



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

HOWARD GUSTAFSON
President

THOMAS P. MOORE
Vice President

WILLIAM Y. LEE
JAN SHRINER

Agenda

Regular Board Meeting, Board of Directors Marina Coast Water District

Marina Council Chambers

211 Hillcrest Avenue, Marina, California

Tuesday, July 5, 2016, 6:30 p.m. PST

(Please note the date change due to the Holiday)

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 6:30 p.m. and are held at the City of Marina Council Chambers at 211 Hillcrest Avenue, Marina, California.

Our Mission: We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.

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

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case Nos. H038550 and H039559

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 & A.13-05-017 Settlement Agreement

This agenda is subject to revision and may be amended prior to the scheduled meeting. Pursuant to Government Code section 54954.2(a)(1), the agenda for each meeting of the Board shall be posted at the City of Marina Council Chambers. The agenda shall also be posted at the following locations but those locations are not official agenda posting locations for purposes of section 54954.2(a)(1): District offices at 11 Reservation Road, Seaside City Hall, the City of Marina Library, and the City of Seaside Library. A complete Board packet containing all enclosures and staff materials will be available for public review on Wednesday, June 29, 2016. Copies will also be available at the Board meeting. Information about items on this agenda or persons requesting disability related modifications and/or accommodations should contact the Board Clerk 48 hours prior to the meeting at: 831-883-5910.

- 3) Marina Coast Water District v. California Public Utilities Commission, California Supreme Court Case No. S230728, Writ of Review
- 4) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, San Francisco Superior Court Case No. CGC-13-528312 (Complaint for Declaratory Relief); First Appellate District Court of Appeals Case No. A145604
- 5) Marina Coast Water District vs. California-American Water Company, Monterey County Water Resources Agency, and Does 1 through 50, San Francisco Superior Court Case No. CGC-15-547125 (Complaint for Breach of Warranties, etc.)
- 6) Marina Coast Water District v, California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. CV180839 (Petition for Writ of Mandate). Sixth District Court of Appeal Case No. H042742
- 7) Marina Coast Water District v, California State Lands Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. CV180895 (Petition for Writ of Mandate)
- 8) In the Matter of the Unauthorized Diversion and Use of Water by the California American Water Company, State Water Resources Control Board Cease and Desist Order WR 2009-0060

B. Pursuant to Government Code 54956.8
 Conference with Real Property Negotiator
 Property: Sewer Infrastructure
 Negotiating parties: Howard Gustafson, Thomas Moore
 Under Negotiation: Price and Terms

7:00 p.m. Reconvene Open Session

- 5. Reportable Actions Taken During Closed Session** *The Board will announce any reportable action taken during closed session and the vote or abstention on that action of every director present, and may take additional action in open session as appropriate. Any closed session items not completed may be continued to after the end of all open session items.*
- 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. Adopt Resolution No. 2016-39 to Approve Lease Agreements with with EverBank Commercial Finance, Inc., for Leasing of Konica Minolta Copier/Printer/Scanner Machines from MBS Business Systems for the District's Administration Office
- B. Approve the Draft Minutes of the Regular Board Meeting of June 6, 2016

9. **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. 2016-40 to Approve a Reimbursement Agreement for the RUWAP Recycled Project (AWT Phase 1) with the Fort Ord Reuse Authority

Action: The Board of Directors will consider approving a Reimbursement Agreement with FORA for the RUWAP Recycled Project.

- B. Consider Adoption of Resolution No. 2016-41 Revising and Superseding Section 14.01-14.12 of the Marina Coast Water District Personnel Policy Manual Adopted February 26, 1997

Action: The Board of Directors will consider revising and superseding Section 14.01-14.12 of the Marina Coast Water District Personnel Policy Manual.

- C. Consider Providing Direction to the Board President Regarding the CSDA Board Elections for Coastal Network Seat B

Action: The Board of Directors will consider providing direction to the Board President regarding the CSDA Board elections for the Coastal Network Seat B.

- D. Discuss and Consider Adoption of Resolution No. 2016-38 to Approve Revisions to the Board Procedures Manual

Action: The Board of Directors will discuss and consider approving revisions to the Board Procedures Manual.

10. **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
- B. Counsel's Report

C. Committee and Board Liaison Reports

- | | |
|-----------------------------------|-----------------------------------|
| 1. Water Conservation Commission | 7. LAFCO Liaison |
| 2. Joint City-District Committee | 8. FORA |
| 3. Executive Committee | 9. WWOC Report |
| 4. Community Outreach Committee | 10. JPIA Liaison |
| 5. Budget and Personnel Committee | 11. Special Districts Association |
| 6. MRWPCA Board Member Liaison | |

11. Board Member Requests for Future Agenda Items

12. Director's Comments *Director reports on meetings with other agencies, organizations and individuals on behalf of the District and on official District matters.*

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

*Regular Meeting: Tuesday, July 18, 2016, 6:30 p.m.,
Marina Council Chambers, 211 Hillcrest Avenue, Marina*

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8

Meeting Date: July 5, 2016

Prepared By: Paula Riso

Approved By: Keith Van Der Maaten

Agenda Title: Consent Calendar

Staff Recommendation: The Board of Directors approve the Consent Calendar as presented.

Background: *2015 Strategic Plan Mission Statement – We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Consent calendar consisting of:

- A) Adopt Resolution No. 2016-39 to Approve Lease Agreements with with EverBank Commercial Finance, Inc., for Leasing of Konica Minolta Copier/Printer/Scanner Machines from MBS Business Systems for the District’s Administration Office
- B) Approve the Draft Minutes of the Regular Board Meeting of June 6, 2016

Discussion/Analysis: See individual transmittals.

Environmental Review Compliance: None required.

Financial Impact: See individual transmittals.

Other Considerations: The Board of Directors can approve these consent items together or pull them for individual discussion.

Material Included for Information/Consideration: Resolution No. 2016-39; Lease Agreement for the Konica Minolta Bizhub C754e; Lease Agreement for the Konica Minolta Bizhub 454e; and, Draft minutes of June 6, 2016.

Action Required: _____Resolution X Motion _____Review
(Roll call vote is required.)

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-A

Meeting Date: July 5, 2016

Prepared By: Kelly Cadiente

Approved By: Keith Van Der Maaten

Agenda Title: Adopt Resolution No. 2016-39 to Approve Lease Agreements with with EverBank Commercial Finance, Inc., for Leasing of Konica Minolta Copier/Printer/Scanner Machines from MBS Business Systems for the District's Administration Office

Staff Recommendation: The Board of Directors adopt Resolution No. 2016-39 to approve lease agreements with Everbank Commercial Finance, Inc. (Everbank) to lease Konica Minolta Copier/Printer/Scanner machines from MBS Business Systems (MBS) for the District's Administration Office located at 11 Reservation Road.

Background: Goals/Objectives: *2016 Strategic Plan Mission Statement – To provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

The District is currently leasing a Canon color copier/printer/scanner for the 11 Reservation Road office which will be completed in October 2016. In addition, the District owns Canon a black and white copier/printer/scanner in which replacement parts can no longer be obtained. These machines support the Customer Service Department, District lab, and are used to publish Board and Committee agenda packets by the Executive Assistant/Board Clerk.

Discussion/Analysis: Over the past month, staff obtained quotes to replace the current machines with Canon, Konica Minolta and Xerox machines. Where possible, staff received a demonstration of the potential replacement machines. The following is a summary of the quotes obtained which includes lease amount and maintenance for both replacement machines:

TOTAL MONTHLY	Canon Solutions America	\$1,134.15
	MBS Business Systems (Konica Minolta)	\$969.09
	Image Resources (Xerox)	\$1,104.49
TOTAL ANNUAL	Canon Solutions America	\$13,609.79
	MBS Business Systems (Konica Minolta)	\$11,629.08
	Image Resources (Xerox)	\$13,253.90
TOTAL LEASE TERM	Canon Solutions America	\$68,048.93
	MBS Business Systems (Konica Minolta)	\$58,145.40
	Image Resources (Xerox)	\$66,269.52

Staff recommends MBS Systems, a local company who supplies Konica Minolta copier/printer/scanner machines. MBS offered the best overall value (lease payment and

maintenance costs). MBS has the largest technical/machine maintenance staff and a full-time support person who provides ongoing training and assistance to customers on use of the machines throughout the life of the lease. MBS uses a third party leasing company, Everbank, for the leasing of their equipment. The Board is requested to approve the following leases with EverBank:

- Konica Minolta Bizhub C754e (\$521.84 + \$45.01tax) x 60 months = \$34,011.00
- Konica Minolta Bizhub 454e (\$157.00 + \$13.54tax) x 60 months = \$10,232.40

Environmental Review Compliance: None.

Financial Impact: X Yes No Funding Source/Recap: Funded through FY 2016/2017 Operating Budget of the Central Marina and Ord Community cost centers – (MW: 26%, MS: 7%, OW: 54%, OS: 13%)

Other Considerations: None.

Material Included for Information/Consideration: Resolution No. 2016-39; Lease Agreement for the Konica Minolta Bizhub C754e; and, Lease Agreement for the Konica Minolta Bizhub 454e.

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

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

July 5, 2016

Resolution No. 2016-39
Resolution of the Board of Directors
Marina Coast Water District

Approve Lease Agreements with with EverBank Commercial Finance, Inc.,
for Leasing of Konica Minolta Copier/Printer/Scanner Machines
from MBS Business Systems for the District's Administration Office

RESOLVED by the Board of Directors ("Directors") of the Marina Coast Water District ("District"), at a regular meeting duly called and held on July 5, 2016 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, the District is currently leasing a Canon iRc7065 color copier/printer/scanner for the 11 Reservation Road office which will be completed in October 2016 and is need of replacement; and,

WHEREAS, the District owns a Canon iR5000 black and white copier/printer/scanner in which replacement parts can no longer be obtained and therefore needs to be replaced; and,

WHEREAS, staff obtained quotes to replace the current machines with Canon, Konica Minolta and Xerox machines and where possible, received a demonstration of the potential replacement machines; and,

WHEREAS, MBS Systems, a local company who supplies Konica Minolta copier/printer/scanner machines offered the best overall value (lease payment, maintenance costs and ongoing technical support).

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby adopt Resolution No. 2016-39, to approve 60-month lease agreements for a Konica Minolta Bizhub C754 and Konica Minolta Bizhub 454 and authorizes the General Manager to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED on July 5, 2016, 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 _____

Howard Gustafson, President

ATTEST:

Keith Van Der Maaten, 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. 2016-39 adopted July 5, 2016.

Keith Van Der Maaten, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-B

Meeting Date: July 5, 2016

Prepared By: Paula Riso

Approved By: Keith Van Der Maaten

Agenda Title: Approve the Draft Minutes of the Regular Board Meeting of June 6, 2016

Staff Recommendation: The Board of Directors approve the draft minutes of the June 6, 2016 regular Board meeting.

Background: *2015 Strategic Plan, Mission Statement – We Provide high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Discussion/Analysis: The draft minutes of June 6, 2016 are provided for the Board to consider approval.

Environmental Review Compliance: None required.

Financial Impact: ___ Yes __X__ No Funding Source/Recap: None

Other Considerations: The Board can suggest changes/corrections to the minutes.

Material Included for Information/Consideration: Draft minutes of June 6, 2016.

Action Required: ___ Resolution __X__ Motion ___ Review

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-A

Meeting Date: July 5, 2016

Prepared By: Michael Wegley

Approved By: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2016-40 to Approve a Reimbursement Agreement for the RUWAP Recycled Project (AWT Phase 1) with the Fort Ord Reuse Authority

Staff Recommendation: The Board of Directors is requested to consider:

1. Approving the Reimbursement Agreement For The Regional Urban Water Augmentation Project (RUWAP) Recycled Project (AWT PHASE 1) between the Fort Ord Reuse Authority (FORA) and the Marina Coast Water District (“District” or “MCWD”) substantially in form provided herein; and,
2. Authorizing the Board President to execute and deliver, after consultation with the District’s Legal Counsel, the Agreement in the form presented at this meeting, with such changes, insertions and deletions as may be approved by the President before executing the Agreement, said execution being conclusive evidence of such approval; and,
3. Authorize the General Manager to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution to obtain and receive FORA reimbursement.

Background: 2015 Strategic Plan Mission Statement – To provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.

The FORA Board identified the hybrid RUWAP as its preferred water augmentation solution in 2005 and it remains the water augmentation project of choice. Staff has worked closely with FORA to provide water augmentation on the former Fort Ord and Ord Community and the District Board has taken a number of actions over the last year to further this end.

In November 2015 the Board applied for a State Revolving Fund (SRF) loan to fund the RUWAP project. In December 2015, the Board partnered with Monterey Regional Water Pollution Control Agency (MRWPCA) on the Advanced Treated Water (ATW) as the potential water source for the recycled component of the approved RUWAP to deliver ATW to MCWD customers who would use it for irrigation and landscaping. The Board also authorized further CEQA review for a single product water conveyance pipeline. In April 2016, the Board entered into the Pure Water Delivery and Supply Project Facilities Agreement with MRWPCA to provide the conveyance pipeline for Pure Water Monterey (PWM).

Discussion/Analysis: The General Manager has negotiated a draft Pipeline Financing Reimbursement Agreement with the FORA Executive Officer that reimburses RUWAP expenditures based upon two prior agreements. The first agreement is the 1998 Water Wastewater Facilities Agreement between FORA and MCWD and the second agreement is the

2016 Pure Water Delivery and Supply Project Facilities Agreement between MRWPCA and MCWD.

The Reimbursement Agreement outlines MCWD's responsibility to build new augmentation facilities identified by FORA, and FORA's responsibility to provide funding for a portion of these new facilities. The conveyance pipeline is a portion of the RUWAP and therefore FORA has a mechanism by which line item funds in the Capital Improvement Program (CIP) Budget can be applied to the Water Augmentation Program.

Secondly, the Pure Water Delivery and Supply Project Agreement between MRWPCA and MCWD outlines how the PWM project will deliver higher quality ATW in lieu of recycled tertiary water to the Ord Community and central Marina service area, how MRWPCA utilizes the RUWAP Pipeline, and how funding received by MCWD for the RUWAP will be applied. This agreement is the foundation on which the Pipeline Financing Reimbursement Agreement is built. These two agreements frame the Reimbursement Agreement, decreasing risks and providing benefits for the three agencies and the Monterey Bay area.

This Pipeline Financing Reimbursement Agreement has three major terms; 1) \$6 million dollars of FORA's revenues will be committed to reimburse MCWD for implementation costs of the RUWAP "Pipeline" between now and the end of Fiscal Year (FY) 2019/2020; and, 2) MCWD will receive assurances of funding for the RUWAP recycled project; and 3) FORA will work with MCWD to obtain commitments from the land-use jurisdictions to receive the water provided by the pipeline.

A commitment of funds for RUWAP by FORA will assist the District in securing SRF financing. The Reimbursement Agreement will provide a partnership with FORA in obtaining commitments for an initially available limited supply of 600 AFY of recycled water and future allocations up to 1,427 AFY from land-use jurisdictions.

Environmental Review Compliance: None required.

Financial Impact: Yes No Funding Source/Recap: FORA will provide up to \$6,000,000 to MCWD for startup and implementation costs over the course of the RUWAP, RW-156, in accordance with the agreement annual reimbursement schedule. Reimbursement funds potentially available for FY 2016-2017 total \$1,500,000.

Other considerations: Refer back to staff with further direction.

Material Included for Information/Consideration: Resolution No. 2016-40; and, Reimbursement Agreement.

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

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____

Abstained _____

Noes _____

Absent _____

July 5, 2016

Resolution No. 2016-40
Resolution of the Board of Directors
Marina Coast Water District
Approving a Reimbursement Agreement for the RUWAP Recycled Project (AWT Phase 1)
with the Fort Ord Reuse Authority

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District” or “MCWD”), at a regular meeting duly called and held on July 5, 2016 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, the 1997 Fort Ord Base Reuse Plan (the “BRP”) identifies the availability of water as a resource constraint, estimating that an additional 2,400 acre-feet per year (“AFY”) of water is needed to augment the existing groundwater supply to achieve the permitted development level as reflected in the BRP (Volume 3, figure PFIP 2-7); and,

WHEREAS, under Section 3.2.2 of the 1998 Water/Wastewater Facilities Agreement (the “1998 Agreement”), the Fort Ord Reuse Authority (FORA) has the responsibility to determine, in consultation with MCWD, what additional water and sewer facilities are necessary for MCWD’s Ord Community service area in order to meet the BRP requirements, and that, once FORA determines that additional water supply and/or sewer conveyance capacity is needed, under Section 3.2.1, it is MCWD’s responsibility to plan, design, and construct such additional water and sewer facilities. MCWD will recover all of its direct and indirect, short term and long term costs of furnishing the facilities to the service area. MCWD shall not be required to take any action in connection with furnishing the facilities to the service area unless and until a source of funds is secured from the service area to pay in full in a reasonable manner consistent with normal accounting practices all of MCWD’s direct and indirect, short term and long term costs of the action to be taken by MCWD, including costs of administration, operation, maintenance and capital improvements to provide adequate system capacity to meet existing and anticipated service demands, per Section 7.1.2 of the 1998 Agreement; and,

WHEREAS, on January 18, 2002, FORA’s Board of Directors adopted Resolution No. 02-1 establishing the Fort Ord Reuse Authority Basewide Community Facilities District (the “CFD”) to collect fees for, among other impacts caused by development, 2,400 AFY of water augmentation to support the BRP; and,

WHEREAS, in 2002, MCWD, in cooperation with FORA, initiated the Regional Urban Water Augmentation Project (the “RUWAP”) to explore water supply alternatives to provide the additional 2,400 AFY of water supply needed under the BRP; and,

WHEREAS, as a result of an extensive environmental review, FORA and MCWD agreed to adopt a modified Hybrid Alternative, which would provide 1,427 AFY of recycled water to the Ord Community without the need for seasonal storage (the “RUWAP Recycled Project”), and this in turn resulted in the FORA Board adopting in May 2007 Resolution 07-10 , which allocated that 1,427 AFY of RUWAP recycled water to FORA’s member agencies having land use jurisdiction, and constituted FORA’s determination under Section 3.2.2 of the 1998

Agreement that MCWD was required to develop recycled facilities to provide the 1,427 AFY of RUWAP recycled water; and,

WHEREAS, MCWD has been and continues to work collaboratively with FORA and with the Monterey Peninsula Regional Water Pollution Control Agency (“MRWPCA”) to carry out MCWD’s obligation to provide the 1,427 AFY of recycled water for the Ord Community; and,

WHEREAS, on October 8, 2015, MRWPCA’s Board of Directors unanimously voted to certify the environmental impact report (“EIR”) for the Pure Water Monterey Project and to approve the Pure Water Monterey Project. The MRWPCA Board selected the RUWAP Alignment for the Product Water Conveyance Pipeline; and,

WHEREAS, on October 9, 2015, the FORA Board unanimously voted to adopt a resolution to endorse the Pure Water Monterey Project as an acceptable option as the recycled component of the RUWAP and, as part of the Pure Water Monterey Project implementation, the FORA Board will review and consider project component costs and scheduling through annual consideration of the FORA capital improvement program and Ord Community budgets; and,

WHEREAS, on December 2, 2015, MCWD and MRWPCA each applied for separate State Revolving Fund Loans to finance their RUWAP and Pure Water Monterey Projects respectively and allowing for the shared use of a single Product Water Conveyance Pipeline. MCWD commenced further CEQA review for shared use of a single Product Water Conveyance Pipeline for both MRWPCA’s Pure Water Monterey Project and MCWD’s RUWAP ; and,

WHEREAS, on April 8, 2016, MCWD and MRWPCA entered into the Pure Water Delivery and Supply Project Facilities Agreement (“2016 MRWPCA-MCWD Agreement”) pursuant to which the Product Water Conveyance Facilities will be designed, constructed, owned, and operated by MCWD in accordance with the 1998 Agreement with a capacity sufficient to convey the 1,427 AFY of advance treated water for the Ord Community and pursuant to which MCWD will have the right to utilize up to and including a net 1,427 AFY of the AWT facility’s treatment capacity to implement FORA Board Resolution 07-10; and,

WHEREAS, AWT Phase 1 and 2 of the 2016 MRWPCA-MCWD Agreement would fully implement the RUWAP Recycled Project; and,

WHEREAS, FORA desires to financially contribute to the capital costs of a shared, single Product Water Conveyance Pipeline thereby reducing the costs to users of the advance treated water within the Ord Community and to contribute a source of funds from which MCWD can recover some of its costs as described under Section 7.1.2 of the 1998 Agreement.

NOW, THEREFORE, BE IT RESOLVED, that Board of Directors of District (“Directors”) after consideration of the information contained in the July 5, 2016 Staff Report to the District hereby approves the Reimbursement Agreement for the RUWAP Recycled Project (AWT PHASE 1) between the FORA and MCWD substantially in form provided herein; and,

FURTHER RESOLVED, that the Directors authorize the Board President to execute and deliver, after consultation with the District’s Legal Counsel, the Agreement in the form presented at this meeting, with such changes, insertions and deletions as may be approved by the President

before executing the Agreement, said execution being conclusive evidence of such approval; and,

FURTHER RESOLVED, that the Directors Authorize the General Manager to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution to obtain and receive FORA reimbursement.

PASSED AND ADOPTED on July 5, 2016, 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 _____

Howard Gustafson, President

ATTEST:

Keith Van Der Maaten, 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. 2016-40 adopted July 5, 2016.

Keith Van Der Maaten, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-B

Meeting Date: July 5, 2016

Prepared by: Jean Premutati

Approved by: Keith Van Der Maaten

Agenda Title: Consider Adoption of Resolution No. 2016-41 Revising and Superseding Section 14.01-14.12 of the Marina Coast Water District Personnel Policy Manual Adopted February 26, 1997

Staff Recommendation: The Board is requested to Adopt Resolution No. 2016-41 Revising and Superseding Section 14.01-14.12 of the Marina Coast Water District Personnel Policy Manual Adopted February 26, 1997.

Background: *2015 Strategic Plan Mission Statement – To provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

In 1968, the Meyers-Milias-Brown Act (MMBA) was adopted as Government Code §3500 et. sec. and, among other things, it gave public sector employers and employees the right to collective bargaining. Its purpose is to promote communication, provide dispute resolution processes and improve the relationship between management and recognized unions or employee associations. Included in the law is the caveat that management and the Exclusively Recognized Employee Organization must “meet and confer” over any change that has a significant and adverse effect on wages, hours or working conditions.

Resolution No. 77-13, Rules and Regulations for the Administration of Employer-Employee Relations, was approved in October 1977 adopting an Employer-Employee Relations policy according to the regulations of the MMBA. It was later integrated into the District’s Personnel Policy Manual and adopted February 26, 1997. Since that time, the policy has not been updated. As staff will be bringing the findings of the Fair Labor Standards Act (FLSA) audit to the Board, Special Legal Counsel, Liebert Cassidy Whitmore strongly recommends an update at this time. This will bring the District into compliance.

Environmental Review Compliance: None required.

Financial Impact: _____ Yes No Funding Source/Recap: None

Material Included for Information Consideration: Resolution No. 2016-41; Resolution No. 77-13; and, excerpt from Personnel Policy Manual adopted February 26, 1997.

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

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

July 5, 2016

Resolution No. 2016-41
Resolution of the Board of Directors
Marina Coast Water District
Revising and Superseding Section 14.01-14.12 of the Marina Coast Water District Personnel
Policy Manual Adopted February 26, 1997

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on July 5, 2016 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, the Teamsters Local Unit 890 and the Marina Coast Water District Employees Association, the respective exclusively recognized bargaining units, have conducted two each meet and confer sessions on the draft policy and both groups support adoption of the revised policy as follows:

Article I -- General Provisions

Section 1. Statement of Purpose:

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 *et seq.*) captioned "Local Public Employee Organizations," (the Meyers-Milias-Brown Act) (MMBA) by providing orderly procedures for the administration of employer-employee relations between the District and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state law, ordinances, resolutions and rules which establish and regulate the civil service system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the District.

It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations regarding matters that directly and significantly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law. However, nothing herein shall be construed to restrict any legal or inherent exclusive District rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reasons; determine the content of job classifications; subcontract work; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

The scope of representation shall not include consideration of the merits, necessity or organization of any service or activity provided by law or executive order.

Section 2. Definitions:

As used in this Resolution, the following terms shall have the meanings indicated:

- a. "Appropriate unit" means a unit of employee classes or positions, established pursuant to Article II hereof.
- b. "District" means the Marina Coast Water District and, where appropriate herein, refers to the Board of Directors or any duly authorized District representative as herein defined.
- c. "Confidential Employee" means an employee who, in the course of his or her duties, has access to confidential information relating to the District's administration of employer-employee relations.
- d. "Consult/Consultation in Good Faith" means to communicate orally or in writing with all effected recognized employee organizations for the purpose of presenting and obtaining views or advising of proposed actions in a good faith effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of the meet and confer process, does not involve an exchange of proposals and counterproposals in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article IV hereof.
- e. "Day" means calendar day unless expressly stated otherwise.
- f. "Employee Relations Officer" means the District General Manager or his/her duly authorized representative.
- g. "Exclusively Recognized Employee Organization" means an employee organization which has been formally acknowledged by the District as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article II hereof, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

Such recognition status may only be challenged by another employee organization as set forth in Article II Section 8.
- h. "Impasse" means that the representatives of the District and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- i. "Management Employee" means an employee having responsibility for formulating, administering or managing the implementation of District policies and programs.

j. "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee, provided that the card has not been subsequently revoked in writing by the employee (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorizations, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within six (6) months prior to the filing of such proof of support.

k. "Supervisory Authority " means any employee having authority, in the interest of the District, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a routine or clerical nature, but requires the use of independent judgment.

l. Terms not defined herein shall have the meanings as set forth in the MMBA.

Article II -- Representation Proceedings

Section. 3. Filing of Recognition Petition by Employee Organization:

An employee organization which seeks to be formally acknowledged as an Exclusively Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

- a. Name and address of the employee organization.
- b. Names and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- d. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the District.
- e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
- f. Certified copies of the employee organization's constitution and bylaws.
- g. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.

h. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.

i. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.

j. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the District. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.

k. A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

Section. 4. District Response to Recognition Petition:

Upon receipt of the Petition, the Employee Relations Officer shall determine whether:

- a. There has been compliance with the requirements of the Recognition Petition, and
- b. The proposed representation unit is an appropriate unit in accordance with Section. 9 of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing.

The petitioning employee organization may appeal such determination in accordance with Section. 12 of this Resolution.

Section. 5. Open Period for Filing Challenging Petition:

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed

to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Section. 3 of this Article II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Section. 9 of this Article II. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Sec. 12 of this Article II.

Section. 6. Granting Recognition Without an Election:

If the Petition is in order, and the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Employee Relations Officer shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party, to review the count, form, accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the Employee Relations Officer shall formally acknowledge the petitioning employee organization as the Exclusive Recognized Employee Organization for the designated unit.

Section. 7. Election Procedure:

Where recognition is not granted pursuant to Section. 6, the Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of this Resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article II shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the District. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the District in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under this Resolution pursuant to any petition in a 12-month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service.

Costs of conducting elections shall be borne in equal shares by the District and by each employee organization appearing on the ballot.

Section. 8 Procedure for Decertification of Exclusively Recognized Employee Organization:

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of March of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs later. A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

- a. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- b. The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit.
- c. An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- d. Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

An employee organization may, in satisfaction of the Decertification Petition requirement hereunder, file a Petition under this Section in the form of a Recognition Petition that evidences proof of employee support of at least thirty (30) percent, that includes the allegation and information required under this Section 8, and otherwise conforms to the requirements of Section 3 of this Article.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article II. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section. 12 of this Article II. If the determination of the Employee Relations Officer is in the affirmative, or if his negative determination is reversed on

appeal, he/she shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section. 7 of this Article II.

During the "open period" specified in the first paragraph of this Section. 8, the Employee Relations Officer may on his/her own motion, when he/she has objective evidence showing that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with this Section. 8, which the Employee Relations Officer shall act on in accordance with this Section. 8.

If, pursuant to this Section. 8, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

Section. 9. Policy and Standards for Determination of Appropriate Units:

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the District and its compatibility with the primary responsibility of the District and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

- a. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- b. History of representation in the District and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
- c. Consistency with the organizational patterns of the District.
- d. Effect of differing legally mandated impasse resolution procedures.
- e. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
- f. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.

Notwithstanding the foregoing provisions of this Section, managerial and confidential responsibilities, as defined in Section. 2 of this Resolution, are determining factors in establishing appropriate units hereunder, and therefore such managerial and confidential employees may only be included in units that do not include –non-managerial and non-confidential employees. Managerial and confidential employees may not represent any employee organization on matters within the scope of representation.

Also under the MMBA, professional employees have the right to be represented separately from non-professional employees.

The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section. The decision of the Employee Relations Officer shall be final.

Section. 10. Procedure for Modification of Established Appropriate Units:

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Section. 8 of this Article II. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Section. 3 of this Article, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section. 9 hereof. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article II.

Subject to any applicable MOU, the Employee Relations Officer may by his/her own motion propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section. 9 of this Article II, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 12 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Section. 3 hereof.

Section. 11. Procedure for Processing Severance Requests:

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The timing, form and processing of such request shall be as specified in Section. 10 for modification requests.

Section. 12. Appeals:

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer; or an employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Section. 3), Challenging Petition (Section. 5), Decertification Petition (Section. 8), Unit Modification Petition (Section. 10) --- or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition (Section. 8) or Severance Request (Section. 11) ---has not been filed in compliance with the applicable provisions of this Article, may, within ten (10) days of notice of the Employee Relations Officer's final decision, request to submit the matter to mediation by the State Mediation and Conciliation Service, or may, in lieu thereof or thereafter, appeal such determination to the Board of Directors for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of mediation proceedings, whichever is later.

Appeals to the Board of Directors shall be filed in writing with the Clerk of the Board, and a copy thereof served on the Employee Relations Officer. The Board of Directors shall commence to consider the matter within thirty (30) days of the filing of the appeal. The Board may, in its discretion, refer the dispute to a non-binding third party hearing process. Any decision of the Board on the use of such procedure, and/or any decision of the Board of Directors determining the substance of the dispute shall be final and binding.

Article III -- Administration

Section. 13. Submission of Current Information by Recognized Employee Organizations:

All changes in the information filed with the District by an Exclusively Recognized Employee Organization under items (a.) through (h.) of its Recognition Petition under Section. 3 of this Resolution shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

Exclusively Recognized Employee Organizations that are party to an agency shop provision shall make available annually to the Employee Relations Officer and to unit members within 60 days after the end of its fiscal year the financial report required under Government Code Section 3502.5 (f) of the MMBA.

Section. 14. Employee Organization Activities -- Use of District Resources:

Access to District work locations and the use of District paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of this Resolution that pertain directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of District operations.

Section. 15. Administrative Rules and Procedures:

The General Manager is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Resolution after consultation with affected employee organizations.

Article IV -- Impasse Procedures

Section. 16. Initiation of Impasse Procedures:

If the meet and confer process has reached impasse as defined in Section 2 of this Resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

- a. To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and
- b. If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

Section. 17. Impasse Procedures:

Impasse procedures are as follows:

- a. If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- b. If the parties agree to, and do participate in mediation, and if the mediator is unable to effect settlement of the controversy, the employee organization may present a request to the District and the Public Employment Relations Board (PERB) to submit the impasse to fact-finding. This request by the employee organization to submit the impasse to fact-finding must be made no sooner than 30 days, but no later than 45 days, following the selection of a mediator by the parties.
- c. If the parties do not agree to participate in mediation, the employee organization may present a request to the District and PERB to submit the impasse to fact-finding no later than 30 days following the date that either party has provided the other a written notice of declaration of impasse.
- d. Within five (5) working days after PERB's determination that the request for fact finding is sufficient, a fact-finding panel of three (3) shall be appointed in the following manner: One member of the panel shall be appointed by the Employee Relations Officer, and one member shall be appointed by the Exclusively Recognized Employee Organization. PERB shall, within five (5) working days after making its determination that the request for fact-finding is sufficient, submit the names of seven persons, drawn from the list of neutral fact-finders established pursuant to Government Code section 3541.3(d). PERB shall thereafter designate one of the seven persons to serve as the chairperson unless notified by the parties within five (5) working days that they have mutually agreed upon a person to chair the panel in lieu of a chairperson selected by PERB.

e. The following constitute the jurisdictional and procedural requirements for fact-finding:

(1) The panel shall, within ten (10) days after its appointment, meet with the parties or their representatives, either jointly or separately, and may make inquiries and investigations, hold hearings, and take any other steps it deems appropriate. The panel shall have subpoena power with regard to hearings, investigations and inquiries.

(2) Subject to the stipulations of the parties, the fact-finders shall consider, weigh and be guided by the following measures and criteria in arriving at their findings and recommendations:

- a. State and federal laws that are applicable to the employer.
- b. Local rules, regulations, or ordinances.
- c. Stipulations of the parties.
- d. The interests and welfare of the public, and the financial ability of the public agency.
- e. Comparison of the wages, hours, and conditions of employment of the employees involved in the fact-finding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.
- f. The consumer price index for goods and services, commonly known as the cost of living.
- g. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- h. Any other facts not confined to those specified in paragraphs (a)-(g), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations, including, but not limited to:
 - (i.) Maintaining appropriate compensation relationships between classifications and positions within the District;
 - (ii.) Other legislatively determined and projected demands on agency resources (i.e., budgetary priorities as established by the governing body);
 - (iii.) Allowance for equitable compensation increases for other employees and employee groups for the corresponding fiscal period(s);
 - (iv.) Revenue projections not to exceed currently authorized tax and fee rates for the relevant fiscal year(s);
 - (v.) Assurance of sufficient and sound budgetary reserves; and
 - (vi.) Constitutional, statutory, and Municipal Code/ Charter limitations on the level and use of revenues and expenditures.

(3) Within thirty (30) days after the appointment of the fact-finding panel, or, upon agreement by both parties within a longer period, the panel shall make written findings of fact and advisory recommendations for the resolution of the issues in dispute, which shall be presented in terms of the criteria and limitations specified above. Any member of a fact-finding panel shall be accorded the right to file dissenting written findings of fact and recommendations. The fact-finder or chairperson of the fact-finding panel shall serve such findings and

recommendations on the Employee Relations Officer and the designated representative of the Exclusively Recognized Employee Organization before they are made available to the public.

f. If these parties have not resolved the impasse within ten (10) days after service of the findings and recommendations upon them, the District shall make them public by submitting them to the Clerk of the Board for consideration by the Board of Directors in connection with the Board's legislative consideration of the impasse.

g. After any applicable mediation and fact-finding procedures have been exhausted, but no earlier than ten (10) days after the fact finders' written findings of fact and recommended terms of settlement have been submitted to the parties, the Board of Directors may hold a public hearing regarding the impasse, and take such action regarding the impasse as it in its discretion deems appropriate as in the public interest, including implementation of the District's last, best and final offer. Any legislative action by the District on the impasse shall be final and binding.

h. The costs for the services of the panel chairperson agreed upon by the parties shall be equally divided between the parties, and shall include per diem fees, if any, and actual and necessary travel and subsistence expenses. The per diem fees shall not exceed the per diem fees stated on the chairperson's résumé on file with PERB. The chairperson's bill showing the amount payable by the parties shall accompany his or her final report to the parties and PERB. The parties shall make payment directly to the chairperson.

i. Any other mutually incurred costs shall be borne equally by the parties. Any separately incurred costs for the panel member selected by each party shall be borne by that party.

Section. 18. Costs of Impasse Procedures:

The cost for the services of a mediator and chairperson of a fact-finding panel utilized by the parties, and other mutually incurred costs of mediation and fact-finding, shall be borne equally by the District and Exclusively Recognized Employee Organization. The cost for a fact-finding panel member selected by each party, and other separately incurred costs, shall be borne by such party.

Article V -- Miscellaneous Provisions

Section. 19. Construction:

This Resolution shall be administered and construed as follows:

(a) Nothing in this Resolution shall be construed to deny to any person, employee, organization, the District, or any authorized officer, body or other representative of the District, the rights, powers and authority granted by federal or state law.

(b) This Resolution shall be interpreted so as to carry out its purpose as set forth in Article I.

(c) Nothing in this Resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to District employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work.

In consideration of and as a condition of initial and continued employment by the District, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination, and may be replaced, to the extent such actions are not prohibited by preemptive law; and employee organizations may thereby forfeit rights accorded them under District policy or Memorandum of Understanding.

Section. 20. Severability:

If any provision of this Resolution, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder of this Resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby adopt Resolution No. 2016-41 revising and superseding Section 14.01-14.12 of the Marina Coast Water District Personnel Policy Manual.

PASSED AND ADOPTED on July 5, 2016 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 _____

Howard Gustafson, President

ATTEST:

Keith Van Der Maaten, 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. 2016-41 adopted July 5, 2016.

Keith Van Der Maaten, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-C

Meeting Date: July 5, 2016

Prepared By: Paula Riso

Approved By: Keith Van Der Maaten

Agenda Title: Consider Providing Direction to the Board President Regarding the California Special Districts Association Board Election to Seat B of the Coastal Network

Staff Recommendation: The Board of Directors is requested to consider providing direction to the Board President regarding election to Seat B of the California Special Districts Association (CSDA) Coastal Network.

Background: *2015 Strategic Plan, Mission Statement – We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

CSDA has six networks and each network has three seats (A, B, and C) on their Board and the terms are for three years. The District last voted on Seat B in 2013.

Discussion/Analysis: In February, the CSDA Elections and Bylaws Committee sent a Call for Nominations to Independent Special Districts interested in running for Seat B for the 2017-2019 term. In June, CSDA sent out mail ballot information regarding election to Seat B in the Coastal Network. There are three candidates running for election: Anthony Kalvans, San Miguel Community Services District; Jeff Hodge, Santa Ynez Community Services District; and, Sharon Rose, Goleta Sanitary District.

The Board can take this opportunity to provide direction to the Board President on which candidate to vote for. All ballots must be received by the CSDA by August 5, 2016.

Environmental Review Compliance: None required.

Financial Impact: ___ Yes ___ **X** No Funding Source/Recap: None.

Other Considerations: None.

Material Included for Information/Consideration: CSDA letter regarding 2016 Board Elections and associated documents.

Action Required: ___ Resolution ___ **X** Motion ___ Review

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____

Abstained _____

Noes _____

Absent _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-D

Meeting Date: July 5, 2016

Prepared By: Paula Riso

Approved By: Keith Van Der Maaten

Agenda Title: Discuss and Consider Adoption of Resolution No. 2016-38 to Approve Revisions to the Board Procedures Manual

Staff Recommendation: The Board of Directors approve the latest revisions to the Board Procedures Manual (BPM).

Background: *2015 Strategic Plan Mission Statement – We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

The last revision to the BPM was April 20, 2015, when the Board approved, on a 3-2 vote, only Vice President Le and District Counsel’s revisions. On October 5, 2015, the Board requested the BPM be brought back with additional changes provided by Board members. On November 2, 2015 the Board tabled this item until the full Board was present. On December 7, 2015, the Board President appointed an Ad Hoc Committee of Director Moore and Vice President Le to work together on the suggested revisions and bring this item back in January 2016 for consideration. In January 2016, Vice President Le resigned from the Board and that left Director Moore to make suggestions on revising the BPM. On June 6, 2016 the Board requested two versions of the BPM be brought back, one in track-change and one final copy.

Discussion/Analysis: The changes are extensive and staff is providing a copy of the BPM in track-change showing the proposed revisions as well as a final version with the revisions accepted.

Environmental Review Compliance: None required.

Financial Impact: Yes No Funding Source/Recap: None

Other Considerations: The Board of Directors can approve the suggested changes, or they can request that the BPM be brought back for further revisions.

Material Included for Information/Consideration: Resolution No. 2016-38; the BPM with revisions in track change; the BPM with the changes accepted (provided separately), and Rosenberg’s Rules of Order.

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

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

June 6, 2016

Resolution No. 2016-38
Resolution of the Board of Directors
Marina Coast Water District
Amending 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 June 6, 2016 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 April 20, 2015; 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 suggested revisions to the BPM have been reviewed and approved 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 on June 6, 2016 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 _____

Howard Gustafson, President

ATTEST:

Keith Van Der Maaten, 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. 2016-38 adopted June 6, 2016.

Keith Van Der Maaten, Secretary