

#17

Vicki Hoggins

From: Jackson Minasian
Sent: Thursday, November 14, 2024 3:10 PM
To: Timothy Beers
Cc: Vicki Hoggins; Dustin Cooper
Subject: RE: Cal OES and FEMA Reimbursements
Attachments: Fenton DeShong Dimino Ltr w exhs 6.27.24.pdf

I have called Robbie Larson at Cal OES multiple times to inquire on the status of the two FEMA awards. Every time the exchange is a promise by him to look into it and to follow up and then I don't hear back from him. I had also reached out to Jess a few times to see if he was in contact with Cal OES but have not heard back from him. I can see in the minutes that someone at LMWD is working with someone in government on the FEMA awards. I communicated with the FEMA attorney a few months ago and she said it is the duty of CAL OES to get the FEMA money released. I think she is correct. The attached letter explains the nature of the FEMA proceedings and awards. Would you like me to reach out to Cal OES again? Or do you want to contact them? The two Cal OES contacts are Scott Wagner and Robbie Larson. Thanks you, Jackson

From: Timothy Beers <tjb.forest18@gmail.com>
Sent: Thursday, November 14, 2024 11:48 AM
To: Jackson Minasian <jminasian@minasianlaw.com>
Cc: Vicki Hoggins <vhoggins@minasianlaw.com>
Subject: Cal OES and FEMA Reimbursements

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Good morning, Jackson,

Because both Roger Williams and Jess Vickery either have or soon will be stepping off the LMWD Board, I have taken over all the FEMA Projects from the 2020 North Complex Fire. One of my main goals is to make sure that the LMWD qualifies for all the grant money we can, plus is reimbursed for the District's attorney fees, expert fees, accounting fees, money paid out to Water Works, and any other additional fees the District had to pay out to obtain FEMA grant funding, for the appeals process, and for arbitration.

At our September 28, 2024, LMWD Board Meeting, Jess Vickery reported that you had reached out to Cal OES regarding these types of reimbursements. Since I don't want to duplicate any work that you have already done to obtain reimbursements, can you please tell me of your progress, and who you have been in contact with at Cal OES and/or FEMA?

I hope you have a great Thursday,

Tim Beers

President of the Lake Madrone Water District Board

(916) 704-0839

Vicki Hoggins

From: Timothy Beers <tjb.forest18@gmail.com>
Sent: Thursday, November 14, 2024 4:04 PM
To: Jackson Minasian
Cc: Vicki Hoggins; Dustin Cooper; Leah Janowski
Subject: Re: Cal OES and FEMA Reimbursements

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Jackson, thanks for your quick response. Since February of 2023, I've been working with FEMA on four projects related to the 2022-2023 Winter Storm Disaster. I have also worked with FEMA on two projects related to the February 4th, 2024 Windstorm. Plus, I'm now working with both FEMA and Cal OES on the two "Legacy Projects" (The Water Distribution System and The Temporary Water Supply and Repairs) from the 2020 North Complex Fire. Consequently, I have a good idea how both FEMA and Cal OES work and have communicated a lot with Scott Wagner but never Robbie Larson. Therefore, I will reach out to Scott and try to get movement on these reimbursements.

That said, I need to know exactly what we are asking to be reimbursed for. I also need the invoices and payment records for the District's attorney fees, expert fees, accounting fees, money paid out to Water Works, and any other additional fees the District had to pay out to obtain FEMA grant funding, for the appeals process, and for arbitration. If you have these, please forward them to me. If you don't have them, I'll reach out to Leah and Vicki for them.

Thanks for everything that you have done for the LMWD, you and the entire law firm are very much appreciated,

Tim Beers
President of the Lake Madrone Water District Board,
(916) 704-0839

On Thu, Nov 14, 2024 at 3:10 PM Jackson Minasian <jminasian@minasianlaw.com> wrote:

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I hope you have a great Thursday,

Tim Beers

President of the Lake Madrone Water District Board

(916) 704-0839

MINASIAN LAW

— ESTABLISHED 1941 —

◊ JACKSON A. MINASIAN ◊
jminasian@minasianlaw.com

June 27, 2024

Robert J. Fenton, Regional Administrator
Casey DeShong
Maureen Dimino
FEMA Region 9
1111 Broadway, Suite 1200
Oakland, California 94607-4052

lori.sanchez@fema.dhs.gov
Casey.DeShong@fema.dhs.gov
Maureen.dimino@fema.dhs.gov

RE: Lake Madrone Water District

Ladies and Gentlemen:

We write to you on behalf of Lake Madrone Water District. LMWD was awarded \$497,275.93 in funding through the FEMA decision of August 18, 2023 (**Exhibit “1”**). FEMA subsequently determined that LMWD was entitled to an additional \$23,770.31 through the Civilian Board of Contract Appeals (“CBCA”) proceeding of LMWD and FEMA, CBCA 7903-FEMA (**Exhibit “2”**.) At a CBCA hearing on February 1, 2024, FEMA represented to the CBCA that FEMA was already funding replacement of the service lines in the LMWD distribution system, and that FEMA would fund the replacement of additional sections of the LMWD distribution system if contamination remained in the LMWD distribution system after replacement of the west section through the award of \$23,770.31.

LMWD requires FEMA assistance and coordination on multiple FEMA funding awards. LMWD no longer has a FEMA case officer or a FEMA point of contact. Please appoint a new FEMA representative to work with LMWD on implementation of FEMA’s funding awards. LMWD has also compiled invoices for expenses incurred for the water system project, and LMWD requests FEMA reimbursement for these expenses which are attached hereto as **Exhibit “3”**.

FEMA’s prompt attention to this matter is warranted. The disaster occurred almost four years ago, and the community of Lake Madrone is still without a usable drinking water system to deliver drinking water for consumption and sanitation to the homes that survived the disaster. Drinking water is an essential public service and a necessary component in rebuilding after disaster.

To: Robert J. Fenton, Regional Administrator
Casey DeShong, Maureen Dimino
RE: *Lake Madrone Water District*
Date: June 27, 2024
Page 2

Please let us know if you have any questions.

Very truly yours,

MINASIAN LAW, LLP

By: 

Jackson A. Minasian

JAM/
Encs. (3)

EXHIBIT "1"

EXHIBIT "1"



FEMA

August 18, 2023

Ryan Buras
Alternate Governor's Authorized Representative
California Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, CA 95655

Jess C. Vickery
President and Chairman
Lake Madrone Water District
12 Star Road
Berry Creek, CA 95916

Reference: First Appeal – Lake Madrone Water District
FEMA-4558-DR-CA, PA ID: 007-URKTI-00
Grants Manager Project 162636
FEMA Log 396668, Cal OES Log 753288.2
Result of Declared Incident, Repair vs. Replacement

Dear Mr. Buras and Dr. Vickery:

This letter is in response to California Governor's Office of Emergency Services' (Cal OES) May 10, 2022, submission, which transmitted the referenced first appeal on behalf of Lake Madrone Water District (Applicant).¹ The Applicant is appealing the U.S. Department of Homeland Security's Federal Emergency Management Agency's (FEMA) denial of funding in the amount of \$7,803,000.00 for replacement of the Applicant's potable water distribution system. This system includes approximately 19,200 linear feet (LF) of mostly buried polyvinyl chloride (PVC) pipe, 125 service laterals, 28 hydrants, and appurtenances and will be referred to collectively as the Facility.

As explained in the enclosed analysis, FEMA finds the Applicant has provided documentation to substantiate a portion of the Facility was directly damaged by the declared event and eligible for Public Assistance (PA) funding including 800 LF of PVC water pipe, 68 service connection laterals, and various above ground appurtenances. Accordingly, the appeal is partially granted in the amount of \$497,275.93. However, the Applicant did not demonstrate the incident caused permanent system-wide VOC contamination, nor does the 50 percent rule apply for a water distribution system. FEMA will amend Grants Manager Project (GMP) 162636 to include the

¹ Letter from Deputy Director, Governor's Office of Emergency Services, to Reg'l Adm'r, FEMA Region 9, at 1 (May 10, 2022).

Scope of Work (SOW) changes totaling \$497,275.68 summarized in the Analysis. This letter officially notifies the Applicant of this determination.

The GMP SOW and funding obligated thereunder must comply with all applicable laws, regulations, policies, guidance, executive orders, and adopted codes and standards. This includes without limitation those relating to environmental and historic preservation, hazard mitigation, and/or insurance (as a condition of accepting the Federal grant award, the Applicant is required to obtain and maintain insurance in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, § 311(b), 42 U.S.C. § 5154(b) (2007) and 44 C.F.R. §§ 206.252(d) or 206.253(b)(1). FEMA will not duplicate Public Assistance (PA) funding with any other program benefits or insurance proceeds directed to the same project.

The Applicant may appeal this determination to the Assistant Administrator, Recovery Directorate, at FEMA Headquarters pursuant to 44 C.F.R. § 206.206. If the Applicant elects to file such a second appeal, the appeal must: 1) contain documented justification supporting the Applicant's position; 2) specify the monetary figure in dispute; and 3) cite the provisions in federal law, regulation, or policy with which the Applicant believes the initial action was inconsistent. The Applicant has 60 days from the date of receipt of this letter to submit a second appeal to the Recipient. The Recipient has 60 days from the date of receipt of the Applicant's second appeal to submit the appeal, with its recommendation, to FEMA Region 9, Recovery Division. FEMA Region 9 will transmit the second appeal to FEMA headquarters.

Alternatively, this determination may be eligible for arbitration by the Civilian Board of Contract Appeals (CBCA) under the arbitration rights set forth in section 423 of the Stafford Act, as amended by section 1219 of the Disaster Recovery Reform Act (DRRA), which was signed into law on October 5, 2018. To determine eligibility for arbitration, please review FEMA's Arbitration Fact Sheet.² The CBCA regulations at 48 C.F.R. § 6106.601-613 provide the CBCA's rules of procedure for FEMA Section 423 arbitrations. Filing and procedural rules are available on the CBCA's website at www.cbca.gov. An applicant must submit its request for arbitration in writing simultaneously to the Recipient, the FEMA Regional Administrator, and the CBCA.

If the Applicant elects not to submit a second appeal request or request for arbitration within 60 days of the Applicant's receipt of this letter, this decision is the final agency determination on the matter, and the Applicant will no longer be able to appeal or arbitrate the matter.

² *Public Assistance Appeals & Arbitration under the Disaster Recovery Reform Act*, available at: https://www.fema.gov/sites/default/files/2020-07/fema_DRRA-1219-public-assistance-arbitration-right_fact-sheet.pdf

Please contact Acting Recovery Division Director Heather Smith at 202-380-2339 or Heather.Smith@fema.dhs.gov if you have any questions or require further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'RJF', written in a cursive style.

Robert J. Fenton
Regional Administrator
FEMA Region 9

Enclosures:

1. Appeal Analysis
2. Administrative Record Index

FIRST APPEAL ANALYSIS
Lake Madrone Water District, PA ID 007-URKTI-00
FEMA-4558-DR-CA
Grants Manager Project 162636
Result of Declared Incident, Repair vs. Replacement

Background

Between August 14, 2020, and September 26, 2020, wildfires caused widespread damage in several California counties, including Butte County.¹ Lake Madrone Water District (Applicant) is a special district governmental entity located in Butte County that provides water services to local residents. The Applicant's water distribution system is comprised of 19,200 linear feet (LF) of water distribution mains, 125 service laterals, 28 hydrants, and associated appurtenances, referred to collectively as the Facility.

The Applicant completed emergency repairs to damage caused by the wildfires in October 2020 and subsequently conducted both remediation and volatile organic compound (VOC) analytical assessments on the Facility to determine the quality of water after the disaster event. The Applicant collected 41 distribution system samples from 17 sites during five distribution sampling events from November 2020 through March 2021. The Applicant reported several instances of fill and purge (flushing) of the distribution system prior to each sampling event. All flushing and sampling were conducted with water from the Panorama Well prior to November 4, 2020. Water was then imported from South Feather Water and Power's Miners Ranch water system (Miners Ranch) for flushing and sampling purposes beginning November 4, 2020. The Applicant performed multiple rounds of flushing followed by the collection of samples from hydrants and hose bibs at surviving homes after a 72-hour stagnation period. The results of the sampling detected VOCs in several sites.

The Applicant requested \$7,803,00.00 in Public Assistance (PA) funding to replace the Facility due to the findings of the analytical assessment. The Applicant submitted the VOC sampling results, technical memorandum, and correspondence from the California State Water Control Board (SWCB) to support the request.

FEMA developed Grants Manager Project (GMP) 162636 to capture the scope of work for damages to the Facility. In a Determination Memorandum (DM) dated February 6, 2022, FEMA denied PA funding for replacement of the Facility stating the Applicant did not provide sufficient documentation to support the damages are a direct result of the declared event.² FEMA found the Applicant implemented a 72-hour stagnation period in its testing procedures, which deviated from the standard Environmental Protection Agency (EPA) method to measure purgeable organic compounds in water.³ As a result, the Applicant's analytical reports were not found sufficient to support Facility damages. Additionally, FEMA determined the Applicant did not provide sufficient documentation to support a full replacement of the Facility. Consequently, FEMA found the Applicant's claim ineligible for PA funding.

¹ The President issued a major disaster declaration (FEMA-4558-DR-CA) on August 22, 2020.

² Determination Memo from Infrastructure Branch Chief, FEMA, at 1 (Feb. 2, 2021).

³ Environmental Protection Agency Method 524.2.

First Appeal

In a letter dated April 7, 2022, the Applicant appeals FEMA's denial for replacement of the Facility in the amount of \$7,803,000.00.⁴ The Applicant claims VOC contamination and direct fire damage from the declared event caused a combined \$2,453,100.68 in damage (See Table 1). The direct fire damage in the amount of \$497,275.68 includes 800 LF of above ground water mains, 68 distribution laterals, 7 hydrants, and various appurtenances. The Applicant provides photos, dimensions, maps, and GPS coordinates to support the direct fire damage. Additionally, the Applicant claims \$1,955,825.00 in VOC contamination of 10,450 LF of water main pipes, 8 hydrants, and associated appurtenances. The Applicant provides water sampling results from November 2020 through March 2021 and emphasizes the detection of benzene and toluene in various sections of the Facility. Furthermore, the Applicant provides letters from the SWCB which expressed concerns associated with the extent of contamination and recommended replacement of the Facility.

Damage Type	Water Main (LF)	Service Laterals	Hydrants	Cost to Repair
Direct Fire (DF)	800	68	7	\$ 497,275.68
VOC	10,450	8	0	\$ 1,955,825.00
Total (DF + VOC)	11,250	76	7	\$ 2,453,100.68

The Applicant estimates the cost to replace the Facility is \$4,627,268.00 and calculates the cost to repair the direct fire and VOC contamination damages is 53 percent of the cost to replace the Facility. With this calculation, the Applicant claims the "50 percent rule"⁵ applies and concludes a total of \$7,803,000.00 for the Facility's replacement is justified, including an additional \$3,175,732.00 for soft costs. In a letter dated May 10, 2022, Cal OES forwards the Applicant's appeal to FEMA and supports the Applicant's request.⁶

Request for Information

FEMA sent the Subrecipient a Request for Information (RFI) by letter dated August 10, 2022. Therein, FEMA requested the following: (1) information demonstrating the 2-inch diameter service lateral piping is required by codes or standards; (2) water main sampling results prior to the event; and (3) water main sampling results after March 2021.

In a letter dated September 9, 2022, the Applicant responds to FEMA's RFI. The Applicant provides the California Residential Code, board of directors meeting minutes, water service connection letters, and its connection policy to support the 2-inch diameter service lateral piping standard. The Applicant also reveals that while it performed standardized water quality tests

⁴ Letter from Chairman, Lake Madrone Water District, to State Public Assistance Officer, Cal OES, at 12 (Apr, 7, 2021).

⁵ *Public Assistance Program and Policy Guide*, FP 104-009-2, at 157 (Jan. 1, 2020) [hereinafter *PAPPG*]

⁶ Letter from Deputy Director, Governor's Office of Emergency Services, to Reg'l Adm'r, FEMA Region 9, at 1 (May 10, 2022).

(including tests for VOCs) on its water wells prior to the event, no further sampling was performed on the water distribution mains at any point prior to the declared event or after March 2021.⁷ Additionally, the Applicant states the California State Water Resources Control Board's Division of Drinking Water (DDW) advised in a letter dated May 5, 2021, no further testing was necessary.⁸ As a result, the Applicant stopped water sampling after March 2021.

Environmental Protection Agency (EPA) Subject Matter Expert Report

FEMA tasked the EPA for a subject matter expert (Reviewer) from the EPA Region IX Drinking Water Office to analyze the extent of contamination associated with the Applicant's Facility. The Reviewer, in consultation with EPA Office of Research and Development and Office of Ground Water and Drinking Water, and DDW, reviewed data and information provided by FEMA, DDW, and Butte County Environmental Health which regulates the Applicant's water. The Reviewer developed a report dated August 1, 2023, that provided his analysis of the presence of typical combustion-related VOCs and trihalomethanes (TTHMs) detected in the Applicant's Facility.⁹ The report focuses on determining if the Facility experienced substantial contamination and whether contaminants persisted despite flushing efforts.

The Reviewer confirms the Facility experienced breaches and back-siphonage during the wildfire, and combustion-related contaminants were introduced into the system.¹⁰ However, the Applicant's sampling strategy and changing water sources confounded the Reviewer's confidence in establishing clear data trends. For example, only two samples were taken from service laterals at burned homes where the greatest representation of contamination would have been expected, distribution system sample sites were not sampled consistently across all sampling events, new sites with no prior sampling history were sampled during the final sampling event on March 1, 2021, and water hauled from another public water system was not analyzed to establish a baseline of relevant contaminants.¹¹

Analytical results of water samples show that most contaminants reduced to non-detectable levels; others persisted as detected, but did not exceed, regulatory levels, even after flushing. Only 1 of the 41 samples exceeded California's maximum contaminant level (MCL) for 1, 2 Dichloroethane. However, all samples were below the MCL for Federal drinking water standards.

The report shows that flushing was largely effective in removing VOCs since most locations showed a reduction in VOC concentrations to non-detectable levels. However, the report notes anomalous results and areas where VOCs persisted to be detected, indicating that flushing might not have been entirely successful in all parts of the distribution system.

⁷ First Appeal Transmittal Package, Lake Madrone Water District Sample Report, at 89-95.

⁸ Letter from Valley District Engineer, Division of Drinking Water, to President and Chairman, Lake Madrone Water District, at 2 (May 5, 2021).

⁹ Garcia-Bakarich, L, Lake Madrone Water District Volatile Organic Compound Contamination: Evaluation of Data and Relevant Circumstances. Environmental Protection Agency, at 2 (Aug. 1, 2023) [hereinafter *EPA Report*]

¹⁰ *Id.*, at 1.

¹¹ *Id.*

Discussion

Result of Declared Incident

Section 406(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) authorizes FEMA to provide financial assistance to states, local governments, and certain nonprofit organizations for the repair, restoration, and replacement of public facilities damaged or destroyed because of a major disaster. To be eligible for financial assistance, an item of work must meet the following three requirements: 1) be required as the result of the emergency or major disaster event; 2) be located within the designated area of a major disaster or emergency declaration; and 3) be the legal responsibility of an eligible applicant.¹²

Here, the Applicant claims the declared event caused direct fire damage to 63 service distribution laterals, 800 LF of above ground water mains, and various appurtenances. FEMA did not conduct a physical site inspection to validate the damages. However, the Applicant provided photos of the damaged components, dimensions, maps, and GPS coordinates. This documentation demonstrates direct fire damage to components of the water distribution system resulting from the declared event. Accordingly, the Applicant's claim for \$497,275.68 in direct fire damage is eligible for Public Assistance. To this extent, the appeal is partially granted.

Apart from the direct fire damage, the Applicant requests the entire water distribution system be replaced due to system wide VOC contamination. The Applicant claims water samples from the water grid exhibit significantly elevated VOC contamination compared to the reporting limits and historical testing of source water quality standards. Specifically, benzene and toluene were found at levels exceeding 0.5 micrograms/Liter in 7 of 15 test locations. To support its claim of contamination, the Applicant points out that levels of benzene and toluene in its water wells exceeded prior non-detect readings, (utilizing the 72-hour stagnation period per EPA method 524.2 sampling procedures and *Memorandum to the California State Water Resources Control Board*).¹³

The EPA Report categorizes the VOCs as either combustion-related or Trihalomethanes (THM or TTHMs, when aggregated). Benzene, Toluene, Xylene, Napthalene, Styrene, 2-chlorotoluene, 4-chlorotoluene, and 1,2 Dichloroethane can all be directly attributable as byproducts of combustion.¹⁴ The presence of these combustion related VOCs can be a definitive indicator of wildfire-related VOC contamination, provided the requisite back-siphonage occurred and there was no prior history of VOC contamination.¹⁵ Samples from sites H3, H14, H17, H20, H21, H27, H28, and Lakeside Way at Apple Hill (8 of 12 sites) all had positive detections for combustion-related VOCs below the MCL at some point during sampling, but ultimately produced results with no detectable combustion-related VOCs in the final sampling event.¹⁶ The

¹² Title 44 Code of Federal Regulations (44 C.F.R.) § 206.223(a) (2019).

¹³ Letter from Director, EPA Office of Ground Water and Drinking Water, to Emergency Response & Security Program Manager, California State Water Resources Control Board, Division of Drinking Water (Apr. 4, 2022).

¹⁴ *EPA Report*, at 5.

¹⁵ *Id.*

¹⁶ *Id.*

trend of these sample results is a strong indicator that flushing was successful at removing the typical combustion-related VOCs to non-detectable levels in all but one site.¹⁷

The Applicant's distribution system is comprised of approximately 90 percent PVC pipe, which is highly resistant to VOC permeation when aqueous concentrations of benzene are less than 1,000 mg/L.¹⁸ The Reviewer suggests certain anomalous results could indicate these trends do not apply across the distribution system.¹⁹ However, the Reviewer also expresses concerns that the Applicant's sampling methodology is inconsistent, incomplete, and does not help to establish patterns or trends through repeatable results that are critical to understand if persistent contamination exists.²⁰

THMs such as Chloroform, Bromodichloromethane, and Dibromochloromethane are common in disinfected drinking water and detected through the water sampling results.²¹ THMs form when oxidizing disinfectants such as chlorine react with total organic carbon (TOC), which are very common in surface water, such as the water used by Miners Ranch.²² However, THMs can also be a byproduct of combustion when chlorinated compounds such as compounds from burnt plastics interact with TOC.²³

The Applicant imported water via hauling from Miners Ranch for flushing and sampling purposes beginning November 4, 2020.²⁴ Notably, the Applicant did not perform any water sampling on the imported water to establish a baseline reading.²⁵ The Reviewer analyzed TTHM results from the distribution system sampling and compared them with TTHM results from Miners Ranch.²⁶ The highest concentrations of THMs in the Facility was consistent with the compliance monitoring results at Miners Ranch.²⁷ Additionally, the range of TTHM sample results decreased significantly during the March 1, 2021, sampling event and were all detected below 10% of the TTHM MCL, and therefore well-within requirements for drinking water.²⁸ The Reviewer found the combination of data trends and the uncertainty of source water quality clouded the applicability of the results to determine the persistence of fire-related contamination throughout the distribution system.²⁹ As a result, the Reviewer states documentation is insufficient in supporting persistent TTHMs are a direct result of wildfire contamination.³⁰

The Reviewer considers facts both for, and against, persistent contamination in the Applicant's distribution system, including the anomalous results, potential undetected contamination in service lines, the presence of TTHMs, and heat impacts to buried pipes argue for persistent

¹⁷ *EPA Report*, at 5.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*, at 4.

²¹ *Id.*, at 6.

²² *Id.*

²³ *Id.*

²⁴ PWSID CA0410006

²⁵ *EPA Report*, at 1

²⁶ *Id.*, at 8.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*, at 6.

³⁰ *Id.*

contamination.³¹ But the Reviewer ultimately finds that evidence such as successful flushing efforts, significant reduction in wildfire related VOC results, resistance of PVC pipes to VOC permeation, low concentrations after stagnation, and compliance with health-based standards do not support a finding of persistent contamination.³²

Overall, the sampling results demonstrate that flushing efforts were largely, but not entirely successful at removing VOCs. Although there were some anomalous results, the anomalies did not repeat, and the sampling methodology made no efforts to identify the source or further investigate.³³ Many of the Reviewer's concerns about contamination are not supported by the record, due to the Applicant's inconsistent and incomplete sampling methodology.³⁴ Furthermore, the Applicant failed to establish a baseline contamination level for water imported from Miners Ranch used for system wide flushing efforts.³⁵ Without the baseline contamination level of water imported from another source, it is impossible for the Reviewer to determine if the persistent THMs observed are evidence of wildfire-related contamination. Regardless, the final sampling event detected all VOC levels below the MCL and therefore, not a threat to human health.³⁶

This report does not establish ongoing system wide VOC contamination. Based on the EPA report and FEMA's review of the administrative record, the Applicant has not substantiated system wide VOC contamination as a permanent or a direct result of the declared incident. Consequently, full replacement of the entire water distribution system is ineligible for Public Assistance funding.

Repair vs. Replacement

A facility is considered repairable when disaster damages do not exceed 50 percent of the cost of replacing a facility to its predisaster condition, and it is feasible to repair the facility so that it can perform the function for which it was being used as well as it did immediately prior to the disaster.³⁷ If the estimated repair cost exceeds 50 percent of the estimated replacement cost, the actual replacement cost is eligible.³⁸ For facilities that are systems composed of multiple components that are easily segregated, FEMA applies the 50% Rule to individual components of the system, rather than the entire system.³⁹

The Applicant's water distribution system is comprised of several sections of piping and associated appurtenances. Perceptibly fire-damaged sections of this water system can be easily segregated and repaired or replaced as individual components. No other permanent, system-wide fire damages have been demonstrated, as the Applicant's claimed VOC "damage" is consistent with applicable drinking water standards, not a result of the declared incident, and thus ineligible

³¹ *Id.*, at 9-11.

³² *EPA Report*, at 11-13.

³³ *Id.*, at 13.

³⁴ *Id.*

³⁵ *Id.* at 6.

³⁶ *Id.*, at 5.

³⁷ 44 C.F.R § 206.226(f).

³⁸ *PAPPG* at 158.

³⁹ *Id.* at 159.

for PA reimbursement. Therefore, the 50 percent rule can only apply within those individual components of the Facility, rather than the Facility as a whole.⁴⁰ Costs to repair eligible damages are limited to \$497,275.93, or 20% of the cost to replace the Facility. Consequently, the Applicant's claim to apply the 50 percent rule to replace the Facility cannot be applied.

Conclusion

FEMA finds the Applicant has provided documentation to substantiate a portion of the Facility was directly damaged by the declared event and eligible for PA funding; this includes 800 LF of PVC water pipe, 68 service connection laterals, and various above ground appurtenances. Accordingly, the appeal is partially granted in the amount of \$497,275.93. However, the Applicant did not demonstrate that the incident caused permanent, system-wide VOC contamination because all levels returned to drinking water quality consistent with the source of water from Miner's Ranch. Nor does the 50 percent rule apply for the entire water distribution system because its components are easily segregable. Therefore, the request for a full water distribution system replacement is denied.

⁴⁰ FEMA Second Appeal Analysis, *Borough of Milltown*, FEMA-4021-DR-NJ, at 6 (Apr. 8, 2016).

ADMINISTRATIVE RECORD INDEX
Lake Madrone Water District, PA ID 007-URKTI-00
FEMA-4558-DR-CA
Grants Manager Project 162636

The following documents are contained within the Administrative Record and have been considered in the review and analysis of the referenced first appeal.

Document Number	Document Description/Subject	Document Date	Page
1	First appeal transmittal package – Cal OES to FEMA	5/10/2021	Total 203
	Enclosure 1: Letter from Chairman, Lake Madrone Water District, to State Public Assistance Officer, Cal OES,	4/7/2021	12
	Enclosure 2: Letter from Valley District Engineer, State Water Resources Control Board, to Chairman, Lake Madrone Water District	4/12/2021	49
	Enclosure 3: Letter from Valley District Engineer, State Water Resources Control Board, to Chairman, Lake Madrone Water District	5/5/2021	50
	Enclosure 4: Lake Madrone Water District Sample Report	Multiple	89-95
2	Enclosure 5: Lake Madrone Water District Volatile Organic Compound Contamination: Evaluation of Data and Relevant Circumstances, Environmental Protection Agency	8/1/2023	13
3	Enclosure 6: VOC Water Main Testing_EPA.xlsx	N/A	1
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6	Grants Manager Project Worksheet 162636	Source	Source
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EXHIBIT "2"

EXHIBIT "2"

UNITED STATES CIVILIAN BOARD OF CONTRACT APPEALS

LAKE MADRONE WATER DISTRICT)	
)	
Applicant,)	CBCA 7903-FEMA
)	
v.)	
)	
U.S. DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY)	Date: January 17, 2024
)	
Respondent.)	
_____)	

FEMA’S SUR-REPLY TO LAKE MADRONE WATER DISTRICT’S REPLY TO FEMA’S RESPONSE

The U.S. Department of Homeland Security, Federal Emergency Management Agency (“FEMA”), respectfully submits its Sur-Reply to the Lake Madrone Water District’s (“Lake Madrone” or “Applicant”) Reply (“Applicant’s Reply”) to FEMA’s Response Brief (“FEMA’s Response”) filed on December 1, 2023.

I. INTRODUCTION

On October 3, 2023, the Civilian Board of Contract Appeals (“CBCA” or “Panel”) docketed the Applicant’s Request for Arbitration (“RFA”) seeking to overturn FEMA’s denial of Public Assistance (“PA”) funding for a full replacement of its water distribution system (“Facility”). RFA at 1. FEMA filed its Response on November 2, 2023, requesting the CBCA to uphold FEMA’s denial, asserting that: 1) the Applicant failed to demonstrate any damage to its Facility as a result of the disaster, since the level of potential contaminants, Volatile Organic Compounds (“VOCs”) and Trihalomethanes (“THMs”), are below the EPA’s Federal Maximum

Contaminate Levels¹ (“MCLs”) after the Applicant completed flushing and testing of the Facility; 2) the Applicant’s Facility is not eligible for replacement because the 50% Rule specifically does not apply to facilities that are systems composed of multiple segregable components; 3) the Applicant failed to document specific disaster-damage that resulted from the disaster; and 4) the claimed damage was the direct result of the Applicant’s deferred maintenance, negligence, or failure to protect the facility for which FEMA does not provide PA funding. 44 C.F.R. § 206.202(b)(4) and (d); 44 C.F.R. § 206.223(a) and (e); Public Assistance Program and Policy Guide, June 1, 2020, Version 4 (“PAPPG”) at 51, 52, 63-64, 141, 159; FEMA Ex. 1, EPA Consolidated Review Map of Applicant Water Testing; RFA at 4; RFA Ex. 3, EPA Report at 00023, 00030-31; RFA Ex. 12(01), Water Quality Testing Results at 00100; FEMA Ex. 15, William Heyse Expert Report.

The Applicant filed its Reply Brief to FEMA’s Response on December 1, 2023, in which the Applicant argued: 1) Lake Madrone is deserving of attorney’s fees under the Equal Access to Justice Act (“EAJA”), for which the Applicant provides no basis for such a claim under the Stafford Act or otherwise; 2) the Panel should not consider what it deems “new arguments” from FEMA²; 3) the Facility was contaminated by the North Complex Fire and is eligible for full replacement supported by its expert report; 4) the segregation of the Applicant’s Facility is not easy, feasible, or cost effective, thus a full replacement should be funded; 5) Lake Madrone did not neglect its Facility, yet states it is “dilapidated” and cannot run any further tests to identify specific areas of disaster damages in its pipes or infrastructure. Applicant’s Reply at 3-15.

¹ *Maximum contaminant level* (MCL) means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system. 40 C.F.R. § 141.2.

² Most, if not all, of FEMA’s arguments were within the Determination Memorandum (“DM”) and First Appeal response provided by FEMA. Moreover, the Panel reviews the Applicant’s request *de novo*, including all new information and documents from both the Applicant and FEMA. *In the Matter of Livingston Parish*, CBCA 6513-FEMA (Sept. 23, 2019).

FEMA now submits its Sur-Reply to the Applicant's Reply. FEMA maintains that the Applicant is not eligible to receive Public Assistance ("PA") funding to replace its entire Facility. *See generally* FEMA's Response. In addressing Lake Madrone's arguments in its Reply, FEMA maintains that: 1) the EAJA does not apply to arbitrations requested pursuant to Section 423 of the Stafford Act ("Section 423 arbitrations") because, by regulation, both sides are solely responsible for all the fees they incurred in accordance with 44 C.F.R. § 206.206(b)(3)(iv) and 48 C.F.R. § 6106.606; 2) Section 423 arbitrations are conducted with *de novo* review, and FEMA is required to apply all the applicable laws, regulations, and policies to all requests for PA grant funding; 3) the Applicant's expert report fails to demonstrate specific disaster-related damages to the Facility caused by the disaster as required by regulation and FEMA policy; 4) the Applicant's Facility is not subject to FEMA's 50% Rule, and therefore is not eligible for a full replacement under the 50% Rule; and 5) the Applicant's documentation indicates damages to the Facility due to deferred maintenance, the Applicant's failure to protect its Facility from further damage after the disaster, and neglect. 44 C.F.R. § 206.202(b)(4) and (d); 44 C.F.R. § 206.206(b)(3)(iv); 44 C.F.R. § 206.223(a) and (e); 48 C.F.R. § 6106.606; PAPPG at 51-52, 63-64, 159; Public Assistance Arbitration Fact Sheet: Version 4, June 2022; FEMA Ex. 15, William Heyse Expert Report; *In the Matter of Bay St. Louis-Waveland School District*, CBCA 1739 at 2 (December 8, 2009); *In the Matter of Hobby Center Foundation*, CBCA 7732-FEMA at 6 (December 1, 2023); *In the Matter of City of Beaumont, Texas*, CBCA 7222-FEMA at 5 (January 12, 2022).

Upon further expert review, however, FEMA respectfully requests the CBCA to consider funding a segregable portion in the West section of the Applicant's water distribution system for 400 linear feet ("LF") of pipeline adjacent to Hydrant 26 on Lakeside Way in the amount of

\$23,770.31 in accordance with regulation and FEMA policy. PAPPG at 159; FEMA Ex. 15, William Heyse Expert Report at 11. Upon initial review, FEMA staff determined Applicant's testing inconclusive for this portion of the system because the Applicant did not provide details on flushing methodologies or the repeated and verifiable testing of the levels of benzene in this segregable section of the Facility. Moreover, the VOC final tests showed MCL levels under EPA MCL requirements for the entire water distribution system, indicating that they "do not present a significant health concern." RFA Ex. 3, EPA Report at 00031.

FEMA's Expert William Heyse, however, now fully assessed the benzene levels in a segregable portion of the West section of the Facility and determined that the levels of benzene in this segregable section to be above the State of California's benzene MCL level, even if within EPA MCL levels. And although this segregable section's benzene levels indicate safe drinking water under EPA requirements, the level is still above the state of California's MCL for benzene. FEMA Ex. 15, William Heyse Expert Report; RFA Ex. 3, EPA Report at 00023, 00030. Since the Applicant's benzene level does not meet California state requirements, FEMA extends its discretion in recommending the Panel consider reimbursing the repair work of that particular segregable West section. FEMA Ex. 15, William Heyse Expert Report; EPA Report at 00023, 00030. The THMs detections can be explained as: 1) by-product of the chlorinated water the Applicant injected into its system via imported water for flushing the system from South Feather Water and Power's Miner's Ranch; 2) the by-product from the Applicant's use of chlorination to bring its wells back online after the disaster, all of which are well under the EPA and California MCLs of 80 µg/L. 40 C.F.R. § 141.64(b)(1)(i); 22 CCR § 64444. Therefore, FEMA respectfully requests that the Panel uphold FEMA's denial of the Applicants' request for Public Assistance ("PA") for a full replacement of its water distribution system, but consider granting PA

reimbursement for the aforementioned West section of Lake Madrone's water system in the amount of \$23,770.31.

II. ARGUMENT

A. The Applicant does not have the right to recover attorney's fees from FEMA in this matter because all parties in Section 423 arbitrations pay for all their own expenses pursuant to 44 C.F.R. § 206.206(b)(3)(iv), 48 C.F.R. § 6106.606, and FEMA's Public Assistance Arbitration Fact Sheet.

The Applicant has erroneously requested recovery of attorney's fees from FEMA in this matter under the EAJA.³ Applicant's Reply at 14. In Section 423 arbitrations, each party bears "their own costs for participation" and any expense "will be paid by the party who incurred the expense." 44 C.F.R. § 206.206(b)(3)(iv); 48 C.F.R. § 6106.606; Public Assistance Arbitration Fact Sheet: Version 4, June 2022 at 2.⁴ The EAJA permits an award of reasonable fees and expenses of attorneys to the prevailing party in civil actions. 28 U.S.C. § 2412. A "civil action" is a proceeding in a judicial court, not an administrative proceeding. *Western Watershed Project v. U.S.*, 677 F.3rd 922, 926 (2012 9th Cir.) (citing *Sullivan v. Hudson*, 490 U.S. 877, 894-95 (White J., dissenting)). The EAJA generally does not allow for an award of fees in administrative proceedings. *Id.* "[I]t is the province of Congress... to decide whether to bring" other types of proceedings within the scope of the EAJA. *Ardestani v. INS*, 502 U.S. 129, 138 (1991). The EAJA is a partial waiver of sovereign immunity and it "must be strictly construed in favor of the United States." *Ardestani*, 502 U.S. 129 at 138; *Library of Congress v. Shaw*, 478 U.S. 310, 318, (1986); *Ruckelshaus v. Sierra Club*, 463 U.S. 680, 685-686, (1983).

³ EAJA is codified at 5 U.S.C. § 504, and 28 U.S.C. § 2412. See Administrative Conference of the United States Information Interchange Bulletin No. 013.

<https://www.acus.gov/sites/default/files/documents/13%20EAJA%20Basics.pdf> (last visited Dec. 12, 2023).

⁴ Available at <https://www.fema.gov/sites/default/files/documents/fema-pa-arbitration-fact-sheet.pdf> (last visited Jan. 15, 2023).

Congress chose to not bring these proceedings within the scope of the EAJA when it codified the right of arbitration within the Stafford Act. 42 U.S.C. 5189a. Further, the regulations implemented for Section 423 arbitrations explicitly state that each party is responsible for their own expenses. 44 C.F.R. § 206.206(b)(3)(iv); 48 C.F.R. § 6106.606; Public Assistance Arbitration Fact Sheet: Version 4, June 2022. The Applicant chose to arbitrate its First Appeal denial and is now bound by the rules laid out in the regulations implementing Section 423 arbitrations, including the rules for payment of expenses and fees. *Id.*

Although the Applicant cited to two cases to support its position, *Western Watershed Project* and *Ardestani*, neither case supports the Applicant's position that it has the right to recover attorney's fees in this matter. Applicant's Reply at 14. In fact, in both cases, the courts found that the EAJA's provisions on awards of attorney's fees did not apply to administrative proceedings. *Ardestani*, 502 U.S. at 138; *Western Watershed Project*, 677 F.3rd at 929. The scope of the EAJA is solely the purview of Congress, not the court. *Id.* Congress understands how to express its desire to waive sovereign immunity and bring any type of non-civil action proceeding within the purview of the EAJA. *Ardestani*, 502 U.S. at 138; *Western Watershed Project*, 677 F.3rd at 929. In fact, Congress, when amending Section 423 of the Stafford Act, had the opportunity to extend EAJA's provision to arbitration when it gave the Applicant's the right to arbitrate. Congress choosing not to do so patently expressed its desire to not waive sovereign immunity and to not bring Section 423 arbitrations under the purview of the EAJA. The plain language of the regulations themselves, combined with Congress' inaction on making Section 423 arbitrations subject to the EAJA, coupled with the Supreme Court's instructions to strictly construe waivers of sovereign immunity in favor of the United States, demonstrate that Section 423 arbitrations are not subject to the fee award provisions of the EAJA, and therefore the

Applicant in this matter has no right to recover any fees or costs from FEMA. 44 C.F.R. § 206.206(b)(3)(iv); 48 C.F.R. § 6106.606; *Ardestani*, 502 U.S. at 137-38; *Western Watershed Project*, 677 F.3d at 929. For the reasons stated above, FEMA respectfully requests the CBCA to deny the Applicant's demand for attorney's fees, or any other costs.

B. FEMA did not present new arguments in its Response Brief, but merely expanded upon the arguments presented in its First Appeal Response.

The Applicant inexplicably claims that FEMA is not allowed to submit new arguments in its Response Brief, while simultaneously submitting new arguments of its own in its Reply Brief. Applicant's Reply at 7-8, 14-15. The Applicant claims that FEMA submitted new arguments in its Response Brief. *Id.* at 7-8. This is mistaken. FEMA raised these issues in its First Appeal Response and Request for Information ("RFI"), but FEMA expanded upon the issues in greater detail in its Response Brief. FEMA Ex. 4, FAR at 5, 7,10; FEMA's Response at 16-31, FEMA Ex. 16, Request for Information (August 12, 2022).

Even if the Panel were to find FEMA did make new arguments in its Response Brief, the CBCA has *de novo* review over Section 423 arbitrations, "which is the traditional and accepted standard for arbitrators." *In the Matter of Bay St. Louis-Waveland School District*, CBCA 1739 at 2 (December 8, 2009). Therefore, the CBCA permits both FEMA and the Applicant to submit new arguments and documentation for an arbitration, which this Applicant specifically incorporated into its filings. Applicant's Reply at 7-8, 14-15; *In the Matter of Bay St. Louis-Waveland School District*, CBCA 1739 at 2 (December 8, 2009); *see also In the Matter of Hobby Center Foundation*, CBCA 7732-FEMA at 6 (December 1, 2023) (stating "our standard of review is *de novo*"); *In the Matter of City of Beaumont, Texas*, CBCA 7222-FEMA at 5 (January 12, 2022).

Now, upon expert review, FEMA determines that \$23,770.31 is potentially eligible for PA reimbursement if the Panel agrees with the determination presented in this Sur-Reply Brief in Sections II. C and E. Such a finding is based on FEMA counsel's necessary *de novo* review because the Agency does not conduct its full administrative appeal process when an Applicant selects a Section 423 arbitration instead of a Second Appeal. When applicants select arbitration instead of Second Appeal, FEMA's assigned arbitration counsel(s) fully evaluate and review the RFA, prior documentation, new documentation, and all applicable laws, regulations and policies. The *de novo* review is beneficial to applicants, including this Applicant, because it permits FEMA to change its stance on previous findings of eligibility in light of new information or previously unconsidered laws, regulations or policies⁵ and potentially resolve arbitrations. Both FEMA and this Panel should only extend PA reimbursement to projects that are eligible under the Stafford Act, regulation, and FEMA policy. 42 C.F.R. § 6106.602; PAPPG at 17; *see also* 42 U.S.C. §§ 5121-5208; 44 C.F.R. §§ 206.200-229. FEMA, and this Panel, have a duty to adhere to FEMA's authorities and must assess reasons for eligibility or ineligibility, especially when new information comes to light during the arbitration process. 48 C.F.R. § 6106.602; PAPPG at 17; *see also* 42 U.S.C. § 5121-5208; 44 C.F.R. §§ 206.200-229.

For the reasons stated above, FEMA respectfully requests the Panel reject the Applicant's argument that new arguments cannot be presented in these proceedings because Section 423 arbitrations are subject to the Panel's *de novo* review of all arguments from all parties.

⁵ FEMA *de novo* review for Section 423 arbitrations follows Applicant's First Appeal *de novo* review, but estopped its Second Appeal *de novo* review when it selected to arbitrate. In this matter, after FEMA received additional documentation from the Applicant for its First Appeal that were not presented prior to the First Appeal, FEMA reviewed the new documentation and granted the Applicant \$497,275.93. FEMA Ex. 4 at 7, 10.

C. The Applicant's Expert Report fails to demonstrate specific disaster-related damages to the Applicant's Facility as required by the Stafford Act, regulations, and FEMA policy because the Report is an unreliable, incomplete assessment based on speculated damages.

In its Reply Brief, the Applicant again failed to provide documentation demonstrating disaster-related damages to specific components of its water distribution system as required by regulation and FEMA policy. PAPPG at 159; *see also* Applicant's Reply; FEMA Ex. 15, William Heyse Expert Report. The overwhelming majority of the Applicant's expert report "presumes" disaster damage without ever pinpointing the exact segregable components of the Facility he opines are "likely" damaged by the disaster. Applicant's Reply Ex. 13, Applicant's Expert Report at 4.6, 4.7, 4.11, 4.12.2.1, 6.2.1.1, 6.2.2.3, 6.2.2.4, 6.2.3.2, 7.1, 7.2, 7.3.7, 7.6. In contrast, the Applicant's water quality test data shows that, after flushing the system, the concentrations of VOCs and THMs dramatically decreased to levels that even the EPA expert determined do "not present a significant health concern," which the Applicant's expert fails to adequately address. FEMA's Response at 16-18; FEMA Ex. 15, William Heyse Expert Report; RFA at 4; RFA Ex. 3, EPA Report at 00023 and 00030-31; RFA Ex. 12(01), Water Quality Testing Results at 00100; Applicant's Expert Report at 4.6, 4.7, 4.11, 4.12.2.1, 6.2.1.1, 6.2.2.3, 6.2.2.4, 6.2.3.2, 7.1, 7.2, 7.3.7, 7.6. Hence, the Applicant's submitted expert report is an unreliable, incomplete assessment of the Applicant's Water Quality Testing Results based on speculated disaster damages.

First, the expert's report is rife with the terms "likely," "presume," or "possible" when discussing alleged disaster damage, indicating mere assumptions versus substantiated findings of damage as required by regulation and FEMA policy. Applicant's Reply Ex. 13, Applicant's Expert Report at 4.6, 4.7, 4.11, 4.12.2.1, 4.12.2.4, 6.2.1.1, 6.2.2.3, 6.2.2.4, 6.2.3.2, 7.1, 7.2, 7.3.7, 7.6. In fact, the Applicant's Expert goes as far as to say that the test results are "simply an

estimate,” wholly abolishing the accuracy and reliability of the Applicant’s test results.

Applicant’s Reply Ex. 13, Applicant’s Expert Report at 6.1.3. FEMA cannot, and does not, “presume” damage; the Applicant must demonstrate its actual disaster damages comply with regulation and FEMA policy. 44 C.F.R. § 206.202(b)(4) and (d); PAPPG at 52, 63-64; FEMA Ex. 15, William Heyse Expert Report. Again, it is solely the Applicant’s burden to prove its disaster damages, which cannot be based on the speculated damage presented by the Applicant.

Id. Here, the Applicant presents only unsupported speculative damage to request replacement of its entire Facility, thus it is ineligible for further FEMA PA funding. 44 C.F.R. § 206.202(b)(4) and (d); PAPPG at 52, 63-64; Applicant’s Reply Ex. 13, Applicant’s Expert Report 4.6, 4.7, 4.11, 4.12.2.1, 4.12.2.4, 6.2.1.1, 6.2.2.3, 6.2.2.4, 6.2.3.2, 7.1, 7.2, 7.3.7, 7.6; FEMA Ex. 15, William Heyse Expert Report.

Second, in several places the Applicant’s expert discusses detections of VOCs in the Facility, however, he relies on positive test detections without mentioning these detections went to Non-Detect in subsequent sampling and testing. Applicant’s Reply Ex. 13, Applicant’s Expert Report at 4.11, 4.12.2, 4.12.2.1, 6.2.2.3; RFA Ex. 12(01), Water Quality Testing Results at 00100. For example:

- the Applicant’s expert report discusses a single detection of 1,2-dichlorethane in the entire Facility at 20 Lakeside Way on January 13, 2021, but he fails to disclose that 1,2-dichlorethane was never detected again, at that location or any other, after January 13, 2021. RFA Ex. 12(01), Water Quality Testing Results at 00100, entries for 20 Lakeside Way; Applicant’s Reply Ex. 13, Applicant’s Expert Report at 4.12.2.1, 6.2.2.3.
- the Applicant’s expert report discusses positive detections of the molecules 2-chlorotoluene, and 4-chlorotoluene, which occurred at five locations in the Facility 36 Cedar Path, 8 Meadow lane, End of Old Mill Rd, Lakeside Way x Apple Hill, Madrone Way x Fir Path, however, he fails to disclose that both 2-chlorotoluene and 4-chlorotoluene completely disappear from the entire Facility as shown by the test results after the December 2020 flushing and sampling. Applicant’s Reply Ex. 13, Applicant’s Expert Report at 4.11, 4.12.2, 6.2.2.3; RFA

Ex. 12(01), Water Quality Testing Results at 00100, sample dates 11/02/2020-12/09/2020.

- the Applicant’s expert report discusses a single positive detection of benzene at location H20-36 Cedar Path in February 2021, but once again, he fails to disclose that the benzene level was Non-Detect in both samples taken for the final March 2021 testing. Applicant’s Reply Ex. 13, Applicant’s Expert Report at 4.13; RFA Ex. 12(01), Water Quality Testing Results, entries for 36 Cedar Path sample dates 2/10/2021 and 3/01/2020.

All of these VOC reductions to Non-Detect wholly conflict with the Applicant’s expert’s unsupported claim that the water testing data collected from November 2020 to March 2021 shows “contaminate levels remained relatively consistent and did not decrease.” Applicant’s Reply at 6; Applicant’s Reply Ex. 13, Applicant’s Expert Report at 6.2.3.1, 6.2.5.1; see Chart 1; FEMA Ex. 15, William Heyse Expert Report.

CHART 1: Elimination of VOCs from the Most Frequently Tested Locations^{6, 7}

Location	Date	Benzene	2-Chlorotoluene	4-Chlorotoluene	1,2-Dichloroethane	Toluene
36 Cedar Path	11/2/2020	ND	32.6	13.00	ND	ND
	12/9/2020	ND	1.31	ND	ND	ND
	2/10/2021	0.52	ND	ND	ND	ND
	3/1/2021	ND	ND	ND	ND	ND
	3/1/2021	ND	ND	ND	ND	ND
Madrone Way x Fir Path	11/23/2020	ND	17.90	7.03	ND	ND
	12/9/2020	ND	6.94	2.06	ND	ND
	2/10/2021	ND	ND	ND	ND	ND
20 Lakeside Way	1/13/2021	1.46	ND	ND	1.05	1.47
	2/10/2021	0.70	ND	ND	ND	ND
	3/1/2021	ND	ND	ND	ND	ND
	3/1/2021	ND	ND	ND	ND	ND
	3/1/2021	ND	ND	ND	ND	ND
	3/1/2021	ND	ND	ND	ND	ND
31 Toyon Trail	1/21/2021	0.67	ND	ND	ND	0.94
	3/1/2021	ND	ND	ND	ND	ND
	3/1/2021	ND	ND	ND	ND	ND

⁶ All VOC levels are recorded in µg/L

⁷ ND = Non-Detect.

Thus, the Applicant's new submission and expert report does not assist the Applicant's request for PA reimbursement funding.

In fact, as shown in Chart 1 above, the Applicant's most frequently sampled and tested locations (thus the most scientifically reliable results relative to the other sites), 36 Cedar Path, Madrone Way x Fir Path, 20 Lakeside Way, and 31 Toyon Trail, **tested at Non-Detect levels for VOCs in final test results**. Chart 1; RFA Ex. 3, EPA Report at 00031; RFA Ex. 12(01), Water Quality Testing Results. All the locations in Chart 1 above in their final test showed a complete elimination of VOCs, if any were ever detected, in their final sampling. See Chart 1 (yellow-highlighted entries); RFA Ex. 3, EPA Report at 00031; RFA Ex. 12(01), Water Quality Testing Results; FEMA Ex. 15, William Heyse Expert Report. These reductions to Non-Detect show that flushing the Facility was successful in reducing potential wildfire contamination to Non-Detect levels for safe drinking water. Chart 1; RFA Ex. 3, EPA Report at 00031; RFA Ex. 12(01), Water Quality Testing Results; FEMA Ex. 15, William Heyse Expert Report. Further, the Applicant's expert relies on presumptions, rather than facts, to support its opinion. For example, the Applicant's expert argues that it "is reasonable to **presume** that contamination is likely present at greater levels" in the Facility than was detected in the final round of testing. Applicant's Reply Ex. 13, Applicant's Expert Report at 7.2. Not only does the expert fail to explain the basis of its presumption, but if taken as true, the expert's statement 1) leads to the unsupported conclusion that FEMA must entirely replace all water distribution system after wildfires, even when VOCs and THMs remain undetected, because all Non-Detect testing is invalid;⁸ and 2) is contrary to vetted, science-based system for water testing. In any event, the

⁸ This leads FEMA to question why the Applicant conducted so many rounds of flushing and testing if such testing cannot to be relied upon. FEMA reimbursed the Applicant's testing and flushing, the standard approach used by applicants around the nation, in its Category B Emergency Work PW.

presumption is unwarranted considering the final test results. FEMA Ex. 15, William Heyse Expert Report. Moreover, FEMA does not reimburse applicants for unsupported “presumed” disaster damage, but only for actual, documented disaster damage demonstrated by the applicant, which Lake Madrone failed to do. 44 C.F.R. § 206.202(b)(4) and (d); PAPPG at 52, 63-64; FEMA Ex. 15, William Heyse Expert Report.

Similar to the Applicant’s expert “presuming” the existence of VOC and THM disaster damage, the expert also assumes the disaster to be the “likely” cause of physical breaks, leaks, and a weakening of the mechanical integrity in the Facility without explanation or discussion about: 1) the advanced age of the Facility; 2) the effects of the underground powerline project on the stability of such an antiquated system; nor 3) other pre-disaster explanations for how the system became entirely “dilapidated.” RFA at 4; Applicant’s Reply at 12; Applicant’s Reply Ex. 13, Applicant’s Expert Report at 4.6, 4.7; *see also* FEMA’s Response Brief. The Applicant’s expert in his report, however, continues to discuss speculative disaster damage, stating that smoldering trees may have caused some unknown and unquantified amount of thermal damage to the Facility:

During the November 2023 site visit, the [Lake Madrone] staff told the Expert that they saw some tree stumps smoldering for as many as nine months after the fire in the service area. During the inspection it was observed that that some trees were previously close to buried water infrastructure. Therefore, **it cannot be ruled out** that water system infrastructure that was buried below ground **in some places** was subjected to thermal damage from underground fire (i.e., root systems) weeks to months after the evacuation order was lifted.

Applicant’s Reply Ex. 13, Applicant’ Expert Report at 4.8. Akin to many portions his report, the expert draws a conclusion here that neither proves nor disproves verifiable disaster damage to specific portions of the water distribution, as required for FEMA PA reimbursement. *Id.* at 4.6, 4.7, 4.11, 4.12.2.1, 4.12.2.4, 6.2.1.1, 6.2.2.3, 6.2.2.4, 6.2.3.2, 7.1, 7.2, 7.3.7, 7.6. In the above

quoted instance, the expert does not state which, if any, alleged smoldering tree stumps caused specific disaster damage to any specific segregable components of the Facility as required by regulation and FEMA policy. *Id.* at 4.8. Astonishingly, the expert draws his conclusion of entire system disaster damage without detailing the location or quantity of the alleged smoldering stumps—other than to indicate he understood smoldering stumps existed somewhere near the water distribution system according to an undisclosed staff member. *Id.* at 4.8.

Thus, rather than provide further information demonstrating specific disaster damage, or identifying specific segregable disaster-damaged components of the Facility, the Applicant relies on what its own expert now indicates is unreliable water testing data and unsubstantiated expert presumptions provided three years after the disaster. Applicant's Reply at 2; Applicant's Reply Ex. 13, Applicant's Expert Report at 4.6-4.8, 6.1.3, 7.2. Therefore, because the Applicant failed to provide adequate documentation that shows any further disaster-related damage to its Facility, FEMA respectfully requests the Panel to uphold FEMA's denial of the Applicants' request for Public Assistance ("PA") for the full replacement of its water distribution system.

D. The Applicant's Facility is not subject to FEMA's 50% Rule in its entirety; thus the Applicant is not eligible for a full replacement of its water distribution system in accordance with FEMA policy.

In its Reply Brief, the Applicant again failed to provide any additional documentation to demonstrate which, if any, specific, segregable portions of its Facility were damaged as a result of the disaster as required by regulation and FEMA policy. 44 C.F.R. § 206.223(a)(1); PAPPG at 51; FEMA Ex. 15, William Heyse Expert Report. The Applicant continues to erroneously argue that its entire Facility is eligible for full replacement under FEMA's 50% Rule yet fails to acknowledge that FEMA policy unambiguously states that the 50% Rule is not applied to entire water systems, or other similar facilities that are comprised of segregable components. PAPPG

at 159; Applicant's Reply 8-11; FEMA Ex. 15, William Heyse Expert Report. A water distribution system, such as the Applicant's Facility, is one of the types of facilities specifically enumerated in FEMA policy that FEMA considers segregable, and therefore the Applicant is required to segregate the damaged components of its Facility from the non-damaged components of its Facility to be eligible for PA reimbursement. PAPPG at 159. Thus, this Applicant must show the specific, segregable damages to the segregable components of its water distribution system, such as pipes and other infrastructure to be eligible for FEMA PA reimbursement.⁹ *Id.*

Although Applicant argues in its Reply that segregation of the Facility is not easy, feasible, or cost effective, this is incongruent with other applicants' submissions from across the nation when requesting PA reimbursement for water distribution systems, including the Applicant's own example of City of Paradise's request. *See* FEMA's Response Brief at 24-27. Yet, instead of providing documentation that shows which specific segments of the Facility were damaged by the disaster to comply with FEMA PA requirements, as similarly-situated applicants have done, Lake Madrone continues to argue that it should be immune from documenting its actual disaster damages because it is difficult. PAPPG at 159; Applicant's Reply 8-11. This is incongruent with the Stafford Act, regulation, and FEMA policy. 44 C.F.R. § 206.202(b)(4) and (d); PAPPG at 52, 63-64. The Applicant must demonstrate actual disaster damage in order to seek FEMA PA funding, –not presumed, assumed, or speculated damage. 44 C.F.R. § 206.223(a)(1); PAPPG at 51. It is solely the Applicant's burden to demonstrate which specific

⁹ Once segregated into components, valve to valve or node to node, only those specific components are subject to the 50% Rule. For example, if 1000 linear feet (LF) pipeline exists between the valves, but only 400 LF is documented as damaged, then FEMA applies the 50% Rule to the component pipeline. In this case, 400 LF of piping is less than 50% of the component, and thus ineligible for FEMA PA reimbursement. FEMA Ex. 15, William Heyse Expert Report.

segregable parts of its Facility are disaster-damaged. 44 C.F.R. § 206.202(b)(4) and (d); PAPPG at 159.

Here, beyond the aforementioned segregable portion in the West section of the Applicant's water distribution system, the Applicant failed to demonstrate that any additionally segregable components need to be replaced due to disaster damage. Applicant's Reply at 10; RFA Ex. 5, DDW Letter 4/12/2021 at 00034; FEMA Ex. 15, William Heyse Expert Report. Thus, with the exception of the aforementioned portion in the West section, the Applicant is ineligible for FEMA PA reimbursement because: 1) the water distribution system is not eligible for a replacement in its entirety because it is not subject to the 50% Rule; and 2) the Applicant failed to demonstrate specific damage to segregable portions of its water distribution system as required by FEMA policy, beyond the amount FEMA previously funded and as detailed in this Sur-Reply. PAPPG at 159; FEMA Ex. 15, William Heyse Expert Report. Therefore, FEMA respectfully requests the Panel to uphold FEMA's prior determination that the Facility does not require full replacement, however, the panel should consider funding the aforementioned \$23,770.31 FEMA's Expert found potentially eligible in FEMA's *de novo* review.

E. The Facility is ineligible for further FEMA PA funding because the Applicant's documentation indicates damage attributable to its deferred maintenance or the Applicant's failure to protect the Facility from further post-disaster damage.

In its Reply, the Applicant's submissions provided no further insight into how the remainder of the Applicant's repair work request is not attributed to deferred maintenance or its own failure to protect its Facility from further damage after the disaster. *See generally* Applicant's Reply; FEMA Response Brief at 23-30. FEMA only provides PA funding for damage that is a direct result of the declared disaster. 44 C.F.R. § 206.223(a); PAPPG at 51. FEMA does not provide PA funding for repair of damage caused by deferred maintenance or an

applicant's failure to take measures to protect a facility from further damage. 44 C.F.R. § 206.223(e); PAPPG at 52.

First, the Applicant provided no maintenance records or inspection reports for its 60+ year old Facility to demonstrate the damages are not attributed to deferred maintenance to this aged system. PAPPG at 52. Again, it is the Applicant's burden to substantiate its request for PA funding. 44 C.F.R. § 206.202(b)(4) and (d); PAPPG at 52, 63-64. Without having maintenance records or inspection reports for this 60+ year old Facility, FEMA cannot confirm that the current repair request excludes deferred maintenance to the antiquated water distribution system. PAPPG at 52. Moreover, the Applicant's expert report disclosed "18 water main pipe breaks" since May 2020, attributing five of the breaks to contractor activities, yet provides no repair logs for any of these pipe breaks. Applicant's Reply Ex. 13, Applicant's Expert Report at 2.6.2, 4.6. Any such unrepaired water main breaks left to leak and decay would lead to further ineligible damage to the Facility or, in the Applicant's own words, causing the water distribution system to become "so dilapidated that it can longer hold water." RFA at 4; PAPPG at 52. Thus, FEMA cannot extend further funding for the Applicant's Facility since it conducted no known pre- or post-disaster maintenance repairs, and instead negligently let the Facility to fall into complete disrepair. RFA at 4; 44 C.F.R. § 206.223(e); PAPPG at 52, 63-64. This renders the Applicant's remaining request for PA ineligible because it failed to demonstrate disaster-only damages to the Facility, as opposed to damages caused by deferred maintenance or its failure to protect the Facility from further damage after the disaster. *Id.* Thus, FEMA respectfully requests the Panel to uphold FEMA's prior determination that the Facility, in its entirety, is not eligible for replacement.

III. CONCLUSION

FEMA respectfully requests the Panel to uphold FEMA's prior determination of ineligibility because: 1) the Applicant is not entitled to recover attorney's fees from FEMA because the EAJA does not apply to Section 423 arbitrations and since, by regulation, both sides are solely responsible for all the fees they incurred in accordance with 44 C.F.R. § 206.206(b)(3)(iv) and 48 C.F.R. § 6106.606; 2) Section 423 arbitrations are conducted under *de novo* review, with both sides permitted to submit new arguments and evidence; 3) the Applicant again failed to document specific VOC or THM damages to its Facility caused by the disaster as required by regulation and FEMA policy; 4) the Applicant again failed to segregate damaged infrastructure in its water distribution system, if any, as required by FEMA policy, and therefore the Applicant is not eligible for any further PA reimbursement funds beyond the previously determined amounts in the First Appeal and now in this Sur-Reply Brief; and 5) the Applicant failed to demonstrate that its Facility was free from deferred maintenance or that the Applicant's own failure to protect the Facility from further damage is not the cause of the currently requested damage repair work. 44 C.F.R. § 206.202(b)(4) and (d); 44 C.F.R. § 206.206(b)(3)(iv); 44 C.F.R. § 206.223(a) and (e); 48 C.F.R. § 6106.606; PAPPG at 51-52, 63-64, 159; Public Assistance Arbitration Fact Sheet: Version 4, June 2022; *In the Matter of Bay St. Louis-Waveland School District*, CBCA 1739 at 2 (December 8, 2009); *In the Matter of Hobby Center Foundation*, CBCA 7732-FEMA at 6 (December 1, 2023); *In the Matter of City of Beaumont, Texas*, CBCA 7222-FEMA at 5 (January 12, 2022). Therefore, FEMA respectfully requests that the Panel uphold FEMA's denial of the Applicants' request for Public Assistance ("PA") for a full replacement of its water distribution system, but consider granting PA reimbursement for the aforementioned West section of Lake Madrone's water system in the amount of \$23,770.31.

Respectfully submitted, this 17th day of January 2024, by:

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FEMA Exhibit Table

Exhibit #	Description
15	William Heyse Expert Report and Attachment 1
16	Request for Information

Distribution List

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Jennifer Bollinger, Chief Counsel
Eli Owen, Assistant Director
Robert Larsen, Public Assistance Officer
Carl DeNigris, Assistant Chief Counsel
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Susan Lee, Associate Government Program
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susan.lee@caloes.ca.gov

scott.wagner@caloes.gov
ryan.buras@caloes.ca.gov

EXHIBIT “3”

EXHIBIT “3”



Remit To
 APTIM ENVIRONMENTAL &
 INFRASTRUCTURE LLC
 P.O BOX 847958
 BOSTON, MA 02284-7958

APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC

Invoice

Company: 00631
 Project No: 631024338
 Project Name: Lake Madrone Water District

Invoice No: 554091

Client Address:
 LAKE MADRONE WATER DISTRICT
 12 STAR CREEK RD
 OROVILLE, CA 95965

Invoice Date: 04/14/2022
 Billing Through: 01/15/2022
 Payment Terms: NET 30 DAYS
 Client No: 9141619
 Client Order No:
 ProjMgr\Designee: MADDOX, NICOLE J
 Contract No: 24338

Account Notes

Please include the invoice number on your remittance

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Inquiries:
 APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC
 4171 ESSEN LANE
 BATON ROUGE, LA 70809
 (225) 932-2500



Remit To
 APTIM ENVIRONMENTAL &
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APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC

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Sub Total: 24,940.00

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Total For: *** This Invoice***** 24,940.00**

Less Retention:

Amount Now Due: *** This Invoice***** 24,940.00**

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Remit To
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 P.O BOX 847958
 BOSTON, MA 02284-7958

Invoice

Company: 00631
 Project No: 631024338
 Project Name: Lake Madrone Water District

Invoice No: 555491

Client Address:
 LAKE MADRONE WATER DISTRICT
 12 STAR CREEK RD
 OROVILLE, CA 95965

Invoice Date: 04/29/2022
 Billing Through: 02/25/2022
 Payment Terms: NET 30 DAYS
 Client No: 9141619
 Client Order No:
 ProjMgr/Designee: MADDOX, NICOLE J
 Contract No: 24338

Account Notes

Please include the invoice number on your remittance

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Sub Total:					4,440.00

Inquiries:
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 (225) 932-2500



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Amount Now Due: ***** This Invoice***** 4,440.00

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Page 2

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Batch No: 3469358



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 BOSTON,MA 02284-7958

Invoice

Company: 00631
 Project No: 631024338
 Project Name: Lake Madrone Water District

Invoice No: 556530

Client Address:
 LAKE MADRONE WATER DISTRICT
 12 STAR CREEK RD
 OROVILLE,CA 95965

Invoice Date: 05/20/2022
 Billing Through: 04/29/2022
 Payment Terms: NET 30 DAYS
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 Client Order No:
 ProjMgr\Designee: MADDOX, NICOLE J
 Contract No: 24338

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Total For: Program Administration / Imple 27,820.00

Sub Total: 27,820.00

Total Taxable Amount:

Total Tax:

Total For: *** This Invoice***** 27,820.00**

Less Retention:

Amount Now Due: *** This Invoice***** 27,820.00**

Inquiries:
 APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC
 4171 ESSEN LANE
 BATON ROUGE, LA 70809
 (225) 932-2500

Date	Name	Role	Activity	Comments	Hours	Rate	Total
3/21/2012	Michael Reedy	SMF, Policy	SMF Procurement/Compliance and Appeals	Downloaded the first 50 photos of damaged valves boxes and distribution labels that were sent yesterday from my text messages to my phone then, downloaded additional photos that have been sent today for the remainder of the distribution labels and were boxed. Began transferring the photos from my phone library via several emails to the photo folder for the project. Created a FEMA style workbook to capture the photos. The workbook is titled "Photos - Distribution Labels". Then, created the first 4 pages of photos, 4 photos per page. This included additional 15 photos of the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	4.25	\$160	\$680
3/21/2012	Robert Bressett	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	7.75	\$160	\$1,240
4/1/2012	Michael Reedy	SMF, Policy	SMF Procurement/Compliance and Appeals	Downloaded 6 photos of the damaged water meter main or Caspale Trail from my text messages to my phone then, transferred the photos from my phone library via several emails to the photo folder for the project. Created a FEMA style workbook to capture the photos. The workbook is titled "Photos - Distribution Labels". Then, created the first 4 pages of photos, 4 photos per page. This included additional 15 photos of the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	6.50	\$160	\$1,040
4/1/2012	Robert Bressett	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	8.75	\$160	\$1,400
4/1/2012	Nicole Maddox	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	1	\$160	\$160
4/1/2012	Scott Canaday	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	1.5	\$90	\$135
4/2/2012	Michael Reedy	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	3.25	\$160	\$520
4/2/2012	Robert Bressett	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	6.5	\$160	\$1,040
4/2/2012	Michael Reedy	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	2.5	\$160	\$400
4/2/2012	Scott Canaday	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	3.5	\$90	\$315
4/2/2012	Michael Reedy	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	6.5	\$160	\$1,040
4/2/2012	Robert Bressett	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	4	\$160	\$640
4/2/2012	Scott Canaday	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	2.5	\$90	\$225
4/2/2012	Michael Reedy	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	7	\$160	\$1,120
4/2/2012	Robert Bressett	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	2.75	\$160	\$440
4/2/2012	Michael Reedy	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	1	\$160	\$160
4/2/2012	Scott Canaday	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	0.5	\$90	\$45
4/2/2012	Michael Reedy	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	1	\$160	\$160
4/2/2012	Robert Bressett	SMF, Policy	SMF Procurement/Compliance and Appeals	Continued to review the FEMA 303. The documents to be reviewed by CAQES. The documents were then transferred to CAQES. The documents were then transferred to CAQES.	0.5	\$160	\$80



APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC

Remit To
 APTIM ENVIRONMENTAL &
 INFRASTRUCTURE LLC
 P.O BOX 847958
 BOSTON, MA 02284-7958

NEED
 (LOGS)
 APPROVAL
 OK TO
 PAY

Invoice

Company: 00631
 Project No: 631024338
 Project Name: Lake Madrone Water District

Invoice No: 562967

Client Address:
 LAKE MADRONE WATER DISTRICT
 12 STAR CREEK RD
 OROVILLE, CA 95965

Invoice Date: 07/27/2022
 Billing Through: 07/01/2022
 Payment Terms: NET 30 DAYS
 Client No: 9141619
 Client Order No:
 ProjMgr/Designee: MADDOX, NICOLE J
 Contract No: 24338

Account Notes

Please include the invoice number on your remittance

Cost Cd	Cost Cd Description's	Date	Units	Rate	Amount
10021320	Program Administration / Imple				
10021320	6110				
	MADDOX, NICOLE J				
	Appeal Specialist	08/13/22	1.50	160.00	240.00
	Appeal Specialist	06/16/22	2.00	160.00	320.00
	Appeal Specialist	06/17/22	1.00	160.00	160.00
	Appeal Specialist	06/28/22	4.00	160.00	640.00
	Appeal Specialist	06/29/22	4.00	160.00	640.00
	Appeal Specialist	06/30/22	3.00	160.00	480.00
	Appeal Specialist	07/01/22	3.00	160.00	480.00
10021320	6310				
	BRESSETT, ROBERT J				
	Appeal Specialist	06/28/22	2.25	160.00	360.00
	Appeal Specialist	06/29/22	2.75	160.00	440.00
	Appeal Specialist	06/30/22	1.75	160.00	280.00
	REEDY, MICHAEL R				
	Appeal Specialist	06/13/22	1.50	160.00	240.00
	Appeal Specialist	06/14/22	3.50	160.00	560.00
	Appeal Specialist	06/28/22	4.50	160.00	720.00
	Appeal Specialist	06/29/22	1.50	160.00	240.00
Total For: Program Administration / Imple					5,800.00
Sub Total:					<u>5,800.00</u>

Inquiries:
 APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC
 4171 ESSEN LANE
 BATON ROUGE, LA 70809
 (225) 932-2600



APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC

Remit To
APTIM ENVIRONMENTAL &
INFRASTRUCTURE LLC
P.O BOX 847958
BOSTON, MA 02284-7958

Cost Cd	Cost Cd Description's	Date	Units	Rate	Amount
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Total Taxable Amount:

Total Tax:

Total For: ***** This Invoice***** 5,800.00

Less Retention:

Amount Now Due: ***** This Invoice***** 5,800.00

Inquiries:
APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC
4171 ESSEN LANE
BATON ROUGE, LA 70809
(225) 932-2600

Page 2

Form: R5548507B.CBI0011
Batch No: 3508897



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Remit To
 APTIM ENVIRONMENTAL &
 INFRASTRUCTURE LLC
 P.O BOX 847958
 BOSTON, MA 02284-7958

Invoice

Company: 00631
 Project No: 631024338
 Project Name: Lake Madrone Water District

Invoice No: 566381

Client Address:
 LAKE MADRONE WATER DISTRICT
 12 STAR CREEK RD
 OROVILLE, CA 95965

Invoice Date: 09/01/2022
 Billing Through: 08/26/2022
 Payment Terms: NET 30 DAYS
 Client No: 9141619
 Client Order No:
 ProjMgr\Designee: MADDOX, NICOLE J
 Contract No: 24338

Account Notes

Please include the invoice number on your remittance

Cost Cd	Cost Cd Description's	Date	Units	Rate	Amount
10021320	Program Administration / Imple				
10021320	5110				
	CANADAY, SCOTT L				
	PM	05/16/22	1.00	90.00	90.00
	PM	06/13/22	1.50	90.00	135.00
	PM	06/15/22	1.50	90.00	135.00
	MADDOX, NICOLE J				
	Appeal Specialist	04/25/22	2.00	160.00	320.00
	Appeal Specialist	04/27/22	1.00	160.00	160.00
	Appeal Specialist	04/29/22	1.00	160.00	160.00
	Appeal Specialist	06/06/22	1.00	160.00	160.00
	Appeal Specialist	08/17/22	2.00	160.00	320.00
	Appeal Specialist	08/18/22	3.00	160.00	480.00
	Appeal Specialist	08/19/22	1.00	160.00	160.00
	Appeal Specialist	08/22/22	1.00	160.00	160.00
	Appeal Specialist	08/23/22	2.00	160.00	320.00
	Appeal Specialist	08/24/22	2.00	160.00	320.00
	Appeal Specialist	08/25/22	3.00	160.00	480.00
	Appeal Specialist	08/26/22	3.00	160.00	480.00
10021320	5310				
	BRESSETT, ROBERT J				
	Appeal Specialist	04/26/22	.75	160.00	120.00
	Appeal Specialist	05/16/22	.50	160.00	80.00
	Appeal Specialist	06/13/22	.75	160.00	120.00
	Appeal Specialist	06/13/22	1.00	160.00	160.00
	Appeal Specialist	06/14/22	2.50	160.00	400.00
	Appeal Specialist	06/15/22	.50	160.00	80.00
	Appeal Specialist	06/16/22	.50	160.00	80.00

Inquiries:
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 4171 ESSEN LANE
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 (225) 932-2500



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 INFRASTRUCTURE LLC
 P.O BOX 847958
 BOSTON, MA 02284-7958

APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC

Cost Cd	Cost Cd Description's	Date	Units	Rate	Amount
	Appeal Specialist	06/17/22	1.25	160.00	200.00
	Appeal Specialist	08/15/22	2.75	160.00	440.00
	Appeal Specialist	08/18/22	6.50	160.00	1,040.00
	Appeal Specialist	08/22/22	.75	160.00	120.00
	Appeal Specialist	08/25/22	4.75	160.00	760.00
	Appeal Specialist	08/26/22	.75	160.00	120.00
REEDY, MICHAEL R					
	Appeal Specialist	08/18/22	4.00	160.00	640.00
	Appeal Specialist	08/24/22	5.00	160.00	800.00
	Appeal Specialist	08/25/22	2.25	160.00	360.00
	Appeal Specialist	08/26/22	9.00	160.00	1,440.00

Total For: Program Administration / Imple 10,840.00

Sub Total: 10,840.00

Total Taxable Amount:

Total Tax:

Total For: *** This Invoice***** 10,840.00**

Less Retention:

Amount Now Due: *** This Invoice***** 10,840.00**

Employee Name	Effective Title	Date	Administrative Type	Work Performed	Hours	Incurred Bill Amount	Invoice No.
Scott Canaday	SME, QA/QC	6/13/2022	DAC: Direct Administrative Cost	Participated on a Zoom call invited by Jess Vickery and Roger Williams of LMWD. Other participants included Robert Bressett, Nicole Maddox and Mike Reedy (Aptim). The purpose of the call was to discuss the FEMA Request for Information about the Temporary Water Storage and need for alternative water sources as a result of the wildfire. We discussed the 3 bullets noted on the FEMA RFI and discussed our individual perspectives on what FEMA was looking for, and what FEMA had obviously not reviewed from the LMWD submittals in Grants Portal. Much of the discussion was on the difference between repairs that would restore the pre-disaster condition and function of the water distribution system versus those repairs needed to be able to pressurize the system to utilize the water for fire suppression if needed, on an emergency basis and not for human consumption. Other discussions were about the FEMA Determination Memo suggesting duplication of benefits about the 377 trees that LMWD was hoping to be removed from the district's parks as well as the dozen or more trees that were in the district's right-of-way, that LMWD wasn't sure had been included in the damage inventory within the 60 day period following the Recovery Scoping meeting.	1.5	\$135	566381
Scott Canaday	SME, QA/QC	6/15/2022	DAC: Direct Administrative Cost	LMWD indicated a meeting was scheduled for this Wednesday, the 15th with FEMA, CalOES, Cal Recycle, Butte County and others to address the hazardous tree removal. Nicole Maddox indicated if needed she could be present to provide policy advice, etc. since she was going to be at the PID offices, approximately an hour away.	1.5	\$135	566381
Scott Canaday	SME, QA/QC	5/16/2022	DAC: Direct Administrative Cost	LMWD discussion with RB1 over amendments, next steps, and email to group. Participated on a MS Teams call with Nicole Maddox, Robert Bressett and Mike Reedy to discuss the FEMA Determination Memo for the Hazardous Tree Removal, as well as a considerations for developing a 2nd letter to CalOES to suggest to FEMA a PW be formulated as a place holder in the event trees being removed were not compensated for from Cal OES/Cal Recycle, and could be eligible for FEMA reimbursement.	1	\$90	566381
Nicole Maddox	Program Manager	4/25/2022	DAC: Direct Administrative Cost	Respond to team questions about hazardous tree removal DM, and how to scope out the task order to do the work if requested. Continue review of DM.	2	\$320	566381
Nicole Maddox	Program Manager	4/27/2022	DAC: Direct Administrative Cost	Continue review of DM.	1	\$160	566381
Nicole Maddox	Program Manager	4/29/2022	DAC: Direct Administrative Cost	Continue review of DM.	1	\$160	566381
Nicole Maddox	Program Manager	6/6/2022	IAC: Indirect Administrative Cost	Phone call with LMWD's Jess and Roger to discuss FEMA's approach to Cat Z with regards to the board's volunteer labor time. Discussion of FEMA's previous instruction and guidance, potential approaches for coverage (Cat Z = permanent work, therefore donated labor should apply there).	1	\$160	566381
Nicole Maddox	Program Manager	8/17/2022	DAC: Direct Administrative Cost	Compiled questions into single review document, added my own questions and comments after review of the issues, forwarded to APTIM and LMWD staff for review.	0.5	\$80	566381
Nicole Maddox	Program Manager	8/17/2022	DAC: Direct Administrative Cost	Compiled questions into single review document, added my own questions and comments after review of the issues, forwarded to APTIM and LMWD staff for review.	0.75	\$120	566381
Nicole Maddox	Program Manager	8/17/2022	DAC: Direct Administrative Cost	Compiled questions into single review document, added my own questions and comments after review of the issues, forwarded to APTIM and LMWD staff for review.	0.75	\$120	566381
Nicole Maddox	Program Manager	8/18/2022	DAC: Direct Administrative Cost	Internal call with APTIM team to discuss initial comments on combined RFI question sheet. Share our combined RFI question sheet with LMWD staff, and participate in call with LMWD staff and Colleen to discuss initial thoughts and strategy for response.	1.5	\$240	566381
Nicole Maddox	Program Manager	8/18/2022	DAC: Direct Administrative Cost	Internal call with APTIM team to discuss initial comments on combined RFI question sheet. Share our combined RFI question sheet with LMWD staff, and participate in call with LMWD staff and Colleen to discuss initial thoughts and strategy for response.	1	\$160	566381
Nicole Maddox	Program Manager	8/18/2022	DAC: Direct Administrative Cost	Internal call with APTIM team to discuss initial comments on combined RFI question sheet. Share our combined RFI question sheet with LMWD staff, and participate in call with LMWD staff and Colleen to discuss initial thoughts and strategy for response.	0.5	\$80	566381
Nicole Maddox	Program Manager	8/19/2022	IAC: Indirect Administrative Cost	Coordinated with CalOES to receive large documents referenced in the three RFIs, placed in Teams for access.	1	\$160	566381
Nicole Maddox	Program Manager	8/22/2022	DAC: Direct Administrative Cost	Reviewed Robert's emailed points regarding LMWD's status as a PNP or governmental agency, as well as additional notes addressing the ash production as a result of the fire based on tree density, wind and terrain. Reviewed Jess' emailed data regarding the long reach excavator used during the ash and sediment removal project.	1	\$160	566381
Nicole Maddox	Program Manager	8/23/2022	DAC: Direct Administrative Cost	Review documents pulled down from Grants Portal during grant formulation, confirm no additional documents need to be pulled down.	0.5	\$80	566381
Nicole Maddox	Program Manager	8/23/2022	DAC: Direct Administrative Cost	Review documents pulled down from Grants Portal during grant formulation, confirm no additional documents need to be pulled down, look for pictures mentioned in initial call.	0.75	\$120	566381
Nicole Maddox	Program Manager	8/23/2022	DAC: Direct Administrative Cost	Review documents pulled down from Grants Portal during grant formulation, confirm no additional documents need to be pulled down, check for documents that support prior communication to FEMA about the 2" pip code.	0.75	\$120	566381
Nicole Maddox	Program Manager	8/24/2022	DAC: Direct Administrative Cost	Review Michael's comments regarding the Temp Water RFI questions.	1	\$160	566381
Nicole Maddox	Program Manager	8/24/2022	DAC: Direct Administrative Cost	Review Michael's comments regarding the Ash and Sediment RFI questions.	1	\$160	566381
Nicole Maddox	Program Manager	8/25/2022	DAC: Direct Administrative Cost	Participated in internal call with Michael and Robert to discuss Ash and Sediment project ahead of LMWD meeting, but touched on this project as well. Participated in call with LMWD staff to review the RFI and response strategy, as well as the other RFIs. Reached out to CalOES to get documents referenced by FEMA in the RFI.	0.5	\$80	566381
Nicole Maddox	Program Manager	8/25/2022	DAC: Direct Administrative Cost	Reviewed Michael and Robert's comments added to review of Ash and Sediment project. Participated in internal call with Michael and Robert to discuss Ash and Sediment project ahead of LMWD meeting. Participated in call with LMWD staff to review the RFI and response strategy, as well as the other RFIs. Reached out to CalOES to get documents referenced by FEMA in the RFI.	1.5	\$240	566381
Nicole Maddox	Program Manager	8/25/2022	DAC: Direct Administrative Cost	Participated in internal call with Michael and Robert to discuss Ash and Sediment project ahead of LMWD meeting, but touched on this project as well. Participated in call with LMWD staff to review the RFI and response strategy, as well as the other RFIs. Reached out to CalOES to get documents referenced by FEMA in the RFI.	1	\$160	566381
Nicole Maddox	Program Manager	8/26/2022	DAC: Direct Administrative Cost	Participated in early morning call with LMWD to discuss our detailed review of the temp water RFI and planned response, as well as the other two RFIs.	1	\$160	566381
Nicole Maddox	Program Manager	8/26/2022	DAC: Direct Administrative Cost	Participated in early morning call with LMWD to discuss our detailed review of the temp water RFI and planned response, but touched back on ash and sediment RFI for a portion of the call. Reviewed USACE apud letter of permission and permit modification documents sent by LMWD staff.	1	\$160	566381
Nicole Maddox	Program Manager	8/26/2022	DAC: Direct Administrative Cost	Participated in early morning call with LMWD to discuss our detailed review of the temp water RFI and planned response, but discussed Water Grid Repair RFI for part of the call.	0.25	\$40	566381
Nicole Maddox	Program Manager	8/26/2022	IAC: Indirect Administrative Cost	Coordinate with CalOES to schedule previously requested meeting with CalOES and FEMA, with congressional representative staff also attending. Meeting schedule for 9/A at 1pm PT.	0.75	\$120	566381
Robert Bressett	SME, Policy	4/26/2022	DAC: Direct Administrative Cost	Reviewed the FEMA DM for the Hazardous Tree Removal project, and participated in a MT Team's call with Mike Reedy to discuss our perspectives on FEMA's determination, and the programmatic ramifications.	0.75	\$120	566381

Robert Bressett	SME, Policy	5/16/2022	DAC: Direct Administrative Cost	Participated on a MS Team's call with Nicole Maddox, Scott Canaday and Mike Reedy to discuss the FEMA Determination Memo for the Hazardous Tree Removal, as well as a considerations for developing a 2nd letter to CalOES to suggest to FEMA a PW be formulated as a place holder in the event trees being removed were not compensated for from Cal OES/Cal Recycle, and could be eligible for FEMA reimbursement.	0.5	\$80	566381
Robert Bressett	SME, Policy	6/13/2022	DAC: Direct Administrative Cost	Other discussions were about the FEMA Determination Memo suggesting duplication of benefits about the 377 trees that LMWD was hoping to be removed from the district's parcels as well as the dozen or more trees that were in the district's right-of-way, that LMWD wasn't sure had been included in the damage inventory within the 60 day period following the Recovery Scoping meeting.	1.75	\$280	566381
Robert Bressett	SME, Policy	6/14/2022	DAC: Direct Administrative Cost	LMWD indicated a meeting was scheduled for this Wednesday, the 15th with FEMA, CalOES, Cal Recycle, Butte County and others to address the hazardous tree removal. Nicole Maddox indicated if needed she could be present to provide policy advice, etc. since she was going to be at the PID offices, approximately an hour away.	2.5	\$400	566381
Robert Bressett	SME, Policy	6/15/2022	DAC: Direct Administrative Cost	Post Zoom call, Mike Reedy discussed his suggested approach to draft a few paragraphs to support an appeal for then I would make any required edits to include policy / law perspectives.	0.5	\$80	566381
Robert Bressett	SME, Policy	6/16/2022	DAC: Direct Administrative Cost	Re-read the FEMA Determination Memorandum and the associated notes for the Hazardous Tree Removal project (#164530). Began drafting the appeal request narrative. Went over Mike Reedy's notes from his review of the FEMA DM, and incorporated his considerations. Also drafted the cover letter for LMWD to accompany the appeal narrative.	0.5	\$80	566381
Robert Bressett	SME, Policy	6/17/2022	DAC: Direct Administrative Cost	Completed my first draft of the LMWD Hazardous Tree removal appeal narrative and cover letter and emailed them to Nicole Maddox, Scott Canaday and Mike Reedy for their review. Upon receipt of Mike Reedy's suggested edits, incorporated them. Awaiting Nicole's response prior to finalizing the draft to go to LMWD.	1.25	\$200	566381
Robert Bressett	SME, Policy	8/15/2022	DAC: Direct Administrative Cost	Received an email dated August 15, 2022 from Nicole Maddox forwarded to her from Jess Vickery on August 12, 2022. The email addressed three requests for information from FEMA related to the Ash and Sediment Removal appeal, as well as the Water Grid Appeal (and the Temp Water Storage appeal) that were included in 2 official letters. Nicole indicated she was going to go through and pull all the questions and put them into one document, for Her, Mike Reedy and me to compile our initial thoughts on FEMA's questions. Also received another email from Nicole, same date, with a single document with all the RFI questions structured so any analysis/notes/questions/etc. can be added as a bullet under each main question.	0.5	\$80	566381
Robert Bressett	SME, Policy	8/15/2022	DAC: Direct Administrative Cost	Began reviewing FEMA letter dated August 10, 2022 for the Water Grid Appeal. Also began researching each of the items in FEMA's letter in the appeal memorandum and associated attachments.	1.75	\$280	566381
Robert Bressett	SME, Policy	8/15/2022	DAC: Direct Administrative Cost	Received an email dated August 15, 2022 from Nicole Maddox forwarded to her from Jess Vickery on August 12, 2022. The email addressed three requests for information from FEMA related to the Ash and Sediment Removal appeal, as well as the Water Grid Appeal (and the Temp Water Storage appeal) that were included in 2 official letters. Nicole indicated she was going to go through and pull all the questions and put them into one document, for Her, Mike Reedy and me to compile our initial thoughts on FEMA's questions. Also received another email from Nicole, same date, with a single document with all the RFI questions structured so any analysis/notes/questions/etc. can be added as a bullet under each main question.	0.5	\$80	566381
Robert Bressett	SME, Policy	8/15/2022	DAC: Direct Administrative Cost	Began reviewing FEMA letter dated August 10, 2022 for the Ash and Sediment Removal project appeal RFI. Also began researching each of the items in FEMA's letter in the appeal memorandum and associated attachments. Also developed/sent an email to Nicole because the appeal memorandum pages referenced in FEMA's letter didn't jive with the final document I had. Email stated: "Where are all these page references? Pages 10, 22, 39 for the Ash and Sediment Removal appeal memo? All I have is our 6 page memo, and the attachments, but not the 2 letters or the references to the table for Berry Creek."	0.75	\$120	566381
Robert Bressett	SME, Policy	8/18/2022	DAC: Direct Administrative Cost	See 08/15/2022 entries. This is a continuation of those entries. Continued reviewing of the FEMA RFI, appeals information and entering data in the single document with all the RFI questions structured so any analysis/notes/questions/etc. can be added as a bullet under each main question. Also reviewed Nicole's and Mike Reedy's comments Participated on call with LMWD to discuss our collective findings for the project's FEMA RFI in preparation for later call with LMWD. (Water Works Engineers), and Nicole and Mike (ApTim). Call notes follow. Project 164538 - Temp Water and Repairs 1.Documentation and relevant analysis on whether the Applicant has completed repairs to the damaged fire hydrants: -a.For your reference, it appears permanent repairs are claimed in a separate first appeal for Project 164538 totaling \$5,661.78 in contract labor and materials to prepare and install a new fire hydrant with fittings. (SFWPA invoice for 10/28/20 and 12/2/20) -b)IM) Is the hydrant truly a permanent repair? Is this another misunderstanding on their part? Is this just to clarify if it belongs in a different project (temp vs permanent) or is there an avenue to deny? -c)IM) This is clearly to deny the funding for this Cat B, based on FEMA's statement "It appears permanent repairs are claimed". -d)MR) Need to know whether the hydrant replacement on 12/04/2020, South Feather Water and Power, at a cost of \$2,130.48 was duplicated in the water grid hydrant repairs. Locational data would assist in reconciling this question. The RFI does not seem to be aimed at denying the entire project as this hydrant appears to be the only potential permanent future claimed in the project. -e)Check if this hydrant is already in the grid PW, and if not, may need to be amendable to it being moved over to the grid PW. Probably just an issue/pdf fact due to the item being on an invoice for mostly temp work.	0.75	\$120	566381

Robert Bressett	SME, Policy	8/18/2022	<p>DAC: Direct Administrative Cost</p>	<p>the RFI questions structured so any analysis/notes/questions/etc. can be added as a bullet under each main question. Also reviewed Nicole's and Mike Reedy's comments Participated on an internal MS Team's call with Nicole and Mike to discuss our collective findings for the project's FEMA RFI in preparation for later call with LMWD. Participated on call with LMWD to discuss our collective findings for the project's FEMA RFI. Other participants included Jess Vickery and Roger Williams (LMWD), Colleen Boak (Water Works Engineers), and Nicole and Mike (Aptim). Call notes follow.</p> <p>Project 162636 – Water Grid Replacement</p> <p>1. Documentation and relevant analysis supporting 2-inch diameter service lateral piping is required for all new housing construction. The documentation should demonstrate all of the following codes and standards criteria:</p> <ul style="list-style-type: none"> a. Applies to the type of restoration required; b. Appropriate to the pre-disaster use of the facility; c. Reasonable, in writing, formally adopted by the state, territorial, tribal or local government, and implemented by the Applicant on or before the declaration date, or is a legal Federal requirement; d. Applies uniformly; and e. Was enforced during the time it was in effect. (PAPPG p. 145) <p>•(M) This is the state building codes that mandate fire sprinklers in new construction, right?</p> <p>•(MR) OK, if so, is 2.0" diameter the standard? And if not, why has 2.0" been selected?</p> <p>•(MR) Yes, the state mandates fire sprinklers for new construction, but didn't less state that in some cases a 1.0" line would be sufficient? And if recollection of that statement is accurate, why (on what supportable basis) was the "standard" founded?</p> <p>•(R) The appeal memo (page 8 of 22) states "...the district has been requiring 2-inch lateral piping in all new housing construction since April 2019 (Attachments 19A, B, & C). As such, the district's 2-inch diameter distribution lateral requirement will be triggered for all burned structures." Therefore, all of the criterion noted above from the PAPPG have been met.</p> <p>•check if LMWD is a governmental district and not a PNP. Confirm attachments convey district's standard. Any evidence of post-standard-adoption, pre-fire implementation of new standard. Also any documentation surrounding the drafting and adopting of the new standard.</p> <p>•fire-fire, standard was 2 inches, and was put in practice (examples have been given). Since fire, standards have been dialed back. All criteria have been met.</p> <p>2. Documentation and relevant analysis associated with additional water sampling results after March 2021.</p> <ul style="list-style-type: none"> •(M) Do we have testing results after March 2021? •(R) Saasya what? •(R) FEMA insinuates that the contamination might have "healed itself" or improved from its contaminated levels. However, if there has been no additional flushing of the water, the RFI questions structured so any analysis/notes/questions/etc. can be added as a bullet under each main question. Also reviewed Nicole's and Mike Reedy's comments Participated on an internal MS Team's call with Nicole and Mike to discuss our collective findings for the project's FEMA RFI in preparation for later call with LMWD. <p>Participated on call with LMWD to discuss our collective findings for the project's FEMA RFI. Other participants included Jess Vickery and Roger Williams (LMWD), Colleen Boak (Water Works Engineers), and Nicole and Mike (Aptim). Call Notes follow.</p> <p>Project 164557 – Ash and Sediment Removal</p> <p>1. Provide documentation and relevant analysis which demonstrates how the work:</p> <ul style="list-style-type: none"> a. Eliminates or lessens immediate threats to lives, public health, or safety; or eliminates or lessens immediate threats of significant additional damage to improved public or private property in a cost-effective manner. (PAPPG (6/1/20) p. 110) •(M) Water quality, sediment flows to downstream facilities? •(R) In other words, FEMA want to know the impact of the ash/sediment on the applicant's facilities, processes, water quality, etc. •(R) If FEMA has an issue with this being a Cat B (Emergency Protective Measures) project, then would FEMA have an issue with this being approved as a Cat D (Water Control Facilities) project, as they approved for DR-4301-CA in PW 923 with an estimated \$1,015,650 to remove 38,000 cubic yards? <p>•Question to LMWD - What is purpose of reservoir?</p> <p>•obligation rights, providing water downstream and for agricultural/wildlife purposes; used by CalFire for fire suppression.</p> <p>•capture at inlet makes for easier, cheaper removal than later draining and dredging.</p> <p>•capture in inlet is B, dredging from reservoir would have been D.</p> <p>2. Documentation and relevant analysis supporting all dredged materials removed from Berry Creek was a direct result of the declared incident.</p> <ul style="list-style-type: none"> a. For your reference, the documentation presents an average yearly sediment removal of 401 cubic yards (CY) of non-disaster sediment accumulating in Berry and Galen Creek inlets. •(M) Do we have estimates of what's in there now, or what has already been removed? •(MR) 401-CY may be an average quantity of "sediment," but we should stay focused on the "ash." In actuality, the ash is mixed with the sediment. The increase in ash/sediment for fire disaster years should give reason to suspect that fires increase sediment above its usual and customary level. The ash is obviously disaster related, product of burned stuff, and even FEMA on its apparent quest to disqualify the "sediment" must be made aware of this fact. "Yes, fifth graders... I mean FEMA, when trees burn the ash mixes with sediment that flows downstream. Unfortunately, you cannot separate the eligible ash from the sediment." •(MR) Yes, there is a value to removing the sediment buildup each year, and that value is ... ? increased costs of operation? Is there potential damage to applicant's equipment, filtering mechanism, or some other potential damage? •(R) FEMA is asking LMWD to prove the ash (and sediment) deposited in Berry Creek was a direct result of the fire. Our argument has to take into consideration the dynamics 	2.5	\$400	566381
Robert Bressett	SME, Policy	8/18/2022	<p>DAC: Direct Administrative Cost</p>	<p>Reviewed Nicole Maddox's final notes from our Zoom call with LMWD. Researched LMWD's status as a PNP or governmental agency. Found in FEMA's DM for the applicant that LMWD is a "special district governmental entity that provides potable water services, supplying residents and other properties in the Lake Madrone area of eastern Butte County." Also added notes addressing the ash produced as a result of the fire. Notes included: Due to varying degrees of turbulence caused by the fire itself, and any ambient wind conditions ash can be dispersed for miles. In the case of LMWD, an unknown volume of ash from the declared event fell into Lake Madrone, resulting in additional sediment in the bottom of the lake. Regardless of the amount of ash that was deposited in the lake, it needed to be removed because the ash could adversely impact the water quality going into Berry Creek, such as increased pH in the lake because ash is typically alkaline by nature, lower dissolved oxygen, etc. that would disrupt the ecosystem of not only the lake but any discharges into Berry Creek.</p>	3.25	\$520	566381
Robert Bressett	SME, Policy	8/25/2022	<p>DAC: Direct Administrative Cost</p>	<p>See Thursday, 08/18/2022 entry. Reviewed Mike Reedy's response to the FEMA RFI for this project. Provided my own comments and provided suggested edits for Mike.</p>	0.25	\$40	566381

Robert Bressett	SME, Policy	8/25/2022	DAC: Direct Administrative Cost	<p>See Thursday, 08/18/2022 entry. Reviewed Mike Reedy's extensive response to the FEMA RFI for this project. Researched the 2020 FEMA Public Assistance Program and Policy Guide for regulatory references, as well as the First Appeal submission to ascertain what information had already been provided to FEMA for this particular RFI. Also researched the FEMA Appeals Manual for applicability/ FEMA's authority for RFIs not specifically relevant to the original Determination Memo. Provided my own comments and provided suggested edits for Mike.</p> <p>Participated on an internal MS Teams call with Mike Reedy and Nicole Maddox to go over our responses to FEMA's RFI for this project in preparation for our call with LMWD's Jess Vickery and Roger Williams.</p> <p>Participated in Zoom call with Jess Vickery and Roger Williams (LMWD), as well as Aptim team members Nicole Maddox and Mike Reedy. The purpose of the call was to discuss our responses to the FEMA RFI and to get clarity on some of the issues only known to LMWD, and not Aptim.</p>	4.5	\$720	566381
Robert Bressett	SME, Policy	8/26/2022	DAC: Direct Administrative Cost	<p>See 08/18/2022 and 08/25/2022 entries: Participated on a JMS Teams call with Jess Vickery and Roger Williams (LMWD), as well as Aptim team members Nicole Maddox and Mike Reedy. The purpose of this call was to continue our 08/25/2022 discussion of this project and our collective approach to the responses to FEMA RFI.</p>	0.25	\$40	566381
Robert Bressett	SME, Policy	8/26/2022	DAC: Direct Administrative Cost	<p>See 08/18/2022 and 08/25/2022 entries: Participated on a JMS Teams call with Jess Vickery and Roger Williams (LMWD), as well as Aptim team members Nicole Maddox and Mike Reedy. The purpose of this call was to continue our 08/25/2022 discussion of this project and our collective approach to the responses to FEMA RFI.</p>	0.25	\$40	566381
Robert Bressett	SME, Policy	8/26/2022	DAC: Direct Administrative Cost	<p>See 08/18/2022 and 08/25/2022 entries: Participated on a MS Teams call with Jess Vickery and Roger Williams (LMWD), as well as Aptim team members Nicole Maddox and Mike Reedy. The purpose of this call was to continue our 08/25/2022 discussion of this project and our collective approach to the responses to FEMA RFI.</p> <p>Met with Nicole Maddox and Robert Bressett. Contrary to Robert's concern that FEMA may be looking for a reason to disqualify the project, I was encouraged that FEMA only questioned the single water hydrant replacement. That work is obviously permanent, so maybe FEMA has finally acknowledged that the remainder of our claim, and in particular the South Feather Water invoice, is indeed temporary in nature. We had more fully discussed and explained why we consider the bulk of the repairs as temporary in our previous RFI response. Then, met with Jess Vickers and Roger Williams (LMWD), Colleen Boak (Water Works), and Nicole Maddox and Robert Bressett. Requested that Colleen Boak meet with Shane McCabe (LMWD) to determine whether the hydrant replacement in the temp. water PW has also been quoted in the water grid PW in order to eliminate any potential duplication.</p>	0.25	\$40	566381
Michael Reedy	SME Procurement/Compliance and Appeals	8/18/2022	DAC: Direct Administrative Cost	<p>Met with Nicole Maddox and Robert Bressett. We discussed Robert's and my comments based upon our initial review of the FEMA RFIs. Based upon that conversation Nicole captured the salient agreements we reached as to how we should proceed with response, pending of course Lake Madrone's feedback in our meeting later today. The conversation centered primarily on the FEMA questions regarding why we had not tested after March 31, 2021, why we had no pre-testing of grid water prior to the event, and other testing related topics. Then, met with Jess Vickers and Roger Williams (LMWD), Colleen Boak (Water Works), and Nicole Maddox and Robert Bressett. We presented our preparatory meeting findings. One issue will be an explanation as to why the district is claiming 2" diameter lateral replacements. That was a temporary standard created for approximately a 2-year period prior to the storm. Now, based upon better info, the district has determined that most houses will only need 3/4" to 1.0" diameter laterals while much larger houses will require the 2.0" standard. Requested that Colleen Boak compose a narrative to explain how the district has complied with any and all testing requirements from state and county agencies. She will succinctly state the conditions under which testing are required. She specifically noted that testing for contaminants in pressurized systems is not required. That narrative will address two of the three testing questions.</p>	0.5	\$80	566381
Michael Reedy	SME Procurement/Compliance and Appeals	8/18/2022	DAC: Direct Administrative Cost	<p>Ash and Sediment - PW164557 - DR4558: Reviewed the FEMA RFIs for the projects. Added my comments to the comments of Robert Bressett. Met with Nicole Maddox and Robert Bressett. Previously, both Robert and I had reviewed the RFIs and offered our findings. We discussed the five FEMA questions for this project. Key issues are determination of the exact cubic yardage quantities, explaining the ash content without referring to rainfall related sediment run-off, and explaining how the previous years' sediment averaging was derived. Then, met with Jess Vickers and Roger Williams (LMWD), Colleen Boak (Water Works), and Nicole Maddox and Robert Bressett. We presented our findings based upon our preparatory meeting discussions. During the discussion it became obvious that FEMA was confusing lake dredging with inlet sediment dredging. Jess pointed out that the lake dredging sediment totals had been removed from the inlet dredging totals; an "apples to apples" comparison. Jess was requested to locate any previous letters or documents that would fully explain that issue. Also, noting that FEMA was asking the depth of dredging at the inlets, requested that Jess contact the vendor and acquire the equipment specs and inquire as to the average depth of dredging each year. FEMA is also questioning the claimed quantities. Jess noted that dredging is not performed every year due to budget restraints, hence the data in the yearly table shows "0" for some years. This fact will be fully explained to FEMA. There are also turbidity issues that the ash and sediment can create for downstream users that the dredging reconciles.</p>	1	\$160	566381
Michael Reedy	SME Procurement/Compliance and Appeals	8/18/2022	DAC: Direct Administrative Cost	<p>Ash and Sediment - PW164557 - DR4558: Composed narrative in response to FEMA RFIs for this project. Of the five questions, responses were composed for four of the five questions. Question 1: Described how dredging of inlets to the lake are necessary to protect the lake from sediment deposits that would reduce the lake's reservoir capacity. Also, noted the requirement to mitigate turbidity downstream from the lake by removing sediment from the Berry and Galen inlets. Question 2: Described, hypothetically, how significant quantities of ash could be generated. Then, described how the visual and quantitative aspects of the ash are supported. Question 3: Will be addressed with data and information supplied by Jess Vickery. Question 4: Described how the averaging of sediment quantities was supported by the data. Identified the difference between the lake dredging of 2009 and the FEMA debris removal of 2017-18 and the normal and usual yearly quantities of sediment. Also, described how FEMA has typically computed averages for removal of debris overages. Question 5: Stated that the pre-disaster depth of Berry Creek was not relevant, but rather what is relevant is the uniform manner, including equipment types, in which debris sediment has been removed over the years.</p>	2.5	\$400	566381
Michael Reedy	SME Procurement/Compliance and Appeals	8/24/2022	DAC: Direct Administrative Cost	<p>Temp. Water - PW164538 - DR4558: Composed a few draft narrative paragraphs to address FEMA's question as to whether or not the hydrant replacement referenced in the South Feather Water & Power Agency invoice for temporary repairs is permanent work. As no response has been forthcoming from the applicant as to the potential duplication of costs, two different responses were composed.</p>	4	\$640	566381
Michael Reedy	SME Procurement/Compliance and Appeals	8/24/2022	DAC: Direct Administrative Cost	<p>Temp. Water - PW164538 - DR4558: Composed a few draft narrative paragraphs to address FEMA's question as to whether or not the hydrant replacement referenced in the South Feather Water & Power Agency invoice for temporary repairs is permanent work. As no response has been forthcoming from the applicant as to the potential duplication of costs, two different responses were composed.</p>	1	\$160	566381

Michael Reedy	SME Procurement/Compliance and Appeals	8/25/2022	DAC: Direct Administrative Cost	<p>Ash and Sediment - PW164538 - DR4558: Met with Nicole Maddox and Robert Bressett to discuss the narrative I had composed in response to FEMA RFI for this project. Robert did not feel as if the answer to the first question had fully described the emergency nature. Ultimately, I shared my thoughts that the work was protecting the lake from the inflow of sediment and ash. Dredging of inlets to the lake are necessary to protect the lake from sediment deposits that would reduce the lake's reservoir capacity. It was also a revelation that the FEMA DM and the questions posed in this latest RFI all reference the Lake as if the work proposed by LMWD was lake related rather than inlet related. Described how I had derived my hypothetical description of how significant quantities of ash could be generated based upon data I had obtained regarding percentage of ash generated by burned timber. Described my need to better understand the exact quantities of ash debris we are claiming. Then, described the experiences I had that were the basis for my discussion of "averaging" used to determine debris overages from disasters per FEMA's typical methodology. Also, cleared up with Robert that Question 5: Stated that the pre-disaster depth of Berry Creek was not relevant, but rather what is relevant is the uniform manner, including equipment. Then, met with Jess Vickers and Roger Williams, and Nicole Maddox and Robert Bressett to discuss the current narrative for the RFI. During the discussion, the following new information was obtained. The actual cubic yardage of ash/sediment is 2,160-CY. The claimed volume was inadvertently doubled when Jess was adding the cubic yardage of all the different aspects of the work, although some of that work was rehabilitating the original excavant. Also, there is no concrete pad for the excavator; the excavator works from the roadway at the narrowest point of the creeks near the inlets to the lake. Roger noted that the ash created 3 to 4 X the sediment typically generated in a year. We will also add a better explanation of why the sediment is not removed every year. Learned that the 2017-18 work was related to a flooding event that caused a massive influx of sediment into the lake, an influx that would have affected the accumulated sediment at the inlets. This additional information will be used to revise the current narrative in the RFI for this PW types, in which debris sediment has been removed over the years.</p>	2.25	\$360	566381
Michael Reedy	SME Procurement/Compliance and Appeals	8/26/2022	DAC: Direct Administrative Cost	<p>Temp. Water - PW164538 - DR4558: Met with Jess Vickers and Roger Williams (LMWD), and Nicole Maddox and Robert Bressett. Shared the current narrative in the RFI response. Noted that based upon a conversation with Colleen Boak (Water Works) that the hydrant replacement claimed in this project, South Feather Invoice, was not duplicated in the water grid PW (not one of the sites claimed in the water grid PW). However, as permanent work, it must be removed. There is some contention that the hydrant replacement did not occur which will need to be reconciled prior to moving the SOW and costs for the hydrant to the permanent work PW. Otherwise, the "NO" answer alternative in the response was approved.</p>	0.5	\$80	566381
Michael Reedy	SME Procurement/Compliance and Appeals	8/26/2022	DAC: Direct Administrative Cost	<p>Ash and Sediment - PW164537 - DR4558: Then, during the meeting with Jess Vickers and Roger Williams, and Nicole Maddox and Robert Bressett, I asked a qualifying question regarding average unit pricing for ash removal. Noted that the historical average is approximately \$20/CY whereas the ash removal is closer to \$90/CY. This question evoked conversation which identified additional information that needs to be shared with FEMA. 1. There was additional handling of the ash debris that is typically not necessary with the sediment, including excavation of a dewatering pit, reloading and hauling, etc. 2. Roger will compose an email that describes all the additional steps required. 3. Roger noted that there are photographs of the work that compare the ash content debris to the typical sediment debris. Noted that we need those photos as this new information is crucial to providing FEMA with the information necessary to support our claim. Then, began composition of additional narrative for each of the five FEMA questions for this project in the RFI. Question 1: Wrote a paragraph noting that FEMA is referencing the wrong type of project in the DM. This is ash removal project is for the inlets NOT the lake. Then, noted the WERT agreement and described other aspects of the inlet project. Question 2: Called attention to the Sediment Removal Table to note that there are no other years with anywhere near as much sediment. Also, explained how the 2009 and 2017-18 work was strictly performed in the Lake, not the inlets. After describing in detail how the table supports our contention that the only anomaly left to explain the difference is the fire event, noted the photographic evidence which shows the stark difference between the usual sediment and the obvious gray, finer grained ash. Also, the photos show the ashy grey color of the water in other photos. Then, while in the same paragraph, quoted the USDA "Burn Report" that identified the burn scar as being 100% of the watershed. Question 3: Based upon info from Jess and Roger, described how the quantity error, claim for 4,180-CY, had occurred. Then, described in great detail the differences in the work methodology for removing normal sediment versus the ashy slurry, including the time consuming dewatering step. Noted that the handling of identifiable cubic yardages of ash at different stages of the process had resulted in the excess claim of 4,180-CY versus the correct amount of 2,160-CY. Then, added a unit price analysis in order to explain why the ash removal had resulted in a per CY rate of \$92.10 versus the previous average of \$17.33. Question 4, 5: Described how the 2009 work did not include any inlet work. Also, eventually suggested that FEMA could use the 5-year period of 2014-2015, and 2019-2020 which would yield an average within 1.0% deviation of the 14-year average, i.e., 483.5-CY per Year versus 487-CY per year. Part b: Described how the info in the Final Inspection Report was accurate as to the damage to the creeks. However, the damage resulted in scouring of the creeks which forced sediment that typically would accumulate in the confluence constriction to flow into the lake proper, thus bypassing the constriction point. Question 5: Augmented the previous narrative to identify the constriction point in the creeks where an excavator is typically positioned on the roadway so that it can reach across to the opposite bank. Also, noted the photographic evidence in the previously added attachment.</p>	8.5	\$1,360	566381



Remit To
 APTIM ENVIRONMENTAL &
 INFRASTRUCTURE LLC
 P.O BOX 847968
 BOSTON, MA 02284-7968

APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC

Invoice

Company: 00631
 Project No: 631024338
 Project Name: Lake Madrone Water District

Invoice No: 568432

Client Address:
 LAKE MADRONE WATER DISTRICT
 12 STAR CREEK RD
 OROVILLE, CA 95965

Invoice Date: 09/27/2022
 Billing Through: 09/09/2022
 Payment Terms: NET 30 DAYS
 Client No: 9141619
 Client Order No:
 ProjMgr/Designee: MADDOX, NICOLE J
 Contract No: 24338

Account Notes

Please include the invoice number on your remittance

Cost Cd	Cost Cd Description's	Date	Units	Rate	Amount
10021320	Program Administration / Imple				
10021320	6110				
	MADDOX, NICOLE J				
	Appeal Specialist	08/30/22	4.00	160.00	640.00
	Appeal Specialist	08/31/22	4.00	160.00	640.00
	Appeal Specialist	09/01/22	3.00	160.00	480.00
	Appeal Specialist	09/02/22	4.00	160.00	640.00
	Appeal Specialist	09/06/22	5.00	160.00	800.00
	Appeal Specialist	09/07/22	6.00	160.00	960.00
	Appeal Specialist	09/08/22	6.00	160.00	960.00
10021320	5310				
	BRESSETT, ROBERT J				
	Appeal Specialist	08/29/22	2.75	160.00	440.00
	Appeal Specialist	08/30/22	.75	160.00	120.00
	Appeal Specialist	08/31/22	1.75	160.00	280.00
	Appeal Specialist	09/01/22	2.00	160.00	320.00
	Appeal Specialist	09/02/22	4.25	160.00	680.00
	Appeal Specialist	09/07/22	4.75	160.00	760.00
	Appeal Specialist	09/08/22	4.50	160.00	720.00
	REEDY, MICHAEL R				
	Appeal Specialist	08/29/22	3.75	160.00	600.00
	Appeal Specialist	08/31/22	3.50	160.00	560.00
	Appeal Specialist	09/01/22	4.75	160.00	760.00
	Appeal Specialist	09/02/22	3.25	160.00	520.00
	Appeal Specialist	09/08/22	3.00	160.00	480.00
Total For: Program Administration / Imple					11,360.00

Inquiries:
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 4171 ESSEN LANE
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P.O BOX 847958
BOSTON, MA 02284-7958

APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC

Cost Cd	Cost Cd Description's	Date	Units	Rate	Amount
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Sub Total: 11,360.00
Total Taxable Amount:
Total Tax:
Total For: ***** This Invoice***** 11,360.00
Less Retention:
Amount Now Due: ***** This Invoice***** 11,360.00

Employee Name	Effective Title	Date	Administrative Type	Work Performed	Hours	Effective Bill Rate	Incurred Bill Amount
Michael Reedy	SME Procurement/Compliance and Appeals	9/1/2022	DAC: Direct Administrative Cost	Water Grid - PW162636 - DR4558: Added additional comments to the codes and standards section to clarify and more succinctly support our contention that the 2 nd lateral standard meets all 5-aspects of the PAPPG guidance for codes and standards.	1	\$160	\$160
Michael Reedy	SME Procurement/Compliance and Appeals	9/8/2022	DAC: Direct Administrative Cost	Ash and Sediment - PW164557 - DR4558: Met with Nicole Maddox and Robert Bressett to discuss final edits to the response narrative as identified by Jess Vickery and Roger Williams. Numerous edits were performed during the meeting. Towards the end of the meeting we were joined by Jess and Roger to further clarify their remaining issues. Based upon their comments, some additional edits were performed.	3	\$160	\$480
Michael Reedy	SME Procurement/Compliance and Appeals	9/2/2022	DAC: Direct Administrative Cost	Water Grid - PW162636 - DR4558: Added an additional attachment #3, the June 2020 revised Water Connection Policy. All track changes were accepted and the completed version 2, along with all attachments, was forwarded to Nicole Maddox and Robert Bressett for final review.	0.25	\$160	\$40
Michael Reedy	SME Procurement/Compliance and Appeals	9/2/2022	DAC: Direct Administrative Cost	Ash and Sediment - PW164557 - DR4558: Additional revisions were made to the RFI response based upon my new understanding of the key FEMA issues. For one, the flow of the document and its content is choppy in places. In Question 2 the claimed cubic yardage was presented which replaced the present quantities discussed in that section of the response. Cubic yardage and unit pricing was clarified in Question 3. In Question 4a the 2009 dredging activity was explained to the degree of understanding I received from Jess Vickery during the FEMA meeting, i.e., rigging at large trees on either side of the lake so that the mid-lake could be dredged. Then, any discussion that referenced the 2017-18 dredging was cut and copied into the response to Question 4b. Section 4b was the primary focus of these revisions. Previously, parts of this discussion had been presented in the Question 4a response. However, the document flows better with the 2017-18 discussion placed within the Question 4b section where FEMA had raised the issues with that dredging work. The averaging discussion was added to this section and we also acknowledged the likelihood that the 2017-18 dredging had affected the Inlet sediment quantities. As such, we are recommending a new averaging approach that uses 2014, 2019, and 2020 sediment quantities to derive an average. The new average is 805-CY. With the changes, the percentage of eligible cost for the project increases to 787.9%, \$156,000.00. Made final edits per the review comments of Robert Bressett. All track changes were accepted and the completed version 4, along with all attachments, was forwarded to Nicole Maddox and Robert Bressett for final review.	3	\$160	\$480

Michael Reedy	SME Procurement/Compliance and Appeals	9/1/2022	DAC: Direct Administrative Cost	Ash and Sediment - PW164557 - DR4558: Composed additional narrative for several paragraphs in the RFI response. Added additional narrative to support the difference between the lake dredging and the sediment removal from the inlets. References to Google Earth photos of the lake in 2016 and 2017 were presented. The photos demonstrate that the 2017-18 work was performed in the lake. The map also shows that the lake proper connects to the confluence, the junction of the Berry and Galen Creeks. Attachment information was added to the bottom of the document. Most of the edits were clarifying in nature in order to improve the readability and intent of the statements along with a few grammatical and punctuation revisions. Based upon the input from FEMA's appeals specialist, Bryant Trang, the RFI response was revised in several paragraphs. The explanation as to our revised claim, 3,810-CY of ash, was the most significant change. This change required acknowledgement that the 2017-18 lake dredging had most likely affected sediment quantities at the Berry and Galen Creek inlets. The revision also required using the fire-related data from a spreadsheet furnished by LMWD that identified the "End Dump" quantities which correspond to the new quantity we will be claiming.	9.75	\$160	\$600
Michael Reedy	SME Procurement/Compliance and Appeals	8/31/2022	IAC: Indirect Administrative Cost	DR4558: Meeting with Nicole Maddox and Robert Bressett (APTIM) prior to the meeting with LMWD and Congressman Malfa's assist, John Veale. We reviewed the current RFI main issues for each project in order to ascertain any points of interest that we might want to present in the meeting.	2	\$160	\$320
Michael Reedy	SME Procurement/Compliance and Appeals	8/31/2022	DAC: Direct Administrative Cost	Water Grid - PW162636 - DR4558: Added documentation reference, the District Board's meeting notes, to the response. The five aspects of eligibility for codes and standards were addressed individually. Separate narrative was composed for each aspect. For the requirement that the code or standard must be formally adopted and in force prior to the declared event a reference document, the District Board's meeting notes, was inserted. All other extraneous narrative in the form of comments was removed from the document.	1.5	\$160	\$240
Michael Reedy	SME Procurement/Compliance and Appeals	8/29/2022	DAC: Direct Administrative Cost	Water Grid - PW162636 - DR4558: Received a couple of paragraphs that described testing requirements for pressurized water systems from Colleen Boak. The narrative was copied into the RFI response to Question 3 in the RFI. Then, added narrative to address Question 1. The first paragraph supports FEMA's first two requirements for a code and standard; a. "Applies to the type of restoration required;" and b. "Is appropriate to the pre-disaster use of the facility." For FEMA Item 3, c. "Is reasonable, in writing, formally adopted by the state, territorial, tribal or local government, and implemented by the Applicant on or before the declaration date, or is a legal Federal requirement;" a document or documents must be provided by LMWD. Then, referenced the three houses that have been constructed since April 2019, date of standard initiation, to answer the fourth and fifth code requirements, d. "Applies uniformly;" and e. "Was enforced during the time it was in effect. (PAPPG p. 145)." For Question 2, noted that no further testing has occurred after March 2021. The Question 3, the previously noted narrative from Colleen Boak was inserted. Described the revised content of the RFI response, added narrative to address questions 1 and 2. Noted that Colleen Boak's narrative had been inserted to address Question 3. Our primary remaining issue is Question 1, item c. demonstrating that the 2" lateral standard had been formally adopted by the district. Jess is to research this topic.	1.5	\$160	\$240

Michael Reedy	SME Procurement/Compliance and Appeals	8/29/2022	DAC: Direct Administrative Cost	<p>Port and Sediment - PW164538 - DR4558. Then, led the discussion and presentation of my revised narrative for this project. Numerous additional paragraphs were created. Question 1: Described the paragraph written to Inform FEMA the ash removal project is for the inlets NOT the lake. Then, noted the WERT agreement and described other aspects of the inlet project. Question 2: Discussed my narrative describing how the Sediment Removal Table content was used to note that there are no other years with anywhere near as much sediment. Also, confirmed with Jess and Robert that the 2009 and 2017-18 work was strictly performed in the Lake, not the inlets. Roger noted that that are photos of the work in the lake. Noted the importance of the photos of the ash removal work. Noted that the USDA "Burn Report" that identified the burn scar as being 100% of the watershed had been referenced. Question 3: Described how the quantity error, claim for 4,180-CY, had occurred. Then, noted the detailed work methodology for removing the ash slurry versus normal sediment; importance of the photos. Noted that the handling of identifiable cubic yardages of ash at different stages of the process had resulted in the excess claim of 4,180-CY versus the correct amount of 2,160 CY. Then, described my unit price analysis in order to explain why the ash removal had resulted in a per CY rate of \$92.10 versus the previous average of \$17.33. Question 4, a: Described how the 2009 work did not include any inlet work. Also, suggested that in order to put the 2009 and 2017-18 dredging issue behind us we might consider just using the 5-year period of 2014-2016, and 2019-009 and 2020 which would yield an average within 1.0% deviation of the 14-year average, i.e., 483.5-CY per year versus 487-CY per year. Part b: Described how the info in the Final Inspection Report was accurate as to the damage to the creeks. However, the damage resulted in scouring of the creeks which forced sediment that typically would accumulate in the confluence constriction to flow into the lake proper, thus bypassing the constriction point. Question 5: Noted that the narrative was revised to identify the constriction</p>	1	\$160	\$160
Michael Reedy	SME Procurement/Compliance and Appeals	8/29/2022	DAC: Direct Administrative Cost	<p>Temp. Water - PW164538 - DR4558: Having received information from Colleen Book that the hydrant installation questioned by FEMA as being "permanent work" in this project, I decided to revise our response. We are asserting that the work performed by South Feather was temporary; therefore, stating that permanent work was included in the South Feather invoice would be inaccurate. Per Colleen, the subject hydrant was intended to be "temporary." It was to be installed at the point just SE of a 4" water main and its junction with the Cascade Trail 3" water main that was melted by the fire. Described the revised content of the RFI Response. We are notifying FEMA that the hydrant was in fact intended for temporary status at the head of the Cascade Trail water main. However, the work was not completed.</p>	1.25	\$160	\$200

Robert Bressett	SME, Policy	9/8/2022	DAC: Direct Administrative Cost	<p>see 03/07 entry. Received the following email from Nicole Waddock - Got a late night email from Jess and Roger yesterday about concerns they had. Got Roger to call me this morning and walk me through those concerns, and wanted to get with y'all this morning to see what corrections we can make.</p> <p>Their concerns boils down to two big things, on Ash and Sediment:</p> <p>1. Analysis in answer to question #2 - They don't like quoting Wikipedia. If Wikipedia is using a number, we need to be quoting the source of that number, not the Wikipedia article. Roger also expressed some concern of why we were inserting this analysis when "the pictures tell the story", but I think I successfully explained to him that FEMA isn't going to want to rely on just photos for something that's hard to really quantify, like ashy sediment. But maybe we change the analysis by first pointing to the pictures as hard evidence of the visual difference, and then get into the historical math to support it?</p> <p>2. Answer to question #3 - The explanation for why we're at the new number of 3,810 CY wasn't clear to them. They said they couldn't get to that in their read of the spreadsheet, so we may need to see how to edit the spreadsheet to pull all the numbers together.</p> <p>Participated on a MS Teams call with Nicole going through our proposed responses to the LMWD concerns.</p> <p>Participated on a MS Teams call with Nicole and Mike Reedy going through our proposed responses to the LMWD concern to ensure we were "on the same page" with our responses and to clarify any potential issues.</p> <p>Participated on a Zoom call with LMWD's Jess Vickery and Roger Williams, as well as Nicole and Mike to go through our draft letter to CalOES addressing the responses to FEMA's RFI before submitting the letter to CalOES on Friday, the</p>	4.5	\$160	\$720
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Robert Bressett	SME, Policy	9/7/2022	DAC: Direct Administrative Cost	<p>Received an email from Nicole Maddox forwarding concerns LMWD's Jess Vickery and Roger Williams had with some of the responses we developed for FEMA's RFI concerning the Ahs and Sediment Removal project. Specifically their concerns "boiled down to two things: 1. Analysis in answer to question #2 - They don't like quoting Wikipedia. If Wikipedia is using a number, we need to be quoting the source of that number, not the Wikipedia article. Roger also expressed some concern of why we were inserting this analysis when "the pictures tell the story", but I think I successfully explained to him that FEMA isn't going to want to rely on just photos for something that's hard to really quantify, like ashy sediment. But maybe we change the analysis by first pointing to the pictures as hard evidence of the visual difference, and then get into the historical math to support it?</p> <p>2. Answer to question #3 - The explanation for why we're at the new number of 9,810 CY wasn't clear to them. They said they couldn't get to that in their read of the spreadsheet, so we may need to see how to edit the spreadsheet to pull all the numbers together.</p> <p>As a result I reviewed our draft narrative, the spreadsheet /tables in the First Appeal submittal (the Sediment Removal -Table 1 on page 5 of the appeal submittal. (CalOES's letter). Also reviewed a spreadsheet Roger Williams provided "LMWD Annual Inlet Clean Out Report. Found the spreadsheet that should've been referenced in our response titled "LMWD Inlet Cleanup and Hauling Costs - Summary (v4). Also read 2 additional emails from Nicole and a total of 5 emails from Mike in response to Nicole's initial email. After reading and reviewing all the data found the questionable items noted in our responses and provided clarification to the references and walked through calculations via a narrative I developed to provide additional clarification.</p>	4.75	\$160	\$760
Robert Bressett	SME, Policy	9/2/2022	DAC: Direct Administrative Cost	<p>Began drafting/formatting the LMWD letter responses to the FEMA RFIs for this project.</p> <p>Read and provided suggested edits and comments to Mike Reedy for his final version of the responses to the FEMA comments.</p> <p>Incorporated Mike's final revisions into the draft LMWD letter responding to FEMA's RFI, and formatted the draft for Nicole Maddox's review.</p>	3.25	\$160	\$520
Robert Bressett	SME, Policy	9/2/2022	DAC: Direct Administrative Cost	<p>Read and provided suggested edits and comments to Mike Reedy for his final version of the responses to the FEMA comments.</p> <p>Incorporated Mike's final revisions into the draft LMWD letter responding to FEMA's RFI, and formatted the draft for Nicole Maddox's review.</p>	1	\$160	\$160
Robert Bressett	SME, Policy	9/1/2022	DAC: Direct Administrative Cost	<p>Reviewed Mike Reedy's draft response V1 to FEMA's RFI for this project resulting from my suggested edits and comments for consideration.</p>	0.25	\$160	\$40
Robert Bressett	SME, Policy	9/1/2022	DAC: Direct Administrative Cost	<p>Reviewed Mike Reedy's draft response to FEMA's RFI for this project resulting from my suggested edits and comments for consideration.</p>	0.25	\$160	\$40

				<p>Read and responded to an email from Nicole Maddox to Scott Wagner with CalOES to discuss the approach for the call with FEMA PA/Appeals, CalOES, LMWD, Congressman LaMalfa's staff and Aptim.</p> <p>Participated on a MS Teams call with Nicole Maddox and Mike Reedy concerning our approach for the call with FEMA PA/Appeals, CalOES, LMWD, Congressman LaMalfa's staff and Aptim.</p> <p>Participated on the MS Teams call with FEMA PA/Appeals, CalOES, LMWD, Congressman LaMalfa's staff and Aptim. There were 22 people on the call. We discussed the 3 recent RFIs LMWD received: Temp Water Supply, Ash and Sediment Removal, and Water Distribution projects, and FEMA's willingness for LMWD to succeed. In addition Mike Reedy had a conversation with Bryant Trang, FEMA Appeals' Analyst to get clarification on the Lake Madrone sediment removal versus the Berry and Galen Creeks' ash-laden sediment removal.</p>			
Robert Bressett	SME, Policy	9/1/2022	IAC: Indirect Administrative Cost	Had a post MS Teams' call with Nicole Maddox and Mike Reedy to discuss our perspectives on the call with the FEMA staff.	1.5	\$160	\$240
Robert Bressett	SME, Policy	8/31/2022	DAC: Direct Administrative Cost	See 08/30/2022 entry. As a result of thinking further about Jess Vickery's email concerning the LMWD policy for the mandated use of 2" laterals after the fire for new construction, and the updated policy using 3/4". , developed/sent an email to Mike Reedy and Nicole Maddox addressing my concerns for the 3/4' upgrade and FEMA's potential perspective for LMWD no complying with FEMA's PA program requirement for not uniformly applying the previously approved code for using the 2" vs. the 3/4". Then read Mike's reply agreeing with my perspective.	0.25	\$160	\$40
Robert Bressett	SME, Policy	8/31/2022	IAC: Indirect Administrative Cost	Participated on a pre-FEMA Zoom call with Jess Vickery and Roger Williams (LMWD) and John Veale, with Congressman LaMalfa's office, as well as Nicole Maddox and Mike Reedy (Aptim). We discussed how we were going to approach the call with FEMA scheduled for Thursday, 09/01, and our concerns for FEMA delaying the appeal process and encumbering LMWD's recovery from the fire. We also discussed the salient points associated with our collective responses to the FEMA RFIs for the Temp Water, the Ash and Sediment Removal, and the Water Distribution projects and the fact that much of our responses had been previously provided to FEAM in our appeals' submittals.	1.5	\$160	\$240
Robert Bressett	SME, Policy	8/30/2022	DAC: Direct Administrative Cost	Read and responded Jess Vickery's email and associated attachments concerning the LMWD meeting minutes and water code policy addressing the use of 2" laterals for any new construction for the Water Grid.	0.75	\$160	\$120
Robert Bressett	SME, Policy	8/29/2022	DAC: Direct Administrative Cost	<p>Reviewed Mike Reedy's draft response to FEMA's RFI for this project resulting from narrative provided by Colleen Boak with Water Works, and provided suggested edits and comments for consideration.</p> <p>Participated on call with LMWD's Jess Vickery and Roger Williams, as well as Nicole Maddox and Mike Reedy (Aptim) to discuss our updated responses to the FEMA RFI for this appeal.</p>	2	\$160	\$320

Robert Bressett	SME, Policy	8/29/2022	DAC: Direct Administrative Cost	Reviewed Mike Reedy's draft response to FEMA's RFI for this project , and provided suggested edits and comments for consideration. Participated on call with LMWD's Jess Vickery and Roger Williams, as well as Nicole Maddox and Mike Reedy (Aptim) to discuss our updated responses to the FEMA RFI for this appeal.	0.5	\$160	\$80
Robert Bressett	SME, Policy	8/29/2022	DAC: Direct Administrative Cost	Reviewed Mike Reedy's draft response to FEMA's RFI for this project, and provided suggested edits and comments for consideration. Participated on call with LMWD's Jess Vickery and Roger Williams, as well as Nicole Maddox and Mike Reedy (Aptim) to discuss our updated responses to the FEMA RFI for this appeal.	0.25	\$160	\$40
Nicole Maddox	Program Manager	9/8/2022	DAC: Direct Administrative Cost	Meet with Roger and Jess to discuss continued concerns they have with the Ash and Sediment response. Discussion of strategy, some of their changes are accepted and some are withdrawn. Renumber attachments in files and letters, and compile transmission of RFI response and transmit to CalOES.	5	\$160	\$800
Nicole Maddox	Program Manager	9/8/2022	DAC: Direct Administrative Cost	Compile transmission of RFI response and transmit to CalOES.	0.5	\$160	\$80
Nicole Maddox	Program Manager	9/8/2022	DAC: Direct Administrative Cost	Compile transmission of RFI response and transmit to CalOES.	0.5	\$160	\$80
Nicole Maddox	Program Manager	9/7/2022	DAC: Direct Administrative Cost	Meet with Roger to discuss concerns he and Jess have with the Ash and Sediment response, revolving around different opinions of what is good, extra support versus too much information that could invite other questions. Reformat letter to clean up the flow, and then meet with Robert and Mike to discuss issues. Have another call after to review our suggested changes and what we feel needs to stay. Transmit that revised document to Jess and Roger.	6	\$160	\$960
Nicole Maddox	Program Manager	9/6/2022	DAC: Direct Administrative Cost	Finalize review of drafted response letter to CalOES, send to LMWD staff for their review with all attachments.	2.5	\$160	\$400
Nicole Maddox	Program Manager	9/6/2022	DAC: Direct Administrative Cost	Finalize review of drafted response letter to CalOES, send to LMWD staff for their review with all attachments.	1.5	\$160	\$240
Nicole Maddox	Program Manager	9/6/2022	DAC: Direct Administrative Cost	Finalize review of drafted response letter to CalOES, send to LMWD staff for their review with all attachments.	1	\$160	\$160
Nicole Maddox	Program Manager	9/2/2022	DAC: Direct Administrative Cost	Review drafted response letter to CalOES ahead of transmission to LMWD for their review.	2	\$160	\$320
Nicole Maddox	Program Manager	9/2/2022	DAC: Direct Administrative Cost	Review drafted response letter to CalOES ahead of transmission to LMWD for their review.	1	\$160	\$160
Nicole Maddox	Program Manager	9/2/2022	DAC: Direct Administrative Cost	Review drafted response letter to CalOES ahead of transmission to LMWD for their review.	1	\$160	\$160



Remit To
 APTIM ENVIRONMENTAL &
 INFRASTRUCTURE LLC
 P.O BOX 847958
 BOSTON,MA 02284-7958

APTIM ENVIRONMENTAL & INFRASTRUCTURE LLC

Invoice

Company: 00631
 Project No: 631024338
 Project Name: Lake Madrone Water District

Invoice No: 569703

Client Address:
 LAKE MADRONE WATER DISTRICT
 12 STAR CREEK RD
 OROVILLE,CA 95965

Invoice Date: 10/11/2022
 Billing Through: 09/30/2022
 Payment Terms: NET 30 DAYS
 Client No: 9141619
 Client Order No:
 ProjMgr\Designee: MADDOX, NICOLE J
 Contract No: 24338

Account Notes

Please include the invoice number on your remittance

Cost Cd	Cost Cd Description's	Date	Units	Rate	Amount
10021320	Program Administration / Imple				
10021320	5110				
	MADDOX, NICOLE J				
	Appeal Specialist	09/21/22	1.00	160.00	160.00
	Appeal Specialist	09/22/22	1.00	160.00	160.00
	Appeal Specialist	09/26/22	2.00	160.00	320.00
	Appeal Specialist	09/27/22	1.00	160.00	160.00

Total For: Program Administration / Imple 800.00

Sub Total: 800.00

Total Taxable Amount:

Total Tax:

Total For: *** This Invoice***** 800.00**

Less Retention:

Amount Now Due: *** This Invoice***** 800.00**

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