



**BOARD OF DIRECTORS' MEETING
MOULTON NIGUEL WATER DISTRICT
27500 La Paz Road, Laguna Niguel
March 19, 2015
6:00 PM
Approximate Meeting Time: 2 Hours**

1. CALL MEETING TO ORDER:

2. PLEDGE OF ALLEGIANCE:

3. MINUTE APPROVAL:

- a. Minutes of the February 11, 2015 Special Board of Directors Meeting
- b. Minutes of the February 19, 2015 Board of Directors Meeting

4. PUBLIC COMMENTS:

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

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

5. PRESENTATION:

SOUTH ORANGE COUNTY RELIABILITY ENHANCEMENT PRESENTATION

Recommended Action: As directed by the Board of Directors

CONSENT CALENDAR ITEMS:(Items on the Consent Calendar have been discussed at the regularly scheduled Engineering/Operations and Finance/IT Board meetings)

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

6. PLANT 3A OPERATION TRANSFER

It is recommended that the Board of Directors authorize the General Manager to notify SOCWA of the Operations Contract termination effective July 1, 2015; Authorize the General Manager to develop an Operation and Maintenance Agreement with Santa Margarita Water District to assume operation of Plant 3A effective July 1, 2015.

7. ON-CALL ASPHALT REPAIR CONTRACT

It is recommended that the Board of Directors authorize the General Manager to execute the following agreement documents:

1. On-Call Asphalt and Concrete Repair Agreement with Hardy & Harper, Inc., for a not-to-exceed amount of \$87,500 to perform the subject services during the remainder of the 2014-15 FY and a not-to-exceed amount of \$450,000 per year for the 2015-16 FY and 2016-17 FY for a total agreement amount of \$987,500.

2. On-Call Asphalt and Concrete Repair Agreement with G.M. Sager Construction Co., Inc. for a not-to-exceed amount of \$87,500 to perform the subject services during the remainder of the 2014-15 FY and a not-to-exceed amount of \$450,000 per year for the 2015-16 FY and 2016-17 FY for a total agreement amount of \$987,500.

3. Amendment No. 2 to the On-Call Asphalt and Concrete Repair Agreement with Sanders Paving, Inc., in the not-to-exceed amount of \$75,000 during the remainder of the 2014-15 FY, for a total Agreement amount of \$455,000.

8. ELECTRICAL FACILITIES SAFETY ASSESSMENT PROJECT

It is recommended that the Board of Directors authorize the General Manager to execute an agreement with Eaton Corporation for an amount of \$83,236, plus a 10% contingency, for a total authorized not-to-exceed amount of \$91,560 to perform the Electrical Facilities Safety Assessment.

9. BEACON HILL PUMP REPLACEMENT CONSTRUCTION CONTRACT AWARD

It is recommended that the Board of Directors award the construction services contract for the Beacon Hill Pump Station High-Flow Pump and Gas Engine Drive Replacement Project No. 2012.009 to Pascal & Ludwig Constructors in the amount of \$420,049; authorize the General Manager to execute the contract; and authorize the General Manager or designee to approve change orders up to 10% of the contract value.

10. WATER EFFICIENCY FUND POLICY REVISIONS (RESOLUTION NO. 15-)

It is recommended that the Board of Directors approve the resolution entitled, "Amendment of the District's Water Efficiency Policy".

11. VARIANCE PROCEDURES REVISIONS (RESOLUTION NO. 15-)

It is recommended that the Board of Directors approve the resolution entitled, "Adoption of the Water Budget Based Rate Structure (WBBRS) Variance and Adjustment Policy".

12. RULES AND REGULATIONS REVISIONS DUE TO AB 2747 (RESOLUTION NO. 15-)

It is recommended that the Board of Directors adopt the resolution entitled, "Amendment of Section 11.E of the District's Rules and Regulations due to the Passage of an Omnibus Bill (Assembly Bill 2747)".

13. REBATE APPLICATIONS FOR TURF REMOVAL AND SYNTHETIC TURF

It is recommended that the Board of Directors consider the rebate applications for the identified project without a limitation on the maximum allowable acreage for each project and direct staff accordingly.

GENERAL MANAGER MATTERS:

14. PER-DIEM COMPENSATION UPDATE (RESOLUTION NO.15-)

It is recommended that the Board of Directors approve the resolution entitled, “Specifying District Business Occurrences for Per Diem Compensation to Board of Directors.”

PRESIDENT'S REPORT:

BOARD REPORTS:

CLOSED SESSION:

15. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION (1 CASE - SMALL CLAIMS)

Pursuant to Government Code Section 54956.9(a), (d)(1) a Closed Session will be conducted to confer with Legal Counsel regarding the following matter:

Saddleback Technology Park Association vs MNWD

FUTURE AGENDA ITEMS (Any items added under this section are for discussion at future meetings only.):

LATE ITEMS: (Appropriate Findings to be Made)

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

ADJOURNMENT:

The Board of Directors’ Meeting Room is wheelchair accessible. If you require any special disability related accommodations (i.e., access to an amplified sound system, etc.), please contact the Moulton Niguel Water District Secretary’s office at (949) 831-2500 at least forty-eight (48) hours prior to the scheduled meeting. This agenda can be obtained in alternate format upon written request to the Moulton Niguel Water District Secretary at least forty-eight (48) hours prior to the scheduled meeting.

Agenda exhibits and other writings that are disclosable public records distributed to all, or a majority of, the members of the Moulton Niguel Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection at the District Office, 27500 La Paz Road, Laguna Niguel, CA (“District Office”). If such writings are distributed to members of the Board less than seventy-two (72) hours prior to the meeting, they will be available in the

reception area of the District Office at the same time as they are distributed except that, if such writings are distributed immediately prior to, or during the meeting, they will be available in the Board meeting room and on the District website at www.mnwd.com.



DRAFT
MINUTES OF THE SPECIAL MEETING
OF THE BOARD OF DIRECTORS OF THE
MOULTON NIGUEL WATER DISTRICT

February 11, 2015

A Special Meeting of the Board of Directors of the Moulton Niguel Water District was held at the District offices, 27500 La Paz Road, Laguna Niguel, California, at 6:00 PM on February 11, 2015. There were present and participating:

DIRECTORS

Duane Cave	Director
Scott Colton	Vice President
Richard Fiore	Director
Donald Froelich	President
Gary Kurtz	Director
Larry Lizotte	Director
Brian Probolsky	Vice President

Also present and participating were:

STAFF MEMBERS, LEGAL COUNSEL, AND MEMBERS OF THE PUBLIC

Joone Lopez	General Manager
Matt Collings	Assistant General Manager
Marc Serna	Director of Engineering & Operations
Gina Hillary	Director of Human Resources
Kelly Winsor	Assistant to the General Manager
Paige Gulck	Board Secretary
Ruth Zintzun	Finance Manager
Michael Bell	Public Financial Management
Brian Thomas	Public Financial Management
Kelly Salt	Best, Best, & Krieger
Mark Hildebrand	MWH, Global
Drew Atwater	MNWD
Carole Wayman-Piasecik	MNWD
Doug Zytkevicz	MNWD
Megan Geer	MNWD
Gregg Hooper	MNWD
Lynne Herron	MNWD

#3.a.

Rhonda Himley	MNWD
Megan Schneider	MNWD
Wes Miliband	Member of the Public
Stu Luce	Member of the Public
Paul Niednagel	Member of the Public
Howard Revier	Member of the Public
Robert Brown	Member of the Public
Larry McKenney	Member of the Public
Robert Simon	Member of the Public
Julie Cho	Member of the Public
Don McNamara	Member of the Public
George Friedrichs	Member of the Public
Sarah Mallon	Member of the Public
Fred Baribeault	Member of the Public
Richard Beserra	Member of the Public

1. CALL MEETING TO ORDER AND ROLL CALL

The meeting was called to order by Donald Froelich at 6:00 p.m. The Directors introduced themselves to the residents in attendance.

Kelly Salt, Special Legal Counsel from BBK, explained the requirements of Article XIII D Section 6 of the California Constitution.

Joone Lopez introduced staff who presented on the proposed rates.

Michael Bell, Ruth Zintzun, and Matt Collings explained the proposed rate structure via power point presentation. Major topics covered included revenues, expenses, current conditions, requirements, rate structure, volumetric rates, and the District's policy objectives.

ACTION AGENDA

The following items on the Action Agenda call for discussion and action by the Board. All items are placed on the Agenda so that the Board may discuss and take action on the item if the Board is so inclined.

2. PUBLIC HEARING ON RATE INCREASES TO WATER, RECYCLED WATER, SEWER SERVICE FEES, AND CONSTRUCTION SERVICE FEES

Opportunity for members of the public to address the Board concerning the proposed rate increases to water, recycled water, sewer service fees, and construction service fees.

Donald Froelich opened the public hearing at 6:45 p.m. 34 members of the public were present, 13 of which spoke regarding the proposed fees.

The public hearing was closed at 7:20 p.m. There was a 20 minute break. The meeting reconvened at 7:40 p.m.

The Board Secretary reported that a majority protest did not exist to the proposed rates for the water service fees, recycled water service fees, or to the sewer service fees.

Staff, Legal Counsel, and Consultants responded to questions raised during the public hearing.

Donald Froelich stated that the Board of Directors will now deliberate on the proposed rates.

3. ADOPTING RATE INCREASES TO WATER, RECYCLED WATER, SEWER SERVICE FEES, AND CONSTRUCTION SERVICE FEES (RESOLUTION NO. 15-___)

Recommended Action: As directed by the Board of Directors

Observations from the Board of Directors regarding the resolution were discussed. Major topics included the cost of service analysis, conservation, aging infrastructure, and the need for an increase.

MOTION DULY MADE BY GARY KURTZ AND SECONDED BY DUANE CAVE, THE RESOLUTION ENTITLED, "ADOPTING RATE INCREASES TO WATER, RECYCLED WATER, SEWER SERVICE FEES, AND CONSTRUCTION SERVICE FEES." WAS APPROVED AS AMENDED. THE VOTE WAS SPLIT WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, AND GARY KURTZ ALL VOTING 'AYE', AND DIRECTORS LARRY LIZOTTE AND BRIAN PROBOLSKY VOTING 'NAY'.

ADJOURNMENT

The meeting was adjourned at 9:08 p.m.

Respectfully submitted,

Paige Gulck
Board Secretary



**DRAFT
MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
MOULTON NIGUEL WATER DISTRICT**

February 19, 2015

A Regular Meeting of the Board of Directors of the Moulton Niguel Water District was held at the District offices, 27500 La Paz Road, Laguna Niguel, California, at 6:00 PM on February 19, 2015. There were present and participating:

DIRECTORS

Duane Cave	Director
Scott Colton	Vice President
Richard Fiore	Director
Donald Froelich	President
Gary Kurtz	Director
Larry Lizotte	Director
Brian Probolsky	Vice President (arrived at 6:04 p.m.)

Also present and participating were:

STAFF MEMBERS, LEGAL COUNSEL, AND MEMBERS OF THE PUBLIC

Joone Lopez	General Manager
Matt Collings	Assistant General Manager
Marc Serna	Director of Engineering & Operations
Gina Hillary	Director of Human Resources
Pat Giannone	Bowie, Arneson, Wiles & Giannone
Michael Bell	Public Financial Management
Paige Gulck	Board Secretary
Drew Atwater	MNWD
Gloria Chan	MNWD
Megan Geer	MNWD
Eva Plajzer	MNWD
Megan Schneider	MNWD
Carole Wayman-Piascik	MNWD
Kelly Winsor	MNWD
Ruth Zintzun	MNWD
Susan Hinman	Municipal Water District of Orange County

#3.b.

Harvey De La Torre
Larry McKenney
Tim Strader Jr.
Karen Langer

Municipal Water District of Orange County
Metropolitan Water District Board Member
StarPointe Ventures
Member of the Citizens Advisory Committee

1. **CALL MEETING TO ORDER:**

The meeting was called to order by Donald Froelich at 6:00 p.m.

2. **PLEDGE OF ALLEGIANCE:**

3. **MINUTE APPROVAL:**

MOTION DULY MADE BY SCOTT COLTON, AND SECONDED BY GARY KURTZ, MINUTES OF THE JANUARY 5, 2015 SPECIAL BOARD OF DIRECTORS MEETING, MINUTES OF THE JANUARY 15, 2015 REGULAR BOARD OF DIRECTORS MEETING, MINUTES OF THE JANUARY 19, 2015 SPECIAL BOARD OF DIRECTORS MEETING AND MINUTES OF THE JANUARY 21, 2014 SPECIAL BOARD OF DIRECTORS MEETING WERE APPROVED AS PRESENTED. THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ, AND LARRY LIZOTTE ALL VOTING 'AYE'. DIRECTOR BRIAN PROBOLSKY WAS ABSENT.

4. **PUBLIC COMMENTS:**

Larry McKenney gave a general update on Metropolitan Water District's policy discussions.

Brian Probolsky arrived at 6:04 p.m.

Susan Hinman gave a brief update on MWD OC and asked for involvement in the water reliability study.

CONSENT CALENDAR ITEMS:(Items on the Consent Calendar have been discussed at the regularly scheduled Engineering/Operations and Finance/IT Board meetings)

Richard Fiore asked to pull items 8 and 9 from consent.

5. **JOINT REGIONAL WASTEWATER TREATMENT PLANT AGREEMENT AMENDMENT**

It is recommended that the Board of Directors approve Addendum 1 to Amendment No. 6 of the "Agreement for Construction, Use, Operation, Maintenance, Repair, and Replacement of Joint Regional Wastewater Treatment Plant Reclamation Sludge Solids Handling Facility on Behalf of Project Committee No. 17, Aliso Water Management Agency" subject to non-substantive changes approved by the General Manager and

Legal Counsel; and authorize the General Manager to execute the Agreement.

6. AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR STRATEGIC REAL ESTATE CONSULTING

It is recommended that the Board of Directors approve Amendment No. 3 to the Professional Services Agreement with StarPointe Ventures valued at \$72,000 for a total not-to-exceed contract amount of \$135,200; and authorize the General Manager to execute the Amendment.

7. WATER SHORTAGE CONTINGENCY PLAN (ORDINANCE NO. 15-)

It is recommended that the Board of Directors approve the Water Shortage Contingency Plan.

MOTION DULY MADE BY BRIAN PROBOLSKY, AND SECONDED BY SCOTT COLTON, CONSENT ITEMS 5 THROUGH 7 WERE APPROVED AS PRESENTED. THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ, LARRY LIZOTTE, AND BRIAN PROBOLSKY ALL VOTING 'AYE'.

8. RECYCLED WATER TURF REMOVAL REBATE PROGRAM (RESOLUTION NO. 15-)

It is recommended that the Board of Directors approve the resolution entitled, "Approving Revisions to Recycled Water Turf Removal Rebate", to lower the District's supplemental turf rebate for areas served with recycled water from \$1.50 per square foot to \$0.75 per square foot. The supplemental turf rebate for areas served with potable water would remain at \$1.50 per square foot.

Matt Collings presented this item, which was also listed on the Finance and Information Technology agenda. Discussion ensued regarding implementation of the proposed changes.

MOTION DULY MADE BY GARY KURTZ, AND SECONDED BY BRIAN PROBOLSKY, ITEM 8 WAS APPROVED AS PRESENTED. THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ, LARRY LIZOTTE, AND BRIAN PROBOLSKY ALL VOTING 'AYE'.

9. REBATE APPLICATIONS FOR TURF REMOVAL AND SYNTHETIC TURF

It is recommended that the Board of Directors consider the rebate applications for the identified project without a limitation on the maximum allowable acreage for each project and direct staff accordingly.

#3.b.

Matt Collings presented this item which was also listed on the Finance and Information Technology agenda.

MOTION DULY MADE BY BRIAN PROBOLSKY AND SECONDED BY DUANE CAVE, ITEM 9 WAS APPROVED AS PRESENTED. THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ, LARRY LIZOTTE, AND BRIAN PROBOLSKY ALL VOTING 'AYE'.

GENERAL MANAGER MATTERS:

10. Metropolitan Water District/Municipal Water District of Orange County's Water Supply Allocation Plans

Joone Lopez introduced Harvey De La Torre from MWDOC, who presented on the water supply allocation plans for Orange County.

LEGAL MATTERS:

11. ELIMINATING THE PERSONNEL & SALARY BOARD MEETING (RESOLUTION NO. 15-)

It is recommended that the Board of Directors approve the resolution entitled, "Eliminating the Personnel & Salary Board Meeting."

Joone Lopez provided a brief background on the item, stating all Personnel and Salary topics are now covered at the Engineering and Operations meeting, the Finance and Information Technology meeting, or the Board of Directors meeting.

MOTION DULY MADE BY GARY KURTZ, AND SECONDED BY DUANE CAVE, ITEM 11 WAS APPROVED AS PRESENTED. THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ, LARRY LIZOTTE, AND BRIAN PROBOLSKY ALL VOTING 'AYE'.

PRESIDENT'S REPORT:

12. ASSIGNMENTS FOR THE BOARD

Recommended Action: As directed by the Board of Directors

Donald Froelich proposed adjustments to city and agency assignments for the Board during the 2015-17 time frame. Ad-Hocs for Outreach and the 2014-15 Audit were created.

BOARD REPORTS:

The Directors had nothing to report.

CLOSED SESSION:

The Board of Directors entered closed session at 7:55 p.m. Closed session ended at 9:32 p.m.

13. CONFERENCE WITH LEGAL COUNSEL - CLAIM/EXISTING LITIGATION (ONE CASE - SMALL CLAIMS)

Pursuant to Government Code Section 54956.9(a), (b)(1) a Closed Session will be conducted to confer with Legal Counsel regarding the following claim:

Claim of Tarvaran; Tarvaran vs MNWD

Donald Froelich stated that there was no reportable action on this item.

14. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(b)(1), a Closed Session will be conducted to confer with Legal Counsel regarding the following claim:

Claim of Ameriprise Auto and Home Insurance - Barbeau

Donald Froelich reported that the Board of Directors rejected the claim of Barbeau.

THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ, LARRY LIZOTTE, AND BRIAN PROBOLSKY ALL VOTING 'AYE'.

15. CONFERENCE WITH REAL PROPERTY NEGOTIATORS, Pursuant to Government Code Section 54956.8

Property: 4 Liberty, Aliso Viejo, 92656

Under Negotiation: Price and terms of payment

Real Property Negotiators: Joone Lopez, Matt Collings, Kevin Turner, Mike Hartel

Property: 26161 Gordon Road, Laguna Hills, CA 92653

Under Negotiation: Price and terms of payment

Real Property Negotiators: Joone Lopez, Matt Collings, Kevin Turner, Mike Hartel

Donald Froelich stated that there was no reportable action on this item.

#3.b.

FUTURE AGENDA ITEMS (Any items added under this section are for discussion at future meetings only.):

Donald Froelich stated that this item will be agendized in the future so that directors can add items to be discussed at future meetings.

Joone Lopez stated that the two information items from the Finance and Information Technology meeting will be discussed at a future date.

LATE ITEMS: (Appropriate Findings to be Made)

Staff has none.

ADJOURNMENT:

The meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Paige Gulck
Board Secretary

RESOLUTION NO. 15- __

**RESOLUTION OF THE BOARD OF DIRECTORS
OF MOULTON NIGUEL WATER DISTRICT
AMENDMENT OF THE DISTRICT'S WATER EFFICIENCY FUND POLICY**

WHEREAS, the District's water budget-based rate structure ("WBBRS") is designed and intended to be a water demand management tool and to proportionately recover the costs of providing water service within the District; and

WHEREAS, the District's efforts in managing its water supply are best achieved through its WBBRS and the calculated water budgets provided to the District's customers; and

WHEREAS, on July 21, 2011, the Board of Directors of the District adopted Resolution No.11-19 establishing the "Water Efficiency Fund;" and

WHEREAS, on February 11, 2015, the Board of Directors of the District adopted Resolution No.15-05 modifying the rate structure and increasing rates; and

WHEREAS, revenues generated from customers who consume water in excess of their water budget, being rate revenue from Tiers 3, 4 & 5 for Residential and Multi-Family and Tiers 2, 3 & 4 for Potable Irrigation, Commercial and Recycled Water customers, (collectively "WBBRS Water Efficiency Revenues") are deposited in the Water Efficiency Fund;

WHEREAS, pursuant to the District's Water Shortage Contingency Plan Ordinance 15-01, the District may (i) implement water conservation and water shortage response measures; (i) regulate the water consumption activities of persons within the District for the purposes of conserving and protecting the District's water supplies, reducing the quantity of water consumed, and deterring and preventing the waste or unreasonable use or unreasonable method of use of valuable water resources; and (ii) establish and collect regulatory fees and impose administrative penalties to accomplish these purposes and/or recover the costs of the District's water conservation and regulatory program; and

WHEREAS, the Board of Directors has determined that revenues collected from WBBRS Water Efficiency Revenues and penalties imposed by the District for violations of the District's Water Shortage Contingency Plan Ordinance 15-01 ("Conservation Penalties"), should be segregated from other revenues of the District and deposited in the Water Efficiency Fund to be used for the purposes generally related to water use efficiency and conservation goals and policies, as specifically directed by the Board of Directors under budgetary and other approvals from time to time;

WHEREAS, these purposes may include, but are not limited to, conservation best management practices; education programs; water use efficiency devices; water system retrofitting; alternative water uses and supplies and other water supply reliability projects and

#10.

programs; and dry-year supply arrangements; and penalty costs for water from wholesale allocations; and

WHEREAS, the Board of Directors has determined to amend its Water Efficiency Fund Policy to accomplish these purposes; and

WHEREAS, the Water Efficiency Fund shall be administered in accordance with the amended Water Efficiency Policy set forth in **Attachment 1**, attached hereto and by this reference incorporated herein.

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

Section 1. The Board hereby adopts the Water Efficiency Fund Policy, as amended and as set forth in Attachment 1. All revenues (including interest earnings thereon) deposited therein shall be used for the purposes and generally in accordance with the policies set forth in **Attachment 1**, and as determined by the Board under budgetary and other approvals from time to time.

Section 2. The provisions of this Resolution shall be effective for revenues collected from complete billing cycles commencing after April 1, 2015.

Section 3. Resolution No. 2011-19 is hereby rescinded.

Section 4. If any provision, section, subsection, sentence, clause or phrase of this Resolution, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of this Resolution shall not be affected, it being the intent of the Board of Directors in adopting this Resolution that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the unconstitutionality of any other provision hereof, and all provisions of this Resolution are declared to be severable for that purpose.

ADOPTED, SIGNED and APPROVED this 19th day of March, 2015.

MOULTON NIGUEL WATER DISTRICT

President
MOULTON NIGUEL WATER DISTRICT and the
Board of Directors thereof

Secretary
MOULTON NIGUEL WATER DISTRICT and the
Board of Directors thereof

Attachment 1

Water Efficiency Fund Policy

Purpose

Customers are allocated a water budget calculated based on individual needs and certain parameters to promote the efficient use of water. Customers who use water inefficiently, in excess of their calculated water budgets, place greater demands on the District's water and recycled water systems and supplies. Those customers who use water inefficiently are therefore subject to higher water use rates to offset the costs that are created as a result of the higher demand they place on the District's water and recycled water systems. The District invests the incremental rate difference in alternative water supply programs, rebates and water conservation and/or demand management measures to increase efficient uses of water and offset their demand.

Source of Funds

1. Revenue generated from Residential and Multi-Family customers' water service fees from Tiers 3, 4 and 5 above the marginal cost of imported water will be deposited in the Water Efficiency Fund.
2. Revenue generated from Commercial, Irrigation and Recycled Water customers' water service fees from Tiers 2, 3 and 4 above the marginal cost of imported water will be deposited in the Water Efficiency Fund.
3. Conservation Penalties collected from customers for violations of the District's Water Shortage Contingency Plan Ordinance will be deposited in the Water Efficiency Fund.

Use of Funds

The Board annually determines the appropriate use of the Water Efficiency Fund through the annual budget process and one-time approvals from time to time. The following is a list of possible uses of the fund's revenue:

1. Conservation best management practices, conservation education, irrigation controls, efficient water use devices and other demand management measures.
2. Conservation outreach.
3. Conservation and water use efficiency support resources.

4. Water system retrofitting, dual plumbing and facilities for production, distribution, and all uses of new recycled water and other alternative water supplies.
5. Projects and programs for prevention, control, or treatment of the runoff of water from irrigation and other outdoor water uses. Incremental costs shall not include the costs of storm water management systems and programs.
6. Securing dry-year water supply arrangements such as groundwater banking or water transfers for use under extraordinary supply situations.
7. Incremental costs of securing and delivering additional water supplies in excess of the District's marginal cost of imported water, including covering penalty costs imposed by the District's wholesale water provider.
8. Distribution system water loss control.
9. Rebate programs for qualifying customers established and approved by the Board of Directors.

RESOLUTION NO. 15-__

**RESOLUTION OF THE BOARD OF DIRECTORS OF
MOULTON NIGUEL WATER DISTRICT
ADOPTION OF THE WATER BUDGET BASED RATE STRUCTURE (WBBRS)
VARIANCE AND ADJUSTMENT POLICY**

WHEREAS, the Moulton Niguel Water District (“District”) is a California Water District organized and existing under the California Water District Law (California Water Code Section 34000 *et seq.*);

WHEREAS, Section 35423 and Section 35501 of the California Water Code empowers the District to prescribe and collect rates and other charges for water (which includes recycled water) service, and to establish, print and distribute equitable rules and regulations for the distribution of water and the provision of water service;

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

WHEREAS, the Board of Directors of the District has adopted a resolution on February 11, 2015 to approve modifications to the Water Budget Based Rate Structure (“WBBRS”) and resulting increases to certain water service rate components and charges, and the Board desires to approve and adopt variance terms and procedures for inclusion as procedures governing the WBBRS.

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

Section 1. The Board approves and adopts the Variance and Adjustment Policy for the Moulton Niguel Water District’s Water Budget Based Rate Structure set forth in **Attachment 1** to this Resolution, attached hereto and by this reference incorporated herein. Such terms shall be incorporated in the District’s *Rules and Regulations*. The General Manager, or her authorized designees, and Legal Counsel are directed to incorporate the terms of **Attachment 1** into the *Rules and Regulations* as Exhibit H as may be necessary for the implementation of the Variance and Adjustment Policy for the Moulton Niguel Water District’s WBBRS.

Section 2. This Resolution shall be effective immediately upon adoption and **Attachment 1** shall be effective April 1, 2015.

#11.

ADOPTED, SIGNED and APPROVED this 19th day of March, 2015.

MOULTON NIGUEL WATER DISTRICT

President
MOULTON NIGUEL WATER DISTRICT and the
Board of Directors thereof

Secretary
MOULTON NIGUEL WATER DISTRICT and the
Board of Directors thereof

Attachment 1

EXHIBIT H

VARIANCE AND ADJUSTMENT POLICY

FOR THE MOULTON NIGUEL WATER DISTRICT'S WATER BUDGET BASED RATE
STRUCTURE

The Variance and Adjustment Policy supersedes the Variance Procedures in Exhibit B of the Rules and Regulations of the Moulton Niguel Water District (District) for Water and Sewer Service Schedule of Rates and Charges. This Policy is divided into sections by customer class. Each customer class is divided by the relevant default water budget allocations, variances to the default allocation, and how each customer class may receive adjustments to charges in the highest tiers.

Section 1. DEFINITIONS

For the purposes of this Variance and Adjustment Policy, the following words, terms, and phrases shall be defined as follows:

- A. Assistant General Manager - the Assistant General Manager of the District or his or her authorized designee.
- B. Billing Unit (BU) – a unit of measuring water usage. One BU equals one hundred cubic feet (CCF) or 748 gallons of water. CCF is synonymous with BU.
- C. Water budget – the allocation of water calculated by the District for each customer in accordance with the District's Water Budget Based Rate Structure.
- D. California Friendly - vegetation meeting Water Use Classifications of Landscape Species (WUCOLS) with low or very low watering needs for the South Coastal Region.
- E. Customer - a person who, according to the District's records, has an account with the District and receives water service or recycled water service to a parcel of property.
- F. District - Moulton Niguel Water District.
- G. Evapotranspiration - both the evaporation of water from the land surface and the transpiration of water through plants into the atmosphere. The District measures daily local evapotranspiration at 110 micro-zones throughout the service area.

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- H. GPCD - gallons per capita per day.
- I. I9 Account customers - high traffic public space potable irrigation accounts.
- J. Person - any natural person, firm, joint venture, joint stock company, partnership, public or private association, club, company, corporation, business trust, organization, public or private agency, government agency or institution, school district, college, university, any other user of water provided by the District, or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.
- K. Plant factor - water needs of the specific type of plant that is used to calculate each customer's outdoor budget within the District's service area and guidelines provided by state law and the State Water Resources Control Board's Model Water Efficient Landscape Ordinance. The plant factor is a conversion factor to multiply with daily evapotranspiration to determine the daily watering needs per unit of surface area of plant coverage.
- L. Potable water - water furnished to the customer which complies with federal and State drinking water regulations and standards, or any other applicable standards.
- M. Property owner (owner) - the record owner of real property as shown on the most recently issued equalized assessment roll.
- N. RC9 Account customers – recycled water customers with high traffic public spaces.
- O. Recycled water - water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.
- P. State - the state of California, including any department or regulatory agency thereof.

Section 2. RESIDENTIAL CUSTOMERS

A. Default Allocations

The District's Water Budget Based Rate Structure is intended to recover the proportionate cost of providing water service and to allocate costs to customers who place the greatest demands on the District's water system. Any usage in excess for a customer's total water budget results in additional costs that their higher demand places on the system. This usage, in excess of a customer's total water budget, is reflected in charges in Tiers 3, 4, and/or 5. In certain limited circumstances, the District may grant billing adjustments for the qualified reasons as specified in

Section 2.C. When an adjustment is granted, the billing units of water charged in Tiers 4 and/or 5 may be recalculated at the Tier 3 or 4 rate.

1. Indoor Water Budget

- a. In calculating indoor water budgets, the following assumptions are made by the District: each single family customer has four (4) people per household; multi-family customers occupying condominiums have three (3) people per household; and multi-family customers occupying apartments have two (2) people per household. These assumptions are based on the most recent local census population data. Customers may request that their indoor water budget be adjusted to account for additional occupants; provided, however, if a customer requests that their indoor water budget be increased to account for more than two (2) additional occupants, the District reserves the right to request proof of residency and the customer must complete a District Residential Variance Adjustment Form.
- b. Indoor Water Budget Formula: Each occupant is allocated 60 gallons per day, times the number of people per household and days in the billing cycle. Example: 60 gallons x 4 persons per household x 30 days in a billing cycle = 7,200 gallons ÷ 748 gallons = 9.63 is rounded to 10 Billing Units.

2. Outdoor Water Budget

- a. Outdoor Water Budget is calculated using the following formula: Landscaped Area (Square Footage) x ET (Evapotranspiration) x 0.7 (Plant Factor) x 0.62 (Conversion Factor) = Gallons ÷ 748 gallons = Billing Units.
- b. Irrigated acreage is either determined by the District's Geographic Information System, County Assessor parcel data, site survey conducted by the District, or by customer input through the variance process.

B. Variances to Allocations

1. General Information

- a. It is the **sole responsibility of the customer to contact the District** to request variances to his or her base indoor and/or outdoor water budget through a Residential Variance Adjustment Form.
- b. Acceptable proof will be required for each variance request at the discretion of the District. Acceptable proof to receive a variance to the default allocation includes, but is not limited to, site plans, or a list of people living in the residence.

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- c. Once a variance is approved, it will become effective on the next bill. An approved variance request will increase the base allocation (Tier 1 and/or Tier 2), and will be determined on a case-by-case basis.
- d. No retroactive budget variances will be made for increases in household population or medical needs.
- e. The District will adjust up to the most recent previous bill for a verified increase to the estimated landscape area. Note that for a residential customer, it takes approximately 300 square feet of an increase in landscape area to increase the outdoor water budget by one (1) billing unit in the summer months.
- f. Any customers providing falsified information to the District may be liable for back charges. Bill calculations based on falsified information will be recalculated with corrected customer account details.

2. Relevant Factors That May Support a Variance

- a. Number of people residing in a dwelling unit

A customer may apply for a variance to change the default number of people in the household used to calculate the indoor water budget. Each additional person increases the indoor base allocation (Tier 1) by 2.4 billing units per month (the resulting allocation is rounded to the nearest whole billing unit, e.g., 4.8 is rounded to 5) based on a 30-day billing cycle. Customers may request a variance for additional occupants by completing a Residential Variance Adjustment Form. Example: (60 gallons per person x 30 days = 1,800 gallons ÷ 748 gallons = 2.4, rounded to 2 Billing Units). The District may request additional documentation for verification of the number of people in the household.

- b. Landscape Area

Any change to the outdoor water budget due to increased irrigated areas will be calculated using the outdoor water budget formula:

$$\text{Landscaped Area (Square Footage)} \times \text{ET (Evapotranspiration)} \times 0.7 \text{ (Plant Factor)} \times 0.62 \text{ (Conversion Factor)} = \text{Gallons} \div 748 \text{ gallons} = \text{Billing Units}$$

- c. Licensed Child Care or Adult Care Facility

If a customer has a licensed care facility, the customer may request an increase to his or her default indoor water budget. A current license from the appropriate regulatory agency is required.

- i. A licensed, less than 24-hour, care facility will be allocated one (1) billing unit per person, per month.

An example of a less than 24-hour care facility is a Child Care Facility. Each additional person increases the indoor, or Tier 1, water budget, by 20 gallons per person per day (20 gallons per person x 30 days = 600 gallons ÷ 748 gallons = 0.80, rounded to 1 Billing Unit).

- ii. A licensed 24-hour care facility will be allocated an additional 60 gallons per person per day.

An example of a 24-hour care facility is a full-time Adult Care Facility. Each additional person will be allocated 2.4 billing units per month based on a 30 day billing cycle (60 gallons per person x 30 days = 1,800 gallons ÷ 748 gallons = 2.4 is rounded to 2 Billing Units).

- d. Medical Needs

Approval of a variance for medical needs is contingent upon verifiable medical documentation, such as a doctor's note. Increased allocations will be determined on a case-by-case basis.

- e. Livestock (weighing over 100 pounds each)

A variance to a customer's indoor water budget may be requested for livestock. Livestock is allocated 15 gallons per animal over 100 pounds, per day, based on veterinary standards and may increase the Tier 1 allocation. Variance for livestock will be limited to the maximum number of animals (times 15 gallons per animal over 100 pounds) established by the applicable municipal ordinances.

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3. Procedure

- a. A Residential Variance Adjustment Form must be submitted to the District. Residential Variance Adjustment Forms can be obtained at the District's Main Office or online at www.mnwd.com.
- b. Additional documentation may be requested at the discretion of the District (school records, driver's licenses, business licenses, lease agreements, etc.). The documentation will be for review only. The District may not retain any copies of such additional documentation.
- c. Once a Residential Variance Adjustment Form has been received, a site survey may be required by District staff to verify the customer's irrigated square footage. The site survey will be at no charge to the customer and will require the customer to be present.
- d. A response to variance requests will be provided by the District, either by phone or email.
- e. In the event a variance request is denied, the Residential Variance Adjustment Form may be resubmitted for further review. Decisions made by the Assistant General Manager are final.

C. Adjustment of Charges

1. Pool Fill

a. General

Adjustments to a customer's water bill for pool fills, partial or complete draining and refilling, due to general periodic water quality maintenance, pool equipment or plaster repair is granted once every five (5) years. The volume of water required to refill the pool in excess of the customer's outdoor water budget will be billed at the Tier 3 rate. Partial or complete draining and refilling are considered as pool fills, and are granted once every five years. Refilling due to normal evaporation does not qualify for an adjustment. To receive a billing adjustment, the customer must submit a written request to the District for the bill adjustment. Such a request shall provide sufficient information for the District to verify that the pool fill, or partial or complete draining and refilling occurred.

b. Limitations

Any subsequent pool fills, partial or complete draining and refilling, required within the five (5) year period are eligible to be considered on a case-by-case basis for a possible bill adjustment.

2. Leak Repair

a. General

Customers may request a bill adjustment if they accrue any charges above their water budget within Tiers 4 and/or 5 due to leaks (indoor or outdoor), stuck irrigation valves, broken pipes, etc. When an adjustment is made for a repaired leak and usage for the most recent bill is within the total water budget, the excess billing units of water attributed to the leak and charged in Tiers 4 and/or 5 may be recalculated at the Tier 3 rate for the most recent bill. Customers must be within their total water budget prior to receiving an adjustment and will only receive an adjustment on the billed issued immediately prior to the adjustment approval.

b. Limitations

To be eligible for a leak adjustment, the customer is required to contact the District within one (1) month of receiving the bill affected by the leak. If the leak adjustment is approved, the most recent bill may be adjusted, and the adjustment will be made in the form of a credit to the customer's account. No checks will be issued. There is a maximum of three (3) leak adjustments per year for each customer account, barring extenuating circumstances, to be determined at staff discretion. If a customer is notified by the District of an apparent leak, the customer must fix the leak within seven (7) days to qualify for a leak repair adjustment.

3. New Landscape Establishment - New California Friendly Landscapes

a. General

Customers re-landscaping the majority of their yards with new California Friendly landscapes may request a bill adjustment if they incur usage above Tier 3 for the first two (2) months of the landscape establishment period. The customer is required to contact the District for each billing period during the two (2) month establishment period in order to receive the bill adjustment(s).

b. Limitations

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If a customer would like to take advantage of the new planting adjustment, the new plants must be installed between November and April. To be eligible for a new landscape establishment bill adjustment, the customer is required to contact the District within one (1) month of receiving the bill affected by their new landscape establishment. All qualifying bills must have charges that fall within Tiers 4 and/or 5. Any charges within Tiers 4 and/or 5 may be recalculated at the Tier 3 rate, up to a maximum of two (2) bills. All bill adjustments will be made in the form of a credit to the customer's account. No checks will be issued.

4. Courtesy Adjustments - New Customer

a. General

A courtesy adjustment may be authorized for new customers within the first year. New customers are eligible for one (1) courtesy adjustment within the first 12 months of starting water service within the District for their most recent bill at the time of notification to the District. To be eligible for a courtesy adjustment, a customer must have been billed within Tiers 4 and/or 5.

b. Limitations

To be eligible for a courtesy adjustment, the customer is required to contact the District within one (1) month of receiving the bill with charges above their water budget in Tiers 4 and/or 5. Any billing units that were billed within Tiers 4 and/or 5 will be recalculated at the Tier 3 rate. All bill adjustments will be made in the form of a credit to the customer's account. No checks will be issued.

5. Irrigation Timer Malfunction

a. General

Once every three (3) years, a customer will be allowed one bill adjustment due to an irrigation timer malfunction.

b. Limitations

Bills adjusted for an irrigation timer malfunction will be limited to their most current bill. All billing units that were billed in Tiers 4 and/or 5 will be recalculated at the Tier 3 rate. All bill adjustments will be made in the form of a credit to the customer's account. No checks will be issued.

Section 3. COMMERCIAL CUSTOMERS

A. Default Allocations

The District's Water Budget Based rate structure is intended to recover the proportionate cost of providing water service and to allocate costs to commercial customers who place the greatest demands on the District's water system. Any usage in excess for a customer's total water budget results in additional costs that their higher demand places on the system. This usage, in excess of a customer's total water budget, is reflected in charges in Tiers 2, 3 and/or 4. In certain limited circumstances, the District may grant a billing adjustment for the qualified reasons as specified in Section 3.C. When an adjustment is made, the billing units of water charged in Tiers 3 and/or 4 may be recalculated at the Tier 2 rate.

1. Total Water Budget

- a. Commercial customers will be given a water budget based on a three (3) year rolling average of each commercial customer's usage.
- b. New commercial customers who do not have a consumption history with the District will be billed at the Tier 1 rate and will not incur any over- budget charges for the first year. After the first year, new commercial customers will be billed as existing commercial customers, and their allocation will be based on the monthly usage in the first year. After two (2) years of consumption history, commercial customers will be billed with a water budget that averages the usage of each respective month within the first two (2) years. After three (3) years, commercial customers will utilize a three (3) year rolling average of each respective month as their allocation.

B. Variances to Allocations

1. General Information

- a. It is the ***sole responsibility of the customer to contact the District*** to request variances to their base water budget through a District Commercial Variance Adjustment Form.

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- b. Acceptable proof will be required for each variance request at the discretion of the District. Acceptable proof to receive a variance to the default water budget includes, but is not limited to, site plans.
- c. An approved variance will become effective with the bill following the date the District approves the Commercial Variance Adjustment Form request. An approved variance request will increase the base water budget (Tier 1), and will be determined on a case-by-case basis.
- d. Commercial customers may request a budget variance if they accrue any charges above their water budget within Tiers 3 and/or 4 due to expansion of production capacity, additional employees, new technology, adjustments to irrigated acreage, etc. Such changes may require verification by the District.
- e. Any commercial customer providing falsified information to the District may be liable for back charges. Bill calculations based on falsified information will be recalculated with corrected customer account details.

2. Procedure

- a. A Commercial Variance Adjustment Form must be submitted to the District. Commercial Variance Adjustment Forms can be obtained at the District's Main Office or online at www.mnwd.com.
- b. Additional documentation may be requested at the discretion of the District. The documentation will be for review only. The District will not retain any copies of such additional documentation.
- c. Once a Commercial Variance Adjustment form has been received, a site survey may be required by District staff to verify the customer's request. The site survey will be at no charge to the customer and will require the customer to be present.
- d. A response to variance requests will be provided by the District, either by phone or email.
- e. In the event a variance request is denied, the Commercial Variance Adjustment Form may be resubmitted for further review. Decisions made by the Assistant General Manager are final.

C. Adjustment of Charges

1. Pool Fill

a. General

Adjustments to a customer's water bill for pool fills, partial or complete draining and refilling, due to general periodic water quality maintenance, pool equipment or plaster repair is granted once a year. The volume of water required to refill the pool in excess of the customer's outdoor water budget will be billed at the Tier 2 rate. Partial or complete draining and refilling are considered as pool fills, and are granted once a year. Refilling due to normal evaporation does not qualify for an adjustment. To receive a billing adjustment, the customer must submit a written request to the District for the bill adjustment. Such a request shall provide sufficient information for the District to verify that the pool fill, or partial or complete draining and refilling occurred.

b. Limitations

Any subsequent pool fills, partial or complete draining and refilling, required within year period are eligible to be considered on a case-by-case basis for a possible bill adjustment.

2. Leak Repair

a. General

Commercial customers may request a bill adjustment if they accrue any usage charges above their water budget within Tiers 3 and/or 4 due to leaks (indoor or outdoor), stuck irrigation valves, broken pipes, etc. When an adjustment is made for a repaired leak and usage for the most recent bill is within the total water budget, the excess billing units of water attributed to the leak and billed in Tiers 3 and/or 4 may be recalculated at the Tier 2 rate for the most recent bill. Customers must be within their total water budget prior to receiving an adjustment and will only receive an adjustment on the billed issued immediately prior to the adjustment approval.

b. Limitations

To be eligible for a leak adjustment, the commercial customer is required to contact the District within one (1) month of completing the leak repair. If the leak adjustment is approved, the most recent bill may be adjusted, and the adjustment will be made in the

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form of a credit to the customer's account. No checks will be issued. There is a maximum of three (3) leak adjustments per year for each customer account, barring extenuating circumstances, to be determined at staff discretion. If a commercial customer is notified by the District of an apparent leak, the customer must fix the leak within seven (7) days to qualify for a leak repair adjustment.

3. New Landscape Establishment - New California Friendly Landscapes

a. General

Commercial customers re-landscaping sites with California Friendly landscapes may request a bill adjustment if they incur usage above Tier 2 for the first two (2) months of the landscape establishment period. The customer is required to contact the District for each billing period during the two (2) month establishment period in order to receive the bill adjustment(s).

b. Limitations

If a commercial customer would like to take advantage of the new planting adjustment, the new plants must be installed between November and April. In order to be eligible for a new landscape establishment bill adjustment, the customer is required to contact the District within one (1) month of receiving the bill affected by their new landscape establishment. All qualifying bills must have charges that fall within Tiers 3 and/or 4. Any charges within Tiers 3 and/or 4 may be recalculated at the Tier 2 rate. Commercial customers may receive up to one (1) bi-monthly or two (2) monthly bill adjustments, whichever is applicable. All bill adjustments will be made in the form of a credit to the customer's account. No checks will be issued.

Section 4. POTABLE AND RECYCLED WATER IRRIGATION CUSTOMERS

A. Default Allocations

The District's Water Budget Based Rate Structure is intended to recover the proportionate cost of providing water service and to allocate to potable and recycled water irrigation customers (irrigation customers) who place the greatest demands on the District's potable water and recycled water systems. Any usage in excess for a customer's total water budget results in additional costs that their higher demand places on the system. This usage, in excess of a customer's total water budget, is reflected in charges in Tiers 2, 3 and/or 4. In certain limited circumstances, the District may grant a billing adjustment for the qualified reasons as specified in Section 4.C. When an

adjustment is made, the billing units of water charged in Tiers 3 and/or 4, may be recalculated at the Tier 2 rate.

1. Outdoor Water Budget

- a. Irrigation customers are given a water budget based on the actual square footage that each meter connection irrigates.
 - i. Potable Irrigation water budget formula is as follows: $\text{Landscaped Area (Square Footage)} \times \text{ET (Evapotranspiration)} \times 0.7 \text{ (Plant Factor)} \times 0.62 \text{ (Conversion Factor)} = \text{Gallons} \div 748 \text{ gallons} = \text{Billing Units}$
 - ii. Recycled Water Irrigation water budget formula is as follows: $\text{Landscaped Area (Square Footage)} \times \text{ET (Evapotranspiration)} \times 0.8 \text{ (Plant Factor)} \times 0.62 \text{ (Conversion Factor)} = \text{Gallons} \div 748 \text{ gallons} = \text{Billing Units}$
 - iii. Public Space Irrigation water budget formula for RC9 and I9 Accounts is as follows: $\text{Landscaped Area (Square Footage)} \times \text{ET (Evapotranspiration)} \times 1.0 \text{ (Plant Factor)} \times 0.62 \text{ (Conversion Factor)} = \text{Gallons} \div 748 \text{ gallons} = \text{Billing Units}$
- b. Irrigated acreage is either determined by the District's Geographic Information System, site surveys conducted by the District, measurements provided by the Landscape Certification Program, or by customer input through the variance process.

B. Variances to Allocations

1. General Information

- a. It is the **sole responsibility of the irrigation customer to contact the District** to request a variance to their base water budget through a District Commercial Variance Adjustment form.
- b. Acceptable proof will be required for each variance request at the discretion of the District. Acceptable proof to receive a variance to the default water budget includes, but is not limited to, site plans.
- c. An approved variance will become effective with the bill following the date the District approves the Commercial Variance Adjustment form. An approved variance request will increase the base allocation (Tier 1), and will be determined on a case-by-case basis.

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- d. Any irrigation customer providing falsified information to the District may be liable for back charges. Bill calculations based on falsified information will be recalculated with corrected customer account details.

2. Relevant Factors That Could Support a Variance

a. Landscape Area

Increases in landscape area resulting from a site measurement performed by the District or approved site drawing provided by the customer will result in an increase to the Tier 1 allocation. Any changes to the water budget due to increased irrigated areas will be calculated using the applicable outdoor water budget formula detailed in Section 4.A.1.a.

3. Procedure

- a. An irrigation customer requesting a variance must submit to the District a Commercial Variance Adjustment Form. Commercial Variance Adjustment forms can be obtained at the District's Main Office or online at www.mnwd.com.
- b. Additional documentation may be requested at the discretion of the District. The documentation will be for review only. The District will not retain any copies of such additional documentation.
- c. Once a Commercial Variance Adjustment form has been received, a site survey may be required by District staff to verify the customer's request. The site survey will be at no charge to the customer and will require the customer to be present.
- d. A response to variance requests will be provided by the District either by phone or email.
- e. In the event a variance request is denied, the Commercial Variance Adjustment form may be resubmitted for further review. Decisions made by the Assistant General Manager are final.

C. Adjustment of Charges

1. Leak Repair

a. General

Customers may request a bill adjustment if they accrue any charges above their water budget within Tiers 3 and/or 4 due to leaks (indoor or outdoor), stuck irrigation valves, broken pipes, etc. When an adjustment is made for a repaired leak and usage for the most recent bill is within budget, the excess billing units of water attributed to the leak and billed in Tiers 3 and/or 4 may be recalculated at the Tier 2 rate for the most recent bill. Customers must be within their total water budget prior to receiving an adjustment and will only receive an adjustment on the billed issued immediately prior to the adjustment approval.

b. Limitations

To be eligible for a leak adjustment, the irrigation customer is required to contact the District within one (1) month of completing the leak repair. If the leak adjustment is approved, the most recent bill may be adjusted, and the adjustment will be made in the form of a credit to the customer's account. No checks will be issued. There is a maximum of three (3) leak adjustments per year for each customer account, barring extenuating circumstances, to be determined at staff discretion. If a customer is notified by the District of an apparent leak, the customer must fix the leak within seven (7) days to qualify for a leak repair adjustment.

2. New Landscape Establishment - New California Friendly Landscapes

c. General

Irrigation customers re-landscaping sites with California Friendly landscapes may request a bill adjustment if they incur usage above Tier 2 for the first two (2) months of the landscape establishment period. The customer is required to contact the District for each billing period during the two (2) month establishment period in order to receive the bill adjustment(s).

d. Limitations

If an irrigation customer would like to take advantage of the new planting adjustment, the new plants must be installed between November and April. In order to be eligible for a

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new landscape establishment bill adjustment, the customer is required to contact the District within one (1) month of receiving the bill affected by their new landscape establishment. All qualifying bills must have charges that fall within Tiers 3 and/or 4. Any charges within Tiers 3 and/or 4 may be recalculated at the Tier 2 rate. Potable irrigation and recycled water customers may receive up to one (1) bi-monthly or two (2) monthly bill adjustments, whichever is applicable. All bill adjustments will be made in the form of a credit to the customer's account. No checks will be issued.

3. Courtesy Adjustments - New Customer

c. General

A courtesy adjustment may be authorized for new customers within the first year. New customers are eligible for one (1) courtesy adjustment within the first 12 months of starting water service within the District for their most recent bill at the time of notification to the District. To be eligible for a courtesy adjustment, a customer must have been billed within Tiers 3 and/or 4.

d. Limitations

To be eligible for a courtesy adjustment, the customer is required to contact the District within one (1) month of receiving the bill with charges above their water budget in Tiers 3 and/or 4. Any billing units that were billed within Tiers 3 and/or 4 will be recalculated at the Tier 2 rate. All bill adjustments will be made in the form of a credit to the customer's account. No checks will be issued.

RESOLUTION NO. 15-___

**RESOLUTION OF THE BOARD OF DIRECTORS
OF MOULTON NIGUEL WATER DISTRICT
AMENDMENT OF SECTION 11.E OF THE DISTRICT'S RULES AND REGULATIONS
DUE TO THE PASSAGE OF AN OMNIBUS BILL (ASSEMBLY BILL 2747)**

WHEREAS, the Moulton Niguel Water District ("District") is a California Water District organized and existing under the California Water District Law (California Water Code Section 34000 *et seq.*);

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

WHEREAS, the Board of Directors of the District ("Board"), previously approved and adopted *Rules and Regulations of Moulton Niguel Water District for Water and Sewer Service*, which regulations have and may be amended from time to time ("*Rules and Regulations*");

WHEREAS, the state Legislature passed an omnibus bill (Assembly Bill 2747), effective January 1, 2015, requiring that termination notices for delinquent water accounts must be written in six specifically designated languages and require 15-day advance notice of termination of service.

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

Section 1. The Board approves and adopts the revised Section 11.E of the Moulton Niguel Water District's Rules and Regulations set forth in **Attachment 1** to this Resolution, attached hereto and by this reference incorporated herein. The General Manager, or her authorized designees, and Legal Counsel are directed to incorporate the terms of **Attachment 1** into the *Rules and Regulations*.

Section 2. The provisions of this Resolution shall be effective immediately upon adoption.

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ADOPTED, SIGNED and APPROVED this 19th day of March, 2015.

MOULTON NIGUEL WATER DISTRICT

President
MOULTON NIGUEL WATER DISTRICT and the
Board of Directors thereof

Secretary
MOULTON NIGUEL WATER DISTRICT and the
Board of Directors thereof

Attachment 1

SECTION 11. - SERVICE CHARGES

E. Time and Manner of Payment of Bills

1. All bills and charges for water and sewer service hereunder shall be due and payable upon presentation and shall become delinquent if not paid by the due date shown on the bill. Additionally, the next month's bill will reflect current charges as well as any unpaid previous balance and any penalties or other charges due and owing.
2. If payment is not made by the due date shown on the bill, the water service may be disconnected. Service shall not be restored until all delinquent bills, plus a reconnect fee have been paid. Payment shall be made in person, by mail, or by credit card. A service charge will be applied to all payments made by credit card.
3. Discontinuance of service by reason of a delinquent bill shall not automatically constitute a revocation of service. However, such delinquency may be considered as sufficient reason for revocation of service in accordance with the provision of Section 5 of these Rules and Regulations.
4. Should a check for payment of service be returned from the bank for any reason, the customer of record will be notified and a fee, determined by the District, will be charged against the account(s) to which the check has been credited.
5. Customers with two returned checks within a twelve-month period, will be notified that future charges will not be allowed to be paid by check. Payments by cash, money order or credit card will be required. This cash-only basis will be enforced until the customer establishes a twelve-month period of on-time payments.
6. Customers that present an invalid check to avoid disconnection (after a late notice or service interruption), will be subject to disconnection of service.
7. A charge in an amount to be determined by the District shall be imposed for any damage to facilities (i.e., equipment, lock, ears on the angle stop, etc.).



Moulton Niguel Water District

STAFF REPORT

TO: Board of Directors **MEETING DATE:** March 19, 2015

FROM: Joone Lopez, General Manager

SUBJECT: Per-Diem Compensation Update

DIVISION: District-wide

SUMMARY:

Issue: Under the District’s current policy, Board members are only allowed one day of compensation for attending multi-day conferences. To ensure appropriate compensation and to be consistent with policies/practices of other agencies in the industry, the policy amendment is proposed.

Recommendation: It is recommended that the Board of Directors approve the resolution entitled, “Specifying District Business Occurrences for Per Diem Compensation to Board of Directors.”

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

BACKGROUND:

In December 2008, the Board of Directors adopted Resolution No. 08-47 entitled “Resolution of the Moulton Niguel Water District Specifying District Business Occurrences for the Per Diem Compensation to the Board of Directors and Adopting Revised Article XXIV of the District’s Administrative Policy Manual, Policy for Travel and Expenses Reimbursement.” In 2011, the Board of Directors adopted a resolution revising Section 1 of the Resolution regarding the per diem. Included in the revisions was section 1(g) stating, “Conferences of water, wastewater or recycled water organizations, including but not limited to Association of California Water Agencies (AWCA), provided attendance is approved by the General Manager, and further provided that only one day of any individual conference is eligible as a compensable days service.”

#14.

Per-Diem Compensation Update

March 19, 2015

Page 2 of 2

DISCUSSION:

To be consistent with the compensation policy of providing per diem to Board members for each separate day of service, it is recommend that the policy be revised to allow for multi-day conferences to be counted as separate days for purposes of Board compensation. This is common practice with other agencies in the industry and complies with legal requirements governing allowable Board compensation.

Attachments:

1. Resolution 11-20, redlined with recommended changes
2. Resolution 08-47

RESOLUTION NO. ~~151~~ __

**RESOLUTION OF THE BOARD OF DIRECTORS OF
MOULTON NIGUEL WATER DISTRICT
SPECIFYING DISTRICT BUSINESS OCCURRENCES
FOR PER DIEM COMPENSATION TO BOARD OF DIRECTORS**

WHEREAS, the Board of Directors (“Board”) of Moulton Niguel Water District (“District”) adopted Resolution No. 11-20 entitled “Resolution of the Moulton Niguel Water District Specifying District Business Occurrences for Per Diem Compensation to Board of Directors,” on August 18, 2011, in accordance with the requirements of Government Code Section 53232, to, among other things, revise the written policy for payment of compensation to Board members for meetings and activities related to the Directors’ official duties and District business that was originally adopted under Resolution No. 06-1 “Resolution of the Moulton Niguel Water District Specifying District Business Occurrences for Per Diem Compensation to Board of Directors and Adopting Revised Article XXIV of the District’s Administrative Policy Manual, “Policy For Travel And Expense Reimbursement,” as thereafter revised and by District Resolution No. 08-47 adopted on December 18, 2008;

WHEREAS, a District ordinance establishes compensation for each days attendance at meetings of the Board or for each days service rendered as a Director by order of the Board, not to exceed ten 10 days for any one calendar month; and

WHEREAS, the Board will revise and restate the District business occurrences for which Board members may receive the per diem compensation set forth in the existing District ordinance for the purpose of authorizing more than one compensable days service for attendance at conferences, as further provided in this Resolution.

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

Section 1. For purposes of payment of the per diem fee set forth in the District ordinance establishing such compensation (as adopted from time to time) (“Compensation Authorization Document”), the occurrences constituting District business, official duties and “each days service rendered as a Director” for which compensation shall be paid under the Compensation Authorization Document, subject to all other terms and limits set forth in any such document, shall be the following:

- a. Meetings of the District Board and its Committees.
- b. Meetings (public or private) of or with water, wastewater or recycled water agencies (including the District, its staff, attorneys and consultants if not otherwise covered under (a) above), or cities, counties or other public agencies, or their staff, which may include meal-event meetings, or ceremonial functions.

#14.

- c. Meetings (public or private) of or with community groups with water, wastewater or recycled water interests, or their staff, which may include meal-event meetings, or ceremonial functions.
- d. Meetings (public or private) of or with administrative or regulatory agencies, or their staff.
- e. Meetings of or with legislators, or their staff.
- f. Organized educational activity, including ethics training mandated by Government Code Section 53234, et seq.
- g. Conferences of water, wastewater or recycled water organizations, including but not limited to the Association of California Water Agencies (ACWA), provided attendance is approved by the General Manager, ~~and further provided that only one day of any individual conference is eligible as a compensable days service.~~

The “meetings” referred to above under (b) through (e) may include meetings that are conducted by way of teleconferencing or videoconferencing among the attendees. All compensation for attendance at such “meetings” shall be approved by the General Manager and be consistent with this Resolution.

Section 2. Resolution No. 11-20 is hereby rescinded in its entirety. This Resolution is effective as of the date of adoption hereof.

ADOPTED, SIGNED and APPROVED at a regular meeting of the Board of Directors of Moulton Niguel Water District held on March 19, 2015.

MOULTON NIGUEL WATER DISTRICT

President
MOULTON NIGUEL WATER DISTRICT
and the Board of Directors thereof

Secretary
MOULTON NIGUEL WATER DISTRICT
and the Board of Directors thereof

APPROVED AS TO FORM:
BOWIE, ARNESON, WILES & GIANNONE
Legal Counsel - MOULTON NIGUEL
WATER DISTRICT

By _____
Patricia B. Giannone

12-18-08

RESOLUTION NO. 08-47

RESOLUTION OF THE MOULTON NIGUEL
WATER DISTRICT SPECIFYING DISTRICT BUSINESS OCCURRENCES
FOR PER DIEM COMPENSATION TO BOARD OF DIRECTORS

WHEREAS, the Board of Directors ("Board") of Moulton Niguel Water District ("District") previously adopted Resolution No. 06-1 entitled "Resolution of the Moulton Niguel Water District Specifying District Business Occurrences for Per Diem Compensation to Board of Directors and Adopting Revised Article XXIV of the District's Administrative Policy Manual, "Policy For Travel And Expense Reimbursement," on March 16, 2006, in accordance with the requirements of Government Code Section 53232, to, among other things, establish a written policy for payment of compensation to Board members for meetings and activities related to the Directors' official duties and District business;

WHEREAS, a District ordinance establishes compensation for each days attendance at meetings of the Board or for each days service rendered as a Director by order of the Board, not to exceed ten 10 days for any one calendar month; and

WHEREAS, the Board desires to revise the District business occurrences for which Board members may receive the per diem compensation set forth in the existing District ordinance.

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

Section 1. For purposes of payment of the per diem fee set forth in the District ordinance establishing such compensation (as adopted from time to time) ("Compensation Authorization Document"), the occurrences constituting District business, official duties and "each days service rendered as a Director" for which compensation shall be paid under the Compensation Authorization Document, subject to all other terms and limits set forth in any such document, shall be the following:


- a. Meetings of the District Board and its Committees.
- b. Meetings (public or private) of or with other water, wastewater or recycled water agencies, or cities, counties or other public agencies, or their staff, which may include meal-event meetings, or ceremonial functions.
- c. Meetings (public or private) of or with community groups with water, wastewater or recycled water interests, or their staff, which may include meal-event meetings, or ceremonial functions.
- d. Meetings (public or private) of or with administrative or regulatory agencies, or their staff.

- e. Meetings of or with legislators, or their staff.
- f. Organized educational activity, including ethics training mandated by Government Code Section 53234, et seq.
- g. Conferences of water, wastewater or recycled water organizations, including but not limited to the Association of California Water Agencies (ACWA), provided attendance is approved by the General Manager, and further provided that only one day of any individual conference is eligible as a compensable days service.

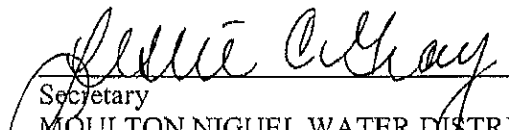
The "meetings" referred to above under (b) through (e) may include meetings that are conducted by way of teleconferencing or videoconferencing among the attendees. All compensation for attendance at such "meetings" shall be approved by the General Manager and be consistent with this Resolution.

ADOPTED, SIGNED and APPROVED at a regular meeting of the Board of Directors of Moulton Niguel Water District held on December 18, 2008.

MOULTON NIGUEL WATER DISTRICT




 President
 MOULTON NIGUEL WATER DISTRICT
 and the Board of Directors thereof



 Secretary
 MOULTON NIGUEL WATER DISTRICT
 and the Board of Directors thereof

APPROVED AS TO FORM:
 BOWIE, ARNESON, WILES & GIANNONE
 Legal Counsel - MOULTON NIGUEL
 WATER DISTRICT

By 

 Patricia B. Giannone

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

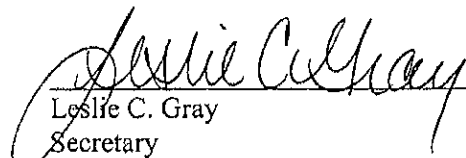
I, LESLIE C. GRAY, Secretary of the Board of Directors of the MOULTON NIGUEL WATER DISTRICT, do hereby certify that the foregoing resolution was duly adopted by the Board of Directors of said District at a regular meeting of said Board held on the 18th day of December, 2008 that it was so adopted by the following vote:

AYES: LIZOTTE, FIORE, BUCK, KURTZ, FROELICH, MCKENNEY,
 PROBOLSKY

NOES:

ABSTAIN:

ABSENT:



Leslie C. Gray
Secretary
MOULTON NIGUEL WATER DISTRICT
and of the Board of Directors thereof

