

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-E

Meeting Date: September 13, 2011

Submitted By: Gary Rogers
Reviewed By: Carl Niizawa

Presented By: Gary Rogers

Agenda Title: Consider Adoption of Resolution No. 2011-70 to Approve an Agreement of Purchase and Sale with the Union Community Partners-East Garrison, LLC for the Construction of Watkins Gate Well and Pipeline

Detailed Description: The Board of Directors is requested to authorize the General Manager and/or the Deputy General Manager/District Engineer to sign an "Agreement of Purchase and Sale" (Agreement) with Union Community Partners-East Garrison, LLC (UCP) for land conveyance regarding the Watkins Gate Well and Pipeline Project.

The District desires to build the Watkins Gate Well and Pipeline on land owned by UCP and this Agreement is necessary for obtaining the use of the land. The Agreement includes discussion of construction work, contract terms, conditions of Escrow and conditions of liability as they relate to the lot purchase for the well site and the non-exclusive easement for the pipeline. The District is pursuing the conveyance of the well site (approximately 0.5 acre) for \$100 and the conveyance of the pipeline easement (approximately 0.8 acre) for no cost.

District legal counsel and staff are currently in review and final negotiations on this Agreement with UCP in order for this to be acceptable for execution. District staff requests from the Board that staff and legal counsel be allowed to continue to negotiate, make appropriate changes and execute the final Agreement with UCP subsequent to the adoption of this Resolution and prior to the construction of the Well and Pipeline. The prompt execution of this Agreement is necessary to complete the construction of the Watkins Gate Well and Pipeline Project within Proposition 50 time constraints and, therefore, continue receiving Proposition 50 funding.

This proposed lot purchase (well site) includes a small portion of Watkins Gate Road that will continue to allow controlled access (security gate) for future landowner construction traffic and limited public traffic during special events at the Laguna Seca Raceway Facility. The purchase of the roadway section is necessary in order for the District to secure a large enough area around the water well, as required by the California Department of Public Health. District staff has discussed the purchase of the road section with District's insurance provider (ACWA/JPIA), and they have deemed this roadway acceptable if certain insurance conditions are included in the Agreement.

Since the MCWD is a public Agency, District staff is seeking exemption by Monterey County from the California Subdivision Map Act (processing guidelines) regarding the purchase of the well site lot. This will allow the well lot to be conveyed in a much shorter time period. In the event that the District cannot obtain this exemption, the District will pursue an exclusive easement for the well site from UCP instead of the above-described lot purchase.

Environmental Review Compliance: Final Initial Study/Mitigated Negative Declaration CEQA Document and Mitigation Monitoring and Reporting Program for the Watkins Gate Well and Pipeline Project, dated May 2, 2011 has been completed and was adopted via Board Resolution No. 2011-31 on May 10, 2011.

Prior Committee or Board Action: Resolution No. 2010-04, the Board Authorized the General Manager and/or Deputy General Manager/District Engineer to Accept Easements for the District; Resolution No. 2011-31, the Board Adopted the Initial Study/Mitigated Negative Declaration and Mitigated Monitoring and Reporting Program for the Watkins Gate and Pipeline/Eastern Distribution Project; Resolution No. 2011-34, the Board Authorized the General Manager and/or Deputy General Manager/District Engineer to Sign a License and Indemnity Agreement with Union Community Partners-East Garrison, LLC for Temporary Access to the Watkins Gate Well and Pipeline Project Site.

Board Goals/Objectives: *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: Funding for District staff to process this Agreement is from the approved FY 2010/2011 Budget as CIP OW-116 under the Ord Community Water Cost Center and is a line item in the FY 2011/2012 Budget.

Material Included for Information/Consideration: Resolution No. 2011-70; and, the “Agreement of Purchase and Sale” document and attachments.

Staff Recommendation: The Board of Directors adopt Resolution No. 2011-70 authorizing the General Manager and/or the Deputy General Manager/District Engineer to Sign a Land Purchase and Easement Agreement with the Union Community Partners-East Garrison, LLC for the Watkins Gate Well and Pipeline Project.

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 _____

September 13, 2011

Resolution No. 2011 - 70
Resolution of the Board of Directors
Marina Coast Water District

Authorizing the General Manager and/or the Deputy General Manager/District Engineer to Sign a Purchaser and Seller Agreement with the Union Community Partners-East Garrison, LLC for the Construction of Watkins Gate Well and Pipeline

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011, at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, an additional replacement municipal well is desired by the District; and,

WHEREAS, in Resolution No. 2010-04, The Board Authorized the General Manager and/or Deputy General Manager/District Engineer to Accept Easements for the District; and,

WHEREAS, in Resolution No. 2011-31, The Board Adopted the Initial Study/Mitigated Negative Declaration and Mitigated Monitoring and Reporting Program for the Watkins Gate and Pipeline/Eastern Distribution Project; and,

WHEREAS, in Resolution No. 2011-34, The Board Authorized the General Manager and/or Deputy General Manager/District Engineer to Sign a License and Indemnity Agreement with Union Community Partners-East Garrison, LLC for Temporary Access to the Watkins Gate Well and Pipeline Project Site; and,

WHEREAS, the execution the Agreement of Purchase and Sale for the construction Watkins Gate Well and Pipeline Site and permanent access to the subject site is necessary for the furtherance of the Watkins Gate and Pipeline Project.

NOW, THEREFORE, BE IT RESOLVED THAT, based upon the foregoing, the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager and/or Deputy General Manager/District Engineer to sign an Agreement of Purchase and Sale with Union Community Partners-East Garrison, LLC for the permanent construction/access of Watkins Gate Well and Pipeline Site and to take all actions and execute all documents necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED on September 13, 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. 2011-70, adopted September 13, 2011.

Jim Heitzman, Secretary