



moulton niguel water district

**ENGINEERING & OPERATIONS
BOARD OF DIRECTORS' MEETING
MOULTON NIGUEL WATER DISTRICT**

27500 La Paz Road, Laguna Niguel

May 16, 2016

8:30 AM

Approximate Meeting Time: 3 Hours

1. CALL MEETING TO ORDER
2. APPROVE THE MINUTES OF THE APRIL 18, 2016 ENGINEERING AND OPERATIONS BOARD OF DIRECTORS' MEETING
3. PUBLIC COMMENTS
Persons wishing to address the Board of Directors on matters not listed on the Agenda may do so at this time. "Request To Be Heard" forms are available at the entrance to the Board Room. Comments are limited to five minutes unless further time is granted by the Presiding Officer. Submit form to the Recording Secretary prior to the beginning of the meeting.

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

PRESENTATION ITEMS

4. Emergency Response System Overview

DISCUSSION ITEMS

5. Valve Replacements Construction Contract Award
6. Amendment No. 1 to the Professional Services Agreement - LSA Associates, Inc.
7. Security Services
8. Amendment No. 7 to Agreement with ATS Communications for FY 2016-17

INFORMATION ITEMS

9. Baker Water Treatment Plant Project Update
10. Operations Center Consolidation Improvement Project Update

11. Quarterly Capital Improvement Program Report
12. Future Agenda Items (Any items added under this section are for discussion at future meetings only)
13. Late Items (Appropriate Findings to be Made)
 - a. Need to take immediate action; and
 - b. Need for action came to District's attention after Agenda Posting. [Requires 2/3 vote (5 members) or unanimous vote if less than 2/3 are present]

CLOSED SESSION

14. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9

One Potential Case

15. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957

Title: General Manager

Discussion of evaluation process

ADJOURNMENT

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

Agenda exhibits and other writings that are disclosable public records distributed to all, or a majority of, the members of the Moulton Niguel Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection at the District Office, 27500 La Paz Road, Laguna Niguel, CA ("District Office"). If such writings are distributed to members of the Board less than seventy-two (72) hours prior to the meeting, they will be available in the reception area of the District Office at the same time as they are distributed except that, if such writings are distributed immediately prior to, or during the meeting, they will be available in the Board meeting room and on the District website at www.mnwd.com.



moulton niguel water district

DRAFT MINUTES OF THE REGULAR MEETING OF THE ENGINEERING & OPERATIONS BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT

April 18, 2016

A Regular Meeting of the Engineering & Operations Board of Directors of the Moulton Niguel Water District was held at the District offices, 27500 La Paz Road, Laguna Niguel, California, at 8:30 AM on April 18, 2016. There were present and participating:

DIRECTORS

Duane Cave	Director
Scott Colton	Vice President/Chair
Richard Fiore	Director
Donald Froelich	President
Gary Kurtz	Director
Larry Lizotte	Director
Brian Probolsky	Vice President (arrived at 9:02 a.m.)

Also present and participating were:

STAFF MEMBERS, LEGAL COUNSEL, AND MEMBERS OF THE PUBLIC

Joone Lopez	General Manager
Matt Collings	Assistant General Manager
Marc Serna	Director of Engineering & Operations
Gina Hillary	Director of Human Resources
Jeff Ferre	Best, Best, & Krieger (General Counsel)
Paige Gulck	Board Secretary
Tim Bonita	Recording Secretary
Trevor Agrelius	MNWD
Drew Atwater	MNWD
Johnathan Cruz	MNWD
Todd Dmytryshyn	MNWD
Megan Geer	MNWD
Tracy Ingebrigtsen	MNWD
Steve Merk	MNWD

#2.

Mark Mountford	MNWD
Todd Novacek	MNWD
Eva Plajzer	MNWD
Sarina Sriboonlue	Arcadis
Yasie Malek	County of Orange
Paeter Garcia	Best, Best & Krieger
Kelly Rowe	Member of the Public

1. CALL MEETING TO ORDER

The meeting was called to order by Scott Colton at 8:30 a.m.

2. APPROVE THE MINUTES OF THE MARCH 14, 2016 ENGINEERING AND OPERATIONS BOARD OF DIRECTORS' MEETING

MOTION DULY MADE BY LARRY LIZOTTE AND SECONDED BY DUANE CAVE, MINUTES OF THE MARCH 14, 2016 ENGINEERING AND OPERATIONS BOARD OF DIRECTORS' MEETING WERE APPROVED AS PRESENTED. THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ, AND LARRY LIZOTTE ALL VOTING 'AYE'. DIRECTOR BRIAN PROBOLSKY WAS ABSENT.

3. PUBLIC COMMENTS

Kelly Rowe provided information on the Sespe Aquifer technical research study.

PRESENTATION ITEMS

4. CIP Budget Update

Eva Plajzer and Johnathan Cruz presented the Capital Improvement Program (CIP) Budget. Key topics included a review of the Fiscal Year (FY) 2015-16 budget, the proposed 10-year CIP, the valve replacement program, the FY 2016-17 proposed CIP budget and projects, and CIP funding.

DISCUSSION ITEMS

6. Fall Protection System - Potable Water & Recycled Water Reservoirs

This item was taken next on the agenda. Todd Dmytryshyn presented the staff report. Staff recommends that the Board of Directors award the contract for the Fall Protection System- Potable Water & Recycled Water Reservoirs, Project Nos. 2015.017 and 2015.018 to Spiess Construction Co., Inc. in the amount of \$173,405; authorize the General Manager to execute the contract; and authorize the General Manager or designee to approve change orders up to 10% of the contract value. Discussion ensued

about fall protection requirements.

Brian Probolsky arrived at 9:02 a.m.

5. Water Supply Assessment for the Agora Arts District Downtown Project

Eva Plajzer presented the Water Supply Assessment (WSA) for the Agora Arts District Downtown Project. Topics covered during the presentation included the site plan, WSA requirements and development processes, and the water use projections for the project. Discussion ensued regarding the WSA process and its requirements. Staff recommends that the Board of Directors approve the WSA dated April 2016, as prepared by Arcadis.

7. Pradera 850 Zone Loop System Contract Award

Todd Dmytryshyn provided information on the Pradera 850 Zone Loop System. Staff recommends that the Board of Directors award the construction services contract for the Pradera 850 Zone Loop System Project No. 2014.013 to Ferreira Construction Co., Inc. in the amount of \$655,938; authorize the General Manager to execute the contract; and authorize the General Manager or designee to approve change orders up to 10% of the contract value.

INFORMATION ITEMS

8. Debt Issuance Based On Market Update

Drew Atwater provided information on this item. At this time, staff is not recommending that the District issue debt based on the current market conditions.

9. Plant 3A Status Update

Marc Serna provided the Plant 3A status update. Santa Margarita Water District has been operating the plant for almost one year. Staff meets with Santa Margarita regularly to ensure that Plant 3A remains operational.

10. Baker Water Treatment Plant Project Update

Marc Serna provided an update on the Baker Water Treatment Plant Project. The project is scheduled for an October 2016 completion. Staff will coordinate for the Board to visit the site in June or July.

11. Operations Center Consolidation Improvement Project Update

Matt Collings presented the Operations Consolidation Improvement Project update. The District is finalizing the initial study documents. Staff will bring back a recommendation for a contract amendment with LSA at a future date. Staff will also be presenting the visual package that was brought to the Board last month, at the Homeowner's

Association monthly meeting.

12. Quarterly Construction Progress Report

Steve Merk provided the Quarterly Construction Progress Report.

13. Quarterly Communications License Program Report

Eva Plajzer provided the Quarterly Communications License Program Report. There have been no new applications since the last update.

14. Northern Transmission Main Emergency Repair

Eva Plajzer provided an update on the Northern Transmission Main Emergency Repair. Staff has secured a contractor for a fee of \$142,000 to replace the line.

15. Future Agenda Items (Any items added under this section are for discussion at future meetings only)

None.

16. Late Items (Appropriate Findings to be Made)

Staff has none.

CLOSED SESSION

17. CONFERENCE INVOLVING A JOINT POWERS AGENCY – SOUTH ORANGE COUNTY WASTEWATER AUTHORITY

Discussion will concern: POTENTIAL LITIGATION – IN 1 MATTER

Pursuant to Government Code Section 54956.9 Closed Session will be conducted to confer with legal counsel RE: potential litigation in 1 matter

The Board entered closed session at 10:56 a.m. and exited at 11:30 a.m. Scott Colton stated that there was no reportable action.

ADJOURNMENT

The meeting was adjourned at 11:30 a.m.

Respectfully submitted,

Tim Bonita
Recording Secretary

DRAFT



moulton niguel water district

STAFF REPORT

TO: Board of Directors **MEETING DATE:** May 16, 2016

FROM: Marc Serna, Director of Engineering and Operations
Rod Woods, Principal Engineer

SUBJECT: Valve Replacements Construction Contract Award

DIVISION: 1, 2, and 4

SUMMARY:

Issue: Board action is required for the Notice Inviting Sealed Proposals (Bids) for the FY 2015-16 Valve Replacements, Project No. 2015.002.

Recommendation: It is recommended that the Board of Directors award the construction services contract to Paulus Engineering, Inc. in the amount of \$1,062,191; authorize the General Manager to execute the contract; and authorize the General Manager or designee to approve change orders up to 15% of the contract value.

Fiscal Impact: The proposed project budget is \$1,308,520. The project will be constructed next fiscal year. Adequate funds are proposed for FY 2016-17 CIP budget.

BACKGROUND:

Many of the District’s valves are more than 25 years old and require replacement to ensure that they will operate as needed. The 2015-16 Valve Replacements Project will replace key valves that have been identified by District staff and prioritized as part of the system wide valve replacement program. The valves will be replaced in six locations within the Cities of Laguna Niguel and Mission Viejo. This project will replace 40 potable valves and install 17 new valves.

Construction documents for the 2015-16 Valve Replacements project were prepared by AKM Consulting Engineers utilizing the existing on-call services agreement. The work will require significant coordination between the contractor and District Operations personnel to isolate and test the system to complete the project.

#5.

Valve Replacements Construction Contract Award

May 16, 2016

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DISCUSSION:

A request for bids was issued to six qualified construction contractors. The District received five sealed bids for the subject contract on April 19, 2016. The table below summarizes the received bids:

Firm	Bid
Paulus Engineering, Inc.	\$1,062,191
T.E. Roberts, Inc.	\$1,258,514
Kennedy Pipeline Construction	\$1,398,390
Shoffeitt Pipeline, Inc.	\$1,399,915
Ferreira Construction Co., Inc.	\$1,711,893
Engineer's Estimate	\$1,216,000

Staff has determined that the lowest responsible and responsive bidder was Paulus Engineering, Inc. Staff has completed its review of the contract documents and has determined that they are in order. Paulus Engineering, Inc. has performed quality work in the past for the District and is well-qualified to perform this type of work.

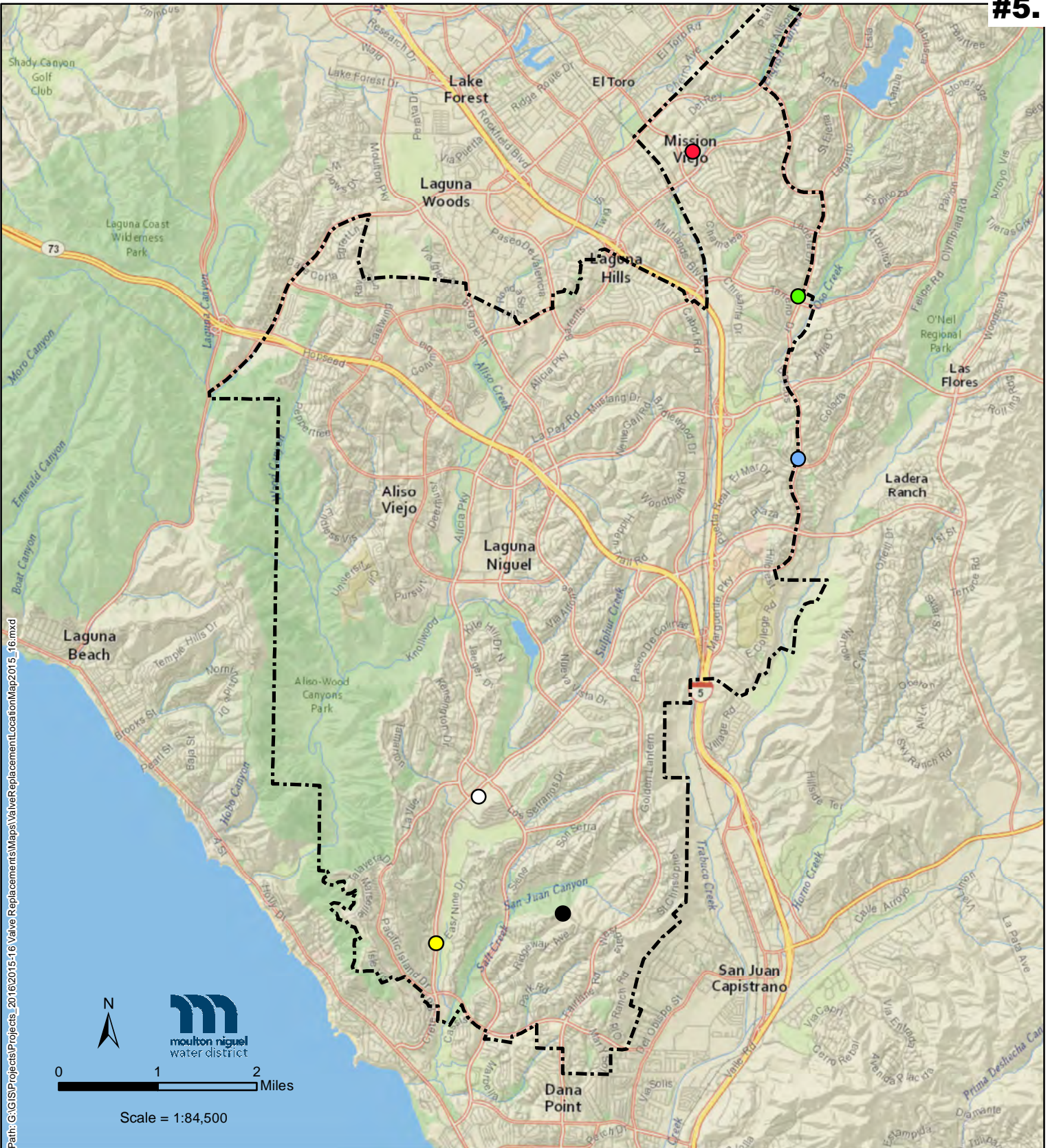
SUMMARY OF PROJECT BUDGET:

	Project Budget	Proposed / Approved Contract	Proposed / Authorized Contingency	Total Proposed / Authorized Amount
Project Items				
Engineering	\$37,000*	\$37,000	\$0	\$37,000
Geotechnical	\$20,000	\$20,000	\$0	\$20,000
Construction	\$913,000	\$1,062,191	\$159,329	\$1,221,520
Legal, Permits, District Labor	\$30,000	\$30,000	\$0	\$30,000
Totals	\$1,000,000	\$1,149,191	\$159,329	\$1,308,520

*All has been expended

 Currently Proposed Amount

Attachment: Exhibit A – Location Map



Path: G:\GIS\Projects\Projects_2016\2015-16 Valve Replacements\Maps\ValveReplacementLocationMap2015_16.mxd



0 1 2 Miles

Scale = 1:84,500

Valve Replacement Locations

- 450 Zone - Crown Valley Parkway
- 450 Zone - Crown Valley Shopping Center Area
- 650 Zone - Center Point High Park, Medical Facilities
- 650 Zone - Miners Village
- 650/750 Zone - Beacon Hill Area
- 650/750 Zone - Marguerite Parkway

2015-16 Valve Replacements
Contract No. 2015.002
Location Map
Exhibit "A"



moulton niguel water district

STAFF REPORT

TO: Board of Directors **MEETING DATE:** May 16, 2016

FROM: Matt Collings, Assistant General Manager

SUBJECT: Amendment No. 1 to the Professional Services Agreement – LSA Associates, Inc.

DIVISION: District-Wide

SUMMARY:

Issue: Additional consulting services are required to prepare the appropriate environmental documentation necessary to support the development of the District’s Operations Center Consolidation and Improvement Project.

Recommendation: It is recommended that the Board of Directors approve Amendment No. 1 to the Professional Services Agreement with LSA Associates, Inc. for an amount not-to-exceed \$78,840 for a total contract amount of \$153,076; authorize the General Manager to execute Amendment No. 1; and authorize the General Manager or designee to approve change orders up to 15% of the total contract value

Fiscal Impact: Sufficient funds are included in the Capital Budget associated with the Operations Center Consolidation and Improvement Project budget adopted by the Board of Directors.

BACKGROUND:

The District has operated from the Main Office and Plant 2A sites for more than 40 years with intermittent upgrades and improvements to both facilities to support growth or infrastructure needs. In assessing capital improvements needed for the facilities, staff recommended that a comprehensive review of long-term needs be completed prior to performing any significant rehabilitation or refurbishment of the existing facilities. The District initiated the Operations Center Consolidation and Improvement Project in 2013 with the development of a Needs Assessment evaluating current spacing needs, future growth potential, and long-term space requirements. After completion of the Needs Assessment and a review of potential site alternatives to construct the necessary Operations Center, the District concluded

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Amendment No. 1 to the Professional Services Agreement – LSA Associates, Inc.
May 16, 2016
Page 2 of 2

that remaining at the Plant 2A site and consolidating all of the District personnel and operations into a single site was the best course of action.

Early planning efforts on the proposed project included preliminary site layout and architecture work with Ware Malcomb to develop a proposed project for further evaluation through the necessary California Environmental Quality Act (CEQA) process, as well as the permitting with the City of Laguna Hills. Following a competitive procurement process and discussions with the Board Ad-Hoc committee for the proposed project, the District initiated a contract with LSA Associates, Inc. to initiate the environmental analysis in an amount not-to-exceed \$74,236. The scope of work for the first phase of the environmental work included preparing an Initial Study and conducting several technical studies, including a traffic study, noise study, etc. This technical work will be included in the final CEQA document.

DISCUSSION:

District staff requested a proposal from LSA Associates, Inc. to complete Phase 2 of the environmental analysis for the proposed Operations Center project. The scope of work for Phase 2 includes:

- Completing additional technical analyses
- Completing a jurisdictional delineation of the site
- Preparation of a Mitigated Negative Declaration consistent with the requirements of the State CEQA guidelines
- Participation in community outreach meetings for the proposed project

The Mitigated Negative Declaration (MND) will be developed based on the Initial Study that has been prepared as a part of Phase 1. The draft MND will be circulated for public review and comment, including the proper noticing and publications. Once the public review period has closed, LSA will respond to comments and incorporate into a final MND for approval by the Board of Directors.

The proposed contract amendment was discussed with the project Ad-Hoc committee. District staff believes that LSA is well positioned to continue with the Phase 2 scope of work following completion of the Initial Study and associated technical analyses. .

Attachments:

1. Original Agreement: executed December, 2015
2. Amendment No. 1

**AGREEMENT FOR CONSULTING SERVICES BETWEEN
MOULTON NIGUEL WATER DISTRICT AND LSA ASSOCIATES, INC.
MNWD PROJECT: CEQA COMPLIANCE FOR OPERATIONS CENTER
CONSOLIDATION AND IMPROVEMENT
PROJECT NO. 2014.015**

THIS AGREEMENT (the "Agreement") is dated as of December 7, 2015 (the "Effective Date"), by and between LSA ASSOCIATES, INC., hereinafter referred to as the "CONSULTANT" and Moulton Niguel Water District hereinafter referred to as "MNWD," and provides for the furnishing of CONSULTING services to MNWD by CONSULTANT. MNWD and CONSULTANT may sometimes be referred to in this Agreement individually as "party" and together as "parties."

RECITALS

CONSULTANT proposes to provide CEQA compliance consulting services to MNWD to include preparation of a CEQA initial study (the "Services"). The scope of services to be performed by CONSULTANT under this Agreement is described in **Exhibit A** hereto, which is incorporated herein (the "Scope of Services").

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

AGREEMENT

SECTION I - CONSULTING SERVICES

Section 1.1 CONSULTANT shall provide the Services to MNWD as further defined in **Exhibit A**. This Agreement, including all attached Exhibits form the Agreement between the parties.

SECTION II – SCOPE OF SERVICES AND PERFORMANCE

Section 2.1 CONSULTANT shall perform the Services in accordance with **Exhibit A**, the terms of this Agreement, and in consultation with MNWD. MNWD reserves the right to develop additional Services and related requirements as it deems appropriate to meet the needs and objectives of MNWD and this Agreement.

Section 2.2 CONSULTANT acknowledges and agrees that MNWD does not guarantee any minimum or maximum amount of Services and MNWD may use other Consultants for the Services in its sole discretion.

Section 2.3 CONSULTANT shall provide all labor, materials, tools, equipment, supplies, utilities and transportation required to perform the Services, subject to compliance with the Agreement requirements, and complete all Services in a thorough, professional manner in accordance with generally accepted industry practices and principles, and to the satisfaction of MNWD. CONSULTANT shall have the sole and absolute discretion in determining the methods, details and means of performing the Services, and MNWD shall not have any right to direct the methods, details and means of the Services, provided that CONSULTANT must receive prior written approval from MNWD before using any subconsultants for the provision of Services under this Agreement. In performing the Services under this Agreement, CONSULTANT shall observe and abide by the terms and conditions of all applicable laws, regulations, ordinances, or other rules of the United States, of the State of California, or any political subdivisions thereof, or of any other duly constituted public authority or agency including but not limited to MNWD.

Section 2.4 MNWD may request or CONSULTANT may recommend, that CONSULTANT perform work in addition to or different from that delineated in the original Scope of Services, or delete services from the Scope of Services. Upon MNWD's request for additional or changed Services, CONSULTANT shall provide a cost estimate and written description of the additional or changed work. Prior to any such addition, changes, or deletion to the Scope of Services, MNWD and ENGINEER shall negotiate an adjustment of the compensation and completion date and shall execute a written addendum. Upon execution of each addendum, (i) the Scope of Services shall thereafter be as described in the Agreement, respectively, as modified by the addendum and any previously executed addendum; and (ii) the time for completing the Services shall be as set forth in the addendum. Following execution of any amendment, all terms and provisions of the Agreement, except as expressly modified by such amendment, shall remain in full force and effect. MNWD will not be required to pay for any additional or changed work rendered in advance of the execution of an amendment covering the additional or changed work.

Section 2.5 CONSULTANT agrees to coordinate the work to ensure its timely completion and shall promptly notify MNWD of any anticipated delays or causes or casualties beyond CONSULTANT'S control which may affect the work schedule. CONSULTANT shall not begin work on any Services pursuant to this Agreement until receipt of MNWD'S written direction to proceed. Upon receipt of such notice, CONSULTANT shall immediately commence the work described in Exhibit A. The Services shall be completed in an expeditious manner and pursuant to the schedule listed in Exhibit A. Time is of the essence in this Agreement.

Section 2.6 CONSULTANT's principal in charge of the Services is Nicole Dubois.

Section 2.7 Without prior written approval of MNWD, CONSULTANT will not make any changes in CONSULTANT'S principal in charge, in consultants, in outside labor arrangements, or associations or joint ventures which are required to accomplish any part of the Scope of Services. CONSULTANT is responsible to MNWD for the acts and omissions of its subcontractors as it is for persons directly employed by CONSULTANT. Nothing contained in this Agreement creates any contractual relationship between any subcontractor and MNWD. CONSULTANT shall not allow any subcontractor to commence work or services under any subcontract until all insurance required of CONSULTANT has been obtained for the subcontractor.

Section 2.8 MNWD shall make available to CONSULTANT at no cost all technical data in MNWD's possession, including maps, past reports, prior studies, prior plan operating data, and other information reasonably required by CONSULTANT and relating to the work to be performed under this Agreement.

Section 2.9 All documents and information generated by CONSULTANT and any of CONSULTANT'S subcontractors pursuant to this Agreement shall remain confidential and shall not be copied, distributed, or otherwise provided or referenced by CONSULTANT or CONSULTANT'S subcontractors to any third parties other than with MNWD's written consent, or as compelled by order of court. All original and other documents, including detailed reports or calculations developed for the Services shall, upon payment in full for the services described in this Agreement or as otherwise provided in Section IV herein, be furnished to and become the property of MNWD. CONSULTANT may retain a copy of all reports and documents for their files.

Section 2.10 CONSULTANT understands that all documents, records, reports, data or other materials (collectively "Materials") provided by MNWD to CONSULTANT pursuant to this Agreement are to be considered confidential for all purposes.

SECTION III – TERM

Section 3.1 This Agreement shall commence as of the Effective Date and continue in effect through **June 30, 2016** unless otherwise terminated by either party pursuant to Section VIII herein.

SECTION IV – PRICE AND PAYMENT TERMS

Section 4.1 In consideration for providing the Services, MNWD agrees to compensate CONSULTANT on a time and materials basis up to a not-to-exceed maximum Agreement amount of **Seventy-Four Thousand Two Hundred Thirty-Six (\$74,236)**, which is inclusive of all costs, including labor and direct costs. The breakdown of the fees and direct costs for the project is attached hereto as **Exhibit B** which is incorporated herein.

Section 4.2 Labor costs shall be the total number of hours worked multiplied by the applicable hourly billing rate. The current billing rates of CONSULTANT for the Services are set forth in **Exhibit C**, which is attached hereto and incorporated herein.

Section 4.3 Monthly payments will be made based on submittal of invoices by CONSULTANT. Invoices will include the date or period of Services, the number of hours worked by various labor categories, the hourly billing rate per individual, a complete description of the Services performed, the total amount due and, when requested by MNWD, any support documentation sufficient to validate the charges for each invoice item. Only one bill per month shall be submitted by CONSULTANT, showing amounts due for CONSULTANT during the monthly billing period. Incomplete invoices will be returned unpaid to CONSULTANT.

SECTION V - WARRANTY

Section 5.1 In performing services under this Agreement, CONSULTANT shall observe and abide by the terms and conditions of all applicable laws, regulations, ordinances, or other rules of the United States, of the State of California, or any political subdivisions thereof, or of any other duly constituted public authority or agency including but not limited to MNWD.

SECTION VI - INSURANCE AND INDEMNIFICATION

Section 6.1 Professional Liability Insurance. CONSULTANT and each of its sub-consultants/subcontractors shall maintain throughout the term of this Agreement a professional liability (errors and omissions) policy of insurance having coverage of not less than One Million Dollars (\$1,000,000) for each claim and in annual aggregate. The following provisions shall apply if the professional liability coverage is written on a claims-made basis:

- (a) The retroactive date of the policy must be shown and must be dated before the date of this Agreement.
- (b) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of this Agreement or the services hereunder.
- (c) If coverage is canceled or not renewed and it is not replaced with another claims made policy form with a retroactive date that precedes the date of this Agreement, CONSULTANT must provide extended reporting coverage for a minimum of five (5) years after completion of the services. MNWD shall have the right to exercise at the CONSULTANT'S cost any extended reporting provisions of the policy should the CONSULTANT cancel or not renew the coverage.

(d) A copy of the claims reporting requirements must be submitted to MNWD prior to the commencement of any work under this Agreement.

Section 6.2 General/Automobile Liability Insurance. CONSULTANT and each of its sub-consultants/subcontractors shall maintain throughout the term of this Agreement a general liability policy of insurance for bodily injury and/or death, personal injury and property damage claims which may arise from or in connection with the performance of the work under this Agreement by CONSULTANT and its sub-consultants/subcontractors, and each of their agents, representatives, or employees. Such public liability and property damage insurance (which shall cover claims, injury, death, loss or damage or accidents from the use or operation of any automobiles, trucks and/or other mobile or stationary equipment, whether owned, non-owned or hired) shall be comprehensive in form and shall be on a "per occurrence" basis in a minimum amount of One Million Dollars (\$1,000,000) per occurrence and an annual aggregate limit in a minimum amount at least twice the per occurrence limit specified in this Section.

All insurance provided under this Section 6.2 shall name MNWD and its' directors, officers, employees and representatives as additional insureds under each such policy ("additional insureds") and an additional insured endorsement shall be provided in form acceptable to MNWD.

Section 6.3 Worker's Compensation. By its signature hereunder, CONSULTANT certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that CONSULTANT will comply with such provisions before commencing the performance of work under this Agreement. CONSULTANT and subcontractors shall maintain throughout the term of this Agreement workers' compensation insurance with limits no less than the statutory limits, and Employer's Liability insurance with limits no less than One Million Dollars (\$1,000,000) per accident and per disease for their employees and shall file with the MNWD the certificate required by Labor Code Section 3700. The workers compensation/Employer's Liability insurance shall be endorsed with a waiver of subrogation in favor of MNWD and its' directors, officers, employees and representatives.

Section 6.4 Requirements of All Policies. All policies of insurance required under this SECTION VII shall be from insurance providers who are either admitted or licensed to do business in California, or are Surplus Lines Carriers authorized to do business in California, and who have financial size and ratings of no less than A-, Class VII, and in either case are otherwise acceptable to MNWD. All such policies shall include a provision and executed endorsement for thirty (30) days prior written notice by certified mail, return receipt requested, to MNWD of any cancellation or material alteration of such insurance. CONSULTANT shall provide original certificates and endorsements for all such insurance on forms approved by MNWD in conformity with all requirements of this Agreement prior to commencement of any work or professional services. The policies required hereunder shall be endorsed to include contractual liability.

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

Any deductibles or self-insured retentions must be declared in writing and approved by MNWD. At the option of MNWD, either: the insurance provider(s) shall reduce or eliminate such deductibles or self-insured retentions as respects the MNWD and its' directors, officers,

employees and representatives; or the CONSULTANT shall provide a financial guarantee satisfactory to MNWD guaranteeing payment of losses and related investigations, claim administration and defense expenses. Maintenance of insurance coverage as specified in this Agreement is a material term of this Agreement, and any failure to maintain or renew coverage, or to provide evidence thereof, as required by the terms is a material breach of this Agreement.

Section 6.5 Indemnity.

CONSULTANT shall hold harmless, defend and indemnify, including the cost to defend, MNWD and its directors, officers, employees and representatives from liability, claims, damages, demands, actions, attorneys' fees, costs and expenses (i) for personal injury, bodily injury or property damage that arise out of, pertain to, or relate to the operations and work of the CONSULTANT and its subcontractors under this Agreement, or (ii) that arise out of, pertain to, or relate to CONSULTANT'S or its subcontractor's negligence including negligent acts, errors or omissions, recklessness, or willful misconduct in the performance (or actual or alleged non-performance) of the services under this Agreement.

The foregoing provisions of this Section are intended to be, and shall be interpreted in a manner that is, consistent with Civil Code Section 2782.8 as it exists as of the dated date of this Agreement. The CONSULTANT's obligations pursuant to this Section shall survive the expiration or termination of this Agreement and/or the performance or completion of any or all Services and work provided under this Agreement. This indemnity obligation shall apply to all liability regardless of whether any insurance is applicable, and the policy limits of any insurance shall not act as a limitation upon the indemnification, and amounts related thereto, to be provided by CONSULTANT hereunder.

SECTION VII - SUBCONTRACTING

Section 7.1 No obligations under this Agreement shall be subcontracted without prior written approval by MNWD, which approval shall not be unreasonably withheld or delayed.

Section 7.2 In the event that subcontracting is approved by MNWD, CONSULTANT shall ensure that:

- 1) Each subcontractor complies in all respects with the provisions of this Agreement.
- 2) Its subcontractor maintains the same level of insurance coverage as required of CONSULTANT in Section VI of this Agreement.

Section 7.3 CONSULTANT is as responsible to MNWD for the acts and omissions of its subcontractor as it is for persons directly employed by CONSULTANT. Nothing contained in this Agreement creates any contractual relationship between any subcontractor and MNWD. Supplier shall remain the primary debtor and be responsible for the due and timely performance by any subcontractor.

SECTION VIII - TERMINATION OR ABANDONMENT

Section 8.1 This Agreement may be terminated in whole or in part in writing by either party provided that no such termination may be effected unless the other party is given not less than ten (10) calendar day's written notice (deliver by certified mail, return receipt requested) of intent to terminate. Additionally, MNWD may suspend performance by CONSULTANT of any or all services listed in the Scope of Services under this Agreement by providing written notice to CONSULTANT at least five (5) working days prior to the date on which MNWD wishes to suspend; provided, upon receipt of such notice, CONSULTANT shall immediately suspend any

work or services hereunder, unless otherwise instructed by MNWD in such notice.

Section 8.2 CONSULTANT shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from MNWD to resume performance. MNWD and CONSULTANT agree that in the event MNWD suspends or terminates performance by CONSULTANT for any cause other than the intentional or negligent error or omission of CONSULTANT, CONSULTANT shall be entitled to payment of compensation incurred prior to the effective date of the suspension or termination, as determined under Section IV of this Agreement.

Section 8.3 In the event of any suspension or termination herein, MNWD shall have the right to take possession and shall immediately own all original drawings and other documents developed for that portion of the work completed and/or being suspended or abandoned.

SECTION IX - GENERAL

Section 9.1 CONSULTANT represents that it is aware of no facts or circumstances which would impair its ability to provide fair and unbiased advice to MNWD in the course of performing the CONSULTING services hereunder, or which would impact its objectivity in performing such services hereunder.

Section 9.2 This Agreement represents the entire understanding of MNWD and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be amended, modified or altered except in writing, signed by the parties. This Agreement shall not be construed against the party preparing it, but shall be construed as if both parties prepared it. In the event of any inconsistency between this Agreement and any other agreement or document between the parties, either written or verbal, including any CONSULTANT proposal document, this Agreement shall control unless such other agreement provides explicitly to the contrary.

Section 9.3 Any notice required or permitted to be given hereunder if not otherwise specified herein may be given or delivered by depositing the same in the United States Post Office, registered or certified, postage prepaid, or by personal service a hand delivery, and addressed to:

To MNWD - Attn: Matt Collings, Assistant General Manager
 Moulton Niguel Water District
 26161 Gordon Road
 Laguna Hills, CA 92653

To CONSULTANT - Attn: Nicole Dubois
 LSA Associates, Inc.
 20 Executive Park, Suite 200
 Irvine, CA 92614

Section 9.4 California law shall govern the interpretation of this Agreement. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure 394.

Section 9.5 In the event an action is commenced by either party to enforce its rights or

obligations arising from this Agreement, the prevailing party in such action, in addition to any other relief and recovery awarded by the court, shall be entitled to recover all costs and expenses, including court costs, plus a reasonable amount for attorney's fees.

Section 9.6 If any section of this Agreement or provision of this Agreement as applied to either party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

Section 9.7 It is expressly understood and agreed that CONSULTANT is retained as an independent contractor for the sole purpose of rendering the professional and/or special services, and is not an employee or agent of MNWD. CONSULTANT warrants that it will not represent, at any time or in any manner, that CONSULTANT is an employee or agent of MNWD. CONSULTANT shall have no authority to, and shall not, incur any debt, obligation or liability on behalf of MNWD. CONSULTANT shall be solely responsible for the payment of all federal, state and local income tax, social security tax, Workers' Compensation insurance, state disability insurance, and any other taxes or insurance CONSULTANT, as an independent contractor, is responsible for paying under federal, state or local law. CONSULTANT is thus not eligible to receive workers' compensation, medical, indemnity or retirement benefits, including but not limited to enrollment in CalPERS.

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


Section 9.8 This is a non-exclusive Agreement for the services contemplated herein.

Section 9.9 This Agreement and all of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns; provided, however, that no assignment of this Agreement or any interest herein shall be made by CONSULTANT without prior written consent of MNWD.


Section 9.10 This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

Moulton Niguel Water District

By: 
Joahe Lopez
General Manager

CONSULTANT – LSA ASSOCIATES, INC.

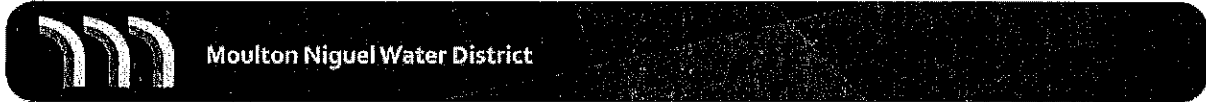
By: 
Title: Les Card, Chairman/CEO

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EXHIBIT A

SCOPE OF SERVICES



SCOPE OF WORK FOR PHASE I

As a result of almost four decades of successful experience addressing environmental issues on projects throughout California, LSA has developed a unique understanding of CEQA and the special attention that a project of this scope and breadth requires. More specifically, LSA's work plan will provide the MNWD with the following:

- Phase I: An Initial Study with analysis commensurate with the level of detail available in current project plans and planning documents. Phase I will also include preparation of technical reports as outlined below.
- Phase II: Preparation of all documentation necessary to allow environmental clearance of the projects, including site preparation, construction, and use of the site as envisioned in the Specific Plan. Documentation will include notices, mailings, exhibits, Draft ND/EIR and Final ND/EIR, Findings (is necessary), and a Notice of Determination (NOD) (if necessary). A scope and budget for Phase II tasks will be provided upon request.
- An environmental analysis of all aspects of the Project consistent with CEQA and the MNWD and City of Laguna Hills requirements and procedures in a document that is thorough, defensible, and complete.
- A sensitivity to cost considerations.
- A responsive schedule. A proposed schedule is provided at the end of this section; schedule refinement would occur at the kickoff meeting.

TASK 1: PROJECT INITIATION AND KICKOFF MEETING

LSA will meet with the MNWD to discuss the proposed Project, schedule, and objectives. LSA will provide a list of data needs, discuss document format and thresholds, and review any existing technical information that is made available by the MNWD. The meeting will be held with the MNWD to accomplish the following:

- Establish a mutual understanding of the Project objectives, explore community concerns regarding the Project, and discuss the MNWD and the City's expectations for the consultant's work effort;
- Obtain relevant plans, reports, ordinances, and studies applicable to the Project;
- Refine the Scope of Work to be performed to satisfy CEQA requirements, if needed;
- Define communication protocols for requesting information from the MNWD and City staff; and
- Refine the Project schedule, establish protocols for product review with the MNWD, and define Project milestones and decision points.

After the kickoff meeting, LSA will prepare a schedule for completing the environmental process (Phase I) for the Project based on a detailed understanding of the Project and strategy discussions with the MNWD staff. The schedule will be submitted for review by the MNWD staff.



Task 1.2: Native American Consultation

Per Assembly Bill 52 (AB 52), Native American consultation is required for any CEQA project that has a notice of preparation or a notice of negative declaration filed or mitigated negative declaration on or after July 1, 2015. The Lead Agency must notify Tribes that have requested to be notified regarding projects, within 14 days of determining that a project application is complete or deciding to undertake a project (i.e., prior to the release of the environmental document). While this is a government-to-government process between the MNWD and the Native American tribe(s) that request consultation per AB 52 or as identified by the Native American Heritage Commission (NAHC), LSA is available to assist the MNWD with AB 52 consultation.

Tasks will include the following: LSA will contact the NAHC to request a list of tribes/groups/individuals with ancestral ties to the Project area that could have interest in consulting with the City on the Project. LSA will then contact each party on behalf of the City via certified letter, describing the Project and requesting that the recipient respond within 30 days if they would like to consult with the City on the Project. The process, including all communication and any responses, will be summarized in a memorandum that can be included in the environmental document to support the MNWD's efforts at consultation per AB 52.

TASK 2: PROJECT DESCRIPTION

LSA will draft a Project Description for inclusion in the IS based on plans and information provided by the MNWD. The Project Description will be used by LSA to determine the potential environmental effects of project implementation. LSA will submit the draft Project Description to the MNWD for review and will revise the draft Project Description based on one round of review of comments. The Project Description forms the basis for the environmental analysis required to complete the IS checklist.

TASK 3: TECHNICAL STUDIES

Task 3.1: Transportation Analysis

LSA will create a circulation setting for both the existing condition and a future forecast horizon consistent with the opening year of the proposed Project. LSA will also collect traffic volume data at the entry to the site in order to inventory and report the traffic volumes related with the existing operation. These volumes will be reflected in the existing traffic counts collected at local intersections and roadway segments.

Morning and evening peak-hour intersection turn movement counts will be collected at up to eight intersections in the immediate study area. In addition, 24-hour machine counts will be collected along roadway segments leading to and from the site (including Gordon Road and Sunnyglen Avenue). Six midblock arterials will be counted. Should LSA and/or the MNWD receive a request from the City of Laguna Hills to expand or contract the study area, LSA will revise the scope of work and amend the budget accordingly.

LSA will set 24-hour machine count tubes at the entry to the facility and collect hourly directional traffic volumes reflecting the existing operations.



LSA will request traffic studies for future reasonably foreseeable cumulative development projects that may affect traffic conditions in the proposed Project study area. Up to three cumulative projects will be considered in this analysis. LSA will add these cumulative projects trips to the existing counts to arrive at a future condition traffic base for the study area intersections and roadways. Any committed capital projects, such as intersection lane additions or roadway segment modifications, will also be included in the future traffic base.

LSA will provide a traffic/circulation analysis of those features related directly to the proposed Project and not associated with other factors in the delivery of service and mission. LSA will develop a trip generation estimate based on operational characteristics associated with the MNWD consolidation and not related to growth in employment or other project or delivery elements outside the specific proposed Project. LSA will seek and obtain from the MNWD information on employee shifts and numbers, material delivery, fuel delivery, service call schedules, vehicle mix, outside community meetings, and any other elements related to the proposed Project that may affect trip generation and the distribution of those trips. LSA will then estimate the daily and morning and evening peak-hour trip generation inbound and outbound from the site based on this information. Any adjustments to reflect the existing operations will be made based on the counts collected at the entry. LSA will coordinate and collaborate with the MNWD to ensure that an accurate and realistic assessment of trip making is established prior to the identification of impacts.

The impact assessment will be prepared consistent with local, regional, and appropriate State guidelines and requirements. Levels of service will be determined with and without project traffic at critical intersections and roadway links for an existing and future year horizon. For any impacted locations, LSA will recommend improvements as mitigation measures. Depending on the severity of the impact, these recommendations may include operational enhancements, temporary improvements, and ultimately (and only if necessary) permanent capital improvements (e.g., signal installation and/or modifications, additional intersection turn lanes, and roadway augmentation, etc.). LSA will document the operations after mitigation consistent with CEQA requirements.

Task 3.2: Air Quality Analysis and Health Risk Assessment

LSA will prepare an Air Quality Assessment for the project in accordance with South Coast Air Quality Management District's (SCAQMD) CEQA Air Quality Handbook guidelines.

To document existing conditions, LSA will prepare assessment of baseline air quality in the area based on data from SCAQMD and the California Air Resources Board (ARB). LSA will then prepare a quantitative assessment of project construction emissions using the California Emissions Estimator Model (CalEEMod). The assessment will include emissions from equipment used during site preparation, grading, and construction operations. Exhaust and dust emissions from worker commutes and equipment travel will also contribute to construction emissions. LSA will calculate the construction emissions commensurate with available project-specific information. Standard measures for construction activities recommended by the SCAQMD will be identified. Project operational emissions will also be calculated, including emissions from the proposed generator, which will be calculated using emission factors provided by the EPA. Emission factors from EPA will also be used to assess emissions from the fueling station including those from refueling, spillage loss, and breathing loss.



Using the emission estimates derived for construction and operational activities, LSA will conduct health risk assessments for both project construction and operation. The health risk assessment will utilize an air dispersion model (AERMOD) to determine pollutant concentrations at individual receptor locations. Results of the health risk assessment will identify the overall cancer risk, hazard index, and acute health risk to adjacent residents as a result of project construction and operation.

LSA will also prepare a quantitative assessment of localized significance following SCAQMD's methodology and qualitative analysis of project-related carbon monoxide (CO) hot-spots. Odors associated with Project operations and potential heat-island effects will be qualitatively assessed.

If necessary, mitigation measures will be identified to address potential air quality impacts associated with construction and operation of the Project. LSA will summarize the findings in a technical air quality report that can be appended to the environmental document, if desired.

Task 3.3: Greenhouse Gas Analysis

LSA will prepare a technical Global Climate Change (GCC) impact analysis consistent with applicable procedures and requirements. The Greenhouse Gas (GHG)/GCC impact analysis will place particular emphasis on delineating the issues specific to SCAQMD air quality requirements. In October 2008, the SCAQMD released a *Draft Guidance Document – Interim CEQA Greenhouse Gas (GHG) Significance Threshold* that suggested a tiered approach to project analysis. Unless MNWD or the City has a specific threshold or preferred methodology, LSA recommends proceeding with the GHG analysis using a tiered approach based on the SCAQMD's and the ARB's suggested screening thresholds.

Emissions of carbon dioxide (CO₂), a key GHG identified in Assembly Bill (AB) 32, and other major GHGs such as methane (CH₄) and nitrous oxide (N₂O) from direct and indirect project-related sources will be calculated using CalEEMod. LSA will calculate the construction emissions commensurate with available project-specific information. Standard measures for construction activities recommended by the SCAQMD will be identified and incorporated as part of the Project's standard conditions. Potential cumulative GCC impacts associated with the proposed Project will be evaluated. Emissions of carbon dioxide equivalent (CO₂e) will be calculated and compared to the area emission levels. The Project's compliance with applicable plans and policies will be discussed. If necessary, mitigation measures will be identified to ensure that short-term GHG impacts will be reduced to the extent possible.

LSA will summarize the findings in a technical GHG memorandum that can be appended to the environmental document, if desired.

Task 3.4: Noise Analysis

LSA will prepare a Noise Impact Analysis that assesses the Project's potential effects on existing and future noise conditions. LSA will review applicable City noise and land use compatibility criteria for the Project area. The areas with potential noise impacts will be identified using land use information, aerial photographs, and field reconnaissance. A discussion of any existing sensitive uses in the Project vicinity, including residential uses and Mandeville Park, will be included.

The technical analysis will include the following components: (1) a description of existing noise conditions in and around the Project site as documented by up six short-term (15-minute) noise



measurements and two long-term (48-hour) noise measurements. LSA will work with District staff to assess noise levels for the various noise activities that currently occur on the Project site, including documentation of noise reduction benefits achieved by existing noise attenuation measures; (2) quantitative assessment of noise impacts on sensitive receptors related to project construction and operation such as noise from parking lot activity, traffic noise, stationary on-site mechanical equipment (HVAC, and generators, etc.), yard activities (i.e., loading, unloading, truck, and equipment activities), and any other noise source associated with the Project. The analysis will address daytime as well as nighttime activities, and if required; (3) mitigation measures will be identified, if necessary, to ensure that both short-term and long-term noise and vibration impacts, if any, will be reduced to the extent possible. LSA will summarize the findings in a technical noise report that can be appended to the environmental document, if desired.

Task 3.5: Biological Resources

Task 3.5.1: Biological Resources Report. LSA will review any relevant database records and other technical information pertaining to the study area. LSA will conduct a records search of the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDDB), the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California, and the United States Fish and Wildlife Service (USFWS) Information for Planning and Conservation (iPAC) database, as well as utilize LSA biologists' knowledge of southern California special-interest species to determine the likelihood of any special-interest biological resources occurrence on site.

A biological assessment of the study area will be conducted by qualified LSA biologists to document the presence/absence of any biological resources (i.e., species or habitats) of interest or concern, or to determine the potential for occurrence of such resources that may not be detectable when the fieldwork is conducted. This biological survey will document the locations of any observable sensitive species within or near the proposed Project site. In addition, LSA will determine if ephemeral drainage that runs along the northern boundary of the proposed Project area is within the proposed project area and if a jurisdictional delineation is warranted.

It is LSA's understanding that the City of Laguna Hills Municipal Code has no ordinances protecting trees or other biological resources on private property. Therefore, on-site trees will not be documented unless they are a special-interest species.

Following the fieldwork, LSA will prepare and submit a report that will include a description of the field methods used and the results of the biological surveys concerning the identified study area. The Biological Resources Report will include a list of plant and animal species observed in the study area and a general description and map of the plant communities present on site. If needed, LSA will prepare and incorporate into the report a graphic displaying the location of any sensitive biological resources observed. The report will be provided electronically in draft form for MNWD review. Following receipt of any comments or suggested revisions by MNWD, LSA will finalize the report.

Task 3.6: Phase I Environmental Site Assessment

Ninyo & Moore will prepare a Phase I Environmental Site Assessment (Phase I ESA) for the Project site. The Phase I ESA will be used to complete the hazards and hazardous materials analysis in the IS and any subsequent environmental document. The scope of services for the Phase I ESA will include the following:



- In accordance with the ASTM International (ASTM) E1527-13 standard and the EPA's All Appropriate Inquiry (AAI), site-specific information will be requested from MNWD in the form of a questionnaire (or an interview with a designated representative, at MNWD's discretion) and incorporate that information into the assessment. The questionnaire or interview will include a request for the following information:
 - Information regarding environmental cleanup liens or activity and use limitations associated with the site,
 - An opinion regarding the relationship of the purchase price to the fair market value of the site,
 - A statement of commonly known information regarding the site, and
 - A statement of any specialized knowledge or experience on the part of the purchaser or landowner.
- In accordance with the ASTM E1527-13 standard and AAI, it is the responsibility of the user of the report (in this case, MNWD) to conduct a review of recorded land title records and lien records for the site, or engage a title company to review such records. Relevant environmental information, if discovered during this review, must be provided to Ninyo & Moore. This is a relatively specialized activity for typical report users, and therefore, LSA's scope will include:
 - Purchase and review of environmental lien records for the site for evidence of site environmental liens and/or activity and use limitations.
 - If provided by MNWD, review of ownership records for the site, to evaluate probable past site uses and the possible impact on the current environmental status of the site.
- Review readily available maps and reports pertaining to the site. The MNWD is requested to provide copies of documents in its possession.
- Conduct interviews with property representatives if readily available regarding the environmental status of the site.
- Perform a site reconnaissance to visually observe areas of possibly contaminated surficial soil or surface water, improperly stored hazardous materials, possible sources of polychlorinated biphenyls, and possible risks of contamination from activities at the site and adjacent properties.
- Review readily available local regulatory agency files for the site. Requests will be made to the County Department of Health Services, the local Air Quality Management District, and the local Fire and Building Departments. Other agencies that may be contacted, depending on site history and conditions, include the local California RWQCB office and the State of California Department of Toxic Substances Control.
- Review available regulatory agency databases for the site and for properties located within a specified radius of the site. The purpose of this review is to evaluate the possible environmental impact to the site. Databases will identify locations of known hazardous waste sites, landfills, and leaking underground storage tanks, permitted facilities that use underground storage tanks, and facilities that use, store, or dispose of hazardous materials.
- Review readily available historical documents, including aerial photographs (site and adjacent properties), Sanborn Insurance Maps (site and available adjacent properties), Building Department Records (site only), reverse city directories (site and available adjacent properties), and topographic maps, as appropriate.



- Prepare the Phase I ESA report for the site. The Phase I ESA report will document findings and provide opinions and recommendations regarding possible environmental impacts at the site. Color photographs will be provided in the report.

In accordance with the ASTM E1527-13 standard and AAI, the following, which is not intended to be all inclusive, represents out-of-scope items with respect to this Phase I ESA and, therefore, will not be addressed: asbestos-containing materials, lead-based paint, radon, lead in drinking water, wetlands, regulatory compliance, cultural and historic risk, industrial hygiene, health and safety, ecological resources, endangered species, indoor air quality, and high-voltage power lines. In addition, Ninyo & Moore will not address interpretations of zoning regulations, building code requirements, or property title issues in the Phase I ESA.

TASK 4: INITIAL STUDY

Task 4.1: Prepare Screencheck Initial Study

LSA will prepare a Screencheck IS for the proposed Project consistent with CEQA requirements of the *State CEQA Guidelines* and the MNWD. LSA will utilize the Environmental Checklist Form in Appendix G of the *State CEQA Guidelines* or another Checklist approved by the MNWD.

The Screencheck IS will include a description of the Project (Task 2), a discussion of project objectives, geographical setting, related projects, and any additional information required pursuant to *State CEQA Guidelines* Section 15063(d).

The Screencheck IS will determine the specific environmental issues and will be used to determine the appropriate level of environmental analysis required under CEQA (i.e., ND, MND, or EIR). Additionally, discretionary actions and responsible agencies will be identified to the extent feasible.

Because this Scope of Work and budget includes the preparation of an IS, LSA will not prepare a Notice of Preparation or circulate the IS for public review. This would be completed as a separate task once the level of environmental documentation has been determined.

Task 4.2: Submittal of Screencheck Initial Study

LSA will submit up to three printed copies and one electronic copy of the Screencheck IS to the MNWD for review. This Scope of Work assumes one round of review of the Screencheck IS. Comments received must then be consolidated (i.e., LSA must receive one set of nonconflicting consolidated comments per round). Additional budget may be necessary if the review exceeds one round, or if LSA receives multiple sets of comments.

Task 4.3: Preparation of Draft Initial Study

LSA will respond to comments on the Screencheck IS, and will complete any necessary revisions.

Task 4.4: Submittal of Draft Initial Study

Following incorporation of all revisions to the Screencheck IS, LSA will submit up to three printed copies and one electronic copy of the Draft IS to the MNWD. The Draft Initial Study will be ready for the MNWD to use in any future environmental documents.



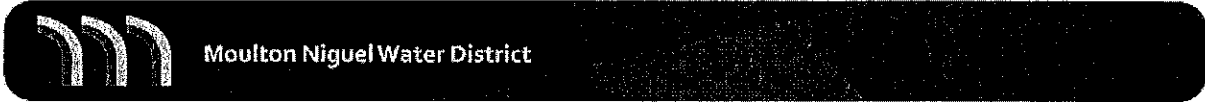
TASK 5: PROJECT MANAGEMENT AND ATTENDANCE AT MEETINGS

This task represents an active project management role and includes attendance at various Project meetings and coordination with agencies and interested parties. The project management role provides a mechanism to ensure that there is an adequate exchange of information during Project startup and preparation of the IS. This task includes notifying the MNWD staff of problems as they are encountered and working expeditiously to resolve them. Important elements of this task will be to maintain the Project schedule, oversee the budget, and coordinate efforts with the MNWD staff and other team members. This task also includes time to provide the MNWD with information and advice related to the particular environmental issues associated with the proposed Project, including, but not limited to, an opinion as to the scope of the environmental documentation.

To facilitate dissemination of information, LSA’s Principal in Charge/Project Manager will maintain ongoing verbal and email communication with the MNWD staff.

The following is a preliminary estimate of the breakdown of LSA’s attendance at public and progress meetings during the Scope of Work identified above. The budget anticipates attendance by one or two LSA Team members at the meetings, depending on the issues to be discussed. The LSA Team anticipates attending one Project kickoff meeting, two meetings with the City of Laguna Hills, two strategy meetings with the MNWD and its legal, design and/or real estate consultants, and one workshop with the MNWD Board of Directors. Attendance at meetings over the maximum identified above or attendance by additional technical specialists at community meetings/public hearings will be on a time-and-materials basis with the client’s written approval, consistent with LSA’s standard fee schedule. The following table lists the anticipated meetings.

Meeting Type	Number
Kickoff Meeting (included in Task 1)	1
Meetings with the City of Laguna Hills	2
Meetings with MNWD Staff and the Project Team	2
Workshop with Board of Directors	1
Total Meetings	6



Project Schedule

Tasks	Duration
TASK 1.0: PROJECT INITIATION and AB 52 NATIVE AMERICAN CONSULTATION	
Project Initiation	1 Week
Project Kickoff Meeting	1 Day
AB 52 Native American Consultation ¹	1 Week
<i>Task 1.0 Subtotal</i>	<i>2 Weeks</i>
TASK 2.0: PROJECT DESCRIPTION	
Screencheck Draft Project Description	0.5 Week
MNWD Review of Screencheck Draft Project Description	1 Week
Final LSA Revisions to Draft Project Description	0.5 Week
<i>Task 2.0 Subtotal</i>	<i>2 Weeks</i>
TASK 3.0: TECHNICAL STUDIES	
Traffic Study	8 Weeks
Air Quality and GHG Analysis	6 Weeks
Noise Analysis	3 Weeks
Biological Resources Analysis	6 Weeks
Phase I Environmental Site Assessment	4 Weeks
<i>Task 3.0 Subtotal</i>	<i>14 Weeks</i>
TASK 4.0: INITIAL STUDY	
Preparation of Screencheck Draft Initial Study	2 Weeks
Submittal of Screencheck Draft Initial Study & MNWD Staff Review	1 Week
Preparation of Draft Initial Study	1 Week
Submittal of Draft Initial Study	1 Day
<i>Task 4.0 Subtotal</i>	<i>4 Weeks</i>
TASK 5.0: PROJECT MANAGEMENT AND MEETINGS	
Project Management and Attendance at Meetings	<i>Ongoing</i>
<i>Complete Initial Study Schedule</i>	<i>8 Weeks</i>
PHASE II	
Initial Study/Mitigated Negative Declaration (<i>assumes overlapping tasks</i>)	<i>26 Weeks</i>
Environmental Impact Report (<i>assumes overlapping tasks</i>)	<i>45 Weeks</i>

Notes:

1. Assumes that no Tribes request formal consultation with the MNWD.

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EXHIBIT B

BREAKDOWN OF FEES AND COSTS

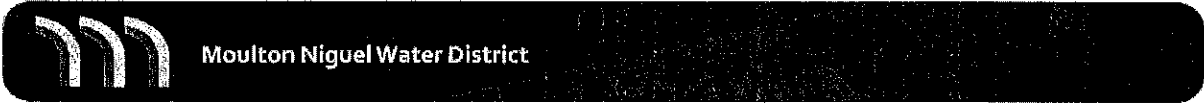


Table A: Fee Estimate By Task

Task	Budget
Task 1.0: Project Initiation	\$2,490
Task 1.2: AB 52 Native American Consultation	\$2,155
Task 2: Project Description	\$2,020
Task 3: Technical Studies	
Task 3.1 Transportation Analysis	\$9,555
Task 3.2: Air Quality and Health Risk Assessment	\$8,725
Task 3.3: Greenhouse Gas Analysis	\$4,500
Task 3.4: Noise Analysis	\$7,500
Task 3.5: Biological Resources	
Task 3.5.1: Biological Resources Report	\$6,790
Task 3.6: Phase I Environmental Site Assessment	\$8,136
Task 4: Initial Study	\$9,795
Task 5: Project Management and Meeting Attendance	\$7,570
	Subtotal \$69,236
Estimated Reimbursable Costs	\$5,000
	Total \$74,236

**LSA IN-HOUSE DIRECT EXPENSES
JUNE 2015**

Unit			Cost
Reproduction	(8.5 x 11)	B/W	\$.07 per page
Reproduction	(8.5 x 11)	Color	\$.40 per page
Reproduction	(11 x 17)	B/W	\$.10 per page
Reproduction	(11 x 17)	Color	\$.75 per page
CD Production			\$5.00 per CD
Plotting			\$3.75 per sf
Mileage On Road			\$.575 per mile
Mileage Off-Road			\$.725 per mile
GPS Unit			\$75.00 per day
Total Station Surveying Instrument			\$50.00 per day
Level (Laser or Optical)			\$25.00 per day
Laser Rangefinder			\$25.00 per day
Sound Meter			\$75.00 per day
Aerial Photo			Cost
Boat Rental			\$125.00/day
Water Quality Meter			\$25.00/day

EXHIBIT C
RATE SCHEDULE

HOURLY BILLING RATES EFFECTIVE JUNE 2015

Planning En	Job Classification						Hourly Rate Range ^{1,2}
	Environmental	Transportation	Air/Noise	Cultural Resources	Biology	GIS	
Principal	Principal	Principal	Principal	Principal	Principal	Principal	\$155-315
Associate	Associate	Associate	Associate	Associate	Associate	Associate	\$85-200
Senior Planner	Senior Environmental Planner	Senior Transportation Planner/Engineer	Senior Air Quality/Noise Specialist	Senior Cultural Resources Manager	Senior Biologist/Botanist/Wildlife Biologist/Ecologist/Soil Scientist/Herpetologist/Arborist	Senior GIS Specialist	\$90-175
Planner	Environmental Planner	Transportation Planner/Engineer	Air Quality/Noise Specialist	Cultural Resources Manager	Biologist/Botanist/Wildlife Biologist/Ecologist/Soil Scientist/Herpetologist/Arborist	GIS Specialist	\$85-125
Assistant Planner	Assistant Environmental Planner	Assistant Transportation Planner/Engineer	Air Quality/Noise Analyst	Cultural Resources Analyst	Assistant Biologist/Botanist/Wildlife Biologist/Ecologist/Soil Scientist/Herpetologist/Arborist	Assistant GIS Specialist	\$65-100
Field Services							
Senior Field Crew/Field Crew							\$55-90
Office Services							
Research Assistant/Technician							\$45-60
Graphics							\$105-125
Office Assistant							\$55-100
Word Processing/Technical Editing							\$75-100

¹ The hourly rate for work involving actual expenses in court, giving depositions or similar expert testimony, will be billed at \$400 per hour regardless of job classifications.

² Hourly rates are subject to review at least annually, on or about June 1 of each year, and may be adjusted to reflect changing labor costs at LSA's discretion at that time.

**AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT
BETWEEN MOULTON NIGUEL WATER DISTRICT AND
LSA ASSOCIATES, INC.; CONTRACT NO. 2014.015**

This Amendment No. 1 (this "Amendment") is entered into and effective as of _____, 2016 (the "Amendment Effective Date"), amending the Agreement for Consulting Services, dated December 7, 2015 (the "Agreement"), by and between the Moulton Niguel Water District ("MNWD"), and LSA Associates, Inc. ("Consultant") (collectively, the "Parties").

RECITALS

A. WHEREAS, On December 7, 2015, the Parties entered into the Agreement for CEQA compliance consulting services to be performed through June 30, 2016 for a not-to-exceed amount of \$74,236; and

B. WHEREAS, the Parties desire to extend the Agreement, through December 31, 2016; and

C. WHEREAS, the Parties desire to supplement the Agreement's scope of work and Consultant's performance of professional services to prepare a mitigated negative declaration; and

D. The Parties have negotiated and agreed to a supplemental scope of work and related fees schedule, which is attached hereto and incorporated herein by this reference as Exhibit A, Supplemental Scope of Work and Fees.

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

1. The Agreement term is hereby extended through December 31, 2016.
2. The Agreement is hereby revised to include the Services described in the Supplemental Scope of Work attached hereto as Exhibit "A" to this Amendment.
3. All payments for services associated with this Amendment shall not exceed the amount of **Seventy-Eight Thousand Eight Hundred Forty Dollars (\$78,840)**.
4. The Parties agree that the total Agreement amount, including this Amendment, shall not exceed One Hundred Fifty-Three Thousand Seventy-Six Dollars (\$153,076).
5. All other provisions of the Agreement will remain in full force and effect. In the event of any conflict or inconsistency between the Agreement and this Amendment, the terms of this Amendment shall control.
6. All requisite insurance policies to be maintained by the Consultant pursuant to the Agreement will include coverage for this Amendment.

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AMENDMENT NO. 1 to
CONTRACT NO. 2014.015

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the
Amendment Effective Date.

LSA ASSOCIATES, INC.

MOULTON NIGUEL WATER DISTRICT, a
California Water District

By:

By: Joone Lopez

(Sign here)

General Manager

Name

Title

AMENDMENT NO. 1 to
CONTRACT NO. 2014.015

EXHIBIT A
SUPPLEMENTAL SCOPE OF WORK AND FEES

SCOPE OF WORK

LSA Associates, Inc. (LSA) is pleased to submit this contract amendment at the request of the Moulton Niguel Water District (MNWD) for the proposed Operations Center and Site Consolidation Project in the City of Laguna Hills (City), California.

TECHNICAL ANALYSIS

Archaeological and Paleontological Resources

A joint archaeology and paleontological survey of the Project site will be conducted.

Archaeological Resources. LSA will conduct an archaeological and historic resources review and literature search through the South Central Coastal Information Center (SCCIC) of the California Historical Resources Information System, located at California State University, Fullerton. The Information Center houses the pertinent archaeological site and survey information necessary to determine whether previously recorded archaeological resources have been recorded within the study area boundaries. The objectives of this archival research will be to (1) establish the status and extent of previously recorded sites, surveys, and excavations within and immediately adjacent to the Project area; and (2) note what types of sites might be expected to occur within the proposed Project area based on existing data from archaeological sites within 0.25 mile of the Project area. All pertinent references will be reviewed and all information will be summarized in the report of findings.

Due to the accelerated schedule for this Project, this change order assumes that a “rapid response” records review will be required. The SCCIC currently charges \$600 to \$1,000 for a rapid response. Without the rapid response records review, a response from SCCIC would take 8 to 12 weeks.

A systematic on-site pedestrian survey will be conducted to determine the presence of archaeological resources in the Project area. Previously recorded archaeological sites within the Project area, if any, will be field checked, and existing Department of Parks and Recreation (DPR) Series 523 forms will be updated consistent with the guidelines established by the State Office of Historic Preservation (OHP). Newly identified sites will also be documented on DPR forms. Pursuant to LSA’s access agreement with the SCCIC (a designated affiliate of the OHP), LSA is contractually obligated to record any cultural resources encountered during the survey. In the event that any resources are identified within the Project area, LSA will notify the Client immediately. The accuracy of the field survey is dependent on ground visibility. Depending on the time of year and the type(s) of vegetation present, resources may not be observed during the survey, but will become apparent during Project-related ground-disturbing activities.

Based on negative findings, LSA will prepare an archaeological resources assessment letter report describing the methods and results of the record search and survey. This report will also include recommendations for mitigation, if necessary, and a location map. This Scope of Work assumes

negative findings and preparation of a letter report (not Archaeological Resource Management Report style). If findings are positive, a budget amendment will be necessary.

Paleontological Resources. LSA will complete a fossil locality search through the Natural History Museum of Los Angeles County (LACM) to establish the status and extent of previously recorded paleontological resources within the Project area, as well as within the same or similar deposits as those found in the Project area. This locality search will help determine the types of paleontological resources that may be encountered during Project development.

Due to the accelerated schedule for this Project, this change order assumes that a “rapid response” records review will be required. The LACM currently charges approximately \$600 for a rapid response. Without the rapid response records review, a response from LACM would take 8 to 12 weeks. At this time, an on-site pedestrian survey is not believed to be necessary due to a lack of exposed ground surface within the Project area.

LSA will examine current geologic maps of the Project area and will review relevant geological and paleontological literature. This literature review will determine which geologic units are present within the Project area, where they are exposed, and where they may be encountered at depth. The literature review will provide additional information regarding the types of paleontological resources that may occur in those deposits and their scientific significance, as well as the methods necessary to mitigate any impacts to those resources.

Based on the results of the fossil locality search, a systematic on-site pedestrian survey of available bedrock and sediment exposures will be conducted to determine the presence of paleontological resources in the Project area, as well as to confirm the geology as it has been mapped. Previously recorded localities, if any, within the Project area will be field checked. The paleontological resources survey will be conducted at the same time as the archaeological resources survey by individuals who are crosstrained to recognize both paleontological and cultural resources. The cost for the survey appears only in the archaeological resources budget.

LSA will document the results of the fossil locality search through the LACM, the literature review, and the field survey in a paleontological resources assessment letter report. This letter report will discuss the potential for the Project to adversely impact paleontological resources, and, if needed, will include mitigation measures and other recommendations to minimize these impacts.

Jurisdictional Delineation

Based on aerial photographs dating back to 1994, the Project site contained two water detention basins (approximately 60,000 square feet each) until at least December 2014. These water detention basins appear to be dry as of March 2015, and new facilities are proposed to be constructed in their place. It is LSA’s understanding that a Jurisdictional Delineation was performed in June 2015 and the United States Army Corps of Engineers (Corps) determined that the ponds were not jurisdictional. As such, these ponds will not be evaluated in the Jurisdictional Delineation described below.

In addition to the aforementioned basins, an ephemeral drainage that runs along the northern boundary of the proposed Project area was identified during the site assessment conducted for the

Biological Assessment Report (LSA 2016). It does not appear as though this drainage was addressed as part of the June 2015 Jurisdictional Delineation. LSA was able to determine during the site assessment that the drainage is at least partially within the proposed Project area and a Jurisdictional Delineation is warranted.

LSA proposes to conduct a Jurisdictional Delineation in accordance with Corps and California Department of Fish and Wildlife (CDFW) guidelines. To identify Corps jurisdictional wetlands, a three-parameter delineation will be conducted according to the *Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region* and the *1987 Corps Wetland Delineation Manual*. LSA will also delineate the jurisdictional limit of nonwetland waters of the United States following the procedures set forth in 33 Code of Federal Regulations 328.3(e). It is anticipated that a routine delineation (as defined by the Corps), tailored to the site characteristics, will be adequate. Further, the extent of any streambed and associated riparian habitat subject to review by the CDFW under Section 1602 of the California Fish and Game Code will also be delineated. The results of the draft Jurisdictional Delineation will require verification and approval by the Corps and the CDFW, if the Project will impact jurisdictional areas, which requires permits from these agencies as well as from the Regional Water Quality Control Board.

A report will be prepared presenting the results of the Jurisdictional Delineation. Accordingly, the report will identify and quantify jurisdictional areas and features, including a breakdown of wetlands, nonwetland waters of the United States, streambeds, and any associated riparian habitat.

LSA will prepare the necessary permit applications (i.e., Clean Water Act Section 404 Permit from the Corps), Section 401 Water Quality Certification from the California Regional Water Quality Control Board, and California Fish and Game Code Section 1602 Streambed Alteration Agreement from the CDFW as part of this task. This Scope of Work and budget assumes the Project will qualify for Corps Nationwide Permit 39 and that mitigation for impacts may be accomplished through on-site landscape design or the site is eligible to participate in a mitigation bank. This scope does not include the preparation of a Habitat Mitigation and Monitoring Plan (HMMP), which may be required in order to obtain a Corps permit. Additional budget will be required if the Project does not qualify for Corps Nationwide Permit 39, if preparation of an HMMP is required, or if identification of off-site mitigation opportunities is necessary.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

LSA will convert the Initial Study prepared for the proposed Project to an Initial Study/Mitigated Negative Declaration (IS/MND) consistent with the requirements of the California Environmental Quality Act (CEQA) and the *State CEQA Guidelines*. The environmental documentation shall include a careful, objective, and detailed evaluation of the proposed Project.

Preparation of an IS/MND includes the following subtasks:

Administrative Draft IS/MND

LSA will prepare an Administrative Draft IS/MND and will submit the document to MNWD for review. The technical analyses completed to date along with the technical analysis identified above will be incorporated into the environmental document.

LSA will also prepare a Mitigation Monitoring and Reporting Program (MMRP) in accordance with *State CEQA Guidelines* Section 15097 for use in ensuring implementation of the mitigation measures for the Project.

For purposes of this Scope of Work and budget, LSA will respond to one round of comments from MNWD. LSA's Scope of Work and budget assumes one set of nonconflicting and consolidated comments.

Draft IS/MND for Public Review

As described above, LSA will respond to comments on the Administrative Draft IS/MND and will complete necessary revisions. LSA will provide the preprint version of the Draft IS/MND to MNWD staff for a limited final review prior to printing. The purpose of submitting this preprint version will be to review the changes to the document, resolve any remaining questions that arise from comments, and verify that MNWD is satisfied with the overall Draft IS/MND.

LSA will prepare a Draft Notice of Intent (NOI) regarding the availability of the Draft IS/MND for public review. Once the preprint Draft IS/MND is approved for public review, LSA will distribute up to 30 copies of the IS/MND (15 copies to the State Clearinghouse and 15 copies to other interested agencies) to a distribution list for the Project that is developed by LSA with MNWD staff input. This distribution list will include responsible agencies and other relevant public agencies. Copies of the document will be distributed via overnight delivery service with delivery confirmation. LSA will also prepare and submit a Notice of Completion (NOC) to the State Clearinghouse for distribution to State agencies.

LSA will assemble the Project distribution list for the NOI in consultation with MNWD; this Scope of Work assumes distribution of 150 NOIs via United States Postal Service (first class). It is also assumed that MNWD will make the IS/MND available in PDF format on its website. The distribution list does not include preparation of a "radius distribution list" for private addresses (i.e., neighbors). If such a list is desired, it can be prepared and provided at an additional cost.

MWND will be responsible for publication of the public notice in a general-circulation newspaper. In addition, LSA will file the NOI with the County Clerk to begin the required public review period. MNWD will be responsible for providing checks for all necessary filing fees required by the County Clerk. At this time, LSA believes there will not be any filing fees for the Draft IS/MND, as the County typically waives fees for public agencies like MNWD.

Final IS/MND

LSA will prepare written responses to comments received on the Draft IS/MND that raise substantive environmental issues and will submit the responses for review to MNWD staff after the close of the

public comment period. LSA shall confer with MNWD staff to review written comments and comments from any public meetings to develop a general framework and strategies for preparation of responses. LSA specifies 50 professional staff hours for the preparation of responses to comments. If a large number of comments are received or comments require additional technical analysis, a budget augment may be warranted. Any revisions to the IS/MND will be shown in the text by a line in the margin. Responses to comments and associated changes to pages of the IS/MND will be submitted to MNWD for one round of review each. LSA's Scope of Work and budget assumes one set of nonconflicting and consolidated comments from MNWD.

Following the MNWD Board of Directors approval of the IS/MND, LSA will prepare and file a Notice of Determination (NOD) with the County Clerk. MNWD shall provide a check for all necessary filing fees (including CDFW fees) to be submitted to the County Clerk with the NOD.

PROJECT MANAGEMENT AND COMMUNITY OUTREACH

This task represents an active project management role and includes attendance at various Project meetings and coordination with agencies and interested parties. The project management role provides a mechanism to ensure that there is an adequate exchange of information during Project startup and preparation of the IS/MND. This task includes notifying MNWD staff of problems as they are encountered and working expeditiously to resolve them. Important elements of this task will be to maintain the Project schedule, oversee the budget, and coordinate efforts with MNWD staff and other team members. This task also includes time to provide MNWD with information and advice related to the particular environmental issues associated with the proposed Project. As such, LSA's Principal in Charge/Project Manager will maintain ongoing verbal and email communication with MNWD staff.

LSA's original Scope of Work included six meetings; to date, LSA has attended one kick-off meeting (December 18, 2015), one team meeting (March 24, 2016), one meeting with the City of Laguna Hills (April 26, 2016), and two team conference calls (February 1, 2016, and March 14, 2016). LSA proposes to augment the previous meeting list with four conference calls (two have already taken place), one Community Information Meeting, and attendance at one Board of Directors meeting.

As part of this task, LSA will organize and arrange one Community Information Meeting. The purpose of the meeting will be to provide stakeholders with an opportunity to speak to Project staff (including MNWD staff, the design team, and the environmental consultant team), view topical exhibit boards, and provide written comments. For the purposes of this Scope of Work and budget, LSA has assumed that the meeting will be conducted as an "Open House" (i.e., no formal presentation) and that all public comments will be provided in written form. No verbal comments will be taken at the meeting. Attendees will be invited to fill out comment cards; LSA will provide comment cards.

LSA will provide up to eight presentation boards, a Project information sheet, a sign-in/contact sheet, and comment cards. LSA will provide a summary of the meeting to MNWD. The meeting summary will include the following information: number of attendees, number of comments received, and a general summary of comments received.

Attendance at meetings over the maximum identified above or attendance by additional technical specialists at community meetings/public hearings will be on a time-and-materials basis with the

Client's written approval, consistent with LSA's Schedule of Standard Contract Provisions and Billing Rates. Table A lists the anticipated meetings.

Table A: Meetings

Meeting Type	Original Number	Meetings Added	Meetings Remaining
Kick-off Meeting	1	0	0
Meetings with the City of Laguna Hills	2	0	1
Meetings with MNWD Staff and the Project Team	2	0	1
Conference Calls	0	4	2
Workshop/Study Session with Board of Directors	1	0	1
Community Meeting	0	1	1
Public Hearing	0	1	1
Total Meetings	6	6	7

FEE ESTIMATE

LSA proposes to accomplish Tasks 1 through 4 as described in the Scope of Work for an estimated fee of \$78,840, as shown in Table B.

Table B: Fee Estimate By Task

Task	Budget
Technical Analysis	
Archaeological Resources Report	\$4,400
Paleontological Resources Report	\$3,400
Jurisdictional Delineation	\$26,500
Initial Study/Mitigated Negative Declaration (IS/MND)	
Administrative Draft IS/MND	\$14,500
Draft IS/MND for Public Review	\$5,500
Final IS/MND	\$12,640
Project Management and Meeting Attendance	\$8,500
Subtotal	\$75,440
Estimated Reimbursable Fees	\$3,400
Total	\$78,840

LSA fees are charged on an hourly basis, consistent with the Schedule of Standard Contract Provisions and Billing Rates, provided in Attachment A. The fee will not be exceeded without prior authorization. This fee is based on LSA's past experience related to the level of effort needed to complete the environmental process and technical studies for projects of this type. LSA will aggressively identify strategies for reducing the overall work effort while maintaining the Client's objectives and the legal adequacy of the work products. Should there be any changes to this above described Scope of Work, the budget may need to be revisited.

BUDGET SPECIFICATIONS AND REIMBURSABLE COSTS

Direct costs (including outside vendors used for photocopying) are to be reimbursed at cost, unless other arrangements are made in advance, and are not included in the hourly fee for professional services provided above. Direct costs can be invoiced separately, at MNWD's request. Attachment A provides LSA's current fee schedule for direct costs.

In addition to those costs listed in Attachment A, the Scope of Work includes record searches for which there is a fee. The SCCIC (archeological records search) charges on an hourly basis. The "rapid response" records search for the proposed Project is expected to cost between \$600 and \$1,000. The LACM (paleontological records search) also charges a fee to conduct locality searches. For the proposed Project site, LSA anticipates a cost of approximately \$600 for a "rapid response" search.

Printing costs are difficult to quantify because the size and composition (i.e., graphics size and medium) are uncertain at this time. LSA stresses that the cost of reproducing a document is not known until the document is complete. For the purposes of the reimbursable estimate provided above, LSA estimates a cost of \$35 per Draft document (with technical information on CD) and \$45 for the proposed Final document (with technical information on CD). Reimbursable expenses also include mileage for site visits, team meetings, and public meetings. A summary of LSA work products and the number of copies anticipated are provided in Table C.

Table C: LSA Work Products

LSA Work Products	Deliverable Quantities
Administrative Draft Initial Study/ Mitigated Negative Declaration	PDF copies submitted via email
Initial Study/Mitigated Negative Declaration	30 bound copies of Draft IS/MND, 30 CDs (technical information), overnight delivery
Community Meeting Boards	Up to 8 display boards (\$100 each)
Notice of Intent to Adopt a Negative Declaration/Notice of Completion	150 copies mailed via first class United States Postal Service; 1 PDF. LSA will prepare and file with the County Clerk and the State Clearinghouse. MNWD will be responsible for all newspaper postings and all required filing fees.
Proposed Final IS/MND	15 bound copies (technical information on CD); 1 PDF
Notice of Determination	LSA will prepare and file with the County Clerk and the State Clearinghouse. MNWD will be responsible for all required filing fees, including CDFW fees.

CDFW = California Department of Fish and Wildlife
IS/MND = Initial Study/Mitigated Negative Declaration
MNWD = Moulton Niguel Water District

HOURLY BILLING RATES EFFECTIVE JUNE 2015

Job Classification							Hourly Rate Range ^{1,2}
Planning	Environmental	Transportation	Air/Noise	Cultural Resources	Biology	GIS	
Principal	Principal	Principal	Principal	Principal	Principal	Principal	\$155–315
Associate	Associate	Associate	Associate	Associate	Associate	Associate	\$85–200
Senior Planner	Senior Environmental Planner	Senior Transportation Planner/Engineer	Senior Air Quality/Noise Specialist	Senior Cultural Resources Manager	Senior Biologist/Botanist/Wildlife Biologist/Ecologist/Soil Scientist/Herpetologist/Arborist	Senior GIS Specialist	\$90–175
Planner	Environmental Planner	Transportation Planner/Engineer	Air Quality/Noise Specialist	Cultural Resources Manager	Biologist/Botanist/Wildlife Biologist/ Ecologist/Soil Scientist/ Herpetologist/Arborist	GIS Specialist	\$85–125
Assistant Planner	Assistant Environmental Planner	Assistant Transportation Planner/Engineer	Air Quality/Noise Analyst	Cultural Resources Analyst	Assistant Biologist/Botanist/Wildlife Biologist/ Ecologist/Soil Scientist/Herpetologist/ Arborist	Assistant GIS Specialist	\$65–100
Field Services							
Senior Field Crew/Field Crew							\$55–90
Office Services							
Research Assistant/Technician							\$45–60
Graphics							\$105–125
Office Assistant							\$55–100
Word Processing/Technical Editing							\$75–110

¹ The hourly rate for work involving actual expenses in court, giving depositions or similar expert testimony, will be billed at \$400 per hour regardless of job classifications.

² Hourly rates are subject to review at least annually, on or about June 1 of each year, and may be adjusted to reflect changing labor costs at LSA's discretion at that time.

**LSA IN-HOUSE DIRECT EXPENSES
MARCH 2016**

	Unit Cost
Reproduction (8.5 x 11) B/W	\$.07 per page
Reproduction (8.5 x 11) Color	\$.40 per page
Reproduction (11 x 17) B/W	\$.10 per page
Reproduction (11 x 17) Color	\$.75 per page
CD Production	\$5.00 per CD
Plotting	\$3.75 per sf
Mileage On-Road	\$.54 per mile
Mileage Off-Road	\$.69 per mile
GPS Unit	\$75.00 per day
Total Station Surveying Instrument	\$50.00 per day
Level (Laser or Optical)	\$25.00 per day
Laser Rangefinder	\$25.00 per day
Sound Meter	\$75.00 per day
Sound Meter with Velocity Transducer	\$85.00 per day
Aerial Photo	Cost
Boat Rental	\$125.00 per day
Water Quality Meter	\$25.00 per day



moulton niguel water district

STAFF REPORT

TO: Board of Directors **MEETING DATE:** May 16, 2016

FROM: Matt Collings, Assistant General Manager
Todd Novacek, Assistant Director of Operations

SUBJECT: Security Services

DIVISION: District-wide

SUMMARY:

Issue: Board action is required to execute an agreement for on-site security services.

Recommendation: It is recommended that the Board of Directors authorize the General Manager to execute a three year agreement with G4S Secure Solutions (USA), Inc., in the amount of \$73,892 per year, for a total agreement amount of \$221,676 with the option to extend for two additional one-year terms.

Fiscal Impact: Sufficient funds are included in the proposed FY 2016-17 Budget and will be included in the proposed budgets for each applicable fiscal year.

BACKGROUND:

In 2012, staff identified the need for security services at the District’s facilities for staff and public utilizing the District’s facilities. The District executed a contract with G4S in 2012, which was amended with the Board’s approval through June 30, 2016. G4S continues to provide security services to the District. Currently, a security guard is on-site at the Main Office 10-hours per day from Monday through Friday including evening board meetings.

Considering that the Main Office facility experiences daily customer and visitor traffic and handles monetary transactions, the benefit of an on-site security guard continues to be a worthwhile deterrent to various potentially conflict-based issues that could

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Security Services

May 16, 2016

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otherwise negatively impact District personnel, and other customers or visitors conducting business with the District.

DISCUSSION:

Staff issued a Request for Proposal to six security firms that were fully qualified and capable to perform the required services. Services required include surveillance and monitoring of ingress and egress at the Main Office facility and reporting on potential security concerns. The table below summarizes the proposals received:

Summary of Proposals for Security Services	
Firm	Proposal Amount (Per Year)
G4S Secure Solutions (USA), Inc.	\$73,892
Securitas Security Services USA, Inc.	\$67,132

After consideration of both proposals and based on a successful engagement for the past four years, Staff recommends the Board authorize the General Manager to enter into a three year agreement with G4S Secure Solutions (USA), Inc., in the not-to-exceed amount of \$73,892 per year for FY 2016-17, FY 2017-18, and FY 2018-19 for a total not-to-exceed Agreement amount of \$221,676.

A copy of the agreement is attached for reference.

Attachment: SERVICES AGREEMENT BETWEEN MOULTON NIGUEL WATER DISTRICT AND G4S SECURE SOLUTIONS (USA), INC.; SECURITY SERVICES; CONTRACT NO. OM16-17.002

**SERVICES AGREEMENT BETWEEN THE MOULTON NIGUEL
WATER DISTRICT AND G4S SECURE SOLUTIONS (USA), INC.;
SECURITY SERVICES; CONTRACT NO. OM 16-17.002**

This Agreement is made and entered into as of July 1, 2016, between the Moulton Niguel Water District, a California water district (hereafter “MNWD”), and G4S Secure Solutions (USA), Inc., (hereafter “Provider”). MNWD and Provider may be referred to individually as “party” or together as “parties” in this Agreement.

RECITALS

A. MNWD requires security services, including security personnel for various facilities and facility sites MNWD owns or operates, as further described in this Agreement (“security services”).

B. Provider represents that it has the necessary State of California business license, qualified, trained and certified security personnel, permits, and skills required to perform the security services pursuant to the terms and standards set forth in this Agreement.

NOW, THEREFORE, MNWD and Provider agree as follows:

Section 1. PROVIDER’S SERVICES

1.1 Provider will furnish and perform the security services including the provision of uniformed security personnel at MNWD sites and facilities, all as described in this section and in **Exhibit 1** (“Schedule of Services”) attached to and incorporated in this Agreement. Provider acknowledges and agrees MNWD may revise the sites, decrease the number of uniformed security personnel, and/or their service hours and/or shifts at the sites from time-to-time during the term of this Agreement upon five (5) calendar days notice to Provider, subject to the limit on total compensation to be paid under this Agreement for security services pursuant to Section 4. MNWD may request an increase in the number of security personnel, their service hours, or a revision in the shifts or posts, upon reasonable advance notice. Provider will honor a request to furnish additional personnel provided personnel are available and the request does not create any unreasonable scheduling requirements. MNWD shall pay any increase or shall be entitled to a decrease from Provider which results from such changes or modifications in accordance with the Schedule of Services. Updated ‘post orders’ will be made to **Exhibit 1** in the event any such changes to personnel/hours/shifts/sites are made, and shall be automatically incorporated in this Agreement upon execution by both parties.

1.2 Provider acknowledges and agrees MNWD may use other security service providers for security services at sites other than where Provider is furnishing the security services hereunder, in MNWD’s sole discretion, during the term of this Agreement (as may be extended).

1.3 Provider shall furnish all uniformed personnel and any tools or other equipment as may be required to perform the security services under this Agreement. All security personnel will be unarmed and shall not carry a firearm while on MNWD’s premises and sites. Provider

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shall furnish all security services in a commercially reasonable manner, and in accordance with generally accepted industry standards. Provider shall maintain and keep a license issued by the State of California ("State") during the term of this Agreement for provision of the security services. A current copy of this license will be kept on file by MNWD.

1.4 Provider covenants and agrees as follows:

- a. All security personnel performing the security services are employees of Provider and not of MNWD.
- b. All security personnel assigned to MNWD sites will have a pre-employment background investigation and drug screening prior to assignment.
- c. All security personnel assigned to MNWD sites shall be in compliance with training and all other requirements under the State's "Private Security Services Act" in the Business and Professions Code, as well as any State regulations thereunder, or any other State and federal laws governing the qualifications, etc. of security personnel.
- d. All security personnel will be neatly uniformed, courteous, and demonstrate positive human relations skills.
- e. All security personnel will be able to effectively communicate verbally and in writing and will be able to effectively respond to emergencies.
- f. All security personnel will demonstrate reliable attendance and other identified job skills.
- g. If MNWD, at any time, is dissatisfied for any lawful reason with any security officer assigned to the MNWD sites, Provider, upon request by MNWD, will replace such security officer.
- h. If a security officer fails to arrive at MNWD's premises as scheduled, Provider will provide a replacement as soon as practicable.
- i. Provider will obtain copies of any MNWD workplace policies with which security personnel must comply and be responsible for distribution to, and compliance by, Provider's security personnel.

1.5 MNWD's staff may make investigations as they deem necessary to determine the ability of the Provider to provide acceptable security services to MNWD on a continuing basis during the term of this Agreement. The Provider will furnish MNWD's representatives all information necessary for this purpose upon request.

1.6 Provider is an independent contractor and not an employee of MNWD. No permitted or required approval of MNWD representatives of post orders, schedules, hours, rates or services of Provider, or investigations thereof, will be construed as making MNWD responsible for the manner in which Provider performs the security services. Such approvals and investigations are intended only to give MNWD the right to satisfy itself with the quality of services performed by Provider.

1.7 MNWD recognizes that Provider is not an insurer of property or persons, and Provider makes no warranty, express or implied, that the security services will prevent loss, damage, or injury to MNWD's guests, invitees, employees or property. Notwithstanding, Provider is not relieved of its responsibility to provide commercially reasonable best efforts in its performance of this Agreement.

Section 2. SAFETY STANDARDS, COMPLIANCE WITH LAW

2.1 Provider's security services and operations shall be conducted so as to provide maximum safety to Provider's personnel and to the general public, and in compliance with all safety laws, rules and regulations of the State, federal, and local agencies. Provider shall have a current Safety Manual that meets SB 198 requirement for injury and illness prevention and have that Safety Manual on file with MNWD prior to commencement of performance of the security services.

2.2 Provider shall comply with all applicable laws, rules and regulations of the State, federal, and local agencies in performing the security services under this Agreement.

Section 3. TERM

3.1 The initial term ("initial term") of this Agreement is **from July 1, 2016, to and including June 30, 2019**, ("expiration") unless otherwise terminated earlier by either party pursuant to Section 5. This Agreement may be extended, at MNWD's option, for two (2) additional one (1) year terms, with the same scope and fee as listed in **Exhibit 1**. An extension will be based upon a satisfactory review of Provider's performance, MNWD's needs, and appropriation of funds and approval by the MNWD Board of Directors. The parties will prepare a written amendment indicating the effective date, the length of the extended Agreement and any additional requirements of the parties.

Section 4. COMPENSATION, PAYMENT

4.1 Compensation for the security services provided under this Agreement will be determined on a time and materials basis, but shall not exceed the total amount of **Seventy-Three Thousand Eight Hundred Ninety-Two Dollars (\$73,892)** per year, during each year of the initial term. The total compensation authorized for payment under this Agreement during the initial term only, cannot exceed **Two Hundred Twenty-One Thousand Six Hundred Seventy-Six (\$221,676)**. Compensation shall be paid in accordance with the Schedule of Services in **Exhibit 1**, which establishes the Standard Rates for the uniformed security personnel and the materials used in support thereof that will be paid by MNWD during the term of this Agreement, which includes all sales, use and/or similar taxes. Any security services performed by Provider, at the written request of MNWD, that are outside the scope of security services described under Section 1 above shall be paid at the rates quoted by Provider in advance of the services, as agreed to by MNWD in writing. Overtime hours in excess of forty hours per week or eight hours per day, whichever is applicable to local labor laws, and holiday hours (holidays are as follows: Thanksgiving Day, Christmas Day, New Year's Day, Memorial Day, Labor Day, Fourth of July) will be paid at the Overtime Rates provided in **Exhibit 1**. Provider acknowledges that these rates are inclusive of all benefits which it may provide to its security personnel, and applicable taxes for all material charges.

The Standard and Overtime Rates quoted on the Schedule of Services will remain in effect during the initial term of this Agreement.

4.2 Compensation for security services will be billed monthly by Provider in accordance with the MNWD requested format. Provider's invoice will account for the site where

#7.

services are performed in addition to named personnel, total hours worked by such personnel, and Hourly Rate. MNWD will make payment to the Provider within thirty (30) calendar days of receipt and approval of the invoices by MNWD. Only one bill per month shall be submitted by Provider, on or around the 10th day of each month, showing invoices for Provider for security services performed during the monthly billing period.

4.3 Acceptance and payment by MNWD for security services furnished under this Agreement will not in any way relieve the Provider of its responsibility to provide such services in strict accordance with State, federal, and local law. Neither MNWD's acceptance of, nor payment for, any security services will be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

4.4 Provider will pay all wages, state and federal withholding taxes, social security taxes, local occupational taxes, unemployment taxes, and other amounts normally required by an employer arising from Provider's employment of the security personnel assigned to MNWD's premises and Provider will indemnify and hold MNWD harmless, including costs and reasonable attorney's fees, from and against any or all of these obligations and payments.

4.5 Provider acknowledges California Labor Code Section 2810 and Provider's full compliance with the same, and further, stipulates to the fact that, in addition to the information to be provided in accordance with this Agreement, a full disclosure compliant with Section 2810 is attached hereto as **Exhibit 2**. Should any information in **Exhibit 2** change, Provider will send a revised **Exhibit 2** to MNWD as soon as reasonably possible, which shall be deemed automatically incorporated in the terms of this Agreement upon receipt.

Section 5. TERMINATION

5.1 Either party may terminate this Agreement by providing written notice to the other party ten (10) calendar days in advance of the date of termination; provided, MNWD may terminate the Agreement immediately without any advance notice or penalty in the event Provider is in breach of any of the terms of this Agreement, as determined by MNWD in its discretion, and Provider may immediately terminate this Agreement without advance notice or penalty in the event MNWD has failed to remit payment due Provider within sixty (60) calendar days of receipt and approval of the invoices by MNWD. Other than as provided herein, upon termination neither party will have any further duties, obligations, responsibilities, or rights under this Agreement. On any termination, Provider will be entitled to the reasonable value of the security services performed for which it has not received prior compensation, subject to any offset from such payment representing MNWD's damages from any breach of the terms of this Agreement by Provider pursuant to this Section 5. In no event, will Provider be entitled to receive compensation in excess of the compensation specified under Section 4 of this Agreement.

Section 6. INDEMNITY

6.1 Provider shall defend, and indemnify and hold harmless, MNWD and MNWD's officers, directors, employees and agents from and against all claims, demands, losses, damages, costs, expenses, and legal liability arising out of or in connection with, or allegedly arising out of or in connection with, any negligence, or reckless or willful misconduct, of Provider, or its officers, directors, employees or agents, and resulting in: (i) injury to or death of persons, including but not limited to employees or agents of MNWD, or of Provider, and third parties;

(ii) injury to property of MNWD, Provider, or a third party; or (iii) violation of any State, federal or local law, rule or regulation; except to the extent caused by the sole or active negligence or willful misconduct of MNWD, or its directors, officers, employees or agents. In no event will Provider be liable for MNWD's own loss of business or profits, penalties, or special or indirect, consequential, punitive, exemplary or liquidated damages incurred by MNWD, except as could be incurred under (iii) above. MNWD shall give notice to Provider of any loss, damage, expense, claim, lawsuit, liability, fine or penalty (collectively herein "Claim") within a reasonable time of the occurrence giving rise to the Claim, or receipt of notice of the Claim. Provider's total liability to MNWD and MNWD's officers, directors, employees and agents collectively under this indemnity obligation, shall be limited to the total amount of the insurance coverage aggregate limits as required under Section 7.3 (ii) this Agreement.

6.2 Provider shall pay all costs and fees that may be incurred by MNWD in enforcing this indemnity, including reasonable attorney's fees.

6.3 The terms of this Section 6 shall survive the expiration or termination of this Agreement.

Section 7. INSURANCE

7.1 In addition to the requirements set forth below, during the course of the Agreement, Provider will pay for and maintain, in full force and effect, all insurance required by any governmental agency having jurisdiction to require particular insurance of Provider in connection with or related to the security services provided under this Agreement.

7.2 Provider shall not commence work under this Agreement until it has obtained all insurance required by MNWD nor shall Provider allow any allowed subcontractor to commence security services until all insurance required has been obtained.

The general liability and business automobile insurance will be comprehensive in form, for the term of this Agreement and on a 'per occurrence' basis. All policies will have a clause providing that thirty (30) calendar days written notice will be given to MNWD prior to any cancellation of such policies. All insurance will be issued and underwritten by insurance companies licensed and authorized to do business in the State, or be on the State's approved 'LESLI' List, and have at least an "A-" policyholder's rating and a financial rating not less than Class VII in accordance with the most current Best's Rating Guide - Property/Casualty, or better, or as otherwise approved by MNWD. Provider may satisfy the limit requirements set forth below in a single policy or multiple policies, provided, however, that any such additional policies written as excess insurance will not provide any less coverage than that provided by Provider's first or primary policy. All policies shall name "MNWD, and its directors, officers, employees and agents" as additional insured thereunder ("Additional Insured"), to the extent of Provider's indemnification obligation under the Agreement. All of the policies of insurance provided hereunder shall be primary insurance and not contribute with any other insurance maintained by the Additional Insured, and the insurer shall waive all rights of subrogation and contribution it may have against the Additional Insured. In the event any of said policies of insurance are canceled, Provider shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 7 to MNWD.

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7.3 Provider shall take out and maintain at all times during this Agreement the following policies of insurance, **which shall comply with the terms of Section 7.2 as well as the following:**

- (i) Workers Compensation Insurance and Employers Liability Insurance. Worker’s compensation insurance as required by State laws, and employer’s liability insurance with limits not less than \$1,000,000 each accident and \$1,000,000 for disease per employs. This insurance shall be in strict accordance with the requirements of the most current and applicable state Workers’ Compensation insurance laws. Provider shall execute the Certificate required by Section 1861 of the Labor Code on Exhibit 3 attached to this Agreement prior to commencement of any security services.
- (ii) Commercial General Liability Insurance. Commercial general liability in a combined limit of not less than \$2,000,000 per occurrence, \$4,000,000 aggregate with such aggregate to apply separately to the security services. Commercial General Liability insurance coverage shall be equivalent to Insurance Services Office Form CG 00 01. Included in such insurance shall be contractual coverage sufficiently broad to insure the matters set forth in Section 6 of this Agreement. This insurance shall name the Additional Insureds using ISO endorsement CG 20 10 11 85, or both CG 20 10 and CG 23 37 forms if later revisions are used.
- (iii) Business Automobile Insurance. Business automobile insurance with a liability limit of not less than \$2,000,000 each accident. The policy shall include coverage for owned, non-owned, and hired vehicles.

7.4 Nothing in the insurance requirements set forth in this Agreement is to be construed as limiting the liability of Provider or Provider’s insurers. Provider agrees that the provisions of Section 7 shall not be construed as limiting in any way the extent to which Provider may be held responsible for the payment of damages or other costs to MNWD, or any persons or property, resulting from Provider’s activities or the activities of any person or persons for which Provider is otherwise responsible.

Section 8. ADDITIONAL PROVISIONS

8.1 Notices. All notices, bills, and payments will be made in writing and may be given by personal delivery, or by U.S. Mail, postage prepaid, and addressed as follows:

- To: MNWD Moulton Niguel Water District
 Attn: Director of Engineering and Operations
 27500 La Paz Road
 Laguna Niguel, CA 92677
- To: Provider: G4S Secure Solutions (USA), Inc.
 Attn: Brandon Joffe
 2300 E. Katella, Suite 150
 Anaheim, CA 92806

Each party shall provide the other party with written notice of any change of address or telephone/FAX number that occurs as soon as practicable.

8.2 Entire Agreement; Severability. This Agreement represents the entire understanding of MNWD and Provider as to those matters contained herein. No prior oral or written understanding will be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by both parties. If any section of this Agreement or provision of this Agreement as applied to either party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

8.3 Assignment. This Agreement and all of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns; provided, Provider shall not assign this Agreement, nor any part thereof, nor any monies due, or to become due hereunder, without the prior written consent of MNWD. Any assignment or delegation in violation of this section shall be void. In no event shall any contractual relationship be created between any third party and MNWD.

8.4 Property. All MNWD software, equipment, and other property used by Provider's security personnel shall remain the exclusive property of MNWD. Likewise, any property furnished by Provider for use by security personnel while assigned at MNWD's premises shall remain the exclusive property of Provider.

8.5 Force Majeure. Provider will not be liable for any failure or delay in performance of this Agreement, in whole or in part, where such failure or delay is caused by circumstances beyond Provider's control, including but not limited to acts of God, severe weather, fire, terrorism, vandalism or civil riots, war, civil disturbance, labor activity or strike, court order or other events beyond Provider's reasonable economic control.

8.6 Confidential Information. All processes, documents, data, material, policies, or other information pertaining to MNWD's operations which is learned by Provider or furnished to Provider shall be maintained by Provider in strict confidence and shall not be used by Provider except for the direct benefit of MNWD, nor disclosed by Provider to any person or entity at any time for any reason, except as may be otherwise required by law. In furtherance of this provision, Provider agrees to execute such confidentiality agreements as requested by MNWD from time to time. The terms of this provision shall survive the termination or cancellation of this Agreement.

8.7 Attorney Fees. In the event an action is filed by either party to enforce any rights or obligations under this Agreement, the prevailing party will be entitled to recover all attorney's fees and court costs, in addition to any other relief granted by the court.

8.8 Governing Law/Venue. The provisions of this Agreement will be interpreted and enforced in accordance with the laws of the State. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure 394.

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8.9 Interpretation. The provisions contained herein shall not be construed in favor of or against either party but shall be construed as if all parties prepared this Agreement.

8.10 No Third Party Rights. The parties intend not to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, covenant, obligation, or undertaking established herein.

8.11 Independent Contractor. It is expressly understood and agreed that Provider is an independent contractor and not an employee of MNWD while engaged in carrying out this Agreement. Provider warrants that it will not represent, at any time or in any manner, that Provider is an employee or agent of MNWD. Provider shall have no authority to, and shall not, incur any debt, obligation or liability on behalf of MNWD.

8.12 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together constitute one and the same instrument.

[Remainder of Page Left Blank.]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

MOULTON NIGUEL WATER DISTRICT

BY: _____
Joone Lopez, General Manager

DATE: _____

PROVIDER:

BY: _____

DATE: _____

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CORPORATE CERTIFICATE*

I, _____, certify that I am the Secretary of the corporation named as PROVIDER in the foregoing Agreement; that _____, who signed said Agreement on behalf of Provider, was then President of said corporation; and that said Agreement was duly signed for and on behalf of said corporation by authority of its Governing Body and is within the scope of its corporate powers.

[_____] , Secretary

(CORPORATE SEAL)

*To be completed if Provider is a corporation. If Provider is a joint venture or partnership that includes a corporation(s), a certificate must be obtained from MNWD's office, completed and attached to this page.

EXHIBIT 1**Schedule of Services****Scope Details:**

Provide one (1) Custom Protection Officer for the District's Main Office Facility located at 27500 La Paz Road, Laguna Niguel, CA 92677. The Custom Protection Officer must wear formal uniform when on duty.

Services to be provided include:

- Surveillance and monitoring and/or control ingress and egress into the Main Office Facility
- Check vulnerabilities at the facility and report to District's designated contacts in a timely fashion
- Act and report on potential criminal opportunities, i.e. unlocked facilities, open doors, etc.
- Investigate suspicious activities and take appropriate actions
- Assist District personnel with safety recommendations

The Custom Protection Officer must meet at least one of the following qualifications:

- Active or Honorably Discharged Service in the US Military (Veteran)
- Graduate in Criminal Justice or Criminology
- Previous Law Enforcement Experience
- Graduate of Police/Corrections Academy
- Career Military

Additionally, all security personnel assigned to District sites will have a pre-employment background investigation and drug screening prior to assignment.

Working hours shall be Monday-Friday from 7:00am to 5:00 pm with additional coverage in evenings when needed, approximately 1 evening per month.

Compensation:

Standard Rate = \$28.42 per hour (50 hours per week rate)

Overtime Rate= 1.4x Standard Rate

EXHIBIT 2

**Certification of Information For Compliance With Labor Code Section 2810
(Executed by Provider's Authorized Representative)**

Agreement with Moulton Niguel Water District for Security Services

Provider hereby provides the following information in relation to the above referenced Agreement so as to comply with California Labor Code Section 2810:

Provider hereby represents and warrants that the contract amount/Hourly Rate is sufficient to allow Provider to comply with all applicable local, State and federal laws or regulations governing the labor or services to be provided under the Agreement. Provider warrants that the information set forth in this **Exhibit 2** is accurate. Provider agrees that if any of the information provided in Items 7 or 9 herein is an estimate, then Provider shall provide MNWD with updated information as it becomes known to Provider.

1. The name, address and telephone number of the person or entity ("Provider") through whom the labor or services are to be provided:

Name: _____ Phone: _____

Address: _____

2. A description of the labor service to be provided and a statement of when those services start and are to be completed, if not fully described in the contract. _____

3. Provider's employer identification number: _____

4. Provider's worker's compensation insurance carrier information:

Name of Carrier: _____

Phone Number: _____

Insurance Policy Number: _____

Address: _____

5. The vehicle identification number of any vehicle that is owned by the Provider and used for transportation in connection with the services to be provided: _____

The vehicle liability insurance policy number covering the vehicle:

The name, address, and telephone numbers of the vehicles insurance carrier:

Name of the Carrier: _____

Phone Number: _____

Address: _____

6. The address of any real property where any workers will be housed in connection with the Agreement, or "N/A" if not applicable to this Agreement: _____

7. The total number of workers to be employed under the Agreement, and the total amount of all wages to be paid, and days or dates wages, are to be paid:

Number of workers: _____

Total Amount of Wages: _____

Day / Dates Wages Paid: _____

8. The amount of commission or other payments made to the Provider for security services under the Agreement: \$ _____

9. The total number of persons who will be utilized under the Agreement as independent contractors along with a list of their current local, state and federal contractor's license ID numbers which may be required:

Number of Independent Contractors: **None**

Provider 's License Number(s): _____,
_____, _____, _____,

Date: _____ By: _____

Its: _____

Provider

EXHIBIT 3

Worker's Compensation Insurance Certification

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

(ONE OF THE BOXES BELOW MUST BE CHECKED)

I have and will maintain a certificate of consent from the California Labor Commission to self-insure for workers' compensation, as provided for by Section 3700 of the Labor Code, for the performance of the work to be performed under this contract.

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work to be performed under this contract. My workers' compensation insurance carrier and policy number are:

Carrier _____

Policy Number _____

I certify that, in the performance of the work on this contract, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Date: _____ Applicant: _____

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.



moulton niguel water district

STAFF REPORT

TO: Board of Directors **MEETING DATE:** May 16, 2016

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

SUBJECT: Amendment No. 7 to Agreement with ATS Communications for
Fiscal Year 2016-17

DIVISION: District-wide

SUMMARY:

Issue: Staff requests an amendment to the professional services agreement for Telecom Group Partners Corp., a California Corporation, d/b/a ATS Communications (ATS).

Recommendation: It is recommended that the Board of Directors approve Amendment No. 7 with ATS Communications for a not-to-exceed amount of \$90,000 for FY 2016-17 for a total contract value of \$518,357; and authorize the General Manager to execute Amendment No. 7 to the Professional Services Agreement.

Fiscal Impact: The funds for this amendment to the agreement have been included in the FY 2016-17 Operating Budget.

BACKGROUND:

The District developed the Communications License Program (Program) with a primary objective to provide an economic benefit to the District’s ratepayers through a monthly lease program. The District’s first responsibility is to provide water and wastewater service to its customers, and development of the Program should not interfere with the District’s ability to provide that quality service. With those objectives in place, the District’s Board of Directors (Board) approved a Communications Lease Agreement and Lease Policy, which was implemented on January 1, 2001 and updated to a Communication License Agreement and License Policy (Policy) on March 15, 2012. In December 2015, the Board approved an update to the Policy. The District’s Program has grown to include 56 agreements distributed among 17 of the District’s sites. The program currently generates about \$1.7 million in revenues to the District each fiscal year.

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Amendment No. 7 to Agreement with ATS Communications for FY 2016-17

May 16, 2016

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Since the Program began in the 1990s, the District's engineering staff has administered the Program, which included implementation of Board policy, point of contact with the existing or proposed cell carrier, plan check review of the construction documents, approval of new agreements or amendments, inspection of communication facility construction activities, and oversight of the monthly lease payments.

DISCUSSION:

Staff issued a request for proposals for On-Call Professional Services in August 2010 for technical assistance and administration of the District's Program. Staff received five proposals and selected ATS to provide the contract services. The scope of services was developed based on comprehensive support needs for the Program.

ATS assists staff with cell site plan reviews, technical expertise regarding cell site issues, new license and existing lease amendment negotiations, site assessments, review of existing leases for compliance, implementation of policies and procedures for the Program, and various day to day communication with cell site carriers. In addition, this year ATS will continue to assist staff with new license agreements for expired leases and facilitating the decommissioning of Nextel and Metro PCS at various sites.

This agreement is funded through the Operating Budget and the previous contract amendments are provided in the table below:

Fiscal Year	Expenditures
2010-11	\$8,357
2011-12	\$70,000
2012-13	\$80,000
2013-14	\$90,000
2014-15	\$90,000
2016-17	\$90,000
Proposed 2016-17	\$90,000
Total	\$518,357

Staff is proposing to extend the current ATS agreement for the FY 2016-17 Program services. ATS has kept its hourly rates the same as the previous fiscal year. Staff probed the market to assess if other providers of this service were present in the market. The market is dominated by providers that primarily serve cell carriers. ATS is the only local provider of this type of service for public agencies and does not have a conflict of interest with these cell carriers.

Amendment No. 7 to Agreement with ATS Communications for FY 2016-17

May 16, 2016

Page 3 of 3

A budget amendment of \$90,000 for ATS for FY2016-17 has been proposed to meet all Program requirements. ATS will continue to assist the District at a similar service level as the previous fiscal year. The number of projects that the cell carriers have proposed or are currently in the process has remained high. Currently, staff has 43 active projects, in addition to regular activities. Twenty-nine new licenses will need to be renewed for existing facilities that have leases expiring this year.

- Attachments: 1. Agreement for Professional Services with ATS Communications
Dated October 2010
2. Amendment No. 7 to Agreement with ATS Communications

Contract No. _____

Approved: _____

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is entered into by the Moulton Niguel Water District, a California Water District ("District") and Telecom Group Partners Corp., a California Corporation, d/b/a ATS Communications ("Consultant").

RECITALS

WHEREAS, Consultant is specially trained, experienced, and competent to perform the special services required by the District; and

WHEREAS, the District requested special services by a Request for Proposal (RFP) attached hereto; and

WHEREAS, Consultant is willing to render professional services, as hereinafter defined, on the following terms and conditions.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

AGREEMENT

1. **Scope of Services.** Subject to the terms and conditions set forth herein, Consultant shall provide to District the services described in Exhibit 1, attached hereto and made a part hereof. Consultant shall provide said services at the time, place, and in the manner specified in Exhibit 1 under the direction of the Program Manager who shall be assigned by the General Manager.
2. **Effective Date and Term.** This agreement shall become effective on October 29, 2010. Further, Consultant shall perform all the services described herein by June 30, 2011. This agreement may be extended for up to two additional one year extensions at the option of the District. If extended, the Consultant shall be bound by the terms and condition of this agreement. Consultant shall not be entitled to, and shall not commence any work hereunder unless and until the Program Manager issues a written notice to proceed to Consultant.
3. **Compensation.** District hereby agrees to pay Consultant and Consultant agrees to accept payment, according to the formula or rates set forth in Exhibit 2, for all of the services required by this agreement provided that the total compensation for Consultant's services shall not exceed the sum of seven thousand five hundred dollars (\$7,500.00) without written authorization from the District. District hereby agrees to pay Consultant within forty five (45) days of receipt by District of Consultant invoices. In the event that District disputes any portion of any Consultant invoice, District must deliver notice to Consultant of such disputed item to Consultant within fourteen (14) calendar days of receipt of the invoice containing the disputed item. District shall

pay the portion of the invoice which is not disputed within forty five (45) days of receipt.

4. **Billings.** Consultant shall submit monthly bills to the District describing its services and costs provided during the previous month. Consultant shall not bill District for duplicate services performed by more than one person. Consultant's monthly bills shall include the following information: A brief description of services performed, the date the services were performed, and the number of hours expended and the name of the person performing the services. The bill shall also contain a brief description of any costs incurred and the Consultant's signature. In no event shall Consultant submit any billing for an amount in excess of the maximum amount of compensation provided in paragraph 3 hereof without the written authorization of the District.
5. **Consultant Representations and Performance.** Consultant represents that it has the skills, experience and knowledge necessary to perform the services agreed to be performed under this agreement; and it is understood that District has relied upon the Consultant's representations that it has the skills, experience and knowledge to perform required by this Agreement in a competent manner. Consultant understands the scope of the services to be performed under this agreement. Consultant warrants that it will faithfully and diligently perform the services hereunder. Consultant shall employ, as a minimum, generally accepted standards and practices employed by persons engaged in providing similar services in existence at the time of performance of its obligations hereunder. The Program Manager shall notify Consultant in writing of any deficiency or delay in the performance of its services. Consultant shall cure any such deficiency within ten (10) business days from the date of service of said notice. Any failure to do so shall constitute a default hereunder and Program Manager may terminate this agreement by providing written notice of such termination to Consultant. Acceptance by District of services performed hereunder shall not constitute a release of any deficiency or delay in said performance. Default due to delay or inaction by the District shall not be a default under this agreement. It is understood that Consultant has relied upon District's award of this Agreement to perform as required under this Agreement.
6. **Consultant Designee.** This agreement contemplates the professional services of Consultant. The primary person(s) to provide the services described by this agreement shall be _____ who shall not be replaced without the prior written consent of the Program Manager. Consultant shall assign only competent personnel to perform services under this agreement. If the Program Manager asks Consultant to remove a person assigned to the work called for under this agreement, Consultant agrees to do so immediately regardless of the reason, or the lack of a reason. Consultant shall provide the Program Manager with regular written reports of its performance hereunder and all significant developments during the term hereof at such intervals as Program Manager may require according to the terms of this agreement.
7. **Abandonment by Consultant.** In the event the Consultant ceases performing services under this agreement or otherwise abandons the project prior to completing all of the services described in this agreement, Consultant shall, without delay, deliver to District all materials and records prepared or obtained in the performance of this agreement, and shall be paid for the reasonable value of the services performed up to the time of cessation or abandonment, less a deduction for any damages or additional expenses which District incurs as a result of such cessation or abandonment.

8. **Assignment and Subcontracting.** The parties recognize that a substantial inducement to District for entering into this agreement was, and is, the professional reputation and competence of Consultant and its personnel. Consultant shall not assign this agreement nor any of its obligations herein without the Program Manager's prior written approval. Likewise, Consultant shall not employ any subcontractor to perform any service required of Consultant hereunder.
9. **Attorney's Fees.** After a good faith attempt to resolve any dispute, the parties each agree that, in the event of any breach of this agreement, the party aggrieved shall be entitled to recover from the party who breaches, in addition to any other relief provided by law, such costs and expenses as may be incurred by said party, including court costs, attorney's fees, and other costs and expenses, taxable or otherwise, reasonably necessary in preparing the defense of, defending against, or seeking or obtaining an abatement of, or an injunction against, such action or proceeding, or in enforcing this Agreement, or in establishing or maintaining the applicability of, or the validity of, this agreement, or any provision thereof, and in the prosecuting any counterclaim or cross-complaint based thereon. The party entitled to recover under this section must provide documentary evidence of each and every fee, cost, and or expense for which it is seeking relief.
10. **Binding Effect.** This agreement shall be binding upon the parties hereto and their respective successors in interest.
11. **Conflict of Interest.** Consultant represents that Consultant has not employed any person to solicit or procure this agreement and that Consultant has not made, and will not make, any payment of any compensation for the procurement of this agreement. Consultant further represents and agrees that Consultant has not, and will not, acquire any interest, directly or indirectly, in any property acquired by the District during the term of this agreement. Consultant warrants and covenants that Consultant presently has no interest in, nor shall any interest be hereinafter acquired in, any matter that will render the services required under this agreement a violation of any applicable Federal, State or local law. In the event that any conflict of interest should hereinafter arise, Consultant shall promptly notify the District's Counsel of the existence of such conflict of interest so that the District may determine whether to terminate this agreement.
12. **Compliance with Laws.** In the performance of this agreement, Consultant and the District shall abide by and conform to any and all applicable laws of the United States and the State of California, and the District Policies and Procedures and all ordinances, resolutions, rules and regulations of the District. Consultant warrants that all work done under this agreement will be in compliance with all applicable safety rules, laws, statutes, and practices, including but not limited to all OSHA regulations.
13. **Copyright.** Upon District's request, Consultant shall execute appropriate documents to assign to the District the copyright to work created pursuant to this agreement. The issuance of patent or copyright to Consultant or any other person shall not affect District's rights to the materials and records prepared or obtained in the performance of this agreement. District reserves a license to use such materials and records without restrictions or limitation consistent with the intent of the original design and District shall not be required to pay any additional fee or royalty for such materials or records. The license reserved by District shall continue for a period of fifty years from the date of execution of this agreement unless extended by operation of law or otherwise.

14. **Governing Law.** This agreement and all matters relating to it shall be governed by the laws of the State of California.
15. **Indemnification.** Consultant shall indemnify, defend, and hold District, its officers, employees and agents harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state or municipal law or ordinance, or other cause in connection with the acts or omissions of Consultant, its employees, subcontractors, or agents, or on account of the performance or character of this work, except for any such claim arising out of the sole negligence or willful misconduct of the District, its officers, employees or agents. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in section 2778 of the California Civil Code. Within fifteen (15) days of District's notice that it has been made a party to an action arising out of Consultant's acts or omissions under this agreement, Consultant shall provide a defense to the District in that action. In the event Consultant fails to provide such a defense to District, Consultant shall be liable to the District for its attorney's fees and litigation costs incurred to defend itself beginning on the sixteenth (16) day from the date of the District's notice and request for a defense. Acceptance of insurance certificates and endorsements required under this agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. District shall indemnify, defend, and hold Consultant, its officers, employees and agents harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state or municipal law or ordinance, or other cause in connection with the acts or omissions of District, its employees, subcontractors, or agents, or on account of the performance or character of this work, except for any such claim arising out of the sole negligence or willful misconduct of the Consultant, its officers, employees or agents.
16. **Independent Contractor Status.** It is expressly understood and agreed by both parties that Consultant is an independent contractor and not an employee of the District while engaged in carrying out and complying with any of the terms and conditions of this agreement. Consultant expressly warrants that it will not represent, at any time or in any manner, that Consultant is an employee or agent of the District. Consultant shall have no authority to, and shall not, incur any debt, obligation or liability on behalf of District.
17. **Insurance.** Prior to beginning any of the services or work required by this agreement, Consultant, at its sole cost and expense, shall carry, maintain for the duration of the agreement, and provide proof thereof that is acceptable to the District, the insurance specified in subsections (a) through (c) below with insurers and under forms of insurance satisfactory in all respects to the District. Consultant shall not allow any subcontractor to commence work on any subcontract until all insurance required of the Consultant has also been obtained for the subcontractor.
 - (a) **Workers' Compensation.** Satisfactory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant shall be provided with limits not less than one million dollars (\$1,000,000.00). In the alternative, Consultant may rely on a self-insurance program to meet these requirements so long as the program of self-insurance complies fully with the provisions of the California Labor Code. The

insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the District for loss arising from work performed under this agreement.

(b) Commercial General and Automobile Liability. Consultant, at Consultant's own cost and expense, shall maintain commercial general and automobile liability insurance for the period covered by this agreement in an amount not less than one million dollars per occurrence (\$1,000,000.00), combined single limit coverage for risks associated with the work contemplated by this agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this agreement including the use of owned and non-owned automobiles.

Coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) and Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 (any auto). No endorsement shall be attached limiting the coverage.

Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

(1) District, its officers, employees, agents, and volunteers are to be covered as insureds as respects each of the following: Liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired, or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded District its officers, employees, agents, or volunteers.

(2) The policy must contain a cross liability or severability of interest clause.

(3) The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

(4) An endorsement must state that coverage is primary insurance and that no other insurance affected by the District will be called upon to contribute to a loss under the coverage.

(5) Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to District and its officers, employees, agents, and volunteers.

(6) Insurance is to be placed with California-admitted insurers with a Best's rating of no less than A:VII.

(7) Written notice of cancellation or non-renewal must be received by District at least thirty days prior to such change.

(c) Professional Liability. Consultant, at Consultant's own cost and expense, shall maintain for the period covered by this agreement professional liability insurance for licensed professionals performing work pursuant to this agreement in an amount not less than one million dollars (\$1,000,000.00) covering the licensed professionals' errors and omissions, as follows:

(1) Any deductible or self-insured retention shall not exceed \$10,000 per claim.

(2) Written notice that cancellation, material changes, or nonrenewal must be received by the District at least thirty days prior to such change shall be included in the coverage or added as an endorsement to the policy.

(3) The following provisions shall apply if the professional liability coverages are written on a claims-made form:

(a) The retroactive date of the policy must be shown and must be before the date of the agreement.

(b) Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the agreement or the work.

(c) If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this agreement, Consultant must provide extended reporting coverage for a minimum of five (5) years after completion of the work. The District shall have the right to exercise at the Consultant's cost, any extended reporting provisions of the policy should the Consultant *cancel* or not renew the coverage.

(d) A copy of the claim reporting requirements must be submitted to the District prior to the commencement of any work under this agreement.

(d) Deductibles and Self-Insured Retentions. Consultant shall disclose the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this agreement. During the period covered by this agreement upon express written authorization of District Attorney, Consultant may increase such deductibles or self-insured retentions with respect to District, its officers, employees, agents, and volunteers. The District Attorney may condition approval of an increase in deductible or self-insured retention levels upon a requirement that Consultant procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

(e) Notice of Reduction in Coverage. In the event that any coverage required under subsections (a), (b), or (c) of this section of the agreement is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to District at Consultant's earliest possible opportunity and in no case later than five days after Consultant is notified of the change in coverage.

(f) District's Remedies. In addition to any other remedies District may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, District may, at its sole option:

(i) obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the agreement;

(ii) Order Consultant to stop work under this agreement or withhold any payment which becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof;

(iii) Terminate this agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies District may have and is not the exclusive remedy for Consultant's failure to maintain insurance or secure appropriate endorsements.

18. **Interpretation.** The agreements contained herein shall not be construed in favor of or against either party but shall be construed as if all parties prepared this Agreement.

19. **Licenses.** If a license of any kind having terms intended to include evidence of registration is required of Consultant, its employees, agents, or subcontractors by Federal or State law, Consultant warrants that such license has been obtained, is valid and in good standing, and Consultant shall keep it in effect at all times during the terms of this agreement, and that any applicable bond has been posted in accordance with all applicable laws and regulations.

20. **Modifications.** This agreement may be modified only by a written agreement, approved by General Counsel, by District, and Consultant.

21. **No Third-Party Rights.** The parties intend not to create rights in, or to grant remedies to, any third party as a beneficiary of this agreement or of any duty, covenant, obligation, or undertaking established herein.

22. **Notices.** All notices under this Agreement shall be in writing and shall be delivered by personal service or by certified or registered mail, postage prepaid, return receipt requested, of the parties. Any written notice to any of the parties required or permitted hereunder shall be deemed to have been duly given on the date of service if served personally.. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given as provided hereunder shall be deemed to be receipt of the notice, demand or request sent. Notices of the parties shall be addressed as follows:

To District: Moulton Niguel Water District
Director of Engineering
PO Box 30203
Laguna Niguel, CA 92607-0203

#8.

To Consultant: ATS Communications
22642 Lambert Street, Suite 402
Lake Forest, CA 92630

Each party shall provide the other party with telephone and written notice of any change in address as soon as practicable.

23. Ownership of Materials. Any and all documents, including draft documents where completed documents are unavailable, or materials prepared or caused to be prepared by Consultant pursuant to this agreement shall be the property of the District at the moment of their preparation. All materials and records of a finished nature, such as final plans, specifications, reports, and maps, prepared or obtained in the performance of this agreement shall be delivered to and become the property of District. All materials of a preliminary nature, such as survey notes, sketches, preliminary plans, computations and other data, prepared or obtained in the performance of this agreement, shall be made available, upon request, to District at no additional charge and without restriction or limitation on their use consistent with the intent of the original design.

24. Severability. Should any part of this agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this agreement, which shall continue in full force and effect, provided that the remainder of this agreement, absent the unexercised portion, can be reasonably interpreted to give effect to the intentions of the parties.

25. Termination. The District or Consultant may terminate this agreement immediately for violation of any provision of this agreement. In addition, District may, with or without cause and at any time, terminate this agreement upon fifteen (15) days written notice served upon Consultant. In the event of termination, Consultant shall be paid for services performed to the effective date of termination; provided, however, that the District may condition payment of such compensation upon Consultant's delivery to the District of any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the District in connection with this agreement and upon satisfactory completion of the services or portion thereof which the consultant has performed through the effective date of termination.

26. Waiver. The waiver by either party of a breach by the other of any provision of this agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this agreement.

27. Whole Agreement. This agreement constitutes the entire understanding and agreement of the parties. It integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

IN WITNESS WHEREOF, District and Consultant have executed this agreement in the Laguna Niguel, California on OCTOBER 29, 2010

MOULTON NIGUEL WATER DISTRICT

By: Matt Col
Director of Engineering

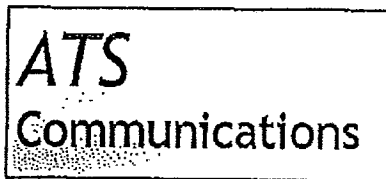
ATS COMMUNICATIONS

By: TR
Title: President

Attachments:

Exhibit 1, Proposal Response Letter

Exhibit 2, Request for Proposal

EXHIBIT 1

October 5, 2010

Matt Collings, P.E.
Director of Engineering
Moulton Niguel Water District
27500 La Paz Road
Laguna Niguel, CA 92677

Dear Mr. Collings:

Thank you very much for discussing with me our proposal to the Moulton Niguel Water District (below, "MNWD") for consulting services. During our discussion you requested a "not to exceed cost" for performing Section 2.2, Communications Lease Agreement Review and Section 2.4, Policy and Procedures For Communications Facilities Lease Review.

The cost for this work would not exceed \$2,500.00. We anticipate about 4 hours for our attorney to review your current agreement and put together his comments and recommendations. He would need about two hours to review your Policy and Procedures and put together his comments and recommendations. I would need about three hours to review both documents to evaluate them from a business perspective.

We have not accounted for reporting and discussion with MNWD and ATS to finalize both of the documents. With that in mind, I think the total cost for tasks 2.2 and 2.4 should be less than the \$2,500.00, but just in case there are any issues you want us to research, or our work provokes extended discussions or develops additional opportunities for growth and improvement, we have added a buffer.

Upon discussion and review of the Scope of Work with your office, and our experience with other Water Districts, we have together determined that we should add a line item for costs to the Scope of Work as covered in our proposal for "On Call Services." On Call Services include, but are not limited to, review of facility requests by wireless carriers, site lease proposals, construction drawings, and site modifications.

In consultation with MNWD, please budget a cost of \$5,000.00 for this line item in the Scope of Work. Please let us know if this meets with your approval, or if we need to further clarify the On Call Services activities.

We greatly appreciate the opportunity to work with MNWD, and look forward to working closely with MNWD to maximize the benefit of leasing MNWD space to wireless carriers.

Sincerely,



Tony Ingegnell
President

CALIFORNIA OFFICE

22642 Lambert St., Suite 402, Lake Forest, CA 92630, Phone: (949) 305-7848 Fax: (949) 768-6984
Website www.atscomm.com ✦ email: info@atscomm.com

**Moulton Niguel Water**

WATER QUALITY AND SERVICE ARE #1

August 9, 2010

ATS Communications
22651 Lambert Street, Suite 101A
Lake Forest, CA 92630

Attention: Tony Ingegneri

**Regarding: Moulton Niguel Water District
Request for Proposal for On-Call Consulting Services
Communications Lease Program**

Dear Mr. Ingegneri:

The Moulton Niguel Water District (District) is requesting proposals for on-call consulting services to assist with the administration of the District's Communications Lease Program for Fiscal Year 2010-2011. The services required will include the review and update of the existing lease agreement and policy, evaluation of lease proposals made by existing and potential leasees, and serve as the point of contact for administration of communication lease related activities. The scope of services required is described in further detail below. **Proposals will be accepted until 2:00 P.M. on September 3, 2010 at the Moulton Niguel Water District, 27500 La Paz Road, Laguna Niguel, CA 92677.** Two copies of your proposal, including a separately sealed fee proposal, are requested.

1. PROGRAM DESCRIPTION

In the 1990s, the District approved the first communication facility to be constructed at one of the District's facilities. As the communication industry grew, the District was repeatedly approached about use of District facilities for communication facilities. The District developed the Communications Lease Program (Program) with a primary objective to provide an economic benefit to the District's ratepayers through a monthly lease program. The District's first responsibility is to provide water and wastewater service to its customers, and development of the Program should not interfere with the District's ability to provide that quality service. With those objectives in place, the District's Board of Directors (Board) approved a Communications Lease Agreement and Lease Policy, which was implemented for many communications facilities on January 1, 2001. A copy of the Lease Agreement and Board Policy are included in Appendix A and B, respectively. Since that time, the District's Program has grown to include 56 agreements with 11

a public agency at:

27500 La Paz Road, Laguna Niguel, CA 92677-3489
Mailing Address: P.O. Box 30203, Laguna Niguel, CA 92607-0203
949/425-3532 -79- 949/643-2489

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amendments on several of those agreements. The District is currently reviewing two new lease agreements and three lease amendments. These communication facilities are distributed among 17 of the District's sites. A summary table of the current and proposed lease facilities is provided as Appendix C.

Since the Program began in the 1990s, the District's engineering staff has administered the development of new lease agreements and modifications to existing agreements. The administration of the Program included implementation of Board policy, point of contact with the existing or proposed cell carrier, plan check review of the construction documents, approval of new lease agreements or lease amendments, inspection of communication facility construction activities, and oversight of the monthly lease payments. It is the District's intent to contract with a consulting firm to accomplish several of the administrative duties related to the Program as defined in more detail below.

2. SCOPE OF WORK

The administrative duties to be included in the proposal for the On-Call Consulting Services associated with the District's Program shall include a review of the District's current leased facilities and the associated communication facility inventory, review and update of the existing Communications Lease Agreement and Board Policy, point of contact for new or existing leasees, and liason with District staff on developments associated with the Program. Proposals for the on-call services should include and show all labor hours and labor costs by position and by task, and all other direct costs for the required work. Work shall consist of, but shall not be limited to, the following tasks:

2.1 *Review and Update of Communication Facility Inventory*

The Consultant shall provide sufficient scope and fee to review the existing communication facilities and the inventory associated with each leased facility. This shall include a summary table of the lease and inventory to be updated and maintained on as needed basis by the Consultant to reflect changes that may occur throughout the year. This shall also include a comparison of the facilities installed versus what was approved in the lease agreement.

2.2 *Communications Lease Agreement Review*

The District developed a standard Communications Lease Agreement (Agreement) that was implemented in 2001 and is in effect for the 56 existing communication facilities currently in place within the District. It is the desire of the District for the Consultant to review the existing Agreement for consistency with typical industry standards and make recommendations to District staff for suggested modifications to the existing Agreement. The specific areas the District wishes to be reviewed include:

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- A. Lease Term and Options -- The Consultant shall confirm the current structure of the lease term and options is appropriate to meet the District's objectives as it relates to the Program.
- B. Commencement Date -- The Consultant shall make recommendations for language to be added to establish an appropriate commencement date of the Agreement.
- C. Monthly Lease Rates -- The Consultant shall review the current monthly lease rate for existing lease agreements and make recommendations with regard to typical lease rates for other public and private entities in the region. The review of the lease rate shall also include:
 - 1. Potential for developing a lease rate structure for premium sites based on site coverage.
 - 2. Modification of the lease payments to a yearly payment and review of the CPI adjustment.
 - 3. Modification of the lease rate based on the type/quantity of facilities being constructed.
- D. Compliance with FCC Requirements -- The Consultant shall make recommendations to revise the current Agreement to include appropriate language defining the requirements and responsibilities of the leasees with regards to FCC Rules and Regulations. The District anticipates this would include appropriate Radio Frequency (RF) Exposure testing and reporting. Further, the recommendations should also include compliance with appropriate OSHA Regulations, as well.
- E. Subletting and/or Assignment -- The Consultant shall make recommendations regarding Section 20 of the Lease Agreement as it relates to the potential for the leasee to sublet and/or assign the existing Agreement in order to meet the District's overall Program objectives.
- F. Review of Maintenance Requirements -- The Consultant shall review the requirements as it relates to maintenance of leasee's communications facilities and make recommendations to improve the District's ability to enforce those requirements.
- G. Access to Facilities -- The District has access easements for several of the District sites with Communications facilities. The Consultant shall make recommendations to revise the Agreement requiring the leasee to obtain access easements where applicable.

- H. Lease Policy Deposit – The Consultant shall review the lease policy deposit and make recommendation to revise the deposit to incorporate all costs incurred by the District for implementation of any new site or modifications to existing sites.
- I. Other – The District requests that the Consultant make any additional recommendations to the Agreement that are not currently included or contemplated as part of the Agreement.

2.3 *Communications Lease Amendment*

The Consultant shall provide sufficient scope and fee to assist the District with development of a standard Communications Lease Amendment (Amendment) to be used for modifications to existing Agreements. The District anticipates the Consultant shall make recommendations as part of the Program Administration (See Section 2.4) as to when the approved Amendment should be implemented. Further, the development of the Amendment shall include establishing an appropriate structure and/or methodology for any increases to the monthly lease rate as a result of the leasee's proposed modifications to their existing facilities.

- A. Amendment for Lease Payment – The Consultant shall provide sufficient scope and fee, identified as a separate line item from the above task to develop a standard Amendment, to accomplish the following tasks:
 - 1. Develop a lease amendment (Amendment No. 1) with the intent of modifying all existing lease agreements, currently in effect, to change the payment structure to yearly payments as opposed to the current monthly payments. A draft of Amendment No. 1 shall be provided to the District for review, and the Consultant shall incorporate any comments to finalize Amendment No. 1.
 - 2. Prepare the Amendment No. 1 and appropriate correspondence to provide to all existing leasees for review and consideration.
 - 3. Serve as the point of contact for the implementation of Amendment No. 1 to all existing leasees to address questions during the leasee review of Amendment No. 1.
 - 4. Coordinate communication and execution of the new lease amendment with the District Program Manager and the leasee. The District would desire to have the Amendment No. 1 to be effective upon the annual commencement date of each Agreement starting January 1, 2011.

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2.4 *Policy and Procedures For Communications Facilities Leases Review*

The Board adopted a Policy and Procedures for Communications Facilities Leases (Policy) in the late 1990s. As part of the scope of services, the District requests the Consultant to review the existing Policy and make recommendations for modifications to be consistent with the proposed recommendations to the Agreement or standard industry practice. Further, that Policy should reflect safety considerations associated with RF exposure for both the general public and District staff.

2.5 *Administration of Communications Lease Program*

The Consultant shall provide sufficient scope and fee to assist the District with administration of the Program in the following manner:

- A. Day-to-Day Point of Contact – The Consultant shall serve as the direct point of contact for leasees on proposed new communications facilities and for modifications to existing facilities. In this role, the Consultant shall receive and review communications facilities requests, make recommendations to the District's Program Manager regarding communications facilities requests, and carry out direction from the District Program Manager. Communications facilities requests may include, but not be limited to, modifications to existing leases, proposals for new lease sites, construction documents for new facilities or modifications to existing facilities. As the direct point of contact, the Consultant shall direct any items for review by the District to the appropriate personnel, and subsequently return any District comments to the leasee.

For purposes of establishing a proposed not-to-exceed fee for this particular task item, the Consultant shall assume four (4) hours per week for the duration of the fiscal year to accomplish this particular task. This task shall include any meetings required with the leasee's representative for reviewing the proposal.

- B. Site Review – The Consultant shall provide scope to visually review the existing lease sites on a semi-annual basis to ensure the existing leasees are compliant with the requirements of the Agreement and Policy, including ensuring that appropriate contact information is provided on-site for the communication facilities.
- C. District Meetings – The Consultant shall provide sufficient scope and fee to prepare and attend the following meetings on an as-needed basis:
1. Program Kick-off Meeting – The Consultant shall attend one program kick-off meeting upon award of the contract.
 2. Monthly Review Meetings – Assume a one-hour meeting on a monthly basis

to review on-going program tasks, any items requiring District attention, and any new or existing leasee developments. The Consultant shall prepare an agenda for the meeting.

- 3. District Board Meetings – The Consultant shall budget to attend two (2) Board meetings through the duration of the contract. At least one (1) Board meeting will be required for presentation of the revised Agreement, Policy, and Amendment.

- D. Technical Support – The Consultant shall provide technical support on issues associated with RF emissions, particularly as they relate to health impacts to District staff and the general public. The Consultant shall become familiar with recent RF Exposure Reports prepared by an independent consultant commissioned by the District and provide sufficient scope and fee to implement recommendations within the report.

3. SCHEDULE

The schedule identified below is intended to be Contract milestone dates for accomplishing specific tasks. The Consultant shall update District staff on any adjustments to the schedule. Once the adjustments have been reviewed and agreed to by the District, the Consultant shall provide the District with a revised schedule.

▪ RFP Issued	August 5, 2010
▪ Cut-off Date for Questions re: RFP	August 19, 2010
▪ Proposals Received	September 3, 2010
▪ Kick-off Meeting	October 4, 2010
▪ Board Meeting for Draft Agreement Review	December 16, 2010

The Consultant shall assume for purposes of the proposal that the Contract shall begin on October 4, 2010 and extend through June 30, 2011. The Consultant shall note within their proposal any concerns or conflicts with the schedule outlined above or the Consultant's ability to meet the schedule as outlined.

4. PROPOSAL CONTENTS

The contents of the Proposal should contain the information summarized below, but should be limited to a maximum of 15 total pages. The fee estimate for the proposed program should be submitted in a separate sealed envelope, and shall be depicted by individual tasks as defined in the scope of work.

- A. Scope: Detailed scope of work and methodology that comprehensively define and describe the individual tasks to be performed. This section shall demonstrate the

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Consultants understanding of the District's needs related to this Request for Proposal. This scope of work will be used as a basis for later contract negotiations. Scope of work may be based upon, but is not limited to, the information contained in Section 2 of this Request for Proposal.

- B. Firm: The proposal should include a general description about the consultant, i.e. company size, location of office(s), years in business, etc.
- C. Team: Summary of experience and capabilities of designated program manager and support staff related to the previously outlined scope of work. Key personnel, as defined by the District, assigned to the program shall not be reassigned without prior District written approval.
- D. References: Description of the team's past record of performance for similar scope for which your firm has provided services. Include a discussion of such factors as overall benefits to the represented agencies. Include client references that may be contacted by the District.
- E. Budget: Analysis of the estimated hours that each team member will contribute for the individual tasks depicted in the scope of work. The budget for this program shall be based on Consultant's current hourly billing rates and shall include all labor, subconsultant, and other direct costs for all work items. Include in your proposal a table showing your current billing rates.
- F. Conflict of Interest: Documentation that personal or organizational conflicts of interest prohibited by law do not exist. The Consultant shall identify any current business relationships with any current or potential leasees participating in the District's Program.
- G. Insurance: Submittal from either the firm's insurance carrier or equivalent regarding the firm's professional liability coverage. The District requires professional liability coverage to be a minimum of \$1,000,000, general liability and property damage to be a minimum of \$1,000,000. Any additional premium required by the insurance carrier for such coverage shall be included in your proposed fee. The District will not pay a separate insurance surcharge for the required coverage. Insurance coverages shall be afforded by companies who are California licensed and California Admitted carriers. Insurance carriers shall also meet or exceed requirements for financial performance and security by having a Best's Key Guide rating of "A" or better; additionally, carriers shall have an assigned Financial Size Category of "VIII" or higher. Under certain circumstances, "non-admitted" or "surplus lines carriers" will be accepted provided that they have a Best's Key Guide rating of "A+" or better; with a Financial Size Category of "XII" or higher.

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- H. Contract: A sample copy of the District's professional services agreement is attached as Appendix D to this Request for Proposal. Include in your proposal any proposed modifications to the standard terms and conditions. While the District negotiates such changes with consultants, the District will consider your proposed modifications during consultant selection and retains the right to reject any portion of your proposed modifications.

5. 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 price alone. District staff will review all statements of proposals received by the stated deadline. Some of the criteria to be evaluated will include the following:

- A. Experience under similar contracts or scope of work, including a summary of the Project team's qualifications.
- B. Ability to understand and perform the Program tasks efficiently and in accordance with the requirements of District.
- C. Cost to perform the required service as stated in the Scope of Work.
- D. References.

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 or litigation by the Consultant on previous contacts to disqualify any Consultant. The District reserves the right to reject any and all proposals.

6. METHOD OF COMPENSATION FOR CONSULTING SERVICES

All invoices shall be addressed to the attention of the Program Manager for this program and must be received by this office no later than the fifth day of every month. The associated purchase order number, which shall be provided, must be listed on all invoices. Invoices shall be prepared to reflect the approved contract amount per task and the amount paid and/or requested for payment per individual task. Also, the following information for the total contract amount needs to be shown on all invoices:

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- A. Original total contract amount
- B. Change to contract amount (if any)
- C. Revised total contract amount (if any)
- D. Previous invoiced amount
- E. Current invoice amount
- F. Total invoiced amount
- G. Contract amount remaining

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

7. SERVICES OR ITEMS TO BE PROVIDED BY THE DISTRICT

- A. The District will address any question, concern, or request for clarification associated with this Request for Proposal by issuing an Addendum. Copies of the Addendum will be mailed or delivered to those persons who have received an RFP.
- B. The District will provide a Program Manager capable of responding to Consultant's questions and attend/arrange meetings as required per the scope of services throughout the duration of the Contract. The Program Manager will serve as the main point of contact for the Consultant's Program Manager.
- C. The District will take steps to review any documents in a timely fashion and provide direction to the Consultant on items requiring attention as suggested by the Consultant. Further, the District will review any recommendations provided by the Consultant throughout the duration of the Contract. All recommendations will be taken into consideration by the appropriate District personnel and, if appropriate, will be approved at the appropriate level.
- D. The District will make all information, data, previous Agreements and Amendments, record drawings and related materials available.
- E. The District will provide staff to perform plan check review of proposed facilities as suggested by the Consultant. Further, the District and/or its representatives will perform the appropriate site inspections for any construction related activity associated with the Program.

8. GENERAL

The District may conduct personal 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 program

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manager and support staff. The firm, and in particular the program 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's 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 the District to retain any Consultants, to pay costs incurred in the preparation of proposals, or to proceed with the program. The 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 program.

Proposals (including accompanying materials) will become the property of the District. 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 program's needs, regardless of the comparison of fees and costs estimated by the Consultants.

Proposals will be accepted until 2:00 P.M. on September 3, 2010, at the Moulton Niguel Water District, 27500 La Paz Road, Laguna Niguel, CA 92677. If you have any questions regarding the Request for Proposal, please direct all questions in writing to Ms. Jill Caperton at jcaperton@mnwd.com or via mail at the address above. She can also be reached at (949) 425-3532.

Yours truly,



Matt Collings, P.E.
Director of Engineering

Exhibits:

- "A" Sample Lease Agreement
- "B" Policy and Procedure for Communications Facilities Leases
- "C" Summary of Existing and Proposed Lease Agreements
- "D" Sample Professional Services Agreement

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EXHIBIT A

Sample Lease Agreement

**MOULTON NIGUEL WATER DISTRICT
COMMUNICATIONS FACILITY LEASE AGREEMENT
(X RESERVOIR)**

THIS LEASE AGREEMENT is made and entered into this _____ day of _____, 20__ by and between MOULTON NIGUEL WATER DISTRICT, a California water district existing and operating pursuant to Division 13 of the California Water Code ("Lessor"), and _____, a California _____ ("Lessee"). Lessor and Lessee are sometimes referred to in this Lease Agreement individually as "party" or jointly as "parties". The term "lease" used in herein means this Lease Agreement.

RECITALS

Lessor has an adopted "Policy and Procedure For Communications Facilities Leases" dated March, 2000 (the "Lease Policy"). This Lease Agreement is being entered into by Lessor and Lessee in accordance with the Lease Policy, and Lessee warrants it has fully complied with the Lease Policy and all conditions contained therein.

LEASE AGREEMENT

Section 1. Leased Interest. Subject to the terms and conditions hereinafter set forth, Lessor leases to Lessee (i) space on Lessor's X Reservoir tank to install the following described facility: _____ as depicted on the plot plan attached as Exhibit A hereto; and (ii) approximately _____ square feet of real property as depicted on the plot plan (Exhibit A) within the X Reservoir site (the "Reservoir Site") on which to erect or install the following described facility: _____.

The term "Communications Facilities" as used in this lease shall include all facilities, structures and equipment and underground utilities that Lessee erects, installs and/or uses on the Reservoir Site. Lessor for and in consideration of the rents, covenants and conditions herein contained to be kept, performed and observed by Lessee, does lease to Lessee, and Lessee does rent from Lessor, the leased space described above. The Reservoir Site is described on Exhibit B hereto.

Section 2. Permitted Use of Leased Space. Lessee may construct or install the Communications Facilities on the leased space on the Reservoir Site. A dimension sketch of the Communications Facilities is included as Exhibit C hereto. The Communications Facilities shall be erected in accordance with the dimension sketch on Exhibit C. Lessee shall have the non-exclusive right to use the leased space on the Reservoir Site for the installation, operation and maintenance of the Communications Facilities pursuant to the plot plan and dimension sketch both attached hereto. Lessee may not erect any other facilities or use any other equipment of any kind not otherwise depicted on Exhibit C without obtaining Lessor's prior written approval, which approval should not be unreasonably withheld. Such approval, if given, will be given only after Lessee obtains written approval from any affected homeowners' or community association, and any permits or other approvals from the County of Orange or other public agencies, as applicable.

Section 3. Lease Term. This lease shall be for a term of ten (10) years, referred to as the "Lease Term," commencing on the date first written above. Provided Lessee is not in default under this lease, Lessee shall have an option to renew this lease after the expiration of the Lease Term for an additional five (5) year period, subject to all terms and conditions of this lease. Lessee shall provide Lessor with sixty (60) days written notice prior to expiration of the Lease Term of its intent to exercise the five (5) year option, referred to, respectively, as the "Option" and the "Option Period" herein.

Section 4. Rent. Lessee agrees to pay Lessor Two Thousand Two Hundred Eighteen Dollars (\$2,218.00) per month, payable in advance on the first day of the month, for rent during the Lease Term, which amount shall be thereafter increased annually in an amount equal to three percent (3%) ("Rent"). The obligation to pay Rent shall commence upon the earlier to occur of the commencement of construction of the Communications Facilities or within ninety (90) days following the execution of this lease agreement. In addition, within thirty (30) days of the full execution of this lease, Lessee shall deposit one (1) months advance Rent in addition to the regularly monthly Rent then due. The deposit shall be returned to Lessee by Lessor at the expiration or earlier termination of the lease or, at Lessee's option may be applied to the last month's Rent due under the lease.

If the Lessee exercises the Option pursuant to this lease, effective on the commencement of the Option Period, Rent payable during the term of the Option Period shall be equal to the Rent paid in the month immediately preceding the date the Option Period commences, increased by the greater of (i) the average annual increase, if any, in the Consumer Price Index (All Items, Base 1982-1984 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics for All Consumers for the Los Angeles-Long Beach area ("CPI") during the three-year period prior to commencement of the Option Period, or (ii) three percent (3%).

Section 5. Holdover. If Lessee shall hold over after expiration of the Lease Term, or the Option Period, such tenancy shall be month-to-month. Lessor may at any time terminate such tenancy upon sixty (60) days written notice, or as otherwise provided for under this Lease Agreement.

Section 6. Temporary Relocation. Lessee understands and agrees that from time to time during the Lease Term and/or the Option Period, that Lessee will be required to remove the Communications Facilities (i.e. antennae) installed on the X Reservoir tank in order for Lessor to conduct repair and maintenance in connection with the X Reservoir and Reservoir Site. Lessee agrees to relocate the Communications Facilities at its cost in such cases during the period of repair and/or maintenance to another temporary location. Lessor will use good faith efforts to provide temporary space on the Reservoir Site, or another mutually acceptable location of Lessor's,

provided Lessee is in compliance with all laws, permits, homeowner approvals and other applicable rules and regulations of any public entity required for the relocation site. Lessee will pay for all costs of such compliance. Except in case of emergency (as determined by Lessor in its sole discretion), Lessor will use its best efforts to give Lessee at least sixty (60) days prior written notice of the necessity to relocate the Communications Facilities for the temporary period. Notwithstanding any relocation or any lack of prior notice, Lessee's obligation to pay Rent shall continue unabated. Lessee shall have a right to terminate this lease upon thirty (30) days prior written notice to Lessor if any temporary relocation exceeds sixty (60) days, or upon Lessor requiring Lessee to relocate the Communications Facilities more than one (1) time during the Lease Term, or more than one (1) time during any Option Period. If the lease is terminated for such reason, any unearned rent will be refunded on a pro rata basis.

Section 7A. Lessor's Termination. In addition to other rights of termination the Lessor has under this Lease Agreement, Lessor may terminate this lease prior to expiration of the Lease Term or Option Period, if applicable, on any one of the following conditions:

- (a) **Lessor determines that the leased space is necessary for its own operations.**
- (b) **Upon the sale or conveyance of the Reservoir Site.** Lessor may terminate this lease under subsection (a) or (b) above by giving Lessee twelve (12) months prior written notice and returning to Lessee any unearned Rent. Upon termination under subsections (a) or (b), Lessor shall make a good faith effort to relocate the Communications Facilities to another of Lessor's reservoir sites, provided Lessee fully complies with the Lease Policy as to such relocated site.
- (c) **A challenge to Lessor's grant of ingress and egress to Lessee over the easement referenced below in Section 9.** Lessor will make a good faith effort to give Lessee at least sixty (60) days prior written notice of termination under this subsection (c).
- (d) **Lessor's determination of documented health and safety concerns as a result of the installation or operation of the Communications Facilities, whether alone or in conjunction with other existing communications facilities on the Reservoir Site.** Lessor may terminate this lease under this subsection (d) immediately and without any prior notice in the case of an emergency, to be determined by Lessor in its sole discretion; in all other cases, Lessor will make good faith efforts to give Lessee no less than sixty (60) days prior written notice
- (e) **Lessee fails to pay Rent as agreed by the terms of this lease, or fails to perform or observe any of the other material covenants or conditions of this lease.** Upon any such failure by Lessee, Lessor may, after giving sixty (60) days prior written notice to Lessee, terminate this lease and seek other remedies, as appropriate, under the laws of the State of California; provided, however, should Lessee within sixty (60) days from the date of Lessee's receipt of notice of default(s) remedy said default or defaults, Lessor shall not be privileged to terminate this lease for the defaults set forth in said notice.

The parties agree that upon Lessor's exercise of termination rights in this lease there is a presumption that the termination is in accordance with the terms hereof, and exercised in good faith, and in a fair and reasonable manner. In the event Lessee disputes Lessor's right to terminate this lease in any proceeding, action, or otherwise, Lessee has the burden of proving Lessor has breached the terms hereof, or that Lessor has not exercised termination rights in good faith, fairly or in a reasonable manner.

Section 7B. Lessee's Limited Termination Right. It is understood and agreed that Lessee's ability to use the leased space is contingent upon Lessee continually maintaining in full force and effect, after the execution date of this lease, all the certificates, permits, and other approvals that are required by any federal, state, or local authorities. In the event that any certificate, permit, license, or approval issued to Lessee is canceled, expires, lapses, or is otherwise withdrawn or terminated by any governmental authority so that Lessee is unable to use the leased space for intended purposes, this lease shall terminate upon thirty (30) days written notice to Lessor.

Section 8. Lessee's Ownership and Maintenance of Facilities.

(a) It is expressly understood and agreed that any and all fixtures and equipment of whatsoever nature at any time constructed or placed on the Reservoir Site by Lessee shall be and remain the property of Lessee.

(b) Lessee shall have the right at any time during Lessee's occupancy of the leased space, or within a reasonable time thereafter, to remove any and all fixtures and equipment owned or placed by Lessee in, under, or upon the Reservoir Site, but Lessee shall not be obligated to do so. Upon termination of this lease by expiration of the term or otherwise as permitted by the terms hereof, Lessee shall remove the Communications Facilities and all other fixtures and equipment and shall restore the leased space and the Reservoir Site used by Lessee to the condition existing on the date of execution of this lease, at Lessee's cost, except in cases where the restoration required is due to acts of God, or natural disasters beyond Lessee's control (i.e. landslides, earthquakes, floods).

(c) Lessee, at Lessee's cost and expense at all times during the term of this lease, agrees to keep and maintain, or cause to be kept and maintained, the Communications Facilities erected on the Reservoir Site in a state of good appearance and repair, reasonable wear and tear excepted. Lessee shall pay, when due, all claims for labor or materials furnished to or for Lessee for the use in the leased space or Reservoir Site which claims are or may be secured by any mechanic's or materialmen's liens against the Communications Facilities, or leased space, or any interest therein. Lessee agrees that Lessor has no obligation to repair and maintain the Reservoir Site, the leased space, or the Communications Facilities.

(e) Lessee shall, at its own cost, provide any landscaping of the Communications Facilities on the Reservoir Site that Lessor shall reasonably require during the initial installation of such facilities and thereafter during Lessee's use of the Reservoir Site.

(f) Lessee agrees to be solely responsible for payment of all utilities costs and applicable personal property and/or property taxes on all facilities erected by Lessee on the leased space as well as any property or other tax on the leasehold interest being granted to Lessee under this lease.

[IF APPLICABLE] Section 9. Access to Communications Facilities. Lessor permits Lessee and its agent limited ingress to and egress from the Reservoir Site on a non-exclusive basis to install and service the Communications Facilities, subject to the additional limitations set forth hereafter. Lessee expressly acknowledges that access to the Reservoir Site is permitted through Lessee's use of Lessor's existing access easement to the Reservoir Site (the "Access Easement").

Lessee assumes the risk of any challenge, claim, litigation or damage, etc., asserted in connection with Lessee's use of the Access Easement for ingress and egress to the Reservoir Site and releases Lessor from any and all responsibility, claim, damage, etc., related to or in connection with Lessee's use of the Access Easement. Lessee is obligated to indemnify Lessor in connection with Lessee's use of the Access Easement as set forth more specifically in Section 13 of this lease. Entrance to the Reservoir Site will be permitted by Lessor providing Lessee with two (2) keys to the locked gate enclosing the Reservoir Site, Lessee to assume full responsibility for safeguarding such keys, with no duplicates to be made by Lessee except upon prior written approval of Lessor, which approval shall not be unreasonably withheld.

Section 10. Prior Communications Facilities on Reservoir Site; Interference.

(a) Lessee acknowledges and understands that the communications facilities providers listed in Exhibit D hereto (referred to as the "Prior User(s)") has(ve) entered into an agreement(s) (the "Prior Use Agreement(s)") with Lessor, pursuant to which the Prior User(s) has(ve) been permitted to install and operate communications equipment on the Reservoir Site. Lessee warrants that, prior to the execution and delivery of this Lease Agreement, Lessee has reviewed the Prior Use Agreement(s) together with all amendments or modifications thereto; and has visually inspected the communications facilities installed and operated by the Prior Users.

Lessee shall operate the Communications Facilities and related equipment in a manner that will not cause harmful interference to any current communications equipment operated and/or owned by the Lessor or the Prior User(s), provided that the Prior User(s) operates its communications equipment in accordance with the terms of the Prior Use Agreement(s). All operations by Lessee shall be lawful and in compliance with all regulations and requirements of the Federal Communications Commission and the California Public Utilities Commission, as well as any other state, federal or local regulations and requirements. If the Communications Facilities cause harmful interference to the communications equipment operated and/or owned by Lessor or the Prior User(s), and such interference cannot be eliminated within a reasonable time by Lessee, Lessor may terminate this lease by providing the sixty (60) days written notice.

(b) Lessee further acknowledges that Lessor assumes no risk or liability for any interference with Lessee's use of the Reservoir Site which results from the operation of communications equipment on the Reservoir Site by the Prior User(s) under the Prior Use Agreement(s) including, but not limited to, frequency interference, and agrees that Lessor shall be held harmless for any such interference, pursuant to the indemnification terms set forth in Section 13 herein.

(c) Subsequent to the installation of the Communications Facilities, Lessor will not knowingly permit any subsequent users to install new equipment on the Reservoir Site if such equipment will cause harmful interference with the Communications Facilities. If any such subsequent users cannot correct any harmful interference within ten (10) business days of Lessee's written notification thereof to Lessor, Lessee may terminate this lease upon sixty (60) days written notice to Lessor, or seek injunctive or other legal relief against/from such subsequent users. Upon such termination, Lessor shall return any unearned Rent to Lessee. Lessee agrees that upon any such action against subsequent users seeking to enjoin harmful interference, or upon termination hereunder, the recovery of any unearned portion of Rent shall be Lessee's sole and exclusive remedy as against Lessor, and Lessee hereby waives any other rights or remedies it may have at law or in equity against Lessor related thereto. **The parties recognize and agree that it is the**

intention of this Section 10 that Lessor not become embroiled in any disputes or proceedings between Lessee and subsequent users, and/or expend funds as a result thereof; therefore, Lessee agrees to pay all of Lessor's costs and attorney's fees that may be incurred by Lessor related to any disputes or proceedings between Lessee and subsequent users.

(d) Nothing contained in this Section 10 or elsewhere in this lease is intended to confer any rights or remedies under, or by reason of this lease on, or waive any claims against, or adversely affect any rights of, any person or entity other than the parties hereto.

Section 11. Environmental. Lessee shall not bring upon, or permit any other person or entity to bring upon, the Reservoir Site any hazardous materials, hazardous substances, hazardous wastes, pollutants, asbestos, polychlorinated biphenyls (PCBs), petroleum or other fuels (including crude oil or any fraction or derivative thereof), except for the limited purpose of (i) providing materials or substances for emergency power generators or backup batteries required to operate the Communications Facilities on a temporary emergency basis or (ii) using small quantities of solvents to clean the Communications Facilities. In the event (i) or (ii) of the preceding sentence is applicable, Lessee shall use the materials and substances and solvents in compliance with all applicable laws and regulations. Notwithstanding the foregoing, Lessee is prohibited from storing any such materials and substances or solvents at the Reservoir Site, or disposing of any by-products or waste from such fuels, substances and materials and solvents at the Reservoir Site.

Section 12. Insurance. Lessee agrees to maintain in full force and effect a suitable policy or policies of Commercial General Liability insurance throughout the duration of the lease. Such insurance shall be in amounts not less than \$5,000,000 per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to the Communications Facilities and Reservoir Site (with the ISO CG 2501 or insurer's equivalent endorsement provided to Lessor), or the general aggregate limit shall be twice the required occurrence limit of \$5,000,000. Coverage shall be broad enough to insure the indemnity obligation set forth in this lease under Section 13.

All insurance required under this lease shall be issued as a primary policy and contain an endorsement requiring thirty (30) days written notice from the insurer to both parties hereto before cancellation or change in coverage, scope or amount of any policy. Lessor, its directors, officers, agents, employees and consultants, shall be designated as additional named insureds. Concurrently with the execution of this Lease Agreement and prior to installing the Communications Facilities or any portion thereof on the Reservoir Site, Lessee will provide Lessor with a certificate(s) verifying such insurance and the terms described herein, as well as the additional insured and/or other specified endorsement(s).

Section 13. Indemnification. Lessee shall be responsible, and Lessor shall not be answerable or accountable in any manner, for any loss or expense by reason of any damage or injury to person or property, or both, arising out of the acts of Lessee, its agents, officers, employees, or invitees (collectively with Lessee referred to in this Section 13 as ('Lessee')) resulting from Lessee's activities on the Reservoir Site or on and over the Access Easement, the design or installation of the Communications Facilities and any related equipment, including but not limited to razor ribbon, the operation, maintenance or removal of its Communications Facilities, any harmful interference caused by Lessee which interferes with the ability of the Prior Users to operate their communications equipment in accordance with the terms of the Prior Use

Agreements, and, any other use of and operations on the Reservoir Site or the Access Easement by Lessee, or otherwise pursuant to this lease.

To the fullest extent permitted by law, Lessee shall indemnify Lessor's directors, officers, agents, employees, volunteers, and invitees (collectively with Lessor referred to as ' Lessor' in this Section 13) against and will hold and save them and each of them harmless from any and all actions, claims, damages to persons or property, penalties, attorneys fees, obligations or liabilities, including but not limited to liability associated with existence and maintenance of razor ribbon, that may be asserted or claimed by any person, firm, association, entity, corporation, political subdivision, or other organization arising out of or in connection with (i) Lessee's activities on the Reservoir Site or on and over the Access Easement; (ii) any breach or default in the performance of any obligation on Lessee's part to be performed under this lease; (iii) the design or installation of the Communications Facilities and any related equipment; (iv) the operation, maintenance, or removal of the Communications Facility; (v) any harmful interference caused by Lessee which interferes with the ability of the Prior Users to operate their communications equipment in accordance with the terms of the Prior Use Agreements; and (vi) any other use of and operations on the Reservoir Site or the Access Easement, or pursuant to this lease, by Lessee, whether or not there is concurrent passive negligence on the part of Lessor, and in connection therewith:

(a) Lessee shall defend any action or actions filed in connection with any of said claims, damages, penalties, obligations or liabilities, and will pay all costs and expenses, including attorneys' fees incurred in connection therewith, using counsel satisfactory to Lessor.

(b) Lessee shall promptly pay any judgment rendered against Lessee or Lessor covering such claims, damages, penalties, obligations and liabilities arising out of or in connection with such use of and operations on the Reservoir Site by Lessee, and agrees to save and hold Lessor harmless therefrom.

(c) In the event Lessor is made a party to any action or proceeding filed or prosecuted against Lessee for such damages or other claims arising out of Lessee's use of and operations on the Reservoir Site, Lessee agrees to pay Lessor any and all costs and expenses incurred by Lessor in such action or proceeding together with reasonable attorneys' fees.

(d) Lessee's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Lessee or Lessor.

Lessee's indemnification obligation hereunder and the provisions of this Section 13 shall survive any termination or expiration, or sublease or assignment of this lease.

Section 14. Arbitration of Disputes. The parties desire to quickly and cost-effectively resolve any disputes arising out of or relating to the interpretation or enforcement of this Lease Agreement including, but not limited to, the arbitrability of such disputes. Therefore, each party shall use its best efforts to resolve informally any such disputes. If, not less than ten (10) calendar days after first making informal attempts to resolve any such dispute, the attempts have been unsuccessful, either party may thereafter initiate binding arbitration as specified below:

A. All disputes pursuant to this Lease Agreement shall be resolved by binding arbitration conducted within the County of Orange ("Arbitration") and may be initiated by a party by providing written notice to the other party ("Arbitration Notice"). The Arbitration Notice must:

(i) contain a description of the dispute; (ii) specify the disputed amount, if any; and (iii) specify the remedy sought. The dispute shall then be resolved by a mutually agreed upon retired judge of the Superior Court for the County of Orange ("Arbitrator"), in accordance with the provisions set forth in this Agreement. If the parties are unable to agree on the Arbitrator within ten (10) days after receipt of the Arbitration Notice, they shall request that the presiding judge of the Superior Court for the County of Orange designate the Arbitrator. The parties shall, initially, equally bear the cost of any such Arbitration; however, the prevailing party shall be entitled to recover such initial costs, in addition to other costs as specified herein, as an item of damage and/or recoverable cost. In addition to any other damages, award, or other relief, such prevailing party shall be entitled to recover its reasonable costs and expenses, including, but not limited to, attorneys' fees, disbursements, and court costs.

Upon selection or designation of an Arbitrator, the parties shall execute a submission agreement in the form provided by the Arbitrator. The submission agreement shall set forth the rights and responsibilities of the parties with respect to the conduct of the Arbitration, as set forth herein, and shall contain the following elements in addition to any other rules and procedures for the Arbitration that are established by the Arbitrator.

B. The Arbitration hearing shall commence no later than sixty (60) days from the effective date of the submission agreement.

C. Discovery in aid of Arbitration shall be allowed in accordance with Code of Civil Procedure ("CCP") Section 1283.05, which is hereby incorporated into, made a part of, and made applicable to this Lease Agreement pursuant to CCP Section 1283.1. The Arbitrator's permission shall not be required to take any deposition(s) or propound any written discovery.

D. The Arbitrator shall follow and comply with all applicable substantive and procedural California case and statutory law in arriving at a decision.

E. The Arbitrator shall issue a written statement of decision, explaining the factual and legal basis for the decision with respect to each of the principal controverted issues, and shall deliver such statement of decision to the parties via registered or certified U.S. mail, return receipt requested.

F. All applicable evidentiary privileges and the work-product doctrine shall be available for purposes of the Arbitration and Arbitration hearing, and shall not be deemed to have been waived by entering into this Lease Agreement or by any conduct or actions of the parties undertaken in connection with any subsequent Arbitration pursuant hereto.

G. Any petition by a party to confirm, correct or vacate a decision of the Arbitrator must be filed within forty-five (45) days following the receipt of the decision via registered or certified U.S. mail.

H. Not less than ten (10) calendar days prior to commencement of the Arbitration hearing, each party must make a full disclosure to the other party of: (i) all documents to be presented by such party as evidence during the Arbitration hearing; and (ii) any witness to be called by such party during the Arbitration hearing. Except for purposes of impeachment, only documents and witnesses so disclosed may be presented and called during the Arbitration hearing, or may be considered by the Arbitrator in reaching a decision.

I. Either party may apply to a court in the County of Orange having jurisdiction hereof and seek injunctive relief to maintain the status quo until the arbitration award is rendered or the dispute is otherwise resolved.

J. FINALITY OF AWARD: THE AWARD OF THE ARBITRATOR(S) SHALL BE FINAL AND BINDING UPON THE PARTIES WITHOUT APPEAL OR REVIEW EXCEPT AS PERMITTED BY CCP SECTION 1285 et. seq. EITHER PARTY MAY APPLY TO ANY COURT OF GENERAL JURISDICTION FOR ENTRY AND ENFORCEMENT OF JUDGMENT BASED ON SAID AWARD

K. Notwithstanding the foregoing, at Lessee's option, the following claims, disputes, and other matters in question need not be resolved by arbitration: any action by Lessee seeking an injunction or temporary restraining order against subsequent users under Section 10 of this Lease Agreement.

Section 15. Lease Policy Deposit. Concurrently with the execution of this lease, Lessee shall pay to Lessor the sum of One Thousand Five Hundred Dollars (\$1,500.00) covering Lessor's costs of reviewing Lessee's application for conformity to the Lease Policy and for preparation of this lease, including any associated legal, engineering and administrative expenses.

Section 16. Entire Agreement; Amendment. This Lease Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements made prior to the date hereof. This lease may not be changed except in writing executed by both parties.

Section 17. Paragraph Heading and Construction. The section headings contained in this Lease Agreement shall not be considered to be a part hereof for purposes of interpreting or applying this lease, but are for convenience only.

Section 18. Governing Law/Venue. This lease shall be governed by and construed in accordance with the laws of the State of California. Any lawsuit brought in connection with this lease (as may be permitted hereunder) shall be brought in the appropriate court of the County of Orange, California.

Section 19. Binding on Successors. This Lease Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

Section 20. Assignment; Subletting.

(a) This Lease Agreement, or any interest of Lessee in the leased space, shall not be assigned or subleased by Lessee voluntarily or by operation of law without the prior written consent of Lessor, which Lessor shall not unreasonably withhold; provided, any sublessee or assignee must be an entity actively engaged in and providing communications facility services of the same type, or similar to, those services facilitated pursuant to the Communications Facilities as defined in this Lease Agreement. Any attempted assignment or subletting without such written consent shall be void, and a material breach of this lease.

(b) Notwithstanding subsection (a) above, Lessee may, without Lessor's consent but upon at least sixty (60) days prior written notice to Lessor, from time to time assign this Lease Agreement in its entirety (i) to any entity which has, directly or indirectly, a 51% or greater interest in lessee (a "Parent") or to any entity in which Lessee or a Parent has a 51% or greater interest (an "Affiliate"); (ii) to any entity with which Lessee and/or any Affiliate may merge or consolidate; or (iii) to a buyer of substantially all of the outstanding ownership units or assets of Lessee or any Affiliate. Any such assignment shall not be effective until the assignee executes and delivers to Lessor (A) a representation that assignee is Lessee's successor under the Lease Agreement pursuant to clause (i), (ii) or (iii) of this Section 20(b); and (B) assignee's written assumption of all Lessee's obligations under this Lease Agreement arising from and after the effective date of assignment.

(c) Notwithstanding subsection (a) above, Lessee may, without Lessor's approval and in Lessee's sole discretion, from time to time grant to any person or entity a financing security interest in some or all of the Communications Facilities.

(d) Regardless of Lessor's consent, no subletting or assignment of Lessee's interests under this Lease Agreement (except for an assignment pursuant to subsection (b) above) shall release Lessee of Lessee's obligation or alter the primary liability of Lessee to pay Rent and perform all other obligations to be performed by Lessee hereunder. The acceptance of Rent by Lessor from any other person shall not be deemed to be a waiver by Lessor of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting. In the event of default by any assignee or sublessee of Lessee or any successor of Lessee in the performance of any of the terms hereof, Lessor may proceed directly against Lessee without the necessity of exhausting remedies against said assignee or sublessee. Lessor may consent to subsequent assignments or subletting of this lease or amendments or modifications to this lease with assignees or sublessee's of Lessee, without notifying Lessee, or any successor of Lessee, and without obtaining its or their consent thereto and such action shall not relieve Lessee of liability under this lease. In the event Lessee shall assign or sublet the leased space or request the consent of Lessor to any assignment or subletting or if Lessee shall request the consent of Lessor for any act that Lessee proposes to do, then Lessee shall pay Lessor's reasonable attorneys fees incurred in connection therewith.

Section 21. Waiver of Lessor's Lien. Subject to Lessee's obligations otherwise set forth in this Lease Agreement (i.e. see, Section 8),

(a) Lessor waives any lien rights it may have concerning the Communications Facilities which are deemed Lessee's personal property and not fixtures, and Lessee has the right to remove the same at any time without Lessor's consent; and,

(b) Lessor acknowledges that Lessee has entered into or may enter into a financing arrangement including promissory notes and financial and security agreements for the financing of the Communications Facilities (the "Collateral") with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities). In connection therewith, Lessor (i) disclaims any interest in the Collateral, as fixtures or otherwise; and (ii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any Rent due or to become due and that such Collateral may be removed at any time without recourse to arbitration or other legal proceedings.

Section 22. Attorney's Fees. Should either party be compelled to institute arbitration or legal or other proceedings against the other for or on account of its failure or refusal to perform or fulfill any of the covenants or conditions of this Lease Agreement on its part to be performed or fulfilled, then the prevailing party in such action or proceeding shall receive from the other party attorney's fees as adjudged reasonable by the arbitrator, or court.

Section 23. Notice. Any notice, request, information or other document to be given hereunder to any of the parties by any other parties shall be in writing and shall be deemed given and served upon delivery, if delivered personally, or three (3) days after mailing if sent by certified mail, postage prepaid, as follows:

If to Lessee:

Attn: _____

If to Lessor:

Moulton Niguel Water District
27500 La Paz Road
Laguna Niguel, CA 92677
Attn.: Director of Engineering

With a copy to:

Attn: _____

Either party may change the address or persons to which notices are to be sent to it by giving the written notice that such change of address or persons to the other party in the manner provided for giving notice.

Section 24. Counterparts. This Lease Agreement may be executed in counterparts, each of which shall be deemed to be an original.

Section 25. Recitals/ Exhibits. The Recitals are incorporated as part of this Lease Agreement. The following exhibits are incorporated in this Lease Agreement:

- Exhibit A Plot Plan- Communications Facilities
- Exhibit B Reservoir Site- Legal Description
- Exhibit C Dimension Sketch- Communications Facilities
- Exhibit D List of Prior User(s)

Section 26. Authorized Representatives. Each person executing this Lease Agreement represents and warrants they have been duly authorized to execute the same

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement as of the day and year first written above.

“LESSOR”:

“LESSEE”:

MOULTON NIGUEL WATER DISTRICT

By: _____
General Manager

By: _____

Title: _____

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EXHIBIT B
Policy and Procedure for Communications Facilities
Leases

MOULTON NIGUEL WATER DISTRICT**POLICY AND PROCEDURE FOR COMMUNICATIONS FACILITIES LEASES
(Adopted March, 2000)**

The policy, procedure and terms for communications facilities leases authorized by Moulton Niguel Water District are as follows:

1. Submission of an application that depicts the location and dimensions of the proposed communication facilities, along with a projection of the approximate number of future subscribers of the applicant. The applicant is responsible for all costs of the installation and operation of the communications facilities on the site, whether direct or indirect.
2. Verification by staff that the interest of the District in the land proposed to be used in conjunction with the communications facilities is not restricted to reservoir purposes only (or pump/lift station or other specified facility purposes, as the case may be), or that the language in any deed granting the site to the District may be construed to allow no other uses than those uses "incidental" to reservoir (pump/lift station) purposes.
3. All land use approvals, parcel map requirements, permits or any other regulations and conditions required by the County of Orange, the California Public Utilities Commission, the Federal Communications Commission or other governmental agencies shall be satisfied by the applicant at its cost. Applicant shall provide the District with copies of any and all permits granted for operation of the communications facilities.
4. Coordination with, and written approval obtained from, adjacent homeowners or community associations, adjacent property owners and respective agencies of the County of Orange, adjacent cities or any similarly involved public agencies as required by the permitting public agencies, or the Board of Directors of the District in its discretion. Applicant shall provide the District with copies of written approvals from all such affected persons or entities.
5. Applicant's deposit of sufficient funds to cover District's cost of processing the lease application and agreement. The initial deposit amount for calendar year 2009 shall be \$1,500, subject to increases from time to time as determined necessary by the General Manager in his discretion.
6. The lease term shall be for ten (10) years, and at the option of applicant for an additional five (5) year period (i.e. 15 possible years total). Applicants must ensure the operation of the communications facilities will not cause harmful interference with existing communication facilities operated on District sites.
7. Initial annual rental for the ten (10) year lease period is based on \$2,091 per month (total: \$25,092. per year) for all applicants in the year 2009. Rental is payable on a monthly basis, with at least one months rent payable in advance at the time a lease agreement is executed between the District and applicant. Each applicant's rental will be subject to an automatic yearly increase every January 1, commencing January 1, 2010, of 3% per annum during the ten (10) year lease period. Each new applicant's rental will be based on the then current annual rent in any year.

Option Period Rental: In the event an applicant exercises the optional five (5) year term, upon commencement of the option period the monthly rent shall be increased by the greater of 3%, or the average annual increase to the Consumer Price Index (Los Angeles - Long Beach) during the three (3) year period prior to commencement of the option period. Thereafter, rental each year during the option period shall be increased annually by 3%.

8. The lease agreement may be terminated by the District under certain circumstances, generally as follows:

(a) The existence of documented health and safety concerns as to the use of the District's site for communications facilities. In the case where a health or safety emergency arises, the District may terminate the lease agreement immediately; in all other cases, the District will use all good faith efforts to provide no less than sixty (60) days written notice of such termination.

(b) The District Board finds that the site is necessary for the operations of the District. In such a case, the District will provide twelve (12) months advance notice, and will use good faith efforts to relocate the communications facilities to another reasonably available District site, subject to applicant's compliance with all other provisions of this Policy at the relocated site. (See other conditions for District's termination in the attached Lease Agreement).

9. Any adjustment to the annual rental set by this Policy and determined by the District's Board of Directors may consider an analysis of the following factors:

(a) District's total investment in the site, exclusive of the District's facilities but including other improvements. Such investments include site acquisition, engineering, improvement roads, power, electricity, maintenance and other costs.

(b) The potential rent obligation charged for private commercial sites an applicant would pay.

(c) The approximate amount of income from subscribers to applicant's cable, cellular or other communications system/business.

(d) Other factors the Board of Directors of the District deems appropriate in its sole discretion.

10. The lease agreement will require indemnification for the District from applicant and appropriate insurance coverage that names the District as an additional insured. Certificates of insurance and endorsements shall be provided by applicants.

11. The lease agreement shall be substantially in the form attached to this Policy as Attachment 1.

12. The Board of Directors delegates authority to the General Manager or his designee to review and approve all lease applications and to enter into lease agreements in accordance with this Policy.

13. All "Licenses for Communications Facilities" existing at the time of adoption of this Policy shall be terminated by the District no later than January 1, 2001, and replaced by the leases permitted under this Policy. An existing "Leases for Communications Facilities" shall be replaced with a lease permitted under this Policy upon the expiration of the term of the current lease upon a lessee's request, provided such lessee is not in default under the terms of such lease.

14. This Policy may be amended from time to time by the Board of Directors in its discretion.

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EXHIBIT C

Summary of Existing and Proposed Lease Agreements

CARRIER PER SITES

SITE NAME: BEAR BRAND
 G-29
 AT&T
 SPRINT UNITED
 SPRINT NEXTEL
 T-MOBILE
 XM SATELLITE

SITE NAME: BIG B
 G-17
 AT&T
 SPRINT NEXTEL
 SPRINT UNITED
 T-MOBILE
 VERIZON

SITE NAME: CROWN POINT P.S.
 G-22
 VERIZON

SITE NAME: CROWN VALLEY
 H-18
 AT&T
 METRO PCS
 SPRINT NEXTEL
 T-MOBILE
 VERIZON

SITE NAME: GALIVAN
 I-15
 AT&T

SITE NAME: GOLDEN LANTERN P.S.
 H-29A
 SPRINT UNITED
 VERIZON

SITE NAME: LA PAZ
 J-9
 METRO PCS
 SPRINT UNITED
 T-MOBILE

SITE NAME: MARGUERITE
 K-14
 SPRINT NEXTEL
 T-MOBILE

SITE NAME: MOULTON PEAK
 C-14, C-15
 AT&T
 SDG&E
 SPRINT NEXTEL
 T-MOBILE

SITE NAME: MOULTON LIFT STATION
 F-14
 T-MOBILE

SITE NAME: NELLIE GAIL
 H-12
 AT&T
 METRO PCS
 SDG&E
 SPRINT UNITED
 T-MOBILE

SITE NAME: P.I.D.#3
 D-28
 AT&T
 SPRINT UNITED
 T-MOBILE
 VERIZON

SITE NAME: RANCHO
 H-24
 AT&T
 METRO PCS
 SPRINT NEXTEL
 SPRINT UNITED
 T-MOBILE
 VERIZON

SITE NAME: SAN JOAQUIN HILLS
 B-11, C-11
 T-MOBILE

SITE NAME: SEVILLE
 J-5, K-5
 METRO PCS
 SPRINT NEXTEL
 SPRINT UNITED
 T-MOBILE
 VERIZON

SITE NAME: SHEEP HILLS
 C-10
 AT&T
 SPRINT NEXTEL
 SPRINT UNITED
 T-MOBILE
 VERIZON

SITE NAME: TREATMENT PLANT 3A
 I-14
 T-MOBILE

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EXHIBIT D

Sample Professional Services Agreement

**AMENDMENT NO. 7 TO AMEND AND FUND THE AGREEMENT
FOR CONSULTING SERVICES FOR COMMUNICATIONS LEASE PROGRAM
Telecom Group Partners Corp., a California Corporation, dba ATS Communication
CONTRACT No. OM11-12.001**

This Amendment No. 7 is entered into and effective as of the 1st day of July, 2016, amending the agreement dated October 29, 2010 (the "Agreement"), as amended, by and between the Moulton Niguel Water District, a California Water District ("MNWD"), and Telecom Group Partners Corp., a California Corporation, dba ATS Communication ("Contractor") (collectively, the "Parties") for consulting services for the communication lease program.

RECITALS

A. On August 10, 2011, the Parties executed Amendment No. 1 to the Agreement to extend the Agreement until June 30, 2012 and increase fee by \$30,000.00 to an Agreement total of \$38,357; and

B. On March 12, 2012, The Parties executed Amendment No. 2 to the Agreement to increase the fee by \$40,000.00 for an Agreement total of \$78,357; and

C. On August 10, 2012, The Parties executed Amendment No. 3 to the Agreement to increase the fee by \$80,000.00 for an Agreement total of \$158,357; and

D. On July 19, 2013, The Parties executed Amendment No. 4 to the Agreement to increase the fee by \$90,000.00 for an Agreement total of \$248,357; and

E. On July 1, 2014, The Parties executed Amendment No. 5 to the Agreement to increase the fee by \$90,000.00 for an Agreement total of \$338,357; and

F. On July 1, 2015, The Parties executed Amendment No. 6 to the Agreement to increase the fee by \$90,000.00 for an Agreement total of \$428,357; and

G. The Parties have negotiated and agreed to an extension of the Agreement until June 30, 2017 for an additional not-to-exceed amount of \$90,000 for an Agreement total of \$518,357.

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

1. In order to continue the services in the scope of work of the Agreement, as may have been amended from time to time, the Parties agree, with this Amendment, that the total Agreement amount shall not exceed **Five Hundred Eighteen Thousand Three Hundred Fifty-Seven Dollars (\$518,357.00)**.

2. MNWD will pay the Contractor for all work associated with those services on a time and materials basis not-to-exceed **Ninety Thousand Dollars (\$90,000)** for this Amendment. Contractor will provide MNWD, on a monthly basis, copies of invoices sufficiently detailed to include hours performed, hourly rates, and related activities and costs for approval by MNWD.

3. Contractor will complete all work for this Amendment by **June 30, 2017**.

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Contract No. OM11-12.001

Amendment No. 7

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4. All other provisions of the Agreement, as may have been amended from time to time, will remain in full force and effect. In the event of any conflict or inconsistency between the Agreement and previous amendments and this Amendment No. 7, the terms of this Amendment No. 7 shall control.

5. All requisite insurance policies to be maintained by the Contractor pursuant to the Agreement, as may have been amended from time to time, will include coverage for this Amendment.

6. The individuals executing this Amendment and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Amendment.

CONTRACTOR

TELECOM GROUP PARTNERS
CORP., A CALIFORNIA
CORPORATION, DBA ATS
COMMUNICATION

By:

(sign here)

(print name/title)

MOULTON NIGUEL WATER
DISTRICT, a California Water District

By:

General Manager



STAFF REPORT

TO: Board of Directors **MEETING DATE:** May 16, 2016
FROM: Marc Serna, Director of Engineering and Operations
Eva Plajzer, Assistant Director of Engineering
SUBJECT: Quarterly Capital Improvement Program Report
DIVISION: District-wide

SUMMARY:

Issue: District staff is responsible for executing the Capital Improvement Program (CIP) as adopted by the Board of Directors. This quarterly report is for January, February, and March of Fiscal Year (FY) 2015-16.

Recommendation: Information item only.

Fiscal Impact: The fiscal impact for each project is presented to the Board of Directors on a project by project basis. The collective impact for FY 2015-16 is \$46,814,499, if fully expensed.

DISCUSSION:

The Moulton Niguel Water District (District) Board of Directors approved a FY 2015-16 budget in June 2015 (see Table 1). In March 2016, the Board of Directors amended the budget through a fund transfer from Fund 7, Replacement and Refurbishment, to Fund 12, Water Supply Reliability, in the amount of \$5.8 million. The total fiscal year budget was not affected.

Several of the projects in this fiscal year budget, such as SOCWA, JRWSS, Plant 3A, SMWD Joint Projects, and the Baker Water Treatment Plant, are managed by other

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entities, with the District providing funding through a project agreement or a joint powers entity. For these projects, staff primarily assesses capital expenditures and reviews deliverables and invoices, but does not actively manage the projects. These projects total \$24.1 million for FY 2015-16 budget. The remainder of the budget, \$22.7 million, is executed by District staff. After completion of the second quarter of the fiscal year, approximately 73% of CIP budget has been committed and 43% has been expended to date. Table 1 summarizes the expenditures and contractual obligations for the fiscal year.

Table 1 Adopted Budget by Fund Fiscal Year: July 2015 through June 2016			
Item/Fund	Fiscal Year Adopted & Amended Budget	Awarded Contracts Through Third Quarter	Payments Through Third Quarter
Water Efficiency – Fund 6	\$1,695,611	\$1,520,000	\$12,701
Replacement and Refurbishment - Fund 7	\$10,467,886	\$7,206,273	\$3,329,853
SOCWA & JRWSS - Fund 7	\$10,299,939	\$9,678,393	\$4,860,709
Water Supply Reliability Projects - Fund 12	\$14,778,582	\$14,778,582	\$11,399,188
Planning and Construction - Fund 14	\$9,572,481	\$774,861	\$590,690
Total	\$46,814,499	\$33,958,109	\$20,193,141

Staff has prioritized CIP projects to maximize the resources available to effectively execute the projects. Table 2 lists the projects in the 10-year Capital Improvement Program and their implementation status (see attached).

During the third quarter of FY 2015-16, these major activities were performed within the Capital Improvement Program:

- One project was completed
 - 2014.018 – Flores Avenue 8-inch Water Line Installation
- 18 projects are under construction
 - The following projects have been awarded:
 - 2015.019 – AMI Phase I – Potable Irrigation Meters
 - 2015.020 – AMI Phase I – Recycled Irrigation Meters
 - The following projects were advertised for bids:
 - 2014.013 – Pradera 850 Zone Loop

- 2015.017 – Fall Protection System – Potable Reservoirs
- 2015-018 – Fall Protection System – Recycled Reservoirs
- Design work continued on 21 additional projects.
 - Issued 6 task orders utilizing the On-Call Professional Engineering Services Agreements listed below. Table 3 summarizes the expenditures for the program.
 - O&M – Electrical Cost Estimates for Seven Stations
 - O&M – Construction Inspection Services for Gateway Village
 - 2015.023 - Northern Pipeline Emergency Repair
 - 2015.004 – Crown Valley Nos. 1 & 2 Recycled Water Reservoir Re-Coating and Improvements Design
 - 2015.022 – Crown Valley No. 3 Potable Water Reservoir Re-Coating and Improvements Design
 - O&M – Aliso Creek Bridge Assessment

Table 3 On-Call Professional Engineering Services Agreement Expenditure Summary through March 2016				
Consultant	Contracted Amount	Number of Task Orders Issued	Total Value of Task Orders	Remaining Contractual Amount
AKM Consulting Engineers	\$750,000	11	\$340,629	\$409,371
Lee & RO, Inc	\$750,000	8	\$328,573	\$421,427
Tetra Tech, Inc	\$500,000	17	\$480,590	\$19,410
Total	\$2,000,000	36	\$1,149,792	\$850,208

Attachment: Table 2 Quarterly CIP Report

TABLE 2
QUARTERLY CAPITAL IMPROVEMENT PROGRAM REPORT
MOULTON NIGUEL WATER DISTRICT
QUARTERLY PROJECT STATUS - THIRD QUARTER - JANUARY THROUGH MARCH
FISCAL YEAR: JULY 2015 TO JUNE 2016

PROJECT NUMBER	FUND	PROJECT DESCRIPTION	YEAR PROJECT APPROVED	TOTAL PROJECT AMOUNT	EXPENDED FROM INCEPTION TO DATE	FY 2015-16 ADOPTED BUDGET	FY 2015-16 EXPENDED TO DATE	ESTIMATED COMPLETION DATE
COMPLETED PROJECTS								
2006099	12	ETWD/MNWD INTERTIE W/30 DIEMER PI	2006	\$503,140	\$367,198	\$252,042	\$78,464	Completed
2006099	12	ETWD/MNWD INTERTIE W/30 DIEMER PI REIMBURSEMENT	2006	(\$503,140)	\$0	(\$252,042)	\$0	Reimbursement
2010018	7	MATHIS-OSO BY-PASS	2010	\$778,670	\$777,474	\$527,615	\$372,149	Completed
2011038	14	E ALISO CRK RES RECIRCULATION SYST	2011	\$141,000	\$135,957	\$51,981	\$46,938	Completed
2012037	7	OSO PKWY 12"RW MAIN RELOCT	2012	\$244,898	\$173,275	\$94,898	\$173,275	Completed
2013001	7	EAST ALISO CREEK RES RECOAT & IMPROV	2013	\$2,550,000	\$2,029,229	\$1,007,460	\$246,893	Completed
2012028	14	GENERATOR AT BEAR BRAND RESERVOIR	2012	\$72,029	\$65,954	\$57,724	\$22,526	Completed
2012029	14	GENERATOR AT BRIDLEWOOD TAKEOUT	2012	\$75,440	\$69,055	\$61,135	\$35,451	Completed
2012030	14	GENERATOR AT MARGUERITE RESERVOIR	2012	\$92,825	\$86,834	\$78,520	\$28,706	Completed
2012031	14	GENERATOR AT MATHIS RES PS	2012	\$61,403	\$56,294	\$47,098	\$14,163	Completed
2012033	14	GENERATOR AT SEVILLE RESERVOIR	2012	\$68,568	\$62,808	\$54,263	\$22,507	Completed
2013010	7	GALLUP SEWER REPLACEMENT	2013	\$340,000	\$251,137	\$296,525	\$225,428	Completed
2014003	7	DEL AVION LS WET WELL COATING REHAB	2014	\$125,000	\$101,519	\$4,541	\$836	Completed
2014004	7	ENCANTAMAR 16" ABANDONMENT	2014	\$90,665	\$77,118	\$90,665	\$77,118	Completed
2014006	7	UPPER SALADA LS HEADER REPLACEMENT	2014	\$133,363	\$107,420	\$3,235	\$0	Completed
2014007	7	LA SIENA MAINLINE REPLACEMENT	2014	\$699,165	\$543,981	\$49,298	\$12,048	Completed
2014008	7	2014-15 VALVE REPLACEMENT	2014	\$655,037	\$618,770	\$426,044	\$287,824	Completed
2014018	14	FLORES AVE 8-INCH WATER INST	2014	\$300,000	\$187,418	\$254,565	\$161,411	Completed
2015007	7	LA PAZ TRAIL CROSS WW SIPHON REPAIR	2015	\$325,000	\$146,475	\$100,000	\$146,475	Completed
Subtotal				\$6,753,063	\$5,857,916	\$3,205,569	\$1,952,213	
PROJECTS UNDER CONSTRUCTION								
2006038	7	REPLACE DIGITAL LINES W/WIRELESS N	2006	\$2,100,000	\$1,558,338	\$561,546	\$13,307	6/30/16
2006071	12	BAKER PIPELINE REGIONAL TREATMENT PLANT	2006	\$36,513,500	\$33,056,152	\$14,778,582	\$11,320,724	6/30/17
2009115	7	SAN JUAN CREEK 30 EFFLUENT TM	2009	\$3,600,000	\$699,751	\$1,600,228	\$423,505	6/30/17
2009115	7	SAN JUAN CREEK 30 EFFLUENT TM - SMWD REIMBURSEMENT	2009	(\$900,000)	\$0	(\$450,000)	\$0	Reimbursement
2010033	7	NEW DISTRICT ENTERPRISE SOFTWARE	2010	\$0	\$2,993,618	\$0	\$139,119	12/30/15
2011016	7	PLC PANEL REPLACEMENT	2011	\$440,000	\$368,945	\$111,087	\$18,424	6/30/16
2012009	7	BEACON HILL PS PUMP/GENERATOR REPLACEMENT	2012	\$675,000	\$490,268	\$578,863	\$393,363	12/30/15
2013002	7	MATHIS RW RES RECOAT & IMPROVE	2013	\$800,000	\$633,423	\$780,000	\$624,619	6/30/16
2014001	7	BEAR BRAND RES RECOATING & SAFETY	2014	\$865,000	\$18,087	\$845,000	\$9,283	6/30/16
2014005	7	UTILITY MAIN BREAKERS REPLACEMENTS	2014	\$170,000	\$65,981	\$126,427	\$11,641	6/30/16
2014011	6	RECYCLED WATER SYSTEM EXTENSION	2014	\$3,080,000	\$112,927	\$1,500,000	\$8,344	6/30/17
2014013	14	PRADERA 850 ZONE LOOP	2014	\$370,000	\$46,398	\$337,194	\$4,950	6/30/16
2015005	7	FY2015-16 MH REHABILITATION	2015	\$250,000	\$100,891	\$250,000	\$100,891	6/30/16
2015017	14	FALL PROTECTION SYSTEM - PW RESERVOIRS	2015	\$240,000	\$6,868	\$240,000	\$6,868	6/30/16
2015018	14	FALL PROTECTION SYSTEM - RW RESERVOIRS	2015	\$40,000	\$0	\$40,000	\$0	6/30/16
2015019	14	AMI PHASE I - POTABLE IRRIG METERS	2015	\$411,000	\$10,951	\$25,000	\$10,951	6/30/17
2015020	14	AMI PHASE I - RW IRRIG METERS	2015	\$411,000	\$10,951	\$25,000	\$10,951	6/30/17
2015021	7	IT DEPT RECONFIGURATION	2015	\$100,000	\$61,606	\$100,000	\$61,606	2/29/16
2015023	7	NORTHERN PIPE IMPROVEMENTS N.OF LAP	2016	\$500,000	\$0	\$150,000	\$0	6/30/17
Subtotal				\$49,665,500	\$40,235,153	\$21,598,928	\$13,158,545	

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**TABLE 2
 QUARTERLY CAPITAL IMPROVEMENT PROGRAM REPORT
 MOULTON NIGUEL WATER DISTRICT
 QUARTERLY PROJECT STATUS - THIRD QUARTER - JANUARY THROUGH MARCH
 FISCAL YEAR: JULY 2015 TO JUNE 2016**

PROJECT NUMBER	FUND	PROJECT DESCRIPTION	YEAR PROJECT APPROVED	TOTAL PROJECT AMOUNT	EXPENDED FROM INCEPTION TO DATE	FY 2015-16 ADOPTED BUDGET	FY 2015-16 EXPENDED TO DATE	ESTIMATED COMPLETION DATE
PROJECTS IN PROGRESS/UNDER DESIGN								
2011010	7	HILLARY PRS REPLACEMENT	2011	\$460,000	\$37,839	\$422,979	\$819	6/30/16
2011012	7	LARGO PRS REPLACEMENT	2011	\$460,000	\$37,879	\$423,171	\$819	6/30/16
2011015	7	WILKES PRS REPLACEMENT	2011	\$460,000	\$37,747	\$423,303	\$819	6/30/16
2012012	7	FIELD GIS - SEWER LINE CLEANING & MH	2012	\$40,000	\$0	\$40,000	\$0	6/30/16
2012024	7	UPPER SALADA LF AUX. GENERATOR REPLACEMENT	2012	\$650,000	\$48,114	\$100,000	\$7,889	6/30/17
2013004	7	REGIONAL LS FORCE MAIN REPLACEMENT	2013	\$8,900,000	\$59,990	\$100,000	\$0	6/30/22
2013005	7	LOWER SALADA LS FORCE MAIN REPLACEMENT	2013	\$5,900,000	\$40,000	\$200,000	\$0	6/30/20
2014002	7	DEL AVION LS AUXILIARY GENERATOR REPLACEMENT	2014	\$630,000	\$56,734	\$300,000	\$7,877	6/30/17
2014010	6	ALISO VILLAGE RW EXTENSION	2014	\$150,000	\$119,532	\$95,611	\$3,597	6/30/16
2014012	7	HIDDEN HILLS VILLAGE EASEMENT REHAB	2014	\$380,000	\$43,208	\$360,000	\$19,515	6/30/16
2014015	14	DISTRICT HEADQUARTERS	2014	\$23,000,000	\$456,374	\$8,000,000	\$149,574	6/30/18
2015002	7	2015-16 VALVE REPLACEMENT	2015	\$1,000,000	\$15,917	\$1,000,000	\$15,917	10/31/16
2015003	7	ALISO CREEK LS REHABILITATION	2015	\$270,000	\$0	\$50,000	\$0	6/30/17
2015004	7	CROWN VALLEY RW RES 1 AND 2 RECOAT & SAFETY	2015	\$1,480,000	\$0	\$50,000	\$0	6/30/17
2015008	7	LINDA VISTA DR SEWER LINING	2015	\$450,000	\$0	\$75,000	\$0	6/30/17
2015009	7	LOWER BOUNDARY OAK LS UPGRADE	2015	\$410,000	\$0	\$50,000	\$0	6/30/17
2015010	7	NATIONAL PARK SEWER LINING	2015	\$300,000	\$0	\$75,000	\$0	6/30/17
2015011	7	PALMS APTS EASEMENT PW LINE REPLACEMENT	2015	\$350,000	\$0	\$50,000	\$0	6/30/17
2015012	7	PASEO DE VALENCIA 24" RR CROSS ABAND	2015	\$150,000	\$0	\$25,000	\$0	6/30/17
2015014	6	FY 2015-16 RW RETROFITS	2015	\$100,000	\$760	\$100,000	\$760	6/30/17
2015016	14	2015-16 NEW SYSTEM VALVES	2015	\$150,000	\$75,694	\$150,000	\$75,694	6/30/16
Subtotal				\$45,690,000	\$1,029,789	\$12,090,063	\$283,280	
FUTURE PROJECTS								
								Project Priority
2015013	7	RESERVOIR MANAGEMENT SYSTEMS REFURBISHMENT	2015	\$6,200,000	\$0	\$100,000	\$0	96%
2015006	7	I.D. 1 MASTER METER RELOCATION	2015	\$600,000	\$0	\$60,000	\$0	80%
2015015	7	SADDLEBACK PS AUX PUMP & ENGINE REPLACE	2015	\$1,235,000	\$0	\$50,000	\$0	78%
2011033	7	ASSET MANAGEMENT PROGRAM/CMMS	2011	\$430,000	\$0	\$150,000	\$0	70%
2011034	7	GIS VIEWER AND CONFIGURATION	2011	\$60,000	\$0	\$60,000	\$0	48%
	7	54-INCH CIP IMPROVEMENTS		\$1,700,000	\$0	\$0	\$0	76%
	7	MATHIS PUMP IMPROVEMENTS		\$400,000	\$0	\$0	\$0	74%
	7	NORTH ALISO CREEK LS BYPASS REPLACEMENT		\$240,000	\$0	\$0	\$0	74%
2009010	14	MISSION HOSPITAL SECONDARY FEED	2009	\$400,000	\$0	\$0	\$0	72%
	14	LS GENERATOR EMERGENCY CONNECTIONS		\$430,000	\$0	\$0	\$0	70%
	14	920 ZONE LOOP PIPELINE		\$200,000	\$0	\$0	\$0	66%
2011037	7	MISSION VIEJO HS LINE/VAULT REFURB	2011	\$200,000	\$0	\$0	\$0	64%
2011043	14	3A OUTFALL LINE VALVES	2011	\$450,000	\$0	\$0	\$0	64%
2011043	14	3A OUTFALL LINE VALVES - REIMBURSEMENT	2011	(\$225,000)	\$0	\$0	\$0	Reimbursement
2011045	14	N ALISO LS SITE IMPROVEM	2011	\$240,000	\$9,990	\$0	\$0	64%
	7	3A ETM CREEK BANK STABILIZATION		\$2,000,000	\$0	\$0	\$0	64%
	7	3A ETM REPLACEMENT - AVE DE LA VISTA		\$2,475,000	\$0	\$0	\$0	64%

TABLE 2
QUARTERLY CAPITAL IMPROVEMENT PROGRAM REPORT
MOULTON NIGUEL WATER DISTRICT
QUARTERLY PROJECT STATUS - THIRD QUARTER - JANUARY THROUGH MARCH
FISCAL YEAR: JULY 2015 TO JUNE 2016

PROJECT NUMBER	FUND	PROJECT DESCRIPTION	YEAR PROJECT APPROVED	TOTAL PROJECT AMOUNT	EXPENDED FROM INCEPTION TO DATE	FY 2015-16 ADOPTED BUDGET	FY 2015-16 EXPENDED TO DATE	ESTIMATED COMPLETION DATE
FUTURE PROJECTS								
	7	3A ETM REPLACEMENT - CAMINO CAPO		\$3,500,000	\$0	\$0	\$0	64%
	7	3A ETM IMPROVEMENTS - SMWD REIMBURSEMENT		(\$4,437,500)	\$0	\$0	\$0	Reimbursement
	14	SECONDARY FEED FOR 1050 ZONE		\$600,000	\$0	\$0	\$0	64%
	12	SOUTH COUNTY PIPELINE TAKEOUT FACILITY		\$2,200,000	\$0	\$0	\$0	64%
2011032	7	OLD RANCH ROAD EASEMENT REFURBISHM	2011	\$200,000	\$0	\$0	\$0	60%
2011077	14	MOULTON PEAK RADIO TOWER IMPROVEME	2011	\$235,000	\$0	\$0	\$0	60%
	7	ALISO CREEK LS AUXILIARY GENERATOR REPLACEMENT		\$530,000	\$0	\$0	\$0	60%
	7	SOUTHWING LS AUXILIARY GENERATOR REPLACEMENT		\$580,000	\$0	\$0	\$0	60%
	7	STEEL TANKS SEISMIC & STRUCT RETROFITS - PW		\$1,800,000	\$0	\$0	\$0	58%
	7	STEEL TANKS SEISMIC & STRUCT RETROFITS - RW		\$1,200,000	\$0	\$0	\$0	58%
	14	OSO CREEK SEWER PARALLEL PIPELINE		\$1,950,000	\$0	\$0	\$0	56%
2012016	7	LITTLE NIGUEL PS ROOF REPLACEMENT	2012	\$20,000	\$0	\$0	\$0	56%
	7	HIGHLAND PUMP PRESSURE RELIEF TO 650 ZONE		\$75,000	\$0	\$0	\$0	54%
	7	LN REG PARK RW VAULT RECONFIGURATION		\$150,000	\$0	\$0	\$0	54%
	12	PRESSURE REDUCING STATION AT SADDLEBACK RW RES		\$200,000	\$0	\$0	\$0	54%
2012011	7	EASEMENT REHABILITATION PROGRAM - Phase 1	2012	\$7,850,000	\$0	\$0	\$0	52%
	7	EASEMENT REHABILITATION PROGRAM - Phase 2		\$6,000,000	\$0	\$0	\$0	52%
	14	SADDLEBACK PS GENERATOR EMERGENCY CONNECTION		\$60,000	\$0	\$0	\$0	48%
2010001	14	650-ZONE NIGUEL ROAD INTERTIE	2010	\$320,000	\$0	\$0	\$0	46%
2011024	7	DOCUMENT MANAGEMENT	2011	\$389,000	\$110,931	\$0	\$0	46%
	7	PZ450 ALISO CREEK POTABLE LINE RELOCATION		\$300,000	\$0	\$0	\$0	46%
	7	VAULT REMOVAL (11 SITES)		\$610,000	\$0	\$0	\$0	44%
2011026	7	RANCHO UNDERGROUND PWPS REFURBISHM	2011	\$250,000	\$4,815	\$0	\$0	44%
	7	3A ETM SJ CREEK-COUNTY OF ORANGE PHASE VIII		\$900,000	\$0	\$0	\$0	42%
	7	PACIFIC PARK PS PUMP & ENGINE REPLACEMENT		\$600,000	\$0	\$0	\$0	42%
	7	ROLLING HILLS PS ENGINE & PUMP REPLACEMENT		\$675,000	\$0	\$0	\$0	42%
	7	SHEEP HILL PS ENGINE& PUMP REPLACEMENT		\$1,040,000	\$0	\$0	\$0	42%
2012010	7	CVP 16-INCH PW LINE REHABILITATION	2012	\$650,000	\$0	\$0	\$0	42%
	7	BEAR BRAND PS PUMP REPLACEMENT		\$410,000	\$0	\$0	\$0	42%
	7	LITTLE NIGUEL PS PUMP REPLACEMENT		\$250,000	\$0	\$0	\$0	42%
	14	MARGUERITE/OSO CIP TAKEOUT		\$2,500,000	\$0	\$0	\$0	38%
	14	SECURITY ENHANCEMENTS		\$1,000,000	\$0	\$0	\$0	32%
2011028	7	VALENCIA LS REFURBISHMENT	2011	\$200,000	\$0	\$0	\$0	20%
2008049	12	SOUTH ORANGE COASTAL OCEAN DESAL	2008	\$700,000	\$690,763	\$0	\$0	on-hold
2010013	12	LA PAZ BRIDGE CROSSING RW PIPELINE	2010	\$435,000	\$56,880	\$0	\$0	on-hold
Subtotal				\$50,976,500	\$873,379	\$420,000	\$0	

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**TABLE 2
 QUARTERLY CAPITAL IMPROVEMENT PROGRAM REPORT
 MOULTON NIGUEL WATER DISTRICT
 QUARTERLY PROJECT STATUS - THIRD QUARTER - JANUARY THROUGH MARCH
 FISCAL YEAR: JULY 2015 TO JUNE 2016**

PROJECT NUMBER	FUND	PROJECT DESCRIPTION	YEAR PROJECT APPROVED	TOTAL PROJECT AMOUNT	EXPENDED FROM INCEPTION TO DATE	FY 2015-16 ADOPTED BUDGET	FY 2015-16 EXPENDED TO DATE	ESTIMATED COMPLETION DATE
SOCWA & JRWSS PROJECTS								REMAINING BALANCE
JRWSS16	7	SCWD/JRWSS CAPITAL PROJECT	2015	\$13,336,378	\$0	\$65,274	\$0	\$65,274
SMWD	7	SMWD CAPITAL PROJECTS-JOINT FACILITIES		\$186,000	\$0	\$186,000	\$0	\$186,000
SOCWA124	7	2015/16 SOCWA CAPITAL PC 2(R)	2015	\$14,632,161	\$1,480,197	\$2,461,955	\$1,480,197	\$981,758
SOCWA125	7	2015/16 SOCWA PC 3A(R)	2015	\$12,335,357	\$316,195	\$1,091,754	\$316,195	\$775,559
SOCWA126	7	2015/16 SOCWA PC 5	2015	\$0	\$31,020	\$0	\$31,020	\$0
SOCWA127	7	2015/16 SOCWA CAPITAL PC 15(R)	2015	\$9,829,078	\$0	\$404,615	\$141,329	\$263,286
SOCWA128	7	2015/16 SOCWA CAPITAL PC 17(R)	2015	\$31,851,266	\$2,681,875	\$5,090,343	\$2,681,875	\$2,408,468
	7	2015/16 SOCWA CAPITAL PC 21	2015	\$0	\$0	\$0	\$0	\$0
	7	2015/16 SOCWA CAPITAL PC 24	2015	\$3,909,923	\$0	\$0	\$0	\$0
SOCWA129	7	2015/16 SOCWA CAPITAL PC OTH	2015	\$0	\$210,093	\$0	\$210,093	\$0
Subtotal				\$86,080,163	\$4,719,380	\$9,299,939	\$4,860,709	\$4,680,343
PROGRAMS								REMAINING BALANCE
UP1516RR	7	UNANTICIPATED PROJECTS FUND 7	2015	\$300,000	N/A	\$300,000	\$250,000	\$50,000
UP1516PC	14	UNANTICIPATED PROJECTS FUND 14	2015	\$150,000	N/A	\$150,000	\$0	\$150,000
	7	PW PROJECTS PER ASSET MANAGEMENT MODEL	2015	\$8,875,000	N/A	N/A	N/A	N/A
	7	RESERVOIR RECOATING PROGRAM	2015	\$4,950,000	N/A	N/A	N/A	N/A
	7	VALVE REPLACEMENT PROGRAM	2015	\$4,500,000	N/A	N/A	N/A	N/A
	12	RECYCLED WATER RETROFITS	2015	\$450,000	N/A	N/A	N/A	N/A
	7	RESERVOIR RECOATING - RW PROGRAM	2015	\$2,648,000	N/A	N/A	N/A	N/A
	7	RW PROJECT PER ASSET MANAGEMENT MODEL	2015	\$7,536,000	N/A	N/A	N/A	N/A
	7	MH REHABILITATION PROGRAM	2015	\$3,150,000	N/A	N/A	N/A	N/A
	7	SEWER LINING PROGRAM	2015	\$2,400,000	N/A	N/A	N/A	N/A
	7	WW PROJECT PER ASSET MANAGEMENT MODEL	2015	\$5,962,000	N/A	N/A	N/A	N/A
Subtotal				\$40,921,000		\$450,000	\$250,000	\$200,000
TOTAL				\$279,836,226	\$52,715,617	\$46,814,499	\$20,254,747	

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