



Posting Date: 09-17-2021

## NOTICE OF REGULAR BI-MONTHLY MEETING BOARD OF DIRECTORS

- MEETING DATE:** 09-21-2021
- TIME:** Meeting begins at **6:30 p.m. (Public)**  
Closed Session begins at or after **6:31 p.m. (Only Board and Staff)**  
Open Session begins at or after **7:30 p.m. (Public)**
- LOCATION:** **This meeting will be held virtually, pursuant to the Governor’s Executive Order N-29-20.**

To participate online, go to <https://us06web.zoom.us/j/89999565192>. You can also participate by phone by calling **1-669-900-6833** and entering the **webinar ID#: 899 9956 5192**.

**PARTICIPATION DURING MEETINGS:** During the public comment periods, the public may comment by clicking the “raise hand” button on the bottom of the Zoom screen; if you are joining by phone and would like to comment, press \*9 and we will call on you as appropriate.

**EMAILED PUBLIC COMMENTS:** You may submit your comments in advance of the meeting by emailing them to [BoardComment@MarinWater.org](mailto:BoardComment@MarinWater.org). All emailed comments received by 3 p.m. on the day of the meeting will be provided to the Board of Directors prior to the meeting. All emails will be posted on our website. (Please do not include personal information in your comment that you do not want published on our website such as phone numbers and home addresses.)

AGENDA ITEMS	RECOMMENDATIONS
<b>Call to Order and Roll Call at 6:30 p.m.</b>	
<b>Adopt Agenda</b>	<i>Approve</i>
<b>Convene to Closed Session At Or After 6:31 p.m.</b> (Only the Board of Directors and Staff Will Participate)	
<b>Closed Session Item</b> (Approximate Time 1 Hour)	
1. Conference with Real Property Negotiators (Government Code §54956.8)  Property: APNs 197-120-30 and 197-120-40 Agency Negotiator: Bennett Horenstein, General Manager	

**MARIN WATER BOARD OF DIRECTORS:** LARRY BRAGMAN, JACK GIBSON, CYNTHIA KOEHLER, LARRY RUSSELL, AND MONTY SCHMITT

AGENDA ITEMS	RECOMMENDATIONS
Negotiating Party: Joanna Cabral, Senior Land Agent Under negotiation: Price and Terms  <i>(Approximate time 5 minutes)</i>	
2. Conference with Legal Counsel – Anticipated Litigation Significant exposure to litigation pursuant to § 54956.9(b)  Number of Cases: Unknown <i>(Approximate time 55 minutes)</i>	
<b>Convene to Open Session At or After 7:30 p.m.</b>	
<b>Closed Session Report Out</b>	
<b>Public Comment</b>  Members of the public may comment on any items not listed on the agenda during this time. Comments will be limited to three (3) minutes per speaker, and time limits may be reduced by the board president to accommodate the number of speakers and ensure that the meeting is conducted in an efficient manner.	
<b>Directors’ and General Manager’s Announcements</b> (7:40 p.m. – Time Approximate)	
<b>Consent Calendar</b> (7:45 p.m. – Time Approximate)  All matters listed on the consent calendar are considered to be routine and will be enacted by a single action of the Board, unless specific items are removed from the consent calendar by the Board during adoption of the agenda for separate discussion and action.	
3. Minutes of the Board of Directors’ Regular Bi-Monthly Meeting of September 7, 2021	<i>Approve</i>
4. General Manager’s Report – August 2021	<i>Approve</i>
5. Adoption of Board Handbook, as Revised	<i>Approve</i>
6. Adopting Resolutions that Will Change the District’s Contribution Rate Paid for Health Insurance Premiums Based on Increases to the Rates	<i>Approve</i>
<b>Regular Calendar</b> (7:50 p.m. – Time Approximate)	
7. Drought Update <i>(Approximate time 20 minutes)</i>	<i>Information</i>

AGENDA ITEMS	RECOMMENDATIONS
<b>Public Hearing</b> (8:10 p.m. – Time Approximate)	
8. Adoption of an Ordinance Amending Chapter 13.04 Entitled “Comprehensive Drought Water Conservation and Enforcement Measures” to Title 13 of the Marin Municipal Water District Code Establishing Limits on Water Use and Associated Penalties <i>(Approximate time 30 minutes)</i>	<i>Approve</i>
<b>Regular Calendar</b> (8:40 p.m. – Time Approximate)	
9. Additional Water Use Restrictions <i>(Approximate time 30 minutes)</i>	<i>Information</i>
10. Adoption of a Resolution Authorizing the Commencement of Proceedings in Connection with the Issuance, Sale, and Delivery of Revenue Bonds to Finance the Emergency Intertie Project and a Resolution Expressing Official Intent Regarding Capital Expenditures to be Reimbursed with Proceed of an Obligation <i>(Approximate time 5 minutes)</i>	<i>Approve</i>
11. Authorizing the General Manager to Execute an Agreement with Quint & Thimming LLP for Bond and Disclosure Counsel Legal Services, and Amendment No. Seven (7) to Miscellaneous Agreement No. 5119 with Sperry Capital Inc. for Municipal Advisory Services for the Issuance of the Marin Municipal Water District Financing Authority Revenue Bonds, Series 2021 <i>(Approximate time 5 minutes)</i>	<i>Approve</i>
12. Request to Fill One Temporary Meter Reader & Repair Worker I Position <i>(Approximate time 5 minutes)</i>	<i>Approve</i>
13. Future Meeting Schedule and Agenda Items <i>(Approximate time 5 minutes)</i>	<i>Information</i>
<b>Adjournment</b> (9:30 p.m. – Time Approximate)	

**ADA NOTICE AND HEARING IMPAIRED PROVISIONS:**

In accordance with the Americans with Disabilities Act (ADA) and California Law, it is Marin Water’s policy to offer its public programs, services, and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, an agenda, and/or agenda packet in an appropriate alternative format, or if you require other accommodations, please contact Board Secretary Terrie Gillen at 415.945.1448, at least two days in advance of the meeting. Advance notification will enable the Marin Water to make reasonable arrangements to ensure accessibility.

INFORMATION PACKETS ARE AVAILABLE FOR REVIEW AT THE CIVIC CENTER LIBRARY, CORTE MADERA LIBRARY, FAIRFAX LIBRARY, MILL VALLEY LIBRARY, MARIN WATER OFFICE, AND ON THE MARIN WATER WEBSITE (MARINWATER.ORG)

**FUTURE BOARD MEETINGS:**

- ❖ Thursday, September 23, 2021  
Finance & Administration Committee/Board of Directors (Finance & Administration) Meeting  
9:30 a.m.
  
- ❖ Tuesday, October 5, 2021  
Board of Directors’ Regular Bi-Monthly Meeting  
7:30 p.m.
  
- ❖ Friday, October 15, 2021  
Board of Directors’ Special Meeting (Board Retreat)  
9:00 a.m. – 3 p.m.
  
- ❖ Tuesday, October 19, 2021  
Board of Directors’ Regular Bi-Monthly Meeting  
7:30 p.m.

  
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Board Secretary



## Approval Item

**TITLE**

Minutes of the Board of Directors’ Regular Bi-Monthly Meeting of September 7, 2021

**RECOMMENDATION**

Approve the adoption of the minutes.

**SUMMARY**

On September 7, 2021, the board held its regular bi-monthly meeting. The minutes of that meeting are attached.

**DISCUSSION**

None

**FISCAL IMPACT**

None

**ATTACHMENT(S)**

1. Minutes of the Board of Directors’ Regular Bi-Monthly Meeting of September 7, 2021

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Communications & Public Affairs Department	 Terrie Gillen Board Secretary	 Ben Horenstein General Manager

**MARIN MUNICIPAL WATER DISTRICT  
BOARD OF DIRECTORS**

**MEETING MINUTES**

**Tuesday, September 7, 2021**

**Via teleconference**

(In accordance with Governor Gavin Newsom's Executive Order N-29-20)

**DIRECTORS PRESENT:** Larry Bragman, Monty Schmitt, and Larry Russell

**DIRECTORS ABSENT:** John Gibson and Cynthia Koehler

**CALL TO ORDER AND ROLL CALL**

Board Vice President Russell called the meeting to order at 6:04 p.m.

**ADOPT AGENDA**

On motion made by Director Bragman and seconded by Director Schmitt, the board adopted the agenda. The following roll call vote was made.

Ayes: Directors Bragman, Schmitt, and Russell

Noes: None

Absent: Directors Gibson and Koehler

**PUBLIC COMMENT ONLY ON CLOSED SESSION ITEMS 1 – 4**

There were no public comments on the closed session items.

**CONVENE TO CLOSED SESSION**

The Board of Directors convened to closed session at 6:05 p.m.

**CLOSED SESSION ITEMS**

1. Conference with Legal Counsel – Existing Litigation  
(Government Code §54956.9)

Walker v. Marin Municipal Water District  
Marin Superior Court  
Case No. CIV 150914

2. Conference with Real Property Negotiations  
(Government Code §54956.8)

Agency negotiator: Bennett Horenstein, General Manager

Negotiating parties: Craig Middleton, City Manager of the City of Belvedere  
Property: APN# 060-061-07  
Under Negotiation: Price and Terms

3. Conference with Real Property Negotiations  
(Government Code §54956.8)

Agency negotiator: Bennett Horenstein, General Manager  
Negotiating parties: Greg Chanis, Town Manager of the Town of Tiburon  
Property: APN# 058-152-01 and APN 060-061-15  
Under Negotiation: Terms

4. Conference with Real Property Negotiations  
(Government Code §54956.8)

Property: Lucas Valley Tank Site (APN 165-010-03) & Alto Tank Site (APN 033-101-50)  
Agency negotiator: Ben Horenstein, General Manager  
Negotiating parties: Don Shiveley, Project Manager  
Under negotiation: Lease Price & Terms

The Board of Directors and staff discussed all the items.

#### **CONVENE TO OPEN SESSION**

The board convened to open session at 7:30 p.m.

#### **CLOSED SESSION REPORT OUT**

Vice President Russell stated that no reportable action was taken.

#### **PUBLIC COMMENT**

There were five public comments.

#### **DIRECTORS' AND GENERAL MANAGER'S ANNOUNCEMENTS**

Director Bragman announced that the Office of Environmental Health Hazard Assessment, under the California Environmental Protection Agency, warned the use of glyphosate.

#### **CONSENT CALENDAR (ITEMS 5-8)**

**Item 5            Minutes of the Board of Directors' Regular Bi-Monthly Meeting of August 17, 2021**

**Item 6            Adoption of Board Handbook, as Revised**

**Item 7            Adoption of a Resolution Waiving Minor Bid Irregularity and Awarding Contract No. 1934 Berry Lane Pipeline Replacement Project to Maggiora & Ghilotti, Inc.**

**Item 8            An Award of Professional Services Agreement MA-5988 for Construction Inspection Services to PSOMAS in the Amount of \$119,680, and Authorize the General Manager to Execute Amendments to the Agreement Up to \$12,000 for a Total Contract Amount Not-to-Exceed \$131,680**

Initially, the board was going to take two actions: voting on all of the consent items, excluding Item 6, and afterwards voting on Item 6 by itself.

Before a vote was made, Director Bragman and staff conversed on Item 8 regarding the contract being only short-term. Satisfied with staff's response, discussion ensued about voting on the consent items. At General Counsel Molly MacLean's advice, the board tabled Item 6 to a future board meeting and voted on the remaining consent items after not receiving any public comments.

On motion made by Director Bragman and seconded by Director Schmitt, the board adopted the consent calendar, excluding Item 6. The following roll call vote was made.

Ayes:            Directors Bragman, Schmitt, and Russell  
Noes:            None  
Absent:          Directors Gibson and Koehler

#### **REGULAR CALENDAR (ITEMS 9-16)**

##### **Item 9            Water Use Penalties**

Water Efficiency Manager Carrie Pollard, along with Mark Hildebrand with Hildebrand Consulting, presented this item to the board.

Afterwards, discussion ensued. The board discussed this item and asked questions about how news restrictions might work in conjunction with existing restrictions and variances. The board directed staff to bring back an ordinance to the next regular board meeting that would adopt limits on water use and associated penalties consistent with the staff recommendation. The board would also like staff to bring options for a penalty scale that would address price elasticity at the higher levels of water use. The directors had also made individual requests for staff to look into.

There were seven public comments.

This was an informational item. The board did not take any formal action.

**Item 10        Drought Update**

Water Quality Manager Lucy Croy, Acting Communications Specialist Emma Detwiler, and Water Efficiency Manager Carrie Pollard provided presentations to the board. Afterwards, discussion followed.

There were five public comments.

Additional discussion continued between the board and staff. This was an informational item, so the board did not take any formal action.

**Item 11        Emergency Intertie Project Update**

Operations Division Manager Paul Seller and Finance Division Manager Chuck McBride brought forth this item. Discussion occurred between the directors and staff. The board took no action as this was an informational item.

The board received seven public comments.

**Item 12        Grant and Legislative Program Update**

This was tabled to a future board meeting.

**Item 13        Overview of the Redistricting Process**

This was tabled to the upcoming Operations Committee meeting.

**Item 14        Request to Fill Watershed Protection Ranger Position**

General Manager Ben Horenstein brought forth this item. Conversation followed.

There were three public comments.

On motion made by Director Bragman and seconded by Director Schmitt, the board authorized the general manager to recruit and hire a Watershed Protection Ranger. The following roll call vote was made.

Ayes:            Directors Bragman, Schmitt, and Russell

Noes:            None

Absent:         Directors Gibson and Koehler

**Item 15        Request to Fill Engineering Support Services Manager Position**

Engineering Manager Crystal Yezman presented this item. A brief discussion followed.

There were no public comments.

On motion made by Director Schmitt and seconded by Director Bragman, the board authorized the general manager to recruit and hire an Engineering Support Services Manager. The following roll call vote was made.

Ayes: Directors Bragman, Schmitt, and Russell

Noes: None

Absent: Directors Gibson and Koehler

**Item 16 Future Meeting Schedule and Agenda Items**

The board secretary read the list of upcoming meetings. There were no comments from the board, nor were there public comments.

This being an informational item, the board did not take any formal action.

**ADJOURNMENT**

There being no further business, the regular bi-monthly Board of Directors' meeting of September 7, 2021, adjourned at 10:35 p.m.

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Board Secretary

## Approval Item

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**TITLE**

General Manager's Report - August 2021

**RECOMMENDATION**

Approve Report.

**SUMMARY****A. HIGHLIGHTS:**

- Finalized and posted System-Wide AMI Implementation RFP with proposals due September 30, 2021
- Finalized and posted Peacock Gap Recycled Water RFP with proposals due October 8, 2021
- Conducted second Drought Drive-up event on August 21, 2021 with a steady flow of customers and handed out about 200 water saving kits
- The Water Quality Lab ensured that the water we supplied met or surpassed water quality regulations by collecting and analyzing over 180 Total Coliform Rule (TCR), and 25 treatment plant samples. The lab performed 20 sanitary tank surveys and checked an additional 39 tanks for low chlorine, resulting in 24 water storage tanks chlorinated in August 2021.
- The recycled water fill station on Armory Drive continues to see an increase in visits. As of 9/13/21, there was a total of 1,107 visits with approximately 108,529 gallons of recycled water collected
- Completed annual Lagunitas Creek restoration effectiveness monitoring surveys - analysis to be completed by October
- Completed annual Lagunitas Creek snorkel surveys for juvenile coho salmon and steelhead
- Received and additional \$150,000 as part of the California Department of Parks and Recreation-Regional Trails Program Grant (total grant award now \$850K)

**DISCUSSION**

**B. SUMMARY:**

- AF = Acre Feet
- Mg/L = milligrams per liter
- MPN = most probable number
- MPY = mils per year
- MG = million gallons
- NTU = nephelometric turbidity units

**1. Water Production:**

	FY 2021/22		FY 2020/21	
	(million gallons)	(acre-feet)	(million gallons)	(acre-feet)
<b>Potable</b>				
Total production this FY	1,397	4,288	1,896	5,818
Monthly production, August	682	2,093	917	2,815
Daily average, August	22.00	67.51	29.59	90.81
<b>Recycled</b>				
Total production this FY	59.06	181.25	0.00	0.00
Monthly production, August	31.21	95.78	0.00	0.00
Daily average, August	1.01	3.09	0.00	0.00
<b>Raw Water</b>				
Total production this FY	12.56	38.55	22.05	67.67
Monthly production, August	6.62	20.32	11.89	36.49
Daily average, August	0.21	0.66	0.38	1.18
<b>Imported Water</b>				
Total imported this FY	245	751	412	1,263
Monthly imported, August	122	374	195	600
<b>Reservoir Storage</b>				
Total storage, August	9,694	29,751	18,240	55,976
Storage change during August	-912	-2,798	- 1,237	-3,797
<b>Stream Releases</b>				
Total releases this FY	313	961	357	1,097
Monthly releases, August	167	513	175	538

<b>2. <u>Precipitation:</u></b>	<u>FY 2021/22 (in.)</u>	<u>FY 2020/21 (in.)</u>
Alpine	0.00	0.11
Bon Tempe	0.00	0.13
Kent	0.00	0.23
Lagunitas *	0.00	0.35
Nicasio	0.00	0.33
Phoenix	0.00	0.10
Soulajule	0.00	0.36

\* Average to date = 0.15 inches

**3. Water Quality:**

<u>Laboratory:</u>	<u>FY 2021/22</u>	<u>FY 2020/21</u>
Water Quality Complaints:		
Month of Record	11	13
Fiscal Year to Date	24	32
Water Quality Information Phone Calls:		
Month of Record	8	18
Fiscal Year to Date	15	40

The lab performed 2,909 analyses on lakes, treatment plants and distribution system samples.

Mild steel corrosion rates averaged 3.63 (0.58 – 5.35) MPY. The AWWA has recommended an operating level of <5 MPY with a goal of <1 MPY.

Complaint Flushing: One flushing event was performed for this month on record related to a positive main break bacterial sample to ensure water quality at 334 Montford Pl, MV

Tank Survey Program: 20 water storage tank sanitary surveys were performed during the month. 66.01 % planned survey program has been completed for calendar year 2021.

Disinfection Program: No new pipelines were disinfected during the month. Performed chlorination's on 24 water storage tanks to ensure compliance with bacteriological water quality regulations.

Tank Water Quality Monitoring Program: Performed 15 water quality-monitoring events on storage tanks for various water quality parameters this month to help ensure compliance with bacteriological water quality regulations.

**4. Water Treatment:**

<u>Treatment Results</u>	<u>San Geronimo</u>		<u>Bon Tempe</u>		<u>Ignacio</u>	
	Average	Monthly Goal	Average	Monthly Goal	Average	Monthly Goal
Turbidity (NTU)	0.05	≤ 0.10	0.05	≤ 0.10	0.06	≤ 0.10
Chlorine residual (mg/L)	2.54	2.50 *	2.37***	2.50 *	2.61	2.50 *
Color (units)	0.7	≤ 15	0.4	≤ 15	0.3	≤ 15
pH (units)	7.8	7.8*	7.8	7.8*	8.0	8.1**

\* Set monthly by Water Quality Lab

\*\* pH to Ignacio is controlled by SCWA

\*\*\* BTTP CWE Chlorine results are affected by the operation of the Phoenix Transfer Pump

**5. Capital Improvement:**

a. Sir Francis Drake Blvd Corridor Rehabilitation Project

Summary: This project involves the replacement of 8,500 feet of 100-year-old, leak prone cast iron pipe as a joint project with Marin County along Sir Francis Drake Blvd.

- Project Budget: \$4,647,762
- Monthly Activities: Work has been completed.

b. San Geronimo Treatment Plant Permanent Emergency Generator Project

Summary: This project involves the installation of two 1.5 MW generators, electrical equipment, fuel storage tanks and site grading all within the community of Woodacre.

- Project Budget: \$5,375,600
- Monthly Activities: Temporary 2 MW generator has been brought on site and connected and made operable as of May 25<sup>th</sup>. District Staff have reviewed and conditionally accepted the approved alternat Generac generator system pending the Contractor obtaining the Authority to Construction from the BAAQMD.

- c. Fire Flow Improvement Program Monterey Ave Pipeline Replacement Project (F18006)  
Summary: This project involves the replacement of 7,200 feet of old leak prone, fire flow deficient pipe in the Town of San Anselmo.
- Project Budget: \$2,180,000.70
  - Monthly Activities: Contractor has installed approximately 6,900 feet of pipe to date. Contractor is installing over 200 feet of pipe per day on this project and should be completed with all mainline installation in September.
- d. 2021 Corrosion Test Station Rehabilitation Project (D21020)  
Summary: This project involves the rehabilitation of approximately 120 corrosion test stations at various locations within the County of Marin.
- Project Budget: \$150,000
  - Monthly Activities: Contractor is providing submittals for review and should start construction work early September.
- e. Southern Marin Pipeline Replacement Project (D20022)  
Summary: This project involves the replacement of 5,080 feet of problematic and leak prone cast iron pipe, originally installed in the 1960s and 1970s, in Tiburon, Sausalito and Belvedere, in coordination with Belvedere's earthquake resiliency program and Sanitary District No. 5's Cove Road Force Main Replacement Project, and planned paving work to minimize public impacts.
- Project Budget: \$2,985,000
  - Monthly Activities: Contactor is currently addressing final punch list items.
- f. Kent Lake Aerator Vent Lines Replacement Project (D19037)  
Summary: This project involves the replacement of two 180 foot long 2-inch vent lines and one 200 foot 1-inch air supply line on the Kent Lake aerator.
- Project Budget: \$134,000
  - Monthly Activities: District is reviewing contract submittals for this project. Contractor to mobilize August 9 to begin work on site and completed work on August 20<sup>th</sup>. Work for this project has been completed.

g. Non-Structural Spillway Repairs Project (D21013)

Summary: This project involves doing non-structural spillway repairs at Kent Spillway, Nicasio Spillway and Soulajule Spillway

- Project Budget: \$325,555
- Monthly Activities: On July 19<sup>th</sup>, during the course of replacing the joint sealant at Nicasio, two voids that measured approximately 5 inches wide by 3 feet and 6 feet long respectively were discovered at the bottom of the spillway chute. District staff contacted the Division of Safety of Dams (DSOD) and had a field visit with DSOD engineering staff on August 24<sup>th</sup>. After DSOD evaluation of the voids, DSOD considered the repairs routine maintenance and directed the District to repair the voids. District staff issued a field directive to the Contractor on August 27<sup>th</sup> to repair voids. Contractor mobilized on-site on August 30<sup>th</sup> and began working on the repairs. The repairs involve chipping away the existing concrete around the voids and splicing in new epoxy coated reinforcement bars and then placing high strength, low shrink concrete to repair the voids. Repair work is anticipated to be completed in early September. District staff will submit a final report on the repair to DSOD once work has been completed.

**6. Other:**

<u>Pipeline Installation</u>	<u>FY2021/22</u>	<u>FY2020/21</u>
Pipe installed during August (feet)	4,573	2,824
Total pipe installed this fiscal year (feet)	8,300	3,813
Total miles of pipeline within the District	908*	908*

*\* Reflects adjustment for abandoned pipelines*

<u>Pipe Locates</u>	<u>FY2021/22</u>	<u>FY2020/21</u>
Month of August (feet)	70,578	45,507
Total this fiscal year (feet)	119,384	82,545

<u>Main Line Leaks Repaired:</u>	<u>FY2021/22</u>	<u>FY2020/21</u>
Month of August	13	11
Total this fiscal year	33	16

<u>Services:</u>	<u>FY2021/22</u>	<u>FY2020/21</u>
Service upgrades during August	10	13
Total service upgrades this FY	23	28
Service connections installed during August	3	1
Total active services as of September 1, 2021	60,444	60,523

7. Demand Management:

	Aug-21	FY 21/22 TOTAL	FY 20/21 TOTAL	FY 19/20 TOTAL
<b>WATER-EFFICIENCY PROGRAMS</b>				
<b>Water-Use Site Surveys</b>				
Consultations				
Residential properties resi 1-2 (single-family)	103	243	115	127
Residential properties resi 3-5 (multi-family units)	1	4	5	30
Non-residential properties resi 6-7 (commercial)	0	0	5	3
Dedicated irrigation accounts resi 8-10 (large)	0	1	6	-
Walks				
Residential garden walks	15	45	129	91
CYES Water/Energy Surveys				
Residential surveys (on hold due to pandemic)	0	0	0	86
Service				
Public outreach events (number of people attending)	0	0	0	1,150
Public education events (number of participants)	0	0	0	-
Laundry-to-Landscape Graywater webinars (participa	0	0	397	-
Customer calls/emails admin staff	1,428	2614	5738	2,230
School Education				
School assemblies				
Number of activities	0	0	0	15
Number of students reached	0	0	0	6,349
Field trips				
Number of activities	0	0	0	11
Number of students reached	0	0	0	91
Classroom presentations				
Number of activities	0	0	1	11
Number of students reached	0	0	22	305
Other (e.g. booth events, school gardens)				
Number of activities	0	0	0	-
Number of students reached	0	0	0	-
Incentives				
Number of HECWs approved	8	30	163	53
Number of Rain Barrel/Cisterns approved	4	4	19	4
"Landscape Your Lawn" Turf Replacements approved	23	25	6	-
Number of Laundry-to-Landscape Systems approved	5	13	0	-
Hot water recirculating system rebates	9	11	0	-
Pool Cover rebates	37	90	0	-
Number of Smart Controllers rebates approved	10	13	85	12
Number of Smart Controllers "Flume Direct Distribut	331	804	1140	-
Number of Smart Controllers "Rachio Direct Distribut	40	87	233	-
Advanced Metering Infrastructure (AMI)				
AMI leak letters sent to customers (>200 GPD)	118	197	1601	1,384
<b>ORDINANCES</b>				
<b>Water Waste Prevention</b>				
No. of properties reporting activity	1330	2327	589	147
<b>Landscape Plan Review</b>				
Plans submitted	3	8	94	89
Plans exempt	0	0	4	5
Plans completed	1	2	19	23
Plans in workflow (pass & fail)	11	19	154	145
<b>Tier 4 Exemption</b>				
Inspections that resulted in a pass	0	0	1	1
<b>Graywater Compliance Form</b>				
Applications Received (as of Dec 2019)	2	5	106	39
Systems installed	0	0	7	11

**8. Watershed Protection:**

**West Peak Fire**

On Wednesday August 11<sup>th</sup> the Rangers responded to a vegetation fire near the West Peak of Mount Tamalpais. The fire, visible around the Bay Area, threatened critical infrastructure. A quick attack by the fire ground and air units, assisted by Rangers, kept the fire to less than an acre. Defensible space around the West Peak infrastructure maintained by the District also helped keep the fire small.



The District's Water Tender Resupplying Other Fire Apparatus at the fire near West Peak

**Medical Aid Calls**

During August, the Rangers responded to six medical aid calls. Two involved ebikers, three involved hikers and one involved a biker. The biker was transported to the hospital

**Staffing the Sky Oaks Kiosk Pays Off**

The Sky Oaks Entrance Station is being staffed by a Ranger Aide on weekends and holidays. This has reduce the number of citations being written for Non-payment of Park Fees from 129 in June and just 38 in August.

**Ranger Foot and Bike Patrols**

Rangers logged 73 miles of foot patrol and 33 miles of bike patrol this month.



Incidents and Events	438
Visitor Assists	203
Warnings	107
Citations	48
Dam Check	19
Vandalism	7
Medical Aid	6
Public Outreach/Interp Activity	6
Citizen Complaint: Illegal Bike Use	5
Assist Watershed Maintenance	4
Search and Rescue	3
Suspicious Circumstance	3
Animal or Humane Related	2
Illegal Dumping	2
Assist Fire/EMS	2
Citizen Complaint: Off Leash Dogs	2
Citizen Complaint: Recreational Impacts	2
Illegal Trail Work	2
Citizen Complaint: Smoking	2
Theft	1
Misc. Law Enforcement Calls	1
Assist Outside Law Enforcement	1
Assist Other MMWD Work Group	1
Reckless Driving	1
Welfare Check	1
Citizen Complaint: Bike Speed	1
Citizen Complaint: Vehicle Speed	1
Vegetation Fire on Watershed	1
Illegal Fire	1
Verbal Dispute Between Visitors	1
Found Property	1
Traffic Court: Guilty	1

Citations	46
Non-payment of parking fees	38
Parking After Sunset	3
Parking in front of Fire Road Gate	3
Dog off Leash	2
Park on Roadway or Parking w/ 6' Center	1
Expired Registration	1



## Approval Item

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### TITLE

Adopt Board Handbook, as revised

### RECOMMENDATION

Adopt the Board Handbook, as revised, as Board Policy

### SUMMARY

At the February 2, 2021 Board of Directors meeting, the Board adopted the Board Handbook as a Board Policy. At that time, the Board requested that staff bring the Board Handbook back to a future Board meeting in approximately six (6) months, so Board members could review the Use of Title provision in the Board Handbook. The Board reviewed the proposed revisions at the Finance and Administration Committee on August 26<sup>th</sup> and referred the item to a regular Board meeting to consider adoption.

### DISCUSSION

Staff has identified the following minor edits and included them in redline in the attached revised Board Handbook.

- **Further Clarify the Quorum Requirements for Board Approval of an Item (PP. 2; 12)**

The current language in the Board Handbook indicates that policy is generally established by a majority vote of the Board. While this is true, we recommend revising this language to clarify the requirements of Water Code section 71274, which indicates that a majority of the Board shall constitute a quorum for the transaction of business; however, no ordinance, motion or resolution shall be passed to become effective without the affirmative vote of a majority of the Board. This underline portion would preclude any ordinance, motion or resolution from passing when only three (3) members are present (e.g., a quorum of the Board) unless approved a unanimous vote (e.g., three (3) affirmative votes from all (3) three Board members present), consistent with the Water Code requirement.

- **Further Clarify for Use of Email Accounts (PP. 5)**

Staff recommends the addition of “or outside work accounts” within the use of **Emails/Text Messages** section to clarify that outside work email accounts, if used for District business, could also be subject to a Public Records Act or discovery requests the same as a personal email account.

- **Further Clarify the Contact with Media Provision (PP. 6)**

Staff recommends the addition of “op-eds” to the last sentence in the **Contact with Media** section to clarify that editorial opinions should be identified as the opinion of the author, and not the Board as a whole. The revised language would read: Board member communications

with the media, including op-eds, in which the District is a subject matter of discussion shall be clearly identified as an expression of personal opinion of the individual Board member who is expressing his or her opinion to the media. This would not preclude the development of op-eds that are intended to present the position of the Board, but these would require that op-eds representing the Board first be reviewed by the Board.

• **Organizational Changes (P. 8)**

Since adoption of the Board Handbook, organizational changes have occurred. Specifically, the Facilities and Watershed Division has been dissolved and those functions have been reassigned. Some of these reassignments include:

- Water Conservation has been moved under the Engineering Division.
- The Operations Division has taken over the responsibilities of Facilities Maintenance and Support.
- The Watershed is now its own Department, similar to Human Resources and Communications & Public Affairs, and reports directly to the General Manager.

• **Revisions to Committee Names (P. 10)**

Minor revisions were made to reflect the renaming of the Communications Committee to the Communications & Water Efficiency Committee and the Finance Committee to the Finance & Administration Committee.

No changes are being recommended to the Use of Title/ Advocacy on Non-Board Approved Matters section.

Staff recommends that the Board of Directors adopt the Board Handbook as revised, as Board Policy No. 1.

**FISCAL IMPACT**

None

**ATTACHMENT(S)**

1. Redline Version of Revised Board Handbook

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Office of the General Counsel	 Molly MacLean General Counsel	 Ben Horenstein General Manager



## Board of Directors Handbook

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# MARIN MUNICIPAL WATER DISTRICT

## BOARD OF DIRECTORS HANDBOOK

Adopted: February 2, 2021

Revised: August 26, 2021

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### SECTION 1: Introduction/Purpose

#### Introduction

This handbook is compiled as a guidance document to provide incumbent and newly elected members of the Marin Municipal Water District (“District”) Board of Directors (“Board”) with general information and specific authorities regarding oversight of the District. This handbook is intended to facilitate the handling of Board affairs, assist the Board in complying with open meeting laws, and is complementary to applicable laws and other requirements.

The District is an independent special district, formed pursuant to the Municipal Water District Law of 1911 and approved by voters to provide specific services to residences within the District’s service area. The District is a single function, enterprise special district because it charges its customers for the service provided. The District is governed by a five-member Board elected by voters within a specified limited boundary or division. Each Board member must be a resident of the division from which he or she is elected. Regular elections for Board members are held every 2 even years for staggered 4-year terms (i.e., divisions I, III & IV are elected in one 2-year election cycle and divisions II & V in the other 2-year election cycle).

The Board holds publicly noticed meetings in accordance with the Brown Act where citizens may address the Board regarding matters within the subject matter jurisdiction of the District.

#### Governing Laws and Regulations

The District was formed pursuant to California Water Code Section 71000 *et seq.*, commonly known as the Municipal Water District Law of 1911. The California Government Code contains a number of provisions applicable to the District and Board member activities including, but not limited to: the Ralph M. Brown Act (Open Meetings Law), Public Records Act (Public Access to Information), Government Code Section 1090 and the Political Reform Act (Conflict of Interest), Assembly Bill 1234 (Ethics), and Assembly Bill 1661 (Sexual Harassment Prevention).

## Board Policies and Administrative Procedures

The mission of the District, as established by the Board of Directors, is to manage its natural resources in a sustainable manner and to provide its customers with reliable, high-quality water at a reasonable price. The Board communicates its direction, or its philosophy, toward fulfilling this mission by developing and periodically reviewing its values and goals, and creating and updating various policies and procedures to ensure that the District's customers and the public are treated in a fair and consistent manner. In most instances, policy is established by ~~at least a majority vote of the Board, and a decision of the majority of the Board generally binds the District to a given course of action.~~ an affirmative vote of a majority of the members of the Board. However, some circumstances may necessitate the approval of a supermajority of the Board. The District's General Counsel will advise the Board of the approval requirements necessary to bind the Board to a given course of action.

Current District values and goals are listed below:

### VALUES

- Promote environmental stewardship and sustainability
- Conduct business with integrity and in an ethical manner
- Ensure fair, open, and responsive interactions with ~~MMWD-District~~ customers and other members of the public
- Promote diversity in and equitable treatment of our employees
- Provide a healthy work environment
- Work cooperatively with other public agencies and groups
- Treat all individuals with fairness, dignity, and respect
- Continuously improve through the promotion of initiative, leadership, professional development and training
- Exercise responsible financial management

### DISTRICT GOALS

- Assure that water produced is of high quality and protects public health from source to the customer's tap
- Provide a long-term reliable water supply for ~~MMWD-District~~ customers
- Maintain the District's infrastructure in a cost-effective manner to assure reliable operation
- Provide a water rate structure that is fair and reasonable, and that adequately funds the long-term maintenance and capital needs of the District's supply and delivery systems
- Promote conservation and water recycling programs and other practices which encourage the efficient use of water
- Provide responsible stewardship of land under ~~D~~istrict management, balancing existing mandates to safeguard ecological integrity, protect against wildfire, and maintain water quality

- Provide for visitor access and activities on watershed lands consistent with the constraints of watershed stewardship
- Maintain excellent communications with customers and assure responsive customer service
- Ensure a stable and talented workforce to do the District's work today and into the future

District governing documents include but are not limited to: the Marin Municipal Water District Code, Board Policies, Administrative Policies, Administrative Procedures, and applicable state and federal laws, which collectively constitute the policies and procedures which District staff follow when carrying out their day-to-day duties.

District administrative and operating procedures are approved by the General Manager pursuant to the authority delegated by the Board and are implemented to ensure that the District operates in a uniform and businesslike manner, and in accordance with the established policies of the Board.

## SECTION 2: Board Officers and Board Appointed Staff

### Board Officers and General Board Duties

#### *Appointment of Officers and Duties*

At its first meeting in January of each year the Board elects one of its members President and one of its members Vice President. The Board President and Vice President have no additional powers beyond those of any other Board member except that all committees of the Board are appointed by the President, with the advice and consent of other Board members.

The following are the responsibilities of the Board President:

- Serve as presiding officer of all Board meetings and maintain proper and appropriate parliamentary procedure (Robert's Rules of Order) and agenda management (e.g. ensure that actions are taken with proper motions and seconds);
- Run effective and efficient Board meetings and keep the Board discussions focused on agenda items to steadfastly move the Board toward making decisions true to its proper role and responsibility;
- Maintain proper conduct at Board meetings and diplomatically facilitate appropriate public participation in the activities of the Board in accordance with the Brown Act, while managing time and avoiding diversions from the agenda or disruptions in conducting District business;
- Allow other Board members to complete their comments on an item before offering his or her own;
- Vote, discuss, and make motions the same as other Board members; however, the President only makes motions and seconds when other Board members are reluctant to do so;

- Sign various Board-approved documents, including every original ordinance and resolution passed and adopted by the Board; and
- Act as the official representative of the District for ceremonial purposes, unless unavailable or delegated to another Board member or the General Manager.

The Vice President exercises the powers and responsibilities of the President in his or her absence.

#### *General Board Duties*

The Board is collectively the unit of authority within the District. Apart from a Board member's normal function as a part of this unit, an individual Board member has no authority to bind the District to a specific course of action.

The Board, as governing body of the District, is charged with full jurisdiction over all water works necessary for the acquisition, storage, treatment, sale and distribution of water served to District customers. The General Manager is charged with carrying out this responsibility on a day-to-day basis. Among other duties the Board has the authority to:

- Acquire or sell real District property, to construct and operate facilities, to purchase equipment and enter into contracts;
- Adopt and oversee annual District budgets and finances, set water rates and charges, and approve the purchase of resources needed by management to carry out District policies; and
- Appoint and conduct annual performance evaluations of the General Manager and General Counsel, and approve compensation for all District employees.

#### *Communication to/from the Board*

The tone and content of all communications should reflect the highest degree of professionalism and respect. Board members are responsible for the content of all text, audio, or images that they place or send, including those sent over the District computer network. Messages with fraudulent, harassing, abusive, obscene, vulgar, profane, offensive, or sexually suggestive content are prohibited. Messages with derogatory or inflammatory remarks related to a person's membership in any protected class are also prohibited.

When a Board member receives a complaint or inquiry from the public regarding the District's services and/or staff, the Board member should acknowledge the complaint or inquiry without making any promise or commitment as to what will happen on behalf of the District and forward the message to the General Manager. Board members are encouraged to engage the public on matters of District interest and concern but cannot guarantee an outcome or result before the Board has acted.

#### *Emails/ Text Messages*

The District provides each Board member his or her own District email address. Routine communication should be by District email. Board members should refrain from using any

communication method that may result in a serial meeting. For example, Board members should refrain from using the “reply all” function to respond to emails sent to the Board and should not use email or other means of communication to develop a consensus on any issue within the Board’s subject matter jurisdiction outside of a public meeting. (See later reference to the Brown Act, Section 3)

Email messages related to District business, sent from either District email accounts or personal [or outside work](#) accounts, are considered “public records” and accordingly, unless exempt from disclosure pursuant to the provisions of the California Public Records Act, may be disclosed in response to a public records request. These emails may also be subpoenaed as evidence in litigation. The District reserves the right to access and disclose all messages sent over its computer network and email system for any lawful purpose. The use of personal email accounts and personal electronic devices for District business is still subject to the disclosure requirement of the Public Records Act or a subpoena. Board members should carefully consider whether the use of personal email for District business is appropriate.

Board members are responsible for checking their incoming email frequently, reading its contents and responding in a timely manner. Messages transmitted over the District email system should only involve District-related activities for the accomplishment of business-related tasks or any communication directly related to District business, administration or practices. The District email system should not be used for personal correspondence. ~~—~~All email messages received at or sent through the District server system, including emails sent and received by Board members’ District email addresses, are property of the District and are not private.

Board members should remain aware that the rules applicable to emails also apply to text message communications. Therefore, Board members should use good judgment when sending and receiving electronic communications of any kind, including text messages. Board members should refrain from sending any electronic communications regarding matters within the subject matter jurisdiction of the Board during Board or committee meetings. Instead, Board member comments and discussions should occur aloud during the meeting in order to ensure members of the public may properly observe their elected official’s opinions on District matters.

#### *Social Media*

Board members may use social media to engage in separate conversations or communications on an internet-based social media platform to answer questions, provide information to the public, or to solicit information from the public regarding matters that are within the subject matter jurisdiction of the Board provided that a majority of the members of the Board do not use the internet-based social media platform to discuss among themselves business within the subject matter jurisdiction of the Board. Board members should remain aware that the phrase “discuss among themselves” is broadly defined to include any communications made, posted, or shared on an internet-based social media platform between members of the Board, including comments or use of digital icons that express reactions to communications made by other members of the Board, such as “like”. For this reason, Board members should not comment or use any digital icons (i.e., like, dislike, etc.) expressing reactions to fellow Board members’ social

media posts related to District business. —Board members should also refrain from taking positions on social media regarding any matter that is pending or may become before the Board.

#### *Contact with Media*

Because the public receives much of its information regarding District programs, policies and operations through the media, it is important that the District provide the media with the most complete and accurate sources of information available. —Thus, the General Manager or his designee shall serve as the District’s primary spokesperson and the media’s primary source of contact with the District. Media inquiries about official District business, including requests for explanations of District policy, should be directed to the General Manager or his designee.

Board member communications with the media, including op-eds, in which the District is a subject matter of discussion shall be clearly identified as an expression of personal opinion of the individual Board member who is expressing his or her opinion to the media.

#### *Use of Title/ Advocacy on Non-Board Approved Matters*

Elected or appointed officials may not take positions on behalf of the District without the express prior permission and direction of the Board. When Board members are asked for the District’s opinion on an issue, the response should reflect the position of the Board. Any position of the Board is developed through a collective action taken by the entire Board.

If an individual Board member elects to engage in producing any correspondence, public comment or oral presentation or to engage in advocacy on matters other than in representation of a Board position, the Board member may not use his or her Board title, or otherwise suggest or imply that their positions reflect the position of the Board or the District, without the express prior permission and direction of the Board. If a Board member produces or engages in advocacy that does not reflect a collective action taken by the entire Board and finds that it is necessary to make reference to their Board title, the Board member must include a disclaimer that immediately precedes and follows the opinion expressed by the individual Board member. The disclaimer must indicate that the position being expressed is that of the individual Board member and does not reflect the position of the District or the Board.

## Board Appointed Staff

### *General Manager*

The General Manager is appointed by and reports to the Board to carry out the day-to-day activities of the District pursuant to adopted ordinances, resolutions and policies. The General Manager has full charge and control of the maintenance, operation and construction of the waterworks system of the District and authority to employ and discharge employees, except those appointed by the Board, and determine employee duties necessary to carry out these responsibilities. The General Manager shall provide a written monthly report to the Board summarizing the work performed during the month and other items of importance or interest to the Board, and approve, or appropriately delegate, all requisitions for materials, supplies,

equipment and services necessary for carrying out the work, with Board approval where required.

#### *General Counsel*

The General Counsel is appointed by and reports to the Board, and is the legal advisor to the District regarding all legal matters pertaining to the District. The General Counsel performs such duties in relation to the District's legal matters as the General Manager, or Board may request. The General Counsel is authorized to retain outside counsel from time to time to represent the District in various matters.

#### *Board Secretary*

The Board Secretary is appointed by the Board and reports to the General Manager and attends all Board meetings and committee meetings; keeps a complete record of the proceedings including attendance; prepares and maintains official correspondence as directed; maintains custody of the District seal; countersigns all District warrants; maintains oaths of office of all appointed or elected officials and performs such other duties as may be required by the Board.

#### *Finance Director/Treasurer*

The Finance Director/Treasurer is appointed by the Board and reports to the General Manager and is the chief financial officer of the District. He or she supervises and administers the financial accounts, records and accounting controls in accordance with generally accepted accounting procedures regarding the financial status and requirements of the District.

#### *Consulting Auditor*

The Consulting Auditor shall be an independent public accountant annually retained by and reporting solely to the Board to make an examination of the District's financial position in accordance with generally accepted accounting and auditing standards. The Consulting Auditor may perform other services as requested by the Board from time to time. The Consulting Auditor is not an employee of the District and is engaged on a fee basis for the services rendered.

#### *Evaluation of Board Appointed Staff*

Annually, the Board should meet and discuss the performance of the General Manager and prepare a documented performance appraisal to be shared individually with the General Manager in closed session.

Annually, the Board should meet and discuss the performance of the General Counsel and prepare a documented performance appraisal to be shared individually with the General Counsel in closed session.

## District Organization and Communications between Board Members and Staff

### *Organization*

The District is organized into ~~four~~three divisions with each division leader reporting directly to the General Manager. The ~~four~~three divisions are as follows:

- Administrative Services Division, including functional responsibilities of Finance, Customer Service & Meters, and Information Technology;
- Engineering ~~& Environmental Services~~ Division, including functional responsibilities of Engineering, ~~and Water Conservation~~;
- ~~Facilities and Watershed~~ Division, including functional responsibilities of ~~Facility Maintenance & Support, Watershed Management, and Water Conservation~~; and
- Operations Division, including Water Treatment and Distribution, Distribution System Maintenance, Water Quality and Laboratory Services, ~~and Safety/Emergency Response and the functional responsibilities of Facilities Maintenance & Support.~~

Additionally, the District's Human Resources and Communications, ~~and~~ Public Affairs ~~and Watershed~~ Departments report directly to the General Manager. The General Counsel's Office reports directly to the Board and provides ongoing support to the General Manager and District staff regarding legal and related matters.

### *Communication between Board Members and Staff*

All communication between Board members and staff regarding District business should be coordinated through the General Manager, including requests from individual Board members. The General Manager will then generate a staff assignment to develop information or reports responsive to the Board member(s) request.

Responses from staff shall be communicated through the General Manager's Office or designee to the requesting Board member(s) and, if the General Manager believes that the information may be of general interest, the response may be sent to all Board members. This does not apply to requests for routine information (e.g. lake storage status, stream flows, fire conditions on the watershed, etc.). Routine information will be provided to Board members in the same way that it is provided to the general public.

## SECTION 3: Board Meetings

### Scheduling Meetings

#### *Regular Meetings*

The principal type of meeting at which District business is conducted is at a regular bi-monthly meeting of the Board. Regular bi-monthly meetings of the Board of Directors will be held the first and third Tuesdays of each month, to begin at or after 5p.m., but normally at 7:30p.m., in

the boardroom located at the District office (220 Nellen Avenue, Corte Madera, California) unless otherwise stated in a Board adopted calendar for the upcoming year, prior to January 31st of each year.

Meeting notices and agendas for regular meetings are posted online at [marinwater.org](http://marinwater.org), and physically posted at the District office in Corte Madera, and at the Corte Madera, Fairfax, Mill Valley and San Rafael Civic Center public libraries on the Friday (at least 72 hours) before each meeting. Reports and other materials related to the agenda items are posted on the District's website and hard copies are available for review at the District office.

#### *Special Meetings*

Occasionally, special meetings of the Board are held to consider a particular topic, conduct a workshop or study session or, if necessary, hold a meeting at a time or date other than a regularly scheduled Board meeting. Agendas for special Board meetings must be posted in a public place and online at least one-day (24 hours) prior to the meeting. However, the District makes every effort to provide more than one-day (24 hours) notice prior to the meeting, when possible.

Regular and special meetings of the Board should generally be held within the boundaries of the District's jurisdiction with certain exceptions. The Board may adjourn a regular or special meeting to another place, date or time if the business considered at that particular Board meeting has not yet been completed and/or if Board deliberations would benefit from re-convening the meeting to another place, date or time.

#### *Emergency Meetings*

When an emergency occurs, such as a crippling disaster, work stoppage or other activity that severely impairs public health, safety or both, as determined by a majority of the Board, an emergency meeting may be called. Notice of an emergency meeting must be given to local media at least one hour prior to the meeting. However, in the case of a dire emergency such as mass destruction, terrorist act, or threatened terrorist activity posing peril so immediate and significant that providing one-hour notice may endanger public health, safety or both, as determined by a majority of the Board, notice need only be provided at or near the time that notice is provided to members of the Board.

#### *Public Hearings*

Public hearings are held on matters of special importance when required by law.

#### *Closed Sessions*

Meetings of the Board are either fully open or fully closed, and there is nothing in between. The Brown Act strongly favors open meetings and private discussions among a majority of the Board members are prohibited, unless expressly authorized by the Brown Act. Closed sessions are an exception to open meeting requirements, and the authority for such sessions is narrowly construed. The fact that material may be sensitive, embarrassing or controversial does not justify consideration in a closed session unless authorized by a specific statutory exception(s) to the

Brown Act. The most commonly cited statutory exceptions relate to litigation (including threat of), real property negotiations, public employment issues, and labor negotiations.

Closed sessions are generally held immediately prior to or following regular bi-monthly meetings of the Board but may also be scheduled at other designated times. While public comment is permitted prior to the Board convening to closed session, oOnly individuals having an official role in the closed session subject matter may attend and the confidential information discussed during the closed session is explicitly prohibited from unauthorized disclosure. It is incumbent upon those attending closed sessions to protect the confidentiality of those discussions.

Following a closed session the Board shall reconvene in open session and publicly report out final decisions and the votes for or against any final decisions. The Board President or General Counsel generally makes these public reports.

#### *Committee Meetings*

Board committees act in an advisory capacity to the Board. Two Board members (Chair and Member) are annually appointed to each committee by the Board President with the advice and consent of other Board members.

Committee meetings are typically held in the boardroom at the District office, 220 Nellen Avenue, Corte Madera, California, unless otherwise noticed. Committee meeting notices and agendas are prepared and posted in accordance with the Brown Act similar to regular Board meetings and minutes are prepared for each meeting. The minutes are included in the next committee meeting agenda packet and approved by the committee during a subsequent meeting of the committee.

The District dually notices all committee meetings as both committee meetings and special meetings of the Board. This ensures that a quorum of the Board may attend and participate in the committee meeting, while maintaining compliance with the Brown Act. If less than a quorum of the Board (less than three Board members) participates in the meeting, it is a committee meeting. When a quorum of the Board (three or more Board members) participates in the meeting, it is a Board meeting. The Board, as a practice, generally does not take final action on items during committee meetings, unless District staff determines the urgency of the item requires immediate action that cannot be delayed until a subsequent regular bi-monthly Board meeting. This practice generally allows members of the public multiple opportunities to submit comments and participate in the Board's decision-making process prior to the Board taking final action on an item.

Currently there are four Board committees:

- Communications & Water Efficiency Committee, which meets quarterly on the 3rd Wednesday of the month in February, May, August and November;
- Finance & Administration Committee, which meets on the ~~3rd~~ 4th Thursday of each month;
- Operations Committee, which meets on the 3rd Friday of each month; and

**Commented [JM1]:** Revision re: Finance Committee Meetings

- Watershed Committee, which meets quarterly on the 3rd Thursday of the month in March, June, September and December.

From time-to-time the Board may establish ad hoc committees to address issues with a limited scope and duration. The Board President may appoint Board members to ad hoc committees. These committees are not subject to the Brown Act, since a quorum of the Board (3 or more Members) does not attend or participate.

Additionally, Board members may be assigned to represent the District before other broad based regional groups including: Tamalpais Lands Collaborative Executive Committee, Lagunitas Creek Sediment and Riparian Management Plan Technical Advisory Committee, North Bay Watershed Association, Tomales Bay Watershed Council, Sonoma County Water Agency Water Advisory Committee, North Bay Water Reuse Authority, Las Gallinas Recycled Water Committee, and Association of California Water Agencies.

## Preparation of Agenda and Order of Business

### *Agendas*

Meeting agendas specify the date, time and location of the meeting, in accordance with Brown Act requirements, and must contain a brief general description of each item of business to be transacted or discussed at the meeting. It should be clear from the agenda wording what will be discussed and what action is being proposed so members of the public can determine if they would like to observe or participate in the meeting. The Brown Act generally prohibits any Board action or substantive Board discussion of items that are not on the agenda.

Most items on the agenda originate from the General Manager and District staff. Staff maintains a detailed list of upcoming agenda items that is updated after each Board and committee meeting. Typical types of agenda items include the following:

- Policy direction from the Board;
- Public hearings;
- Items with overarching policy implications (e.g. strategic planning, budgeting, labor negotiations);
- Actions required by law;
- Actions on the overall implementation of a Board approved project or program (e.g. award of construction contracts, consideration of an environmental review document, etc.);
- Discretionary decisions for which authority has not been delegated to the General Manager; and
- Informational items to update the Board and public on District matters.

A draft agenda for regular Board meetings is developed by the General Manager and reviewed by the Board President prior to the agenda being publicly posted. The Board formally adopts the agenda for each meeting as an initial order of business after each meeting is called to order.

#### *Future Agenda Items*

Board members may request that items be placed on agendas during discussion of the “Future Agenda Items” portion of the agenda. A motion by a Board member and a second by another Board member will initiate bringing the item to a future meeting for discussion and consideration.

#### *Urgency Items*

In rare cases, a legitimate urgent need may arise that must be acted upon even though the item was not included on a posted agenda. The General Counsel shall be consulted on all urgency items. In order for the Board to take action on an urgency item, two determinations must be approved by a two-thirds vote of the Board members present (or by unanimous vote if less than two-thirds (2/3) but more than a quorum of members are present):

- There is an immediate need to take action; and
- The need for action arose after the agenda-posting deadline.

If the above requirements are met, the Board may vote to add the urgency item to the agenda.

### **Attendance, Conduct, Quorum & Voting, Rules of Order, Brown Act**

Board members should strive to attend all Board and committee meetings in person. If a Board member will be absent, he or she should notify the General Manager and Board President as soon as possible.

#### *Teleconferencing*

A Board member may participate in meetings via teleconference when not able to attend in person. For each meeting that a Board member will participate by teleconference, the Board member should notify the Board Secretary of his or her teleconference location prior to the agenda being posted, so that the agenda for the meeting will properly identify the teleconference location. All teleconference locations must be accessible to the public, have a copy of the agenda posted, and allow members of the public to address the Board at the teleconference location. When a Board member or members, participate via teleconference meeting all votes must be taken by roll call.

#### *Quorum/ Board Action*

~~A majority of Board members (three or more members) constitutes a quorum necessary for conducting business at a Board meeting.~~ The Board shall act only by motion, resolution or ordinance. A majority of the board shall constitute a quorum for the transaction of business; however, no ordinance, motion or resolution shall be passed to become effective without the affirmative vote of a majority of the members of the board (meaning three Board Members,

**Commented [JM2]:** Quorum Issue- Water Code 71274

regardless of quorum). ~~As long as a quorum of Board members is present, a simple majority of those Board members present is satisfactory to approve routine agenda items, such as approving the expenditure of funds, or passing an ordinance or resolution not requiring a supermajority.~~ A supermajority of votes is necessary to consider an urgency item not previously posted on the Board meeting agenda or to take certain actions in response to an emergency situation. The District utilizes the parliamentary procedure from Robert's Rules of Order to conduct Board meetings.

#### *Brown Act (Opening Meetings Law)*

In compliance with the Ralph M. Brown Act ("Act"), all meetings of the Board are to be held in open session, unless a closed session is expressly permitted by the Act, and the general public is permitted to attend all open sessions. In order to ensure proper public participation and that all decisions are reached only during public meetings, Board members should refrain from participating in phone calls or emails that:

- Discuss issues within the Board's subject matter jurisdiction and are directed to a majority of the Board members;
- Take a position or make commitments on matters yet to be decided by the Board; and/or
- Communicate his/her position on a matter pending before the Board to all other members of the Board.

### Meeting Minutes

Draft meeting minutes are prepared by the Board Secretary and presented to the Board and/or committee for approval at a next meeting of the Board or applicable committee.

## SECTION 4: Conference, Training, Reporting Requirements

### Conferences

In accordance with Board policy, Board members may elect to attend conferences, meetings and other functions from which the District derives specific benefit through attendance, including those affiliated with District membership in various associations. After attending the conference, meeting or training, the Board member who attended on behalf of the District should provide a brief oral report during the Directors' and General Manager's Announcements portion of the agenda to share information about the event with fellow Board members and the public.

### Mandatory Ethics and Sexual Harassment Prevention Training

The Board Ethics Policy promotes awareness of ethics, integrity and fidelity as critical elements in Board members' conduct and in achievement of the District's mission. The proper operation of the District requires that Board members remain objective and responsive to the needs of the public they serve, make decisions within the proper channels of governmental structure, and not

use public office for personal gain. Pursuant to the Board Ethics Policy and provisions of the California Government Code set forth in Assembly Bill 1234, Board members are required to receive two hours of ethics training within the first six months of taking office and every two years thereafter.

Board members must also receive two hours of sexual harassment prevention training within the first six months of taking office and every two years thereafter. The District's current Sexual Harassment Policy is intended to prevent sexual harassment in the work environment and provides procedures for resolving complaints of sexual harassment.

### Public Records Act Training

All records of the District, except those exempt from disclosure pursuant to the California Public Records Act and/or other applicable laws, are public records. Any person may examine public records during regular business hours of the District or may obtain a copy of requested records in accordance with the California Public Records Act. For convenience to the public, the District has a Public Records Act Request form on its website and provides electronic records at no charge to the public.

The Board Secretary maintains a records retention policy and works with the General Counsel's Office in responding to Public Records Act requests. The Board Secretary and the General Counsel conduct periodic in-house trainings pertaining to the California Public Records Act. Board members are encouraged to participate in said training.

The Board Secretary maintains certificates of completion and a training log for all Board member training. The Board Secretary keeps Board members informed of all training requirements and applicable due dates to ensure compliance with applicable laws.

### Conflict of Interest/Form 700

State laws attempt to eliminate any action by a Board member that may implicate a conflict of interest. The purpose of such laws and regulations is to ensure that all actions taken are in the public interest. The Political Reform Act of 1974 requires public officials and designated employees to disclose financial interests that could cause a conflict of interest. Public officials may be required to disqualify themselves from making, participating in, or attempting to influence any decision that will materially affect their financial or economic interest. If a Board member is unsure whether or not he or she may have a disqualifying economic interest, he or she should consult the General Counsel as soon as possible.

Economic interests include, but are not limited to, those items public officials are required to report on the Form 700, Fair Political Practices Commission ("FPPC") "Statement of Economic Interest" and include sources of income, business interests and real estate investments. The Form 700 also requires the annual reporting of all gifts received that are valued at \$50 or greater

in a calendar year. -The Political Reform Act precludes the acceptance of any gifts with a value totaling more than \$500 in a calendar year. -These Form 700s are provided to Board members each calendar year, and within 30 days of assuming or leaving office, and filed with the Board Secretary who forwards them to the FPPC and makes them available for public inspection and reproduction.

#### *Conflict of Interest Reporting at Board Meetings*

A Board member may be disqualified from participating in agenda items that present a financial conflict of interest. If a Board member is disqualified due to a financial conflict, he or she must abstain from the item, state the reason for the disqualification, and leave the room during the agenda item (unless the item is listed on the consent calendar).

## SECTION 5: Compensation/Benefits

### Board Compensation

The District has adopted a policy regarding Compensation of Elected or Appointed Officials to address Board member compensation.

Each Board member shall receive as compensation \$200 per day for each day's attendance at meetings of the Board or for each day's service rendered as a Board member by request of the Board. -No Board member may receive compensation for more than 10 days in any calendar month. -The District authorizes payment to Board members at the daily compensation rate for attending Board meetings and committee meetings. -In addition, pursuant to Board policy, the District authorizes payment of the daily compensation rate to Board members for attendance at other specified meetings or attendance at other District business as authorized by the General Manager.

Additionally, Board members receive medical and dental benefits consistent with other District employees.

### Travel Authorization and Reimbursement of Travel Expenses

In accordance with Board policy, Board members may attend, travel and seek reimbursement of all normal and necessary expenses incurred while attending conferences, training, meetings and other functions from which the District derives a specific benefit through attendance. Only that travel/attendance which serves a District purpose and is deemed necessary and/or advantageous to the District shall be approved and reimbursed. Travel shall be by means most economical to the District. Board members are expected to exercise sound judgment in the incurring and submittal of travel expenses in keeping with the standards and proprieties of a visible and accountable public agency.

Reimbursement of costs shall be based on the minimum number of days and hours required to transact District business. -Early departures and late arrivals shall be at the Board member's own expense, except where savings to the District can be demonstrated. -Reimbursement will not be allowed for travel between a Board member's residence and the location of a meeting that does not exceed the Board member's normal commute distance to the District's office.

Items of a personal nature are not reimbursable, including but not limited to: movies, entertainment, premium television services, alcoholic beverages, dry cleaning, spas, gyms, barber, magazines, shoe shines, travel insurance, purchase of clothing or toiletries, loss of tickets, fines or traffic violations, excess baggage costs, spouse and/or guest expenses/ accommodations, repairs to personal vehicles, and office equipment. -Optional tours, banquets or other activities not related to District business offered through a conference, but as an additional cost to registration, are solely at the discretion of the Board member and will be considered a personal expense.

## SECTION 6: Other Related Information

### *Human Resources*

The Board has established a District Human Resources (HR) goal to "Ensure a stable and talented workforce to do the District's work today and into the future." This goal is based on District values of promoting diversity in and equitable treatment of its employees; providing a healthy work environment; and continuously improving through the promotion of initiatives, leadership and personal development and training. -Ensuring District HR policy is current and consistent with this strategy is a shared responsibility between staff and the Board. -Board members should be familiar with key HR documents including but not limited to: the Equal Employment Opportunity Policy, labor agreements with both represented and non-represented employees, benefit summaries, job descriptions and salary schedules.

### *Risk Management and Emergency Operations*

The District maintains a range of insurance coverage to limit financial risks, which may occur from an uncertain event or loss. -The District's insurance portfolio includes both a self-insured component and third party insurance coverage. -The third-party insurance coverage provides coverage for the following: Property Damage, General & Auto Liability (including vehicle physical damage), Public Officials Errors and Omissions (E&O) and Employee Practices Liability, Employee Fidelity, Workers' Compensation and Cyber Liability coverage.

The Public Officials E&O coverage insures Board members and District officers against claims made against them for "breach of duty" occurring through negligence, error or unintentional omission. Violations of certain laws and regulations by a Board member, such as discrimination, harassment or fraud, may result in that individual member being personally liable for damages that may not be covered by this insurance policy.

All insurance coverage is annually reviewed and approved by the Board. Additionally, District contract language for procuring equipment, supplies and services (including consultant services), includes general provisions that reduce potential risks to the District. –These contracting provisions include, but are not limited to, the following topics: indemnification, insurance, nondiscrimination and conflict of interest.

The District maintains an active emergency preparedness program that includes an Emergency Operations Plan (EOP) to help manage District critical functions during an emergency and ensure the safety of staff. The EOP has been prepared to provide a plan of action in response to various emergencies that may involve the District and/or its facilities. –The plan primarily addresses the possible emergencies of earthquake, electrical power failure, fire, flood, hazardous or toxic spills, potential water contamination, vandalism and sabotage, and vehicle or personnel accidents. The District coordinates its EOP, functions and response with first responders from other public and private entities and organizations, and the District designates staff as liaisons with general-purpose government Emergency Operations Centers as necessary. –The General Manager, or his designee, may request mutual aid assistance from other local government or public agencies, or commit District resources to other agencies requesting aid. –The General Manager provides regular reports to the Board on the District’s response to emergency situations and presents annual reports on the District Emergency Preparedness Program. Each Board member receives a copy of the EOP, which is updated from time to time.

When an emergency situation arises, the General Manager may award necessary contracts without competitive bidding. The Board must ratify the emergency contract award within 14 days.

#### *Electronic Equipment, Data and Software*

The District’s employees are given access to the District’s software, information and applications to perform the functions of the District. Information and applications developed by employees are added to the District’s overall information system. –The District purchased data for the District’s Geographic Information System from the County of Marin.

Board members are regarded as “District employees” with respect to the use of District electronic equipment, data and software and should follow the same rules as District employees. –As with any District employee, Board members should only use these materials for District business and assure no dissemination of the materials to the public. –Any requests for use of District electronic data and software will be subject to approval by the General Manager.

#### *Community Outreach*

Supplementing Board member assignments to participate in broad based regional groups, the District provides extensive community outreach programs through its Water Conservation, Watershed Management and Public Information departments. Outreach activities and opportunities can be located on the District’s website and through its social media accounts.

#### *Association Memberships*

The District holds memberships in and attends meetings of associations, which have applicability to District functions, and looks upon such memberships as opportunities for in-service training. Board members may participate in the following associations with which the District holds memberships: the American Water Works Association (AWWA), the Association of California Water Agencies (ACWA) and the Water Environment Association (WEA). Board members who vote or hold a formal position in these associations recognize that they are representing the District when attending these functions.

When Board members are attending meetings on their own accord, and are not requested to attend by the Board, Board members are cautioned that they are not authorized to officially represent the District at those meetings.

#### *Orientation of New Board Members*

Newly elected Board members are subject to the Brown Act immediately upon being elected to office, even though their swearing in does not occur until noon on the first Friday in December. Current and newly elected Board members should remain cognizant of this when communicating with each other in order to prevent an unintentional serial meeting from occurring, which would constitute a violation of the Brown Act.

The Board Secretary is the point of contact for newly elected Board members regarding:

- Filing an assuming office Statement of Economic Interests Form 700 with the FPPC within 30 days of taking office;
- Completing mandatory Ethics and Harassment training;
- Procuring a suitable photograph and developing a brief biography to be posted on the District website;
- Completing employee on-boarding, payroll and benefit paperwork and setting up a District email account; and
- Providing important reading materials including the Board of Directors Handbook, District policies, recent water rate information and Cost of Service Analysis, budgets, capital improvement program information and Water Resources Plan.

The General Manager is the point of contact for newly elected Board members to tour District offices, meet staff, visit key facilities and address pertinent questions.

The General Counsel is the point of contact for all legal matters, including conflicts of interest and the Brown Act.

## Approval Item

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### **TITLE**

Change the Employer's Contribution Rate for Health Insurance to comply with the requirements of Government Code Section 22892(a) and 22892(b), and to comply with the requirements of Government Code Section 7507 in electing the benefits set forth below

### **RECOMMENDATIONS**

Adopt resolutions that will change the District's contribution rate paid for health insurance premiums based on increases to the rates

### **SUMMARY**

Health insurance costs change annually based on the premiums of insurance providers that are provided to CalPERS, the District's source of health insurance. The attached resolutions, required by CalPERS, will document the employer's contribution by the District to the cost of health coverage.

### **DISCUSSION**

CalPERS requires that an employer contracting for health coverage under the Public Employees' Medical and Hospital Care Act (PEMHCA) shall fix the employer's contribution by resolution (Government Code Section 22892(a) (b)). The District has fully complied with Government Code Section 7507 in electing the benefits set forth below.

Under the existing agreement with SEIU and the Board resolution covering unrepresented employees, the District sets the employer's contribution at the cost of the health plan that falls in the middle of plans offered by PERS (which for 2022 is Anthem HMO Select).

All affected parties were notified by CalPERS of the new health insurance rates in late August/early September 2021.

The attached resolutions will fix the contribution rate to be paid by the District to meet the requirements of the agreements between the District and employee groups for calendar year 2022.

### **FISCAL IMPACT**

There is no fiscal impact to the adopted budget. The budget for health insurance is included in each department's operating budget under employee benefits. The total amount budgeted for health insurance premiums in 2021/22 is \$4.3 million. The new health insurance premium rates are effective January 1, 2022.

**ATTACHMENT(S)**

- 1. Resolution for CalPERS Health 2022 – Employees or Annuitants
- 2. Resolution for CalPERS Health 2022 – Board of Directors
- 3. CalPERS Circular

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Human Resources	 Vikkie Garay Human Resources Manager	 Ben Horenstein General Manager

RESOLUTION NO. \_\_\_\_\_

**FIXING THE EMPLOYER CONTRIBUTION AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

WHEREAS, (1) Marin Municipal Water District is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act"); and

WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and

WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; and

RESOLVED, (a) That the employer contribution for each employee or annuitant (000 All Employees) shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members in a health benefits plan up to a maximum of \$1,015.81 per month with respect to employee or annuitant enrolled for self alone, \$2,031.62 per month for employee or annuitant enrolled for self and one family member, and \$2,031.62 per month for employee or annuitant enrolled for self and two or more family members, plus administrative fees and Contingency Reserve Fund assessments; and be it further

RESOLVED, (b) Marin Municipal Water District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further

RESOLVED, (c) That the participation of the employees and annuitants of Marin Municipal Water District shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that Marin Municipal Water District would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer.

RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, The Human Resources Manager to file with the Board a verified copy of this resolution and to perform on behalf of Marin Municipal Water District all functions required of it under the Act.

Adopted at a regular meeting of the Board of Directors at Corte Madera, CA, this 21<sup>st</sup> day of September 2021.

Signed: \_\_\_\_\_

President, Board of Directors

Attest: \_\_\_\_\_

Secretary to the Board

RESOLUTION NO. \_\_\_\_\_

**FIXING THE EMPLOYER CONTRIBUTION AT AN EQUAL AMOUNT FOR BOARD MEMBERS UNDER THE  
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

- WHEREAS, (1) Marin Municipal Water District is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act"); and
- WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and
- WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for board members, but may not be less than the amount prescribed by Section 22892(b) of the Act; and
- RESOLVED, (a) That the employer contribution for each board member (700 Non-PERS Board of Directors) shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members in a health benefits plan up to a maximum of \$1,015.81 per month with respect to board member enrolled for self alone, \$2,031.62 per month for board member enrolled for self and one family member, and \$2,031.62 per month for board member enrolled for self and two or more family members, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) Marin Municipal Water District has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of Marin Municipal Water District shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that Marin Municipal Water District would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer.
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, The Human Resources Manager to file with the Board a verified copy of this resolution and to perform on behalf of Marin Municipal Water District all functions required of it under the Act.

Adopted at a regular meeting of the Board of Directors at Corte Madera, CA, this 21st day of September 2021.

Signed: \_\_\_\_\_  
President, Board of Directors

Attest: \_\_\_\_\_  
Secretary to the Board



California Public Employees' Retirement System  
P.O. Box 942715 | Sacramento, CA 94229-2715  
(888) CalPERS (or 888-225-7377) | TTY: (877) 249-7442  
[www.calpers.ca.gov](http://www.calpers.ca.gov)

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## Health Benefits

# Circular Letter

July 8, 2021

Circular Letter: 600-047-21

Distribution: Special

**To: Contracting Agency Health Benefits Officers and Assistant Health Benefits Officers**

**Subject: Contracting Agency Administrative Fee for Fiscal Year 2021-22, Contribution Change and Termination Processes, and Health Billing Dates**

### Purpose

The purpose of this Circular Letter is to inform you of the contracting agency administrative fee for fiscal year 2021-22, and the contribution change and termination processes. Additionally, this letter provides health billing cutoff dates and other information about your health bill.

### Administrative Fee

The CalPERS Board of Administration has increased the Public Employees' Medical and Hospital Care Act (PEMHCA) administrative fee from 0.24% to 0.25% for fiscal year 2021-22, starting on July 1. The administrative fee is calculated on the total active and retired gross health premiums and billed to contracting agencies monthly. The new administrative fee becomes law upon passage of the State of California budget for the fiscal year 2021-22.

### Contribution Change Process

Contracting agencies have the option to revise their monthly employer health contribution. To do so, agencies must submit a change resolution, which becomes effective the first day of the second month following receipt by CalPERS. They must be filed with CalPERS by November 30, 2021 to become effective on January 1, 2022.

## Termination Process

Contracting agencies may elect to terminate their participation in PEMHCA by filing a termination resolution passed by a majority vote of their governing body. Termination resolutions must be filed with CalPERS no later than 60 days after the CalPERS Board approves the health premiums for the new contract year.

Termination resolutions must be received by CalPERS no later than September 13, 2021 at 5:00 p.m. to be effective on January 1, 2022. Termination resolutions are irrevocable once filed. Terminated agencies may not re-enter PEMHCA for five years from the termination date.

Contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**) to request a change or termination resolution template from our Health Resolutions and Compliance Unit.

## 2021 Health Billing Cutoff Dates

The current billing cutoff dates for the remainder of calendar year 2021 are provided below. A full year of billing cutoff dates are provided to contracted agencies every January.

All employers must key and submit transactions by 11:59 p.m. on the cutoff date for each billing month. If a contracting agency keys and submits a transaction after the cutoff date, the transaction will appear on the subsequent month's statement. Employers must verify all transactions in myCalPERS to ensure they have been accurately uploaded.

Coverage Month	STRS Employees and Annuitants	PERS and OTHER (Non-PERS) Employees and Annuitants	Statement Available	Payment Due
07/2021	06/08/2021	06/09/2021	06/15/2021	07/09/2021
08/2021	07/06/2021	07/07/2021	07/15/2021	08/10/2021
09/2021	08/03/2021	08/11/2021	08/17/2021	09/10/2021
10/2021	08/31/2021 <sup>1</sup>	09/08/2021	09/15/2021	10/08/2021
11/2021	10/05/2021 <sup>1</sup>	10/06/2021	10/15/2021	11/10/2021
12/2021	11/02/2021 <sup>1</sup>	11/03/2021	11/16/2021	12/10/2021
01/2022	11/30/2021 <sup>1</sup>	12/08/2021	12/15/2021	01/10/2022

<sup>1</sup>Note these dates are subject to change as STRS will be going through a system migration during this time.

## **How Payments Are Applied**

All payments are mandated to Electronic Funds Transfer (EFT) only. Agencies may submit their EFT payment by logging in to myCalPERS at [my.calpers.ca.gov](http://my.calpers.ca.gov) and following the prompts on the **Payment Summary** page.

### **Underpayments**

The Total Payment Due includes the current Receivable ID, any past due Receivable ID(s), and assessed interest from any prior delinquent month(s).

If you do not pay the full amount provided under Total Payment Due of your billing statement, CalPERS will apply the payment we receive to the current period only and not to any past due amounts.

If you want to have your payment applied to a prior delinquency, you must specify each Receivable ID to which your payment should apply. Unless you specify the Receivable ID to which your payment should apply, we will continue to assess interest on the delinquent receivable.

If you provide documentation that confirms a payment was received on time and in full, the interest will be reversed.

### **Overpayments**

If you overpay the Total Payment Due amount when there is not a past due Receivable ID, the current Receivable ID will be paid and closed. The credit will be applied to a future Receivable ID.

## **Interest on Late Payments**

Payment must be received by the 10th day of each month. If the 10th day falls on a weekend or holiday, payment must be received by the preceding business day. Interest is assessed on the unpaid receivable balance beginning on the 11th day of the month at an annual rate of 10% until paid in full. Refer to [Circular Letter #600-026-15 \(PDF\)](#) for additional information regarding interest and delinquency.

## **Key Points in Reconciling**

We strongly encourage contracting agencies to reconcile their monthly statements to ensure all enrollments are accurately reflected for active and retired members. Reconciliation ensures that employers are accurately billed and only eligible members are receiving benefits. Below are helpful reminders for a successful reconciliation:

- Submit approved resolutions for contract changes in a timely manner.

- Report health enrollment transactions accurately and timely to ensure transactions will be reflected on the statement (refer to [Circular Letter #600-002-18 \(PDF\)](#)).
- Confirm health enrollment changes by utilizing the Monthly Employer Billing Roster in myCalPERS.
- Reconcile the monthly statement to the Monthly Employer Billing Roster to ensure coverage of eligible members only and the accuracy of their retirement system and medical group enrollment.
- Key permanent separation dates of members or deletion of dependents in myCalPERS in a timely manner to receive the allowed maximum refund (six months) of health premiums (refer to [Circular Letter #600-215-05 \(PDF\)](#)).
- Pay each statement on time and as billed, including assessed interest and penalties; any adjustments will be reflected on a future statement.
- There are two Public Agency (PA) Billing contacts. Ensure there is a Health PA Billing–PERS and/or Health PA Billing–Non-PERS contact listed for your agency. If you need to add one, select **Primary Contact** to ensure proper delivery of the monthly statement.

## Questions

We are committed to assisting you conduct business with the CalPERS Health Benefits Program. If you have any questions, visit [www.calpers.ca.gov](http://www.calpers.ca.gov) or call our CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

Rob Jarzombek, Chief  
Health Account Management Division



**Item Number:** 07  
**Meeting Date:** 09-21-2021  
**Meeting:** Board of Directors

## Informational Item

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**TO:** Board of Directors

**FROM:** Ben Horenstein, General Manager

A handwritten signature in blue ink, appearing to be "BH".

**ITEM:** Drought Update

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### **SUMMARY**

Staff continues efforts responding to the historic drought conditions through conservation outreach and engagement with the community, optimizing existing water supply, and planning for emergency drought supplemental supply. At the meeting on September 21, staff will provide the Board an update on District drought response efforts.

### **DISCUSSION**

In response to drought conditions and historically low reservoir storage levels, the Board declared a water shortage emergency on April 20, 2021, and adopted mandatory water use restrictions targeting an overall 40% reduction in water use to extend current water supplies. Recognizing that the District's typical water use nearly doubles during the summer months as compared to the winter, largely due to outdoor irrigation, the Board adopted mandatory irrigation restrictions in May and further restrictions in July to limit sprinkler irrigation to one day per week. At the July 20<sup>th</sup> Board meeting, the Board adopted Ordinance No. 453 requiring new connections to defer potable water irrigated landscape installation until after the conclusion of the Water Shortage Emergency. Staff will provide an update to the Board on current water supply conditions, trends in water use, drought outreach and communications, conservation program updates, and efforts to secure emergency drought supplemental supply.

### **FISCAL IMPACT**

As previously shared with the Board, the combined loss in revenue and unbudgeted expenses due to the drought is projected at \$20.5M over the next four months due to mandatory conservation efforts. The District's reserves, along with tight expenditure controls, are anticipated to be the initial approach to address the deficit.

### **ATTACHMENT(S)**

None

## Approval Item

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### **TITLE**

Adoption of an Ordinance Amending Chapter 13.04 Entitled “Comprehensive Drought Water Conservation and Enforcement Measures” to Title 13 of the Marin Municipal Water District Code Establishing Limits on Water Use and Associated Penalties

### **RECOMMENDATION**

Adopt an Ordinance establishing water use limits for certain types of water accounts within the District to curtail outdoor water use during the winter and summer service periods and to impose associated penalties that would apply to water use in excess of new water use limits.

### **SUMMARY**

Due to the severe drought conditions existing within the District’s service area, staff has developed additional measures to reduce customer water usage, including potential drought penalties for water use in excess of the proposed new water use limits. Staff provided the Board an overview of potential drought penalties on high water users at the September 7, 2021 regular Board meeting. The Board directed staff to bring back a draft ordinance to establish new water use limits on certain types of water accounts to further restrict outdoor water use, with limits and penalties tied to the winter and summer service periods.

### **DISCUSSION**

District reservoirs are currently at historically low levels and it is uncertain how much rainfall will occur this winter. Therefore, staff continues to explore additional opportunities to reduce water usage and conserve the District’s limited water supply. Among the opportunities identified, the implementation of penalties on high water users may encourage greater water conservation among the majority of District water accounts by virtue of both the financial penalty to high water users as well as the associated conservation messaging to those who do not get penalized.

The proposed Ordinance No. 454 would establish a cap on water usage, and water accounts that exceed the cap will be charged a penalty on each CCF of water exceeding the cap as follows:

**Single-family residential water accounts on metered service and associated non-metered accessory dwelling units, Billing Code 1.**

<u>Winter Use (CCF)</u>	<u>Winter Penalty Per CCF of Water Use in This Range</u>	<u>Summer Use (CCF)</u>	<u>Summer Penalty Per CCF of Water in This Range</u>
22-48	\$5	60-99	\$10
49-80	\$10	100+	\$15
81+	\$15		

**Single-family residential irrigation water accounts, on metered service, Billing Code 19.**

<u>Winter Use % of Baseline</u>	<u>Winter Penalty Per CCF of Water in This Range</u>	<u>Summer Use % of Baseline</u>	<u>Summer Penalty Per CCF of Water in This Range</u>
0-50%	\$5	51-100%	\$10
51-100%	\$10	Over 100%	\$15
Over 100%	\$15		

**Commercial irrigation accounts, on metered service, Billing Code 8**

<u>Winter Use % of Baseline</u>	<u>Winter Penalty Per CCF of Water in This Range</u>	<u>Summer Use % of Baseline</u>	<u>Summer Penalty Per CCF of Water in This Range</u>
0-85%	\$5	86-150%	\$10
86-150%	\$10	Over 150%	\$15
Over 150%	\$15		

The penalties set forth above would be adopted pursuant to Article XIII C, Section 1 (e)(5) of the California Constitution, more commonly known as Proposition 26, as the penalties would be imposed for violations of the water use limits contained in Ordinance No. 454, described above.

If adopted, the penalties would become effective December 1, 2021 to assure adequate notice as well as to assure they apply only to new bi-monthly billing periods following the adoption of proposed Ordinance No. 454.

**FISCAL IMPACT**

Adoption of drought penalties on high water users would initially yield increased income to the District. As high water users change their behaviors and reduce water usage, the amount of income derived from the drought penalties will likely decline. The estimated increase in income will depend on the amount of the penalties and the number of penalties assessed.

**ATTACHMENT(S)**

Proposed Ordinance No. 454

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Engineering	 <b>Crystal Yezman</b> Director of Engineering	 <b>Ben Horenstein</b> General Manager

**MARIN MUNICIPAL WATER DISTRICT**

**ORDINANCE NO. 454**

**AN ORDINANCE AMENDING CHAPTER 13.04 ENTITLED “COMPREHENSIVE DROUGHT WATER CONSERVATION AND ENFORCEMENT MEASURES” OF TITLE 13 OF THE MARIN MUNICIPAL WATER DISTRICT CODE ENTITLED “WATER SERVICE CONDITIONS AND WATER CONSERVATION MEASURES” ESTABLISHING LIMITS ON WATER USE AND ASSOCIATED PENALTIES**

**BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE MARIN MUNICIPAL WATER DISTRICT AS FOLLOWS:**

**SECTION 1. Purpose:** Due to the current drought conditions and low storage reservoir levels existing in the service area of the Marin Municipal Water District (District), the Board of Directors (Board) declared a water shortage emergency on April 20, 2021 pursuant to Water Code sections 350, et seq. and 71640, et seq. as set forth in Board Resolution No. 8630 and subsequently adopted Ordinance Nos. 449, 450, 452, and 453 instituting mandatory water conservation measures for all District customers. The purpose of this ordinance is to establish limits on water use and penalties for water use in excess of the new water use limits. The adoption of these additional measures is necessary to substantially reduce or eliminate water use for outdoor irrigation and preserve remaining water supply given the uncertainty of future supply conditions due to drought.

**SECTION 2. Section 13.04.025 entitled “Limits on water use” is hereby added to the Marin Municipal Water District Code to read as follows:**

- (a) All single-family residential water accounts on metered service, and all single-family residential consumers with two legal living units not required to have separate meters pursuant to Section 11.04.070, Billing Code 1, shall limit water use during each bimonthly billing period to no more than 21 CCFs of water during the winter service period and no more than 59CCFs of water during the summer service period. The District will use the Marin County Assessor-Recorder County Use Codes to determine if a property is a single-family residential property with two living units, which shall be assessed the Billing Code 1 bimonthly commodity charge, as designated by Marin County Assessor-Recorder County Use Codes 10-14.
- (b) All single-family residential irrigation water accounts, on metered service, Billing Code 19, shall limit water use during each bimonthly billing period to 0% of their current baseline during the winter service period and to 50% of their current baseline during the summer service period.
- (c) All commercial irrigation water accounts, on metered service, Billing Code 8, shall limit water use during each bimonthly billing period to 0% of their current baseline during the winter service period and to 85% of their current baseline during the summer service period.

For the purposes of this chapter, the winter service period is defined as the months December through May and the summer service period is defined as the months June through November. The winter use schedule shall be applied on all bills for which the meter is read during the winter

service period. The summer use schedule shall be applied to all consumption on bills for which the meter is read during the summer service period. All irrigation water accounts to include Billing Codes 8 and 19, shall not be allowed to modify their baseline adjustments pursuant to section 11.24.050 of the District Code while sections 13.04.025 and 13.04.026 are in effect.

**SECTION 3. Section 13.04.026 entitled “Penalties for water use in excess of limits” is hereby added to the Marin Municipal Water District Code to read as follows:**

Effective as of December 1, 2021, any water use in excess of the limits set forth in section 13.04.025 shall be subject to penalties as set forth in this section.

- (a) All single-family residential water accounts on metered service, and all single-family residential water accounts with two legal living units not required to have separate meters pursuant to Section 11.04.070, Billing Code 1, that exceed the limits on water use set forth in section 13.04.025 (a), shall be charged the penalties set forth below for each CCF of water use in excess of the limits plus all other applicable charges set forth in Title 6.

<u>Winter Use (CCF)</u>	<u>Winter Penalty Per CCF of Water in Excess of Limit</u>	<u>Summer Use (CCF)</u>	<u>Summer Penalty Per CCF of Water in Excess of Limit</u>
22-48	\$5	60-99	\$10
49-80	\$10	100+	\$15
81+	\$15		

- (b) All single-family residential irrigation water accounts, on metered service, Billing Code 19, that exceed the limits on water use set forth in Section 13.04.025 (b), shall be charged the penalties set forth below for each CCF of water use in excess of the limits plus all other applicable charges set forth in Title 6.

<u>Winter Use % of Baseline</u>	<u>Winter Penalty Per CCF of Water in Excess of Limit</u>	<u>Summer Use % of Baseline</u>	<u>Summer Penalty Per CCF of Water in Excess of Limit</u>
0-50%	\$5	51-100%	\$10
51-100%	\$10	Over 100%	\$15
Over 100%	\$15		

- (c) All commercial irrigation accounts, on metered service, Billing Code 8, that exceed the limits on water use set forth in Section 13.04.025(c), shall be charged the penalties set forth below for each CCF of water use in excess of the limits plus all other applicable charges set forth in Title 6.

<u>Winter Use % of Baseline</u>	<u>Winter Penalty Per CCF of Water in Excess of Limit</u>	<u>Summer Use % of Baseline</u>	<u>Summer Penalty Per CCF of Water in Excess of Limit</u>
0-85%	\$5	86-150%	\$10
86-150%	\$10	Over 150%	\$15
Over 150%	\$15		

The limits on water use set forth in section 13.04.025 and the penalties set forth in this section shall be subject to the variance procedures set forth in section 13.04.030, the appeals process set forth in section 13.04.060 and adjustments as set forth in section 13.04.027. Variances issued to comply with Section 13.04.020 are insufficient to meet the requirements of section 13.04.025. A variance specific to section 13.04.025 will be required. Any adjustments made pursuant to this section shall apply from the date the District grants a variance. No retroactive adjustments will be made.

**SECTION 4. Section 13.04.027 entitled “Adjustment of limits on water use for larger households” is hereby added to the Marin Municipal Water District Code to read as follows:**

The limits on water use for all single-family residential water accounts on metered service, and all single-family residential water accounts with two legal living units not required to have separate meters pursuant to Section 11.04.070, Billing Code 1, set forth in Section 13.04.025 (a) may be adjusted by the District for households with more than four (4) full-time residents. Accounts serving more than four (4) full-time residents must submit a District-supplied application form and documentation demonstrating their household size to the District in order to receive an adjustment. For each full-time household resident, in excess of four (4), the District will increase the limits on water use set forth in Section 13.04.025 (a) by four (4) CCFs per bimonthly billing period. For purposes of this section, a full-time household resident shall mean an individual who resides at the property served for a minimum of six months of the year. Any adjustments made pursuant to this section shall apply from the date the District receives a complete application. No retroactive adjustments will be made.

**SECTION 5. Findings of Necessity:** The Board of Directors, after considering all of the information and testimony presented at its September 21, 2021 public hearing regarding this ordinance, finds as follows:

- I. Historic and Current Water Supply Overview
  - A. Water is a finite and precious resource.
  - B. The District’s water supply currently remains limited to water captured in its seven reservoirs; water transported from the Russian River via the North Marin aqueduct; and recycled water produced at the Las Gallinas Valley Sanitary District Plant (for a variety of non-potable purposes). About 73% of the District’s water supply comes from its reservoirs, 25% from the Russian River through the North Marin aqueduct and 2% from recycled water. Although options to increase the District’s water supply are being evaluated, the implementation of any preferred alternative will not be immediate.
  - C. Based upon rainfall patterns for the District, very little rainfall occurs from May to October each year. In recent years, the overall summer peak-period has found water use averages about twice winter use.
  - D. The water conservation program already adopted by this Board is necessary to conserve additional water for beneficial use and to preserve the District’s water supply.

- E. As of September 16, 2021 the District's water storage level is 28,447 acre feet, which is 35.75% of average for this time of year. As a result of this drought, the District reservoirs are projected to be below 25,000 acre-feet on December 1, 2021 in the absence of above average rainfall and runoff, which is less than one-year of water supply based on recent demand.
- F. Projections indicate that another dry water year could result in reservoir storage levels as low as 10,000 acre feet in summer or fall of 2022, resulting in uncertainty as to the continued water supply availability.
- G. Continued conservation is needed to assure water supply availability.

## II. Limits on Water Use and Associated Penalties

- A. On April 20, 2021, pursuant to Board Resolution No. 8630, the District declared a water shortage emergency pursuant to Water Code sections 350, et seq. and 71460, et seq.
- B. Based upon projected demand and current storage levels, the District must preserve its remaining water supply to assure sufficient supply in the coming months given the uncertainty of future weather and water storage.
- C. Article X Section 2 of the California Constitution declares that the general welfare requires that water resources be put to beneficial use to the fullest extent of which they are capable and that the waste, unreasonable use or unreasonable method of use of water be prevented, and that conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare.
- D. California Water Code section 71640 authorizes the District to restrict the use of water during any emergency caused by drought, or other threatened or existing water shortage, and prohibit the wastage of District water or the use of District water during such periods for any purpose other than household uses or such other restricted uses as the District determines to be necessary. The District may also prohibit use of District water during such periods for specific uses which it finds to be nonessential.
- E. Pursuant to Water Code section 353 when the Board declares the existence of an emergency condition of water shortage within its service area, it shall thereupon adopt such regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will in the sound discretion of such governing body conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection.
- F. The Board has adopted such regulations and restrictions on water use with the adoption of Ordinances 449, 450, 452 and 453 respectively.
- G. In addition to the conservation measures already adopted by the Board, the Board finds that the limits on water use and associated penalties set forth herein are necessary to reduce excessive water use and preserve the District's existing water supply.

- H. The Board finds that the penalties set forth herein for exceeding the limits on water use are being adopted pursuant to Article XIII C, Section 1(e)(5) of the California Constitution, commonly known as Proposition 26, as the penalties are being imposed by the District for violations of law.
- I. Furthermore, the Board finds that the penalties set forth herein are not a tax. The amounts of such penalties are no more than what is necessary to cover the reasonable cost of the District's water conservation and enforcement activities. The penalties assessed bear a fair and reasonable relationship to the payor's burdens on the District.

**SECTION 6. Environmental Determination:** This project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and based upon the above findings and purposes of this ordinance, qualifies for an exemption pursuant to Section 21080(b)(4) of the Public Resources Code in that the Board of Directors find that these measures are necessary to preserve water supply to prevent or mitigate a water supply emergency.

**SECTION 7. Severability:** If any section, subsection, sentence, clause, phrase, portion or part of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such section shall not affect the validity of the remaining portions of this code. The Board of Directors hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections subsections, clauses, phrases, parts or portions be declared invalid or unconstitutional.

**SECTION 8. Effective Date:** Pursuant to Water Code section 376, this ordinance shall be effective on the day of its adoption. Within 10 days of adoption, this ordinance, or a summary hereof, shall be published in the Marin Independent Journal pursuant to Section 6061 of the Government Code.

**PASSED AND ADOPTED** this 21st day of September, 2021, by the following vote of the Board:

**AYES:**

**NOES:**

**ABSENT:**

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**President, Board of Directors**

**ATTEST:**

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**Secretary, Board of Directors**



## Informational Item

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**TO:** Board of Directors

**FROM:** Crystal Yezman, Director Engineering *CY*

**THROUGH:** Ben Horenstein, General Manager *BH*

**DIVISION NAME:** Engineering

**ITEM:** Additional Water Use Restrictions

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### SUMMARY

Due to continued dry conditions and historically low reservoir storage levels, the Board declared a water shortage emergency and adopted mandatory water use restrictions at the April 20th Board meeting. Further restrictions were adopted at subsequent Board meetings, including: April 20th- various prohibitions, including power washing of any structure, or using potable water to wash vehicles except at commercial carwash facilities, May 4th – 2 days/week spray irrigation, July 6th – 1 day/week spray irrigation with assigned days, and July 20<sup>th</sup> – landscape restrictions for new connections

Recognizing the need for further reductions, both to address the current drought and to achieve long-term savings, staff will provide a presentation to review and recommend some additional approaches for consideration by the Board.

### DISCUSSION

There are many water utilities across the Western United States that have implemented programs to reduce ongoing water demands with varying levels of demand reduction results in per capita water usage. Staff will present a review of other programs, including the District's per capita usage compared to a number of other water utilities. This "Best In Class" discussion will be framed around indoor and outdoor immediate and long-term water savings opportunities, including restrictions for non-functional turf and residential lawn areas, and further restrictions on irrigating and filling of pools.

### FISCAL IMPACT

There is no fiscal impact.

### ATTACHMENT(S)

None

## Approval Item

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### **TITLE**

Approval of resolutions authorizing the commencement of proceedings in connection with the issuance, sale and delivery of revenue bonds to finance the Emergency Intertie Project and expressing official intent regarding capital expenditures to be reimbursed with proceed of an obligation

### **RECOMMENDATION**

Adopt resolutions to allow staff to commence actions to issue bonds for the Emergency Intertie Project and to allow the District to use bond proceeds to reimburse costs incurred for the project prior to issuance of bonds.

### **SUMMARY**

In response to the ongoing drought, the District is contemplating a project that would connect the District's water distribution system to East Bay Municipal Utility District (EBMUD), via a pipeline on the Richmond-San Rafael Bridge, in order to provide an additional source of water for District customers. The proposed project is estimated to cost between \$60 million and \$90 million and will require debt financing. The attached resolutions, respectively, authorize staff to begin the process to issue debt and allow the District to recover project costs incurred prior to debt issuance.

### **DISCUSSION**

At the September 7, 2021 meeting of the Board of Directors, staff presented an information item on the proposed project to connect the District's water distribution system to EBMUD in order to provide an additional source of water to address the emergency drought conditions (Emergency Intertie Project). As part of that presentation, staff put forth a proposal to pursue debt financing. This item officially authorizes staff to initiate the process and documentation to secure debt financing.

Staff estimates the cost of this project to be between \$60 million and \$90 million, which will be financed through the issuance of revenue bonds, along with the potential to include other Capital Improvement Projects, such as the Pine Mountain Tunnel replacement project, as part of the bond issuance. The District currently has three revenue bonds outstanding, for a combined total of approximately \$139 million. An analysis of current debt service coverage ratios indicate that the District has enough debt capacity to issue additional bonds for this project.

Staff will work with bond counsel, municipal advisors, and the selected underwriter in the coming months to structure a bond issue for sale in December 2021. The District's Municipal

Advisor (MA) is currently requesting proposals from potential underwriters and staff plans to return to the Board at the October 19, 2021 meeting to recommend the underwriter for these bonds.

Staff will request the Board to approve the sale of the bonds in November, after which the Preliminary Official Statement and other legal documents associated with the bond issue will be created. Ratings from Fitch and S&P are expected to be received in late November and the bond sale is expected to be completed in December 2021.

The attached resolutions authorize staff to proceed with this process and allow the District to capture costs of the Emergency Intertie Project incurred by prior to the sale of the bonds in December.

The issue will to be revenue bonds and will be tax-exempt. Proceeds not utilized in the construction of the Emergency Intertie Project may be used for other District capital projects.

**FISCAL IMPACT**

Annual debt service on the bonds will increase District financing costs and will depend on the size of the issue, the credit rating of the District, and market conditions at the time of sale. These additional costs will be covered by future rate revenues of the District.

**ATTACHMENT(S)**

- 1. Board Resolution Approving Bond Issuance
- 2. Board Resolution Approving Reimbursement of Project Costs

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Administrative Services Division	 Chuck McBride Finance Director/Treasurer	 Ben Horenstein General Manager

RESOLUTION NO. \_\_\_\_

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE MARIN  
MUNICIPAL WATER DISTRICT AUTHORIZING THE COMMENCEMENT  
OF PROCEEDINGS IN CONNECTION WITH THE ISSUANCE, SALE AND  
DELIVERY OF REVENUE BONDS OF THE MARIN MUNICIPAL WATER  
DISTRICT FINANCING AUTHORITY TO FINANCE THE PROPOSED  
EMERGENCY INTERTIE PROJECT AND OTHER CAPITAL  
IMPROVEMENTS FOR THE DISTRICT AND APPROVING CERTAIN  
OTHER ACTIONS**

WHEREAS, the District has determined that is prudent at this time to cause the Marin Municipal Water District Financing Authority to issue and sell its revenue bonds to finance the proposed Emergency Intertie Project and other capital improvements for the District (the "Bonds");

WHEREAS, it is appropriate that the District Board formally authorize the preparation of the necessary documents and other actions in connection with the issuance and sale of the Bonds;

NOW, THEREFORE, it is hereby DECLARED and RESOLVED, as follows:

*Section 1.* The President, the Vice President, the General Manager, Finance Manager or the designee thereof (each, an "Authorized Officer"), and other appropriate officers and officials of the District to proceed with the preparation of the necessary documents in connection with the issuance and sale of the Bonds, subject to the final approval by the Board at a subsequent meeting.

*Section 2.* The Authorized Officers and other appropriate officers and officials of the District are hereby authorized and directed to take such action and to execute such documents as may be necessary or desirable to effectuate the intent of this Resolution.

*Section 3.* This Resolution shall be in full force and effect immediately upon its adoption.

\* \* \* \* \*

I hereby certify that the foregoing resolution was duly adopted at a meeting of the Board of Directors of the Marin Municipal Water District held on the \_\_\_\_ day of September, 2021, by the following vote:

AYES, and in favor of, Board Members:

NOES, Board Members:

ABSENT, Board Members:

By \_\_\_\_\_  
Secretary

RESOLUTION NO. \_\_\_\_

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE MARIN  
MUNICIPAL WATER DISTRICT EXPRESSING OFFICIAL INTENT  
REGARDING CERTAIN CAPITAL EXPENDITURES TO BE  
REIMBURSED WITH PROCEEDS OF AN OBLIGATION**

WHEREAS, the Marin Municipal Water District (“District”) has developed a list of capital projects (the “Projects”) described in Exhibit A hereto;

WHEREAS, all or a portion of the expenditures relating to the Projects (the “Expenditures”) (i) have been paid within the sixty days prior to the passage of this Resolution or (ii) will be paid on or after the passage of this Resolution;

WHEREAS, the District reasonably expects to reimburse itself for the Expenditures with the proceeds of an obligation, the interest on which will be excluded from the gross income of the owner or owners of such obligation;

NOW, THEREFORE, it is hereby DECLARED and RESOLVED, as follows:

*Section 1.* The District reasonably expects to reimburse all or a portion of the Expenditures with the proceeds of an obligation.

*Section 2.* The maximum principal amount of the obligations expected to be issued for the Projects is \$100,000,000.

*Section 3.* This Resolution is a declaration of official intent of the District’s Board of Directors to reimburse expenditures pursuant to Treasury Regulations Section 1.150-2.

*Section 4.* All actions of the officers, agents and employees of the District that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified, confirmed and adopted.

*Section 5.* This Resolution shall be in full force and effect immediately upon its adoption.

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I hereby certify that the foregoing resolution was duly adopted at a meeting of the Board of the Marin Municipal Water District held on the 21st day of September , 2021, by the following vote:

AYES, and in favor of, Board Members:

NOES, Board Members:

ABSENT, Board Members:

By \_\_\_\_\_  
Secretary

## **EXHIBIT A**

### **DESCRIPTION OF THE PROJECTS**

The Projects consists of the Emergency Intertie Project and other capital improvement projects for Marin Municipal Water District.

## Approval Item

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### **TITLE**

Bond and Disclosure Counsel Agreement with Quint & Thimming LLP and Financial Advisory Services Agreement with Sperry Capital Inc. for Marin Municipal Water District Revenue Bonds, Series 2021

### **RECOMMENDATION**

Authorize the General Manager to execute an agreement with Quint & Thimming LLP for Bond and Disclosure Counsel Legal Services, and Amendment No. 7 to Miscellaneous Agreement No. 5119 with Sperry Capital Inc. for municipal advisory services for the issuance of the Marin Municipal Water District Financing Authority Revenue Bonds, Series 2021.

### **SUMMARY**

In response to the ongoing drought, the District is contemplating the Emergency Intertie Project and bond financing is necessary to fund this project. Staff recommends engaging Quint & Thimmig LLP to provide bond and disclosure legal services, and Sperry Capital Inc., to provide financial advisory services in connection with this bond issuance.

### **DISCUSSION**

Quint & Thimmig LLP has provided legal services related to previous revenue bond issues for the District. Services provided by bond and disclosure counsel include preparation, review, and advice regarding authorizing resolutions, bond contracts, offering documents for debt service and other related services for the benefit of the District.

In preparation for the issuance of the Marin Municipal Water District Financing Authority Revenue Bonds, Series 2021, the District will need to analyze market data, negotiate with underwriters, and obtain a bond rating. Sperry Capital Inc. will work with the District to collect and evaluate financial market information, and assess factors to determine the financial strength of the District for bond rating. Sperry Capital Inc. has provided financial advisory and brokerage services for previous bond issues for the District.

Staff requests the Board to authorize the General Manager to execute an agreement for bond and disclosure counsel legal services and an Amendment No. 7 to Miscellaneous Agreement No. 5119 as described above for purposes of proceeding with issuance of the Marin Municipal Water District Financing Authority Revenue Bonds, Series 2021.

### **FISCAL IMPACT**

The cost of bond and disclosure counsel services is typically determined as a percentage of the bond issuances. Based on the attached agreement, the cost of bond and disclosure counsel services will be \$167,500, assuming a bond issue of \$100 million. The compensation for

financial advisory services is \$70,000, contingent on a successful sale of bonds. If no bonds are issued, Sperry Capital Inc. will be compensated on an hourly basis for work done to the date of termination but not more than \$50,000.

**ATTACHMENT(S)**

- 1. Legal Services Agreement with Quint & Thimmig LLP for Bond and Disclosure Counsel
- 2. Amendment No. 7, Miscellaneous Agreement No. 5119 with Sperry Capital Inc.

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Administrative Services Division	 _____ <b>Chuck McBride</b> Finance Director/Treasurer	 _____ <b>Ben Horenstein</b> General Manager

# Agreement for Legal Services

**Marin Municipal Water District Financing Authority  
(Marin County, California)  
Revenue Bonds, Series 2021**



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## BOND COUNSEL AND DISCLOSURE COUNSEL SERVICES

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THIS AGREEMENT FOR LEGAL SERVICES is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the MARIN MUNICIPAL WATER DISTRICT (the "District"), and QUINT & THIMMIG LLP, Larkspur, California ("Attorneys").

*WITNESSETH:*

WHEREAS, the District has determined that is necessary and desirable to finance certain improvements to the District's municipal water system pursuant to bonds to be issued by the Authority to be designated as the Marin Municipal Water District Financing Authority (Marin County, California) Revenue Bonds, Series 2021 (the "Bonds");

WHEREAS, the District requires the services of bond counsel and disclosure counsel in connection with the authorization, issuance and sale of the Bonds;

WHEREAS, the District has determined that Attorneys are qualified by training and experience to perform the services of bond counsel and disclosure counsel, and Attorneys are willing to provide such services; and

WHEREAS, the public interest, economy and general welfare will be served by this Agreement for Legal Services;

NOW, THEREFORE, IT IS HEREBY AGREED, as follows:

Section 1. Duties of Attorneys.

A. Attorneys shall provide legal services, as *bond counsel*, in connection with the authorization, issuance and consummation of the financing proceedings relating to the Bonds. Such services shall include the following:

(a) Consult and cooperate with officials of the District, District legal counsel, financing consultants, underwriters and other consultants, staff and employees of the District, and assisting such consultants, staff and employees in the formulation of coordinated financial and legal proceedings;

(b) Attend all meetings of the District at which the financing is to be discussed, as deemed necessary for the proper planning of the financing proceedings or when specifically requested to attend;

(c) Prepare any required indentures, ordinances and all resolutions, notices and legal documents necessary for the proper conduct of the financing proceedings;

(d) Review all financial documents for legal sufficiency;

(e) Review, without undertaking an independent investigation, any official statement or other disclosure document prepared in connection with the financing proceedings to assure correctness of disclosure relating to the legal documents;

(f) Prepare and provide a signature and no-litigation certificate, an arbitrage certificate and any and all other closing documents required to accompany delivery of the securities;

(g) Prepare and provide a complete transcript of the proceedings necessary to accompany delivery of the securities;

(h) Subject to the completion of proceedings provide a legal opinion that (if tax-exempt) the interest due with respect to the securities is excluded from gross income for purposes of federal income taxation and that such interest is exempt from California personal income taxation;

(i) Subject to the completion of proceedings, provide a legal opinion approving in all regards the legality of all proceedings relating to the securities;

(j) Confer and consult with the District officials and agents with regard to problems which may arise during the servicing and payment of principal of and interest on the securities; and

(k) Such other and further services as are normally performed by bond counsel in connection with the issuance of securities.

B. Attorneys shall provide legal services, as *disclosure counsel*, in connection with the preparation of the official statement to be used in connection with the offering and sale of the Bonds (the "Official Statement"), the continuing disclosure certificate and the bond purchase agreement between the District and the underwriter of the Bonds. Such services shall include the following:

(a) Prepare the Official Statement (both preliminary and final) in connection with the offering of the Bonds;

(b) Confer and consult with the officers and administrative staff of the District as to matters relating to the Official Statement;

(c) Attend all meetings of the District and any administrative meetings at which the Official Statement is to be discussed, deemed necessary by Attorneys for the proper exercise of their due diligence with respect to the Official Statement, or when specifically requested by the District to attend;

(d) On behalf of the District, prepare the continuing disclosure certificate in a form which is acceptable to the District and the underwriter of the Bonds;

(e) On behalf of the District, prepare the bond purchase agreement, if required, between the District and the underwriter of the Bonds in a form which are acceptable to the District and the underwriter of the Bonds;

(f) Subject to the completion of proceedings to the satisfaction of Attorneys, provide letters of Attorneys addressed to the District and the underwriter of the Bonds to the effect that, although Attorneys have not undertaken to determine independently or assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Official Statement, in the course of Attorneys participation in the preparation of the Official Statement Attorneys have been in contact with representatives of the District and others concerning the contents of the Official Statement and related matters, and, based upon the foregoing, nothing has come to Attorneys attention to lead Attorneys to believe that the Official Statement (except for any financial or statistical data or forecasts, numbers, charts, estimates, projections, assumptions or expressions of opinion included therein, and information relating to The Depository Trust Company and its book-entry system, as to which Attorneys need express no view) as of the date of the Official Statement or the date of the closing for the Bonds contain any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

## Section 2. Compensation.

(a) For the services set forth under Section 1A. above, Attorneys shall be paid a legal fee computed in accordance with the following schedule, inclusive of all out-of-pocket expenses:

- 1% of the first \$1,000,000, plus
- 1/2% of the next \$5,000,000, plus
- 1/4% of the next \$15,000,000, plus
- 1/8% of the next \$25,000,000, plus
- 1/16% of the amount in excess of \$46,000,000.

(b) For the services set forth under Section 1B, Attorneys shall be paid a fee for each issue of \$30,000, inclusive of all out-of-pocket expenses.

*Payment of said fees shall be entirely contingent, shall be due and payable upon the delivery of the Bonds and shall be payable solely from the proceeds of the Bonds and from no other funds of the District.*

Section 3. Responsibilities of the District. The District shall cooperate with Attorneys and shall furnish Attorneys with certified copies of all proceedings taken by the District, or other deemed necessary by Attorneys to render an opinion upon the validity of such proceedings. All costs and expenses incurred incidental to the actual issuance and delivery of Bonds, including the cost and expense of preparing certified copies of proceedings required by Attorneys in connection with the issuance of the Bonds, the cost of preparing the Bonds for execution and

delivery, all printing costs and publication costs, and any other expenses incurred in connection with the issuance of Bonds, shall be paid from Bond proceeds.

Section 4. Non-Legal Services. In performing their services as bond counsel pursuant to this Agreement for Legal Services, it is understood and acknowledged by the District that Attorneys will not be providing financial advisory, placement agent, investment banking or other similar services. It is expected that the District will engage other consultants to provide any such services with respect to the financing.

Section 5. Termination of Agreement. This Agreement for Legal Services shall terminate at the time of issuance of the Bonds but may be terminated at any earlier time by the District, with or without cause, following thirty (30) days written notice by the District to Attorneys. In the event of such termination, all finished and unfinished documents shall, at the option of the District, become its property and shall be delivered by Attorneys.

Section 6. Amendment or Modification. No amendment, modification, or other alteration of this Agreement for Legal Services shall be valid unless in writing and signed by both of the parties hereto.

Section 7. Entire Agreement. This Agreement for Legal Services contains the entire agreement of the parties hereto. No other agreement, statement, or promise made on or before the effective date of this Agreement for Legal Services will be binding on the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

MARIN MUNICIPAL WATER DISTRICT

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

QUINT & THIMMIG LLP

By  \_\_\_\_\_  
Brian D. Quint, Partner

**SEVENTH AMENDMENT TO  
PROFESSIONAL SERVICES AGREEMENT  
WITH SPERRY CAPITAL INC.**

This amendment ("Seventh Amendment") is entered into by and between Marin Municipal Water District, ("District") and Sperry Capital Inc., collectively referred to herein as "Parties", and amends that certain Professional Services Agreement between the District and Sperry Capital Inc. - Miscellaneous Agreement No. 5119 ("Agreement").

For good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the Parties hereto agree as follows:

Section 1. Recitals:

- A. The Parties entered into the Agreement in September 2021.
- B. The District now desires to amend that Agreement to include financial advisory and brokerage services related to the issuance of 2021 Water Revenue Bonds and incidental financial services as needed.
- C. Sperry Capital Inc. agrees to provide those services in accordance with the terms of the Agreement and this Seventh Amendment.

Section 2. Terms:

- A. **Seventh Amendment to Agreement:** This Seventh Amendment modifies the Agreement. Except for the modifications contained herein, all of the terms of the Agreement remain in full force and effect until the 30 day notice of cancellation.
- B. Part A, Section (1) (a-c) entitled "DESCRIPTION OF SERVICES AND PAYMENT" of the Agreement is amended to read as follows:
  - a. The scope of work covered by this agreement shall be that included in Attachment A, which is incorporated herein by this reference.
  - b. The fee and fee payment for such work shall be as stipulated under the fee schedule included in Attachment A, which is incorporated herein by this reference, and shall not exceed \$70,000.
  - c. The schedule and order of tasks shall be completed in accordance with that set forth in Attachment A, which is incorporated herein by this reference.

SPERRY CAPITAL INC.

MARIN MUNICIPAL WATER DISTRICT

\_\_\_\_\_  
James Gibbs  
Principal  
September \_\_\_\_\_, 2021

\_\_\_\_\_  
Bennett Horenstein  
General Manager  
September \_\_\_\_\_, 2021

September 9, 2021

**SCOPE OF SERVICES**

**2021 Revenue Bond Issuance and Incidental Advisory Tasks**

**2021 Revenue Bond Financing – Issuance Services:** In response to the current severe drought, the District is preparing to issue water revenue bonds to fund the Bay Area Intertie to bring water acquired from irrigation districts and other agencies to the District’s service area. Sperry Capital is hereby engaged to assist the staff to manage the financing process including the following services:

1. Organize the “all hands” transaction organizing meeting including:
  - a. Preparation of a term sheet to guide the drafting of the legal documents,
  - b. Preparation of a draft financing schedule,
  - c. Preparation of a draft interested parties list, and
  - d. Preparation of an underwriter request for proposals.
2. Work with Staff, Bond Counsel and Disclosure Counsel to define matters to be disclosed in the official statement.
3. Prepare a draft Report of Proposed Debt Issuance for submittal to the California Debt and Investment Advisory Commission in accordance with Government Code Section 8855(j).
4. Review underwriter proposals and advise on a selection decision.
5. Prepare the rating presentation for Standard and Poor’s and Fitch Ratings and request the ratings.
6. Lead the bond pricing negotiation process providing recent comparable issues to aid in the pre-pricing negotiations with the underwriter.
7. Provide brokerage services for the investment of the construction fund balance.
8. Assist in the preparations for bond closing.
9. Prepare a closing report.

**Incidental Advisory Services as Requested by Staff:** Upon request by the Staff at any time, and with a written description of the task to be performed, Sperry Capital is engaged to complete such tasks to support ongoing finance operations, in addition to the above listed services specific to the issuance of the 2021 bonds.

**Staffing and Compensation**

The Sperry staff is composed as follows with accompanying billing rates for services provided to prepare the bond issue in the event of financing termination as described under Broken Deal Fee below and incidental advisory services as requested by the District:

<b>James Gibbs, Principal and Engagement Manager</b>	<b>\$375 per hour</b>
<b>Martha Vujovich, Principal</b>	<b>\$300 per hour</b>
<b>Shaz Langha, Associate</b>	<b>\$150 per hour</b>

**Negotiated Bond Sale Advisory Services:** Compensation for bond sale advisory services is contingent on a successful sale and will be paid from bond proceeds at closing. The fee for the negotiated sale of bonds is separate from the brokerage fee for bidding of the investment of the construction fund proceeds. The fees are as follows:

<b>Negotiated Bond Sale</b>	<b>\$60,000</b>
<b>Construction Fund Investment Agreement Brokerage</b>	<b>\$10,000</b>

In accordance with industry practice, the brokerage fees for the investment of proceeds are paid by the winning provider directly to Sperry Capital at closing. The yield on the investment agreements or pricing of the investment securities is adjust by the provider to amortize the fees. All applicable securities laws will apply.

**Broken Deal Fee:** If the District terminates this agreement without cause and does not issue any bonds, Sperry will be compensated on an hourly basis for work done to the date of termination but no more than \$50,000.



## Approval Item

**TITLE**

Approval to fill one Temporary Meter Reader & Repair Worker I Position

**RECOMMENDATION**

Authorize the General Manager to recruit and hire one Temporary Meter Reader & Repair Worker I in the Administrative Services Division

**SUMMARY**

Staff is requesting authorization for the General Manager to recruit and hire one Temporary Meter Reader & Repair Worker I. The former Temporary Meter Reader & Repair Worker I was promoted to a permanent Meter Reader & Repair Worker I position in August of 2019, which opened up this Temporary Meter Reader & Repair Worker I position. The Meter Reader & Repair Worker I is responsible for obtaining timely and accurate meter reads, meter leak repair, replacements and investigations as well as maintenance activities needed so customers may utilize Flume devices. Filling this position will allow Meter Operations to address the daily operational needs of the department.

**FISCAL IMPACT**

Salary and benefits for each of these positions are included in the Administrative Services Division budget for FY 2022. The total annual salary with benefits for the Temporary Meter Reader & Repair Worker I position ranges from \$88,695 to \$107,179. Filling this position will not increase the total number of FTEs in the Administrative Services Division.

**ATTACHMENT(S)**

None

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Administrative Services	 Charles McBride Finance Director	 Ben Horenstein General Manager



**Item Number:** 13  
**Meeting Date:** 09-21-2021  
**Meeting:** Board of Directors

## Informational Item

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**TO:** Board of Directors

**FROM:** Terrie Gillen, Board Secretary

**THROUGH:** Ben Horenstein, General Manager

**DIVISION NAME:** Communications & Public Affairs Department

**ITEM:** Future Meeting Schedule and Agenda Items

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### SUMMARY

Review of the upcoming Board of Directors and Committee meetings.

### DISCUSSION

Below are the upcoming meetings of the Board of Directors and/or Committees:

- Thursday, September 23, 2021  
Finance & Administration Committee/Board of Directors (Finance & Administration)  
Meeting  
9:30 a.m.
- Tuesday, October 5, 2021  
Board of Directors' Regular Bi-Monthly Meeting  
7:30 p.m.
- Friday, October 15, 2021  
Board Retreat  
9:00 a.m. to 3 p.m.
- Tuesday, October 19, 2021  
Board of Directors' Regular Bi-Monthly Meeting  
7:30 p.m.

### FISCAL IMPACT

None

### ATTACHMENT(S)

None