



# Local Water Project Grant/Loan Application Form

Submittal Deadline October 1, 2014

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## Requirements and Eligibility

- Application Requirements:** Project Sponsor shall provide the information requested in the section entitled "Requirements" below. Please provide requested material in no more than 15 pages, comprised of a cover letter (1 page limit), responses to "Requirements" (6 page limit), and any exhibits or supporting material (8 page limit.)
- Project Geographic Eligibility:** Projects must lie within the geographic boundaries of the Monterey Peninsula Water Management District ("District") or project benefits must accrue to entities within the District boundaries.
- Project Sponsor Eligibility:** Project sponsor may be a public or private entity located within District boundaries.
- Project Purpose Eligibility:** Projects must produce a potable water supply, either through the development of a new potable supply or a non-potable supply to offset existing potable use and releasing potable water for new uses. Preference will be given to projects that provide multiple benefits as described under "Project Merit Factors" below.
- Funds Available:** For FY 2014-15 the District has budgeted \$200,000 for local projects. Funds will be allocated to applicants based on number of applicants and "Project Merit Factors."
- Matching Requirement:** Project sponsor will be expected to match at least 50% of the requested grant funds. Grants will be converted to loans for projects that proceed to permanent funding through the use of bonds or certificates of participation within 3 years of the grant award. Project sponsors shall adopt a reimbursement resolution for that purpose. (CONVERSION TO LOAN IS ONLY IN THE CASE WHERE PERMANENT FINANCING ALLOWS THE REIMBURSEMENT OF DEVELOPMENT COSTS.)
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## Requirements

Please provide an application consisting of a submittal in the applicant's own format, subject to the "Application Requirements" described above.

- 1) Name of Project Sponsor
- 2) Type of entity – (i) public entity, (ii) non-profit organization, (iii) private entity, (iv) investor-owned utility, (v) private citizen, or (vi) other (describe.)
- 3) Project Name or Title
- 4) Project Sponsor Contact Information
- 5) Amount of Funding Requested
- 6) Geographic Location of Project
- 7) Project Purpose and Description. Provide a detailed description of the project – facilities, operations, direct water supply benefit, and ancillary benefits. Describe capacity (acre-feet and/or MGD) in annual, seasonal, or monthly terms. Also describe all project participants and roles for successful execution. Is this a planning phase project (feasibility, environmental and permitting, and preliminary design)? Or, is this an implementation phase project (final design and construction)? If planning phase, please describe your expected path to implementation.

Direct water supply benefit includes the development of a new water supply that may be used to offset the existing unlawful diversions of the California American Water Company from the Carmel River, as affected by the 2009 Cease and Desist Order imposed by the State Water Resources Control Board ("SWRCB"), or may result in a new additional supply of water that may serve future needs of the Monterey Peninsula.

Ancillary benefits may include, but are not limited to, the following:

- Water supply reliability, conservation, and efficiency of use;
- Water quality improvement – river, ocean, groundwater;
- Recycling or reuse of wastewater consistent with SWRCB Recycled Water Policy;
- Reduction of non-point source pollution, or point source discharge consistent with SWRCB Ocean Plan;
- Reduction of carbon-based emissions consistent with California AB32 goals;
- Storm Water capture and reuse consistent with California ASBS policy goals;
- Groundwater recharge;
- Flood management and protection of property; and
- Environmental mitigation, fisheries protection, or habitat restoration.

- 8) District Goals. Does the proposed project provide water to meet additional District goals? District goals include the following four goals:
- Can the Project provide water supply to the District for drought/rationing reserve (i.e. water that is not supplied to a beneficial use immediately upon project completion) and if so, how much?
  - Can the Project provide water supply to the District for potential future reallocation to the jurisdictions (i.e. water that is not supplied to a beneficial use immediately upon project completion) and if so, how much?
  - Can the project be run in a manner that would provide surplus production that could be “banked” into the Seaside Groundwater Basin utilizing the District’s Aquifer Storage and Recovery project?
  - Are there multiple benefits to the region or the State as described in section 6, above?
- 9) Technical Feasibility of Project. Discuss the technical feasibility of the project. If possible, cite references that contain information about the project and include as exhibits or define links to documents or websites for future reference.
- 10) Project Schedule. Describe basic project schedule milestones including, but not limited to feasibility study, conceptual design, CEQA/NEPA Process, other permits required, etc.
- 11) Project Financing. Describe project capital costs and construction schedule, even if the project is currently applying only for “planning phase” projects. For “planning phase” projects, also describe costs for solely that phase and sources of funding. Describe expected method of financing the capital costs of the project. If debt financing is envisioned, what is the source of debt repayment and security for the debt? Demonstrate applicant’s matching share. If the District does not provide a grant, how will the Applicant fund that amount and proceed with the project?
- 12) Annual Cost of Water. Describe the operating costs and capital cost recovery on an annual basis. Also describe on a cost per acre-foot of water produced per year. Provide detail. Describe annual and periodic renewal and replacement requirements.
- 13) Land. Describe the site and/or right-of-way requirements and status. Identify any approvals to date.
- 14) Permits. Describe permits required, schedule for approval, and already acquired permits.
- 15) Consultants, Plans, and Bids. Describe the status of the proposed project as it relates to the hiring of key consultants, development of plans and drawings, and any bids that the Project Sponsor has already received.
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## **Project Merit Factors**

Applications will be reviewed by District staff and a recommendation will be made to the District's Water Supply Planning Committee for potential funding by the District Board at its September meeting.

Projects will be evaluated by staff and recommendations made to the Committee based upon the following "Merit Factors."

- Application contains basic information requested
- Project produces new water supply
- Amount of new supply
- Ancillary benefits demonstrated and determined to be of value to community
- Identified District goals under "Requirement" 7, above, are met by project.
- Feasibility of Project has been demonstrated.
- Project Schedule is well defined and feasible.
- Project Financing is well defined and contingencies examined and identified.
- Annual Cost of Water is well defined and determined by the District to be consistent with alternate water supply projects, with consideration for ancillary benefits.
- Project status with respect to permits, consultants, and land appear to be consistent with successful project completion.

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## **Additional Information**

Limited obligation:                      The grant/loan proceeds are a limited obligation of the District secured solely by the District's Water Supply Charge.

Please address applications to:      David J. Stoldt, General Manager  
Local Projects Application  
Monterey Peninsula Water Management District  
PO Box 85  
Monterey, CA 93942-0085

Questions/Inquiries:                      David J. Stoldt, General Manager  
831-658-5650  
dstoldt@mpwmd.net

**FORM OF AGREEMENT BETWEEN  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
AND**

**FOR LOCAL WATER PROJECT DEVELOPMENT EXPENSES**

**THIS AGREEMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Monterey Peninsula Water Management District (MPWMD) and the \_\_\_\_\_.

**FACTS**

A. MPWMD was created by the California Legislature in 1977 for the purpose of “conserving and augmenting the supplies by integrated management of ground and surface water supplies, for control and conservation of storm and wastewater, and for the promotion of the reuse and reclamation of water.” The MPWMD’s specific functions are “management and regulation of the use, reuse, reclamation, conservation of water and bond financing of public works projects.” It is authorized to issue bonds, assess charges for groundwater enhancement facilities, levy assessments on real property and improvements, and “fix, revise and collect rates and charges for the services, facilities, or water furnished by it.”

B. The \_\_\_\_\_ through its Board and other officials, has all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants, which are not prohibited by the Constitution of the State.

C. In an effort to improve the local water supply by encouraging independent public works projects with matching financial assistance, MPWMD solicited applications from local jurisdictions and other interested parties.

D. At its June 16, 2014 meeting, the MPWMD Board of Directors adopted a budget that included expenditures up to \$200,000 for development expenses for local water projects.

E. The \_\_\_\_\_ submitted a grant/loan application to MPWMD on September \_\_, 2014. The application was approved by MPWMD’s Board of Directors on October 20, 2014.

**NOW, THEREFORE**, in consideration of the facts recited above and the mutual goals and objectives contained herein, the parties agree as follows:

1. Purpose of Agreement.

The purpose of this Agreement is for MPWMD to advance \$ \_\_\_\_\_ to the \_\_\_\_\_, to be paid beginning in MPWMD Fiscal Year 2014/15 and to be used by the \_\_\_\_\_ for development expenses associated with the \_\_\_\_\_ Local Water Project (Project). \_\_\_\_\_ will adopt a reimbursement resolution substantially in the form attached hereto and incorporated herein by reference as **Exhibit A**. Reimbursement shall only be considered in the case where permanent financing allows the reimbursement of development costs.

2. The Project.

The Project is intended to produce a (potable/non-potable) water supply to offset existing use of potable water delivered by the California American Water Company. This new water supply will increase and diversify water resources by providing a drought resistant, sustainable replacement source. (DESCRIBE PROJECT)

3. Term of Agreement.

The term of this Agreement begins on the date set forth above and shall remain in effect until June 30, 2017. Invoices received by MPWMD after this date for Project costs incurred up to June 30, 2017, shall be paid unless MPWMD's maximum commitment of \$ \_\_\_\_\_ has been reached.

4. Grants and Loans.

MPWMD and \_\_\_\_\_ may each pursue and receive grants, state revolving fund loans, or other forms of reimbursement from local, state, or federal sources. All receipts will be delivered to the \_\_\_\_\_ and credited to the Project as received. Such receipts will be deemed to offset Project costs.

5. Reimbursement.

The \_\_\_\_\_ shall invoice MPWMD on a quarterly basis and MPWMD shall pay, subject to the conditions described in Section 8 below.

6. Limited Obligations.

The parties agree MPWMD's financial obligations are limited obligations payable from its Water Supply Charge. MPWMD will periodically report to the \_\_\_\_\_ indicating

the status of available funds. The parties further agree the \_\_\_\_\_'s financial obligations are limited obligations payable from budgeted funds for the \_\_\_\_\_ Local Water Project. The \_\_\_\_\_ will provide periodic reports to MPWMD indicating the status of available matching funds.

7. Invoices.

The \_\_\_\_\_ shall pay for consultants, contractors, and other Project costs in accordance with the terms of this Agreement. The \_\_\_\_\_ shall submit quarterly invoices to MPWMD for Project costs which will include back-up documentation substantiating said Project costs incurred by the \_\_\_\_\_.

8. Payment of Invoices.

MPWMD shall have the right to review and confirm that the invoices submitted by the \_\_\_\_\_ are in conformance with the terms of this Agreement. Where MPWMD finds the invoice and supporting documentation for work to be unsatisfactory, MPWMD shall describe the deficiencies in writing or by electronic mail to the \_\_\_\_\_ within ten (10) days. The \_\_\_\_\_ shall have the option of revising the invoice and supporting documentation to delete reimbursement requests for invoices that are deemed unsatisfactory or revising unsatisfactory invoices and resubmitting a reimbursement request. Payments to the \_\_\_\_\_ are due and payable within thirty (30) days of receipt of invoice. MPWMD shall treat as privileged and confidential any invoice that the \_\_\_\_\_ transmits under such label, and shall not disclose the content of that document to any third party.

9. Conversion to Loan.

The payments made by MPWMD to the \_\_\_\_\_ shall constitute a convertible grant of funds. In the event the \_\_\_\_\_ shall enter into a permanent financing within three years of the expenditure of MPWMD proceeds, and such permanent financing allows for reimbursement of preconstruction costs, then the \_\_\_\_\_ shall use best efforts to reimburse MPWMD for funds made available under this Agreement pursuant to the reimbursement resolution adopted by the \_\_\_\_\_.

10. Event of Default.

The failure of a party to comply with any provision of this Agreement that has a material and adverse effect on the other party, except to the extent caused by a breach of this Agreement by the other party, shall constitute an Event of Default under this Agreement; provided, however,

that the defaulting party shall first have a period of thirty (30) days following receipt of notice from the other party of such failure to comply to cure such failure, or if such cure cannot be effected within such thirty (30) day period, such period shall extend for a total of one hundred eighty (180) days, so long as the defaulting party is diligently trying to cure such failure throughout such period.

11. Dispute Resolution.

Both parties shall meet and use their best efforts to settle any dispute, claim, question or disagreement (Dispute) arising from or relating to this Agreement. To that end, the parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If the parties do not reach such a solution within a period of thirty (30) days after the first meeting regarding the Dispute, then the parties shall pursue non-binding mediation to be completed within sixty (60) days after the first meeting regarding the Dispute. If the parties do not settle the Dispute within the sixty (60) day period, either Party may pursue any and all available legal and equitable remedies.

**GENERAL PROVISIONS**

12. Force Majeure.

Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations (other than payment obligations) under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, actions of legislative, judicial, executive or regulatory government bodies or other cause, without fault and beyond the reasonable control of such party. If any such events shall occur, the time for performance by either party of any of its obligations hereunder shall be extended by the parties for the period of time that such events prevented such performance. Upon the occurrence of an event of Force Majeure, the affected party shall: (i) promptly notify the other party of such Force Majeure event, (ii) provide reasonable details relating to such Force Majeure event and (iii) implement mitigation measures to the extent commercially reasonable.

13. Indemnities.

a. MPWMD Indemnity. MPWMD shall fully indemnify the \_\_\_\_\_ and its respective councilmembers, employees and agents against, and hold completely free and harmless from, any cost, expense, claim, demand, judgment, loss, injury and/or liability of any kind or nature, including personal or bodily injury, death or property damage (Losses),



that may arise from any grossly negligent act or omission of MPWMD related to the Project.

- b. \_\_\_\_\_ Indemnity. The \_\_\_\_\_ shall fully indemnify MPWMD and its respective directors, employees and agents against, and hold completely free and harmless from, any Losses, that may arise from (i) any grossly negligent act or omission of the \_\_\_\_\_ related to the Project construction, management, operation, maintenance or repair, except for costs, expenses, claims, demands, judgments, losses, injuries and/or liability arising from any grossly negligent act or omission of MPWMD related to the Project development activities or (ii) any claim made by a \_\_\_\_\_ employee specifically retained to provide services with respect to the Project development activities.

#### 14. Insurance/Self Insurance.

The parties are either insured or self-insured as to any requirements under this Agreement. No policies or bonds are required of either party as to any provisions of this Agreement.

#### 15. Notices.

All notices to MPWMD required or permitted under this Agreement shall be in writing and shall be deemed delivered (i) when delivered in person; (ii) on the third day after mailing, if mailed, postage prepaid, by registered or certified mail (return receipt requested); or (iii) on the day after mailing if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery. In each case the parties shall use the following addresses or such addresses as may be furnished in writing by one party to the other:

Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA 93940  
Attention: General Manager

All notices to the \_\_\_\_\_ required or permitted under this Agreement shall be in writing and shall be deemed delivered (i) when delivered in person; (ii) on the third day after mailing, if mailed, postage prepaid, by registered or certified mail (return receipt requested); or (iii) on the day after mailing if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery. In each case the parties shall use the following addresses or such addresses as may be furnished in writing by one party to the

other:

Monterey Peninsula Airport District  
200 Fred Kane Dr #200  
Monterey, CA 93940  
Attention: General Manager

16. Successors and Assigns.

The terms and conditions of this Agreement shall inure to the benefit of and are binding upon the parties hereto and their respective successors in interest and permitted assigns.

17. No Third-Party Beneficiaries.

Nothing in this Agreement is intended to create any third-party beneficiaries to the Agreement, and no person or entity other than the parties, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

18. Further Acts and Assurances.

The Parties agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances, and shall perform any and all acts and things reasonably necessary, in connection with the performance of the obligations hereunder and to carry out the intent of the parties.

19. Opinions and Determinations.

Where the terms of this Agreement provide for action to be based upon opinion, judgment, approval, review or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review or determination to be arbitrary, capricious or unreasonable.

20. Captions.

The captions in this Agreement are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement. Words of any gender in this Agreement shall be held to include any other gender and words in the singular number shall be held to include the plural when the sense so requires.

21. Severability.

Should it be found that any part of this Agreement is illegal or unenforceable, such part or parts of this Agreement shall be of no force nor effect and this Agreement shall be treated as if such part or parts had not been inserted.

22. Entire Agreement.

All previous negotiations had between the parties hereto and/or their agents or representatives with respect to this Agreement are merged herein and this Agreement alone fully and completely expresses the parties' rights and obligations.

23. Modifications in Writing.

This Agreement shall not be changed, altered or modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

24. Assignment.

Neither Party may assign its interest in this Agreement without the prior written consent of the other Party.

25. Drafting Ambiguities.

This Agreement is the product of negotiation and preparation between the parties. Both sides and their counsel have had the opportunity to revise this Agreement. The parties waive the provisions of Section 1654 of the Civil Code of California and any other rule of construction to the effect that ambiguities are to be resolved against the drafting party, and the parties warrant and agree that the language of this Agreement shall neither be construed against nor in favor of any party unless otherwise specifically indicated.

26. Governing Law.

This Agreement and the rights and obligations of the parties shall be governed, controlled and interpreted in accordance with the laws of the State of California.

27. Venue.

The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of Monterey, State of California.

28. Signing Authority.

The representative of each party signing this Agreement hereby declares that authority has been obtained to sign on behalf of the \_\_\_\_\_ and MPWMD.

29. Inspection of Books and Records.

The proper officers or agents of MPWMD shall have full and free access at all reasonable times to the account books and official records of the \_\_\_\_\_ insofar as the same pertain to the matters and things provided for in this Agreement, with the right at any time during office hours to make copies thereof at MPWMD's expense, and the proper representatives of the \_\_\_\_\_ shall have similar rights in respect to the account books and records of MPWMD.

30. Representations and Warranties.

No representations or warranties are made or have been relied upon by either party other than those expressly set forth herein, if any.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first above written.

(SIGNATURE SECTION)

**MONTEREY PENINSULA WATER MANAGEMENT DISTRICT**

By: \_\_\_\_\_  
DAVID POTTER, Chair

ATTEST:

\_\_\_\_\_  
DAVID J. STOLDT, Board Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
DAVID C. LAREDO, General Counsel

**(NAME OF ENTITY)**

By: \_\_\_\_\_  
NEED NAME, Board Chairman

ATTEST:

\_\_\_\_\_  
NEED NAME, Board Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
NEED NAME, General Counsel

**EXHIBIT A**

**RESOLUTION 2014- \_\_**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
\_\_\_\_\_  
DECLARING THE OFFICIAL INTENT TO REIMBURSE EXPENDITURES  
FROM THE PROCEEDS OF TAX EXEMPT SECURITIES**

**WHEREAS**, the \_\_\_\_\_ (the “\_\_\_\_\_”) desires to contribute funds to finance the construction of facilities described in detail below (collectively the “Project”); and

**WHEREAS**, the \_\_\_\_\_ will be expending funds for the financing of the project; and

**WHEREAS**, the \_\_\_\_\_ reasonably expects to reimburse such expenditures by authorizing the sale and delivery of revenue certificates of participation or bonds, as described below:

**NOW, THEREFORE**, the Board of Directors of the \_\_\_\_\_ hereby resolves as follows:

1. This Resolution is a declaration of official intent to reimburse expenditures pursuant to Treasury Regulations Section 1.150-2.
2. The \_\_\_\_\_ desires to finance a portion of the permitting, design, and construction of the Project consisting of a non-potable water supply to offset existing use of potable water delivered by the California American Water Company, through the retrofitting of a formerly-used treatment system.
3. The \_\_\_\_\_ reasonably expects to reimburse the expenditures through the sale and delivery of revenue certificates of participation or bonds

(the "Debts"), the interest component of which is excludable from gross income under Section 103 of the Internal Revenue Code. The expected maximum principle amount of the Debts to be issued for the project is \$10,000,000.

4. The reimbursement allocation to be made with respect to the expenditures will occur not later than eighteen (18) months after the later of (i) the date on which the expenditure is made, or (ii) the Project is placed in service, but in no event more than 3 years after the expenditure is paid.
5. This Resolution expresses the \_\_\_\_\_'s expectations as of this date with respect to the financing of the construction and acquisition of the Project. Future events or extraordinary circumstances beyond the control of the \_\_\_\_\_ may result in the Project being financed in a manner other than as described in this Resolution, and nothing contained herein constitutes an irrevocable commitment by the \_\_\_\_\_ to issue the Debts.

On motion of Director \_\_\_\_\_, and second by Director \_\_\_\_\_, the foregoing resolution is duly adopted this \_\_\_ day of \_\_\_\_\_ 2014 by the following votes:

AYES:

NAYS:

ABSENT:

I, \_\_\_\_\_, Secretary to the Board of Directors of the \_\_\_\_\_, hereby certify that the foregoing is a resolution duly adopted on the \_\_\_\_\_ day of \_\_\_\_\_ 2014

Witness my hand and seal of the Board of Directors this \_\_\_ day of \_\_\_\_\_ 2014.

\_\_\_\_\_

NEED NAME  
Secretary to the Board

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