

MEETING DATE: November 7, 2019

TITLE: Approval of Policy to Transfer Surety Account Interest to the General Account on an Annual Basis

RESOLUTION NUMBER: 19-096

PREPARED BY: Cathy Reynolds

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REVIEWED BY: Administrator Counsel Program Mgr. (Name): Tom Dietrich
 Board Committee Engineer Other

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date):_____	<input type="checkbox"/> Refer to taskforce or committee (date):_____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other (specify): Final action on November 7, 2019	

PURPOSE or ACTION REQUESTED:

Staff requests the MCWD Board of Managers adopt a policy to annually transfer the interest accrued on surety accounts, minus fees paid, to the general operating account.

PROJECT/PROGRAM COST:

Fund name and number: Permit Administration

PAST BOARD ACTION:

None on this item.

SUMMARY:

The Minnehaha Creek Watershed District (MCWD) first incorporated financial assurance requirements into its Rules in 1996. Initially, financial assurance requirements we're only associated with the Erosion Control, Dredging, and Shoreline & Streambank Stabilization Improvement rules. Since the genesis of the initial rule, the requirements have expanded to cover additional District regulations including, Wetland Protection and Stormwater Management. Financial assurances can take the form of a Letter of Credit, Performance Bond or cash escrow. The purpose of these financial instruments is to assure compliance with the District's rules through verification that activities and facilities are built in conformance with the plan and performance specifications outlined in an approved permit.

Financial assurances are collected prior to the issuance of a permit. To release a financial assurance, staff must receive written notification of construction completion by the applicant, which prompts a final project inspection by District staff. The final inspection serves as verification that facilities and activities have been

constructed, and function per the approved plan. Once this determination is made, the financial assurance is released.

Should the final inspection reveal discrepancies between the finished site and the approved plan, the financial assurance is held until the issues have been addressed by the applicant. Should a site be continually out of compliance with District rules, the District is able draw upon the funds held as financial assurance to conduct or coordinate the work necessary to bring the site into compliance, at the expense of the applicant. Additionally, funds may be withheld from the financial assurance return to cover any outstanding or delinquent reimbursements including postage, engineering, and legal review.

The Letters of Credit and Performance Bonds are maintained by Smith Partners while the District maintains a checking and savings account to hold the cash escrows. MCWD currently holds approximately \$1.9M in cash escrows.

The District currently holds the cash financial assurances in a money market savings account located at Alerus Bank. The account currently earns interest at the rate of 1.5% which provides for approximately \$2000 in interest earnings a month. The surety account was moved to this type of account in September 2017. Prior to this sureties were not held in an interest bearing account. From September 2017 to September 2019 the surety account has earned \$31,697.27 in interest. The interest accumulated throughout the year is used to pay monthly banking fees and for any services that are needed for this account (i.e. check printing).

Staff is recommending that the Board adopt a policy that provides for the annual transfer of interest accrued on the surety account, minus fees, to the general operating account. Staff would recommend that the interest, minus fees, be transferred in January of the following year as part of the prior year end close-out procedures.

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WHEREAS, the District started receiving financial assurances for permits in 1996; and

WHEREAS, these financial assurances can be in the form of a letter of credit, performance bond, or cash; and

WHEREAS, the District currently holds approximately \$1.9 million is cash financial assurances; and

WHEREAS, the financial assurance are held in the District's surety account which was moved to an interest bearing account starting in September 2017; and

WHEREAS, the interest on the account is used to pay for banking fees and services for the surety accounts; and

WHEREAS, the interest earned on the account continues to grow and exceed the cost of the annual fees and services.

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby adopts a policy directing that the interest accrued on surety accounts be transferred on an annual basis to the general fund account.

BE IT FURTHER RESOLVED that these transfers occur in January of the year, and the amount transferred be equal to the amount of interest earned during the previous fiscal year minus bank fees and services charges.

Resolution Number 19-096 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

Secretary Date: _____