



R-25-46
Meeting 25-11
April 9, 2025

AGENDA ITEM 8

AGENDA ITEM

Amendment to the Controller's Employment Agreement

BOARD APPOINTEE EVALUATION COMMITTEE'S RECOMMENDATIONS

1. Approve an Amendment to the Controller's Employment Agreement.
2. Adopt a Resolution to change the Classification and Compensation Plan to reflect the Amendment and approve an amended Job Description for Controller to reflect the Internal Auditor duties added to the position.

BACKGROUND

At the October 23, 2024 regular meeting of the Board of Directors ("Board"), following the recommendations of the Board Appointee Evaluation Committee, the Board approved an increase in compensation for the Controller that requires an increase in weekly hours to reflect the additional duties of Internal Auditor added to the Controller's role. The attached Amendment to the Controller's Agreement and the changes to the Classification and Compensation Plan are the documentation necessary to fulfill the directives of the Board.

DISCUSSION

The Board Appointee Evaluation (BAE) Committee previously reviewed and recommended an increase in salary and hours for the Controller to reflect the additional role of Internal Auditor that is added to the Controller position. The changes have already been implemented. To document the changes, minor revisions are needed to the Controller's current contract. Also, the Classification and Compensation Plan must be updated to reflect the new hourly rate and the increase in average weekly hours. The first change to the Controller's Agreement is to increase the average weekly hours from 10 to 13.35¹ hours. The hours will be an average due to the vagaries of the Controller's position; namely that certain periods of the year require additional hours for budget and other reasons, while other times require fewer hours. The Controller has reviewed and approved these changes. The second change to the Agreement is to specifically refer to the Classification and Compensation Plan for salary instead of a fixed amount as was listed in the prior Agreement. This eliminates the requirement to amend the Controller's Agreement each year as any future change can be made through the Classification and

¹ The Controller requested 13.33 hours; due to the payroll accounting system the payroll must be listed 13.35 for the system to accept the change.

Compensation Plan. The final item is approval of the amended Job Description for the Controller to reflect the Internal Auditor duties added to the position.

PRIOR BOARD OR COMMITTEE REVIEW

The recommended Amendment and accompanying changes to the Classification and Compensation Plan as well as the changes to the Controller's Job Description reflect the prior recommendations of the BAE and follow the prior approval of the Board.

FISCAL IMPACT

The approval of the Agreement Amendment, the Resolution making changes to the Classification and Compensation Plan, and the amended Job Description reflect changes that have already been implemented. This step formalizes those adjustments. There are no fiscal impacts from this action. The Controller's total salary plus one-time adjustment equals \$75,365.

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

After the Agreement Amendment is executed there are no additional steps required.

Attachments:

1. District Controller's Agreement and Amendment
2. Resolution of the Board of Directors of the Midpeninsula Regional Open Space District Approving an Amended Classification and Compensation Plan, and an Increase in Hours for the District's Controller
3. Redlined version of the Controller's Job Description reflecting the additional duties of the Internal Auditor

Submitted by: Board Appointee Evaluation Committee
Director Cyr
Director Riffle, Chair
Director Gleason

Staff Contact:
Candice Basnight, Human Resources Manager

**FIRST AMENDMENT TO DISTRICT CONTROLLER AMENDED
EMPLOYMENT AGREEMENT**

This First Amendment (“Amendment”) to the District Controller Amended Employment Agreement (“2021 Agreement”) is made and entered into on this ___ of April, 2025 by and between Midpeninsula Regional Open Space District, a California public entity (“District”), and Michael L. Foster (“Foster” or Controller”).

RECITALS

The following recitals are a substantive portion of this Agreement:

1. The 2021 Agreement is amended effective as of July 1, 2024.
2. The purpose of this Amendment is to memorialize the changes to the Controller’s 2021 Agreement as previously approved by the Board.

AMENDMENT

1. The District Controller 2021 Agreement, dated February 12, 2021 is attached hereto and incorporated herein as Exhibit “1”.
2. All other terms and conditions of the 2021 Agreement remain in full force and effect. In the event of a conflict between the 2021 Agreement and this Amendment, this Amendment controls.

The 2021 Agreement is amended as follows:

3. Section 3 A) Hours is changed to read: The Controller’s position shall be part time, and his regular work hours shall not exceed an average of 13.35 hours of service per week.
4. Section 3 B) Salary is changed to read: Compensation shall be set by the Board adopted Classification and Compensation Plan.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective this ____ day of April, 2025, at Los Altos, California.

MIDPENINSULA REGIONAL OPEN
SPACE DISTRICT:

DISTRICT CONTROLLER:

By: _____
Jed Cyr
Board President

By: _____
Michael L. Foster
Controller

ATTEST:

APPROVED AS TO FORM:

Maria Soria, District Clerk

Hilary Stevenson, General Counsel

Exhibit 1: District Controller Amended Employment Agreement (“2021 Agreement”)

EXHIBIT 1

DISTRICT CONTROLLER AMENDED
EMPLOYMENT AGREEMENT

This Amended Employment Agreement ("Agreement") is made and entered into this ___ day of February, 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

EXHIBIT 1

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

EXHIBIT 1

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.

EXHIBIT 1**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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EXHIBIT 1

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

MIDPENINSULA REGIONAL OPEN
SPACE DISTRICT:

DISTRICT CONTROLLER:

By: *Curt Riffle*
Curt Riffle (Feb 12, 2021 12:55 PST)

Board President Curt Riffle

By: *Michael Foster*
Michael Foster (Feb 12, 2021 19:49 PST)

Michael L. Foster

Date: Feb 12, 2021

Date: Feb 12, 2021

ATTEST:

APPROVED AS TO FORM:

Jennifer Woodworth

Jennifer Woodworth, District Clerk

Hilary W. Stevenson
Hilary W. Stevenson (Feb 17, 2021 16:13 PST)

Hilary Stevenson, General Counsel

RESOLUTION NO. XX-__**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT APPROVING AN AMENDED CLASSIFICATION AND COMPENSATION PLAN, AND AN INCREASE IN HOURS FOR THE DISTRICT'S CONTROLLER**

WHEREAS, 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, which Agreement was last amended on February 12, 2021; and

WHEREAS, on October 23, 2024 the Board approved a salary increase, the addition of the duties of an Internal Auditor, and a one-time bonus for the Controller for fiscal year 2024; and

WHEREAS, these changes were effective July 1, 2024 and this resolution formalizes the changes previously made by the Board and adds the increased average hours per week.

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 \$75,365, per year, retroactive to July 1, 2024, for Fiscal Year 2024-25.
2. The Controller's base hours are hereby increased from an average of 10 hours per week to an average of 13.35 hours per week.
3. The relevant portion of the District's Classification and Compensation Plan shall be amended to reflect the following:

Board Appointee Group Compensation	Hourly	Monthly	Annual	Effective	Last Revised
Controller - <i>Part-time position</i>	\$108.5638	\$6,280	\$75,365	7/1/2024	04/09/2025

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on April 9, 2025, at a regular meeting thereof, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Zoe Kersteen-Tucker, Secretary
Board of Directors

Jed Cyr, President
Board of Directors

APPROVED AS TO FORM:

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.

Maria Soria, District Clerk



Midpeninsula Regional Open Space District

CONTROLLER**DEFINITION**

Under policy direction, provides oversight and monitors the accounting system of the District; performs difficult and complex professional duties related to the District's investments and revenues; monitors and manages the District's investments by tracking cash flows and forecasting future cash flow needs, analyzing investment opportunities, maintaining current knowledge of appropriate laws and their applications, and making recommendations and reporting on investing all surplus funds in compliance with the District's investment policy; monitors and projects District revenues; performs financial and performance or operational audits and examinations of District departments, programs, services, and/or activities; provides insights regarding the effectiveness and efficiency with which District resources are employed, the adequacy of the system of internal controls, management of risks, and compliance with District policies and procedures and regulatory requirements; provides highly complex and responsible support to the General Manager and Board of Directors in areas of expertise; and performs related work as required.

SUPERVISION RECEIVED AND EXERCISED

Receives policy direction from the Board of Directors within a framework of legal guidelines, broad policies, and established organizational values and processes. May exercise general supervision and direction over professional and administrative support staff.

CLASS CHARACTERISTICS

This classification provides expert assistance to the General Manager and Board of Directors in a variety of financial planning and analysis areas, such as accounting system oversight, financial audits, performance or operational audits, investment, and revenue programs and activities. Successful performance of the work requires knowledge of the law, public policy, and District functions and activities, including the role of Board of Directors, and the ability to develop, oversee, and implement projects and programs in a variety of areas. The incumbent is accountable for accomplishing financial planning and operational goals and objectives and for furthering District goals and objectives within general policy guidelines.

EXAMPLES OF ESSENTIAL FUNCTIONS *(Illustrative Only)*

Management reserves the right to add, modify, change, or rescind the work assignments of different positions and to make reasonable accommodations so that qualified employees can perform the essential functions of the job.

- Participates in the development and implementation of goals, objectives, policies, and priorities for the financial management program; recommends and administers policies and procedures.
- Establishes the District's budgeting, accounting, and financial reporting practices; evaluates accounting procedures and financial controls; ensures public funds are safeguarded and properly accounted for; manages external audit, responds to and implements audit recommendations.
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- Participates in the development, administration and oversight of the District's annual budget.
- Makes recommendations; manages and invests all excess funds while following the District's investment policy; executes timely investment transactions based upon multiple fund flows and market factors.

- Prepares annually for approval by the Board of Directors a schedule of internal performance or operational audits to be performed.
- Conducts internal audits of fiscal transactions of the District including examining and analyzing fiscal procedures, and evaluating, checking, and verifying accounts and expenditures to assess their efficiency, effectiveness, economy, and legal compliance.
- Produces written reports on performance or operational audit findings, which includes recommendations to improve or correct the effectiveness of District internal controls, risk management, and business processes.
- Keeps abreast of investment market and formulates portfolio strategy in accordance with investment policy and changes in the market.
- Researches and recommends new investment policies and strategies to the Board of Directors and General Manager; provides information to Accounting in order to create and maintain investment and accounting records.
- Prepares reports on investment activities to the District Board; creates and maintains policy documents and manuals.
- Develops short, medium, and long-term cash flow projections to help determine investment strategy; researches and makes recommendation for sale of District Bonds for land purchases.
- Provides highly complex staff assistance to the General Manager; prepares and presents staff reports and other necessary correspondence to various commissions, committees, and boards.
- Attends and participates in professional group meetings; stays abreast of new trends and innovations in the fields of investments and general revenue; researches emerging products and enhancements and their applicability to District needs.
- Monitors changes in regulations and technology that may affect operations; implements policy and procedural changes after approval.
- Performs other duties as assigned.

QUALIFICATIONS

Knowledge of:

- Administrative principles and practices, including goal setting, program development, implementation and evaluation and supervision of staff, either directly or through subordinate levels of supervision.
- Principles and practices of governmental accounting, public finance administration and budgeting, and auditing; performance or operational auditing, federal and state regulations and guidelines as they pertain to finance, taxation, and revenue management.
- Applicable federal, state, and local laws, codes and regulations.
- Methods and techniques for writing and presentations, business correspondence and information distribution; research and reporting methods, techniques and procedures.
- Techniques for effectively representing the District in contacts with government agencies, community groups and various business, professional, regulatory and legislative organizations.
- Techniques for dealing effectively with the public, vendors, contractors and District staff, in person and over the telephone.
- Techniques for providing a high level of customer service to the public and District staff, in person and over the telephone.

Ability to:

- Develop and implement goals, objectives, policies, procedures, work standards, and internal controls for the department and assigned program areas.
- Provide administrative and professional leadership and direction for the department and the District.

- Prepare and administer large and complex budgets; allocate limited resources in a ~~cost-effective~~cost-effective manner.
- Interpret, apply, explain, and ensure compliance with Federal, State, and local policies, procedures, laws, and regulations.
- Effectively administer special projects and a variety of finance programs and administrative activities.
- Conduct effective negotiations and effectively represent the District and the department in meetings with governmental agencies, contractors, vendors, and various businesses, professional, regulatory, and legislative organizations.
- Prepare clear and concise reports, correspondence, policies, procedures, and other written materials.
- Conduct complex research projects, evaluate alternatives, make sound recommendations, and prepare effective technical staff reports.
- Establish and maintain a variety of filing, record-keeping, and tracking systems.
- Organize and prioritize a variety of projects and multiple tasks in an effective and timely manner; organize own work, set priorities, and meet critical time deadlines.
- Operate modern office equipment including computer equipment and specialized software applications programs.
- Use English effectively to communicate in person, over the telephone, and in writing.
- Use tact, initiative, prudence, and independent judgment within general policy, procedural, and legal guidelines.
- Establish, maintain, and foster positive and effective working relationships with those contacted in the course of work.

Education and Experience:

Any combination of training and experience that would provide the required knowledge, skills, and abilities is qualifying. A typical way to obtain the required qualifications would be:

Equivalent to graduation from an accredited four-year college or university with major coursework in finance, accounting, economics, business or public administration, or a related field and seven (7) years of management and/or administrative experience in governmental finance and accounting. A master's degree is highly desirable.

Licenses and Certifications:

None.

PHYSICAL DEMANDS

Must possess mobility to work in a standard office setting and use standard office equipment, including a computer; to operate a motor vehicle and to visit various District and meeting sites; vision to read printed materials and a computer screen, as well as interpret colored warning and alarm lights on computer equipment; and hearing and speech to communicate in person, before groups, and over the telephone. This is primarily a sedentary office classification although standing in work areas and walking between work areas is often required. Finger dexterity is needed to frequently access, enter, and retrieve data using a computer keyboard, typewriter keyboard, or calculator and to operate standard office equipment. Positions in this classification frequently bend, stoop, kneel, reach, push, and pull drawers open and closed to retrieve and file information. Employees must possess the ability to lift, carry, push, and pull materials and objects weighing up to 25 pounds.

ENVIRONMENTAL ELEMENTS

Employees work primarily in an office environment with moderate noise levels, controlled temperature conditions, and no direct exposure to hazardous physical substances. Employees may be required to travel

Controller
Page 4 of 4

to District field sites where exposure to loud noise levels, cold and hot temperatures, inclement weather conditions, road hazards, vibration, and mechanical and/or electrical hazards are possible. Employees may interact with upset staff and/or public and private representatives in interpreting and enforcing departmental policies and procedures.

WORKING CONDITIONS

May be required to work evenings, weekends, and holidays.

EFFECTIVE: December 2010

REVISED: ~~N/A~~ April 2025

FLSA: Exempt