds for construction purposes and \$3.084 of bond proceeds for debt reserve purposes in the bank. The District owed \$40.610 million in debt for the 2006 revenue certificates of participation bond and \$0.571 for the CalPERS loan.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *2007/2008 Strategic Plan, Goal No. 4 – To manage the District's finances in the most effective and fiscally responsible manner.*

Financial Impact: _____ Yes X No

Funding Source/Recap: N/A

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

Staff Recommendation: The Board of Directors receive the Quarterly Financial Statements for July 1, 2009 to September 30, 2009.

Action Required: _____ Resolution _____ Motion X Review

Board Action

_____ Resolution No _____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 7-F

Meeting Date: December 8, 2009

Submitted By: Suresh Prasad

Presented By: Suresh Prasad

Reviewed By: Carl Niizawa/Jim Heitzman

Agenda Title: Approve Expenditures for the Month of November 2009

Detailed Description: The Board is requested to approve the attached November 2009 check register for expenditures totaling \$897,693.33.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *2007/2008 Strategic Plan, Goal No. 4 – To manage the District's finances in the most effective and fiscally responsible manner.*

Financial Impact: ___ Yes ___ **X** ___ No

Funding Source/Recap: Expenditures are allocated across the five cost centers; 01-Marina Water, 02-Marina Sewer, 03- Ord Water, 04- Ord Sewer, 05-New Water.

Material Included for Information/Consideration: November 2009 Summary Check Register.

Staff Recommendation: The Board of Directors approve the November 2009 expenditures totaling \$897,693.33.

Action Required: ___ Resolution ___ **X** ___ Motion ___ Review

Board Action

___ Resolution No ___ Motion By ___ Seconded By ___

Ayes ___ Abstained ___

Noes ___ Absent ___

Reagendized ___ Date ___ No Action Taken ___

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-A

Meeting Date: December 8, 2009

Submitted By: Brian True

Presented By: Brian True

Reviewed By: Carl Niizawa/Jim Heitzman

Agenda Title: Consider Adoption of Resolution No. 2009-74 to Accept the Infrastructure Installed by the Fort Ord Reuse Authority as a Portion of the General Jim Moore Boulevard - Phase IV Project and to Convey Certain Portions of that Infrastructure to the California American Water Company

Detailed Description: The Board of Directors is requested to authorize the General Manager to accept title to the newly installed potable water lines, sewer lines, and appurtenances constructed within the Fort Ord Reuse Authority's (FORA's) General Jim Moore Boulevard Phase - Phase IV (GJMB4) project. Concurrently, the Board of Directors is requested to authorize the General Manager to transfer the title to certain portions of the newly constructed potable water lines and appurtenances to the California American Water Company (CAW). The instrument to achieve the title transfers described is a Bill of Sale and drafts of the two needed documents are included herein for review.

The total installed value of the water and sewer infrastructure constructed by FORA on MCWD's behalf within the GJMB4 project is \$2,734,755. This amount appears on the appropriate Bill of Sale and transfers ownership of the infrastructure from FORA to the MCWD. The potable water component of the installed infrastructure has a value of \$2,691,755 while the sanitary sewer component of the installed infrastructure has a value of \$43,000.

On March 10, 2009, the Board approved Resolution No. 2009-03 that set the total project resource at \$2,935,000, an amount that included contingency resources intended for other District direct costs such as infrastructure design, engineering construction support, construction geotechnical work, and District Counsel guidance. The sum of the other-direct-costs utilized to achieve the project objectives was \$146,876, the largest fraction of this total being expended within design, construction support, and geotechnical contracting arrangements with Creegan & D'Angelo Infrastructure Engineers. The result achieved by the project is that the work was completed under-budget by \$53,369 (\$2,935,000 - \$2,734,755 - \$146,876).

The District has benefited from an agreement between MCWD and CAW that provides for joint use of the potable water pipeline facility. Within that joint use agreement, MCWD agreed to construct within the GJMB4 project certain sections of pipes and appurtenances for CAW's sole ownership and use. The total value of the infrastructure that needs to be transferred to CAW is \$226,360. Similar to the Bill of Sale that FORA is providing to MCWD, included for review is the draft Bill of Sale that MCWD is proposing to provide to CAW.

A provision of the joint use agreement with CAW is that CAW will contribute 49% of the total cost of the shared infrastructure installed with the GJMB4 project. Included for review is the current invoicing for this agreement provision submitted for CAW's payment. That invoice

shows that CAW's cost contribution for the facilities involved is \$1,578,089 which includes their share for MCWD labor costs and other direct costs. Since CAW provided an initial payment of \$1,300,000 during the summer of 2009, the invoice shows a balance owed to the District of \$278,089.

Acceptance of the infrastructure by the District entailed certain tasks be completed prior to that final acceptance, including:

- A final inspection and walk-through by the District personnel to verify completion of all punch-list items; and,
- Submission of acceptable As-Built drawings for the work; and,
- Transfer of title to the infrastructure to the District by means of a bill-of-sale.

The construction contractor and FORA completed the punch-list work in August, 2009. All MCWD assets are located within the public right-of-way or on former Army lands for which MCWD has a documented right-of-entry. This is documented by As-built drawings for the installed water and sewer infrastructure accepted on October 19, 2009. If the proposed Resolution is approved by the Board, the transfer of title will be complete pending executing signatures.

Environmental Review Compliance: Not Required

Prior Board Action: Resolution No. 2008-53 on October 14, 2008 Authorizing Expenditure of the District's Share of Construction Costs for a 30-inch Potable Waterline Within the Fort Ord Reuse Authority's General Jim Moore Boulevard Phase IV Improvement Project Alignment; Resolution No. 2009-03 on March 10, 2009 Authorizing the Expenditure of an Increased Amount of Construction Costs to install a 30-inch Potable Waterline within the Fort Ord Reuse Authority's General Jim Moore Boulevard Phase IV Improvement Project Alignment; and Resolution No. 2009-06 on March 10, 2009 Approving a Water-Wheeling Agreement with California American Water Company. At the October 21, 2009 Board meeting, the Board directed staff to respond to a question from the Board and return this item for consideration at the regularly scheduled November Board meeting.

Board Goals/Objectives: *2007/2008 Strategic Plan, Goal No. 2 – To meet 100% of current and future customers' needs and make timely improvements and increase infrastructure and level of services and human resources to meet needs of expanding service areas in an environmentally sensitive way.; and Goal No. 4 – To manage the District's finances in the most effective and fiscally responsible manner.*

Financial Impact: Yes No

Funding Source/Recap: The GJMB4 infrastructure costs were funded by the 2006-series bond proceeds and by CAW's fair share payments. The project work is identified in the approved FY 2008/2009 budget as CIP OW-124.

Material Included for Information/Consideration: Resolution No. 2009-74, Draft Bill of Sale from FORA to MCWD, Draft Bill of Sale from MCWD to CAW, and an invoice from MCWD to CAW with associated attachments.

Staff Recommendation: The Board of Directors adopt Resolution No. 2009-74 to accept the infrastructure installed by FORA as a portion of the General Jim Moore Boulevard - Phase IV Project and to convey certain portions of that infrastructure to the California American Water Company.

Action Required: 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 _____

Resolution No. 2009-74
Resolution of the Board of Directors
Marina Coast Water District
To Accept the Infrastructure Installed by FORA as a Portion of the General Jim Moore
Boulevard - Phase IV Project and to Convey Certain Portions of that
Infrastructure to the California American Water Company

December 8, 2009

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on December 8, 2009 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the Board of Directors approved Resolution No. 2008-53 on October 14, 2008 authorizing an expenditure to fulfill the District’s financial obligation for funding construction costs for the 30-inch diameter potable waterline within the Fort Ord Reuse Authority’s (FORA’s) General Jim Moore Boulevard Phase IV Improvement Project alignment and the total authorized amount was to be \$2,650,000; and,

WHEREAS, the Board of Directors approved Resolution No. 2009-03 on March 10, 2009 authorizing expenditure of an increased amount of construction costs to install a 30-inch Potable Waterline within FORA’s General Jim Moore Boulevard Phase IV Improvement Project alignment and the total authorized increased amount was to be \$2,935,000; and,

WHEREAS, the Board of Directors approved Resolution No. 2009-06 on March 10, 2009 approving a Water-Wheeling Agreement with California American Water Company (CAW) that provided for cost sharing, joint use of infrastructure, and direct ownership of certain infrastructure constructed within FORA’s General Jim Moore Boulevard Phase IV Improvement Project alignment; and,

WHEREAS, FORA, CAW, and the District are desirous of executing the Bill of Sale drafts included herein as the instruments of title transfer; and,

WHEREAS, District staff finds that the project work is complete, the District is prepared to accept ownership of the installed infrastructure within FORA’s General Jim Moore Boulevard Phase IV Improvement Project, and the District is prepared to convey ownership of certain portions of the accepted infrastructure to CAW.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager to accept for MCWD ownership the infrastructure within FORA’s General Jim Moore Boulevard Phase IV Improvement Project Authority, to convey ownership of certain portions of that infrastructure to CAW, and to execute all agreements and documents that give effect to this Resolution.

PASSED AND ADOPTED on December 8, 2009, 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 _____

Howard Gustafson, President

ATTEST:

Jim Heitzman, 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. 2009-74 adopted December 8, 2009.

Jim Heitzman, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-B

Meeting Date: December 8, 2009

Submitted By: Suresh Prasad

Presented By: Suresh Prasad

Reviewed By: Carl Niizawa/Jim Heitzman

Agenda Title: Consider Accepting the Comprehensive Annual Financial Report and the Independent Auditor's Report for the Fiscal Year Ended June 30, 2009

Detailed Description: The Board is requested to review and accept the Comprehensive Annual Financial Report (CAFR) and the Independent Auditor's Report for the fiscal year ending June 30, 2009. This is the third consecutive year that staff has prepared a CAFR report for the District.

On July 14, 2009, the District approved a three-year Audit Contract with R. J. Ricciardi, Inc., Certified Public Accountants, as the District's external auditors. The auditors provided an Independent Auditor's Report (included in the CAFR report) stating that the financial statements present fairly, in all material respects, the financial position of the District. During the audit, R. J. Ricciardi, Inc., tested and found no material weaknesses related to the District's internal control structure. The audit resulted in "no findings"; therefore, a management letter will not be necessary.

The CAFR is an extensive report summarizing the financial activities of the District that occurred from July 1, 2008 through June 30, 2009. The CAFR is divided into three sections: Introductory, Financial and Statistical Sections.

The introductory section contains a Letter of Transmittal, awards and achievements, organizational chart and directory of officials. The letter of transmittal includes a brief overview of the District, policies and how the District controls its finances.

The financial section contains the Management's Discussion and Analysis report. This analysis illustrates the basic financial operations of the District in a more detailed manner than is found in the Letter of Transmittal. Also included in this section are the Independent Auditor's Report and also the Basic Financial Statements and Notes to the Financial Statements.

The final section of the report is a compilation of statistical schedules for the last ten years that depict various trends and general information of the District.

The Government Finance Officers Association (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting to the District for its CAFR for the fiscal year ended June 30, 2008. This was the first year that the District has received this prestigious award. In order to be awarded a Certificate of Achievement, the District had to publish an easily readable and efficiently organized CAFR that satisfied both generally accepted accounting principles and applicable legal requirements.

A Certificate of Achievement is valid for a period of one year only. We believe that our current CAFR continues to meet the Certificate of Achievement Program's requirements and we are submitting it to the GFOA to determine its eligibility for another certificate.

R. J. Ricciardi, Inc. staff will be available at the Board meeting to answer any questions.

Environmental Review Compliance: None required.

Prior Committee or Board Action: On July 14, 2009, the Board approved a three-year Audit Contract with R. J. Ricciardi, Inc.

Board Goals/Objectives: *2007/2008 Strategic Plan, Goal No. 4 – To manage the District's finances in the most effective and fiscally responsible manner.*

Financial Impact: Yes No

Funding Source/Recap: None.

Material Included for Information/Consideration: The Comprehensive Annual Financial Report for the fiscal year ended June 30, 2009.

Staff Recommendation: The Board of Directors to consider accepting the Comprehensive Annual Financial Report and the Independent Auditor's Report for the fiscal year ended June 30, 2009.

Action Required: Resolution Motion Review

Board Action

Resolution No Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-C

Meeting Date: December 8, 2009

Submitted By: Brian True

Presented By: Brian True

Reviewed By: Jim Heitzman

Agenda Title: Consider Adoption of Resolution No. 2009-81 to Authorize Expenditure of the District's Share of Construction Costs to Install Various Sized Potable Water Pipelines, Recycled Water Pipelines and a Sewer Pipeline Within the Fort Ord Reuse Authority's General Jim Moore Boulevard Phase V Improvement Project Alignment and to Amend the FY 2009/2010 Budget

Detailed Description: The Board is requested to authorize expenditure of the funds necessary to construct the various diameters of potable water line, recycled water line, and sewer line in the General Jim Moore Boulevard (GJMB) as part of Fort Ord Reuse Authority's (FORA's) Phase V road improvements project (termed the GJMB5 Project). The GJMB5 Project construction generally extends the sewer and potable water infrastructure southerly from the City of Seaside-Del Rey Oaks boundary to approximately 150-feet north of the GJMB/South Boundary Road intersection; however, the recycled water pipeline to be constructed would begin immediately south of the Eucalyptus Road/Coe Avenue intersection with GJMB (the terminus of the Phase III construction) and extend roughly 10,500-linear feet to the same southern terminus as the rest of the GJMB5 Project. The potable and recycled water lines are sized to meet future demands (both potable and irrigation) in the southern portion of the MCWD service area including the Del Rey Oaks development, the portion of the City of Seaside east of GJMB, and portions of the Monterey Peninsula area.

FORA is designing and managing roadway improvements to GJMB in phases. Construction of the GJMB Phases I, II, III and IV roadway, water, and recycled water improvements are now complete. The GJMB5 Project improvements include the grading, drainage and asphalt road improvements of GJMB and Eucalyptus Road. The MCWD portions of the GJMB5 Project include the installation of 24, 30, and 36-inch diameter potable waterlines, a 16-inch recycled waterline, and a small amount of 12-inch gravity sewer pipeline. The recycled water line will be constructed by utilizing a combination of new polyvinyl chloride (PVC) pipe and an on-site, existing high density polyethylene (HDPE), pipeline provided to MCWD by California American Water Company (CAW). The re-use of the HDPE pipe in this manner was determined, through the contractor bidding process, to be a financial benefit to the District's ratepayers. The sewer pipelines will facilitate the installation of a gravity sewer system to serve the eventual development of the lands east of GJMB while minimizing the need to close GJMB in the future.

By coordinating projects in conjunction with FORA's roadway improvements, the District is able to reduce design and construction costs. FORA will provide the construction administration, management, materials testing, and construction inspection contracts for the Phase V work; however, the District will reimburse FORA for such work done on MCWD's

scope items. Also, MCWD will participate in weekly progress meetings and provide support to FORA for MCWD-related construction and inspection issues.

On November 24, 2009, FORA opened bids submitted on a competitive basis from contractors for the GJMB5 Project. As part of that bid, Schedule B for potable water, Schedule C2 for recycled water, and Schedule D for wastewater (i.e. improvements on behalf of MCWD) are herein proposed to be financed and paid for by the District. The apparent low bidder, Top Grade Construction, Inc. of Livermore, CA submitted a total project bid of \$6,588,516 for roadway and utility work. Schedule B of the bid from Top Grade Construction was \$418,993, Schedule C2 was \$813,315 and Schedule D was \$19,210 for a total District obligation of \$1,251,518 to be reimbursed to FORA, not including contingencies. The FORA standard contract that Top Grade Construction will enter into generally conforms to the District's standards, staff has examined the bid documents and finds them and the contractor's qualifications acceptable, and FORA is proposing to hold the Payment and Performance Bonds for the full amount bid.

The necessary environmental documentation was conducted by FORA and adopted on September 9, 2005 through an action accepting an Initial Study and Mitigated Negative Declaration, an Environmental Assessment, and a Finding of No Significant Impact, pursuant to the requirements of CEQA and NEPA for this project.

The new amount requested to be encumbered for the GJMB5 Project with this proposed action is \$1,450,000. The amount of that total proposed for use as contingency, anticipated construction support services, and reimbursable support for CAW efforts, is \$198,482 – or 15.9% of the District's \$1,251,518 obligation to FORA. Within the \$1,251,518 obligation is approximately \$366,000 in infrastructure that the District is currently planning to install, on a reimbursable basis, on behalf of MCWD's community partner agencies such as CSUMB, City of Monterey, City of Seaside, Presidio of Monterey, and CAW. The intent in supporting the District's partners in this manner is to minimize later construction activity within a newly-paved roadway alignment.

The herein requested total resourcing for the GJMB5 Project is \$1,621,500, which includes a previously approved contract with C+D Engineers for \$171,500 to design the GJMB5 Project and to provide certain construction support activities. The \$1,621,500 total amount also includes the aforementioned contingency resources. To achieve the proposed resourcing level for the project, a budget amendment to the FY 2009/2010 CIP Budget is recommended. This recommendation includes: (1) shifting the entire budgeted amount of the "Del Rey Oaks (DRO), Lift Station (LS) Gravity Sewer Main and GJMB Improvements Phase II (Construct)" project from a future planned year to the FY 2009/2010 Planned Year/Ord Sewer Cost Center (2) shifting the entire budgeted amount of the "South Boundary Road Pipeline (DRO Tract)" project from a future planned year to the FY 2009/2010 Planned Year/Ord Water Cost Center (3) shifting a portion (\$274,549) of the budgeted amount (\$10,617,870) from the "DRO, LS Gravity Sewer Main and GJMB Improvements Phase II (Construct)" to the "South Boundary Road Pipeline" (\$76,067) and the Project Contingency (\$198,482). The entire budgeted amount of the "Recycled Pipeline, GJMB, Coe to South Boundary (Construct)" is currently within the FY 2009/2010 Planned year/New Water Projects Cost Center. The effects of these proposed budget amendments are shown in the table below.

| GJMB5 Project Component | Planned FY for Implementation | Amended FY for Implementation | Current Budget | Change | Encumbrance for GJMB5 Project | Project Balance w/in Cost Center |
|--|-------------------------------|-------------------------------|----------------|------------|-------------------------------|----------------------------------|
| DRO, LS Gravity Sewer Main and GJMB Improvements Phase II (Construct) (OS Cost Center, CIP# OS-0202) | FY 12/13 | FY 09/10 | \$10,617,870 | -\$274,549 | \$19,210 | \$10,324,111 |
| South Boundary Road Pipeline (DRO Tract) (OW Cost Center, CIP# OW-0202) | FY 11/12 | FY 09/10 | \$342,926 | +\$76,067 | \$418,993 | \$0 |
| Recycled Pipeline, GJMB, Coe to South Boundary (Construct) (NWP Cost Center, CIP# RW-0156) | FY 09/10 | FY 09/10 | \$1,865,760 | - | \$813,315 | \$1,052,445 |
| Project Contingency | FY 12/13 | FY 09/10 | | +198,482 | 198,482 | |
| Total Encumbered Amount for C+D Services (Res. # 2009-22) | - | - | - | - | \$171,500 | - |
| TOTAL | | | | \$0 | \$1,621,500 | |

Environmental Review Compliance: None required.

Prior Board Action: Board Resolution No. 2009-22 on April 14, 2009 to Approve a Professional Services Agreement with Creegan + D'Angelo for Infrastructure Design, Bid Support, and Construction Support Services within the General Jim Moore Boulevard Phase V Project and to Amend the FY 2008/2009 Budget; and Resolution No. 2009-41 on June 9, 2009 Adopting the Central Marina Budget for FY 2009/2010.

Board Goals/Objectives: *2007/2008 Strategic Plan, Goal No. 2 – To meet 100% of current and future customers' needs and make timely improvements and increase infrastructure and level of services and human resources to meet needs of expanding service areas in an environmentally sensitive way.*

Financial Impact: Yes No

Funding Source/Recap: The budgeted project resources for the GJMB5 Project are identified in the FY 2009/2010 budget as shown the table above. The herein total requested amount for project resourcing is 1,621,500 which include \$198,482 in contingency resources and \$171,500 in a previously encumbered design contract. Funding for the GJMB5 Project will come from the 2006-series bond proceeds and from CAW reimbursements as appropriate under a Board-authorized Agreement.

Material Included for Information/Consideration: Resolution No. 2009-81.

Staff Recommendation: The Board of Directors consider adoption of Resolution No. 2009-81 authorizing expenditure of the District's share of construction costs to install various-sized potable water lines, recycled water lines and a sewer line within the Fort Ord Reuse Authority's

General Jim Moore Boulevard Phase V Improvement Project Alignment and to amend the FY 2009/2010 Budget.

Action Required: 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 _____

Resolution No. 2009-81
Resolution of the Board of Directors
Marina Coast Water District
Authorizing the Expenditure of the
District's Share of Construction Costs to Install Various-sized Potable Water Lines, Recycled
Water Lines and a Sewer Line Within the Fort Ord Reuse Authority's General Jim Moore
Boulevard Phase V Improvement Project Alignment and to Amend the FY 2009/2010 Budget

December 8, 2009

RESOLVED by the Board of Directors ("Directors") of the Marina Coast Water District ("District"), at a regular meeting duly called and held on December 8, 2009 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the Board of Directors approved Board Resolution No. 2009-22 on April 14, 2009 to Approve a Professional Services Agreement with Creegan + D'Angelo for Infrastructure Design, Bid Support, and Construction Support Services within the General Jim Moore Boulevard Phase V Project (GJMB5 Project) and to Amend the FY 2008/2009 Budget; and,

WHEREAS, the Board of Directors approved Resolution No. 2009-41 on June 9, 2009 Adopting the Central Marina Budget for FY 2009/2010; and,

WHEREAS, the total expenditure requested to fulfill District's obligation of construction costs to install various-sized potable water lines, recycled water lines and a sewer line within the Fort Ord Reuse Authority's General Jim Moore Boulevard Phase V Improvement Project alignment that will be identified in the FY 2009/2010 budget as CIP OS -0202 for \$19,210, CIP OW-0202 for \$418,993, CIP RW-0156 for \$813,315, and the total authorized amount will be \$1,621,500, including a \$198,482 contingency amount and the \$171,500 design contract amount; and,

WHEREAS, FORA adopted an Initial Study and Mitigated Negative Declaration, an Environmental Assessment, and a Finding of No Significant Impact, pursuant to the requirements of CEQA and NEPA, for this project on September 9, 2005; and,

WHEREAS, the funding of this project will come from the 2006 series of bond proceeds.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize:

1. The expenditure of the District's share of construction costs to install various-sized potable water lines, recycled water lines and a sewer line within the GJMB5 Project and to amend the FY 2009/2010 Budget.
2. The General Manager to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

3. Approve an amendment to the FY 2009/10 Capital Improvements Budget in the total amount of \$1,621,5000 in order to create the GJMB5 Project in the appropriate cost centers as follows:

| GJMB5 Project Component | Planned FY for Implementation | Amended FY for Implementation | Current Budget | Change | Encumbrance for GJMB5 Project | Project Balance w/in Cost Center |
|--|-------------------------------|-------------------------------|----------------|------------|-------------------------------|----------------------------------|
| DRO, LS Gravity Sewer Main and GJMB Improvements Phase II (Construct) (OS Cost Center, CIP# OS-0202) | FY 12/13 | FY 09/10 | \$10,617,870 | -\$274,549 | \$19,210 | \$10,324,111 |
| South Boundary Road Pipeline (DRO Tract) (OW Cost Center, CIP# OW-0202) | FY 11/12 | FY 09/10 | \$342,926 | +\$76,067 | \$418,993 | \$0 |
| Recycled Pipeline, GJMB, Coe to South Boundary (Construct) (NWP Cost Center, CIP# RW-0156) | FY 09/10 | FY 09/10 | \$1,865,760 | - | \$813,315 | \$1,052,445 |
| Project Contingency | FY 12/13 | FY 09/10 | | +198,482 | 198,482 | |
| Total Encumbered Amount for C+D Services (Res. # 2009-22) | - | - | - | - | \$171,500 | - |
| TOTAL | | | | \$0 | \$1,621,500 | |

PASSED AND ADOPTED on December 8, 2009, 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 _____

Howard Gustafson, President

ATTEST:

Jim Heitzman, 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. 2009-81 adopted December 8, 2009.

Jim Heitzman, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-D

Meeting Date: December 8, 2009

Submitted By: Brian True

Presented By: Brian True

Reviewed By: Carl Niizawa/Jim Heitzman

Agenda Title: Consider Adoption of Resolution No. 2009-82 to Authorize an Agreement with California American Water Company for MCWD to Obtain Ownership of the High Density Polyethylene (HDPE) Pipe Located Along the West-Side of General Jim Moore Boulevard

Detailed Description: The Board of Directors is requested to authorize the General Manager to execute an Agreement with California American Water Company (CAW) so that MCWD may obtain clear ownership of the existing 18-inch (nominal outside-diameter) HDPE pipeline located on the surface of the ground and running along the west-side of General Jim Moore Boulevard (GJMB).

The intent of the District in owning this HDPE pipe is to re-use as much of the existing pipe as physically and economically feasible during the construction of the Recycled Water pipeline facility slated for the General Jim Moore Boulevard - Phase V (GJMB5) Project, thereby providing an economic benefit to the ratepayers of the District. In addition, MCWD re-using the HDPE pipe assists the community by removing what is deemed an eye-sore from the City of Seaside's perspective and by providing a low-cost disposal service for an organization providing water service to ratepayers.

Environmental Review Compliance: None required.

Prior Board Action: Resolution No. 2009-81 on December 8, 2009 authorizing expenditure of the District's share of construction costs to install various sized potable water lines, recycled water lines and a sewer line within the Fort Ord Reuse Authority's General Jim Moore Boulevard Phase V Improvement Project Alignment and to amend the FY 2009/2010 Budget.

Board Goals/Objectives: *2007/2008 Strategic Plan, Goal No. 2 – To meet 100% of current and future customers' needs and make timely improvements and increase infrastructure and level of services and human resources to meet needs of expanding service areas in an environmentally sensitive way.*

Financial Impact: Yes No

Funding Source/Recap: The GJMB5 Project infrastructure costs will be funded by the 2006-series bond proceeds and by CAW's fair share payments received under a different Agreement. While the ownership of the pipe material itself comes to the District at no financial impact, the re-use of the HDPE pipe as a portion of the Recycled Water facilities will come at some cost. That cost is offset by the fact that MCWD would have paid a higher cost for installation of new PVC Recycled Water pipe for every linear foot of HDPE pipe that was not re-used.

Material Included for Information/Consideration: Resolution No. 2009-82, and, Agreement for Transfer, Conveyance, and Acceptance of Surplus High Density Polyethylene Pipe between MCWD and CAW.

Staff Recommendation: The Board of Directors adopt Resolution No. 2009-82 authorizing an agreement with CAW for MCWD to obtain ownership of the HDPE pipe located along the west-side of GJMB.

Action Required: 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 _____

Resolution No. 2009-82
Resolution of the Board of Directors
Marina Coast Water District
Authorize an Agreement with California American Water Company for
MCWD to Obtain Ownership of the High Density Polyethylene Pipe
Located Along the West-Side of General Jim Moore Boulevard

December 8, 2009

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on December 8, 2009 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the Board of Directors approved Resolution No. 2009-81 on December 8, 2008, authorizing an expenditure to fulfill the District’s financial obligation for funding construction costs for the various diameters of potable water pipeline, sewer pipeline, and recycled water pipeline within the Fort Ord Reuse Authority’s (FORA’s) General Jim Moore Boulevard Phase V Improvement Project alignment; and,

WHEREAS, the District and California American Water Company (CAW) are desirous of obtaining the mutual benefits that MCWD can provide to the community by owning and re-using High Density Polyethylene (HDPE) pipe that is currently owned by CAW and installed on the surface of the ground running along the west-side of General Jim Moore Boulevard; and,

WHEREAS, the District and CAW have negotiated an Agreement for Transfer, Conveyance, and Acceptance of Surplus High Density Polyethylene Pipe between MCWD and CAW and both organizations desire that Agreement to be the vehicle for MCWD to obtain ownership of the HDPE pipe.

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 Agreement between CAW and MCWD so that MCWD may obtain clear ownership of the existing HDPE pipeline located along the west-side of General Jim Moore Boulevard and to take all actions and execute all agreements and documents that give effect to this Resolution.

PASSED AND ADOPTED on December 8, 2009, 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 _____

Howard Gustafson, President

ATTEST:

Jim Heitzman, 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. 2009-82 adopted December 8, 2009.

Jim Heitzman, Secretary

**AGREEMENT FOR TRANSFER,
CONVEYANCE AND ACCEPTANCE OF
SURPLUS HIGH DENSITY POLYETHYLENE PIPE**

This AGREEMENT FOR TRANSFER, CONVEYANCE AND ACCEPTANCE OF SURPLUS HIGH DENSITY POLYETHYLENE PIPE, dated as of _____, 2009 (“Transfer Agreement”), is between CALIFORNIA-AMERICAN WATER COMPANY, a California corporation and regulated public utility (“CAW”), having an address at 511 Forest Lodge Road, Suite 100 Pacific Grove, CA 93950, and MARINA COAST WATER DISTRICT, a County Water District organized and operating under the County Water District Law, Sections 30000 and following of the California Water Code (“MCWD”), having an address at 11 Reservation Road, Marina, CA 93933, each individually a Party and together the Parties herein.

NOW, THEREFORE, CAW and MCWD hereby agree, in consideration of the mutual covenants in this Agreement, the sufficiency of which are hereby acknowledged and agreed, as follows:

1. Agreed Facts. CAW owns a quantity of high-density polyethylene (HDPE) pipe material currently located in Seaside, CA, along the western edge of General Jim Moore Boulevard between Coe Avenue and Hilby Avenue for a distance of approximately 7,600-feet, including hydrants, laterals, valves, PRV’s, and other appurtenances to the HDPE pipe (collectively referred to herein as “the HDPE pipe and appurtenances”). The HDPE pipe varies in diameter and dimension ratio (DR) and is generally described as 18-inch diameter with a DR of 15.5. The HDPE pipe and appurtenances are surplus to the needs of CAW, but are needed by MCWD for a water supply project along General Jim Moore Boulevard that will benefit CAW. The Parties agree that it is in the interests of CAW, MCWD and the persons served by them for CAW to transfer and convey the HDPE pipe and appurtenances to MCWD for MCWD’s use.

2. Transfer and Acceptance of HDPE Pipe and Appurtenances. CAW does hereby transfer and convey to MCWD all right, title and interest in and to the HDPE pipe and appurtenances. MCWD does hereby accept all right, title and interest in and to and responsibility for the HDPE pipe and appurtenances as of the date of this Agreement.

3. Warranty of Title. CAW warrants that the HDPE pipe herein described is free and clear of any encumbrances and claims, that to the best knowledge of CAW, its members, officers, and employees, CAW has title to and the legal right to transfer and dispose of the HDPE pipe and appurtenances, that CAW has followed all necessary procedures and obtained all necessary consents and approvals for this transfer and conveyance, and that CAW will defend such title as vested, by reason of the transfer and conveyance of the property to the District, against any and all claims whatsoever.

4. No Warranty of Condition. CAW does not make any representation or warranty concerning the physical condition of the HDPE pipe and appurtenances nor the fitness of the HDPE pipe and appurtenances for the use contemplated by MCWD. The HDPE pipe and appurtenances are transferred and conveyed by CAW and accepted by MCWD in “as is, where is” condition. CAW represents and warrants that as of the time of this Agreement the HDPE pipe and appurtenances are lawfully located and that CAW has no knowledge of any claim that the HDPE pipe is unlawfully located.

5. Indemnity. MCWD will indemnify CAW against all liabilities, obligations, losses, actions, suits and causes of action, or claims, of any kind or nature, (the foregoing, collectively, "Losses", and, individually, a "Loss") arising from MCWD's use of the HDPE pipe and appurtenances from and after the date of this Agreement, including but not limited to any claims arising from MCWD's activities to remove the HDPE pipe and appurtenances from its present location. CAW will indemnify MCWD against all liabilities, obligations, losses, actions, suits and causes of action, or claims, of any kind or nature, (the foregoing, collectively, "Losses", and, individually, a "Loss") arising from CAW's use of the HDPE pipe and appurtenances before the date of this Agreement, including but not limited to any claims arising from or related to an alleged breach of CAW's representation in paragraph 4.

6. Insurance.

6.1 MCWD shall procure and maintain with respect to MCWD's use of the HDPE pipe and appurtenances valid and enforceable insurance of the following character:

(a) Commercial General Liability Insurance or Comprehensive General Liability Insurance with Broad Form CGL endorsement with limits of not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate. Equivalent insurance through the ACWA JPIA will satisfy MCWD's obligation under this sub-section.

(b) Worker's Compensation Insurance as required by laws and regulations applicable to and covering employees performing under this Agreement. Employer's Liability Insurance protecting employer against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a limit of not less than \$1,000,000 each accident, \$1,000,000 disease-policy limit, \$1,000,000 disease-each employee. Equivalent insurance through the ACWA JPIA will satisfy MCWD's obligation under this sub-section.

6.2 In addition to the foregoing, every insurance policy maintained in accordance with this Section 6 shall: (i) name CAW as additional loss payee as its interest may appear with respect to this Section 6; (ii) provide that the issuer waives all rights of subrogation against MCWD or CAW or any other person insured under such policy, (iii) provide that thirty (30) days advance written notice of Cancellation, material modification, termination or lapse of coverage shall be given to MCWD and CAW; and (iv) be primary relative to the respective party's liability and without right or provision of contribution as to any other insurance carried by MCWD or CAW or any other interested party.

6.3 MCWD shall deliver to CAW, within ten (10) business days after execution of this Agreement, certificates of insurance, reasonably satisfactory to CAW, evidencing all of the insurance required under section 6.1 of this Section 6. Such insurance shall remain in effect for a term of not less than three years from the date of this Agreement.

6.4 MCWD shall comply with all of the terms and conditions of each insurance policy maintained pursuant to the terms of this Agreement to the extent necessary to avoid invalidating such insurance policy or impairing the coverage available thereunder.

6.5 The limits of insurance contained in this Section 6 shall not be construed as limits on the indemnification obligations set forth in Section 5.

7. Miscellaneous.

7.1 Integration. This Agreement embodies the entire agreement between MCWD and CAW relating to the subject matter hereof and supersedes all prior agreements and understandings, written or oral, relating to such subject matter.

7.2 Successor and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of and be enforceable by, the parties hereto and their respective successors and assigns permitted hereunder.

7.3 Amendments or Waivers. No term or provision hereof may be amended, changed, waived, discharged, terminated or replaced orally except by a written instrument, in accordance with applicable terms and provisions hereof, executed by each of the parties hereto.

7.4 Waivers. No failure, delay, forbearance or indulgence on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, or as an acquiescence in any breach, nor shall any single or partial exercise of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

7.5 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

7.6 Neutral Construction. This Agreement is the product of negotiation between the Parties. No Party is deemed the drafter of this Agreement.

7.7 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the Parties. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third person to any Party. This Agreement does not create any duty, liability or standard of care to any person who is not a Party.

7.8 Controlling Law; Conflicts of Law. This Agreement shall be construed, governed and applied in accordance with the laws of the State of California, without regard to the conflicts of law principles thereof.

7.9 Venue. In connection with this Agreement, CAW and MCWD hereby agree that any action, proceeding, or dispute regarding this Agreement shall be filed in the Superior Court of the State of California, in and for the County of Monterey. Nothing in this section shall be construed as a waiver of CAW's rights under California Code of Civil Procedure section 394.

7.10 Attorney Fees. If an action shall be brought for the enforcement or interpretation of any provision of this Agreement in which it is found that an Event of Default has occurred, the non-defaulting prevailing party shall be entitled to seek reimbursement of its attorneys' fees and expenses.

7.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, and such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, MCWD and CAW hereto have each caused this Agreement to be duly executed and delivered in their name and on their behalf, respectively, as of the day and year first written above.

MCWD

MARINA COAST WATER DISTRICT,
a California water district

CALIFORNIA-AMERICAN WATER
COMPANY, a California corporation

By: Howard Gustafson, President

By: _____
Name: _____ Robert MacLean
Title: President

By: Jim Heitzman, Secretary

APPROVED AS TO FORM:

Noland, Hamerly, Etienne & Hoss,
A Professional Corporation,
Legal Counsel to MCWD

By: _____
Lloyd W. Lowrey, Jr., Esq.

Tim Miller
Corporate Counsel
California American Water

Marina Coast Water District
Staff Report

Agenda Item: 9-A

Meeting Date: December 8, 2009

Prepared By: Paula Riso

Agenda Title: Receive Report on Funding the Regional Plenary Oversight Group (REPOG) Program

Summary: On April 10, 2006, the Board of Directors approved Resolution No. 2006-29 authorizing \$5,000 in seed-money to initiate activities associated with the furtherance of the REPOG program and development of a list of projects being proposed and/or analyzed in the area.

Over the past several years local water and wastewater districts, city managers, FORA, representatives of the Army's Presidio facilities, and many other concerned local entities have been meeting to address: (1) Monterey Peninsula's long-standing water supply deficiency, and (2) water supply and water quality problems impacting North County and the northern Salinas Valley, including the city of Salinas. The REPOG group has evolved into the "Water for Monterey County Coalition (WFMCC)" and continued to meet and discuss the California American Water "Coastal Project", "North Marina Project" and the "Regional Plan".

The District's role as a regional service provider stems from its expanded service area including the Ord Community. As the recycled water, water and wastewater purveyor to Central Marina and the Ord Community, the District now serves eight land use jurisdictions. The District has a presence as a regional provider of recycled water, water and wastewater services, and establishes a regional role in water issues of the Monterey Bay region.

The WFMCC met 28 times since January 2007. Funding for the WFMCC program has been depleted and the group's last meeting was November 2009.

From February 2008, the following is funding per agency:

| <u>Funding to Date per Agency</u> | |
|-----------------------------------|----------------|
| CAW | \$50,100 |
| MCWD | \$27,260 |
| MRWPCA | \$22,370 |
| <u>MPWMD</u> | <u>\$3,500</u> |
| Total | \$103,230 |

For projecting future costs, the budget to date has been about \$7,000 per meeting.

The Marina Coast Water District will continue to support regional participation.