



# MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

Home Page: [www.mcwd.org](http://www.mcwd.org)

TEL: (831) 384-6131 FAX: (831) 883-5995

## DIRECTORS

DAN BURNS  
President

HOWARD GUSTAFSON  
Vice President

KENNETH K. NISHI  
JAN SHRINER  
WILLIAM Y. LEE

**Agenda**  
**Special Board Meeting**  
**Board of Directors**  
**Marina Coast Water District**  
11 Reservation Road, Marina, California  
Friday, October 26, 2012, 9:30 a.m. PST

*This meeting has been noticed according to the Brown Act rules. The Board of Directors meets regularly on the second Tuesday of each month. The meetings normally begin at 6:45 p.m. at the District offices at 11 Reservation Road, 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. 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 and Does 1-100, Monterey County Superior Court Case No. M105019 (First Amended Petition for Writ of Mandate and Complaint for Declaratory Relief)

2) In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates, California Public Utilities Commission No. A.04-09-019

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, 24 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 25, 2012 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 13, 2012.

3) 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

4) 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)

- B. Pursuant to Government Code Section 54956.9 (c)  
Conference with Legal Counsel – Anticipated Litigation  
Potential Initiation of Litigation  
One Case – MCWD Claims against Monterey County and MCWRA
- C. Pursuant to Government Code Section 54956.9(b)(1) and 54956.9(b)(3)(C)  
Conference with Legal Counsel – Anticipated Litigation  
Potential Litigation  
Two Cases
  - 1) Claims of MCWRA and Monterey County against MCWD
  - 2) Claims of California–American Water Company against MCWD
- D. Pursuant to Government Code Section 54956.9 (c)  
Conference with Legal Counsel – Anticipated Litigation  
Potential Initiation of Litigation  
One Case
- E. Pursuant to Government Code 54957.6  
Conference with Labor Negotiator  
Agency Negotiator (General Manager)  
Employee Organization: Marina Coast Water District Employees Association
- F. Pursuant to Government Code 54957.6  
Conference with Labor Negotiator  
Agency Negotiator (General Manager)  
Employee Organization: Teamsters Local 890

## **Reconvene Open Session**

**4. Possible Action on Closed Session Items** *The Board will report out on any action taken during Closed Session, and may take additional action in Open Session, as appropriate. Any closed session items not completed will be discussed at the end of the meeting.*

- D. Consider Adoption of Resolution No. 2012-67 to Authorize the General Manager to Engage Special Litigation Counsel

## **5. Pledge of Allegiance**

**6. Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to three minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

**7. Action 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 three minutes.*

A. Approve the Draft Fall 2012 Water Report Newsletter

*Action: The Board of Directors will consider approving the draft Fall 2012 Water Report newsletter.*

B. Consider Adoption of Resolution No. 2012-68 to Approve a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and University Village Associates for the University Village Apartment Project within the Dunes on Monterey Bay Development

*Action: The Board of Directors will consider approving a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and University Village Associates for the University Village Apartment Project within the Dunes on Monterey Bay Development.*

C. Consider Adoption of Resolution No. 2012-69 to Approve a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and Marina Community Partners for the Dunes Phase 1B Retail Project

*Action: The Board of Directors will consider approving a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and Marina Community Partners for the Dunes Phase 1B Retail Project.*

D. Consider Adoption of Resolution No. 2012-70 to Approve a Professional Services Agreement with Griffith and Masuda for Interim Legal Counsel Services

*Action: The Board of Directors will consider approving a Professional Services Agreement with Griffith and Masuda for interim legal counsel services.*

**8. Director's Comments**

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

*Regular Meeting: Tuesday, November 13, 2012, 6:45 p.m.,  
11 Reservation Road, Marina*

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 7-A

Meeting Date: October 26, 2012

Submitted By: James Derbin

Presented By: James Derbin

Agenda Title: Approve the Draft Fall 2012 Water Report Newsletter

Detailed Description: The Board of Directors is requested to approve the draft Fall 2012 Water Report Newsletter.

Environmental Review Compliance: None required.

Prior Committee or Board Action: At the October 4, 2012 WCC meeting, and to avoid newsletter distribution delays, the Commissioners agreed and suggested Board consideration and approval of the newsletter without prior Water Conservation Commission review.

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

Financial Impact:  Yes  No

Funding Source/Recap: Printing account - \$1,750.

Material Included for Consideration: Copy of the draft Fall 2012 Water Report Newsletter.

Staff Recommendation: The Board of Directors approve the draft Fall 2012 Water Report newsletter.

Action Required:  Resolution  Motion  Review

---

Board Action

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

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

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

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

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 7-B

Meeting Date: October 26, 2012

Submitted By: Brian True

Presented By: Andy Sterbenz

Reviewed By: Andy Sterbenz

Agenda Title: Consider Adoption of Resolution No. 2012-68 to Approve a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and University Village Associates for the University Village Apartment Project within the Dunes on Monterey Bay Development

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 an Infrastructure Agreement) between MCWD and University Village Associates (a Limited Partnership) for the University Village Apartment project within the Dunes on Monterey Bay development. South County Housing is the primary partner in the University Village Associates limited partnership and has worked with MCWD on several project-related topics in the past.

The University Village Apartments development consists of the new construction of an apartment complex on a roughly 4.5-acre parcel within the Dunes on Monterey Bay master development on lands of the former Fort Ord. A total of ten buildings are proposed within the project which will contain 108-apartment dwelling units of various sizes (1, 2, and 3-bedroom units), common area interior spaces, and laundry facilities. Approximately 35,000-SF (less than 1-acre) of irrigated landscaping is proposed. Related infrastructure to be installed and owned by MCWD includes a potable water pipeline loop around the perimeter of the entire parcel with a pipeline branch (within an easement) traversing through the parcel and connecting each side of the potable water pipe loop such that two distinct pipeline loops are created. The eastern edge of the water pipeline loop is the existing potable water pipeline within 2<sup>nd</sup> Avenue. Sewer pipelines and manholes will be installed in the parcel (within easements) that carry sewage flows to the northern edge of the parcel and then into a previously constructed (by the master developer) main sewer pipeline that will carry the flow to the west, eventually discharging into MRWPCA's interceptor system through MCWD's Fort Ord flume structure.

The University Village Apartments project has obtained the land and all entitlements for their development, including at least 13.16-AFY of potable water, from the Dunes on Monterey Bay master development.

The new infrastructure being transferred to the District will be constructed within the public right-of-way or within easements provided to MCWD by the University Village Associates. The specific infrastructure proposed for transfer includes PVC potable water pipelines, PVC gravity sewer pipelines, and associated sewer manholes, water valves, and other appurtenances. No recycled water system components constructed by this project is intended for ownership by MCWD; however, the landscape irrigation system will be plumbed appropriately for receiving recycled water at some moment in the future.

Environmental Review Compliance: A CEQA EIR for the University Villages Specific Plan was completed and adopted by the City of Marina. Any additional CEQA actions related to the site construction is the responsibility of the project owner.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan – Objectives Goal No. 1: To manage and sustain the District’s groundwater and desalinated water, recycled water and wastewater services, conservation activities, infrastructure and human resources at or above industry standards. Goal No. 2: To meet 100% of current and future customers’ needs and make timely improvements and increase infrastructure and level of services and human resources to meet needs of expanding service areas in an environmentally sensitive way.*

Financial Impact:      Yes      No

Funding Source/Recap: The financial impact will be a slight increase in cost to MCWD for the operations and maintenance of the new infrastructure once accepted.

Material Included for Information/Consideration: Resolution No. 2012-68; and, the draft Infrastructure Agreement with modifications highlighted.

Staff Recommendation: The Board of Directors adopt Resolution No. 2012-68 approving the Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement between MCWD and MCWD and University Village Associates (a Limited Partnership) for the University Village Apartment project within the Dunes on Monterey Bay development.

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

---

Board Action

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

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

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

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

October 26, 2012

Resolution No. 2012 - 68  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving a Construction and Transfer of  
Water, Sewer, and Recycled Water Infrastructure Agreement Between  
Marina Coast Water District and University Village Associates for the  
University Village Apartment Project within the Dunes on Monterey Bay development

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a special meeting duly called and held on October 26, 2012 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, South County Housing, as primary partner in the University Village Associates limited partnership (“Developer”), has coordinated with the District on their University Village Apartments development, consisting of the new construction of 108-apartment dwelling units, common areas and structures, and related infrastructure on the former Fort Ord lands within the Dunes on Monterey Bay master development; and,

WHEREAS, the Developer has obtained the land and all entitlements for their development, including at least 13.16-AFY of potable water, from the Dunes on Monterey Bay master development; and,

WHEREAS, the District and the Developer are working cooperatively regarding proposed water, and sewer system installations; and,

WHEREAS, the District and the Developer have agreed upon the proposed Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement and desire to enter into same.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager to sign the Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement between MCWD and University Village Associates 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 26, 2012, 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 \_\_\_\_\_

---

Dan Burns, President

ATTEST:

---

Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2012-68 adopted October 26, 2012.

---

Jim Heitzman, Secretary



Marina Coast Water District  
Agenda Transmittal

Agenda Item: 7-C

Meeting Date: October 26, 2012

Submitted By: Brian True

Presented By: Andy Sterbenz

Reviewed By: Andy Sterbenz

Agenda Title: Consider Adoption of Resolution No. 2012-69 to Approve a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and Marina Community Partners for the Dunes Phase 1B Retail 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 Marina Community Partners (MCP) for the Dunes Phase 1B Retail Project.

Marina Community Partners is proposing to expand their Dunes on Monterey Bay master development located on lands of the former Fort Ord in Marina, CA. The Dunes Phase 1B Retail Project consists of the new construction of the underground utilities, roadways, and other infrastructure and appurtenances for a section of the master development termed Phase 1B. Once the Dunes Phase 1B Retail Project site is prepared, the Project will contain 5 structures for retail businesses and, potentially, a restaurant, a movie theater, and a park-area commons termed the "village square."

The Dunes on Monterey Bay development (formerly known as University Villages) owned by MCP is a fully entitled development within the land-use jurisdiction of the City of Marina. The Dunes on Monterey Bay master development has received from the City an allocation of 593-AFY of potable water. Of that total allocated amount, the Dunes Phase 1B Retail Project as proposed will use an estimated amount of at least 11.12-AFY of potable water.

The new infrastructure being transferred to the District will be constructed within the public right-of-way or within easements provided to MCWD by MCP. The specific infrastructure proposed for transfer includes PVC potable water pipelines, PVC recycled water pipelines (purple pipes), PVC gravity sewer pipelines, and associated sewer manholes, water valves, and other appurtenances.

The Infrastructure Agreement for this project contains differences between the standard Board-accepted template for Infrastructure Agreements and this version proposed for your approval. The new language is comes largely at the request of MCP and has been carefully reviewed by staff and District Counsel. The specific sections of this Infrastructure Agreement that differ substantially from the template version include:

Section 2. Design and Construction Requirements (specifically sections 2.1.1 and 2.1.4);

Section 4. District to Serve Development;

Section 11. As-Built Plans, Specifications, Values, Etc.;

Section 12. Indemnity, Insurance, and Sureties;

Section 13. Transfer of System Facilities to District after Completion;  
Section 15. Warranties; and  
Section 18. Assignment.

Also, a new Section 33. Acceptances, Approvals, Consents, and Verifications, has been added.

Environmental Review Compliance: A CEQA EIR for the University Villages Specific Plan was completed and adopted by the City of Marina.

Prior Committee or Board Action: On January 10, 2007, the Board adopted Resolution No. 2007-03 approving an Infrastructure Agreement between Marina Community Partners, LLC and MCWD for the University Villages Development, Phases 1B and 1C.

Board Goals/Objectives: *Strategic Plan – Objectives Goal No. 1: To manage and sustain the District’s groundwater and desalinated water, recycled water and wastewater services, conservation activities, infrastructure and human resources at or above industry standards. Goal No. 2: To meet 100% of current and future customers’ needs and make timely improvements and increase infrastructure and level of services and human resources to meet needs of expanding service areas in an environmentally sensitive way.*

Financial Impact:      Yes      No

Funding Source/Recap: The financial impact will be a slight increase in cost to MCWD for the operations and maintenance of the new infrastructure once accepted.

Material Included for Information/Consideration: Resolution No. 2012-69, the draft Infrastructure Agreement with highlighted modifications, and the standard template of the Infrastructure Agreement for comparison.

Staff Recommendation: The Board of Directors adopt Resolution No. 2012-69 approving the Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement between MCWD and Marina Community Partners (MCP) for the Dunes Phase 1B Retail Project.

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

---

Board Action

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

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

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

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

October 26, 2012

Resolution No. 2012 - 69  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving a Construction and Transfer of  
Water, Sewer, and Recycled Water Infrastructure Agreement between  
Marina Coast Water District and Marina Community Partners for the  
Dunes Phase 1B Retail Project

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a special meeting duly called and held on October 26, 2012 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, Marina Community Partners (“Developer”) has coordinated with the District on their Dunes Phase 1B Retail Project located on lands of the former Fort Ord within the Dunes on Monterey Bay master development, consisting of the new construction of the underground utilities, roadways, and other infrastructure and appurtenances for a section of Phase 1B that will contain 5 structures for retail businesses, a movie theater, and a park-area commons termed the “village square”; and,

WHEREAS, the Developer has obtained the land and all entitlements for their Dunes on Monterey Bay master development from the City of Marina, including 593-AFY of potable water for the entire development, of which at least 11.12-AFY has been estimated as the use by Dunes 1B Retail Project parcels, and,

WHEREAS, the District and the Developer are working cooperatively regarding proposed water, and sewer system improvements; and,

WHEREAS, the District and the Developer have agreed upon the proposed Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement and desire to enter into same.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager to sign the Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement between MCWD and Marina Community Partners (MCP) for the Dunes Phase 1B Retail 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 26, 2012, 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 \_\_\_\_\_

\_\_\_\_\_  
Dan Burns, President

ATTEST:

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

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2012-69 adopted October 26, 2012.

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

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 7-D

Meeting Date: October 26, 2012

Submitted By: Jim Heitzman

Presented By: Jim Heitzman

Agenda Title: Consider Adoption of Resolution No. 2012-70 to Approve a Legal Services Agreement with Griffith & Masuda, a Professional Law Corporation

Detailed Description: The Board of Directors is requested to adopt Resolution No. 2012-70 to approve a Legal Services Agreement with Griffith & Masuda.

The Board of Directors, at the October 23, 2012 special Board meeting, directed staff to submit for approval, a legal services agreement with Griffith & Masuda to provide interim legal services to the District.

Environmental Review Compliance: None required.

Prior Committee or Board Action: On October 23, 2012, the Board of Directors directed staff to submit a legal services agreement with Griffith & Masuda for interim legal services.

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

Financial Impact:      Yes      No

Funding Source/Recap: This Legal Services Agreement will be resourced from the funds allocated to the vacant In-House District Counsel position in the District's FY 2012-2013 Budget.

Material Included for Consideration: Copy of the draft Legal Services Agreement with Griffith & Masuda.

Staff Recommendation: The Board of Directors approve adopt Resolution No. 2012-70 to approve a Legal Services Agreement with Griffith & Masuda.

Action Required:      Resolution      Motion      Review

---

Board Action

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

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

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

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

October 26, 2012

Resolution No. 2012-70  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving a Legal Services Agreement with  
Griffith & Masuda, a Professional Law Corporation  
for Interim Legal Services to the Marina Coast Water District

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a special meeting duly called and held on October 26, 2012 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District is mandated to have a Legal Counsel; and;

WHEREAS, with the resignation of the In-House District Counsel, there is a need to obtain interim Legal Counsel; and,

WHEREAS, Griffith & Masuda provides cost-effective services and has previously served as Interim Legal Counsel for the District.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager to execute a Legal Services Agreement with Griffith & Masuda to serve as Interim Legal Counsel for the Marina Coast Water District.

PASSED AND ADOPTED on October 26, 2012 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 \_\_\_\_\_

\_\_\_\_\_  
Dan Burns, President

ATTEST:

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

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2012-70 adopted October 26, 2012.

---

Jim Heitzman, Secretary