

**REIMBURSEMENT AGREEMENT BETWEEN
THE COUNTY OF MARIN AND MARIN MUNICIPAL WATER DISTRICT
FOR THE MUIR BEACH FEASIBILITY STUDY**

THIS AGREEMENT is made and entered into this ____ day of _____ 2023, by and between the COUNTY OF MARIN, hereinafter referred to as “COUNTY”, and the MARIN MUNICIPAL WATER DISTRICT, hereinafter referred to as “MMWD”, both located in the State of California, collectively the “PARTIES”;

For good and valuable consideration, the PARTIES agree as follows:

SECTION 1: RECITALS.

- A.** COUNTY plans to conduct corridor improvements along Frank Valley Road starting at Muir Woods National Park and continuing to the Highway 1 ending at the community of Muir Beach, hereinafter the “ROADWAY PROJECT”;
- B.** As part of the ROADWAY PROJECT the COUNTY will resurface the roadway along this identified portion of Frank Valley Road;
- C.** COUNTY and MMWD would like to evaluate the feasibility of installing water supply facilities from MMWD’s system ahead of the ROADWAY PROJECT, hereinafter the “FEASIBILITY STUDY”;
- D.** The community of Muir Beach currently receive water service from the Muir Beach Community Services District (“Muir Beach CSD”) from existing groundwater wells;
- E.** SB 552 requires counties to look at possible solutions for small water systems and domestic wells within the county, and the FEASIBILITY STUDY will evaluate the feasibility of installation of a water service line from MMWD facilities to serve the community of Muir Beach;
- F.** This FEASIBILITY STUDY will be limited to an engineering review of the physical feasibility, proposed alignment and costs estimates of constructing a new water service line, but will not include any evaluation of the legal and jurisdictional issues involved in providing water service from MMWD facilities to Muir Beach, the real property and access rights necessary to complete any construction, nor the environmental review and analysis necessary for such project, all of which would remain future work needed for any final project;
- G.** The FEASIBILITY STUDY will be used to inform the County and Muir Beach CSD as to the competitiveness for federal grants to fund the cost of a potential new pipeline that would connect MMWD water supply to Muir Beach CSD;
- H.** MMWD has agreed to support the County and manage the FEASIBILITY STUDY, under the oversight of the County, given MMWD experience and expertise in water pipeline construction projects; and

- I. COUNTY and MMWD wish to enter into this AGREEMENT to clarify the costs associated with the management and administration of the FEASIBILITY STUDY.

SECTION 2: PROJECT COORDINATION

- A. All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and given by personal delivery, or deposited with the United States Postal Service, postage prepaid, addressed to the parties named in this Section. Notice shall be deemed given as of the date of personal delivery, or if mailed, upon the date of deposit with the United States Postal Service.

To: MMWD
Elysha Irish
Marin Municipal Water District
220 Nellen Avenue
Corte Madera, CA 94925

To: COUNTY
Rosemarie Gaglione
County of Marin – DPW
3501 Civic Center Drive Ste 304
San Rafael, CA 94913-4186

- B. MMWD. The General Manager shall be the representative of MMWD for all purposes under this AGREEMENT. Elysha Irish is hereby designated as the Project Director for MMWD. MMWD’s Project Director shall be responsible for all aspects of the progress and execution of this AGREEMENT on behalf of MMWD.
- C. COUNTY. The Public Works Director shall be the representative of COUNTY for all purposes under this AGREEMENT. Rosemarie Gaglione, the Public Works Director, is hereby designated as the Project Director for COUNTY. COUNTY’s Project Director shall be responsible for all aspects of the progress and execution of this AGREEMENT on behalf of COUNTY.
- D. The Public Works Director is hereby declared to be the authorized COUNTY representative in administering this AGREEMENT. The MMWD General Manager is hereby declared to be the authorized MMWD representative in administering this AGREEMENT. Either Party may change its designated representative by providing written notice of the same to the other Party.

SECTION 3: SCOPE OF AGREEMENT

- A. The PARTIES acknowledge and agree that the sole purpose of this AGREEMENT is to set forth the PARTIES responsibilities regarding the management and administration of the FEASIBILITY STUDY and to set forth the amount that COUNTY will reimburse MMWD for its costs associated with the management and administration of the FEASIBILITY STUDY.
- B. The PARTIES agree that the services needed for the management and administration of the FEASIBILITY STUDY include the tasks set forth below:
 - 1. Project management services of FEASIBILITY STUDY; and
 - 2. CONSULTANT payment for FEASIBILITY STUDY;

- C. The PARTIES agree that the FEASIBILITY STUDY will become the property of the COUNTY at completion.

SECTION 4: Duties of MMWD

- A. MMWD will solicit quotes from qualified engineering firms (CONSULTANT) to perform the FEASIBILITY STUDY and oversee the preparation of a draft scope of work for the FEASIBILITY STUDY. Prior to executing a professional services agreement with the CONSULTANT for the FEASIBILITY STUDY, MMWD will consult with COUNTY to permit COUNTY to make any revisions to the scope of work. if needed.
- B. MMWD shall provide project management for the FEASIBILITY STUDY and use MMWD Staff expertise and knowledge of MMWD's system to work with CONSULTANT on the FEASIBILITY STUDY. MMWD shall require CONSULTANT to provide MMWD with progress payments and applicable insurance for the FEASIBILITY STUDY, all in accordance with the terms and conditions of a professional services agreement with CONSULTANT in accordance with MMWD's standard requirements.
- C. MMWD shall pay CONSULTANT for the FEASIBILITY STUDY in accordance with the hourly rate schedule per task and scope of work. No extra work on the FEASIBILITY STUDY outside the funding identified herein will be authorized by MMWD without prior written approval of COUNTY. Any request for approved extra work shall be sent to the COUNTY's Project Manager, Rosemarie Gaglione.
- D. MMWD or its representative, shall be responsible for managing the FEASIBILITY STUDY and ensuring the CONSULTANT performs the scope of work.
- E. MMWD shall require CONSULTANT to name COUNTY as an additional insured on all insurance required to be obtained including but not limited to CONSULTANT general liability and shall require that CONSULTANT indemnify COUNTY to the same extent as MMWD under the FEASIBILITY STUDY agreement.
- F. MMWD shall be responsible for the Project Administration of the FEASIBILITY STUDY. These services shall include: progress payment and schedule review, claims negotiation, meeting attendance, project reports, project documentation, ensuring CONSULTANT'S performance under the agreement, and overall project administration.
- G. MMWD shall provide COUNTY status updates and other information needed to facilitate the completion of the FEASIBILITY STUDY on a weekly or an "as needed" basis.
- H. MMWD shall prepare and submit to COUNTY invoices for CONSULTANT costs associated with the FEASIBILITY STUDY on a monthly basis.
- I. At the completion of the FEASIBILITY STUDY, MMWD shall prepare and submit invoice to COUNTY for consultant costs associated with the administration of the FEASIBILITY STUDY and provide COUNTY with a copy of the final FEASIBILITY STUDY.

SECTION 5: Duties of COUNTY

- A. COUNTY shall reimburse MMWD for the FEASIBILITY STUDY costs in accordance with the hourly rate schedule per task and scope of work approved and authorized in writing by COUNTY for a total cost not to exceed seventy-five thousand dollars (\$75,000). COUNTY shall also reimburse MMWD for any extra or changed work authorized by advanced written notice from COUNTY'S Project Manager in an amount not to exceed ten thousand dollars (\$10,000) for a total potential reimbursement not to exceed eighty-five thousand dollars (\$85,000). COUNTY shall review MMWD progress payment estimates and provide MMWD written notice approving or disapproving each progress payment estimate related to the FEASIBILITY STUDY within 14 calendar days of COUNTY receiving each progress payment estimate from MMWD. COUNTY will remit payment to MMWD within 21 calendar days following its approval of a FEASIBILITY STUDY progress payment.
- B. COUNTY shall review MMWD's recommendation for any change orders for extra work and provide MMWD a written notice of approval or disapproval of extra work within five (5) days of receiving each request if the change order for extra work does not exceed the amounts agreed to herein. If any request for change order exceeds the amounts herein, the parties will be required to do an amendment to this agreement.

SECTION 6: Miscellaneous Terms

- A. Term of AGREEMENT: This AGREEMENT shall terminate upon COUNTY acceptance of the completed FEASIBILITY STUDY, provided that COUNTY reimbursement and MMWD and COUNTY indemnification duties shall continue following the end of such term.
- B. Termination: This AGREEMENT may be terminated, for cause, by either Party, upon thirty (30) calendar days advance written notice to the other Party following the notified Party's failure to cure or correct the cause of termination notice, within thirty (30) calendar days receipt of that notice.
- C. Amendment and Merger: This AGREEMENT contains all the terms and conditions made between the parties to this AGREEMENT and may only be modified by written AGREEMENT signed by all the parties to this AGREEMENT or their respective successors in interest. This writing is intended both as a final expression of the AGREEMENT between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of this AGREEMENT. No modification of this AGREEMENT shall be effective unless and until such modification is evidenced by a writing signed by both parties.
- D. Agreement Binding: The terms and provisions of this AGREEMENT shall extend to and be binding upon and inure to the benefit of the heirs, executors, and administrators or to any approved successor, as well as to any assignee or legal successor to any PARTIES to this AGREEMENT.
- E. Cooperation: The PARTIES pledge cooperation during the term of this AGREEMENT.

- F. No Third-Party Beneficiaries:** Nothing contained in this AGREEMENT shall be construed to create and the PARTIES do not intend to create any rights in third parties.
- G. Severability:** If any term, covenant or condition of this AGREEMENT or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remainder of this AGREEMENT or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant and condition of this AGREEMENT shall be valid and be enforced to the fullest extent permitted by law.
- H. No Waiver:** The waiver by either of the PARTIES of any default under this AGREEMENT shall not operate as a waiver of any subsequent breach of the same or any other provision of this AGREEMENT.
- I. Time is of the Essence:** Time is of the essence with respect to the performance of every provision of this AGREEMENT for which time or performance is a factor. PARTIES agree to adhere to all deadlines stated in the approved project specifications.
- J. Mediation:** Any dispute or claim in law or equity between the COUNTY and MMWD arising out of this AGREEMENT, if not resolved by informal negotiation between the PARTIES, shall be mediated. 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. If mediation is unsuccessful, the PARTIES may avail themselves of any other remedies.
- K. Applicable Law:** This AGREEMENT shall be construed and enforced in accordance with the laws of the State of California.
- L. No Presumption Regarding Drafter:** The PARTIES acknowledge and agree that the terms and provisions of this AGREEMENT have been negotiated and discussed between the PARTIES and their attorneys, and this AGREEMENT reflects their mutual AGREEMENT regarding the same. Because of the nature of the negotiations, and discussions it would be inappropriate to deem any Party to be the drafter of this AGREEMENT. Therefore, no presumption for or against validity, or as to any interpretation hereof, based upon the identity of the drafter, shall be applicable in interpreting or enforcing this AGREEMENT.
- M. Assistance of Counsel:** Each Party to this AGREEMENT warrants as follows:
- a. That each Party had the assistance of counsel in the negotiation for, and the execution of, this AGREEMENT and all related documents; and
 - b. That each Party has lawfully authorized the execution of this AGREEMENT.
- N. Section Headings:** The section headings contained in this AGREEMENT are for convenience and identification only and shall not be deemed to limit or define the contents of the sections to which they relate.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT by their duly authorized officers as of the day and year first above written.

MARIN COUNTY BOARD
OF SUPERVISORS

MARIN MUNICIPAL WATER DISTRICT

President, Board of Supervisors

Board President

ATTEST:

ATTEST:

By: _____
Deputy Clerk

By: _____
Board Secretary

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
County Counsel

By: _____
General Counsel