



Midpeninsula Regional  
Open Space District

R-21-08  
Meeting 21-01  
January 13, 2020

## **AGENDA ITEM 10**

### **AGENDA ITEM**

Approval of Salary Adjustments and Amended Employment Agreement for Board Appointee Controller

### **BOARD APPOINTEE EVALUATION COMMITTEE'S RECOMMENDATIONS**

As a result of the Board's evaluation of the performance of the District's Board Appointees for Fiscal Year 2019-20, the Board Appointee Evaluation Committee recommends the following compensation adjustments for the Controller for Fiscal Year 2020-21: Adjust the Controller's base salary upward to \$48,283, plus a one-time merit pay bonus of \$1,448.

The Board Appointee Evaluation Committee recommends the adoption of the attached resolution approving the salary adjustments set out in Recommendations and authorizing the Board President to execute an Amended Board Appointee Employment Agreement, incorporating the changes described below.

### **DISCUSSION**

The Board Appointee Evaluation (BAE) Committee was established to conduct the evaluation process for its Appointees. The BAE Committee was instructed to serve as the District's negotiator and met with the Board Appointees to discuss their performance and compensation. The Board has three appointees: the General Manager, the Controller, and the General Counsel.

The Board, working through the BAE Committee, implemented this process and completed this year's annual evaluation of the performance of the Controller during the June through September 2020 time period.

The Controller met all performance standards and critical deadlines for FY2019-20. The Board is very pleased with the Controller's superior and outstanding performance during this period. The Board strongly values the Controller's contributions and his experience working with the District's finances. The Controller's long-term financial model provides a realistic check to the District's annual budget setting process and is a valuable tool as the Board considers significant expenditures. The Board appreciates the Controller's availability as a resource to the Board and General Manager, and his willingness to be a resource, mentor and/or advocate for the District's Chief Financial Officer and financial management team. The Board acknowledges and appreciates the Controller's willingness to investigate and alert the Board about topics of interest and significance to the District's financial stability and the efficient management of department budgets. All previously set performance goals were met or exceeded.

Based on his performance for FY2019-20 the BAE Committee recommends providing the Controller compensation noted above.

The salary changes recommended by the BAE Committee necessitate a change to the Controller's Agreement. The merit pay provision was changed to align all three Board Appointed Employees' Agreements. Additional changes were made to the Agreement to attempt to eliminate the need to amend the Employment Agreement each year, instead future salary changes will be adopted through the Board adopted Classification and Compensation Plan, also the Agreement will renew automatically unless a Notice of Non-Renewal is adopted by the Board. Lastly a change was made concerning hours worked to reflect the retention of the CFO.

**BOARD COMMITTEE REVIEW**

The recommended performance review and salary adjustments and changes to the Employment Agreement were thoroughly reviewed by the Board Appointee Evaluation Committee, prior to review by the entire Board.

**FISCAL IMPACT**

For the Controller: Total of the annual salary plus adjustment = \$48,283 with a one-time merit pay bonus of \$1,448.

**PUBLIC NOTICE**

All public noticing requirements of the Brown Act have been met. No additional notice is necessary.

**CEQA COMPLIANCE**

This item is not subject to the California Environmental Quality Act (CEQA).

**NEXT STEPS**

If approved, the compensation adjustments and merit bonuses will be amended accordingly.

Attachments:

1. Resolution Approving Salary Adjustment and Revised Employment Agreement for the Controller
2. Amended Controller Employment Agreement

Submitted by: Board Appointee Evaluation Committee  
Director Holman  
Director Siemens  
Director Riffle, Chair

Staff Contact:

Candice Basnight, Human Resources Manager

**RESOLUTION NO. 21-\_\_**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT APPROVING AN AMENDED CLASSIFICATION AND COMPENSATION PLAN, AN AMENDED EMPLOYMENT AGREEMENT, A SALARY INCREASE AND A ONE-TIME MERIT PAY BONUS FOR THE DISTRICT'S CONTROLLER**

**WHEREAS**, effective July 8, 2009, the Board of Directors of the Midpeninsula Regional Open Space District entered into a District Controller Employment Agreement (“Agreement”) with Michael L. Foster, employing him as the District's Controller; and

**WHEREAS**, the Agreement provides for an annual review of the District Controller’s performance and determination of meritorious pay, which the Board has completed; and

**WHEREAS**, the Board is very pleased with the Controller’s superior and outstanding performance during this evaluation period. His ability to provide to the staff and the Board sound recommendations, a long-term financial model, and wisdom gained over his many years of service to the District has been incredibly valuable. He met or exceeded all of the goals previously set for him during his last review; and

**WHEREAS**, the Board, based on its annual review of the Controller’s performance, desires to grant him an adjustment to his base salary, to \$48,283 per year, with a one-time merit pay bonus of \$1,448 in recognition of his performance during Fiscal Year 2019-2020.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Midpeninsula Regional Open Space District as follows:

1. The Controller’s base salary shall be adjusted to \$48,283 per year, retroactive to July 1, 2020 for Fiscal Year 2020-21.
2. The District’s Classification and Compensation Plan, Resolution No. 20-19, as amended, shall be updated to incorporate this increase and set forth in the exhibit attached hereto and incorporated herein as Exhibit A.
3. The President of the Board of Directors or other authorized Board Officer shall execute an Amendment to the District Controller Employment Agreement reflecting the salary increase.
4. The Board grants the Controller a one-time merit pay bonus of \$1,448.

\* \* \* \* \*

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on January 13, 2021, at a regular meeting thereof, by the following vote:

- AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

**ATTEST:**

**APPROVED:**

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Secretary  
Board of Directors

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President  
Board of Directors

**APPROVED AS TO FORM:**

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Hilary Stevenson, General Counsel

I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

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Jennifer Woodworth, District Clerk

Exhibit A: Classification and Compensation Plan

## Midpeninsula Regional Open Space District - CLASSIFICATION & COMPENSATION PLAN

**Fiscal Year 2020/2021 - Effective January 13, 2021 (Pay Period 21-02)**

Last revised: 01/13/2021, 6/24/2020, 11/13/19, 6/26/2019, 3/27/2019, 2/27/2019, 12/12/2018, 11/19/2018, 10/10/2018, 9/26/2018

Classification Title	Step Range #	Hourly Range \$		Monthly Range \$		Annual Range \$		Full/Part Time
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum	
Seasonal Open Space Technician	6	21.9638	27.4232	3,807	4,753	45,685	57,040	PT
Seasonal Ranger Aide	6	21.9638	27.4232	3,807	4,753	45,685	57,040	PT
Seasonal Ranger	16	28.0347	35.0009	4,859	6,067	58,312	72,802	PT
Administrative Assistant	20	30.9095	38.5816	5,358	6,687	64,292	80,250	FT
Farm Maintenance Worker	20	30.9095	38.5816	5,358	6,687	64,292	80,250	FT
Open Space Technician*	20	30.9095	38.5816	5,358	6,687	64,292	80,250	FT
Accounting Technician	22	32.4414	40.5108	5,623	7,022	67,478	84,262	FT
Human Resources Technician	22	32.4414	40.5108	5,623	7,022	67,478	84,262	FT
Information Technology Technician I	22	32.4414	40.5108	5,623	7,022	67,478	84,262	FT
GIS Technician	23	33.2609	41.5320	5,765	7,199	69,183	86,387	FT
Facilities Maintenance Specialist	24	34.0616	42.5469	5,904	7,375	70,848	88,498	FT
Lead Open Space Technician*	24	34.0616	42.5469	5,904	7,375	70,848	88,498	FT
Risk Management Coordinator	24	34.0616	42.5469	5,904	7,375	70,848	88,498	FT
Senior Administrative Assistant	24	34.0616	42.5469	5,904	7,375	70,848	88,498	FT
Visitor Services Program Coordinator	25	34.9190	43.6061	6,053	7,558	72,632	90,701	FT
Volunteer Program Lead	25	34.9190	43.6061	6,053	7,558	72,632	90,701	FT
Ranger	26	35.7637	44.6652	6,199	7,742	74,388	92,904	FT
Senior Finance & Accounting Technician	26	35.7637	44.6652	6,199	7,742	74,388	92,904	FT
Executive Assistant	27	36.6588	45.7874	6,354	7,936	76,250	95,238	FT
Information Technology Technician II	27	36.6588	45.7874	6,354	7,936	76,250	95,238	FT
Public Affairs Specialist I	27	36.6588	45.7874	6,354	7,936	76,250	95,238	FT
Equipment Mechanic/Operator	28	37.5604	46.8968	6,510	8,129	78,126	97,545	FT
Lead Ranger	28	37.5604	46.8968	6,510	8,129	78,126	97,545	FT
Property Management Specialist I	28	37.5604	46.8968	6,510	8,129	78,126	97,545	FT
Real Property Specialist I	28	37.5604	46.8968	6,510	8,129	78,126	97,545	FT
Executive Assistant/Deputy District Clerk	29	38.4998	48.0695	6,673	8,332	80,080	99,985	FT
Executive Assistant/Legal Secretary	29	38.4998	48.0695	6,673	8,332	80,080	99,985	FT
Planner I	29	38.4998	48.0695	6,673	8,332	80,080	99,985	FT
Data Analyst I	30	39.4391	49.2483	6,836	8,536	82,033	102,436	FT
Resource Management Specialist I	30	39.4391	49.2483	6,836	8,536	82,033	102,436	FT
Accountant	31	40.4226	50.4713	7,007	8,748	84,079	104,980	FT
Capital Project Manager II	31	40.4226	50.4713	7,007	8,748	84,079	104,980	FT
Environmental Education Specialist	31	40.4226	50.4713	7,007	8,748	84,079	104,980	FT
Interpretive Specialist	31	40.4226	50.4713	7,007	8,748	84,079	104,980	FT
Management Analyst I	31	40.4226	50.4713	7,007	8,748	84,079	104,980	FT
Planner II	31	40.4226	50.4713	7,007	8,748	84,079	104,980	FT
Data Analyst II	34	43.4737	54.2980	7,535	9,412	90,425	112,940	FT
Resource Management Specialist II	34	43.4737	54.2980	7,535	9,412	90,425	112,940	FT
Grants Program Manager	35	44.5580	55.6472	7,723	9,646	92,681	115,746	FT
Interpretation & Education Program Manager	35	44.5580	55.6472	7,723	9,646	92,681	115,746	FT
Maintenance, Construction & Resource Supv.	35	44.5580	55.6472	7,723	9,646	92,681	115,746	FT
Management Analyst II	35	44.5580	55.6472	7,723	9,646	92,681	115,746	FT
Procurement & Contracting Agent/Specialist	35	44.5580	55.6472	7,723	9,646	92,681	115,746	FT
Property Management Specialist II	35	44.5580	55.6472	7,723	9,646	92,681	115,746	FT
Real Property Specialist II	35	44.5580	55.6472	7,723	9,646	92,681	115,746	FT
Supervising Ranger	35	44.5580	55.6472	7,723	9,646	92,681	115,746	FT
Training & Safety Specialist	35	44.5580	55.6472	7,723	9,646	92,681	115,746	FT
Volunteer Program Manager	35	44.5580	55.6472	7,723	9,646	92,681	115,746	FT
Applications Engineer	36	45.6550	57.0089	7,914	9,882	94,962	118,579	FT
Public Affairs Specialist II	36	45.6550	57.0089	7,914	9,882	94,962	118,579	FT
Data Administrator	38	47.9308	59.8709	8,308	10,378	99,696	124,531	FT

Classification Title	Step Range #	Hourly Range \$		Monthly Range \$		Annual Range \$		Full/Part Time
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum	
Governmental Affairs Specialist	38	47.9308	59.8709	8,308	10,378	99,696	124,531	FT
Senior Technologist	38	47.9308	59.8709	8,308	10,378	99,696	124,531	FT
Capital Project Manager III	39	49.1286	61.3461	8,516	10,633	102,187	127,600	FT
Capital Projects Field Manager	39	49.1286	61.3461	8,516	10,633	102,187	127,600	FT
Facilities Maintenance Supervisor	39	49.1286	61.3461	8,516	10,633	102,187	127,600	FT
Planner III	39	49.1286	61.3461	8,516	10,633	102,187	127,600	FT
Public Affairs Specialist III	39	49.1286	61.3461	8,516	10,633	102,187	127,600	FT
Resource Management Specialist III	39	49.1286	61.3461	8,516	10,633	102,187	127,600	FT
Special Projects Manager	40	50.3327	62.8528	8,724	10,894	104,692	130,734	FT
Senior Accountant	41	51.5810	64.4289	8,941	11,168	107,288	134,012	FT
Senior Management Analyst	41	51.5810	64.4289	8,941	11,168	107,288	134,012	FT
Area Manager	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
Area Superintendent	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
District Clerk/Assistant to General Manager	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
GIS Program Administrator	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
Human Resources Supervisor	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
Information Technology Program Administrator	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
Senior Capital Project Manager	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
Senior Planner	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
Senior Property Management Specialist	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
Senior Real Property Specialist	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
Senior Resource Management Specialist	43	54.1656	67.6503	9,389	11,726	112,664	140,713	FT
Budget & Analysis Manager	48	61.1759	76.4005	10,604	13,243	127,246	158,913	FT
Finance Manager	48	61.1759	76.4005	10,604	13,243	127,246	158,913	FT
Human Resources Manager	48	61.1759	76.4005	10,604	13,243	127,246	158,913	FT
Information Systems & Technology Manager	48	61.1759	76.4005	10,604	13,243	127,246	158,913	FT
Engineering & Construction Manager	51	65.8347	82.2256	11,411	14,252	136,936	171,029	FT
Land & Facilities Services Manager	51	65.8347	82.2256	11,411	14,252	136,936	171,029	FT
Natural Resources Manager	51	65.8347	82.2256	11,411	14,252	136,936	171,029	FT
Operations Manager	51	65.8347	82.2256	11,411	14,252	136,936	171,029	FT
Planning Manager	51	65.8347	82.2256	11,411	14,252	136,936	171,029	FT
Public Affairs Manager	51	65.8347	82.2256	11,411	14,252	136,936	171,029	FT
Real Property Manager	51	65.8347	82.2256	11,411	14,252	136,936	171,029	FT
Visitor Services Manager	51	65.8347	82.2256	11,411	14,252	136,936	171,029	FT
Assistant General Counsel I	53	69.1255	86.3359	11,982	14,965	143,781	179,579	FT
Assistant General Counsel II	55	72.5865	90.6543	12,582	15,713	150,980	188,561	FT
Assistant General Manager	59	80.0317	99.9467	13,872	17,324	166,466	207,889	FT
Chief Financial Officer/Director Administrative Services	59	80.0317	99.9467	13,872	17,324	166,466	207,889	FT

\* OST will receive an additional 1% stipend for Class A or B license; Lead OST 1% for Class A.

Board Appointee Group Compensation	Hourly	Monthly	Annual	Effective	Last Revised
General Manager	\$124.9399	\$21,656	\$259,875	7/1/2020	1/13/2021
Controller - Part-time position	\$92.8519	\$4,024	\$48,283	7/1/2020	1/13/2021
General Counsel	\$113.8341	\$19,731	\$236,775	7/1/2020	1/13/2021
Elected Officials Compensation	Per Meeting		Monthly Maximum	Effective Date	
Board Director	\$100.00		\$500.00	1/1/2006	

The District's Personnel Policies and Procedures provide that the compensation for an employee's temporary out-of-class / Acting Assignment shall be at least 5% but not more than 10% more than her/his current salary. Pursuant to Government Code 20480, out of class appointments shall not exceed a total of 960 hours in each fiscal year.

DISTRICT CONTROLLER AMENDED  
EMPLOYMENT AGREEMENT

This Amended Employment Agreement ("Agreement") is made and entered into this \_\_\_ day of January, 2021, by and between Midpeninsula Regional Open Space District, a California public entity ("District"), and Michael L. Foster ("Foster" or "Controller").

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Appointment of District Controller

The District's Board of Directors (hereinafter Board) hereby enters into this Agreement with Foster to continue in the position of Controller of the District. The parties to this Agreement are the District, through its Board, and Foster. Foster's last Employment Agreement was executed on August 12, 2015. The last Employment Agreement was amended by this Agreement effective July 1, 2020.

2. Essential Powers and Duties

- A) The Controller's powers and duties shall be as specified in Sections 5538, 5552 and 5553 of the Public Resources Code of the State of California; and
- B) Such other duties as the Board may direct consistent with the District's enabling legislation; and
- C) The Controller shall perform his duties and exercise his powers consistent with due diligence, according to the highest and most professional standards, and in compliance with all federal, state and local laws, ordinances, rules and regulations which are applicable to or associated with the performance of such duties.

3. Hours, Compensation and Benefits

Hours, compensation and benefits shall be as set forth herein.

- A) Hours. The Controller's position shall be part time, and his regular work hours shall be generally 10 hours of service per week.
- B) Salary. As compensation for the services to be performed hereunder, the Controller's annual base salary effective April 1, 2015 was \$45,153. Future compensation shall be set by the Board adopted Classification and Compensation Plan.
- C) Annual Salary Adjustment and Performance Review. The Board shall

annually review the Controller's performance pursuant to the Board's labor policy "Board Appointee Performance Evaluation Process." The Board may review Foster's performance at any time as determined necessary and appropriate by the Board. During the annual performance review, or such other time as determined appropriate by the Board, either party may propose to modify, amend, or terminate this Agreement. The Board may consider an annual salary adjustment for the Controller. Unless the parties agree otherwise, any such annual salary adjustment will retroactively apply to the beginning of the District's fiscal year (e.g., July 1st).

D. Merit Pay. The District may grant the Controller a merit pay increase, over and above the Controller's then current annual base salary. Typical merit pay will be in the range of 0% to 5%. Following an extraordinary year including outstanding performance the Board may decide to grant merit pay up to 7% of base salary. Such merit pay shall be based on the Board's annual review of the Controller's performance and pursuant to the Board's labor policy "Board Appointee Performance Process" and the corresponding "Board Appointee Employment Class: Annual Evaluation System and Form" (both of which may be modified by the Board from time to time in its sole discretion). This policy and form set out the conditions and eligibility for such merit pay and the criteria and objectives to be considered during the evaluation. Merit Pay shall not be a cost of living salary adjustment, but rather recognition for superior performance during the previous year of service.. Merit pay will be based upon overall performance, including, but not limited to, completion of items on the Controller's annual Performance Objectives and Goals as well as performance in response to unanticipated projects and exceptional professional and managerial achievements.

E. Benefits. Unless required by law (e.g., AB 1522 Paid Sick Leave Law), and other than as set forth in Section 4 of this Agreement, the Controller shall not receive any District Benefits, including but not limited to paid leave or health benefits.

#### 4. Retirement Plan.

The District contracts with the California Public Employees' Retirement System (CalPERS) to provide its miscellaneous employees a retirement plan ("the Plan"). The Controller will be eligible to become a member of the Plan upon working the specified number of hours set out in Government Code Section 20305. The Controller's membership in the Plan shall be effective not later than the first day of the first pay period of the month following the month in which the required number of hours has been worked by the Controller. The applicable retirement formula



under the Plan is dependent upon whether CalPERS considers the Controller to be a new or classic member. Pursuant to the Board resolution No. 15-14, effective February 11, 2015, the District does not pay any portion of the Controller's normal member contribution.

5. Term and Termination

This amended Agreement shall commence on July 1, 2020 and shall automatically renew each year, effective every July 1 unless terminated by the delivery of an Election of Non-Renewal by either party no later than May 30 of the then current term. Notice of Election of Non-Renewal shall be conveyed by written notice to the other party, unless terminated by either party pursuant to this Section.

Notwithstanding any other provision, the Controller is an at-will employee serving at the pleasure of the District Board of Directors and may be discharged at any time, without cause and without right of appeal of any kind. The Controller may terminate this Agreement upon sixty (60) days' written notice to the District. The Controller is not entitled to receive any severance pay upon either party's termination of this Agreement.

This Agreement shall be subject to the provisions of Government Code sections 53243- 53243.4 which require reimbursement to the District under the circumstances stated therein.

6. Entire Agreement

This Agreement contains the entire agreement and understanding between the parties. There are no oral understandings, terms or conditions, and neither party has relied upon any representation, express or implied, not contained in this Agreement.

7. Effect of Waiver

No waiver by a party of any provision of this Agreement shall be considered a waiver of any other provision or subsequent breach of the same or of any other provision, including the time for performance of any such provision. The exercise by a party of any remedy provided in this Agreement or at law shall not prevent the exercise by that party of any other remedy provided in this Agreement or at law.

8. Supersedes Prior Agreement

This Agreement supersedes any and all previous employment agreements and amendments thereto entered into by and between the District and the Controller.

9. Amendment

This Agreement cannot be changed or supplemented orally. No amendment, modification, alteration, or variation in the terms of this Agreement is valid unless made in writing and signed by both parties.

10. Notices

Any notices to be given by either party to the other shall be made in writing, by personal delivery, United States Postal Service, or by Federal Express/overnight mail, with postage prepaid. Notices delivered personally shall be deemed received as of actual receipt; mailed notices shall be deemed received as of one business day following the date of mailing of the notice. Mailed notices shall be addressed to the respective parties as follows:

To the District:

Midpeninsula Regional Open Space  
District Attention: President, Board of  
Directors  
330 Distel Circle  
Los Altos, California 94022

To the Controller:

Michael L. Foster, District Controller  
[at his last known home address as reflected in the District's personnel records]

Any party may change his/its address for the purpose of this section by giving written notice of such change to the other party in the manner herein provided.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective this \_\_ day of January, 2021, at Los Altos, California.

MIDPENINSULA REGIONAL OPEN  
SPACE DISTRICT:

DISTRICT CONTROLLER:

By: \_\_\_\_\_  
Board President

By: \_\_\_\_\_  
Michael L. Foster

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Woodworth, District Clerk

\_\_\_\_\_  
Hilary Stevenson, General Counsel