



MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

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DIRECTORS
KENNETH K. NISHI
President

WILLIAM LEE
Vice President

THOMAS P. MOORE
HOWARD GUSTAFSON
DAN BURNS

Agenda

Special Board Meeting, Board of Directors Marina Coast Water District

11 Reservation Road, Marina, California
Wednesday, January 20, 2010, 5:45 p.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

2. Roll Call

3. Pledge of Allegiance

4. Closed Session

A. Pursuant to Government Code 54956.8

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

Property: Outfall capacity, regional wastewater outfall, Marina, California

Agency negotiators: (General Manager, Legal Counsel)

Negotiating parties: MCWD, Monterey Regional Water Pollution Control Agency

Under negotiation: Price and terms of payment

Reconvene Open Session

5. 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.*

6. Action Item *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. 2010-08 to Approve an Agreement between Marina Coast Water District and the Monterey Regional Water Pollution Control Agency for Use of the Regional Treatment Plant's Outfall for Brine Disposal

Action: The Board will consider approving an Agreement between Marina Coast Water District and the Monterey Regional Water Pollution Control Agency for use of the Regional Treatment Plant's Outfall for Brine Disposal.

7. Directors Comments

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

*Regular Meeting: Tuesday, February 9, 2010, 6:45 p.m.,
11 Reservation Road, Marina*

Marina Coast Water District
Agenda Transmittal

Agenda Item: 6-A

Meeting Date: January 20, 2009

Submitted By: Jim Heitzman

Presented By: Jim Heitzman

Agenda Title: Consider Adoption of Resolution No. 2010-08 to Approve an Agreement between Marina Coast Water District and the Monterey Regional Water Pollution Control Agency for Use of the Regional Treatment Plant's Outfall for Brine Disposal

Detailed Description: The Board of Directors is requested to review and approve an Agreement between Marina Coast Water District (District) and the Monterey Regional Water Pollution Control Agency (MRWPCA) for use of the regional wastewater treatment plant's outfall for brine disposal (hereafter "Outfall Agreement").

This Agreement implements the April 15, 2009 MOU and provides mutually beneficial terms and conditions and adequate consideration for planning, designing, permitting, financing, operation and maintenance, scheduling, quality requirements, term, priorities, and fair compensation to MRWPCA for District's connection to and use of the Outfall to discharge desalination brine into the ocean.

The agreement sets forth the responsibilities of the District and MRWPCA to plan, design, conduct environmental review, obtain and issue permits, and maintain the Connection and Brine Receiving Facilities as defined in the Outfall Agreement. The Parties intend to conduct their activities under this Agreement in accordance with the certified Final Environmental Impact Report for the Coastal Water Project (FEIR) and subsequent, discretionary approvals by appropriate agencies for a project to discharge an amount and strength of saline water (brine) not exceeding that analyzed in the FEIR. District Counsel advises that this Agreement is not, in and of itself, a project under CEQA.

The General Manager, as designated negotiator for the District, recommends approval of the Agreement by the Board.

The Agreement was negotiated in collaboration with MRWPCA. The Agreement has been reviewed by District Legal Counsel and approved as to form for execution by the District.

Environmental Review Compliance: None required.

Prior Committee or Board Action: Resolution No. 2009-25 and the associated MOU between the District and MRWPCA for Brine Disposal; Resolution No. 2009-42 and the associated MOU between the District and MRWPCA for the Regional Urban Water Augmentation Project; Resolution No. 2009-45 and the associated Three-Way Water Supply Agreement; Resolution No. 2009-44 and the associated Regional Water Supply Planning Agreement.

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 ___ **X** No

Funding Source/Recap: None.

Material Included for Information/Consideration: Resolution No. 2010-08; and, Outfall Agreement between the District and MWRPCA.

Staff Recommendation: The Board review and approve the execution of the Outfall Agreement between the Marina Coast Water District and the Monterey Regional Water Pollution Control Agency for the use of the Regional Treatment Plant’s Outfall for brine disposal.

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. 2010-08
Resolution of the Board of Directors
Marina Coast Water District
Approving the Outfall Agreement
with the Monterey Regional Water Pollution Control Agency

January 20, 2010

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“the District”), at a special meeting duly called and held on January 20, 2010, at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District and the Monterey Regional Water Pollution Control Agency (“MRWPCA”) desired to establish mutually beneficial terms and conditions and adequate consideration for planning, designing, permitting, financing, operation and maintenance, scheduling, quality requirements, term, priorities, and fair compensation to MRWPCA for the District’s connection to and use of the MRWPCA’s regional treatment plant outfall to transport desalination brine for ocean discharge; and,

WHEREAS, on April 15, 2009, the District and the MRWPCA signed a Memorandum of Understanding for investigating and analyzing the use of the Regional Treatment Plant’s outfall for brine disposal; and,

WHEREAS, on June 16, 2009, the District and the MRWPCA signed a Memorandum of Understanding for the Regional Urban Water Augmentation Project (“RUWAP MOU”) that includes provision for the District and MRWPCA to meet and confer in good faith to evaluate the feasibility of using the Regional Treatment Plant’s outfall for transport and discharge of brine byproduct from a water desalination facility; and,

WHEREAS, the District and the MRWPCA have negotiated draft terms and conditions for use of the MRWPCA’s regional plant outfall to transport pre-treated desalination brine for ocean discharge as shown in the attached “Outfall Agreement”; and,

WHEREAS, the Outfall Agreement does not commit the District or MRWPCA to any activities that may result in a direct or reasonably foreseeable indirect change to the physical environment prior to project approval by appropriate agencies, including adoption of all required California Environmental Quality Act (“CEQA”) findings, approval of Mitigation Monitoring and Reporting Program or Plan, and compliance with other requirements of CEQA; and,

WHEREAS, because the Outfall Agreement involves establishment, structuring, and approval of charges by public agencies for the purpose of meeting operating expenses and obtaining funds for capital projects, the District’s Legal Counsel advises that the approval of the Outfall Agreement is statutorily exempt from the CEQA as defined by Sections 21080(b)(8)(A) and 21080(b)(8)(D) of the California Public Resources Code; and,

WHEREAS, the District’s General Manager as the District’s designated negotiator recommends that the Board approve the Agreement for execution in the form presented to the Board in open session on January 20, 2010.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve the Outfall Agreement with the Monterey Regional Water Pollution Control Agency and authorizes execution of the Agreement by the District's Board President and Secretary.

BE IT FURTHER RESOLVED, that the General Manager is authorized and directed to prepare and file an appropriate Notice of Exemption for the approval of the Outfall Agreement, based on the finding that approval of the Outfall Agreement is statutorily exempt from CEQA as defined by Sections 21080(b)(8)(D) and 21080(b)(8)(A) of the Public Resources Code.

PASSED AND ADOPTED on January 20, 2010, 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 _____

Kenneth K. Nishi, 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. 2010-08 adopted January 20, 2010.

Jim Heitzman, Secretary