



# 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**  
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  
Monday, November 29, 2010, 7:30 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. Closed Session

- A. Pursuant to Government Code 54957.6  
Conference with Labor Negotiator  
Agency Negotiator (General Manager)  
Employee Organization: Marina Coast Water District Employees Association
- B. Pursuant to Government Code 54957.6  
Conference with Labor Negotiator  
Agency Negotiator (General Manager)  
Employee Organization: Teamsters Local 890
- C. Pursuant to Government Code Section 54957.6  
Conference with Labor Negotiators  
Agency designated representatives: Kenneth K. Nishi and William Lee  
Unrepresented employee: General Manager

#### 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.*

- C. Consider Adopting a Resolution to Approve an Amendment to the General Manager's Contract

## **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. Action Item**

- A. Consider Adoption of Resolution No. 2010-77 to Authorize the Issuance and Sale of Refunding Bonds in the Principal Amount of Not-to-Exceed \$9,000,000 to Refund Outstanding Promissory Note Relating to Land Acquisition, and Approving Related Documents and Actions

*Action: The Board of Directors will consider authorizing the issuance and sale of Refunding Bonds in the principal amount of not-to-exceed \$9,000,000 to refund outstanding promissory note relating to land acquisition, and approving related documents and actions.*

- B. Adopt Resolution No. 2010-78 to Approve an Amendment to the Marina Coast Water District Public Agency Retirement System (PARS) Retirement Enhancement Plan – Defined Benefit

*Action: The Board of Directors will consider approving an Amendment to the Marina Coast Water District Public Agency Retirement System (PARS) Retirement Enhancement Plan – Defined Benefit.*

## **8. Directors Comments**

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

*Regular Meeting: Tuesday, December 14, 2010, 6:45 p.m.,  
11 Reservation Road, Marina*

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 7-A

Meeting Date: November 29, 2010

Submitted By: Jim Heitzman

Presented By: Jim Heitzman

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2010-77 to Authorize the Issuance and Sale of Refunding Bonds in the Principal Amount of Not-to-Exceed \$9,000,000 to Refund Outstanding Promissory Note Relating to Land Acquisition, and Approving Related Documents and Actions

Detailed Description: On March 16, 2010, the Board adopted Resolution No. 2010-18, approving exercise of an option created in 1996 for acquisition of land and easements on the Armstrong Ranch. As consideration for the land and easements, the District delivered to the Armstrong Family a Promissory Note in the amount of the \$7,351,786 and recorded a Deed of Trust to secure payment of the Promissory Note.

The District may prepay the Promissory Note in whole or in part. Paragraph 4 of the Note provides that all payments made on the Promissory Note through December 31, 2010 may be recovered by the District through annexation fees, capacity charges and/or service charges charged by MCWD for portions of the Armstrong Ranch annexed as provided in the 1996 Annexation Agreement and Groundwater Mitigation Framework.

On October 12, 2010, staff recommended the District issue subordinate bonds to refinance the Promissory Note and the Board adopted Resolution No. 2010-70 authorizing the General Manager to seek a commitment of funds to pay in full the Promissory Note to "Sandhills as Nominee" Dated 6-30-10.

Staff has been working with Brian O'Connor, Senior Vice President of Hutchinson, Shockey, Erley and Company (HSE) to secure financing and meet the December 31, 2010 prepayment deadline on the Promissory Note. The proposed financing will include the issuance of Subordinate Refunding Bonds in the maximum principal amount of \$9,000,000, for the purpose of providing funds to refund the Promissory Note. The average rate of interest to be borne by the Subordinate Refunding Bonds (taking into account any original issue discount on the sale thereof) shall not exceed 4.00% per annum. Under this proposed financing, HSE will serve as Underwriter of the issuance, Union Bank, N.A., will act as trustee, relating to the issuance and sale of the Subordinate Refunding Bonds, and Jones Hall, a professional law corporation will serve as bond counsel.

Environmental Review Compliance: None required.

Prior Committee or Board Actions: On March 16, 2010, the Board adopted Resolution No. 2010-18, approving exercise of an option created in 1996 for acquisition of land and easements on the Armstrong Ranch. On October 12, 2010, the Board adopted Resolution No. 2010-70



November 29, 2010

Resolution No. 2010 - 77  
Resolution of the Board of Directors  
The Marina Coast Water District

Authorizing the Issuance and Sale of Refunding Bonds in the Principal Amount of  
Not to Exceed \$9,000,000 to Refund Outstanding Promissory Note Relating to  
Land Acquisition, and Approving Related Documents and Actions

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a special meeting duly called and held on November 29, 2010 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the Marina Coast Water District (the “District”) owns and operates facilities and property for the supply, treatment and distribution of water (the “Water System”) and the collection, treatment and disposal of wastewater within the service area of the District (the “Wastewater System”) and in order to finance the acquisition of land to be used for various public purposes of the District relating to the Water System and the Wastewater System, the District has executed and delivered a Promissory Note Secured by Deed of Trust dated June 25, 2010, in the aggregate principal amount of \$7,351,786.00 (the “Promissory Note”); and,

WHEREAS, in order to provide funds to refund the Promissory Note and thereby realize interest rate savings to the District, the Board of Directors of the District wishes to authorize the issuance and sale of 2010 Subordinate Enterprise Revenue Refunding Bonds of the District in the aggregate principal amount of not to exceed \$9,000,000 (the “Refunding Bonds”), under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the “Refunding Bond Law”); and,

WHEREAS, the Refunding Bonds will be secured by a pledge of and lien on the net revenues derived by the District from the operation of the Water System and the Wastewater System, on a basis which is subordinate to the outstanding obligations of the District relating to the Enterprise Revenue Certificates of Participation, Series 2006 which have previously been executed and delivered in the aggregate principal amount of \$42,310,000 (the “2006 Certificates”).

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Marina Coast Water District as follows:

Section 1. Authorization of Refunding Bonds. The Board of Directors hereby authorizes the issuance of the Refunding Bonds in the maximum principal amount of \$9,000,000, for the purpose of providing funds to refund the Promissory Note. The Refunding Bonds shall be revenue bonds which are payable from and secured by a pledge of and lien on the net revenues of the Water System and the Wastewater System, on a basis which is subordinate to the outstanding obligations of the District relating to the 2006 Certificates. The Refunding Bonds are authorized to be issued under the provisions of the Refunding Bond Law.

Section 2. Approval of Indenture of Trust. The Board of Directors hereby approves the Indenture of Trust between the District and Union Bank, N.A., as trustee, relating to the issuance and sale of the Refunding Bonds, in substantially the form on file with the Clerk of the Board together with any changes therein or additions thereto deemed advisable by the General Manager or the Director of Administrative Services (each, an "Authorized Officer"). The authorized officer is hereby authorized and directed for and in the name and on behalf of the District to execute the final form of the Indenture of Trust, and the Clerk of the Board is hereby authorized and directed to attest the final form of the Indenture of Trust. Execution of the Indenture of Trust by an Authorized Officer shall be conclusive evidence of the approval of any changes therein or additions thereto by such Authorized Officer.

Section 3. Negotiated Sale of Refunding Bonds. The Board of Directors hereby approves the sale of the Refunding Bonds by negotiation with Hutchinson, Shockey, Erley & Company as underwriter (the "Underwriter") under a Purchase Contract between the District and the Underwriter in the form on file with on file with the Clerk of the Board, together with any changes therein or additions thereto approved by an Authorized Officer, and the execution thereof by an Authorized Officer shall be conclusive evidence of such approval. The amount of Underwriter's discount for the Refunding Bonds shall be not more than 1.00% of the par amount thereof and the average rate of interest to be borne by the Refunding Bonds (taking into account any original issue discount on the sale thereof) shall not exceed 4.00% per annum.

Section 4. Official Statement. The Board of Directors hereby approves and deems final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, the preliminary Official Statement describing the Refunding Bonds in the form on file with the Clerk of the Board. An Authorized Officer is hereby authorized, at the request of the Underwriter, to execute an appropriate certificate affirming the Board of Directors' determination that the preliminary Official Statement has been deemed final within the meaning of such Rule. Distribution of the preliminary Official Statement by the Underwriter is hereby approved. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to a final form of said Official Statement, and the execution thereof by an Authorized Officer shall be conclusive evidence of approval of any such changes and additions. The Board of Directors hereby authorizes the distribution of the final Official Statement by the Underwriter. The final Official Statement shall be executed in the name and on behalf of the District by an Authorized Officer.

Section 5. Engagement of Professional Services. The firm of Jones Hall, A Professional Law Corporation, is hereby retained as bond counsel to the District, in connection with the issuance and sale of the Refunding Bonds. An Authorized Officer is hereby authorized and directed on behalf of the District to execute an agreement with said firm in the form on file with the Clerk of the Board.

Section 6. Official Actions. The President, the Vice President, the General Manager, the Director of Administrative Services, the Clerk of the Board, and all other officers of the District, are authorized and directed in the name and on behalf of the District to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, including but not limited to a Continuing Disclosure Certificate in substantially the form appended to the Official Statement, which they or any of them deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Whenever in this resolution any

officer of the District is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

Section 7. Effective Date. This resolution shall take effect from and after the date of approval and adoption thereof.

The foregoing Resolution was duly and regularly introduced, passed, and adopted by the Board of Directors of the Marina Coast Water District at a regular meeting thereof held on November 29, 2010.

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 full, true and correct copy of Resolution No. 2010-77 adopted November 29, 2010.

\_\_\_\_\_  
Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 7-B

Meeting Date: November 29, 2010

Submitted By: Jean Premutati

Presented By: Lloyd Lowrey

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2010-78 to Approve an Amendment to the Marina Coast Water District Public Agency Retirement System (PARS) Retirement Enhancement Plan – Defined Benefit

Background: In September 2007, the Board negotiated an employment contract between the General Manager and the District. The contract provided for a supplemental defined benefit through PARS that would be assumed by the General Manager's surviving spouse in the event of his death prior to retirement. In reviewing the PARS plan, it has come to the attention of staff that this language was omitted.

Submitted for your approval is a plan amendment which contains a Pre-Retirement Death Benefit.

Environmental Review Compliance: None.

Prior Committee or Board Action: None.

Board Goals/Objectives: *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      No

Funding Source/Recap: Engineering account.

Material Included for Information/Consideration: Resolution No. 2010-78; and, Plan Amendment to the MCWD PARS Retirement Enhancement Plan – Defined Benefit.

Staff Recommendation: The Board of Directors adopt Resolution No. 2010-78 to approve the Amendment to the MCWD PARS Retirement Enhancement Plan – Defined Benefit.

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



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Board Action

Resolution No \_\_\_\_\_ Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

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

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

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

November 29, 2010

Resolution No. 2010 - 78  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving An Amendment to the Marina Coast Water District (MCWD)  
Public Agency Retirement System (PARS) Retirement Enhancement Plan – Defined Benefit

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a special meeting duly called and held on November 29, 2010 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the Board negotiated an employment contract between the General Manager and the District with the intent to provide a supplemental defined benefit that would be assumed by the General Manager’s surviving spouse in the event of his death prior to retirement; and,

WHEREAS, the language necessary for this provision was omitted; and,

WHEREAS, it is in the best interest of the District and the Plan to amend the Plan to provide for a pre-retirement death benefit; and,

WHEREAS, the District has reserved the right to amend, modify or terminate the plan at any time in accordance with Section 5.3 of the Plan, and the Management Services Administrator is the current Plan Administrator and authorized to sign approved amendments; and,

WHEREAS, under PARS rules, the amendment may be effective July 1, 2010, the beginning of the current Plan year.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve the following amendment to the District’s PARS Retirement Enhancement Plan – Defined Benefit, effective at the beginning of the current plan year, July 1, 2010, upon signature by the Management Services Administrator acting as the Plan Administrator:

1. Article II, Section 2.4 of the Plan, is hereby amended and restated as follows:

2.4 Pre-Retirement Death Benefit

Pre-Retirement Death Benefits shall be provided for those actively employed Employees of the Employer who die after attaining the minimum age requirement under Section 1.1. The benefit shall be equal to the Member's Retirement Benefit under Section 2.1, actuarially reduced as if the Member had retired on his or her date of death and elected a 100% joint-and-survivor option. The benefit will be paid over the lifetime of the surviving spouse or registered domestic partner. There is no pre-retirement death benefit payable if there is no surviving spouse or registered domestic partner.

PASSED AND ADOPTED on November 29, 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. 2010-78 adopted November 29, 2010.

\_\_\_\_\_  
Jim Heitzman, Secretary