

AGENDA

Board of Directors' Meeting

November 19, 2009

6:00 p.m.

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.

**BOARD OF DIRECTORS' MEETING
MOULTON NIGUEL WATER DISTRICT
27500 La Paz Road, Laguna Niguel
November 19, 2009
6:00 p.m. (PST)
Approximate Meeting Time: 2-3 Hours**

I. CALL MEETING TO ORDER

II. PLEDGE OF ALLEGIANCE

III. APPROVE MINUTES OF OCTOBER 15, 2009 BOARD OF DIRECTORS' MEETING

IV. PUBLIC COMMENTS

V. PRESIDENT'S REPORT

VI. BOARD/COMMITTEE REPORTS3

VII. CONSENT ITEMS*

A. Meters in Service – October 20094

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D. Potable Water Imported – October 20095

E. Recycled Water Produced – October 20095

F. Recycled Water Goals – Thru October 20095

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* Consent items: All items will be approved by Board action as received and filed. Requests for discussion of any specific item should be made to the President of the Board in conjunction with the discussion of the consent motion.

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 6:00 p.m., on December 17, 2009 at the Moulton Niguel Water District.

VI. BOARD/COMMITTEE REPORTS

A. BOARD MEETINGS CHAIRMAN

Community Relations	Probolsky
Engineering & Facilities	Froelich
Finance & Audit	Buck
Investment	Lizotte
Personnel & Salary	McKenney

B. STANDING COMMITTEES - (MEETINGS ON CALL OF CHAIRMAN)

Legal & Legislation	McKenney
Rate Review	Kurtz

VII. CONSENT ITEMS

A. METERS IN SERVICE – October 2009

Description	Beginning of Month	Added/ (Subtracted)	End of Month	One Year Ago
Single Family	33,891	1	33,892	33,814
Multi Family	14,660	6	14,666	14,616
Commercial	2,835	-3	2,832	2,793
Irrigation	2,634	1	2,635	2,623
Total	54,020	5	54,025	53,846
Est. Population	167,045	18	167,063	166,729

B. METER DISTRIBUTION * – October 2009

Size	Beginning of Month	Added/ (Subtracted)	End of Month	One Year Ago
5/8"	108	-1	107	107
3/4"	36,577	0	36,577	36,631
1"	10,696	6	10,702	10,500
1½"	930	0	930	927
2"	4,945	0	4,945	4,931
2-1/2"	12	0	12	11
3"	78	0	78	74
4"	152	0	152	150
6"	315	0	315	311
8"	186	0	186	183
10"	21	0	21	21
Total	54,020	5	54,025	53,846

*Includes potable and recycled water meters.

C. WASTEWATER TREATMENT FLOWS (MGD) – October 2009

Description	Current Month	One Year Ago
Total Flow	12.0	13.0

D. POTABLE WATER IMPORTED – October 2009

Source	Current Month Average Flow (cfs)	Current Month Volume (af)	Since 7/01/08 To Date Volume (af)	Year Ago To Date Volume (af)
Joint Transmission Main	5.5	338.1	1,517.6	2,284.4
Allen-McColloch Pipeline	12.6	774.6	3,621.2	2,060.2
Central Intertie Pipeline	24.9	1,475.4	6,694.5	9,347.9
Interties	0.0	0.0	0.0	0.0
Total	42.1	2,588.1	11,833.3	13,692.5

E. RECYCLED WATER PRODUCED – October 2009

UOR Storage at End of Month: 56.2 af	Current Month Average Flow (mgd)	Current Month Volume (af)	Since 7/01/08 To Date Volume (af)	Year Ago To Date Volume (af)
Source				
Regional AWT	6.35	604.1	2,950.9	2,966.7
Plant 3A AWT	1.14	108.5	488.4	444.2
SCWD AWT**	0.09	8.6	105.6	141.3
Total Produced	7.58	721.2	3,544.9	3,552.2
To(-)/From(+) Storage	-0.25	-23.8	+400.8	+385.2
Total Delivered	7.33	697.4	3,945.7	3,937.4

**MNWD delivered recycled water to SCWD during month.

F. RECYCLED WATER GOALS – Thru October 2009

Fiscal Year	Users Planned	Users Online	Acreage Planned	Acreage Online
02-03	1,100	1,096	3,400	3,364
03-04	1,130	1,141	3,688	3,641
04-05	1,155	1,166	3,700	3,694
05-06	1,189	1,183	3,736	3,727
06-07	1,220	1,197	3,798	3,748
07-08	1,250	1,206	3,858	3,768
08-09	1,250	1,218	3,858	3,797
09-10	1,260	1,226	3,900	3,802

G. CUSTOMER SERVICE ACTIVITY – October 2009

	<u>October 2009</u>	<u>October 2008</u>
<u>Cross Connection</u>		
Backflow notices	205	298
Inspections	17	37
<u>Customer Inquiries</u>		
Board room use	12	10
Letters of credit	5	0
Record changes	106	102
Website hits	4,724	5,900
<u>Delinquent Accounts</u>		
Delinquent Notices	787	968
Shut-offs	133	138
<u>Education Programs</u>		
Number of students	916	0
<u>Maintenance</u>		
Meter maintenance	154	171
Meter checks	194	233
Angle stop	17	17
Meter lids	119	166
Meter replacements	258	233
Meter box replacements	5	1
Vault replacements	3	2
<u>Meter Activity</u>		
Construction meters	39	38
Meter sales	21	17
New services	12	2
Turn-offs	190	164
Turn-ons	550	515
<u>Meters Read</u>		
Hand-held	1,198	5,367
Touch read	38,945	36,704
Radio-read	13,859	11,749
<u>Service Orders</u>		
Customer inquiries	62	42
Hydrants	5	9
Valve can/Manhole lids	4	9
Fire flow tests	2	1
Leaks	18	27
Pressure tests	9	27
Turn-offs for repairs	37	34
Site visits	1,866	49
Non-MNWD leaks/breaks	56	59
Water quality	0	0
Other service orders	4	12
<u>Total Service Orders</u>	2,914	1,198

VIII. GENERAL MANAGER'S REPORT

A. SUMMARY AND DISCUSSION:

1. UTILITY EXECUTIVES WORKSHOP – OCTOBER 22 – 24, 2009
2. WATER SUPPLY ALLOCATION/USAGE UPDATE
3. UPPER OSO RESERVOIR UPDATE
4. SOUTH ORANGE COUNTY WASTEWATER AUTHORITY (SOCWA) PLANT 3A SOLIDS HANDLING ANALYSIS – STATUS UPDATE
5. LEGISLATIVE UPDATE
6. ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION (LAFCO)/ MUNICIPAL WATER DISTRICT OF ORANGE COUNTY (MWDOC) GOVERNANCE STUDY UPDATE
7. 2009 CERTIFICATES OF PARTICIPATION – STATUS UPDATE

B. 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]

IX. OPERATIONS MATTERS

A. A status report was given at the Engineering Board meeting on November 17, 2009 regarding the Information Technology (IT) Strategic Plan and Geographical Information System (GIS) Implementation Plan.

B. 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]

X. FINANCIAL MATTERS

A. SUMMARY OF DISBURSEMENTS DATED OCTOBER 31, 2009

1. The Board of Directors will review the Summary of Disbursements dated October 31, 2009, for the month of October 2009 operations. The total disbursements for the period amounted to \$7,410,219.70 applicable to the following funds:

a.	General Fund	5,869,364.81
b.	Self Insurance Fund	4,429.16
c.	Replacement & Refurbishment Fund	677,823.60
d.	Planning & Construction Fund	234,370.73
e.	Water Supply Reliability Fund	467,064.25

f.	1993 COPS Fund	3,240.00
g.	1995 DWR Loan	153,927.15
2.	The major expenditures include the following:	
a.	Municipal Water District of Orange County (MWDOC)	
	August Water Purchases 3,351.4 AF	1,962,244.70
	July Recycled Rebates 599.9 AF	(92,384.60)
	August Capacity Charges	29,604.87
	August RTS Charges	57,380.00
	August SCP Operation Surcharge	15,579.96
b.	Santa Margarita Water District	
	Contract No. 2008.032 Upper Chiquita Reservoir	466,264.75
c.	South Coast Water District JRWSS	
	O&M Budget 2 nd Quarter 2009/2010	101,204.00
d.	SOCWA O&M Budget July 2009-June 2010	2,060,103.00
	Capital Budget Deposit – October 2009	499,660.00

These expenditures, pursuant to Board authorization, were previously reviewed and approved on a weekly basis by the Director of Finance/Treasurer.

B. FINANCIAL STATEMENTS

SUMMARY AND DISCUSSION:

The Financial Statements, dated October 2009, were reviewed by the Board of Directors at its Finance and Audit Board of Directors' Meeting on November 18, 2009.

RECOMMENDED ACTION:

THAT THE BOARD OF DIRECTORS RECEIVE AND ORDER FILED:

1. SUMMARY OF DISBURSEMENTS DATED OCTOBER 31, 2009; and
2. FINANCIAL STATEMENTS DATED OCTOBER 31, 2009.

C. ANNUAL AUDITED FINANCIAL STATEMENTS

SUMMARY AND DISCUSSION:

The District's Auditors, Mayer Hoffman McCann, reviewed the draft Annual Audit for the year ending June 30, 2009 at the Finance & Audit Board Meeting on November 18, 2009. After said review, the Board is being requested to receive and file the Annual Audit in final format.

RECOMMENDED ACTION:

THAT THE BOARD OF DIRECTORS RECEIVE AND ORDER FILED:

1. THE AUDITED FINANCIAL STATEMENTS FOR THE FISCAL YEAR ENDED JUNE 30, 2009, AND
2. THE AUDITOR'S LETTER ADDRESSING INTERNAL CONTROLS, AND
3. THE AUDITOR'S INFORMATIONAL LETTER CONCERNING THE AUDIT.

D. REVISION TO RATE STABILIZATION RESERVE POLICY

The Board adopted a District Reserve Policy on March 19, 2009. This Policy established a Rate Stabilization Reserve that is potentially in conflict with the debt service bond covenant requirements. It is recommended that the Board revise their Policy to allow the Rate Stabilization Reserve section to be in compliance with all bond covenant requirements by removing the phrase, "*or an amount of no more than \$10 million*" in Section A3.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS REVISE AND ADOPT THE RATE STABILIZATION RESERVE POLICY BY REMOVING THE PHRASE "OR AN AMOUNT OF NO MORE THAN \$10 MILLION" IN SECTION A3.

E. 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]

XI. ENGINEERING MATTERS

A. CAPITAL CONSTRUCTION PROJECTS' STATUS AND PROJECT BUDGET SUMMARY

SUMMARY AND DISCUSSION:

The Construction Progress Report is shown on pages 14 through 18. Staff will be available to answer any questions relating to this report.

RECOMMENDED ACTION:

Receive and file.

B. RESOLUTION NO. 09- MITIGATED NEGATIVE DECLARATION, MITIGATION MEASURES AND MONITORING PROGRAM FOR SRF LOAN RECYCLED WATER PIPELINE (PROJECT), CONTRACTS 2007.010 AND 2007.012

SUMMARY AND DISCUSSION:

Moulton Niguel Water District (MNWD) serves as the lead agency in the project to install two recycled water pipelines; one from the planned South Orange County Wastewater Authority (SOCWA) Advanced Water Treatment (AWT) facility to the Golden Lantern Recycled Water Storage Tank and the other from the end of the 750 pressure zone served directly from the Santa Margarita Water District Upper Oso Reservoir to La Paz Road. These two projects are combined in a funding application to the State Water Resources Control Board (SRF Loan Program). As lead agency, MNWD prepared and distributed the Initial Study, developed the Mitigation Plan, and is responsible to process the CEQA compliance. All applicable CEQA documents are available for review at the District headquarters or the District’s website, www.mnwd.com.

RECOMMENDED ACTION:

MNWD BOARD OF DIRECTORS APPROVE THE PROJECT, CERTIFY THE MITIGATED NEGATIVE DECLARATION, AND ADOPT THE MITIGATION MEASURES AND MONITORING PROGRAM BY ADOPTION OF RESOLUTION 09-____, ATTACHED AT ATTACHMENT E-1.

C. LA PAZ ROAD RECYCLED WATER PIPELINE DESIGN, CONTRACT 2009.043

SUMMARY AND DISCUSSION:

Requests for design proposals were sent to seven engineering firms to provide plans and specifications to install a recycled water pipeline in La Paz Road. Staff is coordinating the pipeline project with the City of Laguna Hills, who is finalizing design for a road widening project under the I-5 Freeway, and the City of Mission Viejo, who is in design to widen the bridge over the railroad right-of-way. Only one proposal was received and opened on October 27, 2009:

Tetra Tech, Inc.	\$ 74,000
Engineer (District Staff)	\$ 75,000
Fiscal Year 2009-2010 Budget	\$ 20,000

The proposed pipeline schedule is being coordinated with the road widening project and is anticipated to be installed in spring 2010.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT AWARD THE DESIGN CONTRACT FOR THE LA PAZ ROAD RECYCLED WATER PIPELINE TO TETRA TECH, INC. IN THE AMOUNT OF \$74,000 AND APPROVE A PROJECT BUDGET IN THE AMOUNT OF \$90,000. THIS PROJECT WILL BE FINANCED FROM FUND 14 - PLANNING AND CONSTRUCTION FUND.

D. PLANT 3A EFFLUENT TRANSMISSION MAIN (ETM) RELOCATION, CONTRACT 2009.039

SUMMARY AND DISCUSSION:

The Orange County Flood Control District has awarded a contract to install sheet piles along

portions of San Juan Creek and Trabuco Creek within the City of San Juan Capistrano. The proposed project will impact the existing 20-inch Plant 3A ETM that conveys secondary treated wastewater from Plant 3A to the Chiquita Land Outfall. Moulton Niguel Water District and Santa Margarita Water District each are responsible for 50% of the pipeline relocation costs, which include the portion of the County contract to relocate the pipeline, miscellaneous costs to support isolation of the Plant 3A ETM, contingency, and legal costs.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT APPROVE A PROJECT BUDGET IN THE AMOUNT OF \$125,000. THIS PROJECT WILL BE FINANCED FROM FUND 7 – REPLACEMENT AND REFURBISHMENT FUND.

E. BAKER WATER TREATMENT PLANT (WTP), CONTRACT 2006.071

SUMMARY AND DISCUSSION:

The Baker Water Treatment Plant (WTP) is a base-loaded surface water treatment plant intended to provide water supply reliability to the participating South Orange County (SOC) water agencies participating in the project. Moulton Niguel Water District (District) is one of the participating agencies, along with El Toro Water District (ETWD), Irvine Ranch Water District (IRWD), Santa Margarita Water District (SMWD), and Trabuco Canyon Water District (TCWD). The design team of RBF Consulting and Carollo Engineers has completed the 30% preliminary design, including the summary of estimate project construction and operation and maintenance costs.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT APPROVE INCREASE THE APPROVED PROJECT BUDGET FROM \$3,704,000 TO \$5,500,000 TO CONTINUE DISTRICT PARTICIPATION IN THE SUBJECT PROJECT THROUGH FINAL DESIGN. THIS PROJECT WILL BE FINANCED FROM FUND 12 – WATER SUPPLY RELIABILITY FUND.

F. 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]

XII. LEGAL MATTERS

A. AMENDMENT TO BAKER WATER TREATMENT PLANT AGREEMENT FOR ADDITIONAL CAPACITY, REVISED MOU FOR CORRESPONDING CAPACITIES IN BAKER PIPELINE

SUMMARY AND DISCUSSION:

The Baker Water Treatment Plant (WTP) project agreement assumed a plant production capacity of 34.5 cfs, the District's proposed share being 10 cfs, or approximately 28.9% of the total. The WTP final design is complete and the revised rated capacity of the WTP is 43.5 cfs. Staff recommends the District approve and fund 3 cfs of additional capacity for a percentage share of

approximately 29.9%. The Baker Pipeline capacity transfers proposed under the companion MOU correspond to the WTP participants' capacity interests. The pipeline MOU includes the methodology for valuation of the capacity transfers, the District's total capacity transfer of 13 cfs cost being approximately \$3.6 million. **Attachment L-1** to the Agenda is the proposed Amendment 1 to the Baker WTP Agreement to adjust the capacity interests, including the District's capacity interest from 10 cfs to 13 cfs. **Attachment L-2** is the Pipeline MOU for corresponding pipeline capacity transfers among the participants.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS APPROVES AND AUTHORIZES EXECUTION OF AMENDMENT 1 TO THE "AGREEMENT FOR CONSTRUCTION, OPERATION AND MAINTENANCE OF BAKER WATER TREATMENT PLANT, SUBJECT TO NON-SUBSTANTIVE CHANGES" AND THE "BAKER PIPELINE CAPACITY TRANSFER MEMORANDUM OF UNDERSTANDING" TO BE EXECUTED BY THE GENERAL MANAGER, BOTH SUBJECT TO NON-SUBSTANTIVE CHANGES APPROVED BY THE GENERAL MANAGER.

B. 3A EFFLUENT PIPELINE RELOCATION COOPERATIVE AGREEMENT WITH ORANGE COUNTY FLOOD CONTROL DISTRICT AND SANTA MARGARITA WATER DISTRICT

SUMMARY AND DISCUSSION:

The Orange County Flood Control District (OCFCD) is undertaking the San Juan Creek levee protection project, and the District and Santa Margarita Water District own the 3A Plant Effluent Pipeline (formerly the "Lakefill Line," previously owned by the San Juan Basin Authority) within permitted OCFCD alignment which must be relocated to accommodate the OCFCD project. Staff has determined that MNWD and SMWD do not have prior rights for the 3A Plant Effluent Pipeline, and so must remove/relocate the pipeline alignment to accommodate OCFCD's project, at the Districts' cost, each paying one half. **Attachment L-3** to the Agenda is the proposed agreement to have OCFCD's contractor for the channel project relocate the 3A Effluent Pipeline. The Agreement provides for the water districts' review and plan approval, construction inspection, and insurance and warranty bonding for the relocation project. The total approximate cost of the relocation is currently estimated to be \$250,000.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS APPROVES AND AUTHORIZES EXECUTION OF THE AGREEMENT AMONG OCFCD, MNWD, AND SMWD FOR RELOCATION OF THE 3A EFFLUENT TRANSMISSION MAIN, SUBJECT TO NON-SUBSTANTIVE CHANGES APPROVED BY THE DIRECTOR OF ENGINEERING.

C. AGREEMENT WITH SANTA MARGARITA WATER DISTRICT FOR EXCHANGE OF RECYCLED WATER

SUMMARY AND DISCUSSION:

MNWD and SMWD each have customers situated at or near their contiguous boundaries that

would like to be served with recycled water, but the recycled water is currently unavailable from the District that provides water service to those sites and customers. The District's staff recommends the two districts have in place an Exchange Agreement in order to provide each other with recycled water for those customers. The Agreement included as **Attachment L-4** has terms for the installation, maintenance, and accounting of recycled water exchanged between the districts. The retail agency will receive the MWD rebate credit; the acre-feet exchanged each fiscal year will be reconciled through the usage calculations done for the Upper Oso Reservoir; every 100 acre-feet of recycled water will require approval from the District's Board of Directors providing the recycled water.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS, FINDING THAT THE EXCHANGE AGREEMENT WITH SMWD WILL NOT NEGATIVELY IMPACT THE RECYCLED WATER SUPPLY TO SERVE DISTRICT CUSTOMERS AND RECOGNIZING THAT EVERY 100 ACRE-FOOT INCREMENT OF RECYCLED WATER FURNISHED TO SMWD IS SUBJECT TO FUTURE APPROVAL BY THIS BOARD, APPROVES AND AUTHORIZES EXECUTION OF THE AGREEMENT ENTITLED "RECYCLED WATER EXCHANGE AGREEMENT BETWEEN THE MOULTON NIGUEL WATER DISTRICT AND THE SANTA MARGARITA WATER DISTRICT" SUBJECT TO NON-SUBSTANTIVE CHANGES APPROVED BY THE GENERAL MANAGER.

D. AMENDMENT TO THERMAL HEAT TRANSFER AGREEMENT AMONG SOUTH ORANGE COUNTY WASTEWATER AUTHORITY, CITY OF LAGUNA NIGUEL AND MOULTON NIGUEL WATER DISTRICT

SUMMARY AND DISCUSSION:

SOCWA and the City of Laguna Niguel have a long time arrangement for the transfer of excess thermal heat generated at the Regional Treatment Plant (RTP) to the City's swimming pool at Crown Valley Community Park. The District was the contract operator of the RTP for many years and has title to the easement in which the thermal heat pipeline is installed, and was a party to the original agreement. Therefore, the District will execute the proposed amendment, along with SOCWA on behalf of its Project Committee 17.

Since 1991, excess thermal heat, when available, has been transferred via a pipeline originally constructed for that purpose and funded by the City. The purpose of the amendment, included as **Attachment L-5** to the Agenda, is to (1) convey ownership of the heat transfer facilities within the right-of-way outside the RTP site from SOCWA/MNWD to the City for the City's ownership and responsibility; and (2) revise terms providing for the City's purchase and payment for energy therms (i.e., an annually adjustable price per therm) to a simplified annual payment obligation for amounts equal to SOCWA's operations and maintenance costs of the RTP site heat transfer facilities, including repair costs necessary for safe and reliable operation of the RTP site thermal heat facilities. There is an outstanding balance of approximately \$53,000 for costs from 2000 to 2009 owed by the City to SOCWA, and that repayment is also provided for in the terms of the amendment. The members of SOCWA's Project Committee 17 with solids capacity in the RTP, which includes the District, are the beneficiaries of the City's reimbursement.

RECOMMENDED ACTION:

THE BOARD OF DIRECTORS APPROVES AND AUTHORIZES EXECUTION OF THE AMENDMENT TO THE THERMAL HEAT TRANSFER AGREEMENT AMONG SOCWA, CITY OF LAGUNA NIGUEL, AND MNWD, SUBJECT TO NON-SUBSTANTIVE CHANGES APPROVED BY THE GENERAL MANAGER.

E. ADOPTION OF RESOLUTION TO AUTHORIZE EXECUTION AND DELIVERY OF 2009 CERTIFICATES OF PARTICIPATION; ADOPTION OF RESOLUTIONS TO COMPLETE RESERVE FUND REQUIREMENTS FOR OUTSTANDING 1993 COPS AND OUTSTANDING GOVERNMENTAL LOANS

SUMMARY AND DISCUSSION:

The proposed 2009 Certificates of Participation (COPs) will be executed and delivered to fund all or a portion of certain Water Supply Reliability projects: the IRWD Interconnection Project, the Baker Water Treatment Plant and Baker Pipeline Capacity, and the Upper Chiquita Reservoir facilities. A portion of the proceeds will also be used to fund the costs to issue the COPs, and to establish a debt service reserve fund. In conjunction with the sale of the 2009 COPs, which will be a financing on parity with the District's outstanding 1993 and 2003 COPs, as well as the governmental loans and agreements (SRF, DWR, SWRCB, CIEDB), the 1993 COPs reserve fund must be fully cash-funded. The Board previously authorized cash funding the 1993 COPs reserve over a period of five years after the initial Ambac rating downgrade that affected the reserve surety bond, all as required by the 1993 Trust Indenture for those COPs. Ambac has since been further downgraded, so that the 1993 Trust Indenture requires the reserve to be fully cash funded at this time. Since the governmental loans are parity obligations with the 1993, 2003 and 2009 COPs, the 2009 COPs documents require reserve set-asides in the District's general funds, as well. **Attachments L-6** and **L-7** are resolutions to, respectively, cash fund the balance of the 1993 COPs reserve requirement, and set aside reserves under the District's financial statements for the SRF and DWR loans (cash reserves for the CIEDB Agreements were funded in 2002 at the time of execution).

Attachment L-8 to the Agenda is a parameters resolution that authorizes staff and the District's consultants to proceed with the issuance and sale of the 2009 COPs subject to a maximum par amount and pricing requirements. The authorization includes Build America Bonds (BABs) should market conditions favor BABs. The authorizing resolution delegates authority to staff in consultation with the District's Financial Advisor to complete the sale of the 2009 COPs to the Underwriter, consistent with the terms of the resolution.

The resolution also approves the Preliminary Official Statement (POS), the public offering document, as substantially final, and approves the basic financing documents subject to further changes as recommended by staff in consultation with the District's financing consultants. The Board has been provided with copies of the POS and the basic financing documents for review pursuant to the approvals under the resolution.

RECOMMENDED ACTIONS:

THE BOARD OF DIRECTORS ADOPTS THE FOLLOWING RESOLUTIONS:

1. RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT APPROVING BALANCE OF CASH RESERVE DEPOSIT FOR OUTSTANDING 1993 CERTIFICATES OF PARTICIPATION, AND
2. RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL

WATER DISTRICT APPROVING DESIGNATED RESERVES FOR OUTSTANDING STATE REVOLVING FUND AND DWR LOANS AND AUTHORIZING ADDITIONAL DESIGNATED RESERVES FOR FUTURE GOVERNMENTAL LOANS, AND

3. RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT APPROVING, AUTHORIZING AND DIRECTING EXECUTION OF CERTAIN INSTALLMENT SALE FINANCING DOCUMENTS, APPROVING SALE OF CERTIFICATES OF PARTICIPATION, APPROVING A PRELIMINARY OFFICIAL STATEMENT, AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO.

F. IN ACCORDANCE WITH SUBDIVISION (b)(1) OF GOVERNMENT CODE SECTION 54956.9, A CLOSED SESSION WILL BE CONDUCTED TO:

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION

2 cases

G. 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)

The Board of Directors will conduct a Special Meeting of its Public Facilities Corporation immediately following adjournment of the MNWD Board of Directors meeting- see **Attachment L-9** to the Agenda for the related *Notice of Special Meeting and Agenda.*