

# MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099 Home Page: www.mcwd.org TEL: (831) 384-6131 FAX: (831) 883-5995

#### **DIRECTORS**

THOMAS P. MOORE

President

JAN SHRINER Vice President

HOWARD GUSTAFSON WILLIAM Y. LEE PETER LE

# Agenda Regular Board Meeting, Board of Directors Marina Coast Water District

211 Hillcrest Avenue, Marina, California Monday, October 21, 2013, **6:00 p.m**. PST (Please note the earlier start time)

This meeting has been noticed according to the Brown Act rules. The Board of Directors meet regularly on the first and third Monday of each month. The meetings normally begin at 6:45 p.m. and are held at the City of Marina Council Chambers at 211 Hillcrest Avenue, 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.** Public Comment on Closed Session Items Anyone wishing to address the Board on matters appearing on Closed Session may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.

#### 4. Closed Session

- A. Pursuant to Government Code 54956.9

  Conference with Legal Counsel Existing Litigation (Subdivision (a) of Section 54956.9)
  - 1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

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, October 17, 2013 at the District office, Marina and Seaside City Halls, and at the Marina and Seaside Libraries. Information about items on this agenda or persons requesting disability related modifications and/or accommodations can contact the Board Clerk at: 831-883-5910. The next regular meeting of the Board of Directors is scheduled for November 4, 2013.

- 2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019
- 3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

#### 6:30 p.m. Reconvene Open Session (Please note the earlier start time)

**5.** 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.

#### 6. Pledge of Allegiance

- **7. 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 four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.
- **8. 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 four minutes.
  - A. Approve the Expenditures for the Month of September 2013
  - B. Approve the Correction to the Approved Regular Board Meeting Minutes of July 15, 2013
  - C. Approve the Revised Draft Minutes of the Adjourned Regular Board Meeting of August 26, 2013
  - D. Approve the Revised Draft Minutes of the Regular Board Meeting of September 16, 2013

#### 7:00 PM

ALL PROTESTS TO THE PROPOSED ORD WATER AND WASTEWATER RATES MUST BE SUBMITTED TO THE BOARD SECRETARY BY NOT LATER THAN 7:00 PM AT THIS MEETING. ANY PROTESTS SUBMITTED AFTER THAT TIME SHALL BE REJECTED AS LATE AND SHALL NOT BE CONSIDERED

#### 9. Public Hearing

- A. Receive Public Comment on Proposed Increases in District Rates, Fees, and Charges for the Ord Community Service Area
- B. General Manager's Verbal Report on the Result of Proposition 218 Protests to the Proposed Increases in District Rates, Fees, and Charges for the Ord Community Service Area
- **10. 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 four minutes.
  - A. Approval by the Board of Directors of the Proposition 218 Protest Count and Determination by the Board of Directors Whether a Valid Majority Protest Occurred

Action: The Board of Directors will consider approving the Proposition 218 protest count and determine whether a valid majority protest occurred.

#### 11. Public Hearing

- A. Receive Public Comment on Changes to the Capacity Charges for the Central Marina and Ord Community Service Areas
- **12. 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 four minutes.
  - A. Consider Adoption of Resolution No. 2013-59 to Approve an Agreement with AMCAL Monterey Bay, LLC for Construction and Transfer of Water, Sewer and Recycled Water Infrastructure at The Promontory, a CSUMB Housing Project
    - Action: The Board of Directors will consider approving an Agreement with AMCAL Monterey Bay, LLC for Construction and Transfer of Water, Sewer and Recycled Water Infrastructure at The Promontory, a CSUMB Housing Project.
  - B. Consider Adoption of Resolution No. 2013-57 to Amend Section 16 of the Board Procedures Manual

Action: The Board of Directors will discuss and consider amending Section 16 of the Board Procedures Manual.

C. Discuss and Consider Procedure in Disciplinary Action for Appeals of Personnel Disciplinary Actions

Action: The Board of Directors will discuss and consider the procedure for appeals of personnel disciplinary actions under the Memorandums of Understanding between the District and the MCWD Employee Association and the District and Teamsters Local 890.

D. Provide Direction on Whether to Authorize the Board President to Attend the Monterey County Water Resources Agency Board Meeting as a Representative of the Marina Coast Water District

Action: The Board of Directors will consider whether to direct the Board President to attend the Monterey County Water Resources Agency Board meeting as a representative of the Marina Coast Water District.

- **13. 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 four minutes.
  - A. General Manager's Report
    - Correspondence Received by Board or General Manager
  - B. Counsel's Report
  - C. Committee and Board Liaison Reports
    - Water Conservation Commission
    - 2. Joint City-District Committee
    - 3. Executive Committee
    - 4. Community Outreach
    - 5. MRWPCA Board Member Liaison
- 6. LAFCO Liaison
  - 7. FORA
  - 8. WWOC Report
  - 9. JPIA Liaison
  - 10. Special Districts Association

#### 14. Board Member Requests for Future Agenda Items

- A. Board Member Requests
- 15. Director's Comments
- **16.** Adjournment Set or Announce Next Meeting(s), date(s), time(s), and location(s):

Regular Meeting: Monday, November 4, 2013, 6:45 p.m.,

Marina Council Chambers 211 Hillcrest Avenue, Marina

Agenda Item: 8	Meeting Date: October 21, 2013
Submitted By: Brian C. Lee	Presented By: Brian C. Lee
Agenda Title: Consent Calendar	
2013 C) Approve the Revised Draft M 26, 2013	_
Environmental Review Compliance:	None required.
Prior Committee or Board Action: See	e individual transmittals.
<u> </u>	ntement - Providing high quality water, wastewater and istrict's expanding communities through management, re resources at reasonable costs.
Financial Impact: See individual trans	mittals.
Funding Source/Recap: See individual	l transmittals.
Material Included for Information/Con	nsideration: See individual transmittals.
Staff Recommendation: The Board of	Directors approve the Consent Calendar as presented.
Action Required:Resolution (Roll call vote is required.)	on <u>X</u> MotionReview
	Board Action
Resolution No Motion	By Seconded By
Ayes	Abstained
Noes	Absent
	Date No Action Taken

Agenda Item: 8-A		Meeting Date: October 21, 2013
Submitted By: Kelly Cadiente		Presented By: Kelly Cadiente
Agenda Title: Approve the Expenditu	ares for the Month of	September 2013
Detailed Description: The Board of 2013 check register for expenditures t		d to approve the attached September
Environmental Review Compliance:	None required.	
Prior Committee or Board Action: No	one.	
Board Goals/Objectives: Strategic Planost effective and fiscally responsible		manage the District's finances in the
Financial Impact: Yes	X No	
Funding Source/Recap: Expenditures 02-Marina Sewer, 03- Ord Water, 04-		the six cost centers; 01-Marina Water, cled Water, 06-Regional Water.
Material Included for Information/Con	nsideration: Septembe	er 2013 Summary Check Register.
Staff Recommendation: The Board totaling \$786,755.75.	of Directors approv	re the September 2013 expenditures
Action Required:Resolution [Roll call vote is required.]	ion <u>X</u> Moti	onReview
	Board Action	
Resolution No Motion	ву	Seconded By
Ayes	Abstai	ned
Noes	Absen	t
Reagendized	Date	No Action Taken

Agenda Item:	8-B	Meeting Date: October 21, 2013
Submitted By:	Brian C. Lee	Presented By: Brian C. Lee
Agenda Title:	Approve the Correction to the Appro 15, 2013	ved Regular Board Meeting Minutes of July
	ription: The Board of Directors is a oved minutes of July 15, 2013.	requested to approve the correction to the
Environmenta	l Review Compliance: None required.	
	tee or Board Action: On October 7, 20 minutes of July 15, 3013.	13, the Board requested to revisit and correct
wastewater a	= = = = = = = = = = = = = = = = = = = =	Statement – Providing high quality water, District's expanding communities through e resources at reasonable costs.
Financial Impa	act: Yes X No	
Funding Source	ce/Recap: None.	
Material Inclu	ded for Information/Consideration: Co	prrected minutes of July 15, 2013.
	nendation: The Board of Directors appregular Board meeting.	prove the corrected approved minutes of the
Action Requir	ed: Resolution X	MotionReview
	Board Act	ion
Resolu	tion No Motion By	Seconded By
Ayes		Abstained
Noes		Absent
Reagendized_	Date	No Action Taken

Agenda Item: 8-C	Meeting Date: October 21, 2013
Submitted By: Brian C. Lee	Presented By: Brian C. Lee
Agenda Title: Approve the Revised Draft Minut August 26, 2013	es of the Adjourned Regular Board Meeting of
Detailed Description: The Board of Directors is minutes of August 26, 2013.	requested to approve the revised attached draft
Environmental Review Compliance: None require	ed.
Prior Committee or Board Action: On October 7, further review.	2013, the Board requested to table this item for
Board Goals/Objectives: Strategic Plan, Missic wastewater and recycled water services to the management, conservation and development of fu	he District's expanding communities through
Financial Impact: Yes X No	
Funding Source/Recap: None.	
Material Included for Information/Consideration:	Revised draft minutes of August 26, 2013.
Staff Recommendation: The Board of Directors a 26, 2013 adjourned regular Board meeting.	approve the revised draft minutes of the August
Action Required:ResolutionX	MotionReview
Board A	Action
Resolution No Motion By	Seconded By
Ayes	Abstained
Noes	Absent
Reagendized Date	

Agenda Item:	8-D	Meeting Date: October 21, 2013
Submitted By:	Brian C. Lee	Presented By: Brian C. Lee
Agenda Title:	Approve the Revised Draft Minutes 16, 2013	of the Regular Board Meeting of September
	ription: The Board of Directors is recotember 16, 2013.	uested to approve the revised attached draft
Environmenta	l Review Compliance: None required.	
Prior Committee further review		013 the Board requested to tabe this item for
wastewater a	•	Statement – Providing high quality water, District's expanding communities through e resources at reasonable costs.
Financial Impa	act:YesX_No	
Funding Source	ce/Recap: None.	
Material Inclu	ded for Information/Consideration: Re	vised draft minutes of September 16, 2013.
	nendation: The Board of Directors 2013 regular Board meeting.	approve the revised draft minutes of the
Action Requir	ed: Resolution X	MotionReview
	Board Act	on
Resolu	tion No Motion By	Seconded By
Ayes		Abstained
Noes		Absent
Reagendized_	Date	No Action Taken

Agenda Item: 8-E		Meetin	ng Date: October 21, 2013
Submitted By: Brian C. Lee		Preser	ted By: Brian C. Lee
Agenda Title: Approve the Dr	aft Minutes of	the Regular Board M	leeting of October 7, 2013
Detailed Description: The Box of October 7, 2013.	ard of Director	s is requested to app	rove the attached draft minutes
Environmental Review Compl	iance: None re	quired.	
Prior Committee or Board Act	ion: None.		
	iter services i	to the District's exp	Providing high quality water, panding communities through treasonable costs.
Financial Impact:Y	es X	_No	
Funding Source/Recap: None.			
Material Included for Informat	ion/Considerate	tion: Draft minutes of	October 7, 2013.
Staff Recommendation: The B regular Board meeting.	oard of Direct	ors approve the draft	minutes of the October 7, 2013
Action Required:l	Resolution	X Motion	Review
	Во	ard Action	
Resolution No	Motion By		Seconded By
Ayes		Abstained	
Noes		Absent	
Reagendized	Date	No Ac	etion Taken

Agenda Item:	10-A	Meetin	ng Date: October 21, 2013
Submitted By	Brian C. Lee	Presen	ted By: Brian C. Lee
Agenda Title:	Approval by the Board of Dir Determination by the Board Occured		
	ription: The Board of Directors ermine whether a valid majority		ove the Proposition 218 protest
Environmenta	l Review Compliance: None req	uired.	
Prior Commit	tee or Board Action: None.		
wastewater a	Objectives: Strategic Plan, Mind recycled water services to conservation and development of	the District's exp	oanding communities through
Financial Imp	act: Yes X	No	
Funding Source	ce/Recap: None.		
Material Inclu	ded for Information/Considerati	on: None.	
	nendation: The Board of Director by the Board of Directors wheth		
Action Requir	ed:Resolution _	X_Motion	Review
	Boar	rd Action	
Resolu	tion No Motion By		Seconded By
Ayes		Abstained	
		Absent	
	Date		tion Taken

Agenda Item: 12-A Meeting Date: October 21, 2013

Submitted By: Peter Spiro Presented By: Brian C. Lee

Reviewed By: Brian C. Lee

Agenda Title: Consider Adoption of Resolution No. 2013-59 to Approve an Agreement with

AMCAL Monterey Bay, LLC for Construction and Transfer of Water, Sewer and Recycled Water Infrastructure at The Promontory, a CSUMB Housing Project

Detailed Description: The Board of Directors is requested to approve a Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement (hereafter referred to as the Infrastructure Agreement) between MCWD and AMCAL Monterey Bay, LLC for the Promontory.

The Promontory is a student housing development of (3) four-story, purpose-built U-Shaped buildings that would house 174 one-, two-, three-, and four-bedroom dormitory units, of a total of 579 beds. Each building is surrounding a central courtyard and one of the buildings contains a leasing office, a community center with associated amenities. The project will also include outdoor activity venues such as a spa, barbeque areas, a basketball court, outdoor seating areas with fire pits, etc. Operation of the student dormitory would be managed by the California State University, Monterey Bay Residential Life department for use by enrolled students.

The Project is located within the former Fort Ord Army Base. The site was granted to the City of Marina by Fort Ord Reuse Authority for redevelopment purposes. AMCAL has been working closely with appropriate land use jurisdictions to plan this development. AMCAL has also reached an Affiliation Agreement with CSUMB to market and manage the property as well as an agreement to connect to the University's hot water and electrical infrastructure. The anticipated date of opening is around August 2015 for the 2015-16 school year. The project's anticipated water demand is estimated at 33.3 ac-ft, of which approximately 3.8 ac-ft will be used for landscape irrigation. The Project has received the necessary allocations from the City of Marina.

The infrastructure that will be dedicated to the District includes approximately 1,700 L.F. of potable water mains and appurtenances, 3,500 L.F. of sanitary sewer gravity and forcemain lines. The District will also receive a complete Sanitary Sewer Lift Station, including an ingress-egress easement for access and maintenance purposes

The enclosed draft Infrastructure Agreement is based on MCWD Board of Directors approved template dated June 17, 2013 with minor clarifications requested by the applicant and reviewed by the District Engineer.

Environmental Review Compliance: On May 21, 2013, Marina City Council adopted a Mitigated Negative Declaration of the Environmental Impact Report for this project.

Prior Committee or Board Action:	On February	26, 2013, T	The Board of	Directors adopted
Resolution No. 2013-18 approving a requirement for this project.	variance requ	est that waiv	red the individ	lual units metering
Board Goals/Objectives: - Objective	es Goal No.	2 – To mee	et 100% of c	current and future

rmanciai impact:	<u>X</u> YesN	0	
Funding Source/Recap: A monthly revenues and a \$	•		nce expenditures, an increase
Material Included for In Agreement with Exhibits		on: Resolution N	To. 2013-59; and, Infrastructu
6			
	The Board of Directors	s is requested to ad	lopt Resolution No. 2013-59.
	X Resolution	Motion	Review
Staff Recommendation: 7 Action Required:	X Resolution	Motion	•
Staff Recommendation: 7 Action Required:	X Resolution	Motion	Review

#### October 21, 2013

# Resolution No. 2013-59 Resolution of the Board of Directors Marina Coast Water District

Approving a Construction and Transfer of
Water, Sewer and Recycled Water Infrastructure Agreement between
the Marina Coast Water District and AMCAL Monterey Bay, LLC
for the Construction and Transfer of Water, Sewer and Recycled Water Improvements at The
Promontory, a CSUMB housing project in Marina, CA

RESOLVED by the Board of Directors ("Directors") of the Marina Coast Water District ("District"), at a meeting duly called and held on October 21, 2013 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, the District and AMCAL Monterey Bay, LLC are coordinating the design and the construction of the Promontory Project, located generally east of 6<sup>th</sup> Avenue, South of 8<sup>th</sup> and Imjin Road; and,

WHEREAS, The City of Marina City Council adopted Resolution No. 2013-86 allocating 33.29 ac-ft of water to the subject development, such allocation is deemed to be sufficient; and,

WHEREAS, the Board of Director has adopted the standard Infrastructure and Transfer Agreement pursuant to Resolution No. 2013-18; and,

WHEREAS, the Developer has agreed on complying with the District adopted agreement; and,

WHEREAS, all applicable Government Codes and Regulations will be followed throughout the various stages of the project.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the Interim General Manager/District Engineer to sign the Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement between the Marina Coast Water District and AMCAL Monterey Bay, LLC for the Construction and Transfer of Water, Sewer and Recycled Water Infrastructure at The Promontory, a CSUMB housing project. And to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED October 21, 2013, 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
		Thomas P. Moore, President
ATTE	EST:	
Brian	C. Lee, Deputy	Secretary
		CERTIFICATE OF SECRETARY
	_	ned Secretary of the Board of the Marina Coast Water District hereby egoing is a full, true and correct copy of Resolution No. 2013-59 adopted
		Brian C. Lee, Deputy Secretary

Agenda Item: 12-B	Meeting Date: October 21, 2013
Submitted By: Brian C. Lee	Presented By: Brian C. Lee
Agenda Title: Consider Adoption of Resolution No. 2013- Procedures Manual	-57 to Amend Section 16 of the Board
Detailed Description: The Board Procedures Manual is no consultants answering directly to the Board (e.g. attor regarding directing employees and consultants subordinate	neys, auditors). Section 16 is clear
Staff is requesting that the Board consider amending clarification.	the Board Procedures Manual for
Environmental Review Compliance: None required.	
Prior Committee or Board Action: The Board of Director Manual in November 2012. On September 16, 2013, the changes to Section 16 of the Board Procedures Manual.	
Board Goals/Objectives: – Strategic Plan, Mission States wastewater and recycled water services to the District management, conservation and development of future resonant plants.	ct's expanding communities through
Financial Impact: Yes X No	
Funding Source/Recap: None	
Material Included for Information/Consideration: Resoluti Section 16 of the Board Procedures Manual will be provide	
Staff Recommendation: The Board of Directors consider Procedures Manual.	r amending Section 16 of the Board
Action Required: X Resolution Moti (Roll call vote is required.)	onReview

	Board Ad	etion
Resolution No	Motion By	Seconded By
Ayes		Abstained
Noes		Absent
Reagendized	Date	No Action Taken

#### October 21, 2013

# Resolution No. 2013-57 Resolution of the Board of Directors Marina Coast Water District to Amend Section 16 of the Board Procedures Manual

RESOLVED by the Board of Directors ("Directors") of the Marina Coast Water District ("District"), at a regular meeting duly called and held on October 21, 2013 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, the original Board Procedures Manual (BPM) was adopted on April 24, 2002 and was last revised on November 13, 2012; and,

WHEREAS, the BPM is a resource for directors, staff and the public that defines the roles, responsibilities and procedures of the Board; and,

WHEREAS, the BPM is not clear on how direction is provided to consultants answering directly to the Board (e.g. attorneys, auditors), however, Section 16 is clear regarding directing employees and consultants subordinate to the General Manager. The suggested revisions to the BPM have been reviewed by legal counsel.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve the suggested revisions and updates to the Board Procedures Manual and directs staff to finalize the revisions.

PASSED AND ADOPTED October 21, 2013, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Directors

A voc.

	riyes.	Directors		
	Noes:	Directors		
	Absent:			
	Abstained:	Directors		
			Thomas P. Moore, President	
ATTE	EST:			
Brian C. Lee, Deputy Secretary				

# **CERTIFICATE OF SECRETARY**

The undersigned	d Secretary of the	e Board of the	e Marina Coast	Water District	hereby
certifies that the forego	ing is a full, true	and correct coj	py of Resolutio	n No. 2013-57	adopted
October 21, 2013.					

Brian C. Lee, Deputy Secretary

Meeting Date: October 21, 2013

Agenda Item: 12-C

Submitted By: Jeanine DeBacker Reviewed By: Brian C. Lee	Presented By: Jeanine DeBacker
Agenda Title: Discuss and Consider Procedure for A	appeals of Personnel Disciplinary Actions
Detailed Description: The Board of Directors is requ for appeals of personnel disciplinary actions un (MOU's) between the Marina Coast Water District the Teamsters Local 890 and the District.	der the Memorandums of Understanding
The MOU's provide two options for an appeal fro preference: a) the entire Board may hear an appella Hearing Officer to hear the appeal and provide a Board for the final decision.	nt's appeal; or, b) the Board may appoint a
Environmental Review Compliance: None required.	
Prior Committee or Board Action: None.	
Board Goals/Objectives: Strategic Plan, Goal No. ground water and desalinated water, recycled water activities, infrastructure and human resources at or of the strategic Plan, Goal No.	ter and wastewater services, conservation
Financial Impact:YesXNo	
Funding Source/Recap: N/A	
Material Included for Information/Consideration: MCWD Employees Association and the Teamsters L	
Staff Recommendation: The Board is requested to proceed.	o provide direction to counsel on how to
Action Required: Resolution X	MotionReview

Board Action							
Resolution No Mo	otion By	Seconded By					
Ayes		Abstained					
Noes		Absent_					
Reagendized	Date	No Action Taken					