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April 24, 2018

The Honorable Mike Scheafer  
President, Board of Directors  
Costa Mesa Sanitary District  
290 Paularino Avenue  
Costa Mesa, CA 92626

Dear <sup>MIKE</sup> President Scheafer:

Thank you for your recent participation in the Mandatory Settlement Conference held March 23, 2018, regarding the lawsuit filed by Costa Mesa Sanitary District (CMSD) against Mesa Water District (Mesa Water) under the California Public Records Act (PRA). Please understand that, as the defendant in that lawsuit, we have no choice but to defend ourselves against its baseless allegations.

We find it reassuring that you acknowledged at the settlement conference, both to Paul Shoenberger, Mesa Water General Manager, and Mark Austin, the attorney representing Mesa Water, that "Glen Huntley", the purported "author" of various negative articles about Mesa Water in the OC Daily blog, is actually a fictional alias used by lobbyists, and does not actually exist. We take your acknowledgment of this fact as a concession that begins to build goodwill for future negotiations between us.

Mesa Water strongly believes that the "Glen Huntley" alias was used by the public relations consultants employed by CMSD, namely Roger Faubel and Peter Whittingham, to publish the above-referenced negative articles about Mesa Water. We understand that you may be reluctant to publicly recognize this fact, as it would acknowledge the expenditure of public funds by CMSD to hire consultants for the sole purpose of writing misleading, negative, and denigrating articles about Mesa Water and against Measure TT. Nevertheless, if this case does not settle, Mesa Water intends to elicit such information in depositions in the coming weeks.

To accomplish settlement, we understand that CMSD is willing to agree to a joint statement along the lines of what was proposed by Mesa Water at the Mandatory Settlement Conference, with some modifications (a proposal for which is attached hereto). In addition, assuming our new proposed statement is agreeable, we also understand that CMSD is willing to (a) ensure that the pending FPPC complaint regarding Measure TT is dismissed with prejudice, (b) withdraw the public-records request directed at Jim Fisler (in exchange for Mr. Fisler producing certain of the requested documents), (c) dismiss the current PRA lawsuit against Mesa Water with prejudice, and (d) waive any right to seek attorneys' fees or litigation costs in the present PRA lawsuit.

As we have already stated, when public agencies fight, everyone loses. We find it disappointing that CMSD has nevertheless continued prosecuting this lawsuit, taking needless depositions and serving unnecessary discovery in a



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complete and unfounded waste of taxpayer money. To be very clear, this is not a fight we should be engaged in.

Mesa Water respectfully asks that CMSD dismiss your PRA lawsuit, with prejudice, on the terms set forth above, involving (a) the issuance by Mesa Water and CMSD of the attached proposed joint statement, (b) the dismissal with prejudice of the FPPC complaint relating to Measure TT, and any related actions, (c) the withdrawal of the PRA request directed at Jim Fisler, and (d) the waiver of any request for attorneys' fees or litigation costs in this case.

In exchange, we further agree that we will not attempt to collect our own attorneys' fees from CMSD in this case, or seek to elicit, via a series of depositions, the information set forth above regarding what we believe to be a misuse of public funds by CMSD to publish false and misleading "hit pieces" against Mesa Water.

Sincerely,

  
Jim Atkinson  
Mesa Water Board President

c: CMSD Board of Directors  
Mesa Water Board of Directors  
Scott C. Carroll, CMSD General Manager  
Paul E. Shoenberger, P.E., Mesa Water General Manager

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## **Proposed Joint Statement**

### **of Mesa Water District and Costa Mesa Sanitary District**

(In relation to the settlement of *The Costa Mesa Sanitary District v. Mesa Water District*, OCSC Case No. 30-2017-00923819)

Mesa Water District and the Costa Mesa Sanitary District jointly acknowledge that consolidation of the two districts is not mutually supported by the two districts at this time. As a result, Mesa Water District will cease from pursuing consolidation until it receives an indication that the Sanitary District may be agreeable to such exploration.

Despite the contentious relationship in the past, the Districts pledge to work cooperatively and collaboratively in the future.

In conjunction with the dismissal of its pending lawsuit against Mesa Water District under the California Public Records Act (*The Costa Mesa Sanitary District v. Mesa Water District*, OCSC Case No. 30-2017-00923819), both Districts acknowledge and agree that the facts listed below are true. In addition, the Costa Mesa Sanitary District hereby retracts any statements or articles that it has made, authored, or paid for, that in any way contradict these facts:

1. "Glen Huntley," the purported "author" of articles in the OC Daily, is actually a fictional alias used by various lobbyists or other special interest groups, and does not actually exist.
2. CMSD public relations consultants Roger Faubel and Peter Whittingham engaged the alias "Glen Huntley" to publish negative articles about Mesa Water.

In addition, both Districts acknowledge and agree that the statements by "Glen Huntley" listed below are FALSE. The Costa Mesa Sanitary District hereby retracts any statements or articles it has made, authored, or paid for that in any way misrepresented Mesa Water District:

- a. Mesa Water takes on hundreds of millions in debt to fund long-ignored infrastructure revitalization
- b. Mesa Water plans to put \$200 million on its credit card over the next 10 years to fund those repairs
- c. Mesa Water is taking on a large debt load to fund long-neglected infrastructure replacement and repair
- d. Transparency is still an issue with Mesa Water
- e. Mesa Water is underwater in terms of debt
- f. Mesa Water District is the Spendthrift District
- g. Paul Shoenberger is the highest paid government CEO in Orange County
- h. Mesa Water District spends millions on PR, pennies on transparency