



REQUEST FOR STATEMENT OF QUALIFICATIONS (PROPOSAL)

TO PROVIDE

ON-CALL COMMUNICATIONS & OUTREACH CONSULTING
SERVICES

FOR

**OASIS Water Resource Center Program
(Contract No. OM23-24.132)**

Proposals Due

January 9, 2025 at 4:00 P.M.

Issued By:

**Moulton Niguel Water District
26161 Gordon Road, Laguna Hills, CA 92653**

Issue Date

November 14, 2024

VIA EMAIL

**Regarding: Moulton Niguel Water District
Request for Statement of Qualifications (Proposal) for On-Call Communications
& Outreach Consulting Services
Contract No. OM23-24.132**

The Moulton Niguel Water District (District) is requesting qualifications to provide On-Call Communications & Outreach Consulting Services for the District's OASIS Water Resource Center Program (OASIS Program). The services required will include supporting development of a Stakeholder Outreach Plan and stakeholder list, creating outreach and education collateral, and providing outreach and event support on an on-call basis to allow for expedited implementation of a variety of the District's OASIS Program needs. The scope of services anticipated is described in further detail below.

Proposals will be accepted until 4:00 P.M. on January 9, 2025, at the District's Office, 26161 Gordon Road, Laguna Hills, CA 92653 (front counter in lobby of Building A). Eight (8) hard copies of your technical proposal and fee proposal are requested, in addition to a fully searchable PDF copy.

A. PROJECT LOCATION, DESCRIPTION, AND BACKGROUND INFORMATION

About Moulton Niguel Water District

The District delivers high-quality drinking water, recycled water, and wastewater services to more than 170,000 customers in Laguna Niguel, Aliso Viejo, Mission Viejo, Laguna Hills, Dana Point, and San Juan Capistrano. While its operations have evolved along with the growth of its service area, the District's primary focus has remained largely unchanged: ensuring customers have a reliable, sustainable, and economical water supply for the future.

The District's water demands are currently met by a combination of imported potable water and locally treated recycled water. The District currently relies on imported water provided by Metropolitan Water District of Southern California (MWD) through its member agency, the Municipal Water District of Orange County (MWDOC). Imported water represents approximately 75 percent of the District's total water supply. MWD's water supply originates from two principal sources - the Colorado River via the Colorado River Aqueduct and the Feather River watershed/Lake Oroville in Northern California through the State Water Project. Significant uncertainties surround the continued reliability of both imported supply sources and various factors have the potential to affect the availability and reliability of the imported supplies. Recycled water provides up to 25 percent of the District water supplies and is produced at two local treatment plants.

OASIS Water Resource Center Program

In response to South Orange County's heavy reliance on imported water from the Colorado River and Northern California, the District is embarking on a visionary initiative to address ongoing water supply challenges. The OASIS Program, our resilience vision, aims to create a sustainable and resilient water future for the region. OASIS, an acronym for Optimized, Adaptive, Sustainable, and Integrated Supply, captures the program's core goals. The OASIS Program includes:

- **New Drinking Water Source:** Implementing direct potable reuse to produce a reliable and locally sourced drinking water supply.
- **Runoff Diversion:** Capturing dry weather runoff and small storm events from the Aliso Creek watershed to create an additional source for non-potable reuse.
- **Natural Treatment System:** Enhancing water quality with a nature-based treatment system to remove sediment, nutrients, pathogens, and other contaminants from urban runoff to improve watershed health. The nature-based treatment system may also provide and promote additional wildlife habitat.
- **Watershed Education Center:** Establishing a dedicated center for watershed education. This facility will serve as a community outreach and education hub, raising awareness about the program's water supply benefits and the broader benefits for the watershed.
- **Outreach and Partnerships:** Engaging in outreach initiatives and forming partnerships to ensure the success and widespread impact of the program.

The OASIS Program Factsheet is included in **Exhibit A**. The OASIS Program initiative aims to provide our community with a drought-resistant, local water supply. This not only increases operational flexibility for the District but also reduces dependence on imported water sources facing drought conditions. Furthermore, OASIS contributes to environmental conservation by minimizing discharges of treated wastewater into the ocean and urban runoff into Aliso Creek. The OASIS Program represents a holistic approach to water management, ensuring a sustainable and resilient water future for South Orange County. Together, we can create a lasting impact on water supply, environmental health, and community education.

Project Description

In support of the OASIS Program, the District is seeking the services of qualified communications and outreach consultants (Consultants) to provide support for the development and implementation of the OASIS Program. As part of the development of the OASIS Program, the District anticipates a robust stakeholder outreach plan to engage local agencies (cities and other water districts), tribes, disadvantaged communities, environmental groups, regulatory agencies, and other stakeholders in a collective effort to foster partnerships within the watershed to achieve the desired goals of water

reuse and watershed resilience. The OASIS Program outreach will provide ongoing community outreach and education around water supply challenges (e.g., drought and climate change impacts) and watershed benefits of the project. Outreach efforts and programs could focus on how water reuse, the runoff diversion, natural treatment system, and creek restoration work together to build water resiliency and support ecosystem diversity in the watershed. The stakeholder outreach plan aims to educate community members and stakeholders about water reuse (wastewater and urban runoff) and how this local water supply and ecosystem restoration project will promote water reliability and healthy habitats for future generations and serve as a model for other water and wastewater utilities. As part of the OASIS Program collaboration efforts, the District would be building on existing relationships with stakeholders that focus on ocean and watershed health.

In support of each component of this program, the District is seeking the services of a qualified Consultant(s) to provide support on an on-call, as needed basis. The Consultant(s) are to act as an expert extension of District staff to guide and assist with the implementation of its outreach and communication goals specific to the OASIS Program. It is anticipated that up to four (4) Consultants will be awarded a three-year contract to provide On-Call Services on a Task Order basis. The scope of services consists of four (4) categories. Each Consultant shall specify the scope of services for which they are submitting qualifications. A Consultant may submit qualifications for one or multiple categories. The four (4) categories are as follows:

1. Public Opinion Research and Survey
2. Public Relations and Community Outreach
3. Government Affairs
4. Collateral Material Development

Each task and its associated scope of services shall be awarded as a Task Order, complete with work plan, associated fee, and schedule, on an on-call basis and as determined by District staff. The Scopes of Work for various potential Task Orders will be based on District needs and will vary in size and scope. District staff's recommendation to the Board of Directors is anticipated to be an aggregate total contract amount of approximately \$1 million over a period of three (3) years.

The anticipated implementation guidelines for each Task Order are as follows:

- District will provide request-for-proposals / suggested scope(s)-of-work for each Task Order through concise written requests or initial scoping meetings.
- Consultant(s) will submit concise and simple proposals for each Task Order to identify fee and hours estimate, technical approach, anticipated scope of work, team members, schedule, and deliverables.
- Fee estimates will include hourly labor rates for each proposed team member (in accordance with approved contract rates), subtotals and totals for hours, labor, other direct costs (ODCs), and sub-consultants by task/subtasks.

- Consultant's fee rate schedule shall be in effect upon execution of contract and limited to maximum increases of 3% per year after the first year.
- The District reserves the right to solicit proposals for any potential project, program or communications services outside of the On-Call Services Contract as deemed appropriate by the District.

A summary of anticipated scopes of services is provided below for reference only and to provide Consultants with a general understanding of the breadth of services required. The District reserves the right to develop scopes of services and establish requirements as it deems appropriate for all Task Orders to meet the needs and objectives of the District.

The scope of services for this RFP is partially funded by FEMA Building Resilient Infrastructure and Communities grant and a USBR Water Smart grant and will be subject to federal procurement requirements. See the sample professional services agreement (PSA) in Exhibit B for additional requirements.

B. SCOPE OF WORK

This On-Call Communications & Outreach Consulting Services contract covers a range of programs, deliverables, and services as outlined above.

Category No. 1: Public Opinion Research and Survey

Objective: The District desires to better understand customers' and stakeholders' opinions and assess the likelihood of success of different outreach approaches. This category includes research on the local community and stakeholders to identify critical stakeholders and topics related to the OASIS Program. Potential scope and services for this category could include, but is not limited to:

- Prepare survey questions ensuring questions will yield unbiased responses.
- Perform polling and surveys of key community groups and stakeholders.
- Provide statistical data from which conclusions can be drawn and recommendations made relative to the number of respondents and the effect on the margin of error.
- Conduct outreach focus groups.
- Develop summary of research efforts to inform OASIS program messaging

Category No. 2: Public Relations and Local Community Outreach

Objective: To engage and inform key local communities about OASIS, ensuring their active participation and addressing concerns they may have. The Consultant will develop an outreach plan based on findings from the research performed in Category No. 1. Potential scope and services for this category could include, but is not limited to:

Outreach Plan

- **Identify Key Local Community Groups and Leaders:** Utilize findings from Category No. 1 to identify and prioritize key local community groups and leaders. It is anticipated critical stakeholders include County of Orange Departments (Public Works and Parks), South Orange County Watershed Management Area agencies, Aliso Creek Collaboration Group members, South Orange County Wastewater Authority (SOCWA) and SOCWA member agencies, service area cities, service area communities, District customers, local leaders, disadvantaged communities, local community groups and organizations, South Orange County Non-Governmental Organizations (NGOs), industry professionals, regulators, and all other interested stakeholders within South Orange County.
- **Develop and Maintain Local Community Stakeholder Database:** Through previous stakeholder engagement process, the District has prepared a stakeholder database. This task will broaden the stakeholder database to incorporate those not previously engaged at a local level, and to update contact information that is outdated.
- **Engagement Strategies:** Develop engagement strategies for success to clearly outline how best to inform and engage with the local community stakeholders and receive ongoing input on project development.
- **Local Partnerships:** Establish partnerships with local organizations, community leaders, and influencers to enhance outreach efforts and build trust within the community.
- **Crisis Communications Strategy:** Develop a communications plan to ensure proactive, quick, and detailed communications happens during a disruptive event.
- **Public Relations Campaign:** At the most appropriate time, provide relevant information to stakeholders to maximize local community stakeholder engagement and guide project development. Create a local community outreach calendar to align communication outreach efforts with project milestones.
- **Development of Written Communication Materials:** Draft written materials for press releases, newsletter articles, and stakeholder reports.
- **Coordinate Local Meetings:** Organize, schedule, and support local community meetings.
- **Feedback Mechanisms:** Set up channels (surveys, suggestion boxes, online platforms) to collect and analyze community feedback to inform project decisions.
- **Permission for Partner Logos:** Ensure proper permissions have been obtained for using partner logos in all OASIS Program promotional materials.

Event Support

- **Tactical Support for Events:** Assist District staff with OASIS Program events within the local community.
- **Develop Talking Points:** Prepare talking points for small and large community events.
- **Outreach to Participants:** Engage with potential participants and attendees.
- **Utilize Communication Collateral:** Utilize OASIS Program communication collateral developed in Category No. 4.

Category No. 3: Government Affairs and Other Stakeholders

Objective: To engage and collaborate with state and federal agencies, advocacy groups, and other stakeholders to garner support, secure funding, and facilitate the successful implementation of OASIS. This category includes outreach to governmental agencies outside of the local community. Potential scope and services for this category could include, but is not limited to:

Government Relations Plan

- **Stakeholder Identification and Mapping:** Identify the critical project stakeholders outside of the local community and support the broader agency and government stakeholder outreach. It is anticipated critical stakeholders include state and federal agencies and legislators, wateruse industry leaders, advocacy groups, and funding bodies.
- **Engage with State and Federal Agencies:** Develop strategic partnerships with state and federal agencies, environmental organizations, and advocacy groups to align the project with broader water resource and environmental goals. Advocate for the OASIS Program by engaging with government agencies, elected officials, and policymakers to address regulatory requirements and gain support.
- **Legislative Engagement:** Monitor relevant legislation and regulatory changes and engage with state and federal legislators to advocate for policies that support the project's objectives.
- **Advocate for Funding:** Seek funding opportunities and advocate for policy initiatives that support the OASIS Program's objectives.
- **High-Level Briefings and Presentations:** Prepare and deliver briefings, presentations, and reports to state and federal stakeholders to provide updates, demonstrate progress, and highlight the project's impact.
- **Government Relations:** Coordinate government affairs at the state and federal levels to raise awareness and build support for the project among broader audiences and influential stakeholders.

Event Support

- **Tactical Support for Events:** Assist District staff for OASIS Program stakeholder meetings with legislators and regulatory officials.
- **Utilize Communication Collateral:** Utilize OASIS Program communication collateral developed in Category No. 4, as appropriate.

Category No. 4: Collateral Material Development

Objective: To develop collateral including, but not limited to, printed material, videos, articles, power point presentations and graphics to implement the Outreach and Governmental Plans developed in Categories Nos. 2 and 3.

- Consultant will utilize the findings from Category No. 1 for the development of OASIS Program collateral.
- Lead in developing the graphic design to provide a consistent look and branding to all OASIS Program communications collateral, including the project logo and website, consistent with current District Brand Guides.
- Develop outreach and education materials that will be used to communicate with external stakeholders. Bilingual content may be required.
- Prepare printed materials, such as flyers, factsheets, FAQs, and brochures.
 - The printed materials shall highlight the OASIS Program, project benefits, project schedule, information about the advanced purification technology, map illustrating the approximate location of proposed facilities, and other pertinent information.
 - Informational materials shall be tailored to different audiences, as necessary, to address specific concerns and needs, be written for a varying knowledge base and convey important messages in a clear and consistent manner.
- Prepare digital collateral such as presentations, videos, animations, and graphics.
 - Prepare a 3-to-5-minute animated video that conveys the OASIS Program concept. This task includes developing storyboard concepts.
- Employ a mix of audio and video media for use in presentations, social media, and the website.
- Ensure proper permissions have been obtained for using partner logos in all OASIS Program promotional materials.
- Deploy content through a variety of channels, including emails, e-blasts, social media, and video channels, etc.
- Create an annual written report in digital format for internal and external stakeholders that highlights outreach opportunities and successes of the project.

Repository

A database of all OASIS Program collateral and mentions will assist in achieving the outreach goals and implementing the outreach plan.

- Research, compile, and archive all media related to OASIS Program.
- Develop a repository of OASIS Program photos and videos. This repository can be located on the District SharePoint and managed by Consultant.

C. PROPOSAL SCHEDULE

The proposed schedule for contract award is as follows:

- RFP Date Published: November 14, 2024
- Pre-Proposal Meeting: December 9, 2024 (1:30PM-3:30PM)
- Deadline for Inquiries: December 12, 2024
- Proposals Due: January 9, 2025
- Candidate Interviews (Tentative): February 3, 2025 (Week of)
- Anticipated Board Award: March 13, 2025

There will be an optional Pre-Proposal Meeting on December 9, 2024, at 1:30 p.m. at the District's office located at 26161 Gordon Road, Laguna Hills, CA 92653. All Consultants considering submitting a proposal for these On-Call Communications & Outreach Consulting Services are encouraged to attend the Pre-Proposal Meeting. The District reserves the right, at its sole discretion, to adjust the RFP schedule, as it deems necessary.

D. PROPOSAL CONTENTS

The contents of the Proposal should contain the information summarized below but should be limited to a maximum of twenty-five (25) total pages, not including transmittal letter, index or table of contents, front and back covers, title pages/separation tabs, personnel resumes, and appendices. Resumes (Section G below) and Insurance certificates (Section L below) may be included in the appendices. Consultants submitting for multiple categories in this RFP can include an additional three (3) pages per category. For instance, a Consultant submitting for two categories may submit up to twenty-eight (28) pages total; for three categories, up to thirty-one (31) pages; and for four categories, up to thirty-four (34) pages.

- A. Introduction: Brief overview of firm or team proposing.
- B. Management Approach: Description of firm's general approach to providing outreach services under this contract, identifying major issues, and recommendations to accomplish the potential tasks. Describe your firm's proposed approach to use innovative methods and strategies to perform the proposed outreach scope of services.
- C. Team: Descriptions of specific experience and capabilities of designated project manager, sub-consultants, and key support staff related to the previously outlined scope of work. Key personnel assigned to the project shall not be reassigned without prior District written approval. Provide the office locations of each key team member.
- D. Project Management: Describe your firm's project management approach, tools, communication, and QA/QC procedures as they apply to this solicitation.

- E. Experience: Description of the project team's past record of performance on similar projects in your firm's selected program category(ies) for which your firm has provided services. Firm shall include their qualifications for potable reuse programs like the OASIS Program, including communications experience with DPR, urban runoff diversions, and other program elements. Provide sample collateral material for programs/projects. Consultant shall also provide experience with crisis communications as it relates to this type of program. Include a discussion of factors such as control of costs, quality of work, and ability to meet agreed upon schedules.
- F. Project References: Provide 3-5 specific project reference contacts for your firm for each service category. Indicate in your proposal if a reference covers more than one category. Contacts shall have had direct involvement in the services provided by the Consultant.
- G. Resumes: Provide concise resumes of each key project team member with all relevant information including credentials, years of experience, specific roles and expertise.
- H. Sub-Consultants: Provide a list of proposed Sub-Consultants with contact information and their specific role(s) in the Project scope. It is encouraged to minimize use of Sub-Consultants.
- I. Schedule: Assurance of the firm's availability, considering the firm's current and planned workload.
- J. Fee Schedule: Provide a listing of current hourly labor rates by work classification and personnel. Include all expected fees for Other Direct Costs (ODCs), Sub-Consultant rates, or other specific fees.
- K. Conflict of Interest: Documentation that personal or organizational conflicts of interest prohibited by law do not exist.
- L. Insurance: Submittal from either the firm's insurance carrier or equivalent regarding the firm's professional liability coverage. District requires coverage as shown in the sample copy of the District's professional services agreement attached as Exhibit B to this Request for Proposal. Any additional premium required by the insurance carrier for such coverage shall be included in your proposed fee. District will not pay a separate insurance surcharge for the required coverage. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A Class XIII or equivalent, or as otherwise approved by the District.

- M. Contract: A sample copy of the District's professional services agreement is attached as Exhibit B to this Request for Proposal. Please only respond to this request for proposals if you can fulfil this contract. The District will not make changes to the contract.

E. EVALUATION PROCESS AND SELECTION CRITERIA

Evaluation of the proposals will be based upon a competitive selection process. It will consider all elements of the proposal and will not be limited to staff rates alone. The evaluation will be performed in accordance with Part 200, Subpart D Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and the Procurement Standards set forth in Section 200.317-200.327. Said federal requirements apply since the scope of services will be partially funded by federal grants. District staff will review all statements of proposals received by the stated deadline. Criteria to be evaluated will include the following in order of relative importance:

- A. Experience and performance under similar contracts or scope of work, including a summary of the Project team's qualifications.
- B. Qualifications and use of sub-consultants and experience and performance working together with proposed team members and sub-consultants.
- C. Ability to understand and perform the project tasks efficiently and in accordance with the requirements of the District.
- D. Project management approach including cost controls, scheduling, resource management, and QA/QC approach.
- E. Appropriateness of Consultants' rate schedule, including sub-consultant rates.
- F. Commitments to schedules and ability to meet deadlines.
- G. References will be contacted to validate the Consultant's experience and capabilities relevant to the project. We will evaluate Consultant's past performance in key areas such as project management, adherence to timelines, budget management, and quality of deliverables.

Consultant must satisfy the District of its ability to perform the services required. Consultant must demonstrate and document a history of timely and satisfactory performance of similar projects in a manner that addresses the stated evaluation criteria. Consultant shall be responsible for the accuracy of the information supplied concerning references. In addition, the District may consider evidence of untimely and unsatisfactory performance on prior similar projects to disqualify any Consultant. The District reserves the right to reject any and all proposals.

The District may select and award separate contracts to multiple Consultants to perform this scope of work.

F. METHOD OF COMPENSATION FOR CONSULTING SERVICES

All invoices shall be addressed to the attention of the District Project Manager for this project and must be received by this office and/or e-mailed to invoices@mnwd.com no later than the fifth day of every month. The purchase order number (to be provided by the District Project Manager) must be listed on all invoices. The following information needs to be shown on all invoices:

- A. Original Task Order amount
- B. Change to Task Order amount (if any)
- C. Revised total Task Order amount (if any)
- D. Previous invoiced amount
- E. Current invoice amount
- F. Total invoiced amount
- G. Contract amount remaining
- H. Task Order and Purchase Order Number
- I. Attn: District Project Manager
- J. Contract Number

Bills without this information or showing a total invoiced amount exceeding the contract amount may be returned unpaid. Any increase in the approved contract amount due to a change in project scope must have prior written approval from the District.

The Consultant will be required to submit up to two invoices per month for grant compliance. The District will work with the Consultant to separate scope and budget after the contract is awarded.

G. GENERAL

The District may conduct interviews with the firm's proposed key personnel and may contact recent clients. Selection of the Consultant will generally be based on the proposal contents, prior experience of the firm, and specific experience and capabilities of the designated project manager and other key personnel. The firm, and in particular the project manager, must be fully capable in all areas outlined under the scope of work above. Based upon this information, District staff will make a recommendation of a firm to the District Board of Directors for award of contract. The selected firm must be able to begin work immediately upon award of contract and must be able to maintain the required level of effort to meet the proposed schedule.

This request does not commit District to retain any Consultants, to pay costs incurred in the preparation of proposals, or to proceed with the project. District reserves the right to reject any or all

proposals, to negotiate with any qualified applicant, and to appoint more than one firm to provide services on given portions of the project.

Proposals (including accompanying materials) will become the property of MWND. Proposals will be held in confidence to the extent permitted by law. After award of a contract or after rejection of all proposals, the proposals will be public records subject to disclosure under the California Public Records Act (Government Code Section 6250 et seq.).

The District reserves the right to request additional information from prospective Consultants prior to final selection and to consider information about a firm other than that submitted in the proposal or interview. The District may select for contract negotiations the firm that, in the District 's judgment, will best meet the project's needs, regardless of the comparison of fees and costs estimated by the Consultants.

Proposals will be accepted until 4:00 P.M. on January 9, 2025, at the District, 26161 Gordon Road, Laguna Hills, CA 92653 (Building A). Eight (8) copies of your proposal are requested, in addition to a searchable PDF copy.

If you have any questions regarding the Request for Proposal, please submit written questions to Laura Rocha, District Project Manager, at oasis@mnwd.com by December 12, 2024. All questions will be responded to by email to all recipients of this Request for Proposal.

Sincerely,

A handwritten signature in cursive script that reads "Laura Rocha".

Laura Rocha, Water Resources Manager
Moulton Niguel Water District

Exhibit A: OASIS Program Factsheet



Optimized | Adaptive | Sustainable | Integrated | Supply

CREATING A LOCAL WATER RESOURCE for South Orange County



■ Aliso Creek Watershed
■ Moulton Niguel Service Area

OASIS BENEFITS

www.mnwd.com



Local Water Supply

Reduces dependence on imported water sources and promotes water self-sufficiency by developing new local water.



Water Sustainability

By recycling and treating South Orange County's unused wastewater, OASIS conserves and extends the availability of natural water resources.



Drought Resilience

Produces a drought-proof and reliable source of drinking water, reducing our community's vulnerability to water shortages during prolonged droughts.



Healthy Watershed

OASIS will improve local creek and beach water quality while also restoring creek habitat by capturing and reusing excess local runoff.



Economic Benefits

Cost effective locally resilient water supply that supports over \$10 billion annually in economic activity. (Estimated from per capita income in our service area.)



Community Connection

The OASIS Education Center will empower the local community to contribute to a healthy watershed by highlighting the project's water supply and broader watershed benefits.



OASIS aims to be the first Direct Potable Reuse (DPR) advanced water treatment project in Orange County. The DPR regulations from the State Water Resources Control Board specify the regulatory steps necessary to implement OASIS.

CONTACT

Laura Rocha

Water Resources Manager

oasis@mnwd.com

HOW OASIS WILL WORK

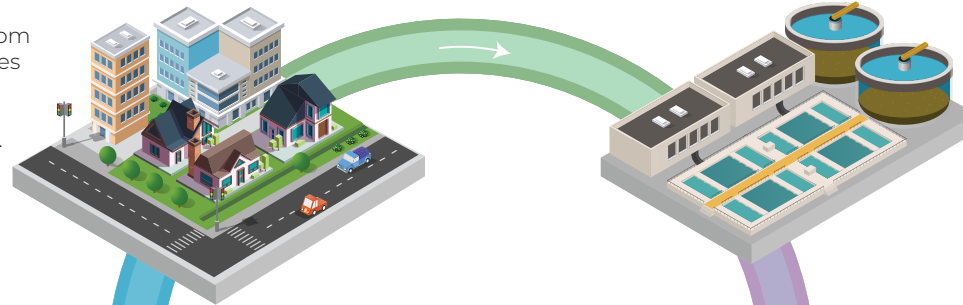
Water Type Legend

- Used Indoor Water
- Recycled Water
- Purified Drinking Water

Homes & Businesses

Indoor water used from homes and businesses flows to the Regional Treatment Plant for treatment and reuse.

Direct Potable Reuse



Regional Treatment Plant

Used indoor water is initially treated at the Regional Treatment Plant to remove the solids and clean the water for the next step of treatment.

Proposed Advanced Water Treatment Plant

The proposed Advanced Water Treatment Plant would use state-of-the-art, advanced technologies to ensure water is purified and safe for homes and business to use as drinking water.

Tertiary Water Treatment Plant

The next phase of treatment uses more advanced treatment systems to further clean the water to be reused for irrigation.

Runoff Diversion



Recycled Water Distribution



Proposed Diversion & Natural Treatment System

The proposed diversion of urban runoff and stormwater, intended for reuse in supplementing the recycled water system, involves treatment through a proposed natural treatment system before being stored in the Lake.

Proposed Education Center

Establishing a dedicated watershed education center will raise awareness about the project benefits and serve as a community education hub.

*Potable Water = Drinking Water

Exhibit B: Professional Services Agreement

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
MOULTON NIGUEL WATER DISTRICT AND
INSERT NAME**

MNWD PROJECT: _____
CONTRACT NO. _____

This Agreement (the "Agreement") is made and entered into on _____, ("Effective Date") by and between the Moulton Niguel Water District ("MNWD") and Insert Name, a [***INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY***] with its principal place of business at [***INSERT ADDRESS***] ("Consultant"). MNWD and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

SECTION I – PURPOSE

Consultant shall provide certain professional services required by MNWD on the terms and conditions set forth in this Agreement. Consultant represents that it has the qualifications, experience, licenses, and facilities necessary to properly perform [***INSERT TYPE OF SERVICES***] in a competent and professional manner.

SECTION II – TERM

The term of this Agreement shall be from [***INSERT START DATE***] to [***INSERT ENDING DATE***], unless earlier terminated as provided herein. [***INSERT FOLLOWING SENTENCE FOR OPTIONAL RENEWAL***] MNWD shall have the unilateral option to renew this Agreement for no more than [INSERT NUMBER] additional one-year terms.

SECTION III – SCOPE OF SERVICES

Section 3.1. Scope of Services. The scope of services to be provided by Consultant is set forth on Exhibit "A" attached hereto and by this reference incorporated herein ("Services"). Consultant warrants that it will perform the Services as set forth herein in a competent, professional and satisfactory manner. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules, and regulations.

Section 3.2. Schedule of Services. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines, including any schedule of services set forth in Exhibit "A."

Section 3.3. Permits, Licenses, Fees and Other Charges. Consultant shall, in accordance with applicable laws and ordinances, obtain at his/her/its expense all permits and licenses necessary to accomplish the Services. Failure to maintain a required license or permit may result in immediate termination of this Agreement.

SECTION IV – COMPENSATION

Section 4.1. Payment for Services Rendered. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "B" attached hereto and incorporated herein by reference. The total

compensation shall not exceed [***INSERT WRITTEN DOLLAR AMOUNT***] (\$[***INSERT NUMERICAL DOLLAR AMOUNT***]) without written approval by MNWD. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

Section 4.2. Invoices. Consultant shall submit to MNWD a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. MNWD shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

- A. Payment shall not constitute acceptance of any work completed by Consultant.
- B. The making of final payment shall not constitute a waiver of any claims by MNWD for any reason whatsoever.

Section 4.3. Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by MNWD.

Section 4.4. Extra Work. At any time during the term of this Agreement, MNWD may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by MNWD to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization by MNWD.

SECTION V – REPRESENTATIVES OF THE PARTIES

Section 5.1. MNWD's Representative. MNWD hereby designates its [***INSERT TITLE***], or his or her designee, to act as its representative for the performance of this Agreement ("MNWD's Representative"). Consultant shall not accept direction or orders from any person other than MNWD's Representative or his or her designee.

Section 5.2. Consultant's Representative. Consultant hereby designates [***INSERT PERSON OR TITLE***], or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

SECTION VI – RESPONSIBILITIES OF CONSULTANT

Section 6.1. Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. MNWD retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on

behalf of Consultant shall also not be employees of MNWD and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

Section 6.2. Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from MNWD, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein.

Section 6.3. Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of MNWD.

Section 6.4. Substitution of Key Personnel. Consultant has represented to MNWD that certain key personnel will perform and coordinate the Services under this Agreement. The key personnel for performance of this Agreement are as follows: *****INSERT PERSON(S)*****. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of MNWD. In the event that MNWD and Consultant cannot agree as to the substitution of key personnel, MNWD shall be entitled to terminate this Agreement for cause. Furthermore, any personnel who fail or refuse to perform the Services in a manner acceptable to MNWD, or who are determined by MNWD to be uncooperative, incompetent, a threat to the adequate or timely completion of the Services or a threat to the safety of persons or property, shall be promptly removed from performing Services by the Consultant at the request of MNWD.

Section 6.5. Coordination of Services. Consultant agrees to work closely with MNWD staff in the performance of Services and shall be available to MNWD's staff, consultants and other staff at all reasonable times.

Section 6.6. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold MNWD, its officials, directors, officers, employees, and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

SECTION VII – LABOR CODE PROVISIONS

Section 7.1. Prevailing Wages. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects (“Prevailing Wage Laws”). If the services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold MNWD, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

Section 7.2. Registration and Labor Compliance. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

Section 7.3. Compliance Monitoring and Stop Orders. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by MNWD. Consultant shall defend, indemnify and hold MNWD, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

Section 7.4. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker’s Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

SECTION VIII – INDEMNIFICATION

Section 8.1. To the fullest extent permitted by law, Consultant shall defend (with counsel of MNWD’s choosing), indemnify and hold MNWD, its officials, officers, employees, volunteers, and

agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, MNWD, its officials, officers, employees, agents, or volunteers.

Section 8.2. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

SECTION IX – INSURANCE

Section 9.1. Time for Compliance. Consultant shall not commence Work under this Agreement until it has provided evidence satisfactory to MNWD that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to MNWD that the subconsultant has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for MNWD to terminate this Agreement for cause.

Section 9.2. Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subconsultants. Consultant shall also require all of its subconsultants to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

A. Commercial General Liability. Coverage for commercial general liability insurance shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001). Consultant shall maintain limits no less than \$2,000,000 per occurrence, or the full per occurrence limits of the policies available, whichever is greater, for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit or product-completed operations aggregate limit is used, including but not limited to form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. The general liability policy shall include or be endorsed (amended) to state that: (1) MNWD, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Work or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work using as broad a form as CG 20 10 11 85 or the latest versions of both CG 20 10 and CG 20 37; and (2) the insurance coverage shall be primary insurance as respects MNWD, its directors, officials, officers, employees, agents, and volunteers using as broad a form as

CG 20 01 04 13, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by MNWD, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

B. Automobile Liability. Coverage shall be at least as broad as the latest version of the Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto). Consultant shall maintain limits no less than \$1,000,000 per accident for bodily injury and property damage. The automobile liability policy shall include or be endorsed (amended) to state that: (1) MNWD, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects MNWD, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by MNWD, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way. The automobile liability policy shall cover all owned, non-owned, and hired automobiles.

C. Workers' Compensation and Employer's Liability Insurance. Consultant shall maintain Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance in an amount no less than \$1,000,000 per accident for bodily injury or disease. The insurer shall agree to waive all rights of subrogation against MNWD, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

D. Professional Liability. Consultant shall procure and maintain, and require its subconsultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession covering Consultant's wrongful acts, negligent actions, errors or omissions. The retroactive date (if any) is to be no later than the effective date of this Agreement. Consultant shall purchase a one-year extended reporting period: i) if the retroactive date is advanced past the effective date of this Agreement; ii) if the policy is canceled or not renewed; or iii) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement. Such insurance shall be in an amount not less than \$2,000,000 per claim.

E. Excess Liability (if necessary). The limits of Insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess coverage shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of MNWD (if agreed to in a written contract or agreement) before MNWD's own primary or self-insurance shall be called upon to protect it as a named insured. The policy shall be endorsed to state that MNWD, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured at least as broad a form as CG 20 10 11 85 or the latest versions of both CG 20 10 and CG 20 37. The coverage shall contain no

special limitations on the scope of protection afforded to MNWD, its directors, officials, officers, employees, agents, and volunteers.

Section 9.3. All Coverages. The Consultant is required by this Agreement to state that: (i) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to MNWD; If any of the required coverages expire or cancel during the term of this Agreement, the Consultant shall deliver the renewal certificate(s) including the general liability additional insured endorsement to MNWD at least ten (10) days prior to the cancellation or expiration date; and (ii) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to MNWD, its directors, officials, officers, employees, agents, and volunteers.

Section 9.4. Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to MNWD, its directors, officials, officers, employees, agents, and volunteers.

Section 9.5. Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by MNWD. Consultant shall guarantee that, at the option of MNWD, either: (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects MNWD, its directors, officials, officers, employees, agents, and volunteers; and insurer shall provide or be endorsed to provide that the deductibles or SIR may be satisfied by either the named or additional insureds, co-insurers, and/or insureds other than the First Named Insured or (ii) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

Section 9.6. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A-:VII or equivalent, or as otherwise approved by MNWD.

Section 9.7. Verification of Coverage. Consultant shall furnish MNWD with certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to MNWD. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by MNWD before work commences. MNWD reserves the right to require complete, certified copies of all required insurance policies, at any time. In the event that the Consultant employs other consultants (sub-consultants) as part of the services covered by this agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified above.

Section 9.8. Reporting of Claims. Consultant shall report to MNWD, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

SECTION X – TERMINATION

Section 10.1. Grounds for Termination. MNWD may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to MNWD, and Consultant shall be

entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

Section 10.2. Effect of Termination. If this Agreement is terminated as provided herein, MNWD may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

Section 10.3. Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, MNWD may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

SECTION XI – OWNERSHIP OF MATERIALS AND CONFIDENTIALITY

Section 11.1. Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for MNWD to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”). All Documents & Data shall be and remain the property of MNWD, and shall not be used in whole or in substantial part by Consultant on other projects without MNWD’s express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to MNWD reproducible copies of all Documents & Data, in a form and amount required by MNWD. MNWD reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by MNWD at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to MNWD upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to MNWD any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all Documents & Data on file for a minimum of fifteen (15) years following completion of the Project, and shall make copies available to MNWD upon the payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify MNWD and provide MNWD with the opportunity to obtain the documents.

Section 11.2. Subconsultants. Consultant shall require all subconsultants to agree in writing that MNWD is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by MNWD.

Section 11.3. Right to Use. MNWD shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at MNWD’s

sole risk. If MNWD uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to MNWD upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

Section 11.4. Intellectual Property Indemnification. Consultant shall defend, indemnify and hold MNWD, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by MNWD of the Documents & Data, including any method, process, product, or concept specified or depicted.

Section 11.5. Confidentiality. All Documents & Data, either created by or provided to Consultant in connection with the performance of this Agreement, shall be held confidential by Consultant. All Documents & Data shall not, without the prior written consent of MNWD, be used or reproduced by Consultant for any purposes other than the performance of the Services. Consultant shall not disclose, cause or facilitate the disclosure of the Documents & Data to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant that is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use MNWD's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of MNWD.

SECTION XII – ACCOUNTING, INSPECTION AND AUDIT

Section 12.1. Records. Consultant shall keep and shall preserve for four (4) years after final completion of the services, accurate and detailed records of all ledgers, books of account, invoices, vouchers, cancelled checks, and other documents or records evidencing or relating to the work, services and disbursements charged to MNWD under this Agreement (collectively, "Books and Records"). Any and all Books and Records must be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant under this Agreement. During such four (4) year period, Consultant shall give MNWD and its agents, during normal business hours, access to such Books and Records. MNWD and its agents shall have the right to make copies of any of the said Books and Records.

Section 12.2. Custody. Where MNWD has reason to believe that any of the Books and Records required to be maintained by this Article may be lost or discarded due to dissolution or termination of Consultant's business, MNWD may, by written request, require that custody of such Books and Records be given to a person or entity mutually agreed upon and such Books and Records thereafter shall be maintained by such person or entity at Consultant's expense. Access to the Books and Records shall be granted to MNWD and its Representatives.

SECTION XIII – GENERAL PROVISIONS

Section 13.1. Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective Parties may provide in writing for this purpose:

MNWD:

Moulton Niguel Water District
P.O. Box 30203
Laguna Niguel, CA 92607
Attn: **[INSERT Title]**

CONSULTANT:

Insert Name
[ADDRESS]
[CITY, STATE ZIP CODE]
Attn: **[INSERT PERSON]**

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

Section 13.2. Subcontracting/Subconsulting. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of MNWD. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

Section 13.3. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of MNWD's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

Section 13.4. Time of Essence. Time is of the essence for each and every provision of this Agreement.

Section 13.5. MNWD's Right to Employ Other Consultants. MNWD reserves right to employ other consultants in connection with this Project.

Section 13.6. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

Section 13.7. Assignment or Transfer. Consultant shall not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of MNWD. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

Section 13.8. Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants

of Consultant, except as otherwise specified in this Agreement. All references to MNWD include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

Section 13.9. Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

Section 13.10. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

Section 13.11. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

Section 13.12. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 13.13. Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with MNWD's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, MNWD shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of MNWD, during the term of his or her service with MNWD, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

Section 13.14. Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

Section 13.15. Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Orange County.

Section 13.16. Government Code Claim Compliance. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against MNWD. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against MNWD.

Section 13.17. Attorneys' Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.

Section 13.18. Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

Section 13.19. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

Section 13.20. Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a written amendment signed by both Parties.

Section 13.21. Federal Funding Requirements. Funding through the Bureau of Reclamation and FEMA financial assistance will be used to fund all or a portion of this Agreement. Consultant shall comply with all federal requirements including, but not limited to, the following: 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, which is expressly incorporated herein by reference, and Federal Contract Provisions attached hereto as Exhibit C and incorporated herein by reference. Subcontracts, if any, shall contain a provision making them subject to all of the provisions stipulated in this Agreement, including but not limited to, 2 C.F.R. Part 200 and the Federal Contract Provisions. With respect to any conflict between such federal requirements and the terms of this Agreement and/or the provisions of state law and except as otherwise required under federal law or regulation, the more stringent requirement shall control.

MOULTON NIGUEL WATER DISTRICT:

[INSERT NAME]:

By: _____

By: _____
(Authorized Representative of
Consultant)

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT B
FEE SCHEDULE

EXHIBIT C

FEDERAL CONTRACT PROVISIONS

1. REQUIRED CONTRACT PROVISIONS IN ACCORDANCE WITH APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.327)

(a) Appendix II to Part 200 (A) - Remedies: The parties shall comply with the administrative, contractual, or legal remedies in the Agreement for when the Consultant violates or breaches the Agreement terms and shall comply with the applicable sanctions and penalties as appropriate in the Agreement.

(b) Appendix II to Part 200 (B) - Termination for Cause/Convenience. The parties shall comply with the termination for cause provision and the termination for convenience provision in the Agreement.

(c) Appendix II to Part 200 (C) – Equal Employment Opportunity: Since the Agreement meets the definition of a “federal assisted construction contract” in 41 CFR § 60-1.3, Consultant agrees as follows during the performance of the Agreement:

(i) Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(ii) Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(iii) Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

(iv) Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's

commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(v) Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(vi) Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(vii) In the event of the Consultant's noncompliance with the nondiscrimination clauses of the Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(viii) Consultant will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

(d) Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

(e) The District further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the District so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement.

(f) The District agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of the Consultant and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

(g) The District further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally

assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the District agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part the grant (contract, loan, insurance, guarantee) for this project; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(h) Appendix II to Part 200 (D), (E) – Davis-Bacon Act; Contract Work Hours and Safety Standards Act: These provisions are not applicable to the Agreement.

(i) Appendix II to Part 200 (F) – Rights to Inventions Made Under a Contract or Agreement: This provision is not applicable to the Agreement.

(j) Appendix II to Part 200 (G) – Clean Air Act and Federal Water Pollution Control Act: The Consultant shall comply with the following:

(i) Pursuant to the Clean Air Act, (1) Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., (2) Consultant agrees to report each violation to the District and understands and agrees that the District will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection District Regional Office, and (3) Consultant agrees to include these requirements in each subcontract exceeding \$150,000.

(ii) Pursuant to the Federal Water Pollution Control Act, (1) Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., (2) Consultant agrees to report each violation to the District and understands and agrees that the District will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Consultant agrees to include these requirements in each subcontract exceeding \$150,000.

(k) Appendix II to Part 200 (H) – Debarment and Suspension:

(i) This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such Consultant is required to verify that none of the Consultant's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(ii) Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(iii) This certification is a material representation of fact relied upon by District. If it is later determined that Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the District, the Federal

Government may pursue available remedies, including but not limited to suspension and/or debarment.

(iv) Consultant agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C throughout the Agreement. The Consultant further agrees to include a provision requiring such compliance in its subcontracts.

(v) Consultant warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any federal programs. Consultant also agrees to verify that all subcontractors performing work under this Agreement are not debarred, disqualified, or otherwise prohibited from participation in accordance with the requirements above. Consultant further agrees to notify the District in writing immediately if Consultant or its subcontractors are not in compliance during the term of this Agreement.

(l) Appendix II to Part 200 (I) – Byrd Anti-Lobbying Act:

(i) Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

(m) Appendix II to Part 200 (J) – §200.323 Procurement of Recovered Materials:

(i) Consultant shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement.

(ii) In the performance of this Agreement, the Consultant shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: competitively within a timeframe providing for compliance with the contract performance schedule; meeting contract performance requirements; or at a reasonable price.

(iii) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(iv) Consultant also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

(n) Appendix II to Part 200 (K) – §200.216 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:

(i) Consultant shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system funded under this Agreement. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(2) Telecommunications or video surveillance services provided by such entities or using such equipment.

(3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(ii) See Public Law 115-232, section 889 for additional information.

(o) Appendix II to Part 200 (L) – §200.322 Domestic Preferences for Procurement:

(i) Consultant shall, to the greatest extent practicable, purchase, acquire, or use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts.

(ii) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.