MWPA BOARD OF DIRECTORS AGENDA
Thursday November 19, 2020
3:00 pm

https://zoom.us/j/93068198420
Or Telephone:
669-900-6833
Meeting ID: 930 6819 8420

For those joining by phone use: *9 to “raise your hand” and *6 to mute/unmute

ATTENTION: This will be a virtual meeting of the Board of Directors of the Marin Wildfire Prevention Authority pursuant to Executive Order N-29-20 issued by the Governor of the State of California. There will not be a public location for participating in this meeting, but any interested member of the public can participate telephonically by utilizing the dial-in information printed on this agenda. If any member of the public has a request for a reasonable modification or accommodation for accessing this meeting due to a disability, she/he/they should contact Mark Brown at mbrown@marinwildfire.org

1. Call to order.

2. Roll Call.
   David Kimball
   Sashi McEntee
   Gary Phillips
   Gabe Paulson
   Dennis Rodoni
   Kathryn Donohue
   Barry Evergettis
   Bill Shea
   Leighton Hills
   Bruce Goines
   Tom Finn
   Cathryn Hilliard
   Mark White
   Bob Ravasio
   Barbara Coler
   Julie McMillan
   Steve Burdo

AGENDAS & STAFF REPORTS ON-LINE www.marinwildfire.org

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3. **Agenda Adjustments.**

4. **Open time for public expression.** The public is welcome to address the Board of Directors at this time on matters not on the agenda that are within the jurisdiction of the Board. Please be advised that pursuant to Government Code Section 54954.2, the Board is not permitted to discuss or take action on any matter not on the agenda. Comments may be no longer than three minutes and should be respectful to the community. **Please silence your cell phones during the meeting / mute your microphone when not reporting out.**

5. **Executive Officer's Report – Verbal Report.**
   Information Only, such as information about Marin/Statewide Wildfire Status Update, Executive and Finance Committee Updates and Action Minutes

6. **Consent Calendar.**
   The opportunity for public comment on consent agenda items will occur prior to the Board's discussion of the consent agenda. The Committee may approve the entire consent agenda with one action. In the alternative, items on the consent agenda may be removed by any Committee or staff member, for separate discussion and vote.

   a. Acknowledge September 24, 2020 Operations Committee minutes. [MWPA OPS 9-24-20 Minutes - Draft]
   b. Approve October 15, 2020 MWPA Board of Directors Meeting minutes. [MWPA BOARD 10-15-20 - Minutes]
   c. Acknowledge October 20, 2020 Finance Committee Meeting minutes. [MWPA FIN COMM 10-20-20 - Draft]
   d. Accept agreement with Remy Moose Manley, LLP for specialized legal services.
      d.1 [MWPA RMM Agreement Staff Report 11 19 20]
      d.2 Retainer Agreement - Fully Executed

7. **Wildfire Prevention Update.**
   Recommendation: Receive a verbal report on the ongoing Wildfire Prevention activities. [Wildfire Prevention Update]

8. **Low Income Senior Tax Exemption Appeals Process.**
   Recommendation: Authorize a Low-Income Senior Exemption Appeals Process and Establish an ad hoc subcommittee of the Board of Directors to consider Appeals. [MWPA Low Income Senior Exemption Exemption Appeals Proposal]

9. **Update on Environmental Compliance and Request for Proposals for Environmental Consultant Services.**

**AGENDAS & STAFF REPORTS ON-LINE** [www.marinwildfire.org]
Recommendation: Review recommendations related to environmental compliance based on guidance from Remy Moose Manley LLP, consider appointing an ad hoc committee to advise on next steps and to revise the request for proposals (RFP) for environmental consultant services.

9 MWPA CEQA Memo Staff Report 11 19 20
9-1 Public Memo for Board re CEQA strategies
9-2 JPA territory map
9-3 SRA LRA FRA Map
9-4 California Vegetation Treatment Program PEIR (Cal VTP) - Treatable Area
9-5 MWPA CEQA Decision Flow

10. Update on Organization Structure and Staffing Options.
Recommendation: That the Board and Executive Officer discuss and consider the structure of the MWPA organization and staffing, and to provide direction to the Executive Officer.

MWPA Administrative and Financial Business Plan

12. Executive Committee Duties and Responsibilities.
Recommendation: That the MWPA Board of Directors approve the Executive Committee Duties and Responsibilities.
MWPA Exec Comm Duties 11.19.2020

13. January Board of Directors Meeting – Board Retreat
Recommendation: That the MWPA Board of Directors change the January 21st meeting from a regular Board of Directors meeting to a full-day Board Retreat.

14. Committee Reports.
      FSM Project report Nov 2020

15. Information Items.

16. Board Members Request Future Agenda Items.

17. Adjourn.

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In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the MWPA at 415-539-MWPA (6972). Notification at least 48 hours prior to the meeting will enable the Agency to make reasonable accommodation to help insure accessibility to this meeting.

Any writings or documents provided to a majority of the Board of Directors regarding any item on this agenda after the distribution of the original packet will be made available for public inspection at 28 Liberty Ship Way, Suite 2800, Sausalito CA 94965. *Note as of 4/30/20 offices are closed to the public. Therefore, documents will be made available upon request and will be available online at www.marinwildfire.org

Notice is hereby given that the Board of Directors may discuss and/or take action on any or all of the items listed on this agenda. If any of these matters above are challenged in Court, you may be limited to raising only those issues you or someone else raised at any public hearing described on this agenda, or in written correspondence delivered at, or prior to, this Council meeting. Judicial review of an administrative decision of the Board of Directors must be filed with the Court not later than the 90th day following the date of the Board meeting decision (Code of Civil Procedure Section 1094.6)

I certify that this agenda was posted on the Public Notice Bulletin Board on or before Monday, November 16, 2020 at 3:00 pm.

Mark Brown, Executive Officer
THE MARIN WILDFIRE PREVENTION AUTHORITY
OPERATIONS COMMITTEE
Held a meeting:
3:00 p.m. Thursday, September 24, 2020
Via teleconference due to Coronavirus (COVID-19)

1. Call to Order- Chair Weber called the meeting to order at 3:00 p.m.

2. Roll Call
Committee Member Attendance: Joe Chinn (Ross), Todd Cusimano (Corte Madera), Eric Dreikosen (Marinwood), Dave Donery (San Anselmo), Jim Fox (Inverness Fire), Chris Gove (Muir Beach Fire), George Kraukauer (Bolinas Fire), Al Piombo (Mill Valley), Mark Pomi (Kentfield Fire), Jim Schutz (San Rafael), Dan Schwarz (Larkspur), Rich Shortall (Sleepy Hollow Fire District), Kenny Stevens (Stinson Beach Fire), Bill Tyler (Novato Fire), Garrett Toy (Fairfax), Chris Tubbs (Southern Marin Fire), Jason Weber (Marin County Fire)
Staff Attendance: Interim Executive Officer Jean Bonander, Executive Officer Mark Brown

Chair Weber stated the public will have an opportunity to address the committee by using the “raise your hand” function.

3. Agenda Adjustments
There were no adjustments to the agenda.

4. Open Time for Public Expression

Ms. Carolyn Longstreth, representing the California Native Plants Society and the Fire and Environment Resilience Network (FERN), thanked everyone involved with the great work done on the Woodward Fire. She gave a “shout-out” to FIRESafe Marin for the Webinar regarding evacuation orders and warnings. She reported the Goat Grazing Project in the Elliott Nature Preserve in Fairfax was poorly planned. It appears to have caused harm to the environment as opposed to improving wildfire safety. She did not see this project on the MWPA Workplan.

5. Interim Executive Officer’s Report

Interim Executive Officer Bonander reported she has been working with the Board subcommittee on the formation of the Citizen’s Oversight Committee (COC). The application period closed yesterday at 5:00 p.m. There are multiple applicants for all nine seats (five geographic seats and four seats for specific organization areas). The subcommittee will be sorting through the applications and making a recommendation at the October 15, 2020 Board meeting. At the September 17, 2020 meeting the Board adopted its ByLaws and created the Executive Committee and the Finance Committee, two new standing committees. The Executive Committee is comprised of five Board members with geographic representation. The Finance Committee is made up of five Board members with two slots available for
Operations (OPS) Committee members. She stated the OPS Committee should consider making appointments at its next meeting. Both of these standing committees will be subject to the Brown Act. At the September 17th meeting the Board also appointed Mr. Mark Brown as the permanent Executive Officer. The transition process has started and she has been meeting with Executive Officer Brown to try to get the underlying foundation of this organization established. At the September 17th Board meeting she presented a Draft Business Plan for the administrative and finance functions thorough the end of December. The intent is to give Executive Officer Brown a structure from which to work on the tasks that are progressing through the system. Terms and conditions were approved by the Board for FIRESafe Marin’s programmatic efforts. She will be drafting the agreements for Committee member Shortall’s review. Board President Goines has the authority to sign the agreement if all the terms and conditions are met.

Chair Weber opened the meeting to public comments.

There were no comments.

Chair Weber closed the meeting to public comments.

Chair Weber stated the last thirty days have demonstrated the need for what the MWPA is doing. The holistic approach the MWPA is taking towards wildfire prevention is being looked at across the State of California.

6. Consent Calendar
   a. Approve June 4, 2020 MWPA Operations Committee meeting minutes

Chair Weber opened the meeting to public comments.

There were no comments.

Chair Weber closed the meeting to public comments.

M/s, Cusimano/Schutz, to approve the June 4, 2020 MWPA Operations Committee meeting minutes as submitted.
Ayes: 16, 99.7 % of population (through a roll call vote)

7. Old Business
   a. 2020 Workplan Update

Chair Weber presented the staff report. The 2020 Workplan consisted of two funding sources-the 60% allocated to the Core programs and the second 20% to wildfire prevention mitigation on the local level. Agencies were asked to compile a list of potential projects with estimate costs. These were ultimately compiled into the 2020 Workplan and adopted by the Board on June 18, 2020. The funding source will not be available from a cash flow perspective until later in the year. Some projects are in the planning phase and awaiting that funding source. Other projects are being funded locally by the agency as a “stop gap”. He noted the packet includes
the status of each project. Items in the “planning” phase are going through environmental compliance review, project monitoring or scoping, or looking for bids. For the most part, projects are moving along. A lot of progress has been made in a short period of time. He noted the San Rafael Fire Department has submitted an amendment to the Workplan to add some items.

Committee member Tyler stated it was important to come up with a tool for tracking progress. They will need to come up with a way to fast-forward some of these projects. There will be some additional changes.

Chair Weber opened the meeting to public comments.

Ms. Barbara Salzman, representing the Marin Audubon Society and FERN, stated she reviewed the list and it would be helpful to have an understanding of the species that are being impacted by some of the projects as well as the acreage. She asked if many of the projects were in the planning phase due to CEQA issues. The Audubon Society and FERN are willing to help in any way possible.

Chair Weber closed the meeting to public comments.

b. FIRESafe Marin Workplan Update

Committee member Shortall presented the report. Things are moving very fast. He discussed some of the changes going on and some projects on the operational side. Next Tuesday’s Webinar will be on Neighborhood Community Organizing and the ESP Project. The group has postponed the community workshops. They have a meeting this week with the Northern California Landscape Contractor Association regarding a certification process through that association. FIRESafe Marin will also be meeting with Home Hardening Contractors. The Educational Planning Committee is meeting tomorrow. The “Get Ready Fifth Grade” Program is on a fast-track and could be coming to the school districts sooner rather than later. Another big area of progress for the group pertains to bilingual materials. They plan to translate the Evacuation Checklist into Spanish and will doing some video training in Spanish for the Red Flag Warning Project. There are three projects on the operational side of things. The first is the NOA Weather Radios Pilot Project. The group has a meeting with a vendor tomorrow and the plan is to purchase over twenty-five hundred radios. This will be a challenging project that will need a lot of feedback and monitoring. The group has been meeting with stakeholders to discuss the Red Flag Warning Program. Fire Chiefs would make the determination on when to post the warning signs. There are many options on how they will look and they will all have the same color scheme, wording, and print style. There will be a system of notification through the Office of Emergency Services (OES) and a system of accountability for non-public agencies. The Chipper Program has been very successful with over 1,000 curbside pick-ups. The Board recently approved expanding the program through November. They are almost fully booked! It is not too soon to think about next year and how this program could be integrated with the Inspection Programs. Committee member Tyler stated one way to expand the service is to schedule according to evacuation zones.
Chair Weber opened the meeting to public comments.

There were no comments.

Chair Weber closed the meeting to public comments.

c. MWPA Administrative and Financial Support Update

Committee member Tubbs presented a report. He and his SMFD staff have been meeting regularly with Interim Executive Officer Bonander working through a variety of issues. The Administrative Assistant has taken on the task of producing the Board agendas and packets and will soon do the same for the OPS Committee, the Technical Advisory Committee, and the Citizen’s Oversight Committee. The SMFD provides an office and supporting materials for Executive Officer Brown. On Tuesday he and his staff will meet with Interim Executive Officer Bonander, Executive Officer Brown, and Board President Goines to discuss the status of a number of transition items. On the financial side, staff is researching payroll options. Staff has two bids for an auditing firm and is soliciting for a third. He met with Mr. Tim Bush of Marin IT regarding cyber security with respect to the financial systems. He provided the report to the Board. He is meeting with Executive Officer Brown next week to get bank signature cards. He is waiting for receipts from the County of Marin that have already been paid on the MWPA’s behalf so they can issue them a check.

Chair Weber opened the meeting to public comments.

There were no comments.

Chair Weber closed the meeting to public comments.

8. New Business
   a. Evacuation Plan Study

Mr. Todd Lando, Hazard Mitigation Specialist with the Central Marin Fire Department, gave a report. Mr. Lando stated they submitted a grant application to CalTrans last year for funding in the amount of $750,000. They were not awarded the grant for a variety of reasons. The grant would have funded a study of evacuation needs including routes, notification systems, how to assist those in the community with functional needs, etc. There was a specific focus on transportation and road infrastructure. He noted they need to create an assessment of the entire evacuation system in the County and a unified plan. There were discussions about the MWPA funding this study if the CalTrans grant did not come through. He stated it was his understanding that the MWPA would form an ad hoc committee to look at this request.

Chief Weber stated the Evacuation Plan Study will be a guiding document that would help prioritize the Workplan for years to come. The study will use census data, demographics, vegetation modeling, fuel modeling, etc. It could serve as a template for other jurisdictions.
Chief Weber stated there were concerns expressed by the public at the last Board meeting about transparency with respect to the ad hoc committees. There are ways to open it up to the public to see the dialogue and debate. He noted whatever comes out of those committees comes back to the OPS Committee and ultimately the Board. The public processes are in place.

Committee Co-Chair Schwarz stated there is an inference that these ad hoc committees are doing something beyond the power given to them by the Board. This is simply not the case. One way to assure the public would be to ask the ad hoc committee to report out on its activities at the OPS Committee and Board meetings.

Chair Weber opened the meeting to public comments.

Mr. Bruce Bartel stated he brought up the issue of transparency at the Board meeting. It is important for the public to see the process as well as the outcome. These meetings should be announced, open, and viewable. It is important for the public to see what is going on behind the scenes.

Chair Weber closed the meeting to public comments.

Chair Weber asked for volunteers for an ad hoc committee for the Evacuation Plan Study from the five geographic areas. The following members volunteered: Committee member Tyler (Novato area); Committee member Dreikosen (San Rafael area); Committee member Kraukauer (West Marin); Committee member Tubbs (Southern Marin). Chair Weber stated he would ask Mr. Todd Lando to serve on this ad hoc committee and perhaps members of the Technical Advisory Committee. The ad hoc committee will get assistance from the City Managers when preparing the Request for Proposals (RFP) along with SME’s to assist in developing the plan.

b. Preparation for 2021 Program of Work

Committee member Tyler presented the report. He displayed the evacuation zone maps for the Novato Fire District. There are thirty five neighborhoods and five mitigation specialists that will be doing home evaluations, written reports, and defensible space evaluations. They will be responsible for all the grant work and coordination of Chipper Days. The GIS data will be submitted to the chipper contractors. He discussed a specific project that is included in the current Workplan that includes evaluation and assessment, clearing and chipping, CEQA review on the parcels, and a fuel break on the back side of the homes. The plan is to take this on a neighborhood by neighborhood.

Chief Weber stated this was a good example of how to create the processes to develop the 2021 Work Plan. He is asking for the formation of an ad hoc committee that would accomplish this effort.

Chair Weber opened the meeting to public comments.
There were no comments.

Chair Weber closed the meeting to public comments.

Chair Weber asked for volunteers for the ad hoc committee to create the processes to develop the 2021 Work Plan. The following members volunteered: Committee member Tyler (Novato); Committee member Schutz (San Rafael and Marinwood); Committee member Shortall and Committee member Cuisamano (Central Marin and Ross Valley); Committee member Tubbs (Southern Marin); Chief Weber (West Marin). Chief Weber stated this is an opportunity to work with the ESP partners, Citizen's for Wildfire Preparedness, and others.

c. Grant Program Options

Chief Weber presented the report. The Board asked the OPS Committee to look at grant options. A subcommittee, chaired by Committee member Shortall, had come up with some guidelines. The subcommittee concluded that it would be challenging to run a grant program without staff. The item was tabled. Local agencies have the ability to run their own grant programs. He recommended the MWPA hold off on trying to run a grant program without sufficient staff to do it. It is very labor and time intensive.

Committee member Shortall stated the subcommittee did a lot of work on this and considered a number of options. It really should be a policy discussion for the full Board. He agreed that grant programs were fairly complicated and very labor intensive.

Chair Weber opened the meeting to public comments.

There were no comments.

Chair Weber closed the meeting to public comments.

Chair Weber stated he would formulate a response to the Board based on the work done by the subcommittee and the recommendation that the Board take this up as a policy item. The Board could include this in the next fiscal year.

9. Informational Items

Chief Weber reported a lot of residents are getting inundated with questions from insurance companies and vendors about the use of a retardant/gel formula on his or her house. County Fire Prevention Officers are formulating a response. He stated the home hardening and defensible space measures advocated by the MWPA are much more important than spraying a retardant on vegetation or homes. He encouraged residents to contact his or her local fire agency with any questions.

10. Committee Members Request for Future Agenda Items
Committee member Tubbs asked that the following be placed on an upcoming agenda: Selection of two OPS Committee members to the Finance Committee.

Chair Weber stated the OPS Committee had selected the third Thursday of the month as its meeting date. This could be a conflict with the Board of Directors meeting so he will check on this potential conflict and come up with alternative dates. Committee member Dreikosen stated they had talked about meeting in July, October, January, and April (first month of each quarter).

11. Adjournment- Chair Weber adjourned the meeting at 4:17 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary
THE MARIN WILDFIRE PREVENTION AUTHORITY
BOARD OF DIRECTORS MEETING
3:00 p.m. Thursday, October 15, 2020
Via teleconference due to Coronavirus (COVID-19)
MINUTES

1. Call to Order- President Goines called the meeting to order at 3:00 p.m.

2. Roll Call and Introductions
   Directors – In Attendance: Steve Burdo (San Anselmo), Barbara Coler (Fairfax), Kathryn
   Donohue (Inverness), Tom Finn (Sleepy Hollow Fire), Barry Evergettis (Kentfield Fire),
   Bruce Goines (Novato Fire), Leah Green (Marinwood), Cathryn Hilliard (Southern Marin
   Fire), Leighton Hills (Muir Beach), David Kimball (Bolinas Fire District), Sashi McEntee (Mill
   Valley), Julie McMillan (Ross), Gabe Paulson (Larkspur), Gary Phillips (San Rafael), Bob
   Ravasio (Corte Madera), Dennis Rodoni (County of Marin), Mark White (Stinson Beach)
   Staff in Attendance: Executive Officer Mark Brown, Legal Counsel Megan Acevedo,
   Operations Committee Chair Jason Weber

3. Agenda Adjustments

   Legal Counsel Acevedo stated she would like to reverse the order of agenda items #9 and
   #10.

   M/s, Coler/Hilliard, to reverse the order of agenda items #9 and #10.
   Ayes: 17 of 17, 100% of population (through a roll call vote)

4. Open Time for Public Expression

   Ms. Carolyn Longstreth, representing the California Native Plants Society and the Fire
   Environment Resilience Network (FERN), stated she had a productive discussion with Marin
   County Open Space about the goat grazing project in Fairfax. She acknowledged the rapid
   progress that MWPA has made on a lot of fronts including the Citizen’s Oversight Committee
   (COC) and the environmental compliance issue.

5. Executive Officer’s Report

   President Goines welcomed Executive Officer Brown to the MWPA.

   Executive Officer Brown reported on the status of wildfires throughout the State of California.
   There are five major fires burning with nearly 300 million acres consumed. On average, these
   fires are 75% contained. He noted there are currently Red Flag Warnings in Marin County.
   He reported on the Red Flag Project being conducted by FIRESafe Marin. The first MWPA
   Executive Committee meeting was very productive. The next Executive Committee meeting
   will be scheduled prior to the next Board meeting. The Finance Committee’s first meeting is
   scheduled for October 20th. The agenda will be posted on the Website. Staff has made
improvements on posting agendas and Zoom videos in a more timely manner. The meeting minutes will be posted to the Website once they are approved. He discussed Assembly Bill 3074 was recently signed into law which amends Public Resources Code Sections 4290 and 4291. These code sections apply to areas of State responsibility. Cal Fire has until 2023 to implement this legislation. Director McEntee asked if this applied to only the SRA’s or the high fire severity zones. Executive Officer Brown stated he would report back on this. Staff has several quotes on “D & O” Insurance and plans to finalize this soon. He has been meeting with Directors and other stakeholders to discuss the strategy and vision of the MWPA and other issues. The MWPA needs to come up with some long-term and short-term strategies.

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

Director Burdo thanked staff for updating the Website.

Director Kimball stated one of the strengths of the MWPA is a high commitment to public service and transparency.

Director Hills asked why prescribed burns were not allowed. Executive Officer Brown stated they are allowed but have been discontinued. There have been some small scale vegetative management projects on Federal lands over that last few years.

Director Rodoni stated he has been working for over a year with Senator Allen and others on SB 45, a $5 billion bond which will include fire related money. The MWPA should stay engaged on this issue.

Director White thanked Executive Officer Brown for his report and Interim Executive Officer Jean Bonander for her great work.

Director Coler stated she worked at the Bay Area Air Quality Management District for several years and approved prescribed burns. They fall into a number of categories and are not that difficult to manage.

Director McMillan thanked Executive Officer Brown and agreed that they should not be focusing on the “megafires” but rather on the 99% of the other fires.

Director Phillips stated many of the residents in his community will be interested in the home inspections program. He would like to talk about this with Executive Officer Brown.

6. Consent Calendar
   a. Approve September 17, 2020 MWPA Board of Directors meeting minutes.
   b. Accept August 10, 2020 and September 28, 2020 Summary Notes from MWPA Citizens’ Oversight Committee (COC) Subcommittee Meetings.
c. Accept the Update on Financial and Administrative Support Services, and Adopt Resolution No. 20-08 Authorizing the Executive Officer to Establish a Banking Relationship with the Bank of Marin.

d. Approve Resolution No. 20-09 Authorizing the Executive Officer to Execute an Agreement with Badawi & Associates for Independent Audit Services for the Fiscal Year 2020-21, ending June 30, 2021.

e. Authorize Agreement with Burke, Williams and Sorenson for Labor and Employment and Specialized Legal Services.


President Goines opened the meeting to public comments.

There were no public comments.

President Goines closed the meeting to public comments.

Director Burdo made a correction to the September 17th Board of Directors meeting minutes.

Director McEntee stated the Board minutes should be “action minutes” since the video is available for review.

M/s, Phillips/Burdo, to approve Consent Calendar Items with the corrections to the September 17, 2020 Board minutes

Ayes: 17 of 17, 100% of population (through a roll call vote)

7. Appoint Nine (9) Members to the MWPA Citizens’ Oversight Committee

Executive Officer Brown presented the staff report. The key to transparency will be the Citizens’ Oversight Committee (COC). The COC Subcommittee consisted of President Goines, and Directors Rodoni, McMillan, and Burdo. The COC’s mission, roles, and responsibilities will be reviewed and approved by the Board.

President Goines opened the meeting to public comments.

There were no public comments.

President Goines closed the meeting to public comments.

Director Coler stated the COC will be looking primarily at finances and she felt that Mr. Ron Arlas, applicant for the “Civic” slot, had more expertise then Mr. Stephen Keese.

Director Burdo stated they should take a vote on the recommendation and if it does not pass then the Board could send this back to the subcommittee. It is not good practice to discuss the merits of every candidate.
Director Phillips stated Director Burdo made a good point. He was not comfortable discussing each individual.

Director Finn agreed with Director Phillips. He asked if the applicants have been instructed that they do not have the authority to speak on behalf of the MWPA. Several of the applicants are avid writers of opinion pieces, etc.

Director McEntee stated it is the Board’s responsibility to appoint the COC. This would be the appropriate time to make amendments to the recommendation. She supported the amendment with respect to Mr. Arlas.

Director Coler thanked the COC Subcommittee for their work. All the candidates are highly qualified but the COC is about finances.

Director Phillips agreed with Director Coler’s comments about the role of the COC. He added that finance is not only about “dollars and cents” but also relates to the programs being funded.

Director Paulson agreed with Director Phillips. It would be helpful for the Board to have the candidates answer some questions and have a summary presented by the subcommittee.

Director Finn stated there was nothing stopping a candidate not selected from participating in the MWPA’s public process.

Director Evergettis supported Direct Phillips’ point of view and the subcommittee’s recommendations.

Director McMillan stated the application was quite extensive and available to the Board.

President Goines stated there were thirty-two applications which included resumes. There were nine appointments with some candidates applying for more than one “category”. The goal of the subcommittee was to appoint the “best and the brightest team”. The plan is to set up terms of one year, two years, or three years.

M/s, Evergettis/Hilliard, to support the subcommittee’s recommendations.
Ayes: 17 of 17, 100% of population (through a roll call vote)

Director McEntee asked when the Board would be deciding on the terms of the COC members. Executive Officer Brown stated he would be drafting letters of acceptance. The COC will work on the roles and responsibilities including the length of terms for approval by the Board.

8. Update on Senior Low Income Exemption Process

Executive Officer Brown presented the staff report. He is asking the Board to authorize staff to evaluate the request for late filed exemptions and the appeal process. He reported 27,605 mailers went out to eligible individuals with 2,122 applications received and 1,937 being
granted. Not all of the eligible individuals in the County were aware of the exemption process. The MWPA employed the services of NBS who received over one hundred phone calls. The challenge is that individuals receive communications in so many different ways. Staff could come up with some options for an appeals process.

President Goines opened the meeting to public comments.

Mr. Bruce Bartel stated he looked forward to receiving some kind of communication. He did not receive any.

President Goines closed the meeting to public comments.

Director Rodoni stated it was important to put a simple appeal process in place. The messaging will improve as they move forward.

Director Coler supported an appeal process for the first year only. She agreed with coming up with a simple process but noted eligibility is also based on income levels and someone will need to look at that.

Director Burdo supported an appeal process as described by Director Rodoni but he did not want to sunset the process after year one. Director McMillan agreed.

Director Phillips supported an appeal process that is limited to the first year and reviewed thereafter.

Director Paulson asked if staff would target the individuals who were denied and those who claim they never received the mailer. Executive Officer Brown stated this would need to be evaluated.

Director Hilliard stated this is a policy that should be decided by the Board.

Director McEntee supported an appeal process for the first year only since it would be an ongoing cost.

President Goines stated this issue should be referred to staff with the possibility of limiting the appeal process to the first year. They need to make it clear that this is an exemption for low income seniors.

M/s, Phillips/Evergettis, to accept the report and authorize staff to evaluate the results of the late filing exemptions and the appeal process.
Ayes: 17 of 17, 100% of population (through a roll call vote)

10. Consider and Approve MWPA’s Retention of Specialized Environmental Legal Counsel Services to assist with MWPA Environmental Consulting Services
Legal Counsel Acevedo presented the staff report. She discussed the programmatic Environmental Impact Report (EIR) that has been developed by Cal Fire and the State Board of Forestry. It applies directly to State Responsibility Areas (SRA). They need to look at whether other projects outside of SRA could rely on that document.

Director McEntee asked if this firm has done work on the programmatic EIR and is also working on the litigation that followed it. Legal Counsel Acevedo stated they gave advice all the way through the process of adopting the PEIR and will be advising the Attorney General.

Director Kimball stated the Request for Proposal (RFP) seemed to be intended for the 60% and not the local projects. He was worried about consuming funds on legal fees and asked if the RFP could be modified to give a boost to the smaller districts. Legal Counsel Acevedo stated she could include that in the discussion.

Director Coler asked about the scope of the projected work and if they could put a cap on the projected costs. She would like to see a legal analysis on the State PEIR and how much they could use it, the pros and cons, etc. She would like the analysis to include if there was a rationale for the MWPA doing its own programmatic EIR. They might want to hold off on the RFP until the legal analysis was finished.

Legal Counsel Acevedo stated they would ask the firm to look at where they are now, the work they envision going forward, the best path to CEQA compliance, the benefits and risks associated with the PEIR, and how much the document could be used.

Director Coler asked that the analysis include a review of how many years the PEIR could cover.

Director McEntee stated she would like the PEIR to cover all the local responsibility areas of the member groups and not just those projects where the MWPA is the lead agency. She asked if this would be funded from the overhead of the MWPA or if the member agencies would contribute from the 20%. She asked if this is something they need to keep track of. Legal Counsel Acevedo stated that was a good question and she would look into this. Once they have the input from legal counsel on what type of work the consultant should do then they could look at the financial aspects and allocations.

Director McMillan asked how much of this should be in Closed Session given the potential litigation. Legal Counsel Acevedo stated they would make that decision when the time was right.

President Goines stated they had approved projects with inspectors being hired and some of them require some level of environmental compliance. He did not want to delay hiring an environmental consulting firm. Legal Counsel Acevedo stated they are talking about getting legal advice on how to move forward.

Executive Officer Brown confirmed there were projects primarily in the “local” category that will require environmental compliance. Legal Counsel Acevedo stated they could structure the
RFP to be narrower and focus on Fiscal Year 2020/21 and hire a short-term consultant. President Goines stated that was not what he was suggesting but they do need some short-term environmental compliance assistance.

Director Coler stated the RFP was very broad.

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

M/s, Coler/McMillan, to enter into an agreement to expedite the hiring process with a scope of work and a not to exceed amount to be determined later. Ayes: 17 of 17, 100% of population (through a roll call vote)

9. Consider and Approve a Draft Request for Proposal (RFP) for Environmental Consulting Services

Legal Counsel Acevedo presented the staff report. The RFP will likely change before it comes back to the Board.

Director McEntee stated as they go forward the project description will be very important and it should be included in the RFP. It should be wide enough in scope and narrow enough in specificity to give them the coverage that they need.

Director Rodoni was concerned about how long the process would take and stated he was not sure the scope of work needed to be set in the RFP. The scope of work could change. He would like to get a consultant on board soon. The agency has a responsibility to make sure the smaller local districts comply with CEQA.

Director Coler stated the RFP is too broad and they will get a consultant that will be submitting change orders. A short scope of work could be prepared for the smaller districts and projects that will probably fit under the Categorical Exemption Section of CEQA.

President Goines agreed with Director Coler. The RFP as written is way beyond what they currently need.

Director Rodoni stated they could change it to an RFQ and set the hourly rate. This would protect them from change orders and extra costs.

President Goines opened the meeting to public comments.

Ms. Carolyn Longstreth, representing the California Native Plants Society and the Fire Environment Resilience Network (FERN), stated they support obtaining resources for short-term CEQA compliance. FERN is willing to help in any way.
President Goines closed the meeting to public comments.

Director Phillips asked Executive Officer Brown for a recommendation. Executive Officer Brown stated he liked Director Rodoni’s suggestion for an RFQ and noted they could reach out to firms that have supported the local agencies in the past. The Board could work on an RFP for a long-term agreement.

Director Hilliard stated an RFQ is a good idea.

Director McEntee supported the recommendation of legal counsel.

President Goines stated there were some immediate, short-term needs and he supported an RFQ.

M/s, Phillips/Rodoni, to implement the action as described by President Goines.
Ayes: 15 of 17, 91% of population (through a roll call vote)
(Directors Coler and McEntee voted “no”)

11. MWPA Administrative and Financial Business Plan through December 31, 2020

Executive Officer Brown presented the staff report. He noted there was a lot of work to do including the creation of job descriptions for the Executive Officers and key staff positions. He will be meeting with the OPS Committee to discuss financial practices after the Finance Committee meets next week.

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

M/s, Finn/Burdo, to approve the Administrative and Financial Business Plan through December 31, 2020
Ayes: 17 of 17, 100% of population (through a roll call vote)

12. Committee Reports
   a. Operations Committee Update- Report (includes the Evacuation Plan Update)

Operations (OPS) Committee Chair Weber presented the staff report. Work continues on the 2020 Work Plan with the creation of a subcommittee that will work on the 2020/21 Work Plan process. An Evacuation Plan Subcommittee has been established to help develop the RFP or RFQ that will be approved by the Board. Staff attended a presentation on evacuation software. The OPS Committee subcommittee decided a Grant Program was not feasible at this time due to the lack of staff. This could be a part of next year’s Work Plan. He has been appointed to the Finance Committee and OPS Co-Chair Schwarz was appointed as well.
President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

President Goines thanked Chief Weber for his outstanding work!

b. FIRESafe Marin Program of Work and Projects Update

President Goines thanked OPS Committee member Shortall for a very detailed report.

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

President Goines stated the Board extended and augmented the agreement with FIRESafe at its last meeting. He thanked them for the outstanding work!

President Goines opened the meeting to public comments.

There were no comments.

President Goines closed the meeting to public comments.

13. Informational Items

Director Rodoni thanked Chief Weber, former Deputy Chief Brown, and the Marin County Fire Department administrative staff for obtaining the Homeland Security Safer Grant in the amount of $4.3 million which will allow the County to hire six additional Firefighter/Paramedics.

14. Board Members Request Future Agenda Items

Director Coler asked if the MWPA could fund the “goat grazing” projects in the future. This is a very popular program. President Goines stated this is something the OPS Committee will review.

Director Burdo asked if the MWPA could include a page on the Website listing resources with respect to fire insurance. This is a huge issue in the community. President Goines stated the Board could get a status report on this issue.

Director Phillips stated there was a lot of interest in the community about the inspection program and he asked for a status report at the next meeting.
Director Kimball stated it might be helpful to discuss how to view the next ten years with a broader view of where they are headed.

The Board thanked President Goines for the tremendous job he is doing!

12. Adjournment- President Goines adjourned the meeting at 5:17 p.m. The next meeting would be held on Thursday, November 19, 2020 at 3:00 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary
THE MARIN WILDFIRE PREVENTION AUTHORITY
FINANCE COMMITTEE MEETING
2:00 p.m. Tuesday, October 20, 2020
Via teleconference due to Coronavirus (COVID-19)
MINUTES

1. Call to Order. Director Hilliard called the meeting to order at 2:00 p.m.

2. Roll Call.

    Directors – In Attendance: Bruce Goines (Novato Fire), David Kimball (Bolinas Fire District), Cathryn Hilliard (Southern Marin Fire), Tom Finn (Sleepy Hollow), Gary Phillips (San Rafael), Jason Weber (County of Marin), Dan Schwarz (Larkspur)

    Staff in Attendance: Executive Officer Mark Brown, Interim Executive Officer Jean Bonander, MWPA Treasurer Alyssa Schiffmann

3. Agenda Adjustments.

    There were no adjustments.

4. Open Time for Public Expression.

    Mr. Stephen Keese stated the MWPA is a very important organization for the County and he thanked all Directors for participating.

5. Finance Committee Duties and Responsibilities- Initial Course of Action

    Executive Officer Brown presented a staff report. The Finance Committee was created per Article 5, Section 6 of the MWPA By-laws. He stated the Finance Committee can decide whether or not they want to simply maintain finance responsibilities or also take on some of the administrative roles. He discussed the priorities. He noted 60% of the budget goes toward the Core Projects, 20% goes toward the defensible space evaluations, and 20% goes toward funding local projects for the member agencies. They have not yet received any of the tax proceeds from the County. They will receive 55% in December, 40% in April, and 5% in June. They need to decide if there would be an immediate pass through of the 20% to local agencies for local projects.

    Treasurer Schiffmann stated she wanted to figure out what would work best.

    Chief Weber joined the meeting. He stated the vote initiative indicated this is a “pass through”. There has to be a demonstration of how the funds are used but there does not have to be an arduous recording process.

    President Goines asked which of the three buckets (60%, 20%, and 20%) are they characterizing as pass through. Chief Weber stated it would be the 20% local and also the agencies that opt out of defensible space.

    Treasurer Schiffmann stated there was an initial discussion with one of the prospective auditors that the member agencies should be accountable for keeping the records.
Director Finn referred to the bullet point that discusses monitoring the budget for the current year and asked if it would be wise to use some project management software. It might make the budget monitoring and expense tracking process go smoother. Executive Officer Brown stated he has looked at some project management software. The OPS Committee will be looking at this as a 2021/22 project.

Director Phillips stated they need a method of consistent recording throughout the organization.

Director Hilliard wanted to ensure that policies and procedures for financial transactions are documented. One of the Committee’s primary duties is to create draft policies that can be approved by the Board. Executive Officer Brown stated Treasurer Schiffmann is already gathering sample policies.

Director Hilliard asked if the Finance Committee would like to draft Personnel Policies.

Director Phillips stated this should be done by the Executive Committee. The other Committee members agreed.

Director Hilliard stated the Treasurer should be the one to ensure the bank account signatures were current. The other Committee members agreed. Director Philips stated the Board would approve adding and subtracting a signatory.

Chief Weber discussed administrative costs and operations and noted they might need to use a contractor, a seasonal employee, or a full time employee. If the role is administrative in nature then it would be tied to the program cost of the operation.

Director Kimball stated they could not think of a return on investment from a purely financial point of view. Most of the expenses will be operational and not capital. Thinking ahead they should try to come to terms with the benefits and outcomes and dovetail that into a tactical plan.

President Goines stated it will be incumbent upon the Board, in a strategic planning session, to begin to articulate what they envision in ten or twenty years out. There will be metrics involved. The Board would commission the OPS Committee and the Technical Advisory Committee to start thinking about how to monitor these metrics and get real time data. The Board can tie the financials to this through the project management software.

Executive Officer Brown stated he is of the opinion that action is more important than planning but it should be accomplished through some thoughtful parameters.

Director Phillips asked how they plan to allocate funds for fire protection and how they divide their attention- susceptibility, population, etc.

Director Finn agreed with the comments made by Directors Kimball and Phillips. He referred to the priorities and stated there were some short-term things that they need to accomplished including building the Committee’s credibility. Things to avoid include missing a forecast by a large margin or unexpected costs. These are things to keep in mind when creating policies and best practices.

Executive Officer Brown stated the Work Plan process for the next fiscal year will include a metrics section. His goal is to be able to understand where every dollar went and what project it was attached to.
Director Hilliard opened the meeting to public comments.

Ms. Lucy Dilworth asked if the Committee could consider a process that goes beyond an affidavit to get a project approved when looking at funding local projects. Could they consider what happens if the project does not meet the standards for funding? Could the local agency keep the entitlement for the funds for a different future project?

Mr. Stephen Keese supported the Committee’s goal of going back to the voters ten years from now with a very “squeaky clean” record.

Director Hilliard closed the meeting to public comment.

Chief Weber stated they have every intention to be as transparent as possible. The JPA states that projects must align with the voter initiative. He feels they went way beyond that this year.

Director Finn stated Ms. Dilworth’s description sounds like a block grant where the entity receives funds and has discretion on how to apply it. That is not his understanding of Measure C - the funding provided to local entities has to be consistent with the priorities established on a macro level.

President Goines agreed. It would be difficult to hold funds when there are other entities that have eligible project. There is also a 5-year leveling provision.

6. Review of Monthly Budget Reporting Documents

Treasurer Schiffmann presented the staff report. She is not sure a monthly budget is relevant. The year to date information is more relevant.

Director Hilliard asked how often the Committee wants to review the budget reports - monthly, quarterly, etc. She thought quarterly would be sufficient.

President Goines stated he would be satisfied with quarterly reports.

Director Kimball stated quarterly and year-to-date information was sufficient.

Director Finn asked what would be customary for a similar agency.

Director Phillips agreed that quarterly reports would be adequate. Monthly reports were not very useful. The exception would be if there is something out of line.

President Goines stated the budget should include an “Administration” line item.

Chief Weber stated there is a requirement in the JPA that only 10% (of the 60%) of funds are spent on administrative costs.

Director Hilliard noted $15,000 allocated for legal services might be too low. They will need a lot of initial legal advice about compliance.

President Goines agreed and noted they were already over budget.
Director Kimball stated he views this as a place-holder budget- it gives them a starting point. It can be fine-tuned later.

President Goines noted there was no line item associated with “interest accrual”. He asked when they would be discussing the next draw on the County loan. They have some bills to pay.

Executive Officer Brown stated he and Treasurer Schiffmann would report back on this.

President Goines stated line item #6650 labeled “start-up costs”, in the amount of $250,000, should be enumerated in detail in a future report. Treasurer Schiffmann stated there was an expense detail included in the prior page.

Director Hilliard opened the meeting to public comments.

There were no comments.

Director Hilliard closed the meeting to public comments.

7. MWPA Financial Management Schedule- Monthly, Quarterly, Mid-Year, Annual Budget and Independent Audit

Executive Officer Brown presented a staff report.

Director Hilliard asked when the official Public Hearing for the budget would occur. Interim Executive Officer Bonander stated the Finance Committee meetings are Brown Act meetings and part of the public process. The Board is required to have two Public Hearings in order to adopt a budget. The JPA requires adoption of the budget by June 1st so the Public Hearings would be in April and May.

Director Finn stated local agencies normally adopt their budgets on June 30th. He asked if the MWPA could find itself in a position where the local agency has not budgeted for a project that the MWPA is expected to finance. OPS Committee member Schwarz stated the suggested timelines give local agencies sufficient time to incorporate this information into their budgets.

Director Hilliard opened the meeting to public comments.

There were no comments.

Director Hilliard closed the meeting to public comments.

8. Planning for Future Staffing and Employment Practices

Executive Officer Brown presented the staff report. He reiterated that these administrative costs could not exceed 10% of the 60%. The goal is to focus funds towards projects and not staffing. He and Interim Executive Officer Bonander have been discussing job descriptions for the three key positions that need to be hired soon including a Program Manager, Finance Administrator, Analyst/Financial Aide. He noted they need to establish hiring practices soon.

President Goines asked the Committee to keep in mind the need for a Grant Program Administrator.

Director Hilliard opened the meeting to public comments.
There were no comments.

Director Hilliard closed the meeting to public comments.

9. Information Items.

There were none.

10. Committee Members Request Future Agenda Items.

Executive Officer Brown stated the next agenda would include: 1) Roles and Responsibilities of the Finance Committee; 2) Draft Financial Policies.

Director Hilliard opened the meeting to public comments.

There were no comments.

Director Hilliard closed the meeting to public comments.

11. Adjournment- Director Hilliard adjourned the meeting at 3:18 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary
To: Marin Wildfire Prevention Authority Board of Directors

From: Megan Holt Acevedo, General Counsel

Subject: Acknowledge Agreement with Remy Moose Manley, LLP for Specialized Environmental Legal Counsel Services

RECOMMENDATION:
Acknowledged the attached fully executed agreement for specialized environmental legal counsel services with Remy Moose Manley, LLP (RMM).

BACKGROUND:
At its meeting of October 15, 2020, the MWPA Board authorized staff to retain RMM’s to provide advice related to compliance with the California Environmental Quality Act (CEQA). (See https://drive.google.com/file/d/1L5a_AigtQU8Jdp5B28K-2bDmL4_QaoqQ/view). Staff recommended RMM, because of the firm’s expertise as a legal advisor to the Board of Forestry and its environmental consultants throughout the preparation of the California Vegetation Treatment Program (CalVTP) Program Environmental Impact Report (PEIR).

Following the meeting, staff negotiated the attached agreement with RMM and executed the agreement on October 19, 2020.

FISCAL IMPACT:
The attached agreement reflects the rates for RMM at $390/hour and includes a spending cap of $100,000.

ENVIRONMENTAL IMPACT:
Entering into the attached agreement for specialized legal services is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).
Respectfully submitted,

Megan Holt Acevedo
General Counsel

Attachment:
1. Remy Moose Manley, LLP agreement
AGREEMENT FOR PROFESSIONAL
LEGAL SERVICES

This Agreement is made and entered into this 19th day of October, 2020, by and between the MARIN WILDFIRE PREVENTION AUTHORITY ("MWPA"), and REMY MOOSE MANLEY, LLP ("RMM" collectively, the "Parties.")

RECITALS

WHEREAS, MWPA requires professional legal services and representation for such matters including but not limited to providing advice on California Environmental Quality Act (CEQA) compliance for MWPA projects and potential litigation related to CEQA issues, and other matters as assigned by the President of the Board of Directors of MWPA, the Executive Officer or General Counsel; and

WHEREAS, RMM, a California Limited Liability Partnership, is a professional law firm with legal expertise CEQA compliance and litigation, and desires to perform the services described herein; and

WHEREAS, at its meeting of October 15, 2020, the MWPA Board of Directors voted unanimously to authorize the Executive Officer to enter into a contract with RMM; and

WHEREAS, MWPA is authorized to enter into contracts for professional services and execute all instruments necessary or convenient with respect to the purposes of MWPA.

AGREEMENT

NOW, THEREFORE, the Parties hereby agree as follows:

1. SCOPE OF SERVICES. MWPA agrees to hire RMM to provide legal services in the matters set forth in Attachment "A" to this Agreement. No representation outside of the matters set forth in Attachment "A" shall be provided by RMM to MWPA. No representation of any directors, officers, employees, shareholders, or any other persons or entities affiliated with MWPA shall be provided unless such representation is expressly included in Attachment "A" attached to this Agreement. RMM will provide those legal services required to represent MWPA. RMM will take reasonable steps to keep MWPA informed of progress and work performed, and promptly respond to MWPA’s inquiries. If the Parties desire that RMM provide any additional legal services not provided for under this Agreement, a separate written agreement between the Parties is required.

2. MWPA DUTIES. MWPA agrees to be truthful with RMM, cooperate and keep RMM informed of any information or developments that may come to MWPA’s attention, to abide by this Agreement, pay RMM’s bills on time, and to keep RMM advised of MWPA’s address, telephone number, and whereabouts. MWPA will assist in providing necessary information and documents and will appear when necessary at legal proceedings.
3. **INDEMNITY.** RMM shall, to the fullest extent permitted by law, indemnify, protect, defend, release, and hold harmless MWPA and its employees, officials, and agents (the “Indemnified Parties”) from all claims, demands, costs, damages, or liabilities (including liabilities for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, interest, defense costs, and expert witnesses’ fees) that arise out of, pertain to, or relate directly to the negligence, recklessness, omissions, or willful misconduct of RMM, its officers, employees, or agents, in the performance of professional services under this Agreement, excepting liability arising out of the negligence or intentional misconduct of MWPA.

RMM’s obligations under this Section apply regardless of whether or not a liability is caused or contributed to by the active or passive negligence of the Indemnified Parties. However, to the extent that liability is caused by the active negligence or willful misconduct of the Indemnified Parties, RMM’s indemnification obligation shall be reduced in proportion to the Indemnified Parties’ share of liability for the active negligence or willful misconduct.

The existence or acceptance by MWPA of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of MWPA’s rights under this Section, nor shall the limits of such insurance limit the liability of RMM. The provisions of this Section shall survive any expiration or termination of this Agreement.

This indemnification by RMM shall not be interpreted to allow MWPA to seek financial damages from RMM solely because a person or entity successfully challenges MWPA’s environmental review document in litigation. MWPA recognizes that RMM will not be the author of any such document, that litigation under the California Environmental Quality Act is inherently unpredictable, and that skilled and experienced attorneys cannot always anticipate outcomes in judicial proceedings of this kind. MWPA acknowledges that RMM has a reputation for competence and is skilled in litigation of this kind.

Nor shall this indemnification by RMM make RMM responsible for any damages that might be caused by vegetation treatment activities undertaken by MWPA, such as prescribed burns.

4. **INSURANCE.** RMM shall maintain in full force and effect all of the insurance coverage described in, and in accordance with, Attachment “B”, “Insurance Requirements.” Maintenance of the insurance coverage set forth in Attachment “B” is a material element of this Agreement and a material part of the consideration by RMM in exchange for MWPA’s agreement to make the payments described herein. Failure by RMM to: (a) maintain or renew coverage; (b) provide MWPA notice of any changes, modifications, or reductions in coverage; or (c) provide evidence of renewal, may be treated by MWPA as a material breach of this Agreement by RMM, whereupon MWPA shall be entitled to all rights and remedies in law or equity, including but not limited to the immediate termination of this Agreement. Notwithstanding the foregoing, any failure of RMM to maintain the insurance required under this Section does not excuse RMM from any of its other duties or obligations under this Agreement. In the event RMM, with approval from MWPA, retains or utilizes any subcontractors or subconsultants in the provision of any services to MWPA under this Agreement, RMM shall assure that each such subcontractor or subconsultant has obtained and maintains all
insurance coverages set forth in Exhibit “B” attached hereto.

RMM agrees that any available insurance proceeds broader than or in excess of the coverages set forth in this Agreement shall be available to the additional insureds identified therein.

RMM agrees that the insurance coverages and limits provided under this Agreement are the greater of: (a) the coverages and limits specified in Attachment “B”; or (b) the broader coverages and maximum limits of coverage of any insurance policy or proceeds available to the named insureds.

5. CONFLICTS OF INTEREST. Before accepting representation of MWPA, RMM has undertaken reasonable and customary efforts to determine whether there are any potential conflicts of interest or adversity of positions between MWPA and any other person or entity that would bar RMM from representing MWPA in general or in any of the specific matters listed in Attachment “A.” RMM has reviewed this issue in accordance with the Rules of Professional Conduct adopted in California. RMM believes that those rules, rather than the rules of any other jurisdiction, are applicable to MWPA’s representation. MWPA’s execution of this Agreement gives express agreement to the applicability of the Rules of Professional Conduct adopted in California to any and all representation arising under this Agreement.

6. DISCLOSURE. Pursuant to the requirements of California Business and Professions Code section 6148, RMM hereby discloses that it maintains professional errors and omissions insurance.

7. LEGAL FEES AND BILLING PRACTICES. RMM will send MWPA monthly statements of fees and costs incurred for the billing period. Each statement will be payable within 30 days of its receipt by MWPA. The statements shall include the amount, rate, basis of calculation or other method of determination of the fees and costs, and all costs will be clearly identified by item and amount. The billing statements shall also include supporting documentation of costs and other charges (Paragraph 8).

MWPA agrees to pay by the hour at RMM’s prevailing rates for all time spent on MWPA’s matters by RMM’s legal personnel. Current hourly rates for legal personnel are set forth in Attachment “C” to this Agreement.

RMM’s rates are subject to change on 30 days’ written notice to MWPA. Rates shall automatically increase annually on January 1 of each year as set forth in Attachment “C” to this Agreement. If MWPA declines to pay increased rates, RMM will have the right to withdraw as attorney for MWPA.

The time charged will include the time RMM spends on telephone calls relating to MWPA’s matters, including calls with MWPA, witnesses, opposing counsel, or court personnel. The legal personnel assigned to MWPA matters may confer among themselves as required and appropriate. When they do confer, each person will charge for the time expended, as long as the work done is reasonably necessary and not duplicative. Likewise, if more than one of the legal personnel attends a meeting, court hearing, or other proceeding, each will charge for the time spent. RMM will charge for waiting time in court and elsewhere and for travel time, both local and out-of-town.

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8. **COSTS AND OTHER CHARGES.** RMM will incur various costs and expenses in performing legal services under this Agreement. MWPA agrees to pay for all costs, disbursements, and expenses in addition to the hourly fees. The costs and expenses commonly include: service of process charges, filing fees, court and deposition reporters' fees, jury fees, notary fees, deposition costs, long distance telephone charges, messenger and other delivery fees, postage, photocopying and other reproduction costs, travel costs including parking, mileage, transportation, meals and hotel costs, investigation expenses, consultants' fees, expert witness, professional, mediator, arbitrator and/or special master fees, unavoidable administrative staff and secretarial overtime, and other similar items. All costs and expenses will be charged at RMM's cost.

- In-office photocopying/page: $ .20
- In-office color photocopying/page: $ 1.00
- Facsimile charges/page: $ 1.00
- Mileage/mile: $ .54 (per IRS notices)

Out-of-town travel. MWPA agrees to pay transportation, meals, lodging and all other costs of any necessary out-of-town travel by RMM's personnel (to be reimbursed at the current Federal rate and limits), MWPA will also be charged the hourly rates for the time legal personnel spend traveling.

Experts, Consultants and Investigators. To aid in the preparation or presentation of MWPA case, it may become necessary to hire expert witnesses, consultants, investigators, and outsourced support services. Prior to RMM retaining the services of an expert, consultant, investigator or other similar professional, MWPA shall have the opportunity to review and approve the hiring of such personnel in advance. MWPA agrees to pay such fees and charges.

Additionally, MWPA understands that if any matter proceeds to court action or arbitration, MWPA may be required to pay fees and/or costs to other parties in the action. Any such payment will be entirely the responsibility of MWPA.

9. **TOTAL COST OF AGREEMENT.** The total cost of Agreement is not to exceed $100,000 for the period of one year from the Effective Date.

10. **INTEREST CHARGES.** If a billing statement is not paid by 30 days of receipt by MWPA, interest will be charged on the principal balance (fees, costs, and disbursements) shown on the statement. Interest will be calculated by multiplying the unpaid balance by the periodic rate of .833% per month (TEN PERCENT [10%] ANNUAL PERCENTAGE RATE). The unpaid balance will bear interest from the date of the invoice until paid.

11. **DISCHARGE AND WITHDRAWAL.** MWPA may discharge RMM at any time in its discretion. RMM may withdraw with MWPA’s consent or for good cause. Good cause includes MWPA’s breach of this Agreement, refusal to cooperate or to follow RMM’s advice on a material matter, or any fact or circumstance that would render RMM’s continuing representation unlawful or unethical. When RMM’s services conclude, all unpaid charges will immediately become due and payable within 30 days of date of discharge. After services conclude, RMM will, upon MWPA’s request, deliver MWPA’s file, and property in RMM’s possession within 30

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days of date of discharge.

12. **DOCUMENT RETENTION POLICY.** MWPA is entitled upon written request to any files in RMM’s possession relating to the legal services performed by RMM for MWPA, excluding RMM’s internal accounting records and other documents not reasonably necessary to MWPA’s representation, subject to RMM’s right to make copies of any files withdrawn by MWPA. Once a matter is concluded, RMM will close the file, and MWPA will receive notice thereof. MWPA’s physical files may be sent to storage offsite, and thereafter there may be an administrative cost for retrieving them from storage. Thus, it is recommended that MWPA request the return of a file at the conclusion of a matter. Under RMM’s document retention policy, RMM normally destroys files five (5) years after a matter is closed, unless other arrangements are made with MWPA.

All materials supplied by MWPA and all attorney end product (referred to generally as “client material”) are the property of MWPA. Attorney end product includes, for example, finalized contracts, pleadings, and trust documents. Attorney work product is the property of RMM. Attorney work product includes, for example, drafts, notes, internal memoranda and electronic files, and attorney representation and administration materials, including attorney-client correspondence and conflicts materials.

After the close of a matter, RMM will notify MWPA of any client materials that remain in RMM’s possession. MWPA will be invited to retrieve these client materials within 45 days of notice, or MWPA may direct RMM to forward the client materials to MWPA, at MWPA’s expense. If within 45 days of this notice MWPA fails to retrieve the client materials or request RMM to forward them, MWPA authorizes RMM to destroy the client materials.

After the 45-day period, RMM will, consistent with all applicable rules of professional conduct, use its discretion as to the retention or destruction of all attorney work product and any client materials that remain with RMM.

13. **TECHNOLOGY.** At its discretion, unless otherwise stated, RMM will employ technology to facilitate electronic discovery. This may include scanning of paper documents, culling of documents, converting electronically stored information into a format suitable for review, the usage of electronic review software, etc. Applicable associated costs, including electronic storage and transfer costs, will be billed to MWPA.

14. **DISCLAIMER OF GUARANTEE AND ESTIMATES.** Nothing in this Agreement and nothing in RMM’s statements to MWPA will be construed as a promise or guarantee about the outcome of any matter. RMM makes no such promises or guarantees. RMM’s comments about the outcome of the matter are expressions of opinion only. Any estimate of fees given by RMM shall not be a guarantee. Actual fees may vary from estimates given.

15. **MEDIATION/ARBITRATION; WAIVER OF JURY TRIAL.** If a dispute arises out of or relating to any aspect of this Agreement between MWPA and RMM, or the breach thereof, and if the dispute cannot be settled through negotiation, RMM and MWPA agree to discuss in good faith the use of mediation before resorting to arbitration, litigation, or any other dispute resolution procedure. Nothing herein shall limit or otherwise affect your right under Sections

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6200-6206 of the California Business and Professions Code to request arbitration of any fee dispute by an independent, impartial arbitrator or panel of arbitrators through a bar association program created solely to resolve fee disputes between lawyers and clients. However, should discussions, mediation or the non-binding arbitration provided through a local bar association program not resolve the dispute, the dispute shall be determined by binding arbitration before the American Arbitration Association under its then prevailing commercial arbitration rules, except that discovery may be taken in that arbitration pursuant to the California Code of Civil Procedure. The claims or controversies subject to this provision shall include, without limitation, any claim of professional negligence or malpractice. The arbitration shall be held in Marin County, California, unless the Parties mutually select another venue, and judgment may be entered upon the arbitrator’s award by any court having jurisdiction. Should MWPA refuse or neglect to appear or participate in the arbitration proceedings, the arbitrator is empowered to decide the claim or controversy in accordance with the evidence presented. MWPA should realize that by accepting the arbitration provision, MWPA WILL WAIVE ITS RIGHT TO A JURY TRIAL AND THE RIGHT, EXCEPT UNDER LIMITED CIRCUMSTANCES, TO APPEAL THE ARBITRATOR’S DECISION.

16. ATTORNEYS’ FEES CLAUSE. In the event any action in connection with the enforcement or interpretation of this Agreement, each party shall bear its own attorneys’ fees and costs.

17. NONDISCRIMINATION. RMM shall not discriminate, in any way, against any person on the basis of age, sex, gender identity, race, color, religion, ancestry, national origin, or disability in connection with or related to the performance of its duties and obligations under this Agreement.

18. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the Parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the Parties.

19. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY. If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

20. MODIFICATION BY SUBSEQUENT AGREEMENT. This Agreement may be modified by subsequent agreement of the Parties only by an instrument in writing signed by both of them, or an oral agreement only to the extent that the Parties carry it out.

21. COUNTERPARTS AND ELECTRONIC SIGNATURE. This Agreement may be executed by electronic signature and in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one document. Counterpart signature pages may be delivered by telexoipier, email, or other means of electronic transmission.

22. EFFECTIVE DATE AND TERM OF AGREEMENT. The effective date is the date of signature by the MWPA. The term of this Agreement is one (1) year from the effective date and may be extended by mutual agreement of the Parties.

10/19/2020
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day, month and year of signature.

DATED: 10/19/2020

MARIN WILDFIRE PREVENTION AUTHORITY

By: [Signature]
Mark Brown, Executive Officer

DATED: 10/19/2020

REMY MOOSE MANLEY, LLP

By: [Signature]
Jim Moose
Partner
Attachment “A”

RMM's services will include representation in matters as assigned in writing by the: President of the Board of Directors, on behalf of the Board of Directors; General Counsel; and/or Executive Officer, including but not limited to providing advice on California Environmental Quality Act (CEQA) compliance for MWPA projects and potential litigation related to CEQA issues.
ATTACHMENT “B”

INSURANCE REQUIREMENTS

A. **Insurance Policies**: RMM shall, at all times during the terms of this Agreement, maintain and keep in full force and effect, the following policies of insurance with minimum coverage as indicated below and issued by insurers with AM Best ratings of no less than A:-VI or otherwise acceptable to the Client (MWPA).

<table>
<thead>
<tr>
<th>Insurance</th>
<th>Minimum Limits</th>
<th>Additional Coverage Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Commercial general liability</td>
<td>$1 million per occurrence, $2 million aggregate</td>
<td>Coverage must be at least as broad as ISO CG 00 01 and must include completed operations coverage. If insurance applies separately to a project/location, aggregate may be equal to per occurrence amount. <strong>Coverage may be met by a combination of primary and umbrella or excess insurance but umbrella and excess shall provide coverage at least as broad as specified for underlying coverage. Coverage shall not exclude subsidence.</strong></td>
</tr>
<tr>
<td>2. Business auto coverage</td>
<td>$1 million</td>
<td>ISO Form Number CA 00 01 covering any auto (Code 1), or if RMM has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than $1 million per accident for bodily injury and property damage.</td>
</tr>
<tr>
<td>3. Professional liability (E&amp;O)</td>
<td>$1 million per claim, $1 million aggregate</td>
<td>RMM shall provide on a policy form appropriate to profession. If on a claims made basis, Insurance must show coverage date prior to start of work and it must be maintained for three years after completion of work.</td>
</tr>
<tr>
<td>4. Workers’ compensation and employer’s liability</td>
<td>$1 million</td>
<td>As required by the State of California, with Statutory Limits and Employer’s Liability Insurance with limit of no less than $1 million per accident for bodily injury or disease. The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of the Client (MWPA) for all work performed by the RMM, its employees, agents and subcontractors.</td>
</tr>
</tbody>
</table>

10/19/2020
B. Endorsements:

1. All policies shall provide or be endorsed to provide that coverage shall not be canceled, except after prior written notice has been provided to the Client (MWPA) in accordance with the policy provisions.

2. Liability, umbrella and excess policies shall provide or be endorsed to provide the following:

   a. For any claims related to this project, RMM’s insurance coverage shall be primary and any insurance or self-insurance maintained by Client (MWPA) shall be excess of the RMM’s insurance and shall not contribute with it; and

   b. MWPA, its officers, agents, employees and volunteers are to be covered as additional insureds on the CGL policy and the Professional Liability policy. General liability coverage can be provided in the form of an endorsement to RMM’s insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

C. Verification of Coverage and Certificates of Insurance: RMM shall furnish Client (MWPA) with original certificates and endorsements effecting coverage required above. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by the Client (MWPA) before work commences and must be in effect for the duration of the Agreement. The Client (MWPA) reserves the right to require complete copies of all required policies and endorsements.

D. Other Insurance Provisions:

1. No policy required by this Agreement shall prohibit RMM from waiving any right of recovery prior to loss. RMM hereby waives such right with regard to the indemnitees.

2. All insurance coverage amounts provided by RMM and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.

3. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either RMM or Client (MWPA). Self-insured retentions above $10,000 must be approved by Client (MWPA). At Client (MWPA) option, RMM may be required to provide financial guarantees.

4. Sole Proprietors (consultants to RMM) must provide a representation of their Workers’ Compensation Insurance exempt status.

10/19/2020
Client (MWPA) reserves the right to modify these insurance requirements while this Agreement is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
Attachment "C"

Rates for Attorneys and other timekeepers through December 31, 2021.

- $390 Partners
- $350 Associates
- $150 Paralegals

The total cost of this Agreement is not to exceed $100,000 (see Agreement, Paragraph 9).
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<tr>
<th></th>
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<th>Budget</th>
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<th>% of Budget</th>
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<td>4000 - Measure C</td>
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<tr>
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<tr>
<td>6200 - Financial &amp; Admin Services</td>
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<td>(100,000)</td>
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<tr>
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<td>388,917.41</td>
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<td>(111,083)</td>
<td>78%</td>
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<td>6300 - FSM NOAA Weather Radios</td>
<td>24,000.00</td>
<td>35,000</td>
<td>(11,000)</td>
<td>69%</td>
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<td>6450 - Legal Services</td>
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<td><strong>Net Excess/(Deficiency)</strong></td>
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<td><em>8,490,418</em></td>
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# Marin Wildfire Prevention Authority
## Balance Sheet

### ASSETS

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<td>1100 · Payroll Account</td>
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### TOTAL ASSETS

| Amount | 294,582.63 |

### LIABILITIES & EQUITY

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<td>2100 · Short Term Note Payable</td>
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<td>2200 · Payroll Liabilities</td>
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| Amount | 1,071,965.83 |

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### TOTAL LIABILITIES & EQUITY

| Amount | 294,582.63 |
## Marin Wildfire Prevention Authority
### Expense Detail

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<th>Type</th>
<th>Date</th>
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<th>Name</th>
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<td>payment towards agreement</td>
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<td>FIRESafe MARIN</td>
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Total 6250 · FSM Chipper Program
Total 6300 · FSM NOAA Weather Radios
Total 6350 · FSM Public Education
Total 6400 · FSM Red Flag Signage
Total 6450 · Legal Services
Total 6550 · Personnel
Total 6560 · Medicare Tax
Total 6565 · Supplemental Allowance
Total 6570 · Defined Contribution Retirement
Total 6550 · Personnel
Total 6600 · Services & Supplies

Reported by Alyssa Schiffmann
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Total 6600 · Services & Supplies 8,746.01

6650 · Start Up Costs

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Total 6650 · Start Up Costs 171,739.25

TOTAL 777,383.20
## Marin Wildfire Prevention Authority
### A/P Aging Summary
#### As of November 16, 2020

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11/11/2020
Accounts Payable
Prepared by Alyssa Schiffmann
RECOMMENDATION:

Recommend that the Board receive a report on the ongoing Marin Wildfire Prevention Authority (MWPA) wildfire prevention activities.

BACKGROUND:

The MWPA received a mandate from the voters of Marin County to be an efficient and effective organization in creating a safer environment for the communities in Marin County by helping to prevent wildfires and to limit the damage caused by wildfires that do occur.

The range of activities available to meet this mission include the following:

- Vegetation Management Projects
- Evacuation Route Clearing
- Evacuation Planning/Improvements
- Notification Systems Improvements
- Public Education
- Defensible Space Evaluations

It is important for the MWPA to keep the Board and the public up-to-date on the work has been done so that communities of Marin County can be assured that their mandate has been heard and that the MWPA is working efficiently.

ANALYSIS:

The first Operations Committee Meeting occurred in April of 2020 and the 2020/2021 Work Plan was approved at the June Board of Directors meeting. Many of the projects identified in the
Work Plan have already been started and/or completed along with the Defensible Space Evaluations that were funded by the MWPA.

Please see below for a list of projects that have been started and/or completed by local agencies and FIRESafe Marin with MWPA funds:

- **Vegetation Management/Home Hardening Projects**
  - Chipper Days – to assist residents with their projects on their properties
    - 2,164 curbside pickups
    - 13,111 cubic yards of unchipped material (1 large dump truck is 10 cubic yards)
    - 1,820 cubic yards of chipped material hauled away (some chipped material left on site)
  - Cedars of Marin
    - Defensible Space project surrounding the Cedars of Marin facility in Ross/San Anselmo
  - Marin County Fire Department Low Income Senior Citizen Grant Program
    - Approximately $10,000 spent to support the creating of defensible space for qualified applicants
  - Novato Fire Department has created a Home Hardening Matching Grant program
  - Corte Madera - Middle and Lower Summit, Octopus, and Escalon Fire Roads clearance projects
  - Larkspur – Citron Bowl acacia removal and hazardous fuel reduction in partnership with Marin County Parks
  - Corte Madera Granada School eucalyptus understory hazard fuel reduction
    - Many of the Central Marin Fire Department projects leveraged multiple funding sources but were all managed by a position funded by the MWPA

- **Evacuation Route Clearing**
  - Town of Ross – evacuation route clearing, Baywood, Wellington Crest and Upper Road
  - Corte Madera - Multiple roadside, defensible space, and hazard (dead) tree removals
  - Corte Madera and Larkspur - roadside vegetation clearance along Corte Madera Ave, Madrone Canyon, Blue Rock, Marina Vista, West Baltimore, Palm Hill
    - Many of the Central Marin Fire Department projects leveraged multiple funding sources but were all managed by a position funded by the MWPA

- **Evacuation Planning/Improvements**
  - Currently drafting a Request for Proposals for an Evacuation Route Study
  - Non-MWPA Funded – Evacuation Route Maps for Community Members – a future project for MWPA to round out the entire county
    - San Geronimo Valley, Throckmorton Ridge, East Corte Madera and Greenbrae (the position managing this project was funded by the MWPA)
  - 20,000 evacuation maps for the residents mailed in Novato

- **Notification Systems Improvements**
  - Red Flag Signs have been distributed to Firewise sites as a pilot project
- 1,000 NOAA Weather Radios distributed throughout Marin

- **Public Educations**
  - 7 webinars with 6,075 people in attendance
  - 4 Informational newsletters sent to 4,500 subscribers
  - 102,000 FIRESafe Marin website visitors (87% are new visits)
  - Educational materials distributed
    - Wildfire Preparedness Brochure – 12,000
    - Evacuation Checklist – 10,000
    - Firewise Door Hangers – 5,000
  - 15 educational videos completed with 2 additional videos in the editing phase
  - Ready 5th Grade project has been completed and delivered to the Marin County Board of Education

- **Defensible Space Evaluations**
  - 11,929 Defensible Space Evaluations were conducted countywide
  - Approximately 66% of the inspections were done with the occupant of the home being present which increases public educations

**FISCAL IMPACT:**

The fiscal impact of these projects was presented to your Board in the 2020/2021 Work Plan.

**ENVIRONMENTAL REVIEW:**

The Board’s receipt of this update is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code §21065).

Respectfully submitted,

Mark Brown, Executive Officer
MARIN WILDFIRE PREVENTION AUTHORITY

STAFF REPORT

For the Board of Directors Meeting on November 19, 2020

To: Marin Wildfire Prevention Authority Board of Directors

From: Mark Brown, Executive Officer

Subject: Low-Income Senior Exemption Appeals Process

RECOMMENDATION:

That the Board authorize a Low-Income Senior Exemption appeals process and establish an ad hoc Appeals Subcommittee of the Board of Directors.

BACKGROUND:

An important aspect of the Measure C campaign, which created the funding source for the Marin Wildfire Prevention Authority (MWPA), was the inclusion of a Low-Income Senior Exemption. After the passage of Measure C, much effort went into identifying the property owners who met the definition of senior citizen. In late May and early June, a flyer was sent to 27,605 homeowners over 65 years old. As specified in the Ordinance adopted by Measure C, and stated on the flyer and MWPA website, applications for exemptions were due by June 30, 2020. In total, 2,122 exemptions were requested and 1,937 were granted. Most of the denials were due to improper documentation. NBS Customer Care, MWPA’s contractor administering the Low-Income Senior Exemption, reached out to each of the applicants to regarding the deficiencies.

Following receipt of the Marin County tax bills in October, MWPA through NBS has received calls from residents inquiring about why they were not notified of the exemption and requesting information about an appeals process. To date, NBS has logged 124 calls relating to the MWPA Low-Income Senior Tax Exemption. There were 43 calls that did not provide enough information to confirm if they were on the mailing list (basic complaints without providing details). Of the 124 calls, 60 of the callers were on the mailing list and 21 callers were not on the mailing list (however they may have provided inaccurate information). Unfortunately, the location and demographics of the callers were not captured; therefore, MWPA is unable to determine the size of their dwelling or whether they would have been approved for an exemption.
During the October 15, 2020, MWPA Board of Directors meeting, the Board indicated its support for establishing an appeals process for the Low-Income Senior Exemption and directed staff to bring a proposal forward for the Board’s consideration.

ANALYSIS:

Staff has explored the options for an appeals process through the County of Marin Tax Assessor and/or the Department of Finance. Neither of these County departments process such appeals. Rather, it is the taxing authority’s responsibility to create and manage its own process.

Staff reached out to other local agencies to identify best practices for such a process and based on those discussions, staff recommends the following appeals process and parameters:

- Any low-income senior taxpayer may appeal to the MWPA to seek a determination on the eligibility of a parcel(s) for exemption.
- Appeals must be submitted in writing to the MWPA at 28 Liberty Ship Way, Suite 2800, Sausalito, CA. 94965, or via email sent to info@marinwildfire.org no later than January 31 of the subsequent year following the receipt of the tax bill.
- Appeals must include the following documentation to support the claimed exemption:
  - a copy of the Marin County Secured Tax Statement for appropriate tax year (“20XX-XX Property Tax Bill”), showing the MWPA tax amount (all other tax amounts may be redacted),
  - proof of income, such as the previous year’s tax return, and
  - proof of age, such as a copy of a driver’s license.
- Appeals will only be considered during the resident’s first year of eligibility; first year of the tax, new resident in the area, newly a senior citizen or change in financial status.
- Appeals will only be considered for property owners who demonstrate eligibility for the MWPA’s Low-Income Senior Tax Exemption for the appropriate year’s Property Tax Bill.
- The appeal will be heard by a subcommittee of the MWPA Board of Directors. The Board subcommittee may seek the advice of staff and/or legal consultants as needed.
- The Board subcommittee must respond within 60 days of receipt of the appeal.
- Appellants who are found to be eligible for the Low-Income Senior Exemption will be reimbursed for the full amount of the MWPA Tax shown on the current year’s Property Tax Bill.
- The MWPA will post the appeals process on its page committed to the Low-Income Senior Exemption on its website.

Staff seeks the Board of Director’s approval of the appeals process and parameters. In addition, staff respectfully requests that the Board establish an Appeals Subcommittee of the Board.
FISCAL IMPACT:

Due to the lack of demographic information collected, the following assumptions have been made to analyze the fiscal impact (in order to predict on the higher end):

- All callers met the criteria for the Low-Income Senior Tax Exemption
- Average of 2,000 square feet per dwelling.

With these assumptions, the fiscal impact would be a return of $24,800 for the current fiscal year.

ENVIRONMENTAL REVIEW:

The Board’s consideration of the low-income senior exemption appeal process is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

Respectfully submitted,

Mark Brown, Executive Officer
RECOMMENDATION:
Receive a memo from Sabrina Teller and Jim Moose of Remy Moose Manley, LLP (RMM) and consider appointing an ad hoc committee to advise on next steps and to revise the request for proposals (RFP) for environmental consultant services.

BACKGROUND:
At its meeting of October 15, 2020, the MWPA Board authorized staff to retain RMM to provide legal advice related to compliance with the California Environmental Quality Act (CEQA). Sabrina Teller and Jim Moose prepared the attached memo to provide the Board and the public with information about potential paths to CEQA compliance. (Attachment 1).

At the November 5, 2020, Executive Committee meeting, the members discussed the guidance provided by RMM and indicated an interest in gathering additional information about potential preparation of a program environmental impact report to cover projects within the MWPA jurisdiction (MWPA PEIR). As noted in the RMM memo, a MWPA PEIR could incorporate information from the California Vegetation Treatment Program PEIR (CalVTP PEIR). The Executive Committee recognized that during development of a MWPA PEIR, the MWPA and local agencies could continue to work on projects that fall under CEQA Categorical Exemptions. In addition, projects within the CalVTP Treatable Areas could continue to be carried out under the CalVTP PEIR. For ease of reference, staff has attached maps showing the MWPA territory, the state responsibility area in Marin County, and the CalVTP Treatable Area in Marin County. (Attachments 2, 3 & 4). Staff has also provided a decision making tree developed by Director McEntee following the Executive Committee meeting on November 5th (Attachment 5).

The Executive Committee emphasized that the Board’s decision about which CEQA compliance approach to take will require more input from local agencies, the Operations Committee,
stakeholders, the public, MWPA’s environmental consultant and legal counsel. The lessons learned during the implementation of current projects may inform the need for a MWPA PEIR. In an effort to facilitate this process, staff is proposing that the Board authorize President Goines to appoint five members to serve on an ad hoc committee to gather the information necessary to advise the Board on next steps. In addition, the ad hoc committee could work with staff to revise the RFP for environmental consulting services based on the Board’s determination of the appropriate path for CEQA compliance.

FISCAL IMPACT:
There is no fiscal impact associated with this agenda item. The fiscal impact of environmental consulting services will be evaluated when the scope of those services is ascertained.

ENVIRONMENTAL IMPACT:
The Board’s review of legal advice and potential appointment of an ad hoc committee is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

Respectfully submitted,

Megan Holt Acevedo
General Counsel

Attachment:
1. Remy Moose Manley, LLP Memo Re: CEQA Compliance Options
2. Map of MWPA Territory
3. Map showing state responsibility area, local responsibility area, and federal responsibility area in Marin County
4. Map showing the CalVTP Treatable Area in Marin County
5. MWPA CEQA Decision Making Tree
MEMORANDUM

To: Board of Directors of the Marin Wildfire Prevention Authority

From: James Moose and Sabrina Teller

Date: November 11, 2020

Re: CEQA compliance strategies and considerations for MWPA projects

CC: Megan Holt Acevedo, General Counsel

This memo addresses several questions posed by the Board Chair regarding compliance with the California Environmental Quality Act (CEQA) for the various vegetation management and defensible space projects that will be undertaken and/or funded by the Marin Wildfire Prevention Authority (MWPA). First, for context and legal background, we provide an overview of the CEQA compliance paths potentially available to the Authority, including tiering from the Program Environmental Impact Report (PEIR) certified in December 2019 by the California Board of Forestry and Fire Protection (Board of Forestry or Board) for the California Vegetation Treatment Program (CalVTP). The CalVTP covers all of the treatable landscape within the State Responsibility Areas (SRA), portions of which overlap some of MWPA’s jurisdiction.

1 A copy of the PEIR can be accessed at https://bof.fire.ca.gov/projects-and-programs/calvtp/peir-certification/

2 We noted that the Marin County Fire Department’s July 2016 Community Wildfire Protection Plan (2016 CWPP) contains a useful figure showing the boundaries of the federal, state and local responsibility areas within Marin County. Figure 2 states that about 200,000 acres of Marin County’s approximately 530,000 acres are in the SRA. There are approximately 17,152 parcels in the SRA. (2016 CWPP, p. 3.) The “treatable landscape” assessed in the CalVTP PEIR consists of some 20 million acres within the SRA (see Figure 2-1, p. 2-5, CalVTP PEIR [accessible at https://bof.fire.ca.gov/media/9726/02-program-description_ada.pdf]). The resolution of that printed map is hard to read at a county level, so more detail can be accessed online at the “CalVTP Treatable Landscapes Viewer” at https://calfire-
November 11, 2020
Memo to MWPA Board re: CEQA compliance

Following that overview, we address the nine questions as they were framed for us by the Chair.

**Overview of CEQA Compliance Options**

Determining the appropriate tools to use to comply with CEQA for the different activities planned under the MWPA’s 2020 Work Plan and future plans depends on several factors, including the size and location of the project and the types of activities involved. Many projects could qualify for one of several categorical or statutory exemptions, with adequate documentation. Projects within the SRA may qualify for an assessment for consistency with the analysis in the CalVTP PEIR, using the project-specific checklist adopted by the Board of Forestry for that purpose. Non-exempt projects outside of the SRA may require stand-alone environmental review in the form of a negative declaration,³ mitigated negative declaration (MND),⁴ or an EIR.

**Exemptions**

Many of the local projects contemplated under the Authority’s 2020 Work Plan may qualify for exemptions from CEQA. Some advantages of exemptions are that the required documentation is often faster and less expensive to prepare, the scope of issues to be addressed can be less than the full range that would be considered under an MND or EIR, and there is no required public review period. Once projects are approved on the basis of an exemption, the agency may file a Notice of Exemption (NOE) with the local county clerk, which triggers a 35-day statute of limitations for any litigation challenging

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³ “‘Negative declaration’ means a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental impact report.” (Pub. Resources Code, § 21064.)

⁴ “‘Mitigated negative declaration’ means a negative declaration prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” (Pub. Resources Code, § 21064.5)
the approval of the project. If no NOE is filed, CEQA’s default 180-day statute of limitations would apply. An agency need not wait for the statute of limitations period to run before undertaking a project.

The limitations of exemptions include their narrower scope of application and potential exceptions, which can disqualify the use of an exemption if the exception criteria are met.

In all instances, an agency must ensure that its record for each project includes substantial evidence supporting the project’s qualification for all of the exemption criteria. This means providing a written explanation demonstrating how and why the project’s size, location, design and type of activities involved meet all of the criteria of the claimed exemption. It is also strongly recommended that this written explanation also explain with substantial evidence the agency’s reasoning for why the potential exceptions are not met.

We can think of at least two “categorical” exemptions that could apply to many of the types of activities contemplated in the Authority’s work plan: the so-called “Class 4” exemption for “minor alterations to land”; and the “Class 33” exemption for “small habitat restoration projects”. As directed by the Legislature, the Guidelines adopted by the Secretary of the Natural Resources Agency to implement CEQA were required to include “a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt” from CEQA review. The Guidelines contain such a list of exempt classes of projects, which are known as categorical exemptions. These are nonstatutory exemptions for certain categories or

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6 Id., subdivision (d).

7 Id., CEQA Guidelines, § 15300.2.

8 Id., § 15304.

9 Id., § 15333.

10 Public Resources Code, § 21084, subdivision (a).

11 CEQA Guidelines, § 15300 et seq.
classes of projects that have been deemed under the Guidelines to have no significant effect on the environment.\textsuperscript{12}

The Class 4 exemption “consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes.” Guidelines section 15304 provides several, non-exclusive examples that sound similar to some of the projects contemplated under the Work Plan, such as the creation of shaded fuel breaks, goat grazing, and hazardous vegetative fuels removal:

\begin{itemize}
\item[(a)] grading on land with a slope of less than 10 percent, except in a waterway, wetland, officially designated scenic area, or officially mapped areas of severe geologic hazard;
\item[(b)] new gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping;
\item[(d)] minor alterations in land, water, and vegetation on existing officially designated wildlife management areas which result in improvement of habitat;
\item[(e)] minor temporary use of land having negligible or no permanent effects on the environment; and
\item[(i)] fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of special status species or significant erosion and sedimentation of surface waters, or within 100 feet of structures if the public agency responsible for fire protection has determined that 100 feet of fuel clearance is required due to extra hazardous fire conditions.\textsuperscript{13}
\end{itemize}

\textsuperscript{12} CEQA does not apply to “ministerial” projects, where an agency uses objective standards and little or no judgment in its decision-making (e.g., most building permits). (Pub. Resources Code, § 21080(b)(1); CEQA Guidelines §§ 15268 and 15369). From the information provided regarding the types of projects MWPA and the local agencies contemplate, it does not appear that many are ministerial in nature. Rather, they appear to be discretionary in that the decision makers have the ability to decide whether to approve or deny them and to define their boundaries, timing, and scope of work in consideration of site-specific conditions. But where the type of approval necessary to implement a proposed project can be shown to qualify as ministerial, then an agency could claim the ministerial exemption. (See \textit{Protecting Our Water and Environmental Resources v. County of Stanislaus} (2020) 10 Cal.5th 479, 493–495, 499–501.)

\textsuperscript{13} The kind of fire conditions that may qualify as “extra hazardous” to justify 100 feet of fuel clearance is not defined in the exemption. One possible interpretation for MWPA to consider applying is that they correspond to Cal FIRE’s Fire Hazard Severity Zones (FHSZ) for State Responsibility Areas (SRA) and Very High Fire Hazard Severity Zones.
The Class 33 exemption applies to projects “not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants or wildlife provided that” there would be no significant adverse impacts on special status species or their habitat, that there are no hazardous materials at or around the project site that may be disturbed or removed, and that the project will not make a significant contribution to cumulative impacts.\textsuperscript{14} The list of non-exclusive examples provided for the exemption include “projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment.”\textsuperscript{15} To the extent that any of the local projects are undertaken with the primary purpose of restoring habitat (perhaps by removing non-native or invasive species) and the secondary benefit of reducing fire fuels, this exemption could apply. Because of the restriction on using this exemption where there could be “significant adverse impacts on special status species or their habitat,” however, this exemption may be of limited use unless the agency can demonstrate with a biological survey and report that such impacts would not result.\textsuperscript{16}

We also considered the potential application of the Class 7 and Class 8 exemptions for actions by regulatory agencies for protection of natural resources and the environment.\textsuperscript{17}

\textsuperscript{14} \textit{Id.}, § 15333.

\textsuperscript{15} \textit{Id.}, subdivision (4).

\textsuperscript{16} As discussed further below, the limitations on the scope or circumstances in which this exemption could be used are one factor the MWPA may want to consider preparing a Program EIR covering all of its foreseeable activities.

\textsuperscript{17} CEQA Guidelines, §§ 15307, 15308.
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These exemptions apply to actions taken pursuant to state law or local ordinances to “assure the maintenance, restoration, or enhancement” of natural resources (Class 7) and additionally, “protection” of the environment (Class 8). As with the Class 33 exemption, however, these exemptions may also be of limited use to MWPA and its local agencies unless they can demonstrate that a project’s primary purpose is to benefit or restore the natural environment and that the effects are entirely beneficial or benign. The courts that have interpreted these exemptions have set a high bar for agencies to clear with respect to this showing. As with the Class 33 exemption, reliance on the Class 7 or Class 8 exemption would require a factual showing that the project at issue was nearly entirely environmentally beneficial, with no real negative environmental tradeoffs of any consequence. The analysis found in the CalVTP Program EIR indicates that, despite the overall ecological benefits of many types of vegetation treatment projects, there are frequently short-term negative environmental tradeoffs, such as the potential loss of bird nests, impacts to threatened or endangered plant communities, air pollution, and greenhouse gas emissions from diesel-powered equipment.

All of the above-described categorical exemptions also require that an agency consider whether the potential exceptions are triggered for projects that otherwise meet the criteria of a claimed exemption. These exceptions listed in CEQA Guidelines section 15300.2 preclude the use of the Class 4 exemption (but not the Class 7, Class 8, or Class 33 exemptions) in “particularly sensitive environment[s]” where the environmental resource or hazard is officially mapped or designated. In addition, none of the exemptions can be used where cumulative impacts of successive projects of the same type in the same place over time could result, where there is a “reasonable possibility that the activity will have a significant impact due to unusual circumstances,” where damage to scenic resources

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18 In the most relevant case applying these exemptions, Save Our Big Trees v. City of Santa Cruz (2015) 241 Cal.App.4th 694, the court rejected the city’s claim that amendments to its existing heritage tree protection ordinance qualified as actions to protect natural resources and the environment under the Class 7 and Class 8 exemptions. The amendments strengthened some protections for existing heritage trees and increased penalties for their illegal removal, but also added more reasons that property owners could invoke in applying for tree removal permits. The court rejected the city’s argument that, on an overall basis, the amendments were environmentally beneficial, characterizing the city’s scheme instead as protecting “fewer trees more effectively.”

19 Recent case law interpreting the “unusual circumstances” exception held that an agency should determine first whether any “unusual circumstances” exist, a factual inquiry to which a court should be deferential; only if the agency determines there are such circumstances should it then decide whether any significant impacts could result from those unusual circumstances (with the latter decision being subject to the less
along a designated scenic highway could result, where the project is located on a site listed pursuant to Government Code section 65962.5 as having hazardous wastes, or where the project could result in a substantial adverse change in the significance of a historical resource. Agencies using the Class 4, 7, 8, and 33 categorical exemptions should document with substantial evidence that they have considered whether these exceptions apply, and if they conclude they do not, explain their reasoning.

Another potentially applicable exemption is for certain emergency projects “to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been declared by the Governor.” On October 30, 2015, Governor Brown declared a state of emergency with respect to drought conditions, tree mortality, and resulting high hazard fire conditions. The proclamation provides that CEQA is suspended for activities by state agencies, utilities, and local agencies to remove dead or dying trees and incidental vegetation in high hazard zones that threaten power lines, roads and other evacuation corridors, critical community infrastructure and other existing structures. The Governor later renewed and reemphasized the state of emergency relating to tree mortality in an executive order issued on September 1, 2017. Executive Order B-42-17 stated that the “orders and provisions contained in my October 30, 2015 Emergency Proclamation remain in full force and in effect,” with the only modifications relating to expanding the types of licensed professionals who are authorized to perform dead/dying tree removal work. Because the state of emergency appears to still be in effect as it regards the number of dead trees and the fire hazard they pose all over the state, this exemption could apply to many of the projects under the Work Plan that are intended to reduce the density of dead or diseased trees along evacuation routes and other critical infrastructure within the MWPA boundaries.

The emergency proclamation, however, contemplates that the Department of Forestry and Fire Protection would issue emergency guidelines setting forth criteria to guide agencies in implementing the dead trees and vegetation removal directive, which we do not believe has occurred. The proclamation also indicates that with respect to the suspension of CEQA, the state agency with primary responsibility for implementing the


20 CEQA Guidelines, § 15269, subdivision (a). See also Pub. Resources Code, § 21080, subd. (b)(4) (statutory exemption for “[s]pecific actions necessary to prevent or mitigate an emergency”).
dead vegetation removal directive would need to concur with the local agency carrying out the work that local action is required. We understand that there is not a regular consultation process occurring at the state level to implement this particular directive, so more research would be needed to confirm that the MWPA might rely on this declaration to determine that potentially qualifying activities are exempt.

_Tiering from the Statewide CalVTP Program EIR_

The CalVTP PEIR is intended to be used by local agencies carrying out fire fuel reduction activities within the “treatable landscape” portion of the SRA. On a statewide basis, this treatable landscape includes approximately 20.3 million acres within the 31-million-acre SRA. There appears to be a substantial amount of overlap between the MWPA’s boundaries and SRA, meaning that the CalVTP PEIR is available to MWPA and its member agencies to use in completing their obligations under CEQA where the projects in the treatable landscape within the SRA are not exempt or the exceptions to categorical exemptions may apply.

Under the “tiering” process contemplated under the CalVTP, a local agency proposing a vegetation management project within the SRA would complete a “Project Specific Analysis” (PSA) using the checklist format that the Board of Forestry adopted with the CalVTP PEIR in December 2019. One purpose of the PSA is to document whether and how the proposed activity is “within the scope” of the CalVTP PEIR. Such a determination is authorized by the CEQA Guidelines under appropriate circumstances. “Whether a later activity is within the scope of a program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR.”

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21 When we use the term “tiering” in this memo in discussing the use of the CalVTP PEIR and a program EIR that the MWPA may consider preparing, we are referring to the process provided for a program EIR and later consideration of projects under that program in CEQA Guidelines section 15168, not the formal process of tiering for land use plans in Guidelines section 15152.

22 The checklist template and guidance for completing it is provided on the Board of Forestry’s website at: https://bof.fire.ca.gov/projects-and-programs/calvtp/calvtp-implementation/

23 CEQA Guidelines, § 15168, subdivision (c)(2).
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vegetation treatment project within the SRA treatable landscape is able, through the preparation of a PSA, to determine that the analysis, mitigation measures, and Standard Project Requirements (SPRs) within the PEIR adequately address the environmental effects of the proposed project, “the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required.”

After the PSA is completed for a project that is determined to be within the scope of the CalVTP, and the agency concludes that it would not result in any new or more severe impacts, the agency may approve the project, file a Notice of Determination (NOD), and submit the completed PSA to the Board of Forestry for tracking.

One consideration in deciding whether to tier from the CalVTP PEIR is the fact that it is the subject of litigation challenging its adequacy under CEQA, currently pending in the San Diego County Superior Court. While we believe that the PEIR is very well supported and that it fully complies with CEQA, it is always possible that a reviewing trial court (or court of appeal) will disagree with us. The litigation is still in its early stages, so an initial decision on the adequacy of the PEIR is not expected for several months. Whatever the result in the trial court, there is likely to be an appeal, which would delay the ultimate decision by probably another couple of years. Therefore, we are not likely to have a final decision on the adequacy of the CalVTP PEIR until at least 2022 or 2023.

The mere filing of CEQA litigation over an EIR does not render an approved project inoperative. In general, projects approved after the certification of a final EIR may proceed towards implementation despite pending litigation unless and until either a court enjoins the project or the highest court to address the merits of the litigation finds the final EIR to be legally defective. The petitioners in the above-referenced litigation have not sought any injunctive relief against the Board of Forestry, which is treating the PEIR as operative, as is Cal FIRE.

Notably, CEQA includes a specific statute instructing responsible agencies to treat EIRs and negative declarations as legally adequate even while such documents are subject to pending legal challenges against lead agencies. As summarized in the CEQA Guidelines, the operative CEQA statute provides that “[a] final EIR prepared by a Lead Agency …

24 Ibid.


26 Id.
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shall be conclusively presumed to comply with CEQA for purposes of use by Responsible Agencies … unless one of the following conditions occurs: (a) The EIR … is finally adjudged in a legal proceeding not to comply with the requirements of CEQA, or (b) A subsequent EIR is made necessary by Section 15162 of these Guidelines.”27 In this context, “finally adjudged” means adjudged by the last court to consider the EIR, which would normally be either a California Court of Appeal or the California Supreme Court. Sometimes, of course, a superior court might issue a judgment requiring an agency to set aside its EIR without the agency appealing. Under this scenario, the superior court judgment would be the last word on the subject.

In short, the pendency of CEQA litigation over the CalVTP PEIR does not preclude agencies other than the Board (e.g., Cal FIRE, MWPA) from relying on the document. Indeed, CEQA actually requires that such agencies treat the PEIR as being legally adequate unless and until the highest court to review the document finds it inadequate.

Subsequent or Stand-alone Environmental Review

Where sole reliance on the CalVTP PEIR for projects within the SRA treatable landscape is not possible, agencies carrying out individual treatment projects within those areas may still be able to build on the analysis, SPRs, and mitigation found in the PEIR in preparing their own project-specific negative declarations, MNDs, or EIRs. Furthermore, the proponents of other projects, such as those occurring partly within but partly outside of the SRA treatable landscape, may achieve a different kind of CEQA streamlining by incorporating by reference relevant portions of the analysis from the PEIR into the acting agencies’ own project-specific CEQA documents.28 Under this last set of circumstances, information from the PEIR will assist the agencies in identifying environmental information pertinent to their independent CEQA analyses.

If a non-exempt project is determined not to be within the scope of the CalVTP PEIR, or would have new or more severe significant impacts, the agency should prepare a subsequent mitigated negative declaration or subsequent EIR to address the issues and significant impacts outside the scope of the CalVTP PEIR. Alternatively, if, due to the pending litigation over the CalVTP PEIR, an agency just does not wish to tier from the PEIR, the agency should prepare an initial study for a non-exempt project and proceed to

27 CEQA Guidelines, § 15231 (italics added).

28 See CEQA Guidelines, § 15150.
a stand-alone negative declaration, MND, or EIR as dictated by the initial study’s conclusions and supporting evidence.

### Answering Executive Director’s CEQA Compliance Questions

1. **How would you recommend handling CEQA compliance for vegetation management and defensible space projects included in the already-approved 2020 Work Plan?**

Several of the projects in the 2020 Work Plan were determined to be exempt, NOEs were filed in the summer, and the statute of limitations has run, so those could be implemented as soon as physical conditions permit. Other projects for which no CEQA review has yet occurred should be evaluated for potential qualification for an exemption, and the necessary supporting documentation should be prepared.

We don’t have enough detail about most of the projects in the pending projects list to make a confident recommendation about whether they qualify for an exemption (e.g., due to the size of the treatment area, and whether there are any special status species or habitat that could be potentially affected), but we would be pleased to advise the MWPA regarding CEQA compliance for any individual projects.

There appear to be several pending or proposed projects within the SRA treatable landscape, so if those are determined not to be exempt, the MWPA or the local agencies could consider preparing a PSA under the CalVTP for those projects. For projects that might straddle the SRA and LRA, completing a PSA could be helpful in identifying which portions are outside the scope of the CalVTP PEIR and what new or worse impacts could result. In this way, the PSA checklist could serve as an initial study to focus the stand-alone review for an SRA/LRA-straddling project.

For non-exempt projects completely outside of the SRA treatable landscape, the MWPA or local agencies would have to prepare a negative declaration, MND, or EIR, as outlined above.

2. **Do you recommend applying the VTP PEIR to all MWPA vegetation management projects—that is, Core projects (those undertaken by the Authority) as well as those proposed by local member agency jurisdictions? Are there advantages of having the same CEQA procedures apply to both MWPA Core projects and member agency projects, for example, in terms of countywide planning and assessment of cumulative impacts?**
We recommend relying on exemptions wherever applicable, because of their relatively less burdensome documentation requirements and lower preparation costs, and thus their more efficient path for CEQA compliance and quicker project implementation. Reviewing the list of pending projects provided to us, many would seem to qualify for one or more of the exemptions described above, so documenting proposed projects’ qualifications for exemptions could offer a lot of efficiency and would enable the MWPA and local agencies to complete more projects quickly. As noted above, however, the agencies should also consider the potential application of the exceptions to categorical exemptions, and carefully document their reasoning and conclusions regarding those issues. Consideration of cumulative impacts is one of those exceptions, for “successive projects of the same type in the same place, over time.”29 For projects for which the MWPA and local agencies might consider using the Class 7, Class 8, or Class 33 exemptions, it would also be important to consider whether such projects are nearly wholly environmentally benign and would not involve any negative environmental tradeoffs of any consequence.

For non-exempt projects, however, tiering from the VTP PEIR through the use of the Board of Forestry’s adopted PSA checklist for MWPA Core projects and local agency projects located within the SRA treatable landscape provides several advantages. For one, analyses of these various projects would be more consistent in the format, scope, and content, through consideration of the relevant SPRs and mitigation measures, thus ensuring that issues of potential concern receive due attention. Stakeholders in the MWPA’s activities would become accustomed to reviewing the PSAs and hopefully gain some confidence in the adequacy of the reviews as the stakeholders become familiar with that process. Another advantage is the ability for local agencies to access and rely on the wealth of technical supporting information developed for the CalVTP and the PEIR.

3. Should the MWPA act as lead agency under CEQA for all projects, including local member agency projects funded by the MWPA? If MWPA is not the lead agency for local member agency projects it funds, will it be a responsible agency for these projects? What oversight responsibility is required of MWPA as a responsible agency?

29 Id., § 15300.2, subdivision (b).
Determining the circumstances under which MWPA should or must act as a lead agency\textsuperscript{30} under CEQA depends primarily on the extent of its role in deciding on and carrying out projects. If that implementation responsibility is shared in some respect, then the timing of MWPA’s role relative to that of its member local agencies becomes relevant.

CEQA defines a “lead agency” as “the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.”\textsuperscript{31} A “responsible agency” is the “public agency, other than the lead agency, which has responsibility for carrying out or approving a project.”\textsuperscript{32} “If the project will be carried out by a public agency, [then] that agency shall be the Lead Agency,” even though the project may be located in another agency’s jurisdiction.\textsuperscript{33} The lead agency “will normally be the agency with general governmental powers, such as a city or county, rather than an agency with a single or limited purpose such as an air pollution control district or a district which will provide a public service or public utility to the project.”\textsuperscript{34} The respective timing of agency actions is determinative of lead agency status only where more than one public agency equally meet the lead agency criteria, in which case the agency which will act first on the project shall be the lead agency.\textsuperscript{35}

So where the local agencies would be the ones to actually approve, permit, and/or carry out the proposed projects, the local agencies should be the lead for CEQA purposes. Where MWPA’s only role is funding, it is likely not properly the lead agency. If a local agency is properly the “lead” because of its primary responsibility to implement the

\footnotesize{\textsuperscript{30}For the purpose of this discussion, we are using the term “lead agency” to refer to the general responsibility for complying with CEQA, while under the statute, the official designations of “lead agency” and “responsible agency” only apply when a negative declaration or EIR are being prepared. There is no process identified under CEQA for a responsible agency to adopt or rely on a lead agency’s exemption determination. Thus, an agency acting in some discretionary capacity on a project following another agency’s initial approval and exemption determination would need to make its own, separate determination regarding CEQA compliance.}

\footnotesize{\textsuperscript{31}Pub. Resources Code, § 21067.}

\footnotesize{\textsuperscript{32}Id., § 21069.}

\footnotesize{\textsuperscript{33}CEQA Guidelines, § 15051, subdivision (a).}

\footnotesize{\textsuperscript{34}Id., subdivision (b)(1).}

\footnotesize{\textsuperscript{35}Id., subdivision (c).}
project, MWPA would need to make its own determination regarding exemption qualification where the local agency determined the project was exempt. MWPA could follow CEQA’s processes for a responsible agency where the local agency prepares a negative declaration, MND or EIR.\textsuperscript{36}

If MWPA will act first, for example on a discretionary funding decision, even though it is not the lead agency that will implement the project, MWPA could consider making its funding decision contingent on the lead agency’s demonstration of CEQA compliance. A line of cases holds that CEQA-contingent funding decisions are allowable under CEQA, but only if the agency’s record demonstrates that the later CEQA compliance is not just a post-hoc rationalization for actions to which the agency has already committed itself. These cases also require that the pre-CEQA approvals made by the agency must not in any way constrain the scope of potential alternatives and mitigation that the CEQA process may consider. These cases implement guidance from the California Supreme Court in \textit{Save Tara v. City of West Hollywood} (2008) 45 Cal.4th116, where an agency had improperly approved a private development of publicly owned land and made irrevocable funding decisions for it and only later conditioned it on the preparation of an EIR. Following \textit{Save Tara}, several courts have interpreted and applied the Supreme Court’s guidance as allowing pre-approval funding decisions and agreements, as long as those actions do not limit an agency’s authority to conduct environmental review, and do not restrict the agency’s ultimate discretion to deny the project.\textsuperscript{37}

Here, MWPA could consider making conditional funding decisions for its local agencies’ projects contingent on the local agencies providing MWPA with copies of their approved environmental review documents or exemption explanations and copies of the NOEs or NODs that they file documenting their compliance with CEQA. Under such an approach, MWPA would need to retain its ultimate authority to choose not to fund any local proposals, after all, if the resulting environmental impacts, as ascertained by the local agencies, are unacceptable to MWPA. This kind of process could demonstrate that the money to fund the projects won’t be released, and the activities that would change the

\textsuperscript{36} CEQA Guidelines, § 15096.

\textsuperscript{37} \textit{Neighbors for Fair Planning v. City and County of San Francisco} (2013) 217 Cal.App.4th 540, 547–554 (pre-approval loan by City to fund studies for affordable housing development was not illegal pre-commitment to project); \textit{Cedar Fair, L.P. v. City of Santa Clara} (2011) 194 Cal.App.4th 1150, 1160–1162 (term sheet for negotiating future stadium contract was not an illegal pre-commitment under CEQA where the agreement expressly stated it was not committing to the project and that the term sheet did not constrain the future CEQA process).
physical environment won’t be undertaken, until CEQA compliance is achieved, whatever form that takes, as decided by both the local agencies that will implement the project and by MWPA as the funding authority.

The Board of Forestry’s CalVTP PEIR assumes that all agencies that implement vegetation management projects in reliance on the PEIR through the PSA process are acting in a responsible agency capacity. If MWPA prepares its own Program EIR covering the activities it expects that it and the local agencies will implement under Measure C, MWPA would be the lead agency for that “program” and any activities MWPA itself would carry out, while the local agencies that rely on the MWPA Program EIR to make “within the scope” determinations for their own projects would be acting as responsible agencies.

4. What would be the mechanics of using the VTP and for tiering off of the VTP PEIR for MWPA projects? Would MWPA need to prepare a document that incorporates the VTP PEIR by reference for MWPA projects? What differences in documentation, if any, would be needed to use the VTP PEIR for projects in the SRA (State Responsibility Area) versus outside the SRA?

The most straightforward way to use the VTP PEIR is where an agency can make a “within the scope” determination for projects located within the SRA treatable landscape. As explained in our overview above, a local agency such as MWPA or a local agency proposing to carry out a vegetation management activity of the type considered in the CalVTP PEIR will prepare a Project Specific Analysis (PSA) using the checklist provided by the Board of Forestry with the certified PEIR (available on the Board’s CalVTP website). Completion of the checklist requires details about the project size, location, activities (including maintenance after the initial project is implemented), timing, and site conditions. The agency documents which of the relevant SPRs and mitigation measures from the CalVTP PEIR will be implemented for the proposed project. Some of the SPRs and mitigation require site surveys, so these reports will be referenced in and included with the checklist. If, based on the evidence documented in the checklist, the agency is able to demonstrate that the proposed project will not result in any new impacts or impacts more severe than those that were previously identified in the PEIR, the agency can make the “within the scope” determination, approve the project, file an NOD with the county clerk, and send a copy of the PSA to the Board of Forestry.

38 CalVTP Final PEIR, section 1.5.2, pp. 1-16 – 1-18. Available at: https://bof.fire.ca.gov/media/9725/01-introduction_ada.pdf
Where the proponent of an individual project within the SRA treatable landscape cannot make a “within the scope finding,” the proponent’s individual CEQA document can still use the PEIR to focus the new analysis “to permit discussion solely of new effects which had not been considered before.”

Where any new impacts would clearly be less than significant even without mitigation, a negative declaration would be appropriate. Where a proposal would involve new potentially significant effects or a substantial increase in the severity of a significant effect identified in the PEIR, an MND would be available if mitigation measures accepted by the proponent would clearly mitigate such impacts to less than significant levels. If a new or substantially more severe significant effect could not be clearly mitigated to less than significant, an EIR would be prepared that would focus on the new or substantially more severe significant impact(s).

5. If the MWPA decides to use the VTP, can it modify the Plan and how much (assuming the substance is unchanged and the modified version complies with the requirements of the VTP)? For example, the MWPA might want to develop its own new or additional BMPs, SPRs, MMIs (for example from vegetation treatment plans used by Marin land management agencies such as MMWD, County Parks and Open Space, State Parks, GGNRA). It also might want to reorganize the VTP, or choose a different format, or simplify the BMP’s. Or all of the above. Do modifications to the VTP make it more difficult to tier from the PEIR?

The MWPA could require additional BMPs and SPRs to more closely reflect local plans and conditions. MWPA should not stray too far from the SPRs and mitigation measures adopted for the CalVTP PEIR, however, since compliance with those requirements are necessary to show that a proposed project is “within the scope” of the CalVTP PEIR and that no further analysis is necessary.

We don’t recommend reorganizing the CalVTP PSA or removing any of the SPRs, unless it can be shown that they simply aren’t relevant to MWPA’s projects, perhaps because the habitat or resources at issue aren’t present anywhere in MWPA’s jurisdiction.

As explained above, if the CalVTP PSA isn’t relevant to MWPA’s purposes for a particular project or class of activities, MWPA could still incorporate portions of the PEIR that are relevant into MWPA’s own, standalone analysis, for a negative declaration, MND, or EIR to avoid the need to duplicate that analysis or technical study.

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39 CEQA Guidelines, § 15168, subdivision (d)(3).
If MWPA decides to prepare its own Program EIR, it may craft its own SPRs and mitigation measures to apply to future projects under the program as determined appropriate and necessary based on the analysis of the impacts and project activities that are more specific to Marin County.

6. How do the rules on analysis of cumulative impacts apply here? Does each local agency analyze cumulative impacts for projects planned within their own jurisdiction for the next 10 years? Or does the Authority need to do this analysis for the whole Measure C program? Is a cumulative impacts analysis required prior to using a Negative Declaration or Categorical Exemption?

As explained above, even for categorical exemption determinations, the potential for cumulative impacts is still a required consideration. The cumulative impact exception for categorically exempt project is more narrowly framed than for cumulative impacts considered in negative declarations or EIRs. CEQA Guidelines section 15300.2, subdivision (b) restricts exemptions “when the cumulative impact of successive projects of the same type in the same place, over time is significant.” But in completing an initial study to determine whether a negative declaration or EIR must be prepared, the lead agency must find a significant impact triggering an EIR where the project “has possible environmental effects that are individually limited but cumulatively considerable.” In this context, a broader, more inclusive cumulative impact analysis is necessary, but the ultimate focus is on the incremental contribution of a proposed project to any larger

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40 See, e.g., San Francisco Beautiful v. City and County of San Francisco (2014) 226 Cal.App.4th 1012, 1030 (in considering a proposal to install 726 metal utility boxes housing telecommunications equipment on sidewalks in order to expand its fiber-optic network, the City and County of San Francisco was not required to consider similar projects throughout the entire City, because if there were such a requirement, “the exception would swallow the rule, and the utility of the … exemption would be vitiated”), citing Robinson v. City and County of San Francisco (2012) 208 Cal.App.4th 950, 958. See also Association for Protection etc. Values v. City of Ukiah (1991) 2 Cal.App.4th 720, 733 (in upholding the use of a categorical exemption for the construction of a single home, the court rejected the petitioner’s invocation of the cumulative impact exception, stating that “[n]o serious argument or evidence was presented to the City that more than one house could be constructed on the lot or that as the last house to be constructed in this otherwise fully developed neighborhood, any sort of cumulative impact could be anticipated”).

41 CEQA Guidelines, § 15065, subdivision (a)(3) (italics added).
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cumulative impact from multiple foreseeable projects. Here, ‘cumulatively considerable’ means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” Notably, “the mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project’s incremental effects are cumulatively considerable.” And it is possible for an agency to mitigate its way into a finding that an impact is less than cumulatively considerable.

There is no specific time frame required for the consideration of “over time” (for the exemption exception) or “probable future” (for negative declarations and EIRs). CEQA instead requires an agency to consider what is “reasonably foreseeable.” The flip side of this concept is that “where future development is unspecified and uncertain, no purpose can be served by requiring … sheer speculation as to future environmental consequences.”

Where the MWPA’s Work Plans disclose the agency’s intent to treat certain areas or a certain number of acres over a period of years, that projection seems definite enough to be considered “reasonably foreseeable” and those future projects should be considered in a cumulative scenario. For an exemption determination, the cumulative impact exception is functionally a similar consideration, but due to the narrower language of the exception,


43 CEQA Guidelines section 15065, subdivision (a)(3).

44 Id., § 15064, subdivision (h)(4).

45 Id., subdivisions (h)(2), (3).

46 Id., § 15355, subdivision (b) (definition of cumulative impacts). See also City of Maywood v. Los Angeles Unified School Dist. (2012) 208 Cal.App.4th 362, 398–401 (EIR for a proposed high school project need not consider as a “probable future project” a potential future freeway offramp because such a proposal was too ill-defined and speculative to allow for meaningful environmental review).

47 Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection (2008) 44 Cal.4th 459, 503 (internal quotation marks omitted). See also CEQA Guidelines, § 15145 (“If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact”).
an agency could justify limiting the range of projects in the cumulative scenario to those proposals that involve similar activities in the same area (e.g., only fuel break projects, or only herbivore grazing in the same neighborhood). With respect to the need to consider, when contemplating the use of categorical exemptions, any potential cumulative impacts from “successive projects of the same type in the same place, over time,” MWPA and local agencies should consider that agencies have substantial discretion to define the projects they propose to carry out, and that those project definitions may include annual maintenance for some foreseeable time period. Therefore, the fact that some additional vegetation management may occur regularly after the initial treatment in a particular area need not necessarily trigger the cumulative impact exception. Such longer-term activities could be defined as part of a proposed project itself, as opposed to being related but separate future projects. In the documentation they prepare to support an exemption claim, agencies should thus make clear both the nature of the projects being proposed and the specific types of related activities, timeframes, and geographic scope they have considered in connection with the cumulative impact exception.

But MWPA and local agencies should also consider that the geographic scope for an adequate cumulative impact analysis varies by impact. Since air quality is regional, the scope will be broader for air quality impacts resulting from prescribed burns than it will be for aesthetic impacts of fuel breaks, which are usually only visible from certain nearby vantage points.

If MWPA decides to prepare a Program EIR for its Measure C program, one benefit would be that the programmatic document would include a robust cumulative impacts analysis that considers the different geographic scope of the potential impacts, so that local agencies preparing their later project-specific analyses should generally be able to make within-the-scope determinations and not have to decide which local and regional projects to include in their own cumulative analyses.

7. Once the Project Specific Analysis (PSA) is prepared, is CEQA compliance complete or does the Agency need to prepare an MND, ND or other document? If no additional CEQA compliance is required after preparation of the PSA, and the MWPA would like to include some public participation, what process would you recommend?

As explained above regarding the CalVTP PSA process, if an agency is able to determine that a project within the SRA treatable landscape is within the scope of the CalVTP PEIR because project implementation would not cause any new impacts or any significant impacts more severe than those analyzed in the PEIR, the agency may approve the project in its regular manner, file an NOD with the county clerk, and send a copy of the
completed PSA to the Board of Forestry for its records. While there is not a formal, required public review process under CEQA for a PSA before a project can be approved, the procedures of the MWPA and local agencies may require some kind of public process, such as a public hearing or public meeting, prior to approving some types of projects. In those instances, the approving agency would normally attach the CEQA documentation for the project to the staff report or information package provided to the decision-making body, which are made available to the public a certain number of days before the public meeting, and public comments would be allowed on issues relating to the proposed project, including the adequacy of the PSA.

Agencies may also voluntarily, if they wish, adopt procedures regarding publication or create review and comment procedures for PSAs, although such procedures could also slow down what the Board of Forestry intended to be a streamlined process. A comparable example is the consideration of addenda to previously adopted environmental review documents under CEQA Guidelines section 15164. CEQA does not require a public review and comment period or any responses to comments for proposed addenda, but some agencies do voluntarily provide informal public review periods (often a week to 10 days) for such environmental review documents in order to encourage informed public participation on a proposed project. Of course, if MWPA prepares a program EIR, that process will entail several opportunities for public input and comments as required under CEQA.

8. **What are the merits of MWPA preparing a new Program EIR for the Measure C program in its entirety for future years? For example, to take into account Marin-specific natural resources in greater detail and assure countywide planning and assessment of cumulative impacts?**

One potentially compelling reason to prepare a new Program EIR for Measure C program activities is the fact that some of these activities will occur outside the SRA treatable landscape covered by the CalVTP Program EIR. That latter document, then, will not be available for all Measure C activities. We also noted above that the Class 4, Class 7, Class 8, and Class 33 exemptions might be of limited value if their narrow criteria (e.g., no impacts on special status species/habitat, 100-foot defensible space limit) and the potential exceptions exclude too many projects. If MWPA were to prepare a new Program EIR for Measure C program activities (or even just those outside the SRA treatable landscape), there would be several potential efficiencies and benefits for future project-level reviews.
First, a County-wide programmatic analysis would focus on just the conditions in Marin County and would be able to provide more detail about regional habitats and environmental resources of concern to the local communities. (The CalVTP EIR includes regional biological information that could be incorporated by reference.)

Second, because the scope of the new PEIR could cover the entire boundaries of MWPA’s jurisdiction, not just the SRA treatable landscape, MWPA and local agencies could tier from the PEIR for most of the vegetation management projects in the County. The scope of the PEIR could enable a streamlined, potentially faster review of projects that might not qualify for any of the exemptions identified above due to the potential exclusions. Third, a Marin County-focused PEIR would be able to provide more up-to-date, detailed information regarding cumulative projects and impacts. Fourth, the process of preparing project-specific analyses tiering from the new PEIR could be less confusing for local agencies to implement if they don’t have to wade through so many potentially irrelevant standard project requirements and mitigation measures that are contained in the statewide PEIR, which covers the many different kinds of habitat across the state. Fifth, there might be more public and agency stakeholder support for Measure C projects where members of the public and organizations have the opportunity to be involved in the public review of and to help shape the new PEIR. And sixth, as explained above, though we believe the risk that a court will invalidate the CalVTP PEIR is fairly small, preparing and relying on a separate PEIR for MWPA’s program would remove the risk that any projects tiered from the CalVTP could be disrupted or invalidated by an adverse decision in the CalVTP case. A new PEIR could still incorporate by reference much of the supporting technical information and impact analysis from the CalVTP PEIR, thereby saving MWPA and its consultants substantial time and cost in preparing a new PEIR.

9. **What role can or should MWPA play with respect to CEQA compliance for local member agency fire safety vegetation management and defensible space projects that are not funded by the MWPA?**

If MWPA has no funding or approval role for some local member agency fire safety vegetation management and defensible space projects, then MWPA does not have any responsibilities under CEQA to undertake or assist in their environmental review. If

48 See CEQA Guidelines, § 15150 (rules governing incorporation by reference).

49 Of course, MWPA’s Program EIR, like the CalVTP PEIR, could also be subject to litigation, thereby subjecting the agencies preparing future lower tier documents to a risk similar to that agencies relying on the CalVTP PEIR are now facing.
MWPA wants to assist local agencies with their CEQA compliance, however, it could follow the Board of Forestry’s example, where the Board has provided a sample completed PSA checklist and other guidance on its CalVTP website to Cal FIRE and other agencies that are expected to rely on the CalVTP PEIR. We understand that further public guidance is coming from the Board as agencies begin to implement projects consistent with the CalVTP in their jurisdictions. MWPA could play a similar role for its member agencies, which may not all have equal experience in preparing environmental review documents under CEQA, perhaps by linking sample completed exemption documentation as a means of demonstrating the level of detail and substantial evidence that should be provided.
GEOGRAPHIC SCOPE OF THE CalVTP: TREATABLE LANDSCAPE

Appropriate areas within which to implement vegetation treatments as part of the CalVTP were identified by dividing the SRA into vegetation types from the California Wildlife Habitat Relationship (CWHR) system. Certain vegetation types were excluded because their wildfire risks are negligible (e.g., wet meadow, estuarine). Agricultural vegetation types were also excluded because this land is generally outside the SRA.

Using this method, 20.3 million acres within the 31 million-acre SRA were identified that may be appropriate for vegetation treatments as part of the CalVTP. Throughout this PEIR, this area is called “treatable landscape” or “treatable areas”. The proposed target of 250,000 annual acres of treatment would occur within the 20.3 million acres of treatable landscape.

It is important to note that the treatable landscape represents areas suitable for CalVTP vegetation treatments, but projects will not necessarily occur in every location within the treatable landscape. The location and geographic extent of projects will be determined based on several factors, including environmental constraints and treatment objectives.

Appendix PD-1 in the Draft PEIR provides a description of Treatable Landscape Modeling. Download the Draft CalVTP Draft PEIR here: https://bof.fire.ca.gov/projects-and-programs/calvtp/

Click the icons above to turn layers on and off, see the legend, change the basemap, and print a PDF map.
MARIN WILDFIRE PREVENTION AUTHORITY

For the Board of Directors Meeting of November 19, 2020

To: Marin Wildfire Prevention Authority Board of Directors

From: Mark Brown, Executive Officer

Subject: MWPA Administrative and Financial Business Plan through December 31, 2020

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RECOMMENDATION:

That the MWPA Board of Directors review, edit as needed and approve the Administrative and Financial Business Plan for MWPA through December 31, 2020.

BACKGROUND:

Before Measure C was passed by the voters in March 2020, an informal coalition of managerial staff, fire professionals and interested community members was laying the groundwork for the structure of the MWPA. All persons involved understood that another fire season was already forming, and like previous years, the wildland fire potential was enormous.

Even so, other societal factors like the acceleration of the COVID-19 pandemic, employment shifts, political unrest and shockingly swift disruptions of local government revenue and expenditure plans underlaid a “perfect storm” of catastrophes that was then compounded by the start of the worst fire season in California’s history.

The MWPA’s foundation laid by the informal coalition is remarkable, and the achievements to date are notable. Now, with the Board’s formation in May 2020, and the appointment of the MWPA’s first Executive Officer, the organization is poised to establish its policy, procedural and programmatic missions.

In the transition time before March 2020 and into September 2020, Marin County Fire Chief and Operations Committee Co-Chair Jason Weber and his staff, Larkspur City Manager and Operations Committee Co-Chair Dan Schwarz and his staff, and the MWPA Board of Directors deserve accolades for their continuous effort to both carry out the mission and advance the organization.
September 15 – September 30, 2020: Administrative and Financial Tasks

- Hire the Executive Officer - DONE
- Establish a Payroll System - DONE
- Establish the Benefits System - DONE
- Write a Job Description for the Executive Officer – In Process
- Complete filings required by state law associated with the formation of a JPA - DONE
- Contract for and Establish the Agenda Management/Posting System – DONE
- Begin creating a Records Management, Retention and Destruction System – In process
- Create a Transition Plan for the Executive Officer – DONE
- Schedule the Citizens’ Oversight Subcommittee to evaluate and recommend applicants for the Citizens Oversight Committee (COC) to the Board of Directors on October 15, 2020 - DONE
- Draft a Request for Proposal (RFP) for Environmental Services Consultant to assist with establishing the MWPA’s Environmental Management Services – In process
- Staff Evaluation of Internal Audit Firms to Recommend to the Finance Committee for consideration - DONE

October 1, 2020 – October 31, 2020: Administrative and Financial Tasks

- Implement the Executive Officer (EO) Transition – DONE
- Identify and Shift Administrative & Finance Tasks between the Interim EO and the EO - DONE
- Develop the Agenda for the October 15, 2020 Regular Board Meeting - DONE
- Write the staff reports, agreements, RFPs for the Board Meeting Packet - DONE
- Coordinate with committees for oral or written update/progress reports for Board Meeting – DONE
- Train EO on the Agenda Management/Posting Technology System with SMFD Staff – In Process
- Schedule & coordinate with the Board’s COC Subcommittee to recommend COC Members from the Applicant Pool - DONE
- Schedule Initial Meetings of the Executive, Finance, COC and Advisory Technical Committees – IN PROCESS
- Meet with OPS Committee to coordinate program and admin/financial activities – In Process
- Schedule EO intro meetings with individual/small groups of Boards to build relationships – IN PROCESS

November 1, 2020 – November 30, 2020: Administrative and Financial Tasks

- Issue RFP for Environment Services Consultant – In Process
- Develop Criteria for RFP for HR/Employment Practices Consultant to Assist with Employee Handbook, Job Descriptions, Employee Policies & Procedures, Organizational Structure, Training/Other Legal Requirements – In Process
- Create a workflow PERT chart linking Executive Officer, part-time contract employees, committees and Board activities to coordinate planning/decision making/implementation actions – In Process
December 1, 2020 – December 31, 2020: Administrative and Financial Tasks

• Begin to design the MWPA organizational structure with positions, relationships between employees and job description/task/responsibility development
• Determine and retain the person(s) who will find, draft and re-draft and edit policies and procedures assigned to the Executive, Finance and Operations Committees, and determine how & when the committees will recommend approval to the Board of Directors
• Schedule and Develop Agenda for Board Education Session, and Strategic/Foresight Planning and Team Building Session
• Begin implementing the Board approved Communications Plan
• Working with the OPS Committee, the Finance Committee and Admin/Financial staff, design mid-year budget reports coordinating the Work Program, Administrative and Financial Business Plan, with revenues, expenditures and financial projections

FISCAL IMPACT:

None known at present, yet to be determined.

ENVIRONMENTAL REVIEW:

The Board’s consideration of a draft MWPA Administrative and Financial Business Plan is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

Respectfully submitted,

Mark Brown
Executive Officer
MARIN WILDFIRE PREVENTION AUTHORITY

STAFF REPORT

For the Board of Directors Meeting of November 19, 2020

To: Marin Wildfire Prevention Authority Board of Directors

From: Mark Brown, Executive Officer

Subject: Executive Committee Duties and Responsibilities

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RECOMMENDATION:

That the MWPA Board of Directors approve the Executive Committee Duties and Responsibilities.

BACKGROUND:

The Executive Committee’s makeup and basic structure is described in Article V, Section 5 of the Bylaws. The general purpose of the Executive Committee is to advise the Board and plan Board activities.

At its meeting of November 5, 2020, the Executive Committee reviewed and suggested revisions to the proposed draft of the Executive Committee Duties and Responsibilities. Staff made the requested changes and they are reflected below. Staff asks the Executive Committee to accept these Duties and Responsibilities and discuss priorities for the Committee going forward.

Executive Committee

Common Responsibilities

An Executive Committee of the Board of Directors generally has special responsibilities and authorities above all committees. If authorized by the Board, the Executive Committee can act on behalf of the full Board. Its main purpose is to facilitate decision making between the Board meetings, and if necessary, to act in urgent or crisis circumstances. The Executive Committee acts as the communications link between the Board and the Executive Officer. The Executive Committee may conduct the Executive Officer’s performance evaluation based on a set format and criteria established by the Board.
While the basic function of the Executive Committee is defined in the ByLaws, the more detailed role of the Executive Committee should be defined by the Board of Directors. The Executive Committee is always accountable to the full Board, and even if granted special responsibilities and duties, the full Board should confirm any decisions made by the Executive Committee at its next meeting. And finally, the Executive Committee needs to commit to serving as the efficiency partner to the full Board and to commit to keeping the Board fully apprised of the intent underlying its actions.

Meeting Parameters

The MWPA’s Executive Committee should plan to meet no less than six (6) times a year for the first two years to establish its structural foundation and to set its functionality. Members of the MWPA Board of Directors may attend Executive Committee meetings as members of the public if so desired.

Duties and Responsibilities

The Executive Committee discussed its duties and responsibilities at its November 5, 2020, meeting and the Committee’s input is reflected in the following list. Staff recommends that the MWPA Board review the list, identify additional items as appropriate and prioritize the duties and responsibilities for the Executive Committee.

- Monitor, advise and coordinate effort of all the Board’s standing, ad hoc and advisory committees.
  - A member of the Executive Committee should be on each of the ad hoc committees.
- Work with the President and Executive Officer to prepare the Board Agendas and assist with editing and advising on the content of the agenda packets.
- Interface with the Finance Committee with the development and maintenance of budget.
- Work with the President, the Executive Officer and other committees to advise and comment upon the development of the organizations’ in areas such as:
  - Communications;
  - Outreach;
  - Innovation;
  - Inclusion;
  - Environmental Review;
  - Information Technology;
  - Grant Preparation and Applications
  - Data Collection, Analysis and Dissemination; and
  - General reporting of accomplishments, activities and plans for the future.
- The information gathering, analysis and drafting of such policies and procedures could be delegated to other Board committees for the Executive Committee’s review and consideration.
• Handle certain repetitive and standard financial and legal matters that do not require the full Board’s attention.
• Explore innovative ideas and suggestions.

• Study, evaluate and recommend consideration of future important issues facing the Board and the service area.

• Work with the President and the Executive Officer design procedures to develop the short, medium- and long-term strategic plan for the organization and coordinate team- and trust-building among all members of the Board and the community.

**FISCAL IMPACT**

None known at present.

**ENVIRONMENTAL REVIEW:**

The Board’s consideration of Executive Committee duties and responsibilities is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065).

Respectfully submitted,

Mark Brown
Executive Officer
To: Marin Wildfire Prevention Authority Board of Directors

From: Rich Shortall, FIRESafe Marin

Subject: Update from FIRESafe Marin on projects/programs

RECOMMENDATION:
Receive report from FIRESafe Marin on MWPA supported projects and programs.

BACKGROUND:
FIRESafe Marin has been contracted to provide a variety of services and programs for MWPA. Attached is an update on those programs/projects. Rich Shortall who will be available for questions.

FISCAL IMPACT:
Funds for FIRESafe Marin have been allocated in your FY20-21 budget.
MWPA Project Update  
November 2020

Monthly Webinars  

Our fourth webinar featured speakers Steve Quarles, UC Cooperative Advisor Emeritus and Yana Valachovic, UC Cooperative Extension Forest Advisor. Topics included the science of wildfires and an introduction to defensible space and home hardening. There were approximately 200 live attendees and many follow up views on our youtube channel.

Our next presentation is entitled Wildfire 101: How Wildfires Burn in the WUI and will be held on Tuesday, November 17 @ 6pm. Featured speakers include Steve Quarles and nationally recognized Forest Service scientist Jack Cohen addressing the vulnerabilities of your home to wildfire and steps you can take to improve the chance your home can survive.

5 Community Wildfire Protection Workshops 5 (1 in each zone)  
Annual workshop for Landscape Professionals  
Annual Workshop for Home Hardening Contractors  

Planning has begun for the five online community workshops to be held next spring. FIRESafe MARIN is working with CA Landscape Contractors Association - North Coast Chapter and UC Marin Master Gardeners to develop an educational program for landscape contractors.

Prevention and Preparedness in schools "Get Ready Fifth Grade"  
This project has been completed and delivered to the Marin County Board of Education. It will be piloted by several Marin County teachers.

Prepare Educational materials such as brochures and handouts  

We continue to distribute our educational materials. The popular “Homeowners Guide to Wildfire Preparation in Marin” was revised and 25,000 new copies are being printed primarily for distribution by the wildfire mitigation specialists. As the defensible space inspections wrap up in some parts of the County, we plan to use the experience of some of the inspectors to continue to develop new materials for the program.

Develop Spanish language training and educational materials  

The FSM website is now equipped with the Google Translate feature so that all of the information is available in multiple languages. Our popular “Evacuation Checklist” has been translated into Spanish and posted on the website under our new “Espanol” heading that links to additional original Spanish language content. Hard copies of the Spanish language checklist are being printed. A Spanish language video to accompany the Red Flag Warning project has been completed and posted to the website.
Support Wildfire Mitigation Specialists  
As the defensible space inspections wrap up in some parts of the County, we plan to use the experience of the inspectors to develop new materials for the program. We recently shot video narrated by Executive Officer Mark Brown at the Glass Fire that will be edited as a training film for the WMS's. We will also plan to utilize the data from this program to help Firewise communities update their action plans next year.

Monthly Firewise online Community Meetings  
We continue to host the monthly Firewise Leaders meeting immediately after the FSM Board meeting on the second Friday of each month and we routinely participate in local Firewise meetings. FSM liaisons, following Covid-19 safety guidelines, participated in several community assessment walkthroughs last month.

Staff to support Firewise sites with technical and direct support  
Due to changes by the NFPA to the Firewise program, FSM staff prepared new guidelines for both initial certification and renewal. FSM staff has provided direct support to many Firewise groups to help guide them through the renewal process. Our Firewise metric project is complete enabling us to measure improvements in organizational capacity and effectiveness.

Maintain current and comprehensive website library of resources  
We continue to upgrade our website to make it more user friendly. The website is very popular and we receive questions about sharing our content from fire councils throughout the State.

Educational video- creation and distribution  
Five new videos were created for the Ready 5th Grade project. An English and a Spanish language video were completed explaining Red Flag Warnings. Executive Officer Mark Brown was filmed as he narrated his experience during the recent Glass Fire. This footage will be edited to create a training video for fire mitigation specialists and some of the content will be included in our webinar program.

Respond to resident inquiries and requests in timely manner  
We continue to provide same day response to virtually every request for information. Our ability to respond in a comprehensive and timely manner greatly reduces the workload of our fire departments.

Prepare and distribute monthly newsletter  
Newsletters are typically sent out on the second Tuesday of each month. Our average open rate (40%) and click throughs (5%) are extremely high for a non profit. We continue to expand or partner list which expands our reach through referrals.
Prepare articles for print media: Marin IJ, Pacific Sun  
Election coverage has been the primary media focus for the last two months. We have developed a series of new Public Service Announcements for the Marin Independent Journal that align with the webinar series. We have been successful in finding a sponsor each month which allows these PSA's to appear in the paper.

Fire Smart demonstration gardens throughout the County  
The Sleepy Hollow Fire Protection District is funding a major Fire Smart landscaping project in Sleepy Hollow. An experienced fire safe landscaping architect will be designing the project. Representatives from UC Marin Master Gardeners will be auditing the project with the goal of creating a planning template for future demonstration gardens.

NOAA Weather Radios  
1000 NOAA weather radios were delivered to FIRESafe MARIN. The radios have been distributed throughout the 17 MWPA jurisdictions on a pro rata basis. FSM will continue to assist with distribution to individual households as necessary and collect survey data on the effectiveness of the program.

Countywide chipper program  
This remains our most popular program and a high visibility project for the MWPA. Due to additional funding from MWPA, we were able to expand coverage to north west Marin. At the conclusion of this program, all of Marin will have received chipper service. As of November 6, 2020 we have made 2,164 curbside pickups, removed 13,111 cubic yards of un-chipped material and taken 1820 cubic yards of chipped material to Marin Resource Recovery and West Marin Compost. A significant amount of chipped material was also spread on site at the request of residents. Average pile size has increased from 2.5 yards at the beginning of this program to 7 cubic yards. This program is managed using a state of the art software program that schedules pickups, creates route mapping, collects photos of each pile chipped, collects data on cubic yardage, and sends out surveys. We are extremely pleased with the positive feedback we are receiving from the public through our surveys.

We recommended that a proposal be developed for the MWPA Board to expand the program next year and coordinate it with defensible space inspection programs.

Alert and Warning via Red Flag Warning signs  
25 A-frame Red Flag Warning signs have been distributed equitably in the 5 zones. This is a pilot project to test the effectiveness of the signs. We are working with a manufacturer to fabricate larger, permanently installed flip signs that will display the “Red Flag Warning Today” when open and may be used to display other public safety messages when the signs are closed. We have developed a public education campaign to
support the program including door hangers plus English and Spanish videos.