



NOTICE OF THE BOARD OF DIRECTORS' REGULAR BI-MONTHLY MEETING

Tuesday, October 01, 2024 at 5:30 PM

AGENDA

LOCATIONS:

Open Session to start at or after 6:30 p.m.

Marin Water Board Room – 220 Nellen Avenue, Corte Madera, CA 94925

Closed Session begins at 5:30 p.m.

Marin Water Mt. Tam Conference Room, 220 Nellen Avenue, Corte Madera, CA 94925

Public Participation:

The public may attend this meeting in-person or remotely using one of the following methods:

On a computer or smart device, go to: <https://marinwater.zoom.us/j/88134852296>

By phone, dial: **1-669-444-9171** and use Webinar ID: **881 3485 2296**

HOW TO PROVIDE PUBLIC COMMENT:

During the Meeting: Typically, you will have 3 minutes to make your public comment, however, the board president may shorten the amount of time for public comment due to a large number of attendees. Furthermore, pursuant to Government Code, section 54954.2 (the Brown Act), the Board may not take action or discuss any item that does not appear on the agenda.

-- **In-Person Attendee:** Fill out a speaker card and provide to the board secretary. List the number/letter (ex: 6a) of the agenda item(s), for which you would like to provide a comment. Once you're called, proceed to the lectern to make your comment.

-- **Remote Attendee:** Use the "raise hand" button on the bottom of the Zoom screen. If you are joining by phone and would like to comment, press *9. The board secretary will use the last four digits of your phone number to call on you (dial *6 to mute/unmute).

In Advance of the Meeting: Submit your comments by email in advance of the meeting to boardcomment@marinwater.org. To ensure that your comment is provided to the Board of Directors prior to the meeting, please email your comment 24 hours in advance of the meeting start time. Comments received after this cut off time will be sent to the Board after the meeting. Please do not include personal information in your comment such as phone numbers and home addresses.

AGENDA ITEMS:

- 1. Call to Order and Roll Call**
- 2. Adoption of Agenda**
- 3. Announcement of Closed Session Item(s); Public Comments on Closed Session Item(s)**

Following announcement of Closed Session items and prior to recess into Closed Session, the public may speak up to three minutes on items to be addressed in Closed Session. The Board will convene to Closed Session in the Mt. Tam Conference Room after public comment.

- a. Conference with Legal Counsel - Anticipated Litigation**
Exposure to Litigation (California Government Code §54956(b))

Number of Cases: Unknown

Adjourn closed session and reconvene to open session in the Board Room and via Zoom.

- 4. Reconvene to Open Session; Closed Session Report Out**
- 5. Public Comment on Non-Agenda Matters**

This is the time when any person may address the Board of Directors on matters not listed on this agenda, but which are within the subject matter jurisdiction of the Board.

- 6. Directors' and General Manager's Announcements (6:40 p.m. – Time Approximate)**
- 7. Board Committee Reports**

Each Committee Chair or Vice Chair will provide a report on recent committee meetings. Directors may ask questions or provide brief comments or requests for additional information on an item.

- 8. Consent Items (6:50 p.m. – Time Approximate)**

All Consent Items will be enacted by a single action of the Board, unless specific items are pulled from Consent by the Board during adoption of the agenda for separate discussion and action.

- a.** Minutes of the Board of Directors' Regular Bi-Monthly Meeting on September 17, 2024

RECOMMENDATION: Approve the minutes

- b.** FY2025 - FY2027 Forestry Services General Services Agreement (CN 2034)

RECOMMENDATION: Approval of 'Forestry Services' General Services Agreement (CN 2034) in the amount of \$2,902,344 to the qualified low bidder Forster and Kroeger for continued implementation of the Biodiversity, Fire and Fuels Integrated Plan (BFFIP) and support of the Lagunitas Creek Watershed Enhancement Project

- c.** Approve Contract MA-6356 with O'Connor Environmental Inc.

RECOMMENDATION: Approve MA-6356 with O'Connor Environmental Inc. for Lagunitas Creek sediment and streambed monitoring to support WR95-17 compliance and guide ongoing restoration planning in the amount of \$154,443

- 9. Regular Items (6:55 p.m. – Time Approximate)**

- a.** Capital Program Update

RECOMMENDATION: Receive a staff update on the third quarter Capital Improvement Program

b. Request to Add Four Additional Positions in the Engineering Division

RECOMMENDATIONS:

1. Board authorization to create four new full time positions within the Engineering Division to be funded through the Capital Improvement Program Budget, and
2. Authorize the General Manger to recruit and hire two Associate Engineers, one Construction Inspector II and one Engineering Technician all within the Engineering Division

c. Ordinance No. 467 Amending and Adding Watershed Use Regulations & Proposed Additions and Increases of Certain Watershed Fines

RECOMMENDATION: Adopt Ordinance No. 467 amending and adding watershed use regulations to Title 9 of the Marin Municipal Water District Code; Approve resolution updating the Watershed Fines Schedule adding fines for violations of the new regulations set forth in Ordinance 467 and increasing fines for certain violations

10. Future Board and Committee Meetings and Upcoming Agenda Items

This schedule lists upcoming board and committee meetings as well as upcoming agenda items for the next month, which may include Board interest in adding future meeting items. The schedule is tentative and subject to change pending final publication and posting of the meeting agendas.

a. Upcoming Meetings

11. Announcement of Closed Session Item(s); Public Comments on Closed Session Item(s) - None.

12. Reconvene to Open Session; Closed Session Report Out - Not applicable.

13. Adjournment (8:30 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 an individual with a disability 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 the Board Secretary/ADA Coordinator at 415.945.1448, at least two business days in advance of the meeting. Advance notification will enable Marin Water to make reasonable arrangements to ensure accessibility.

Information agendas are available for review at the Civic Center Library, Corte Madera Library, Fairfax Library, Mill Valley Library, Marin Water Administration Building, and marinwater.org.

Posted: 09-27-2024



NOTICE OF THE BOARD OF DIRECTORS' REGULAR BI-MONTHLY MEETING

Tuesday, September 17, 2024 at 5:30 PM

MINUTES

LOCATIONS:

Open Session to start at or after 6:30 p.m.

Marin Water Board Room – 220 Nellen Avenue, Corte Madera, CA 94925

Closed Session begins at 5:30 p.m.

Marin Water Mt. Tam Conference Room, 220 Nellen Avenue, Corte Madera, CA 94925

Public Participation:

The public attended this meeting in-person or remotely using one of the following methods: on a computer or smart device, <https://marinwater.zoom.us/j/88134852296>, or by phone, 1-669-444-9171 using Webinar ID #: 881 3485 2296.

AGENDA ITEMS:

1. Call to Order and Roll Call

President Ranjiv Khush called the meeting to order at 5:41 p.m.

DIRECTORS PRESENT

- Larry Russell (*arrived at 5:43 p.m.*)
- Monty Schmitt
- Jed Smith (*arrived at 5:43 p.m.*)
- Matt Samson
- Ranjiv Khush

2. Adoption of Agenda

A motion was made by Director Schmitt and seconded by Vice President Samson to adopt the agenda.

There were no public comments.

Voting Yea: Directors Schmitt, Samson, and Khush

Absent: Directors Russell and Smith

3. Announcement of Closed Session Item(s); Public Comments on Closed Session Item(s)

President Khush announced the following Closed Session items.

There were no public comments.

The Board convened to Closed Session and went to the Mt. Tam Conference Room.

Directors Jed Smith and Larry Russell arrived at 5:43 p.m.

a. Public Employee Performance Evaluation

(Government Code §54957)

Title: General Manager

b. Conference with Legal Counsel - Pending Litigation

(Government Code §54956.9)

Villavicencio v. Marin Municipal Water District

Workers Compensation Appeals Board No. ADJ12878288

4. Reconvene to Open Session; Closed Session Report Out

At 6:30 p.m., the Board returned to the Board Room and reconvened the Open Session.

President Khush announced that the Closed Session had adjourned at 6:29 p.m., with no reportable action, and mentioned that they did not complete the Closed Session discussion, so they would reconvene after the open board meeting.

5. Public Comment on Non-Agenda Matters

There were no public comments.

6. Directors' and General Manager's Announcements

- Vice President Samson thanked staff for participating at the Ember Stomp event.
- President Khush reported that he attended the Board of Directors' of the Marin Resource Conservation District Meeting on September 11. He also announced that the U.S. Environmental Protection Agency that they allocated more money to water systems through the Water Infrastructure Finance and Innovation Act (WIFIA) loans.

7. Board Committee Reports

There were none.

8. Consent Items

- a. Minutes of the Board of Directors’ Regular Bi-Monthly Meeting on September 3, 2024

RECOMMENDATION: Approve the minutes

- b. General Manager's Report August 2024

RECOMMENDATION: Approve Report

A motion was made by Director Schmitt and seconded by Director Smith to approve the Consent Calendar.

There were no public comments.

Voting Yea: Directors Russell, Schmitt, Smith, Samson, and Khush

9. Public Hearing Item

- a. Ordinance No. 466 Establishing Turf Limits and Updating the District Fixture Standards

RECOMMENDATION: Hold a Public Hearing pursuant to California Water Code section 375; and, Adopt Ordinance No. 466 Establishing Turf Limits and Updating the District’s Fixture Standards

Water Resources Director Paul Sellier introduced this item and Water Efficiency Manager Carrie Pollard, who provided a presentation.

Discussion ensued.

President Khush opened the Public Hearing.

There were two (2) public comments.

President Khush closed the hearing.

A motion was made by Director Smith and seconded by Vice President Samson to adopt Ordinance No. 466.

Voting Yea: Directors Russell, Schmitt, Smith, Samson, and Khush

10. Regular Items

- a. Amendment No. 4 to Professional Services Agreement MA-5963 with Woodward & Curran, Inc. for Engineering Services During Construction and Final Design Services of Phase II of the Pine Mountain Tunnel Tanks Replacement Project

RECOMMENDATION: Approve, and authorize the General Manager to execute Amendment No. 4 to Professional Service Agreement No. 5963 with Woodward & Curran, for engineering services during construction for Phase II and for Design Services to complete plans, specifications and estimate for Phase II of the Pine Mountain Tanks Replacement Project (D21043) in the amount of \$450,015

Engineering Director Alex Anaya presented this item.

Discussion followed.

There was one (1) public comment.

A motion was made by Director Smith and seconded by Director Schmitt to approve Amendment No. 4.

Voting Yea: Directors Russell, Schmitt, Smith, Samson, and Khush

Following the vote, President Khush skipped Agenda Item No. 11 and went to Agenda Item No. 12.

12. Announcement of Closed Session Item(s); Public Comments on Closed Session Item(s)

At 6:59 p.m., President Khush announced that the Board would resume the Closed Session to continue discussing the Closed Session items from earlier in the evening. The directors left the Board Room and went back to the Mt. Tam Conference Room.

There were no public comments.

13. Reconvene to Open Session; Closed Session Report Out

At 7:36 p.m., the directors returned to the Board Room.

President Khush announced that at 7:33 p.m., they adjourned the Closed Session with no reportable action.

Then, he went to agenda item 11.

11. Future Board and Committee Meetings and Upcoming Agenda Items

a. Upcoming Meetings

The Board Secretary announced the remaining internal meetings for the month of September and an external meeting the first week of October.

The Board did not add any future meeting items or commented on the upcoming meetings.

There were no public comments.

14. Adjournment

There being no further business, the Board of Directors' Regular Bi-Monthly Meeting adjourned on September 17, 2024, at 7:37 p.m.

Board Secretary



STAFF REPORT

Meeting Type: Board of Directors
Title: FY2025 - FY2027 Forestry Services General Services Agreement (CN 2034)
From: Shaun Horne, Director of Watershed Resources
Through: Ben Horenstein, General Manager
Meeting Date: October 1, 2024

TYPE OF ACTION: X Action Information Review and Refer

RECOMMENDATION: Approval of ‘Forestry Services’ General Services Agreement (CN 2034) in the amount of \$2,902,344 to the qualified low bidder Forster and Kroeger for continued implementation of the Biodiversity, Fire and Fuels Integrated Plan (BFFIP) and support of the Lagunitas Creek Watershed Enhancement Project

SUMMARY: Staff is requesting that the Board of Directors approve and authorize the General Manager to sign a General Services Agreement (CN 2034) in the amount of \$2,902,344 with Forester and Kroeger to provide three years of forestry work to support implementation of the BFFIP, as well support the current Lagunitas Creek Watershed Enhancement Project.

DISCUSSION: In October of 2019, the District adopted the BFFIP, and associated Programmatic Environmental Impact Report (PEIR), which describes the actions the District will implement to reduce wildfire hazards and to maintain and enhance ecosystem function. Vegetation management under the BFFIP aims to reduce fuel loads, maintain fuelbreak infrastructure, preserve defensible space, and reduce invasive weed species. Vegetation management is conducted continuously throughout the year with the chief goal of reducing fuel loads and maintaining the watershed’s biological diversity.

The District is currently in year six of implementation of the BFFIP that was adopted in 2019

Staff is requesting that the Board of Directors approve and authorize the General Manager to sign a ‘Forestry Services’ GSA contract (CN 2034), and to authorize the General Manager to execute any and all future amendments to this contract, which is deemed necessary, so long as they do not exceed 10% in total of the contract amount. Assuming satisfactory contractor performance during the initial three-year term, the GSA contract allows the District the option to execute two subsequent one-year contract extensions.

For the past five years, Watershed Staff and contractors have successfully implemented vegetation Management Actions (MAs) outlined within the BFFIP. Implementation of MAs requires multiple contractors with a range of technical skills to conduct over 1,500 acres of annual vegetation treatments

described in the BFFIP under MA-20, 'Fuelbreak Construction', MA-21 'Fuelbreak Construction', MA-23, 'Forest Stand Structure Improvement' and MA 24, 'Grassland and Oak Woodland Improvement'. This new Forestry GSA will provide skilled hand and operator labor, as well as heavy equipment masticators necessary to continue planned BFFIP MAs.



In addition, this new Forestry GSA will also support maintenance of the Lagunitas Creek Watershed Enhancement Project that is currently being constructed.

PROPOSAL SELCTION PROCESS: On August 23, 2024, the District released a notice inviting bids for a three-year 'Forestry Services' GSA contract. The notice was published in the local newspaper and posted on the District's external bid posting website to inform contractors of the opportunity. Sealed bids were received on September 5, 2024 and reviewed by the District. Forster and Kroeger was selected as the lowest qualified bidder, with a bid amount of \$2,902,344.

ENVIRONMENTAL REVIEW: The District as the Lead Agency, has prepared a Programmatic Environmental Impact Report (PEIR) pursuant to the provisions of CEQA for the Biodiversity, Fire and Fuels Integrated Plan (BFFIP) which was adopted in 2019 and covers all work reviewed in this Annual Report.

FISCAL IMPACT: Staff estimate the costs to perform the Forestry Services over the initial three years, during FY25, FY26 & FY27, will be \$2,902,344. Funds for this contract will be paid out of a combination of District BFFIP Operations and Capital funding, as well as with a secured Wildlife Conservation Board Grant and Cal Fire Forest Health Grants.

ATTACHMENT(S): None.

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Watershed	 Shaun Horne Watershed Resources Director	 Ben Horenstein General Manager



STAFF REPORT

Meeting Type: Board of Directors
Title: Approve Contract MA-6356 with O’Connor Environmental Inc.
From: Shaun Horne, Director of Watershed Resources
Through: Ben Horenstein, General Manager
Meeting Date: October 1, 2024

TYPE OF ACTION: X Action Information Review and Refer

RECOMMENDATION: Approve MA-6356 with O’Connor Environmental Inc. for Lagunitas Creek sediment and streambed monitoring to support WR95-17 compliance and guide ongoing restoration planning in the amount of \$154,443

SUMMARY: The District conducted a request for proposals (RFP) in 2020 for sediment and streambed monitoring in accordance with the Lagunitas Creek Stewardship Plan under State Water Board Order WR95-17. The District received four proposals and selected O’Connor Environmental Inc. (OEI) based on cost, qualifications, and previous work history in the watershed. OEI was contracted under agreement MA-5858, which expired in December 2021 and was extended through June 2023. Staff is recommending that OEI’s services be retained through a new professional services agreement for work identified in the attached scope and budget to continue sediment and streambed monitoring for compliance with Order WR95-17 and to guide ongoing restoration planning and assess effectiveness. This item was presented and reviewed at the September 19, 2024 meeting of the Board of Directors Watershed Committee and referred to a regular Board meeting for approval.

DISCUSSION: O’Connor Environmental Inc. (OEI) has been conducting sediment and streambed monitoring in the Lagunitas Creek watershed since 2012. OEI was selected by the District during a request for proposal (RFP) process in 2020 to provide monitoring services in accordance with the Lagunitas Creek Stewardship Plan under State Water Board Order WR95-17. OEI’s contract MA-5858 expired in December 2021 and was extended through June 2023. At the request of District Fisheries staff, OEI developed a scope of work and budget to continue Lagunitas Creek streambed and sediment monitoring in Lagunitas Creek through 2026. OEI’s sediment and streambed surveys in Lagunitas Creek will be focused in Samuel P. Taylor State Park, where the District is currently implementing restoration. The primary focus of this two-year monitoring contract is to develop data sets describing streambed conditions related to the District’s instream habitat enhancement work in 2024 and 2025. The habitat structures being installed, comprised of large logs and boulders, are expected to significantly affect streambed morphology and sediment dynamics. OEI’s monitoring approach is intended to measure

and quantify these effects following implementation and provide a baseline dataset for long term comparison.

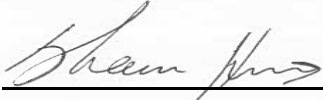

Streambed and sediment monitoring data will include pre- and post-construction streambed conditions as characterized by sediment facies, spawning gravel size distributions, and volume of large wood material. In addition, streambed scour will be monitored to evaluate the effect of the instream habitat structures on spawning habitat. Large woody material data will be compared to assess attainment of targets set forth in the Lagunitas Creek Sediment TMDL.

ENVIRONMENTAL REVIEW: Not applicable.

FISCAL IMPACT: The total cost of OEI’s streambed and sediment monitoring is \$154,443, to be spread across FY25 and FY26. Funding for this contract is allocated in the FY25 Fisheries operations budget and will be included in the FY26 Fisheries operations budget request.

ATTACHMENT(S):

- 1. O’Connor Environmental Inc. Contract MA-6356

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Watershed	 Shaun Horne Watershed Resources Director	 Ben Horenstein General Manager

AGREEMENT FOR PROFESSIONAL SERVICES

The following is an agreement between **Marin Municipal Water District**, hereinafter "District", and **O'Connor Environmental Inc.**, hereinafter, "Consultant".

WHEREAS, Consultant is duly qualified and experienced at conducting geomorphic and hydrologic assessments within the District's sphere of influence.

WHEREAS, the District anticipates the need for additional sediment and streambed monitoring to support ongoing restoration planning and implementation and to comply with Water Board Order WR95-17 for Lagunitas Creek.

WHEREAS, in the judgment of the Board of Directors of the District, it is necessary and desirable to employ the services of Consultant to support District's Lagunitas Creek Stewardship Plan obligations.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

PART A-- SPECIFIC PROVISIONS:

- 1. DESCRIPTION OF SERVICES AND PAYMENT:** Except as modified in this agreement, the services to be provided and the payment schedule are:
 - a. The scope of work covered by this agreement shall be that included in Attachment A of this agreement.
 - b. The fee and fee payment for such work shall be as stipulated under the fee schedule included in Attachment B of this agreement and shall not exceed \$154,443 in total.

PART B-- GENERAL PROVISIONS

- 1. ASSIGNMENT/DELEGATION:** Except as above, neither party hereto shall assign, sublet or transfer any interest in or duty under this agreement without written consent of the other, and no assignment shall be of any force or effect whatsoever unless and until the other party shall have so consented.
- 2. STATUS OF CONSULTANT:** The parties intend that the Consultant, in performing the services hereinafter specified, shall act as an independent contractor and shall have the control of the work and the manner in which it is performed. The Consultant is not to be considered an agent or employee of District, and is not entitled to participate in any pension plan, insurance, bonus or similar benefits District provides its employees.
- 3. INDEMNIFICATION:** District is relying on professional ability and training of the Consultant as a material inducement to enter into this agreement. The Consultant hereby

warrants that all its work will be performed in accordance with generally accepted professional practices and standards, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of the Consultant's work by District shall not operate as a waiver or release.

- a. Consultant expressly agrees to defend, indemnify and hold harmless District, its officers, agents, and employees from and against any and all loss, liability, expense, claims, suits and damages, including attorneys' fees, arising out of or pertaining or relating to Consultant's, its associates', employees', subconsultants', or other agents' negligence, recklessness, or willful misconduct, in the operation and/or performance under this Agreement.
- b. With respect to all other than professional services under this agreement, Consultant shall indemnify, hold harmless, release and defend District, its officers, agents and employees from and against any and all actions, claims, damages, disabilities, liabilities and expenses, including attorney's and expert fees and witness costs that may be asserted by any person or entity, including the Consultant, arising out of or in connection with this agreement and the activities necessary to perform those services and complete the tasks provided for herein, but excluding liabilities due to the sole negligence or willful misconduct of District.

This indemnification is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for the District or its agents under workers' compensation acts, disability benefit acts or other employee benefit acts.

4. PROSECUTION OF WORK: The execution of this agreement shall constitute the Consultant's authority to proceed immediately with the performance of this contract. Performance of the services hereunder shall be completed by October 31, 2026, provided, however, that if the performance is delayed by earthquake, flood, high water or other Act of God or by strike, lockout or similar labor disturbance ("Acts"), the time for the Consultant's performance of this contract shall be extended by a number of days equal to the number of days the Consultant has been delayed by such Acts.

5. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS AND MAKING PAYMENTS: All notices, bills and payment shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

District: Marin Municipal Water District
Attn: Jonathan Koehler
220 Nellen Avenue
Corte Madera CA 94925

CONSULTANT: O'Connor Environmental, Inc.
Attn: Matt O'Connor
P.O. Box 794
Healdsburg, CA. 95448
Ph.# (707) 431-2810

and when so addressed, shall be deemed given upon deposit in the United States Mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving notice pursuant to this paragraph.

6. MERGER: This writing is intended both as the final expression of the agreement between the parties hereto with respect to the included terms of the agreement, pursuant to California Code of Civil Procedure Section 1856 and as a complete and exclusive statement of the terms of the agreement. No modification of this agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

7. SEVERABILITY: Each provision of this agreement is intended to be severable. If any term of any provision shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this agreement and shall not affect the validity of the remainder of the agreement.

8. TERMINATION: At any time and without cause, the District shall have the right in its sole discretion, to terminate this agreement by giving written notice to the Consultant. In the event of such termination, District shall pay the Consultant for services rendered to the termination date.

In addition, if the Consultant should fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this agreement, District may terminate this agreement by giving the Consultant written notice of such termination, stating the reason for such termination. In such event, the Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the agreement as the services satisfactorily rendered hereunder by the Consultant bear to the total services otherwise required to be performed for such total fee, provided, however, that there shall be deducted from such amount the amount of damage, if any, sustained by District by virtue of the breach of the agreement by the Consultant.

9. TRANSFER OF RIGHTS/OWNERSHIP OF DATA: The Consultant assigns to District all rights throughout the work in perpetuity in the nature of copyright, trademark, patent, and right to ideas, in and to all versions of any data, plans and specifications, reports, video tapes, photographs, and documents now or later prepared by the Consultant in connection with this contract.

The Consultant agrees to take such actions as are necessary to protect the rights assigned to District in this agreement, and to refrain from taking any action which would impair those rights. The Consultant's responsibilities under this contract will include, but not be limited to, placing proper notice of copyright on all versions of data, plans and specifications, reports

and documents as District may direct, and refraining from disclosing any versions of the reports and documents to any third party without first obtaining written permission of District. The Consultant will not use, or permit another to use, any data, plans and specifications, reports and documents in connection with this or any other project without first obtaining written permission of District.

All materials resulting from the efforts of District and/or the Consultant in connection with this project, including documents, reports, calculations, maps, photographs, video tapes, computer programs, computer printouts, digital data, notes, and any other pertinent data are the exclusive property of District. Reuse of these materials by the Consultant in any manner other than in conjunction with activities authorized by District is prohibited without written permission of District.

10. COST DISCLOSURE: In accordance with Government Code Section 7550, the Consultant agrees to state in a separate portion of any report provided District, the numbers and amounts of all contracts and subcontracts relating to the preparation of the report.

11. NONDISCRIMINATION: The Consultant shall comply with all applicable federal, state and local laws, rules and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or physical handicap.

12. EXTRA (CHANGED) WORK: Extra work may be required. The Consultant shall not proceed nor be entitled to reimbursement for extra work unless that work has been authorized, in writing, in advance, by District. The Consultant shall inform the District as soon as it determines work beyond the scope of this agreement may be necessary and/or that the work under this agreement cannot be completed for the amount specified in this agreement. Failure to notify the District shall constitute waiver of the Consultant's right to reimbursement.

13. CONFLICT OF INTEREST: The Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Consultant further covenants that in the performance of this contract no person having any such interest shall be employed.

14. INSURANCE: The Consultant shall obtain insurance acceptable to District in a company or companies with a Best's rated carrier of at least "A". The required documentation of such insurance shall be furnished to District at the time the Consultant returns the executed contract. The Consultant shall not commence work nor shall it allow its employees or subcontractors or anyone to commence work until all insurance required hereunder has been submitted and approved.

The Consultant shall have and maintain at all times during the life of this agreement, up to the date of acceptance, the following policies of insurance:

- a. **Workers' Compensation Insurance:** Workers' Compensation Insurance to cover its employees, as required by the State of California, and shall require all subcontractors similarly to provide Workers' Compensation

Insurance as required by the Labor Code of the State of California for the subcontractors' employees. All Workers' Compensation policies shall be endorsed with the following specific language:

"This policy shall not be canceled without first giving thirty (30) days prior notice to District, Attn: Sabrina Gonzales, by certified mail."

The Workers' Compensation Insurance self-insured deductibles and retentions for both the Consultant and its subcontractors shall not exceed \$1,000.

- b. Public Liability Insurance: Personal Injury (including bodily injury) and Property Damage Insurance for all activities of the Consultant and its subcontractors arising out of or in connection with this agreement, written on a commercial general liability form which provides coverage at least as broad as ISO Commercial General Liability Occurrence Form CG 00 01 11 85 or 88 or any subsequent revision or equivalent including benefit contractual coverage, completed operations coverage, Consultant's protective coverage, and automobile coverage. The automobile coverage should be at least as broad as ISO Business Auto Form CA001 edition 187 or equivalent including employer's non-ownership liability. All deductibles or self-insured retentions shall not exceed \$1,000. Coverage in an amount not less than \$1,000,000 combined single limit personal injury, including bodily injury, and property damage for each occurrence is required. Each such policy shall be endorsed with the following language:

1. The Marin Municipal Water District, its officers, agents, employees and volunteers are additional insureds under this policy.
2. The insurance shall be primary as respects the insured shown in the schedule above.
3. The insurance afforded by this policy shall not be canceled except after thirty days prior written notice by certified mail return receipt requested has been given to the District.
4. The referenced policy does not exclude explosion, collapse, underground excavation hazards or removal of lateral support.
5. The inclusion of more than one insured shall not operate to impair the right of one insured against another insured, and the coverage afforded in the policy shall apply as though separate policies had been issued to each insured.

Consultant's policy shall be endorsed with "Attachment C - Additional Insured Endorsement" form.

The General Aggregate Limits of Insurance in the referenced policies apply separately to this project.

- c. Professional Liability Insurance: The Consultant shall procure and maintain throughout the term of this agreement, Professional Liability Insurance in an amount not less than \$1,000,000. All insurance deductibles or self-insured retentions shall not exceed \$15,000. All Professional Liability Insurance policies shall be endorsed with the following specific language:
 - (i) This policy shall not be canceled without first giving thirty (30) days prior notice to District by certified mail.

- d. Documentation: The following documentation of insurance shall be submitted to District:
 - (i) A Certificate of Insurance for Workers' Compensation Insurance for Consultant. A copy of the required policy endorsements specified in subparagraph a. shall be attached to each such Certificate submitted.

 - (ii) Certificates of Liability Insurance showing the limits of insurance provided. Copies of the required endorsements specified in subparagraphs b. and c. shall be attached to each Certificate submitted.

- e. Consultant hereby grants to District a waiver of any right to subrogation which any insurer of said Consultant may acquire against the District by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not District has received a waiver of subrogation endorsement from the insurer.

15. DISPUTE RESOLUTION: Any dispute or claim in law or equity between District and Consultant arising out of this agreement, if not resolved by informal negotiation between the parties, shall be mediated by referring it to the nearest office of Judicial Arbitration and Mediation Services, Inc. (JAMS) for mediation. Each party shall provide the others with a list of four mediators. The parties shall confer on the list and select a mutually agreeable mediator. Mediation shall consist of an informal, non-binding conference or conferences between the parties and the judge-mediator jointly, then in separate caucuses wherein the judge will seek to guide the parties to a resolution of the case. If the parties cannot agree to a mutually acceptable member from the JAMS panel of retired judges, a list and resumes of available mediators with substantial experience in mediating claims of the type at issue between the parties, numbering one more than there are parties, will be sent to the parties, each of whom will strike one name leaving the remaining name as the mediator. If more than one name remains, JAMS arbitrations administrator will choose a mediator from the remaining names.

The mediation process shall continue until the case is resolved or until such time as the mediator makes a finding that there is no possibility of resolution.

At the sole election of the District, any dispute or claim in law or equity between District and Consultant arising out of this agreement which is not settled through mediation shall be decided by neutral binding arbitration and not by court action, except as provided by California law for judicial review of arbitration proceedings. The arbitration shall be conducted in accordance with the rules of Judicial Arbitration Mediation Services, Inc. (JAMS). The parties to an arbitration may agree in writing to use different rules and/or arbitrators.

16. BILLING AND DOCUMENTATION: The Consultant shall bill District for work on a monthly or agreed upon basis or as articulated in Attachment B and shall include a summary of work for which payment is requested. The summary shall include time and hourly rate of each individual, a narrative description of work accomplished, and an estimate of work completed to date.

17. REASONABLE ASSURANCES: Each party to this agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise, with respect to performance of either party, the other may, in writing, demand adequate assurance of due performance and until the requesting party receives such assurance may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of the party with respect to performance under this agreement but also conduct with respect to other agreements with parties to this agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, not to exceed 30 days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

O'CONNOR ENVIRONMENTAL, INC.

Dated: _____ By _____
Matthew D. O'Connor, President

MARIN MUNICIPAL WATER DISTRICT

Dated: _____ By _____
Bennett Horenstein, General Manager

SCOPE OF WORK

At the direction of Marin Water's Fisheries Program Manager, the Consultant shall assist, as needed, with the following tasks:

Task 1 - Pre-Construction Monitoring

Task 1.1 - Consultant and District staff will collaborate to collect low-altitude aerial imagery of the streambed as soon as possible and prior to construction activities that would disturb the streambed. Consultant will prepare the reach of Lagunitas Creek for imaging by laying out and surveying ground targets to provide the geospatial references required to produce orthophoto products and relate the imagery to existing monitoring data from 2012 and 2023.

Task 1.2 - Consultant will evaluate the aerial imagery collected in Task 1.1 to determine its utility for identification of streambed sediment facies and aquatic habitat type at existing sites M3-10, M3-12 and M3-14 that are used to characterize and monitor streambed conditions prior to construction activities. Depending on the quality of imagery with respect to the ability to distinguish between sediment facies and habitat types, Consultant will determine the most effective approach to documenting pre-construction streambed conditions at restoration sites 4, 5 and 6. This is anticipated to include a combination of field observations and aerial image interpretation as well as comparison with monitoring data from 2023. The data report will be used to help evaluate overall effects of the habitat enhancement project based on subsequent monitoring.

Deliverables:

- Memorandum summarizing our evaluation of the aerial mapping
- Data report describing baseline (pre-construction) streambed conditions

2.2 Task 2 - Post-Construction Monitoring

Task 2.1 - A below-canopy drone flight to collect post-construction video imagery will be conducted after construction activity is completed. This effort will be a collaboration between Consultant and District staff. It will ultimately be necessary to obtain aerial imagery for the habitat enhancement and monitoring reach in spring/summer 2025 and spring/summer 2026 to document conditions after the winter peak flow period following each construction year.

Task 2.2 - Spawning habitat quality will be evaluated based on sediment size distribution using the bulk sediment sampling technique per the Sediment and Streambed Monitoring Plan for Lagunitas Creek (2012). The surface sediment size distribution of each gravel patch/bar selected for bulk sediment sampling will be estimated using systematic random sampling techniques. Samples are collected from typical spawning habitats such as gravel patches that occur in pool tails (typically identified as "glide" habitat in the Lagunitas Creek monitoring protocol) or in riffles; flagging from prior years that identify redds is also used to indicate potential sample sites. Sampling would occur in summer or autumn 2024 at existing

monitoring sites M3-10, M3-12 and M3-14 and potential sample locations will be determined through a combination of field observations and aerial image interpretation. Two samples from each of the three monitoring sites will be collected in the framework of systematic random grid sampling. Additional bulk sediment sampling to characterize spawning habitat quality will be conducted in 2025. Two samples from each of M3-10, -12 and -14 sites will include samples associated with habitat enhancement structures; two samples will also be collected at each of M3-2, -6 and -8.

Task 2.3 – Streambed scour monitoring will be conducted during the winter peak flow period. Consultant will determine scour monitoring locations, focusing on existing spawning habitat in the Shafter-Irving reach and possibly including locations as far downstream as Big Bend. Scour monitoring will be conducted beginning December 2024 and December 2025 and include both new spawning habitat associated with habitat enhancement structures installed in 2024 along with other spawning habitat.

Task 2.4 - Systematic random grid sampling to characterize streambed and sediment conditions (sediment facies and habitat type) will occur in summer/autumn 2025 at existing monitoring sites M3-2, M3-6, M3-8, M3-10, M3-12 and M3-14. It is anticipated that the standard field protocol (c. 2023) will be used.

Deliverables:

- Report summarizing all pre- and post-project data spanning 2023-2025.

Task 2.5 - A census of LWM in the full project reach from Shafter to Big Bend and from Peters Dam to Shafter will be performed in summer 2025. Included in this effort will be a comparison of LWM load estimated from low-altitude aerial imagery and LWM load measured in the field census.

Task 3 - Gravel Augmentation Source Evaluation

Consultant will conduct field reconnaissance of up to three potential source locations for gravel that may be imported to Lagunitas Creek for future restoration efforts. Consultant will evaluate both quantity and quality of the potential gravel sources. Quality will be evaluated based on the surface and sub-surface size distribution of gravel using the same methods described above for characterizing spawning habitat quality. In addition, if field observations and/or the geologic origin of source materials suggest that a significant proportion of gravel clasts are susceptible to rapid breakage or attrition, sampling and testing of the durability of gravel material will be conducted to quantify the relative magnitude of attrition expected for each source area. San Geronimo Creek is the primary existing source area for gravel transport into the project reach of Lagunitas Creek; consequently, surface and sub-surface size distribution of gravel at existing monitoring sites SG-9 and SG-12 will also be evaluated.

Gravel augmentation effectiveness and adaptive management considerations will be evaluated in part based on gravel tracer studies in Lagunitas Creek associated with implementation of gravel augmentation. Gravel tracer studies will provide perspective on bedload transport rates and target augmentation rates for long-term enhancement of spawning habitat in the project reach of Lagunitas Creek. Consultant will utilize available information on gravel size distributions in Lagunitas Creek and in augmentation source areas along with available information on gravel mobility and transport in Lagunitas Creek and in comparable gravel bed

streams to develop recommendations for objectives of tracer studies, anticipated data analyses, size and number of gravel tracers, and methods and criteria for introducing tracers.

Work Schedule

Task 1 - Pre-construction Monitoring

- 1.1 Collect drone aerial imagery in collaboration with District (Summer/Autumn 2024)
- 1.2 Evaluate aerial imagery to determine its utility (Summer 2024)

Task 2-Post-construction Monitoring

- 2.1 Collect post-construction drone imagery in collaboration with District (Autumn 2024 and/or Summer/Autumn 2025)
- 2.2 Spawning habitat quality-bulk sediment sampling and surface sediment size sampling (Autumn 2024 and Summer 2025)
- 2.3 Streambed scour monitoring during the winter peak flow period (Dec. 2024-Mar. 2025 and Dec.2025-Mar. 2026)
- 2.4 Characterize streambed conditions with systematic random grid sampling at sites M3-2, M3-6, M3-8, M3-10, M3-12 and M3-14 and portions of restoration sites 4, 5 & 6 (Summer/Autumn 2025; Report Jan. 2026)
- 2.5 LWM census of project reach (Summer/Autumn 2025; Report Jan. 2026)

Task 3-Gravel Augmentation Source Evaluation

Field reconnaissance of three potential gravel source locations for future import to Lagunitas Creek, including quantity and quality of material and particle size analysis at three source locations and two existing monitoring sites in San Geronimo Creek. (Autumn 2024 or 2025)

Deliverables

Task 1 - Pre-Construction Monitoring

The consultant shall provide the following deliverables as the work products:

- Digital Aerial Maps (Oct. 2024)
- Tech. Memo - Aerial Mapping Evaluation (Nov. 2024)
- Data Report - Pre-construction Baseline Facies & Habitat (Jan. 2025)

Task 2 – Post-Construction Monitoring

The consultant shall provide the following deliverables as the work products:

- Data Report - Sediment Size Distributions for Spawning Habitat (Nov. 2025)
- Tech. Memo - Scour Monitoring #1 (May 2025)
- Tech. Memo - Scour Monitoring #2 (May 2026)
- Data Report - Post-construction Baseline Facies & Habitat (Jan. 2025)
- Data Report – LWM Census, Shafter to Big Bend plus Peters Dam to Shafter (Nov. 2025)

Task 3 – Source Evaluation for Gravel Augmentation

The consultant shall provide the following deliverables as the work products:

- Tech. Memo - Gravel Source Evaluation (Feb. 2025)

All deliverables shall be submitted in electronic format as: Adobe pdf format (the document); Word format (for all text and any other Word elements of the report); and Excel format (for all data and tables in Excel format for the report). In addition, the final monitoring plan and monitoring report shall be submitted as: one (1) bound copy and one (1) unbound original.

Any GIS data must be compatible with ArcGIS version 10.6.1 with coordinates in State Plane CA, feet, zone III FIPS 0403, NAD83

PROJECT COST AND BILLING

Project Cost

Per the terms established in Miscellaneous Agreement 6356, the Consultant shall invoice Marin Water for an amount not to exceed \$154,443 for field support services and expenses. The Consultant agrees to provide monthly and year-to-date direct cost summaries and supporting details to the District upon delivery of the quarterly billing statements while this Agreement is in effect. The anticipated staff hours and estimated costs for each task in the scope of work are presented in the Budget below.

BUDGET

	Principal Hydrogeologist	Geologist/Hydrologist	Ass't. Hydrologist/ Env. Scientist	Env. Tech.	Travel & Expenses	Task Total
<i>Hourly Rate</i>	\$180	\$140	\$110	\$80		
TASKS						
Task 1.1 Pre-Construction Drone Imagery	8	19	33	37	\$341	\$11,031
Task 1.2 Evaluate Imagery	26	4	58	76	\$445	\$18,145
Task 1 Subtotal					\$786	\$29,176
Task 2.1 Post-Construction Drone Imagery	3	3	19	18	\$104	\$4,594
Task 2.2 - Spawning Habitat Sampling	12	16	32	60	\$5,410	\$18,130
Task 2.3 Streambed Scour	43	25	114	102	\$2,386	\$34,326
Task 2.4 Post-Construction Streambed	72	25	81	280	\$1,304	\$49,074
Task 2.5 LWM Census	7	1	41	40	\$311	\$9,421
Task 2 Subtotal					\$9,515	\$115,545
Task 3 Gravel Source Assessment	30	0	0	26	\$2,242	\$9,722
Task 3 Subtotal					\$2,242	\$9,722
TOTAL	201	93	378	639	\$12,543	\$154,443

ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

Commercial General Liability Coverage: Policy# _____

Policy Period _____

Automobile Liability: Policy# _____

Policy Period _____

INSURED: Name _____

Address _____

City/State/Zip _____

SCHEDULE

The Marin Municipal Water District, its officers, officials, agents, employees and volunteers (District).

WHO IS AN INSURED

Is amended to include as an insured the organization shown in the schedule above.

1. The insurance shall be primary concerning the insured shown in the schedule above.
2. The insurance afforded by this policy shall not be cancelled except after thirty days prior written notice by certified mail return receipt requested has been given to the District.
3. The referenced policy does not exclude explosion, collapse, underground excavation hazards or removal of lateral support.
4. The inclusion of more than one insured shall not operate to impair the right of one insured against another insured, and the coverage afforded in the policy shall apply as though separate policies had been issued to each insured.

Authorized Insurance Representative

Signature

Date

Print Name and Title

Rev. 7-25-06



STAFF REPORT

Meeting Type: Board of Directors
Title: Capital Program Update
From: Alex Anaya, Director of Engineering *AA*
Through: Ben Horenstein, General Manager *BH*
Meeting Date: October 1, 2024

TYPE OF ACTION: Action X Information Review and Refer

RECOMMENDATION: Receive a staff update on the third quarter Capital Improvement Program

SUMMARY: Staff have been working on various capital projects identified in the District’s adopted FY24-25 Budget since the last Capital Program Update to the Board on June 4, 2024. Most projects identified in the adopted budget will take place over two years and completion for these projects are on track within the two or more year timeframe. The District has a variety of capital projects underway including dam condition assessments, tank, pump station and pipeline projects. Staff have also begun working on the Nicasio Dam Spillway Modifications project since the last Capital Program update in June.

DISCUSSION: During this past year, staff have been diligently working on various capital projects identified in the District’s adopted budget for FY24-25. The various capital projects range from dams to pump stations. To help execute some of the more complicated work, staff hired consulting firms for design assistance on a number of pump station, tank, treatment plant and dam projects. The majority of projects identified in the two year adopted budget cycle span a two-year period due to the size and timing of the projects. Most identified projects in the two year capital program budget are on track as projected with the exception of the Phoenix Bon Tempe Connection project, which had unanticipated delays this fiscal year. Unanticipated delays on projects do occur from time to time and it is therefore necessary for staff to pivot and focus on other CIP projects to continue moving the overall CIP effort forward while working to resolve issues leading to delays. The District was able to pivot from the Phoenix Bon Tempe Connection Project to focus on the Nicasio Spillway Modifications project, which provides a significantly larger water supply benefit to the District. The Nicasio Spillway Modifications project was identified during the Local Storage evaluation process and staff have expedited this project by hiring a consultant firm to start the predesign process as well as bringing in an expert team to guide the District through the complex environmental process. The consultant team will focus on the Nicasio Spillway Modifications project first and will also be evaluating the spillways at Soulajule, Kent and Alpine for possible spillway modifications for additional storage.

The expedited effort on the Nicasio Spillway project means that staff are re-prioritize existing tasks in order to focus on this project. This fluid nature of the CIP is expected and staff will keep the Board apprised on shifting priorities within the capital program.

Some of the current capital projects underway this fiscal year include large, highly visible pipeline projects such as the Granada Drive Pipeline Replacement Project and the Sir Francis Drake Pipeline Replacement Project. The second year of the Pine Mountain Tunnel Tanks Replacement Project started August 1 and will be completed by January 31, 2025, which will be followed by the second phase of tank construction starting August 1, 2025. Tocaloma Pump Station and the San Geronimo Roof Project are both currently in design with construction of the roof project anticipated in the spring of 2025 with considerations to weather. Large key projects such as the Soulajule Discharge Pipeline are currently being designed by the consultant team.

On occasion, unplanned projects not identified in the adopted capital budget do come up that require the District's immediate attention. One such project did arise this past fiscal year. In late May, PG&E was conducting pavement restoration in the Town of Fairfax on a road above the Districts Fairfax Manor Pump Station. During the pavement grinding operation, a portion of a retaining wall supporting the road failed, causing the large asphalt grinder to rotate and fall onto the pump station. Staff responded by installing a temporary pump station at a different location to continue feeding the tanks. Staff recently executed a design contract with a consultant team for the design and construction engineering support to replace the destroyed pump station. This incident lead to an unplanned pump station replacement ahead of its end of useful life along with staffing resources needs to manage this project. The pump station is anticipated to be rebuilt by December 2025.

ENVIRONMENTAL REVIEW: Not Applicable.

FISCAL IMPACT: None.

ATTACHMENT(S): None.

workload capacity. Staff reached out to local Bay Area utilities that have similar CIP budgets and gathered information on their respective staff size that was used as a point of comparison to evaluate current and future District staffing needs. Staff compiled all capital projects identified in the adopted budget and planned projects through FY28 and used the established workload capacity to project staffing needs to execute the Capital Program. Various combinations of staffing and consultant support in the different departments in Engineering were also evaluated to determine the optimum combination of staff and consultants to help execute the capital work. The analysis identified that the Planning, Design and Construction Departments had an immediate need for additional staffing. Staff identified a hybrid approach of converting four existing vacant positions within the Engineering Division and presented recommendations at the two following Board meetings.

At the April 30, 2024 Board meeting, staff received approval to reclassify the vacant Land Surveyor position into a Supervising Land Surveyor position that will be integrated into the Facilities Design team and to authorize the General Manager to recruit and hire one Supervising Land Surveyor. The recruitment for this position was posted following the Board approval and staff have recently completed the final interview for this position and look to have the new Supervising Land Surveyor in the Engineering Division in the next few months.

During the Capital Program Update to the Board on June 4, 2024, staff recommended the conversion of three vacant positions (Senior Engineer, Senior CAD Specialist and Real Property Agent) into one Environmental Planner and two Construction Inspectors. The Board approved staff's recommendation at the meeting. The recruitment for the two Construction Inspectors was open for one month and closed on September 30, 2024. Staff is looking to schedule interviews in October to have the two new Construction Inspectors onboard by the end of year. Staff is currently finalizing the job description for the Environmental Planner position and planning to advertise the position in October.

The conversion of the four positions previously discussed within the Engineering Division will help address staff workload and capacity shortfalls, but there still remains a need for additional positions within the Design and Construction Departments. As the Capital Program budget is estimated to more than double over the next few years as staff start addressing backlog projects, it will be necessary to create two new Engineer positions at the Associate level within the Design Department while continuing to leverage consultants to ensure that the District can keep up with the increasing project workload. Similarly it will be necessary to create one new Construction Inspector II position and one new Engineering Technician for construction administration to ensure that the District can keep up with increasing Capital Program since all projects that come through the Design Department end up in the Construction Department.

Staff is recommending that the Board authorize the creation of four new full time positions in the Engineering Division that will be funded through the Capital Improvement Program Budget; and to authorize the General Manager to recruit and hire two Associate Engineers, one Construction Inspector II and one Engineering Technician for construction administration, all within the Engineering Division in support of the Capital Program Delivery.

ENVIRONMENTAL REVIEW: Not Applicable.

FISCAL IMPACT: Creating the four new positions will increase the total number of Full Time Employees in the Engineering Division from 39 to 43. The four newly created positions will be funded

through the Capital Improvement Program Budget since all the work performed by these newly created positions is tied directly to the Capital Program. The four new positions will have the following fully burdened cost: Associate Engineer \$219,537 each, Construction Inspector II \$187,317, and Engineering Technician \$148,784; for a total fiscal impact of \$775,176.

ATTACHMENT(S): None.

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Engineering	 Alex Anaya Engineering Director	 Ben Horenstein General Manager



STAFF REPORT

Meeting Type: Board of Directors

Title: Ordinance No. 467 Amending and Adding Watershed Use Regulations & Proposed Additions and Increases of Certain Watershed Fines

From: Shaun Horne, Director of Watershed Resources

Through: Ben Horenstein, General Manager

Meeting Date: October 1, 2024

TYPE OF ACTION: X Action Information Review and Refer

RECOMMENDATION: Adopt Ordinance No. 467 amending and adding watershed use regulations to Title 9 of the Marin Municipal Water District Code; Approve resolution updating the Watershed Fines Schedule adding fines for violations of the new regulations set forth in Ordinance 467 and increasing fines for certain violations

SUMMARY: Staff reviewed the District’s current watershed regulations and fines at the July 16, 2024 Board of Directors Meeting and the Board adopted increases to certain watershed fines. At that meeting, staff received additional input on regulations and fine updates. No staff is proposing watershed fine additions and increases to address the input received from the Board. Updates to the fines would be submitted to the County as part of the annual bail schedule update process that occurs in December 2024 and would go into effect January 1, 2025.

DISCUSSION: Each year, the Marin County Superior Court requests local agencies review the Marin County Superior Court Bail Schedule for updates, corrections and changes to their base fines. The updated bail schedules are typically submitted in November of each year to become effective as of January 1st of the following year. The Board of Directors did a comprehensive review of the Watershed regulations in 2017 and has done minor updates since that time. The 2017 updates brought fines in-line with the County’s standard fines and fees. Most recently, on December 13, 2022, the District increased the fine schedule for District code violations related to fire hazards, including smoking, starting a fire or using fireworks on the watershed due to the elevated risk of wildfire in the region. The Finance Committee reviewed Watershed Fine updates at the June 27, 2024 meeting and the Board provide additional input on fine revisions at the July 16, 2024 Board of Directors Meeting, where increases to certain fines were adopted.

As the District continues to advance the Strategic Opportunities identified in the recently completed Watershed Recreation Management Planning Feasibility Study, staff is proposing adoption of

Ordinance No. 467 to establish new regulations and updates to the watershed fines to add penalties for violations of these new regulations as well as increase the fines for repeat violations and other specified violations. Ordinance No. 467 adds regulations to Title 9 of the District Code to prohibit: (1) the use of non-C 1 electric bicycles as part of the pilot program, (2) operating an electric bicycle that does not contain a label, as required by the California Vehicle Code, or that has a labeled that had been tampered with or altered, and (3) further clarifies that certain activities are not allowed on District spillways and that drones may not be operated on District-owned lands without a permit. Corresponding fine amounts for violations of each of these new regulations are set forth in the attached resolution. Ordinance No. 467 would become effective 30 days from the date of adoption.

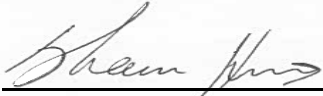

For existing regulations contained in the District Code, the updates are being proposed to support the District’s ability to encourage visitor compliance with rules and regulations and are focused on those areas where a fine increase seems necessary due to a lack of compliance or multiple repeats of the same offense (such as dogs off leash). Staff reviewed the proposed updates with the Finance Committee at the June 27, 2024 meeting. Based on input received from the Finance Committee and at the July 16, 2024 Board of Directors Meeting, staff is proposing increasing all base fines to \$50 to fines for watershed visitor violations. Staff is also proposing increases to fines for violations of key natural resources protection regulations such as those posing a threat to water quality, archeological and sensitive watershed resources to a base fine of \$100. The District has also established a tiered fee structure for visitor related offenses. A schedule of all of the proposed changes is attached to the proposed resolution, and if adopted, would go into effect on January 1, 2025.

ENVIRONMENTAL REVIEW: Not applicable.

FISCAL IMPACT: None.

ATTACHMENT(S):

- 1. Ordinance No. 467
- 2. Proposed Resolution with Revised Fine Schedule

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Watershed	 Shaun Horne Watershed Resources Director	 Ben Horenstein General Manager

**MARIN MUNICIPAL WATER DISTRICT
ORDINANCE NO. 467**

**AN ORDINANCE AMENDING TITLE 9 ENTITLED “REGULATIONS FOR USE OF
MARIN MUNICIPAL WATER DISTRICT LANDS” OF THE MARIN MUNICIPAL
WATER DISTRICT CODE ADDING AND AMENDING REGULATIONS ON USE OF
DISTRICT LANDS**

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

SECTION 1. Purpose: The purpose of this Ordinance is to allow the Marin Municipal Water District (District) Board of Directors to adopt new land use regulations as authorized by California Water Code section 71660. Specifically, the new land use regulations will address new technologies and further clarify restrictions on inappropriate activities on District lands.

SECTION 2. Section 9.02.002 of the Marin Municipal Water District Code is hereby amended to read as follows:

Section 9.02.002 Closed areas and use restrictions.

No person shall enter or remain in any area of district lands closed to the public, including but not limited to dams and spillways, nor use any area of district lands for an unauthorized purpose.

SECTION 3. Section 9.02.003 of the Marin Municipal Water District Code is hereby amended to read as follows:

Section 9.02.003 Care of property and facilities.

No person shall damage, deface, tamper with or remove any district property or facilities, including dams, spillways, buildings, signs, gates, fences, equipment, markers, structures, tables, benches, trash receptacles, barbeques, camp stoves, fireplaces, paving material, utility or water lines.

SECTION 4. Section 9.02.007 of the Marin Municipal Water District Code is hereby amended to read as follows:

Section 9.02.007 Boating and Related Activities.

No person shall place, use or operate any boat, watercraft or floatation device, including, but not limited to, any row boat, motor boat, sailboat, raft, kayak, canoe, surf board, boogie board or seaplane on or in any district reservoir, stream, dam, or spillway.

SECTION 5. Section 9.02.010 of the Marin Municipal Water District Code is hereby amended to read as follows:

Section 9.02.010. Games and other activities.

No person shall engage in games or other activities which interfere with others using district lands or which endanger any person, property, public safety or environmental or cultural resources. Non-permitted activities include but are not limited to:

- (1) Skateboarding, roller skating, in-line skating, mountain boarding, operation of any motorized or motor assisted skateboard or other similar type activity;
- (2) Operating a motor-driven model airplane, drone, boat, automobile or other model craft;
- (3) Throwing, releasing, or discharging missiles, rockets, stones or similar objects;
- (4) Hitting a golf ball;
- (5) Participating in baseball, softball or football;
- (6) Hang-gliding, parachuting or parasailing;
- (7) Metal detecting or the collection or disturbance of cultural or archeological artifacts and
- (8) Any activity or operation of any device in such fashion as to interfere with others using district lands or to endanger property, public safety or environmental or cultural resources.

Any equipment used in violation of this section may be impounded.

SECTION 6. A New Section 9.04.007 of the Marin Municipal Water District Code is hereby added to read as follows:

Section 9.04.007 Restrictions on Electric Bicycles Operated During Trial Period.

The following requirements shall apply to all electric bicycles operated on District-owned lands pursuant to an adopted pilot or trial program under Section 9.04.006 of this Code:

- (1) Only Class 1 electric bicycles, as defined by California Vehicle Code section 312.5 (a)(1), may be operated on watershed lands. All other classes of electric bicycles shall be prohibited on watershed lands.
- (2) As required by California Vehicle Code section 312.5 (c), all Class 1 electric bicycles operated on watershed lands, shall contain a permanently affixed label that identifies the classification number, top assisted speed, and motor wattage of the Class 1 electric bicycle in accordance with manufacturer labeling requirements and no person shall alter or tamper with this label in an effort to mislead or deceive District staff or other officials as to the electric bicycle classification.

(3) This Section 9.04.007 shall sunset on October 4, 2026.

SECTION 7. Findings. After considering all of the information, documents and testimony at a public meeting the Marin Municipal Water District Board of Directors, the Board finds as follows:

- a. Mt. Tamalpais and its adjacent watersheds support a rich array of plants and animals, panoramic vistas, and recreational opportunities that are treasured by residents and visitors alike. Since before the turn of the last century, Mt. Tamalpais has been a magnet for recreationists. The Marin Municipal Water District's Mt. Tamalpais watershed lands receive approximately 2 million visitors annually and are part of the Golden Gate Biosphere Reserve (UNESCO 2002). Watershed users include anglers, hikers, equestrians, nature viewers, runners, walkers, youth camps, cyclists and many more.
- b. Recreational uses on public lands managed by the Marin Municipal Water District (District) are governed by the Mt. Tamalpais Watershed Management Board Policy 7, Part 5 and District Code Title 9 Regulations for Use of Marin Municipal Water District Lands. The District has allowed conventional mountain bikes on natural surface fire roads (but not on narrow, single track trails) for many years as part of a road and trail system that also includes hiking, horseback riding, and other uses.
- c. The Board adopted the Watershed Recreation Management Planning Feasibility Study (Feasibility Study) at the April 16, 2024 Board of Directors Meeting. The Feasibility Study reviewed existing watershed recreational facilities, visitor use data, biological resources, stewardship and volunteer programs, and visitor management strategies.
- d. As part of the Watershed Feasibility Study, two pilot programs were identified as key Strategic Opportunities or next steps to collect data to help inform potential updates to visitor management policies and roads and trails management documents. One pilot program would evaluate trail sharing methods to assess bike access on a select number of single-track trails and another program would evaluate electric bicycle access on the watershed in the same manner as regular bicycles.
- e. On September 3, 2024, the Board of Directors adopted Ordinance No. 465, which made changes to the District's Code, Title 9, Chapter 9.04, to allow these two pilot programs to proceed in compliance with the District Code, and pursuant to which the District approved Resolution Nos. 8790 authorizing a watershed trail sharing pilot program and 8791 authorizing a watershed E-Bike Class I trial program.
- f. The further revisions to the District Code contained in this Ordinance are intended to impose additional restrictions on the electric bicycles that may be operated on District lands as part of the pilot programs. These additional restrictions will help promote safety by ensuring that only less powerful Class 1 electric bicycles are operated on District lands and will aid District staff in enforcing District Code and maintaining limitations on uses during the pilot program period, which become effective on October 3, 2024 and continue for a period of two years, or until October 4, 2026.
- g. Additionally, this Ordinance clarifies existing prohibitions to address technological advances (i.e., drones) and expressly identifies other unauthorized activities on District dams and spillways.

SECTION 8. 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, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional and, to that end, declares the provisions of this ordinance severable from one another.

SECTION 9. Effective Date: This ordinance shall take effect 30 days following its adoption.

SECTION 10. Reservation of Powers: Nothing in this Ordinance shall prevent the District from exercising any of its powers under the California Water Code or other applicable law including but not limited to its power to adopt ordinances, resolutions, rules or regulations in response thereto.

PASSED AND ADOPTED this 1st day of October, 2024, by the following vote of the Board of Directors:

AYES:

NOES:

ABSENT:

Ranjiv Khush
President, Board of Directors

ATTEST:

Terrie Gillen
Board Secretary

Attachment 2

MARIN MUNICIPAL WATER DISTRICT

RESOLUTION NO.

RESOLUTION OF THE BOARD OF THE MARIN MUNICIPAL WATER DISTRICT
AUTHORIZING INCREASES TO WATERSHED FINE SCHEDULE

WHEREAS, an annual review of the current District watershed base fines and bail schedule was performed by Watershed Protection staff at the request of the Marin County Superior Court in accordance with the provisions of Penal Code § 1269b(c) and Rule 4.102 of the California Rules of Court, for corrections, additions and changes; and

WHEREAS, a comprehensive review of District watershed base fines was last performed in 2017, whereby the District’s Watershed Committee recommended and the Board of Directors adopted the Marin County Uniform Bail Schedule corrections and amounts (fine) increases for violations of the Marin Municipal Water District’s Title 9, Land Use Regulations; and

WHEREAS, subsequent revisions to the District’s watershed base fine schedule were approved by the Board in 2022 and most recently in 2024 to increase watershed base fine amounts for several offenses and add additional penalties for repeat offenders for certain violations; and

WHEREAS, per Rule 4.102, the intent of the annual bail review is to achieve substantial uniformity of bail and penalties throughout the state, and the current review of the Marin County Bail Schedule shows that fines associated with watershed offenses listed as infractions and misdemeanors are generally in line with the amounts set by the court, and in addition to the court established penalties and fees the District may set a base fine that will be augmented by the associated court penalties and fees; and

WHEREAS, Ordinance No. 467 adds new restrictions related to the use of electric bicycles as part of the District’s pilot programs and further clarifies that certain prohibitions apply to District spillways and the operation of drones on District-owned lands, which are included in the attached Schedule of Watershed Fines and Fees.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the Revised Schedule of Watershed Fines and Fees, attached hereto and made part hereof, which Revised Schedule will go into effect on January 1, 2025, and which shall replace the prior adopted schedule.

PASSED AND ADOPTED this 1st day of October, 2024, by the following vote of the Board of Directors.

AYES:

NOES:

ABSENT:

Ranjiv Khush
President, Board of Directors

ATTEST:

Terrie Gillen
Board Secretary

ATTACHMENT TO RESOLUTION NO. _____
 Revised Schedule of Watershed Fines and Fees (**bold**) – As of 1/1/25

2025 Marin Water Regulations and Fines*

Water District Codes Listed			MMWD
Regulation	Type	Description	Base Fine
9.01.005	I	Trespass	\$ 50
9.01.006	I	Closed Lands First Offense	\$ 50
9.01.006	I	Second Offense	\$ 100
9.01.006	I	Third and Additional Offenses	\$ 150
9.01.007	I	Failure to pay permit fees	\$ 50
9.02.001	I	Compliance with laws, regs & signs First Offense	\$ 50
9.02.001	I	Second Offense	\$ 100
9.02.001	I	Third and Additional Offenses	\$ 150
9.02.002	I	Closed area First Offense	\$ 50
9.02.002	I	Second Offense	\$ 100
9.02.002	I	Third and Additional Offenses	\$ 150
9.02.003	M	Care of property and facility	\$ 185
9.02.004	I	Group Use Approval	\$ 50
9.02.005	I	Parents Responsible for Minors	\$ 50
9.02.006	I	Swimming First Offense	\$ 50
9.02.006	I	Second Offense	\$ 100
9.02.006	I	Third and Additional Offenses	\$ 150
9.02.007	I	Boating and Related Activities First Offense	\$ 50
9.02.007	I	Second Offense	\$ 100
9.02.007	I	Third and Additional Offenses	\$ 150
9.02.008	I	Camping First Offense	\$ 75
9.02.008	I	Second Offense	\$ 100
9.02.008	I	Third and Additional Offenses	\$ 150
9.02.009	I	Running and Jogging Designated Areas First Offense	\$ 50
9.02.009	I	Second Offense	\$ 100
9.02.009	I	Third and Additional Offenses	\$ 150
9.02.010	I	Games and Activities Interfering First Offense	\$ 50
9.02.010	I	Second Offense	\$ 100
9.02.010	I	Third and Additional Offenses	\$ 150
9.02.011	M	Firearm, Weapon or Fireworks	\$ 185
9.02.012	I	Audio Devices	\$ 50
9.02.013	I	Sanitation (Urination, Restrooms) First Offense	\$ 50
9.02.013	I	Second Offense	\$ 100
9.02.013	I	Third and Additional Offenses	\$ 150
9.02.014	I	Littering First Offense	\$ 50
9.02.014	I	Second Offense	\$ 100

9.02.014	I	Third and Additional Offenses	\$ 150
9.02.015	I	Garbage, Refuse and Trash	\$ 185
9.02.016	I	Structures	\$ 50
9.02.017	I	Abandoned and Unattended Property	\$ 50
9.02.018	I	Commercial Activity	\$ 50
9.02.019	I	Disorderly conduct	\$ 50
9.02.019(3)	M	Under the influence	\$ 185
9.02.021	M	Revocation of Privileges	\$ 185
9.03.001	I	Water Supply (Pollute, Possess, Impede)	\$ 100
9.03.002	I	Botanical Resources (Cut, Attach, Damage)	\$ 100
9.03.003	I	Wildlife and Animal (Hunt, Trap, Harass)	\$ 100
9.03.004	I	Geological resources	\$ 100
9.03.005	I	Archeological and Historic Resources	\$ 100
9.03.006	I	Cultural and Recreational Resources	\$ 100
9.04.001	I	Motor Vehicles (Prohibited)	\$ 50
9.04.002		Bicycles	
9.04.002	I	On Prohibited Trail	First Offense \$ 50
9.04.002	I		Second Offense \$ 150
9.04.002	I		Third and Additional Offenses \$ 250
9.04.003	I	Speed Limits	First Offense \$ 50
9.04.003	I		Second Offense \$ 100
9.04.003	I		Third and Additional Offenses \$ 150
9.04.004	I	Parking and Vehicle Removal	\$ 50
9.04.007		Electric Bicycle	
9.04.007 (1)	I	Non-Class 1 E-Bike	\$ 50
9.04.007 (2)	I	No Class 1 label/ Mislabeled E-Bike	\$ 50
9.05.001		Dog and Other Animals	
9.05.001	I	Dog off leash	First Offense \$ 50
9.05.001	I		Second Offense \$ 100
9.05.001			Third and Additional Offenses \$ 150
9.05.001(1)	I	Proof of Inoculation or License	\$ 50
9.05.002(2)	I	Noisy, Vicious or Dangerous Animal	First Offense \$ 50
9.05.002 (2)	I		Second Offense \$ 100
9.05.002 (2)	I		Third and Additional Offenses \$ 150
9.05.002 (3)	I	Allow Dog to Hunt or Pursue	First Offense \$ 50
9.05.002 (3)	I		Second Offense \$ 100
9.05.002 (3)	I		Third and Additional Offenses \$ 150
9.05.001(4)	I	Failure to remove dog	\$ 50
9.05.001(5)	I	Allow dog to swim	First Offense \$ 50
9.05.001 (1)	I		Second Offense \$ 100
9.05.001 (1)	I		Third and Additional Offenses \$ 150
9.05.001(6)	I	Dog or Animal in Closed Area	\$ 50
9.05.002		Horses	

9.05.002 (1)	I	Horse on trail	First Offense	\$ 50
9.05.002 (1)	I		Second Offense	\$ 100
9.05.002 (1)	I		Third and Additional Offenses	\$ 150
9.05.002 (2)	I	Ride in a Manner to Endanger Others	First Offense	\$ 50
9.05.002 (2)	I		Second Offense	\$ 100
9.05.002 (2)	I		Third and Additional Offenses	\$ 150
9.05.002 (3)	I	Tie Within 50 Feet of Picnic Area		\$ 50
9.05.002 (4)	I	Allow horse to swim	First Offense	\$ 50
9.05.002 (4)	I		Second Offense	\$ 100
9.05.002 (4)	I		Third and Additional Offenses	\$ 150
9.05.003	I	Animal at Large		\$ 50
9.06.002	I	Cleaning Fish		\$ 50
9.06.003	I	Bait		\$ 50
9.06.004	I	Health and Safety (Fishing from Dam, Wading)		\$ 50
9.07.001	M	Fires		\$ 500
9.07.002	M	Fireworks		\$ 500
9.07.003	I	Smoking	First Offense	\$ 75
9.07.003	I		Second Offense	\$ 100
9.07.003	I		Third and Additional Offenses	\$ 150

* Marin County Court Fees and penalties are added to Marin Water Base fees as listed below and are subject to changes adopted by the California Judicial Council or Marin county Courts.

Base Fine	Penalties	Total Bail Amount
\$50	\$155	\$205
\$100	\$310	\$410
\$150	\$465	\$615
\$185	\$588	\$773
\$200	\$620	\$820
\$500	\$1550	\$2050



UPCOMING MEETINGS

This schedule lists upcoming board and committee meetings as well as upcoming agenda items for the next month, which may include Board interest in adding future meeting items. The schedule is tentative and subject to change pending final publication and posting of each meeting agenda.

Internal Meetings		
Meeting Date	Meeting Type	Key Item(s)
Tuesday, Oct. 15, 2024 5:30 p.m.	Board of Directors' Regular Bi-Monthly Meeting	Quarterly Strategic Work Plan Progress Update (Q3)
Thursday, Oct. 17, 2024 9:30 a.m.	Watershed Committee Meeting/Special Meeting of the Board of Directors	Volunteer Program Update
Friday, October 18, 2024 9:30 a.m.	Operations Committee Meeting/Special Meeting of the Board of Directors	
Thursday, Oct. 24, 2024 9:30 a.m.	Finance & Administration Committee Meeting/Special Meeting of the Board of Directors	Capacity Charges Study Update and Board Handbook Review

External Meetings	
Meeting Date	Meeting Type
Friday, October 4, 2024 9:30 a.m.	North Bay Watershed Association Board Meeting