

AGENDA

Board of Directors' Meeting

July 21, 2011

5:30 p.m.

A copy of the agenda and attachments is available for review at the District office. The Board of Directors' Meeting Room is wheelchair accessible. If you require any special disability related accommodations (i.e., access to an amplified sound system, etc.), please contact the Moulton Niguel Water District Secretary's office at (949) 643-2006 at least seventy-two (72) hours prior to the scheduled meeting. This agenda can be obtained in alternate format upon written request to the Moulton Niguel Water District Secretary at least seventy-two (72) hours prior to the scheduled meeting. The next Regular Board Meeting will be held at 5:30 p.m. on August 18, 2011 at the Moulton Niguel Water District.

**BOARD OF DIRECTORS' MEETING
MOULTON NIGUEL WATER DISTRICT
27500 La Paz Road, Laguna Niguel
July 21, 2011
5:30 p.m.
Approximate Meeting Time: 2-3 Hours**

Agenda exhibits and other writings that are disclosable public records distributed to all, or a majority of, the members of the Moulton Niguel Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection at the District Office, 27500 La Paz Road, Laguna Niguel, CA ("District Office"). If such writings are distributed to members of the Board less than 72 hours prior to the meeting, they will be available in the reception area of the District Office at the same time as they are distributed, except that, if such writings are distributed immediately prior to, or during, the meeting, they will be available in the Board meeting room.

AGENDA

1. CALL MEETING TO ORDER

2. PLEDGE OF ALLEGIANCE

3. MINUTE APPROVAL:

- SPECIAL MEETING OF JUNE 10, 2011 (TOUR OF 3A ETM)
- REGULAR BOARD OF DIRECTORS' MEETING OF JUNE 16, 2011

4. PUBLIC COMMENTS

Persons wishing to address the Board of Directors on matters not listed on the Agenda may do so at this time. "Request To Be Heard" forms are available at the entrance to the Board Room. Comments are limited to five minutes unless further time is granted by the Presiding Officer. Submit form to the Recording Secretary prior to the beginning of the meeting.

Those wishing to address the Board of Directors on any item listed on the Agenda should submit a "Request To Be Heard" form to the Recording Secretary before the Presiding Officer announces that agenda item. Your name will be called to speak at that time.

5. PRESIDENT'S REPORT

6. BOARD REPORTS

GENERAL MANAGER'S REPORT:

7. SOUTH ORANGE COUNTY WASTEWATER AUTHORITY (SOCWA) UPDATE

8. UPDATE ON WBBRS IMPLEMENTATION

9. UPDATE ON OCWD/MWDOC CONSOLIDATION EFFORTS

10. MEETING WITH EL TORO WATER DISTRICT REGARDING RECYCLED WATER CONNECTION
11. ADMINISTRATIVE MATTERS/GENERAL DISTRICT BUSINESS (UPDATE AS NECESSARY)

CONSENT CALENDAR ITEMS: (ROLL CALL VOTE)

Consent items: Unless the General Manager or the Board requests that an item be removed from the Consent Calendar, all items will be acted upon as a whole and by one vote. Requests for discussion of any specific item should be made to the Presiding Officer in conjunction with the discussion of the consent motion.

The following items were previously discussed at the Engineering & Operations Board Meeting (7/18/11) and the Finance & IT Board Meeting (7/20/11).

12. RECEIVE AND FILE MONTHLY OPERATIONAL STATUS REPORTS
13. RECEIVE AND FILE MONTHLY CONSTRUCTION PROGRESS REPORT
14. RECEIVE AND FILE CAPITAL PROJECT BUDGET SUMMARY
15. RECEIVE AND FILE WATER SUPPLY RELIABILITY PROJECTS' STATUS SUMMARY REPORT
16. PLANT 3A ETM RELOCATION, CONTRACT 2009.039

The County of Orange (County) is continuing to install sheet piles along Trabuco and San Juan Creeks. The proposed construction may impact the integrity of the Plant 3A ETM and the District has requested the County to include removal and replacement of the approximately 2,500 linear feet of the pipeline as part of the County's Phase 7 Contract for the sheet pile installation. The Phase 7 Agreement will be considered during the Legal Agenda. A staff report was provided on this matter at the Engineering and Operations Meeting on July 18, 2011.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS INCREASES THE EXPENSE AUTHORIZATION FOR THE PROJECT FROM \$125,000 TO \$380,000.

17. BAKER WATER TREATMENT PLANT, CONTRACT 2006.071 – DESIGN VARIANCE APPROVAL

RBF Consulting has submitted a variance request for additional budget to complete the final design of the Baker Water Treatment Plant. The design variance includes various design elements, supplier coordination issues, easement preparation, coordination with Metropolitan Water District, and additional project management. A staff report was provided on this matter at the Engineering and Operations Meeting on July 18, 2011.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS INCREASES THE EXPENSE AUTHORIZATION FOR THE PROJECT FROM \$5,600,000 TO \$5,810,000 AND AUTHORIZES STAFF TO APPROVE THE DESIGN VARIANCE AS NEGOTIATED BY THE PROJECT COMMITTEE.

18. RECYCLED WATER SYSTEM CAPACITY ANALYSIS, CONTRACT 2009.098 –
DESIGN VARIANCE APPROVAL

The District executed a contract with Tetra Tech, Inc. to review the District's recycled water system and determine the available system capacity, which includes treatment, storage, and distribution. In order to complete the analysis, staff needs to execute a design variance and an additional contract to evaluate the Santa Margarita Water District system to confirm access to the Upper Oso Reservoir for seasonal storage. A staff report was provided on this matter at the Engineering and Operations Meeting on July 18, 2011.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS INCREASES THE PROJECT BUDGET AND EXPENSE AUTHORIZATION FOR THE PROJECT FROM \$75,000 TO \$100,000 AND AUTHORIZES STAFF TO EXECUTE THE CONTRACT WITH THE DESIGN VARIANCE WITH TETRA TECH, INC. FOR \$9,200 AND THE PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC. FOR A NOT-TO-EXCEED FEE OF \$9,900.

19. ANNUAL CONTRACTS, PROFESSIONAL SERVICE AGREEMENTS, AMENDMENTS,
AND PURCHASE ORDERS FOR FISCAL YEAR 2011/2012

SUMMARY AND DISCUSSION:

The District utilizes various consultants and contractors to provide services to support the functions necessary for District operations. The District's current Purchasing Policy requires the Board approve any contract or purchase order exceeding \$45,000. Sufficient funds have been appropriated in the Fiscal Year 2011/2012 Budget for these purchases. A staff report was provided on this matter at the Engineering and Operations Meeting on July 18, 2011.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS AUTHORIZES THE GENERAL MANAGER TO EXECUTE THE NECESSARY DOCUMENTS AS FOLLOWS:

- A. EXECUTE A CONTRACT AMENDMENT WITH SUNSET LANDSCAPE MAINTENANCE, INC. THROUGH FISCAL YEAR 2011-2012 FOR AN AMOUNT NOT-TO-EXCEED \$248,752.
- B. EXECUTE A CONTRACT AMENDMENT WITH GREAT SCOTT TREE SERVICE, INC. THROUGH FISCAL YEAR 2011-2012 FOR AN AMOUNT NOT-TO-EXCEED \$91,257.
- C. APPROVE THE EXPENSE AUTHORIZATION TO ORANGE COUNTY PEST CONTROL FOR FISCAL YEAR 2011-2012 FOR AN AMOUNT NOT-TO-EXCEED \$50,400.
- D. EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH TWNIEMANN, INC. THROUGH FISCAL YEAR 2011-2012 FOR AN AMOUNT NOT-TO-EXCEED \$130,220.

- E. EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH ECIS THROUGH FISCAL YEAR 2011-2012 FOR AN AMOUNT NOT-TO-EXCEED \$140,000.
20. RECEIVE AND FILE MONTHLY FINANCIAL STATEMENTS AND THE SUMMARY OF DISBURSEMENTS IN THE AMOUNT OF \$4,731,317.98 DATED JUNE 30, 2011.
21. THE BOARD OF DIRECTORS RATIFIES THE O&M AND CAPITAL PROJECTS FOR THE JOINT POWERS AUTHORITIES AS FOLLOWS: SOCWA IN THE AMOUNT OF \$12,471,724; SJBA IN THE AMOUNT OF \$97,431.25; AND SCWD-JRWSS IN THE AMOUNT OF \$3,334,654.
22. THE BOARD OF DIRECTORS DIRECTS STAFF TO EITHER DISCONTINUE THE COLLECTION OF ACREAGE ASSESSMENT (STANDBY CHARGES) OR THE BOARD OF DIRECTORS WILL ADOPT TWELVE INDIVIDUAL RESOLUTIONS FOR EACH IMPROVEMENT DISTRICT, ENTITLED "RESOLUTION OF THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT ESTABLISHING STANDBY CHARGES FOR FISCAL YEAR 2011/2012.
23. BOARD OF DIRECTORS ADOPTS A RESOLUTION ENTITLED, "RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT APPROVING ITS APPROPRIATIONS LIMIT FOR FISCAL YEAR 2011/2012 AND FINDING COMPLIANCE WITH ARTICLE XIII B OF THE CONSTITUTION OF THE STATE OF CALIFORNIA".
24. BOARD OF DIRECTORS ADOPTS A RESOLUTION ENTITLED, "RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT REVISING DESIGNATION OF FUND FOR CERTAIN WBBRS REVENUES AND AUTHORIZING GENERAL FUND TRANSFER".

ENGINEERING & OPERATIONS MATTERS:

25. **CONTRACT SERVICES FOR PROFESSIONAL ENGINEERING SUPPORT – PROFESSIONAL SERVICE AGREEMENT APPROVAL**

Staff is requesting approval for the addition of a contract engineer to assist the Engineering and Operations Department with the execution of the Capital Improvement Program. A staff report was provided on this matter at the Engineering and Operations Meeting on July 18, 2011.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS AUTHORIZES THE GENERAL MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH PROJECT PARTNERS, INC. FOR A NOT-TO-EXCEED FEE OF \$150,000 FOR FISCAL YEAR 2011-2012. THIS PROJECT WILL BE FINANCED FROM THE OPERATIONS AND MAINTENANCE BUDGET.

FINANCE & INFORMATION TECHNOLOGY MATTERS:

26. ENTERPRISE RESOURCE PLANNING (ERP) VENDOR SELECTION PROJECT NO. 2010.033

SUMMARY AND DISCUSSION:

Staff has provided the Board of Directors with an overview of solutions being considered for the ERP selection process throughout the evaluation and selection process that began in November 2010. A staff report and presentation was provided on this matter at the Finance & Information Technology Board Meeting on July 20, 2011. This project will be financed from the Capital Improvement Projects Budget.

RECOMMENDED ACTION:

- A. THE BOARD OF DIRECTORS AWARDS A CONTRACT TO DENOVO FOR A NOT-TO-EXCEED AMOUNT OF \$1,866,883 (LICENSING, FIRST YEAR MAINTENANCE IMPLEMENTATION, TRAINING, AND TRAVEL); AUTHORIZE THE GENERAL MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE DISTRICT; AND AUTHORIZE A PROJECT EXPENDITURE OF \$1,866,883 (LICENSING/MAINTENANCE & IMPLEMENTATION).**
- B. AUTHORIZE A PROJECT EXPENDITURE OF \$26,125 TO AMX FOR FIRST YEAR MAINTENANCE.**
- C. APPROVE A SECOND CONTRACT AMENDMENT OF \$285,200 TO THE CONTRACT DATED APRIL 30, 2010 WITH NEXLEVEL FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$566,000 FOR PHASE 5 – IMPLEMENTATION SUPPORT SERVICES AND AUTHORIZE A PROJECT EXPENDITURE OF \$566,000 AND AUTHORIZE THE GENERAL MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE DISTRICT.**

27. DISTRICT TECHNOLOGY ENHANCEMENT - SIRE TECHNOLOGIES CONTRACT TERMS, PROJECT TIMELINE, AND DELIVERABLES

SUMMARY AND DISCUSSION:

Staff has provided the Board of Directors with a preliminary overview of solutions being considered for the Board Room enhancement and improving public transparency at prior meetings. The Scope of Work will include automated internal agenda workflow processing, meeting minute manager, legislative management, document management, and increased public transparency. A staff report was provided on this matter at the Finance & Information Technology Board Meeting on July 20, 2011. This project will be financed from the Capital Improvement Projects Budget.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS AWARDS A CONTRACT TO SIRE TECHNOLOGIES FOR A NOT-TO-EXCEED AMOUNT OF \$123,108 (LICENSING, IMPLEMENTATION, TRAINING, TRAVEL AND ANNUAL MAINTENANCE) AND AUTHORIZE THE GENERAL MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE DISTRICT; AND AUTHORIZE A TOTAL PROJECT EXPENDITURE OF \$133,108.

LEGAL MATTERS:

28. PUBLIC HEARING ON PROPOSED SEWER SERVICE RATE INCREASE SET BY SOUTH COAST WATER DISTRICT FOR LAGUNA SUR/MONARCH POINT REORGANIZATION AREA

ADOPTION OF ORDINANCE NO. 11-01 "ORDINANCE OF RULES AND REGULATIONS OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ADOPTING CERTAIN REVISIONS TO THE SEWER USAGE RATE COMPONENTS, CHARGES IN THE SCHEDULE OF RATES AND CHARGES AS SET FORTH IN EXHIBIT B TO THE RULES AND REGULATIONS OF MOULTON NIGUEL WATER DISTRICT FOR WATER, SEWER AND RECYCLED WATER SERVICE FOR: LAGUNA SUR/MONARCH POINT LAFCO-R096-05"

SUMMARY AND DISCUSSION:

The Laguna Sur/Monarch Point Reorganization Area was detached from South Coast Water District ("SCWD") and annexed into MNWD, effective April, 1997. SCWD continues to provide sewer service to the Reorganization Area through contract with MNWD. As part of the terms and conditions of the reorganization, MNWD continues the prior SCWD practice of collection of the service charges and rates on the tax roll, and then remits the service revenue to SCWD. SCWD is proposing to raise the usage rate component of the sewer service charges within the Reorganization Area from what is currently collected and also from what was adopted and approved in 2009 by SCWD for 2011-12 and 2012-13. The fixed sewer charge component for 2011-12 and 2012-13 will be collected at amounts different (lower) than the rates previously approved by SCWD and then adopted by the MNWD rate ordinance in 2009. The SCWD Board adopted the increased sewer usage rate components, and set the fixed charges, on June 23, 2011. The District previously authorized mailed written notice (218 Notice) to customers and property owners in the Reorganization Area of this Public Hearing on the proposed sewer rate component increases. A copy of the 218 Notice is included in Attachment L-1 to the Agenda. In June, the Board conducted the first reading of Ordinance No. 11-01 to revise the District *Rules and Regulations* and adopt the increased sewer service rate components and set the other rates and charges for 2011-12 and 2012-13. A copy of Ordinance No. 11-01, reflecting the final rates and charges SCWD approved on June 23, 2011, is included in Attachment L-1.

RECOMMENDED ACTIONS:

A. CONDUCT PUBLIC HEARING ON PROPOSED INCREASED SEWER RATE COMPONENTS

The Public Hearing will be conducted in accordance with the following general guidelines:

1. The President of the Board opens the Public Hearing.
2. Public testimony is given on the proposed sewer rate component increases.
3. The Board accepts all written protests against the proposed increased sewer rate components.
4. The President of the Board closes the Public Hearing.

5. Staff tabulates all written protests received, including those received before and during the Public Hearing. Staff provides the Board with a final tabulation of written protests. (If written protests against the proposed increased rate(s) are presented by a majority of customers, the Board may not approve the increased rate(s).)
6. The Public Hearing having been conducted, all written protests tabulated, and assuming no majority protest by customers, the Board may approve and adopt the sewer rate component increases set by SCWD as set forth in the Ordinance No. 11-01, Attachment L-1 to the Agenda, and as presented at the Public Hearing, as follows:

B. SECOND READING OF ORDINANCE NO. 11-01 "ORDINANCE OF RULES AND REGULATIONS OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ADOPTING CERTAIN REVISIONS TO SEWER USAGE RATE COMPONENTS, CHARGES IN THE SCHEDULE OF RATES AND CHARGES AS SET FORTH IN EXHIBIT B TO THE RULES AND REGULATIONS OF MOULTON NIGUEL WATER DISTRICT FOR WATER, SEWER AND RECYCLED WATER SERVICE FOR: LAGUNA SUR/MONARCH POINT LAFCO-R096-05," INCLUSIVE OF THE RATES AS REVISED BY SCWD, AND ADOPTION OF ORDINANCE NO. 11-01 IN ACCORDANCE WITH THE FOLLOWING PROCESS:

1. MOTION BY BOARD: To conduct the second reading of proposed Ordinance No. 11-01 implementing revisions to the District *Rules and Regulations* for South Coast Water District Sewer Service Charges and Rates for Laguna Sur/Monarch Point Reorganization Area for 2011-12 and 2012-13, including revisions to certain charges and rates made by SCWD on June 23, 2011.
2. PRESIDENT RECITES COMPLETE TITLE OF ORDINANCE NO. 11-01: "ORDINANCE OF RULES AND REGULATIONS OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ADOPTING CERTAIN REVISIONS TO SEWER USAGE RATE COMPONENTS, CHARGES IN THE SCHEDULE OF RATES AND CHARGES AS SET FORTH IN EXHIBIT B TO THE RULES AND REGULATIONS OF MOULTON NIGUEL WATER DISTRICT FOR WATER, SEWER AND RECYCLED WATER SERVICE FOR: LAGUNA SUR/MONARCH POINT LAFCO-R096-05."
3. MOTION BY BOARD: To waive reading of complete text of Ordinance No. 11-01.
4. MOTION BY BOARD: To adopt Ordinance No. 11-01, as presented and direct implementing revisions to the District *Rules and Regulations* for sewer service by Staff and Legal Counsel.

29. PUBLIC HEARING AND ANNUAL ADOPTION OF RESOLUTION FOR COLLECTION OF SEWER SERVICE CHARGES FOR LAGUNA SUR/MONARCH POINT REORGANIZATION AREA ON PROPERTY TAX BILL

SUMMARY AND DISCUSSION:

At the June Board Meeting, the Board also adopted a resolution to continue the practice of collecting the 2011-2012 sewer service charges and rates on the tax roll, in lieu of monthly or bimonthly billings, as permitted under Health and Safety Code Sections 5471 *et seq.* The collection procedure under Health and Safety Code Section 5473 *et seq.* requires SCWD to prepare a report of the assessor parcel numbers and corresponding sewer service charges and rates, and MNWD to notice a Public Hearing on the report and thereafter adopt the report after the Hearing in the absence of majority protests to the tax roll collection procedure. This property tax roll procedure hearing is in addition to the 218 Public Hearing conducted above for adoption of the 2011-12 and 2012-13 charges and rates by ordinance approval of the *Rules and Regulations*. Pursuant to the resolution adopted at the June meeting, a Public Hearing was called for consideration of the tax roll collection procedure. Notice of the Hearing has been published, as required by law, and staff has made available the assessor parcel report, including the 2011-12 sewer charges and rates, in compliance with the statute. The Board will conduct the Public Hearing, receive comments, or protests if any, and adopt a resolution included as Attachment L-2 to the Agenda to continue collection of the sewer service charges and rates for the Reorganization Area on the property tax bills.

RECOMMENDED ACTIONS

1. CONDUCT A PUBLIC HEARING ON FISCAL YEAR 2011-2012 REPORT FOR THE LAGUNA SUR/MONARCH POINT REORGANIZATION AREA TAX ROLL COLLECTION PROCESS- *BOARD PRESIDENT OPENS THE HEARING, CALLS FOR PUBLIC COMMENTS, RECEIVES ANY COMMENTS OR PROTESTS, AND CLOSES THE HEARING.*
2. AT THE CONCLUSION OF THE PUBLIC HEARING, ABSENT SUFFICIENT PROTEST, ADOPT A RESOLUTION ENTITLED, "RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT SETTING 2011-2012 SEWER SERVICE CHARGES FOR SPECIFIED PARCELS (LAGUNA SUR/MONARCH POINT PROPERTY) TO BE COLLECTED VIA PROPERTY TAX STATEMENTS ON THE 2011-2012 TAX ROLL, DIRECTING FILING OF WRITTEN REPORT WITH SECRETARY AND CALLING A HEARING THEREON."

30. AGREEMENT WITH ORANGE COUNTY FLOOD CONTROL DISTRICT, SANTA MARGARITA WATER DISTRICT FOR RELOCATION OF 3A EFFLUENT TRANSMISSION MAIN (TRABUCO CREEK AREA, SAN JUAN CAPISTRANO)

SUMMARY AND DISCUSSION:

Attachment L-3 to the Agenda is the proposed relocation agreement with OCFCD, as well as SMWD, the District's co-owner of the 3A ETM, for the relocation of a portion of the 3A Plant ETM (approx. 2,470 linear feet) within the Trabuco Creek Channel levee protection project of OCFCD. Staff determined that MNWD and SMWD do not have prior rights for the 3A ETM, and so must remove/relocate the pipeline alignment to accommodate OCFCD's project, at the Districts' cost, each paying one half. The District previously entered into a similar relocation agreement with OCFCD for a different reach of the 3A ETM.

The project provides for a temporary re-routing of the ETM flows and a permanent upgrade from a 20-inch line to a 30-inch line. Both districts will provide the pipeline design; conduct review and plan approval; and, construction inspection. OCFCD requires the contractor on the levee protection project to provide insurance and warranty bonding for the 3A ETM relocation project, including naming the water districts as additional insured's, and also includes the water districts as indemnities under the construction contract. The current estimated cost of the relocation is \$380,000.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS APPROVE AND AUTHORIZE THE EXECUTION OF THE 3A ETM RELOCATION AGREEMENT WITH OCFCD AND SMWD IN SUBSTANTIALLY THE FORM PRESENTED, SUBJECT TO NON-SUBSTANTIVE CHANGES.

31. REVISED WATER-BUDGET-BASED RATE STRUCTURE (WBBRS) CONSERVATION FUND

SUMMARY AND DISCUSSION:

Staff recommends a revision to the designation of the "Conservation Fund" established for purposes of the WBBRS "inefficient water usage" revenues and the transfer of funds previously deposited in the General Fund in the amount of \$47,600 from water supply alert penalties collected prior to WBBRS implementation. The recommended new designation is "Water Efficiency Fund." **Attachment L-3** to the Agenda is a resolution to revise the fund name, and authorize the transfer of funds from the General Fund.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS ADOPTS A RESOLUTION TO REVISE THE DESIGNATION OF THE "CONSERVATION FUND" TO "WATER EFFICIENCY FUND" AND AUTHORIZE THE TRANSFER OF \$47,600 FROM THE GENERAL FUND TO THE WATER EFFICIENCY FUND.

32. LATE ITEMS (Appropriate Findings to be Made)

- A. Need to take immediate action; and
- B. Need for action came to District's attention after Agenda Posting
[Requires 2/3 vote (5 members) or unanimous vote if less than 2/3 are present]

33. THE BOARD WILL CONDUCT THE FOLLOWING CLOSED SESSIONS:

A. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION (TWO CASES)

Pursuant to Government Code Section 54956.9(b)(1) and (c), a Closed Session will be conducted to confer regarding the following new claims related to the existing *Claim of Glaser (previously rejected by the District on May 19, 2011)*, and authorization for responsive claim and litigation:

CLAIM OF OLD SAN JUAN ROAD HOMEOWNERS ASSOCIATION, presented to the District on June 13, 2011;

CLAIM FOR INDEMNITY OF CITY OF SAN JUAN CAPISTRANO, presented to the District on June 10, 2011.

B. Pursuant to Government Code Section 54956.9(b)(1), a Closed Session will be conducted to discuss significant exposure to litigation (ONE CASE).

C. CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION (ONE CASE):

Pursuant to Government Code Section 54956.9(a), a Closed Session will be conducted to conference on:

Charles Roy vs. Moulton Niguel Water District, et al
CASE NO. 00448266

NOTICE AND CALL OF SPECIAL MEETING
OF THE PERSONNEL & SALARY
BOARD OF DIRECTORS
MOULTON NIGUEL WATER DISTRICT
27500 La Paz Road, Laguna Niguel
Friday, July 22, 2011
9:00 a.m.
Approximate Meeting Time: 2-3 Hours

NOTICE IS HEREBY GIVEN that a Special Meeting of the Personnel & Salary Board of Directors of the Moulton Niguel Water District ("MNWD") has been called by the Chairman of the Personnel & Salary Board to be held on Friday, July 22, 2011, at 9:00 a.m., at MNWD's Administrative Offices located at the address above. The following business will be transacted and is the Agenda for this Special Meeting:

AGENDA

1. Call Meeting to Order
2. Public Comments
Persons wishing to address the Board of Directors on any Personnel & Salary Matters item listed on the Agenda should submit a "Request To Be Heard" form to the Recording Secretary before the Presiding Officer announces that agenda item. Your name will be called to speak at that time. (As required by law, public comments during a Special Meeting may address only specific items listed on the agenda, no other matters.)
3. **A CLOSED SESSION WILL BE CONDUCTED IN ACCORDANCE WITH GOVERNMENT CODE SECTION 54957 FOR:**

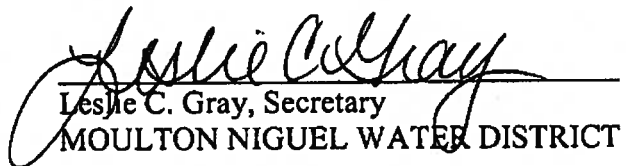
PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(SPECIAL PERSONNEL & SALARY MEETING – NO ADDITIONS
4. Adjournment

The Board of Directors' Meeting Room is wheelchair accessible. If you require any special disability related accommodations (i.e., access to an amplified sound system, etc.), please contact the Moulton Niguel Water District Secretary's office at (949) 643-2006 at least twenty-four (24) hours prior to the scheduled meeting. This agenda can be obtained in alternate format upon written request to the Moulton Niguel Water District Secretary at least twenty-four (24) hours prior to the scheduled meeting.

Agenda exhibits and other writings that are disclosable public records distributed to all, or a majority of, the members of the Moulton Niguel Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection at the District Office, 27500 La Paz Road, Laguna Niguel, CA ("District Office"). If such writings are distributed to members of the Board less than 24 hours prior to the meeting, they will be available in the reception area of the District Office at the same time as they are distributed, except that, if such writings are distributed immediately prior to, or during, the meeting, they will be available in the Board meeting room.

I hereby certify that the foregoing Notice was personally delivered, faxed, mailed or e-mailed to each member of the MNWD Board of Directors at least 24 hours prior to the scheduled time of the Special Meeting so noticed above; and posted 24 hours prior to the time of the Special Meeting at the usual agenda posting location of MNWD.


Leslie C. Gray, Secretary
MOULTON NIGUEL WATER DISTRICT

LIST OF ATTACHMENTS

LEGAL MATTERS ATTACHMENTS

Attachment L-1

218 Notice of Public Hearing for Proposed Sewer Usage Rate Component Increase – Laguna Sur/Monarch Point Area (South Coast Water District sewer rates) and Proposed Ordinance No, 11-01 Adopting Certain Revisions to Sewer Usage Rate Components, Charges in the Schedule of Rates and Charges as set Forth in Exhibit B to the Rules and Regulations of MNWD for Water, Sewer and Recycled Water Service for Laguna Sur/Monarch Point LAFCO Reorganization R096-05

Attachment L-2

Proposed Resolution Adopting Report of Sewer Service Charges to be Collected via Property Tax Statements on Tax Roll for the Period Commencing July 1, 2011 and Thereafter Until Repealed (Laguna Sur/Monarch Point LAFCO Reorganization RO96-05)

Attachment L-3

Proposed Relocation Agreement with OCFCD and SMWD Regarding the Relocation of 3A Effluent Transmission Main (Trabuco Creek) Area, San Juan Capistrano

Attachment L-4

Proposed Resolution Revising Designation of Fund for Certain WBBRS Revenues and Authorizing General Fund Transfer

ATTACHMENT NO. L-1

Notice of Public Hearing
Important information about your water
and sewer service



May 26, 2011

Notice of Public Hearing for Proposed Sewer Usage Rate Component Increase - Laguna Sur/Monarch Point Area (South Coast Water District sewer rates)

Dear Moulton Niguel Water District customer,

Parcels within the 'Laguna Sur/Monarch Point' area of Moulton Niguel Water District (MNWD) are provided sewer service by South Coast Water District (SCWD). The property owners within Laguna Sur/Monarch Point voted to withdraw from SCWD and become part of MNWD in 1997. MNWD provides water service to the area, but SCWD provides sewer service due to geographic and facility reasons. SCWD's sewer service charges and rates are collected by MNWD on the annual property tax bills, and the revenues are then remitted to SCWD. When SCWD increases its sewer charges or rates, MNWD must pass the increases on to the property owners.

SCWD Sewer Rate Proposal

SCWD's proposed rate increase calls for an increase in the sewer usage rate component for fiscal years 2011-12 and 2012-13. SCWD also collects an annual fixed sewer charge component for sewer service to the property. However, the fixed sewer charge component for those two years will be collected in amounts less than amounts previously authorized by SCWD, and then MNWD, during 2009 proceedings, and so are not discussed further in this notice. If approved by SCWD in June 2011, and then by MNWD in July 2011, the new usage rates will go into effect for sewer service beginning August 1, 2011, for 2011-12 and thereafter on July 1 for 2012-13.

SCWD has stated the following information regarding reasons for its proposed sewer usage rate component increase

KEY REASONS A SEWER RATE INCREASE IS NEEDED

Need to Upgrade Sewer Pumping Stations

SCWD's Infrastructure Master Plan has prioritized the replacement or upgrade of sewer pumping stations over the next 10 years. This work will cost an estimated \$15 million and will ensure the continued safe conveyance of wastewater to the treatment plant.

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Public Hearing for Proposed
SCWD Sewer Rate Increase

July 21, 2011
6:00 p.m.

MINWD Board Room
27500 La Paz Rd.
Laguna Niguel



Notice of Public Hearing
Important information about your water
and sewer service

A public agency at:
27500 La Paz Road, Laguna Niguel, CA 92677-3489 • 949.831.2500
Mailing Address: P.O. Box 30203, Laguna Niguel, CA 92607-0203

CONSERVATION TIPS

Indoor Tips

Tune up your leaky toilets the number one water waster in your home. One leaky toilet can waste up to 78,000 gallons of water in one year. That is enough to fill several swimming pools!

Run your clothes washer and dishwasher only when they are full and save up to 1,000 gallons of water each month.

Put food coloring in your toilet tank. If it seeps into the toilet bowl without flushing, you have a leak. Fixing the leak can save up to 1,000 gallons per month.

Replace your old toilets with new high-efficiency models and save up to 17,500 gallons each year.

Replace older, inefficient clothes washers and save 20-30 gallons per load.

Outdoor Tips

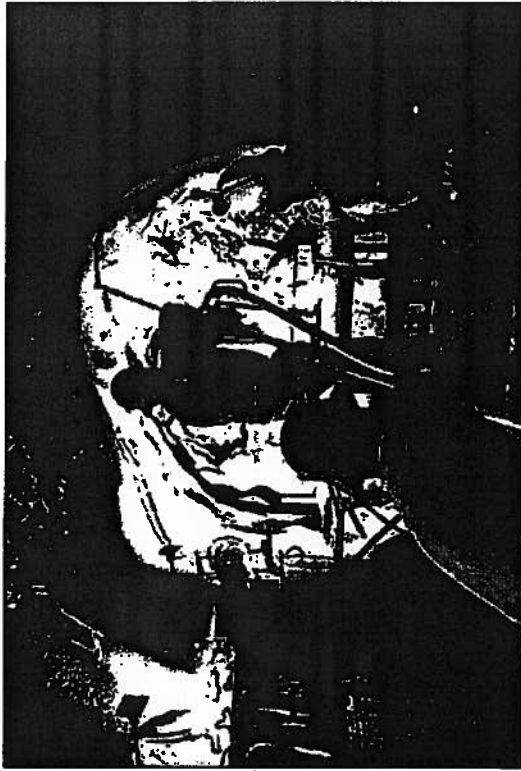
Take your car to a commercial car wash instead of washing it in the driveway. Commercial car wash facilities must recycle their water, which means you'll save more than 100 gallons per wash and help reduce urban runoff pollution.

Spreading a layer of organic mulch around plants helps retain moisture, which saves 20-30 gallons per day.

Water only before 10 a.m. and after 5 p.m. to reduce evaporation and interference from wind. You'll save 20-25 gallons per day.

Upgrade to a "smart" irrigation controller that automatically adjusts watering times for hotter weather, and shuts down the system when it rains. You can save up to 40 gallons per day.

Replace a portion of your lawn with beautiful California-Friendly plants and save hundreds of gallons each month.



Need to Rehabilitate Critical Segment of the Sewer System

More than one million gallons per day of SCWD's wastewater flows through a two-mile sewer line in a tunnel in the ocean bluffs. The 57-year-old tunnel must be structurally reinforced to ensure worker safety and prevent falling rocks from damaging the line and causing a massive sewer spill. This critical six-year project is estimated at \$50 million.

HOW SCWD IS LOWERING COSTS AND SAVING MONEY

Budget Cuts Help Address Rising Costs

Operational costs continue to rise, especially electrical, fuel and chemical costs, and budget cuts are helping to make up the difference. The SCWD Board has prioritized reducing costs, and each individual employee is doing his/her share to trim costs as part of their annual goals.

SCWD staff achieved \$1.7 million in budget cuts in 2009. Over the past two years, its staff has implemented savings programs, such as \$150,000 per year for groundwater well maintenance. In addition, SCWD saved \$2.2 million from refinancing bonds in 2010.

This year, SCWD has left four positions unfilled, adding their functions to other job positions, while cutting back on temporary help. It has reduced overtime costs for three years, and another reduction is planned for this year. The SCWD Board is reviewing staff benefit costs.

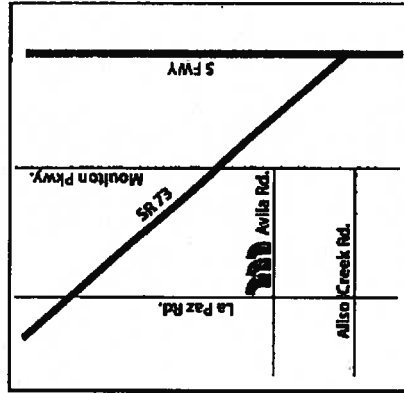
How You Can Participate

- Community Forum: SCWD will hold community forums on the proposed sewer usage rates on Wednesday, June 1, 2011 from 2 p.m. to 4 p.m. and 6 p.m. to 8 p.m. at the Ocean Institute, 24200 Dana Point Harbor Drive in Dana Point.
- Public Hearings: The MINWD Board will hold a public hearing on the SCWD sewer usage rates for Laguna Sur/Monarch Point on Thursday, July 21, 2011 at 6:00 p.m. at MINWD Board Room, 27500 La Paz Rd. in Laguna Niguel.
- Written Protest: A property owner within the Laguna Sur/Monarch Point sewer service area may file a written protest with MINWD by submitting in person or sending a letter to MINWD, 27500 La Paz Rd., Laguna Niguel, CA 92677, attention: General Manager. A valid protest letter must include (1) your name and original signature, (2) the property address at which sewer service is received, (3) the Assessor Parcel Number where sewer service is provided, and (4) a statement of protest against the sewer usage rate(s) being protested. Email protests or other electronic protests are not valid and cannot be accepted as official protests. Protest letters will be tabulated and presented to the MINWD Board at the public hearing on the proposed rate increase to be held on Thursday, July 21, 2011 at 6:00 p.m. in the MINWD Board Room, 27500 La Paz Rd. in Laguna Niguel. To be valid, protest letters must be received prior to the conclusion of the public hearing. A property owner may appear at the hearing to make comments regarding the proposed SCWD sewer usage rates. MINWD will count one written protest per property address. If written protests are not filed by a majority of record owners of property in the Laguna Sur/Monarch Point area, the Board will be authorized to implement the proposed sewer usage rates.

Any property owners with comments or questions can contact us at (949) 831-2500 or scwdinfo@mnwd.com. We're here to answer your questions, and the MINWD Board will be provided with these comments before it adopts the SCWD sewer usage rates.

Sincerely,
MOULTON NIGUEL WATER DISTRICT

Robert C. Gummerman
Robert C. Gummerman, Ph.D., P.E.
General Manager



MINWD Board Room: 27500 La Paz Rd., Laguna Niguel

SCWD PROPOSED USAGE RATE TABLES

MINWD collects the SCWD sewer usage rates on Laguna Sur/Monarch Point customers' annual property tax bills (along with the SCWD fixed sewer charges discussed above, which are not being increased above previously adopted amounts and therefore, not listed below). Since it is not cost-effective to individually meter sewer discharges, water consumption is used to approximate sewer discharges to determine the total annual usage rate amount.

The following charts list the current and proposed SCWD annual sewer usage rate components. The proposed usage rates are the maximum rates that SCWD will consider. The total sewer usage rate amount for a property is calculated based on the rates listed in the charts below x's the water usage for a property during the prior year, where one billing unit equals 7.48 gallons of water.

PROPOSED ANNUAL SEWER USAGE RATES: RESIDENTIAL
(Includes single family detached and all individually-metered condominium units collected on the property tax bill)

CURRENT RATE Per Unit of Water	PROPOSED 2011-2012 Per Unit of Water	PROPOSED 2012-2013 Per Unit of Water
\$0.77	\$0.97	\$0.99

PROPOSED ANNUAL SEWER USAGE RATES: HOMEOWNERS ASSOCIATIONS
(collected on the property tax bill)

SERVICE	CURRENT RATE Per Unit of Water	PROPOSED 2011-2012 Per Unit of Water	PROPOSED 2012-2013 Per Unit of Water
Master-Metered Condominium Units	\$0.77	\$0.97	\$0.99
Association Guardhouse	\$4.73	\$5.63	\$5.74
Association Recreation Area (no food service)	\$4.89	\$5.81	\$5.92

MAKING CONSERVATION A WAY OF LIFE

MNWD adopted a Water Conservation Program that includes 12 mandatory conservation rules residents and businesses must take to ensure a sufficient supply of water into the future.

- Irrigation of lawns, landscapes or other vegetation is prohibited between the hours of 10 a.m. and 5 p.m.
- Watering is limited to no more than 15 minutes per day, per station. This does not apply to drip irrigation, high-efficiency sprinkler systems or work to repair irrigation systems.
- Excessive watering resulting in runoff is prohibited
- No hosing down hard or paved surfaces
- All major leaks, breaks or malfunctions must be fixed in a timely manner
- Fountains and decorative water features must use re-circulated water
- A bucket or hose with a shut-off nozzle must be used when washing vehicles
- Restaurants must serve water only upon request
- Hotels must provide the option to guests not to launder linens daily
- New water service will not be provided to structures using single-pass cooling systems
- Commercial laundry and car wash systems must re-circulate their water
- Restaurants must wash dishes using water-conserving spray valves

Your cooperation with these measures will help ensure a sufficient water supply for all of our customers.

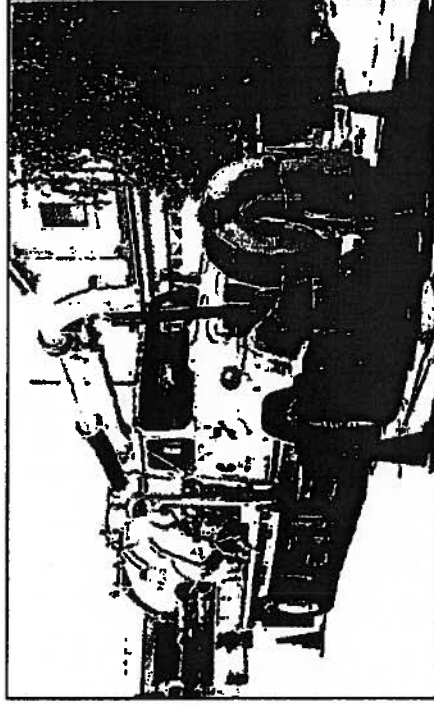
Visit www.mnwd.com for additional conservation tips and rebates.

Increased Efficiency Lowers Costs and Improves Service
SCWD runs a lean and efficient operation. To identify further areas for improved efficiency, the SCWD Board commissioned an Independent Organizational Assessment, which is now underway, and its recommendations will be implemented. A significant increase in efficiency has already resulted from the installation of automated meter reading devices, and it has freed up staff to take on additional work.

Other Revenues Help Offset Increasing Costs
SCWD generates other revenues to help cover operational costs. Lease revenues are approaching \$600,000 per year, subsidies from Metropolitan Water District for groundwater production are about \$160,000 per year, and approximately \$50,000 in annual revenues comes from wireless carriers that installed antennae at SCWD reservoirs. SCWD also received a \$78,000 reimbursement from its insurance provider for excellent safety performance in 2010.

SCWD Postponed Planned Rate Increase Last Year
SCWD cut and postponed a necessary rate increase last year during the economic downturn. The SCWD Board directed staff to postpone new projects for the year in order to lower costs during the rate freeze. Recently, the SCWD Board decided it must now consider a rate increase to continue to provide reliable sewer service.

SMART PLANNING, SOUND FINANCES: A RATE INCREASE IS STILL NECESSARY
SCWD has comprehensive long-range plans in place that identify cost-effective approaches to accomplish project priorities. SCWD continues to pass its annual financial audits; implements financial management, investment and reserve policies; and has earned a AA+ bond rating. All these help lower expenses, but in the face of steadily rising power and project costs, the SCWD Board is considering necessary sewer usage rate component increases.



ORDINANCE NO. 11-01

ORDINANCE OF RULES AND REGULATIONS OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ADOPTING CERTAIN REVISIONS TO SEWER USAGE RATE COMPONENTS, CHARGES IN THE SCHEDULE OF RATES AND CHARGES AS SET FORTH IN *EXHIBIT B TO THE RULES AND REGULATIONS OF MOULTON NIGUEL WATER DISTRICT FOR WATER, SEWER AND RECYCLED WATER SERVICE* FOR:

LAGUNA SUR/MONARCH POINT LAFCO REORGANIZATION RO96-05

WHEREAS, the Moulton Niguel Water District (MNWD) is a California Water District organized and existing under the California Water District Law (California Water Code Section 34000 *et seq.*), and all of the land within the boundaries of said District are located in the County of Orange, State of California;

WHEREAS, Section 35423 and Section 35501 of the California Water Code empower MNWD to establish, print and distribute equitable rules and regulations for the distribution of water and the provision of sewer service, and to prescribe and collect rates or other charges for water and sewer service;

WHEREAS, the Board of Directors of MNWD (the "Board"), previously approved and adopted *Rules and Regulations of Moulton Niguel Water District for Water, Sewer, and Recycled Water Service*, as amended from time to time ("*Rules and Regulations*"). *Exhibit B* of the *Rules and Regulations* sets forth rates and charges for water, sewer and recycled water service, which *Exhibit B* may be changed from time to time by adoption of a revised *Exhibit B* or portion thereof;

WHEREAS, pursuant to Orange County Local Agency Formation Commission (LAFCO) Reorganization RO96-05, certain real property commonly known as the Laguna Sur/Monarch Point area (the "Property") was detached from South Coast Water District (SCWD) and annexed to MNWD, subject to the terms and conditions approved by LAFCO for Reorganization RO96-05. Reference is made to the map and legal description depicting the boundaries of the Property under Reorganization RO96-05 attached to LAFCO Certificate of Completion, recorded on April 30, 1997;

WHEREAS, included within the terms and conditions of Reorganization RO96-05 is the requirement that SCWD continue to provide for sewage collection, conveyance, treatment and disposal services to the Property, and annually furnish MNWD with SCWD's authorized sewer service charges and rates (the "Reorganization Sewer Service Charges") in sufficient time for MNWD to incorporate such charge in the *Rules and Regulations*, and arrange for the continued collection of such charges via the property tax statements on the tax roll;

WHEREAS, MNWD has collected the Reorganization Sewer Service Charges set by SCWD pursuant to the California Water District Law and pursuant to Health and Safety Code

Section 5471 since fiscal year 1998-99, and annually thereafter, as such charges have been revised from time-to-time by SCWD, and thereafter by MNWD in its *Rules and Regulations*;

WHEREAS, MNWD adopted the last revisions to the Reorganization Sewer Service Charges in 2009 in compliance with Article XIID, section 6 of the California Constitution and implementing statutes (together, "Proposition 218"), including and mailed notice of the proposed multi-year 2009 SCWD Rate Revisions ("2009 Proposition 218 Notice") to owners of assessor parcels within the Property and of a public hearing thereon, and subsequently MNWD adopted Ordinance No. 09-01 which sets forth the current effective Reorganization Sewer Service Charges through 2012-13;

WHEREAS, MNWD received notice from SCWD of proposed annual variable usage rate components of the Reorganization Sewer Service Charges for the 2011-12 and 2012-13 years which are increased from what was set forth in the 2009 Proposition 218 Notice, and of proposed increases to the annual fixed charges that vary from those adopted under MNWD Ordinance No. 09-01 (together the annual usage rates and fixed rate charges referred to as the "2011 SCWD Rate Revisions");

WHEREAS, MNWD mailed notice of the proposed annual variable usage rate components under the 2011 SCWD Rate Revisions, and the public protest hearing to be held thereon to the property owners within the Property in compliance with Proposition 218 ("2011 Proposition 218 Notice");

WHEREAS, the Board of Directors held the public hearing not less than forty-five (45) days after the District mailed the 2011 Proposition 218 Notice to such property owners and heard and considered all public testimony and written protests against the proposed increases to the sewer usage rate components for 2011-12 and 2012-13 under the 2011 SCWD Rate Revisions in compliance with Proposition 218;

WHEREAS, the District Secretary provided the Board with a final tabulation of all written protests received against the proposed increases to the sewer usage rate components for 2011-12 and 2012-13 under the 2011 SCWD Rate Revisions;

WHEREAS, the District did not receive written protests from a majority of affected property owners by the close of the public hearing;

WHEREAS, pursuant to the California Water District Law and California Health and Safety Code Section 5471, MNWD is empowered to establish, and continue the collection of, the Reorganization Sewer Service Charges for the Property upon approval of the Board after a noticed public hearing;

WHEREAS, the Board by adoption of this Ordinance desires to approve a revised *Schedule of Rates and Charges - Exhibit B* to the *Rules and Regulations* in order to adopt the 2011 SCWD Rate Revisions;

WHEREAS, the Board by the adoption of Resolution No. 11-____ on this date will complete noticed protest hearing proceedings to continue to provide for the collection of the Reorganization Sewer Service Charges, including the 2011 SCWD Rate Revisions for 2011-12, for parcels within the Property via the property tax statements on the secured tax roll pursuant to Section 5473 *et seq.* of the California Health and Safety Code;

WHEREAS, Section 21080 (b) (8) of the California Public Resources Code provides that the establishment, modification, structuring or approval of rates, tolls, fares, or other charges by public agencies are exempt from the requirements of the California Environmental Quality Act (CEQA) provided that certain findings are made specifying the basis for the claim of exemption; and

WHEREAS, the Board deems it advisable and finds that it would be in the best interest of the District to amend *Exhibit B* of the *Rules and Regulations* to adopt the 2011 SCWD Rate Revisions.

NOW, THEREFORE, the Board of Directors of Moulton Niguel Water District does hereby **ORDAIN** as follows:

Section 1. By passage of this Ordinance No. 11-01, revisions to the *Schedule of Rates and Charges (Exhibit B)* included in the *Rules and Regulations*, as more particularly set forth in **Attachment 1** to this Ordinance, specifically the 2011 SCWD Rate Revisions, are hereby adopted and authorized, to be effective on August 1, 2011. The General Manager or his designees and Legal Counsel are directed to incorporate the terms of **Attachment 1** into *Exhibit B* of the *Rules and Regulations*.

Section 2. The Board hereby finds and determines that the proposed 2011 SCWD Rate Revisions as set forth in **Attachment 1** to this Ordinance are within the purposes set forth in Section 21080 (b)(8) of the California Public Resources Code including but not by way of limitation, the purposes of (1) meeting operating expenses, (2) purchasing or leasing supplies, equipment or materials, (3) meeting financial reserve needs and requirements, and (4) obtaining funds for capital projects necessary to maintain service within existing areas; therefore, that such rate revisions are exempt from CEQA. The General Manager or the Director of Finance, or their designees, and Legal Counsel are authorized to file a **Notice of Exemption** relative to the sewer rate revisions for the Property with the Clerk of the County of Orange under the California Environmental Quality Act (CEQA).

Section 3. The District Secretary and Legal Counsel are hereby ordered and directed to publish a summary of the amendments to the *Schedule of Rates and Charges (Exhibit B)* and any additional and conforming language to the *Rules and Regulations*, such summary to include the District's Internet address and a physical location where the complete text of the amended *Schedule of Rates and Charges (Exhibit B)* and the *Rules and Regulations* can be reviewed, in a newspaper of general circulation within MNWD pursuant to California Water Code Section 35424, and to post a certified copy of this Ordinance in three (3) public places within MNWD.

Section 4. The Recitals are incorporated in this Ordinance. The provisions of this Ordinance shall be effective immediately upon adoption.

Section 5. If any provisions of this Ordinance or the application thereof to any customers or circumstances are held invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance or the application of such provision to other customer or other circumstances shall not be affected. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, unenforceable or unconstitutional by any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance. The Board declares that they would have passed said Ordinance by section, subsection, sentence, clause or phrase thereof.

Section 6. District Ordinance No. 09-01 and all resolutions and policies inconsistent with this Ordinance No. 11-01 are hereby repealed as of August 1, 2011.

ADOPTED, SIGNED and APPROVED this 21st day of July, 2011.

MOULTON NIGUEL WATER DISTRICT

President
MOULTON NIGUEL WATER DISTRICT and the
Board of Directors thereof

Secretary
MOULTON NIGUEL WATER DISTRICT and the
Board of Directors thereof

APPROVED AS TO FORM:

BOWIE, ARNESON, WILES & GIANNONE
Legal Counsel - MOULTON NIGUEL WATER DISTRICT

By: _____
Patricia B. Giannone

ATTACHMENT 1

I. ANNUAL SEWER SERVICE CHARGES*

A. Residential (single family detached and all individually metered condominium units)

Customer Type	2011-2012	2012-2013
Single Family	\$443.13	\$456.22
Duplex	\$259.46	\$267.13
Triplex	\$260.87	\$268.58
Fourplex	\$251.54	\$258.97
Multiple (5+)	\$192.57	\$198.26

B. Homeowners' Association

Service Type	2011-2012	2012-2013
Master – Metered Condominium Units	\$443.13	\$456.22
Association Guardhouse	\$443.13	\$456.22
Association Recreation Area (no food service)	\$443.13	\$456.22

II. ANNUAL SEWER USAGE RATES* - Sewer usage rates are based on the property's water use, determined based on prior annual use by the property. 1 Billing Unit (BU) of water = 1CCF = 748 gallons.

A. All Residential (including master-metered condominium units)

2011-2012	2012-2013
\$0.91 per BU	\$0.99 per BU

B. Homeowners' Association

Service Type	2011-2012	2012-2013
Association Guardhouse	\$5.48 per BU	\$5.74 per BU
Recreation Area (no food service)	\$5.48 per BU	\$5.92 per BU

***All annual service charges and usage rates are collected on the annual property tax bill. All charges and usage rates are effective for 2011-2012, commencing August 1, 2011, through June 30, 2012; and for 2012-2013 from July 1, 2012 through the following June 30, 2013.**

ATTACHMENT 1

to

ORDINANCE NO. 11-01 (adopted July 21, 2011)

**ORDINANCE OF RULES AND REGULATIONS OF THE BOARD OF DIRECTORS OF
MOULTON NIGUEL WATER DISTRICT ADOPTING CERTAIN REVISIONS TO
SEWER USAGE RATE COMPONENTS, CHARGES IN THE SCHEDULE OF RATES
AND CHARGES AS SET FORTH IN *EXHIBIT B* TO THE *RULES AND REGULATIONS
OF MOULTON NIGUEL WATER DISTRICT FOR WATER, SEWER AND RECYCLED
WATER SERVICE FOR:*
(LAGUNA SUR/MONARCH POINT LAFCO REORGANIZATION RO96-05)**

I. ANNUAL SEWER SERVICE CHARGES*

A. Residential (single family detached and all individually metered condominium units)

Customer Type	2011-2012	2012-2013
Single Family	\$448.13 <u>443.13</u>	\$456.22
Duplex	\$262.39 <u>259.46</u>	\$267.13
Triplex	\$263.81 <u>260.87</u>	\$268.58
Fourplex	\$254.38 <u>251.54</u>	\$258.97
Multiple (5+)	\$194.74 <u>192.57</u>	\$198.26

B. Homeowners' Association

Service Type	2011-2012	2012-2013
Master – Metered Condominium Units	\$448.13 <u>443.13</u>	\$456.22
Association Guardhouse	\$448.13 <u>443.13</u>	\$456.22
Association Recreation Area (no food service)	\$448.13 <u>443.13</u>	\$456.22

II. ANNUAL SEWER USAGE RATES* - Sewer usage rates are based on the property's water use, determined based on prior annual use by the property. 1 Billing Unit (BU) of water = 1CCF = 748 gallons.

A. All Residential (including master-metered condominium units)

2011-2012	2012-2013
\$0.97 <u>91</u> per BU	\$0.99 per BU

B. Homeowners' Association

Service Type	2011-2012	2012-2013
Association Guardhouse	\$5.63 <u>5.48</u> per BU	\$5.74 per BU
Recreation Area (no food service)	\$5.81 <u>5.48</u> per BU	\$5.92 per BU

***All annual service charges and usage rates are collected on the annual property tax bill. All charges and usage rates are effective for 2011-2012, commencing August 1, 2011, through June 30, 2012; and for 2012-2013 from July 1, 2012 through the following June 30, 2013.**

ATTACHMENT NO. L-2

RESOLUTION NO. 11-_____

RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ADOPTING REPORT OF SEWER SERVICE CHARGES TO BE COLLECTED VIA PROPERTY TAX STATEMENTS ON TAX ROLL FOR THE PERIOD COMMENCING JULY 1, 2011, AND THEREAFTER UNTIL REPEALED

(LAGUNA SUR/MONARCH POINT LAFCO REORGANIZATION RO96-05)

WHEREAS, the Moulton Niguel Water District (MNWD or District) is a California Water District organized and existing under the California Water District Law (California Water Code Section 34000 *et seq.*), and all of the land within the boundaries of said District are located in the County of Orange, State of California;

WHEREAS, pursuant to Orange County Local Agency Formation Commission (LAFCO) Reorganization RO96-05, certain real property commonly known as the Laguna Sur/Monarch Point area ("Property") was detached from South Coast Water District (SCWD) and annexed to Moulton Niguel Water District (MNWD), subject to the terms and conditions approved by LAFCO for Reorganization RO96-05. Reference is made to the map and legal description depicting the boundaries of the Property under Reorganization RO96-05 attached to LAFCO's Certificate of Completion recorded on April 30, 1997;

WHEREAS, included within the terms and conditions of Reorganization RO96-05 is the requirement that SCWD continue to provide for sewage collection, conveyance, treatment and disposal services to the Property, and annually furnish MNWD with SCWD's authorized sewer service charges ("Reorganization Sewer Service Charges") in sufficient time for MNWD to arrange for the continued collection of such charges on the tax roll, which has been SCWD's practice commencing 1995;

WHEREAS, after individual notice to property owners of parcels within the Property, a public hearing pursuant to Health and Safety Code Section 5473 *et seq.*, and adoption of Ordinance No. 180 entitled "An Ordinance of the Board of Directors of South Coast Water District Establishing Method for Billing Sewer Service Charges for the Fiscal Year Commencing July 1, 1995," on July 25, 1995, as thereafter supplemented, SCWD approved the Reorganization Sewer Service Charges to be collected from parcels within the Property via the property tax statements on the tax roll;

WHEREAS, SCWD thereafter from time-to-time has revised the Reorganization Sewer Service Charges, and the District has continuously provided for the collection of the Reorganization Sewer Service Charges, as revised from time to time by SCWD, via the property tax statements on the tax roll;

WHEREAS, the Board adopted Ordinance No. 11-01 on July 21, 2011, to revise the Reorganization Sewer Charges pursuant to the California Water District Law and pursuant to Health and Safety Code Section 5471, said revision being made to incorporate the revisions to

such charges pursuant to SCWD Ordinance No. 212, adopted by SCWD on June 23, 2011 (“2011 Rate Revisions”);

WHEREAS, the Board finds it in MNWD’s best interest to continue to collect the Reorganization Sewer Service Charges on the tax roll via the property tax statements;

WHEREAS, by Resolution No. 11-__ adopted on June 16, 2011, the Board elected to continue to have the Reorganization Sewer Service Charges for parcels within the Property collected on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, general taxes, pursuant to Section 5473 *et seq.* of the California Health and Safety Code, commencing July 1, 2011, subject to a public hearing thereon and the consideration of all protests and objections to such collection practice;

WHEREAS, pursuant to Resolution No. 11-__, a report (“Report”) has been filed with the District Secretary containing a description of such parcels and the corresponding Reorganization Sewer Service Charges commencing July 1, 2011, as such Reorganization Sewer Service Charges have been revised pursuant to the 2011 Rate Revisions (the 2011 Rate Revisions to be effective beginning August 1, 2011);

WHEREAS, pursuant to Health and Safety Code Section 5473.1, the filing of the Report and notice of public hearing thereon was duly noticed as required by law by publication once each week for two successive weeks in the *Orange County Register*, a newspaper of general circulation, printed and published in the Property boundaries, such hearing to be held on July 21, 2011, at 6:00 p.m. (or as soon thereafter as practicable) at the Board Meeting Room located at 27500 La Paz Road, Laguna Niguel, California 92677; and

WHEREAS, at the time set, the duly noticed public hearing was held and all persons interested were given an opportunity to be heard concerning the report and to submit any objections or protests to the Report.

NOW, THEREFORE, the Board of Directors of Moulton Niguel Water District does hereby **RESOLVE, DETERMINE and ORDER** as follows:

Section 1. The Recital clauses set forth above are incorporated herein.

Section 2. The Board hereby determines that protests to the Report were not made by the owners of a majority of separate parcels of the Property described in the Report.

Section 3. The Board hereby adopts the Report attached as Exhibit A to this Resolution containing a description of the parcels comprising the Property for which the Reorganization Sewer Service Charges shall be collected via property tax statements on the tax roll and containing the amount of the charges for each parcel commencing July 1, 2011, computed in conformity with the “Schedule of Rates and Charges” previously adopted by the Board pursuant to MNWD Ordinance No. 11-01, dated July 21, 2011, which ordinance adopted the 2011 Rate Revisions under SCWD Ordinance No. 212, as described above in the Recitals.

Section 4. The Secretary is hereby authorized and directed to endorse on the Report a statement that the Report was adopted by this Board of Directors on July 21, 2011, and to take whatever other action is required by the County of Orange Auditor-Controller (or other County officers) in regard thereto.

Section 5. The Secretary is hereby authorized and directed to file a copy of the Report with the County of Orange Auditor-Controller (or such other County officers as may request same).

Section 6. The County of Orange Auditor-Controller (and such other County officers as required) be, and hereby is, ordered and directed to add the Reorganization Sewer Service Charges to the 2011-12 secured tax roll in accordance with the Report.

Section 7. The Secretary shall cause a copy of this Resolution and the Report, in either written or electronic form, to be filed with the County of Orange Auditor-Controller (or such County officers as required) on or before August 10, 2011.

ADOPTED, SIGNED and APPROVED this 21st day of July 2011.

MOULTON NIGUEL WATER DISTRICT

President
MOULTON NIGUEL WATER DISTRICT and of
the Board of Directors thereof

Secretary
MOULTON NIGUEL WATER DISTRICT and of
the Board of Directors thereof

APPROVED AS TO FORM:

BOWIE, ARNESON, WILES & GIANNONE
Legal Counsel - MNWD

By: _____
Patricia B. Giannone

ATTACHMENT NO. L-3

A G R E E M E N T

This AGREEMENT, herinafter referred to as "AGREEMENT", for the purposes of identification hereby numbered D10-037 and dated ____ day of _____, 20____, is

BY AND AMONGST

ORANGE COUNTY FLOOD CONTROL DISTRICT,
A body corporate and politic,
hereinafter referred to as "DISTRICT"

AND

MOULTON NIGUEL WATER DISTRICT
hereinafter referred to as "MNWD"

AND

SANTA MARGARITA WATER DISTRICT
hereinafter referred to as "SMWD"

Which are sometimes individually referred to as "PARTY" or collectively as "PARTIES", and MNWD and SMWD are sometimes referred to collectively as "WATER DISTRICT".

R E C I T A L S

WHEREAS, DISTRICT proposes the construction of Trabuco Creek (FACILITY NO. L02) Channel Levee Protection Project, Phase VII; which begins on both sides of the Trabuco Creek Channel from approximately Station 17+25 to Station 44+19, within the City of San Juan Capistrano, hereinafter referred to as "DISTRICT PROJECT";

WHEREAS, WATER DISTRICT have an interest in a segment of DISTRICT PROJECT which begins on the westerly side of Trabuco Creek Channel from approximately Station 18+96

1 (Start Station to be field verified prior to construction) to Station 43+80,
2 hereinafter referred to as "REPLACEMENT";

3 WHEREAS, MNWD and SMWD (WATER DISTRICT) jointly own, operate and maintain a
4 twenty (20) inch Plant 3A Effluent Transmission Main, hereinafter referred to as
5 "ETM", installed within DISTRICT right-of-way by way of three encroachment permits
6 numbered 77-00580FE, 82-13826RE and 81-00535FE;

7 WHEREAS, a total of approximately two thousand four-hundred seventy (2,470)
8 linear feet of the ETM falls within the limits of DISTRICT PROJECT. This reach of
9 ETM consists of a twenty (20) inch diameter Ductile Iron Pipe (DIP);

10 WHEREAS, DISTRICT's engineering analyses determined that protecting ETM in
11 place during DISTRICT PROJECT construction is not economically feasible and that this
12 portion of DISTRICT PROJECT construction activities could result in un-repairable
13 damage and/or catastrophic failure of ETM during construction. Therefore, DISTRICT
14 and WATER DISTRICT agree that the safest course of action is to temporarily re-route
15 ETM flows, remove interfering portions of ETM during DISTRICT PROJECT construction
16 (by DISTRICT's contractor), and replace interfering portion of ETM with a new and
17 upgraded transmission line; and

18 WHEREAS, per the above listed DISTRICT encroachment permits, WATER DISTRICT is
19 obligated to remove and/or replace ETM upon DISTRICT's request and have determined to
20 request DISTRICT include into DISTRICT PROJECT the necessary upgrade and replacement
21 of WATER DISTRICT's twenty (20) inch ETM with a new thirty (30) inch ETM in
22 accordance with the provisions of this AGREEMENT, with WATER DISTRICT to provide
23 final design plans and special provisions to DISTRICT for the REPLACEMENT.

24

25

26 NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

SECTION I

DISTRICT SHALL:

1. Include bid items in DISTRICT PROJECT plans and specifications for the removal and replacement of WATER DISTRICT's existing twenty (20) inch ETM with a new thirty (30) inch diameter polyvinyl chloride (PVC) with a Dimension Ratio (DR) of 21, or thicker, ETM; including connections to the existing pipeline, relevant appurtenances, and appropriate testing, as listed in the Schedule of Work Items and Special Provisions in Section G of the DISTRICT PROJECT bid package, also referred to as the REPLACEMENT, based on the Final Design Plans and Special Provisions provided to DISTRICT by WATER DISTRICT.
2. Solicit competitive bids for the DISTRICT PROJECT including REPLACEMENT and award of construction contract to the lowest responsive and responsible bidder, hereinafter referred to as "CONTRACTOR".
3. Be the lead agency for purposes of CEQA and prepare appropriate CEQA document(s) to address REPLACEMENT, the cost of which shall be paid by WATER DISTRICT and as included the within ten percent (10%) administrative costs described in Section II, 7C below.
4. Provide construction contract documents to WATER DISTRICT which shall identify all sub-contractors who will accomplish the REPLACEMENT.
5. Direct its CONTRACTOR to provide all relevant REPLACEMENT related construction submittals for WATER DISTRICT review and written approval for consistency with DISTRICT's Plans and Specifications; WATER DISTRICT approval shall not be unreasonably withheld.
6. Be responsible for awarding the construction contract to the CONTRACTOR and for overseeing and administering the construction contract, including those elements of the DISTRICT PROJECT and the construction contract that are related

1 to the REPLACEMENT work.

2 7. Furnish a representative to perform the usual functions of a Resident
3 Engineer, hereinafter referred to as "RESIDENT ENGINEER", who shall be
4 responsible for monitoring and inspecting the CONTRACTOR'S performance. The
5 RESIDENT ENGINEER shall be required to provide written notice seventy-two (72)
6 hours in advance to WATER DISTRICT representative, hereinafter referred to as
7 "WATER DISTRICT REPRESENTATIVE", of when REPLACEMENT work in DISTRICT PROJECT
8 area and connections to existing facilities are scheduled.

9 8. Issue Construction Contract Change Orders ("CCOs") as required for
10 REPLACEMENT work, but only after review and written approval by WATER DISTRICT;
11 WATER DISTRICT approval shall not be unreasonably withheld and WATER DISTRICT
12 shall approve within five (5) working days from receipt of a CCO. Failure to
13 approve a CCO within the five (5) day period shall be deemed acceptance by
14 WATER DISTRICT.

15 9. Incorporate within the contract documents for DISTRICT PROJECT a requirement
16 for the CONTRACTOR to obtain and keep in full force and effect throughout the
17 duration of DISTRICT PROJECT, for the mutual benefit of WATER DISTRICT and
18 DISTRICT, Commercial General Liability insurance with a limit of five million
19 dollars (\$5,000,000) per occurrence with a minimum aggregate of ten million
20 dollars (\$10,000,000) and Commercial Automobile Liability insurance with a
21 limit of one million dollars (\$1,000,000). Said policies shall name WATER
22 DISTRICT and DISTRICT as additional insureds by separate endorsements, and
23 shall, additionally contain language providing for waiver of subrogation, that
24 the policies are primary and noncontributing with any insurance that may be
25 carried by the parties hereto, that said insurance may not be cancelled or
26 materially changed except upon thirty (30) calendar days written notice to

1 DISTRICT, and any losses shall be payable notwithstanding any act or failure to
2 act or negligence of the WATER DISTRICT and/or DISTRICT. DISTRICT shall also
3 require that workers' compensation benefits are secured by the CONTRACTOR as
4 required by law with a waiver of subrogation endorsement against WATER DISTRICT
5 and DISTRICT. DISTRICT shall require CONTRACTOR to indemnify WATER DISTRICT in
6 contract documents.

7 10. Require CONTRACTOR to construct REPLACEMENT to the requirements of WATER
8 DISTRICT. DISTRICT shall not accept DISTRICT PROJECT work from CONTRACTOR
9 until WATER DISTRICT concur that the REPLACEMENT has been performed to WATER
10 DISTRICT requirements and in accordance with WATER DISTRICT Plans and Special
11 Provisions. WATER DISTRICT shall provide concurrence in writing to RESIDENT
12 ENGINEER within fifteen (15) working days of REPLACEMENT work completion.
13 Failure to provide concurrence within allotted time shall be deemed acceptance
14 of REPLACEMENT by WATER DISTRICT.

15 11. Require its CONTRACTOR to provide a one (1) year warranty for the
16 REPLACEMENT for the benefit of WATER DISTRICT. This warranty requirement is
17 stated (by reference to page 26, Section 6-8, "Completion, Acceptance, and
18 Warranty" of the 2009 Green Book Standard Specifications for Public Works
19 Construction as published by BNi) in the DISTRICT PROJECT Plans and Special
20 Provisions.

21 12. Upon award of DISTRICT PROJECT to CONTRACTOR, written acceptance of
22 REPLACEMENT, and issuance of Notice to Proceed (NTP), DISTRICT shall invoice
23 MNWD for fifty percent (50%) and SMWD for fifty percent (50%) of the WATER
24 DISTRICT Engineer's Estimate, as shown in Exhibit A: "Engineer's Estimate of
25 Probable Construction Costs", for costs associated with REPLACEMENT. WATER
26 DISTRICT shall pay one hundred percent (100%) of estimated amount to DISTRICT

1 within sixty (60) calendar days of receipt of said Invoice.

2
3 SECTION II

4 **WATER DISTRICT SHALL:**

- 5 1. Provide final design plans, specifications, special provisions, and
6 estimates (PS&E) to DISTRICT for REPLACEMENT to be included in DISTRICT PROJECT
7 contract documents at least sixty (60) calendar days before DISTRICT PROJECT
8 bid opening date.
- 9 2. Be responsible for all costs, review, approval of the design, removal,
10 disposal, and replacement of WATER DISTRICT twenty (20) inch ETM based on the
11 part of definition for CONTRACTOR's total bid amount and for all contract
12 change orders as described in Section II.4 below for the REPLACEMENT portion of
13 DISTRICT PROJECT and shall not unreasonably delay CONTRACTOR.
- 14 3. WATER DISTRICT shall deposit with DISTRICT one hundred percent (100%) of the
15 estimated REPLACEMENT cost, as shown in Exhibit A, which is a sum of four
16 hundred thousand dollars (\$400,000.00). Said deposit shall be made within
17 sixty (60) calendar days of receipt of invoice from DISTRICT following the
18 execution of this AGREEMENT and once the NTP for DISTRICT PROJECT is issued.
- 19 4. Review and approve CCOs issued by DISTRICT in accordance with Section I.8
20 above specifically related to REPLACEMENT, and be solely responsible for all
21 CCO costs pertaining to REPLACEMENT. WATER DISTRICT shall not unreasonably
22 withhold consent to CCOs and MNWD and SMWD shall pay to DISTRICT its fifty
23 percent (50%) share of the cost of such CCO's within thirty (30) calendar days
24 of receipt of a written request for such payment from DISTRICT. The request
25 for payment shall be included with the request for approval of the CCO.
- 26 5. Coordinate outage (discontinue effluent flow) of twenty (20) inch ETM with

1 CONTRACTOR. The CONTRACTOR will identify a Phasing Plan for the twenty (20)
2 inch ETM and include a proposed outage period to be submitted to DISTRICT and
3 approved in writing by WATER DISTRICT. The duration of the CONTRACTOR'S outage
4 plan shall be extended if required for the work of REPLACEMENT, and if approved
5 by RESIDENT ENGINEER and WATER DISTRICT REPRESENTATIVE, but not more than 20
6 days beyond the period accepted by the WATER DISTRICT unless additional
7 management approvals are obtained.

8 6. Furnish a representative (at WATER DISTRICT'S option) to assist over-seeing
9 construction for REPLACEMENT, hereinafter referred to as, "WATER DISTRICT
10 CONSTRUCTION REPRESENTATIVE." Said WATER DISTRICT CONSTRUCTION REPRESENTATIVE
11 and DISTRICT'S RESIDENT ENGINEER shall cooperate and consult with each other.
12 Should DISTRICT'S RESIDENT ENGINEER and WATER DISTRICT CONSTRUCTION
13 REPRESENTATIVE be unable to reach agreement, the decision of DISTRICT'S
14 RESIDENT ENGINEER shall be final provided the ETM is constructed to the WATER
15 DISTRICT final design plans, special provisions, standards, and specifications.
16 Specific inspection for all REPLACEMENT work by the CONTRACTOR within the
17 DISTRICT PROJECT limits and for all connections to existing facilities owned by
18 the WATER DISTRICT shall be performed to the satisfaction of the WATER DISTRICT
19 CONSTRUCTION REPRESENTATIVE.

20 7. Upon completion of REPLACEMENT, and within sixty (60) calendar days of
21 receipt of a Final Accounting Report and Invoices from DISTRICT, payment from
22 WATER DISTRICT to DISTRICT or reimbursement from DISTRICT to WATER DISTRICT (if
23 estimated deposit amount exceeds actual costs), shall be executed for all
24 REPLACEMENT work determined as the sum of 7A, 7B, and 7C below:

25 A. The actual sum of the item prices bid for the construction of
26 REPLACEMENT from CONTRACTOR to DISTRICT for DISTRICT PROJECT.

1 B. CCO expenses approved by WATER DISTRICT REPRESENTATIVE related to
2 REPLACEMENT work and not already paid by WATER DISTRICT, if any, shall
3 be added to the above.

4 C. An additional ten percent (10%) of the sum determined by the summation
5 of 7A and 7B above to reimburse DISTRICT for costs incurred for
6 construction administration, inspection, materials testing, bonds,
7 insurance, scheduling, and other mobilization costs related to
8 REPLACEMENT.

9 Interest accrual shall not be earned, factored, disbursed, or implied in
10 Section II.7.

11 8. MNWD and SMWD, as agreed, shall each pay fifty percent (50%) of the costs
12 for REPLACEMENT and CCOs of the ETM as determined by Section II.7 above.

13 9. Upon filing of a Notice of Completion by DISTRICT, own, operate and maintain
14 the new thirty (30) inch ETM.

15 10. Apply for, secure, and accept a County Property Encroachment Permit for
16 installation of the WATER DISTRICT's facilities within DISTRICT's right-of-way.
17 Upon completion and acceptance of REPLACEMENT within DISTRICT PROJECT, WATER
18 DISTRICT shall be responsible for compliance with the terms and conditions set
19 forth in said County Property Encroachment Permit which terms and conditions
20 will be consistent with existing County Property Permits held by WATER DISTRICT
21 for DISTRICT PROJECT. No encroachment permit fees shall be assessed against
22 WATER DISTRICT for administration or processing of documents of plans for
23 acquisition of encroachment permit or any other permit related fees. By
24 accepting County Property Encroachment Permit, WATER DISTRICT agrees to
25 relocate, reconstruct or modify the installations to be made under this permit
26 promptly upon written notice to do so, entirely at its expense, when necessary

1 for the construction, reconstruction, improvement or alteration of DISTRICT's
2 works or tributary entries. WATER DISTRICT shall relocate the pipeline outside
3 DISTRICT Right-of-Way at its own expense if the pipeline for any reason
4 prevents DISTRICT from securing FEMA levee certification for San Juan Creek and
5 Trabuco Creek Channels.

6
7 SECTION III

8 **IT IS MUTUALLY UNDERSTOOD AND AGREED THAT:**

- 9 1. Successors and Assigns. The terms and provisions of this AGREEMENT shall be
10 binding upon and inure to the benefit of the parties hereto and their
11 successors and assigns.
- 12 2. Entire Agreement. This AGREEMENT constitutes the entire agreement between
13 DISTRICT and WATER DISTRICT and supersedes all prior understandings and
14 agreements, if any, between the parties with respect to the subjects hereof.
15 This AGREEMENT may only be modified in writing specifically referencing this
16 AGREEMENT and signed by all parties hereto.
- 17 3. Severability. If any part of this AGREEMENT is held, determined, or
18 adjudicated to be illegal, void, or unenforceable by a court of competent
19 jurisdiction, the remainder of this AGREEMENT shall be given effect to the
20 fullest extent reasonably possible.
- 21 4. Legal Authority/Counterparts. The parties to this AGREEMENT represent and
22 warrant that this AGREEMENT has been duly authorized and executed and
23 constitutes the legally binding obligation of their respective organization or
24 entity enforceable in accordance with its terms. This AGREEMENT may be
25 executed in three counterparts, and each such counterpart shall be deemed to be
26 an original.

1 5. Notices. All notices or other communications provided for herein shall be
2 in writing and shall be personally served or delivered by United States mail,
3 registered or certified, return receipt requested, postage prepaid, addressed
4 as follows:

5 Moulton Niguel Water District

6 Matt Collings, Director of Engineering & Operations

7 27500 La Paz Road

8 Laguna Niguel, CA 92677

9 mcollings@mnwd.com

10
11 Santa Margarita Water District

12 Don Ferons, Chief Engineer

13 26000 Antonio Parkway

14 Rancho Santa Margarita, CA 92688

15 danf@smwd.com

16
17 Orange County Flood Control District

18 Mary Valteau, Manager of Utilities Section

19 OC Public Works / OC Engineering

20 P.O. Box 4048

21 Santa Ana, CA 92702-4048

22 Mary.Valteau@ocpw.ocgov.com

23 Any party may, by notice to the others, designate a different address for
24 notices which shall be substituted for that specified above. Any notice given
25 as provided in this subparagraph shall be deemed to have been received, if
26 personally served, as of the date and time of service, or if deposited in the

1 mail as provided above, sixty (60) hours after deposit in the mail.

2 6. Governing Law and Venue. This AGREEMENT has been negotiated and executed in
3 the State of California and shall be governed by and construed under the laws
4 of the State of California. In the event of any legal action to enforce or
5 interpret this AGREEMENT, the sole and exclusive venue shall be a court of
6 competent jurisdiction located in Orange County, California, and the PARTIES
7 hereto agree to and do hereby submit to the jurisdiction of such court,
8 notwithstanding Code of Civil Procedure, Section 394.

9 7. Termination-Cause. If WATER DISTRICT breach any of the covenants or
10 conditions of this AGREEMENT, DISTRICT shall have the right to terminate this
11 AGREEMENT upon ten (10) days written notice prior to the effective day of
12 termination.

13 8. Termination-Other.

14 a. In the event DISTRICT PROJECT construction (as outlined above), is not
15 initiated within one year of the execution date of this AGREEMENT, this
16 AGREEMENT will automatically terminate unless extended in writing by
17 mutual agreement of the PARTIES.

18 b. In the event that DISTRICT is unable to proceed with DISTRICT PROJECT in
19 accordance with terms and without cause, DISTRICT may terminate this
20 AGREEMENT upon delivery of thirty (30) days written notice to WATER
21 DISTRICT.

22 c. Notice of Termination shall be in writing and shall state the date upon
23 which such termination is effective.

24 9. No Agency. This AGREEMENT is by and among WATER DISTRICT and DISTRICT and
25 is not intended and shall not be construed so as to create, as between WATER
26 DISTRICT and DISTRICT any agency, servant, employee, partnership, joint

1 venture, association or other relationship between WATER DISTRICT and DISTRICT.

2 10. Waiver. The failure of the WATER DISTRICT or DISTRICT to insist upon strict
3 performance of any of the covenants or conditions of this AGREEMENT shall not
4 be deemed a waiver of any right or remedy that the WATER DISTRICT or DISTRICT
5 may have, and shall not be deemed a waiver of the right to require strict
6 performance of all the terms, covenants and conditions of this AGREEMENT
7 thereafter, nor a waiver of any remedy for the subsequent breach or default of
8 any term, covenant or condition of this AGREEMENT.

9 11. Attorneys' Fees. Should litigation be necessary to enforce any terms,
10 covenants or provisions of this AGREEMENT then each PARTY shall bear its own
11 litigation and collection expenses, witness fees, court costs and attorney's
12 fees.

13 12. Indemnification. Pursuant to Section 895.4 of the Government Code, defend
14 with counsel and approved in writing by WATER DISTRICT / DISTRICT, indemnify
15 and save harmless WATER DISTRICT / DISTRICT, their elected and appointed
16 officials, officers, agents and employees, from all liability from loss, damage
17 or injury to persons or property, including any and all legal costs and
18 attorneys' fees, in any manner arising out of the performance, by DISTRICT /
19 WATER DISTRICT, its elected and appointed officials, officers, agents and
20 employees, of its obligations under this AGREEMENT.

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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates
2 opposite their respective signatures:

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MOULTON NIGUEL WATER DISTRICT

Date: _____

By _____

Larry McKenney
President, Board of Directors

APPROVED AS TO FORM:
GENERAL COUNSEL

Date: _____

By _____

Pat Giannone

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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates
2 opposite their respective signatures:

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SANTA MARGARITA WATER DISTRICT

Date: _____

By _____

John Schatz
General Manager

Date: _____

By _____

Betty Megrey
Secretary, Board of Directors

APPROVED AS TO FORM
GENERAL COUNSEL

Date: _____

By _____

John Schatz

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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates
2 opposite their respective signatures:

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ORANGE COUNTY FLOOD CONTROL DISTRICT
A body corporate and politic

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Date: _____

By _____

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Chair of the Board of Supervisors
Orange County, CA

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Signed and certified that a copy of
this document has been delivered to
the Chair of the Board per G.C. Sec 25013,
Reso 79-1535
Attest:

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Date: _____

By _____

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Darlene J. Bloom
Clerk of the Board of Supervisors
Orange County, California

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APPROVED AS TO FORM
Office of the County Counsel
Orange County, California

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22

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Date: _____

By _____

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DEPUTY

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ATTACHMENT NO. L-4

RESOLUTION NO. 11- __

**RESOLUTION OF THE BOARD OF DIRECTORS
OF MOULTON NIGUEL WATER DISTRICT
REVISING DESIGNATION OF FUND FOR
CERTAIN WBBRS REVENUES AND AUTHORIZING
GENERAL FUND TRANSFER**

WHEREAS, the Board of Directors of the District previously adopted Resolution No. 11-10 on April 21, 2011, to establish the "Conservation Fund" for deposit of WBBRS revenues generated under certain rate tiers for consumption in excess of water allowable under base allocation tiers, and the Board has determined to revise the name of such fund to "Water Efficiency Fund," and to authorize the transfer of \$47,600 collected as Water Supply Alert revenues from the General Fund to the Water Efficiency Fund;

WHEREAS, revenues generated from the Excessive and Wasteful Tiers (Tier 4 and Tier 5), net of the price of water collected under Tiers 4 and 5 that is in excess of the price of water collected under Tier 2, under WBBRS ("WBBRS Water Efficiency Revenues") will be segregated from other revenues of the District and deposited in the Water Efficiency Fund to be used for purposes generally related to water efficiency or conservation goals and policies, as specifically directed by the Board under budgetary and other approvals from time to time;

WHEREAS, these purposes may include, but are not limited to, conservation BMPs, education and devices; water system retrofitting; recycled and alternative water uses and supplies; and dry-year supply arrangements; and

WHEREAS, the Board by adoption of this Resolution re-names the Conservation Fund the "Water Efficiency Fund," such fund to be administered in accordance with the terms in Attachment 1 to this Resolution.

NOW, THEREFORE, the Board of Directors of Moulton Niguel Water District does hereby **RESOLVE, DETERMINE and ORDER** as follows:

Section 1. The Board hereby re-names the "Conservation Fund" the "Water Efficiency Fund" for the deposit and application of the WBBRS Water Efficiency Revenues (including interest earnings thereon) deposited therein generally in accordance with the policies set forth in Attachment 1, to be determined by the Board under budgetary and other approvals from time to time, and as may be revised from time to time by the Board.

Section 2. The Board authorizes the transfer of \$47,600 from the General Fund to the Water Efficiency Fund, such funds representing revenues generated from Water Supply Alert conditions during fiscal years 2009-10 and 2010-11

Section 3. The provisions of this Resolution shall be effective immediately upon adoption.

Section 4. Resolution No. 2011-10 is hereby rescinded.

ADOPTED, SIGNED and APPROVED this 21st day of July, 2011.

MOULTON NIGUEL WATER DISTRICT

President
MOULTON NIGUEL WATER DISTRICT and the
Board of Directors thereof

Secretary
MOULTON NIGUEL WATER DISTRICT and the
Board of Directors thereof

APPROVED AS TO FORM:

BOWIE, ARNESON, WILES & GIANNONE
Legal Counsel - MOULTON NIGUEL WATER DISTRICT

By: _____
Patricia B. Giannone

ATTACHMENT 1

Water Efficiency Fund Procedures

1. Objectives:

- A. Revenues generated from the Excessive and Wasteful Tiers, net of the price of water under Tiers 4 and 5 that is in excess of the price of water under Tier 2, will be segregated from other revenues of the District and deposited in the Water Efficiency Fund.
- B. The District's intent is to use revenue in the Water Efficiency Fund to implement water conservation or demand management measures employed to increase efficient uses of water, and further discourage the wasteful or unreasonable use of water, and may include, but not limited to, any of the following:
 - 1) Conservation best management practices, conservation education, irrigation controls and other conservation devices, and other demand management measures.
 - 2) Water system retrofitting, dual plumbing and facilities for production, distribution, and all uses of recycled water and other alternative water supplies.
 - 3) Projects and programs for prevention, control, or treatment of the runoff of water from irrigation and other outdoor water uses. Incremental costs shall not include the costs of stormwater management systems and programs.
 - 4) Securing dry-year water supply arrangements.
 - 5) Procuring water supplies to satisfy increments of water use in excess of the basic use allocations for the customers of the public entity, including supply or capacity contracts for water supply rights or entitlements and related energy costs for water delivery.
 - 6) Rebate programs for qualifying customers established and approved by the Board of Directors related to the foregoing.

NOTICE AND CALL OF SPECIAL MEETING
OF THE PERSONNEL & SALARY
BOARD OF DIRECTORS
MOULTON NIGUEL WATER DISTRICT
27500 La Paz Road, Laguna Niguel
Friday, July 22, 2011
9:00 a.m.
Approximate Meeting Time: 2-3 Hours

NOTICE IS HEREBY GIVEN that a Special Meeting of the Personnel & Salary Board of Directors of the Moulton Niguel Water District ("MNWD") has been called by the Chairman of the Personnel & Salary Board to be held on Friday, July 22, 2011, at 9:00 a.m., at MNWD's Administrative Offices located at the address above. The following business will be transacted and is the Agenda for this Special Meeting:

AGENDA

1. Call Meeting to Order
2. Public Comments
Persons wishing to address the Board of Directors on any Personnel & Salary Matters item listed on the Agenda should submit a "Request To Be Heard" form to the Recording Secretary before the Presiding Officer announces that agenda item. Your name will be called to speak at that time. (As required by law, public comments during a Special Meeting may address only specific items listed on the agenda, no other matters.)
3. **A CLOSED SESSION WILL BE CONDUCTED IN ACCORDANCE WITH GOVERNMENT CODE SECTION 54957 FOR:**

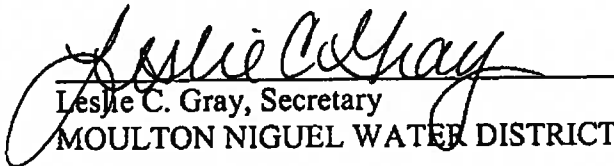
PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(SPECIAL PERSONNEL & SALARY MEETING – NO ADDITIONS
4. Adjournment

The Board of Directors' Meeting Room is wheelchair accessible. If you require any special disability related accommodations (i.e., access to an amplified sound system, etc.), please contact the Moulton Niguel Water District Secretary's office at (949) 643-2006 at least twenty-four (24) hours prior to the scheduled meeting. This agenda can be obtained in alternate format upon written request to the Moulton Niguel Water District Secretary at least twenty-four (24) hours prior to the scheduled meeting.

Agenda exhibits and other writings that are disclosable public records distributed to all, or a majority of, the members of the Moulton Niguel Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection at the District Office, 27500 La Paz Road, Laguna Niguel, CA ("District Office"). If such writings are distributed to members of the Board less than 24 hours prior to the meeting, they will be available in the reception area of the District Office at the same time as they are distributed, except that, if such writings are distributed immediately prior to, or during, the meeting, they will be available in the Board meeting room.

I hereby certify that the foregoing Notice was personally delivered, faxed, mailed or e-mailed to each member of the MNWD Board of Directors at least 24 hours prior to the scheduled time of the Special Meeting so noticed above; and posted 24 hours prior to the time of the Special Meeting at the usual agenda posting location of MNWD.


Leslie C. Gray, Secretary
MOULTON NIGUEL WATER DISTRICT