

RESOLUTION NO. 14-_____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT REPEALING RESOLUTION NO. 81-37 AND RETURNING TO AT LARGE ELECTIONS

WHEREAS, Water Code Section 35189 provides that directors of the Moulton Niguel Water District (the “District”) shall be elected on an at-large basis unless the board of directors determines that directors shall be elected by divisions; and

WHEREAS, in June of 1981 District adopted Resolution No. 81-37, which created seven divisions in the District and provided that effective the November 1981 election the board of directors were to be elected by divisions;

WHEREAS, the Board of Directors believes it is in the best interest of the District and the District voters to return to at-large elections which would emphasize District-wide representation to all voters and to broaden community involvement in District elections.

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

Section 1. Be it resolved by the Board of Directors of the Moulton Niguel Water District that Resolution No. 81.37 is hereby repealed as of October 1, 2014. That for all elections after November of 2014, pursuant to Water Code Section 35189, the directors of the District shall be elected on an at-large basis. This Resolution shall not impact the November 2014 elections, as those will be by division and those Directors elected, will serve until 2018. Directors in 2016 will be elected on an at-large basis.

Section 2. As required by Water Code Sections 35186 and 35191 the District elections will continue to be conducted as resident voter elections under the provisions of the Water Code and the Uniform District Elections Law.

Section 3. That the Secretary be and the same is hereby directed to transmit a certified copy of this Resolution to the Registrar of Voters for the County of Orange.

APPROVED, ADOPTED and **SIGNED** this 21st day of August, 2014.

MOULTON NIGUEL WATER DISTRICT

By: _____
Larry McKenney, President
MOULTON NIGUEL WATER DISTRICT
And the Board of Directors thereof

By: _____
Paige Gulck, Secretary
MOULTON NIGUEL WATER DISTRICT
And the Board of Directors thereof



Moulton Niguel Water District

STAFF REPORT

TO: Board of Directors **MEETING DATE:** August 21, 2014

FROM: Marc Serna, Director of Engineering and Operations
Eva Plajzer, Assistant Director of Engineering

SUBJECT: Designation of Applicant's Agent for FEMA Grant

DIVISION: District-wide

SUMMARY:

Issue: A Resolution is required by the Board of Directors to designate authorized representatives for the FEMA Grant for the Plant 3A Effluent Transmission Main Replacement Project No. 2009.115.

Recommendation: It is recommended that the Board of Directors adopt Resolution 14-__ designating District agents for Hazard Mitigation Grant Program and execution of application and authorizing other actions in connection with the grant program application.

Fiscal Impact: There is no direct impact to the approved project budget.

BACKGROUND:

Plant 3A provides wastewater treatment to the Moulton Niguel Water District (MNWD) and Santa Margarita Water District (SMWD) service areas. A portion of the treated effluent is supplied to MNWD and SMWD to meet recycled water demands. The portion of treated effluent that is not used as recycled water is discharged to a land outfall pipeline, the Plant 3A Effluent Transmission Main (ETM). MNWD and SMWD are co-owners of the ETM. By agreement, MNWD is responsible for operation of the pipeline. Costs for this facility are allocated 50 percent to MNWD and 50 percent to SMWD. In November 2009, the 30-inch diameter ETM siphon in San Juan Creek was found to be exposed due to creek scouring. MNWD hired a contractor to construct emergency protection measures and is developing a project to jack and bore a new pipe casing and replacement pipe under San Juan Creek that should meet the requirements of the permitting agencies.

MNWD submitted a Notice of Intent to apply for Federal Emergency Management Agency (FEMA) grant funding through the State Hazard Mitigation Grant Program for this project. MNWD was invited to prepare a grant application for this project, which was submitted in August 2012. Staff retained DDB Engineering to prepare the grant application and necessary documentation. The requested grant amount is \$1,796,276 for an estimated project cost of \$2,900,000. The difference of \$1,103,724 will be shared by MNWD and SMWD.

DISCUSSION:

Grant funding determination was received from FEMA in October 2013 and on August 13, 2014, the District received the Notification of Application Approval in the amount of \$1,796,276. In order to receive payment, the District must submit various documents to the California Governor's Office of Emergency Services (Cal OES) within 30 days. In order to complete the documents, the Board of Directors must designate District agents for Hazard Mitigation Grant Program (HMGP) for the execution of application and authorizing other actions in connection with the grant program application. Legal Counsel prepared the resolution necessary for the HMGP.

- Attachments: 1. Resolution 14-____
2. CalOES Notification of Application Approval

RESOLUTION NO. 14-____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT DESIGNATING DISTRICT AGENT FOR HAZARD MITIGATION GRANT PROGRAM AND EXECUTION OF APPLICATION AND AUTHORIZING OTHER ACTIONS IN CONNECTION WITH THE GRANT PROGRAM APPLICATION

(3A PLANT EFFLUENT TRANSMISSION MAIN PROTECTION PROJECT [HMGP 1968, Cal OES #PJ0032, FEMA #05R], or “PROJECT”)

WHEREAS, the Moulton Niguel Water District (the “District”) adopted Resolution No. 13-08 entitled “Resolution of the Moulton Niguel Water District Authorizing Matching Funds for a FEMA Grant” on May 16, 2013, to authorize actions to secure financial assistance for the Project through FEMA and Cal EMA; and

WHEREAS, the District has received notification from the California Governor’s Office of Emergency Services (Cal OES) that FEMA has fully approved the District’s subgrant application and has awarded funds for the Project, and the District is required to designate its agents for execution and submission of the application and related documents, and for providing other documents and information on behalf of the District as may be required from time to time in connection with the grant.

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

Section 1. Be it resolved by the Board of Directors of the Moulton Niguel Water District that the

General Manager, OR
Assistant General Manager, OR
Director of Engineering and Operations

are each hereby authorized to execute for and on behalf of Moulton Niguel Water District, a public entity established under the laws of the State of California, the application referred to in this Resolution and to file it with the California Governor’s Office of Emergency Services for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

Section 2. Be it further resolved that the Moulton Niguel Water District, a public entity established under the laws of the State of California hereby authorizes its agent(s) listed under Section 1 of this Resolution to provide to the California Governor’s Office of Emergency Services, for all matters pertaining to such state disaster assistance, the assurances and agreements required.

Section 3. This is a disaster specific resolution and is effective for only the following grant name/number: **HMGP 1968, Cal OES #PJ0032, FEMA #05R.**

APPROVED, ADOPTED and SIGNED this 21st day of August, 2014.

MOULTON NIGUEL WATER DISTRICT

By: _____
Larry McKenney, President
MOULTON NIGUEL WATER DISTRICT
and of the Board of Directors thereof

By: _____
Paige Gulck, Secretary
MOULTON NIGUEL WATER DISTRICT
and of the Board of Directors thereof

APPROVED AS TO FORM:

BOWIE, ARNESON, WILES & GIANNONE
Legal Counsel - THE DISTRICT

By _____
Patricia B. Giannone



August 4, 2014

Robert Gumerman
General Manager
Moulton Niguel Water District
27500 La Paz Road
Laguna Niguel, CA 92677

Subject: Notification of Application Approval
Hazard Mitigation Grant Program
FEMA-1968-DR-CA, Project #0032, FIPS #059-91033

Dear Mr. Gumerman:

The California Governor's Office of Emergency Services (Cal OES) received notification that the Federal Emergency Management Agency (FEMA) has fully approved your organization's Subgrant application in the amount of **\$1,796,276**. A copy of the FEMA award package is enclosed for your records.

In order to receive payment, all subgrantees must have a signed Grant Award Face Sheet, a current (within the last 3 years), valid Governing Body Resolution, and updated Grant Assurances on file with our office. Please complete the enclosed forms and return them to the address below within 30 days. These forms may be downloaded in an electronic format at www.caloes.ca.gov under the tab for Grants & Funding option for Hazard Mitigation and the link for Post Obligation Documents. Please ensure that the person signing the Grant Award Face Sheet is authorized by the Governing Body Resolution. Payments will be made on a reimbursement basis using the Hazard Mitigation Reimbursement Form. A ten percent (10%) retention will be withheld from all reimbursement payments and will be released as part of the subgrant closeout process.

Reimbursements can be made for only items listed on the approved subgrant application; expenditures for any other work should be separately maintained and are the sole responsibility of the subgrantee. Any funds received in excess of current needs or approved amounts, or those found owed as a result of a final inspection or audit must be refunded to the State within 30 days of receipt of an invoice from Cal OES.

Please read all enclosed documents prior to initiating the approved project. For further assistance please contact the Hazard Mitigation Grants Division at (916) 845-8150.

Hazard Mitigation Grants Division

Enclosures

c: Applicant's File

Andrew

U.S. Department of Homeland Security
Region IX
1111 Broadway, Suite 1200
Oakland, CA 94607-4052



FEMA

July 23, 2014

Ms. Grace Koch
Governor's Authorized Representative
California Office of Emergency Services
3650 Schriever Avenue
Mather, California 95655



Robyn
Chen
PCA 82830

PJ0036

Reference: Application Approval, HMGP #1968-22-05R
Moulten Nigel Water District, FIPS Code #059-1C45B
3A Plant Effluent Transmission Main Protection Project
Supplement #11

Dear Ms. Koch:

We have approved and issued Hazard Mitigation Grant Program (HMGP) funds for the above-referenced Moulten Nigel Water District, 3A Plant Effluent Transmission Main Protection Project, HMGP #1968-32-05R.

The total eligible cost is \$2,976,000. As shown in the enclosed Supplement #11 Obligation Report, we have obligated \$1,796,276 federal share reimbursement of eligible costs. We note the cost share percentage as 60.3587% federal share and 39.6413% non-federal share. These funds are now available in Smartlink for eligible disbursements, and this approval is based on the following:

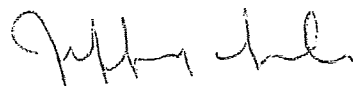
1. **Scope of Work (SOW)** – The approved activity will replace a portion of the sewer main transmission with a new, deeper encased pipe at the San Juan Creek crossing to provide sufficient cover to protect it from flood damage. This project entails installation of approximately 300 lineal feet of new 30-inch diameter steel pipe installed in a 42-inch diameter carrier/casing pipe and filled with grout underneath San Juan Creek. The new piping will be connected with the existing piping on either side of the creek.
2. **Budget Revisions, and Cost Overruns** - In accordance with the June 2010 *Hazard Mitigation Assistance Unified Guidance*, Part VI B.3.1, a budget adjustment does not change the total approved funding; however, a budget revision reflects a change in the total funding. The Grantee and Subgrantee must obtain FEMA's prior written approval for any budget revisions.

Cost overruns must be approved by FEMA Region IX before implementation and the subgrant must continue to meet programmatic eligibility requirements, including cost effectiveness and cost share. Additional information can be found in 44 CFR 13.30.

3. **Benefit-Cost Analysis** - The application includes a benefit-cost analysis with a 2.18 ratio that demonstrates cost effectiveness.
4. **National Environmental Policy Act (NEPA)** - In accordance with the *Code of Federal Regulations (CFR)*, Title 44, Part 10, Section 8(d)(2)(xvi), and in compliance with National Environmental Policy Act (NEPA), the project is Categorical Excluded from the need for an Environmental Assessment. The approved SOW has found a Finding of No Historic Properties Affected. A copy of the Record of Environmental Considerations Report is enclosed for your use.
5. **Completion Date** – The work schedule in the application states the activity completion time frame is 19 months; however, we will annotate July 23, 2017 as the project completion date for a 36 month timeframe. Please inform the Subgrantee that work completed after this date is not eligible for federal funding, and federal funds may be de-obligated for work not completed within schedule for which there is no approved time extension. In accordance with 44 CFR 13.23, a Grantee must liquidate all obligations incurred under the award no later than 90 days after July 23, 2017.
6. This award of funds is subject to the enclosed *Standard Hazard Mitigation Grant Program Conditions*, as amended February 2005. Federal funds may be de-obligated for work that does not comply with these conditions.

If you have any questions or need further assistance, please contact me, or your staff may contact Robert Mead, Emergency Management Program Specialist, at (510) 627-7096.

Sincerely,



Jeffrey D. Lusk
Director
Mitigation Division
FEMA Region IX

Enclosures (3):

Supplement #11
Project Management Report
Standard HMGP Conditions
Record of Environmental Considerations Report

cc: Gina Buccieri-Harrington, State Hazard Mitigation Officer
Robin Shepard, Cal OES

FEDERAL EMERGENCY MANAGEMENT AGENCY
HAZARD MITIGATION GRANTS PROGRAM
Obligation Report w/ Signatures

Disaster No	FEMA Project No	Amendment No	State Application ID	Action No	Supplemental No	State	Grantee
1968	5-R	0	32	1	11	CA	Statewide

Subgrantee: MOULTEN NIGUEL WATER DISTRICT Project Title : Moulten Niguel Water Dist.- 3A Plant Effluent Transmission Main Protection Proj.
Subgrantee FIPS Code: 059-1C45B

Total Amount Previously Allocated	Total Amount Previously Obligated	Total Amount Pending Obligation	Total Amount Available for New Obligation	Project Amount	Grantee Admin Est	Subgrantee Admin Est	Total Obligation	IFMIS Date	IFMIS Status	FY
\$1,796,276	\$1,796,276	\$0	\$0	\$1,796,276	\$0	\$0	\$1,796,276	07/22/2014	Accept	2014

Comments

Date: 07/22/2014 User Id: KMOJICA

Comment: Project approved.

Authorization

Preparer Name: KAREN MOJICA

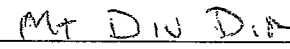
Preparation Date: 07/22/2014

HMO Authorization Name: ROBERT MEAD

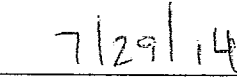
HMO Authorization Date: 07/22/2014



Authorizing Official Signature



Authorizing Official Title



Authorization Date

Authorizing Official Signature

Authorizing Official Title

Authorization Date

HAZARD MITIGATION GRANT PROGRAM

Project Management Report

Disaster Number: 1968
 FEMA Project Number: 5-R
 Amendment Number: 0
 App ID: 32
 State: CA
 Grantee: Statewide

Subgrantee: MOULTEN NIGUEL WATER DISTRICT

FIPS Code: 059-1C45B

Project Title : Moulten Niguel Water Dist.- 3A Plant Effluent Transmission Main Protection I

Mitigation Project Description

Amendment Status : Approved

Approval Status: Approved

Project Title : Moulten Niguel Water Dist.- 3A Plant Effluent Transmission Main Protection F

Grantee : Statewide

Subgrantee : MOULTEN NIGUEL WATER DISTRI

Grantee County Name : Orange

Subgrantee County Name : Orange

Grantee County Code : 59

Subgrantee County Code : 59

Grantee Place Name : Laguna Niguel

Subgrantee Place Name : Laguna Niguel

Grantee Place Code : 0

Subgrantee Place Code : 39248

Project Closeout Date : 00/00/0000

Work Schedule Status

Amend #	Description	Time Frame	Due Date	Revised Date	Completion Date
0	Select Design/Environmental Compliance Consultant	132 days	00/00/0000	00/00/0000	00/00/0000
0	Engineering Design	172 days	00/00/0000	00/00/0000	00/00/0000
0	Environmental Compliance Documentation	172 days	00/00/0000	00/00/0000	00/00/0000
0	Permitting	88 days	00/00/0000	00/00/0000	00/00/0000
0	Bidding Process	44 days	00/00/0000	00/00/0000	00/00/0000
0	Board Approval	43 days	00/00/0000	00/00/0000	00/00/0000
0	Contract Execution/Notice to Proceed	64 days	00/00/0000	00/00/0000	00/00/0000
0	Construction Mobilization	22 days	00/00/0000	00/00/0000	00/00/0000
0	Groundwater Dewatering	62 days	00/00/0000	00/00/0000	00/00/0000
0	Bore/Receiving Pit	40 days	00/00/0000	00/00/0000	00/00/0000
0	Piping Installation	25 days	00/00/0000	00/00/0000	00/00/0000
0	East and West Tie-In	10 days	00/00/0000	00/00/0000	00/00/0000
0	Site Resolution	5 days	00/00/0000	00/00/0000	00/00/0000
0	Demobilization	5 days	00/00/0000	00/00/0000	00/00/0000
0	Project Closeout	5 days	00/00/0000	00/00/0000	00/00/0000
0	Total Time from the date of Grant Approval	29 months	00/00/0000	00/00/0000	00/00/0000

Approved Amounts

Total Approved Net Eligible	Federal Share Percent	Total Approved Federal Share Amount	Non-Federal Share Percent	Total Approved Non-Fed Share Amount
\$2,976,000	60.358737000	\$1,796,276	39.641263000	\$1,179,724

Allocations

Allocation Number	IFMIS Status	IFMIS Date	Submission Date	FY	ES Support Req ID	ES Amend Number	Proj Alloc Amount Fed Share	Grantee Admin Amount	Subgrantee Admin Amount	Total Alloc Amount
12	A	07/22/2014	07/21/2014	2014	2420440	4	\$1,796,276	\$0	\$0	\$1,796,276
Total							\$1,796,276	\$0	\$0	\$1,796,276

07/23/2014
9:36 AM

FEDERAL EMERGENCY MANAGEMENT AGENCY
HAZARD MITIGATION GRANT PROGRAM

HMGP-AP-01

Project Management Report

Disaster Number	FEMA Project Number	Amendment Number	App ID	State	Grantee
1968	5-R	0	32	CA	Statewide

Subgrantee: MOULTEN NIGUEL WATER DISTRICT

FIPS Code: 059-1C45B

Project Title : Moulten Niguel Water Dist.- 3A Plant Effluent Transmission Main Protection I

Obligations

Action Nr	IFMIS Status	IFMIS Date	Submission Date	FY	ES Support Req ID	ES Amend Number	Suppl Nr	Project Obligated Amt - Fed Share	Grantee Admin Amount	Subgrantee Admin Amount	Total Obligated Amount
1	A	07/22/2014	07/22/2014	2014	2465958	11	11	\$1,796,276	\$0	\$0	\$1,796,276
Total								\$1,796,276	\$0	\$0	\$1,796,276

Standard Hazard Mitigation Grant Program (HMGP) Conditions
Prepared by FEMA Region IX, Updated February, 2005

The following standard requirements apply to grantees and subgrantees accepting funds from the Federal Emergency Management Agency (FEMA) HMGP:

1. **Applicable Federal, State and Local Laws and Regulations.** The grantee and subgrantee must comply with all applicable Federal, State and Local laws and regulations, regardless of whether they are specifically identified in this list or other project documents.
2. **Standards for Financial Management Systems.** Grantees and subgrantees must maintain financial management systems to account for and track grant funds, in compliance with the Code of Federal Regulations, Title 44 (44 CFR) Section 13.20.
3. **Allowable Costs.** Grant funds may only be used for allowable costs, in compliance with 44 CFR Section 13.22, and in compliance with the approved grant project scope of work and any agreements among the subgrantee, the grantee, and FEMA.
4. **Subgrantee Indirect Costs.** No indirect costs of a subgrantee are separately eligible for HMGP reimbursement, in compliance with 44 CFR Section 206.439(c)(2). Such costs are covered by the Subgrantee Administrative Cost allowance formula provided by 44 CFR Section 206.439(b)(1)(ii).
5. **Matching or Cost Sharing.** Non-federal matching or cost sharing must be in accordance with 44 CFR Section 13.24, the approved grant project scope of work, and any agreements among the subgrantee, the grantee, and FEMA.
6. **Non-Federal Audit.** The grantee and subgrantee are responsible for obtaining audits in accordance with the Single Audit Act of 1984, in compliance with 44 CFR Section 13.26.
7. **NEPA Reviews for Scope of Work Amendments.** To comply with the National Environmental Policy Act (NEPA), additions or amendments to a HMGP subgrantee statement of work (SOW) shall be reviewed by all state and federal agencies participating in the NEPA process. NEPA compliance for all SOW additions or amendments is essential before the revised SOW can be approved by FEMA or implemented by the HMGP subgrantee. Any construction activities associated with a SOW change, prior to FEMA approval, may be ineligible for reimbursement or match.
8. **Cost Overruns.** Subgrantees should be referred to the state HMGP administrative plan for project cost overrun regulations. If project costs exceed the approved federal share, the subgrantee must contact the Governor's Authorized Representative. The GAR will evaluate requests for cost overruns. Written determination of cost overrun eligibility in accordance with 44 CFR 206.438(b) shall be submitted by the GAR to the FEMA Regional Director.
9. **Real Property (Land).** If real property (land) is acquired under an HMGP grant, the use and disposition of the property shall be in compliance with 44 CFR Section 13.31 and Section 206.434(d).
10. **Equipment.** If equipment is acquired under an HMGP grant, the use and disposition of the equipment shall be in compliance with 44 CFR Section 13.32.
11. **Supplies.** If there is a residual inventory of unused supplies exceeding \$5,000 in total fair market value upon completion of the HMGP grant, and if the supplies are not needed for any other federally sponsored programs

RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: 1968-32-05

Title: Moulton Niguel 3A Plant Effluent Transmission Main

NEPA DETERMINATION

Non Compliant Flag: No
 EA Draft Date: EA Final Date:
 EA Public Notice Date: EA Fonsi Date: Level: CATEX
 EIS Notice of Intent Date: EIS ROD Date:

Comments: The proposed project is located in the City of San Juan Capistrano, California. The project is proposed by the Moulton Niguel Water District (Subgrantee) and would install a 30-inch diameter sewer pipeline via micro-tunneling beneath the concrete-lined channelized San Juan Creek. The proposed project also includes two staging areas and jacking pits for installation and receiving of the pipe. All staging and work areas are located in previously disturbed locations consisting of asphalt parking lots, asphalt pedestrian trail and the concrete banks of San Juan Creek. - abarboza - 06/27/2014 17:39:50 GMT

CATEX CATEGORIES

Catex Category Code	Description	Selected
xvi	(xvi) Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment;	Yes

EXTRAORDINARY CIRCUMSTANCES

Extraordinary Circumstance Code	Description	Selected ?
	No Extraordinary Circumstances were selected	

ENVIRONMENTAL LAW / EXECUTIVE ORDER

Environmental Law/ Executive Order	Status	Description	Comments
Clean Air Act (CAA)	Completed	Project is located in a non-attainment area	The project is located in Orange County which is within a non-attainment area for 8-hr ozone and PM2.5 according to the USEPA (http://www.epa.gov/oaqps001/greenbk/ancl.html , updated 05 December 2013). Based on the scope of work, the potential emissions from project activities are clearly below de minimis thresholds for the General Conformity Rule. Thus, the project is exempt from a conformity determination. The Applicant is responsible for complying with all other applicable subparts of the CAA. Failure to do so could jeopardize the receipt of federal funding. Any changes to the scope of work must be resubmitted to FEMA for General Conformity Rule review prior to initiation of any work. - abarboza - 06/27/2014 20:24:03 GMT

RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: 1968-32-05

Title: Moulton Nigel 3A Plant Effluent Transmission Main

Environmental Law/ Executive Order	Status	Description	Comments
			trout and would result in no effect to designated critical habitat. NMFS responded with its concurrence of FEMAs determination via letter, dated June 26, 2014 (attached). - abarboza - 06/27/2014 20:05:49 GMT Any changes to the scope of work must be resubmitted to FEMA for ESA compliance prior to initiation of any work. - abarboza - 06/27/2014 20:16:17 GMT
	Completed	May affect, but not likely to adversely affect species or designated critical habitat (FEMA determination/USFWS/NMFS concurrence attached) - Review concluded	
Farmland Protection Policy Act (FPPA)	Completed	Project does not affect designated prime or unique farmland - Review concluded	
Fish and Wildlife Coordination Act (FWCA)	Not Applicable	Project does not affect, control, or modify a waterway/body of water - Review concluded	
Migratory Bird Treaty Act (MBTA)	Completed	Project located within a flyway zone	With implementation of the Special Condition, no impacts to migratory birds are expected. - abarboza - 06/30/2014 20:00:06 GMT
	Completed	Project does not have potential to take migratory birds - Review concluded	
Magnuson-Stevens Fishery Conservation and Management Act (MSA)	Completed	Project not located in or near Essential Fish Habitat - Review concluded	
National Historic Preservation Act (NHPA)	Completed	Standard Section 106 review	The Subgrantee utilized their contractor, Dudek, to perform archival research and record searches. Information, including project design plans, archival research, Tribal consultation, and site and aerial photos, were also provided and used to perform an evaluation for the Undertaking. No historic properties listed or eligible for listing in the National Register of Historic Places were identified in the Undertakings APE as a result of the identification efforts described above. No prehistoric archaeological resources have been recorded within the APE. In addition, no nearby buildings or other aspects of the built environment would be directly or indirectly affected by the proposed actions. FEMA transmitted a letter and Cultural Resources letter report to the SHPO on May 20, 2014. The letter transmitted FEMAs determination of no historic properties affected and included mitigation measures (unexpected discoveries clause). The SHPO

RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: 1968-32-05

Title: Moulton Nigel 3A Plant Effluent Transmission Main

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required: Yes

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required: No

Standard Conditions:

Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

GRANT AWARD FACE SHEET INSTRUCTIONS

Cal OES Section: The top portion of the form contains blocks for five (5) important numbers.
Please do not fill in these blocks. These numbers will be entered by Cal OES.

1. Grant Recipient

The Grant Recipient is the unit of government or community based organization (CBO) that will have legal responsibility for these grant funds (e.g. County of Alameda, City of Fresno or Women's Place of Merced). Enter the legal title of the Grant Recipient. This term also refers to the Grantee, Sub-grantee or Sub-Recipient.

1a. Federal DUNS Number (Grant Recipient)

Enter the full 9-digit Federal Data Universal Numbering System (DUNS) ID number for the Grant Recipient. If the Grant Recipient does not yet have a DUNS number assigned, one may be obtained by contacting Dun & Bradstreet at 866-705-5711 or at www.dnb.com. This requirement applies to federally funded grants only.

2. Implementing Agency

Enter the complete name of the agency responsible for the day-to-day operation of the grant (e.g. Sheriff, Police Department, or Department of Public Works). If the Implementing Agency is the same as the Grant Recipient, enter the same title again.

2a. Federal DUNS Number (Implementing Agency)

Enter the full 9-digit Federal Data Universal Numbering System (DUNS) ID number for the Implementing Agency. If the Implementing Agency does not yet have a DUNS number assigned, one may be obtained by contacting Dun & Bradstreet at 866-705-5711 or at www.dnb.com. This requirement applies to federally funded grants only.

3. Implementing Agency Address

Enter the address of the Implementing Agency. Provide the complete nine digit zip code (Zip+4).

4. Location of Project

Enter the City and County/Operational Area where the project is located. Provide the complete nine digit zip code (Zip+4).

5. Disaster /Program Title

Enter the name of the Disaster or Program providing the funds for this grant award. A disaster may be referred by the federal declaration number. Program titles should be complete without the use of acronyms.

6. Performance Period

Enter beginning and ending dates of the performance period for the grant. (mm/dd/yy)

7A. – 12G. Fund Allocations and Total Project Cost

For each fund source used in the program, select the correct grant year and acronym from the drop down lists, the amount of State or Federal funds requested, the amount of cash *and/or* in-kind match contributed and the resulting totals. If the source does not appear on the list, enter the acronym for the source in box 11. Please do not enter both State and Federal on the same line. Block 12G should correspond to the total project cost specified in the budget.

13. Certification Paragraph

Please review the Certification Paragraph.

14. Official Authorized to sign for the Applicant/Grant Recipient

Enter the name, title, telephone number, and e-mail address of the official authorized to enter into the Grant Award Agreement for the Grant Recipient as stated in Block 1 of the Grant Award Face Sheet (Cal OES 2-101). Enter the Payment Mailing Address where grant funds should be sent.

15. Federal Employer ID Number

Enter the 9-digit Federal Employer Identification Number for the Implementing Agency.

Provide an original signature of the authorized official. The use of white out or tape is prohibited and will invalidate the signature on the Grant Award Face Sheet.

Cal OES# _____ FIPS# _____ VS _____ CFDA# _____ Grant# _____

CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES GRANT AWARD FACE SHEET (Cal OES 2-101)

The California Governor's Office of Emergency Services hereafter designated Cal OES, hereby makes a Grant Award of funds to the following:

1. Grant Recipient: _____ 1a. DUNS# _____

In the amount and for the purpose and duration set forth in this Grant Award.

2. Implementing Agency: _____ 2a. DUNS# _____

3. Implementing Agency Address: _____
Street City Zip+4

4. Location of Project: _____
City County Zip+4

5. Disaster/Program Title: _____ 6. Performance Period: _____ to _____

Grant Year	Fund Source	A. State	B. Federal	C. Total	D. Cash Match	E. In-Kind Match	F. Total Match	G. Total Project Cost
7.								
8.								
9.								
10.								
11.								
12. TOTALS								12G. Total Project Cost:

13. This Grant Award consists of this title page, the application for the grant, which is attached and made a part hereof, and the Assurances/Certifications. I hereby certify I am vested with the authority to enter into this Grant Award Agreement, and have the approval of the City/County Financial Officer, City Manager, County Administrator, Governing Board Chair, or other Approving Body. The Grant Recipient certifies that all funds received pursuant to this agreement will be spent exclusively on the purposes specified in the Grant Award. The Grant Recipient accepts this Grant Award and agrees to administer the grant project in accordance with the Grant Award as well as all applicable state and federal laws, audit requirements, federal program guidelines, and Cal OES policy and program guidance. The Grant Recipient further agrees that the allocation of funds may be contingent on the enactment of the State Budget.

14. Official Authorized to Sign for Applicant/Grant Recipient: _____ 15. Federal Employer ID Number: _____

Name: _____ Title: _____

Telephone: _____ (area code) _____ (area code) Email: _____

Payment Mailing Address: _____ City: _____ Zip+4: _____

Signature: _____ Date: _____

[FOR Cal OES USE ONLY]

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purposes of this expenditure stated above.

Cal OES Fiscal Officer _____ Date _____

Cal OES Director (or designee) _____ Date _____

Subgrantee Assurances

Hazard Mitigation Grants

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact California Governor's Office of Emergency Services (Cal OES). Further, certain federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of the project.
4. Will comply with the requirements of the assistance-awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or state.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gains.
8. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.), which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

9. Will comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) which prohibit discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107) which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255) as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made, and (j) the requirements on any other nondiscrimination statute(s) which may apply to the application.
10. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal and federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchases.
11. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$5,000 or more.
12. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.O. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.O. 93-205).
13. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

14. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
15. Will comply with Standardized Emergency Management (SEMS) requirements as stated in the California Emergency Services Act, Government Code, Chapter 7 of Division 1 of Title 2, Section 8607.1(e) and CCR Title 19, Sections 2445, 2446, 2447 and 2448.
16. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996.
17. Will comply with all applicable requirements of all other federal laws, Executive Orders, regulations and policies governing this program.
18. Has requested through the State of California, federal financial assistance to be used to perform eligible work approved in the subgrantee application for federal assistance. Will, after the receipt of federal financial assistance, through the State of California, agree to the following:
 - a. The state warrant covering federal financial assistance will be deposited in a special and separate account, and will be used to pay only eligible costs for projects described above;
 - b. To return to the State of California such part of the funds so reimbursed pursuant to the above numbered application, which are excess to the approved actual expenditures as accepted by final audit of the federal or state government.
 - c. In the event the approved amount of the above numbered project application is reduced, the reimbursement applicable to the amount of the reduction will be promptly refunded to the State of California.
19. Will not make any award or permit any award (subgrant or contract) to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension."

The undersigned represents that he/she is authorized by the above named subgrantee to enter into this agreement for and on behalf of said subgrantee.

The undersigned represents that he/she is authorized by the subgrantee to enter into this agreement for and on behalf of the said subgrantee.

Name of Authorized Applicant's Agent

Title

Signature of Authorized Applicant's Agent

Date

Authorization

I, _____, do hereby certify as the authorized representative or
Name

officer of _____, that the information contained in this
Name of Organization

application is true and correct.

Title

Signature

Date

SAMPLE - Down load electronic form at www.caloes.ca.gov

**DESIGNATION OF APPLICANT'S AGENT RESOLUTION
Hazard Mitigation Grant Program and Pre-Disaster Mitigation Program**

BE IT RESOLVED BY THE _____ OF THE _____
(Governing Body) (Name of Applicant)

THAT _____, OR
(Title of Authorized Agent)

_____, OR
(Title of Authorized Agent)

(Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the _____, a public entity
(Name of Applicant)

established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Service for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the _____, a public entity established under the laws of the State of California,
(Name of Applicant)

hereby authorizes its agent(s) to provide to the California Governor's Office of Emergency Service for all matters pertaining to such state disaster assistance the assurances and agreements required.

Please check the appropriate box below:

- This is a universal resolution and is effective for all open and future Disasters/Grants up to three (3) years following the date of approval below.
- This is a Disaster/Grant specific resolution and is effective for only Disaster/Grant name/number(s) _____

Passed and approved this _____ day of _____, 20_____

(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

CERTIFICATION

I, _____, duly appointed and _____ of
(Name) (Title)

_____, do hereby certify that the above is a true and correct copy of a
(Name of Applicant)

Resolution passed and approved by the _____ of the _____
(Governing Body) (Name of Applicant)

on the _____ day of _____, 20_____

(Signature)

(Title)

Cal OES Form 130
Instructions

A new Designation of Applicant's Agent Resolution is required if the previously submitted document is older than three (3) years from the last date of Board/Council approval.

When completing the Cal OES Form 130, Applicants should fill in the blanks on page 1. The blanks are to be filled in as follows:

Resolution Section:

Governing Body: This is the individual or group responsible for appointing and approving the Authorized Agents. Examples include: Board of Directors, City Council, Board of Supervisors, etc.

Name of Applicant: This is the official name of the non-profit, agency, city, county or special district that has applied for the grant. Examples include: City of Sacramento; Sacramento County; or Los Angeles Unified School District.

Authorized Agent: These are the individuals that are authorized by the Governing Body to engage with the Federal Emergency Management Agency and the California Governor's Office of Emergency Service regarding grants applied for by the Applicant. There are two ways of completing this section:

1. **Titles Only:** If the Governing Body so chooses, the titles of the Authorized Agents should be entered here, not their names. This allows the document to remain valid if an Authorized Agent leaves the position and is replaced by another individual. If "Titles Only" is the chosen method, this document must be accompanied by a cover letter naming the Authorized Agents by name and title. This cover letter can be completed by any authorized person within the agency (e.g.; City Clerk, the Authorized Agent, Secretary to the Director) and does not require the Governing Body's signature.
2. **Names and Titles:** If the Governing Body so chooses, the names and titles of the Authorized Agents should be listed. A new Cal OES Form 130 will be required if any of the Authorized Agents are replaced, leave the position listed on the document or their title changes.

Governing Body Representative: These are the names and titles of the approving board members. Examples include: Chairman of the Board, Superintendent, etc. The names and titles cannot be one of the designated Authorized Agents.

Certification Section:

Name and Title: This is the individual that was in attendance and recorded the Resolution creation and approval. Examples include: City Clerk, Secretary to the Board of Directors, County Clerk, etc. This person cannot be one of the designated Authorized Agents to eliminate "Self Certification."

HAZARD MITIGATION GRANTS PROGRAM

NOTIFICATION TO SUBGRANTEES

GRANT ADMINISTRATION PROCEDURES

1. ADVANCES (HMGP Only)

The California Governor's Office of Emergency Services (Cal OES) may consider approval of a one time advance provided that the subgrantee justified the need for an advance in their Hazard Mitigation Grant Program (HMGP) application. An advance can be made after federal funds have been approved, but before the expenditure of eligible costs. The advanced amount will be subtracted from the subgrantee's first reimbursement request. The advance request must be made by submitting a Request for Advance of Funds form. Subgrantees who did not request an advance in their application are not eligible for advances. A special fund for the deposit of the state warrant must be established upon receipt of any advance funding.

2. WORK SCHEDULES

The subgrantee must provide Cal OES with a projected work schedule within thirty (30) days of receipt of this obligation package. This is a one-time-only report. It should outline the proposed work schedule for the approved activity, including milestones. The milestones listed in your work schedule will be used to measure the progress reported to Cal OES in the Quarterly Reports. Please provide a separate report for each grant. The work schedule should include the following information:

Table/Chart or Graph - Create a table, chart or graph depicting your proposed work schedule by major milestones (activities/measures) from the time of initiation to completion of proposed activity.

Time line - How long you anticipate the activity will take to complete (in months).

Phases - Explain in some detail, if you plan to perform your activity in several phases, and why.

Extended Start and Completion Dates - Explain any activity start dates beyond sixty (60) days from approval date, or completion dates beyond three (3) years.

The Work Schedule should be sent to: California Governor's Office of Emergency Services
Hazard Mitigation Grants Division
3650 Schriever Avenue
Mather, California 95655

3. PROCUREMENT/COMPETITIVE BIDS PROCESS

All contract/procurement transactions must be carried out in a manner consistent with financial administrative requirements found in Title 44 of the Code of Federal Regulations (44CFR) Part 13.

4. ALLOWABLE COSTS AND REIMBURSEMENTS.

Once Federal Emergency Management Agency (FEMA) approves a total eligible activity cost and obligates funding, Cal OES can process reimbursement requests for eligible activities. Payments are made on a reimbursement basis and no funds will be disbursed for activities that are not consistent with the approved scope of work. Activity expenditures will be reimbursed at 75% of eligible costs. Additionally, Cal OES will withhold retention of 10% from each reimbursement request. The retention amount will be released to the subgrantee upon completion of the closeout process.

Reimbursement requests must be submitted to Cal OES on a Hazard Mitigation Reimbursement Form. The form must be signed by the applicant's designated authorized agent.

Should the subgrantee be able to complete this work for less than the maximum allowable costs, the subgrantee will be reimbursed at 75% of the actual costs. Any remaining funds will be deobligated. If activity costs exceed the maximum allowable costs, the subgrantee will be reimbursed at 75% of the FEMA approved activity cost.

5. COST OVERRUNS (HMGP Only)

Cost over-runs can be considered if available funding exists in the HMGP for the declared disaster. Cost over-runs under ten (10) percent of the approved activity cost are allowed when offset by cost under-runs on other activities, as determined by Cal OES. Cost over-runs exceeding ten (10) percent of the approved activity cost require Cal OES to submit the request with a recommendation to the FEMA Regional Director for review and final determination.

Cost over-runs will be indicated by quarterly progress reports and may be verified by activity inspection. All cost over-runs must be requested before expenditure of costs in excess of the total approved activity costs and the request must be signed by the applicant's designated authorized agent. Costs in excess of total approved activity costs expended before approval of cost over-runs will not be considered eligible HMGP expenditures. All cost over-runs must be justified by the subgrantee and supported by a benefit-cost analysis prepared using the FEMA benefit-cost models. Unjustified over-runs will be denied by Cal OES.

There is no guarantee that HMGP funds will be available to cover cost over-runs.

6. SCOPE OF WORK CHANGES:

Any requests for changes to the approved scope of work must be consistent with program guidance and regulations, must be submitted to Cal OES and signed by the applicant's designated authorized agent. Pre-approval is required before the start of any activity not included in the approved scope of work. Costs associated with any activity that is not included in the approved scope of work are not eligible for reimbursement.

7. QUARTERLY REPORT PROCEDURES

Subgrantees are required to submit progress reports to Cal OES on a quarterly basis until the end of the approved performance period or the activity is complete. Quarterly Reports will not be required of activities with duration of less than three months. A single report for such short-term activities will satisfy reporting requirements.

The first Quarterly Report is due to Cal OES within three months following the activity initiation. Quarterly Reports will thereafter be numbered consecutively by quarter and year (e.g. a 24 month project is required to submit 8 quarterly reports.) The following is the schedule for the Quarterly Reports:

First Reporting Period:	January 01 - March 31	Report due by April 15
Second Reporting Period:	April 01 - June 30	Report due by July 15
Third Reporting Period:	July 01 - September 30	Report due by October 15
Fourth Reporting Period:	October 01 - December 31	Report due by January 15

Quarterly Reports shall include, at a minimum:

- A. The status and completion date for the activity funded, including any problem or circumstances affecting the completion date, scope of work, or costs which are expected to result in noncompliance with the approved grant conditions.
- B. A description of milestones completed in accordance with the work schedule provided by the subgrantee. The milestones declared in the subgrantee's work schedule will be applied as a standard of the activity's progress.

Cal OES will review subgrantee reports to identify activities requiring special attention or inspection. The Governor's Authorized Representative will review the reports and forward a report to the FEMA Regional Director on the status of each grant.

Cal OES will suspend reimbursements to subgrantees that are not current in the submission of quarterly progress reports. Reimbursement requests received for suspended grants will be returned to the subgrantee.

Quarterly Reports must be sent to:

California Governor's Office of Emergency Services
Hazard Mitigation Grants Division
3650 Schriever Avenue
Mather, California 95655

8. INSPECTIONS

Cal OES reserves the right to inspect all activities for compliance. Cal OES may require the subgrantee to perform a final inspection and prepare a report. If inspections and review of the subgrantee support documentation reveal problems in performance of work and/or the documentation of such work, Cal OES shall require the subgrantee to correct the deficiencies before close-out.

9. PERFORMANCE PERIOD EXTENSIONS

All performance period extension requests must include the dates and provision of all previous extensions on this activity, a detailed explanation for the delay and a revised activity work schedule. All performance period extension requests must be submitted to Cal OES and signed by the applicant's designated authorized agent. Any costs incurred outside of an approved performance period will not be considered eligible activity costs.

HMGP

Extensions to original performance period of up to twelve months may be granted by Cal OES upon written request from the subgrantee. Requests for time extensions must be submitted to Cal OES prior to the end of the current approved performance period.

Requests for time extensions beyond the authority of Cal OES must be submitted to Cal OES in writing and received by Cal OES no later than ninety (90) days prior to the expiration of the current approved performance period. Time extension requests received by Cal OES less than ninety (90) days prior to the end of the current approved performance period will not be considered. Cal OES must submit these requests to the FEMA Regional Director for final determination.

Following the Regional Director's review, Cal OES will be notified in writing of the determination. Cal OES will notify the subgrantee of FEMA's determination. If the extension is denied, the subgrantee can submit a second request to be considered by the FEMA Associate Director.

FMA / LPDM / PDM / SRL

Performance period extension requests must be submitted to Cal OES in writing and received by Cal OES no later than ninety (90) days prior to the expiration of the current approved period of performance. Time extension requests received by Cal OES less than ninety (90) days prior to the end of the current approved period of performance will not be considered. Review program guidance for period of performance extension request requirements.

10. ADMINISTRATIVE DOCUMENTS

The administrative documents included with this package must be completed, signed by an authorized representative of the subgrantee and received by Cal OES before any payments can be processed. These forms include (1) Subgrantee Assurances and (2) Designation of Applicant's Agent Resolution. Completed forms must be mailed to:

California Governor's Office of Emergency Services
Hazard Mitigation Grants Division
3650 Schriever Avenue
Mather, California 95655

11. FINAL REPORTS

Final Claims must be filed using the Final Claim form. All activity costs are subject to audit; therefore, adequate documentation is required to verify the scope of work and the activity costs. All activity documentation must be retained by the subgrantee for three years from closeout. The subgrantee shall submit a final report package

to Cal OES when the activity has been completed. The documentation required is dependent on the type of activity. The package must include at least the following:

- Final Claim form
- Accomplishments and results report
- Budget summary
- Photographs/materials

Payment of the 10% retention will be processed upon completion of the closeout process.

12. AUDITS

The Cal OES may request an audit of any funds disbursed to a subgrantee at any time, regardless of the amount. Each subgrantee is required to provide reasonable and timely access to all records. Subgrantees that expend combined federal awards above \$500,000 must submit audit reports consistent with the requirements of Office of Management and Budget OMB Circular A-133. Such audits of subgrantees will be conducted in accordance with the requirements of the Single Audit Act and amended by 1996 (PL 104-156). Records must be retained by the subgrantee for three years from project closeout.

13. MONITORING

In order to provide reasonable assurance of compliance with applicable Federal and State laws and regulations, and to comply with Cal OES's administrative oversight responsibilities, subgrantee activities shall be monitored and associated finding (s) and program deficiencies resolved through viable corrective action plans. Financial and administrative compliance monitoring is comprised of desk reviews, as well as field reviews, of specific subgrantee information and supporting financial documentation and books of record.

14. APPEALS (HMGP Only)

A subgrantee may appeal any determination made by FEMA relative to grant assistance by submitting justification in writing to Cal OES within sixty (60) days of the action being appealed. Appeals must be submitted through the Governor's Authorized Representative (GAR). Subgrantees must provide sufficient information to allow the GAR to determine the facts and validity of the request.

Cal OES will review the appeal material submitted, make any additional investigations necessary and forward the appeal with a written recommendation to the FEMA Regional Director within sixty (60) days.

The FEMA Regional Director shall notify Cal OES as to the disposition of the subgrantee's appeal or need for additional information within ninety (90) days following receipt of all related information. If the decision is to grant the appeal, the Regional Director will take appropriate implementing action.

If the Regional Director denies the appeal, the subgrantee may submit a second appeal in writing to the GAR. The GAR reviews the second appeal and may forward it to the FEMA Associate Director through the FEMA Regional Director. Such appeals shall be made in writing and shall be submitted not later than sixty (60) days after receipt of notice of the Regional Director's denial of the first appeal. The Associate Director shall render a determination on the GAR's appeal within ninety (90) days following receipt of all related information. The Associate Director's determination is final.

In rendering such determinations, the Associate Director may, in those cases involving appeals of a highly technical nature, refer the appeal to an independent scientific or technical body for review. The GAR must first agree to such a process, including a waiver of the ninety (90) day time limitation for appeal resolution, as well as sharing the cost of such reviews.

See Part 44 of the Code of Federal Regulations (44CFR) Section 206.440.

**California Governor's Office of Emergency Services (Cal OES)
Hazard Mitigation Grants Division
Award/Disaster # _____**

Reimbursement Request Form

Mail Reimbursement Request to:

California Governor's Office of Emergency Services
Hazard Mitigation Grants Division
3650 Schriever Avenue
Mather, CA 95655

Applicant: _____

FIPS ID# _____

Please mark this box to indicate a change in the Authorized Agent's Mailing Address below

Project Number	Cumulative Expenditures to date	Reimbursement Request for the period of _____ to _____
	\$ _____	\$ _____
Total	\$ _____	\$ _____

Under penalty of perjury, I certify that:

- I am the duly authorized officer of the claimant herein
- This claim is in all respects true, correct, and all expenditures were made in accordance with applicable laws, rules, regulations and grant conditions and assurances
- This claim is for costs incurred within the Grant Performance Period

Authorized Agent (Per Governing Body Resolution)

Printed Name

Phone No.

Fax No.

Title

E-Mail Address

Signature

Date

New Mailing Address Only

For Cal OES Only (Cal OES 400)

Obligated Amount: \$ _____	Date: _____
Expenditures To Date: \$ _____	Reviewer: _____
Cost Share (50% or 75%): \$ _____	Title: _____
Less Retention: \$ _____	Date: _____
Prior Payments Made: \$ _____	Approval: _____
Amount Allowable for Payment: \$ _____	Title: _____

**Instruction Sheet for Reimbursement Request –
California Governor’s Office of Emergency Services**

Award # The award # can be found on the Notification of Approval Letter

Applicant The applicant is the entity, as identified in the original grant application. Do not identify any sub-departments or offices as the applicant

FIPS ID # This is the applicant’s identification number as identified on the Notification of Approval Letter

Address Changes Indicate a change in address by checking the box shown and noting the new address in the area marked “mailing address”

Project Number The project number can be found on the Notification of Approval Letter

Expenditures To Date Identify total grant expenditures incurred to date for each project number (including local share)

Reimbursement Request for the Period of: The applicant may request reimbursement of all, or a portion of, *Grant Expenditures incurred since the last Reimbursement Request*. Indicate the month and year for the beginning of the period covered to the end of the period covered during which these expenditures were incurred. *This is not the Project/Budget Period listed on the subgrant*

HMGP Disasters Grants: No Fiscal Year restrictions

All Other Grants: This request period cannot cross state fiscal years. Therefore, separate requests Must be submitted for expenditures incurred on or before June 30, and on or after July 1

Authorized Agent Information Complete all line items requested and ensure that the form is signed by an Authorized Agent named in the Governing Body Resolution

Mail Mail the original to the address identified at the top of the request form

Supporting Documents Supporting documents are not required to be submitted with the Reimbursement Request; however, California Governor’s Office of Emergency Services reserves the right to request documentation at any time. Applicants are reminded to maintain documents that support the expenditures and reimbursement amounts shown on the request

Subgrantee Quarterly Report

Award/Disaster #	CaIOES #	FEMA #	FIPS #	Months Covered	Report #
Project Name					
Subgrantee Telephone #					
Subgrantee Name			Project Completion Date		
Estimated Draw Down for Next quarter \$			Budget Status		
			<input type="checkbox"/> Unchanged <input type="checkbox"/> Cost Underrun (Explain below) <input type="checkbox"/> Cost Overrun (Explain below)		
Work Schedule					
Is project proceeding on schedule? <input type="checkbox"/> Ahead of Schedule (Explain below) <input type="checkbox"/> On Schedule <input type="checkbox"/> Behind Schedule (Explain below)					
General Comments					
Authorized Signature: _____				Print Name: _____	
Address: _____				Date: _____	

Subgrantee Quarterly Report

List all milestones from work schedule including those planned & completed. Describe problems or circumstances affecting completion dates, scope of work, cost, and impacts on any other milestones. Also describe achievements, successes, progress, and special issues.

Milestone #	Projected		Status		
	Start Date	Completion Date	<input type="radio"/> Ahead of Schedule	<input type="radio"/> On Schedule	<input type="radio"/> Behind Schedule
			<input type="radio"/> Milestone Completed	<input type="radio"/> Suspended	<input type="radio"/> Withdrawn

Comments

Milestone #	Projected		Status		
	Start Date	Completion Date	<input type="radio"/> Ahead of Schedule	<input type="radio"/> On Schedule	<input type="radio"/> Behind Schedule
			<input type="radio"/> Milestone Completed	<input type="radio"/> Suspended	<input type="radio"/> Withdrawn

Comments

Milestone #	Projected		Status		
	Start Date	Completion Date	<input type="radio"/> Ahead of Schedule	<input type="radio"/> On Schedule	<input type="radio"/> Behind Schedule
			<input type="radio"/> Milestone Completed	<input type="radio"/> Suspended	<input type="radio"/> Withdrawn

Comments

Milestone #	Projected		Status		
	Start Date	Completion Date	<input type="radio"/> Ahead of Schedule	<input type="radio"/> On Schedule	<input type="radio"/> Behind Schedule
			<input type="radio"/> Milestone Completed	<input type="radio"/> Suspended	<input type="radio"/> Withdrawn

Comments

(Additional sheets may be used as needed)



Moulton Niguel Water District

STAFF REPORT

TO: Board of Directors **MEETING DATE:** August 21, 2014

FROM: Matt Collings, Assistant General Manager
Ruth Zintzun, Finance Manager

SUBJECT: Amendment No. 1 to Agreement with MWH Americas, Inc.

SUMMARY:

Issue: Staff requests an amendment to the Agreement with MWH Americas, Inc. (MWH) to expand the current scope of work and corresponding agreement amount to include modeling rate effects of various drought stages.

Recommendation: It is recommended that the Board of Directors authorize the General Manager to execute Amendment No. 1 to the Agreement with MWH for an amount not-to-exceed \$17,000.

Fiscal Impact: Sufficient funds have been budgeted in the FY 2014-15 operating budget.

BACKGROUND:

In 2011, the District changed its rate structure to budget based (allocation based) water rates. The District's Conservation Rules and Regulations have not been revised to reflect the rate structure change or create the ability to enforce various drought stages through the budget based water rate structure.

Staff is currently revising the Conservation Rules and Regulations in conjunction with the rate design study to leverage the ability enforce various drought stages through the current rate structure.

DISCUSSION:

In March 2014, the Board of Directors entered into an agreement with MWH to perform a cost of service and rate design study as a result of a request for proposal process. Subsequently, staff has requested a quote for expanding MWH's scope of work to include modeling rate effects of various drought stages. Attached is an amendment to

Amendment No. 1 to Agreement with MWH

August 21, 2014

Page 2 of 2

the District's agreement with MWH to include this expanded scope of work for a not to exceed fee of an additional \$17,000.

Staff is proposing to amend to MWH's current agreement to increase the total not to exceed fee and included the expanded scope of work.

Attachment:

1. Amendment No. 1 to the Agreement with MWH
2. Original Agreement

**AMENDMENT NO. 1 TO THE AGREEMENT FOR CONSULTING SERVICES
BETWEEN MOULTON NIGUEL WATER DISTRICT AND MWH AMERICAS INC.
CONTRACT NO. OM13-14.019**

This Amendment No. 1 (this "Amendment") is entered into and effective as of _____, 2014, amending the Agreement for Consulting Services, dated March 26, 2014 (the "Agreement"), by and between the Moulton Niguel Water District ("MNWD"), and MWH Americas, Inc. ("Consultant") (collectively, the "Parties") for the cost of service and rate design study.

RECITALS

- A. On March 26, 2014, the Parties entered into the Agreement for cost of service and rate design study services; and
- B. The Parties desire to supplement the Agreement's scope of work and Consultant's performance of services to provide MNWD with a Drought Surcharge Policy; and
- C. The Parties have negotiated and agreed to a supplemental scope of work and related fees which are attached hereto and incorporated herein by this reference as Exhibit A-1, Supplemental Scope of Work and Fees.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, MNWD and Consultant agree as follows:

- 1. Addition of Exhibit A-1, Supplemental Scope of Work. Exhibit A-1, is added to the terms of the Agreement by reference. The services detailed in Exhibit A-1 shall be included in the definition of Services under the Agreement.
- 2. MNWD will pay Consultant for all services associated with this Amendment a not-to-exceed amount of seventeen thousand dollars (\$17,000) in accordance with the payment terms of the Agreement. The Parties agree that the total Agreement amount, including this Amendment, shall not exceed one hundred sixty-three thousand dollars (\$163,000.00).
- 3. Consultant will complete all work for this Amendment by March 26, 2015.
- 4. All other provisions of the Agreement, as may have been amended from time to time, will remain in full force and effect. In the event of any conflict or inconsistency between the Agreement and previous amendments and this Amendment, the terms of this Amendment shall control.
- 5. All requisite insurance policies to be maintained by the Consultant pursuant to the Agreement, as may have been amended from time to time, will include coverage for this Amendment.

SIGNATURE PAGE FOLLOWS

MWH AMERICAS, INC.

MOULTON NIGUEL WATER DISTRICT, a
California Water District

By:

By: Joone Lopez

(Sign here)

General Manager

Name

Title

EXHIBIT A-1

SUPPLEMENTAL SCOPE OF WORK AND FEES

Scope of Work:

Leveraging the previously developed water system cost of service model and water budget rate design model, CONSULTANT will run scenarios based on the various drought stages defined by MNWD policy. Working collaboratively with MNWD staff, CONSULTANT will ultimately recommend standard modifications to rates to be triggered during each drought stage. The recommended rates will be legally defensible by reflecting the cost of providing water services and tying to the water system's revenue requirements. It is anticipated that MNWD will ultimately implement the rates as a Drought Surcharge Policy, which will be adopted subject to the Prop 218 process.

Deliverables:

A draft and final memorandum will be delivered which will document the recommended Drought Surcharge Policy for water rates.

Meetings:

Estimate includes conference call meetings as needed and one (1) onsite meeting.

Completion Date: March 26, 2015

Fees: MWH shall provide the requested scope of work on an hourly basis for a not-to-exceed amount of **\$17,000** inclusive of all direct and indirect costs associated with the mandatory project tasks.

**AGREEMENT FOR CONSULTING SERVICES BETWEEN
MOULTON NIGUEL WATER DISTRICT AND MWH AMERICAS, INC.
MNWD PROJECT: WATER / RECYCLED WATER / WASTEWATER COST OF
SERVICE AND RATE DESIGN STUDY; CONTRACT NO. OM13-14.019**

THIS AGREEMENT (the "Agreement") is dated as of March 26, 2014 (the "Effective Date"), by and between MWH Americas, Inc., hereinafter referred to as the "CONSULTANT" and Moulton Niguel Water District hereinafter referred to as "MNWD," and provides for the furnishing of CONSULTING services to MNWD by CONSULTANT. MNWD and CONSULTANT may sometimes be referred to in this Agreement individually as "party" and together as "parties."

RECITALS

CONSULTANT proposes to provide services to MNWD in connection with the consulting services to conduct water, recycled water, and wastewater cost of service and rate design studies for the District (the "Project"). The scope of work to be performed by CONSULTANT under this Agreement is described in **Exhibit A** hereto, which is incorporated herein (the "Scope of Work").

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

AGREEMENT

SECTION I - CONSULTING SERVICES, AUTHORIZATION

Section 1.1 CONSULTANT proposes to perform those services which are described in the Scope of Work. MNWD may request or CONSULTANT may recommend, that CONSULTANT perform work in addition to or different from that delineated in the original Scope of Work, or delete services from the Scope of Work. Upon MNWD's request for additional or changed work, CONSULTANT shall provide a cost estimate and written description of the additional or changed work. Prior to any such addition, changes, or deletion to the Scope of Work, MNWD and CONSULTANT shall negotiate an adjustment of the compensation and time for completion and shall execute a written addendum to this Agreement. Upon execution of each addendum, (i) the Scope of Work shall thereafter be as described in **Exhibit A**, respectively, as modified by the addendum and any previously executed addendum; and (ii) the time for completing the work shall be as set forth in the addendum. Following execution of any addendum, all terms and provisions of the Agreement, except as expressly modified by such addendum, shall remain in full force and effect. MNWD will not be required to pay for any additional or changed work rendered in advance of the execution of an addendum covering the additional or changed work.

Section 1.2 CONSULTANT agrees to complete all services within the time periods set forth in the Scope of Work. Time is of the essence in this Agreement.

CONSULTANT agrees to coordinate the work to ensure its timely completion and shall promptly notify MNWD of any anticipated delays or causes or casualties beyond CONSULTANT'S control which may affect the work schedule. In the event the time for completing the Scope of Work is projected to be exceeded due to circumstances beyond the control of CONSULTANT, CONSULTANT shall have an additional amount of time to be agreed upon in writing between the parties pursuant to Section 1.1 and an executed addendum, in which to complete the work. CONSULTANT shall not begin work on any services pursuant to this Agreement until receipt of MNWD'S written direction to proceed. Upon receipt of such notice, CONSULTANT shall

immediately commence the work described in **Exhibit A**.

Section 1.3 CONSULTANT, who shall be the Principal in Charge of work, is Mark Hildebrand.

As part of the Project, CONSULTANT intends to subcontract certain services for the Project. Separate subcontracts may be entered into between CONSULTANT and the subconsultants listed in **Exhibit B** hereto. Any additional subconsultants CONSULTANT proposes to use are subject to prior written approval by MNWD.

Without prior written approval of MNWD, CONSULTANT will not make any changes in CONSULTANT'S Principal in Charge, in consultants, in outside labor arrangements, or associations or joint ventures which are required to accomplish any part of the Scope of Work. CONSULTANT is responsible to MNWD for the acts and omissions of its subcontractors as it is for persons directly employed by CONSULTANT. Nothing contained in this Agreement creates any contractual relationship between any subconsultant/subcontractor and MNWD. CONSULTANT shall not allow any subconsultant/subcontractor to commence work or services under any subcontract until all insurance required of CONSULTANT has been obtained for the subconsultant/subcontractor.

Section 1.4 MNWD shall make available to CONSULTANT at no cost all technical data in MNWD's possession, including maps, past reports, prior studies, and other information reasonably required by CONSULTANT and relating to the work to be performed under this Agreement. CONSULTANT shall be entitled to reasonably rely upon the information and data provided by MNWD or obtained from generally acceptable sources within the industry without independent verification except to the extent such verification is expressly included in the Services.

CONSULTANT will furnish to MNWD the agreed upon number of reports and supporting documents. These instruments of service are furnished for MNWD's use in connection with the project or work provided for in this Agreement and shall become MNWD's property upon receipt. All documents and information generated by CONSULTANT and any of CONSULTANT'S subcontractors pursuant to this Agreement shall remain confidential and shall not be copied, distributed, or otherwise provided or referenced by CONSULTANT or CONSULTANT'S subcontractors to any third parties other than with MNWD's written consent, or as compelled by order of court.

All original documents, including detailed calculations developed for the Project shall, upon payment in full for the services described in this Agreement or as otherwise provided in Section II herein, be furnished to and become the property of MNWD.

CONSULTANT may retain a copy of all reports and documents for their files.

SECTION II - CONSULTING FEES

Section 2.1 In consideration for providing the CONSULTING services referred to in Section I herein, MNWD agrees to compensate CONSULTANT on an hourly rate basis, with a not-to-exceed maximum amount of **One Hundred Forty-Six Thousand Dollars (\$146,000)** (which maximum amount is inclusive of 'labor costs' and 'direct costs', as further discussed below). The breakdown of the fees, costs and billing rates for the Project is attached hereto as **Exhibit C** which is incorporated herein. Compensation shall be on an hourly rate basis for labor costs as defined herein below in Section 2.2 plus 100% of the reasonable direct costs as defined herein below in Section 2.3.

Section 2.2 Labor costs shall be the total number of hours worked on the job by each employee multiplied by the applicable hourly billing rate.

Section 2.3 Reasonable direct costs shall include those costs as described in the Scope of Work and listed in Exhibit C.

Section 2.4 Monthly progress payments will be made based on submittal of invoices by CONSULTANT. Invoices will include the number of hours worked by various labor categories, the hourly billing rate per individual, and the total amount due. Only one bill per month shall be submitted by CONSULTANT, showing invoices for CONSULTANT and each subconsultant utilized during the monthly billing period.

SECTION III – TERM

Section 3.1 This Agreement shall commence on the Effective Date and continue in effect for one (1) calendar year, unless otherwise terminated by either party pursuant to Section VI herein. This Agreement may be extended, at MNWD's option, for an additional one (1) year term, at the prices in the Fee Schedule listed in Exhibit C, with the scope to be determined and agreed upon by the parties at the time of extension. An extension will be based upon a satisfactory review of CONSULTANT'S performance, subject to MNWD's sole discretion; MNWD's needs; and appropriation of funds by the MNWD Board of Directors. The parties will prepare a written amendment indicating the effective date, length and scope of the extended Agreement.

SECTION IV - WARRANTY/DISCLAIMER

Section 4.1 CONSULTANT is employed to render CONSULTING services pursuant to this Agreement only, and any payments made to CONSULTANT are compensation solely for such services as it may render and recommendations it may make in carrying out the work. CONSULTANT makes no warranty, either expressed or implied, as to its services furnished under this Agreement, including any findings, opinions, recommendations, factual presentations, or professional advice, other than that such services will be performed in accordance with generally accepted professional CONSULTING practices and principles.

Section 4.2 In performing services under this Agreement, CONSULTANT shall observe and abide by the terms and conditions of all applicable laws, regulations, ordinances, or other rules of the United States, of the State of California, or any political subdivisions thereof, or of any other duly constituted public authority or agency including but not limited to MNWD.

Section 4.3 The services to be performed by CONSULTANT are intended solely for the benefit of MNWD. Nothing contained herein shall confer any rights upon or create any duties on the part of CONSULTANT toward any person or persons not a party to this Agreement including, but not limited to any contractor, subcontractor, supplier, or the agents, officers, employees, insurers, or sureties of any of them. Any reuse of documents or data for other than the intended use shall be at the sole risk of MNWD.

Section 4.4 It is agreed between the parties that there is no intention for CONSULTANT to act under this Agreement as a municipal advisor as that term is defined in the Securities Exchange Act of 1934.

SECTION V - INSURANCE AND INDEMNIFICATION

Section 5.1 Professional Liability Insurance. CONSULTANT and each of its sub-consultants/subcontractors shall maintain throughout the term of this Agreement a professional liability (errors and omissions) policy of insurance having coverage of not less than One Million Dollars (\$1,000,000) for each claim and in annual aggregate. The following provisions shall apply if the professional liability coverage is written on a claims-made basis:

- (a) The retroactive date of the policy must be shown and must be before the dated date of this Agreement.
- (b) Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of this Agreement or the services hereunder.
- (c) If coverage is canceled or not renewed and it is not replaced with another claims made policy form with a retroactive date that precedes the date of this Agreement, CONSULTANT must provide extended reporting coverage for a minimum of three (3) years after completion of the services. MNWD shall have the right to exercise at the CONSULTANT'S cost any extended reporting provisions of the policy should the CONSULTANT cancel or not renew the coverage.
- (d) A copy of the claims reporting requirements must be submitted to MNWD prior to the commencement of any work under this Agreement.

Section 5.2 General/ Automobile Liability Insurance. CONSULTANT and each of its sub-consultants/subcontractors shall maintain throughout the term of this Agreement a general liability policy of insurance for bodily injury and/or death, personal injury and property damage claims which may arise from or in connection with the performance of the work under this Agreement by CONSULTANT and its sub-consultants/subcontractors, and each of their agents, representatives, or employees. Such public liability and property damage insurance (which shall cover claims, injury, death, loss or damage or accidents from the use or operation of any automobiles, trucks and/or other mobile or stationary equipment, whether owned, non-owned or hired) shall be comprehensive in form and shall be on a "per occurrence" basis in a minimum amount of One Million Dollars (\$1,000,000) per occurrence and an annual aggregate limit in a minimum amount at least twice the per occurrence limit specified in this section.

All insurance provided under this Section 5.2 shall name MNWD and its' directors, officers, employees and representatives as additional insureds under each such policy ("additional insureds") and an additional insured endorsement shall be provided in form acceptable to MNWD.

Section 5.3 Worker's Compensation. By its signature hereunder, CONSULTANT certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that CONSULTANT will comply with such provisions before commencing the performance of work under this Agreement. CONSULTANT and subconsultants/subcontractors shall maintain throughout the term of this Agreement workers' compensation insurance with limits no less than the statutory limits, and Employer's Liability insurance with limits no less than One Million Dollars (\$1,000,000) per accident and per disease for their employees and shall file with the MNWD the certificate required by Labor Code Section 3700. The workers compensation/Employer's Liability insurance shall be endorsed with a waiver of subrogation in favor of MNWD and its' directors, officers, employees and representatives.

Section 4.4 Requirements of All Policies. All policies of insurance required under this Section V shall be from insurance providers who are either admitted or licensed to do business in California, or are Surplus Lines Carriers authorized to do business in California, and who have financial size and ratings of no less than A-, Class XIII, and in either case are otherwise acceptable to MNWD. All such policies shall include a provision and executed endorsement for thirty (30) days prior written notice by certified mail, return receipt requested, to MNWD of any cancellation or material alteration of such insurance. CONSULTANT shall provide original certificates and endorsements for all such insurance on forms approved by MNWD in conformity with all requirements of this Agreement prior to commencement of any work or professional services. The policies required hereunder shall be endorsed to include contractual liability.

In the case of additional insured provisions, any insurance afforded the additional insureds by this Agreement is primary insurance as to the additional insureds. Any insurance or self-insurance maintained by the additional insureds shall be excess of the CONSULTANT'S (and its subconsultant's/subcontractor's) insurance, and shall not contribute to such insurance.

Any deductibles or self-insured retentions must be declared in writing and approved by MNWD. At the option of MNWD, either: the insurance provider(s) shall reduce or eliminate such deductibles or self-insured retentions as respects the MNWD and its' directors, officers, employees and representatives; or the CONSULTANT shall provide a financial guarantee satisfactory to MNWD guaranteeing payment of losses and related investigations, claim administration and defense expenses. Maintenance of insurance coverage as specified in this Agreement is a material term of this Agreement, and any failure to maintain or renew coverage, or to provide evidence thereof, as required by the terms is a material breach of this Agreement.

Section 5.5 Indemnity.

CONSULTANT shall indemnify, defend and hold harmless, including the cost to defend, MNWD and its' directors, officers, employees and representatives ("indemnitees") from and against all liability, claims, suits, causes of action, damages, demands, actions, losses, attorney's fees, costs and expenses (collectively referred to as "claims") (i) for personal injury, bodily injury or property damage that arise out of, pertain to, or relate to the operations and work of the CONSULTANT and its sub-consultants/subcontractors under this Agreement, (ii) to the extent caused by CONSULTANT'S or its sub-consultant's/ subcontractor's: (a) negligent acts, errors or omissions, recklessness, or willful misconduct in the performance (or actual or alleged non-performance) of the services under this Agreement, or (b) breach or violation of any laws, statutes, ordinances, codes, regulations and requirements of any applicable federal, state or local government authorities or agencies; or (c) breach of any of its obligations under this Agreement.

The foregoing obligations include CONSULTANT's obligation to defend, at its cost and expense, the indemnitees with respect to the claims, which defense shall be conducted by qualified and appropriately experienced legal counsel, and at no cost to MNWD or other indemnitees.

CONSULTANT'S obligations pursuant to this Section shall survive the expiration or termination of this Agreement and/or the performance or completion of any or all services and work provided under this Agreement. This indemnity obligation shall apply to all liability regardless of whether any insurance is applicable, and the policy limits of any insurance shall not act as a limitation upon the indemnification, and amounts related thereto, to be provided by CONSULTANT hereunder.

Regardless of whether the CONSULTANT or any sub-consultant may have any licensed design professional on its staff, the parties intend that this Agreement shall not be construed as an agreement for the CONSULTANT to provide "design professional services" that are within the

scope of Civil Code Section 2782.8. However, to the extent a court of competent jurisdiction nonetheless holds that this Agreement is within the scope of Civil Code Section 2782.8, and such holding becomes final and unappealable, this Section shall be interpreted consistent with Civil Code Section 2782.8 as it exists as of the Effective Date.

SECTION VI - TERMINATION OR ABANDONMENT

This Agreement may be terminated in whole or in part in writing by either party provided that no such termination may be effected unless the other party is given not less than ten (10) calendar day's written notice (deliver by certified mail, return receipt requested) of intent to terminate. Additionally, MNWD may suspend performance by CONSULTANT of any or all services listed in the Scope of Work under this Agreement by providing written notice to CONSULTANT at least five (5) working days prior to the date on which MNWD wishes to suspend; provided, upon receipt of such notice, CONSULTANT shall immediately suspend any work or services hereunder, unless otherwise instructed by MNWD in such notice.

CONSULTANT shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from MNWD to resume performance. MNWD and CONSULTANT agree that in the event MNWD suspends or terminates performance by CONSULTANT for any cause other than the intentional or negligent error or omission of CONSULTANT, CONSULTANT shall be entitled to payment of compensation incurred prior to the effective date of the suspension or termination, as determined under Section II of this Agreement.

In the event of any suspension or termination herein, MNWD shall have the right to take possession and shall immediately own all original drawings and other documents developed for that portion of the work completed and/or being suspended or abandoned.

SECTION VII - GENERAL

Section 7.1 CONSULTANT represents that it is aware of no facts or circumstances which would impair its ability to provide fair and unbiased advice to MNWD in the course of performing the CONSULTING services hereunder, or which would impact its objectivity in performing such services hereunder.

Section 7.2 This Agreement represents the entire understanding of MNWD and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be amended, modified or altered except in writing, signed by the parties. This Agreement shall not be construed against the party preparing it, but shall be construed as if both parties prepared it.

Section 7.3 Any notice required or permitted to be given hereunder if not otherwise specified herein may be given or delivered by depositing the same in the United States Post Office, registered or certified, postage prepaid, or by personal service a hand delivery, and addressed to:

To MNWD -

Attn: Matt Collings, Assistant General Manager
Moulton Niguel Water District
27500 La Paz Road
Laguna Niguel, CA 92677-3489

To CONSULTANT - Attn: Jason Mumm, Vice President
380 Interlocken Crescent, Suite 200
Broomfield, CO 80021

Section 7.4 California law shall govern the interpretation of this Agreement. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure 394.

Section 7.5 In the event an action is commenced by either party to enforce its rights or obligations arising from this Agreement, the prevailing party in such action, in addition to any other relief and recovery awarded by the court, shall be entitled to recover all costs and expenses, including court costs, plus a reasonable amount for attorney's fees.

Section 7.6 If any section of this Agreement or provision of this Agreement as applied to either party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

Section 7.7 It is expressly understood and agreed that CONSULTANT is retained as an independent contractor for the sole purpose of rendering the professional and/or special Services, and is not an employee of MNWD. CONSULTANT warrants that it will not represent, at any time or in any manner, that CONSULTANT is an employee or agent of MNWD. CONSULTANT shall have no authority to, and shall not, incur any debt, obligation or liability on behalf of MNWD. CONSULTANT shall be solely responsible for the payment of all federal, state and local income tax, social security tax, Workers' Compensation insurance, state disability insurance, and any other taxes or insurance CONSULTANT, as an independent contractor, is responsible for paying under federal, state or local law.

The person signing this Agreement on behalf of each party hereto represents he/she has authority to sign on behalf of, respectively, MNWD or CONSULTANT.

Section 7.8 This Agreement and all of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns; provided, however, that no assignment of this Agreement or any interest herein shall be made by CONSULTANT without prior written consent of MNWD.

Section 7.9 This Agreement may be executed in counterparts, each of which shall be deemed an original.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 26 day of MARCH, 2014.

Moulton Niguel Water District

By: 
Joone Lopez
General Manager

CONSULTANT – MWH Americas, Inc.


By: 
Title: Vice President

EXHIBIT A

Scope of Work and Work Plan

Unless indicated otherwise, all work relates to Water, Recycled Water, and Wastewater enterprises (referred to collectively hereafter as the **three "Enterprises"**).

Project Management Task

Consultant considers project management to be a critical task for all projects. In addition to regular contact between our Project Manager and District staff, we propose to develop two scheduled lines of communication; monthly progress reports and a monthly progress conference call (or in-person when conveniently coupled with a project meeting). MWH uses an on-line project management system that ensures that variances from the project plan will be detected early and corrective action effectively applied.

Meetings Monthly meetings with District staff to discuss project progress and schedule

Deliverables:

- Monthly meetings with District staff to discuss project progress and schedule
- Monthly invoices accompanied by progress summary

Task 1A - Initial Meetings and Data Collection

Consultant will collect and review data to be provided by the District, primarily historical and current financial information. When possible, financial data will be collected in electronic form. Activities will include:

Data Request. Consultant will furnish an initial data request list, which will include customer information, financial and operating data, customer billing records, reports, projected operating and capital budgets, fixed asset records, relevant ordinances, and rate study models.

Project Planning. Consultant will hold a Project Kick-off meeting to discuss rate making policies, goals, and scheduling to align our work with the District's objectives. Topic may include issues of concern to the District, data summary efforts, communication protocols, and project scheduling.

Review of Initial Data. Consultant will review all data received to confirm its completeness. This will include a review of the quality of the District's existing rate models. As the study progresses and after initial data is evaluated, Consultant may submit requests for additional data and clarifications of initial data received.

Meetings Kick-off Meeting

Deliverables: Data request memorandum, meeting agenda and minutes

Task 1B – Review and Propose Modifications to the Revenue Requirements

Consultant will analyze District data to develop projections for both revenues and expenses for a five-year study period covering fiscal years 2015 through 2019. Specific activities will include:

Rate Revenue Projections. Consultant will project the number of customers for each respective Enterprise and billable volumes by considering historical population and customer growth trends, growth projections provided by the District, expected changes in customer behavior over time, and other knowledge provided by District staff. The

analysis will examine five years of historical data, as available. Projections of revenue under existing rates will be developed, recognizing projected accounts, billed volumes, and other billable units applied to the existing rate structure.

Other Income Projections. Interest income and revenue from other domestic water sources will be reviewed and projections made.

Operation and Maintenance Expense Projections. Consultant will project operation and maintenance expense based on a review of historical financial records and trends, and available budget estimates of future domestic water operation and maintenance expense. Projections will recognize estimated of population growth, inflation, changes in services, and other factors.

Debt Service Expense Schedule. Projections of principal and interest payments on any projected future bonds for major capital improvements will be developed for the forecast study period.

Consultant will also work with District staff to develop the following:

Routine Capital Expenditures. Consultant will work with District staff to develop the anticipated annual spending levels for repair and replacement over a ten (10) year period. Such expenditures consist of the normal and ongoing replacement of worn out or obsolete equipment.

Major Capital Improvement Program Financing Plan. Consultant will work with District staff to develop up to three (3) potential capital spending programs plans for each Enterprise's capital improvement program. Ultimately a financing strategy for such capital expenses will be recommended based on consideration of available funding, existing revenue bond ordinance covenants and other requirements, impact on rate levels and District policy. The capital spending program will inform the work conducted in subsequent

Reserve Funding. Existing reserve fund requirements and balances will be reviewed for adequacy. Applicable bond ordinance requirements will be reviewed along with any relevant District policies. Consultant will recommend adequate reserve levels based on our review of both reserve funding requirements and industry standards.

By modeling both the revenue and expense projections, a cash flow analysis of Enterprise operating and capital financing needs will be developed. Detailed analyses will provide an indication of the magnitude of overall adjustments in respective annual revenue levels needed to meet the projected revenue requirements.

Using the District's existing financial planning model, Consultant will prepare cash flow analyses summarizing the above projections of revenues and revenue requirements to determine the adequacy of revenues under existing rate levels to meet operating and capital needs for the study period. As part of this effort, MWH will work with District Staff to develop up to three (3) capital spending scenarios to test the sensitivity of various capital programs on future rates. These alternative scenarios will recognize major capital program and the other revenue requirements established above. MWH will conduct Model Validation Workshops to review the models and discuss the preliminary findings. Modifications to the models will be made, as appropriate, based on discussions during the workshop. The findings from the model results and the workshop discussion will be captured in a draft 5-Year Financial Plan for the District's review and comment.

Meetings □ Model Validation workshop (one day with sessions for each Enterprise)

Deliverables: □ Draft and Final 5-Year Finance Plan Memorandum (for each Enterprise)

Task 2 –Cost-of-Service Analysis

Consultant will conduct a cost-of-service analysis that meets the legal requirements of Prop. 218. Using an industry-standard approach, and being mindful of recent court rulings in California regarding water rates, Enterprise costs will be allocated to groups of customers that have similar service requirements. Consultant will:

Review Customer Classes. Review the existing customer class designations to determine appropriateness and equitability and recommend to the District any revised and/or new customer class designations, as needed.

Determine Customer Class Characteristics. Determine appropriate usage and billing characteristics for each customer class, based on available information. Estimates of customer class characteristics will be based on billing data, system operating statistics, availability of service, other available information, and Consultant judgment and experience.

Test year costs of service or revenue requirements to be met from Enterprise service rates will be first allocated to functional cost components to provide a basis for subsequent allocations to customer classes, which will recognize estimates of each class' service requirements.

Allocations will reflect cost-causative concepts in accordance with generally accepted utility practices. For domestic water, these concepts are generally consistent with the widely accepted methodology outlined in the American Water Works Association Manual of Practice M1, titled *Principles of Water Rates, Fees, and Charges*. For the wastewater utility, these concepts are generally consistent with accepted procedures described in the Water Environment Federation's manual on *Financing and Charges for Wastewater Systems*. **MWH will also be mindful of recent court decisions in California related to water rates. We will document a transparent cost-of-service methodology that isn't just legally defensible, but also unlikely to attract a legal challenge.**

Capital Cost Allocations. For capital cost allocation purposes, Consultant will establish estimates of projected test year depreciation expense and plant asset values for rate base. These analyses will be based on schedules of depreciation rates and suitably detailed asset value information.

Functional Cost Allocations. Consultant will allocate test year costs of service to various cost components which constitute functional classifications of the types of Enterprise services provided.

Development of Customer Class Units of Service. Consultant will estimate customer class service characteristics associated with each of the functional cost elements recognizing the historic usage patterns, applicable data available, engineering judgment regarding customer class service characteristics, and experience with other utility operations possessing similar usage characteristics and patterns. The relative service characteristics of customer class groups, and other large groups if any, will be recognized, as applicable.

Allocation of Costs to Customer Classes. Consultant will distribute costs by functional

component to customer classes using applicable unit costs of service and class units of service to determine each class' proportional responsibility for total system costs. Consultant will use the District's existing cost-of-service models to develop a recommended cost allocation methodology for each Enterprise, and present our recommendations in a Methodology Validation Workshop.

Upon completion of the cost-of-service analysis, Consultant will prepare a cost-of-service Findings Report that clearly explains the project methodology and policy decisions. The report will summarize the final cost allocation to each respective customer class and compare class revenues under existing rates and indicate any needed revenue adjustments by customer class.

Meetings □ Cost-of-service Methodology Validation Workshop (one day with sessions for each Enterprise)

Deliverables: □ Draft and Final Cost-of-Service Findings Report

Task 3A – Review and Propose Changes to Current Rates

The District's existing rate structures for each respective Enterprise will be evaluated for their:

- 1) Effectiveness in equitably recovering appropriate revenues from customers, consistent with the findings of the cost-of-service analysis,
- 2) Legally defensible and mindful of recent court decisions regarding the application of Proposition 218 and Proposition 26.
- 3) Consistency with the District's policy regarding subjects such as promoting conservation,
- 4) Ease of understanding and administration, and
- 5) Financial viability for considerations such as revenue stability.

Specifically, as it applies to each individual Enterprise:

Water - Existing water budget-based tiered-rate structure will be reviewed and evaluated against criteria such as meeting the District's pricing objectives, cost-of-service recovery by customer class, compliance with laws such as California Assembly Bill 2882, and practical administrative considerations (such as the policies of the variance program). This work will require the update/development of the water budget rate design model, which will require 2 – 3 years of complete billing data from all water customers. This task requires effort to manage and format the data and then populate the water budget model.

Wastewater - Alternative rates structures will be considered for the wastewater rate, including a flat monthly charge as an alternative to the current basic and volumetric charges. Consultant will provide the pros and cons of alternative rate designs and include a recommendation to the District.

Recycled Water - Consultant will review the cost-of-service for providing both wholesale and retail recycled water to customers and evaluate whether the District should continue its existing policy for retail service, including the risks and benefits of any change to that policy. Based on the evaluation of existing rate structures for all three Enterprises, Consultant will develop and propose schedules of proposed rates for a 5-year period (as limited per California law). The legal defensibility of the proposed rates will be the single most important consideration. Specific consideration will also be given to establishing charges that meet the District's policies and practical objectives regarding Enterprise services.

Upon development of the rate design tools, MWH will meet with District staff to review the preliminary results and discuss modifications if needed. The water rates workshop will include a discussion of the District's variance program and customer service levels.

Meetings Rate Design Review Workshop (up to 4-hours meets for each Enterprise)

Task 3B – Model Training

Consultant will finalize and provide the District with all project rate models developed over the course of the project. Consultant will spend one day at the District, training staff in the use of the financial planning models for the three Enterprises. It is assumed that the training session will be grouped with one of the Task 4 meetings.

Meetings One-day training session for District staff

Deliverables: Final models for all three Enterprises

Task 4 – Reports and Presentations

Consultant will prepare a draft and final report for each Enterprise. The reports will comprehensively summarize the findings for the respective financial plans, cost-of-service analyses, and rate designs. Consistent with California law, the methodologies for the financial planning and cost-of-service analyses will be particularly transparent and easy to understand. The reports will include additional elements, such as a comparison of typical bills under existing versus proposed rates. The reports will also address programmatic recommendations, such as the rules of the water budget variance program and the service levels for customer service. MWH will hold a conference call with staff to discuss comments and revisions to the draft report. This will be followed by an on-line presentation of the findings to staff, followed by two in-person presentations to the Board of Directors (anticipated in August and November).

Meetings Draft report review meeting via phone (up to 1 hour for each Enterprise)

On-line staff presentation (up to 2 hours for each Enterprise)

Two (2) Board presentations

Deliverables:

Draft and final reports

Presentation handout materials, as needed

Task 5 – Public Outreach

If required, Consultant will prepare presentation material and participate with District Staff in three (3) workshops with stakeholders to present and explain the recommended rate changes and proposals.

Meetings Three (3) outreach meetings

Deliverables: Outreach materials (PowerPoint presentations and handouts)

EXHIBIT B

LIST OF SUBCONSULTANTS

N/A

EXHIBIT C

BREAKDOWN AND SCHEDULE OF FEES