



moulton niguel water district

REQUEST FOR PROPOSAL

TO PROVIDE

ENVIRONMENTAL CONSULTING SERVICES

FOR

**OASIS WATER RESOURCE CENTER – ALISO CREEK
RUNOFF DIVERSION PLANNING STUDY AND PRELIMINARY
DESIGN REPORT**

(OM24-25.001)

Proposals Due:

September 9, 2024, by 4:00 PM

Issued By:

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

Issue Date:

July 16, 2024

VIA EMAIL

**Regarding: Moulton Niguel Water District
Request for Proposal for Environmental Consulting Services for OASIS Water
Resource Center – Aliso Creek Runoff Diversion Planning Study &
Preliminary Design Report
Project No. OM24-25.001**

The Moulton Niguel Water District (MNWD or District) is requesting proposals for environmental and engineering consulting services for the OASIS Water Resource Center Program – Aliso Creek Runoff Diversion Planning Study and Preliminary Design Report. The services required include preparation of a runoff diversion planning study that evaluates several runoff diversion scenarios with analysis for impacts related to water quality, hydrology, climate, stream flow, habitat, stream ecology, and water rights; preparation of a preliminary design report for the preferred runoff diversion alternative; and preliminary cost-benefit analysis for the proposed runoff diversion. The scope of services required is described in further detail below.

Proposals will be accepted until 4:00PM on September 9, 2024, at the District, 26161 Gordon Road, Laguna Hills, CA 92653 (front counter in lobby of Building A). There will be an optional pre-proposal meeting on August 7, 2024, at 2:30 PM. at the District’s office. Eight (8) copies of your technical proposal and fee proposal are requested, in addition to a fully searchable PDF copy.

A. PROJECT LOCATION, DESCRIPTION, AND BACKGROUND INFORMATION

About Moulton Niguel Water District

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

The District’s water needs are currently met by a combination of imported potable water and locally produced recycled water. The District currently relies on imported water provided by Metropolitan Water District of Southern California (MWD) through its member agency, the Municipal Water District of Orange County (MWDOC). Imported water represents approximately 75 percent of the District’s total water supply. MWD’s imported water supply originates from two principal sources - the Colorado River and the State Water Project. Significant uncertainties surround the continued reliability of both imported supply sources and various factors have the potential to affect the availability and reliability of the imported supplies. To reduce reliance on imported drinking water

supplies, the District currently produces recycled water for landscape irrigation customers within the service area. Recycled water comprises 25 percent of the District's water supplies and is produced at two local treatment plants. Recycled water is wastewater that has undergone additional treatment (Title 22 Tertiary Recycled Water standards) to be suitable for non-drinking purposes such as irrigation or construction uses.

OASIS Water Resource Center Program

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

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

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

Project Description

In support of the OASIS Water Resource Center Program, the District is seeking the services of a qualified environmental/engineering consulting firm(s) to prepare the Aliso Creek Runoff Diversion Planning Study and Preliminary Design Report. The District intends to reuse (or optimize) water currently wasted: urban runoff/stormwater flowing to the ocean. The Planning study includes two major components within the OASIS Program: creating an additional source of recycled water by capturing dry weather runoff and small storm events from the Aliso Creek watershed, as well as evaluating restoring a portion of Aliso Creek for enhanced habitat, fish passage, flow conditions, and infrastructure protection. To do this, the Planning study also includes investigating how the Laguna Niguel Lake may be used to store diverted runoff from the Aliso Creek Watershed.

The District has identified a proposed concept for the runoff diversion. The Regional Treatment Plant (RTP) is located just upstream of the Laguna Niguel Lake (Lake) and about one mile upstream of the convergence of the Sulphur and Aliso Creeks. The Lake currently receives urban runoff and stormwater flows and operates as a flow through system where discharge from the Lake is equal to inflow. The Lake is currently owned and operated by the County of Orange and is utilized for community recreational purposes (onshore fishing). The Lake is available for year-round fishing and is stocked with fish by Orange County. Boating and swimming in the Lake are currently not allowed. It is not currently used for municipal water storage. Sulphur and Aliso Creeks have the same beneficial use designations in the Basin Plan: Agricultural Supply (AGR), Potential REC-1 (water contact recreation), REC-2 (non-contact water recreation), warm freshwater habitat (WARM), and wildlife habitat (WILD). The Basin Plan does not identify any beneficial uses for the Lake; however, based on application of the tributary rule, the beneficial uses applicable to Sulphur Creek would also apply to the Lake. The District is investigating how the Lake may be used to store diverted runoff from the Aliso Creek Watershed, which can be utilized in the dry weather months as an additional source of water. Preliminary findings indicate that water storage in the Lake is favorable, but some improvements may be needed in the Lake to increase storage capacity. Use of the Lake as a storage reservoir needs to be further evaluated as part of the Planning study. The project location and proposed concept is shown in **Exhibit B**.

The District has been collaborating with Orange County Public Works (OCPW) to assess the Aliso Creek Watershed's potential to develop a local source of water through a runoff diversion. The watershed faces irregular runoff, affecting flow, impairing water quality, and causing erosion and flooding in Aliso Creek. Runoff capture has the potential to help restore altered dry weather flow conditions in the Creek to a more natural "pre-urbanization" state while also reducing pollutant loads, improving the ecosystem health of the watershed, and enhancing water quality in coastal areas. Aliso Creek Watershed covers 36 sq. miles and the lower reaches of the Creek suffer from hydromodification effects caused by urbanization including widespread bank erosion, channel incision, floodplain disconnection, and fish passage barriers. Runoff capture through diversion at key locations during certain times could boost local water supply, while improving the ecosystem health of the watershed and water quality in the coastal areas. In addition to diversion for water supply, the District is coordinating with OCPW to identify synergistic opportunities to enhance and connect

riparian and floodplain habitat to provide fish passage and improve habitat for riparian and terrestrial species as part of an overall effort to restore lower reaches of Aliso Creek restoration.

The scope of services for this RFP is partially funded by grants and will be subject to federal procurement requirements. See the sample professional services agreement (PSA) in **Exhibit C** for additional requirements.

B. SCOPE OF WORK

Work includes preparing the Runoff Diversion Planning Study and Preliminary Design Report; leading watershed technical workshops; and regulatory and environmental services support. Proposals for the project should include and show all labor hours and labor costs by position, and all other direct costs for the required work. Consultants are encouraged to modify and/or expand the scope of work to demonstrate their understanding of the project and describe their project approach in detail. Work shall consist of, but shall not be limited to, the following tasks:

Task 1: Project Administration/Management

The Consultant shall include in the scope of work sufficient time and budget to administer the services provided. Administration shall include, but not be limited to:

- Project kick-off meeting
- Two site visits with staff
- Monthly coordination meetings, as needed
- Up to six focus staff workshops as part of the Planning Study and Preliminary Design
- Up to 10 watershed technical workshops
- Monthly invoices suitable to meet grant funding needs
- Project Schedule

The workshops will be attended by District personnel and may include County staff. During the workshops, the Consultant shall work with District staff on issues that warrant further discussion or where decisions need to be made. Consultant shall identify and propose when workshops are needed and incorporate the proposed dates into the project schedule. The Consultant shall lead all meetings/workshops, prepare agendas and minutes for each meeting/workshop, and maintain a decision log to document all decisions made during the meetings/workshops. The Consultant shall also prepare and maintain a project schedule.

Deliverables: Agendas and minutes for meetings/workshops; monthly invoices will be needed to support grant funds; decision log; project schedule and monthly schedule updates; monthly status report including a summary of activities during the prior month, upcoming activities during the next month, upcoming deliverable/milestones, and pending action items.

Task 2: Records Search and Records Review

This task consists of a detailed review of relevant studies and records. It is anticipated that several of these resources can be leveraged to support the analysis conducted as part of the Runoff Diversion Planning Study. After award, the District will attempt to locate any other information requested by the Consultant. The District has made several of the following pertinent studies and reference documents available for download at the District's ShareFile site: <https://mnwd.sharefile.com/public/share/web-s829a73789cdf47e8a9a2eab8b3cd3789>.

- Aliso Creek Flow Ecology Special Study
- Aliso Creek Smart Watershed Network Final Report
- Integrated Regional Water Management Plan (IRWM Plan) (2018)
- Water Quality Improvement Plan (WQIP) (2024)
- Aliso Creek Mainstem Ecosystem Restoration Project – Integrated Feasibility Study (2017)
- Aliso Creek Estuary Conceptual Restoration Plan
- Aliso Creek Urban Runoff Recovery, Reuse, and Conservation Project
- Aliso Creek Watershed Assessment, CDFW, 2021
- Aliso Creek Watershed Collaboration Group Reference Guide: Appendices listed on website: <https://www.southocirwm.org/pages/regional>
- Salt and Nutrient Management Plan for the South Orange County Aliso Creek
- Aliso Creek Collaboration Group, Recon and Concept Design Evaluation, May 23, 2022
- Aliso Creek Collaboration Group, Conceptual Design Alternatives, June 22, 2022
- Record Drawings of the Lake
- Record Drawings of all MNWD infrastructure within the park including force mains, potable water mains, recycled water mains, and sewer mains.
- Bid Plans new Regional Force Main Replacements Project
- Record drawings of RTP, including the tertiary system
- MNWD Reuse and Reservoir Opportunity Study
- Survey Records Regional Force Mains Replacements Project
- Survey Records for Salinity Management System at Regional Treatment Plant

The Consultant is expected to perform all “Records Search” necessary to inform the Runoff Diversion Planning Study and Preliminary Design Report. “Records Search” shall also include, but is not limited to the following:

- Any available recorded and unrecorded maps on file with the County or City, including assessors' maps, records of survey, tract maps, and parcel maps
- Monument ties and benchmark data
- Easements
- Environmental constraints, including water rights
- See Task 3 below regarding utility research

Deliverables: Electronic copies of all relevant information obtained from Records Search along with a Technical Memorandum including a tabular summary of the relevant information obtained during the Records Search.

Task 3: Utility Research

Implement a systematic approach to accurately identify and locate existing utilities within the extents of the proposed facilities that will be included in the Preliminary Design Report. Said approach may include, but is not limited to the following:

- Submit letters to all utilities identified on USA's database
- Organize a USA meet and mark
- Pre-mark all visible facilities during site walk-through
- Ensure that the utilities shown on available record drawings are accurate; update as required
- Submit preliminary utility drawings to any other affected utility owners (if any) requesting their review to ensure their facilities are correctly shown

Deliverables: Copies of any correspondence with other utility owners; drawings to indicate any recommended potholing.

Task 4: Base Drawings for Preliminary Design Report and Surveying

Consultant shall prepare adequate base drawings necessary for the Preliminary Design Report (Task 8). Consultant shall determine if a site survey is necessary to supplement provided record drawings, District survey records, and GIS data.

Note: Consultants are advised that the District will provide its digital terrain model and aerial photography that is based on high resolution LiDAR imagery from 2021. The model can be used to generate contours and has an accuracy of plus or minus one foot. The model does not have planimetric data in it. This data may be obtained by survey or available aerial photography (approach determined and provided by Consultant).

Deliverables: One (1) electronic copy of the completed Base Drawings as part of the Preliminary Design Report (Task 8).

Task 5: Geotechnical Exploration

Consultant shall review existing geotechnical reports and perform a desktop geotechnical survey for the proposed facilities that will be included in the preliminary design report. Consultant shall contact local agencies and site owners for available geotechnical information.

Deliverables: Draft and final technical memorandum summarizing the desktop geotechnical survey findings.

Task 6: Watershed Technical Workshops

Watershed technical workshops are a powerful way to engage, align, and collaborate with key project partners, regulators, watershed stakeholders, and other interested parties. It is anticipated watershed technical workshops will be held to help foster development of a collaborative runoff diversion project that considers the benefits to the watershed. The goal of the workshops is to engage with relevant stakeholders and receive input on technical information and development of diversion alternatives. It is anticipated at a minimum, the watershed technical workshops would engage with County of Orange staff, participating members of the Aliso Creek Collaboration Group formed from the South Orange County Watershed Management Area (SOCWMA), as well regulators from various regulatory agencies.

The Consultant shall include in the scope of work sufficient time and budget to administer watershed technical workshops to receive input regarding the technical analysis conducted as part of the Runoff Diversion Planning Study. It is anticipated that up to ten watershed technical workshops would be needed to facilitate consensus building for the Runoff Diversion Planning Study. Consultant shall prepare anticipated schedule of workshops to engage necessary regulators and stakeholders based on the project schedule. It is anticipated the Consultant shall work with District staff to schedule and coordinate the workshops with the stakeholders. The Consultant shall lead all watershed technical workshops. The consultant shall prepare agendas and minutes for each workshop and maintain a decision log to document all decisions made during the workshops.

Deliverables: Up to 10 consultant lead watershed technical workshops; coordinate meetings; prepare agendas and minutes for workshops and decision log.

Task 7: Runoff Diversion Planning Study

This task consists of preparation of a comprehensive Runoff Diversion Planning Study within Aliso Creek (Creek) Watershed. The Runoff Diversion Planning Study shall assess the potential for the District and OCPW to establish a collaborative project to characterize, capture, contain, and treat runoff with a controlled discharge to the Laguna Niguel Lake (Lake) for storage and reuse to augment local non-potable water supplies. The goal of the Runoff Diversion Planning Study is to develop scenarios for wet and dry weather runoff diversions. As part of this task, the Consultant shall further develop the evaluation method, define evaluation criteria, and establish a decision-making process to develop a feasible diversion project.

It is anticipated the diversion could benefit the watershed by improving downstream water quality; increasing local water supplies; bolstering climate resilience; reducing flood risk; and enhancing native habitats. It is anticipated the analysis will include using the evaluation criteria developed below, at a minimum, to evaluate the diversion opportunities and generate a recommended runoff diversion alternative for further design. It is anticipated that the Runoff Diversion Planning Study shall include at a minimum the following analyses:

- **Water Availability Analysis** – The Runoff Diversion Planning Study shall include identifying the volume of natural and un-natural flows and what water would be available for diversion from Aliso Creek Watershed into the Lake. This analysis shall also identify where and when diversions could occur. The analysis will consider the topics listed below in identifying the amount of water available for diversion.
- **Hydrology Analysis** – The Runoff Diversion Planning Study shall include a hydrology analysis. It is anticipated that the prior work done through the Aliso Creek Flow Ecology Study and Smart Watershed Network can be leveraged for this analysis. The hydrology evaluation will evaluate the impacts of the runoff diversion on the stream, including how the runoff diversion may impact downstream flood flows.
- **Water Quality Analysis** – The Runoff Diversion Planning Study shall include a water quality analysis. This analysis will include an evaluation of the water quality monitoring information collected to date by the County and by the District as part of the OASIS Program to assess how the diverted runoff may impact the quality of the water in the Lake, recreational use of the Lake, and/or the water quality of the downstream creeks and beaches. As part of this analysis, a review of the existing OASIS Program Water Quality Monitoring Plan and data collected will be performed to evaluate if the constituents monitored are sufficient or if additional constituents or at a different monitoring frequency is needed.
- **Climate Change Effects on Stream Flows** – The Runoff Diversion Planning Study will utilize the data in the Flow Ecology Special Study prepared by OCPW, which evaluated the effect of future changes in climate on the Aliso Creek Watershed, to determine how climatic variables may change runoff and streamflow during dry and wet weather conditions. The planning horizon will be defined as part of this task. This analysis is anticipated to identify a range of impacts on streamflow under different climate scenarios.
- **Conservation Impacts to Future Stream Flows** – It is anticipated that because of future regulatory water use objectives, outdoor water use will decrease as water users become more efficient and landscapes are transformed to more water efficient landscapes. The Runoff Diversion Planning Study shall evaluate how future water use efficiency objectives may alter dry-weather runoff into the creeks and how that may impact future water volumes available for diversion.
- **Biological Resource Evaluation** – The primary purpose of the Flow Ecology Special Study prepared by OCPW was to prioritize areas where actions within the creek to restore more natural flow conditions will benefit the ecology and desired species and habitats, and to identify the flow conditions necessary to support those conditions. Prioritized areas for potential action include the tributary drainage areas at the branches of the creek where flow alteration is significant. The Runoff Diversion Planning Study shall utilize relevant information from the Flow Ecology Study to evaluate the streamflow requirements for fish and wildlife purposes. This analysis shall identify baseline flow

requirements needed to support sensitive habitats, identify fish passage concerns, and determine water quality impacts on baseline flows from a diversion.

- **Nature Based Solution** – The Runoff Diversion Planning Study shall evaluate a natural treatment system as part of the project to maintain or improve Lake water quality so that it can be delivered as a source to the non-potable system. A natural treatment system may be a cost-effective, environmentally sound method for treating low flow runoff as it enters the Lake and is subsequently delivered to the non-potable system. A natural treatment system uses natural local ecosystems to remove sediment, nutrients, pathogens, and other contaminants from dry weather runoff and prevent these contaminants from entering the Lake. A natural treatment system may also provide additional wildlife habitat. The Runoff Diversion Planning Study shall evaluate the potential for this type of system as part of the project and identify the water quality benefits to the Lake.
- **Treatment Evaluation of the Surface Water Diversion Source for the Non-Potable System** – Evaluate the additional treatment requirements, if any, to meet the water quality objectives of the Title 22 standards for Tertiary Recycled Water. Provide an alternatives analysis of recommended treatment technologies, if required. Assess where in the Regional Treatment Plant Advance Water Treatment process should the treated surface water be introduced to ensure the blended discharge water quality meets permit requirements.
- **Restoration Opportunities** – The Runoff Diversion Planning Study shall identify synergistic opportunities for Aliso Creek restoration opportunities in connection with OCPW’s Aliso Creek restoration efforts that could have a direct benefit for water diversions associated with this project.
- **Alternatives Analysis** – The Runoff Diversion Planning Study shall identify up to five suitable alternatives for the runoff diversion including identifying the type of diversion structures that may be used to capture the water, such as rubber dams and low flow capture structures. The alternatives analysis will also identify alternative locations to capture runoff along Aliso Creek and shall also include a No Project Alternative. The alternatives analysis could also include identifying alternatives for creek restoration and alternatives for the natural treatment system. The Consultant shall work with the District to identify suitable alternatives to evaluate and develop high-level criteria for comparing alternatives, including capital and O&M costs, environmental impacts, and regulatory compliance, to provide a summary comparison with scoring. The Planning Study shall identify a recommended alternative.
- **Reservoir Assessment** – The Runoff Diversion Planning Study shall include a detailed reservoir assessment that would identify utilizing the Lake for storage of runoff water. The assessment should include recommended requirements to maintain the current recreation of onshore fishing, the aquatic ecosystem health, and Lake operational requirements including identification of the upper and lower water level limits to maintain Lake water quality and flood control protection.

- **Water Rights** – The Runoff Diversion Planning Study shall include evaluation of water rights for diversion including consideration of downstream water users. The analysis shall include the information necessary for water rights application. This task also includes preparation of the application materials on MNWD’s behalf.
- **Permitting Plan** – The Runoff Diversion Planning Study shall include preparing a comprehensive permitting plan and identifying the regulatory approvals needed to implement a runoff diversion project. This analysis shall identify which permitting agencies and what permits would need to be obtained, timelines for obtaining the required permits, potential roadblocks, and recommended strategy for engagement with regulatory agencies.

It is likely that there are other factors beyond those outlined above that may be necessary to include in the Runoff Diversion Planning Study. These additional factors should be outlined and explained in the Consultant’s proposal.

Deliverable: Draft and Final Runoff Diversion Planning Study

Task 8: Runoff Diversion – Preliminary Design Report

After a recommended alternative is confirmed by the District, the Consultant shall prepare a preliminary design for the runoff diversion. This task includes preparation of a preliminary design report to better evaluate the cost required and the value to be attained from implementation of the runoff diversion project. The following items shall be included as a minimum.

- **Preliminary Design** – This task shall include 30% design details for the runoff diversion with the facilities and infrastructure layouts to inform a cost benefit analysis. The preliminary design deliverables will provide the basis for the project implementation utilizing a progressive design build methodology which will include, but not be limited to (where applicable):
 - a. Preliminary site plans, civil, structural, mechanical, electrical, and instrumentation and controls layouts
 - b. Preliminary process flow diagram
 - c. Preliminary single line diagram
 - d. Preliminary P&IDs
 - e. Preliminary control philosophies
 - f. Property ownership assessments
 - g. Required utility assessments (including power needs)
 - h. Operation and maintenance requirements
 - i. Preliminary Engineer’s Estimate of Probable Construction Cost (OPCC Level 3)

The consultant must provide an anticipated drawing list at the time of proposal.

The preliminary design report should include, but not be limited to, the following elements:

- i. **Diversion Structure Design** – Design the type of diversion structure required at the Aliso Creek diversion, and associated creek improvements or restoration activities. Provide a preliminary assessment for the type of facilities and controls necessary for diversion.
- ii. **Pumping Facility** – Identify pumping requirements and the pumping facilities necessary to convey the diverted runoff from Aliso Creek to the Laguna Niguel Lake, and from the Lake to the connection point at RTP to integrate into the non-potable system.
- iii. **Piping Connections and Horizontal Alignments** – Design of piping connections and the horizontal alignment of new connecting pipes for the following: proposed diversion structure at Aliso Creek to the proposed pump station, proposed pump station to the re-purposed pipeline(s) within the Regional Park, the repurposed pipeline(s) to the discharge structure for the natural treatment system, and the intake from the Lake to Regional Treatment Plant and/or non-potable system.
- iv. **Assessment of Existing Force Main Capacities** – If the preferred alternative includes diversion through the park, evaluate the repurposing of the existing force mains (sewer pipelines) within Laguna Niguel Park to be reused to convey the diverted runoff from Aliso Creek to Laguna Niguel Lake to RTP. Determine if existing pipeline capacities will be sufficient and recommend rehabilitation of the pipelines to ensure the diverted runoff can be conveyed safely.
- v. **Nature-Based Solution** – Include preliminary design of the Natural Treatment System. Design options will need to consider space constraints and the goal to improve water quality in the Lake.
- vi. **Reservoir Assessment** – Includes preparing a detailed reservoir assessment that would identify the general operating scheme for drawdown and filling of the Lake. The recommendation for reservoir operation must ensure coordination with the recreational activities of the Lake and the water quality requirements necessary to maintain aquatic life. The assessment should identify the infrastructure improvements needed to increase the reservoir capacity to divert the identified volumes of runoff required, including, but not limited to, raising the spillway or auxiliary outlet structure, or dredging. Improving lake water quality may also facilitate additional utilization of lake capacity for the diversion.

Preliminary design and location for the intake structure for the Lake water to the recycled water system. This analysis shall also include a preliminary evaluation of utilizing forecast informed reservoir operations (FIRO) and active/smart control of stormwater detention facilities. The assessment shall preliminarily identify how long before forecast storm events diversions should be turned off and how long after storm events the diversions can be switched back on. Recommended site improvements to facilitate onshore fishing of the Lake given the Lake level may fluctuate based on recommended operating scheme.

- vii. **Runoff Treatment Design to meet Recycled Water Standards** – Include the preliminary design for a recommended treatment system and connection point detail at RTP for the diverted water to meet permit requirements for the non-potable system.
- **Preliminary Cost Benefit Analysis** – Following the preliminary design concepts, this task will prepare a cost analysis (\$/acre-foot) based on readily available data sources. The estimate should include amortized capital costs (timeframe consistent with future grant applications), including O&M costs, and a summary of funding sources such as grants, loans, incentives, which may be available to offset project costs.

Deliverable: [Runoff Diversion – Draft and Final Preliminary Design Report](#)

C. PROPOSAL SCHEDULE

The Consultant shall update District staff on any adjustments to the project schedule during the planning study and PDR. Once the adjustments have been reviewed and agreed to by the District, the Consultant shall provide the District with a revised project schedule. The schedule provided below is an estimate only.

- RFP Date Published: July 16, 2024
- Pre-Proposal Meeting: August 7, 2024, at 2:30PM
- Deadline Date for Inquiries: August 12, 2024
- Deadline Date for Proposal Submittals: September 9, 2024
- Candidate Interviews: September/October 2024
- Anticipated Date for Award of Contract: November 14, 2024
- Anticipated Project Completion: December 31, 2026

There will be an optional pre-proposal meeting on August 7, 2024, at 2:30 PM. at the District's office located at 26161 Gordon Road, Laguna Hills, CA 92653. All Consultants considering submitting a proposal are encouraged to attend the pre-proposal meeting. MNWD reserves the right, at its sole discretion, to adjust the RFP schedule, as it deems necessary.

Questions pertaining to the selection process, or the scope of work should be directed to Laura Rocha via email at OASIS@mnwd.com. All questions should be submitted no later than 5:00 PM on August 12, 2024. MNWD reserves the right, at its sole discretion, to adjust the RFP schedule, as it deems necessary.

D. PROPOSAL CONTENTS

The contents of the Proposal should contain the information summarized below but should be limited to a maximum of thirty (30) total pages, not including transmittal letter, index or table of contents, front and back covers, title pages/separation tabs, and appendices. Scope of work, resumes, and insurance certificates may be included in the appendices. 11x17 will be counted as one page.

- Introduction: Brief overview of firm or team proposing.
- Management Approach: Description of firm's general approach to providing services under this contract, identifying major issues, and recommendations to accomplish the tasks.
- Scope: Detailed scope of work and methodology that comprehensively define and describe the individual tasks. This scope of work will be used as a basis for later contract negotiations. The scope of work may be based upon, but is not limited to, the information provided in Section B of this Request for Proposal. If Consultant chooses to cut and paste from this RFP, please format the proposal such that any changes/additions/deletions are apparent (e.g., use colored or italicized text, etc.). The scope of work should also include a level of effort table showing specific staff and hours for each identified task. Consultants are encouraged to provide options or different approaches, where appropriate, to those listed in the scope of work of this RFP.
- Team: Descriptions of specific experience and capabilities of designated project manager, sub-consultants, and key support staff related to the previously outlined scope of work. Key personnel assigned to the project shall not be reassigned without prior District written approval.
- Experience and References: Description of the project team's past record of performance on similar projects for which your firm has provided services. Similar projects would consist of services identified in this solicitation. Include a discussion of factors such as control of costs, quality of work, and ability to meet schedules. Include 4 client references that may be contacted by District.
- Schedule: Assurance of the firm's ability to complete all work, considering the firm's current and planned workload based on the proposed schedule. Completion

of the project on schedule is critical to the success of this project.

- Budget: Estimated level of effort (i.e., hours) that each project team member will contribute for the individual tasks depicted in the scope of work. The hours shall be presented in a tabular format within the proposal and should include hours for all sub-consultants. The budget for this project shall be based on Consultant's current hourly billing rates and shall include all labor, sub-consultants, and other direct costs for all work items. Include your billing rates schedule(s), current and proposed, for the duration of the project. See sample PSA for annual rate increase limits.
- Conflict of Interest: Documentation that personal or organizational conflicts of interest prohibited by law do not exist.
- Insurance: Submittal from either the firm's insurance carrier or equivalent regarding the firm's professional liability coverage. The District requires coverage as shown in the sample copy of the District's professional services agreement attached as Exhibit C to this Request for Proposal. 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 is to be placed with insurers with a current A.M. Best's rating no less than A Class XIII or equivalent, or as otherwise approved by MNWD.
- Contract: A sample copy of the District's professional services agreement is attached as Exhibit C to this Request for Proposal. Please only respond to this request for proposals if you can fulfill this contract. Any proposed revisions to the contract shall be included in the Consultant's proposal, but there is no guarantee the District will accept the proposed revisions.

E. EVALUATION PROCESS AND SELECTION CRITERIA

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

- Experience and performance under similar contracts or scope of work, including

a summary of the Project team's qualifications particularly in the areas of water reuse, runoff diversion, and watershed health improvement.

- The consultant's understanding of the project scope, objectives, and challenges, as demonstrated in their proposal.
- The creativity and practicality of the proposed solutions to achieve the project's goals of creating a sustainable and resilient water supply.
- Project management approach including cost controls, scheduling, resource allocation, and risk management strategies.
- Qualifications and use of subconsultants and experience and performance working together with proposed team members and subconsultants.
- Ability to understand and perform the project tasks efficiently and in accordance with the requirements of the District.
- Level of effort to perform the required services as stated in the Scope of Work and cost in terms of overall value to the District.
- Proposed schedule and ability to meet deadlines.
- References will be contacted to validate the Consultant's experience and capabilities relevant to the project. We will evaluate the Consultant's past performance in key areas such as project management, adherence to timelines, budget management, and quality of deliverables.

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

F. METHOD OF COMPENSATION FOR CONSULTING SERVICES

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

- Original total contract amount

- Change to contract amount (if any)
- Revised total contract amount (if any)
- Previous invoiced amount
- Current invoice amount
- Total invoiced amount
- Contract amount remaining
- PO Number
- Attn: District Project Manager
- Contract Number

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

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

G. GENERAL

MNWD may conduct interviews with the firm's proposed key personnel and may contact recent clients. Selection of the Consultant will be based on the proposal contents, prior experience of the firm, and specific experience and capabilities of the designated project manager and other key personnel. The firm, and particularly the project manager, must be fully capable in all areas outlined under the scope of work above. Based upon this information, MNWD staff will make a recommendation of a firm to the MNWD 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 project. 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 project.

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

MNWD 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. MWND may select for contract negotiations the firm that, in MNWD's judgment,

will best meet the project's needs, regardless of the comparison of fees and costs estimated by the Consultants.

Proposals will be accepted until 4:00PM on September 9, 2024, at the Moulton Niguel Water District, 26161 Gordon Road, Laguna Hills, CA 92653. Eight (8) copies of your technical proposal and eight (8) copies of your fee proposal are requested, in addition to a searchable PDF copy.

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

Sincerely,

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

Laura Rocha, Water Resources Manager
Moulton Niguel Water District

EXHIBIT A: OASIS WATER RESOURCE CENTER PROGRAM FACTSHEET



Optimized | Adaptive | Sustainable | Integrated | Supply



CREATING A LOCAL WATER RESOURCE for South Orange County



■ Aliso Creek Watershed
■ Moulton Niguel Service Area

OASIS BENEFITS

www.mnwd.com



Local Water Supply

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



Water Sustainability

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



Drought Resilience

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



Healthy Watershed

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



Economic Benefits

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



Community Connection

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



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

CONTACT

Laura Rocha

Water Resources Manager

oasis@mnwd.com

HOW OASIS WILL WORK

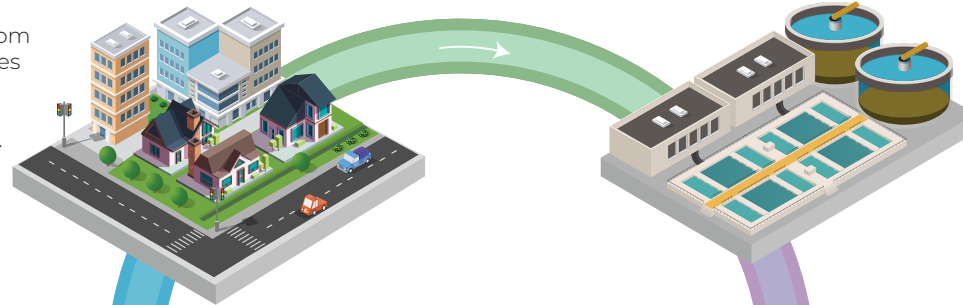
Water Type Legend

- Used Indoor Water
- Recycled Water
- Purified Drinking Water

Homes & Businesses

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

Direct Potable Reuse



Regional Treatment Plant

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

Proposed Advanced Water Treatment Plant

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

Tertiary Water Treatment Plant

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

Runoff Diversion



Recycled Water Distribution



Proposed Diversion & Natural Treatment System

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

Proposed Education Center

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

*Potable Water = Drinking Water

EXHIBIT B: PROJECT LOCATION & PROPOSED FACILITIES MAP

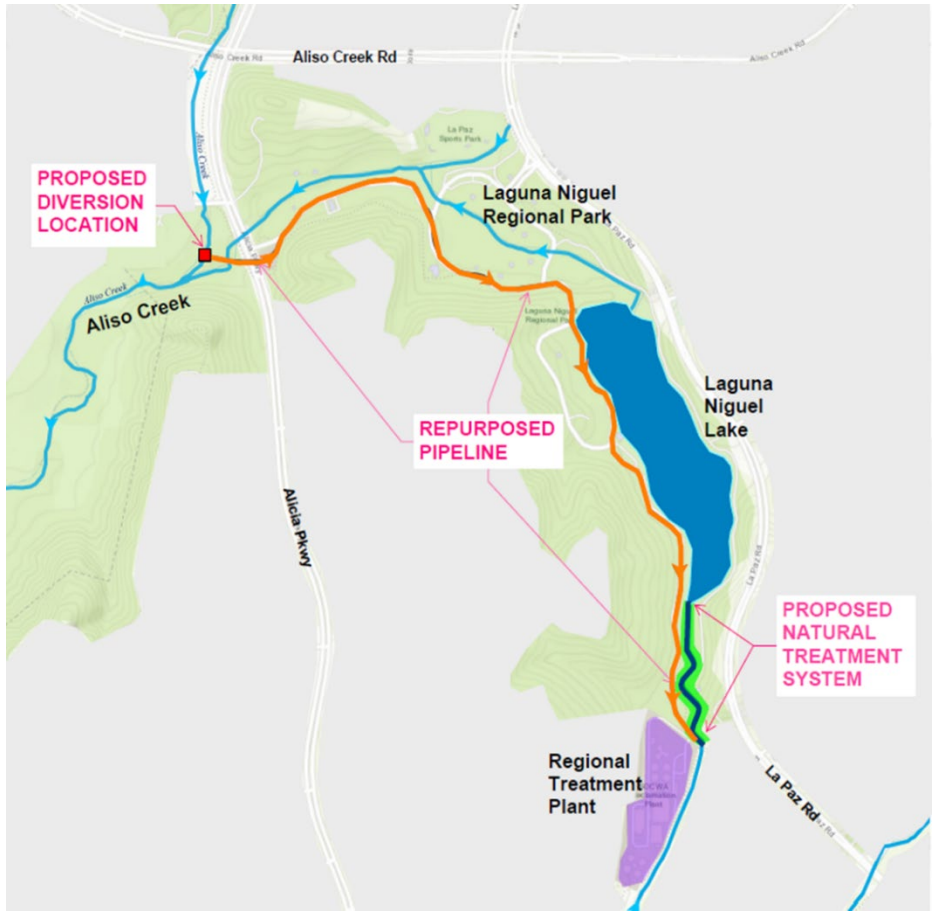


EXHIBIT C: PROFESSIONAL SERVICES AGREEMENT

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

MNWD PROJECT: _____
CONTRACT NO. _____

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

SECTION I – PURPOSE

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

SECTION II – TERM

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

SECTION III – SCOPE OF SERVICES

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

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

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

SECTION IV – COMPENSATION

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

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

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

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

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

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

SECTION V – REPRESENTATIVES OF THE PARTIES

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

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

SECTION VI – RESPONSIBILITIES OF CONSULTANT

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

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

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

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

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

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

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

SECTION VII – LABOR CODE PROVISIONS

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

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

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

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

SECTION VIII – INDEMNIFICATION

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

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

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

SECTION IX – INSURANCE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION X – TERMINATION

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

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

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

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

SECTION XI – OWNERSHIP OF MATERIALS AND CONFIDENTIALITY

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

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

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

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

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

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

SECTION XII – ACCOUNTING, INSPECTION AND AUDIT

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

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

SECTION XIII – GENERAL PROVISIONS

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

MNWD:

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

CONSULTANT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MOULTON NIGUEL WATER DISTRICT:

[INSERT NAME]:

By: _____

By: _____
(Authorized Representative of
Consultant)

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT B
FEE SCHEDULE

EXHIBIT C

FEDERAL CONTRACT PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) For purposes of this section:

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

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