

Approval Item

TITLE

Approve the Emergency Intertie Project and authorize the General Manager to (1) Execute an Agreement with the Contra Costa Water District, and (2) Carry out a Pre-Purchase of Materials for Project Construction

RECOMMENDATION

Approve a resolution to:

- (i) Approve the Emergency Intertie Project.
- (ii) Approve the draft cooperative agreement with Contra Costa Water District (CCWD) for Water Transfers and authorize the General Manager to negotiate and execute the agreement with CCWD and purchase transfer water in an amount not to exceed \$10 million.
- (iii) Approve the pre-purchase of materials and authorize the General Manager to negotiate and execute supply agreements for those long lead time materials necessary to construct the pipeline in an amount not to exceed \$23,786,099.59.

SUMMARY

The proposed Marin East Bay Emergency Intertie Project (Project or EIP) would undertake to construct a water pipeline connection to East Bay Municipal Utilities District (East Bay MUD) to be located on the Richmond-San Rafael Bridge (SRS Bridge) in order to augment Marin Municipal Water District's water supply in response to the current drought. Review of the proposed Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines finds that the proposed Project qualifies for a Statutory Exemption under California Public Resources Code section 21080(b)(4) and CEQA Guidelines section 15269, Emergency Projects as described in further detail below. CCWD is a key partner in water transfers and the proposed CCWD agreement outlines the terms and itemized costs that would be incurred for a water transfer using CCWD facilities. In order to construct the infrastructure necessary to receive transfer water, the District must construct a pipeline to intertie the East Bay MUD distribution system to the District's distribution system. Pipeline and other essential materials have long lead times and in order to ensure timely delivery, the District must pre-order those materials.

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 20th 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. On September 21st, the Board adopted Ordinance No. 454 establishing water use limits and penalties for water use in excess of the established limits, effective December 1st, 2021. If drought conditions continue and the District receives similar precipitation and runoff as the past two years, projections indicate that the District will need a supplemental water supply in the second half of 2022.

In an effort to ensure that water is available for customers the District is proposing to construct an emergency intertie pipeline across the Richmond San Rafael (RSR) Bridge to connect to the East Bay MUD distribution system. Water purchased on the transfer market would be wheeled by East Bay MUD to the District. The feasibility of the pipeline segment on the RSR Bridge has been established and engineering teams are currently designing this segment and the other more traditional pipeline aspects of the proposed Project. As detailed planning for the proposed Project continues it is clear that long lead materials such as pipe, pumps and other essential components must be ordered several months in advance of construction. In addition, to ensure that transfer water is available for the District's use staff has been collaborating with CCWD to secure that supply. The draft cooperative agreement with CCWD is attached and the clarity and simplicity of the agreement reflects CCWD's willingness to assist the District in this endeavor.

Cooperative Agreement with Contra Costa Water District

CCWD owns and operates the Los Vaqueros reservoir that was expanded from 100,000 AF to 160,000 AF of storage in 2012. CCWD is planning a regional intertie with the South bay Aqueduct and considering further expansion of the reservoir to a total of 275,000 AF to better support regional water needs. As a leader in regional water supply, CCWD is ideally positioned to assist the District with water transfers. As an experienced participant in the water transfer market, CCWD can leverage existing relationships with suppliers and experience with regulators to the benefit on the District. In addition, CCWD has infrastructure and operational experience to convey transfer water into storage in Los Vaqueros reservoir. The storage of transfer water in Los Vaqueros provides a good deal of flexibility for final conveyance of the water to the District.

The cooperative agreement includes a methodology for determining costs that are calculated based on the principle that the District will reimburse CCWD for the actual costs of the transfer, including the costs for water and the costs for conveyance of water and storage in Los Vaqueros Reservoir. For example the marginal cost of water that would be added to the purchase price is approximately \$200 per acre-foot which covers power used in pumping and the use of conveyance infrastructure. The annual cost of storing the water in Los Vaqueros is approximately \$53 per acre-foot which may be prorated. The table below provides an example of how the cost of water transferred through CCWD facilities would be calculated and is based on values established for 2021.

	Unit Cost [\$/AF]	Volume of Water [AF]	Total [\$M]
Water Purchase	400	15,000	6
Power	130	10,500*	1.4
Facilities Use	71	10,500*	0.75
Storage	53	10,500*	0.6
Total	654	10,500*	8.75

*Losses in delta estimated at 30%

The final cost of water conveyed to the District will depend on the volume purchased and the wheeling route that is used. Staff anticipate purchasing up to 15,000 AF originating from the Yuba Water Agency (Yuba) through CCWD and to secure the option to purchase a similar amount from other suppliers. In total, a water purchase of 15,000 AF based on the 2021 pricing is expected to cost between \$8 million and \$9 million depending on the final purchase price for 2022, which is yet to be determined.

As indicated in the draft CCWD agreement, staff anticipates working with CCWD to purchase water or the option to purchase water from at least two different sources and to secure the quantity of supply from each source that would individually meet the District’s needs. The dual sourcing strategy will address the risk that one supplier may not be able to perform or that regulatory approvals are not granted in a timely manner for one source. In addition, CCWD has made available 5,000 acre-feet of water already stored in Los Vaqueros for District use in the event that water transfers are not timely or otherwise available to the District.

CCWD staff is targeting November 3, 2021 for their board to consider the Cooperative agreement with the District and November 17, 2021 CCWD for their board to consider a water supply purchase agreement with Yuba. Staff is seeking the board’s authorization for the General Manager to finalize and execute the cooperative agreement with CCWD

Pre-Purchase of Materials

In order to meet construction requirements necessary to complete the proposed Project in mid-2022, the District must order 55,000-ft of steel pipe, two large mobile pump stations and two bolted steel tanks each with a 1-million gallon capacity. Ordering these essential materials now will provide the best opportunity to ensure that the proposed Project will be ready to deliver water in July 2022. At present, with orders placed by the end of October, 2021 indications are from the steel pipe fabricators that the first pipe will not arrive on the jobsite until early March 2022. Additionally, regular pumps that would be installed in an existing pump station often have lead times of six months or more and the mobile pump stations will likely have an even longer lead time. The bolted steel tanks are an essential component of the proposed Project serving as a buffer between East Bay MUD and the District and are anticipated to arrive on-site in April.

The project team created request for quotation packages for these materials and is currently soliciting quotes which are due October 14, 2021. Due to the complexity of the mobile pump stations only one vendor was identified, Patterson Pump, and they have agreed to a price

negotiation process where they will demonstrate to the District that the District is not being asked to over pay for the pump stations by providing information on prior sales of similar equipment. Both the steel pipe and the bolted steel tanks quotation packages were sent to multiple vendors. Normal practice is for the District to award to one vendor on the basis of price alone, however due to the volume and short time frame it may be necessary for the General Manager negotiate and execute supply agreements for pipe with more than one vendor.

While staff is asking the board to approve the proposed Project, and to authorize the General Manger to execute a Cooperative Agreement with CCWD and to carry out the pre-purchase of materials necessary for the timely construction of the proposed Project, staff acknowledges that there still exist uncertainties with respect to the level of need for the proposed Project based on rainfall levels this coming winter. To the extent feasible, staff has analyzed and identified ways to mitigate the upcoming expenditures if the board later determines that the proposed Project is no longer necessary to meet the needs of the District.

Staff received informal quotes for the materials as follows:

Supplier	Pipe	Pump Station	Tank
Northwest Pipe	\$16,724,667.90		
Thompson Pipe Group	\$19,315,692.00		
Patterson Pump		\$3,714,663.88	
Paso Robles Tank			\$1,966,500.00
Superior Tank			\$2,510,534.41

Every attempt was made to obtain multiple quotations for these materials however for the mobile pump stations there were very few suppliers capable of producing the equipment and one of the two suppliers that were able to meet the specifications indicated that they were unable to source the equipment in the timeframe that is required and did not submit a quote. Patterson Pump provided the only quote for the pump stations. Staff has compared the quote to recent purchases of a similar mobile pump station and finds the provided quote to be reasonable in comparison. Staff has conducted a review of the pipeline materials quotations and can confirm that Northwest Pipe has the lowest responsible quote. Despite two bolted steel tank suppliers showing interest in the project, Superior Tank provided the only quote for the Steel Tanks. Overall staff is satisfied that the suppliers with the lowest quotes are well known suppliers and fully capable of meeting the specifications. Given the extremely rapid pace with which the design team is moving it is likely that some level of change in the quantity of pipeline material will be needed therefore staff is requesting a 5% contingency of the pipeline materials be authorized to support necessary changes in design.

The total cost for the pre-purchase of materials is as follows:

Pipe - \$16,724,667.90
Pipe contingency (5%) - \$836,233
Pumps - \$3,714,663.88
Tanks - \$1,966,500.00
Total - \$23,242,064.80

Staff is seeking the board's approval to authorize the General Manager to finalize and execute supply agreements for pipe, pump stations and steel storage tanks in an amount not to exceed \$23,786,099.59 which includes a 5% contingency for additional pipeline materials in the amount of \$826,233 for potential required design changes.

Environmental Review

The proposed action was reviewed relative to the California Environmental Quality Act (CEQA) and CEQA Guidelines. This review finds that the proposed project qualifies for a Statutory Exemption under Section 15269 Emergency Projects as described in further detail below.

Under Section 15269, the following actions are statutorily exempt from the requirements of CEQA:

(c) Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term, but this exclusion does not apply (i) if the anticipated period of time to conduct an environmental review of a such a long-term project would create a risk to public health, safety or welfare, or (ii) if activities (such as fire or catastrophic risk mitigation or modifications to improve facility integrity) are proposed for existing facilities in response to an emergency at a similar existing facility.

The District has experienced two successive dry winters with below average rainfall, resulting in reservoir storage volumes at historically low levels. At its April 20th, 2021 meeting, the Board, under Resolution 8630, declared a water shortage emergency. Subsequently, an emergency was declared at the County level, and on July 8th, Governor Newsom declared a drought emergency for Marin County. To help manage the water shortage emergency, the District proposes to construct the Emergency Intertie Project. The proposed Project will allow the District to import water to assist in maintaining the essential public service of water delivery to its customers and to mitigate the emergency. This action is consistent with the intent of the Emergency Project exemption.

This action qualifies for an exemption under 15269 Emergency Projects of the CEQA Guidelines. A copy of the draft Notice of Exemption is provided in Attachment 1.

FISCAL IMPACT

The cost to purchase and convey transfer water through CCWD is approximately \$10 million. The pre-purchase of materials is \$23,242,064.80. The total fiscal impact of actions considered

in this staff report is \$33,242,064.80. These are unbudgeted expenditures and will be funded from future bond issuance currently scheduled for December 2, 2021. Any funds needed prior to mid-December when bond funds will be available will come from reserves.

ATTACHMENT(S)

1. CEQA Notice of Exemption
2. Resolution
3. Cooperative Agreement with Contra Costa Water District

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Operations	 Paul Sellier Operations Director	 Ben Horenstein General Manager

Notice of Exemption

Item Number: 05
Attachment: 01



Filing Requested by and When Filed Return To:

Marin Municipal Water District
220 Nellen Ave
Corte Madera, CA 94925
Attn: Crystal Yezman, Director of Engineering

Project Title: Marin East Bay Emergency Intertie Project

Project Location: The Marin East Bay Emergency Intertie Project (Project) includes the construction and operation by Marin Municipal Water District (MMWD or District) of water transmission, pumping, and storage facilities in the City of San Rafael in Marin County, in the City of Richmond in Contra Costa County, California, and within the Interstate 580 (I-580) right-of-way across the Richmond-San Rafael (RSR) Bridge, which is owned by the State of California and under the jurisdiction of California Department of Transportation (Caltrans). Refer to Figure 1 for the location of the Project and its components. In Richmond, the Project includes a pump station and tie-in to a pipeline owned and operated by East Bay Municipal Utility District (EBMUD), as well as several segments of pipeline in streets within the Point Richmond neighborhood. The proposed EBMUD tie-in and the pump station are located near Tewksbury Avenue and Castro Street; the proposed pipeline alignment extends westward from the tie-in location in public rights-of-way (including the I-580 right-of-way) to Marin County. Proposed facilities in Marin County include a pump station and storage facilities (two tanks) on MMWD-owned property near Pelican Way and Kerner Boulevard and transmission pipeline in public rights-of-way.

Description of Nature, Purpose and Beneficiaries of Project

MMWD proposes to construct and operate the Project to address emergency drought conditions in Marin County and the State of California. The Project includes the short-term transfer of water to MMWD, and the construction, operation, and maintenance of potable water infrastructure to connect the treated water systems of MMWD and EBMUD. A key component of the infrastructure is a water pipeline to be supported by the RSR Bridge.

Existing Conditions

Existing MMWD Facilities. MMWD supplies water to approximately 191,000 customers throughout Marin County. MMWD currently owns property on Pelican Way near Kerner Boulevard in San Rafael, which is used for equipment storage and temporary storage of spoils. MMWD also owns and operates a water transmission main at the proposed western tie-in location in Sir Francis Drake Boulevard west of Andersen Drive.

Existing EBMUD Facilities. EBMUD provides water service to much of the East Bay, including the City of Richmond. EBMUD also operates a 20-inch diameter transmission main in Tewksbury Avenue to which proposed facilities would connect.

Proposed Actions, Facilities, and Operations

Water Supply. As part of the Project, MMWD would enter into an agreement or agreements with one or more water suppliers known to participate in water transfers, for the short-term transfer of an estimated 15,000 acre-feet. Treated water would be transferred to MMWD via EBMUD facilities, consistent with an operations agreement that would be executed between MMWD and EBMUD. Raw water purchased by MMWD could be conveyed to EBMUD several ways through existing facilities. The duration of the transfer is anticipated to be one year; if the current drought persists, MMWD may seek to extend the agreement. The specific water contractor(s) would be confirmed at a later date.

Facilities. The Project includes the following proposed facilities:

- **Richmond Pump Station.** The Richmond Pump Station would be located in the vicinity of Castro Street and Tewksbury Avenue in Richmond, drawing water from EBMUD's system and discharging it to the proposed Marin East Bay

Transmission Pipeline described below. The pump station would consist of three to four pumps and electrical equipment in a fabricated structure (about 50 feet by 15 feet) and mounted on a skid, an emergency diesel generator set (about 50 feet by 15 feet), and associated piping. The pump station would have a capacity of 12.5-million gallons per day (mgd). A 24-inch pipeline connection would connect to EBMUD's distribution system in Tewksbury Avenue. A combination of approximately 1,400 feet of 6-inch pipelines will be installed or replaced for EBMUD's distribution system in the Point Richmond neighborhood, including pipeline segments in Clarence Street, Contra Costa Street, Western Street, Eddy Street, West Richmond Avenue, and Marine Street. These pipelines would be needed to ensure that pressure changes associated with the Richmond Pump Station do not affect existing EBMUD customers.

- **Marin East Bay Transmission Pipeline.** The Project includes approximately 8 miles of up to 24 inch (inner diameter) pipeline, as follows (refer to Figure 1):
 - **Eastern Reach.** The proposed pipeline alignment east of the RSR Bridge extends from the Richmond Pump Station in the multi-use pathway adjacent to East Standard Avenue, within the pathway along the west side of Marine Street beneath I-580, and then continues along the pathway on the north shoulder of I-580. This segment of the pipeline would be buried. At the Scofield Avenue undercrossing of I-580, the pipeline would be attached to the soffit of the freeway bridge. West of the Scofield Avenue undercrossing, the pipeline would be installed beneath the multi-use pathway west to Stenmark Drive where it would become above grade at the eastern abutment of the RSR Bridge.
 - **RSR Bridge Reach.** From Stenmark Drive, the proposed pipeline alignment continues across the RSR Bridge. Where the RSR Bridge includes an upper and lower deck, the pipeline would be installed along the underside of the upper deck. Where the RSR Bridge transitions to a single-deck configuration, the pipeline would be installed on top of the concrete pile caps of the RSR Bridge on the north side of the deck. MMWD continues to work with Caltrans regarding the specific location and means of construction across the RSR Bridge.
 - **Western Reach.** The first segment of the proposed pipeline alignment within Marin County exits the RSR Bridge as an above grade pipeline and returns to a below grade pipeline at Francisco Boulevard East, continuing westerly to Morpheus Way and then to Pelican Way and the MMWD property at Pelican Way near Kerner Boulevard.
- **Pelican Way Tanks and Pump Station.** The Western Reach of the Marin East Bay Transmission Pipeline would discharge to two proposed one-million-gallon bolted steel tanks that would be constructed on MMWD property. The tanks, measuring approximately 45 feet high and 90 feet in diameter and built of either bolted steel, would be constructed on a foundation supported on piles. The new 12.5 mgd Pelican Way Pump Station would draw water from those tanks and discharge to the Marin Transmission Pipeline. The design of the Pelican Way Pump Station is identical to the Richmond Pump Station.
- **Marin Transmission Pipeline.** This pipeline extends from the proposed Pelican Way Pump Station and tanks to Francisco Boulevard East, then to Bellam Boulevard. The Marin Transmission Pipeline then follows Bellam Boulevard and Andersen Boulevard to Sir Francis Drake Boulevard. There would be multiple tie-ins to existing District pipelines along the alignment.

Construction. Construction is expected to last approximately six months in 2022. Construction is expected to occur seven days per week, with night work on the RSR Bridge and other select locations to reduce disruption of traffic, accommodate specific construction techniques, and advance the schedule. Construction could occur on the RSR Bridge in multiple locations, west of the RSR Bridge, and east of the RSR Bridge simultaneously. Primary staging would be on District-owned land at Pelican Way and Kerner Boulevard in San Rafael. Secondary staging would occur in Richmond at the site of the Richmond Pump Station, and a third staging area near the east end of the RSR Bridge may also be used.

Operations. As indicated above, MMWD would acquire water from a third party under a short-term transfer. The water would be transferred to MMWD via existing EBMUD facilities. The Richmond Pump Station would pump water to the Pelican Way tanks in San Rafael via the Marin East Bay Transmission Pipeline. The Pelican Way pump station would then boost the water through the Marin Transmission Pipeline and into MMWD's distribution system. The duration of the transfer is anticipated to be one year; if the current drought persists, MMWD may seek to extend the agreement. The pipeline would be able to convey up to 12.5 mgd at a peak instantaneous rate. MMWD would be responsible for operations and maintenance of the proposed facilities.

Environmental Features Proposed as Part of the Project. During Project planning and design, MMWD incorporated strategies and features to avoid adverse effects on environmental resources, consistent with the intent of CEQA. Examples include avoidance of cultural resources through pipeline routing and reduction in anticipated operational noise from pump station operations through the use of line power instead of generators where feasible.

Permits and Approvals. The Project may require permits and approvals from the following agencies:

- State Water Resources Control Board: Approval of short-term water transfer

- United States Bureau of Reclamation: Approval of short-term water transfer
- Caltrans: Encroachment permit and Directors Order
- San Francisco Bay Conservation and Development Commission
- City of San Rafael: Encroachment permit
- City of Richmond: Encroachment permit
- EBMUD: Operations agreement
- Federal Highway Administration

MMWD will continue to incorporate environmental features into the Project as design progresses, and will comply with all conditions in permits and approvals issued for the Project. MMWD will coordinate with Caltrans to assure compliance with the National Environmental Policy Act to the extent applicable.

Background Information, Purpose of and Need for the Project

Summary of MMWD Water Supply Sources. MMWD supplies water to approximately 191,000 customers in Marin County. Approximately 75 percent of MMWD's water supply comes from water stored in a total of seven reservoirs on Mount Tamalpais and in west Marin, and approximately 25 percent of the water supply is imported from the Sonoma County Water Agency (Sonoma Water) via the North Marin Aqueduct. Both MMWD and the North Marin Water District receive their imported water supply via the North Marin Aqueduct, which is owned by the North Marin Water District. MMWD's imported water supply is received at its Ignacio Pump Station in Novato, which is located downstream of the North Marin Water District's Aqueduct turnouts. MMWD's contracts with Sonoma Water identify the maximum volumes to be imported: 12.8 mgd during the months of May to September and 17.0 to 23.0 mgd from October to April. However, to date, Marin Water has never needed the maximum volumes, averaging 8.81 mgd during peak months over the last five years, with a high of 10.07 mgd in 2016.

Continuing Drought Conditions. The County of Marin and much of California is facing an exceptional drought. After two successive dry winters with significantly below average rainfall, MMWD reservoir storage volumes are at historical low levels. As of September 12, 2021, MMWD's reservoirs are at 36 percent of average storage volume, or 28,677 acre-feet, and are projected to have as little as 25,000 to 20,000 acre-feet in storage on December 1, 2021. In the absence of above average rainfall and runoff over the remainder of the water year and beyond, the MMWD's reservoir storage levels could be below 10,000 acre-feet in late summer/early fall 2022. MMWD has never operated its reservoirs at this level and there exists a great deal of uncertainty as to whether the District would be able to continue to meet its water supply demand. Regarding supplies from Sonoma Water, as of September 13th, 2021, Lake Sonoma had 113,874 acre-feet of water, which is 46.5 percent of capacity and approximately 55 percent of historical average for this time of year. Due to the lack of water, Sonoma Water has reduced allocations to its retail customers, including MMWD. From July through September 2021, MMWD will be restricted to 4 mgd with a slight increase in October to 4.6 mgd (compared to a typical import of 8.8 mgd). The reduced allocations are expected to continue if rainfall is below average in the fall.

Drought Response. To preserve MMWD's limited water supply, the MMWD Board of Directors (Board) adopted Resolution 8624 on February 16, 2021 providing initial drought water conservation actions for MMWD customers to voluntarily reduce their water usage. At the April 20, 2021 meeting, the Board adopted Resolution 8630 declaring a water shortage emergency and adopted an ordinance setting forth a comprehensive list of mandatory water conservation measures and water use restrictions. At the May 18, 2021 meeting, the Marin County Board of Supervisors voted unanimously to declare a local emergency and acknowledge the imminent threat of a public health and safety emergency related to local dry conditions and water supplies. Subsequently, on July 8, 2021, Governor Gavin Newsom added Marin County to a list of 50 out of 58 counties in California that are in a drought state of emergency and calling for state agencies to provide assistance where appropriate, including the expeditious consideration of water transfer requests. The goal of the mandatory water use restrictions adopted by MMWD is to achieve a 40 percent reduction in water use districtwide. Restrictions include but are not limited to the following: spray irrigation is limited to one day a week, with each community having a designated watering day; drip irrigation is limited to any two days per week; recommendation to turn off irrigation systems and spot water by hand, only when necessary; prohibition on outdoor water between 9:00 a.m. and 7:00 p.m. to prevent evaporation; all pools and spas must be covered; no washing of vehicles at home; no power-washing of any structures or hardscape; and no installation of potable water irrigated landscaping for new water services connections during the drought. In addition to implementing restrictions, MMWD also provides ways to help save water with conservation tips, water-efficient fixtures, rebates, and other programs. As of mid-July 2021, a 23 percent reduction was observed from baseline water use. The District has recently filed a Temporary

Urgency Change Petition requesting modifications to instream flow requirements to help preserve reservoir storage levels. Even with these aggressive measures, MMWD's 191,000 customers are projected to run out of water as early as July 2022 if the drought continues.

Urgent Need for the Project. An urgent need for the Project exists because of the extremely low storage levels in MMWD's reservoirs and the fact that without supplemental water supply, MMWD customers are threatened with an imminent public health and safety emergency from inadequate water supply. Such depletions in storage and reductions or eliminations of water supplies would cause serious impacts to human health and welfare. As indicated above, MMWD's 191,000 customers are projected to run out of water as early as July 2022 if the drought continues. Approval of the NOE is therefore necessary at this time to prevent and mitigate loss of, or damage to, public health and essential public services.

Public Agency Approving Project: Marin Municipal Water District

Name of Person or Agency Carrying Out Project: Marin Municipal Water District

CEQA Exemption Status: Emergency Project (Sec. 21080 (b)(4); 15269 (c)): Specific actions necessary to prevent or mitigate an emergency.

Reasons for Exemption: The proposed action is statutorily exempt under California Environmental Quality Act (CEQA) Statute 21080(b)(4).

A. *Actions to Prevent or Mitigate an Emergency*

California Public Resources Code, Division 13, Section 21080(b)(4) provides that specific actions necessary to prevent or mitigate an emergency are exempt from CEQA. The County of Marin and much of California is facing an exceptional drought. At the April 20, 2021 meeting, the MMWD Board of Directors adopted Resolution 8630 declaring a water shortage emergency and adopted an ordinance setting forth a comprehensive list of mandatory water conservation measures and water use restrictions. At the May 18, 2021 meeting, the Marin County Board of Supervisors voted unanimously to declare a local emergency and acknowledge the imminent threat of disaster related to local dry conditions and water supplies. Subsequently, on July 8, 2021, Governor Gavin Newsom added Marin County to a list of 50 out of 58 counties in California that are in a drought state of emergency, which Proclamation included the suspension of environmental review by state and local agencies to the extent necessary to carry out actions pertaining to the drought response and mitigation. As of September 12, 2021, the water supply storage level in Marin Water's reservoirs was 28,677 acre-feet, which is less than 36 percent of capacity. The current low storage level is the result of severely low rainfall in the region. As measured at Lake Lagunitas, recorded rainfall for January 1, 2020 through August 1, 2021 was approximately 32 inches, the lowest total rainfall for the 20-month period in 142 years. Furthermore, MMWD typically receives about 25 percent of its supply from Sonoma Water, which is in similar drought conditions. As a result of this drought, Sonoma Water has begun curtailing the amount of water available to its contractors throughout this drought period, and MMWD's supply from Sonoma Water has been cut in half. Without significant storm events in the near future, results of modeling show storage levels in MMWD's reservoirs to be below 25,000 acre-feet by December 2021. Even with aggressive mandatory conservation measures, MMWD's 191,000 customers are projected to run out of water as early as July 2022 if the drought continues. Accordingly, the Project is statutorily exempt from CEQA because it is necessary to prevent or mitigate an emergency—in this case, a proclaimed drought emergency—that poses a clear and imminent danger. (Pub. Resources Code, §§ 21060.3 & 21080, subd. (b)(4); Cal. Code Regs., tit. 14, § 15269, subd. (c).)

Lead Agency Contact Person: Crystal Yezman, Director of Engineering

Telephone: (415) 945-1100

Crystal Yezman, Director of Engineering

Date

Notice of Exemption

Item Number: 05
Attachment: 01



SOURCE: Woodward & Curran, 2021; ESA, 2021

Marin East Bay Emergency Intertie Project

Figure 1
Project Location and Components



MARIN MUNICIPAL WATER DISTRICT

RESOLUTION NO.

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MARIN MUNICIPAL WATER DISTRICT
APPROVING THE MARIN EAST BAY EMERGENCY INTERTIE PROJECT, AUTHORIZING THE
GENERAL MANAGER TO EXECUTE A COOPERATIVE AGREEMENT WITH CONTRA COSTA WATER
DISTRICT AND AUTHORIZING THE GENERAL MANAGER TO CARRY OUT THE PRE-PURCHASE OF
MATERIALS FOR PROJECT CONSTRUCTION**

WHEREAS, the District's potable water supply is limited to water captured in its seven reservoirs and water conveyed from the Russian River, both dependent on annual rainfall, and further depends on conservation and the use of recycled water where available; and

WHEREAS, the District has experienced two successive dry winters in 2020 and 2021 with historically low rainfall and runoff; and

WHEREAS, on April,20, 2021, the Board of Directors adopted Resolution 8630 declaring a water shortage emergency and adopted an ordinance setting forth a comprehensive list of mandatory water conservation measures and water use restrictions, which have been expanded over the course of the past several months, including the addition of water use limits; and

WHEREAS, on May 18, 2021, the Marin County Board of Supervisors voted unanimously to declare a local emergency and acknowledge the imminent threat of disaster related to local dry conditions and water supplies, and on July 8, 2021, Governor Gavin Newsom added Marin County to a list of 50 out of 58 counties in California that are in a drought state of emergency, which Proclamation included the suspension of environmental review by state and local agencies to the extent necessary to carry out actions pertaining to the drought response and mitigation; and

WHEREAS, the District typically receives about 25 percent of its supply from Sonoma Water, which is in similar drought conditions and as a result of this drought, Sonoma Water has curtailed the amount of water available to its contractors throughout this drought period, and the District's supply from Sonoma Water is anticipated to continue to be curtailed; and

WHEREAS, as of October 14, 2021, the water supply storage level in Marin Water's reservoirs was 26,117 acre-feet, which is less than 33 percent of capacity as a result of severely low rainfall in the region, recorded rainfall for January 1, 2020 through August 1, 2021 was approximately 32 inches, the lowest total rainfall for the 20-month period in 142 years; and

WHEREAS, the District's analysis based on historical hydrological data indicates that in the absence of above average rainfall and runoff, reservoir storage levels are projected to be between 22,000 to 25,000 AF on December 1, 2021; and

WHEREAS, 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, meaning that even with aggressive mandatory conservation measures, the District's 191,000 customers are projected to run out of water as early as July 2022 if the drought continues; and

WHEREAS, in an effort to ensure that water is available for customers, the District is proposing to construct an emergency intertie pipeline across the Richmond San Rafael Bridge (SRS Bridge) to connect to the East Bay Municipal Utilities District (East Bay MUD) distribution system to allow water purchased on the transfer market to be wheeled by East Bay MUD to the District and for which the District has entered into a Memorandum of Understanding with East Bay MUD to facilitate this work; and

WHEREAS, the feasibility of the pipeline segment on the RSR Bridge has been established and engineering teams are designing the proposed Project and have undertaken detailed planning indicating that pipe, pumps and other essential components must be ordered well in advance of construction due to long lead times on such materials; and

WHEREAS, to ensure that transfer water is available for the District's use staff has been collaborating with the Contra Costa Water District to secure supply and staff has prepared a draft cooperative agreement to facilitate this work; and

WHEREAS, staff has conducted a review and analysis of the proposed Project pursuant to the requirements of the California Environmental Quality Act (CEQA) and has found that the proposed Project qualifies for a statutory exemption under CEQA in accordance with California Public Resources Code section 21080(b)(4) and CEQA Guidelines section 15269 Emergency Projects in that the proposed Project will allow the District to import water as necessary to maintain the essential public service of water delivery to its customers and to mitigate the emergency.

NOW, THEREFORE, BASED ON THE FINDINGS SET FORTH ABOVE WHICH ARE HEREBY ADOPTED BY THE BOARD, THE BOARD OF DIRECTORS RESOLVES AS FOLLOWS:

1. The Board hereby approves the Marin East Bay Emergency Intertie Project as necessary to meet water supply during continued drought conditions; and
2. The Board hereby authorizes the General Manager to finalize and execute a Cooperative Agreement with the Contra Costa Water District to facilitate the Project including the purchase of water in amount not to exceed \$10,000,000 depending on need and actual water transfers; and

3. The Board hereby authorizes the General Manager to carry out the pre-purchase of materials needed to timely construct the Project, including specifically the pre-purchase of pipe, temporary pumps and steel tanks, and to finalize and execute supply agreements for pipe, pump stations and steel storage tanks in an amount not to exceed \$23,242,064.80 which includes a 5% contingency in the amount of \$836,233 for potential required changes to the pump stations; and
4. The Board further finds that the Project is statutorily exempt from further CEQA review in accordance with the California Public Resources Code section 21080(b)(4) and CEQA Guidelines section 15269 in that the Project will allow the District to import water as necessary to maintain the essential public service of water delivery to its customers and to mitigate the emergency.

PASSED AND ADOPTED this 19th day of October, 2021, by the following vote of the Board of Directors.

AYES:

NOES:

ABSENT:

Cynthia Koehler
President, Board of Directors

ATTEST:

Terrie Gillen
Board Secretary

**Cooperative Agreement for Water Transfer Project
Between Marin Municipal Water District and Contra Costa Water District**

This is an Agreement made as of _____, 2021 between Marin Municipal Water District, hereinafter referred to as “MMWD”, and Contra Costa Water District, hereinafter referred to as “CCWD”. MMWD is a Municipal Water District organized and existing under the Municipal Water District Law of 1911 (codified at Division 20 of the California Water Code) and CCWD is a County Water District organized and existing under the California County Water District law (codified at Division 12 of the California Water Code). Throughout this Agreement MMWD and CCWD may be referred to together as the “Parties”, or individually as a “Party”.

RECITALS

WHEREAS, since the execution of the Bay Area Regional Reliability Project Memorandum of Agreement in 2015, Alameda County Water District, Contra Costa Water District, East Bay Municipal Utility District, Marin Municipal Water District, San Francisco Public Utilities Commission, Santa Clara Valley Water District, and Zone 7 Water Agency, have worked cooperatively to address water supply reliability concerns and drought preparedness on a mutually beneficial and regionally focused basis;

WHEREAS, ongoing and unprecedented drought conditions in 2021 have resulted in varying degrees of water supply shortages in different regions around the state and have necessitated measures to mitigate the effects of the drought;

WHEREAS, Governor Newsom’s proclamation of a drought state of emergency for 50 of the 58 counties in California, including Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Sonoma, and Solano, with a call for voluntary water conservation of 15 percent across the state and directs state agencies to assist local agencies in moving water to areas of need;

WHEREAS, on April 20, 2021, MMWD declared a water shortage emergency pursuant to Water Code sections 350, et seq. and 71640, et seq. as set forth in Board Resolution No. 8630, and adopted mandatory water use restrictions with the goal of reducing overall water use by 40 percent districtwide; and

WHEREAS, the Marin County Board of Supervisors voted unanimously to declare drought emergency on May 18, 2021; and;

WHEREAS, CCWD completed expansion of Los Vaqueros Reservoir to 160,000 acre-feet in 2012 and has determined that a portion of the water stored in the expanded Los Vaqueros Reservoir could be made available over the near term to local agencies, while remaining consistent with the principles for participation in the expansion of Los Vaqueros Reservoir adopted by CCWD’s Board of Directors (Resolution No. 03-24);

WHEREAS, in July 2021, CCWD and MMWD executed a letter of intent that indicates the Parties will work together towards a water transfer and storage agreement for up to 15,000 acre-feet of water to MMWD should drought conditions continue in 2022.

NOW, THEREFORE, CCWD and MMWD agree that the above recitals are hereby incorporated into and made a part of this Agreement, and further agree as follows:

1. DELIVERIES

This Agreement is between MMWD and CCWD for CCWD to use Los Vaqueros Reservoir and CCWD's existing conveyance facilities to facilitate the delivery of up to 15,000 acre-feet of transfer water to MMWD before June 30, 2024 or such later agreed date if the period for performance is extended pursuant to Section 15 of this Agreement. The water transferred shall be used solely within MMWD's service area.

CCWD and MMWD's distribution systems are not directly connected. Completion of this transfer would require a separate agreement between MMWD and East Bay Municipal Utility District, hereinafter referred to as "EBMUD", and potentially other third-party water agencies, to wheel the transfer water to MMWD. MMWD is responsible for obtaining all necessary permits and agreements and for constructing the necessary conveyance facilities between CCWD and MMWD to receive the transfer water.

2. WATER SOURCES

The source of the transfer water will be either:

- a. Up to 15,000 acre-feet of water from Yuba Water Agency, hereinafter referred to as "YWA", and/ or other suppliers as mutually agreed upon by MMWD and CCWD. The purchased water will be diverted in 2022, subject to appropriate carriage water losses, from one or more of the following diversion locations:
 - o By CCWD at either their Rock Slough, Old River, or Middle River diversion facilities, either to storage in CCWD's Los Vaqueros Reservoir or for use in CCWD's service area in lieu of Los Vaqueros releases needed for water supply, creating a credit for MMWD.
 - o By EBMUD at their Freeport diversion facility for direct treatment and delivery to MMWD, or delivery to Los Vaqueros Reservoir for storage.
- b. Up to 5,000 acre-feet of CCWD's water previously stored in Los Vaqueros Reservoir, which would be made available for MMWD's purchase in 2022 only if:
 - Despite the best efforts of all Parties, CCWD and MMWD cannot secure the necessary agreements and approvals to purchase all of the transfer water from YWA and/or other supplier and divert the transfer water to storage in LV;
 - MMWD's local water supply is projected to be at the emergency levels on or before December 31, 2022;
 - MMWD has implemented measures to achieve the 40% water conservation mandate;
 - CCWD's CVP Contract allocations in 2021 and 2022 are not less than CCWD's Public Health and Safety needs; and
 - CCWD's projected Los Vaqueros storage for December 31, 2022, is not less than 44,000 acre-feet after the transfer to MMWD.

3. APPROVALS

The Parties will work cooperatively to obtain the regulatory approvals necessary to implement this project, including from the State Water Resources Control Board (“State Water Board”) and the U.S. Bureau of Reclamation (“Reclamation”). (1) A temporary change petition needs to be filed with the State Water Board to add CCWD’s existing intakes as points of diversion for YWA and/or other supplier’s water rights. (2) Reclamation approval of the project will require review under the National Environmental Policy Act. (3) This transfer is exempt from the requirements of the California Environmental Quality Act; however, the Parties may choose to file Notices of Exemption.

MMWD shall be responsible for the fees incurred for this project, including those charged by the State Water Board and Reclamation associated with the approvals as described in this Section 3. Each Party shall be responsible for its own staff time and related costs that are not otherwise discussed in this Section 3. The Parties may contract for outside assistance to secure these approvals, which shall be paid for through a separate cost sharing arrangement as may be agreed to by the Parties in writing.

4. OPERATIONAL COORDINATION

The Parties will work cooperatively to develop schedules for diversion, conveyance, storage, and delivery of the transfer water, and will set forth the procedures, dates, times, rates of delivery and other pertinent data regarding delivery operations, in conjunction with YWA and or other suppliers, Reclamation, and EBMUD, and other third-party water agencies, for delivering the transfer water to MMWD as discussed in Section 1. If the transfer water is delivered through exchange from storage in LV, it will be subject to 8% per year evaporation losses (prorated by month if stored for less than a year).

5. PRICE AND PAYMENT

MMWD will reimburse CCWD for the costs to purchase, convey, and store the transfer water. The cost calculation methodology for this project is described in Exhibit A, which is attached hereto and incorporated herein by this reference as if fully set forth. CCWD shall provide an invoice, as calculated per Exhibit A, to MMWD, within 30 days of the completion of the project. MMWD agrees to pay CCWD the amount of the invoice within 60 days of receipt.

6. INCOMPLETE TRANSFER AND REFUND

The Parties recognize the possibility that, after the transfer water has been purchased and stored in Los Vaqueros Reservoir, a part or all of the stored transfer water might not be delivered to MMWD prior to June 30, 2024, or such later agreed date if the period for performance is extended pursuant to Section 15 of this Agreement. Situations that are beyond CCWD’s control that could prevent the transfer from being completed include, but are not limited to, MMWD no longer needing the transferred water due to changed supply conditions or inability to proceed with the construction of water conveyance facilities necessary to deliver the water to MMWD, lack of Reclamation or State Water Board of approval for the transfer, EBMUD inability to deliver the transferred water to MMWD, or Los Vaqueros Reservoir storage drawdown for construction of the Phase 2 Los Vaqueros Reservoir Expansion Project.

Under this circumstance, CCWD will use best efforts to use and/or remarket the transfer water stored in Los Vaqueros Reservoir. CCWD will refund MMWD for CCWD's associated avoided cost, which is the 2022 CVP water rate (see Exhibit A Table 2), within 60 days upon termination of this Agreement.

7. REMEDIES NOT EXCLUSIVE

The use by any Party of any remedy for the enforcement of this Agreement is not exclusive and shall not deprive the Party using such remedy of, or limit the application of, any other remedy provided by law.

8. WAIVER OF RIGHTS

Any waiver at any time by any Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

9. NOTICES

Any notices required by this Agreement shall be deemed given upon receipt and shall be delivered or mailed, United States first-class postage prepaid, addressed as follows:

CCWD: General Manager
Contra Costa Water District
1331 Concord Avenue
P.O. Box H2O
Concord, CA 94524

MMWD: General Manager
Marin Municipal Water District
220 Nellen Ave
Corte Madera, CA 94925

Any Party may amend its address for notice by sending notice to the other Parties.

10. INTEGRATION

This Agreement constitutes the entire agreement between the Parties with respect to the matters covered by its terms. This Agreement supersedes all prior proposals, representations, negotiations, letters, or other communications between the Parties pertaining to the matters discussed herein, whether written or oral. Sections 1 through 6 of this Agreement excepted, should any provision of this Agreement be found to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall be enforced to the full extent permitted by law. Except as may be specifically provided, nothing herein is intended to waive or abridge any rights or obligations that a Party may have pursuant to any other agreements with the United States or the State of California.

11. DISPUTE RESOLUTION

Should any dispute arise concerning any provisions of this Agreement, or the Parties' rights and obligations thereunder, the Parties shall meet and confer in an attempt to resolve the dispute.

Prior to commencing legal action, the Party asserting a breach or dispute shall provide to the other Party or Parties 30 days' written notice of the intent to take such action and the basis of the dispute or alleged breach. Within 20 days of delivery of the notice, the Parties shall meet and confer in an attempt to resolve the contested issues. Each Party will designate a member of the Party's executive management to conduct the negotiation in good faith.

The Parties shall make good faith efforts to resolve all disputes related to this Agreement at the lowest possible cost, subject to the approval of the Parties' respective governing bodies. Each Party shall bear its own attorneys' fees and costs in all aspects of dispute resolution. Unless the Parties agree upon an alternative forum of dispute resolution, any litigation concerning claims and disputes related to this Agreement shall be filed in and timely prosecuted to conclusion in the Superior Court in and for Contra Costa County, and each party hereby waives its right to move to change venue.

12. INDEMNITY

In performance of this Agreement, each Party, its agents, employees, and contractors, shall act in an independent capacity and not as officers, employees, or agents of any other Party. No Party assumes any liability for the activities of any other Party in performance of this Agreement. Each Party is responsible in proportion to its fault for all liability, including but not limited to personal injury or property damage that may arise out of this Agreement, except to the extent such injury, damage, or loss was caused by the negligence or willful misconduct of any other Party, or its officers, agents, or employees. Each Party expressly agrees to defend, indemnify, and hold harmless the other Parties and their Directors, officers, agents and employees from and against any and all loss, liability, expense, claims, suits, and damages, including attorneys' fees, arising out of or resulting from the first Party's, its associates, employees', sub-consultants', or other agents' negligent acts, errors or omissions, or willful misconduct, in its performance under this Agreement.

Each Party shall be responsible for any adverse impacts to its own customers that may result from the operation or performance of this Agreement, except as arising out of or resulting from the negligent acts, errors or omissions, or willful misconduct of the other Parties, their associates, employees, sub-consultants, or other agents.

Each Party shall exercise reasonable care in the performance of its obligations and rights under this Agreement to ensure that each Party's facilities and operations, including water rights, entitlements and contracts, are not impaired or damaged.

The Parties agree that no Party will hold any other Party responsible for the inability to obtain regulatory agency approvals necessary for the implementation of any provisions of this Agreement, so long as each Party has acted with reasonable diligence to obtain the approvals.

13. MODIFICATIONS

All modifications or amendments to this Agreement shall be in writing and signed by all Parties.

14. ASSIGNMENT: SUCCESSORS AND ASSIGNS OBLIGATED

No assignment or transfer of this Agreement or any part hereof, rights hereunder, or interest herein shall be valid unless and until the assignment or transfer is approved in writing by all

Parties. Thereupon, this Agreement and all of its provisions shall apply to and bind the successors and assigns of the Parties hereto.

15. EFFECTIVE DATE AND TERMINATION

This Agreement shall become effective upon execution by all Parties as indicated by the date first written above. This Agreement may be terminated by any Party, as to the terminating Party, upon thirty (30) days written notice to the other Parties. If the project is not complete prior to June 30, 2024, the Parties may agree to amend this Agreement to extend the time period.

16. SIGNATURES

This Agreement may be executed in multiple counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree to the use of electronic (in portable document format) or digital signatures for this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized representatives on the date first written above.

Approved as to legal form: MARIN MUNICIPAL WATER DISTRICT

By: _____
General Counsel

By: _____
Ben Horenstein, General Manager

Approved as to legal form: CONTRA COSTA WATER DISTRICT

By: _____
General Counsel

By: _____
Stephen J. Welch, General Manager

EXHIBIT A – Cost Calculation Methodology for MMWD-CCWD Transfer Project

The costs for the transfer are calculated on the principle that MMWD will reimburse CCWD for the actual costs of the transfer, including the costs for water and the costs for conveyance of water and storage in Los Vaqueros Reservoir. Costs included in the tables below are example costs based on current available values.

Table 1. Cost Calculation Methodology

COMPONENT	COST	DESCRIPTION
<u>Water</u>		
YWA Transfer Water	\$383/AF	2021 YWA critical-year rate for transfer water.
Other Supplier Transfer Water	To be determined	Other Supplier rate for transfer water.
CCWD CVP Contract Water	\$68.99/AF	2021 CVP rate for CCWD contract water.
CCWD Los Vaqueros Water Right Water	\$25.06/AF	2021 CVP charge for Los Vaqueros water right water.
<u>Conveyance</u>		
Power	\$127.49/AF	Power cost for pumping non-CVP water at CCWD’s Middle River Pump Station (\$40.01/AF) and at CCWD’s Transfer Pump Station (\$87.48/AF).
Conveyance Facilities Usage Fees	\$70.84/AF	Conveyance includes capital rental and wear and tear of facilities used for pumping from Middle River Intake (\$35.81/AF) and Transfer Facility (\$35.03/AF). Conveyance usage fees are as determined for Phase 2 of the Los Vaqueros Reservoir Expansion Project.
SUB-TOTAL	\$198.33/AF	Conveyance costs to be reimbursed by MMWD to CCWD
<u>Storage</u>		
Los Vaqueros Storage Usage Fees	\$40.18/AF per year	Total current value of the original 100 TAF Los Vaqueros Dam and 60 TAF Expansion is \$642,816,881. The usage fees are calculated by assuming 100-year useful year.
Reservoir O&M Costs	\$12.70/AF per year	Fixed costs include Los Vaqueros watershed O&M and property taxes and fees, escalated from 2013 values by the San Francisco Engineering News Record Construction Cost Index.
SUB-TOTAL	\$52.88/AF per year	Storage costs to be reimbursed by MMWD to CCWD. For a period less than one year, storage costs will be prorated by month.
TOTAL		
Total for Yuba Transfer Water	\$581.33/AF plus \$52.88/AF per year	

Total for Other Supplier Transfer Water	Other Supplier rate for transfer water +198.33/AF plus \$52.88/AF per year	
Total for CCWD CVP Water	\$267.32/AF plus \$52.88/AF per year	
Total for CCWD LV Water Right Water	\$223.39/AF plus \$52.88/AF per year	
Evaporation Loss	8% per year	Evaporation loss for water stored in Los Vaqueros.

Table 2. Avoided Water Cost to be Reimbursed by CCWD to MMWD if Transfer not completed

COMPONENT	COST	DESCRIPTION
<u>Water</u>		
CVP Contract	\$68.99/AF	2021 CCWD CVP Water Rate (M&I), avoided water cost by CCWD and reimbursed by CCWD to MMWD.
TOTAL	\$68.99/AF	Reimbursement from CCWD to MMWD if the transfer water is not delivered