

A G E N D A

SOUTHERN NEVADA WATER AUTHORITY BOARD OF DIRECTORS

REGULAR MEETING
9:00 A.M. – JULY 21, 2016

BOARD CHAMBERS, SOUTHERN NEVADA WATER AUTHORITY
100 CITY PARKWAY, SEVENTH FLOOR, LAS VEGAS, NEVADA
(702) 258-3100

Board of Directors

Mary Beth Scow, Chair
Sam Bateman, Vice Chair
Bob Coffin
Marilyn Kirkpatrick
Duncan McCoy
Steve Sisolak
Anita Wood

John J. Entsminger,
General Manager

Date Posted: July 14, 2016



SOUTHERN NEVADA
WATER AUTHORITY

The Southern Nevada Water Authority makes reasonable efforts to assist and accommodate persons with physical disabilities who desire to attend the meeting. For assistance, call the Agenda Coordinator at (702) 258-3939 at least 24 hours prior to the meeting.

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED IN THE FOLLOWING LOCATIONS:

City of Boulder City, City Hall
401 California Street
Boulder City, Nevada

City of Henderson, City Hall
240 Water Street
Henderson, Nevada

City of North Las Vegas, City Hall
2250 Las Vegas Boulevard North
North Las Vegas, Nevada

City of Las Vegas, City Hall
495 South Main Street
Las Vegas, Nevada

Clark County Government Center
500 S. Grand Central Parkway
Las Vegas, Nevada

Clark County Water Reclamation District
5857 E. Flamingo Road
Las Vegas, Nevada

Southern Nevada Water Authority
100 City Parkway, Suite 700
Las Vegas, Nevada

Las Vegas Valley Water District
1001 S. Valley View Boulevard
Las Vegas, Nevada

All items on the agenda are for action by the Board of Directors, unless otherwise indicated. Items may be taken out of order. The board may combine two or more agenda items for consideration, and the board may remove an item from the agenda or delay discussions relating to an agenda item at any time.

Visit our website at <http://www.snwa.com> or main office at 1001 S. Valley View Boulevard, Las Vegas, Nevada for Southern Nevada Water Authority agenda postings, copies of supporting material and approved minutes. To receive meeting information, including supporting material, contact the Agenda Coordinator at (702) 258-3939 or agendas@snwa.com.

CALL TO ORDER

COMMENTS BY THE GENERAL PUBLIC

NO ACTION MAY BE TAKEN: This is a period devoted to comments by the general public pertaining to items on this agenda. If you wish to speak to the Board about items within its jurisdiction, but not appearing on this agenda, you must wait until the "Comments by the General Public" period listed at the end of this agenda. Please limit your comments to three minutes or less and refrain from making comments that are repetitious, offensive, or amounting to personal attacks. No action may be taken upon a matter not listed on the posted agenda.

ITEM NO.

1. *For Possible Action:* Approve agenda with the inclusion of tabled and/or reconsidered items, emergency items and/or deletion of items, and approve the minutes from the regular meeting of May 19, 2016.
2. *For Possible Action:* Appoint a chairman and vice chairman to preside over the Board of Directors for fiscal year 2016/2017, and appoint three directors to serve as commissioners of the Colorado River Commission for two year terms.

CONSENT AGENDA Items 3 - 8 are routine and can be taken in one motion unless a Director requests that an item be taken separately.

3. *For Possible Action:* Approve a Grant and Cooperative Agreement between the United States Geological Survey and the Authority to accept funding for LiDAR Digital Elevation Data acquisition of the Las Vegas Valley, and authorize the General Manager to approve future modifications to the agreement only if future modifications do not fiscally impact the Authority.

SOUTHERN NEVADA WATER AUTHORITY – AGENDA – JULY 21, 2016 – PAGE TWO

4. *For Possible Action:* Approve Amendment No. 1 to the existing agreement between Merrick & Company and the Authority for LiDAR Digital Elevation Data authorizing an increase in compensation for the period from January 1, 2016, through December 31, 2016.
5. *For Possible Action:* Approve a Grant and Cooperative Agreement between the Bureau of Land Management and the Authority to receive funding for the Warm Springs Natural Area Public Use Improvements, Phases II and III, and authorize the General Manager to approve future modifications only if future modifications do not fiscally impact the Authority.
6. *For Possible Action:* Approve and authorize the General Manager to sign an assistance agreement between the Bureau of Reclamation and the Authority to receive funding for aerial imagery acquisition of the Las Vegas Valley in support of the Water Smart Landscapes Program, and authorize the General Manager to approve future modifications only if future modifications do not fiscally impact the Authority.
7. *For Possible Action:* Approve and authorize the General Manager to sign the Third Amended and Restated Agreement between the U.S. Department of the Interior, Bureau of Reclamation, and the Authority for sharing of equipment rental, materials, and subcontractor service costs in the Las Vegas Wash.
8. *For Possible Action:* Recertify the 2016-17 budget to correct ministerial errors that occurred in the conversion from the Authority's cash-basis budget to the State-required accrual-basis accounting.

BUSINESS AGENDA

9. *For Possible Action:* Approve and authorize the General Manager to sign, in substantially the same form as that attached hereto, the Water Service Agreement between the City of North Las Vegas and the Authority for provision of wholesale and retail water service in Garnet Valley.
10. *For Possible Action:* Approve and authorize the General Manager to sign, in substantially the same form as that attached hereto, the Water Service Agreement between Hyperloop Technologies, Inc. and the Authority for provision of construction water in the Apex area.
11. *For Possible Action:* Approve and authorize the General Manager to execute, in substantially the same form as that attached hereto, Amended and Restated Water Operation and Management Agreements with the Bunkerville Irrigation Company and the Mesquite Irrigation Company; authorize the General Manager or designee to approve the lease of shares; execute ministerial documents to effectuate the transactions; and pay the associated administrative costs of the irrigation companies with an annual escalation as applicable.
12. *For Possible Action:* Authorize an increase in expenditures to Bid No. 2285-15, API 600 Wedge Gate Isolation Valves, awarded to Ferguson Enterprises, Inc.
13. *For Possible Action:* Award Contract No. 320O 01 C1, AMSWTF Filter Improvements Demonstration, authorize a change order contingency, and authorize the General Manager to sign the contract agreement.
14. *For Possible Action:* Approve a professional services agreement with Hobbs, Ong & Associates, Inc., for independent financial advisory services with the option to renew for four additional one-year periods.
15. *For Information Only:* Receive an update from staff on water resources including, but not limited to, drought conditions in the Colorado River Basin, the results of the implementation of the Authority's Water Resource and Conservation Plan, activities on the Colorado River, the development of in-state water resources, and the status of construction activities near Lake Mead.
16. *For Information Only:* View a video commemorating the 25th anniversary of the creation of the Southern Nevada Water Authority.

COMMENTS BY THE GENERAL PUBLIC

NO ACTION MAY BE TAKEN: At this time, the Board of Directors will hear general comments from the public on matters under the jurisdiction of the Southern Nevada Water Authority. Please limit your comments to three minutes or less and refrain from making comments that are repetitious, offensive, or amounting to personal attacks. No action may be taken upon a matter not listed on the posted agenda.

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
REGULAR MEETING
MAY 19, 2016
MINUTES**

CALL TO ORDER 9:03 a.m., Colorado River Conference Rooms, Southern Nevada Water Authority, 100 City Parkway, Seventh Floor, Las Vegas, Nevada

BOARD MEMBERS PRESENT Mary Beth Scow, Chair
Sam Bateman, Vice Chair
Bob Coffin
Marilyn Kirkpatrick
Duncan McCoy
Steve Sisolak
Anita Wood

BOARD MEMBERS ABSENT None

STAFF PRESENT John Entsminger, Greg Walch, Julie Wilcox, Dave Johnson

OTHERS PRESENT None

Unless otherwise indicated, all members present voted in the affirmative.

COMMENTS BY THE GENERAL PUBLIC

For complete comments, audio is available online at snwa.com

There were no speakers.

ITEM NO.

1. ***For Possible Action: Approve agenda with the inclusion of tabled and/or reconsidered items, emergency items and/or deletion of items, and approve the minutes from the regular meeting of April 21, 2016.***

FINAL ACTION: A motion was made by Director McCoy and approved that the agenda for this meeting, and the minutes for the regular meeting of April 21, 2016 be approved. The motion was passed.

2. ***For Possible Action: Conduct a Public Hearing on the Tentative Budget for the Authority and subsequently adopt a Final Budget for fiscal year 2016-2017.***

John Entsminger gave a presentation outlining the Tentative Budget. A copy of his presentation is attached to these minutes.

Director Coffin asked for clarification on the alleged theft by a former employee. Chairwoman Scow noted staff's immediate response to the incident and noted that they are in the process of more preventative actions. Director Sisolak recognized the ongoing FBI investigation and wanted to exercise caution about disclosing information prematurely. Mr. Entsminger explained that Las Vegas Valley Water District Board Members were briefed by legal counsel on the issue, because it was a matter of employment. Mr. Entsminger also said the issue is subject to attorney-client privilege, which limited who could be briefed on the case.

Director Sisolak asked how much of the budget variance would go to the rate stabilization fund. Mr. Entsminger said that if the projected revenues were realized, approximately \$134 million would be attributed to the rate stabilization fund. Director Wood asked if the stabilization fund and reserves would be able to reduce debt service. Mr. Entsminger replied that the Authority's reserves were at 76 percent of the targeted amount specified by the Board-adopted reserve policy. In the future, there could be an opportunity to seek other refunding options to reduce debt service requirements.

Director Coffin noted the importance of maintaining reserves because the Authority's capital expenditures were large. Director Kirkpatrick stated that the Authority was working on a mission statement for the public to have a better understanding of how the reserves mitigate unexpected events. Director Kirkpatrick said that she was comfortable maintaining the large reserve, because of the importance of water to the community.

Director Sisolak inquired as to what the value of the Authority's water infrastructure was. Mr. Entsminger said that the approximate value was \$3.5 billion. Director Sisolak said that it was prudent for the Authority to build a large reserve due to the capital needs of the community.

Director McCoy said that it was refreshing to see a budget that incorporated rebuilding reserves. Chair Scow opened the Public Hearing. There were no speakers; therefore, she closed the public hearing.

FINAL ACTION: A motion was made by Chair Scow to adopt a Final Budget for fiscal year 2016-2017. The motion was approved.

BUSINESS AGENDA

3. ***For Possible Action:*** Approve and authorize the Chair to sign an interlocal agreement among the City of Henderson, the City of Las Vegas, the City of North Las Vegas, Clark County, the Clark County Regional Flood Control District, the Clark County Water Reclamation District, and the Authority to establish funding allocations and the budget for Las Vegas Wash activities in fiscal year 2016/2017 in an amount not to exceed \$281,490.

FINAL ACTION: A motion was made by Director Kirkpatrick to follow staff's recommendation. The motion was approved.

4. ***For Possible Action:*** Adopt the 2016 Las Vegas Wash Capital Improvements Plan.

Mr. Entsminger explained that 19 of the 21 weirs have been completed. Chair Scow wanted to ensure the Authority had sufficient funding for the maintenance of the Wash, and she also made note of continuing to work with the federal government on Wash issues in its jurisdiction.

FINAL ACTION: A motion was made by Director Wood to follow staff's recommendation. The motion was approved.

5. ***For Possible Action:*** Award Contract No. 070F 04 C2, Low Lake Level Pumping Station Discharge Aqueducts, to Barnard of Nevada, Inc., for the amount of \$25,506,000, authorize a change order contingency amount not to exceed \$2,500,000, and authorize the General Manager to execute the contract agreement.

FINAL ACTION: A motion was made by Vice Chair Bateman to follow staff's recommendation. The motion was approved.

6. ***For Possible Action:*** Approve and authorize the Chair to sign Contract No. P95-BCPESC-A between the Colorado River Commission of Nevada and the Authority for the purchase of electricity from the Hoover Dam hydroelectric facility and the First Amended Agreement to Share the Costs of Implementation of the Lower Colorado River Multi-Species Conservation Program among the Colorado River Commission of Nevada and electric service contractors.

FINAL ACTION: A motion was made by Director Coffin to follow staff's recommendations. The motion was approved.

7. ***For Possible Action:*** Approve and authorize the General Manager to sign a Portfolio Energy Credit Purchase and Sale Agreement between Barrick Goldstrike Mines, Inc., and the Authority for the sale of Portfolio Energy Credits certified by the Public Utilities Commission of Nevada.

FINAL ACTION: A motion was made by Director Coffin to follow staff's recommendation. The motion was approved.

8. ***For Possible Action:*** Approve and authorize the General Manager to sign a Professional Services Agreement and a Listing Agreement between Commerce CRG of Nevada, LLC, dba Commerce Real Estate Solutions, also known as Cushman & Wakefield, and the Authority for commercial real estate brokerage services to market office space for lease within the Molasky Corporate Center, for an amount not to exceed \$932,910.

FINAL ACTION: A motion was made by Director McCoy to follow staff's recommendation. The motion was approved.

9. ***For Possible Action:*** Approve and authorize the General Manager to sign, in substantially the same form, the Amended and Restated Apex Phase I Infrastructure Design Agreement between Robin Prop Holdco, LLC, and the Authority; and the Amended and Restated Escrow Agreement Regarding Infrastructure Development among Robin Prop Holdco, LLC, First American Title Insurance Company, and the Authority, for design of water system infrastructure in the Apex area.

Director Wood stated that the City of North Las Vegas would like to continue working closely with staff on the Apex project as it would have a significant impact on the city. She said that she understood the tight timeline, but reiterated that the unique nature of the project required good communication and collaboration. Mr. Entsminger said that staff meets weekly with City of North Las Vegas staff at a minimum and committed to continue to work closely with city staff.

Director Kirkpatrick agreed with Director Wood that the project was unique, but was also very positive about the benefits it would have on North Las Vegas.

Director Coffin wanted to ensure that the Authority was not at risk if Faraday was incapable of building its manufacturing plant. Director Kirkpatrick said it was important to note that Faraday was investing in critical water infrastructure for the Apex area that would be a benefit to North Las Vegas. Mr. Entsminger noted that the Authority's investments in Apex were protected through controls like escrow agreements. Director Sisolak complimented the Authority for its work to protect the organization and its rate payers while moving the project forward.

FINAL ACTION: A motion was made by Director Bateman to follow staff's recommendation. The motion was approved.

10. ***For Possible Action: Approve and authorize the General Manager to sign an amended and restated agreement between MWH Americas, Inc., and the Authority to provide professional services for the design of a potable water system to be located within Garnet Valley for a total amount not to exceed \$6,398,370.***

Director Wood wanted to know if North Las Vegas would continue to review the plans and issue water permits in Apex. Mr. Entsminger said that the City of North Las Vegas would continue to issue all business licenses and permits in Apex as the governing agency for that area.

Director Wood asked if the City of North Las Vegas would be issuing water bills in Apex. Mr. Entsminger said that the Legislature designated the Water District as the service provider and therefore, would operate the water system once it was constructed.

Director Kirkpatrick said that the details regarding the water bills could be worked out and addressed later through a memorandum of understanding. Director Kirkpatrick wanted to know if the design of the water system would provide for service throughout the Valley. Mr. Entsminger said that the water system would be designed to function as a stand-alone groundwater system, while remaining compliant with the City of North Las Vegas' master plan.

FINAL ACTION: A motion was made by Director Wood to follow staff's recommendation. The motion was approved.

11. ***For Information Only: Receive an update from staff on water resources including, but not limited to, drought conditions in the Colorado River Basin, the results of the implementation of the Authority's Water Resource and Conservation Plan, activities on the Colorado River, the development of in-state water resources, and the status of construction activities near Lake Mead.***

Greg Walch gave a presentation on Colorado River drought conditions. A copy of his presentation is attached to these minutes.

Public Comment

There were no speakers.

Adjournment

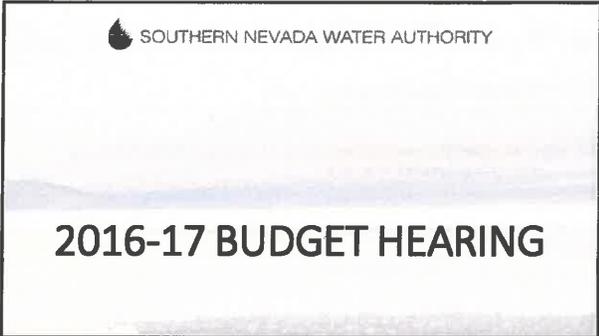
There being no further business to come before the board, the meeting adjourned at 10:06 a.m.

APPROVED:

Mary Beth Scow, Chair

John J. Entsminger, General Manager

 SOUTHERN NEVADA WATER AUTHORITY



2016-17 BUDGET HEARING

Notable Highlights

2015-16 Highlights



- Intake No. 3 was put into service
- Construction began on Low Lake Level Pumping Station
- Participated in Governor's Drought Forum and Drought Summit
- New Water Resource Plan approved
- Launched new conservation initiatives

New Reserve Policy

Approved new reserve policy:

- 180 days of operations and maintenance expenses
- Maximum annual debt service
- Average of annual capital expenditures, based on future costs
- 1 percent of assets subject to depreciation

Reserve Fund Balance

<p>Projected end of 2015-16</p>  <p>76%</p> <p>\$347 million*</p>	<p>Projected Fund Balance Target at end of 2015-16</p>  <p>100%</p> <p>\$454 million</p>
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*The Rate Stabilization Fund/reserves is projected to be \$128 million at the end of 2015-16.

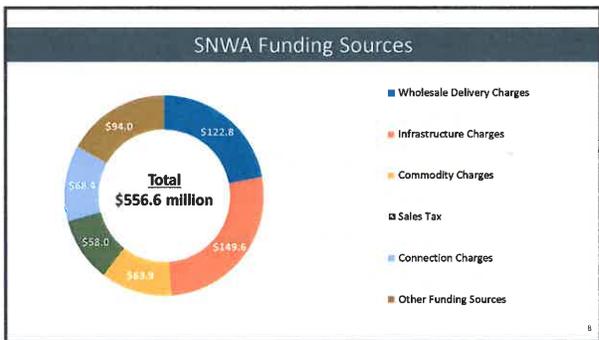
FISCAL YEAR 2016-17 BUDGET

- ### Funding Sources Overview
- Connection charge revenues are increasing
 - Infrastructure Charge collections increased as a result of the implementation of the Drought Protection charge
 - Other Revenues include proceeds from the Silverhawk sale

SNWA Funding Sources

Sources	Actual 2014-15	Budget 2015-16	Tentative Budget 2016-17	Budget-to- Budget Variance
Wholesale Delivery Charge	\$ 121.1	\$ 122.4	\$ 122.8	\$ 0.4
Infrastructure Charge	87.0	112.5	149.6	37.1
Commodity Charge	48.9	57.6	63.9	6.2
Connection Charge	66.0	53.8	68.4	14.7
Reliability Surcharge	4.9	5.1	5.3	0.2
Sales Tax	55.9	54.4	58.0	3.5
Interest Income	1.6	1.3	2.9	1.7
Groundwater Management Fees	0.9	0.9	0.9	-
LV Wash Program Fees	0.4	0.4	0.4	-
Grant Proceeds	7.9	0.6	0.9	0.3
Other Revenues	12.8	8.9	83.6	74.7
Subtotal	\$ 407.5	\$ 417.9	\$ 556.6	\$ 138.7
Debt Issuance Proceeds	-	520.4	-	(520.4)
Total Sources	\$ 407.5	\$ 938.3	\$ 556.6	\$ (381.6)

Amounts in million dollars, numbers may be off due to rounding



Uses of Funds

Overall, uses of funds are down.

Energy costs are similar to last year's budget.

Payroll assumed adjustments for cost-of-living and merit.

The number of full-time employees increased 2% to support demands.

Non-payroll operating expenses have increased due to higher costs in materials, supplies and maintenance costs.

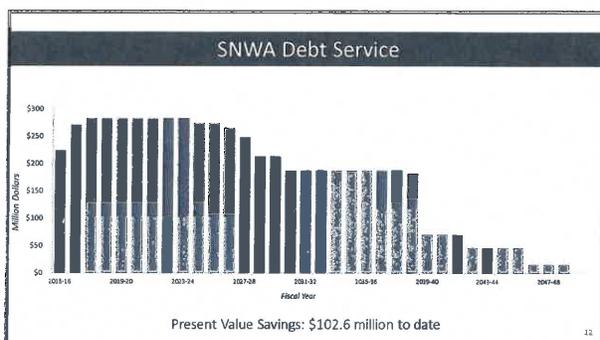
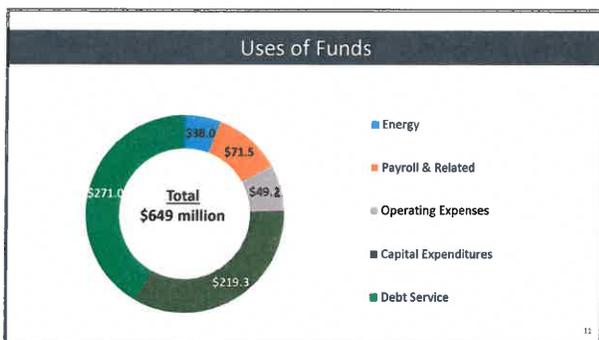
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Uses of Funds

Uses	Actual 2014-15	Budget 2015-16	Tentative Budget 2016-17	Budget-to- Budget Variance
Energy	\$ 35.1	\$ 37.5	38.0	\$ 0.5
Payroll & Related	66.6	66.7	71.5	4.8
Operating Expenses	42.5	36.6	49.2	12.6
Capital Expenditures	95.6	287.4	219.3	(68.1)
Debt Service	167.6	223.8	271.0	47.3
Total Uses	\$ 407.4	\$ 652.0	\$ 649.0	\$ (3.0)

Amounts in million dollars

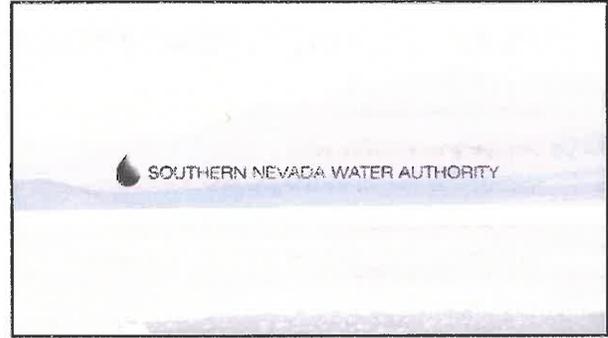
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SNWA BUDGET SUMMARY

	Actual 2014-15	Budget 2015-16	Tentative Budget 2016-17	Budget-to- Budget Variance
Sources				
Wholesale Delivery Charge	\$ 121.1	\$ 122.4	\$ 122.8	\$ (0.4)
Infrastructure Charge	87.0	112.5	149.6	37.1
Commodity Charge	48.9	57.6	63.9	6.2
Connection Charge	66.0	53.8	68.4	14.7
Reliability Surcharge	4.9	5.1	5.3	0.2
Sales Tax	55.9	54.4	58.0	3.5
Interest Income	1.6	1.3	2.9	1.7
Groundwater Management Fees	0.9	0.9	0.9	-
LV Wash Program Fees	0.4	0.4	0.4	-
Grant Proceeds	7.9	0.6	0.9	0.3
Other Revenues	12.8	8.9	83.6	74.7
Subtotal	\$ 407.5	\$ 417.9	\$ 556.6	\$ 138.7
Debt Issuance Proceeds	-	520.4	-	(520.4)
Total Sources	\$ 407.5	\$ 938.3	\$ 556.6	
Uses				
Energy	\$ 35.1	37.5	38.0	\$ 0.5
Payroll & Related	66.6	66.7	71.5	4.8
Operating Expenses	42.5	36.6	49.2	12.6
Capital Expenditures	95.6	287.4	219.3	(68.1)
Debt Service	167.6	233.8	271.0	47.3
Total Uses	\$ 407.4	\$ 652.0	\$ 649.0	\$ (3.0)
Total Net Surplus/(Deficit)	\$ 0.1	\$ 286.3	\$ (92.4)	

Amounts in million dollars



SNWA Funding Sources

	Actual 2014-15	Forecast 2015-16	Budget 2015-16	Tentative Budget 2016-17	Budget-to- Budget Variance
Sources					
Wholesale Delivery Charge	\$ 121.1	\$ 122.1	\$ 122.4	\$ 122.8	\$ 0.4
Infrastructure Charge	87.0	114.2	112.5	149.6	37.1
Commodity Charge	48.9	56.3	57.6	63.9	6.2
Connection Charge	66.0	67.4	53.8	68.4	14.7
Reliability Surcharge	4.9	5.1	5.1	5.3	0.2
Sales Tax	55.9	57.1	54.4	58.0	3.5
Interest Income	1.6	1.3	1.3	2.9	1.7
Groundwater Management Fees	0.9	0.9	0.9	0.9	(0.0)
LV Wash Program Fees	0.4	0.4	0.4	0.4	-
Grant Proceeds	7.9	0.5	0.6	0.9	0.3
Other Revenues	12.8	53.3	8.9	83.6	74.7
Subtotal	\$ 407.5	\$ 478.5	\$ 417.9	\$ 556.6	\$ 138.7
Debt Issuance Proceeds	-	520.4	520.4	-	(520.4)
Total Sources	\$ 407.5	\$ 1,000.5	\$ 938.3	\$ 556.6	\$ (881.6)

Amounts in million dollars

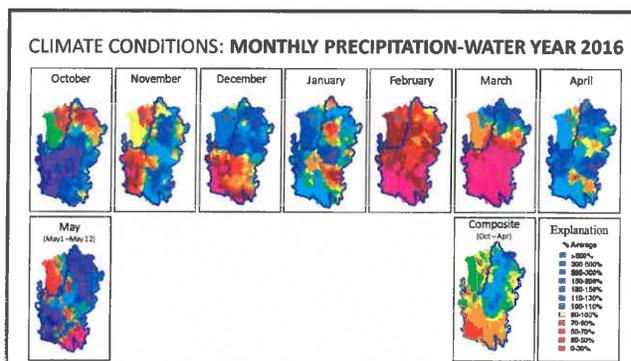
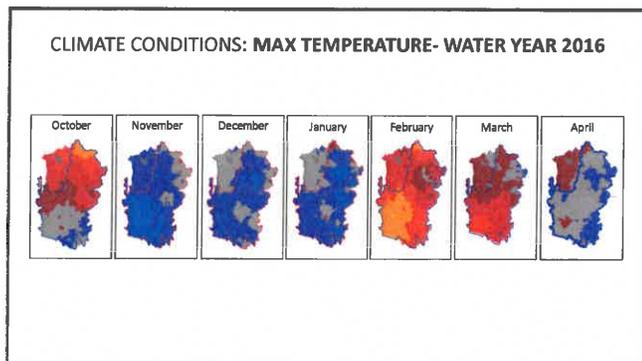
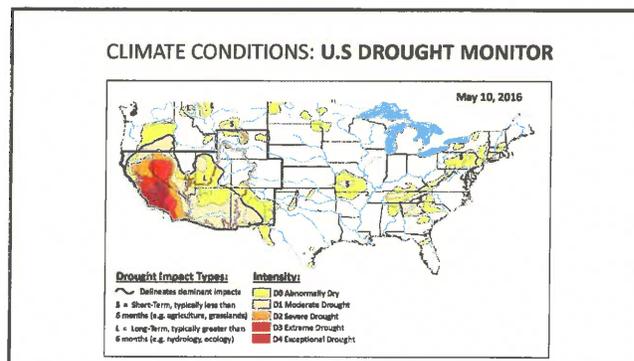
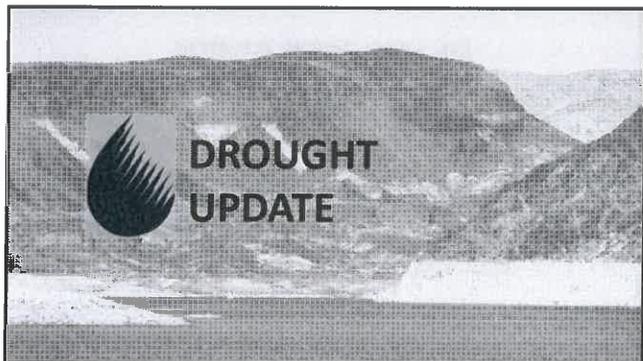
Uses of Funds

	Actual 2014-15	Budget 2015-16	Forecast 2015-16	Tentative Budget 2016-17	Budget-to- Budget Variance
Uses					
Energy	\$ 35.1	\$ 36.3	\$ 37.5	38.0	\$ 0.5
Payroll & Related	66.6	66.8	66.7	71.5	4.8
Operating Expenses	42.5	35.9	36.6	49.2	12.6
Capital Expenditures	95.6	223.2	287.4	219.3	(68.1)
Debt Service	167.6	223.4	223.8	271.0	47.3
Total Uses	\$ 407.4	\$ 585.7	\$ 652.0	\$ 649.0	\$ (3.0)

Amounts in million dollars

SINWA BUDGET SUMMARY	Actual	Forecast	Budget	Tentative	Budget-to-
	2014-15	2015-16	2015-16	Budget	Budget
				2016-17	Variance
Sources					
Wholesale Delivery Charge	\$ 121.1	\$ 122.1	\$ 122.4	\$ 122.8	\$ (0.4)
Infrastructure Charge	87.0	114.2	112.5	149.6	37.1
Commodity Charge	48.9	56.3	57.6	63.9	6.2
Connection Charge	66.0	67.4	53.8	68.4	14.7
Reliability Surcharge	4.9	5.1	5.1	5.3	0.2
Sales Tax	55.9	57.1	54.4	58.0	3.5
Interest Income	1.6	1.3	1.3	2.9	1.7
Groundwater Management Fees	0.9	0.9	0.9	0.9	(0.0)
LV Wash Program Fees	0.4	0.4	0.4	0.4	-
Grant Proceeds	7.9	0.5	0.6	0.9	0.3
Other Revenues	12.8	53.3	8.9	83.6	74.7
Subtotal	\$ 407.5	\$ 478.5	\$ 417.9	\$ 556.6	\$ 138.7
Debt Issuance Proceeds	-	222.0	200.4	-	(\$20.4)
Total Sources	\$ 407.5	\$ 1,000.5	\$ 618.3	\$ 556.6	
Uses					
Energy	\$ 35.1	36.3	37.5	38.0	\$ 0.5
Payroll & Related	66.6	66.8	65.7	71.5	4.8
Operating Expenses	42.5	35.9	36.6	49.2	12.6
Capital Expenditures	95.6	223.2	287.4	219.3	(68.1)
Debt Service	107.6	223.4	233.8	273.0	47.3
Total Uses	\$ 407.4	\$ 585.7	\$ 652.0	\$ 649.0	\$ (3.0)
Total Net Surplus/(Deficit)	\$ 0.1	\$ 414.9	\$ 266.3	\$ (92.4)	

Amounts in million dollars



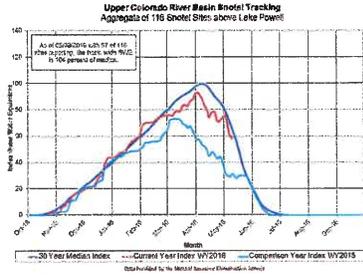
CLIMATE CONDITIONS: UPPER BASIN SNOW CONDITIONS

Water Supply

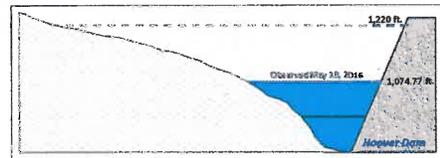
- Precipitation to date: 99% of average
- Snowpack to date: 104% of average

Forecasted inflow to Lake Powell

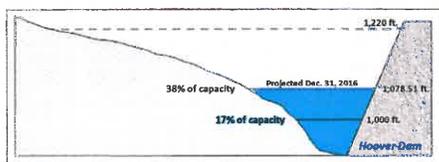
- WY 2016: 80% of average
- Apr-Jul: 77% of average



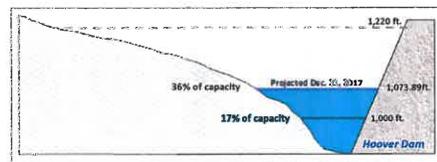
LAKE MEAD: CURRENT ELEVATION



LAKE MEAD: PROJECTED ELEVATION (2016)



LAKE MEAD: PROJECTED ELEVATION (2017)





**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Appointment of Chairman and Vice Chairman, and Appointment of Authority Directors to the Colorado River Commission	Director's Backup
Petitioner: John J. Entsminger, General Manager	
Recommendations: That the Board of Directors appoint a chairman and vice chairman to preside over the Board of Directors for fiscal year 2016/2017, and appoint three directors to serve as commissioners of the Colorado River Commission for two-year terms.	

Fiscal Impact:

None by approval of the above recommendation.

Background:

Section 20(a) of the SNWA 1995 Amended Cooperative Agreement requires the Board of Directors to appoint for one-year terms a chairman and vice chairman from its membership. Currently, Mary Beth Scow serves as chair and Sam Bateman serves as Vice Chair.

NRS 538.051 provides for the appointment of three directors of the Authority to serve as commissioners on the seven-member Colorado River Commission of Nevada (CRC). Currently, Directors Sam Bateman, Duncan McCoy, and Steve Sisolak serve as Authority representatives on the CRC.

At this time, the Board is being asked to appoint a chairman and vice chairman for fiscal year 2016/2017, and appoint three of its directors to serve as commissioners of the CRC for two-year terms.

This action is authorized pursuant to NRS 538.051 and Section 20(a) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved this item.

Respectfully submitted:


John J. Entsminger, General Manager
JE:JAW:AMB:KH:JB

AGENDA ITEM # 2

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Agreement	Director's Backup
Petitioner: Julie A. Wilcox, Deputy General Manager, Administration	
Recommendations: That the Board of Directors approve a Grant and Cooperative Agreement between the United States Geological Survey and the Authority to accept funding for LiDAR Digital Elevation Data acquisition of the Las Vegas Valley, and authorize the General Manager to approve future modifications to the agreement only if future modifications do not fiscally impact the Authority.	

Fiscal Impact:

If the above recommendation is approved, the Authority will receive funds from the United States Geological Survey in the amount of \$86,522 in grant funding. The grant funding is contingent on the Authority expending matching funds of at least \$260,000. The matching funds are available in the Authority's 2017 Operating Budget.

Background:

LiDAR digital elevation data is a newer technology that can help produce high quality surface elevation models for an area. The existing surface elevation models available for Southern Nevada are very dated and of very poor quality. Additionally, LiDAR data can produce three-dimensional surfaces that can be used to help identify specific types of vegetation, according to their height.

On September 17, 2015, the Board of Directors approved an agreement between Merrick & Company, RFP 652-15, for LiDAR digital elevation data services for an amount not to exceed \$260,400. In the fall of 2015, the United States Geological Survey (USGS) showed an interest in contributing additional funding to acquire LiDAR data for areas around the Las Vegas Valley in addition to the area authorized through the Merrick & Company Agreement. The Authority submitted an application through the USGS 3-Dimensional Elevation Program (3DEP) and was notified in April 2016 that the application was accepted pending approval by the Board. At this time, the Board is being asked to approve the attached Grant and Assistance Agreement, which includes the provisions necessary for the Authority to obtain this federal funding.

This agreement is being entered into pursuant to NRS 277.180 and Section 6(o) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:


John J. Entsminger, General Manager
JJE:JAW:GAF:CAH:db
Attachments

AGENDA ITEM #

3

Grant and Cooperative Agreement

CHOOSE ONE:

- COOPERATIVE AGREEMENT
 GRANT

CHOOSE ONE: EDUCATION FACILITIES RESEARCH SDCR TRAINING

1. GRANT/COOPERATIVE AGREEMENT NUMBER G16AC00107		2. SUPPLEMENT NUMBER		3. EFFECTIVE DATE 04/22/2016		4. COMPLETION DATE 05/31/2017			
5. ISSUED TO NAME/ADDRESS OF RECIPIENT (No., Street, City/County, State, Zip) SOUTHERN NEVADA WATER AUTHORITY Attn: Kathy Flanagan 100 CITY PKWY STE 700 LAS VEGAS NV 89106-4615				6. ISSUED BY USGS NATIONAL GRANTS BRANCH Mailing Address: 205 NATIONAL CENTER 12201 SUNRISE VALLEY DRIVE RESTON VA 20192					
7. TAXPAYER IDENTIFICATION NO. (TIN)				9. PRINCIPAL INVESTIGATOR/ORGANIZATION'S PROJECT OR PROGRAM MGR. (Name & Phone) Craig Hale (702) 862-3730					
8. COMMERCIAL & GOVERNMENT ENTITY (CAGE) NO.									
10. RESEARCH, PROJECT OR PROGRAM TITLE LiDAR Acquisition for Las Vegas, NV Region									
11. PURPOSE New Cooperative Agreement for 3D Elevation Program									
12. PERIOD OF PERFORMANCE (Approximately) 04/22/2016 through 05/31/2017									
13A.		AWARD HISTORY			13B.		FUNDING HISTORY		
PREVIOUS		\$0.00			PREVIOUS		\$0.00		
THIS ACTION		\$86,522.00			THIS ACTION		\$86,522.00		
CASH SHARE		\$0.00			TOTAL		\$86,522.00		
NON-CASH SHARE		\$0.00							
RECIPIENT SHARE		\$260,000.00							
TOTAL		\$86,522.00							
14. ACCOUNTING AND APPROPRIATION DATA See Schedule									
PURCHASE REQUEST NO.		JOB ORDER NO.		AMOUNT		STATUS			
0020096610									
15. POINTS OF CONTACT									
	NAME		MAIL STOP	TELEPHONE		E-MAIL ADDRESS			
TECHNICAL OFFICER	Claire DeVaughan			512-927-3583		cdevaugh@usgs.gov			
NEGOTIATOR									
ADMINISTRATOR	Desiree Santa			703-648-7382		dsanta@usgs.gov			
PAYMENTS									
16. THIS AWARD IS MADE UNDER THE AUTHORITY OF: 43 USC 36d CFDA: 15.817									
17. APPLICABLE STATEMENT(S), IF CHECKED: <input type="checkbox"/> NO CHANGE IS MADE TO EXISTING PROVISIONS <input type="checkbox"/> FDP TERMS AND CONDITIONS AND THE AGENCY-SPECIFIC REQUIREMENTS APPLY TO THIS GRANT				18. APPLICABLE ENCLOSURE(S), IF CHECKED: <input type="checkbox"/> PROVISIONS <input type="checkbox"/> SPECIAL CONDITIONS <input type="checkbox"/> REQUIRED PUBLICATIONS AND REPORTS					
UNITED STATES OF AMERICA				COOPERATIVE AGREEMENT RECIPIENT					
CONTRACTING/GRANT OFFICER Sherri Bredesen		DATE 04/22/2016		AUTHORIZED REPRESENTATIVE		DATE			

Southern Nevada Water Authority
Approved as to form:

By: Dana Wash Date: 6-30-16

Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
	<p>CFDA Number: 15.817 DUNS Number: 135965650 USGS Technical Officer: Claire DeVaughan National Map Liaison for Texas U.S. Geological Survey 1505 Ferguson Lane Austin, TX 78754-4501 Office: 512-927-3583 cdevaugh@usgs.gov</p> <p>Principal Investigator: Craig Hale 100 City Parkway, , Sutie 700, Mailstop 75 Las Vegas, NV 89106 Phone: (702) 862-3730 Email: craig.hale@snwa.com</p> <p>Issuing Office: U.S. Geological Survey Office of Acquisition and Grants 12201 Sunrise Valley Drive, MS 205 Reston, VA 20192 Desiree Santa Voice: (703) 648-7382 Fax: (703) 648-7901 E-mail: dsanta@usgs.gov</p> <p>Budget Period: 4/22/2016 through 5/31/2017 Total Project Period: 4/22/2016 through 5/31/2017</p> <p>See Terms and Conditions for Final Technical Report Due Date Legacy Doc #: UGS Delivery: 05/31/2017 Delivery Location Code: 0006366931 USGS NGTOC MS 306 1400 Independence Road Continued ...</p>				

Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
00010	Rolla MO 65401 US Period of Performance: 04/22/2016 to 05/31/2017 Basic award funding Obligated Amount: \$67,488.00 Accounting Info: Account Assignment: K G/L Account: 6100.411C0 Business Area: G000 Commitment Item: 411C00 Cost Center: GGHIEF0000 Functional Area: GE0300000.460000 Fund: 167G0804MD Fund Center: GGHIEF0000 Project/WBS: GX.16.EF00.3DEP0.00 PR Acct Assign Line: 01 Funded: \$67,488.00				67,488.00
00020	Basic award funding Obligated Amount: \$19,034.00 Accounting Info: Account Assignment: K G/L Account: 6100.411C0 Business Area: G000 Commitment Item: 411C00 Cost Center: GGHIEF0000 Functional Area: GE0300000.460000 Fund: 167G0804MR Fund Center: GGHIEF0000 Project/WBS: GR.16.EF00.15FMA.00 PR Acct Assign Line: 01 Funded: \$19,034.00 The total amount of award: \$86,522.00. The obligation for this award is \$86,522.00.				19,034.00

COOPERATIVE AGREEMENT NUMBER G16AC00107 BETWEEN

THE UNITED STATES GEOLOGICAL SURVEY

AND

Southern Nevada Water Authority

OFFER AND ACCEPTANCE:

The United States of America, acting by and through the USGS, hereby offers a Cooperative Agreement to the Southern Nevada Water Authority for all approved costs up to and not exceeding \$86,522 (See B.1) for support described herein. Acceptance of a Federal Financial Assistance award from the Department of the Interior (DOI) carries with it the responsibility to be aware of and comply with the terms and conditions of award. Acceptance is defined as the start of work, drawing down funds, or accepting the award by signature or electronic means. Awards are based on the application submitted to and approved by DOI and are subject to the terms and conditions incorporated either directly or by reference below.

SECTION A – PROJECT DESCRIPTION

A.1 Project Description

This cooperative agreement will provide support for the project titled: “LiDAR Acquisition for Las Vegas, NV Region.” The purpose of this project is to collect 1000+ square miles of Lidar data for the Las Vegas Metropolitan area.

A.2 USGS Involvement

Substantial involvement is anticipated through the terms of this Agreement between the USGS and the Recipient. A summary of the involvement is as follows:

USGS will be substantially involved with the Principal Investigator(s) (PI) and other institution staff throughout the course of the project. It is expected that there will be frequent contact between the USGS Technical Point of Contact identified in the cooperative agreement and the PI to discuss project progress and issues. Additional USGS 3DEP staff will be involved in collaborative discussions regarding data specifications and validation, cost estimates, monitoring BAA reporting and data delivery schedules. USGS will perform quality control, data processing into national databases, data dissemination and archive of the final product. Teleconferences will be held on a quarterly basis to discuss and review project status. A final report at the end of the project is required.

SECTION B – FUNDING AND AWARD PERIODS

B.1 Funding

a) The total estimated cost of the USGS share for the performance of this Agreement is

\$86,522 inclusive of any renewal years.

- b) The amount of federal funds obligated under this Agreement, presently the sum of \$86,522, shall be available for payment of costs incurred by the Recipient in performance of this Agreement from the effective 4/22/2016 through 5/31/2017. In no event shall costs be incurred in performance of this Agreement in excess of the funds currently obligated.

B.2 Award Periods

The initial budget period is from 4/22/2016 through 5/31/2017. The total project period is from 4/22/2016 through 5/31/2017.

B.3 Pre-Agreement Costs

The Recipient is not authorized to incur costs prior to the award of this Agreement. Costs incurred prior to the award of this agreement are not allowable.

SECTION C - DELIVERABLES

C.1 Progress Reports

- a) The Recipient shall submit two copies of each Progress Report to the USGS Project Officer and one copy of the transmittal letter to the USGS Contracting Officer. The recipient shall submit monthly progress reports at the first of each month following the award date. Unless otherwise specified in this Agreement, annual progress reports should be submitted at least sixty (60) days prior to the end of the current Federal FY budget year (July 31, 2016) to allow adequate time for the designated office to review the report. In the case of multi-year Agreements, failure to submit timely reports may delay processing of funding increments. All progress reports are required to support any requests for an extension to the project period.
- b) The progress reports shall include the following information:
 - i. Scheduled and actual:
 - a. Date the data acquisition contract is in place
 - b. Date that the flying begins
 - c. Date the flying (Lidar acquisition) is scheduled for / is completed
 - d. Date the data is delivered from the acquisition contractor to the organization
 - e. Expected delivery date to the USGS
 - ii. A comparison of actual accomplishments to the objectives of the Agreement established for the budget period and overall progress in response to the performance metrics.
 - iii. The reasons why established goals were not met, if appropriate.
 - iv. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
 - v. An outline of anticipated activities and adjustments to the program during the next budget period.

- c) Between the required reporting dates, events may occur which have significant impact upon the project or program. In such cases, the Recipient shall inform the USGS as soon as the following types of conditions become known:
 - (i) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Agreement. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
 - (ii) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

C.2 Final Technical Report

- a) The Recipient shall submit two copies of the final technical report to the USGS Project Officer and one copy of the transmittal letter to the USGS Contracting Officer. The final performance report will be due 90 calendar days after the period of performance end date.
- b) The final technical report shall document and summarize the results of Recipient's work. The report shall include a quantitative description of activities and overall progress in response to the performance metrics which documents and summarizes the results of the entire Agreement. The final report shall include tables, graphs, diagrams, sketches, etc., as required to explain the results achieved under the Agreement. The report shall also include recommendations and conclusions based upon both the experience and the results obtained.

C.3 Final Data Delivery

- a) Data Delivery Specifications

Data shall adhere to USGS Base Lidar Specifications V1.2 (*Heidemann, Hans Karl, 2014, Lidar base specification (ver. 1.2, November 2014): U.S. Geological Survey Techniques and Methods, book 11, chap. B4, 67 p. with appendixes,*) <http://dx.doi.org/10.3133/tm11B4>.)

- b) Data Delivery & Address

The Delivery date for final data delivery is 9/30/2017, however, the recipient may request an extension if there is a delay in the data acquisition.

Instructions and a delivery address for the data will be provided by the USGS project officer at the time of data delivery.

C.4 Annual Financial Reports

- a) The Recipient will submit an annual SF 425, Federal Financial Report, for each individual USGS award. The SF 425 is available at http://www.whitehouse.gov/omb/grants_forms. The SF 425 will be due ninety (90) calendar days after the grant year (i.e., 12 months after the approved effective date of the Agreement and every 12 months thereafter until the

expiration date of the Agreement). USGS acknowledges that this annual reporting schedule may not always correspond with a specific budget period.

- a) The SF 425 must be submitted electronically through the FedConnect Message Center (www.fedconnect.net) or, if FedConnect is not available, by e-mail to SF425@usgs.gov with a cc to the Contracting Officer. Recipient must include the USGS award number in the subject line of all correspondence. If, after 90 days, Recipient has not submitted a report, the Recipient's account in ASAP will be placed in a manual review status until the report is submitted.

C.5 Publications

a) Acknowledgment of Support

Recipient is responsible for assuring that an acknowledgment of USGS support:

1. is made in any publication (including World Wide Web pages) of any material based on or developed under this Agreement, in the following terms:

This material is based upon work supported by the U.S. Geological Survey under Grant/Cooperative Agreement No. (*insert agreement number*).

2. is orally acknowledged during all news media interviews, including popular media such as radio, television and news magazines.

b) Disclaimer

Recipient is responsible for assuring that every publication of material (including World Wide Web pages) based on or developed under this Agreement, contains the following disclaimer:

The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Geological Survey. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Geological Survey.

c) Publication

Publication of the results of any project carried out under this assistance award is authorized in professional journals, trade magazines, or may be made by the USGS. Such manuscripts or publications submitted to journals or professional publications for publication shall be accompanied by the following notation:

This manuscript is submitted for publication with the understanding that the United States Government is authorized to reproduce and distribute reprints for Governmental purposes.

d) Copies for USGS

Recipient is responsible for assuring that the USGS Project Office is provided access to, either electronically or in paper form, a copy of every publication planned for publication simultaneously with its submission for publication. One reprint of each published article shall be submitted to the USGS Project Office immediately following publication.

e) Department of the Interior Requirements

Two copies of each publication produced under a Grant or Cooperative Agreement shall be sent to the Natural Resources Library with a transmittal that identifies the sender and the publication. The address of the library is:

U.S. Department of the Interior
Natural Resources Library
Division of Information and Library Services
Gifts and Exchange Section
18th and C Streets, NW
Washington, DC 20240

SECTION D – ASSISTANCE ADMINISTRATIVE DATA

D.1 Assistance Administration

This Agreement will be administered by the USGS Contracting Officer indicated on the award cover page. Written communications shall make reference to the Assistance Award number and shall be mailed (or emailed) to the Contracting Officer.

D.2 Payment

Payments under financial assistance awards must be made using the Department of the Treasury Automated Standard Application for Payments (ASAP) system (www.asap.gov).

- a) The Recipient agrees that it has established or will establish an account with ASAP. USGS will initiate enrollment in ASAP. If the Recipient does not currently have an ASAP account, they must designate an individual (name, title, address, phone and e-mail) who will serve as the Point of Contact (POC).
- b) With the award of each grant/cooperative agreement, a sub-account will be set up from which the Recipient can draw down funds. After Recipients complete enrollment in ASAP and link their banking information to the USGS ALC (14080001), it may take up to 10 days for sub-accounts to be activated and for funds to be authorized for drawdown in ASAP.
- c) Inquiries regarding payment should be directed to ASAP at 855-868-0151.

- d) Payments may be drawn in advance only as needed to meet immediate cash disbursement needs.

D.3 Revisions and Prior Approvals

Modifications to this Agreement shall generally be executed by mutual written consent of the parties, with the exception of certain purely administrative changes that may be executed unilaterally by the USGS. Recipients may make certain limited budgetary and programmatic changes without prior USGS approval as outlined in 2 CFR 200.308 and 200.407. Any proposed change which requires prior written approval of the USGS shall be submitted in writing to the address at D.1 at least thirty (30) days prior to the requested effective date of the proposed change. The USGS will respond to the change request within thirty (30) days of receipt.

- a) **Extensions**. Recipients are specifically advised that requests for extension or other change to the budget or project period(s) require prior written approval. Such requests must be submitted as outlined above and be accompanied by a statement supporting the extension and a revised budget indicating the planned use of all unexpended funds during the proposed extension period.
- b) **Transfer of Funds**. Recipients are specifically advised that prior written approval of the USGS Contracting Officer is not required for transfer of funds between direct cost categories when the cumulative amount of the transfer during the performance period does not exceed ten percent (10%) of the total USGS award. Prior written approval is required from the USGS Contracting Officer for transfers of funds in excess of the ten percent limitation.
- c) **Carry Forward of Funds**. Recipients are specifically advised that prior written approval by the USGS Contracting Officer is required to carry forward unobligated balances to subsequent budget periods. It is expected that funds be expended during the budget period for which they are obligated. The request must include the amount of funds to be carried over, why the carry-over of funds is necessary, and for how long the funds should be carried over.

SECTION E - GENERAL PROVISIONS

E.1 Cost Principles, Audit, And Administrative Requirements

The Recipient shall be subject to the following regulations, which are incorporated herein by reference. Copies of these regulations can be obtained from the Internet at:

http://www.whitehouse.gov/omb/grants_docs

- Educational Institutions / State and Local Governments / Non-Profit Organizations**

2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards*, as implemented by the Department of the Interior in 2 CFR Part 1402 and 43 CFR Part 12.

Foreign Entities

● **Administrative Requirements**

Foreign entities are subject to the requirements applicable to non-Federal entities in 2 CFR Part 200, Subparts A through D and:

Foreign public entities are also subject to the requirements specific to States, with the following exceptions:

- The State payment procedures in 200.305(a) do not apply. Foreign public entities must follow the payment procedures in 200.305(b).
- The requirements in 200.321 “Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms” do not apply.
- The requirements in 200.322 “Procurement of recovered materials” do not apply.

Foreign non-profit organizations (see definition in 2 CFR 200.70) are also subject to the requirements specific to non-profit organizations.

Foreign Institutions of Higher Education (IHEs) (i.e., institutions located outside the United States that meet the definition in 20 U.S.C. 1001) are also subject to the requirements specific to IHEs.

● **Cost Principles**

Foreign for-profit entities are subject to the cost principles in 48 CFR 1, Subpart 31.2.

Foreign hospitals (i.e., a facility licensed as a hospital under the law of any foreign governmental entity or a facility operated as a hospital by a foreign public entity) are subject to the cost principles in 45 CFR Part 74, Appendix E.

All other foreign entities are subject to the requirements applicable to non-Federal entities in 2 CFR Part 200, Subpart E.

Foreign public entities are also subject to the requirements specific to States.

● **Indirect Cost Rate Negotiations**

Foreign IHEs: Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for IHEs. The U.S. Department of Health and Human Services (HHS) is the cognizant agency for indirect costs for foreign IHEs. Visit HHS’ Cost Allocation Services website at <https://rates.psc.gov/> for more information.

Foreign non-profit organizations: Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations.

Foreign public entities: Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals.

Foreign for-profit entities: Contact the National Interior Business Center (IBC), Indirect Cost Services by telephone at (916) 566-7111 or by e-mail at: ics@ibc.doi.gov. Visit the IBC's Indirect Cost Services website at http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm for more information.

Foreign hospitals: 45 CFR Part 74, Appendix E—Principles for Determining Cost Applicable to Research and Development Under Grants and Contracts with Hospitals. HHS is the cognizant agency for indirect costs for foreign hospitals. Visit HHS' Cost Allocation Services website at <https://rates.psc.gov/> for more information.

For-Profit Entities, Individuals, and Others Not Covered Above

- **Administrative Requirements**

2 CFR Part 200, Subparts A through D, *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards*

- **Cost Principles**

48 CFR 1, Subpart 31.2, *Contracts with Commercial Organizations*

- **Indirect Cost Rate Negotiations**

For information on indirect cost rate negotiations, contact the Interior Business Center (IBC) Indirect Cost Services Division by telephone at (916) 566-7111 or by e-mail at: ics@ibc.doi.gov. Visit the IBC Indirect Cost Services Division website at http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm for more information.

E.2 Additional Regulations

This award is subject to the following additional Governmentwide regulations:

- 2 CFR 180, Governmentwide Debarment and Suspension (Nonprocurement)
- 2 CFR 182, Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)

This award is subject to the following additional regulations of the U.S. Department of the Interior:

- 2 CFR Part 1400, Nonprocurement Debarment and Suspension
- 2 CFR Part 1401, Requirements for a Drug Free Workplace (Financial Assistance)
- 43 CFR Part 17, Nondiscrimination in Federally Assisted Programs of the Department of the Interior
- 43 CFR Part 18, New Restrictions on Lobbying
 - Submission of an application also represents the applicant's certification of the statements in 43 CFR Part 18, Appendix A, Certification Regarding Lobbying

- 43 CFR Part 41, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance [*Applies only if this award provides assistance to an education program or student(s)*]

E.3 Additional Articles Required For Compliance with Statute or Regulation

a) The Seat Belt Provision (Executive Order 13043)

Recipients of grants/cooperative agreements and/or sub-awards are encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company owned, rented, or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seatbelts and the consequences of not wearing them.

b) Federal Leadership on Reducing Text Messaging while Driving (Executive Order 13513)

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the order. (http://www.whitehouse.gov/the_press_office/Executive-Order-Federal-Leadership-on-Reducing-Text-Messaging-while-Driving/)

c) Use of U.S. Flag Air Carriers (49 USC Section 40118)

Any air transportation to, from, between or within a country other than the U.S. of persons or property, the expense of which will be paid in whole or in part by U.S. Government funding, must be performed by, or under a code-sharing arrangement with, a U.S. flag air carrier if service provided by such a carrier is "available" (49 U.S.C. 40118, commonly referred to as the Fly America Act). Tickets (or documentation for electronic tickets) must identify the U.S. flag air carrier's designator code and flight number. See the Federal Travel Regulation §301-10.131 - §301-10.143 for definitions, exceptions, and documentation requirements. (See also Comp. Gen. Decision B-240956, dated September 25, 1991.)

d) Trafficking in Persons (2 CFR Part 175)

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

- i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
- ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR part 1400.

b. Provision applicable to a recipient other than a private entity.

We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR part 1400.

c. Provisions applicable to any recipient.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions.

For purposes of this award term:

1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer

or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery:

3. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

e) Reporting Subawards and Executive Compensation Information (2 CFR Part 170).

a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. *Where and when to report.*

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. *Reporting Total Compensation of Recipient Executives.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. the total Federal funding authorized to date under this award is \$25,000 or more;

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance

subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile at <https://www.sam.gov>.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. *Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions*

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

i. Subawards,

and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this award term:

1. *Entity* means all of the following, as defined in 2 CFR part 25:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. *Executive* means officers, managing partners, or any other employees in management positions.

3. *Subaward*:

- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __ .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. *Subrecipient* means an entity that:

- i. Receives a subaward from you (the recipient) under this award; and
- ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- i. *Salary and bonus.*
- ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
- v. *Above-market earnings on deferred compensation which is not tax-qualified.*

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

f) System of Award Management and Universal Identifier Requirements (2 CFR Part 25)

a. *Requirement for System of Award Management*

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

b. *Requirement for Unique Entity identifier Numbers*

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its unique entity identifier number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

c. *Definitions*

For purposes of this award term:

1. *System of Award Management (SAM)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <http://www.sam.gov>).

2. *Unique entity identifier* means the identifier required for SAM registration to uniquely identify business entities.

3. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- i. A Governmental organization, which is a State, local government, or Indian Tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization; and
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. *Subaward*:

- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330).

iii. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. *Subrecipient* means an entity that:

- i. Receives a subaward from you under this award; and
- ii. Is accountable to you for the use of the Federal funds provided by the subaward.

g) Prohibition on Members of Congress Making Contracts with Federal Government (41 USC Section 6306)

No member of or delegate to the United States Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit.

h) Pilot Program for Enhancement of Recipient and Subrecipient Employee Whistleblower Protection (41 USC Section 4712)

This requirement applies to all awards issued after July 1, 2013 and shall be in effect until January 1, 2017.

- a. This award and related subawards and contracts over the simplified acquisition threshold and all employees working on this award and related subawards and contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the *National Defense Authorization Act for Fiscal Year 2013* (P.L. 112-239).
- b. Recipients, and their subrecipients and contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.
- c. The recipient shall insert this clause, including this paragraph (c), in all subawards and contracts over the simplified acquisition threshold related to this award.
- d. *Conditions When the Government May Obtain Title*
The recipient will convey to USGS, upon written request, title to any subject invention:
 1. if the recipient fails to disclose or elect the subject invention within the times specified in paragraph c. above, or elects not to retain title, provided that USGS may only request title within 60 days after learning of the failure of the recipient to disclose or elect within the specified times;
 2. in those countries in which the recipient fails to file patent applications within the times specified in paragraph c. above, but prior to its receipt of the written request of USGS, the recipient shall continue to retain title in that country; or in any country in which the recipient decides not to continue the prosecution of any application for, to

pay the maintenance fees on, or defend in a reexamination or opposition proceeding on, a patent on a subject invention.

e. *Minimum Rights to Recipient*

1. The recipient will retain a non-exclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the recipient fails to disclose the subject invention within the times specified in paragraph c. above. The recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the recipient is a party and includes the right to grant sublicenses of the same scope to the extent the recipient was legally obligated to do so at the time the Agreement was made. The license is transferable only with the approval of USGS except when transferred to the successor of that part of the recipient's business to which the invention pertains.
2. The recipient's domestic license may be revoked or modified by USGS to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404. This license will not be revoked in that field of use or the geographical areas in which the recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at discretion of USGS to the extent the recipient, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.
3. Before revocation or modification of the license, USGS will furnish the recipient a written notice of its intention to revoke or modify the license, and the recipient will be allowed thirty days (or such other time as may be authorized by USGS for good cause shown by the recipient) after the notice to show cause why the license should not be revoked or modified. The recipient has the right to appeal, in accordance with applicable regulations in 37 CFR Part 404 concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

f. *Recipient Action to Protect Government's Interest*

1. The recipient agrees to execute or to have executed and promptly deliver to USGS all instruments necessary to: (i) establish or confirm the rights the Government has throughout the world in those subject inventions for which the recipient retains title; and (ii) convey title to USGS when requested under paragraph d. above, and to enable the Government to obtain patent protection throughout the world in that subject invention.
2. The recipient agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the recipient each subject invention made under this Agreement in order that the recipient can comply with the disclosure provisions of paragraph c. above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. The disclosure

format should require, as a minimum, the information requested by paragraph c.1 above. The recipient shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

3. The recipient will notify USGS of any decision not to continue prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.
4. The recipient agrees to include, within the specification of any U.S. patent application and any patent issuing thereon covering a subject invention, the following statement: "This invention was made with Government support under (identify the Agreement) awarded by the U.S. Geological Survey. The Government has certain rights in this invention."
5. The recipient or its representative will complete, execute and forward to USGS a confirmation of a License to the U.S. Government and the page of a United States patent application that contains the Federal support clause within two months of filing any domestic or foreign patent application.

g. *Subcontracts*

1. The recipient will include this Patent Rights clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work. The subcontractor will retain all rights provided for the recipient in this Patent Rights clause, and the recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractors' subject inventions.
2. In the case of subcontracts, at any tier, when the prime award by USGS was a contract (but not a cooperative agreement), USGS, subcontractor, and contractor agree that the mutual obligations of the parties created by this Patent Rights clause constitute a contract between the subcontractor and the Foundation with respect to those matters covered by this Patent Rights clause.

h. *Reporting on Utilization of Subject Inventions*

The recipient agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the recipient and such other data and information as USGS may reasonably specify. The recipient also agrees to provide additional reports in connection with any march-in proceeding undertaken by USGS in accordance with paragraph j. of this Patent Rights clause. As required by 35 U.S.C. § 202(c)(5), USGS agrees it will not disclose such information to persons outside the Government without the permission of the recipient.

i. *Preference for United States Industry*

Notwithstanding any other provision of this Patent Rights clause, the recipient agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any

subject invention in the U.S. unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the U.S. However, in individual cases, the requirement for such an agreement may be waived by USGS upon a showing by the recipient or its assignee that reasonable but unsuccessful efforts have been made to award licenses on similar terms to potential licensees that would be likely to manufacture substantially in the U.S. or that under the circumstances domestic manufacture is not commercially feasible.

j. *March-in Rights*

The recipient agrees that with respect to any subject invention in which it has acquired title, USGS has the right in accordance with procedures at 37 CFR § 401.6 and USGS regulations at 45 CFR § 650.13 to require the recipient, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances and if the recipient, assignee, or exclusive licensee refuses such a request, USGS has the right to grant such a license itself if USGS determines that:

1. such action is necessary because the recipient or assignee has not taken or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;
2. such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the recipient, assignee, or their licensees;
3. such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the recipient, assignee, or licensee; or
4. such action is necessary because the agreement required by paragraph i. of this Patent Rights clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the U.S. is in breach of such agreement.

k. *Special Provisions for Agreements with Non-profit Organizations*

If the recipient is a nonprofit organization, it agrees that:

1. rights to a subject invention in the U.S. may not be assigned without the approval of USGS, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the recipient;
2. the recipient will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when USGS deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. § 202(e) and 37 CFR § 401.10;
3. the balance of any royalties or income earned by the recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific or engineering research or education; and
4. it will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that it will give preference to a small business firm if the recipient determines that the small business firm has a plan

or proposal for marketing the invention which, if executed, is equally likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided that the recipient is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the recipient. However, the recipient agrees that the Secretary of Commerce may review the recipient's licensing program and decisions regarding small business applicants, and the recipient will negotiate changes to its licensing policies, procedures or practices with the Secretary when the Secretary's review discloses that the recipient could take reasonable steps to implement more effectively the requirements of this paragraph k.4.

1. *Communications*

All communications required by this Patent Rights clause must be submitted through Benjamin Henry, Technology Transfer Specialist, Office of Policy and Analysis (OPA), U.S. Geological Survey, Reston, VA 20192, (703) 648-4344, bhenry@usgs.gov.

E.4 Additional General Terms and Conditions

a) Research Integrity

- 1) USGS requires that all grant or cooperative agreement Recipient organizations adhere to the Federal Policy on Research Misconduct, Office of Science and Technology Policy, December 6, 2000, 65 Federal Register (FR) 76260. The Federal Policy on Research Misconduct outlines requirements for addressing allegations of research misconduct, including the investigation, adjudication, and appeal of allegations of research misconduct and the implementation of appropriate administrative actions.
- 2) The Recipient must promptly notify the USGS Project Office when research misconduct that warrants an investigation pursuant to the Federal Policy on Research Misconduct is alleged.

b) Access To Research Data

- 1) Recipients that are institutions of higher education, hospitals, or non-profit organizations are required to release research data first produced in a project supported in whole or in part with Federal funds that are cited publicly and officially by a Federal agency in support of an action that has the force and effect of law (e.g., regulations and administrative orders). "Research data" is defined as the recorded factual material commonly accepted in the scientific community as necessary to validate research findings. It does not include preliminary analyses; drafts of scientific papers; plans for future research; peer reviews; communications with colleagues; physical objects (e.g., laboratory samples, audio or video tapes); trade secrets; commercial information; materials necessary to be held confidential by a researcher until publication in a peer-reviewed journal; information that is protected under the law (e.g., intellectual property); personnel and medical files and similar files, the

disclosure of which would constitute an unwarranted invasion of personal privacy; or information that could be used to identify a particular person in a research study.

- 2) These requirements do not apply to commercial organizations or to research data produced by State or local governments. However, if a State or local governmental grantee contracts with an educational institution, hospital, or non-profit organization, and the contract results in covered research data, those data are subject to these disclosure requirements.
- 3) Requests for the release of research data subject to this policy are required to be made to USGS, which will handle them as FOIA requests under 43 CFR 2.25. If the data are publicly available, the requestor will be directed to the public source. Otherwise, the USGS Contract Officer, in consultation with the affected Recipient and the PI, will handle the request. This policy also provides for assessment of a reasonable fee to cover Recipient costs as well as (separately) the USGS costs of responding.

c) Conflict of Interest

The Recipient must establish safeguards to prohibit its employees and Subrecipients from using their positions for purposes that constitute or present the appearance of a personal or organizational conflict of interest. The Recipient is responsible for notifying the USGS Contracting Officer in writing of any actual or potential conflicts of interest that may arise during the life of this award. Conflicts of interest include any relationship or matter which might place the Recipient or its employees in a position of conflict, real or apparent, between their responsibilities under the agreement and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Recipient and/or Recipient's employees and Sub-recipients in the matter.

The USGS Contracting Officer and the servicing Ethics Counselor will determine if a conflict of interest exists. If a conflict of interest exists, the USGS Contracting Officer will determine whether a mitigation plan is feasible. Mitigation plans must be approved by the USGS Contracting Officer in writing. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award.

Failure to make required disclosures may result in any of the remedies described in 2 CFR § 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

d) Program Income

- 1) If the Recipient is an educational institution or nonprofit research organization, any other program income will be added to funds committed to the project by the Federal awarding agency and Recipient and be used to further eligible project or program objectives, as described in 2 CFR 200.307(e)(2).

- 2) For all other types of Recipients, any other program income will be deducted from total allowable costs to determine the net allowable costs before calculating the Government's share of reimbursable costs, as provided in 2 CFR 200.307(e)(1).

e) Government Furnished Equipment or Equipment Authorized for Purchase

Title to equipment acquired wholly or in part with Federal funds shall be vested in the Recipient unless otherwise specified in the award document. The Recipient shall retain control and maintain an inventory of such equipment as long as there is a need for such equipment to accomplish the purpose of the project, whether or not the project continues to be supported by Federal funds. When there is no longer a need for such equipment to accomplish the purpose of the project, the Recipient shall use the equipment in connection with other Federal awards the Recipient has received. Disposal of equipment shall be in accordance with 2 CFR 200.313.

No equipment is provided or authorized for purchase on this grant/cooperative agreement.

SECTION F – SPECIAL PROVISIONS

NONE.

SECTION G – DOCUMENTS INCORPORATED BY REFERENCE AND ORDER OF PRECEDENCE

G.1 Documents Incorporated By Reference

The following documents are hereby incorporated into this Agreement by reference:

- 1) The Recipient's proposal, LiDAR Acquisition for Las Vegas, NV Region, dated 10/21/2015;
- 2) The Recipient's application for financial assistance (SF424, SF424A, SF424B), dated 10/21/2015.

G.2 Order of Precedence

In the event of any inconsistency within this Agreement, the following order of precedence shall be followed:

- 1) The cover page.
- 2) Sections A through F of this Agreement.
- 3) Documents incorporated by reference (see G.1) in the order in which they are incorporated.

– END OF ASSISTANCE AWARD DOCUMENT –

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Amendment	Director's Backup
Petitioner: Julie A. Wilcox, Deputy General Manager, Administration	
Recommendations: That the Board of Directors approve Amendment No. 1 to the existing agreement between Merrick & Company and the Authority for LiDAR Digital Elevation Data authorizing an increase in compensation for an amount not to exceed \$86,522, for the period from January 1, 2016, through December 31, 2016.	

Fiscal Impact:

None by approval of the above recommendation. The previous commitment of \$260,400 will be increased to \$346,922; however, these costs are provided for through a separate agenda item before the Board of Directors for consideration today.

Background:

On September 17, 2015, the Board of Directors approved a professional services agreement with Merrick & Company, RFP 652-15, to purchase and deliver LiDAR digital elevation data services to the greater Las Vegas Valley for an amount not to exceed \$260,400, to support the Authority's on-going Water Smart Landscape Program. On the same date, the Board also approved an Interlocal Agreement among the City of Henderson, City of Las Vegas, Clark County, the Clark County Water Reclamation District, the Regional Transportation Commission of Southern Nevada, the Clark County Regional Flood Control District, and the Authority to establish funding allocations for aerial imagery and for LiDAR data. In the fall of 2015, the United States Geological Survey (USGS) showed an interest in contributing additional funding to acquire LiDAR data in areas around the Las Vegas Valley, in addition to acquiring LiDAR data for the area authorized through the Merrick & Company Agreement. In April 2016, the Authority received USGS notification of a grant in an amount not to exceed \$86,522 to be used for costs incurred to acquire LiDAR digital elevation data services, a separate item before the Board for consideration today. If approved, this Amendment will provide benefits to the Authority and other agencies that are part of the Interlocal Agreement, with additional areas having LiDAR data being acquired.

This agreement is being entered into pursuant to NRS 332.115(1)(b) and Section 6(j) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved this agreement.

Respectfully submitted:


John J. Entsminger, General Manager
JJE:JAW:GAF:CAH:db
Attachments

AGENDA ITEM #	4
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DISCLOSURE OF OWNERSHIP/PRINCIPALS

Business Entity Type						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input checked="" type="checkbox"/> Privately Held Corporation	<input type="checkbox"/> Publicly Traded Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization
<input type="checkbox"/> Other						
Business Designation Group						
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> ESB	<input checked="" type="checkbox"/> NONE	
<input type="checkbox"/> Minority Business Enterprise	<input type="checkbox"/> Women-Owned Business Enterprise	<input type="checkbox"/> Small Business Enterprise	<input type="checkbox"/> Physically Challenged Business Enterprise	<input type="checkbox"/> Emerging Small Business		
Corporate/Business Entity Name: Merrick & Company						
(Include d.b.a., if applicable)						
Street Address:		5970 Greenwood Plaza Blvd.		Website: www.merrick.com		
City, State and Zip Code:		Greenwood Village, CO 80111		POC Name and Email: Christopher Sherry, PE		
Telephone No:		303-751-0741		Fax No: 303-751-2581 chris.sherry@merrick.com		
Local Street Address:				Website:		
City, State and Zip Code:				Local Fax No:		
Local Telephone No:				Local POC Name Email:		
Number of Clark County, Nevada Residents Employed: 0						

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals, either directly or indirectly, holding more than five percent (5%) ownership or financial interest in the business entity appearing before the SNWA Board of Directors.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned <small>(Not required for Publicly Traded Corporation/Non-profit organizations)</small>
N/A		

This section is not required for publicly-traded corporations.

- Are any individual members, partners, owners or principals, involved in the business entity, an SNWA full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please note that SNWA employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)
- Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an SNWA full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also certify that the entity is not on the federal government's Excluded Parties List, as defined by 2 CFR § 180.945. I further understand that the SNWA will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.



 Signature
 Senior Vice President, Chief Operating Officer
 Title

Christopher Sherry, PE
 Print Name

 Date 6 May 16

DISCLOSURE OF RELATIONSHIP

N/A

List any disclosures below:
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF SNWA EMPLOYEE OR OFFICIAL AND JOB TITLE	RELATIONSHIP TO SNWA EMPLOYEE OR OFFICIAL	SNWA EMPLOYEE'S/OFFICIAL'S DEPARTMENT
N/A	N/A	N/A	N/A

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

For SNWA Use Only:

If no Disclosure or Relationship is noted above or if the section is marked N/A, please check this box:

No Disclosure

If any Disclosure of Relationship is noted above, please complete the following:

Yes No Is the SNWA employee(s) noted above involved in the contracting/selection process for this particular agenda item?

Yes No Is the SNWA employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:



 Signature
 James P. Barber

 Print Name
 Authorized Department Representative

Donna Burns

From: Doug Jacoby <Doug.Jacoby@Merrick.com>
Sent: Tuesday, June 14, 2016 9:35 AM
To: Angela Brown
Cc: Doug Jacoby
Subject: {EXTERNAL} RE: Disclosure of Ownership Form

Hi Angela,

Yes, nothing has changed since 5/6/16. The attached is current.

Cheers,

Doug Jacoby, CMS, GISP | Geomatics - GSS Practice Lead | Merrick & Company
T: +1 303-353-3903 | C: +1 303-521-6522 | www.merrick.com



Engineering | Architecture | Design-Build | Surveying | Planning | GeoSpatial Solutions

From: Angela Brown [mailto:Angela.Brown@snwa.com]
Sent: Tuesday, June 14, 2016 10:23 AM
To: Doug Jacoby <Doug.Jacoby@Merrick.com>
Subject: Disclosure of Ownership Form

Good morning,

Can you please confirm your attached Disclosure of Ownership form being up to date.

Thanks,

Angela Brown
Secretary, Spatial Technologies
702-862-3773

Please consider the environment before printing this email.

This transmission, which may contain confidential information, is for the intended recipient only. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient, is prohibited. If you received this in error, please contact the sender and delete the material from your computer and networks.

AMENDMENT NO. 1
to the
AGREEMENT
between
MERRICK & COMPANY
and
THE SOUTHERN NEVADA WATER AUTHORITY
for
LIDAR DIGITAL ELEVATION DATA SERVICES

Whereas the parties to the original agreement, executed on **Sept 17, 2015**, desire to continue the relationship whereby **Merrick & Company** will provide additional LiDAR Digital Elevation Data professional services to the Authority as directed. The agreement is hereby modified as follows:

WITNESSETH:

Revise Section 1 Scope of Services on Page 1 of Agreement, outlined in Paragraph No. 1 (b) on Page 1 of Exhibit A to read as follows:

The LiDAR digital elevation data will be acquired no earlier than April 15 and no later August 5, with initial delivery of rectified LiDAR samples no later than August 19.

Revise Section 5 Limitation on Costs on Page 4 of Agreement to read as follows:

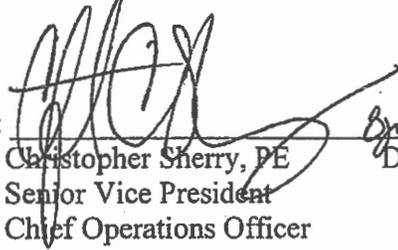
Increase the total amount of the compensation by an additional EIGHTY SIX THOUSAND FIVE HUNDRED TWENTY TWO dollars (\$86,522), which increases the total compensation amount of the Agreement to an amount not to exceed THREE HUNDRED FORTY SIX THOUSAND NINE HUNDRED TWENTY TWO dollars (\$346,922).

All other terms and conditions of the original agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this AMENDMENT NO. 1 on the _____ day of _____, 2016.

MERRICK & COMPANY

SOUTHERN NEVADA WATER AUTHORITY

By:  _____
Christopher Sherry, PE
Senior Vice President
Chief Operations Officer

8-16
Date

By: _____
John J. Entsminger
General Manager

Date

Approved as to form:



Tabitha D. Fiddymment, Director of Legal Services

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Agreement	Director's Backup
Petitioner: Julie A. Wilcox, Deputy General Manager, Administration	
Recommendations: That the Board of Directors approve a Grant and Cooperative Agreement between the Bureau of Land Management and the Authority to receive funding for the Warm Springs Natural Area Public Use Improvements, Phases II and III, and authorize the General Manager to approve future modifications only if the future modifications do not fiscally impact the Authority.	

Fiscal Impact:

If the above recommendation is approved, the Authority will receive funds from the Bureau of Land Management in the amount of \$875,000. No matching contribution is required.

Background:

In 2007, the Authority acquired the 1,218-acre Warm Springs Natural Area (WSNA) with funding authorized by the Secretary of the Interior in Round 6 of the Southern Nevada Public Land Management Act (SNPLMA) Parks, Trails and Natural Areas (PTNA) nominations. As a condition for this acquisition, the Authority committed to manage the WSNA as a natural area with a low-impact public use component for visitors to enjoy the abundant natural resources located on site.

On August 18, 2011, the Board of Directors approved a Grant and Cooperative Agreement between the Bureau of Land Management (BLM) and Authority to accept Round 11, SNPLMA, PTNA funds for Phase I of the WSNA public use improvements, which included: the development of conceptual design documents for a trail system and interpretive elements; engineering design documents for construction of key features; and the construction of a half-mile portion of the designed trail, an interpretive kiosk and a bird/wildlife viewing platform.

On December 14, 2015, the Secretary of the Interior approved Round 15 SNPLMA grants, which included approval of the Authority's PTNA nomination for WSNA Public Use Improvements, Phases II and III. Funding will be used to expand the trail system so that it connects with the adjacent United States Fish and Wildlife Service (USFWS) Refuge. In addition, the Authority will install a unisex restroom, drinking fountain, boardwalk, spring viewing platform, benches and tables, amphitheater and fencing. The public use component is supported by the Moapa Town Advisory Board and fits in with the neighboring property owners' expectations. Public use improvements described in this agreement are consistent with the WSNA Stewardship Plan, have been coordinated with the USFWS, and are compatible with public use on the adjacent Moapa Valley National Wildlife Refuge.

At this time, the Board is being asked to approve the Grant and Cooperative Agreement, which includes the provisions necessary for the Authority to obtain federal funding.

AGENDA ITEM #

5

Agreement
July 21, 2016
Page Two

This agreement is being entered into pursuant to NRS 277.180 and Section 6(o) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "John J. Entsminger", is written over a horizontal line.

John J. Entsminger, General Manager
JJE:JAW:AMB:ZLM:KKC:KH:kf

Attachments

Grant and Cooperative Agreement

CHOOSE ONE:

- COOPERATIVE AGREEMENT
 GRANT

CHOOSE ONE: EDUCATION FACILITIES RESEARCH SDCR TRAINING

1. GRANT/COOPERATIVE AGREEMENT NUMBER L16AC00074		2. SUPPLEMENT NUMBER		3. EFFECTIVE DATE 07/21/2016		4. COMPLETION DATE			
5. ISSUED TO NAME/ADDRESS OF RECIPIENT (No., Street, City/County, State, Zip) SOUTHERN NEVADA WATER AUTHORITY Attn: ATTN GOVERNMENT POC 100 CITY PKWY STE 700 LAS VEGAS NV 89106-4615				6. ISSUED BY BLM NV-STATE OFC BGT&FIN SVC (NV955) Mailing Address: 1340 FINANCIAL BLVD. RENO NV 89502					
7. TAXPAYER IDENTIFICATION NO. (TIN)				9. PRINCIPAL INVESTIGATOR/ORGANIZATION'S PROJECT OR PROGRAM MGR. (Name & Phone) Keiba Crear keiba.crear@snwa.com 702-822-3388					
8. COMMERCIAL & GOVERNMENT ENTITY (CAGE) NO.									
10. RESEARCH, PROJECT OR PROGRAM TITLE BLM NV Warm Springs Natural Area Public Use Enhancements SNPLMA WA08									
11. PURPOSE See Schedule									
12. PERIOD OF PERFORMANCE (Approximately) 07/21/2016 through 07/20/2021									
13A.		AWARD HISTORY			13B.		FUNDING HISTORY		
PREVIOUS		\$0.00			PREVIOUS		\$0.00		
THIS ACTION		\$875,000.00			THIS ACTION		\$875,000.00		
CASH SHARE		\$0.00			TOTAL		\$875,000.00		
NON-CASH SHARE		\$0.00							
RECIPIENT SHARE		\$0.00							
TOTAL		\$875,000.00							
14. ACCOUNTING AND APPROPRIATION DATA 01									
PURCHASE REQUEST NO.		JOB ORDER NO.		AMOUNT		STATUS			
0020091226									
15. POINTS OF CONTACT									
	NAME	MAIL STOP	TELEPHONE	E-MAIL ADDRESS					
TECHNICAL OFFICER	Jeff Wilbanks		702-515-5160	jwilbanks@blm.gov					
NEGOTIATOR									
ADMINISTRATOR	Susan Kaller		(775) 861-6559	skaller@blm.gov					
PAYMENTS									
16. THIS AWARD IS MADE UNDER THE AUTHORITY OF: Southern Nevada Public Land Management Act of 1998 P.L. 105- 263, as amended									
17. APPLICABLE STATEMENT(S), IF CHECKED: <input type="checkbox"/> NO CHANGE IS MADE TO EXISTING PROVISIONS <input type="checkbox"/> FDP TERMS AND CONDITIONS AND THE AGENCY-SPECIFIC REQUIREMENTS APPLY TO THIS GRANT				18. APPLICABLE ENCLOSURE(S), IF CHECKED: <input type="checkbox"/> PROVISIONS <input type="checkbox"/> SPECIAL CONDITIONS <input type="checkbox"/> REQUIRED PUBLICATIONS AND REPORTS					
UNITED STATES OF AMERICA				COOPERATIVE AGREEMENT RECIPIENT					
CONTRACTING/GRANT OFFICER Susan Kaller		DATE		AUTHORIZED REPRESENTATIVE		DATE			

Southern Nevada Water Authority

Approved as to form:

By: Dana Walsh

Date: 6-30-16

Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
	<p>CFDA Number: 15.235 DUNS Number: 135965650</p> <p>11. PURPOSE: This cooperative agreement is made and entered into by the Department of the Interior, Bureau of Land Management, Nevada State Office (BLM), and the Southern Nevada Water Authority, the recipient, for the purpose of implementing the Warm Springs Natural Area Public Use Enhancements Round 15 SNPLMA Project by transferring something of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States.</p> <p>BLM substantial involvement by the BLM Program Officer (PO) will be collaborate with the Recipient to manage all stages of project development, implementation, and evaluation. Responsibility for project management, control, and direction will be shared by the recipient and the BLM, however the BLM will have the right to intervene by modifying the project management plan if the project is not staying on schedule and/or technical issues arise.</p> <p>Refer to Attachment No. 1 for Award Terms and Conditions</p> <p>Legacy Doc #: BLM Delivery: 03/01/2021 Delivery Location Code: 0004276496 BLM-NV LAS VEGAS FIELD OFFICE* 4701 NORTH TORREY PINES DRIVE LAS VEGAS NV 89130-2301 US</p> <p>Account Assignment: K G/L Account: 6100.411C0 Business Area: L000 Commitment Item: 411C00 Cost Center: LLNVS00550 Functional Area: L58560000.IB0000 Fund: XXXL5232AR Fund Center: LLNVS00550 Project/WBS: LX.SN.WA085600 PR Acct Continued ...</p>				

Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
00010	<p>Assign Line: 01</p> <p>Period of Performance: 07/21/2016 to 07/20/2021</p> <p>Obligate \$875,000 in SNPLMA funds to the PTNA WA08 Warm Springs Natural Area Public Use Enhancement project.</p> <p>FA SNPLMA RD15 Warm Sprs Public Use Imp</p> <p>Obligated Amount: \$875,000.00</p> <p>Period of Performance: 07/21/2016 to 07/20/2016</p> <p>The Administrative Point of Contact (POC): Susan Kaller, Grants and Agreements Specialist, Nevada State Office (NSO) Phone: 775-861-6559, Email: skaller@blm.gov. The Technical Point of Contact Program Officer (PO): Jeff Wilbanks, Southern Nevada District Office (SNDO) Phone: 702-515-5160, Email: jwilbanks@blm.gov. Email OMB FFR financial reports and Performance reports to: blm_nv_aa@blm.gov</p> <p>The total amount of award: \$875,000.00. The obligation for this award is \$875,000.00.</p>				875,000.00

Background: In 2007, the Southern Nevada Water Authority (SNWA) acquired the 1,218-acre Warm Springs Natural Area (WSNA) with funding authorized by the Secretary of the Interior in Round 6 of the Southern Nevada Public Land Management Act (SNPLMA). Formerly known as the Warm Springs Ranch, the property is located in Moapa Valley, approximately seven miles northwest from the town of Moapa, Nevada.

The property is regionally significant as it contains more than 20 perennial springs that form the headwaters of the Muddy River. The site includes numerous landscapes including Mojave desert, riparian forest, mesquite woodlands and alkali meadows through which 3.8 miles of the Muddy River meanders. These resources provide ideal habitat for a number of protected and sensitive species, including the endangered Moapa dace (nearly 80 percent of the remaining Moapa dace habitat is found on the WSNA) and the endangered Southwestern Willow Flycatcher. The WSNA also supports native and migratory birds, important wildlife populations and diverse plant communities. Given its role in the regional watershed and the number of sensitive resources supported by the area, protection and acquisition of this property was long identified by the U.S. Fish and Wildlife Service and others as a key priority.

As a condition for acquisition under the SNPLMA Parks, Trails and Natural Areas (PTNA) category, the WSNA had to be developed to include a limited public use component. The first phase of these improvements was submitted in SNPLMA Round 11 and was approved by the Secretary of the Interior in 2011 for \$250,000.

SNPLMA Round 11 funding provided for the development of conceptual design documents for a trail system and interpretive elements; engineering design documents for construction of key features; and the construction of a half-mile portion of the designed trail with interpretive features such as an interpretive kiosk and a bird and wildlife viewing platform.

Located at the headwaters of and bisected by the Muddy River, the WSNA is bordered by a number of federal, state and privately managed conservation areas. The U.S. Fish and Wildlife Service's Moapa Valley National Wildlife Refuge (Refuge) and Clark County's managed lands are directly adjacent to the WSNA.

The Secretary of the Interior approved the estimated expenditures for this project from the Southern Nevada Public Land Management Act Special Account on January 6, 2016.

1. COOPERATIVE AGREEMENT OBJECTIVES:

A. Objective: When complete, the trailhead on the WSNA will interface with public use on the Refuge, and provide interpretative messages regarding shared management goals to protect sensitive environmental resources.

B. Public Benefit: Provide recreation opportunities

C. Federal Award Performance Goals – the strategic goals of the SNPLMA PTNA program include the following performance measures:

- H6 – Acres of wetland/riparian habitat treated, enhanced or restored

- H4 - Acres of upland habitat treated, enhanced or restored
- O6 – Number of new interpretive or education publications/signs/kiosks/displays/etc. produced
- O2 – Number of buildings, facilities and/or amenities constructed or refurbished
- R2 – Acres of new parks or natural areas constructed or improved
- R3 – Number of new recreational facilities/structures constructed or improved
- R4 – Miles of new recreational roads/trails constructed or routes improved

The Milestones to accomplish the above listed SNPLMA performance goals are:

- Design and construct natural trail – 3,500 to 3,900 feet by 6 feet
- Design and construct unisex restroom
- Install Water Fountain
- Design and construct Spring view platform
- Install benches and seating areas – 14 to 20 including picnic tables, benches and amphitheater
- Design and construct amphitheater
- Install split-rail fencing – 1,000 to 1,200 feet
- Design and construct overlook and rest area
- Restore saltgrass meadow (5 to 8 acres) with native and locally sourced saltgrass plugs
- Install native vegetation
- Install irrigation system
- Design and install interpretive panels, kiosks and way-finding signs – 15 to 20

2. PROJECT WORK

A. The Recipient agrees to:

- Adhere to the policies and procedures identified in the effective SNPLMA Implementation Agreement for executing this project per the authority of the Southern Nevada Public Land Management Act of 1998 (SNPLMA, P.L. 105-263).
- Furnish qualified personnel for the coordination, oversight, and performance of objectives for this project. Provide supervision for the project, to include responsibility for all technical aspects, development, implementation, scheduling, safety, coordination, and other project needs.
- Ensure any necessary permits or environmental clearances are obtained if required for this project.
- Include the following conspicuously placed disclosure for generated materials which include any materials developed for public planning documents, public scoping meetings, or for public distribution (i.e., interpretive materials, videos): "Funding for the subject project was provided by the sale of public land by the Bureau of Land Management and approved under an inter-agency partnership authorized by the Southern Nevada Public Land Management Act."

- Provide project signage. Project sites must include conspicuously placed signage, which states, "Funding for the subject project was provided by the sale of public land by the Bureau of Land Management and approved under an inter-agency partnership authorized by the Southern Nevada Public Land Management Act."
- The Recipient's Project Proposal entitled Warms Springs Natural Area Public Use, Phases II and III is accepted by the BLM and made a part of this Agreement in order to serve as the Agreement's work plan. Other documents incorporated by reference include the Recipient's Standard Form (SF) 424 Application for Federal Assistance, dated May 18, 2016, SF424C, Budget Information - Construction Programs, SF424D, Assurances - Construction Programs, Budget Detail, and signed Certification Regarding Lobbying - Certification for Contracts, Grants, Loans and Cooperative Agreements.

B. In addition, the BLM will:

- Monitor SNPLMA funding reimbursement through ASAP draw downs and FBMS. Monitor development of project deliverables as described in the project nomination.
- Provide site inspections to determine compliance with project nomination description.
- Provide file inspection to determine compliance with SNPLMA requirements.
- Provide project closeout package review to determine compliance with nomination description and SNPLMA requirements.

C. In addition, the Recipient will also be responsible for significant developments, i.e., events which may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the Recipient must inform the BLM or pass-through entity as soon as the following types of conditions become known:

1. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
2. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

3. TERM OF AGREEMENT

A. The term, or period of performance, of this Agreement shall become effective as of the date shown on the signed award cover page and may remain in effect for a maximum of five (5) years. The BLM will consider continued support of the project upon; (a) the Recipient showing progress satisfactory to the BLM toward program goals and the determination by the BLM that

continuation of the program would be in the best interests of the Government, and/or (b) the availability of funds.

B. Budget and Program Revisions

- Recipients must submit in writing to the BLM's Program Officer (PO) any request for budget or program revision in accordance with 2 CFR 200.308.

C. Modifications

- Requests to modify this Agreement, the project scope, extend the project end date, or provide additional funds for continuation of the project will require advanced approval of the authorized SNPLMA official. A request for modification must be made to the SNPLMA Division utilizing the modification request form in Appendix L of the SNPLMA IA.
- Requests to extend the project end date shall be submitted by the Recipient to the SNPLMA Division no later than 120 calendar days before the Agreement end date. The request shall include the reason for the extension, a description of the remaining work to be completed, the proposed date of completion, the amount of funds remaining and a revised budget for the remaining funds. If all funds have been disbursed to the Recipient, this must be indicated in the request. Requests must adhere to the policies and procedures of Sections X, XI, and Appendix L of the SNPLMA IA. Requests for extensions received after the expiration date will not be honored.
- Requests to extend the project end date by a one-time 90 days shall be submitted by the Recipient to the SNPLMA Division no later than 30 calendar days before the Agreement end date. This special one-time request is to cover unexpected circumstances where the agency needs a short time (up to 90 days) to complete the final steps of the project (e.g., close out a contract, conduct final inspection, receipt of "Notice of Completion and Release of Claims, etc.). This special extension covers an agency when it is unknown to the agency until towards the end of the project that there will be a delay.
- This Agreement may be modified by written agreement signed by both the Recipient's Authorized Representative and the GMO. Administrative changes (i.e. GMO name change, etc.) which do not change the project management plan, total amount, etc. or otherwise affect the Recipient may be signed unilaterally by the GMO. Additionally, a unilateral modification may be utilized if it should become necessary to suspend or terminate the Agreement in accordance with the provisions of 2 CFR, Subpart D, Section 200.339 Termination.
- All other changes shall be made by means of a bilateral modification to the Agreement. No oral statement made by any person, or written statement by any person other than the GMO, shall be allowed in any manner or degree to modify or otherwise effect the terms of the Agreement.

- The SNPLMA Division will forward approved modification requests to the GMO at least 30 days prior to the expiration date of the Agreement. Any determination to extend the period of performance or to provide follow-on funding for continuation of a project is solely at the discretion of the BLM.

D. Termination. This Agreement may be terminated in accordance with the provisions of 2 CFR, Subpart D, Section 200.339 Termination.

4. FINANCIAL SUPPORT AND PAYMENT METHOD

A. Funding. This Agreement may be funded each fiscal year (FY) based on the availability of BLM funding. Funds obligated but not expended by the Recipient in a FY may be carried forward and expended in subsequent years.

B. Maximum Obligations. The total obligations, including modifications, represent the amount for which the BLM will be responsible under the terms of this Agreement. The BLM shall not be responsible to pay for, nor shall the Recipient be responsible to perform, any effort that will require the expenditure of Federal funds above the current obligated amount.

C. Reimbursable Costs and Limitations. The Recipient shall not incur costs or obligate funds for any purpose pertaining to operation of the program or activities beyond the expiration date stated in the Agreement. The only costs which are authorized for a period of up to 90 days following the award expiration date are those strictly associated with closeout activities for preparation of the final report. The BLM's financial participation is limited. The BLM will only fund up to its share of those amounts requested in the project proposal and as are subsequently approved and funded in the Agreement. The Recipient shall not be obligated to continue performance under the Agreement or to incur costs in excess of the costs set forth in the proposal and Agreement. However, if the Recipient chooses to expend funds in excess of the approved project budget, the Recipient will be responsible to fund the excess without funding participation by the Bureau.

D. Cost Sharing and Matching

There is no cost share or match legislatively required for this award.

E. Program Income

There is no program income for this award

F. Indirect Costs

The Recipient has not requested reimbursement for indirect costs.

G. Payment by Reimbursement

1. Payment will be made by draw-down reimbursement through the Department of the Treasury, Automated Standard Application for Payment (ASAP) System. See following

website: <http://www.fms.treas.gov/asap> Treasury Circular 1075 (31 CFR 205) requires that draw-downs to a Recipient organization shall be limited to the minimum amounts needed and shall be timed to be in accordance with the actual, immediate cash requirements of the Recipient organization in carrying out the purposes of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the Recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs

2. Funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds, must be disbursed before requesting additional cash payments.

3. Drawdown Requirements for SNPLMA Projects:

- Prior to requesting an ASAP payment the requestor shall provide SNPLMA Division with a list of the projects to receive payment and the amount per project to be drawn down at least three days before requesting an ASAP draw down. Once funding is available for drawdown, the amounts shall only be allocated to those projects for which the drawdown was budgeted.
- Drawdowns in the ASAP system will be made only in amounts necessary to meet current quarterly disbursement needs once all required documentation is submitted to the SNPLMA Division. Drawdowns may occur as frequently as needed within the subject quarter; however, not to exceed the quarterly budgeted amount. Funds should be expended by the end of the budgeted quarter. When not expended, the following quarterly report should detail the circumstances that have caused those funds to remain unexpended.
- Funding will be available for drawdown beginning the first business day of each quarter (or as close to January 1, April 1, and July 1, as possible), with the exception of the first quarter of the fiscal year. Because the BLM's financial systems are unavailable at the start of the fiscal year while BLM completes "closeout" of the prior fiscal year, transfers to local and regional governments for the first quarter will be made after October 1, and no later than October 31.
- Prior to making any drawdown in ASAP, transmit an email identifying the expected dollar amount to be drawn down per project and the date of the expected drawdown. After the drawdown in ASAP, transmit an email including a PDF of the ASAP Payment Transaction Confirmation summary identifying that the draw down did happen. Copy the following people:
 - John Vest, BLM Business Services Division - National Operations Center (NOC): Vest@blm.gov
 - Gary Thompson, Finance Manager, BLM Business Services Division - National Operations Center (NOC): garythomps@blm.gov
 - Jeff Wilbanks, Program Officer (PO), SNPLMA Division: jwilbanks@blm.gov

- Susan Kaller, Grants Management Officer (GMO): skaller@blm.gov

Agency review status: Failure to provide sufficient notice of the pending transaction may result in the agency being placed on agency review status. Costs that are determined to be unallowable after disbursement will be deducted from the next quarterly drawdown budget and the agency may be placed on agency review status. When a project is completed or terminated, any excess funds, which may have been drawn down by the Recipient, shall be returned to the SNPLMA Special Account.

H. Agency Review

If a Recipient has a history of poor performance, financial instability, uses a management system not meeting standards prescribed by the Uniform Administrative Requirements, has not conformed to the terms and conditions of the award, and/or is not otherwise responsible in safeguarding Federal funds, they may be determined to be "high risk" and be placed on Agency Review. Agency Review limits a Recipient's access to funds by requiring that all draw-down requests be reviewed and approved prior to their being released. Recipients on agency review must submit a completed Standard Form (SF) 270 Request for Advance Payment or Reimbursement for each payment requested along with a detailed explanation of how the costs correspond to the approved budget categories as listed on their Application for Federal Assistance SF-424A Budget Information and their Detailed Budget Breakdown or Challenge Cost Share Program Commitment Document, whichever is applicable. Being put on Agency Review does not relieve the Recipient of required financial or performance reporting requirements.

I. System for Award Management (SAM, www.SAM.gov)

Recipients of Federal financial assistance must maintain current registration with the System for Award Management (SAM, www.SAM.gov). Failure to maintain registration can impact access to funds and future obligations under this agreement and any other financial assistance or procurement award the Recipient may have with the Federal government.

5. PERFORMANCE & FINANCIAL MONITORING

A. In accordance with 2 CFR 200.327 Financial Reporting and 200.328 Monitoring and Reporting Program Performance, the Recipient is responsible for oversight, monitoring, and reporting of its activities under Federal awards to assure compliance with applicable Federal requirements and that performance expectations are being achieved. The BLM's monitoring of the Recipient's activities may include review of the award file including discussions with the Recipient regarding reporting, award activities, and project status (desk reviews), analysis of financial and performance reports, and discussions of specific issues related to project implementation, observation of project activity, and review of planned versus actual progress (site visits). The BLM has the right to inspect and evaluate the work performed or being performed under this Agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If the BLM performs inspection or evaluation on the premises of the Recipient or a sub-recipient, the Recipient shall

furnish and shall require sub-recipients to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

1. BLM programmatic monitoring addresses the content and substance of the program. It is a qualitative review to determine performance, innovation, and contributions to the field. The BLM may make site visits as warranted by program needs. In addition, the BLM has the right of timely and unrestricted access to any books, documents, papers, or other records of the Recipient's that are pertinent to the award, in order to make audits, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to Recipient personnel for the purpose of interviews and discussions related to such documents.

2. BLM financial monitoring ensures compliance with financial guidelines and general accounting practices. On-site or internal financial reviews are conducted to determine if: (1) award Recipients are properly accounting for the receipt and expenditures of federal funds; (2) expenditures are in compliance with federal requirements and award special conditions; and (3) proper documentation on financial monitoring activities is prepared, maintained, and distributed as appropriate.

6. PERFORMANCE, FINANCIAL, AND OTHER REPORTING

Periodic financial, performance reporting is a condition of this financial assistance award. Submission of reports is required whether or not any work has been attempted and/or any funds have been drawn down or expended. Failure to comply with the reporting requirements included in this Agreement may be considered a material non-compliance with the terms and conditions of the award. Non-compliance may result in withholding of future payments, suspension or termination of the Agreement, recovery of funds paid under the Agreement, and withholding of future awards. The OMB periodic status reporting required under this Agreement is as follows:

A. Annual Federal Financial Reports

1. Recipients of Federal financial assistance are required to submit periodic financial reports which document the financial status of their awards. The Federal Financial Report (FFR) or Standard Form (SF) 425 and SF425A - Attachment is the Office of Management and Budget (OMB) standard form used to report financial status. Expenditures and/or income may be reported either on a cash or accrual basis, whichever method is normally used by the Recipient. Submitted SF425 reports must be signed by an authorized official of the Recipient certifying that the information complete, accurate, consistent with the Recipient's accounting system, and that all expenditures and obligations are for the purposes set forth in the Agreement. The SF425 represents a claim to the Federal government, filing a false claim may result in civil or criminal penalties. Blank SF425 forms with instructions are available on the Grants.gov web site, URL: <http://www.grants.gov/web/grants/forms.html>.

2. Annual Reporting. Financial status reports under this Agreement must be submitted on an annual basis. Reporting periods and report due dates under this Agreement shall be as follows:

Reporting Period Dates

Submit Reports By

July 1, 2016 *through* September 30, 2017December 31, 2017

And each 12-Month period thereafter for the life of the Agreement.

3. Annual financial reports are due by 90 Calendar days after the end of the reporting period. E-mail financial status reports to the BLM Staff and/or E-mail addresses listed on the Award Coversheet under, "E-mail Reports To:"

4. At the end of the Agreement, final SF425 financial reports are due by 90 Calendar days after the expiration, termination, and/or project completion, whichever comes first. E-mail final financial status reports to the BLM Staff and/or E-mail addresses listed on the Award Coversheet under, "E-mail Reports To:"

B. Annual Performance Reports

1. Recipients of Federal financial assistance are required to submit periodic performance reports prepared in accordance with 2 CFR, Subpart D, Section 200.328 Monitoring and Reporting Program Performance. There is no standard form, however performance reports should always relate to the performance goals and objectives identified in Section 1 of this Agreement. Performance reports must be submitted in a narrative summary to include, but not limited to, the following:

a. Completed established goals, work in progress, future work, the percentage of work completed (based on Section 1 and 2 of this document).

b. The reasons why established goals and objectives were not met or problems which may impact the ability to complete work on time with recommendations on their resolution, if appropriate.

c. Prediction of future activities and how they will be accomplished.

d. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful.

e. Where performance trend data and analysis would be informative to the BLM program the Federal awarding agency should include this as a performance reporting requirement.

f. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

2. Annual Reporting. Performance status reports under this Agreement must be submitted on an annual basis. Reporting periods and report due dates under this Agreement shall be as follows:

<u>Reporting Period Dates</u>	<u>Submit Reports By</u>
July 1, 2016 <i>through</i> September 30, 2017	December 31, 2017

And each 12 Months thereafter for the life of the Agreement.

3. Annual performance reports are due by 90 Calendar days after the end of the reporting period. E-mail performance reports to the BLM Staff and/or E-mail addresses listed on the Award Coversheet under, "E-mail Reports To:"

C. SNPLMA Project Report Requirements:

Project Work Plan: Recipients are required to submit a Project Work Plan (PWP) for each project through the SMART database for approval by the SNPLMA Division prior to receiving authorization of funds. The PWP is required to be updated at least annually through the SMART database at the end of the fiscal year. The PWP shall include: Descriptions of the project deliverables, tasks and subtasks, project target start and end dates, and percent of project and deliverables complete.

1. Quarterly - Status Report Transmittal Letter: The transmittal letter must be signed by an Authorized Representative certifying the amount of projected funding, in total and per project, being requested for draw down in the following quarter, and project compliance with the policies procedures and guidelines in the current SNPLMA IA Appendix J, project nomination package, and project cooperative Agreement.
2. Quarterly - Status Report: In order to achieve authorization for a quarterly ASAP drawdown, a quarterly status update report must be submitted through the SMART database to the SNPLMA Division, due on the date to be determined by the SNPLMA Division for each quarter. This report will include: Progress on the deliverables detailed in the Project Work Plan, a description of the deliverable and the progress made in the quarter, overall project complete and individual deliverable complete percentage, targeted start and end dates vs. actual start and end dates.
3. Quarterly - Projected ASAP Funding Request: Submit a request for the projected amount of funding needed for each project cost reimbursement for the upcoming quarter through the SMART database.
4. Annually – Annual Accomplishments: Submit this report through the SMART database during the first quarter of the fiscal year following the subject year of the report. The report must include the overall project accomplishments, progress and milestones achieved during the fiscal year. The information in this report will be used to develop the SNPLMA Annual Report to Congress, and to report project accomplishments on the SNPLMA website.

Conceptual vs. Final Design: Entities will notify the SNPLMA Division prior to finalization of conceptual design documents and prior to sending construction plans to bid for an implementation contract. During this consultation meeting, the SNPLMA Division will verify the project's compliance with the context of the approved project. The SNPLMA Division may

also periodically conduct site visits to verify that "on the ground" progress is consistent with that reported in Quarterly Status Reports.

Generated Materials: Any materials developed for public planning documents, public scoping meetings, or for public distribution (i.e., interpretive materials, videos) must include the following conspicuously placed disclosure, "Funding for the subject project was provided by the sale of public land by the Bureau of Land Management and approved under an inter-agency partnership authorized by the Southern Nevada Public Land Management Act."

Project Signage: Project sites must include conspicuously placed signage, which states, "Funding for the subject project was provided by the sale of public land by the Bureau of Land Management and approved under an inter-agency partnership authorized by the Southern Nevada Public Land Management Act."

D. Project Closeout/Reports and Sequence of Events for SNPLMA Projects

- Prior to any final project closeout the SNPLMA Division will perform a final project site inspection and review the project files and financial records.
- The SNPLMA Division will finalize total expenses and complete their review within 90 days and prior to the final closeout process completed by the GMO.
- Once the SNPLMA Division completes their process, the PD will complete a signed closeout letter confirming that the project has been completed within the context of the project, as approved by the Secretary, and outlined in the SNPLMA IA, Appendix J and submit it to the SNPLMA Division and the GMO. This letter will detail the closeout requirements as defined in Appendix J including the final administrative funding needs and draw downs, Final FFR, SF-425 and Cost Detail Worksheet activity (e.g. Planning, Environmental Compliance, & Preconstruction Engineering & Design; FWS Consultation-Endangered Species Act; Construction Contract Costs; Direct Labor; Official Vehicle; Other Direct and Contracted Labor Use; and Other Necessary Expenses) which reflects funds to be de-obligated.
- The Recipient will comply with reporting requirements outlined above, due no later than 90 calendar days after the expiration or termination of this Agreement.
- Any remaining funds not expended as identified in box 10.h of the Final SF-425 will be de-obligated by the GMO by unilateral administrative modification to the Agreement.

D. Non-compliance:

Failure to comply with the reporting requirements contained in this Agreement may be considered a material non-compliance with the terms and conditions of the award.

Non-compliance may result in being placed on agency review, withholding of future payments, suspension or termination of the Agreement, recovery of funds paid under the Agreement, and withholding of future awards.

7. LIABILITY, INSURANCE, AND INDEMNIFICATION

A. **Liability.** The BLM assumes no liability for any actions or activities conducted under this Agreement except to the extent that recourse or remedies are provided by Congress under the Federal Tort Claims Act, 28 USC 2671.

B. **Indemnification.** The Recipient hereby agrees:

1. To the extent allowed under Nevada law, to indemnify the federal government, Bureau of Land Management (BLM), from any act or omission of the Recipient, its officers, employees, or agents (1) against third party claims for damages arising from one or more activities carried out in connection with this financial assistance agreement and (2) for damage or loss to government property resulting from such an activity. This obligation shall survive the termination of this agreement.

2. To pay the United States the full value for all damage to the lands or other property of the United States caused by the Recipient, its officers, employees, or agents.

3. To provide workers' compensation protection to the Recipient's employees.

4. To cooperate with the BLM in the investigation and defense of any claims that may be filed with the BLM arising out of the activities of the Recipient, its agents, and employees.

C. **Flow-down.** For the purposes of this clause, "Recipient" includes such subrecipients, contractors, or subcontractors as, in the judgment of the Recipient and subject to the Government's determination of sufficiency, have sufficient resources and/or maintain adequate and appropriate insurance to achieve the purposes of this clause.

D. **Identified Activities.** All activities carried out in connection with this financial assistance agreement.

8. BLM PROPERTY STANDARDS

A. **Government-furnished property (GFP),** such as tools and equipment, furnished by the BLM to the Recipient shall be used for official purposes only and shall be subject to the terms of the agreement. Tools and equipment shall be returned in the same condition received except for normal wear and tear in project use. Any BLM property used or other property acquired under this agreement, including intangible property such as copyrights and patents, shall be governed by the property management provisions of 2 CFR, Subpart D, Sections 200.310 to 200.316, Property Standards.

B. **Insurance Coverage:** The non-Federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the non-Federal entity. Refer to 2 CFR, Part 200, Subpart D, Section 310.

C. **Intangible Property.**

1. Title to intangible property (see § 200.59 Intangible property) acquired under a Federal award vests upon acquisition in the non-Federal entity. The non-Federal entity must use that property for the originally-authorized purpose, and must not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 CFR 200.313(e) Equipment.

2. The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

3. The non-Federal entity is subject to applicable regulations governing patents and inventions, including Governmentwide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements."

4. The Federal government has the right to: (a) Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and (b) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

D. Recipient staff will be required to complete a BLM-approved Defensive Driving Course if driving a Government-owned vehicle (GOV).

E. Recipient staff will be required to complete a BLM-approved Four-wheel ATV safety and training program if using Government-furnished ATVs.

F. Recipient staff will be required to complete a BLM-approved safety and training program if using Government-furnished power equipment, such as chainsaws, wood chippers, etc. The Recipient will be responsible for meeting all protective equipment requirements if using Government-furnished equipment.

9. KEY OFFICIALS

The key officials on this agreement are listed on the award cover page(s) and are considered to be essential to ensure maximum coordination and communication between the parties and the work being performed. Upon written notice, either party may designate an alternate to act in the place of their designated key official.

10. GENERAL TERMS AND CONDITIONS

The U.S. Department of the Interior agencies, including the Bureau of Land Management implemented the new regulations on December 26, 2014 in the 2 CFR, Part 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

A. Administrative and National Policy Requirements

1. By accepting Federal funding, your organization agrees to abide by the new Uniform Guidance for Grants in the expenditure of Federal funds and performance under this financial assistance award, which was implemented by Office of Management and Budget (OMB). Final Guidance has been issued and has superseded requirements from OMB Circulars, which have been replaced by the 2 Code of Federal Regulations (CFR) Grants and Agreements, Part 200.

2 CFR, Part 200 is available at the following website: http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

B. Administrative Requirements

1. 2 CFR Part 200 Subparts A through D - UNIFORM ADMINISTRATIVE REQUIREMENTS, AND COST PRINCIPLES.

2. 2 CFR, Subpart B, 200.112 - CONFLICT OF INTEREST – Refer to Section 13, item 1. of this document for full text term and condition.

3. 2 CFR, Subpart B, 200.317 – 316 - Procurement Standards.

a. §200.326 Contract Provisions: The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part, 200 – Contract Provisions for non-Federal Entity Contracts Under Federal Awards. *Refer to Section 13, item 2. of this document for full text term and condition.*

4. 2 CFR, Subpart C, Part 200.412 - 419 – Direct and Indirect (F & A) Cost

a. 2 CFR, Appendix III to Part 200 - Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)

b. Appendix IV to Part 200 - Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations

c. Appendix V to Part 200 - State/Local Government-wide Central Service Cost Allocation Plans

5. 2 CFR Part 200 Subpart F - AUDIT REQUIREMENTS. Non-Federal entities that expend \$750,000.00, or more, in federal awards in a single year shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, available at: http://www.whitehouse.gov/omb/circulars_default.

a. This and any other federal financial assistance award should be reported under its appropriate Catalog of Federal Domestic Assistance (CFDA) number, refer to header for appropriate CFDA to report.

6. Appendix XII to Part 200—Award Term and Condition for Recipient Integrity and Performance Matters. (Refer to Section 13. 3. below for full text.)

C. Program Legislation and/or Regulations:

1. Scientific integrity is vital to Department of the Interior (DOI) activities under which scientific research, data, summaries, syntheses, interpretations, presentations, and/or publications are developed and used. Failure to uphold the highest degree of scientific integrity will result not only in potentially flawed scientific results, interpretations, and applications but will damage DOI's reputation and ability to uphold the public's trust. All work performed must comply with

the DOI Scientific Integrity Policy posted to <http://www.doi.gov>, or its equivalent as provided by their organization or State law. For more information go to URL:

<https://www.doi.gov/scientificintegrity>.

2. Southern Nevada Public Land Management Act of 1998, 31 U.S.C. 6901 Public Law 105-263, as amended, authorizes the Secretary of the Interior to expend funds from the SNPLMA Special Account for the development of parks, trails, and natural areas in: Clark County, Lincoln County, White Pine County, Washoe County (subject to paragraph 4) and Carson City (subject to paragraph 5), the City of Las Vegas, the City of North Las Vegas, and the City of Henderson, the Southern Nevada Water Authority, the Regional Flood Control District, and the Clark County Water Reclamation District, pursuant to a cooperative Agreement with a local government or regional governmental entity. The SNPLMA Implementation Agreement (IA), authorizes the Secretary of the Interior to expend funds from the SNPLMA Special Account for the development of parks, trails, and natural areas in: Clark County, Lincoln County, White Pine County, Washoe County (subject to paragraph 4) and Carson City (subject to paragraph 5), the City of Las Vegas, the City of North Las Vegas, and the City of Henderson, the Southern Nevada Water Authority, the Regional Flood Control District, and the Clark County Water Reclamation District, pursuant to a cooperative Agreement with a local government or regional governmental entity.

D. Standard Award Terms and Conditions

1. Code of Federal Regulations/Regulatory Requirements, as applicable:

- a. 2 CFR Part 25, *Universal Identifier and System of Award Management*
- b. 2 CFR Part 170, *Reporting Subawards and Executive Compensation*
- c. 2 CFR Part 175, *Award Term for Trafficking in Persons*
- d. 2 CFR Part 180 & 2 CFR Part 1400, *Government-wide Debarment and Suspension (Non-procurement)*
- e. 2 CFR Part 182 & 2 CFR Part 1401, *Requirements for Drug-Free Workplace (Financial Assistance)*
- f. 43 CFR 18, *New Restrictions on Lobbying*: Submission of an application also represents the applicant's certification of the statements in 43 CFR Part 18, Appendix A, *Certification Regarding Lobbying*.
- g. 41 USC §4712, *Pilot Program for Enhancement of Recipient and Sub-recipient Employee Whistleblower Protection*: This requirement applies to all awards issued after July 1, 2013 and shall be in effect until January 1, 2017.

(a) This award and related subawards and contracts over the simplified acquisition threshold and all employees working on this award and related subawards and contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the *National Defense Authorization Act for Fiscal Year 2013* (P.L. 112-239).

(b) Recipients, and their subrecipients and contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing,

in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

(c) The award Recipient shall insert the substance of this clause, including this paragraph (c), in all subawards or subcontracts over the simplified acquisition threshold, 42 CFR §52.203-17 (as referenced in 42 CFR §3.908-9).

h. 41 USC §6306, Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to the United States Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit.

i. Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving: Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the order.

j. Executive Order 13043, Increase Seat Belt Use in the United States
Recipients of grants/cooperative agreements and/or sub-awards are encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.

k. Executive Order 13658, Minimum Wage for Contractors, seeks to increase the efficiency and cost savings in the work performed by parties who contract with the Federal Government by increasing the hourly minimum wage paid by those contractors and any subcontractors. (see 79 CFR 9851). Refer to Section 13, item 4. of this document for full text term and condition.

l. Opposition to Any Legislation. In accordance with the Department of the Interior, Environment, and Related Agencies Act, 2006, Title IV, Section 402, no part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

m. Endorsements.

(1) Recipient shall not publicize or otherwise circulate, promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies governmental, Departmental, bureau, or government employee endorsement of a product, service, or position which the Recipient represents. No release of information relating to this award may state or imply that the Government approves of the Recipient's work products, or considers the Recipient's work product to be superior to other products or services.

(2) All information submitted for publication or other public releases of information regarding this project shall carry the following disclaimer:

The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or

policies of the U.S. Government. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Government.

(3) Recipient must obtain prior Government approval for any public information releases concerning this award which refer to the Department of the Interior or any bureau or employee (by name or title). The specific text, layout photographs, etc. of the proposed release must be submitted with the request for approval.

(4) Recipient further agrees to include this provision in a subaward to and subrecipient, except for a subaward to a State government, a local government, or to a federally recognized Indian tribal government.

n. Publications of Results of Studies. No party will unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publications of previously published technical matter. Publications pursuant to this Agreement may be produced independently or in collaboration with others; however, in all cases proper credit will be given to the efforts of those parties' contributions to the publication. In the event no agreement is reached concerning the manner of publication or interpretation of results, either party may publish data after due notice and submission of the proposed manuscripts to the other. In such instances, the party publishing the data will give due credit to the cooperation but assume full responsibility for any statements on which there is a difference of opinion.

o. Retention and Access Requirements for Records.

(1) All Recipient financial and programmatic records, supporting documents, statistical records, and other grants-related records shall be maintained and available for access in accordance with 2 CFR, Subpart D, Sections 200.333 through 200.337, Record Retention and Access.

(2) Inspector General's (IG's) Office Access to Records - Recipients shall provide additional access for the IG's office to examine Recipient's records and to interview officers/employees of Recipient.

p. Prohibition on Issuing Financial Assistance Awards to Entities that Require Certain Internal Confidentiality Agreements.

Section 743 of Division E, Title VII of the Consolidated and Further Continuing Resolution Appropriations Act of 2015 (Pub. L. 113-235) prohibits the use of funds appropriated or otherwise made available under that or any other Act for grants or cooperative agreements to an entity that requires employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.

Recipients must not require their employees or contractors seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.

Recipients must notify their employees or contractors that existing internal confidentiality agreements covered by this condition are no longer in effect

2. Order of Precedence. Any inconsistency in this Agreement shall be resolved by giving precedence in the following order: (a) Any national policy requirements and administrative management standards; (b) 2 CFR. Part 200; (c) requirements of the applicable OMB Circulars and Treasury regulations; (d) special terms and conditions; (e) all Agreement sections, documents, exhibits, and attachments; (f) the SNPLMA IA; and (g) the Recipient's project proposal.

11. SPECIAL TERMS AND CONDITIONS

A. Deposit of Publications. In addition to any requirements listed in the Project Management Plan, two (2) copies of each applicable publication produced under this Agreement shall be sent to the Natural Resources Library with a transmittal that identifies the sender and the publication, and states that the publication is intended for deposit in the Natural Resources Library. Publications shall be sent to the following address:

U.S. Department of the Interior
Natural Resources Library
Interior Service Center
Gifts and Exchanges Section
1849 C Street, N.W.
Washington, D.C. 20240

12. DEFINITIONS & ACRONYMS

Agency Review: If a Recipient has a history of poor performance, financial instability, has a management system not meeting standards prescribed by the Uniform Administrative Requirements, has not conformed to the terms and conditions of the award, and/or is not otherwise responsible in safeguarding federal funds, they may be placed on Agency Review. Agency Review limits a Recipient's access to funds by requiring that all payments must be requested, reviewed, and approved prior to their being released.

Award Recipient: The Award Recipient is the Recipient's individual who is authorized to act for the applicant and to assume the obligations imposed by the Federal laws, regulations, requirements, and conditions that apply to grant applications or grant awards.

BLM: Bureau of Land Management may, also be referred to as Bureau.

CFR: Code of Federal Regulations.

DOI: Department of the Interior.

FFR: Federal Financial Report or Standard Form (SF) 425.

Financial Assistance Agreement: This grant or cooperative agreement. The term grant is defined as all Federal financial assistance that provides support or stimulation to accomplish a public purpose. Use of the term "grant" includes grants and/or cooperative agreements awarded by the Federal Government to eligible recipients.

FY: Federal Fiscal Year which runs from October 1 through September 30 each year.

GMO: Grants Management Officer, the only individual in the BLM who is authorized to obligate funds, award, modify, and/or terminate assistance agreements.

GMS: Grants Management Specialist, the administrative individual authorized to prepare assistance agreement awards and modifications, but who cannot obligate funds, award, modify, and/or terminate the agreement.

IA: The SNPLMA Implementation Agreement (February 5, 2013), developed by Federal agencies, in coordination with State and local governments, and interested parties, provides specific guidelines for implementing SNPLMA. SNPLMA IA is on line at: <http://www.nv.blm.gov/snplma/index.htm>.

NTE: Not-to-exceed amount, the maximum Federal funding amount available for reimbursement to the Recipient.

OMB: The Office of Management and Budget. OMB leads development of government-wide policy to assure that grants are managed properly and that Federal dollars are spent in accordance with applicable laws and regulations. OMB Circulars that apply to this agreement may be found on the OMB Website, URL: http://www.whitehouse.gov/omb/circulars_default/.

PI: The BLM Project Inspector, the technical advisor assisting the BLM Program Officer in administering and monitoring the technical aspects of the agreement. The Project Inspector is not authorized to modify this Agreement or obligate the Government in any way.

PO: The BLM Program Officer, appointed for the purposes of monitoring the technical aspects of the Agreement. The PO will work closely with the RPM and is authorized to clarify technical requirements, and review and approve work which is clearly within the objectives specified in this Agreement. The PO will review financial, performance, and youth employment reports, and review and recommend approval of payments to the GMO if a recipient is on Agency Review. The PO is not authorized to modify this Agreement or obligate the Government in any way.

Recipient: The organization and/or individual named in Box 5 of the "Grant and Cooperative Agreement" cover sheet.

RPM: The Recipient's Project or Program Manager, designated to direct the project or activity being supported by the Agreement. The RPM is responsible and accountable to the Recipient and BLM for the proper implementation of the project or activity.

SNPLMA: The Southern Nevada Public Lands Management Act of 1998, as amended, authorizes the Secretary of the Interior to expend funds from the SNPLMA Special Account for the development of parks, trails, and natural areas in: Clark County, Lincoln County, White Pine County, Washoe County (subject to paragraph 4) and Carson City (subject to paragraph 5), the City of Las Vegas, the City of North Las Vegas, and the City of Henderson, the Southern Nevada Water Authority, the Regional Flood Control District, and the Clark County Water Reclamation District, pursuant to a cooperative agreement with a local government or regional governmental entity.

U.S.C.: United State Code, the consolidated codification of all general and permanent laws of the United States.

13. FULL TEXT TERMS AND CONDITIONS

1. Department of Interior Conflict of Interest Term and Condition:

a. The Recipient must establish safeguards to prohibit its employees and Subrecipients from using their positions for purposes that constitute or present the appearance of a personal or organizational conflict of interest. The Recipient is responsible for notifying the Grants Officer in writing of any actual or potential conflicts of interest that may arise during the life of this award. Conflicts of interest include any relationship or matter which might place the Recipient or its employees in a position of conflict, real or apparent, between their responsibilities under the Agreement and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Recipient and/or Recipient's employees and Sub-recipients in the matter.

b. The Grants Officer and the servicing Ethics Counselor will determine if a conflict of interest exists. If a conflict of interest exists, the Grants Officer will determine whether a mitigation plan is feasible. Mitigation plans must be approved by the Grants Officer in writing. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award.

c. Failure to make required disclosures may result in any of the remedies described in 2 CFR § 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

d. Definitions:

(1) Conflict of Interest is defined as any relationship or matter which might place the Recipient, its employees, and/or its Subrecipients in a position of conflict, real or apparent, between their responsibilities under the Agreement and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Recipient and/or Recipient's employees and Subrecipients in the matter.

(2) Close Personal Relationship means a Federal award program employee's childhood or other friend, sibling, or other family relations that may compromise or impair the fairness and impartiality of the Proposal Evaluator and Advisor and Grants Officer in the review, selection, award, and management of a financial assistance award.

(3) Discretionary Federal Financial Assistance means Federal awards including grants and agreements that are awarded at the discretion of the agency.

(4) Employment means:

(a) In any capacity, even if otherwise permissible, by any applicant or potential applicant for a Federal financial assistance award;

(b) Employment within the last 12 months with a different organization applying for some portion of the award's approved project activities and funding to complete them OR expected to apply for and to receive some portion of the award; and/or

(c) Employment with a different organization of any member of the organization employee's household or a relative with whom the organization's employee has a close personal relationship who is applying for some portion of the award's approved project activities and funding to complete them OR expected to apply for and to receive some portion of the award.

(d) Non-Federal entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal award as a Recipient or Subrecipient.

(e) Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term Recipient does not include Subrecipients.

(f) Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program, but does not include an individual who is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

2. Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5,

“Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the Government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—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 non-Federal award.

(J) See §200.322 Procurement of recovered materials.

3. Appendix XII to Part 200—Award Term and Condition for Recipient Integrity and Performance Matters

A. Reporting of Matters Related to Recipient Integrity and Performance

1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the Recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five year period; and
- c. Is one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

(ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

(1) Only the Federal share of the funding under any Federal award with a Recipient cost share or match; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

4. MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (January 2015)

(a) Definitions. As used in this clause—

“United States” means the 50 states and the District of Columbia.

“Worker”—

(1) Means any person engaged in performing work on, or in connection with, a contract covered by Executive Order 13658, and

(i) Whose wages under such contract are governed by the Fair Labor Standards Act (29 U.S.C. chapter 8), the Service Contract Labor Standards statute (41 U.S.C. chapter 67), or the Wage Rate Requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV),

(ii) Other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541,

(iii) Regardless of the contractual relationship alleged to exist between the individual and the employer.

(2) Includes workers performing on, or in connection with, the contract whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c).

(3) Also includes any person working on, or in connection with, the contract and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.

(b) Executive Order Minimum Wage rate.

(1) The Contractor shall pay to workers, while performing in the United States, and performing on, or in connection with, this contract, a minimum hourly wage rate of \$10.10 per hour beginning January 1, 2015.

(2) The Contractor shall adjust the minimum wage paid, if necessary, beginning January 1, 2016 and annually thereafter, to meet the Secretary of Labor's annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determinations in the Federal Register no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on www.wdol.gov (or any successor Web site) and on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. The applicable published E.O. minimum wage is incorporated by reference into this contract.

(3) (i) The Contractor may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only if labor costs increase as a result of an increase in the annual E.O. minimum wage, and for associated labor costs and relevant subcontract costs. Associated labor costs shall include increases or decreases

that result from changes in social security and unemployment taxes and workers' compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.

(ii) Subcontractors may be entitled to adjustments due to the new minimum wage, pursuant to paragraph (b)(2). Contractors shall consider any subcontractor requests for such price adjustment.

(iii) The Contracting Officer will not adjust the contract price under this clause for any costs other than those identified in paragraph (b)(3)(i) of this clause, and will not provide duplicate price adjustments with any price adjustment under clauses implementing the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.

(4) The Contractor warrants that the prices in this contract do not include allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(5) A pay period under this clause may not be longer than semi-monthly, but may be shorter to comply with any applicable law or other requirement under this contract establishing a shorter pay period. Workers shall be paid no later than one pay period following the end of the regular pay period in which such wages were earned or accrued.

(6) The Contractor shall pay, unconditionally to each worker, all wages due free and clear without subsequent rebate or kickback. The Contractor may make deductions that reduce a worker's wages below the E.O. minimum wage rate only if done in accordance with 29 CFR 10.23, Deductions.

(7) The Contractor shall not discharge any part of its minimum wage obligation under this clause by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Labor Standards statute, the cash equivalent thereof.

(8) Nothing in this clause shall excuse the Contractor from compliance with any applicable Federal or State prevailing wage law or any applicable law or municipal ordinance establishing a minimum wage higher than the E.O. minimum wage. However, wage increases under such other laws or municipal ordinances are not subject to price adjustment under this subpart.

(9) The Contractor shall pay the E.O. minimum wage rate whenever it is higher than any applicable collective bargaining agreement(s) wage rate.

(10) The Contractor shall follow the policies and procedures in 29 CFR 10.24(b) and 10.28 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than \$30 a month in tips.

(c) (1) This clause applies to workers as defined in paragraph (a). As provided in that definition—

(i) Workers are covered regardless of the contractual relationship alleged to exist between the contractor or subcontractor and the worker;

(ii) Workers with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) are covered; and

(iii) Workers who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration,

Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.

(2) This clause does not apply to—

(i) Fair Labor Standards Act (FLSA)-covered individuals performing in connection with contracts covered by the E.O., i.e. those individuals who perform duties necessary to the performance of the contract, but who are not directly engaged in performing the specific work called for by the contract, and who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such contracts;

(ii) Individuals exempted from the minimum wage requirements of the FLSA under 29 U.S.C. 213(a) and 214(a) and (b), unless otherwise covered by the Service Contract Labor Standards statute, or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to—

(a) Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(a).

(b) Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(b).

(c) Those employed in a bona fide executive, administrative, or professional capacity (29 U.S.C. 213(a)(1) and 29 CFR part 541).

(d) Notice. The Contractor shall notify all workers performing work on, or in connection with, this contract of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Contractor shall post notice, utilizing the poster provided by the Administrator, which can be obtained at www.dol.gov/whd/govcontracts, in a prominent and accessible place at the worksite. Contractors that customarily post notices to workers electronically may post the notice electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

(e) Payroll Records.

(1) The Contractor shall make and maintain records, for three years after completion of the work, containing the following information for each worker:

- (i) Name, address, and social security number;
- (ii) The worker's occupation(s) or classification(s);
- (iii) The rate or rates of wages paid;
- (iv) The number of daily and weekly hours worked by each worker;
- (v) Any deductions made; and
- (vi) Total wages paid.

(2) The Contractor shall make records pursuant to paragraph (e)(1) of this clause available for inspection and transcription by authorized representatives of the Administrator. The Contractor shall also make such records available upon request of the Contracting Officer.

(3) The Contractor shall make a copy of the contract available, as applicable, for inspection or transcription by authorized representatives of the Administrator.

(4) Failure to comply with this paragraph (e) shall be a violation of 29 CFR 10.26 and this contract. Upon direction of the Administrator or upon the Contracting Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.

(5) Nothing in this clause limits or otherwise modifies the Contractor's payroll and recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, or any other applicable law.

(f) Access. The Contractor shall permit authorized representatives of the Administrator to conduct investigations, including interviewing workers at the worksite during normal working hours.

(g) Withholding. The Contracting Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld, from the Contractor under this or any other Federal contract with the same Contractor, sufficient to pay workers the full amount of wages required by this clause.

(h) Disputes. Department of Labor has set forth in 29 CFR 10.51, Disputes concerning contractor compliance, the procedures for resolving disputes concerning a contractor's compliance with Department of Labor regulations at 29 CFR part 10. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. These disputes include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the Department of Labor, or the workers or their representatives.

(i) Anti-retaliation. The Contractor shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to compliance with the E.O. or this clause, or has testified or is about to testify in any such proceeding.

(j) Subcontractor compliance. The Contractor is responsible for subcontractor compliance with the requirements of this clause and may be held liable for unpaid wages due subcontractor workers.

(k) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (k) in all subcontracts, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.

END OF AGREEMENT

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Agreement	Director's Backup
Petitioner: Julie A. Wilcox, Deputy General Manager, Administration	
Recommendations: That the Board of Directors approve and authorize the General Manager to sign an assistance agreement between the Bureau of Reclamation and the Authority, in substantially the same form as that attached hereto, to receive funding for aerial imagery acquisition of the Las Vegas Valley in support of the Water Smart Landscapes Program, and authorize the General Manager to approve future modifications only if the future modifications do not fiscally impact the Authority.	

Fiscal Impact:

If the above recommendation is approved, the Authority will receive grant funds from the Bureau of Reclamation in the amount of \$100,000. Grant funding is contingent on the Authority expending \$240,000 in matching funds over a two-year period. First year funds of \$177,349 are available in the Authority's current year Operating Budget. Funds for future year expenditures will be budgeted accordingly.

Background:

The Bureau of Reclamation (Reclamation) established the Water Conservation Field Services Program to provide funding for projects and activities that make more efficient use of existing water supplies through water conservation and efficiency in the Lower Colorado Region. In January 2016, the Authority submitted a grant proposal seeking \$100,000 to support an ongoing Clark County aerial imagery project, an important component of the WSL Program that identifies and locates landscape-conversion areas and remaining areas with conversion potential. This assists in targeted conservation efforts for removal of high water use landscaping. In addition to extending the region's water resources, the collected data will be shared with other local agencies through an Interlocal Agreement approved by the Board of Directors on September 17, 2015. The data also will be used by various federal, state, and regional agencies to support a wide variety of mapping and analytical purposes. The project will be implemented in Clark County, including the Las Vegas metropolitan area and Boulder City.

In April 2016, the Authority was notified that Reclamation approved a grant in an amount not to exceed \$100,000 over a two-year period. At this time, the Board is being asked to approve the attached Assistance Agreement, which includes the provisions necessary for the Authority to obtain this federal funding.

This agreement is being entered into pursuant to NRS 277.180 and Section 6(o) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved this agreement.

Respectfully submitted:


John J. Entsminger, General Manager
JJE:JAW:AMB:GAF:CAH:KH:kf
Attachment

AGENDA ITEM #	6
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**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
ASSISTANCE AGREEMENT**

1A. AGREEMENT NUMBER R16AP00041		1B. MOD NUMBER N/A		2. TYPE OF AGREEMENT <input checked="" type="checkbox"/> GRANT <input type="checkbox"/> COOPERATIVE AGREEMENT		3. CLASS OF RECIPIENT Special District Government	
4. ISSUING OFFICE Bureau of Reclamation Lower Colorado Regional P.O. Box 61470 Boulder City, Nevada 89006-1470				5. RECIPIENT Southern Nevada Water Authority 1001 South Valley View Boulevard Las Vegas, Nevada 89153			
				EIN #:		88-0278492	County:
				DUNS #:		135965650	Congress. Dist:
6. GRANTS MANAGEMENT SPECIALIST Susan Erickson, LC-10101 Bureau of Reclamation P.O. Box 61470 Boulder City, Nevada 89006-1470 Phone: 702-293-8051; Email: serickson@usbr.gov				7. RECIPIENT PROJECT MANAGER Kathy Flanagan Southern Nevada Water Authority 1001 South Valley View Boulevard Las Vegas, Nevada 89153 Phone: 702- 258-3173; E-mail: kathy.flanagan@snwa.com			
GRANTS OFFICER TECHNICAL REPRESENTATIVE Ken Isakson Bureau of Reclamation P.O. Box 61470 Boulder City, Nevada 89006-1470 Phone: 702-293-8042; E-mail: kisakson@usbr.gov				9A. INITIAL AGREEMENT EFFECTIVE DATE: See block 17a		9B. MODIFICATION EFFECTIVE DATE: N/A	
				10. COMPLETION DATE September 30, 2018			
11A. PROGRAM STATUTORY AUTHORITY P.L. 111-11 Omnibus Public Lands Management Act of 2009, Sec. 9504 (a)(1) (A)-(H)						11B. CFDA Number 15.530	
12. FUNDING INFORMATION		<u>RECIPIENT/OTHER</u>	<u>RECLAMATION</u>	13. REQUISITION NUMBER 0020098201			
Total Estimated Amount of Agreement		\$240,000.00	\$100,000.00	14A. ACCOUNTING AND APPROPRIATION DATA			
This Obligation		\$240,000.00	\$100,000.00	WBS: RY317363001000000			
Previous Obligation		\$0.00	\$0.00	Fund: 16XR0680A1			
Total Obligation		\$240,000.00	\$100,000.00	Cost Center: RR03046000			
Cost-Share %		71%	29%	UPC: 411G0000			
				14B. TREASURY ACCOUNT FUNDING SYMBOL 14X0680			
15. PROJECT TITLE Water Smart Landscapes Program Aerial Imagery Project							
16a. Acceptance of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the above-named recipient BY: _____ DATE: _____				17a. Award of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the United States of America, Department of the Interior, Bureau of Reclamation BY: _____ DATE: _____			
16b. NAME, TITLE, AND TELEPHONE NUMBER OF SIGNER John J. Entsminger General Manager Phone: 702-258-3100 <input type="checkbox"/> Additional signatures are attached				17b. NAME OF GRANTS OFFICER Diana Blake Grants Officer 702-293-8550			

Southern Nevada Water Authority

Approved as to form:

By: Diana Walsh Date: 7-5-16

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**Grant Agreement
Between
Bureau of Reclamation
And
Southern Nevada Water Authority
For
Water Smart Landscapes Program Aerial Imagery Project**

I I. OVERVIEW AND SCHEDULE

1. AUTHORITY

This Grant Agreement (Agreement) is entered into between the United States of America, acting through the Department of the Interior, Bureau of Reclamation, hereinafter referred to as “Reclamation,” and Southern Nevada Water Authority (SNWA), hereinafter referred to as the “Recipient” or “Grantee,” pursuant to the P.L. 111-11 Omnibus Public Lands Management Act of 2009,

Sec. 9504 (a)(1) (A)-(H). The following section, provided in full text, authorizes Reclamation to award this financial assistance Agreement:

SEC. 9504. WATER MANAGEMENT IMPROVEMENT.

(a) Authorization of Grants and Cooperative Agreements –

(1) AUTHORITY OF SECRETARY – The Secretary may provide any grant to, or enter into an Agreement with, any eligible applicant to assist the eligible applicant in planning, designing, or constructing any improvement - -

(A) to conserve water;

(B) to increase water use efficiency;

(C) to facilitate water markets;

(D) to enhance water management, including increasing the use of renewable energy in the management and delivery of water;

(E) to accelerate the adoption and use of advanced water treatment technologies to increase water supply;

(F) to prevent the decline of species that the United States Fish and Wildlife Service and National Marine Fisheries Service have proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (or candidate species that are being considered by those agencies for such listing but are not yet the subject of a proposed rule);

(G) to accelerate the recovery of threatened species, endangered species, and designated critical habitats that are adversely affected by Federal reclamation

projects or are subject to a recovery plan or conservation plan under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) under which the Commissioner of Reclamation has implementation responsibilities; or

(H) to carry out any other activity

(i) to address any climate-related impact to the water supply of the United States that increases ecological resiliency to the impacts of climate change; or

(ii) to prevent any water-related crisis or conflict at any watershed that has a nexus to a Federal reclamation project located in a service area.

2. PUBLIC PURPOSE OF SUPPORT OR STIMULATION

The SNWA will utilize this Agreement under the Water Conservation Field Services Program (WCFSP) to implement initiatives from its Water Conservation Plan (Plan) to reach its water conservation goals to reduce water use associated with the Colorado River watershed. Aerial imagery surveys allow the SNWA to detect changes in land cover over time, which enables the SNWA to target its landscape conversion efforts within the community. Change detection is highly dependent upon obtaining a chronologic sequence of images on an annual basis. The aerial imagery also aids in determining both the vegetation types and overall vegetation coverage throughout the Las Vegas Valley. This assists in targeted conservation efforts for removal of high water use plant and tree types. In addition to extending the region's water resources, the collected data also is shared with and used by various federal, state, local and regional agencies to support a wide variety of mapping and analytical purposes.

3. BACKGROUND AND OBJECTIVES

Since 2006, the SNWA has performed natural color and infrared aerial surveys of the Las Vegas Valley to enhance the effectiveness of the Water Smart Landscape (WSL) Program. Aerial imagery is an important component in identifying and locating landscape-conversion areas, and remaining conversion potential. Aerial imagery surveys allow the SNWA to detect changes in land cover over time, which enables the SNWA to target its conversion efforts within the community. Change detection is highly dependent upon obtaining a chronologic sequence of images on an annual basis. The aerial imagery also aids in determining both the vegetation types and overall vegetation coverage throughout the Las Vegas Valley. This assists in targeted conservation efforts for removal of high water use plant and tree types. In addition to extending the region's water resources, the collected data also is shared with and used by various federal, state, local and regional agencies to support a wide variety of mapping and analytical purposes.

4. PERIOD OF PERFORMANCE AND FUNDS AVAILABILITY

This Agreement becomes effective on the date shown in Block 17a of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. The Agreement shall remain in effect until the date shown in Block 10 of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement.

The period of performance for this Agreement may only be modified through written modification of the Agreement by a Reclamation Grants Officer (GO).

No legal liability on the part of the Government for any payment may arise until funds are made available, in writing, to the Recipient by the Grants Officer. The total estimated amount of federal funding for this Agreement is \$100,000.00, of which the initial amount of federal funds available is limited to \$100,000.00 as indicated by “this obligation” within Block 12 of Form 7-2279, United States of America, Department of the Interior, Bureau of Reclamation, Assistance Agreement. Subject to the availability of Congressional appropriations, subsequent funds will be made available for payment through written modifications to this Agreement by a Reclamation Grants Officer.

5. SCOPE OF WORK AND MILESTONES

This Agreement will be utilized by the SNWA to implement a water conservation initiative from its Water Conservation Plan. SNWA will hire a contractor to take aerial imagery photos in Clark County, Nevada, including the Las Vegas metropolitan area, Boulder City, and Laughlin. The total collection area for the 3-inch high-resolution imagery is approximately 600 square miles and falls within the US Geological Survey’s Great Basin Integrated Landscape Monitoring priority area.

The acquisition of both natural color and color-infrared (CIR) imagery are essential tools in the management and implementation of regional water-conservation initiatives. This data helps identify large lawn coverage areas, as well as densely covered vegetation areas. Identification of these areas allows the SNWA to look at land cover for the Las Vegas Valley, and target locations that can be marketed for lawn conversion and water savings. The data collected through this program also is used by program staff to help determine landscape conversion areas and to calculate area square footage for conversion to aid in rebate issuance. The imagery and conversion areas are later printed to a hardcopy map for the customer and the SNWA, who files each final, signed-off map into its tracking system and is ultimately recorded as an Official Property Record at Clark County. Water conserved through the WSL Program results in long-term recurring benefits to the community, and provides for more effective use of the community’s limited water resources. The collected data is shared with and used by various federal, state, local and regional agencies, supporting a wide variety of mapping and analytical purposes like urban forest coverage and heat-island studies currently being conducted in the Las Vegas Valley.

The following details the project timeline and process that will be used to acquire and process imagery twice, once in 2016 and again in 2017:

Imagery Acquisition – A 3-inch aerial imagery acquisition totaling 600 square miles of the Las Vegas metropolitan area will be acquired from a vendor that was selected from an RFP in late 2015. This vendor will also be acquiring another 900 square miles of 6-inch resolution imagery for rural areas of Clark County.

Project Timeline – The following details the estimated timeline for project implementation for this project for each year (2016 and 2017). Aerial collection tasks will be performed between March 1 and April 15 of each year coinciding with beginning of growing season in the Mojave Desert.

Task	Date
Project Planning and Survey Work	January – February, 2017
Imagery Acquisition/Collection	March 1 – April 15, 2017
Processing of sample tiles for inspection	May 15, 2017
Processing and rectification of Las Vegas Valley Imagery (Delivered in multiple installments)	May 1 – July 15, 2017
Reprocessing of any tiles with errors Identified	July 15 – August 12, 2017
Project Completion Date/Total	August 15-December 31, 2017

Conditions During Acquisition – Imagery will not be acquired when the sun elevation angle is less than thirty (30) degrees above the horizon. Acquisition will take place when atmospheric conditions are such that clear and well-defined images of physical features (like buildings, trees, and other ground cover) can be obtained. Imagery will not be acquired during photogrammetric obstruction conditions (like clouds & cloud shadows, fog, rain, snow except in mountain terrain outlined by SNWA, smog, smoke, haze, or dust). In areas of the Las Vegas Strip and Downtown Las Vegas, the sun angle should be no less than forty-five (45) degrees above the horizon during acquisition. Additionally, sufficient flight coverage (overlap/sidelap) should be performed to ensure that buildings are as vertical as possible and that transportation corridors are visible in their entirety, not obscured by buildings or other structures, such as signs.

Product Acceptance - All image tiles delivered will be subject to a rigorous QA/QC process internal to SNWA. All QA/QC results will be reviewed with CONSULTANT via on site meetings, if possible, or conference calls or webinars. Arrangements will be made for necessary corrections and deliveries to SNWA. Visual inspection of data will be performed by the SNWA for the following:

- a. Completeness of data to cover specified geographic extent, with no omissions or corrupt data
- b. Tonal balance for all imagery
- c. Extreme tonal or color variation across seamlines, tile boundaries or within tile overlap area
- d. Ground Sample Distance to ensure it meets the specified pixel resolution
- e. Horizontal accuracy
- f. Seamlessness
- g. Excessive bridge tilt
- h. Obstruction of major transportation features by buildings or shadows
- i. Feature clipping at tile boundaries or along seamlines

- j. Building/structure warp
- k. Over-/under-saturation
- l. Evidence of image compression
- m. Smearing
- n. Verification of metadata
- o. Maximum allowable misjoin pixels between well-defined features is +/- 4 pixels
- p. Specular reflections and other artifacts should be minimized
- q. Building lean, especially along the Las Vegas Strip and downtown Las Vegas

Product Technical and Delivery Specifications -

- a. Imagery Type: The aerial photography product will be one (1) of the following types:
 - i. One four-band imagery product, combined natural color imagery (RGB) and color infrared imagery (CIR), with 8-bit color depth
 - ii. One four-band imagery product, combined natural color imagery (RGB) and color infrared imagery (CIR), with 16-bit color depthSNWA will notify CONSULTANT prior to imagery acquisition on which format type will need to be processed.
- b. Imagery Resolution: Resolution will be Pixel resolution of no greater than 0.5-foot, or 6 inch, or 15cm. The CONSULTANT may resample from a smaller pixel resolution to achieve desired resolution, but the CONSULTANT may not resample from a larger pixel resolution to achieve desired resolution. Horizontal accuracy of the imagery should conform to ASPRS Horizontal Data Accuracy Standards for Digital Orthoimagery where the Horizontal Accuracy Class RMSE is equal to 2X the imagery pixel resolution, except where otherwise specified in this document.
- c. Radiometry: Seamlines between the overlapping images will be chosen to minimize tonal variations. Changes in color balance across the project should be gradual. Abrupt tonal variations between tiles or across seamlines will not be acceptable.
- d. Tiling, Overlap, and Naming Conventions: Digital imagery will be tiled by the CONSULTANT based on specifications provided by SNWA, which mimic the Public Land Survey System (PLSS) Township/Range/Section model. There will be a 100 pixel overlap for each of the tiles. Naming convention for each tile will be based on the Clark County imagery naming convention, which will be given to Successful CONSULTANT upon award.
- e. Aero Triangulation (AT) data: If AT data is used in the orthorectification process, the data shall consist of a minimum of refined image coordinates and adjusted ground coordinates. The CONSULTANT will provide a comprehensive AT report, if aero triangulation is performed.
- f. Supplemental Ground Control: The ground control plan needed for the project will be provided by the CONSULTANT to the SNWA. Both SNWA and CONSULTANT will sign off on final ground control plan, and SNWA will implement the final plan prior to imagery acquisition.

- g. Format: Final digital photography product will be delivered as uncompressed GeoTIFF image file format, Version 1.8.2 and readable through ArcGIS software (version 10.3 or later). Data shall NOT be compressed during any phase of the production process. GeoTIFF files shall include, as a minimum, the following GeoTIFF tags and keys:
- ModelTiePointTag
 - ModelPixelScaleTag or ModelTransformationTag
 - GTModelTypeGeoKey
 - GTRasterTypeGeoKey
 - ProjectedCSTypeGeoKey
- h. Metadata: The metadata shall conform to the International Organization of Standards (ISO) 19115-1:2014 or as amended and current FGDC content standards for Digital Geospatial Metadata describing the aerial production process shall be submitted in extensible markup language (.xml) format for each tile. Information can be found at the following websites:
- <http://www.fgdc.gov/metadata/geospatial-metadata-standards>
 - http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=53798
- i. Projection – Datum & Coordinates: Digital photography files will be projected and delivered in State Plane NAD83 Nevada East FIPS 2701 in US Survey feet. The vertical datum for the supporting elevation data used to create the high-resolution digital imagery shall be North American Vertical Datum of 1988 (NAVD88).
- j. Delivery Media: All files shall be delivered on portable hard drives.
- k. Flight Diagram: A flight diagram that illustrates the project area outline, the location of flight lines, and approximate location of image centers shall be provided in shapefile format, suitable for loading into ArcGIS, version 10.3 or later. This information should be provided at the same time as imagery is being delivered.
- l. Calibration Reports: Camera calibration report(s) for digital sensors, the latest Product Characterization Report of the instrument used shall be included as a product deliverable.
- m. Seamline Shapefile: CONSULTANT will provide SNWA with shapefile representing the location of seamlines of imagery tile mosaics. The shapefile is utilized to assist with QA process and items listed below in Product Acceptance.
- n. Exterior Orientation file: CONSULTANT will provide SNWA with .xlsx or .csv format file which includes x-y coordinates, elevation (MSL), Omega, Phi Kappa and GPS time. The shapefile is utilized to assist with QA process and items listed below in Product Acceptance.

Reflights - Unacceptable coverage resulting from deviation from the digital aerial photography requirements shall be corrected at the CONSULTANTs expense. The same camera used on the original flights shall be used on any reflights, and should be done at the earliest opportunity, as directed by SNWA. If the camera is experiencing technical problems, the CONSULTANT will be responsible for obtaining a similar camera to complete reacquisition.

6. RESPONSIBILITY OF THE PARTIES

6.1 Recipient Responsibilities

6.1.1 The Recipient shall carry out the Scope of Work (SOW) in accordance with the terms and conditions stated herein. The Recipient shall adhere to Federal, state, and local laws, regulations, and codes, as applicable, and shall obtain all required approvals and permits. If the SOW contains construction activities, the Recipient is responsible for construction inspection, oversight, and acceptance. If applicable, the Recipient shall also coordinate and obtain approvals from site owners and operators.

6.2 Reclamation Responsibilities

6.2.1 Reclamation will monitor and provide Federal oversight of activities performed under this Agreement. Monitoring and oversight includes review and approval of financial status and performance reports, payment requests, and any other deliverables identified as part of the SOW. Additional monitoring activities may include site visits, conference calls, and other on-site and off-site monitoring activities. At the Recipient's request, Reclamation may also provide technical assistance to the Recipient in support of the SOW and objectives of this Agreement.

7. BUDGET

7.1 Budget Estimate. The following is the estimated budget for this Agreement. As Federal financial assistance agreements are cost-reimbursable, the budget provided is for estimation purposes only. Final costs incurred under the budget categories listed may be either higher or lower than the estimated costs. All costs incurred by the Recipient under this Agreement must be in accordance with any pre-award clarifications conducted between the Recipient and Reclamation, as well as with the terms and conditions of this Agreement. Final determination of the allowability, allocability, or reasonableness of costs incurred under this Agreement is the responsibility of the Grants Officer. Recipients are encouraged to direct any questions regarding allowability, allocability or reasonableness of costs to the Grants Officer for review prior to incurrence of the costs in question.

BUDGET ITEM DESCRIPTION	RECLAMATION FUNDING	RECIPIENT FUNDING	TOTAL COST
Salaries and Wages FY 2016-2017		\$50,000	\$50,000
Salaries and Wages FY 2017-2018		\$50,000	\$50,000
Contractual/Consultant	\$50,000	\$70,000	\$120,000
Contractual/Consultant	\$50,000	\$70,000	\$120,000
Total Project Cost	\$100,000	\$240,000	\$340,000

FUNDING SOURCES	% TOTAL PROJECT COST	TOTAL COST BY SOURCE
RECIPIENT FUNDING	71%	\$240,000.00
OTHER NON-FEDERAL FUNDING	0%	\$0.00
RECLAMATION FUNDING	29%	\$100,000.00
OTHER FEDERAL FUNDING	0%	\$0.00
TOTALS	100%	\$340,000.00

7.2 Cost Sharing Requirement

At least 50% non-Federal cost-share is required for costs incurred under this Agreement. If pre-award costs are authorized, reimbursement of these costs is limited to federal cost share percentage identified in this Agreement.

The Federal share of allowable costs shall not be expended in advance of the Recipient's non-Federal share. It is expected that expenditure of Federal and non-Federal funds based upon the cost share percentage above shall occur concurrently. If a bona fide need arises which requires the expenditure of Federal funds in advance of the Recipient share, then the Recipient must request written approval from the Grants Officer prior to the expenditure. Recipient's may expend their agreed upon share of costs in advance of the expenditure of Federal funds without prior written approval.

7.3 Pre-Award Incurrence of Costs

The Recipient is not authorized to incur costs prior to the award of this Agreement. Costs incurred prior to the award of this Agreement are not allowable.

7.4 Allowable Costs (2 CFR Subpart E §200.400 through §200.475)

Costs incurred for the performance of this Agreement must be allowable, allocable to the project, and reasonable. The following regulations, codified within the Code of Federal Regulations (CFR), governs the allowability of costs for Federal financial assistance:

2 CFR Subpart E, "Cost Principles"

Expenditures for the performance of this Agreement must conform to the requirements within this CFR. The Recipient must maintain sufficient documentation to support these expenditures. Questions on the allowability of costs should be directed to the GO responsible for this Agreement.

The Recipient shall not incur costs or obligate funds for any purpose pertaining to operation of the program or activities beyond the expiration date stated in the Agreement. The only costs which are authorized for a period of up to 90 days following the project performance period are those strictly associated with closeout activities for preparation of the final reports.

7.5 Revision of Budget and Program Plans (2 CFR §200.308)

In accordance with 2 CFR §200.308(g) the recipient must request prior written approval for any of the following changes:

- a) A change in the approved scope of work or associated tasks, even if there is no associated budget revisions.
- b) Revisions which require additional Federal funds to complete the project.
- c) Revisions which involve specific costs for which prior written approval requirements may be imposed consistent with OMB cost principles listed in 2 CFR 200 Subpart E "Cost Principles".

7.6 Modifications

Any changes to this Agreement shall be made by means of a written modification. Reclamation may make changes to the Agreement by means of a unilateral modification to address administrative matters, such as changes in address, no-cost time extensions, changes to Reclamation Key Personnel, or the addition of previously agreed upon funding. Additionally, a unilateral modification may be utilized by Reclamation if it should become necessary to suspend or terminate the Agreement in accordance with 2 CFR §200.338.

All other changes shall be made by means of a bilateral modification to the Agreement. No oral statement made by any person, or written statement by any person other than the GO, shall be allowed in any manner or degree to modify or otherwise effect the terms of the Agreement.

All requests for modification of the Agreement shall be made in writing, provide a full description of the reason for the request, and be sent to the attention of the GO. Any request for project extension shall be made at least 45 days prior to the expiration date of the Agreement or the expiration date of any extension period that may have been previously granted. Any determination to extend the period of performance or to provide follow-on funding for continuation of a project is solely at the discretion of Reclamation.

8. KEY PERSONNEL

8.1 Recipient's Key Personnel

The Recipient's Project Manager for this Agreement shall be:

Kathy Flanagan
Southern Nevada Water Authority
1001 South Valley View Boulevard
Las Vegas, Nevada 89153
Phone: 702- 258-3173; E-mail: kathy.flanagan@snwa.com

8.2 Reclamation's Key Personnel

8.2.1 Grants Officer (GO):

Diana Blake
Bureau of Reclamation
P.O. Box 61470
Boulder City, NV 89006
Phone: 702-293-8550; Email: dmblake@usbr.gov

- (a) The GO is the only official with legal delegated authority to represent Reclamation. The GO's responsibilities include, but are not limited to, the following:
- (1) Formally obligate Reclamation to expend funds or change the funding level of the Agreement;
 - (2) Approve through formal modification changes in the scope of work and/or budget;
 - (3) Approve through formal modification any increase or decrease in the period of performance of the Agreement;
 - (4) Approve through formal modification changes in any of the expressed terms, conditions, or specifications of the Agreement;
 - (5) Be responsible for the overall administration, management, and other non-programmatic aspects of the Agreement including, but not limited to, interpretation of financial assistance statutes, regulations, circulars, policies, and terms of the Agreement;
 - (6) Where applicable, ensures that Reclamation complies with the administrative requirements required by statutes, regulations, circulars, policies, and terms of the Agreement.

8.2.2 Grants Officer Technical Representative (GOTR):

Ken Isakson
Bureau of Reclamation
P.O. Box 61470
Boulder City, Nevada 89006-1470
Phone: 702-293-8042; E-mail: kisakson@usbr.gov

- (a) The GOTR's authority is limited to technical and programmatic aspects of the Agreement. The GOTR's responsibilities include, but are not limited to, the following:
- (1) Assist the Recipient, as necessary, in interpreting and carrying out the scope of work in the Agreement;
 - (2) Review, and where required, approve Recipient reports and submittals as required by the Agreement;

- (3) Where applicable, monitor the Recipient to ensure compliance with the technical requirements of the Agreement;
 - (4) Where applicable, ensure that Reclamation complies with the technical requirements of the Agreement;
- (b) The GOTR does not have the authority to and may not issue any technical assistance which:
- (1) Constitutes an assignment of additional work outside the scope of work of the Agreement;
 - (2) In any manner causes an increase or decrease in the total estimated cost or the time required for performance; or
 - (3) Changes any of the expressed terms, conditions, or specifications of the Agreement.

8.2.3 Grants Management Specialist. The Grants Management Specialist is the primary administrative point of contact for this Agreement and should be contacted regarding issues related to the day-to-day management of the Agreement. Requests for approval regarding the terms and conditions of the Agreement, including but not limited to modifications and prior approval, may only be granted, in writing, by a Reclamation Grants Officer. Please note that for some Agreements, the Grants Officer and the Grants Management Specialist may be the same individual.

Susan Erickson, LC-10101
Bureau of Reclamation
P.O. Box 61470
Boulder City, NV 89006-1470
Phone: 702-293-8051; Email: serickson@usbr.gov

9. REPORTING REQUIREMENTS AND DISTRIBUTION

9.1 Noncompliance. Failure to comply with the reporting requirements contained in this Agreement may be considered a material noncompliance with the terms and conditions of the award. Noncompliance may result in withholding of payments pending receipt of required reports, denying both the use of funds and matching credit for all or part of the cost of the activity or action not in compliance, whole or partial suspension or termination of the Agreement, recovery of funds paid under the Agreement, withholding of future awards, or other legal remedies in accordance with 2 CFR §200.338.

9.2 Financial Reports. Financial Status Reports shall be submitted by means of the SF-425 and shall be submitted according to the Report Frequency and Distribution schedule below. All financial reports shall be signed by an Authorized Certifying Official for the Recipient's organization.

9.3 Monitoring and reporting program performance (2 CFR §200.328)

(a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities.

(b) Non-construction performance reports. The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).

(1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.

(2) The non-Federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:

(i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.

(ii) The reasons why established goals were not met, if appropriate.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(c) Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.

(d) Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Reclamation requires Performance reporting for all financial assistance awards, both Construction and non-Construction. Performance reports for Construction Agreements shall meet the same minimum requirements outlined in 2 CFR §200.328(b)(2) above.

9.4 Report Frequency and Distribution. The following table sets forth the reporting requirements for this Agreement. Please note the first report due date listed for each type of report.

Required Reports	Interim Reports	Final Report
Performance Report		
Format	No specific format required. See content requirements within Section 9.3 (2 CFR §200.328) above.	Summary of activities completed during the entire period of performance is required. See content requirements within Section 9.3 (2 CFR §200.328) above.
Reporting Frequency	Semi-Annual	Final Report due upon completion of Agreement's period of performance
Reporting Period	For Semi-Annual Reporting: October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date*	For Semi-Annual Reporting: Within 30 days after the end of the Reporting Period.	Within 90 days after the completion date of the Agreement
First Report Due Date	The first performance report is due for reporting period ending September 30, 2016.	N/A
Submit to:	LCFA@usbr.gov	LCFA@usbr.gov
Federal Financial Report		
Format	SF-425 (all sections must be completed)	SF-425(all sections must be completed)
Reporting Frequency	Semi-Annual	Final Report due upon completion of Agreement's period of performance
Reporting Period	For Semi-Annual Reporting: October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date*	For Semi-Annual Reporting: Within 30 days after the end of the Reporting Period.	Within 90 days after the completion date of the Agreement
First Report Due Date	The first Federal financial report is due for reporting period ending September 30, 2016.	N/A
Submit to:	LCFA@usbr.gov	LCFA@usbr.gov

* If the completion date is prior to the end of the next reporting period, then no interim report is due for that period. Instead, the Recipient is required only to submit the final financial and performance reports, which will cover the entire period of performance including the last abbreviated reporting period.

10. REGULATORY COMPLIANCE

The Recipient agrees to comply or assist Reclamation with all regulatory compliance requirements and all applicable state, Federal, and local environmental and cultural and paleontological resource protection laws and regulations as applicable to this project. These may include, but are not limited to, the National Environmental Policy Act (NEPA), including the Council on Environmental Quality and Department of the Interior regulations implementing NEPA, the Clean Water Act, the Endangered Species Act, consultation with potentially affected Tribes, and consultation with the State Historic Preservation Office.

Certain environmental and other associated compliance are Federal responsibilities, and will occur as appropriate. Reclamation will identify the need for and will complete any appropriate environmental compliance requirements, as identified above, pertinent to Reclamation pursuant to activities specific to this assisted activity. Environmental and other associated compliance shall be completed prior to the start of this project. As such, notwithstanding any other provision of this Agreement, Reclamation shall not provide any funds to the Recipient for Agreement purposes, and the Recipient shall not begin implementation of the assisted activity described in this Agreement, until Reclamation provides written notice to the Recipient that all applicable environmental and regulatory compliance analyses and clearances have been completed and that the Recipient may begin implementation of the assisted activity. If the Recipient begins project activities that require environmental and other regulatory compliance approval, such as construction activities, prior to receipt of written notice from Reclamation that all such clearances have been obtained, then Reclamation reserves the right to unilaterally terminate this Agreement for cause.

If during the course of any activities associated with the execution of this Agreement, the grantee becomes aware of discovery of any historic architectural and/or archaeological districts, sites, buildings, structures, or objects 50 years or older, the grantee shall, within the limits of its legal authority, request that activities immediately cease and consultation be conducted with the State Historic Preservation Office pursuant to 36 CFR Part 800.6.

11. AGRICULTURAL OPERATIONS [Public Law 111-11, Section 9504(a)(3)(B)]

The Recipient shall not use any associated water savings to increase the total irrigated acreage of the Recipient or otherwise increase the consumptive use of water in the operation of the Recipient, as determined pursuant to the law of the State in which the operation of Recipient is located.

12. TITLE TO IMPROVEMENTS [Public Law 111-11, Section 9504(a)(3)(D)]

If the activities funded under this Agreement result in an infrastructure improvement to a federally owned facility, the Federal Government shall continue to hold title to the facility and improvements to the facility.

**13. OPERATION AND MAINTENANCE COSTS [Public Law 111-11,
Section 9504(a)(3)(E)(iv.)]**

The non-Federal share of the cost of operating and maintaining any infrastructure improvement funded through this Agreement shall be 100 percent.

14. LIABILITY [Public Law 111-11, Section 9504(a)(3)(F)]

(a) **IN GENERAL.**—Except as provided under chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”), the United States shall not be liable for monetary damages of any kind for any injury arising out of an act, omission, or occurrence that arises in relation to any facility created or improved under this Agreement, the title of which is not held by the United States.

(b) **TORT CLAIMS ACT.**—Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”).

II. RECLAMATION STANDARD TERMS AND CONDITIONS

1. REGULATIONS

The regulations at 2 CFR Subtitle A, Chapter II, Part 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, are hereby incorporated by reference as though set forth in full text. Failure of a Recipient to comply with any applicable regulation or circular may be the basis for withholding payments for proper charges made by the Recipient and/or for termination of support.

2. PAYMENT

2.1 Payment. (2 CFR §200.305)

(a) For states, payments are governed by Treasury-State CMIA Agreements and default procedures codified at 31 CFR Part 205 “Rules and Procedures for Efficient Federal-State Funds Transfers” and TFM 4A-2000 Overall Disbursing Rules for All Federal Agencies.

(b) For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also §200.302 Financial management paragraph (b)(6). Except as noted elsewhere in this part, Federal agencies must require recipients to use only OMB-approved standard governmentwide information collection requests to request payment.

(1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions.

(2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the recipient.

(i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and must comply with applicable guidance in 31 CFR part 208.

(ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).

(3) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met, when the Federal awarding agency sets a specific condition per §200.207 Specific conditions, or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the Federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the Federal awarding agency or pass-through entity reasonably believes the request to be improper.

(4) If the non-Federal entity cannot meet the criteria for advance payments and the Federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient working capital, the Federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the Federal awarding agency or pass-through entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the non-Federal entity's disbursing cycle. Thereafter, the Federal awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.

(5) Use of resources before requesting cash advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

(6) Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of §§200.207 Specific conditions, Subpart D—Post Federal Award Requirements of this part, 200.338 Remedies for Noncompliance, or one or more of the following applies:

(i) The non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award.

(ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A-129, "Policies for Federal Credit Programs and Non-Tax Receivables." Under such conditions, the Federal awarding agency or pass-through entity may, upon reasonable notice, inform the non-Federal entity that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the non-Federal entity upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with §200.342 Effects of suspension and termination.

(iv) A payment must not be made to a non-Federal entity for amounts that are withheld by the non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(7) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows.

(i) The Federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for the receipt, obligation and expenditure of funds.

(ii) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

(8) The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply.

(i) The non-Federal entity receives less than \$120,000 in Federal awards per year.

(ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.

(iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(iv) A foreign government or banking system prohibits or precludes interest bearing accounts.

(9) Interest earned amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of payment in the memo area (often referred to as “addenda records” by Financial Institutions) as that will assist in the timely posting of interested earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information if the payment originated from ASAP, NSF or another federal agency payment system. The remittance must be submitted as follows:

(i) For ACH Returns:

Routing Number: 051036706

Account number: 303000

Bank Name and Location: Credit Gateway—ACH Receiver St. Paul, MN

(ii) For Fedwire Returns*:

Routing Number: 021030004

Account number: 75010501

Bank Name and Location: Federal Reserve Bank Treas NYC/Funds Transfer Division New York, NY

(* Please note organization initiating payment is likely to incur a charge from your Financial Institution for this type of payment)

(iii) For International ACH Returns:
Beneficiary Account: Federal Reserve Bank of New York/ITS (FRBNY/ITS)
Bank: Citibank N.A. (New York)
Swift Code: CITIUS33
Account Number: 36838868
Bank Address: 388 Greenwich Street, New York, NY 10013 USA
Payment Details (Line 70): Agency
Name (abbreviated when possible) and ALC Agency POC: Michelle Haney,
(301) 492-5065

(iv) For recipients that do not have electronic remittance capability, please make check** payable to: "The Department of Health and Human Services."
Mail Check to Treasury approved lockbox:
HHS Program Support Center, P.O. Box 530231, Atlanta, GA 30353-0231
(** Please allow 4-6 weeks for processing of a payment by check to be applied to the appropriate PMS account)

(v) Any additional information/instructions may be found on the PMS Web site at <http://www.dpm.psc.gov/>.

2.2 Payment Method

Recipients must utilize the Department of Treasury Automated Standard Application for Payments (ASAP) payment system to request advance or reimbursement payments. ASAP is a Recipient-initiated payment and information system designed to provide a single point of contact for the request and delivery of Federal funds. ASAP is the only allowable method for request and receipt of payment. Recipient procedures must minimize the time elapsing between the drawdown of Federal funds and the disbursement for Agreement purposes.

Recipients must complete enrollment in ASAP for all active financial assistance Agreements with Reclamation. ASAP enrollment is specific to each Agency and Bureau; meaning, if a Recipient organization has an existing ASAP account with another Federal agency or Department of the Interior bureau, but not with Reclamation, then the Recipient must initiate and complete enrollment in ASAP under Reclamation's Agency Location Code (1425) through submission of an enrollment form found at www.usbr.gov/mso/aamd/asap.html. For information regarding ASAP enrollment, please visit www.usbr.gov/mso/aamd/asap.html, or contact the Reclamation ASAP Help Desk BOR_ASAP_Enroll@usbr.gov. Further information regarding ASAP may be obtained from the ASAP website at <http://www.fms.treas.gov/asap>.

In accordance with 2 CFR 25.200(b)(2) the Recipient shall "Maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by an agency". If the Recipient allows their SAM registration to lapse, the Recipient's accounts within ASAP will be automatically suspended by Reclamation until such time as the Recipient renews their SAM registration.

3. PROCUREMENT STANDARDS (2 CFR§200.317 through §200.326)

§200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.

§200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)

(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a

more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.212 Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)

(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

§200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (2) Proposals must be solicited from an adequate number of qualified sources;
- (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must 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 CFR 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 program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

§200.323 Contract cost and price.

- (a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.324 Federal awarding agency or pass-through entity review.

- (a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- (b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
- (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
 - (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

- (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;
- (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

4. EQUIPMENT (2 CFR §200.313)

See also §200.439 Equipment and other capital expenditures.

(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the non-Federal entity subject to the following conditions:

- (1) Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
- (2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.
- (3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section.

(b) A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.

(c) Use.

(1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:

- (i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then

(ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.

(2) During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in §200.307 Program income to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.

(4) When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

- (1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.
- (2) Except as provided in §200.312 Federally-owned and exempt property, paragraph (b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
- (3) The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.
- (4) In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75884, Dec. 19, 2014]

5. SUPPLIES (2 CFR §200.314)

See also §200.453 Materials and supplies costs, including costs of computing devices.

(a) Title to supplies will vest in the non-Federal entity upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. See §200.313 Equipment, paragraph (e)(2) for the calculation methodology.

(b) As long as the Federal Government retains an interest in the supplies, the non-Federal entity must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

6. INSPECTION

Reclamation has the right to inspect and evaluate the work performed or being performed under this Agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If Reclamation performs inspection or evaluation on the premises of the Recipient or a sub-Recipient, the Recipient shall furnish and shall require sub-recipients to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

7. AUDIT REQUIREMENTS (2 CFR Subpart F §200.501)

(a) Audit required. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

(b) Single audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

(d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

(e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.

(f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section §200.330 Subrecipient and contractor determinations sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.

(g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the auditee is responsible for ensuring compliance for procurement transactions which are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these procurement transactions relate to a major program, the scope of the audit must include determining whether these transactions are in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.

(h) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits. See also §200.331 Requirements for pass-through entities.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75887, Dec. 19, 2014]

8. REMEDIES FOR NONCOMPLIANCE (2 CFR §200.338)

§200.338 Remedies for noncompliance.

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

9. TERMINATION (2 CFR §200.339)

(a) The Federal award may be terminated in whole or in part as follows:

- (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
- (2) By the Federal awarding agency or pass-through entity for cause;
- (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or
- (4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of

partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

(b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

10. DEBARMENT AND SUSPENSION (2 CFR §1400)

The Department of the Interior regulations at 2 CFR 1400—Governmentwide Debarment and Suspension (Nonprocurement), which adopt the common rule for the governmentwide system of debarment and suspension for nonprocurement activities, are hereby incorporated by reference and made a part of this Agreement. By entering into this grant or cooperative agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 1400, Subpart C, and agrees to include a similar term or condition in all lower-tier covered transactions. These regulations are available at <http://www.gpoaccess.gov/ecfr/>.

11. DRUG-FREE WORKPLACE (2 CFR §182 and §1401)

The Department of the Interior regulations at 2 CFR 1401—Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), which adopt the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq, as amended) applicable to grants and cooperative agreements, are hereby incorporated by reference and made a part of this agreement. By entering into this grant or cooperative agreement with the Bureau of Reclamation, the Recipient agrees to comply with 2 CFR 182.

12. ASSURANCES AND CERTIFICATIONS INCORPORATED BY REFERENCE

The provisions of the Assurances, SF 424B or SF 424D as applicable, executed by the Recipient in connection with this Agreement shall apply with full force and effect to this Agreement. All anti-discrimination and equal opportunity statutes, regulations, and Executive Orders that apply to the expenditure of funds under Federal contracts, grants, and cooperative Agreements, loans, and other forms of Federal assistance. The Recipient shall comply with Title VI or the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and any program-specific statutes with anti-discrimination requirements. The Recipient shall comply with civil rights laws including, but not limited to, the Fair Housing Act, the Fair Credit Reporting Act, the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Equal Educational Opportunities Act, the Age Discrimination in Employment Act, and the Uniform Relocation Act.

Such Assurances also include, but are not limited to, the promise to comply with all applicable Federal statutes and orders relating to nondiscrimination in employment, assistance, and housing; the Hatch Act; Federal wage and hour laws and regulations and work place safety standards;

Federal environmental laws and regulations and the Endangered Species Act; and Federal protection of rivers and waterways and historic and archeological preservation.

13. COVENANT AGAINST CONTINGENT FEES

The Recipient warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an Agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide offices established and maintained by the Recipient for the purpose of securing Agreements or business. For breach or violation of this warranty, the Government shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement amount, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

14. TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (2 CFR §175.15)

Trafficking in persons.

(a) *Provisions applicable to a recipient that is a private entity.*

(1) You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not

(i) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

(ii) Procure a commercial sex act during the period of time that the award is in effect; or

(iii) Use forced labor in the performance of the award or subawards under the award.

(2) We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

(i) Is determined to have violated a prohibition in paragraph a.1 of this award term; or

(ii) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:

(A) Associated with performance under this award; or

(B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1400.

(b) *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

- (1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
- (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:
 - (i) Associated with performance under this award; or
 - (ii) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR part 1400.

(c) *Provisions applicable to any recipient.*

- (1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
- (2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - (i) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - (ii) Is in addition to all other remedies for noncompliance that are available to us under this award.
- (3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

(d) *Definitions.* For purposes of this award term:

- (1) “Employee” means either:
 - (i) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - (ii) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

(2) "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subsection to involuntary servitude, peonage, debt bondage, or slavery.

(3) "Private entity":

(i) Means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

(ii) Includes:

(A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

(B) A for-profit organization.

(4) "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

15. NEW RESTRICTIONS ON LOBBYING (43 CFR §18)

The Recipient agrees to comply with 43 CFR 18, New Restrictions on Lobbying, including the following certification:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

(c) The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making

or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (URA) (42 USC § 4601 *et seq.*)

- (a) The Uniform Relocation Assistance Act (URA), 42 U.S.C. § 4601 *et seq.*, as amended, requires certain assurances for Reclamation funded land acquisition projects conducted by a Recipient that cause the displacement of persons, businesses, or farm operations. Because Reclamation funds only support acquisition of property or interests in property from willing sellers, it is not anticipated that Reclamation funds will result in any “displaced persons,” as defined under the URA.
- (b) However, if Reclamation funds are used for the acquisition of real property that results in displacement, the URA requires Recipients to ensure that reasonable relocation payments and other remedies will be provided to any displaced person. Further, when acquiring real property, Recipients must be guided, to the greatest extent practicable, by the land acquisition policies in 42 U.S.C. § 4651.
- (c) Exemptions to the URA and 49 CFR Part 24
 - (1) The URA provides for an exemption to the appraisal, review and certification rules for those land acquisitions classified as “voluntary transactions.” Such “voluntary transactions” are classified as those that do not involve an exercise of eminent domain authority on behalf of a Recipient, and must meet the conditions specified at 49 CFR § 24.101(b)(1)(i)-(iv).
 - (2) For any land acquisition undertaken by a Recipient that receives Reclamation funds, but does not have authority to acquire the real property by eminent domain, to be exempt from the requirements of 49 CFR Part 24 the Recipient must:
 - (i) provide written notification to the owner that it will not acquire the property in the event negotiations fail to result in an amicable agreement, and;
 - (ii) inform the owner in writing of what it believes to be the market value of the property
- (d) Review of Land Acquisition Appraisals. Reclamation reserves the right to review any land appraisal whether or not such review is required under the URA or 49 CFR § 24.104. Such reviews may be conducted by the Department of the Interior’s Appraisal Services Directorate or a Reclamation authorized designee. When Reclamation determines that a review of the original appraisal is necessary, Reclamation will notify the Recipient and provide an estimated completion date of the initial appraisal review.

17. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER REQUIREMENTS (2 CFR 25, APPENDIX A)

The Central Contractor Registration (CCR) has been migrated to the System for Award Management (SAM). Recipients must continue to comply with the CCR requirements below by maintaining current registration within www.SAM.gov.

A. Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions

For purposes of this award term:

1. *Central Contractor Registration (CCR)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).
2. *Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
3. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - a. A Governmental organization, which is a state, local government, or Indian Tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and
 - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. *Subaward*:

- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, *see* Sec. II.210 of the attachment to OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”).
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. *Subrecipient* means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.

18. PROHIBITION ON TEXT MESSAGING AND USING ELECTRONIC EQUIPMENT SUPPLIED BY THE GOVERNMENT WHILE DRIVING

Executive Order 13513, *Federal Leadership On Reducing Text Messaging While Driving*, was signed by President Barack Obama on October 1, 2009 (ref: <http://edocket.access.gpo.gov/2009/pdf/E9-24203.pdf>). This Executive Order introduces a Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or rented vehicles, government-owned or leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.

19. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (2 CFR 170 APPENDIX A)

I. Reporting Subawards and Executive Compensation.

a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. *Where and when to report.*

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

- ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.
- b. *Reporting Total Compensation of Recipient Executives.*
 1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
 - i. the total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
 2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
 - i. As part of your registration profile at <http://www.ccr.gov>.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c. *Reporting of Total Compensation of Subrecipient Executives.*
 1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
 - i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions*

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards,
and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this award term:

1. *Entity* means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. *Executive* means officers, managing partners, or any other employees in management positions.
3. *Subaward*:
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __ .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
- 4. *Subrecipient* means an entity that:
 - i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
- 5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - i. *Salary and bonus.*
 - ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
 - v. *Above-market earnings on deferred compensation which is not tax-qualified.*
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

20. RECIPIENT EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)

- (a) This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub.L. 112-239).
- (b) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C 4712.
- (c) The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all subawards or subcontracts over the simplified acquisition threshold. 48 CFR § 52.203-17 (as referenced in 48 CFR § 3.908-9).

21. RECIPIENT INTEGRITY AND PERFORMANCE MATTERS (APPENDIX XII to 2 CFR Part 200)

A. Reporting of Matters Related to Recipient Integrity and Performance

1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five year period; and
- c. Is one of the following:
 - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - (3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

- (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
- (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
- (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered

upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

- (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
- (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Amendment	Director's Backup
Petitioner: David L. Johnson, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors approve and authorize the General Manager to sign the Third Amended and Restated Agreement between the U.S. Department of the Interior, Bureau of Reclamation, and the Authority for sharing of equipment rental, materials, and subcontractor service costs in the Las Vegas Wash for an amount not to exceed \$900,000.	

Fiscal Impact:

The requested \$900,000 is available from proceeds of sales tax allocated to the Las Vegas Wash.

Background:

On August 21, 2003, the Board of Directors approved the U.S. Department of the Interior, Bureau of Reclamation (Reclamation) Agreement No. 03MU300003, which provided for the Authority to share the cost of equipment rented by Reclamation for use in construction of erosion control facilities in the Las Vegas Wash (Wash). On May 20, 2004, the Board approved an Amended and Restated Agreement, which expanded the scope of cost sharing to include Reclamation's purchase of construction materials and subcontractor services provided at the Wash. In 2006, 2009, and 2012, the Board approved subsequent Amendments 001 through 003, which extended the term of the agreement and authorized continued funding. On January 16, 2014, the Board approved the Second Amended and Restated Agreement, which modified the Authority's method of cost sharing from reimbursement of funds expended by Reclamation to an advanced payment method required by a change in Federal policy, extended the agreement term to September 30, 2016, and authorized continued funding.

If approved, this Third Amended and Restated Agreement (Amendment) will provide funds for sharing construction costs during fiscal years 2017, 2018, and 2019, and extend the agreement term to September 30, 2019. The Authority will provide an amount up to \$300,000 annually for a total amount not to exceed \$900,000 over the three-year term of this amendment.

This amendment is being entered into pursuant to NRS 277.180 and Sections 6(h) and 6(j) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved this Third Amended and Restated Agreement.

Respectfully submitted:


John J. Entsminger, General Manager
JJE:DLJ:MRJ:PJJ:RCP:kjc
Attachment

AGENDA ITEM #

7

**THIRD AMENDED AND RESTATED
AGREEMENT NUMBER 03MU300003**

**BETWEEN THE SOUTHERN NEVADA WATER AUTHORITY
AND
THE UNITED STATES DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION
FOR
ADVANCE FUNDING OF EQUIPMENT RENTAL, MATERIALS, AND
SUBCONTRACTOR SERVICES FOR USE
IN THE LAS VEGAS WASH**

THIS Third Amended and Restated Agreement Number 03MU300003 is made and entered into this _____ day of _____, 2016, by and between the SOUTHERN NEVADA WATER AUTHORITY (Authority), acting by and through the Board of Directors and THE UNITED STATES OF AMERICA, DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION (Reclamation), both of which are, at times, collectively referred to as "Parties" and individually as "Party".

1. The Southern Nevada Water Authority and the United States Department of the Interior, Bureau of Reclamation hereby agree that the provisions of Agreement Number 03MU300003, dated August 21, 2003, as amended and restated in 2004, 2006, 2009, 2012, and 2014 are hereby deleted in their entirety and replaced as follows:
2. EXPLANATORY RECITALS
 - 2.1 WHEREAS, increasing flows in the Las Vegas Wash (Wash) have hydraulically altered the Wash resulting in channel erosion, a lowered water table and the loss of many acres of wetlands; and
 - 2.2 WHEREAS, to mitigate these problems, both the Authority and Reclamation are involved in channel and bank stabilization activities in the Wash; and
 - 2.3 WHEREAS, Reclamation has contracted for equipment rental, materials, and subcontractor services for the purposes of stabilization efforts along the Wash and the Parties wish to enter into this Agreement to furnish funding to Reclamation in advance to cover the costs of the equipment rental, materials, and subcontractor services.

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

3. TERMS OF AGREEMENT

- 3.1 This Agreement shall become effective upon the date first above written and shall continue in effect through three (3) fiscal years, FY17, FY18, and FY19, expiring on September 30, 2019.
- 3.2 The Agreement may be terminated at any time by either Party with a thirty (30) day written notice to the other Party.
- 3.3 Notwithstanding the provisions in Articles 3.1 and 3.2, the rights and obligations of the Parties to this Agreement incurred prior to termination of this Agreement shall survive such termination.

4. SERVICES TO BE PERFORMED; COSTS

- 4.1 This Agreement is to provide for the advance funding of equipment rental, materials, and subcontractor services for use in the Wash.
- 4.2 Reclamation has competitively bid and contracted for equipment rental, materials, and subcontractor services for the purposes of channel and bank stabilization efforts along the Wash. To provide funds to meet these costs, the Authority agrees to advance funds to Reclamation in an amount of approximately \$300,000 per fiscal year prior to the start of the work, not to exceed a total of \$900,000 for the period of FY17, FY18, and FY19.
- 4.3 Reclamation will provide copies of invoices to the Authority of the costs of equipment rental, materials, and subcontractor services. Reclamation and the Authority will mutually agree upon the amount to be advanced by the Authority prior to commencing any work. Reclamation will establish a reimbursable cost authority account into which Authority payments will be made.
- 4.4 Upon expiration of this Agreement on September 30, 2019, or termination of this Agreement for any reason, all unused funds received by Reclamation under this Agreement or any modification thereto shall be returned by Reclamation to the Authority within thirty (30) days.

5. AUTHORITY

This Agreement is entered into under the authorization of the Reclamation Act of 1902, June 17, 1902; Colorado River Basin Salinity Control Act, Title II; Colorado River Front Work and Levee System; Water Resources Development Act of 2000, Public Law 106-541, and in accordance with Office Of Management and Budget Circular A-11 Section 20.4.

6. LIABILITY

- 6.1 Reclamation shall perform its obligations under this Agreement in the capacity of a Federal agency. Nothing contained in this Agreement shall be construed as making any Party hereto the agent, employee, co-venturer, or representative in any capacity whatsoever of any other Party hereto. No Party assumes liability for claims or actions arising solely out of the performance of work under this Agreement by another Party or its agents.
- 6.2 Liability of the United States resulting from the negligence of its employees shall be governed by the Federal Tort Claims Act (28 U.S.C. 2671, et. seq.). The Authority recognizes that the Federal Tort Claims Act operates to provide liability coverage for the United States Government and its employees in lieu of ordinary insurance coverage.
- 6.3 Liability of the Authority shall be governed by Nevada law including, but not limited to, Nevada Revised Statute 41.035.

7. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

- 7.1 This Agreement is neither a fiscal nor a funds obligation document. Any endeavor involving advances and contribution of funds between the Parties will be handled in accordance with applicable laws, regulations, and procedures.
- 7.2 The expenditure or advance of any money or the performance of any obligation by the United States under this Agreement shall be contingent upon appropriation or allotment of funds by Congress. No liability shall accrue to the United States in the case funds are not appropriated. Except for actions that survive termination under this Agreement, absence of appropriation or allotment of funds by the necessary action shall relieve the Authority from any further obligation under this Agreement.

8. AMENDMENTS

This Agreement may be modified or amended as necessary upon written consent of the Parties.

9. UNCONTROLLABLE FORCES

Each Party will act with good faith in completing respective responsibilities described in Article 4. To the extent that performance of an obligation under this Agreement is prevented or delayed by any cause which is beyond the reasonable control of any Party, such non-performance will be deemed justified and a revised schedule or redistribution of responsibilities will be established.

10. GOVERNING LAW AND VENUE

Both Federal and Nevada laws govern this Agreement. In cases of conflict between Federal and State law, Federal law controls. In the event of a dispute amongst the Parties relating to the terms and performance under this Agreement, the Parties agree that such litigation will be filed in Clark County, Nevada.

11. JUDICIAL REMEDIES NOT FORECLOSED

11.1 Nothing herein shall be construed as depriving any Party from pursuing and prosecuting any remedy which would otherwise be available to such Party.

11.2 Nothing herein shall be construed as depriving any Party of any defense thereto which would otherwise be available.

12. INTEGRATIONS

No representations or promises are binding on any party, except those representations and promises contained in this Agreement or in some future written representations or promises signed by all Parties.

13. OFFICIALS NOT TO BENEFIT

No member of, or delegate to, Congress shall be admitted to any share or part of this Agreement, or to any benefit arising from it. However, this clause does not apply to this Agreement to the extent that this Agreement is made with a corporation for the corporation's general benefit.

14. NOTICES AND AUTHORIZED REPRESENTATIVES

Notice given pursuant to the provisions of this Agreement, or which are necessary to carry out its provisions, must be in writing and delivered personally to whom the notice is to be given, or mailed, postage prepaid, addressed to that authorized representative. The Parties' authorized representatives and their addresses for this purpose are as follows:

To the Bureau of Reclamation:
Becky J. Blasius, LC 2628
U.S. Bureau of Reclamation
Lower Colorado Regional Office
P.O. Box 61470
Boulder City, NV 89006
(702) 293-8109
bblasius@usbr.gov

To the Southern Nevada Water Authority:
Ryan Pearson, P.E.
Southern Nevada Water Authority
P.O. Box 99956
Las Vegas, NV 89193-9956
(702) 875-7064
ryan.pearson@snwa.com

[Signatures Next Page]

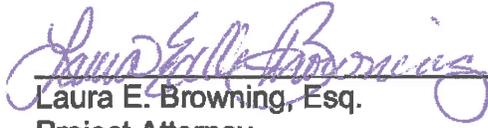
IN WITNESS WHEREOF, the Parties hereto have executed this Third Amended and Restated Agreement Number 03MU300003 on the date and year written above.

SOUTHERN NEVADA WATER AUTHORITY

John J. Entsminger
General Manager

Date: _____

APPROVED AS LEGALLY SUFFICIENT:



Laura E. Browning, Esq.
Project Attorney

Date: 6-14-16

BUREAU OF RECLAMATION

Terrance J. Fulp
Regional Director, Lower Colorado Region

Date: _____

APPROVED AS LEGALLY SUFFICIENT:

Matthew Jeppson
Office of the Solicitor

Date: _____

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Budget Recertification	Director's Backup
Petitioner: Gina L. Neilson, Chief Financial Officer	
Recommendations: That the Board of Directors recertify the 2016-17 budget to correct ministerial errors that occurred in the conversion from the Authority's cash-basis budget to the State-required accrual-basis accounting.	

Fiscal Impact:

None by approval of the above recommendation.

Background:

The Authority prepares its annual budget on a cash basis, projecting inflows from sources of funds and outflows for uses of funds in accordance with NRS 354.598. The budget submitted to the Nevada Department of Taxation must be converted to an accrual basis of accounting. In this conversion for the 2016-17 budget filed with the Nevada Department of Taxation, two ministerial errors occurred that staff believes should be corrected going forward. While the cash-basis budget approved by the Board of Directors on May 19, 2016, remains unchanged, this item asks that the Board of Directors recertify the revised accrual-basis budget to be refiled with the Nevada Department of Taxation.

This action is authorized pursuant to NRS 354.598 and Section 22 of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved this item.

Respectfully submitted:



John J. Entsminger, General Manager
JJE:GLN:MJC:dlc
Attachments

AGENDA ITEM #

8



SOUTHERN NEVADA WATER AUTHORITY®

Nevada Department of Taxation
1550 College Parkway, Suite 115
Carson City, NV 89706-7937

Southern Nevada Water Authority herewith submits the (TENTATIVE) (FINAL) budget for the
fiscal year ending June 30, 2017

This budget contains 0 funds, including Debt Service, requiring property tax revenues totaling \$ 0

The property tax rates computed herein are based on preliminary data. If the final state computed revenue limitation permits,
the tax rate will be increased by an amount not to exceed 0 If the final computation requires, the tax rate will be
lowered.

This budget contains 0 governmental fund types with estimated expenditures of \$ 0 and
1 proprietary funds with estimated expenses of \$ 336,369,875

Copies of this budget have been filed for public record and inspection in the offices enumerated in NRS 354.596 (Local
Government Budget and Finance Act).

CERTIFICATION

I Gina L. Neilson
(Print Name)
Chief Financial Officer
(Title)

certify that all applicable funds and financial
operations of this Local Government are
listed herein

Signed *Gina L. Neilson*

Dated: 7/7/16

APPROVED BY THE GOVERNING BOARD

Mary Beth Scow, Chairwoman

Sam Bateman, Vice-Chairman

Marilyn Kirkpatrick

Bob Coffin

Duncan McCoy

Steve Sisolak

Anita Wood

SCHEDULED PUBLIC HEARING:

Date and Time Thursday, May 19, 2016 9:00 AM

Publication Date May 6, 2016

Place: Molasky Corporate Center, 100 City Parkway, Suite 700, Las Vegas, NV

**SOUTHERN NEVADA WATER AUTHORITY
BUDGET DOCUMENT INDEX**

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FULL TIME EQUIVALENT EMPLOYEES BY FUNCTION

	ACTUAL PRIOR YEAR ENDING 06/30/15	ESTIMATED CURRENT YEAR ENDING 06/30/16	BUDGET YEAR ENDING 06/30/17
General Government			
Judicial			
Public Safety			
Public Works			
Sanitation			
Health			
Welfare			
Culture and Recreation			
Community Support			
TOTAL GENERAL GOVERNMENT			
Utilities	426.9	429.9	438.4
Hospitals			
Transit Systems			
Airports			
Other			
TOTAL	426.9	429.9	438.4

POPULATION (AS OF JULY 1)	2,102,238	2,146,000	2,191,000
SOURCE OF POPULATION ESTIMATE*	Center for Business & Economic Res. UNLV	Center for Business & Economic Res. UNLV	Center for Business & Economic Res. UNLV
Assessed Valuation (Secured and Unsecured Only)			
Net Proceeds of Mines			
TOTAL ASSESSED VALUE			
TAX RATE			
General Fund			
Special Revenue Funds			
Capital Projects Funds			
Debt Service Funds			
Enterprise Fund			
Other			
TOTAL TAX RATE			

* Use the population certified by the state in March each year. Small districts may use a number developed per the instructions (page 6) or the best information available.

Southern Nevada Water Authority
(Local Government)

SCHEDULE S-2 - STATISTICAL DATA

PROPRIETARY FUND	(1)	(2)	(3) (4) BUDGET YEAR ENDING 06/30/17	
	ACTUAL PRIOR YEAR ENDING 6/30/2015	ESTIMATED CURRENT YEAR ENDING 6/30/2016	TENTATIVE APPROVED	FINAL APPROVED
OPERATING REVENUE				
Wholesale Delivery Charge	121,100,263	122,401,411	\$ 122,759,977	\$ 122,759,977
Groundwater Program Revenue	882,331	874,637	873,661	873,661
Administration Costs Recoveries	472,786	459,920	459,920	459,920
Las Vegas Wash Revenues	404,578	416,715	416,715	416,715
Other Operating Revenue	3,538,758	10,295,730	83,613,324	83,153,404
Total Operating Revenue	126,398,716	134,448,413	208,123,597	207,663,677
OPERATING EXPENSE				
Personnel and Related	49,951,688	49,248,424	47,415,116	47,415,116
Energy	35,071,725	37,524,905	38,008,556	38,008,556
Other - Operations & Maintenance	42,471,373	36,628,270	49,192,884	49,192,884
Depreciation/Amortization	75,774,807	80,000,000	80,000,000	80,000,000
Total Operating Expense	203,269,593	203,401,599	214,616,556	214,616,556
Operating Income or (Loss)	(76,870,877)	(68,953,186)	(6,492,959)	(6,952,879)
NONOPERATING REVENUES				
Interest/Investment Income	1,592,657	1,205,856	1,477,234	1,477,234
Property Taxes				
Subsidies				
Consolidated Tax				
Capital Contributions	281,927,406	283,444,357	345,135,626	345,135,626
Amortization of Bond Premiums & Discounts	4,868,091			
Other	94,294			
Total Nonoperating Revenues	288,482,448	284,650,213	346,612,860	346,612,860
NONOPERATING EXPENSES				
Interest Expense	54,939,795	51,509,219	164,843,946	121,753,319
Amortization of Refunding Costs	3,492,409		-	-
Bond Issue & Commercial Paper Costs	3,299,596		-	-
Other	-		-	-
Total Nonoperating Expenses	61,731,800	51,509,219	164,843,946	121,753,319
Net Income before Operating Transfers	149,879,771	164,187,808	175,275,955	217,906,662
Operating Transfers (Schedule T)				
In				
Out				
Net Operating Transfers				
NET POSITION	149,879,771	164,187,808	175,275,955	217,906,662

Southern Nevada Water Authority
(Local Government)

SCHEDULE F-1 REVENUES, EXPENSES AND NET INCOME

FUND _____ ENTERPRISE _____

PROPRIETARY FUND	(1)	(2)	(3) (4) BUDGET YEAR ENDING 06/30/17	
	ACTUAL PRIOR YEAR ENDING 6/30/2015	ESTIMATED CURRENT YEAR ENDING 6/30/2016	TENTATIVE APPROVED	FINAL APPROVED
A. CASH FLOWS FROM OPERATING ACTIVITIES:				
General and Administrative/Resources Charges	1,347,895	459,920	459,920	459,920
Groundwater Management Fees	882,331	874,637	873,661	873,661
Las Vegas Wash Revenues	404,578	416,715	416,715	416,715
Wholesale Delivery Charges	121,868,607	122,401,411	122,759,977	122,759,977
Other Revenues	2,719,445	10,295,730	83,613,324	83,153,404
Cash Payments to Suppliers of Goods and Services	(127,219,253)	(123,401,600)	(158,731,749)	(158,731,749)
a. Net cash provided by (or used for) operating activities	3,603	11,046,813	49,391,848	48,931,928
B. CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES:				
b. Net cash provided by (or used for) noncapital financing activities	-	-	-	-
C. CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:				
Purchase or Construction of Capital Assets	(112,283,126)	(264,897,998)	(219,255,395)	(219,255,395)
Proceeds from Disposal of Property and Equipment	100,287	-	-	-
Proceeds of Debt Issuance	-	-	400,000,000	400,000,000
Principal Paid on Debt	(24,290,584)	(78,025,252)	(506,181,517)	(506,181,517)
Interest Paid on Debt	(143,343,132)	(145,726,453)	(164,843,946)	(164,843,946)
Capital Contributions	261,381,108	283,444,357	345,135,626	345,135,626
Credit Payment Income	-	(2,236,500)	-	-
c. Net cash provided by (or used for) capital and related financing activities	(18,435,447)	(207,441,846)	(145,145,233)	(145,145,233)
D. CASH FLOWS FROM INVESTING ACTIVITIES:				
Purchases of Investment Securities	(276,844,584)	(375,000,000)	(450,000,000)	(450,000,000)
Proceeds from Sales or Maturities of Investment Securities	263,629,000	550,000,000	550,000,000	550,000,000
Investment Earnings	9,492,141	1,283,700	1,477,234	1,477,234
d. Net cash provided by (or used in) investing activities	(3,723,443)	176,283,700	101,477,234	101,477,234
NET INCREASE (DECREASE) in cash and cash equivalents (a+b+c+d)	(22,155,287)	(20,111,333)	5,723,849	5,263,929
CASH AND CASH EQUIVALENTS AT JULY 1, 20xx	57,985,477	35,830,190	15,718,857	15,718,857
CASH AND CASH EQUIVALENTS AT JUNE 30, 20xx	35,830,190	15,718,857	21,442,706	20,982,786

Southern Nevada Water Authority
(Local Government)

SCHEDULE F-2 STATEMENT OF CASH FLOWS

FUND _____ ENTERPRISE _____

ALL EXISTING OR PROPOSED
GENERAL OBLIGATION BONDS, REVENUE BONDS,
MEDIUM-TERM FINANCING, CAPITAL LEASES AND
SPECIAL ASSESSMENT BONDS

* - Type
1 - General Obligation Bonds
2 - G.O. Revenue Supported Bonds
3 - G.O. Special Assessment Bonds
4 - Revenue Bonds
5 - Medium-Term Financing

6 - Medium-Term Financing - Lease Purchase
7 - Capital Leases
8 - Special Assessment Bonds
9 - Mortgages
10 - Other (Specify Type)
11 - Proposed (Specify Type)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)		(10)	(11)
NAME OF BOND OR LOAN List and Subtotal By Fund	*	TERM	ORIGINAL AMOUNT OF ISSUE	ISSUE DATE	FINAL PAYMENT DATE	INTEREST RATE	BEGINNING OUTSTANDING BALANCE 7/1/2016	INTEREST PAYABLE	REQUIREMENTS FOR FISCAL YEAR ENDING 06/30/17		(9)+(10)
FUND									PRINCIPAL PAYABLE		TOTAL
Nevada Drinking Water State R	2	20 Years	12,269,695	12/30/99	2/1/20	3.61%	3,201,207	108,785	757,878		866,663
Nevada Drinking Water State R	2	20 Years	10,000,000	6/29/01	8/1/21	3.46%	3,463,404	114,842	582,099		696,941
LVVWD Commercial Paper	2	N/A	400,000,000	3/10/04	N/A	Variable	400,000,000	5,000,000	400,000,000		405,000,000
Clark County 2006 Refunding B	2	30 Years	604,140,000	11/1/06	11/1/36	2.50% - 5.00%	419,135,000	17,607,663	16,010,000		33,617,663
LVVWD 2008B Bonds	2	21 Years	171,720,000	2/19/08	6/1/26	3.50% - 5.00%	105,890,000	5,101,681	8,420,000		13,521,681
Clark County 2008 Bonds	2	30 Years	400,000,000	7/2/08	6/1/38	5.00%	353,415,000	17,670,750	9,180,000		26,850,750
Clark County Clean Renewable	2	14 Years	6,900,000	7/30/08	12/15/22	1.17%	3,220,000	34,983	460,000		494,983
LVVWD 2009A Bonds	2	30 Years	90,000,000	8/10/09	6/1/39	7.10%	90,000,000	6,390,000	-		6,390,000
LVVWD 2009B Bonds	2	23 Years	10,000,000	8/10/09	6/1/32	4.00% - 5.25%	8,905,000	429,513	395,000		824,513
Clark County 2009 Refunding B	2	20 Years	50,000,000	11/10/09	6/1/30	5.00%	42,335,000	2,116,750	2,160,000		4,276,750
State of Nevada 2009 Bonds	4	21 Years	2,214,457	12/11/09	7/1/29	0.00%	1,708,295	-	126,540		126,540
LVVWD 2009D Bonds	2	21 Years	71,965,000	12/23/09	6/1/30	4.25% - 5.25%	59,975,000	2,993,238	3,385,000		6,378,238
Clark County 2010B Refunding	2	10 Years	7,405,000	6/24/10	6/1/20	3.70%	4,460,000	164,797	1,055,000		1,219,797
LVVWD 2011A Refunding Bond	2	15 Years	58,110,000	5/20/11	6/1/26	3.05% - 5.43%	53,755,000	2,560,119	4,400,000		6,960,119
LVVWD 2011B Refunding Bond	2	26 Years	129,650,000	10/19/11	6/1/37	2.79% - 4.96%	120,430,000	5,019,932	9,475,000		14,494,932
LVVWD 2011C Refunding Bond	2	19 Years	267,815,000	10/19/11	6/1/38	2.00% - 5.00%	230,940,000	11,562,713	10,115,000		21,677,713
Clark County 2012 Refunding B	2	20 Years	85,015,000	6/26/12	6/1/32	4.00% - 5.00%	79,515,000	3,180,600	-		3,180,600
LVVWD 2012B Bonds	2	30 Years	360,000,000	7/31/12	6/1/42	3.00% - 5.00%	346,615,000	16,545,600	7,060,000		23,605,600
Refunding Bonds	2	15 Years	21,720,000	2/20/13	8/1/27	3.00%	21,720,000	651,600	-		651,600
Bonds	2	24 Years	332,405,000	1/13/15	6/1/39	4.00% - 5.00%	332,405,000	16,370,250	-		16,370,250
Bonds	2	12 Years	177,635,000	6/1/15	12/1/27	4.00% - 5.00%	177,635,000	8,444,700	10,675,000		19,119,700
Bonds	2	14 Years	42,125,000	6/18/15	9/15/29	3.00% - 5.00%	42,125,000	1,931,075	2,640,000		4,571,075
Bonds	2	14 Years	263,955,000	3/3/16	11/1/29	4.50% - 5.00%	263,955,000	12,853,875	13,755,000		26,608,875
LVVWD 2016A Bonds	2	30 Years	497,785,000	4/6/16	6/1/46	3.00% - 5.00%	497,785,000	27,990,482	5,530,000		33,520,482
TOTAL ALL DEBT SERVICE			\$ 4,072,829,152				\$ 3,662,587,907	\$ 164,843,946	\$ 506,181,517	\$	671,025,463

SCHEDULE C-1 - INDEBTEDNESS

Southern Nevada Water Authority Budget Fiscal Year 2016-2017
(Local Government)

LOBBYING EXPENSE ESTIMATE

Pursuant to NRS 354.600 (3), **each** (emphasis added) local government budget must obtain a separate statement of anticipated expenses relating to activities designed to influence the passage or defeat of legislation in an upcoming legislative session.

Nevada Legislature: 79th Session; February 6, 2017 to June 5, 2017

1. Activity:	<u>Legislature 2017 - Southern Nevada Water Authority</u>	
2. Funding Source:	<u>Operating Revenues</u>	
3. Transportation		\$ <u>29,497</u>
4. Lodging and meals		\$ <u>28,236</u>
5. Salaries and Wages		\$ <u>51,788</u>
6. Compensation to lobbyists		\$ <u>10,000</u>
7. Entertainment		\$ <u>-</u>
8. Supplies, equipment & facilities; other personnel and services spent in Carson City		\$ <u>2,301</u>
Total		\$ <u><u>121,821</u></u>

Entity: Southern Nevada Water Authority

Budget Year 2016-2017

SCHEDULE OF EXISTING CONTRACTS

Budget Year 2016 - 2017

Local Government: Southern Nevada Water Authority
Contact: Gina Neilson
E-mail Address: gina.neilson@snwa.com
Daytime Telephone: 702-862-3434

Total Number of Existing Contracts: _____ 180 _____

Line	Vendor	Effective Date of Contract	Termination Date of Contract	Proposed Expenditure FY 2016-17	Proposed Expenditure FY 2017-18	Reason or need for contract:
1	Utility Resources	05/15/97	upon notice	\$ 300,000.00	\$ 300,000.00	PUC Consultant
2	Lionel, Sawyer & Collins	04/07/04	upon notice	24,999	24,999	Legal representation
3	Utility Resources, Inc.	03/17/05	upon notice	530,000	530,000	Public utility commission regulatory hearings
4	Finlinson & Finlinson	01/21/06	upon notice	30,000	30,000	Natural resource consulting services
5	Taggart & Taggart	01/18/07	upon notice	286,000	286,000	Legal services for environmental compliance
6	JH Davenport	12/24/08	upon notice	10,150	10,150	Water resource and administrative consulting services
7	Piercy Bowler Taylor & Kern	03/02/10	06/30/17	191,442	95,721	Auditing Services
8	Lewis & Roca	03/22/10	upon notice	100,000	100,000	Legal Services
9	Kay Brothers	05/05/10	upon notice	100,000	100,000	Consulting services on water issues
10	Aspen Environmental Group	10/13/10	upon notice	100,000	100,000	Legal services for reporting and expert testimony
11	Stratus Consulting	11/17/10	09/30/17	70,689	70,689	Support for WUCA workshop and whitepaper
12	Creel Printing Company	08/29/11	08/28/16	50,000	-	Printing services for Water Smart Newsletter
13	Soil Tech	09/01/11	08/31/16	50,000	-	Revegetation of Las Vegas Wash
14	PhycoTech Inc.	10/25/11	upon notice	50,000	50,000	Water Quality Analysis for Phytoplankton
15	C. Joseph Guild III	01/02/12	upon notice	92,000	92,000	Natural Resource and Water Issues Consulting
16	R&R Public Affairs	01/22/12	01/21/18	75,000	37,500	Consulting services for state and federal natural resource issues
17	C. Joseph Guild III	01/31/12	upon notice	64,000	64,000	Ranch and Agricultural Consulting
18	Snell & Wilmer, LLP	04/11/12	04/11/20	100,000	100,000	Glen Canyon Dam environmental compliance
19	Holland & Hart	05/22/12	05/22/19	100,000	100,000	Litigation related services
20	Simplex Grinnell LP	06/13/12	06/30/17	50,077	-	Fire systems maintenance
21	Safe Electronics, Inc.	06/13/12	06/30/17	42,000	-	Fire systems maintenance
22	G&G Systems	06/13/12	06/30/17	38,484	-	Fire systems maintenance
23	ABC Fire & Cylinder	06/13/12	06/30/17	17,800	-	Fire systems maintenance
24	Greenberg Traurig, LLP	06/19/12	upon notice	100,000	100,000	Bond counsel
25	Warren Turkett	06/25/12	upon notice	81,680	81,680	Lower Colorado River water quality database
26	Michael J Brennan	08/23/12	07/01/18	100,000	100,000	Environmental compliance consulting
27	Holland & Hart	08/23/12	08/23/20	100,000	100,000	Nevada Power integrated resource plan litigation
28	Laguna Productions	02/21/13	02/20/19	145,000	145,000	Production assistance
29	Market Decision Corporation	03/04/13	03/04/17	75,000	-	Data collection services
30	Vogue Linen Service	05/01/13	05/01/17	1,000	500	Uniform cleaning services for Wahoo Ranch
31	Rogich Communications	06/17/13	06/30/17	75,000	45,000	Communication support for SNWA community outreach programs
32	Flow Science	07/18/13	07/01/17	125,000	60,000	Lake Mead Modeling (Watersmart Grant Reclamation)
33	Global Water Technologies LTD	07/25/13	upon notice	70,000	70,000	Innovation development assistance
34	Faiss Foley Warren	08/01/13	07/31/19	900,000	900,000	Integrated communications and support services for SNWA
35	Institute for Executive Development	08/29/13	08/28/20	90,000	90,000	Development of organizational initiatives
36	Simplot Growers Solutions	10/01/13	09/30/19	10,000	10,000	Soil testing services for SNWA ranches
37	Ballard Spahr LLP	11/26/13	11/27/21	20,000	20,000	Legal services regarding the Glen Canyon Dam
38	Stinson Leonard Street LLP	01/02/14	upon notice	100,000	100,000	Legal services
39	Muddy River Regional Environmental Impact Alleviation Committee	01/06/14	01/07/19	50,000	50,000	Tamarisk removal services for fire control
40	Ronald E. Zegers	03/03/14	upon notice	100,000	100,000	Water quality issue consulting
41	AB Sciex	03/11/14	03/10/19	183,627	183,627	Service agreement for lab equipment
42	Hobbs, Ong and Associates	03/20/14	upon notice	400,000	400,000	IRPAC Financial advisory services
43	Agilent Technologies, Inc.	04/01/14	03/31/19	148,050	148,050	Laboratory equipment repair services
44	Ranch Advisory Partners LLC	05/15/14	05/19/17	75,000	75,000	Environmental compliance permit support services
45	Henderson Electric Motors, Inc.	05/21/14	05/20/19	175,050	175,050	Repair of electric motors
46	Las Vegas Color Graphics	07/01/14	06/30/19	50,000	50,000	Mailing services for Water Smart Newsletter
47	Orange Legal Technologies	07/15/14	upon notice	40,000	-	Production of an administrative record
48	Robin Rocky	07/29/14	07/31/16	45,000	-	PSA related to River Mountains Solar Project
49	Tri-County Weed Control	08/01/14	06/30/19	16,578	-	Weed control in Warm Springs Nat Area
50	High Sierra Water Laboratory	08/27/14	01/28/19	40,000	40,000	Water sample analysis services
51	Great Basin Bird Observatory	08/28/14	12/31/20	52,239	52,239	Bird Inventory, habitat assessment & data analysis.
52	Black & Veatch	10/01/14	upon notice	45,740	45,740	Mixing zone modeling services
53	Booky Oren Global Water Technologies Ltd.	10/16/14	upon notice	100,000	100,000	Organizational development assistance
54	Spring Valley Associates	12/10/14	12/10/20	975,000	975,000	Ranch Operations and Maintenance Services
55	NV Division of Forestry	12/10/14	11/30/16	83,333	-	Conservation camp work detail services

56	Capital Project Law Group, PLLC	03/16/15	03/16/23	50,000	50,000	Legal advisory services
57	Bio-West, Inc.	03/18/15	03/18/19	52,000	52,000	Biological consulting services- Virgin River
58	Bio-West, Inc.	03/18/15	03/18/19	58,000	58,000	Biological consulting services- Muddy River
59	Weck Analytical Enviro. Svcs Inc	06/10/15	06/10/20	300,000	300,000	Water sample analysis
60	Ram Proline LLC	12/29/15	12/29/18	156,783	156,783	Strip and recoat pump parts
61	Argus Engineering	05/16/15	05/16/20	70,000	70,000	PSA for work related to the SCADA system
62	Imagine Exhibitions Inc.	06/10/16	12/31/17	125,000	125,000	Traveling Exhibition "Playing with Light"
63	LGA	06/15/15	06/23/16	69,150	-	Professional Services for the HVAC upgrade of the Scada equipment room at AMS
64	Richard Stearns Designers Studio	07/21/15	06/30/16	55,000	-	Consultant for Springs Preserve Gift Shop to facilitate design and execution of shop event decor, and suggested purchase of shop inventory.
65	Imagine Exhibitions Inc.	09/03/15	03/20/19	125,000	125,000	Traveling Exhibit "Science Fiction: Science Future"
66	Science North	10/22/15	10/16/17	165,000	165,000	Arctic Voices Traveling Exhibit
67	Glass Box Technology Inc.	11/30/15	11/29/20	60,000	60,000	Professional services for EMC data storage operating system software training
68	Brown and Caldwell	01/21/16	04/30/17	179,451	179,451	Engineering services for the Fluoride System Improvement Project at AMSWTF
69	Bracken's Valley Tire Repair LLC	03/30/15	04/01/21	20,000	20,000	Pivot Tire Purchases and Repairs
70	WAG Services Inc.	06/01/15	06/30/20	40,000	40,000	Hay Tarping Services for Ranches
71	Abbott Trophies	07/22/15	07/21/21	2,800	2,800	Name Badges for Springs Preserve Staff and Volunteers
72	Highlights	10/01/15	01/31/21	7,400	7,400	Removal and Storage of SP-owned Holiday Lights at Retail Store
73	LV Family Puppet Theater Company	10/01/15	06/30/17	30,000	30,000	Educational Stage Shows
74	A Trak Out Solution	08/15/15	07/31/21	14,000	14,000	Vegetation removal
75	Omniticket Network	08/01/15	07/31/21	20,000	20,000	Services related to internet ticket sales for the Springs Preserve
76	Par 3 Landscape & Maint. Inc.	10/01/15	06/01/21	47,000	47,000	WSNA Landscaping
77	A Trak Out Solution	10/02/15	06/30/20	8,170	14,000	WSNA Dumpster Service
78	LJ McCormick Enterprises Inc.	10/01/15	06/30/20	49,000	49,000	WSNA Ecological Restoration
79	Safe Electronics Inc.	11/01/15	10/31/16	32,000	-	Wet system panels and devices, IR flame detectors, smoke detectors in fan coil units, and elevator recall services for SNWS.
80	Leavitt Enterprises LLC	10/15/15	06/30/20	7,000	7,000	WSNA Handyman Services
81	Moyle Irrigation	01/01/16	12/31/23	25,000	50,000	Pivot irrigation system parts and maintenance svcs.
82	Stotz Equipment	01/01/16	12/31/23	15,000	30,000	Ranches John Deere Repair Parts and Service
83	O'Flaherty Plumbing & Heating	01/01/16	12/31/23	17,500	35,000	Ranches Plumbing Repair Services
84	Steve Reagan	01/01/16	12/31/23	17,500	35,000	Ranches Veterinary Services
85	Parsons Water & Infrastructure Inc.	09/17/15	06/30/16	26,000	-	Program management services
86	Process Applications Inc	11/06/14	until complete	20,000	10,000	Ozone dissolution methods
87	Montgomery Watson/CH2M Hill	07/16/15	until complete	16,000,000	16,000,000	Amendment to existing agreement for lead design engineering services
88	Clean Energy Project	07/15/15	07/15/15	4,000	-	NCES Exhibit
89	Black & Veatch Corporation	05/21/15	06/30/16	636,038	-	Engineering services AMSWTF Filter Improvements demonstration
90	Colorado Water	02/15/15	12/31/15	145,166	-	Exhibits
91	Argus Engineering	05/21/15	05/20/20	130,000	130,000	Engineering services
92	Carollo Engineers, Inc.	05/21/15	06/30/16	185,000	-	Sodium hypochloride evaluation study
93	Russell Stevens	02/15/15	12/31/15	7,000	-	Shoe service
94	CDM Smith	02/15/15	02/15/15	14,913	-	IRPAC
95	Barnard of Nevada, Inc.	05/21/15	06/30/16	5,800,000	-	Construction of flow Lake Level Pumping Station
96	Black & Veatch Corporation	11/19/15	06/30/16	178,167	-	Engineering services for AMSWTF Filter Improvements demonstration
97	IEH Laboratories	10/15/15	10/14/16	12,000	5,000	Laboratory services
98	Brown and Caldwell	01/21/16	06/30/16	179,451	-	Engineering services for the Fluoride System Improvements Project
99	Bureau of Reclamation	09/17/15	06/30/16	100,000	-	Grant - Support Water Smart Landscape Rebate Program.
100	Merrick & Company	09/17/15	9/16/2018	260,400	260,400	Purchase & delivery of LiDAR digital elevation data services
101	City of Henderson, City of LV, CC Water Reclamation District, Reg Transp Comm. Of SN & CC Regional Flood Control Dist.	01/01/16	12/31/19	169,308	169,308	Aerial Imagery
102	Geophex Surveys	09/17/15	12/31/18	177,549	177,549	Digital aerial imagery
103	Nevada Division of Water Resources	09/17/15	06/30/16	188,475	-	Surface and ground water collection services

104	Orange Legal Technologies	07/27/15	06/30/16	20,000	-	Litigation on the Clark, Lincoln & White Pine Counties Groundwater Development Project.
105	JC Davis	01/19/16	06/30/17	48,000	48,000	Public relations services including community outreach & other communications-related activities.
106	HDR Engineering Inc.	09/02/15	06/30/16	90,000	-	Technical assistance on Water Research Foundation Project.
107	University of Colorado, Boulder	06/22/15	06/30/16	65,219	-	Technical assistance on Water Research Foundation Project.
108	US Dept of Interior / USGS	10/01/15	09/30/16	63,336	-	Real-time water quality monitoring platforms
109	American Water Works Service Company Inc.	05/18/15	06/30/16	60,000	-	Technical assistance on Water Research Foundation Project.
110	Bio-West, Inc.	04/29/15	04/28/19	58,000	58,000	Biological consulting services
111	Bio-West, Inc.	04/29/15	04/28/19	52,000	52,000	Biological consulting services
112	Department of the Interior	06/09/15	09/30/16	95,000	-	Real-time water quality monitoring
113	Carollo Engineers, Inc.	04/29/15	04/28/16	76,300	-	Technical assistance on Water Research Foundation Project.
114	HRA, Inc.	03/25/15	06/30/16	49,500	-	Assist with Nat'l Historic Preservation Act
115	The Arrangers, Inc dba LV Mgmt &/or Creative Endeavors	04/02/15	03/31/16	225,000	-	Facilities & Services to host the WaterSmart Innovations Conference.
116	Int'l Ozone Association Pan American Group	04/06/15	04/05/16	50,000	-	Jennifer Fuel to act as Administration & Communication Officer for the Int'l Ozone Assoc.
117	Digital Mapping, Inc.	04/07/15	04/06/16	65,000	-	Aerial imagery and/or LIDAR data for Warm Springs Natural Area
118	AeroTech Mapping, Inc.	04/07/15	04/06/16	65,000	-	Aerial digital imagery for the Warm Springs Natural Area
119	Quantum Spatial, Inc.	04/07/15	04/06/16	65,000	-	Aerial imagery and/or LIDAR data for Warm Springs Natural Area
120	Carollo Engineers, Inc.	04/29/15	04/28/16	76,300	-	Technical assist. On Tasks 3, 4 & 5 for Water Research Foundation project.
121	Eurofins Eaton Analytical	08/01/14	07/31/15	138,730	-	Laboratory analysis
122	Patricia Emery	05/18/15	05/17/19	24,900	24,900	Editorial services with finalizing documents & reports on an as-needed basis.
123	Pam Robinson	05/26/15	05/25/16	30,000	-	Research, support coordination & development efforts for the 2015 Nevada Drought Summit.
124	LG Architects, Inc. dba LGA	07/01/15	10/01/15	69,150	-	Upgrade of the Comm 1 SCADA Equipment Room HVAC Upgrdes.
125	University of Colorado on behalf of the Dept of Civil Engineering	06/22/15	06/21/16	65,219	35,000	Tech assistance on Water Research Foundation Project 4559: "Simultaneous Removal of Multiple Chemical Contaminants Using Biofiltration."
126	Board of Regents, NV Sys of High Ed on behalf o Univ of NV, Reno, NV Bureau of Mines & Geology	07/14/15	07/13/16	40,000	-	University to review the Authority's draft Geologic Data Report to include manuscript, geologic maps & digital geographic info system files.
127	R&R Partners, Inc.	07/16/15	06/30/21	3,350,000	3,383,500	Marketing, Communications & Public outreach svcs for water efficiency public education campaign
128	Lewis Michaelson of Katz & Associates, Inc.	08/03/15	12/31/15	20,000	-	Consulting & advisement on Summit program & materials.
129	Great Basin Bird Observatory	08/04/15	08/14/16	43,160	-	Conduct bird inventory, habitat assessment & data analyses in the Warm Springs Natural Area & springs
130	Susan Mulanax	07/08/15	07/07/16	50,000	-	Planning and Engineering Services
131	Knight & Leavitt Associates	06/01/15	12/31/15	19,000	-	Environmental Services
132	Corpro	09/02/15	09/01/16	25,000	-	Coating services, inspection & support for the rehabilitation of the Pumping Station 5 Forebay Tank
133	Broadbent & Associates, Inc.	09/02/15	09/01/16	21,977	-	Asbestos abatement technical specs prior to asbestos abatement activities for Pumping Station 6 Forebay Tank & perform inspection & clearance svcs
134	Carollo Engineers, Inc.	10/21/15	10/20/16	30,000	-	Analytical svcs in support of MBR Demonstration for Potable Reuse.
135	Utah Division of Wildlife Resources	10/27/15	10/26/16	25,000	-	Conduct mgmt & monitoring efforts for the benefit of conservation of least chub & Columbia spotted frog.
136	The Field Museum of Natural History	12/09/15	12/08/16	5,000	-	Participate in Colorado River Exhibit Project Partners meeting & make a formal presentation on the process for developing, designing & implementing a traveling exhibit program.
137	Black & Veatch Corporation	12/14/15	12/13/16	24,680	-	To estimate the future quality of Lake Mead water at the third intake.
138	Digital Mapping, Inc.	02/17/16	02/16/17	75,000	75,000	Aerial imagery to support off-site work for the Faraday Future electric vehicle mfg facility.

SCHEDULE OF PRIVATIZATION CONTRACTS

Budget Year 2016 - 2017

Local Government: Southern Nevada Water Authority

Contact: Gina Neilson

E-mail Address: gina.neilson@snwa.com

Daytime Telephone: 702-862-3434

Total Number of Privatization Contracts: NONE

Line	Vendor	Effective Date of Contract	Termination Date of Contract	Duration (Months/ Years)	Proposed Expenditure FY 2016-17	Proposed Expenditure FY 2017-18	Position Class or Grade	Number of FTEs employed by Position Class or Grade	Equivalent hourly wage of FTEs by Position Class or Grade	Reason or need for contract:
1	NONE									
2										
3										
4										
5										
6										
7										
8	Total									

Attach additional sheets if necessary.

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Agreement	Director's Backup
Petitioner: David L. Johnson, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors approve and authorize the General Manager to sign, in substantially the same form as that attached hereto, the Water Service Agreement between the City of North Las Vegas and the Authority for provision of wholesale and retail water service in Garnet Valley.	

Fiscal Impact:

None by approval of the above recommendation.

Background:

The 29th Special Session of the Nevada Legislature began on December 16, 2015, and adjourned on December 19, 2015 (29th Special Session). Senate Bill No. 1 of the 29th Special Session (SB 1) authorized the Governor's Office of Economic Development to finance infrastructure projects undertaken by local governments that support qualified projects. SB 1 establishes that when a local government receives notice that a qualified project will be located within its jurisdiction, the local government may obtain economic development financing to carry out infrastructure projects related to the qualifying project. Senate Bill No. 3 of the 29th Special Session (SB 3) designated the Authority and the Las Vegas Valley Water District as the exclusive water service providers for the Garnet Valley groundwater basin in Clark County (Garnet Valley). The Faraday Future (Faraday) electric car manufacturing facility is a qualified project pursuant to SB 1 and is located within the Apex Industrial Park (Apex) and Garnet Valley.

On May 19, 2016, the Board of Directors approved a series of agreements between Robin Prop Holdco, LLC, also known as Faraday, and the Authority for design of the Apex Phase 1 Infrastructure which would accommodate Faraday's water infrastructure needs.

Apex is within the City of North Las Vegas's (CNLV) jurisdictional boundaries and CNLV was previously the exclusive water purveyor for Apex. If approved, this Water Service Agreement would provide for the Authority to work with CNLV in proposing legislation to allow CNLV to be the exclusive retail water purveyor in Garnet Valley; provide the terms under which CNLV would accept ownership of designs or infrastructure already completed by the Authority in Apex; and outline the costs, obligations, and limitations for the Authority's provision of wholesale water service to CNLV in Garnet Valley. Assuming the availability of financing prior to January 1, 2018, as authorized by SB 1, the Authority would continue design and construction of the Apex Phase 1 Infrastructure.

This agreement is being entered into pursuant to NRS 277.045, NRS 277.180, and Section 6(c) and (j) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:


 John J. Entsminger, General Manager
 JJE:DLJ:GPK:GJW:TDF:DRW:ke
 Attachment

AGENDA ITEM #	9
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WATER SERVICE AGREEMENT

This Water Service Agreement (“**Agreement**”) is made and entered into this ___ day of _____, 2016 (“**Execution Date**”), by and between the Southern Nevada Water Authority, a political subdivision of the State of Nevada (“**SNWA**”), and the City of North Las Vegas, a municipal corporation and political subdivision of the State of Nevada (“**CNLV**”). For convenience, SNWA and CNLV are referred to herein individually as “**Party**” and collectively as the “**Parties**.”

WITNESSETH

- A. WHEREAS, Senate Bill No. 1 of the 29th (2015) Special Session of the Nevada Legislature (“**SB 1**”) authorized the Governor’s Office of Economic Development (“**GOED**”) to undertake various efforts regarding financing of infrastructure projects undertaken by local governments that support qualified projects within the local government’s jurisdiction;
- B. WHEREAS, SB 1 further established that when a local government receives notice from GOED that a qualified project will be located within its jurisdiction, the local government may obtain financing for infrastructure projects related to a qualifying project (“**Qualified Project**”) by submitting an economic development financing proposal to GOED;
- C. WHEREAS, on February 1, 2016, CNLV received notice from GOED that the Faraday Future electric vehicle plant (“**Faraday Project**”) had been approved as a Qualified Project and therefore for purposes of this Agreement the term CNLV and the term “local government” are interchangeable;
- D. WHEREAS, SB 1 authorizes GOED to approve an economic development financing proposal for a Qualified Project and to enter into an economic development financing agreement with the local government, and authorizes the Nevada State Board of Finance to issue bonds, securities or other indebtedness, the proceeds of which are to be used to finance such infrastructure

projects, following GOED's approval of an economic development financing proposal for a Qualified Project;

E. WHEREAS, the local government, in coordination with GOED, must create and administer one or more districts or areas pursuant to Chapters 271, 271A, and 278C of the Nevada Revised Statutes (collectively, the "**Financing Districts**"), the revenues from which are pledged for the repayment of any bonds, securities or other indebtedness issued by the State Board of Finance in connection with such infrastructure projects;

F. WHEREAS, SB 1 provides that the economic development financing proposal shall include provisions to ensure that GOED will enter into agreements with the local government under which GOED will administer districts or areas created to carry out the infrastructure projects identified in the proposal, and that the proceeds of any bonds, securities or other indebtedness issued in connection with the infrastructure projects are allocated to GOED for the purposes of financing the infrastructure projects;

G. WHEREAS, GOED established the Phase 1 Influence Area, as depicted on the attached **EXHIBIT 1** and incorporated herein, of the Financing Districts ("**Phase 1**") which could be used to support a water infrastructure design that would accommodate development with water consumption demands estimated to be no more than 1,700 acre feet per year ("**Phase 1 Water Infrastructure**").

H. WHEREAS, the Faraday Project is located within Phase 1 of the Financing Districts;

I. WHEREAS, pursuant to the terms in that Amended and Restated Apex Phase 1 Infrastructure Design Agreement ("**Design Agreement**") and that Amended and Restated Escrow Agreement Regarding Infrastructure Development ("**Escrow Agreement**") between SNWA and

Faraday Future, SNWA, in coordination with CNLV, is working towards completion of the design of the Phase 1 Water Infrastructure;

J. WHEREAS, the Parties acknowledge that Faraday, through the Design Agreement and Escrow Agreement, is funding all SNWA costs associated with design of the Phase 1 Water Infrastructure;

K. WHEREAS, the Parties acknowledge that Faraday may request that SNWA design and construct a water system suitable to accommodate solely the Faraday Project, portions of which could become part of the Phase 1 Water Infrastructure (“**Faraday Water Infrastructure**”);

L. WHEREAS, Senate Bill No. 3 of the 29th (2015) Special Session of the Nevada Legislature (“**SB 3**”) designated SNWA and the Las Vegas Valley Water District (“**LVVWD**”) as the exclusive water service providers for the Garnet Valley groundwater basin in Clark County, which was established by Nevada State Engineer Order 1025 on April 24, 1990, as Basin No. 216 (“**Garnet Valley**”);

M. WHEREAS, the Parties desire that SNWA be the wholesale water purveyor in Garnet Valley and that CNLV be the exclusive retail water purveyor in Garnet Valley;

N. WHEREAS, the Parties agree to coordinate and cooperate to propose legislation during the 2017 Legislative Session that would allow for CNLV to become the exclusive retail water purveyor in Garnet Valley;

O. WHEREAS, SNWA holds certain groundwater rights in Garnet Valley and Hidden Valley (Hydrographic Basin No. 217) (“**SNWA Permits**”). Currently, the SNWA Permits have a total combined duty of 2,200 acre-feet per year (“**afy**”). The unencumbered portion of these water rights is 900 afy;

P. WHEREAS, SNWA Permit No. 83490 allows CNLV to divert 300 afy from the Kapex well that is owned by CNLV, and subtracting this 300 afy from the unencumbered 900 afy results in 600 afy from the SNWA Permits being available for other uses by CNLV (the “**Available Water Usage**”);

Q. WHEREAS, CNLV also holds its own groundwater rights in Garnet Valley in the amount of 10.02 afy and may acquire additional Garnet Valley water rights in the future;

R. WHEREAS, SNWA Permit Nos. 85852T through 85855T and 86195T grant SNWA the right to temporarily divert 4,000 afy of water originally permitted for diversion in Coyote Spring Valley (Hydrographic Basin No. 210) from wells in Garnet Valley for use in Clark County, Nevada to accommodate anticipated water needs for construction activities in Garnet Valley (“**Temporary SNWA Permits**”);

S. WHEREAS, the Parties desire that SNWA file permanent change applications to divert water originally permitted for diversion in Coyote Spring Valley in an amount that, together with existing Available Water Usage, would supply the Phase 1 Water Infrastructure with 1,700 afy from wells in Garnet Valley (“**Permanent SNWA Rights**”). In the event these applications are approved, the resulting permits shall be included within the definition of SNWA Permits for purposes of this Agreement;

T. WHEREAS, SNWA has entered or will enter into agreements with Faraday and other developers for the delivery of water to accommodate construction activities within Phase 1 (“**Construction Water Agreements**”);

U. WHEREAS, pursuant to the terms of the Construction Water Agreements in exchange for water service, developers are constructing infrastructure designed to become part of the Phase 1 Water Infrastructure;

V. WHEREAS, the Parties desire to enter into this Agreement in order to outline the rights and obligations of each Party in the provision of wholesale and retail water service in Garnet Valley and with respect to construction of Phase 1 Infrastructure or Faraday Water Infrastructure.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties do agree as follows:

1. Condition Precedent to Effectiveness of Various Provisions: Except for paragraphs 2, 4, 17, and 21-27 below, a change in State legislation as set forth in Paragraph 17 below (“**Legislation**”) is a condition precedent to performance by both Parties of each and every obligation under this Agreement.

2. SNWA to Construct Phase 1 Water Infrastructure: Upon completion of final design of the Phase 1 Water Infrastructure and the availability of proceeds from State issued bonds or other funds for use by SNWA, SNWA will construct the Phase 1 Water Infrastructure; provided, however, that if Legislation is approved and proceeds from State issued bonds or other funds are not available prior to January 1, 2018, SNWA shall have no obligation to construct the Phase 1 Water Infrastructure. In that event, SNWA will provide to CNLV the completed Phase 1 Infrastructure design plans and CNLV shall become the exclusive retailer of water in Garnet Valley as provided in the Legislation; provided, however, CNLV’s status as the exclusive retail water purveyor in Garnet Valley shall have no impact on existing SNWA water right leases or other contracts to provide water in Garnet Valley, including any extensions or renewals.

3. SNWA to Transfer Ownership of Phase 1 Infrastructure to CNLV: The Parties agree that, upon satisfaction of the conditions and subject to the limitations set forth in Paragraphs 1 and 2 above, SNWA will transfer ownership of the Phase 1 Water Infrastructure to CNLV as is and where is, with no warranties, via an executed Bill of Sale (“**Phase 1 Bill of Sale**”). Upon delivery

of the Phase 1 Bill of Sale, CNLV will own the Phase 1 Infrastructure and be the exclusive retail water purveyor in Garnet Valley; provided, however, CNLV's status as the exclusive retail water purveyor in Garnet Valley shall have no impact on existing SNWA water right leases or other contracts to provide water in Garnet Valley, including any extensions or renewals.

4. Construction of Faraday Water Infrastructure: The Parties acknowledge and agree that Faraday may, to accelerate construction of infrastructure necessary to serve Faraday, separately contract with SNWA for design and construction of the Faraday Water System. In that event SNWA shall, upon completion of construction, acceptance of same by SNWA, and satisfaction of the condition precedent set forth in Paragraph 1 above, transfer the Faraday Water System to CNLV as is and where is, with no warranties, via an executed Bill of Sale ("**Faraday Water Infrastructure Bill of Sale**"). Upon delivery of the Faraday Water Infrastructure Bill of Sale, CNLV will own the Faraday Water Infrastructure and be the exclusive retail water purveyor in Garnet Valley; provided, however, CNLV's status as the exclusive retail water purveyor in Garnet Valley shall have no impact on existing SNWA water right leases or other contracts to provide water in Garnet Valley, including any extensions or renewals. SNWA's construction of any Faraday Water System shall not impact SNWA's obligation to construct Phase 1 Water Infrastructure subject to the limitations and conditions set forth in this Agreement.

5. CNLV to Provide Retail Water Service: As set forth in the Legislation, CNLV will be solely responsible for providing retail water service in Garnet Valley. Pursuant to its Service Rules, CNLV will provide water service commitments and ensure efficient use of the Available Water Usage by any retail water users. CNLV will adopt Service Rules that allow CNLV to curtail water uses and revoke water service to retail water customers based upon inactivity of the retail user and/or water supply limitations. CNLV will maintain an accounting of total water

commitments and will debit or credit the accounting as final water commitments are issued and terminated or revoked.

6. Construction Water Agreements: Upon the effective date of the Legislation and conveyance of Phase 1 Infrastructure or Faraday Water Infrastructure (as applicable) to CNLV, SNWA will assign all of its rights and obligations under any existing Construction Water Agreements to CNLV, and CNLV shall accept and assume all of the rights and obligations of SNWA set forth therein; provided, however, that obtaining in good faith any necessary consents to such assignment shall be a condition precedent to the assignment obligation. In the event there remains on deposit with SNWA any security device or deposit to ensure payment for water or discharge of other obligations under such Construction Water Agreements, such device or deposit shall be reduced by any amounts necessary to make SNWA whole for its direct and indirect costs incurred in preparing to provide or providing construction water, and the balance of such security devices or deposits shall be delivered to CNLV in connection with the assignment.

7. SNWA to Provide Wholesale Water Service: SNWA will provide wholesale water service to CNLV in Garnet Valley. The amount of water SNWA will make available to CNLV pursuant to this Agreement is limited to the Temporary SNWA Permits (4,000 afy) and the Permanent SNWA Rights (1,700 afy, or such lesser amount approved by the Nevada State Engineer). In the event CNLV becomes the retail purveyor of Garnet Valley water as provided herein, CNLV will need to identify existing well(s) owned by CNLV and well(s) owned by SNWA that will be conveyed to CNLV as provided herein or will need to provide to SNWA the Nevada State Plane coordinates of a new proposed point(s) of diversion that CNLV will drill, together with the amounts of water requested to be diverted from such point(s), and the date CNLV would like to begin water service. SNWA will file temporary and/or permanent change applications (up to the

quantities set forth above) with the Nevada State Engineer to allow CNLV to divert water from SNWA's Permits using the well(s) identified above (the "**Change Applications**"). SNWA will pay the Nevada State Engineer application and permit fees associated with the Change Applications. In the event data collection, hearings or litigation is required, the Parties agree that while SNWA would not oppose any such effort, SNWA will not challenge any Nevada State Engineer decision denying any Change Application and CNLV would be solely responsible for any costs related to any such challenge. CNLV acknowledges that it may not use water from the Permanent SNWA Rights or the Temporary SNWA Permits unless and until the Nevada State Engineer approves temporary and/or permanent Change Applications and issues permits authorizing such use. CNLV agrees to comply with all Nevada State Engineer permit terms.

8. Authority of the Nevada State Engineer: The Parties acknowledge that the Nevada State Engineer has, pursuant to both statutory and case law, broad authority to administer groundwater resources in the State of Nevada, and furthermore, that nothing contained in this Agreement obligates SNWA to provide wholesale water service to CNLV if SNWA's ability to provide such service is prohibited or diminished by a final and unstayed or unappealable ruling or decision from the Nevada State Engineer, from a court of competent jurisdiction or any federal, state, or local governmental agency of competent jurisdiction that makes illegal or permanently restrains, enjoins or otherwise limits SNWA's ability to provide wholesale water service to CNLV. CNLV hereby releases and waives any claims or causes of action in law or equity against SNWA in the event wholesale water service is delayed, interrupted or terminated due to the occurrence of any event described herein. SNWA shall have no obligation hereunder to appeal or otherwise contest any Nevada State Engineer decision relating to water rights owned or leased by SNWA.

9. Limited Water Supply: In recognition of the limited amount of water available in Garnet Valley, CNLV and SNWA acknowledge the need to make efficient use of all water supplies, including effluent. CNLV and SNWA will cooperate to ensure efficient use of water in Garnet Valley by employing best management practices to minimize consumptive uses of water and the generation of unused effluent.

10. CNLV Garnet Valley Service Rules: The CNLV service rules for Garnet Valley (the “**Service Rules**”) will govern the provision of retail water service to any CNLV customers in Garnet Valley. Before adoption and modification of these Service Rules, CNLV will consult with SNWA. The Service Rules shall incorporate consumptive use water restrictions and conservation requirements as outlined in Paragraph 11 below.

11. Water Conservation and Consumptive Use Restrictions: Due to the scarcity of water resources currently available to serve Garnet Valley, water conservation requirements and consumptive use restrictions are necessary to insure the maximum and most efficient utilization of these scarce resources.

- a. Therefore, CNLV agrees that affirmative measures to conserve water, including maximization of effluent re-use, shall be used in Garnet Valley and that consumptive use water restrictions shall be incorporated into its Service Rules for water service to Garnet Valley. Additionally, CNLV agrees that any water use restrictions that apply to potable water shall also apply in the same manner and degree to effluent.
- b. Existing infrastructure and facilities within the Las Vegas Valley allow for a significant amount of indoor water use to be reclaimed and returned to the Colorado River. Water returned to the Colorado River receives “return flow credits” thus

minimizing the impact on our available Colorado River resource. The Parties agree that in the event that uniform rules regarding use of Colorado River water outside the Las Vegas Valley are adopted by all SNWA member agencies, provisions in this Agreement relating to use of Colorado River water in Garnet Valley and water use provisions in CNLV's Service Rules will be modified based on such uniform rules.

- c. Examples of conservation requirements include but are not limited to:
 - i. Prohibiting aesthetic uses of water;
 - ii. Encouraging the maximum economic value for all water used in Garnet Valley;
 - iii. Prohibiting installation of turf;
 - iv. Allowing limited drip irrigation for outdoor landscapes, but prohibiting spray irrigation;
 - v. Prohibiting swimming pools and man-made lakes;
 - vi. Limit the use of evaporative coolers and if evaporative coolers are utilized employ the best available in water efficient evaporative cooling technology;
 - vii. Prohibiting wet-cooled electrical power generation;
 - viii. Limiting aggregate gravel mining to temporary leveling of lots for construction; and
 - ix. Maximize use of effluent through direct use; direct or passive injection of effluent into the groundwater aquifer; and/or creation of return flow credits by returning effluent generated from Colorado River water to Lake Mead.

12. Pipeline for Colorado River Water: While currently there is no pipeline in place for SNWA to deliver Colorado River water to Garnet Valley, if a pipeline is developed in the future, the Parties acknowledge and agree that future agreement(s) and potentially regulatory approvals would be necessary to provide Colorado River water to Garnet Valley. CNLV acknowledges and agrees that its Service Rules may be amended to provide for different conservation and consumptive use restrictions applicable to Colorado River water delivered to Garnet Valley. Specifically, because infrastructure does not exist to create return flow credits from any water exported outside the Las Vegas Valley it is imperative to maintain stringent consumptive use restrictions and conservation requirements.

13. No Interest or Estate: CNLV agrees that it does not have any interest or estate in the Temporary SNWA Permits or the Permanent SNWA Rights, and shall not claim at any time any interest or estate of any kind whatsoever in the Temporary SNWA Permits or the Permanent SNWA Rights by virtue of the rights granted under this Agreement. CNLV acknowledges that the right to use water pursuant to this Agreement is in the nature of a usufructuary right. CNLV agrees that the water provided to CNLV by SNWA is owned by SNWA and that any wastewater or treated effluent generated by use of such water is also owned by SNWA and may not be transferred to any other party by CNLV without approval of SNWA.

14. Payment for Wholesale Water Service: CNLV shall pay SNWA for the amount of water used pursuant to this Agreement at a rate of 53% of the then-current SNWA Wholesale Delivery Charge for the applicable use period. For example, the current SNWA Wholesale Delivery Charge is \$303 per acre-foot and approximately 53% of that charge is used to fund operating expenses that would be applicable to Garnet Valley. For the current SNWA Wholesale Delivery Charge, CNLV's payment for Garnet Valley water service would be 53% of \$303 or \$160.59 per acre-foot.

CNLV's water use shall be measured by the annual volume of water pumped by CNLV under the Temporary SNWA Permits and the Permanent SNWA Rights. SNWA shall invoice CNLV for water usage from January 1 to December 31 of the preceding year by no later than March 1 of each subsequent year. CNLV will pay SNWA within thirty days (30) of receipt of the invoice. The SNWA Wholesale Delivery Charge is the per acre-foot charge that SNWA charges its purveyor member agencies for the treatment and delivery of treated, potable water and is determined and adopted by the SNWA Board of Directors. CNLV's payments to SNWA for wholesale water service in Garnet Valley are meant to reimburse SNWA for the costs SNWA incurs in keeping any SNWA water rights available to CNLV in good standing with the Nevada State Engineer, including monitoring and reporting expenses. CNLV will not be charged for any SNWA fees that are applicable to water sources not available for service to Garnet Valley for water wholesaled by SNWA to CNLV for use in Garnet Valley.

15. SNWA Access to CNLV Wells: CNLV agrees to allow SNWA to access any wells that pump water from the Temporary SNWA Permits or the Permanent SNWA Rights for meter reading, water quality, and water level sampling. CNLV shall report to SNWA monthly the quantity of water used within 30 days of the end of every month. SNWA makes no representation or warranty regarding the quantity or quality of water developable from the wells. CNLV also agrees to allow SNWA to access any and all monitoring wells CNLV owns in Garnet and Hidden Valleys for the purpose of water quality and water level sampling. CNLV will also furnish SNWA with any and all data requested by SNWA that SNWA believes will be beneficial to keep SNWA's rights in good standing with the Nevada State Engineer, including but not limited to, data necessary to file Proofs of Completion of Work, Proofs of Beneficial Use, and Extensions of Time.

16. Permitting and Other Approvals: Other than the Change Applications, CNLV, or a retail water user under agreement with CNLV, will be responsible to pay for and obtain from any governmental agency with jurisdiction over all or part of the Garnet Valley water delivery facilities all permits and approvals that are required to install, upgrade, operate, maintain, and/or replace the facilities.

17. Legislative Strategy: The Parties agree to cooperate in the drafting of Legislation that would have the following elements:

- a. CNLV will be the exclusive retail purveyor of water in Garnet Valley;
- b. SNWA and LVVWD shall have no further obligations or liability relating to retail water service in Garnet Valley;
- c. SNWA and LVVWD (as applicable) shall convey to CNLV by appropriate instrument any infrastructure owned by SNWA (or LVVWD) and constructed in support of retail water service in Garnet Valley; provided, however, SNWA shall complete any construction that is underway as of the Effective Date prior to such conveyance; and
- d. SNWA may lease or otherwise contract for use of its water rights for diversion and use by others notwithstanding the foregoing exclusive retail purveyor designation.

18. Agreement Term: This Agreement shall commence on the Execution Date and continue for the duration of time that SNWA provides wholesale service to CNLV.

19. Operations Agreement: If the Legislation, consistent with the material terms of this Agreement, is not enacted by the Legislature, then the Parties agree to negotiate in good faith an operations agreement for water delivery infrastructure for Garnet Valley.

20. Indemnification: To the extent allowed under Nevada law, CNLV shall indemnify and hold SNWA harmless for any and all claims or any third party claims relating to or arising from the construction, operation, maintenance or use of water delivery facilities in Garnet Valley.

21. Notices: If notice is required to be sent to the Parties, the addresses are as follows:

If to CNLV:

Utilities Department
ATTN: Director
City of North Las Vegas
2250 Las Vegas Blvd. N.
North Las Vegas, NV 89030

With a copy to:

City Attorney
City of North Las Vegas
2250 Las Vegas Blvd. N.
North Las Vegas, NV 89030

If to SNWA:

General Manager
Southern Nevada Water Authority
1001 S. Valley View Blvd.
Las Vegas, Nevada 89153

With a copy to:

General Counsel
Southern Nevada Water Authority
1001 S. Valley View Blvd.
Las Vegas, Nevada 89153

Any and all notices and demands by any Party required or desired to be given to the other Party hereunder shall be in writing and shall be validly given or made only if deposited in the United States Mail, certified or registered, postage prepaid, return receipt requested or if made by Federal Express or other similar delivery service keeping records of deliveries and attempted deliveries. Service by United States Mail or by Federal Express or other similar delivery service shall be deemed complete three (3) business days following deposit with the United States mail or other delivery service, or upon actual receipt, whichever is sooner.

22. Assignment and Delegation: Neither Party may delegate, transfer or assign its rights or responsibilities pursuant to this Agreement without the prior written consent of the other Party. If a Party delegates, transfers or assigns its rights or responsibilities without the prior written consent of the other Party, the delegation, transfer or assignment shall be void and not merely voidable.

23. Governing Law and Venue: This Agreement shall be governed in accordance with the laws of the State of Nevada, without reference to its choice of law provisions. Any legal action related to this Agreement will only be filed in the Clark County District Court, or if applicable, the United States District Court for the District of Nevada, Southern Division.

24. Amendment: This Agreement may be changed, modified or amended only by mutual written agreement of the Parties.

25. No Third Party Beneficiaries: This Agreement is not intended by the Parties to create any right in or benefit to parties other than CNLV and SNWA. This Agreement does not create any third party beneficiary rights or causes of action.

26. Waiver: The failure of either Party to enforce at any time, or for any period of time, the provisions hereof shall not be construed as a waiver of such provisions or of the rights of such Party to enforce each and every such provision.

27. Counterparts: This Agreement will become effective as between the Parties upon all Parties signing this Agreement. This Agreement may be executed in any number of counterparts and when so executed, each such counterpart shall be deemed to be an original hereof as against any Party who has signed it, and all counterparts together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

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

CITY OF NORTH LAS VEGAS

By: _____
Dr. Qiong X. Liu, City Manager

Approved as to form:

Sandra Douglass Morgan, City Attorney

SOUTHERN NEVADA WATER AUTHORITY

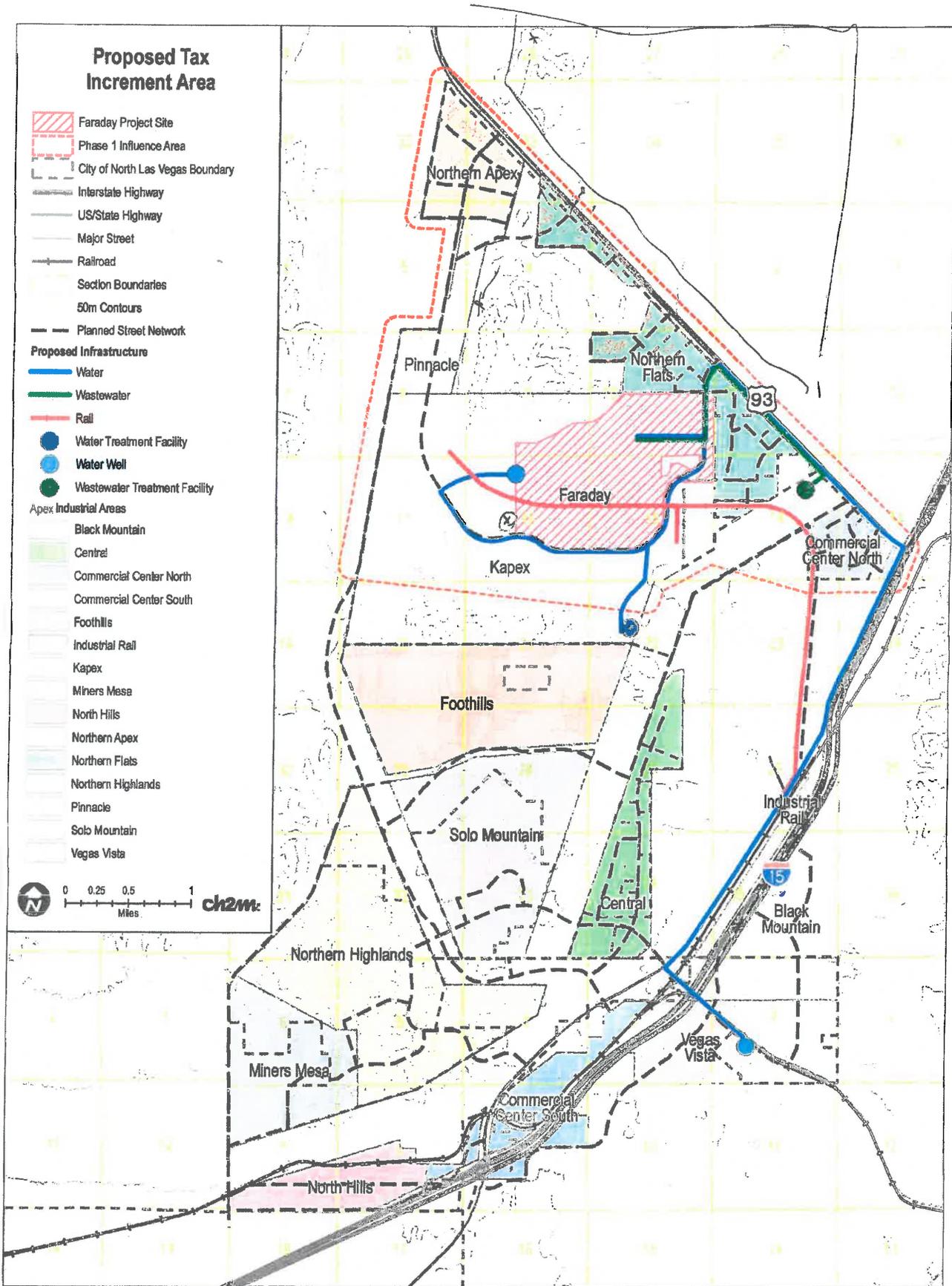
By: _____
John J. Entsminger, General Manager

Approved as to form:

Gregory J. Walch *GC*

Gregory J. Walch, General Counsel

EXHIBIT 1



**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Agreement	Director's Backup
Petitioner: David L. Johnson, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors approve and authorize the General Manager to sign, in substantially the same form as that attached hereto, the Water Service Agreement between Hyperloop Technologies, Inc., and the Authority for provision of construction water in the Apex area.	

Fiscal Impact:

If the above recommendation is approved, Hyperloop Technologies, Inc., will deposit \$50,000 with the Authority as a minimum payment for construction water service, together with a \$500,000 bond to secure payment of other Hyperloop Technologies, Inc., obligations that may arise under the Water Service Agreement.

Background:

The 29th Special Session of the Nevada Legislature began on December 16, 2015, and adjourned on December 19, 2015 (29th Special Session). Senate Bill No. 3 of the 29th Special Session (SB 3) designated the Authority and the Las Vegas Valley Water District as the exclusive water service providers for the Garnet Valley Groundwater Basin in Clark County (Garnet Basin). The Apex Industrial Park is located within the Garnet Basin.

On February 4, 2016, the Authority entered into a Water Facilities Use Agreement with NV Energy for use of its wells, located within Garnet Basin, for purposes of delivering water to developers during construction activities in the Apex area (NVE Agreement).

On April 21, 2016, the Board of Directors approved execution of a series of agreements, which included a Water Service Agreement with Robin Prop Holdco, LLC, also known as Faraday Future (Faraday Agreement). Pursuant to the Faraday Agreement, the Authority is providing construction water to Faraday Future in support of its electric vehicle plant located in Apex, subject to the terms and limitations in the NVE Agreement.

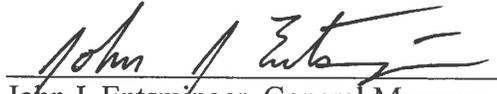
Hyperloop Technologies, Inc., also known as Hyperloop One (Hyperloop), is developing a test track for a high-speed magnetic levitation transportation system in the Apex Industrial Park. Hyperloop requested water service from the Authority for construction activities related to the test track pursuant to SB 3.

If approved, this Water Services Agreement (Agreement) sets forth the terms and conditions for the Authority to deliver water to Hyperloop, subject to the terms and limitations in the NVE Agreement and the Faraday Agreement, and would allow the Authority to accept security from Hyperloop to ensure reimbursement of costs incurred by the Authority in the provision of construction water services to Hyperloop.

Agreement
July 21, 2016
Page Two

This Agreement is being entered into pursuant to Section 6(j) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved the Agreement.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "John J. Entsminger", written over a horizontal line.

John J. Entsminger, General Manager
JJE:DLJ:GPK:GJW:TDF:DRW:ke
Attachments

DISCLOSURE OF OWNERSHIP/PRINCIPALS

Business Entity Type							
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input checked="" type="checkbox"/> Privately Held Corporation	<input type="checkbox"/> Publicly Traded Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization	<input type="checkbox"/> Other
Business Designation Group							
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> ESB	<input type="checkbox"/>		
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise	Emerging Small Business			
Corporate/Business Entity Name:		Hypertec Technologies, Inc. DB/A Hypertec One					
(Include d.b.a., if applicable)							
Street Address:		2161 Sacramento St.		Website: www.hypertec-one.com			
City, State and Zip Code:		Los Angeles, CA 90021		POC Name and Email: ^{Musina Ammari} Musina@hypertec-one.com			
Telephone No:		213-410-2019		Fax No: N/A			
Local Street Address:		13575 Apex Power Parkway		Website: N/A			
City, State and Zip Code:		North Las Vegas, NV, 89124		Local Fax No: NA			
Local Telephone No:		814-418-1023		Local POC Name Email: ^{Kevin Mock} kevin.mock@hypertec-one.com			
Number of Clark County, Nevada Residents Employed: _____							

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals, either directly or indirectly, holding more than five percent (5%) ownership or financial interest in the business entity appearing before the SNWA Board of Directors.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned <small>(Not required for Publicly Traded Corporations/Non-profit organizations)</small>
Rob Lloyd	CEO & Director	~ 5.8%
Sharpa Ventures Fund, LP	N/A (investor)	~ 2.9%
Formation & Pastures Fund II	N/A (investor)	~ 6.5%
137 Ventures	N/A (investor)	~ 8.8%
Fast Digital	N/A (investor)	~ 6.3%

This section is not required for publicly-traded corporations.

- Are any individual members, partners, owners or principals, involved in the business entity, an SNWA full-time employee(s), or appointed/elected official(s)?
 Yes No (If yes, please note that SNWA employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)
- Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an SNWA full-time employee(s), or appointed/elected official(s)?
 Yes No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also certify that the entity is not on the federal government's Excluded Parties List, as defined by 2 CFR § 180.945. I further understand that the SNWA will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.


 Signature _____
 Title General Counsel

Marvin Ammari
 Print Name _____
6/24/16
 Date _____

DISCLOSURE OF RELATIONSHIP

List any disclosures below:
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF SNWA EMPLOYEE OR OFFICIAL AND JOB TITLE	RELATIONSHIP TO SNWA EMPLOYEE OR OFFICIAL	SNWA EMPLOYEE'S/OFFICIAL'S DEPARTMENT
N/A			

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

For SNWA Use Only:

If no Disclosure or Relationship is noted above or if the section is marked N/A, please check this box:

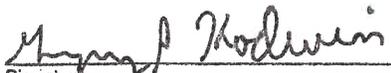
No Disclosure

If any Disclosure of Relationship is noted above, please complete the following:

Yes No Is the SNWA employee(s) noted above involved in the contracting/selection process for this particular agenda item?

Yes No Is the SNWA employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:


Signature

GREGORY P KODWEIS
Print Name

Authorized Department Representative

WATER SERVICE AGREEMENT

This Water Service Agreement ("Agreement") is made and entered into this ___ day of _____, 2016 ("Execution Date"), by and between the Southern Nevada Water Authority, a political subdivision of the State of Nevada ("SNWA"), and Hyperloop Technologies, Inc., a Delaware corporation, also known as Hyperloop One ("Hyperloop"). For convenience, SNWA and Hyperloop are referred to herein individually as "Party" and collectively as the "Parties."

WITNESSETH

- A. **WHEREAS**, Senate Bill No. 3 of the 29th (2015) Special Session of the Nevada Legislature ("**SB 3**") designated SNWA and the Las Vegas Valley Water District ("**LVVWD**") as the exclusive water service providers for the Garnet Valley Groundwater Basin in Clark County ("**Garnet Basin**");
- B. **WHEREAS**, Hyperloop, a high-speed magnetic levitation transportation system company, is developing a test track in the Apex Industrial Park ("**Apex**"), which is located within the Garnet Basin;
- C. **WHEREAS**, Hyperloop has requested water service from SNWA for construction activities related to its test track, as required pursuant to SB 3;
- D. **WHEREAS**, other entities (which, together with Hyperloop, shall be referred to herein as "**Developers**") may request that SNWA provide water service for construction related activities in Garnet Basin during the Term (as defined below) of this Agreement;
- E. **WHEREAS**, NV Energy owns and operates generating facilities at the Arrow Canyon Complex ("**ACC**") including the Silverhawk Generating Station, which is located in the vicinity of Apex;

- F. **WHEREAS**, as part of its ACC operations, NV Energy owns and operates wells, water tanks, and other water facilities that it uses to provide water to its generating facilities;
- G. **WHEREAS**, pursuant to that certain Water Facilities Use Agreement (“**NV Energy Agreement**”) executed on February 4, 2016, by and between NV Energy and SNWA, NV Energy has agreed to allow SNWA to use NV Energy’s wells and water facilities at the ACC to provide water service to Developers to the extent such use does not negatively impact the generating facilities’ reliability, create undue risk to plant systems and equipment, or create undue risk to the environment in the form of spills or contamination, among other terms, conditions, and limitations set forth in the NV Energy Agreement. The NV Energy Agreement is attached hereto and incorporated herein as **Exhibit “A”**.
- H. **WHEREAS**, SNWA Permit No. 85854T grants SNWA the right to temporarily divert 1,060 acre-feet of water per year originally permitted for diversion in Coyote Spring Valley (Hydrographic Area No. 210) from well GV-PW-WS1 located at the NV Energy Silverhawk Generating Station in Garnet Basin for use in Clark County, Nevada to accommodate anticipated water needs for construction activities in Garnet Basin (“**SNWA Permit**”);
- I. **WHEREAS**, the Parties desire that SNWA coordinate with NV Energy to operate the necessary tie-ins to NV Energy’s water facilities (“**SNWA Facilities**”) such that water can be delivered to Hyperloop via the Point of Delivery shown on **Exhibit “B”** attached hereto and incorporated herein by this reference (“**Point of Delivery**”);
- J. **WHEREAS**, SNWA and Faraday entered into a Water Service Agreement on May 4, 2016, for SNWA to provide construction water service to Faraday for its electric

vehicle car plant located in Apex. The Faraday Water Service Agreement is attached hereto and incorporated herein as **Exhibit “C”**; and

- K. **WHEREAS**, SNWA and Hyperloop desire to enter into this Agreement in order to outline the rights and obligations of each Party in the provision of water to accommodate Hyperloop’s construction activities.

NOW THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. Term. This Agreement commences on the Effective Date and continues until July 21, 2017 (“**Term**”); provided, however, this Agreement will automatically terminate if the NV Energy Agreement is terminated for any reason.
2. Rate, Metering, and Construction Water Service.
 - a. Provision of construction water. SNWA, subject to terms and limitations set forth herein, will provide up to 33 acre-feet of water per month (pro-rated for any partial months that are part of the Term) to Hyperloop at the Point of Delivery, subject to a maximum flow rate of 250 gallons per minute.
 - b. Rate. The rate SNWA will charge Hyperloop for construction water provided under this Agreement will be two dollars and thirty-three cents (\$2.33) per one thousand (1,000) gallons.
 - c. Metering. SNWA shall monitor and record water meter readings for the Point of Delivery at least monthly and report such data to Hyperloop every 30 days. SNWA is responsible for providing well pumping information quarterly to the Nevada State Engineer as a condition of the SNWA Permit.

d. **Payment.** Prior to commencement of service, Hyperloop will pay SNWA fifty thousand dollars (\$50,000), which amount shall not be refundable (the “**Service Commencement Fee**”). SNWA will record water usage consistent with Paragraph 2(b) above, calculate the amount due using the rate stated in Paragraph 2(a) above, and deduct the amount due each month from the Service Commencement Fee. If there remains any portion of the Service Commencement Fee at the end of the Term of this Agreement and/or any extension of this Agreement entered into by the Parties, Hyperloop will not be entitled to a refund of the balance; provided, however, that if the Term is extended within 60 days of the termination of this Agreement, then the Service Commencement Fee or the remaining balance thereof shall be carried over through the extended agreement. If Hyperloop uses more than \$50,000 of construction water during the Term or any extended Term, SNWA will bill for water used at the rate set forth above and Hyperloop shall remit payment for such invoice within thirty days (30) of the date set forth on the invoice.

3. SNWA’s Obligations to Hyperloop.

a. **Provide Water.** SNWA shall provide construction water to Hyperloop at the Point of Delivery to the extent water is available under the SNWA Permit, the NV Energy Agreement, and the Faraday Agreement, and is not otherwise limited by the Nevada State Engineer or completely unavailable as provided for in this Agreement. If the provision of construction water at the Point of Delivery is curtailed by the Nevada State Engineer or is otherwise unavailable under the SNWA Permit, the NV Energy Agreement, or the Faraday Agreement, SNWA may provide the construction water to Hyperloop under other groundwater permits SNWA may hold in Garnet Basin,

but shall have no obligation to do so. If a new point of diversion or water source is identified and utilized, the Rate as provided for in Paragraph 2(a) above will be recalculated.

- b. Provide Equipment. SNWA shall provide Hyperloop with necessary water meter and back flow prevention assembly to be installed by Hyperloop at the Point of Delivery.

4. NV Energy Agreement & Hyperloop's Obligations to SNWA.

- a. Indemnification. Based on this Agreement and the acknowledgements contained herein, Hyperloop agrees to indemnify, hold harmless, and defend SNWA for any cost or liability SNWA may incur under the terms of the NV Energy Agreement. Hyperloop's indemnification obligation shall not apply to losses, damages, claims, expenses and other liabilities arising out of, relating to, or resulting from the reckless or willful misconduct of SNWA or any of SNWA's officers, directors, employees, contractors or agents. Specifically, and without limiting the foregoing, Hyperloop agrees to the following:

- i. If a mechanic's lien ("Lien") arising out of any activity undertaken pursuant to this Agreement is recorded against any property owned by NV Energy, its affiliates, or its subsidiaries at any time, Hyperloop shall obtain the release of (or otherwise satisfy) the Lien within ten (10) days of receipt of notice of the Lien. If Hyperloop fails to do so, (1) SNWA may take such steps and make such expenditures as, in its sole discretion, it deems advisable to obtain release of or otherwise satisfy the Lien(s), and (2) Hyperloop shall, upon demand, reimburse SNWA for all costs and

expenditures incurred, including without limitation, attorneys' fees, court costs, surety premiums incurred by SNWA in obtaining such release or satisfaction.

- ii. Hyperloop, at its sole cost, shall repair any damage to NV Energy's property resulting from the activities of SNWA (to the extent such activities were not undertaken in a grossly negligent or intentional manner), Hyperloop or their respective employees, contractors or subcontractors, including without limitation restoring to the extent reasonably possible the property to the condition it was in before SNWA, Hyperloop and their respective employees, contractors and subcontractors commenced their activities permitted by this Agreement. Hyperloop shall perform all repair and restoration activities on NV Energy's property to the satisfaction of NV Energy and in accordance with all applicable laws as well as applicable guidelines of the Nevada Division of Environmental Protection and the State Engineer and any other state or local agency with relevant jurisdiction. If the activities of Hyperloop or its employees, contractors or subcontractors cause damage to NV Energy's property or any improvements on it and (after SNWA has received written notice of such damage from NV Energy and after SNWA has provided Hyperloop written notice of the same) Hyperloop has failed to repair the damage to NV Energy's satisfaction by the deadline specified by SNWA in the written notice, SNWA or NV Energy will undertake to have repairs made and Hyperloop shall, upon demand,

reimburse SNWA or NV Energy, as appropriate all associated costs together with any liability arising under the NV Energy Agreement.

- iii. Hyperloop shall not cause or permit any Hazardous Material to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath NV Energy's property without the prior written consent of NV Energy. **"Hazardous Material"** means any substance, whether solid, liquid or gaseous in nature (A) the presence of which requires remediation under any law relating to the protection of human health or the environment; (B) that is or becomes defined as a "hazardous waste," "hazardous substance," pollutant or contaminant under any Law, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. section 6901 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. section 1801 et seq.), the Federal Water Pollution Control Act (33 U.S.C. section 1251 et seq.), the Clean Air Act (42 U.S.C. section 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. section 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. section 651 et seq.), as these laws are amended or supplemented; (C) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Nevada

or any political subdivision thereof; (D) contains gasoline, diesel fuel or other petroleum hydrocarbons; (E) that contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or (F) that contains radon gas.

- iv. Hyperloop shall reimburse SNWA for any and all costs SNWA incurs in purchasing equipment or reimbursing NV Energy for same as required by the NV Energy Agreement.
- v. Hyperloop shall only use water provisioned by SNWA under this Agreement for the purposes of Hyperloop's construction activities, and in strict accordance with the terms and limitations, set forth in the SNWA Permit.
- vi. To secure the faithful performance of its obligations hereunder, including indemnity obligations, Hyperloop shall, within fifteen (15) days of the Effective Date, post with SNWA a cash bond, or another surety instrument acceptable to SNWA, in its sole discretion, in the amount of \$500,000.00 ("**Bond**"). The Bond shall specifically cover all damages for which Hyperloop is liable to SNWA under this Agreement, including all damages suffered by SNWA as a result of Hyperloop's failure to well and truly perform and fulfill all the undertakings, covenants, terms, conditions, warranties and all other obligations and agreements of this Agreement. SNWA may use the Bond to discharge any Hyperloop obligation hereunder if, after fifteen (15) days written notice, Hyperloop fails to perform the obligation or otherwise provide SNWA a written assurance, satisfactory to

SNWA in its sole discretion, to do so. Within thirty (30) days after the conclusion of the Term of this Agreement and/or any extension of this Agreement entered into by the Parties, SNWA shall return the Bond, or such portions thereof not used or retained by SNWA to discharge any unfulfilled Hyperloop obligations, to Hyperloop. If Hyperloop posts a surety Bond, the Bond shall be written with insurance companies admitted to do business in the State of Nevada and rated A- or better and Class V or higher of financial size category in the current issue of Best's Key Rating Guide. The Bond shall be executed by sureties included in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 by the Audit Staff Bureau of Government Financial Operations, U.S. Treasury Department. If the Bond is signed by an agent, the Bond must be accompanied by a certified copy of agent's authority to act. Only surety companies authorized to do business in, and having an agent for services of process in the State of Nevada will be acceptable. If the surety on the Bond is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Nevada or it ceases to meet the requirements of this Agreement, Hyperloop shall within ten (10) days thereafter substitute another Bond and surety, both of which must be acceptable to SNWA.

b. Construction, Maintenance and Removal of Pipeline.

- i. Hyperloop shall, at its sole cost and expense, construct and maintain the necessary pipe to transport the construction water from the Point of Delivery to the construction site (hereinafter referred to as “**Pipelines**” and shown on **Exhibit “D”** attached hereto and incorporated herein by this reference). Hyperloop shall ensure that the Point of Delivery is secured such that only persons authorized pursuant to this Agreement may access water under, and in full conformance with, this Agreement. Upon conclusion of the Term of this Agreement and/or any extension of this Agreement entered into by the Parties, Hyperloop shall remove the Pipelines and all other Hyperloop equipment associated with the Pipelines and restore and repair all real property affected by the Pipelines, including the ACC real property, to conditions existing prior to the Effective Date, to the extent reasonably possible.
- ii. Hyperloop is solely responsible for arranging, obtaining permits, and paying expenses for the lands and rights-of-way required to accommodate the Pipelines. All such arrangements must be made in writing and approved by SNWA prior to Hyperloop implementing construction of the Pipelines. Hyperloop acknowledges that SNWA has made no representations regarding land use restrictions or permitting that may apply to construction of the Pipelines.
- iii. Any construction or work performed in public rights-of-way, in addition to conforming to the Pipeline Documents (defined below), shall comply with

the requirements of the permit issued by the public agency in whose right-of-way the work or construction is located. Should the permit's requirements differ or conflict with the Pipeline Documents, the more stringent or restrictive requirement shall prevail.

- iv. Prior to constructing the Pipelines, Hyperloop shall provide to SNWA construction plans showing the path of the Pipelines and methods and materials for construction of the Pipelines, including arrangements, permits, and approvals of land use and rights-of-way for the Pipelines ("**Pipeline Documents**").

5. Acknowledgments.

- a. Hyperloop acknowledges that SNWA's ability to provide construction water is limited by the terms, conditions, and limitations of the NV Energy Agreement, the Faraday Agreement, and the terms of the SNWA Permit, and agrees SNWA shall have no obligation whatsoever to provide construction water to Hyperloop from any source other than the SNWA Permit and the NV Energy Agreement to the extent such terms, conditions, and limitations render water unavailable to SNWA under the NV Energy Agreement or the Faraday Agreement. Such terms, conditions, and limitations include, but are not limited to: SNWA's preexisting obligations to provide water to NV Energy pursuant to the Agreement to Lease Water for Power Generation Purposes between NV Energy and LVVWD, dated October 12, 2009 ("**NV Energy Water Lease**"); NV Energy's sole and exclusive right to determine the operating times, output, and any other operating conditions/requirements of NV Energy's water facilities from which the

construction water will be pumped for purposes of Hyperloop's construction activities; SNWA's inability to exceed the maximum capacity of NV Energy's wells as determined in NV Energy's sole discretion; and SNWA's obligations under the Faraday Agreement. Hyperloop acknowledges and agrees that to the extent any of the foregoing terms and conditions result in a curtailment of any water available to SNWA under the NV Energy Agreement, Hyperloop's construction water service would be curtailed in full before any curtailment of Faraday's construction water service.

- b. Hyperloop acknowledges and agrees that NV Energy may, at its sole reasonable discretion, temporarily or permanently curtail or suspend SNWA's use of water under the NV Energy Agreement, if NV Energy is required to repair or conduct maintenance at ACC. SNWA shall not be obligated to contest any such curtailment or suspension by NV Energy but may seek or provide an alternative water supply for Hyperloop as provided for in Paragraph 3(a) above. SNWA shall not be required to pay for the cost penalties of work delays or cost of alternative means to supply water incurred by Hyperloop due to a curtailment or suspension.
- c. Hyperloop acknowledges that the provision of tie-in facilities to NV Energy's water facilities is a convenience to Hyperloop, as Hyperloop would be required to construct a well or otherwise arrange for access to the construction water.
- d. Hyperloop acknowledges that SNWA agreed to indemnify and hold harmless NV Energy for potential liability associated with accessing and using water under the NV Energy Agreement.

6. Limitation of Liability.

- a. No Consequential or Indirect Damages. In no event shall either Party be liable under this agreement to the other Party or any third party for consequential, indirect, incidental, special, exemplary, punitive or lost profits or revenues or diminution in value, arising out of, or relating to, and/or in connection with any breach of this Agreement, regardless of (A) whether such damages were foreseeable, (B) whether or not such Party was advised of the possibility of such damages, and (C) the legal or equitable theory upon which the claim is based.
- b. Indemnification and Hold Harmless. In addition to the obligations agreed to above in Paragraph 4(a), Hyperloop shall indemnify, defend and hold harmless, SNWA from, for and against any and all claims, losses and damages, arising out of, relating to, or resulting from: (A) The NV Energy Agreement, Faraday Agreement, and Faraday's senior priority for water service; (B) Applications with the State Engineer to change the point of diversion, manner of use and place of use of SNWA's water permits to provide service to Hyperloop under this Agreement; (C) inability to provide water service to Hyperloop, regardless if it is technical, legal, seasonal or for any other reason; (D) construction of the SNWA Facilities; (E) operations of the SNWA Facilities; and (F) execution of this Agreement. Hyperloop's indemnification obligation shall not apply to losses, damages, claims, expenses and other liabilities arising out of, relating to, or resulting from the reckless or willful misconduct of SNWA or any of SNWA's officers, directors, employees, contractors or agents.

7. No Interest or Estate. Hyperloop agrees that it does not have any interest or estate in the SNWA Permit, and shall not claim at any time any interest or estate of any kind whatsoever in the SNWA Permit by virtue of this Agreement. Hyperloop agrees that the water provided to Hyperloop by SNWA is owned by SNWA and that any wastewater or treated effluent generated by use of the SNWA Permit is also owned by SNWA and may not be used by Hyperloop, and Hyperloop may not transfer assign or allow use by any other party. Further, Hyperloop agrees that the use of SNWA Permit under this Agreement is exclusive to Hyperloop and may not be used by any other party or for any other purpose.
8. No Warranty and Acknowledgement. Hyperloop acknowledges that the water provided by SNWA is non-potable and is for construction purposes only. SNWA makes no representation or warranty regarding the quantity or quality of any water made available under this Agreement. In the event water is provided from an NV Energy water tank, Hyperloop agrees to obtain any and all applicable permits for its use, including but not limited to, a discharge permit from the Nevada Division of Environmental Protection.
9. Authority of the Nevada State Engineer. The Parties acknowledge that the Nevada State Engineer has, pursuant to both statutory and case law, broad authority to administer groundwater resources in the State of Nevada, and furthermore, that nothing contained in this Agreement obligates SNWA to provide water service to Hyperloop if SNWA's ability to provide such service is prohibited or diminished by any order of the Nevada State Engineer, appealable, final, or otherwise, or by any order from a court of competent jurisdiction, or any federal, state, or local governmental agency of competent jurisdiction that makes illegal or permanently restrains, enjoins or otherwise limits SNWA's ability to provide water service to Hyperloop. SNWA shall have no obligation to appeal or otherwise

contest any such orders, and Hyperloop hereby releases and waives any claims or causes of action in law or equity against SNWA in the event water service is delayed, interrupted or terminated due to the occurrence of any event described herein.

10. Notices. If notice is required to be sent to the Parties, the addresses are as follows:

If to Hyperloop:

Hyperloop Technologies, Inc.
Marvin Ammori, General Counsel
2161 Sacramento St.
Los Angeles, CA 90021
Email: legal@hyperlooptech.com

If to SNWA:

General Manager
Southern Nevada Water Authority
1001 S. Valley View Blvd., MS #480
Las Vegas, Nevada 89153
Email: John.Entsminger@snwa.com

With a copy to:

General Counsel
Southern Nevada Water Authority
1001 S. Valley View Blvd., MS #485
Las Vegas, Nevada 89153
Email: Greg.Walch@snwa.com

Any and all notices and demands by any Party required or desired to be given to the other Party hereunder shall be in writing and shall be validly given or made only if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, Federal Express or other similar delivery service keeping records of deliveries and attempted deliveries, or via electronic mail. Service by United States Mail or by Federal Express or other similar delivery service shall be deemed complete three (3) business days following deposit with the United States mail or other delivery service, or upon actual receipt, whichever is sooner. Service by electronic mail shall be deemed complete upon transmission.

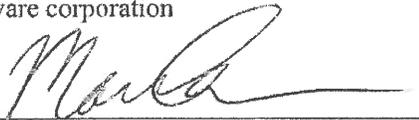
11. Assignment and Delegation. Hyperloop may not delegate, transfer or assign its rights or responsibilities pursuant to this Agreement without the prior written consent of SNWA. If a Party delegates, transfers or assigns its rights or responsibilities without the prior written consent of the other Party, the delegation, transfer or assignment shall be void and not merely voidable.
12. Governing Law and Venue. This Agreement shall be governed in accordance with the laws of the State of Nevada, without reference to its choice of law provisions. Any legal action related to this Agreement will only be filed in the Clark County District Court, or if applicable, the United States District Court for the District of Nevada, Southern Division.
13. Amendment. This Agreement may be changed, modified, or amended only by mutual written agreement of the Parties.
14. No Third Party Beneficiaries. This Agreement is not intended by the Parties to create any right in or benefit to parties other than Hyperloop and SNWA. This Agreement does not create any third party beneficiary rights or causes of action.
15. Waiver. The failure of either Party to enforce at any time, or for any period of time, the provisions hereof shall not be construed as a waiver of such provisions or of the rights of such Party to enforce each and every such provision.
16. Counterparts. This Agreement will become effective as between the Parties upon all Parties signing this Agreement. This Agreement may be executed in any number of counterparts and when so executed, each such counterpart shall be deemed to be an original hereof as against any Party who has signed it, and all counterparts together shall constitute one and the same instrument.

17. Authority. Each Party warrants to the other that it, and its signatory hereunder, is duly authorized and empowered to execute this Agreement and to bind said Party to the terms hereof.

[SIGNATURE PAGE FOLLOWS]

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

HYPERLOOP TECHNOLOGIES, INC.
A Delaware corporation

By: 
Name: Marvin Ammori
Title: General Counsel

SOUTHERN NEVADA WATER AUTHORITY

By: _____
Name: John J. Entsminger
Title: General Manager

Approved as to form:

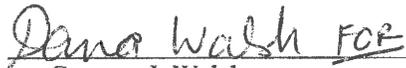
By: 
Name: Gregory J. Walch
Title: General Counsel

EXHIBIT "A" – NV ENERGY AGREEMENT

WATER FACILITIES USE AGREEMENT

THIS WATER FACILITIES USE AGREEMENT (“Agreement”) dated as of February 4, 2016 (the “Effective Date”), is made by and between NEVADA POWER COMPANY, a Nevada corporation doing business as NV Energy (“NV Energy”), and SOUTHERN NEVADA WATER AUTHORITY, a political subdivision of the State of Nevada (“SNWA”). NV Energy and SNWA are also each referred to herein as a “Party” and collectively as the “Parties.”

WITNESSETH

WHEREAS, Senate Bill No. 3 of the 29th Special Session of the Nevada Legislature designated SNWA and the Las Vegas Valley Water District (“LVVWD”) as the exclusive water service providers for the Garnet Valley Ground Water Basin in Clark County (“Garnet Basin”);

WHEREAS, Faraday Future (“Faraday”), an electric vehicle developer, is developing an electric vehicle plant at the Apex Industrial Park (“Apex”), which is located within the Garnet Basin;

WHEREAS, Faraday has requested SNWA to provide it water service for its construction activities related to its car plant, as required pursuant to SB 3;

WHEREAS, other entities (which, together with Faraday, shall be referred to herein as “Developers”) may request that SNWA provide water service for construction related activities in Garnet Basin during the Term (as defined below) of this Agreement;

WHEREAS, NV Energy owns and operates generating facilities at the Arrow Canyon Complex (“ACC”), which is located in the vicinity of Apex;

WHEREAS, as part of its ACC operations, NV Energy owns water wells that it uses to provide water to its generating facilities; and

WHEREAS, SNWA desires to use NV Energy’s wells at ACC to provide water service to Developers, and NV Energy will allow SNWA to use NV Energy’s wells to the extent such use does not negatively impact the generating facilities’ reliability, create undue risk to plant systems and equipment, or create undue risk to the environment in the form of spills or contamination.

NOW THEREFORE, in consideration of the mutual promise set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. **Term.** This Agreement commences on the Effective Date and continues until February 15, 2017 (“Term”); provided, however, that either Party may terminate this Agreement for any reason and without liability of any kind on or after August 15, 2016, by giving thirty (30) days written notice.

2. NV Energy Obligations.

- 2.1 Except as provided for herein, NV Energy shall allow SNWA to have continued access to the SNWA Facilities (as defined below) and use of its wells located at ACC, associated with NV Energy water permits #'s 79002 through 79010, but excluding 79006 which is not owned by NV Energy (the "Wells"), exclusively to provide water service for Developers' construction activities for the duration of the Term.
- 2.2 SNWA will have exclusive use of Wells associated with water permits #'s 79004 and 79009, and 79005 and 79010, at its Chuck Lenzic Generating Station, subject to Section 4.2 below.

3. Infrastructure.

- 3.1 NV Energy and SNWA will coordinate to allow SNWA to tie facilities to each Well as necessary to draw water from the Wells to provide service to Developers.
- 3.2 NV Energy shall, at its sole cost and expense, modify its facilities to allow such tie-in by SNWA ("NVE Connection") and SNWA shall, at its sole cost and expense, develop, construct and operate the necessary tie-in to the NVE Connection located on NV Energy property ("SNWA Facilities") and to draw water from the Wells consistent with this Agreement.
- 3.3 SNWA, its employees, contractors and subcontractors shall have a revocable license for access to NV Energy's property as necessary to accomplish the tie-in and repair and maintenance of the SNWA Facilities, provided, however, SNWA shall provide prior notice to NV Energy before entering NV Energy's property and shall comply with NV Energy's site safety procedures while on NV Energy's property. SNWA, its employees, contractors and subcontractors may not use NV Energy's property for any other reason except for the purposes set forth by this Agreement. SNWA does not acquire, and may not assert, any vested right or interest in or to any of NV Energy's property except as set forth otherwise in this Agreement. NV Energy may revoke the license granted by this section with or without cause upon two (2) business days written notice to SNWA as provided below. However, NV Energy may revoke the license immediately if it (in its discretion) determines that any emergency or unsafe condition exists on or might affect the property or that SNWA or one of its employees, contractors or subcontractors is not complying with one or more of the terms of this agreement. The license terminates at the end of the Term.
- 3.4 SNWA must keep NV Energy's property free and clear of all liens, claims, judgments, security interests, and encumbrances ("Liens") arising out of its, or its contractors or subcontractors' use of the NV Energy property. If any Lien is filed against the NV Energy property at any time, SNWA must obtain the release of (or otherwise satisfy) the Lien within ten (10) days of receipt of notice of the Lien. If SNWA fails to do so, (1) NV Energy may take such steps and make such

expenditures as, in its discretion, it deems advisable to obtain release of or otherwise satisfy the Lien(s), and (2) SNWA must, upon demand, reimburse NV Energy for all costs and expenditures incurred, including without limitation attorneys' fees, court costs, surety premiums incurred by NV Energy in obtaining the release or satisfaction.

- 3.5 SNWA (at its cost) must repair any damage to NV Energy's property resulting from the activities of SNWA or its employees, contractors or subcontractors, including without limitation restoring to the extent reasonably possible the property to the condition it was in before SNWA and its employees, contractors and subcontractors commenced their activities permitted by this Agreement. SNWA must perform all repair and restoration activities on NV Energy's property to the satisfaction of NV Energy and in accordance with all applicable laws as well as applicable guidelines of the Nevada Division of Environmental Protection and any other state or local agency with relevant jurisdiction. If the activities of SNWA or its employees, contractors or subcontractors cause damage to NV Energy's property or any improvements on it and (after NV Energy has provided SNWA written notice of the damage) SNWA has failed to repair the damage to NV Energy's satisfaction by the deadline specified by NV Energy in the written notice, NV Energy will undertake to have repairs made and SNWA will be responsible for all associated costs, including without limitation any consequential damages.
- 3.6 SNWA must not cause or permit any Hazardous Material to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath NV Energy's property without the prior written consent of NV Energy. "Hazardous Material" means any substance, whether solid, liquid or gaseous in nature (A) the presence of which requires remediation under any law relating to the protection of human health or the environment; (B) that is or becomes defined as a "hazardous waste," "hazardous substance," pollutant or contaminant under any Law, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. section 6901 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. section 1801 et seq.), the Federal Water Pollution Control Act (33 U.S.C. section 1251 et seq.), the Clean Air Act (42 U.S.C. section 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. section 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. section 651 et seq.), as these laws are amended or supplemented; (C) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Nevada or any political subdivision thereof; (D) contains gasoline, diesel fuel or other petroleum hydrocarbons; (E) that contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or (F) that contains radon gas.

4. Limitations on SNWA's Use.

- 4.1 SNWA's rights described in this Agreement are subordinate to NV Energy's rights, and SNWA's rights cannot conflict or take precedence over its obligations to provide water to NV Energy pursuant to the Agreement to Lease Water for Power Generation Purposes between NV Energy and LVVWD, dated October 12, 2009 ("Water Lease").
- 4.2 NV Energy shall continue to have sole and exclusive right to determine the operating times, output, and any other operating conditions/requirements for all of the Wells covered in this Agreement.
- 4.3 SNWA shall comply with all laws, regulations and permits for or related to the Wells, its water rights, and the SNWA Facilities.
- 4.4 SNWA's use of the Wells cannot exceed the maximum capability of the Wells as determined in NV Energy's sole discretion.

5. SNWA's Obligations and Responsibilities.

- 5.1 SNWA is required, at its sole cost and expense, to obtain all necessary government approvals and permits to develop, install and operate the SNWA Facilities, and to obtain water rights necessary and to provide service from the Wells to Developers.
- 5.2 SNWA shall reimburse NV Energy for any and all costs NV Energy incurs in purchasing equipment that is necessary to repair or replace the pumps or motors for any Well that SNWA uses exclusively during the Term, save and except for costs incurred in excess of those reasonably necessary to return such pumps or motors to their condition existing as of the Effective Date.
- 5.3 SNWA shall maintain and repair the SNWA Facilities to ensure the SNWA Facilities do not adversely affect NV Energy's water system, the Wells, or the water quality and quantity being used at ACC.
- 5.4 Upon the expiration of the Term, SNWA shall, at its sole cost and expense, remove the SNWA Facilities and restore and repair the ACC real property to conditions existing prior to the Effective Date, to the extent reasonably possible.
- 5.5 SNWA will provide a minimum thirty (30) day advance written notice to NV Energy of the use of its Wells to serve any Developer other than Faraday. Such notice shall include the name of the Developer, designated use of the water, period of use to serve the Developer, and projected monthly pumpage from each Well.

6. Water Rights. SNWA shall use its permitted water rights solely for the service it provides to Developers. SNWA is responsible, at its sole cost and expense, for obtaining the State Engineer's approval for any change in the point of diversion, manner of use and place of use to allow SNWA to divert water from the Wells and provide service to Developers. In

no event shall SNWA use water designated for NV Energy pursuant to the Water Lease to provide service to Developers.

7. **Metering and Monthly Reports.** SNWA shall install a meter at the interconnection of SNWA Facilities to NV Energy facilities to measure its monthly diversion of water. SNWA shall read the meters on a monthly basis and provide NV Energy monthly reports of the amount of water that is being diverted for Developers at the Wells by the tenth (10th) day of each month.
8. **Indemnification.** SNWA shall, to the full extent authorized by law, indemnify, defend and hold harmless, on an after state and federal tax basis, NV Energy from, for and against any and all claims, losses and damages, including, but not limited to, any damages or contaminations to the Wells or other property owned or operated by NV Energy, arising out of, relating to, or resulting from SNWA's: (a) Applications with the State Engineer to change the point of diversion, manner of use and place of use of its water permits to provide service to Faraday from the Wells; (b) inability to appropriate water from the Wells or provide water service to Developers, regardless if it is technical, seasonal or for any other reason; (c) construction of the SNWA Facilities; (d) operations of the SNWA Facilities; and (e) execution of this Agreement; provided, however, that such obligation shall not include claims, losses, or damages to the extent caused by the action or inaction of NV Energy.
9. **Curtailment.** NV Energy may, at its sole reasonable discretion, curtail or suspend SNWA's use of the Wells to provide service to Developers, if NV Energy is required to repair or conduct maintenance at ACC. In the event of a curtailment or suspension, NV Energy is not required to seek an alternative water supply or source for SNWA. NV Energy shall not be required to pay for SNWA Facilities' failures, cost of work delays or cost of alternative means to supply water incurred by SNWA due to a curtailment or suspension.
10. **Notices.** Unless otherwise stated herein, all notices, demands, or requests required or permitted under this Agreement must be in writing and must be delivered or sent by overnight express mail or courier service, or certified mail, return receipt requested, addressed as follows:

SNWA:

Southern Nevada Water Authority
1001 S Valley View Blvd., M/S 485
Las Vegas, NV 89153
Attention: David Johnson, DGM,
Engineering and Operations

With a copy to:

Southern Nevada Water Authority
1001 S Valley View Blvd., M/S 485
Las Vegas, NV 89153

NV Energy:

NV Energy
6226 W. Sahara Ave., M/S 253
Las Vegas, NV 89146
Attention: Ann Casey, Manager
Joint Owned Plants

With a copy to:

NV Energy
6226 W. Sahara Ave., M/S 2
Las Vegas, NV 89146

Attention: General Counsel
Email: greg.walch@snwa.com

Attention: General Counsel
Facsimile No.: 702-402-5300

or to such other person at such other address as a Party may designate by like notice to the other Party. Notice received after the close of the business day will be deemed received on the next business day by 5:00 p.m., Pacific Prevailing Time.

11. **Assignment.** Neither Party may assign any of its rights or obligations under this Agreement and any attempted assignment without such consent shall be null and void.
12. **Default/Remedies.**
 - 12.1 **Event of Default.** With respect to SNWA, there shall be an "Event of Default" if SNWA is in breach of any representation or warranty set forth herein or fails to perform any material obligation set forth in this Agreement and such breach or failure is not cured within sixty (60) days after written notice of the default is provided to SNWA from NV Energy.
 - 12.2 **Termination.** Upon the occurrence of an Event of Default, NV Energy shall provide notice of the default to SNWA and shall specify in such notice the basis for the Event of Default. NV Energy does not waive its rights hereunder, by any failure to provide such notice. If the Event of Default is not cured within the sixty (60) day period, as described in Section 12.1, NV Energy may provide notice to SNWA that the Agreement has terminated. The termination shall be effective upon transmittal of the notice by any means specified in this Agreement to SNWA. SNWA shall remain liable for any obligations that SNWA had pursuant to the Agreement prior to the date of termination, in addition to any other surviving obligations specified herein or remedies available.
 - 12.3 **Remedies.** Upon an Event of Default by SNWA, NV Energy shall have, in addition to any other remedies available at law or in equity, the right, but not the obligation, to terminate or suspend this Agreement with respect to all obligations arising after the effective date of such termination or suspension.
13. **Limitation of Liability.** Under no circumstances will either Party be liable for any indirect, incidental, special, consequential or punitive damages incurred or suffered by the other Party arising out of or in connection with this Agreement (including without limitation, lost revenue, loss of income or loss of business advantage), even if such Party or an authorized representative of such Party has been advised of the possibility of such damage. The foregoing limitation of liability shall remain in full force and effect regardless of whether either Party's remedies hereunder are determined to have failed of their essential purpose.
14. **Counterparts.** This Agreement may be executed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

15. **Governing Law; Venue.** This Agreement is governed by and must be construed in accordance with the laws of the State of Nevada, without giving effect to its conflict of law provisions. Nothing in this agreement is designed to eliminate the Public Utilities Commission of Nevada's jurisdiction over matters within its jurisdiction. In the event a court of competent jurisdiction has jurisdiction over a civil action or remedy brought under this Agreement, the Parties agree that they will first seek to initiate such action in the federal district court of Nevada with jurisdiction over Washoe County, Nevada. In the event the federal district court lacks jurisdiction over such a dispute, the parties agree the dispute will be brought in the Nevada state district court for Washoe County, Nevada in Reno, Nevada. Each Party agrees that it will not initiate an Action against the other Party in any other jurisdiction.
16. **Waiver of Jury Trial.** To the fullest extent permitted by Law, each of the Parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this Agreement. Each Party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which jury trial cannot be or has not been waived.
17. **Amendments.** Any change, modification, or amendment to this Agreement is not enforceable unless consented to in writing by the Parties and executed with the same formality as this Agreement.
18. **No Third-Party Beneficiaries.** The provisions of this Agreement shall not impart rights enforceable by any person, firm or organization not a Party to this Agreement.
19. **Business Formation.** Nothing in this Agreement creates a partnership, joint venture or other similar business construct between the Parties.
20. **Authority; Enforceability.** The Parties warrant that each has full power to enter into this Agreement, and to carry out its respective obligations under this Agreement. Each Party has the full entity power and authority to execute and deliver this Agreement and the other transaction documents to which it will be a party in connection with the transactions contemplated hereby, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by each Party of this Agreement and the other transaction documents to which it will be a party in connection with the transactions contemplated hereby, and the performance by such Party of its obligations hereunder and thereunder, have been duly and validly authorized by all necessary entity action, and assuming due and valid authorization, execution and delivery thereof by the other Party, will be when delivered valid and binding obligations of such Party enforceable against such Party in accordance with their terms (subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity).
21. **Other Agreements.** If there are or may be other agreements in effect between the Parties (collectively, the "Other Agreements"), this Agreement and the Other Agreements are and will be separate and individual obligations of the respective parties thereto. The terms of

one agreement will in no event be deemed to be the terms of any Other Agreement, nor will the terms of one agreement be used to interpret the terms of any Other Agreement. No default or breach under, or expiration or termination of this Agreement will constitute a default or breach under, or cause any expiration or termination of, any Other Agreement, and vice versa.

22. **Severability.** If any portion or provision of the Agreement is invalid, illegal, or unenforceable, or any event occurs that renders any portion or provision of the Agreement void, the other portions or provisions of the Agreement will remain valid and enforceable. Any void portion or provision will be deemed severed from the Agreement, and the balance of the Agreement will be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The Parties further agree to amend the Agreement to replace any stricken portion or provision with a valid provision that comes as close as possible to the intent of the stricken portion or provision.
23. **Survival of Terms.** All terms and provisions of this Agreement, including any and all exhibits, addenda and amendments hereto, which by their nature are intended to survive any termination or expiration of this Agreement, shall so survive.
24. **Entire Agreement.** This Agreement contains the Parties' entire understanding within.

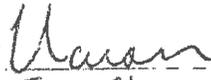
[Signature page follows]

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties as of the Effective Date.

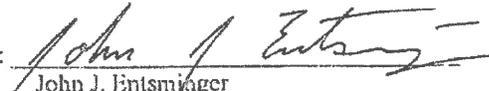
NEVADA POWER COMPANY d/b/a NV ENERGY,
a Nevada corporation

By: 
Name: KEVIN C GERAGHTY
Title: VP, ENERGY SUPPLY

Approved as to form:

By: 
Name: Tim Clausen
Title: Senior Attorney

SOUTHERN NEVADA WATER AUTHORITY

By: 
John J. Entsminger
General Manager

Approved as to form:

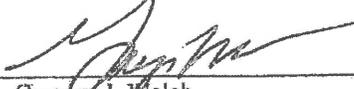
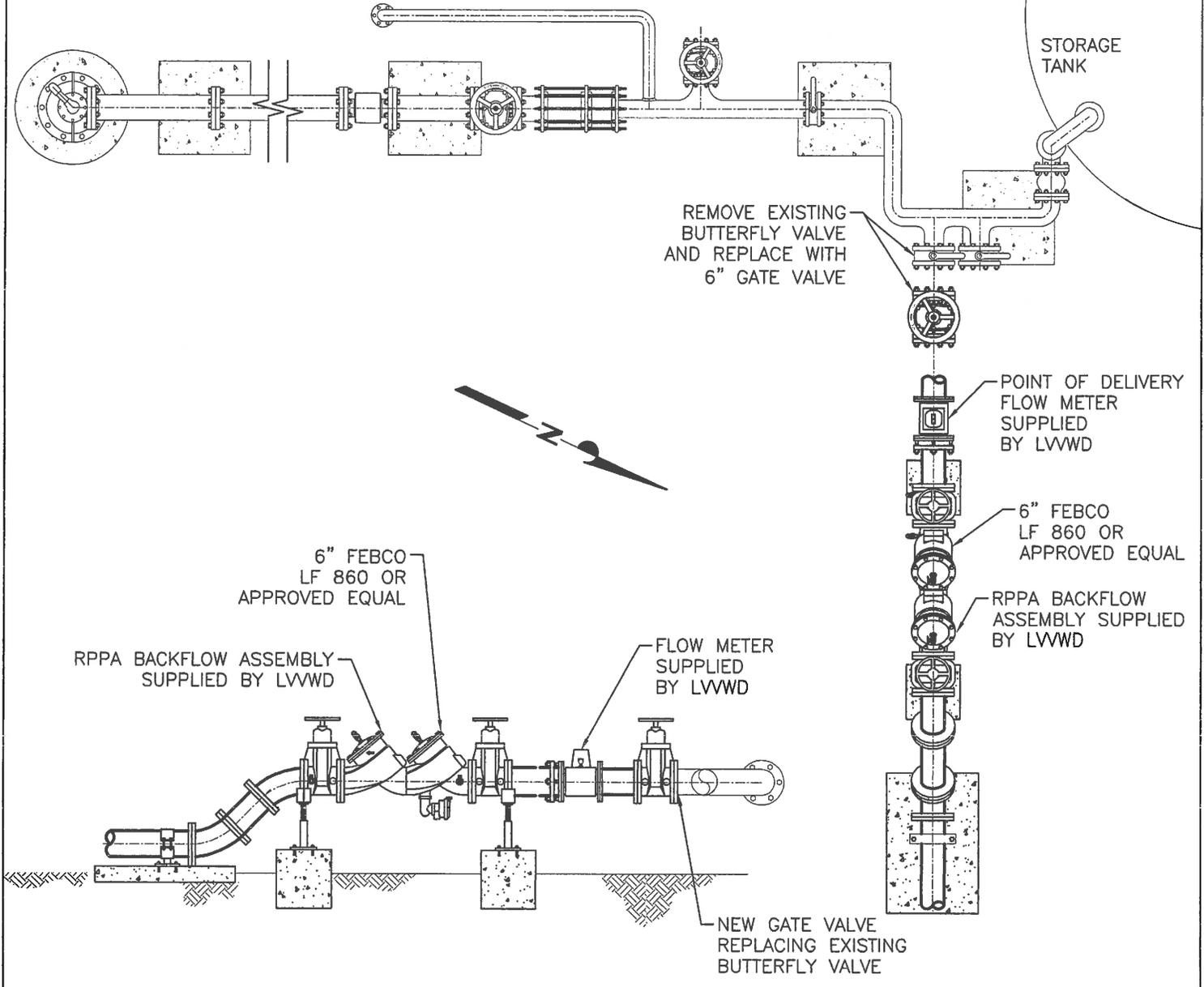
By: 
Gregory J. Walch
General Counsel

EXHIBIT "B" – POINTS OF DELIVERY

EXHIBIT B SILVERHAWK WELL SITE

ALL PIPING WILL BE
CONSTRUCTED BY OTHER



REV.	DESCRIPTION	SIGNATURE	DATE

EXHIBIT "C" – FARADAY WATER SERVICE AGREEMENT

WATER SERVICE AGREEMENT

This Water Service Agreement ("Agreement") is made and entered into this 4th day of May, 2016 ("Execution Date"), by and between the Southern Nevada Water Authority, a political subdivision of the State of Nevada ("SNWA"), and Robin Prop Holdco, LLC, a Delaware limited liability company ("Faraday"). For convenience, SNWA and Faraday are referred to herein individually as "Party" and collectively as the "Parties."

WITNESSETH

- A. **WHEREAS**, Senate Bill No. 3 of the 29th (2015) Special Session of the Nevada Legislature ("**SB 3**") designated SNWA and the Las Vegas Valley Water District ("**LVVWD**") as the exclusive water service providers for the Garnet Valley Groundwater Basin in Clark County ("**Garnet Basin**");
- B. **WHEREAS**, Faraday, an electric vehicle developer, is developing an electric vehicle plant at the Apex Industrial Park ("**Apex**"), which is located within the Garnet Basin;
- C. **WHEREAS**, Faraday has requested water service from SNWA for construction activities related to its car plant, as required pursuant to SB 3;
- D. **WHEREAS**, other entities (which, together with Faraday, shall be referred to herein as "**Developers**") may request that SNWA provide water service for construction related activities in Garnet Basin during the Term (as defined below) of this Agreement;
- E. **WHEREAS**, NV Energy owns and operates generating facilities at the Arrow Canyon Complex ("**ACC**") including the Reid Gardner Generating Station, Chuck Lenzie Generating Station, and Silverhawk Generating Station, which is located in the vicinity of Apex;

- F. **WHEREAS**, as part of its ACC operations, NV Energy owns and operates wells that it uses to provide water to its generating facilities;
- G. **WHEREAS**, pursuant to that Water Facilities Use Agreement (“NV Energy Agreement”) executed on February 4, 2016, NV Energy has agreed to allow SNWA to use NV Energy’s wells at the ACC to provide water service to Developers to the extent such use does not negatively impact the generating facilities’ reliability, create undue risk to plant systems and equipment, or create undue risk to the environment in the form of spills or contamination, among other terms, conditions, and limitations set forth in the NV Energy Agreement. The NV Energy Agreement is attached hereto and incorporated herein as Exhibit “A”.
- H. **WHEREAS**, SNWA Permit Nos. 85852T-85855T grant SNWA the right to temporarily divert 3,000 acre-feet of water per year originally permitted for diversion in Coyote Spring Valley (Hydrographic Area No. 210) from wells in Garnet Basin for use in Clark County, Nevada to accommodate anticipated water needs for construction activities in Garnet Basin (“SNWA Permits”);
- I. **WHEREAS**, the Parties desire that SNWA develop, construct and operate the necessary tie-ins to NV Energy’s well distribution systems (“SNWA Facilities”) such that water can be delivered to Faraday via the points of delivery shown on Exhibit “B” attached hereto and incorporated herein by this reference (“Points of Delivery”);
- J. **WHEREAS**, SNWA and Faraday desire to enter into this Agreement in order to outline the rights and obligations of each Party in the provision of water to accommodate Faraday’s construction activities.

NOW THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. Term. This Agreement commences on the Effective Date and continues until February 15, 2017 ("Term"); provided, however, this Agreement will automatically terminate if the NV Energy Agreement is terminated for any reason.
2. Rate, Metering, and Construction Water Service.
 - a. Rate. The rate SNWA will charge Faraday for construction water provided under this Agreement will be two dollars and thirty-three cents (\$2.33) per one thousand gallons (1,000).
 - b. Metering. SNWA shall monitor and record water metered at the Points of Delivery at least monthly and report such data to Faraday every 30 days. SNWA is responsible for providing well pumping information quarterly to the Nevada State Engineer as a condition of the SNWA Permits.
 - c. Payment. Prior to commencement of service, Faraday will pay SNWA a non-refundable amount of two hundred and fifty thousand dollars (\$250,000). SNWA will record water usage consistent with Paragraph 2(b) above, calculate the amount due using the rate stated in Paragraph 2(a) above, and deduct the amount due from the \$250,000 non-refundable deposit. If at the end of the Term, Faraday used less than \$250,000 of construction water at the rate stated in Paragraph 2(a), Faraday will not be entitled to a refund of the balance. If Faraday uses more than \$250,000 of construction water, SNWA will bill for water used and Faraday will pay the invoice within thirty days (30) of the invoice date.

3. SNWA's Obligations to Faraday.

- a. Provide Water. SNWA shall provide construction water to Faraday at the Points of Delivery to the extent water is available under the SNWA Permits and the NV Energy Agreement and is not limited by the Nevada State Engineer or completely unavailable as provided for in this Agreement. If the provision of construction water at the Points of Delivery is curtailed by the Nevada State Engineer or is otherwise unavailable under the SNWA Permits or the NV Energy Agreement, SNWA will exercise commercially reasonable efforts to provide the construction water to Faraday under other permits SNWA may hold. If a new point of diversion or water source is identified and utilized, the Rate as provided for in Paragraph 2(a) above will be recalculated.
- b. Provide Equipment. SNWA shall provide Faraday with necessary water meters and back flow prevention assemblies to be installed by Faraday at the Points of Delivery.

4. NV Energy Agreement & Faraday's Obligations to SNWA.

- a. Indemnification. Based on this Agreement and the acknowledgements contained herein, Faraday agrees to indemnify, hold harmless, and defend SNWA for any cost or liability SNWA may incur under the terms of the NV Energy Agreement. Faraday's indemnification obligation shall not apply to losses, damages, claims, expenses and other liabilities arising out of, relating to, or resulting from the reckless or willful misconduct of SNWA or any of SNWA's officers, directors, employees, contractors or agents. Specifically, and without limiting the foregoing, Faraday agrees to the following:

- i. If a mechanic's lien ("Lien") arising out of any activity undertaken pursuant to this Agreement is recorded against any property owned by NV Energy, its affiliates, or its subsidiaries at any time, Faraday shall obtain the release of (or otherwise satisfy) the Lien within ten (10) days of receipt of notice of the Lien. If Faraday fails to do so, (1) SNWA may take such steps and make such expenditures as, in its sole discretion, it deems advisable to obtain release of or otherwise satisfy the Lien(s), and (2) Faraday shall, upon demand, reimburse SNWA for all costs and expenditures incurred, including without limitation, attorneys' fees, court costs, surety premiums incurred by SNWA in obtaining such release or satisfaction.
- ii. Faraday, at its sole cost, shall repair any damage to NV Energy's property resulting from the activities of SNWA (to the extent such activities were not undertaken in a grossly negligent or intentional manner), Faraday or their respective employees, contractors or subcontractors, including without limitation restoring to the extent reasonably possible the property to the condition it was in before SNWA, Faraday and their respective employees, contractors and subcontractors commenced their activities permitted by this Agreement. Faraday shall perform all repair and restoration activities on NV Energy's property to the satisfaction of NV Energy and in accordance with all applicable laws as well as applicable guidelines of the Nevada Division of Environmental Protection and the State Engineer and any other state or local agency with relevant jurisdiction. If the activities of Faraday or its employees, contractors or subcontractors cause damage to NV

Energy's property or any improvements on it and (after SNWA has received written notice of such damage from NV Energy and after SNWA has provided Faraday written notice of the same) Faraday has failed to repair the damage to NV Energy's satisfaction by the deadline specified by SNWA in the written notice, SNWA or NV Energy will undertake to have repairs made and Faraday shall, upon demand, reimburse SNWA or NV Energy, as appropriate all associated costs together with any liability arising under the NV Energy Agreement.

- iii. Faraday shall not cause or permit any Hazardous Material to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath NV Energy's property without the prior written consent of NV Energy. "Hazardous Material" means any substance, whether solid, liquid or gaseous in nature (A) the presence of which requires remediation under any law relating to the protection of human health or the environment; (B) that is or becomes defined as a "hazardous waste," "hazardous substance," pollutant or contaminant under any Law, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. section 6901 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. section 1801 et seq.), the Federal Water Pollution Control Act (33 U.S.C. section 1251 et seq.), the Clean Air Act (42 U.S.C. section 7401 et seq.), the Toxic Substances Control Act (15

U.S.C. section 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. section 651 et seq.), as these laws are amended or supplemented; (C) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Nevada or any political subdivision thereof; (D) contains gasoline, diesel fuel or other petroleum hydrocarbons; (E) that contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or (F) that contains radon gas.

- iv. Faraday shall reimburse SNWA for any and all costs SNWA incurs in purchasing equipment or reimbursing NV Energy for same as required by the NV Energy Agreement.
- v. Faraday shall only use water provisioned by SNWA under this Agreement for the purposes, and in strict accordance with the terms and limitations, set forth in the SNWA Permits.
- vi. To secure the faithful performance of its obligations hereunder, including indemnity obligations, Faraday shall, within fifteen (15) days of the Effective Date, post with SNWA a cash bond, or another surety instrument acceptable to SNWA, in its sole discretion, in the amount of \$500,000.00 ("Bond"). The Bond shall specifically cover all damages for which Faraday is liable to SNWA under this Agreement, including all damages suffered by SNWA as a result of Faraday's failure to well and truly perform and fulfill

all the undertakings, covenants, terms, conditions, warranties and all other obligations and agreements of this Agreement. SNWA may use the Bond to discharge any Faraday obligation hereunder if, after fifteen (15) days written notice, Faraday fails to perform the obligation or otherwise provide SNWA a written assurance, satisfactory to SNWA in its sole discretion, to do so. Within thirty (30) days after the conclusion of the Term, SNWA shall return the Bond, or such portions thereof not used or retained by SNWA to discharge any unfulfilled Faraday obligations, to Faraday. If Faraday posts a surety Bond, the Bond shall be written with insurance companies admitted to do business in the State of Nevada and rated A- or better and Class V or higher of financial size category in the current issue of Best's Key Rating Guide. The Bond shall be executed by sureties included in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 by the Audit Staff Bureau of Government Financial Operations, U.S. Treasury Department. If the Bond is signed by an agent, the Bond must be accompanied by a certified copy of agent's authority to act. Only surety companies authorized to do business in, and having an agent for services of process in the State of Nevada will be acceptable. If the surety on the Bond is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Nevada or it ceases to meet the requirements of this Agreement, Faraday shall within

ten (10) days thereafter substitute another Bond and surety, both of which must be acceptable to SNWA.

b. Construction, Maintenance and Removal of Pipeline.

- i. Faraday shall, at its sole cost and expense, construct and maintain the necessary pipe to transport the construction water from the Points of Delivery to the construction site (hereinafter referred to as "Pipelines" and shown on Exhibit "C" attached hereto and incorporated herein by this reference) Faraday shall ensure that the Points of Delivery are secured such that only persons authorized pursuant to this Agreement may access water under, and in full conformance with, this Agreement. Upon conclusion of the Term, Faraday shall remove the Pipelines and all other Faraday equipment associated with the Pipelines and restore and repair all real property affected by the Pipelines, including the ACC real property, to conditions existing prior to the Effective Date, to the extent reasonably possible.
- ii. Faraday is solely responsible for arranging, obtaining permits, and paying expenses for the lands and rights-of-way required to accommodate the Pipelines. All such arrangements must be made in writing and approved by SNWA prior to Faraday implementing construction of the Pipelines. Faraday acknowledges that SNWA has made no representations regarding land use restrictions or permitting that may apply to construction of the Pipelines.

- iii. Any construction or work performed in public rights-of-way, in addition to conforming to the Pipeline Documents (defined below), shall comply with the requirements of the permit issued by the public agency in whose right-of-way the work or construction is located. Should the permit's requirements differ or conflict with the Pipeline Documents, the more stringent or restrictive requirement shall prevail.
- iv. Prior to constructing the Pipelines, Faraday shall provide to SNWA construction plans showing the path of the Pipelines and methods and materials for construction of the Pipelines, including arrangements, permits, and approvals of land use and rights-of-way for the Pipelines ("Pipeline Documents").

5. Acknowledgments.

- a. Faraday acknowledges that SNWA's ability to provide construction water is limited by the terms, conditions, and limitations of the NV Energy Agreement and agrees SNWA shall have no obligation whatsoever to provide construction water to Faraday from any source other than the SNWA Permits and the NV Energy Agreement to the extent such terms, conditions, and limitations render water unavailable to SNWA under the NV Energy Agreement. Such terms, conditions, and limitations include, but are not limited to: SNWA's preexisting obligations to provide water to NV Energy pursuant to the Agreement to Lease Water for Power Generation Purposes between NV Energy and LVVWD, dated October 12, 2009 ("NV Energy Water Lease"); NV Energy's sole and exclusive right to determine the operating times, output, and any other operating conditions/requirements of NV

Energy's wells from which the construction water will be pumped for purposes of Faraday's construction activities; and SNWA's inability to exceed the maximum capacity of NV Energy's wells as determined in NV Energy's sole discretion.

- b. Faraday acknowledges and agrees that NV Energy may, at its sole reasonable discretion, temporarily or permanently curtail or suspend SNWA's use of water under the NV Energy Agreement, if NV Energy is required to repair or conduct maintenance at ACC. SNWA shall not be obligated to contest any such curtailment or suspension by NV Energy but may seek or provide an alternative water supply for Faraday as provided for in Paragraph 3(a) above. SNWA shall not be required to pay for the cost penalties of work delays or cost of alternative means to supply water incurred by Faraday due to a curtailment or suspension.
- c. Faraday acknowledges that SNWA's provision of tie-in facilities to NV Energy's well discharges is a convenience to Faraday, as Faraday would be required to construct a well or otherwise arrange for access to the construction water.
- d. Faraday acknowledges that SNWA agreed to indemnify and hold harmless NV Energy for potential liability associated with accessing and using water under the NV Energy Agreement.

6. Limitation of Liability.

- a. No Consequential or Indirect Damages. In no event shall either Party be liable under this agreement to the other Party or any third party for consequential, indirect, incidental, special, exemplary, punitive or lost profits or revenues or diminution in value, arising out of, or relating to, and/or in connection with any breach of this agreement, regardless of (A) whether such damages were foreseeable, (B) whether

or not such Party was advised of the possibility of such damages, and (C) the legal or equitable theory upon which the claim is based.

- b. **Indemnification and Hold Harmless.** In addition to the obligations agreed to above in Paragraph 4(a), Faraday shall indemnify, defend and hold harmless, SNWA from, for and against any and all claims, losses and damages, arising out of, relating to, or resulting from: (A) The NV Energy Agreement; (B) Applications with the State Engineer to change the point of diversion, manner of use and place of use of SNWA's water permits to provide service to Faraday under this Agreement; (C) inability to provide water service to Developers, regardless if it is technical, legal, seasonal or for any other reason; (D) construction of the SNWA Facilities; (E) operations of the SNWA Facilities; and (F) execution of this Agreement. Faraday's indemnification obligation shall not apply to losses, damages, claims, expenses and other liabilities arising out of, relating to, or resulting from the reckless or willful misconduct of SNWA or any of SNWA's officers, directors, employees, contractors or agents.

7. **No Interest or Estate.** Faraday agrees that it does not have any interest or estate in the SNWA Permits, and shall not claim at any time any interest or estate of any kind whatsoever in the SNWA Permits by virtue of this Agreement. Faraday agrees that the water provided to Faraday by SNWA is owned by SNWA and that any wastewater or treated effluent generated by use of the SNWA Permits is also owned by SNWA and may not be used by Faraday and Faraday may not transfer assign or allow use by any other party. Further, Faraday agrees that the use of SNWA Permits under this Agreement is exclusive to Faraday and may not be used by any other party or for any other purpose.

8. No Warranty and Acknowledgement. Faraday acknowledges that the water provided by SNWA is non-potable and is for construction purposes only. SNWA makes no representation or warranty regarding the quantity or quality of any water made available under this Agreement.
9. Authority of the Nevada State Engineer. The Parties acknowledge that the Nevada State Engineer has, pursuant to both statutory and case law, broad authority to administer groundwater resources in the State of Nevada, and furthermore, that nothing contained in this Agreement obligates SNWA to provide water service to Faraday if SNWA's ability to provide such service is prohibited or diminished by any order of the Nevada State Engineer, appealable, final, or otherwise, or by any order from a court of competent jurisdiction, or any federal, state, or local governmental agency of competent jurisdiction that makes illegal or permanently restrains, enjoins or otherwise limits SNWA's ability to provide water service to Faraday. SNWA shall have no obligation to appeal or otherwise contest any such orders, and Faraday hereby releases and waives any claims or causes of action in law or equity against SNWA in the event water service is delayed, interrupted or terminated due to the occurrence of any event described herein.
10. Notices. If notice is required to be sent to the Parties, the addresses are as follows:

If to Faraday:

Robin Prop Holdco, LLC
c/o Faraday Future
Attn: Legal Department
18455 South Figueroa Street
Gardena, CA 90248

If to SNWA:

General Manager
Southern Nevada Water Authority
1001 S. Valley View Blvd., MS #480
Las Vegas, Nevada 89153

With a copy to:

General Counsel
Southern Nevada Water Authority
1001 S. Valley View Blvd., MS #485
Las Vegas, Nevada 89153

Any and all notices and demands by any Party required or desired to be given to the other Party hereunder shall be in writing and shall be validly given or made only if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, or if made by Federal Express or other similar delivery service keeping records of deliveries and attempted deliveries. Service by United States Mail or by Federal Express or other similar delivery service shall be deemed complete three (3) business days following deposit with the United States mail or other delivery service, or upon actual receipt, whichever is sooner.

11. Assignment and Delegation. Faraday may not delegate, transfer or assign its rights or responsibilities pursuant to this Agreement without the prior written consent of SNWA. If a Party delegates, transfers or assigns its rights or responsibilities without the prior written consent of the other Party, the delegation, transfer or assignment shall be void and not merely voidable.
12. Governing Law and Venue. This Agreement shall be governed in accordance with the laws of the State of Nevada, without reference to its choice of law provisions. Any legal action related to this Agreement will only be filed in the Clark County District Court, or if applicable, the United States District Court for the District of Nevada, Southern Division.
13. Amendment. This Agreement may be changed, modified, or amended only by mutual written agreement of the Parties.

14. No Third Party Beneficiaries. This Agreement is not intended by the Parties to create any right in or benefit to parties other than Faraday and SNWA. This Agreement does not create any third party beneficiary rights or causes of action.
15. Waiver. The failure of either Party to enforce at any time, or for any period of time, the provisions hereof shall not be construed as a waiver of such provisions or of the rights of such Party to enforce each and every such provision.
16. Counterparts. This Agreement will become effective as between the Parties upon all Parties signing this Agreement. This Agreement may be executed in any number of counterparts and when so executed, each such counterpart shall be deemed to be an original hereof as against any Party who has signed it, and all counterparts together shall constitute one and the same instrument.
17. Authority. Each Party warrants to the other that it, and its signatory hereunder, is duly authorized and empowered to execute this Agreement and to bind said Party to the terms hereof.

[SIGNATURE PAGE FOLLOWS]

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

ROBIN PROP HOLDCO, LLC,
A Delaware limited liability company

By: David Wisniewski
Name: David Wisniewski
Title: CEO

SOUTHERN NEVADA WATER AUTHORITY

By: John J. Entsminger
Name: John J. Entsminger
Title: General Manager

Approved as to form:

By: Gregory J. Walch for 5/4/16
Name: Gregory J. Walch
Title: General Counsel

EXHIBIT "A" – NV ENERGY AGREEMENT

EXHIBIT A

WATER FACILITIES USE AGREEMENT

THIS WATER FACILITIES USE AGREEMENT ("Agreement") dated as of February 4, 2016 (the "Effective Date"), is made by and between NEVADA POWER COMPANY, a Nevada corporation doing business as NV Energy ("NV Energy"), and SOUTHERN NEVADA WATER AUTHORITY, a political subdivision of the State of Nevada ("SNWA"). NV Energy and SNWA are also each referred to herein as a "Party" and collectively as the "Parties."

WITNESSETH

WHEREAS, Senate Bill No. 3 of the 29th Special Session of the Nevada Legislature designated SNWA and the Las Vegas Valley Water District ("LVVWD") as the exclusive water service providers for the Garnet Valley Ground Water Basin in Clark County ("Garnet Basin");

WHEREAS, Faraday Future ("Faraday"), an electric vehicle developer, is developing an electric vehicle plant at the Apex Industrial Park ("Apex"), which is located within the Garnet Basin;

WHEREAS, Faraday has requested SNWA to provide it water service for its construction activities related to its car plant, as required pursuant to SB 3;

WHEREAS, other entities (which, together with Faraday, shall be referred to herein as "Developers") may request that SNWA provide water service for construction related activities in Garnet Basin during the Term (as defined below) of this Agreement;

WHEREAS, NV Energy owns and operates generating facilities at the Arrow Canyon Complex ("ACC"), which is located in the vicinity of Apex;

WHEREAS, as part of its ACC operations, NV Energy owns water wells that it uses to provide water to its generating facilities; and

WHEREAS, SNWA desires to use NV Energy's wells at ACC to provide water service to Developers, and NV Energy will allow SNWA to use NV Energy's wells to the extent such use does not negatively impact the generating facilities' reliability, create undue risk to plant systems and equipment, or create undue risk to the environment in the form of spills or contamination.

NOW THEREFORE, in consideration of the mutual promise set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. **Term.** This Agreement commences on the Effective Date and continues until February 15, 2017 ("Term"); provided, however, that either Party may terminate this Agreement for any reason and without liability of any kind on or after August 15, 2016, by giving thirty (30) days written notice.

2. NV Energy Obligations.

- 2.1 Except as provided for herein, NV Energy shall allow SNWA to have continued access to the SNWA Facilities (as defined below) and use of its wells located at ACC, associated with NV Energy water permits #'s 79002 through 79010, but excluding 79006 which is not owned by NV Energy (the "Wells"), exclusively to provide water service for Developers' construction activities for the duration of the Term.
- 2.2 SNWA will have exclusive use of Wells associated with water permits #'s 79004 and 79009, and 79005 and 79010, at its Chuck Lenzie Generating Station, subject to Section 4.2 below.

3. Infrastructure.

- 3.1 NV Energy and SNWA will coordinate to allow SNWA to tie facilities to each Well as necessary to draw water from the Wells to provide service to Developers.
- 3.2 NV Energy shall, at its sole cost and expense, modify its facilities to allow such tie-in by SNWA ("NVE Connection") and SNWA shall, at its sole cost and expense, develop, construct and operate the necessary tie-in to the NVE Connection located on NV Energy property ("SNWA Facilities") and to draw water from the Wells consistent with this Agreement.
- 3.3 SNWA, its employees, contractors and subcontractors shall have a revocable license for access to NV Energy's property as necessary to accomplish the tie-in and repair and maintenance of the SNWA Facilities, provided, however, SNWA shall provide prior notice to NV Energy before entering NV Energy's property and shall comply with NV Energy's site safety procedures while on NV Energy's property. SNWA, its employees, contractors and subcontractors may not use NV Energy's property for any other reason except for the purposes set forth by this Agreement. SNWA does not acquire, and may not assert, any vested right or interest in or to any of NV Energy's property except as set forth otherwise in this Agreement. NV Energy may revoke the license granted by this section with or without cause upon two (2) business days written notice to SNWA as provided below. However, NV Energy may revoke the license immediately if it (in its discretion) determines that any emergency or unsafe condition exists on or might affect the property or that SNWA or one of its employees, contractors or subcontractors is not complying with one or more of the terms of this agreement. The license terminates at the end of the Term.
- 3.4 SNWA must keep NV Energy's property free and clear of all liens, claims, judgments, security interests, and encumbrances ("Liens") arising out of its, or its contractors or subcontractors' use of the NV Energy property. If any Lien is filed against the NV Energy property at any time, SNWA must obtain the release of (or otherwise satisfy) the Lien within ten (10) days of receipt of notice of the Lien. If SNWA fails to do so, (1) NV Energy may take such steps and make such

expenditures as, in its discretion, it deems advisable to obtain release of or otherwise satisfy the Lien(s), and (2) SNWA must, upon demand, reimburse NV Energy for all costs and expenditures incurred, including without limitation attorneys' fees, court costs, surety premiums incurred by NV Energy in obtaining the release or satisfaction.

- 3.5 SNWA (at its cost) must repair any damage to NV Energy's property resulting from the activities of SNWA or its employees, contractors or subcontractors, including without limitation restoring to the extent reasonably possible the property to the condition it was in before SNWA and its employees, contractors and subcontractors commenced their activities permitted by this Agreement. SNWA must perform all repair and restoration activities on NV Energy's property to the satisfaction of NV Energy and in accordance with all applicable laws as well as applicable guidelines of the Nevada Division of Environmental Protection and any other state or local agency with relevant jurisdiction. If the activities of SNWA or its employees, contractors or subcontractors cause damage to NV Energy's property or any improvements on it and (after NV Energy has provided SNWA written notice of the damage) SNWA has failed to repair the damage to NV Energy's satisfaction by the deadline specified by NV Energy in the written notice, NV Energy will undertake to have repairs made and SNWA will be responsible for all associated costs, including without limitation any consequential damages.
- 3.6 SNWA must not cause or permit any Hazardous Material to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath NV Energy's property without the prior written consent of NV Energy. "Hazardous Material" means any substance, whether solid, liquid or gaseous in nature (A) the presence of which requires remediation under any law relating to the protection of human health or the environment; (B) that is or becomes defined as a "hazardous waste," "hazardous substance," pollutant or contaminant under any Law, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. section 6901 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. section 1801 et seq.), the Federal Water Pollution Control Act (33 U.S.C. section 1251 et seq.), the Clean Air Act (42 U.S.C. section 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. section 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. section 651 et seq.), as these laws are amended or supplemented; (C) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Nevada or any political subdivision thereof; (D) contains gasoline, diesel fuel or other petroleum hydrocarbons; (E) that contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or (F) that contains radon gas.

4. Limitations on SNWA's Use.

- 4.1 SNWA's rights described in this Agreement are subordinate to NV Energy's rights, and SNWA's rights cannot conflict or take precedence over its obligations to provide water to NV Energy pursuant to the Agreement to Lease Water for Power Generation Purposes between NV Energy and LVVWD, dated October 12, 2009 ("Water Lease").
- 4.2 NV Energy shall continue to have sole and exclusive right to determine the operating times, output, and any other operating conditions/requirements for all of the Wells covered in this Agreement.
- 4.3 SNWA shall comply with all laws, regulations and permits for or related to the Wells, its water rights, and the SNWA Facilities.
- 4.4 SNWA's use of the Wells cannot exceed the maximum capability of the Wells as determined in NV Energy's sole discretion.

5. SNWA's Obligations and Responsibilities.

- 5.1 SNWA is required, at its sole cost and expense, to obtain all necessary government approvals and permits to develop, install and operate the SNWA Facilities, and to obtain water rights necessary and to provide service from the Wells to Developers.
- 5.2 SNWA shall reimburse NV Energy for any and all costs NV Energy incurs in purchasing equipment that is necessary to repair or replace the pumps or motors for any Well that SNWA uses exclusively during the Term, save and except for costs incurred in excess of those reasonably necessary to return such pumps or motors to their condition existing as of the Effective Date.
- 5.3 SNWA shall maintain and repair the SNWA Facilities to ensure the SNWA Facilities do not adversely affect NV Energy's water system, the Wells, or the water quality and quantity being used at ACC.
- 5.4 Upon the expiration of the Term, SNWA shall, at its sole cost and expense, remove the SNWA Facilities and restore and repair the ACC real property to conditions existing prior to the Effective Date, to the extent reasonably possible.
- 5.5 SNWA will provide a minimum thirty (30) day advance written notice to NV Energy of the use of its Wells to serve any Developer other than Faraday. Such notice shall include the name of the Developer, designated use of the water, period of use to serve the Developer, and projected monthly pumpage from each Well.

6. Water Rights. SNWA shall use its permitted water rights solely for the service it provides to Developers. SNWA is responsible, at its sole cost and expense, for obtaining the State Engineer's approval for any change in the point of diversion, manner of use and place of use to allow SNWA to divert water from the Wells and provide service to Developers. In

no event shall SNWA use water designated for NV Energy pursuant to the Water Lease to provide service to Developers.

7. **Metering and Monthly Reports.** SNWA shall install a meter at the interconnection of SNWA Facilities to NV Energy facilities to measure its monthly diversion of water. SNWA shall read the meters on a monthly basis and provide NV Energy monthly reports of the amount of water that is being diverted for Developers at the Wells by the tenth (10th) day of each month.
8. **Indemnification.** SNWA shall, to the full extent authorized by law, indemnify, defend and hold harmless, on an after state and federal tax basis, NV Energy from, for and against any and all claims, losses and damages, including, but not limited to, any damages or contaminations to the Wells or other property owned or operated by NV Energy, arising out of, relating to, or resulting from SNWA's: (a) Applications with the State Engineer to change the point of diversion, manner of use and place of use of its water permits to provide service to Faraday from the Wells; (b) inability to appropriate water from the Wells or provide water service to Developers, regardless if it is technical, seasonal or for any other reason; (c) construction of the SNWA Facilities; (d) operations of the SNWA Facilities; and (e) execution of this Agreement; provided, however, that such obligation shall not include claims, losses, or damages to the extent caused by the action or inaction of NV Energy.
9. **Curtailment.** NV Energy may, at its sole reasonable discretion, curtail or suspend SNWA's use of the Wells to provide service to Developers, if NV Energy is required to repair or conduct maintenance at ACC. In the event of a curtailment or suspension, NV Energy is not required to seek an alternative water supply or source for SNWA. NV Energy shall not be required to pay for SNWA Facilities' failures, cost of work delays or cost of alternative means to supply water incurred by SNWA due to a curtailment or suspension.
10. **Notices.** Unless otherwise stated herein, all notices, demands, or requests required or permitted under this Agreement must be in writing and must be delivered or sent by overnight express mail or courier service, or certified mail, return receipt requested, addressed as follows:

SNWA:

Southern Nevada Water Authority
1001 S Valley View Blvd., M/S 485
Las Vegas, NV 89153
Attention: David Johnson, DGM,
Engineering and Operations

With a copy to:

Southern Nevada Water Authority
1001 S Valley View Blvd., M/S 485
Las Vegas, NV 89153

NV Energy:

NV Energy
6226 W. Sahara Ave., M/S 253
Las Vegas, NV 89146
Attention: Ann Casey, Manager
Joint Owed Plants

With a copy to:

NV Energy
6226 W. Sahara Ave., M/S 2
Las Vegas, NV 89146

Attention: General Counsel
Email: greg.walch@snwa.com

Attention: General Counsel
Facsimile No.: 702-402-5300

or to such other person at such other address as a Party may designate by like notice to the other Party. Notice received after the close of the business day will be deemed received on the next business day by 5:00 p.m., Pacific Prevailing Time.

11. **Assignment.** Neither Party may assign any of its rights or obligations under this Agreement and any attempted assignment without such consent shall be null and void.
12. **Default/Remedies.**
 - 12.1 **Event of Default.** With respect to SNWA, there shall be an "Event of Default" if SNWA is in breach of any representation or warranty set forth herein or fails to perform any material obligation set forth in this Agreement and such breach or failure is not cured within sixty (60) days after written notice of the default is provided to SNWA from NV Energy.
 - 12.2 **Termination.** Upon the occurrence of an Event of Default, NV Energy shall provide notice of the default to SNWA and shall specify in such notice the basis for the Event of Default. NV Energy does not waive its rights hereunder, by any failure to provide such notice. If the Event of Default is not cured within the sixty (60) day period, as described in Section 12.1, NV Energy may provide notice to SNWA that the Agreement has terminated. The termination shall be effective upon transmittal of the notice by any means specified in this Agreement to SNWA. SNWA shall remain liable for any obligations that SNWA had pursuant to the Agreement prior to the date of termination, in addition to any other surviving obligations specified herein or remedies available.
 - 12.3 **Remedies.** Upon an Event of Default by SNWA, NV Energy shall have, in addition to any other remedies available at law or in equity, the right, but not the obligation, to terminate or suspend this Agreement with respect to all obligations arising after the effective date of such termination or suspension.
13. **Limitation of Liability.** Under no circumstances will either Party be liable for any indirect, incidental, special, consequential or punitive damages incurred or suffered by the other Party arising out of or in connection with this Agreement (including without limitation, lost revenue, loss of income or loss of business advantage), even if such Party or an authorized representative of such Party has been advised of the possibility of such damage. The foregoing limitation of liability shall remain in full force and effect regardless of whether either Party's remedies hereunder are determined to have failed of their essential purpose.
14. **Counterparts.** This Agreement may be executed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

15. **Governing Law; Venue.** This Agreement is governed by and must be construed in accordance with the laws of the State of Nevada, without giving effect to its conflict of law provisions. Nothing in this agreement is designed to eliminate the Public Utilities Commission of Nevada's jurisdiction over matters within its jurisdiction. In the event a court of competent jurisdiction has jurisdiction over a civil action or remedy brought under this Agreement, the Parties agree that they will first seek to initiate such action in the federal district court of Nevada with jurisdiction over Washoe County, Nevada. In the event the federal district court lacks jurisdiction over such a dispute, the parties agree the dispute will be brought in the Nevada state district court for Washoe County, Nevada in Reno, Nevada. Each Party agrees that it will not initiate an Action against the other Party in any other jurisdiction.
16. **Waiver of Jury Trial.** To the fullest extent permitted by Law, each of the Parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this Agreement. Each Party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which jury trial cannot be or has not been waived.
17. **Amendments.** Any change, modification, or amendment to this Agreement is not enforceable unless consented to in writing by the Parties and executed with the same formality as this Agreement.
18. **No Third-Party Beneficiaries.** The provisions of this Agreement shall not impart rights enforceable by any person, firm or organization not a Party to this Agreement.
19. **Business Formation.** Nothing in this Agreement creates a partnership, joint venture or other similar business construct between the Parties.
20. **Authority; Enforceability.** The Parties warrant that each has full power to enter into this Agreement, and to carry out its respective obligations under this Agreement. Each Party has the full entity power and authority to execute and deliver this Agreement and the other transaction documents to which it will be a party in connection with the transactions contemplated hereby, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by each Party of this Agreement and the other transaction documents to which it will be a party in connection with the transactions contemplated hereby, and the performance by such Party of its obligations hereunder and thereunder, have been duly and validly authorized by all necessary entity action, and assuming due and valid authorization, execution and delivery thereof by the other Party, will be when delivered valid and binding obligations of such Party enforceable against such Party in accordance with their terms (subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity).
21. **Other Agreements.** If there are or may be other agreements in effect between the Parties (collectively, the "Other Agreements"), this Agreement and the Other Agreements are and will be separate and individual obligations of the respective parties thereto. The terms of

one agreement will in no event be deemed to be the terms of any Other Agreement, nor will the terms of one agreement be used to interpret the terms of any Other Agreement. No default or breach under, or expiration or termination of this Agreement will constitute a default or breach under, or cause any expiration or termination of, any Other Agreement, and vice versa.

22. **Severability.** If any portion or provision of the Agreement is invalid, illegal, or unenforceable, or any event occurs that renders any portion or provision of the Agreement void, the other portions or provisions of the Agreement will remain valid and enforceable. Any void portion or provision will be deemed severed from the Agreement, and the balance of the Agreement will be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The Parties further agree to amend the Agreement to replace any stricken portion or provision with a valid provision that comes as close as possible to the intent of the stricken portion or provision.
23. **Survival of Terms.** All terms and provisions of this Agreement, including any and all exhibits, addenda and amendments hereto, which by their nature are intended to survive any termination or expiration of this Agreement, shall so survive.
24. **Entire Agreement.** This Agreement contains the Parties' entire understanding within.

[Signature page follows]

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties as of the Effective Date.

**NEVADA POWER COMPANY d/b/a NV ENERGY,
a Nevada corporation**

By: 
Name: Kevin C. Caragher
Title: VP, Energy Supply

Approved as to form:

By: 
Name: Tim Clausen
Title: Senior Attorney

SOUTHERN NEVADA WATER AUTHORITY

By: 
John J. Entsminger
General Manager

Approved as to form:

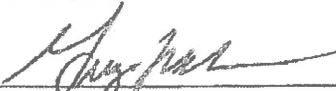
By: 
Gregory J. Walch
General Counsel

EXHIBIT "B" – POINTS OF DELIVERY

EXHIBIT B

**ALL PIPING WILL BE
CONSTRUCTED BY FARRADAY**

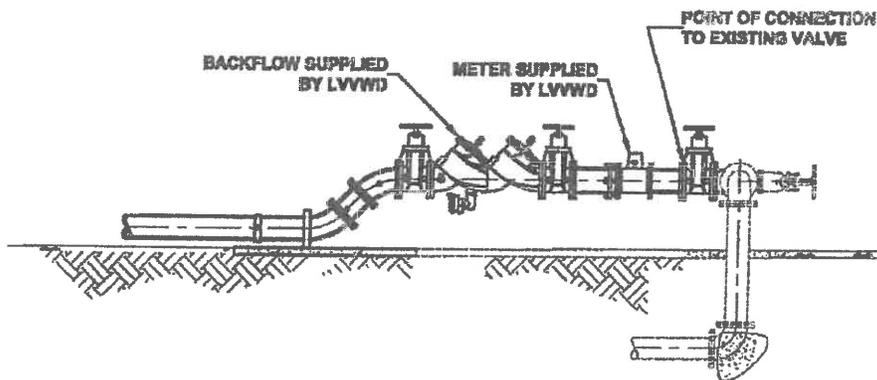
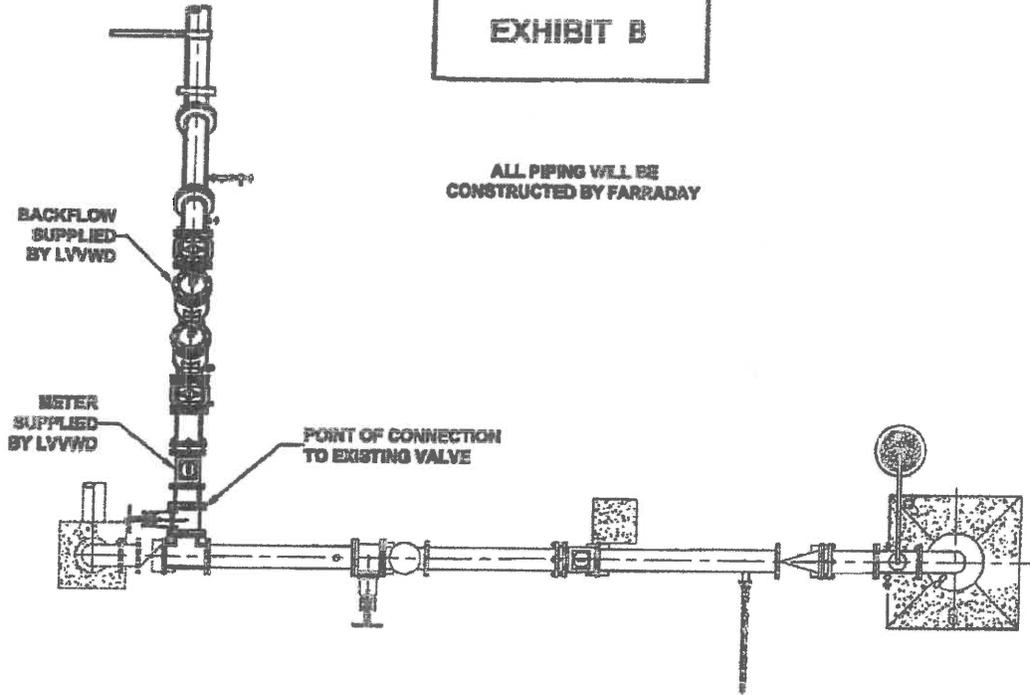


EXHIBIT "C" PIPELINES

EXHIBIT C

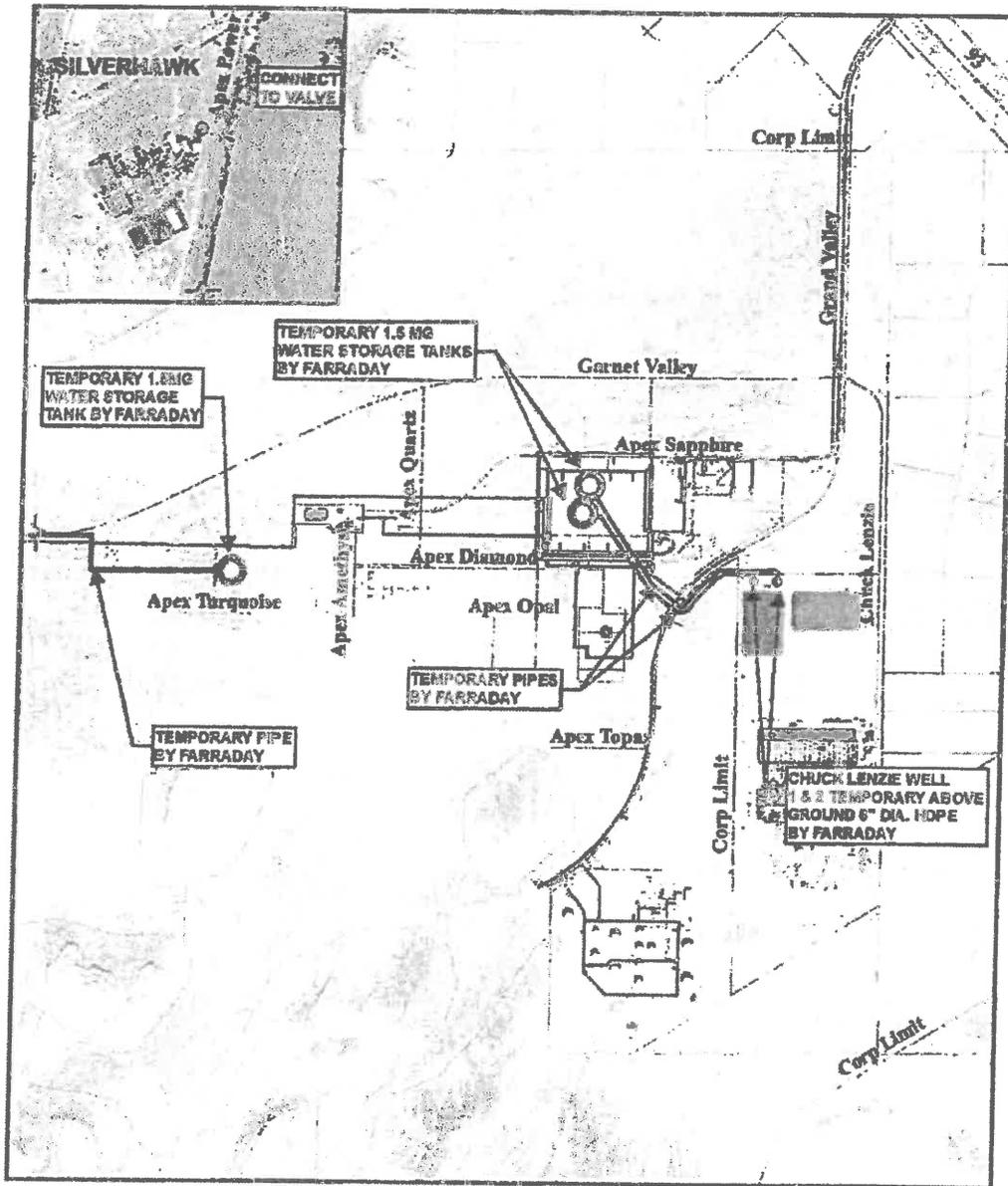


EXHIBIT "D" – PIPELINES

Exhibit D

Hyperloop Pipeline

Storage tanks
by Hyperloop

6" water line
by Hyperloop

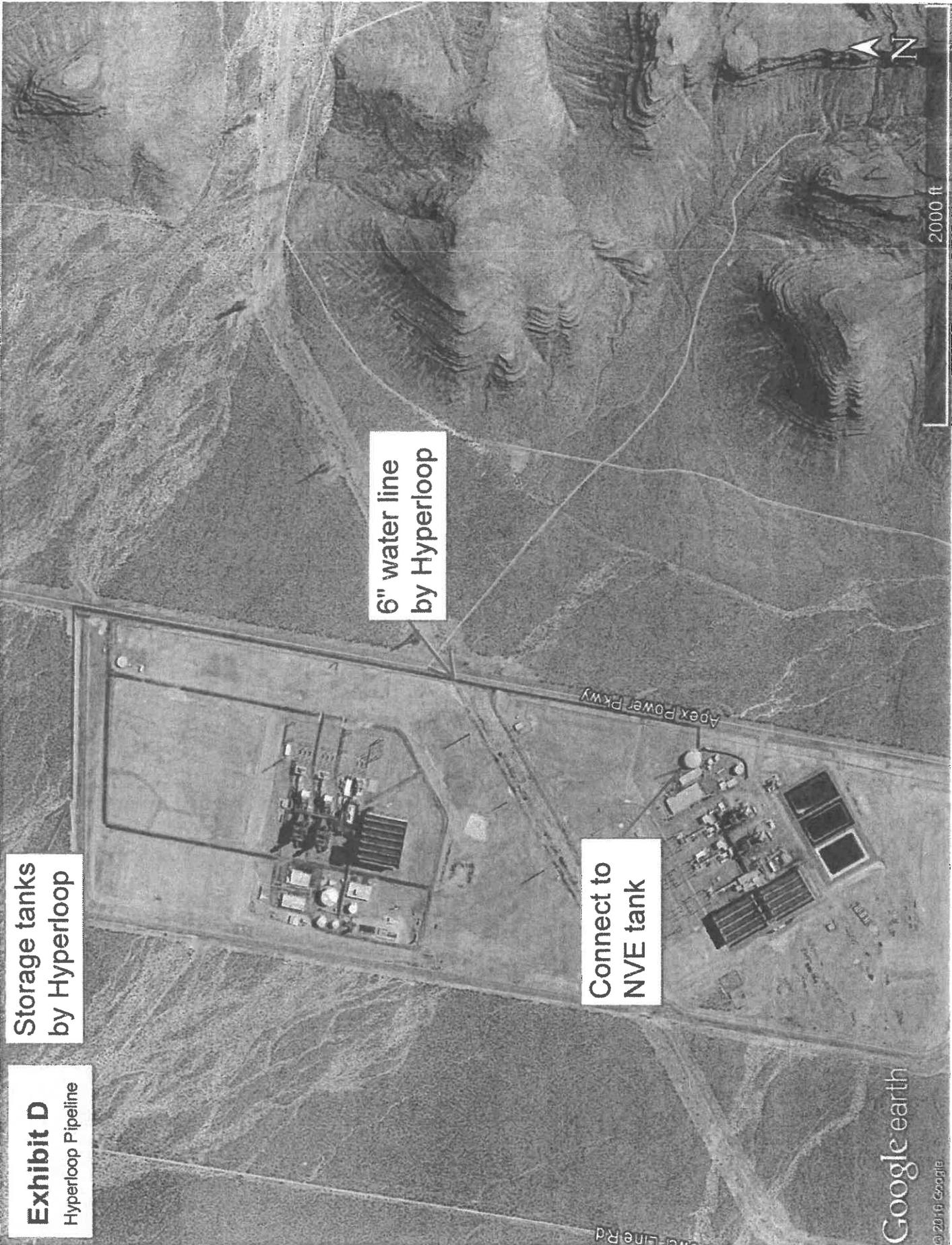
Connect to
NVE tank

Apex Power Pkwy

Google earth

© 2016 Google

2000 ft



**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Agreements	Director's Backup
Petitioner: Gregory J. Walch, General Counsel	
Recommendations: That the Board of Directors approve and authorize the General Manager to execute, in substantially the same form as that attached hereto, Amended and Restated Water Operation and Management Agreements with the Bunkerville Irrigation Company and the Mesquite Irrigation Company; authorize the General Manager or designee to approve the lease of shares; execute ministerial documents to effectuate the transactions; and pay the associated administrative costs of the irrigation companies for an amount not to exceed \$2,500,000 per year with annual escalation as applicable.	

Fiscal Impact:

The funds requested for current year expenditures of \$2,500,000 are available in the Authority's Capital budget. Funds for future year expenditures will be budgeted accordingly.

Background:

On December 13, 2007, the Secretary of the Interior issued a Record of Decision for the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (Guidelines). The Guidelines allow the Authority to create and divert Intentionally Created Surplus (ICS) by conveying its pre-1929 Muddy and Virgin River water rights and its Coyote Spring Valley groundwater rights to Lake Mead.

On April 17, 2008, the Board of Directors appropriated \$40,000,000 for the purchase and lease of shares in the Muddy Valley Irrigation Company (Muddy Valley), Bunkerville Irrigation Company (Bunkerville), and Mesquite Irrigation Company (Mesquite). The Board also approved Water Operation and Management Agreements (Agreements) with Muddy Valley, Bunkerville, and Mesquite, which provided each irrigation company with an annual operation and maintenance budget to cover costs associated with the accounting and conveyance of the Authority's water rights to Lake Mead. The Agreements also allowed willing shareholders to sell or lease their shares to the Authority. On April 16, 2009, the Board appropriated an additional \$10,000,000 to acquire additional shares from irrigation company shareholders.

The Agreements with the irrigation companies were executed on May 12, 2008, and terminate on September 30, 2018. Shareholders were permitted to choose the termination date for their leases; however, the termination date did not extend beyond September 30, 2018. Many of the leases were for an initial term of two or three years. As a consequence, the Board authorized extending the leases on January 20, 2011, and May 15, 2014. The majority of the leases will now expire on September 30, 2016. In anticipation of the upcoming expiration date for the leases and the Agreements, the Authority and Bunkerville and Mesquite desire to enter into Amended and Restated Water Operation and Management Agreements (Amended Agreements). The Amended

Agreements would allow the Authority to enter into long-term leases with irrigation company shareholders. The Amended Agreements would also provide the Authority with additional flexibility should the Authority choose to purchase additional shares from willing shareholders if approved by the Board in the future.

Upon approval of this agenda item, the Authority will execute Amended Agreements with Bunkerville and Mesquite. The Amended Agreements would terminate on December 31, 2026, and provide each irrigation company with an annual operation and maintenance budget for management of ditch systems to account for and convey the Authority's Virgin River water rights to Lake Mead. The Amended Agreements also facilitate transactions with willing shareholders to lease or sell their shares to the Authority.

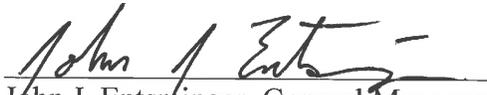
In addition, the Authority will present a Request for Offers to Lease to all Bunkerville and Mesquite shareholders for an initial annual lease payment of \$1,242 per Bunkerville share and \$1,021 per Mesquite share, with an annual 3 percent increase. Each lease would be for a maximum of ten years, and all leases will terminate on September 30, 2026.

In April 2014, the Board authorized the General Manager to negotiate and execute an agreement for the creation of a Colorado River System Conservation Pilot Program. The pilot program funds voluntary demand management actions to create Colorado River system water to mitigate the impacts of ongoing drought. The Authority may seek partial reimbursement from the pilot program for the leases authorized by this agenda item.

The Authority's rights obtained through these acquisitions will be held by Muddy River Water Holdings, Inc., a non-profit corporation authorized by the Board on December 15, 1999, to facilitate the holding of water rights through shares in irrigation companies.

These agreements are authorized by Sections 6(a) and 6(j) of the SNWA 1995 Amended Cooperative Agreement. The Office of the General Counsel has reviewed and approved the agreements.

Respectfully submitted:



John J. Entsminger, General Manager
JJE:GJW:CNP:cmc
Attachments

**AMENDED AND RESTATED WATER OPERATION AND MANAGEMENT
AGREEMENT**

This Amended and Restated Water Operation and Management Agreement (“Amended and Restated Agreement”) is entered into this ____ day of _____, 2016 (“Effective Date”), by and between the Southern Nevada Water Authority (“SNWA”), a political subdivision of the State of Nevada and a joint powers authority established pursuant to Chapter 277 of the Nevada Revised Statutes, and the Mesquite Irrigation Company (“MESQUITE”), a Nevada corporation. SNWA and MESQUITE are at times herein referred to individually as “Party” and collectively as “Parties.”

RECITALS

A. MESQUITE holds legal title to surface water rights (Proof V01968) in the Virgin River under the laws of the State of Nevada which were adjudicated in the Virgin River Decree entered on May 14, 1927, by the Tenth Judicial District Court (now the Eighth Judicial District Court). MESQUITE also holds legal title to Virgin River surface water rights identified by Permit 7624 (Certificate 4509) and Permit 15619 (Certificate 5240) issued by the Nevada State Engineer. Shares of stock in MESQUITE represent a pro-rata right to use the water rights owned by MESQUITE.

B. SNWA owns and leases certain shares of stock in MESQUITE. In the future, SNWA may acquire additional MESQUITE shares. The MESQUITE shares that are now owned or that in the future are leased, owned, acquired, or otherwise controlled by SNWA, are hereinafter referred to as the “SNWA Water Rights.”

C. Pursuant to the *Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead* issued by the Secretary of the Interior on December 13, 2007 (“Guidelines”), SNWA may create Tributary Conservation Intentionally

Created Surplus (“ICS”) by conveying SNWA Water Rights that were perfected prior to June 25, 1929, directly to Lake Mead. SNWA is then able to divert the ICS created by such conveyances at its Saddle Island intakes for municipal use in the Las Vegas Valley. The ICS program requires accurate accounting methods to measure the amount of SNWA Water Rights conveyed to Lake Mead, which may involve quantifying consumptive uses on the Virgin River.

D. SNWA may, in addition to creation of ICS, also convey water to Lake Mead in order to increase water elevations pursuant to droughts response programs.

E. On July 15, 2008, Nevada’s State Engineer issued an Order Regarding Tributary Conservation Intentionally Created Surplus for the Virgin River (“2008 Order”). Pursuant to the 2008 Order, creating ICS, as defined in the Guidelines, is beneficial to the state of Nevada. Further, pursuant to the 2008 Order and NRS 538.171, a permit is not required for the creation or use of ICS when an ICS Delivery Contract exists with the Secretary of the Interior. SNWA has an ICS Delivery Contract with the Secretary of the Interior.

F. Previously, SNWA and MESQUITE desired to work together and cooperate in quantifying and conveying SNWA’s Water Rights from their existing points of diversion on the Virgin River to Lake Mead in a manner that benefits SNWA and the other MESQUITE shareholders. Accordingly, the Parties entered into a Water Operation and Management Agreement (“First Agreement”) on May 12, 2008.

G. Through the First Agreement, the Parties established certain terms and conditions applicable to SNWA’s potential purchase and lease of MESQUITE shares from willing MESQUITE shareholders. As contemplated by the First Agreement, SNWA purchased and leased certain MESQUITE shares. Since that time to the present, the Parties have cooperatively and productively executed their responsibilities under the First Agreement.

H. The First Agreement expires on September 30, 2018. The Parties, however, seek to

continue to work together and cooperate in quantifying and conveying SNWA's Water Rights from the Virgin River to Lake Mead in a manner that benefits SNWA and the other MESQUITE shareholders beyond that date. Accordingly, SNWA and MESQUITE agree to enter into an Amended and Restated Agreement as set forth below.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the Parties agree as follows:

1. MESQUITE to Convey SNWA Water Rights. Under the terms and conditions provided in this Amended and Restated Agreement, MESQUITE agrees to convey the SNWA Water Rights either through or past MESQUITE's irrigation system to the Virgin River below MESQUITE's irrigation system and specifically agrees not to deliver any SNWA Water Rights to any other MESQUITE shareholder, person or entity.

2. Purchase of MESQUITE Shares. If SNWA should choose to issue to all MESQUITE shareholders a Request for Offers to Sell, SNWA will consult with MESQUITE prior to issuing the Request for Offers to Sell. Notwithstanding the foregoing, SNWA may purchase MESQUITE shares from any willing shareholders that approach SNWA without issuing a Request for Offers to Sell to all shareholders

2.1. Provisions Regarding the Request for Offers to Sell.

2.1.1. MESQUITE agrees to cooperate in facilitating such stock sales by reviewing MESQUITE's records and certifying the status of the offered shares pertaining to ownership, liens, and encumbrances filed in MESQUITE's records, and that the stock certificates for the shares being offered for sale are on deposit with MESQUITE and are endorsed for transfer. If an Offer to Sell is not accepted by SNWA, MESQUITE shall return such stock certificates to the shareholder(s). MESQUITE's signature on an Offer to Sell shall certify that all owners of such stock certificate(s) as appear on the records of MESQUITE have

signed the Offer to Sell, and that no liens or encumbrances apply to the stock certificate(s) that would prevent the shareholder from completing the sale and/or prevent SNWA from utilizing the water represented by the shares to their full extent.

2.1.2. Upon notification of SNWA's acceptance of the signed Offer to Sell, MESQUITE will record the name of Muddy River Water Holdings, Inc., as the record owner of the shares in MESQUITE's records and shall deliver stock certificates evidencing the transfer to SNWA.

3. Leases of MESQUITE Shares. To establish a uniform and transparent process for the lease of MESQUITE shares to SNWA by willing shareholders, SNWA agrees to issue a Request for Offers to Lease, in substantially the same form as Exhibit A attached hereto, to all MESQUITE shareholders ("Request for Offers to Lease").

3.1. Issuance of Request for Offers to Lease. SNWA will issue the Request for Offers to Lease by August 1, 2016. Shareholders wishing to lease their shares to SNWA shall return the Offer to Lease to SNWA on or before August 31, 2016. SNWA will mail notification to those shareholders whose Offers to Lease were accepted by SNWA by September 14, 2016. All leases of unencumbered shares will be effective on October 1, 2016, and remain in effect until September 30, 2026.

3.2. Currently Leased Shares. MESQUITE shareholders whose shares will be leased to SNWA or another person as of October 1, 2016, under a lease or agreement not entered into pursuant to SNWA's Request for Offers to Lease, but who desire to make offers to lease shares, effective once the encumbering lease terminates, pursuant to SNWA's Request for Offers to Lease must comply with the timetable described above in Section 3.1 and as further described in Exhibit A.

3.3. SNWA may, at its sole discretion, choose to issue subsequent Requests for Offers

to Lease with different payment terms and conditions in substantially the same form as Exhibit A.

3.4. MESQUITE agrees to cooperate in facilitating such leases by reviewing MESQUITE's records and certifying the status of the offered shares pertaining to ownership, liens, and encumbrances filed in MESQUITE's records. MESQUITE's signature on an Offer to Lease shall certify that all owners of such stock certificate(s) as appear on the records of MESQUITE have signed the Offer to Lease, and that no liens or encumbrances apply to the stock certificate(s) that would prevent the shareholder from executing the lease and/or prevent SNWA from utilizing the water represented by the shares.

3.5. Upon notification of SNWA's acceptance of the signed Offer to Lease, MESQUITE will record on the back of the stock certificate the name of Muddy River Water Holdings, Inc. as the record lessee and shall deliver copies to SNWA of the stock certificates reflecting such recording, unless otherwise agreed to by SNWA.

4. Obligations of the Parties.

4.1. The Parties shall be obligated to perform all of the duties set forth in the Request for Offers to Lease.

4.2. The Parties understand that, pursuant to the 2008 Order, SNWA need not submit change applications to nor obtain permits from the Nevada State Engineer for approval to change the point of diversion, place of use, or manner of use of the SNWA Water Rights for ICS.

4.3. To the extent submission of change applications becomes necessary, SNWA agrees to pay for the associated costs of such change applications. MESQUITE agrees to cooperate with SNWA in securing any change application authorizations from the State Engineer.

4.4. The 2008 Order requires that SNWA file an annual report with the State Engineer's

Office accounting for the applicable SNWA Water Rights. MESQUITE agrees to cooperate with SNWA in the compilation and submittal of such plans.

4.5. In accordance with Section 3(D) of the Guidelines, SNWA is required to submit plans to the U.S. Bureau of Reclamation for the accounting and verification of any Virgin River water introduced into Lake Mead for the creation of ICS. SNWA is responsible for submitting such plans and MESQUITE agrees to cooperate with SNWA in the compilation and submittal of such plans.

4.6. SNWA further covenants and agrees that nothing in this Amended and Restated Agreement or in the documents associated with the leases described in Section 3 above will, at the expiration of the leases, act to reduce the acre-feet duty per share adjudicated for same in the Virgin River Decree.

5. Operating Plan. By September 30, 2016, SNWA and MESQUITE will agree upon an Operating Plan concerning appropriate mechanisms for the conveyance of the SNWA Water Rights to Lake Mead “Operating Plan”). The Parties expressly agree that the provisions of the Operating Plan shall be written to respect and protect the rights of all MESQUITE shareholders, including but not limited to those who continue to use their MESQUITE shares for irrigation purposes as decreed to MESQUITE, and that in no event will MESQUITE’s delivery of the SNWA Water Rights to Lake Mead harm the rights of other shareholders. The Operating Plan shall be amended as necessary to reflect actual operating experience. The Operating Plan and any amendment shall require the written approval of the Parties.

6. Consideration to Mesquite. In consideration of MESQUITE’s management of MESQUITE’s system in accordance with the Operating Plan, including but not limited to operation and maintenance of metering devices, in a manner that accommodates the conveyance of water represented by the SNWA Water Rights to Lake Mead and to ensure that other

MESQUITE shareholders are not adversely impacted by such management, SNWA will provide MESQUITE with an annual operation and maintenance budget of \$70,000, payable by October 1st of each year this Amended and Restated Agreement is in effect.

7. Modification. This Amended and Restated Agreement may be amended only in writing signed by the Parties.
8. No Third Party Beneficiaries. This Amended and Restated Agreement is for the sole benefit of the Parties and does not create any right or benefit, substantive or procedural, enforceable by any third parties against the Parties.
9. Counterparts. This Amended and Restated Agreement may be executed and approved in multiple counterparts, each of which shall be deemed an original.
10. Integration. This Amended and Restated Agreement contains the entire understanding between the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements and understandings, oral or written, except as herein contained.
11. Waiver. Neither failure nor delay on the part of any Party to exercise any right, remedy, power, or privilege under this Amended and Restated Agreement shall operate as a waiver thereof.
12. Controlling Law. This Amended and Restated Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by the laws of the State of Nevada, as determined by a court(s) of competent jurisdiction in Nevada.
13. Assignment. Neither Party may assign, delegate, or transfer its rights or obligations under this Amended and Restated Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any assignment, delegation or transfer made without prior written consent shall be void.

14. Notices. All notices, requests, or other communications required under this Amended and Restated Agreement shall be in writing and shall be deemed to have been received when delivered or on the third business day following mailing, whichever occurs first, addressed as set forth below, postage prepaid:

To SNWA:
Southern Nevada Water Authority
Attn: General Manager
1001 S. Valley View Blvd.
Las Vegas, NV 89153

With a copy to:
Southern Nevada Water Authority
Attn: General Counsel's Office
1001 S. Valley View Blvd.
Las Vegas, NV 89153

To MESQUITE:
Mesquite Irrigation Company
P.O. Box 303
Mesquite, NV 89024

With a copy to:
Steve D. King
227 River Road
Dayton, NV 89403

15. Indemnification. Each Party agrees to indemnify and hold harmless the other Party, and all the other Party's successors or assigns (collectively referred to as "Indemnified Party"), from and against the aggregate of all expenses, losses, costs, deficiencies, liabilities, and damages incurred or suffered by the Indemnified Party resulting from or arising out of any claim, damages, loss, or liability on account of the performance or nonperformance of any provisions under this Amended and Restated Agreement.

16. Non-Appropriation. All SNWA obligations to lease shares and pay the annual operation and maintenance fees, following the first year of the lease for Water Year 2017, are subject to the appropriation by SNWA's Board of Directors of sufficient funds for such payments in the

succeeding Water Years.

17. Term. The term of this Amended and Restated Agreement shall be from the Effective Date through December 31, 2026 (“Term”).

IN WITNESS WHEREOF, each of the Parties has executed this Amended and Restated Agreement as of the date and year first written above.

SOUTHERN NEVADA
WATER AUTHORITY

MESQUITE
IRRIGATION COMPANY

By: _____
John J. Entsminger
General Manager

By: _____
Kelby Hughes
President

Approved as to form:

By: _____
Greg Walch, Esq.
General Counsel

REQUEST FOR OFFERS TO LEASE SHARES OF STOCK
IN THE
MESQUITE IRRIGATION COMPANY

Southern Nevada Water Authority (“SNWA”) requests that owners of shares of stock in the Mesquite Irrigation Company (“MESQUITE”) who desire to lease some or all of their shares, submit a completed and signed copy of the attached Offer to Lease Shares of Stock (“OFFER”) to the Southern Nevada Water Authority, 100 City Parkway, Suite 700, Las Vegas, Nevada, ATTENTION: Colby N. Pellegrino, and ensure that such documentation is in SNWA’s actual possession on or before 5:00 p.m. on August 31, 2016. OFFERS may be mailed to P.O. Box 99956, Las Vegas, NV 89193-9956. SNWA must receive the signed OFFER at the above offices on or before 5:00 p.m. on August 31, 2016. Please call Colby Pellegrino at 702-822-3378 with any questions. SNWA intends to lease shares in the Mesquite Irrigation Company on a first come, first served basis, subject to appropriation of funds by its Board of Directors for such purposes.

The terms of this Request for Offers to Lease are as follows:

1. SNWA is requesting OFFERS from all MESQUITE shareholders. No OFFER will be accepted for lease of less than one share.
2. SNWA will only consider accepting an OFFER if it is made on the attached form with no alterations to the terms contained in it.
3. Leases with shareholders whose shares are free from liens or encumbrances that would prevent the shareholder from executing the lease and/or prevent SNWA from utilizing the water represented by the shares as of October 1, 2016, will begin on October 1, 2016. The term of each lease will continue for a ten-year term to expire on September 30, 2026.
4. Shareholders whose shares are currently leased to SNWA or another person, and the term of such leases expires on or before September 30, 2018, may offer to lease such shares to SNWA pursuant to the terms of this Request for Offers to Lease, effective upon expiration of their current leases; provided, however, that such shareholders must execute and deliver an OFFER to SNWA by 5:00 p.m. on August 31, 2016. The term of each such lease will begin on October 1, 2017, or October 1, 2018, depending on when the shares become available for lease to SNWA pursuant to this Request for Offers to Lease. The term of each Lease will continue for a term to expire on September 30, 2026.
5. Shareholders whose shares are currently leased to another party pursuant to a lease that will not be expired on October 1, 2016, may offer to lease shares to SNWA pursuant to the terms of this Request for Offers to Lease, including that such shareholders must execute and deliver an OFFER to SNWA by 5:00 p.m. on August 31, 2016. However, the term of each new Lease will begin on October 1st of the following water year when the shares are unencumbered. The term of each new Lease will continue for a fixed period expiring on September 30, 2026. Please indicate the ending date of the current lease on the OFFER.

6. The annual rent for the lease and the latest date by which the lease payment will be mailed by SNWA to the Lessor is described in the table below. The initial lease payment amount will be escalated by 3% each year, as shown in the table below.

Year	Date of Annual Lease Payment	Annual Lease Payment per Share
2017 October 1, 2016 – September 30, 2017	9/30/2016	\$1,021.00
2018 October 1, 2017 – September 30, 2018	9/1/2017	\$1,051.63
2019 October 1, 2018 – September 30, 2019	9/1/2018	\$1,083.18
2020 October 1, 2019 – September 30, 2020	9/1/2019	\$1,115.67
2021 October 1, 2020 – September 30, 2021	9/1/2020	\$1,149.14
2022 October 1, 2021 – September 30, 2022	9/1/2021	\$1,183.62
2023 October 1, 2022 – September 30, 2023	9/1/2022	\$1,219.13
2024 October 1, 2023 – September 30, 2024	9/1/2023	\$1,255.70
2025 October 1, 2024 – September 30, 2025	9/1/2024	\$1,293.37
2026 October 1, 2025 – September 30, 2026	9/1/2025	\$1,332.17

7. Shareholders whose lease term begins on October 1, 2017, will be compensated at the rate of \$1,051.63 per share, with subsequent rate increases consistent with the table, above. Shareholders whose lease term begins on October 1, 2018, will be compensated at the rate of \$1,083.18 per share, with subsequent rate increases consistent with the table, above.

8. The Lessor agrees not to use, order, or divert any portion of the water leased to SNWA during the lease term.

9. Each signed OFFER returned to SNWA must also be signed by MESQUITE certifying that all record owners of the stock certificate have signed the OFFER, and that the stock certificates do not reflect any other leases, liens, or encumbrances that would prevent the

shareholder from executing the lease and/or prevent SNWA from utilizing the water represented by the shares to its full extent.

10. In addition, all OFFERS must also be accompanied with a copy of the relevant stock certificate and completed W9 Form. The W9 Form will be used to complete a Form 1099 to be submitted to the Internal Revenue Service by SNWA as required by law.

11. If the shares to be leased are owned by a trust, the OFFER must be accompanied by a copy of the certificate of trust. If the shares to be leased are owned by a limited liability company or other corporate entity, the Offer must be accompanied by a certification that the individual signing on behalf of the entity is authorized to do so.

12. All OFFERS made to SNWA must be signed by all persons whose name(s) appear as owners on the stock certificates for the shares offered for lease.

13. The name of the ditch through which the water represented by the shares offered for lease is conveyed shall be listed in the OFFER.

14. Conveyance to Lake Mead of the water represented by the leased shares may require authorization from the Nevada State Engineer. The Lessor expressly agrees not to take any actions to protest or otherwise prevent the conveyance of this water to Lake Mead.

15. The Lessor agrees to identify all real property, if any, within the Virgin River Valley that is either currently, or has been historically, irrigated with water represented by the leased shares, together with any documentation, including leases, regarding the use of the Lessor's shares during the last five years. Such obligation will be satisfied by completing the "Description of Land and Share Usage" form attached to this Request for Offers to Lease.

16. MESQUITE will not deliver the water represented by the SNWA Water Rights to any person, and instead will either leave the water in the Virgin River or divert such water into its diversion ditches and allow such water to pass through its ditches into the Virgin River for discharge into Lake Mead.

17. By returning a signed OFFER to SNWA, each Lessor warrants and represents that the shares of stock in MESQUITE offered for lease are free and clear of all encumbrances and obligations that would prevent the shareholder from executing the lease and/or prevent SNWA from utilizing the water represented by the shares to its full extent during the lease term.

18. By September 14, 2016, SNWA will notify all persons who submitted OFFERS whether SNWA has accepted their OFFER. SNWA will also promptly notify MESQUITE of the name(s) of the Lessor(s) and of the shares for which the OFFER has been accepted. Upon notification of SNWA's acceptance of the signed Offer to Lease, MESQUITE will record the name of Muddy River Water Holdings, Inc., as the Lessee of record of the shares in MESQUITE's records. OFFERs complying in all respects with the requirements herein will, subject to available appropriations and paragraph 21 below, be accepted in the order received by SNWA.

19. SNWA will pay an annual operation and maintenance assessment of \$70,000.00 to MESQUITE. The owner/lessor is responsible for any other fees and assessments that

MESQUITE may impose.

20. On receipt of notification of SNWA's acceptance of a shareholder's OFFER, MESQUITE will record on the back of the stock certificate the name of Muddy River Water Holdings, Inc. as the record lessee and shall deliver copies to SNWA of the stock certificates reflecting such recording.

21. SNWA reserves the right to reject an OFFER if in SNWA's sole judgment the aggregate amount of water represented by shares from a particular ditch is not sufficient to enable convenient monitoring of the conveyance of such water through the ditches of MESQUITE to Lake Mead.

22. No OFFER is a binding lease unless and until accepted by SNWA.

23. All SNWA obligations to lease shares and pay the annual operation and maintenance fees as provided in this Request for Offers to Lease, following the first year of the lease for Water Year 2017, are subject to the appropriation by SNWA's Board of Directors of sufficient funds for such payments in the succeeding Water Years.

DATED this _____ day of _____, 2016.

SOUTHERN NEVADA WATER AUTHORITY
100 City Parkway, Suite 700
Las Vegas, Nevada 89106

By: _____
Authorized Representative

OFFER TO LEASE SHARES

I hereby offer to lease _____ shares in the Mesquite Irrigation Company ("MIC") to the Southern Nevada Water Authority (SNWA) on the terms, price, and conditions set forth in this OFFER and in SNWA's Request for Offers to Lease, which is incorporated herein by reference. This Offer will remain open through September 14, 2016. If this Offer is accepted, the terms of the lease are contained herein and in the Request for Offers to Lease. The water delivered to the undersigned by MIC for said shares is conveyed through the ditch(es) listed below. I also certify that the attached Description of Land and Share Usage is complete to the best of my knowledge and ability.

In the event that SNWA accepts this OFFER, the lease will begin on (check one):

____ October 1, 2016 (or)

____ The shares referenced above are currently leased to SNWA or another person and such lease will expire on _____; accordingly, the lease term contemplated herein will commence on October 1, 20__

The lease will terminate on September 30, 2026.

(To be signed and dated by all persons whose names appear as owners on the stock certificate)

LESSOR 1

LESSOR 2

Date

Date

Lessor 1

Lessor 2

Printed: _____

Printed: _____

Date: _____

Date: _____

Address: _____

Address: _____

Phone Number: _____

Phone Number: _____

Stock Certificate		Ditch Name	Stock Certificates		Ditch Name
Cert #	# of Shares		Cert #	# of Shares	

I have enclosed a completed and signed copy of the W-9 Request for Taxpayer Identification Number and Certification required by the Internal Revenue Service (IRS).

Seller Name (print) _____

MESQUITE IRRIGATION COMPANY CERTIFICATION - REQUIRED

The Mesquite Irrigation Company ("MIC") hereby certifies that all of the record owner(s) of the stock certificate(s) being offered for lease in the foregoing Offer to Lease have signed the Offer and the stock certificate(s) does not reflect any liens or encumbrances on such shares that would prevent the shareholder from executing this lease and/or prevent SNWA from utilizing the leased water to its full extent during the lease term. MIC shall notify SNWA in the event of a change in certificate number listed above.

Dated this _____ day of _____, 2016.

MESQUITE IRRIGATION COMPANY

By: _____

For SNWA Use Only

The above Offer is: Accepted Rejected

DATED this _____ day of _____, 20____

SOUTHERN NEVADA WATER AUTHORITY
100 City Parkway, Suite 700
Las Vegas, Nevada 89106

By: _____
Authorized Representative

Lessor Name (print) _____

Description of Land and Share Usage

If the proposed term of the lease in this OFFER will not begin until 2017 or 2018 due to an encumbrance, please describe the encumbrance to the best of your ability:

Please submit Offer to: **Colby N. Pellegrino,**
Colorado River Programs Manager
Southern Nevada Water Authority
If by First Class Mail **P.O. Box 99956, Las Vegas, NV 89196-9956**
If by Federal Express or in Person: **100 City Parkway, Ste. 700, Las Vegas, NV 89106**

Seller Name (print) _____

**AMENDED AND RESTATED WATER OPERATION AND MANAGEMENT
AGREEMENT**

This Amended and Restated Water Operation and Management Agreement (“Amended and Restated Agreement”) is entered into this ____ day of _____, 2016 (“Effective Date”), by and between the Southern Nevada Water Authority (“SNWA”), a political subdivision of the State of Nevada and a joint powers authority established pursuant to Chapter 277 of the Nevada Revised Statutes, and the Bunkerville Irrigation Company (“BUNKERVILLE”), a Nevada corporation. SNWA and BUNKERVILLE are at times herein referred to individually as “Party” and collectively as “Parties.”

RECITALS

- A.** BUNKERVILLE holds legal title to surface water rights (Proof V02038) in the Virgin River under the laws of the State of Nevada, which were adjudicated in the Virgin River Decree entered on May 14, 1927, by the Tenth Judicial District Court (now the Eighth Judicial District Court). BUNKERVILLE also holds legal title to Virgin River surface water rights identified by Permit 13222 (Certificate 3509), Permit 16883 (Certificate 5343), and Permit 19920 (Certificate 7149) issued by the Nevada State Engineer. Shares of stock in BUNKERVILLE represent a pro-rata right to use the water rights owned by BUNKERVILLE.
- B.** SNWA owns and leases certain shares of stock in BUNKERVILLE. In the future, SNWA may acquire additional BUNKERVILLE shares. The BUNKERVILLE shares that are now owned or that in the future are leased, owned, acquired, or otherwise controlled by SNWA, are hereinafter referred to as the “SNWA Water Rights.”
- C.** Pursuant to the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead issued by the Secretary of the Interior on December 13, 2007 (“Guidelines”), SNWA may create Tributary Conservation

Intentionally Created Surplus (“ICS”) by conveying SNWA Water Rights, perfected prior to June 25, 1929, directly to Lake Mead. SNWA may then divert the ICS created by such conveyances for municipal use in the Las Vegas Valley. The ICS program requires accurate accounting methods to measure the amount of SNWA Water Rights conveyed to Lake Mead, and may involve quantifying consumptive uses on the Virgin River.

D. On July 15, 2008, the Nevada State Engineer issued an Order Regarding Tributary Conservation Intentionally Created Surplus for the Virgin River (“2008 Order”). Pursuant to the 2008 Order, creating ICS, as defined in the Guidelines, is beneficial to the State of Nevada. Further, pursuant to the 2008 Order and NRS 538.171, a permit is not required for the creation or use of ICS when an ICS Delivery Contract exists with the Secretary of the Interior. SNWA has an ICS Delivery Contract with the Secretary of the Interior.

E. SNWA may, in addition to creation of ICS, also convey water to Lake Mead in order to increase water elevations pursuant to drought response programs.

F. Based on the Parties’ desire to work together and cooperate in quantifying and conveying SNWA’s Water Rights from their existing points of diversion on the Virgin River to Lake Mead in a manner that benefits SNWA and the other BUNKERVILLE shareholders, the Parties entered into a Water Operation and Management Agreement (“First Agreement”) on May 12, 2008.

G. Through the First Agreement, the Parties established certain terms and conditions applicable to SNWA’s potential purchase and lease of BUNKERVILLE shares from willing BUNKERVILLE shareholders. As contemplated by the First Agreement, SNWA purchased and leased certain BUNKERVILLE shares.

H. The First Agreement expires on September 30, 2018. The Parties, however, seek to

continue to work together and cooperate in quantifying and conveying SNWA's Water Rights from the Virgin River to Lake Mead in a manner that benefits SNWA and the other BUNKERVILLE shareholders beyond that date. Accordingly, SNWA and BUNKERVILLE have agreed to enter into an Amended and Restated Agreement as set forth below.

I. SNWA desires, throughout the term of this Amended and Restated Agreement, to purchase, lease, or otherwise acquire BUNKERVILLE shares from willing BUNKERVILLE shareholders.

J. BUNKERVILLE desires to cooperate with SNWA to effectuate such transfers pursuant to the provisions of this Amended and Restated Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the Parties hereto agree as follows:

1. BUNKERVILLE to Convey SNWA Water Rights. Under the terms and conditions provided in this Amended and Restated Agreement, BUNKERVILLE agrees to convey water represented by SNWA Water Rights either through or past BUNKERVILLE's irrigation system to the Virgin River below BUNKERVILLE's irrigation system and specifically agrees not to deliver any SNWA Water Rights to any other BUNKERVILLE shareholder, person, or entity.

2. Purchase of BUNKERVILLE Shares. If SNWA should choose to issue to all BUNKERVILLE shareholders a Request for Offers to Sell, SNWA will consult with BUNKERVILLE prior to issuing the Request for Offers to Sell. Notwithstanding the foregoing, SNWA may purchase BUNKERVILLE shares from any willing shareholders that approach SNWA without issuing a Request for Offers to Sell to all shareholders.

2.1. Provisions Regarding the Request for Offers to Sell.

2.1.1. BUNKERVILLE agrees to cooperate in facilitating such share sales by reviewing BUNKERVILLE's records and certifying the status of the offered shares pertaining to ownership, liens, and encumbrances filed in BUNKERVILLE's records, and that the stock certificates for the shares being offered for sale are on deposit with BUNKERVILLE and are endorsed for transfer. If an Offer to Sell is not accepted by SNWA, BUNKERVILLE shall return such stock certificates to the shareholder(s). BUNKERVILLE's signature on an Offer to Sell shall certify that all owners of such stock certificate(s) as appear on the records of BUNKERVILLE have signed the Offer to Sell, and that no liens or encumbrances apply to the stock certificate(s) that would prevent the shareholder from completing the sale and/or prevent SNWA from utilizing the water represented by the shares to their full extent.

2.1.2. Upon notification of SNWA's acceptance of the signed Offer to Sell, BUNKERVILLE will record the name of Muddy River Water Holdings, Inc. as the record owner of the shares in BUNKERVILLE's records and shall deliver stock certificates evidencing the transfer to SNWA.

3. Leases of BUNKERVILLE Shares. To establish a uniform and transparent process for the lease of BUNKERVILLE shares to SNWA by willing shareholders, SNWA agrees to issue a Request for Offers to Lease, in substantially the same form as Exhibit A attached hereto, to all BUNKERVILLE shareholders ("Request for Offers to Lease").

3.1. Issuance of Initial Request for Offers to Lease. SNWA will issue the Request for Offers to Lease by August 1, 2016. Shareholders wishing to lease their shares to SNWA shall return the Offer to Lease to SNWA on or before August 31, 2016. SNWA will mail notification to those shareholders whose Offers to Lease were accepted by SNWA by

September 14, 2016. All leases of unencumbered shares will be effective on October 1, 2016, and remain in effect until September 30, 2026.

3.2. Currently Leased Shares. BUNKERVILLE shareholders whose shares will be leased to SNWA or another person as of October 1, 2016, but who desire to submit an Offer to Lease to SNWA that would be effective once the existing lease terminates, must comply with the timetable described above in Section 3.1 and as further described in Exhibit A.

3.3. SNWA may, at its sole discretion, choose to issue subsequent Requests for Offers to Lease with different payment terms and conditions in otherwise substantially the same form as Exhibit A.

3.4. BUNKERVILLE agrees to cooperate in facilitating such leases by reviewing BUNKERVILLE's records and certifying the status of the offered shares pertaining to ownership, liens, and encumbrances filed in BUNKERVILLE's records. BUNKERVILLE's signature on an Offer to Lease shall certify that all owners of such stock certificate(s) as appear on the records of BUNKERVILLE have signed the Offer to Lease, and that no liens or encumbrances apply to the stock certificate(s) that would prevent the shareholder from executing the lease and/or prevent SNWA from utilizing the water represented by the shares.

3.5. Upon notification of SNWA's acceptance of the signed Offer to Lease, BUNKERVILLE will record on the back of the stock certificate the name of Muddy River Water Holdings, Inc. as the record lessee and shall deliver copies to SNWA of the stock certificates reflecting such recording, unless otherwise agreed to by SNWA.

4. Obligations of the Parties.

4.1. The Parties shall be obligated to perform all of the duties set forth in the Request for Offers to Lease.

4.2. The Parties understand that, pursuant to the 2008 Order, SNWA need not submit change applications to nor obtain permits from the Nevada State Engineer for approval to change the point of diversion, place of use, or manner of use of the SNWA Water Rights when used to create ICS.

4.3. To the extent submission of change applications becomes necessary, SNWA agrees to pay for the associated costs of such change applications. BUNKERVILLE agrees to cooperate with SNWA in securing any change application authorizations from the State Engineer and will not protest or otherwise oppose the change applications.

4.4. The 2008 Order requires that SNWA file an annual report with the State Engineer's Office accounting for the SNWA Water Rights used to create ICS. BUNKERVILLE agrees to cooperate with SNWA in the compilation and submittal of such reports.

4.5. In accordance with Section 3(D) of the Guidelines, SNWA is required to submit plans to the U.S. Bureau of Reclamation for the accounting and verification of any Virgin River water introduced into Lake Mead for the creation of ICS. SNWA is responsible for submitting such plans and BUNKERVILLE agrees to cooperate with SNWA in the compilation and submittal of such plans.

4.6. SNWA further covenants and agrees that nothing in this Amended and Restated Agreement or in the documents associated with the leases described in Section 3 above will, at the expiration of the leases, act to reduce the acre-feet duty per share adjudicated

for same in the Virgin River Decree.

5. Operating Plan. By September 30, 2016, the Parties will agree upon an Operating Plan concerning appropriate mechanisms for the conveyance of water represented by the SNWA Water Rights to Lake Mead (“Operating Plan”). The Parties expressly agree that the provisions of the Operating Plan shall be written to respect and protect the rights of all BUNKERVILLE shareholders, including but not limited to those who continue to use their BUNKERVILLE shares for irrigation purposes as decreed to BUNKERVILLE, and that in no event will BUNKERVILLE’s delivery of the SNWA Water Rights to Lake Mead impair the rights of other shareholders. The Operating Plan shall be amended as necessary to reflect actual operating experience. The Operating Plan and any amendment shall require the written approval of the Parties.

6. Consideration to BUNKERVILLE. In consideration of BUNKERVILLE’s management of BUNKERVILLE’s irrigation system in accordance with the Operating Plan, including but not limited to operation and maintenance of metering devices, in a manner that accommodates the conveyance of water represented by the SNWA Water Rights to Lake Mead and in order to ensure that other BUNKERVILLE shareholders are not adversely impacted by such management, SNWA will provide BUNKERVILLE with an annual operation and maintenance budget of \$70,000, payable by October 1st of each year this Amended and Restated Agreement is in effect.

7. Modification. This Amended and Restated Agreement may be amended only in writing signed by the Parties.

8. No Third Party Beneficiaries. This Amended and Restated Agreement is for the sole benefit of the Parties and does not create any right or benefit, substantive or procedural,

enforceable by any third parties against the Parties.

9. Counterparts. This Amended and Restated Agreement may be executed and approved in multiple counterparts, each of which shall be deemed an original.

10. Integration. This Amended and Restated Agreement contains the entire understanding between the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements and understandings, oral or written, except as herein contained.

11. Waiver. Neither failure nor delay on the part of any Party to exercise any right, remedy, power or privilege under this Amended and Restated Agreement shall operate as a waiver thereof.

12. Controlling Law. This Amended and Restated Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by the laws of the State of Nevada, as determined by a court(s) of competent jurisdiction in Nevada, without reference to its choice of law provisions.

13. Assignment. Neither Party may assign, delegate, or transfer its rights or obligations under this Amended and Restated Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any assignment, delegation or transfer made without prior written consent shall be void and not merely voidable.

14. Notices. All notices, requests or other communications required under this Amended and Restated Agreement shall be in writing and shall be deemed to have been received when delivered or on the third business day following mailing, whichever occurs first, addressed as set forth below, postage prepaid:

To SNWA:
Southern Nevada Water Authority
Attn: General Manager
1001 S. Valley View Blvd.
Las Vegas, NV 89153

With a copy to:
Southern Nevada Water Authority
Attn: General Counsel's Office
1001 S. Valley View Blvd.
Las Vegas, NV 89153

To BUNKERVILLE:
Bunkerville Irrigation Company
PO Box 7337
Bunkerville, NV 89007

15. Indemnification. To the full extent authorized by law, each Party agrees to indemnify and hold harmless the other Party, and all the other Party's successors or assigns (collectively referred to as "Indemnified Party"), from and against the aggregate of all expenses, losses, costs, deficiencies, liabilities and damages incurred or suffered by the Indemnified Party resulting from or arising out of any claim, damages, loss or liability on account of the performance or nonperformance of any provisions under this Amended and Restated Agreement.

16. Non-Appropriation. All SNWA obligations to lease shares and pay the annual operation and maintenance fees, following the first year of the lease for Water Year 2017, are subject to the appropriation by SNWA's Board of Directors of sufficient funds for such payments in the succeeding Water Years.

17. Term. The term of this Amended and Restated Agreement shall be from the Effective Date through December 31, 2026 ("Term").

IN WITNESS WHEREOF, each of the Parties has executed this Agreement as of the date and year first written above.

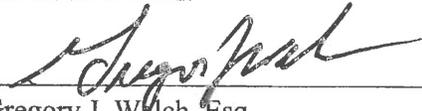
SOUTHERN NEVADA
WATER AUTHORITY

By: _____
John J. Entsminger
General Manager

BUNKERVILLE
IRRIGATION COMPANY

By: 
Robert Bunker
President

Approved as to form:

By: 
Gregory J. Walch, Esq.
General Counsel

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Authorization to Increase Funding	Director's Backup
Petitioner: David L. Johnson, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors authorize an increase in expenditures to Bid No. 2285-15, API 600 Wedge Gate Isolation Valves, awarded to Ferguson Enterprises, Inc., from the amount of \$834,491 to the estimated amount of \$904,491.	

Fiscal Impact:

The requested \$70,000 is available in the Authority's Capital Budget.

Background:

On May 21, 2015, the Board of Directors approved an award of Bid No. 2285-15 to Ferguson Enterprises, Inc. (Ferguson), in an amount not to exceed \$834,491 for the purchase of 35 wedge gate isolation valves (valves) for three pump stations that provide water to Nellis Air Force Base, the Las Vegas Valley Water District, and the cities of North Las Vegas and Henderson. The initial award amount was based on estimates to replace the valves, which are 38 years old and have exceeded their expected life cycle. During the valve inspection process at the testing facility, staff discovered a potential corrosion issue between the valve stem and the valve disk at the connection interface. This specific issue was not known until this inspection; therefore, it was not addressed in the technical specifications of Bid No. 2285-15. The recommended solution to this issue is a comprehensive valve modification, consisting of the addition of stellite material on the disks at the interface of the stainless steel shaft and ductile iron disk.

If approved, this increase in funding will allow the Authority to perform a comprehensive valve modification. It is estimated that the life expectancy of the valves would be increased from 20 years to 50 years. The proposed increase amount is \$2,000 per valve or a total of \$70,000 for all 35 valves. Ferguson has discounted the valve modification cost from \$6,000 per valve, to \$2,000 per valve, saving the Authority approximately \$140,000.

This action is authorized pursuant to NRS 332.065 and Section 6(j) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved this item.

Respectfully submitted:


John J. Entsminger, General Manager
JJE:DLJ:GPK:DJM:MW:ac
Attachments

AGENDA
ITEM #

12

AGREEMENT

THIS AGREEMENT, is made and entered into, by and between the Southern Nevada Water Authority (Owner) and Ferguson Enterprises Inc. (Contractor).

The Parties do mutually agree as follows:

1. Contractor was awarded Bid No. 2285-15-API 600 Wedge Gate Isolation Valves on June 1, 2015, in accordance with the terms, conditions, and specifications of said bid. The bid and Owner purchase was for 35 wedge gate isolation valves for three of Owner's pump stations. Subsequent to the bid award, during the valve inspection process at the testing facility, Owner staff discovered a potential corrosion issue between the valve stem and the valve disk at the connection interface. Contractor has agreed to provide a comprehensive valve modification consisting of the addition of stellite material on the disks at the interface of the stainless steel shaft and ductile iron disk for a total price of \$70,000. This increase in price changes the Contractor award amount from \$834,491 to \$904,491.
2. Owner agrees to purchase and Contractor agrees to provide the specified products, supplies, and services to properly perform and complete the contractual obligations in strict accordance with the Contract Documents.
3. Contract Documents which comprise the entire agreement between the Owner and Contractor for the award consist of the following:
 - Agreement
 - SNWA Invitation to Bid for Bid No. 2285-15 and Exhibit 1
 - Technical Specifications Bid No. 2285-15
 - Addenda Nos. 1-5 to SNWA Invitation to Bid for Bind No. 2285-15
 - Ferguson Bid Form dated March 26, 2015, and Attachments 1 and 2
 - Ferguson Price Quotation dated June 9, 2016

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed this ____ day of _____, 2016.

Ferguson Enterprises Inc.

By: 

Rod Briggs
General Manager

Southern Nevada Water Authority

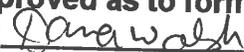
By: _____

John J. Entsminger
General Manager

2013-00086 : 00053312

Southern Nevada Water Authority

Approved as to form:

By: 

Date: 6-22-16

DISCLOSURE OF OWNERSHIP/PRINCIPALS

Business Entity Type							
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Privately Held Corporation	<input checked="" type="checkbox"/> Publicly Traded Corporation <small>*See Below</small>	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization	<input type="checkbox"/> Other
Business Designation Group							
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> ESB	<input type="checkbox"/>		
<small>Minority Business Enterprise</small>	<small>Women-Owned Business Enterprise</small>	<small>Small Business Enterprise</small>	<small>Physically Challenged Business Enterprise</small>	<small>Emerging Small Business</small>			
Corporate/Business Entity Name:		Ferguson Enterprises, Inc.					
<small>(Include d.b.a., if applicable)</small>		Ferguson Waterworks					
Street Address:		12500 Jefferson Avenue			Website: www.ferguson.com		
City, State and Zip Code:		Newport News, VA 23602			POC Name and Email:		
Telephone No:		(757) 874-7795			Fax No: N/A		
Local Street Address:		740 Cape Horn Drive			Website: www.ferguson.com		
City, State and Zip Code:		Henderson, NV 89011			Local Fax No: 702-564-5237		
Local Telephone No:		702-564-2087			Local POC Name Email:		
Number of Clark County, Nevada Residents Employed: 20							

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals, either directly or indirectly, holding more than five percent (5%) ownership or financial interest in the business entity appearing before the SNWA Board of Directors.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

*Ferguson Enterprises, inc. is a wholly owned subsidiary of Wolseley, plc. Wolseley, plc is publicly traded on the London Stock Exchange under the symbol WOS.

Full Name	Title	% Owned <small>(Not required for Publicly Traded Corporations/Non-profit organizations)</small>
Frank W. Roach	Chief Executive Officer	
Kevin Murphy	Chief Operating Officer	
Dave Keltner		

This section is not required for publicly-traded corporations.

1. Are any individual members, partners, owners or principals, involved in the business entity, an SNWA full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please note that SNWA employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)

2. Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an SNWA full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also certify that the entity is not on the federal government's Excluded Parties List, as defined by 2 CFR § 180.945. I further understand that the SNWA will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.

Rod Briggs

Signature _____
 General Manager
 Title _____

Rod Briggs

Print Name _____
 2/9/16
 Date _____

List any disclosures below:
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF SNWA EMPLOYEE OR OFFICIAL AND JOB TITLE	RELATIONSHIP TO SNWA EMPLOYEE OR OFFICIAL	SNWA EMPLOYEE'S/OFFICIAL'S DEPARTMENT
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

For SNWA Use Only:

If no Disclosure or Relationship is noted above or if the section is marked N/A, please check this box:

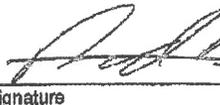
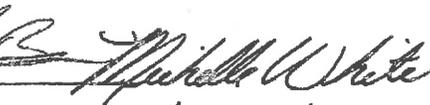
No Disclosure

If any Disclosure of Relationship is noted above, please complete the following:

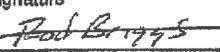
Yes No Is the SNWA employee(s) noted above involved in the contracting/selection process for this particular agenda item?

Yes No Is the SNWA employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

Signature

Print Name

Authorized Department Representative

AGREEMENT

THIS AGREEMENT, is made and entered into, by and between the Southern Nevada Water Authority (Customer) and Ferguson Enterprises Inc. (Vendor).

The Parties do mutually agree as follows:

1. Vendor was awarded Bid No. 2285-15-API 600 Wedge Gate Isolation Valves on June 1, 2015, in accordance with the terms, conditions, and specifications of said bid. The bid and Customer purchase was for 35 wedge gate isolation valves for three of Customer's pump stations. Subsequent to the bid award, during the valve inspection process at the testing facility, Customer staff discovered a potential corrosion issue between the valve stem and the valve disk at the connection interface. Vendor has agreed to provide a comprehensive valve modification consisting of the addition of stellite material on the disks at the interface of the stainless steel shaft and ductile iron disk for a total price of \$70,000.00. This increase in price changes the Vendor award amount from \$834,491.00 to \$904,491.00.
2. Customer agrees to purchase and Vendor agrees to provide the specified products, supplies, and services to properly perform and complete the contractual obligations in strict accordance with the Contract Documents.
3. Contract Documents which comprise the entire agreement between the Customer and Vendor for the award consist of the following:
 - Agreement
 - SNWA Invitation to Bid for Bid No. 2285-15 and Exhibit 1
 - Technical Specifications Bid No. 2285-15
 - Addenda Nos. 1-5 to SNWA Invitation to Bid for Bind No. 2285-15
 - Ferguson Bid Form dated March 26, 2015, and Attachments 1 and 2
 - Ferguson Price Quotation dated June 9, 2016

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed this ____ day of _____, 2016.

Ferguson Enterprises Inc.

Southern Nevada Water Authority

By: _____
Rod Briggs
General Manager

By: _____
John J. Entsminger
General Manager

Southern Nevada Water Authority

Approved as to form:

By: Dana Walsh Date: 6-22-16

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Award of Construction Contract	Director's Backup
Petitioner: David L. Johnson, Deputy General Manager, Engineering/Operations	
Recommendations: That the Board of Directors award Contract No. 3200 01 C1, AMSWTF Filter Improvements Demonstration, to The Whiting-Turner Contracting Company, in the amount of \$3,073,250, authorize a change order contingency amount not to exceed \$300,000, and authorize the General Manager to sign the contract agreement.	

Fiscal Impact:

The requested \$3,373,250 is available in the Authority's Capital Budget.

Background:

Contract No. 3200 01 C1, AMSWTF Filter Improvements Demonstration (Contract) provides for the rehabilitation of Filters No. 1 and No. 2 at the Alfred Merritt Smith Water Treatment Facility, located as generally shown on Attachment A.

Sealed bids were received, publicly opened, and read aloud on July 7, 2016. A tabulation of the bids received is listed below:

The Whiting-Turner Contracting Company	\$3,073,250
J A Tiberti Con, Inc.	\$3,428,089
MMC, Inc.	\$4,287,712
Rafael Construction, Inc.	\$5,191,077

The Whiting-Turner Contracting Company (Whiting-Turner) proposal is considered to be the best bid received as defined by NRS 338.1389. The attached agreement provides for Whiting-Turner to accept and agree to all Contract terms. Whiting-Turner is a Nevada corporation located in Las Vegas, Nevada.

This action is authorized pursuant to NRS 338.1389 and Sections 6(e) and 6(j) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved this agenda item.

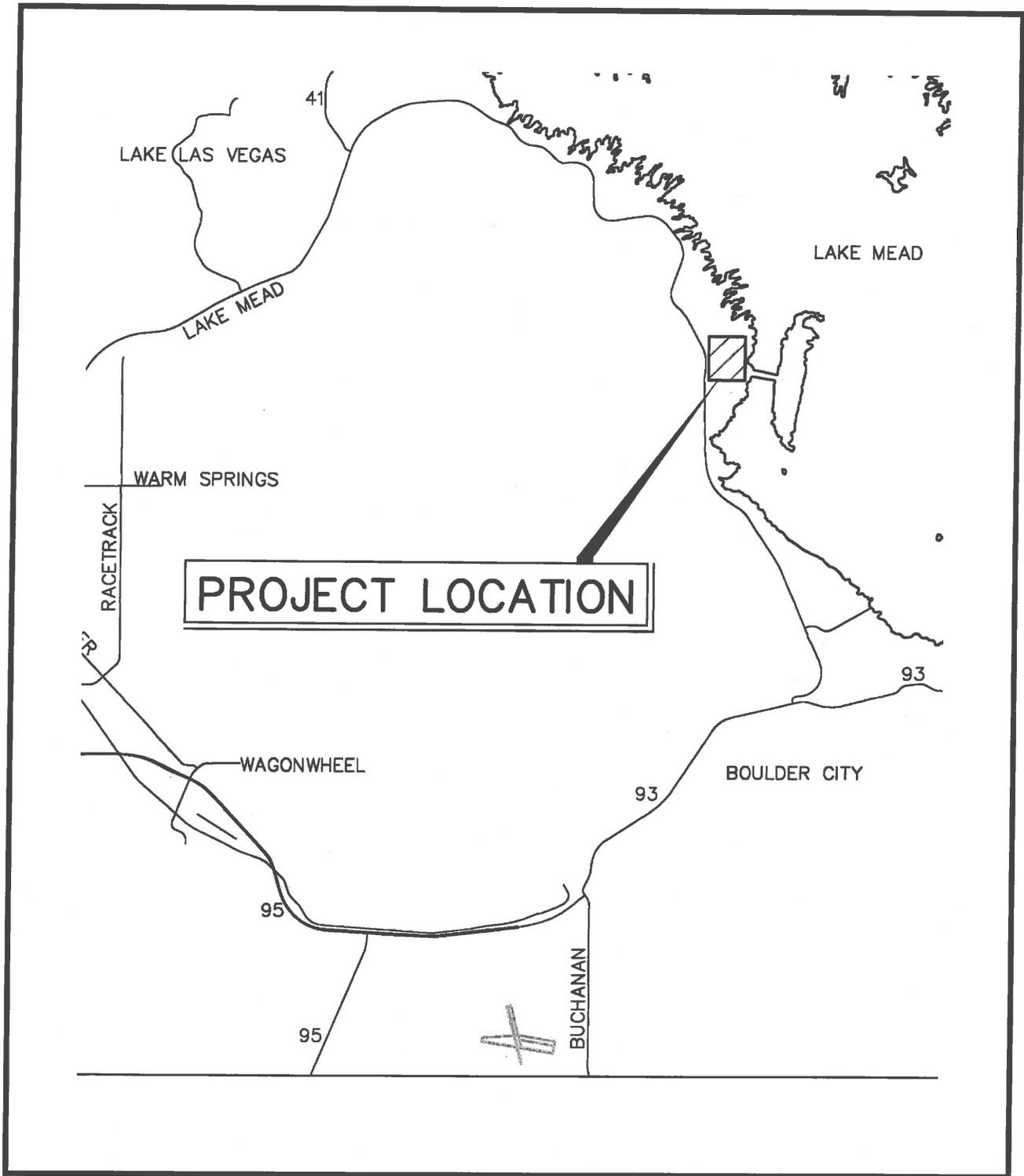
Respectfully submitted:


John J. Entsminger, General Manager
JJE:DLJ:MRJ:DCB:evw
Attachments

AGENDA ITEM #	13
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LVVWD BOARD OF DIRECTORS
AGENDA ITEM

CONTRACT NO. 3200 01 C1
AMSWTF FILTER IMPROVEMENTS DEMONSTRATION



AGREEMENT

THIS AGREEMENT, made and entered into, by and between Southern Nevada Water Authority, hereinafter referred to as Owner, and The Whiting-Turner Contracting Company

hereinafter referred to as Contractor, with both Owner and Contractor collectively referred to as the Parties,

WITNESSETH: That the Parties do mutually agree as follows:

1. Owner has awarded to Contractor the Contract for:

Contract Title: AMSWTF FILTER IMPROVEMENTS DEMONSTRATION

Contract No: 3200 01 C1

Public Works Project Identifying Number: CL-2016-201
2. For and in consideration of the payments and agreements hereinafter mentioned to be made and performed by said Owner, Contractor agrees to perform and complete in a good and workmanlike manner Work as defined in the Contract Documents and to furnish materials and tools and labor necessary to properly perform and complete the Work ready for use in strict accordance with the Contract Documents and under the penalty expressed in the attached bonds, which are hereby declared and accepted as essential parts of this Agreement and to accept as full compensation therefor the Contract Price as defined in the Contract Documents.
3. The Contractor hereby certifies that the Contractor has read and understands every provision contained in the Contract Documents. Contractor shall be bound and shall comply with each and every term, condition, and covenant set forth in the Contract Documents.
4. For performing all Work and furnishing materials and labor necessary thereto, Owner will pay and Contractor shall receive in full compensation the Contract Price, in the manner and upon the conditions set forth in the Contract Documents.
5. Contract Documents which comprise the entire agreement between the Owner and Contractor for the performance of Work consist of the following:
 - a. Addenda
 - b. General Requirements
 - c. Supplementary Conditions
 - d. General Conditions
 - e. Agreement
 - f. Drawings
 - g. Technical Specifications
 - h. Permits
 - i. Bid Form and Accompanying Documents, including without limitation, Affidavit Pertaining to Preference Eligibility
 - j. Bonds

- k. Instructions to Bidders
- l. Invitation to Bid and Legal Notice
- m. Notice of Award
- n. Final Notice to Proceed

6. Affirmative Agreement to Arbitrate. By the signing of this Agreement, Contractor expressly authorizes Article 16 of the General Conditions and affirmatively agrees to settle all disputes, claims, or questions by binding arbitration.

IN WITNESS WHEREOF: The Contractor has caused this agreement to be executed this 8th day of July, 2016.

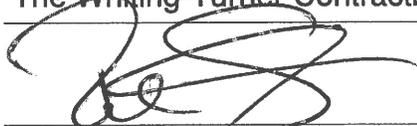
WITNESS/ATTEST:

[CONTRACTOR'S NAME]

The Whiting-Turner Contracting Company

H. Heland

By:



Signatory Empowered to Bind Contractor

Paul Schmitt

Type or Print Name

Senior Vice President

Official Title

THIS AGREEMENT shall be in full force and effect as of the _____ day of _____, 20____, when it was duly signed by the proper officer of the Southern Nevada Water Authority.

SOUTHERN NEVADA WATER AUTHORITY

By

John J. Entsminger
General Manager

Approved as to Form:



[Attorney for Southern Nevada Water Authority]

END OF DOCUMENT

DISCLOSURE OF OWNERSHIP/PRINCIPALS
AND DISCLOSURE OF RELATIONSHIP FORMS

Purpose of the Form

The purpose of the Disclosure of Ownership/Principals form is to gather ownership information pertaining to the business entity for use by the Owner in determining whether members of the Owner's Board of Directors should exclude themselves from voting on agenda items where they have, or may be perceived as having a conflict of interest, and to determine compliance with NRS 281A.430, contracts in which a public officer or employee has interest is prohibited.

General Instructions

Completion and submission of this form is a condition of approval or renewal of a contract or lease and/or release of monetary funding between the disclosing entity and the Owner. Failure to submit the requested information may result in a refusal by the Owner to enter into an agreement/contract and/or release monetary funding to such disclosing entity.

Detailed Instructions

All sections of the Disclosure of Ownership form must be completed. If not applicable, write in N/A.

Business Entity Type – Indicate if the entity is an Individual, Partnership, Limited Liability Company, Corporation, Trust, Non-profit Organization, or Other. When selecting 'Other' provide a description of the legal entity.

Non-Profit Organization - Any non-profit corporation, group, association, or corporation duly filed and registered as required by state law.

Business Designation Group – Indicate if the entity is a Minority Owned Business Enterprise (MBE), Women-Owned Business Enterprise (WBE), Small Business Enterprise (SBE), Physically-Challenged Business Enterprise (PBE), or Emerging Small Business (ESB). This may be needed in order to provide utilization statistics to the Legislative Counsel Bureau and will be used only for such purpose.

Minority Owned Business Enterprise:

An independent and continuing business for profit which performs a commercially useful function and is at least 51 percent owned and controlled by one or more minority persons of Black American, Hispanic American, Asian-Pacific American or Native American ethnicity.

Women Owned Business Enterprise:

An independent and continuing business for profit which performs a commercially useful function and is at least 51 percent owned and controlled by one or more women.

Physically-Challenged Business Enterprise:

An independent and continuing business for profit which performs a commercially useful function and is at least 51 percent owned and controlled by one or more disabled individuals pursuant to the federal Americans with Disabilities Act.

Small Business Enterprise:

An independent and continuing business for profit which performs a commercially useful function, is not owned and controlled by individuals designated as minority, women, or physically-challenged, and where gross annual sales does not exceed \$2,000,000.

Emerging Small Business:

A business that has been certified by the Nevada Office of Economic Development.

Business Name (include d.b.a., if applicable) – Enter the legal name of the business entity and enter the “Doing Business As” (d.b.a.) name, if applicable.

Corporate/Business Address, Business Telephone, Business Fax, and Email – Enter the street address, telephone and fax numbers, and email of the named business entity.

Local Business Address, Local Business Telephone, Local Business Fax, and Email – If business entity is out-of-state, but operates the business from a location in Nevada, enter the Nevada street address, telephone and fax numbers, point of contact, and email of the local office. Please note that the local address must be an address from which the business is operating from that location. Please do not include a P.O. Box number, unless required by the U.S. Postal Service, or a business license hanging address.

Number of Clark County Residents employed by this firm.

List of Owners/Officers – Include the full name, title and percentage of ownership of each person who has ownership or financial interest in the business entity. If the business is a publicly-traded corporation or non-profit organization, list all Corporate Officers and Directors only.

For All Contracts – (Not required for publicly-traded corporations).

- 1) Indicate if any individual members, partners, owners, or principals involved in the business entity are a full-time employee(s) of the Owner or appointed/elected official(s). If yes, the following paragraph applies.

In accordance with NRS 281A.430.1, a public officer or employee shall not bid on or enter into a contract between a government agency and any private business in which he has a significant financial interest, except as provided for in Subsections 2, 3, and 4.

- 2) Indicate if any individual members, partners, owners or principals involved in the business entity have a second degree of consanguinity or affinity relation to a full-time employee(s) of the Owner or appointed/elected official(s) (reference form on Page 2 for definition). If **YES**, complete the Disclosure of Relationship Form.

A professional service is defined as a business entity that offers business/financial consulting, legal, physician, architect, engineer or other professional services.

Signature and Print Name – Requires signature of an authorized representative and the date signed.

Disclosure of Relationship Form – If any individual members, partners, owners or principals of the business entity is presently an employee of the Owner, public officer or official, or has a second degree of consanguinity or affinity relationship to an employee of the Owner, public officer, or official, this section must be completed in its entirety.

DISCLOSURE OF OWNERSHIP/PRINCIPALS

Business Entity Type						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input checked="" type="checkbox"/> Privately Held Corporation	<input type="checkbox"/> Publicly Traded Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization
Business Designation Group						
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> ESB	<input type="checkbox"/>	
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise	Emerging Small Business		
Corporate/Business Entity Name:		The Whiting-Turner Contracting Company				
(Include d.b.a., if applicable)						
Street Address:		300 E. Joppa Road		Website: www.whiting-turner.com		
City, State and Zip Code:		Baltimore, MD 21286		POC Name and Email:		
Telephone No:		410-821-1100		Fax No:		
Local Street Address:		6720 Via Austi Pkwy. Suite 300		Website:		
City, State and Zip Code:		Las Vegas, NV 89119		Local Fax No: 702-650-2650		
Local Telephone No:		702-650-0700		Local POC Name Email: Paul Schmitt		
Number of Clark County, Nevada Residents Employed: 75				paul.schmitt@whiting-turner.com		

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals, either directly or indirectly, holding more than five percent ownership or financial interest in the business entity appearing before the Owner's Board of Directors.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	Percent Owned <small>(Not required for Publicly Traded Corporations/Non-profit organizations)</small>
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Whiting-Turner is an employee owned company through a stock appreciation rights plan. In excess of one thousand employees participate in the plan currently and none of those hold more than 5% ownership. Management of the corporation is controlled by President and CEO Timothy J. Regan."

This section is not required for publicly-traded corporations.

1. Are any individual members, partners, owners or principals, involved in the business entity, a full-time employee(s) of the Owner, or appointed/elected official(s)?

 Yes No (If yes, please note that employee(s) of the Owner, or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)

2. Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to a full-time employee(s) of the Owner, or appointed/elected official(s)?

 Yes No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also certify that the entity is not on the federal government's Excluded Parties List, as defined by 2 CFR & 180.945. I further understand that the Owner will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.



 Signature
 Senior Vice President

 Title

Paul Schmitt

 Print Name
 07/08/2016

 Date

DISCLOSURE OF RELATIONSHIP

List any disclosures below:
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF OWNER EMPLOYEE OR OFFICIAL AND JOB TITLE	RELATIONSHIP TO OWNER EMPLOYEE OR OFFICIAL	OWNER EMPLOYEE'S/OFFICIAL'S DEPARTMENT
N/A			

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)

Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

For Owner Use Only:

If no Disclosure or Relationship is noted above or if the section is marked N/A, please check this box:

No Disclosure

If any Disclosure of Relationship is noted above, please complete the following:

Yes No Is the Owner employee(s) noted above involved in the contracting/selection process for this particular agenda item?

Yes No Is the Owner employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:



Signature



Print Name

Authorized Department Representative

**ATTACH ADDITIONAL DISCLOSURE OF OWNERSHIP/DISCLOSURE
OF RELATIONSHIP FORMS HERE, IF NECESSARY.
PHOTO COPIES ARE ACCEPTABLE.**

DESCRIPTION OF WORK

SUBCONTRACTOR

Name of Firm: _____

Address: _____

Telephone Number: _____

Nevada State Contractor's License Number _____

Business License Number Clark County _____

City of Las Vegas _____

City of Henderson _____

City of North Las Vegas _____

Boulder City _____

Multi-Jurisdictional _____

Other _____

APPROXIMATE
PERCENTAGE OF TOTAL

Business Enterprise Type:

- Minority Business Enterprise
- Physically Challenged Business Enterprise
- Majority Business Enterprise
- Nevada Business Enterprise

- Women Business Enterprise
- Disadvantaged Business Enterprise
- Small Business Enterprise
- Emerging Small Business

Ethnicity:

- Asian
- Black
- Caucasian

- Hispanic
- Native American
- Other _____

DESCRIPTION OF WORK

SUBCONTRACTOR

Name of Firm: _____

Address: _____

Telephone Number: _____

Nevada State Contractor's License Number _____

Business License Number Clark County _____

City of Las Vegas _____

City of Henderson _____

City of North Las Vegas _____

Boulder City _____

Multi-Jurisdictional _____

Other _____

APPROXIMATE
PERCENTAGE OF TOTAL

Business Enterprise Type:

- Minority Business Enterprise
- Physically Challenged Business Enterprise
- Majority Business Enterprise
- Nevada Business Enterprise

- Women Business Enterprise
- Disadvantaged Business Enterprise
- Small Business Enterprise
- Emerging Small Business

Ethnicity:

- Asian
- Black
- Caucasian

- Hispanic
- Native American
- Other _____

SUPPLIERS

- I AM NOT USING ANY S/M/W/DBE/ESB SUPPLIERS**
 I AM USING THE FOLLOWING S/M/W/DBE/ESB SUPPLIERS

DESCRIPTION OF WORK	SUPPLIERS	APPROXIMATE PERCENTAGE OF TOTAL
	Name of Firm: _____	
	Address: _____ _____	
	Telephone Number: _____	
	Nevada State Contractor's License Number _____	
	Business License Number Clark County _____	
	City of Las Vegas _____	
	City of Henderson _____	
	City of North Las Vegas _____	
	Boulder City _____	
	Multi-Jurisdictional _____	
	Other _____	

Business Enterprise Type:

- | | |
|--|--|
| <input type="checkbox"/> Minority Business Enterprise | <input type="checkbox"/> Women Business Enterprise |
| <input type="checkbox"/> Physically Challenged Business Enterprise | <input type="checkbox"/> Disadvantaged Business Enterprise |
| <input type="checkbox"/> Majority Business Enterprise | <input type="checkbox"/> Small Business Enterprise |
| <input type="checkbox"/> Nevada Business Enterprise | <input type="checkbox"/> Emerging Small Business |

Ethnicity:

- | | |
|------------------------------------|--|
| <input type="checkbox"/> Asian | <input type="checkbox"/> Hispanic |
| <input type="checkbox"/> Black | <input type="checkbox"/> Native American |
| <input type="checkbox"/> Caucasian | <input type="checkbox"/> Other _____ |

DESCRIPTION OF WORK	SUPPLIERS	APPROXIMATE PERCENTAGE OF TOTAL
	Name of Firm: _____	
	Address: _____ _____	
	Telephone Number: _____	
	Nevada State Contractor's License Number _____	
	Business License Number Clark County _____	
	City of Las Vegas _____	
	City of Henderson _____	
	City of North Las Vegas _____	
	Boulder City _____	
	Multi-Jurisdictional _____	
	Other _____	

Business Enterprise Type:

- | | |
|--|--|
| <input type="checkbox"/> Minority Business Enterprise | <input type="checkbox"/> Women Business Enterprise |
| <input type="checkbox"/> Physically Challenged Business Enterprise | <input type="checkbox"/> Disadvantaged Business Enterprise |
| <input type="checkbox"/> Majority Business Enterprise | <input type="checkbox"/> Small Business Enterprise |
| <input type="checkbox"/> Nevada Business Enterprise | <input type="checkbox"/> Emerging Small Business |

Ethnicity:

- | | |
|------------------------------------|--|
| <input type="checkbox"/> Asian | <input type="checkbox"/> Hispanic |
| <input type="checkbox"/> Black | <input type="checkbox"/> Native American |
| <input type="checkbox"/> Caucasian | <input type="checkbox"/> Other _____ |

DESCRIPTION
OF WORK

SUPPLIERS

Name of Firm: _____

Address: _____

Telephone Number: _____

Nevada State Contractor's License Number _____

Business License Number Clark County _____

City of Las Vegas _____

City of Henderson _____

City of North Las Vegas _____

Boulder City _____

Multi-Jurisdictional _____

Other _____

APPROXIMATE
PERCENTAGE OF TOTAL

Business Enterprise Type:

- Minority Business Enterprise
- Physically Challenged Business Enterprise
- Majority Business Enterprise
- Nevada Business Enterprise

- Women Business Enterprise
- Disadvantaged Business Enterprise
- Small Business Enterprise
- Emerging Small Business

Ethnicity:

- Asian
- Black
- Caucasian

- Hispanic
- Native American
- Other _____

SUBMITTED BY: The Whiting-Turner Contracting Company
Legal Name of Firm as it would appear in Contract

6720 Via Austi Parkway Suite #300, Las Vegas, NV 89119
Address including City, State and Zip Code

A#0068086 / B#0033400 / C-5#0068079

Nevada State Contractor's License Number

1002101418

Clark County Business License Number

1002101418

City of Las Vegas Business License Number

1002101418

City of Henderson Business License Number

1002101418

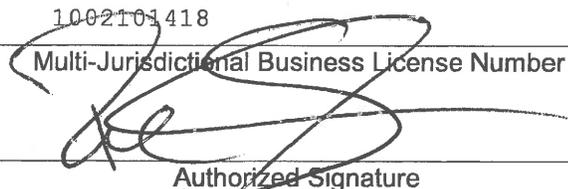
City of North Las Vegas Business License Number

Boulder City Business License Number

1002101418

Multi-Jurisdictional Business License Number

Other Business Number



Authorized Signature

END OF DOCUMENT

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Agreement	Director's Backup
Petitioner: Gina L. Neilson, Chief Financial Officer	
Recommendations: That the Board of Directors approve a professional services agreement with Hobbs, Ong & Associates, Inc., for independent financial advisory services for an amount not to exceed \$150,000 per fiscal year, with the option to renew for four additional one-year periods.	

Fiscal Impact:

Fees for financial advisory services for the issuance of bonds or other securities are paid from proceeds of the sale. In the proposed agreement, fees for services performed not related to bond sales would be limited to a total of \$150,000 per fiscal year. Funds requested for fiscal year 2016-17 expenditures are included in the Authority's Operating Budget. Funds for future year expenditures will be budgeted accordingly.

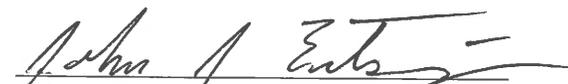
Background:

Hobbs, Ong & Associates, Inc. (Hobbs Ong), in affiliation with Public Financial Management, Inc. (PFM), are established leaders in providing independent financial advisory services to business, state, and local government entities. Over the years, they have performed a wide range of specialized services for the Authority and the Las Vegas Valley Water District. In coordination with bond counsel, Hobbs Ong and PFM have provided support with managing and issuing debt securities, which includes debt timing and structure, rating agency presentations, assistance with underwriters, and coordination with disclosure counsel. They have also provided financial consulting services on financial planning activities, including short and long-term capital improvement program planning, and financial policy guidance.

If approved, the agreement will allow Hobbs Ong to perform a wide range of independent financial advisory services, including financial planning and managing and issuing debt securities. PFM may act as an approved subcontractor under the agreement.

This agreement is being entered into pursuant to NRS 332.115(1)(b) and Section 6(i) of the SNWA 1995 Amended Cooperative Agreement. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:


John J. Entsminger, General Manager
JJE:GLN:dlc
Attachments

AGENDA
ITEM #

14

AGREEMENT TO PROVIDE PROFESSIONAL SERVICES

This Agreement is made and entered into this ____ day of July, 2016 (“Effective Date”), by and between HOBBS, ONG & ASSOCIATES, INC., a Nevada corporation, hereinafter called “CONSULTANT,” and the SOUTHERN NEVADA WATER AUTHORITY, a political subdivision of the State of Nevada, hereinafter called the “AUTHORITY.” The CONSULTANT and the AUTHORITY are sometimes hereinafter referred to individually as “Party” and collectively as the “Parties.” The term “AUTHORITY” also refers to staff of the AUTHORITY acting within their designated authority and duties.

WITNESSETH:

WHEREAS, the AUTHORITY desires to obtain professional services as more specifically described herein, and

WHEREAS, the CONSULTANT is properly qualified and desires to provide the professional services required by the AUTHORITY, and

WHEREAS, the AUTHORITY, in reliance on the CONSULTANT’s representations and proposals, agrees to retain the CONSULTANT, and the CONSULTANT agrees to furnish professional services to the AUTHORITY, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the Parties hereto agree as follows:

1. SCOPE OF SERVICES:

(a) The CONSULTANT shall provide any requested services, hereinafter referred to as “Services” or “Work,” as described and within the time indicated in **Exhibit A**, which is attached herewith and made a part of this Agreement.

(b) All Services performed shall be subject to the cost ceiling contained in Paragraph 4 hereof and subject to the AUTHORITY's directions respecting priorities. The CONSULTANT will furnish professional Services in the amount necessary to complete promptly and effectively the Work assigned under this Agreement. All of the Services shall be performed by the CONSULTANT or an approved subcontractor or subconsultant. Public Financial Management, Inc., is an approved subcontractor for Services performed under this Agreement.

(c) In performing Services under this Agreement, the CONSULTANT shall observe and abide by the terms and conditions of all applicable laws, regulations, ordinances, or rules of the United States, of the State of Nevada, of any political subdivision thereof, and of any other duly constituted public authority or agency. The CONSULTANT shall be responsible for obtaining any license, permit or other approval as required by law or otherwise, arising out of the Services to be performed hereunder.

(d) The CONSULTANT has, or will secure at its own expense, the qualified personnel required to perform the Services assigned under this Agreement. Such personnel shall not be employed by the United States, the State of Nevada, Clark County, the AUTHORITY, or any other political subdivision of the State of Nevada.

2. PERIOD OF PERFORMANCE:

This Agreement shall become effective as of the Effective Date and, unless terminated in accordance with the terms of this Agreement, shall remain in effect for one year. The Agreement may be renewed for four additional one-year periods by an exchange of letters between the Parties.

3. COMPENSATION:

(a) In consideration for completion of all duties and responsibilities under this Agreement, the AUTHORITY agrees to pay the CONSULTANT, in accordance with **Exhibit A**, for Work completed to the AUTHORITY's satisfaction.

(b) The CONSULTANT shall provide itemized monthly invoices for Services performed during the previous month. Invoices are to be submitted to the AUTHORITY in accordance with the Notice provisions of this Agreement and must reference the name and Effective Date of the Agreement. A copy of any invoice received from subcontractors or subconsultants used by the CONSULTANT shall be included.

(c) The AUTHORITY shall pay invoiced amounts from the CONSULTANT based on the fees set forth in **Exhibit A** within thirty 30 calendar days after the date the invoice is received and approved by the AUTHORITY.

4. LIMITATION ON COSTS:

The total cost of Services provided under this Agreement shall not exceed one hundred fifty thousand dollars (\$150,000) per fiscal year. This limitation on costs shall not apply to Services related to issuance of securities, refundings or restructurings as those fees shall be paid only from the proceeds of sale of the securities or other legally available sources.

5. TRUTH-IN-NEGOTIATION CERTIFICATION:

Signing of this Agreement by CONSULTANT shall constitute a truth-in-negotiation certification by CONSULTANT that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of execution of this Agreement. The original Agreement price and any additions thereto shall be adjusted to exclude any significant sums by which the AUTHORITY determines the Agreement price was

increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such Agreement adjustments shall be made within one (1) year following the end of the term of this Agreement.

6. INDEPENDENT CONTRACTOR – NO JOINT VENTURE:

The relationship of the CONSULTANT to the AUTHORITY hereunder shall be that of an Independent Contractor as defined by NRS 616A.255 or Nevada state law. Nothing herein shall be construed to imply an employer and employee relationship, a joint venture, or principal and agent relationship.

7. INTELLECTUAL PROPERTY ACKNOWLEDGMENT

In consideration of the covenants, representations and warranties set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CONSULTANT hereby covenants, represents and warrants the following:

(a) All content developed on behalf of the AUTHORITY, in whole or in part, solely or jointly by CONSULTANT and all of CONSULTANT's employees, associates or subcontractors assisting in creating developments and/or other work product, whether or not copyrightable or otherwise protected, including, without limitation, advertisements and marketing material ("Work Product") arising from Services performed pursuant to, or arising out of the AUTHORITY's engagement of CONSULTANT, or previously conceived in anticipation of work to be performed in regard to the AUTHORITY's engagement of CONSULTANT, shall be deemed "work made for hire" as defined in the copyright laws of the United States of America (17 U.S.C. §101 et seq.) and the AUTHORITY shall own all right, title, and interest, including, without limitation, all copyrights and other intellectual property right, title, and interest ("Right") in and to the Work Product.

(b) To the extent that CONSULTANT is deemed to have or retain any Right or otherwise possess any Right in and to any Work Product, CONSULTANT hereby assigns, transfers, and conveys, all such Right to the AUTHORITY.

(c) CONSULTANT shall execute all documents and undertake all actions necessary to effect the clarification of ownership of all Work Product in and to the AUTHORITY and to allow the AUTHORITY to apply for registrations of the Work Product, as well as maintain any registrations gained, including, without limitation, the Intellectual Property Assignment set forth in Paragraph 8.

(d) CONSULTANT hereby waives and releases any claim of infringement of any Right of CONSULTANT (whether based in any intellectual property Right, other proprietary interest whatsoever, or fiduciary theory) in, to or respecting any Work Product (including, without limitation, any claim based on any CONSULTANT's rights in any Work Product which may be construed as "works of visual art" as defined in the Visual Arts Rights Act of 1990, 17 U.S.C. 106A) and shall never challenge nor dispute the AUTHORITY's Right in and to the Work Product.

8. INTELLECTUAL PROPERTY ASSIGNMENT

In consideration of the covenants, representations and warranties set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CONSULTANT hereby sells, conveys, transfers and assigns to the AUTHORITY all of the CONSULTANT's right, title, license and interest (including, without limitation, all intellectual property right, title, license and interest) in and to any and all Work Product designed, developed, or created by the CONSULTANT or otherwise arising out of the CONSULTANT's Services or Work and related content by and for the benefit of the AUTHORITY (including, without limitation, patents applications, issued patents, prototypes for the purpose of same, and other

associated derivatives) including, without limitation, all marks, all goodwill associated with such patents, marks, trade secrets, and copyrights in and to, relating to, associated with and/or arising from the Work, the right to applications, issuance, continuations, and divisionals of such patents and the right to applications, registrations, renewals, reissues, and extensions of such marks and copyrights, and the right to sue and recover for any past and/or continuing infringements or contract breaches, said rights, titles, licenses and interests to be held and enjoyed by the AUTHORITY, for the AUTHORITY's own use and benefit and for the use and benefit of the AUTHORITY's successors, assigns or other legal representatives, as fully and entirely as the same would have been held and enjoyed by the CONSULTANT if this sale, conveyance, transfer and assignment had not been made.

9. INTERPRETATION:

The Parties agree that neither Party shall be deemed the drafter of this Agreement and, in the event this Agreement is ever construed by a court of law or equity, such court shall not construe this Agreement or any provision hereof against either Party as drafter of this Agreement.

10. CONFLICT OF INTEREST:

During the course of performance of this Agreement, the CONSULTANT will not contract with any client whose interest is adverse to or would require the CONSULTANT to take a position contrary to that of the Las Vegas Valley Water District and/or the Southern Nevada Water Authority.

11. PROHIBITION AGAINST COMMISSION FOR OBTAINING AGREEMENT:

The CONSULTANT warrants that no person or company has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees; nor has the CONSULTANT

paid or agreed to pay any person, company, corporation, individual or firm other than a partner or bona fide employee, any fee, commission, contribution, donation, percentage, gift, or any other consideration, contingent upon or resulting from award of this Agreement. For any breach or violation of this warranty, the AUTHORITY shall have the right to terminate this Agreement without liability, or at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any other damages.

12. PROHIBITION AGAINST INTEREST BY GOVERNMENT EMPLOYEES:

(a) No officer, employee or member of the governing body of the AUTHORITY shall (1) participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is, directly or indirectly, interested or (2) have any interest, direct or indirect, in this Agreement or the proceeds thereof.

(b) The CONSULTANT represents that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Services required to be performed under this Agreement. The CONSULTANT further covenants that in the performance of said Services, no person having any such interest shall be employed.

(c) No member of, delegate to or officer or employee of the legislative, executive or judicial branches of the government of the United States, of the State of Nevada or any of its political subdivisions shall be entitled to any share or part hereof or to any benefit to arise therefrom.

13. COMPLETENESS AND ACCURACY OF CONSULTANT'S WORK:

(a) The CONSULTANT shall be responsible for the completeness and accuracy of its research, supporting data, and any final reports or other deliverables prepared or compiled pursuant to this Agreement and shall correct, at its expense, all errors or omissions therein.

(b) The cost necessary to correct those errors attributable to the CONSULTANT and any damage incurred by the AUTHORITY as a result of additional costs caused by such errors shall be chargeable to the CONSULTANT. The fact that the AUTHORITY has accepted or approved the CONSULTANT's Work shall in no way relieve the CONSULTANT of any of its responsibilities.

14. INDEMNIFICATION:

CONSULTANT shall indemnify, hold harmless, and defend without cost to the AUTHORITY, its Board of Directors and its officers, agents, and employees ("AUTHORITY Parties"), against any and all losses, claims, costs, damages, actions, proceedings, and liability arising out of, resulting from, or in any way incidental to CONSULTANT's provision of Services or Work under this Agreement. This indemnification includes, but is not limited to, claims for or by reason of any death or deaths of, or any physical injury or injuries to, any person or persons or damage to real or personal property of any kind whatsoever, whether the person(s) or property of CONSULTANT, its agents, or subconsultants, or of third parties; harassment or discrimination or any theory of joint or dual employment by the CONSULTANT's employees, agents, subcontractors or subconsultants, arising out of the Services or Work under this Agreement; negligence, whether active, passive or contributory, of the AUTHORITY Parties; or infringement on any U.S. patent (issued as of the Effective Date) or any copyright or trademark. The AUTHORITY Parties may assume, at their sole option, control of the defense, appeal or settlement

of any third-party claim for which CONSULTANT has indemnified the AUTHORITY Parties by giving written notice of the assumption to CONSULTANT. The AUTHORITY Parties may not settle or compromise any claim or consent to the entry of any judgment regarding claims for which CONSULTANT has indemnified the AUTHORITY Parties without the prior written consent of CONSULTANT, which consent shall not be unreasonably withheld, conditioned or delayed.

15. INSURANCE:

(a) General:

1. The CONSULTANT shall not commence any Work under this Agreement until the CONSULTANT obtains, at its own expense, all insurance as required in this section; however, failure to obtain all insurance shall not relieve the CONSULTANT of the obligation to achieve the schedule milestone dates as defined herein. The types of insurance to be obtained by the CONSULTANT are Workers' Compensation, Employers' Liability, Automobile Liability, Commercial General Liability, and Professional Liability as outlined in the following portions of this section.

2. The Workers' Compensation, Employers' Liability, and Automobile Liability insurance will be maintained in force for the full period of the Agreement.

3. The Professional Liability insurance will be maintained in force for two years following the completion of the project.

4. These insurance provisions are in addition and cumulative to any other right of indemnification or contribution that the AUTHORITY may have in law, in equity, or otherwise and shall survive the completion of the project.

5. Nothing contained in these insurance requirements is to be construed as limiting the extent of the CONSULTANT's total responsibility for payment of claims arising in whole or in part from the actions of a third party when such actions might be taken as a result of the CONSULTANT's operations under this Agreement.

6. At the time of executing this Agreement and before commencement of the Work, the CONSULTANT shall have delivered to the AUTHORITY certificates of insurance and endorsements that attest to the fact that the CONSULTANT has obtained the insurance as specified in this Agreement.

(b) Other Insurance:

1. All insurance provided by the CONSULTANT shall be considered primary with respect to the AUTHORITY's insurance, and any similar insurance maintained by the AUTHORITY shall be considered excess and non-contributory.

2. The CONSULTANT's Workers' Compensation insurance shall be written with a property and casualty insurance company admitted to do business in the State of Nevada and rated A- or better and Class V or higher of financial size category in the current issue of Best's Key Rating Guide.

3. The CONSULTANT's Automobile Liability, Commercial General Liability and Professional Liability insurance shall be written with property and casualty insurance companies admitted to do business in the State of Nevada and rated A- or better and Class VIII or higher of financial size category in the current issue of Best's Key Rating Guide.

4. In the event any of the CONSULTANT's insurance companies are not admitted to write business in the State of Nevada, then the CONSULTANT will furnish evidence of insurance with insurance companies that are rated A- or better and Class IX or higher of financial size category in the current issue of Best's Key Rating Guide for each coverage written with a non-admitted carrier.

5. The Certificate of Insurance and related endorsements must be satisfactory to the AUTHORITY as to form and content and must comply with all insurance requirements as set forth herein, or the certificate and endorsements may be rejected and thereby, at the option of the AUTHORITY, render this Agreement cancelable.

6. All endorsements are to be dated; reflect the name of the insurance company, the type of insurance, and the policy number; be executed by a duly authorized representative of the insurance company; and be attached to the certificate.

7. The full legal operating names of the CONSULTANT and insurance carrier shall be properly shown where applicable.

8. The cancellation section of the certificate is to be amended to provide a 30-day written notice of cancellation and initialed by the Agent.

9. By endorsement (I.S.O. Forms CG 20 10 07 04 and CA 20 48 02 99, or equivalent), the AUTHORITY shall be included as an additional insured under the Commercial General Liability and Automobile Liability insurance policies as to bodily injury, sickness, disease, or death, personal injury, damage to or destruction of the property or persons which may arise out of or in connection with

activities under the Agreement. The CONSULTANT's insurance shall be primary with respect to the additional insureds; any insurance coverage maintained by the AUTHORITY shall be in excess of the CONSULTANT's insurance and non-contributing.

10. By endorsement (I.S.O. Form CG 24 04 10 93 or its equivalent), the CONSULTANT's Commercial General Liability, Automobile Liability and Workers' Compensation Insurance carriers shall waive their transfer rights of recovery (Waiver of Subrogation) against the AUTHORITY, its members and affiliated companies, successors or assignees, including their directors, officers, and employees individually and collectively.

11. The additional insured and waiver of subrogation endorsements shall read as follows:

The Southern Nevada Water Authority, its members, and affiliated companies, successors, or assigns, including their directors, officers, and employees individually and collectively, when acting within the scope of their employment.

12. If the CONSULTANT fails to procure and/or maintain insurance set forth herein, in addition to other rights or remedies, the AUTHORITY shall have the right, if the AUTHORITY so chooses, to procure and/or maintain the said insurance for and in the name of the CONSULTANT with the AUTHORITY as an Additional Insured, and the CONSULTANT shall pay the cost thereof and shall furnish all necessary information to make effective and/or maintain such insurance. In the event the CONSULTANT fails to pay the cost, the AUTHORITY hereby has

the right to offset any premiums from the compensation set forth in this Agreement and directly pay for such coverage.

13. With respect to any and all insurance required under this Agreement, the deductible shall not exceed \$50,000, unless otherwise agreed to by the AUTHORITY or the AUTHORITY'S Risk Management Division.

(c) Workers' Compensation and Employers' Liability Insurance:

1. The CONSULTANT shall procure and maintain such insurance and see that its subcontractors/subconsultants purchase and maintain such insurance as is required under the Nevada Industrial Insurance Act, Nevada Revised Statutes Chapters 616 and 617, for all of its employees working on the project to protect the AUTHORITY from any industrial insurance claims.

2. In the event any class of employees engaged in any Work on the project relative to this Agreement is not protected under the Nevada Industrial Insurance Act, then the CONSULTANT shall provide to the AUTHORITY adequate insurance coverage in a form and by an insurance carrier satisfactory to the AUTHORITY for the protection of such employees.

3. In the event the CONSULTANT is permissibly self-insured for Workers' Compensation insurance in the State of Nevada, the CONSULTANT shall deliver to the AUTHORITY a copy of the Certificate of Consent to Self-Insure issued by the State of Nevada.

4. The CONSULTANT shall procure and maintain Employers' Liability Insurance with limits as set forth in Paragraph 15 (h).

(d) Commercial General Liability Insurance:

The CONSULTANT shall procure and maintain Commercial General Liability insurance coverage. The coverage under this policy shall include, but not be limited to, commercial general liability, protective liability, blanket contractual liability, and broad-form property damage. The Commercial General Liability Insurance policy shall be written for limits as outlined under Paragraph 15 (h). The amount of coverage shall apply to bodily injury, sickness, disease or death, personal injury, damage to or destruction of the property of persons that may arise out of or in connection with the activities under this Agreement.

(e) Automobile Liability Insurance:

The CONSULTANT shall procure and maintain, at its own expense, automobile liability insurance with limits as outlined in Paragraph 15 (h), written on a combined-single-limit basis for bodily injury and property damage including all owned, leased, hired, or non-owned motorized vehicles and apparatus and shall indicate these coverages on the certificate.

(f) Professional Liability Insurance:

The CONSULTANT shall procure and maintain Professional Liability Insurance with limits as outlined in Paragraph 15 (h). If this coverage is written on a claims-made basis, the retroactive date shall be prior to or coincident with the Effective Date and the certificate shall so state.

(g) It is the CONSULTANT's sole responsibility to ascertain that the aforementioned insurance requirements are fulfilled. In the event they are not, the CONSULTANT shall not be relieved of their duty to perform, indemnify, defend, and hold harmless the AUTHORITY Parties,

nor shall the AUTHORITY Parties be liable to the CONSULTANT or any others in the event the CONSULTANT's insurance, as accepted by the AUTHORITY, fails to meet the full requirements herein.

(h) Insurance Limits:

<u>Value of Contract</u>	<u>Coverage</u>	<u>Limits of Liability</u>
\$100,000 to \$999,999	Professional Liability	\$500,000/per claim
		\$1,000,000 aggregate
	General Liability	\$1,000,000/per occurrence
		\$2,000,000/aggregate
	Automobile Liability	\$1,000,000/per occurrence
	Workers' Compensation	Statutory
	Employers' Liability	\$100,000

16. TERMINATION:

The AUTHORITY's General Manager, his/her designee and/or the CONSULTANT may terminate this Agreement on thirty (30) days prior written notice. In the case of termination by the AUTHORITY, the AUTHORITY shall pay the CONSULTANT for all Work performed to the effective date of termination and the reasonable costs of transferring all documentation of all Work to the AUTHORITY.

17. RELEASE OF INFORMATION:

The CONSULTANT shall make public information releases only as provided for and in accordance with this Agreement. Any and all other public releases of information gathered, obtained, or produced during the performance of this Agreement must be specifically approved in writing by the AUTHORITY prior to release. Such information shall include, but is not limited to, all products, intellectual property, Work Product, ideas, data, reports, background materials, and any and all other materials belonging to the AUTHORITY. Such public releases of information shall include, but are not limited to, publication in any book, newspaper, magazine,

professional or academic journal, the Internet, radio, television, and presentations to professional, academic, and/or other groups or conferences.

18. USE OF MATERIALS:

(a) The AUTHORITY shall make available to the CONSULTANT such materials from its files as may be required by the CONSULTANT in connection with its performance of Services under this Agreement. Such materials shall remain the property of the AUTHORITY while in the CONSULTANT's possession.

(b) Upon termination of this Agreement, the CONSULTANT shall turn over to the AUTHORITY any property of the AUTHORITY in its possession and any calculations, notes, reports, or other materials prepared by the CONSULTANT in the course of performing this Agreement. Any proprietary software or other tools of the CONSULTANT used to execute the Work shall remain the property of the CONSULTANT.

19. RECORDS:

The CONSULTANT shall retain financial and other records related to this Agreement for six (6) years after the completion or termination of this Agreement, and shall make available to the AUTHORITY for inspection, all books, records, documents, and other evidence directly pertinent to performance under this Agreement upon reasonable notice.

20. ASSIGNMENT:

The CONSULTANT shall not assign or transfer its interest in this Agreement without the prior written consent of the AUTHORITY. If CONSULTANT assigns or transfers without prior written approval, the assignment or transfer shall be void, and not merely voidable.

21. MODIFICATION OF AGREEMENT:

This Agreement may not be changed or modified except by written instrument executed by both Parties or their designees.

22. SEVERABILITY:

If any term of this Agreement is to any extent illegal, invalid, or unenforceable, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms of this Agreement shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term. If application of this Paragraph should materially and adversely affect the economic substance of the transactions contemplated in this Agreement, the Party adversely impacted shall be entitled to compensation for such adverse impact.

23. NON-DISCRIMINATORY EMPLOYEE PRACTICES:

(a) The CONSULTANT and any subcontractor or subconsultant working under the authority of the CONSULTANT, who is responsible for the selection, referral, hiring, or assignment of workers for the Services provided pursuant to this Agreement, is required to comply with all applicable provisions of Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act, the Civil Rights Act of 1991, the Equal Pay Act, Title I of the Americans with Disabilities Act and all associated rules and regulations..

(b) CONSULTANT recognizes that if they or their subcontractors are found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other protected status, the AUTHORITY may declare the

CONSULTANT in breach of the Agreement, terminate the Agreement, and designate the CONSULTANT as non-responsible.

24. EQUAL EMPLOYMENT OPPORTUNITY:

(a) The CONSULTANT and any subcontractor or subconsultant working under the authority of the CONSULTANT, who is responsible for the selection, referral, hiring, or assignment of workers for the Services provided pursuant to this Agreement, is required to comply with all applicable provisions of Title VII of the Civil Rights Act of 1964. This requirement includes compliance with Equal Employment Opportunity Commission regulations that prohibit discrimination based upon race, color, religion, sex, or national origin. Furthermore, the CONSULTANT shall in all relevant manners comply with the Age Discrimination in Employment Act, the Civil Rights Act of 1991, the Equal Pay Act, and Title I of the Americans with Disabilities Act.

(b) The CONSULTANT shall make all necessary documentation as required to comply with the Acts referred to above and shall make such documentation immediately available to the AUTHORITY upon the AUTHORITY's request. The CONSULTANT is solely liable for failure to comply with this provision.

25. APPLICABLE LAW:

Nevada law shall govern the interpretation of this Agreement, without reference to its choice of law provisions.

27. VENUE:

The Parties agree that venue for any dispute arising from the terms of this Agreement shall be Clark County, Nevada.

28. ATTORNEY'S FEES:

In the event that any Party commences an action to enforce or interpret this Agreement, or for any other remedy based on or arising from this Agreement, the prevailing party therein shall be entitled to recover its reasonable and necessary attorneys' fees and costs incurred.

29. NO THIRD PARTY RIGHTS:

This Agreement is not intended by the Parties to create any right in or benefit to parties other than the AUTHORITY and the CONSULTANT. This Agreement does not create any third party beneficiary rights or causes of action.

30. WAIVER:

The failure of either Party to enforce at any time, or for any period of time, the provisions hereof shall not be construed as a waiver of such provisions or of the rights of such Party to enforce each and every such provision.

31. CAPTIONS:

The captions contained in this Agreement are for reference only and in no way to be construed as part of this Agreement.

32. COUNTERPARTS:

This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which, when so executed, shall be deemed an original, and all counterparts together shall constitute one and the same instrument.

33. INTEGRATION:

This Agreement contains the entire understanding between the Parties relating to the transactions contemplated by this Agreement, notwithstanding any previous negotiations or agreements, oral or written, between the Parties with respect to all or any part of the subject matter

hereof. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, regarding the subject matter of this Agreement are merged in this Agreement and shall be of no further force or effect.

34. NOTICES:

Any and all notices, demands or requests required or appropriate under this Agreement (including invoices) shall be given in writing and signed by a person with authorization to bind the CONSULTANT or AUTHORITY, either by personal delivery, via a scanned document sent via email, or by registered or certified mail, return receipt requested, addressed to the following addresses:

To CONSULTANT: Hobbs, Ong & Associates, Inc.
Attention: Guy S. Hobbs
3900 Paradise Road, Suite 152
Las Vegas, Nevada 89169
guy@hobbson.com

To AUTHORITY: Southern Nevada Water Authority
Attention: Chief Financial Officer
1001 South Valley View Boulevard
Las Vegas, Nevada 89153
gina.neilson@snwa.com

When notice is given by mail, it shall be deemed served three (3) business days following deposit, postage prepaid in the United States mail. When notice is given by email transmission, it shall be deemed served upon receipt of confirmation of transmission if transmitted during normal business hours or, if not transmitted during normal business hours, on the next business day following the email transmission.

The Parties may designate a new contact person under this provision for notices or invoices or change the addresses or email addresses identified above by notifying the other Party in writing.

34. ELECTRONIC SIGNATURES:

Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties are intended to authenticate this writing and to have the same force and effect as manual signatures.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed the day and year first above written.

HOBBS, ONG & ASSOCIATES, INC.

SOUTHERN
AUTHORITY

NEVADA

WATER



Guy S. Hobbs
Managing Director


John J. Entsminger
General Manager

Approved as to form:



Dana R. Walsh
Deputy Counsel

EXHIBIT A

SCOPE OF SERVICES

SCOPE OF SERVICES

A. Financial Planning

1. Review and make recommendations regarding the short and long-term capital improvement programs in order to match sources of capital funding to infrastructure needs.
2. Provide financial feasibility studies which will include financing alternatives, amortization schedules, revenue estimates, revenue alternatives, rate modeling and analysis, and make recommendations to the AUTHORITY as to the optimal financing strategy.
3. As requested, evaluate proposals and/or studies provided to the AUTHORITY, by outside interested parties, relative to the financing of capital projects, financial transactions, and other transactions (e.g., water or power supply purchases) and report findings to the AUTHORITY.
4. Assist the AUTHORITY in debt management policy and other financial policy development, including policies and procedures for measuring and making financial decisions.

B. Managing and Issuing Debt Securities

1. Review existing debt structure to identify strengths and weaknesses of structure, identify restructuring and refunding opportunities.
2. Develop and analyze appropriate debt structure alternatives and bond financing schedules.
3. Assist the AUTHORITY with credit rating management and upgrade strategies.
4. Assist the AUTHORITY in the development of the terms of the financing and make recommendations concerning the terms and conditions and method of sale (including competitive or negotiated sale, group net or net designated, etc.) upon which the securities are to be issued and sold, including final repayment schedules, call and redemption features, reserve funds, revenue options, coverage requirements, and other details.
5. Coordinate the sale of bonds or other securities, including developing and maintaining schedule, coordinating meetings and document calls, evaluating and recommending pricing schedule. Provide analyses and updates and a final closing memorandum summarizing the sale.
6. Develop and review financing documents including the Preliminary and Final Official Statement, which sets forth financial and other information about the AUTHORITY and a description of the security issue, for each contemplated debt issuance planned to be sold at a public sale.
7. Assist the AUTHORITY and the underwriter in preparation of an Official Statement for issues planned to be sold at a private sale. The preparation of the material will be in general

conformance with Government Finance Officers Association Disclosure Guidelines for Offerings of Securities by State and Local Governments.

8. Review Official Statements not prepared by the CONSULTANT and report findings to the AUTHORITY.
9. Confer with legal counsel, disclosure counsel, bond attorneys, underwriters, bankers, actuarial firms, and accountants selected.
10. Assist the AUTHORITY with presentations made to the Debt Management Commission to secure its approval for issuance of securities.
11. Inform the AUTHORITY of market conditions and advise the AUTHORITY as to appropriate timing for securities sale.
12. Participate with the AUTHORITY in due diligence meetings.
13. Assist in the procurement of other financial services such as bond counsel, disclosure counsel, credit provider, trustee, printer and verification agent.
14. Assist the AUTHORITY in establishing a marketing plan via widely circulated financial journals and publications, to obtain publicity for the AUTHORITY's security sale.
15. Work with the AUTHORITY and underwriters to develop appropriate marketing and investor materials as needed to support a negotiated sale of securities.
16. Assist the AUTHORITY with preparation of materials for rating agency presentations.
17. Review bids to verify calculations are in conformance with the specifications, and make recommendations, for award of bids on competitive sales.
18. Assist with the pricing of bonds.
19. Perform the necessary functions in connection with the pricing, which include acting as liaison, assembling documents, and participate in all closings.

C. Other Services

1. Attend meetings as requested by AUTHORITY, including meetings with matters directly or indirectly related to the planning and management of AUTHORITY's debt.
2. Monitor and report local, State, and Federal regulations that may affect the AUTHORITY's debt position.
3. Consult with the AUTHORITY concerning investment of security proceeds with particular attention to arbitrage and filing requirements of the U.S. Treasury Department.
4. The AUTHORITY will assist the CONSULTANT with the identification of any potential instances of material events.
5. CONSULTANT will work with AUTHORITY to notify, or cause to be notified, in

accordance with requirements, all affected parties of any material event disclosures and potential impacts.

RATES & FEES SCHEDULE

- A. The CONSULTANT shall be compensated for its services in accordance with the rate schedule below.

The fee and expenses for issuance of securities (transactions), refundings or new money, is contingent and is payable only upon the successful delivery of any securities. The fee shall be paid only from the proceeds of sale of the securities or other legally available sources. The minimum fee for each series of securities shall be \$12,000. The maximum allowable fee for each series of securities shall be \$125,000 (not including expenses). A bond issuance for the same general purpose which is issued on the same day and uses the same Official Statement will normally be considered as one series of securities even though the issuance is sub-divided into different series, (e.g., Series A, B and/or C).

Transaction Fee Based on Amount of Issue

To \$5,000,000	\$0.3969 per \$100
Additional Securities from \$5,000,001 to \$15,000,000	\$0.1764 per \$100
Additional Securities from \$15,000,001 to \$30,000,000	\$0.0662 per \$100
Additional Securities from \$30,000,001 to \$60,000,000	\$0.0353 per \$100
Additional Securities from \$60,000,001 to \$150,000,000	\$0.0176 per \$100
Additional Securities more than \$150,000,000	\$0.0088 per \$100

In addition, the AUTHORITY agrees to reimburse all expenses incurred in the performance of the consulting services rendered, including but not limited to, travel, lodging, meals, long distance telephone calls, printing, reproduction, advertising and other expenses, subject to approval.

- B. With thirty (30) days notice, either Party may request, in writing to the other Party, a review and revision of the rate schedule above. At that time, the rate schedule may be open to negotiation by either Party to provide for an increase or decrease of the rates, subject to changes in market conditions.
- C. The following services shall be excluded from the standard bond fee schedule above and shall be negotiated under separate agreement if such services are required:
1. Analysis and procurement of interest rate swaps and hedges and post-sale swap support and compliance services.
 2. Analysis and procurement of fuel hedges.
 3. Open market escrow analyses and bidding/procurement of open market and or State and Local Government Series (SLGS) securities for escrows, except as escrows may apply to SLGS for current and advanced refunding.
 4. Arbitrage rebate compliance strategies, analyses and filings.

5. Bond proceeds' investments.

D. Upon mutual consent of the Parties, the fees for financial planning services not directly related to issuance of securities (such as studies, negotiations, financial plans, reports, preparation of memoranda, and any other matters for which the AUTHORITY may request assistance) will be billed to the AUTHORITY at a flat rate of \$8,300/ month and within the rate limit stated in the Agreement, Paragraph 4 (Limitation on Costs).

E. Invoices

Invoices shall be submitted to the Southern Nevada Water Authority Attention: Chief Financial Officer and shall state information as outlined in the Agreement, Paragraph 3 (Compensation), including:

1. The agreed upon amount as per Paragraph A of this Section.
2. A list of expenses as noted in Paragraph A of this Section.

DISCLOSURE OF OWNERSHIP/PRINCIPALS

Business Entity Type							
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input checked="" type="checkbox"/> Privately Held Corporation	<input type="checkbox"/> Publicly Traded Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization	<input type="checkbox"/> Other
Business Designation Group							
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> ESB	<input checked="" type="checkbox"/> NONE		
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise	Emerging Small Business			
Corporate/Business Entity Name:		Hobbs, Ong & Associates, Inc.					
(Include d.b.a., if applicable)							
Street Address:		3900 Paradise Road, Suite 152			Website:		
City, State and Zip Code:		Las Vegas, Nevada 89169			POC Name and Email: Guy Hobbs, guy@hobbsong.com		
Telephone No:		702-733-7223			Fax No: 702-733-7250		
Local Street Address:					Website:		
City, State and Zip Code:					Local Fax No:		
Local Telephone No:					Local POC Name Email:		
Number of Clark County, Nevada Residents Employed: 3							

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals, either directly or indirectly, holding more than five percent (5%) ownership or financial interest in the business entity appearing before the SNWA Board of Directors.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

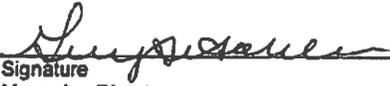
Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned <small>(Not required for Publicly Traded Corporations/Non-profit organizations)</small>
Guy S. Hobbs	Managing Director	60%
Katherine Ong	Director	40%

This section is not required for publicly-traded corporations.

1. Are any individual members, partners, owners or principals, involved in the business entity, an SNWA full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please note that SNWA employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)
2. Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an SNWA full-time employee(s), or appointed/elected official(s)?
 - Yes No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also certify that the entity is not on the federal government's Excluded Parties List, as defined by 2 CFR § 180.945. I further understand that the SNWA will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.



 Signature
 Managing Director

 Title

Guy S. Hobbs

 Print Name
 05/04/16

 Date

DISCLOSURE OF RELATIONSHIP

List any disclosures below:
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF SNWA EMPLOYEE OR OFFICIAL AND JOB TITLE	RELATIONSHIP TO SNWA EMPLOYEE OR OFFICIAL	SNWA EMPLOYEE'S/OFFICIAL'S DEPARTMENT
Hobbs, Ong & Assoc	Steve Sisolak, Commissioner	Girlfriend	Commissioner

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

For SNWA Use Only:

If no Disclosure or Relationship is noted above or if the section is marked N/A, please check this box:

No Disclosure

If any Disclosure of Relationship is noted above, please complete the following:

Yes No Is the SNWA employee(s) noted above involved in the contracting/selection process for this particular agenda item?

Yes No Is the SNWA employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

Euna Neilson

Signature

Euna Neilson

Print Name

**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: Update on Water Resources	Director's Backup
Petitioner: Gregory J. Walch, General Counsel	
Recommendations: That the Board of Directors receive an update from staff on water resources including, but not limited to, drought conditions in the Colorado River Basin, the results of the implementation of the Authority's Water Resource and Conservation Plan, activities on the Colorado River, the development of in-state water resources, and the status of construction activities near Lake Mead.	

Fiscal Impact:

None by approval of the above recommendation.

Background:

The Colorado River Basin has been experiencing severe drought conditions that began in 2000. The severity of these conditions has become increasingly evident in lake levels along the lower Colorado River Basin, where major reservoirs such as Lake Powell and Lake Mead are experiencing some of the lowest water levels since their initial filling.

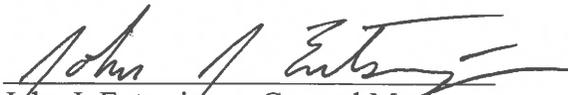
The nature of the drought in the Colorado River Basin has direct effects on water resources and future planning. The drought has prompted communities to launch major conservation initiatives to reduce water use among citizens and businesses, and has resulted in the development and implementation of the Authority's Water Resource and Conservation Plans.

In May 2005, the Board of Directors approved a project for design and construction of a third intake in Lake Mead to ensure Southern Nevada has access to best quality water in Lake Mead. The project design and environmental approvals were completed by 2007. Construction began on the project in March 2008. On December 10, 2014, the Board approved a low lake level pumping station for design and construction. When constructed, the pumping station will work alongside Intake No. 3 to protect access to the majority of Southern Nevada's drinking water supply despite severe drought conditions.

This agenda item provides for an update from staff on the drought, the results of the implementation of the Authority's Water Resource and Conservation Plans, activities on the Colorado River, the development of in-state water resources, and the status of construction activities near Lake Mead.

The office of the General Counsel has reviewed and approved this agenda item.

Respectfully submitted:


John J. Entsminger, General Manager
JJE:GJW:td

AGENDA ITEM #	15
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**SOUTHERN NEVADA WATER AUTHORITY
BOARD OF DIRECTORS
AGENDA ITEM**

July 21, 2016

Subject: SNWA 25 th Anniversary Commemoration	Director's Backup
Petitioner: Julie A. Wilcox, Deputy General Manager Administration	
Recommendations: That the Board of Directors view a video commemorating the 25 th anniversary of the creation of the Southern Nevada Water Authority.	

Fiscal Impact:

None by approval of the above recommendation.

Background:

On July 25, 1991, Southern Nevada's water and waste water agencies entered into a cooperative agreement to form the Southern Nevada Water Authority to address Southern Nevada's unique water needs on a regional basis. Since that time, the Authority has made considerable achievements in building and maintaining a world-class water system, managing a diverse portfolio of water resources and delivering a reliable water supply to more than two million residents and visitors in our community.

To commemorate the 25th anniversary of the creation of the Authority, a video highlighting the organization's creation, challenges and accomplishments over the past two and a half decades was produced.

The office of the General Counsel has reviewed and approved this agenda item.

Respectfully submitted:



John J. Entsminger, General Manager
JJE:JAW:AMB:KH:ls

AGENDA
ITEM #

16