

Marina Coast Water District
Agenda Transmittal

Agenda Item: 7-A

Meeting Date: April 12, 2011

Submitted By: Paula Riso
Reviewed By: Carl Niizawa

Presented By: Lloyd Lowrey

Agenda Title: Adopt Resolution No. 2011-25 to Amend the Marina Coast Water District Conflict of Interest Code

Detailed Description: The Board of Directors is requested to adopt Resolution No. 2011-xx amending the Marina Coast Water District (District) Conflict of Interest Code.

The Political Reform Act of 1974, Government Code Section 81000, et seq., requires state and local government agencies to adopt a Conflict of Interest Code. It is necessary for the District to periodically update its Conflict of Interest Code. The Monterey County Board of Supervisors requires a Local Agency Biennial Report on even numbered years. In August 2010, the District adopted Resolution No. 2010-60 adding two new positions to its Conflict of Interest Code. The Monterey County Board of Supervisors Legal Counsel has requested that the District include consultants in its Conflict of Interest Code.

Staff and District Counsel recommend adding consultants to the District Conflict of Interest Code under Category 1, with the language recommended by the Fair Political Practices Commission as modified by the Monterey County Board of Supervisors, the code reviewing body for the District.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: _____Yes No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Resolution No. 2011-25; Local Agency Biennial Report; and, Conflict of Interest Code of the Marina Coast Water District.

Recommendation: Update District's Conflict of Interest Code and direct staff to submit same to Monterey County Board of Supervisors.

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_____

April 12, 2011

Resolution No. 2011 - 25
Resolution of the Board of Directors
Marina Coast Water District
Amending the Marina Coast Water District
Conflict of Interest Code

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on April 12, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the Political Reform Act of 1974, Government Code Section 81000, et seq., requires state and local government agencies to adopt a Conflict of Interest Code; and,

WHEREAS, it is necessary for the District to periodically update its Conflict of Interest Code, with the last update in 2010, for review by the District’s code filing body, the Monterey County Board of Supervisors; and,

WHEREAS, a review of said Code by the District’s code filing body and the District’s Counsel has indicated the list of Designated Positions set forth on Exhibit A should be revised; and,

WHEREAS, the Fair Political Practices Commission describes a Designated Employee as an officer, employee, member or consultant of an agency whose position is designated in the code because the position entails the making or participation in the making of governmental decisions that may foreseeably have a material effect on any financial interest; and,

WHEREAS, the District wishes to add “consultants”, as defined by section 18701 of the Regulations of the Fair Political Practices Commission to the list of Designated Positions set forth on Exhibit A to the District’s Conflict of Interest Code.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby amend the Marina Coast Water District Conflict of Interest Code to include consultants, using the language recommended by the Fair Political Practices Commission as modified by the District’s code filing body, in the form attached to this Resolution.

PASSED AND ADOPTED on April 12, 2011, 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 _____

William Y. Lee, 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. 2011-25 adopted April 12, 2011.

Jim Heitzman, Secretary

Clerk of the Board, County of Monterey
P.O. Box 1728
Salinas, California 93902

LOCAL GOVERNMENT AGENCY REPORT

This agency has reviewed its Conflict of Interest Code on April 12, 2011 and has determined that:

An amendment is required. The following amendments are necessary:

 X Include new positions (including consultants) that must be designated

 Delete positions that manage public investments from the list of designated positions

 Revise disclosure categories

 Revise the titles of existing positions

 Delete titles of positions that have been abolished

 Other (*describe*) _____

No amendment is required.

The Agency's code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of all investments, business positions, interests in real property, and sources of income which may foreseeably be affected materially by the decisions made by those holding the designated positions; and the code includes all other provisions required by Government Code Section 87302.

Contact Person: Paula Riso Phone Number (831) 883-5910
Name of Agency: Marina Coast Water District
Mailing Address: 11 Reservation Road, Marina, California 93933

Dated: _____

Jim Heitzman, General Manager

**CONFLICT OF INTEREST CODE
 OF THE
MARINA COAST WATER DISTRICT
 OF MONTEREY COUNTY**

(a) The Political Reform Act of 1974, Government Code sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of standard model Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the political Reform Act after public notice and hearings. Therefore, the terms 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth are hereby incorporated by reference and constitute the Conflict of Interest Code of the Marina Coast Water District.

(b) Pursuant to Government Code section 81008 and 2 Cal. Code of Regs. Section 18730 (b) (4), all designated employees shall file statements of economic interests with their agency. Upon receipt of the statement of the Board of Directors, the agency shall make and retain a copy and forward the original of the statement to the code reviewing body, the Monterey County Board of Supervisors. Statements for all other designated employees shall be retained by the agency, which shall make the statements available for public inspection and reproduction.

(c) APPENDIX

EXHIBIT A:
DESIGNATED POSITIONS

List of Designated Positions	Assigned Disclosure Categories
Members of the Board of Directors	1
General Manager	1
Deputy General Manager/District Engineer	1
District Engineer	1
Director of Administrative Services	1
Operations and Maintenance Superintendent	1
Director of Finance	1
Management Services Administrator	1
Water Quality Manager	1
Conservation Coordinator	1
District Legal Counsel	1
Capital Projects Manager	1
<u>Consultants</u> ¹	1

*Add consultants

EXHIBIT B:

DESIGNATED EMPLOYEES IN CATEGORY 1 MUST REPORT:

1. Investments in any business entity which:
 - (a) has contracted with this district within the last two years, or in the future may foreseeably do so, to provide services of any kind, supplies, materials, machinery, or equipment to the district; or
 - (b) manufactures, produces or processes any of said types of things and sells or leases them to a business entity which sells or leases them to the district, or
 - (c) deals in, or repairs or services any of said types of things which have been, are, or foreseeably may be, used by the district.

2. Income from any of the types of business entities referred to in paragraph 1 above, or from any person or business entity who or which receives the services provided by the district, or in the future may foreseeably do so, except such income as is not reportable under the provisions of subdivision (b) of Section 82030 of the Government Code.

3. His or her status as a director, officer, partner, trustee, employee, or holder of a position of management in any of the types of business entity referred to in either paragraph 1 or 2 above.

4. All interests in real property located in the jurisdiction of the district, or not more than two miles outside its boundaries, if the fair market value of the interest is greater than \$1,000.

Amended: _____

¹ *For purposes of this Code, "consultant" has the same meaning as set forth in 2 Cal. Code of Regs. section 18700(a)(1), as follows:

"Consultant" means an individual who, pursuant to a contract with a state or local government agency:

- (A) Makes a governmental decision whether to:
 1. Approve a rate, rule, or regulation;
 2. Adopt or enforce a law;
 3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;

4. Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval;
5. Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract;
6. Grant agency approval to a plan, design, report, study, or similar item;
7. Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof; or

(B) Serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.

Consultants to the Marina Coast Water District shall be subject to disclosure under Category 1, subject to the following limitation:

The General Manager may determine in writing that a particular consultant, although a "Designated Employee," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements of Category 1. In such cases, the General Manager may designate a different disclosure requirement. Such designation must be made in writing and shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the consultant's disclosure requirements. The General Manager's designation must be filed, in advance of disclosure by the consultant, with the agency's conflict of interest code and also filed with the code reviewing body and must be delivered to the consultant along with a copy of the conflict of interest code and the manual and forms for disclosure (FPPC Form 700).