

**Borrego Water District Board of Directors  
Special Meeting  
November 13, 2018 @ 9:00 a.m.  
806 Palm Canyon Drive  
Borrego Springs, CA 92004**

**I. OPENING PROCEDURES**

- A.** Call to Order
- B.** Pledge of Allegiance
- C.** Roll Call
- D.** Approval of Agenda
- E.** Approval of Minutes
  - 1. Special Meeting Minutes: October, 16, 2018 (3-5)
  - 2. Regular Meeting Minutes: October 24, 2018 (6-9)
- F.** Comments from the Public & Requests for Future Agenda Items (may be limited to 3 min)
- G.** Comments from Directors

**II. ITEMS FOR BOARD CONSIDERATION AND POSSIBLE ACTION**

- A.** Borrego Water District (10-17)
  - 1. Capital Improvement Plan Update
    - a. BWD Pipeline Projects – C Beltran, Dynamic Engineering
    - b. Well Replacement #1 – T. Driscoll, Dudek Engineering
  - 2. Replacement Well #1 Bid Documents – T Driscoll, Dudek Engineering (18-175)
  - 3. Selection of Dudek Engineering for Well Siting and Construction Management Services for Replacement Well #2 – T Driscoll (176-200)
  - 4. Proposition 3 Outcome/Update – G Poole (201-203)
  - 5. Fiscal Year 2017-18 Audit – L Brecht (204)
  - 6. Sewer EDU sale from ABNHA to Carlee’s – K Pittman (205-209)
- B.** GSA: Borrego Springs Sub Basin
  - 1. SGMA GSP Development Issues – L Brecht (210-215)
  - 2. Report from BWD Ratepayer Representative on Groundwater Sustainability Plan Advisory Committee – G Haldeman (216)

**III. INFORMATIONAL ITEMS**

**IV. STANDING AND AD-HOC BOARD COMMITTEE REPORTS**

- A. STANDING:**
  - 1. Operations and Infrastructure – Delahay & Tatusko

AGENDA: November 13, 2018

All Documents for public review on file with the District’s secretary located at 806 Palm Canyon Drive, Borrego Springs CA 92004

Any public record provided to a majority of the Board of Directors less than 72 hours prior to the meeting, regarding any item on the open session portion of this agenda, is available for public inspection during normal business hours at the Office of the Board Secretary, located at 806 Palm Canyon Drive, Borrego Springs CA 92004.

The Borrego Springs Water District complies with the Americans with Disabilities Act. Persons with special needs should call Geoff Poole – Board Secretary at (760) 767 – 5806 at least 48 hours in advance of the start of this meeting, in order to enable the District to make reasonable arrangements to ensure accessibility.

If you challenge any action of the Board of Directors in court, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Board of Directors (c/o the Board Secretary) at, or prior to, the public hearing.

**B. AD-HOC:**

1. GSP Preparation – Brecht
2. 2011-18 Audit – Brecht & Ehrlich
3. Rams Hill Operating Agreement – Hart & Brecht
4. Risk – Ehrlich & Tatusko

**V. STAFF REPORT**

- A. Financial Reports: August 2018 (217-231)
- B. Water and Wastewater Operations Report: Pushed to December 2018 Meeting
- C. Water Production/Use Records: Pushed to December 2018 Meeting
  1. Well 12 Repair Update – G Poole
- D. General Manager (232-238)
  1. Goals and Objectives Report
  2. GSP Outreach Meeting – November 15<sup>th</sup> 2018

**VI. CLOSED SESSION:**

- A. Conference with Legal Counsel - Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (Three (3) potential cases)

**VII. CLOSING PROCEDURE**

- A. Suggested Items for Next/Future Agenda
- B. The next Meeting of the Board of Directors is scheduled for December 11, 2018 at the Borrego Water District

AGENDA: November 13, 2018

All Documents for public review on file with the District's secretary located at 806 Palm Canyon Drive, Borrego Springs CA 92004

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**Borrego Water District Board of Directors**  
**MINUTES**  
**Special Meeting**  
**October 16, 2018 @ 9:00 AM**  
**806 Palm Canyon Drive**  
**Borrego Springs, CA 92004**

**I. OPENING PROCEDURES**

- A. Call to Order: President Hart called the meeting to order at 9:00 a.m.
- B. Pledge of Allegiance: Those present stood for the Pledge of Allegiance.
- C. Roll Call:     Directors:     Present:     President     Hart,     Vice-President  
Brecht, Secretary/Treasurer Tatusko, Delahay, Ehrlich  
                                  Staff:           Geoff Poole, General Manager  
  Wendy Quinn, Recording Secretary  
                                  Public:           Dave Duncan           Rick Alexander  
  Kathy Dice
- D. Approval of Agenda: **MSC: Brecht/Delahay approving the Agenda as written.**
- E. Comments from the Public and Requests for Future Agenda Items: None
- F. Comments from Directors: Director Tatusko referred to the Board's action about a year ago to donate \$3,000 to the new library. Two thousand dollars went to the County, and they matched it. This funded new conservation books for all ages. The other \$1,000 went to Friends of the Library to create signs about conservation. Director Tatusko distributed copies of the proposed sign. The actual sign might cost \$500 to \$1,000 more. He requested authority for the General Manager to pay the additional cost, and asked that it be included on a future Agenda.

Director Ehrlich announced that he would be attending the ACWA/JPIA conference in San Diego on November 26 and 27.

Dave Duncan recommended that the Board establish minimum fallowing standards. If Proposition 3 passes, fallowing may occur soon. President Hart suggested an early meeting in November (11/13). Director Brecht stated he had been working on fallowing standards with Dudek, and President Hart asked him to give a presentation at the next meeting. Geoff Poole will find out if a resolution is necessary to change the special meeting date, and put the date change on the next Agenda. Director Brecht questioned what the District's liability might be for the Viking Ranch fallowing, should it be required to meet CEQA standards. President Hart asked that Dudek's findings and copies of the two prior proposals on fallowing standards be included on the November 13 Agenda.

**II. ITEMS FOR BOARD CONSIDERATION AND POSSIBLE ACTION**

**A. BORREGO WATER DISTRICT:**

- 1. Contract for Construction Management Services: BWD Well Replacement #1 ID4-4. Mr. Poole referred to Trey Driscoll's presentation at the last meeting on the scope of work for construction management on the ID4-4 well replacement. The Board liked Dudek's proposal but had some questions. The Operations and Infrastructure Committee talked to Mr. Driscoll, and he revised his cost estimate. District staff can help with the work to save money. The Committee recommends proceeding with continued supervision by Mr. Poole, Greg

Holloway and Kim Pitman. Director Brecht inquired about Dudek's reports during the project, and Director Tatusko replied that their proposal was very detailed and included what would be provided. Prior projects included detailed reports, which are submitted to the O&I Committee. ***MSC: Ehrlich/Brecht authorizing the General Manager to execute a contract with Dudek in an amount not to exceed \$126,055, and upon going to bid, an updated report be submitted on costs to date and projections to see if we can make more efficiencies in the cost.***

2. Proposition One Grant Application Update. Mr. Poole invited the Board's attention to a chronology of events following receipt of the first comments from State staff after submittal of the grant application package for the wastewater treatment plant improvements, in the Board package.

3. Federal Cross-Cutter Requirements and Prospects for Future Grant/Low Interest Loan Financing. Rick Alexander explained that the pending State Proposition 1 grant applications for water and sewer upgrades, if approved, may require federal funds to supplement the project costs. Federal funding requires "cross-cutters," i.e. consultants to address the requirements of the Endangered Species Act and the National Historic Preservation Act. Proposals were submitted by Rocks Biological Consulting for ESA and Spindrift Consulting for NHPA. Mr. Alexander felt their bids were reasonable (\$9,780 for Rocks, 3-4 months, and \$7,172 for Spindrift, 6 weeks). It is uncertain whether these reports will be required, but they may be. ***MSC: Brecht/Ehrlich authorizing the General Manager to enter into the contracts as proposed so as not to delay the grant funding.*** Mr. Poole agreed to bring back an estimate of future costs associated with Mr. Alexander's services. Director Ehrlich asked Mr. Poole for Mr. Holloway's opinion as to whether a six-month delay in funding would be significant for the wastewater treatment plant upgrade.

Mr. Alexander outlined three opportunities for future grants: The US Department of Agriculture's 101 Program for communities with populations less than 10,000, disadvantaged and with aging infrastructure; Bureau of Reclamation grants for larger projects; and 2018 Proposition 1 Integrated Water Management Plan implementation grants, which are available now for public review and comments on the draft. President Hart inquired about I-Bank loans, and Mr. Alexander agreed to investigate. Director Delahay noted that USDA also has low interest loans. Director Ehrlich inquired about provisions for SDACs and IRWMPs in the Proposition 1 guidelines, and Mr. Alexander agreed to look into it. Mr. Poole agreed to come back at the next meeting with a revised scope of work for Mr. Alexander.

4. Prop 218 Rate Study Preconditions – Due before Jan/Feb 2019. Director Brecht noted that the District has gone through two Proposition 218 processes, the last one in 2016. We will need another in about a year and a half. He recommended starting now to think about what information is needed to include in the rate study. Discussion followed, and it was the consensus that February or March would be a good time to begin so the public comments can be heard before summer. Director Ehrlich suggested checking on Raffelis' availability. Kathy Dice suggested assigning Director Brecht's list of preconditions to the O&I Committee for CIP cost issues, and President Hart asked the GSP Committee to deal with other items. Director Brecht wants to revisit the matter in December or January.

### **III. INFORMATIONAL ITEMS**

#### **A. BORREGO WATER DISTRICT:**

1. Operations & Infrastructure Meetings – Sept. 4, Oct. 1 and October 15. Mr. Poole invited the Board's attention to the Minutes in the Board package.

2. Process for Selection of Replacement Well #2 Site. Mr. Poole hoped to complete a second replacement well within two years. The current well replacement project, Well ID4-4, is a known quantity because it is next to an existing well. The second well will be more difficult. Mr. Driscoll has identified four sites for consideration, and Mr. Holloway added some. Mr. Poole hoped to make a recommendation next week, and to coordinate the two projects to save money.

3. CIP Project Construction and Phasing Update. Mr. Poole reported that Dynamic Engineering had developed a phasing plan for the pipeline projects, and the bid documents should be ready for Board approval next week. Best Best and Krieger is working on them, and they can be used as a blueprint for future projects.

4. Flying J and Double O Bid Documents. This item was continued to next week.

**B. BORREGO BASIN: GROUNDWATER SUSTAINABILITY PLAN:**

1. BWD Groundwater Sustainability Plan Advisory Committee Representative Report. This item was continued to next week.

**IV. STAFF REPORT**

**A. General Manager:** Mr. Poole reported that Mr. Holloway would report to the Board next week. Mr. Duncan reported that Mr. Driscoll presented draft Chapters 1, 2 and 3 to the AC at its last meeting. There is still room for discussion.

**V. CLOSED SESSION**

**A. Conference with Legal Counsel – Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9 (two (2) potential cases):**

**B. Conference with legal counsel for Public Employee Performance Evaluation – Title: General Manager Employee Performance Review – pursuant to subdivision (d)(4) of Government Code Section (Government Code § 54957):** The Board adjourned to closed session at 10:25 a.m., and the open session reconvened at 11:50 a.m. There was no reportable action.

**VI. CLOSING PROCEDURE**

**A. Suggested Items for Next/Future Agenda:** Changes to Board meeting dates for November and December will be discussed.

**B. The next Meeting of the Board of Directors is scheduled for October 24<sup>th</sup>, 2018 at the Borrego Water District:** There being no further business, the Board adjourned at 11:50 a.m.

**Borrego Water District Board of Directors**  
**MINUTES**  
**Regular Meeting**  
**October 24, 2018 @ 9:00 a.m.**  
**806 Palm Canyon Drive**  
**Borrego Springs, CA 92004**

**I. OPENING PROCEDURES**

**A.** Call to Order: President Hart called the meeting to order at 9:00 a.m.

**B.** Pledge of Allegiance: Those present stood for the Pledge of Allegiance.

**C.** Roll Call: Directors: Present: President Hart, Vice-President

Brecht, Secretary/Treasurer Tatusko,

Delahay, Ehrlich

Staff:

Geoff Poole, General Manager

Wendy Quinn, Recording Secretary

Public:

Jay Jones, Environmental Navigation Services

Lane Sharman, Borrego Water Exchange

Julian Peabody

Dave Duncan, Core Team

**D.** Approval of Agenda: **MSC: Brecht/Delahay approving the Agenda as written.**

**E.** Approval of Minutes:

1. Special Meeting Minutes: September 18, 2018

**MSC: Brecht/Delahay approving the Minutes of the Special Meeting of September 18, 2018 as written.**

2. Regular meeting of September 26, 2018

**MSC: Brecht/Delahay approving the Minutes of the Regular Meeting of September 26, 2018 as written.**

**F.** Comments from the Public and Requests for Future Agenda Items: None

**G.** Comments from Directors: None

**II. ITEMS FOR BOARD CONSIDERATION AND POSSIBLE ACTION**

**A.** BORREGO WATER DISTRICT:

1. Bid Documents for Phase One of BWD Pipeline Replacement Program: Frying Pan and Double O. Director Brecht pointed out that the cover page of the contract documents and specifications refers to "pipelines 8 and 9," while other past documents numbered them differently. He asked that the numbering be consistent, going back to the budget documents. Geoff Poole recommended staying with 8 and 9, consistent with the CIP. Director Ehrlich requested an implementation schedule. **MSC: Ehrlich/Tatusko authorizing the General Manager to finalize the specifications and go out to bid.**

Director Tatusko recommended that Carlos Beltran attend future Board meetings, starting with the next one. He also requested a map of the projects.

2. Well Replacement #2 Site Selection. Mr. Poole reported that he participated in a conference call yesterday with Trey Driscoll, Greg Holloway and Director Tatusko. Two areas have been identified for the second well replacement site, with several possible parcels in each. A hydraulic analysis is planned, using a computer model of the system. Director Tatusko announced that Mr. Driscoll expects to have bid documents ready for the ID4-4 well replacement by the end of the month. Director Ehrlich requested a schedule of tasks for the well replacement #2 site selection.

3. Amended contract with The Rick Alexander Company for continued Grant Assistance. Mr. Poole invited that Board's attention to Mr. Alexander's amended contract, included in the Board package. Director Brecht requested the addition of "and low interest loan applications" under Outreach and Development on the second page. **MSC: Ehrlich/Tatusko authorizing the General Manager to work out the final contract with Mr. Alexander and report back to the Board.** Director Brecht asked that the cost be included in the next budget, if it is not already. Mr. Poole will inform Mr. Alexander of the Board's action.

4. Open new Bank Accounts and Signature Cards at Community Valley Bank. **MSC: Brecht/Ehrlich updating the Community Valley Bank signature cards to remove President Hart and Director Tatusko and opening a new Community Valley Bank account for the CIP.**

5. Proposition 3 Schedules. Mr. Poole reported that he did not yet have answers on the availability of funds and spending time limits, should Proposition 3 pass. Different answers have come from the bond writer and bond counsel. He contacted the State Treasurer and DWR, and was awaiting responses. Director Brecht went through a list of questions and answers, indicating there was no time limit for spending the money; the funding would be effective immediately, but it would take two to three years to receive the funds; and the District will need to spend the money and then be reimbursed (although an advance may be available).

6. November and December BWD Board Meeting Schedule. **MSC: Brecht/Ehrlich scheduling one Board Meeting for November 13, 2018. MSC: Brecht/Delahay scheduling one Board Meeting for December 11, 2018. Director Ehrlich abstained, and all other Board members voted aye.**

7. Update Conflict of Interest Code. Mr. Poole reported that the Legislature had changed the Fair Political Practices Act. Best Best & Krieger had incorporated the most recent changes into the District's Conflict of Interest Code. There will be no difference for the Directors, but some additional employees will have to fill out a Form 700. **MSC: Brecht/Delahay approving the updated BWD Conflict of Interest Code.** Director Ehrlich asked that a clean copy of the Code be posted on the District's website.

**B. BORREGO SPRINGS SUB BASIN GROUNDWATER SUSTAINABILITY:**

1. Following Standards Review. Mr. Poole invited the Board's attention to following standard information in the Board package. The UCI proposal was inadvertently omitted, and Mr. Poole promised to have it for the next meeting.

### III. INFORMATIONAL ITEMS

#### A. Comprehensive solar RFP:

Director Tatusko reported that the Operations and Infrastructure Committee had created an RFP for a comprehensive solar plan, providing a 24-hour energy review of the solar systems at the District office and warehouse and the treatment plant. He hoped to see three options and funding opportunities through grants or low interest loans, and will be continuing to work with Director Delahay, Mr. Poole and Mr. Beltran.

Mr. Poole brought up the possibility of the District becoming an electricity provider. Director Tatusko noted that he had looked at this, and attended an annual energy/water conference in Palm Springs. It would require a group of trained employees, specialized equipment and negotiations with San Diego Gas and Electric. Dave Duncan explained that the community choice program allows a public agency to do this more simply. Lane Sharman added that the community choice program does not entail ownership of equipment. It might be worth considering after the election, but would require a consultant to buy and sell energy, which he could provide. Director Brecht asked that it be included on the next Agenda.

### IV. STANDING AND AD-HOC BOARD COMMITTEE REPORTS

#### A. Standing:

1. Operations and Infrastructure. This report was already covered.

#### B. Ad-Hoc:

1. GSP Preparation. Director Brecht asked that this report be deferred to the next meeting, as his written material was not included in the Board package.
2. 2017-18 Audit. Director Ehrlich reported he had talked to the audit firm and they assigned a new person to BWD.
3. Rams Hill Operating Agreement. Mr. Poole reported he talked to Cathy Milkey yesterday and will continue negotiations on a long-term agreement. The issues are the price of surplus water Rams Hill will purchase from BWD, and the amount of surplus capacity in the system. Rams Hill wants to install a new well and use some of the District's distribution system to transport the water. The existing contract ends 12/31/18. President Hart requested a Committee meeting with Rams Hill, and Director Brecht requested a copy of the existing signed agreement.
4. Risk. Mr. Poole reported he received a proposal from a cyber security expert recommended by ACWA/JPIA and was expecting another.

### V. STAFF REPORTS

A. Water and Wastewater Operations Report, August 2018: The Water and Wastewater Operations Report was included in the Board package.

B. Water Production/Use Records, August 2018: The Water Production/Use Records were included in the Board package.



C. General Manager: Mr. Poole invited the Board's attention to his written report in the Board package and offered to answer questions.

**VI. CLOSED SESSION**

A. Conference with Legal Counsel – Significant exposure to litigation pursuant to Government Code paragraph (2) of subdivision (d) of Section 54956.9 (three (3) potential cases):

B. Conference with legal counsel for Public Employee Performance Evaluation – Title: General Manager Employee Performance Review – pursuant to subdivision (d)(4) of Government Code Section 54957:

The Board adjourned to closed session at 10:20 a.m., and the open session reconvened at 12:52 p.m. The Board voted to grant a five percent salary increase to the General Manager.

**VII. CLOSING PROCEDURE**

A. Suggested Items for Next/Future Agenda: Items for the next Agenda were discussed previously.

B. The next Meeting of the Board of Directors is scheduled for November 13, 2018 at the Borrego Water District Office. There being no further business, the Board adjourned at 12:52 p.m.

**BORREGO WATER DISTRICT**  
**BOARD OF DIRECTORS MEETING – NOVEMBER 13, 2018**  
**AGENDA BILL II.A.1**

November 7, 2018

**TO:** Board of Directors, Borrego Water District  
**FROM:** Geoff Poole, GM  
**SUBJECT:** Capital Improvement Plan Update  
a. BWD Pipeline Projects – C Beltran, Dynamic Engineering  
b. Well Replacement #1 – T. Driscoll, Dudek Engineering

**RECOMMENDED ACTION:**

Receive updates from Project Consultants for Pipelines and Wells

**ITEM EXPLANATION:**

Carlos Beltran and Trey Driscoll will give updates on the pipeline and well replacement projects respectively. In addition, staff has added the cross-referenced list from the original Pipeline Project numbers to the updated Pipeline Project Numbers as requested at the last Board Meeting.

At the last Board Meeting, a question was raised about the current numbering and the connection to the Original Project list numbering. Following is the cross-references for Phase One Projects, similar info will be presented for Phases Two and Three at the December meeting when it is expected Staff will ask to begin the process for starting the design on Phase Two projects.

**Phase One Project Cross-Reference**

<u>Phase</u>	<u>Current Project No.</u>	<u>Original Project No.</u>	<u>Title</u>	<u>Original Estimate</u>	<u>Updated Bid Estimate</u>
1	1	27-2	Frying Pan to Double O - Weather Vane	\$ 41,500	
1	2	27-2	Frying Pan to Double O - T Anchor	41,500	
1	3	28	Double O from T Anchor	313,600	
1	4	27-1	<u>Frying Pan N/S T Anchor</u>	<u>248,000</u>	
Phase One Sub Total				\$644,600	\$484,985

**FISCAL IMPACT**

See Reports

# ATTACHMENTS

1. Attached is the initial Project Schedule by Phase for the Pipeline Projects. Staff and Dynamic are looking at the various pipeline projects one more time to fine tune Phases 2 and 3 and make a Final Recommendation at the December Board Meeting. Even with fine tuning of the Projects listed in Phase 2 and 3, Staff and Dynamic expect to finish the projects well within the 3 year spend requirement.
2. Dudek has also prepared some graphics and a schedule for Replacement Well #1 and updated estimates for Well #2.

## Example of Project Scheduling Reports

Borrego Water District Capital Improvements Project (CIP) Projected Schedule

Legend	
Design Phase	
Bid Advertising and Contracts	
Construction Phase	

Phase	Pipeline No	Project Name	Yr 2018			Yr 2019			Yr 2020			Yr 2021			Yr 2022																																							
			September	October	November	December	January	February	March	April	May	June	July	August	September																																							
1	1	Weather Vane	7	14	21	28	5	12	19	26	2	9	16	23	30	7	14	21	28	4	11	18	25	1	8	15	22	29	5	12	19	26	3	10	17	24	31	7	14	21	28	5	12	19	26	2	9	16	23	30	6	13	20	27
1	2	T Anchor Dr																																																				
1	3	Double O Rd																																																				
1	4	Frying Pan																																																				
2	5	Double O to Di Giorno																																																				
2	6	Tilting T and Country Club																																																				
2	7	De Anza Rd																																																				
3	8	Yaqui Pass																																																				
3	9	Country Club and Slash																																																				
3	10	Borrego Springs and Weather Vane																																																				
3	11	Borrego Springs and Tilting T																																																				
3	12	Tilting T to Di Giorno																																																				

## BWD MONTHLY PROJECT SUMMARY

**PROJECT#** CIP Phase 1

**PROJECT DESCRIPTION:**

Pipelines 1, 2, 3 and 4. Installation of 7,500 LF of 6 inch Water Lines along Weather Vane, T Anchor Drive Double O Rd and Frying Pan Rd.

**PROJECT MILESTONE TRACKING:**

<b>ENGINEERING</b>	100% Complete (11/2/2018)
<b>RFP A/R</b>	Advertise 11/5/18 - Bids Due 12/4/18
<b>SCHEDULING</b>	Pre-Const. Meeting 1/8/19
<b>CONSTRUCTION</b>	1/21/19 - 3/22/19
<b>FINAL INSPECTION</b>	3/22/19
<b>IN SERVICE</b>	3/25/19
	0%   20%   40%   60%   80%   100%

**COMMENTS: delays, budget, etc.**

Project Construction to be Completed within 60 Calendar Days.

**TARGET MILESTONE DATES:**

ENGINEERING: 11/2/2018  
 CONTRACT REVIEW: 12/11/18  
 PROJECT START: 1/21/19  
 COMPLETION: 3/22/19  
 FINAL INSPECTION: 3/22/19  
 FINAL CAD UPDATE: 3/29/19  
 IN SERVICE: 3/25/19

**PROJECT BUDGET REPORT:**

ENGINEERING: \_\_\_\_\_  
 BWD HOURS: \_\_\_\_\_  
 OUTSIDE SERVICES: \_\_\_\_\_  
 TESTING: \_\_\_\_\_

**BWD IN HOUSE / OUTSIDE SERVICE**

**FINANCE AMOUNTS:**

BOND: \$ \_\_\_\_\_  
 GRANT: \$ \_\_\_\_\_  
 OTHER: \$ \_\_\_\_\_

**NEW USEFUL LIFE**  
 ESTIMATE \_\_\_\_\_ YEARS

## PROJECT OVERVIEW

Date \_\_\_\_\_

<u>ENGINEERING</u>	<u>RFP A/R</u>	<u>SCHEDULING</u>	<u>CONSTRUCTION</u>	<u>FINAL INSPECTION</u>	<u>IN SERVICE</u>	<u>PROJECT NUMBER</u>	<u>COMMENTS:</u>
						PROJECT #7	
						PROJECT #16	
						PROJECT #27	
						PROJECT #30 P1	
						PROJECT #8 P1	
						PROJECT #10	
						PROJECT #15	
						PROJECT #27	
						PROJECT #30 P12	
						PROJECT #8 P2	
						PROJECT #23 P1	
						PROJECT #24 P2	
						PROJECT #28	
						PROJECT #29	
						PROJECT #29	
						PROJECT #31	

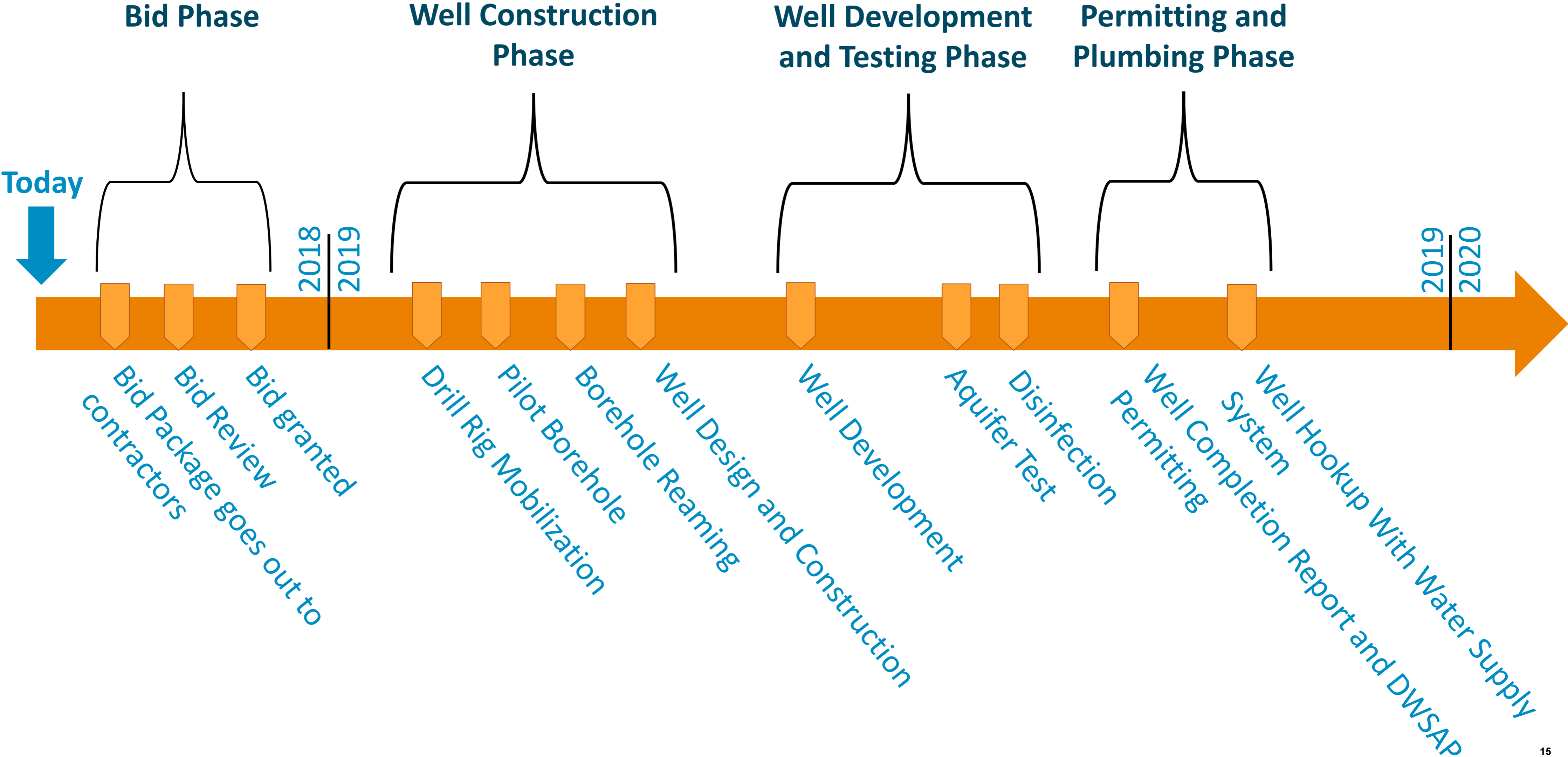
# New Extraction Well At Well # ID4-4 Location

## Project Timeline

Borrego Water District

**DUDEK**

# New Extraction Well At Well # ID4-4 Location: Project Timeline







Borrego Water District New Well Drilling Projected Schedule - Second Extraction Well

1	Site Acquisition
2	Bid Phase
3	Well Construction Phase
4	Well Development and Testing Phase
5	Permitting and Plumbing Phase

Phase	Phase No	Project Name	Yr 2018			Yr 2019				Yr 2020			Yr 2021			Yr 2022			Yr 2023			Yr 2024		
			September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	January	February	March	April	May	June
Site Acquisition	1.1	Well Locating																						
Site Acquisition	1.2	Land Acquisition																						
Bid Phase	2.1	Bid Package Available																						
Bid Phase	2.2	Bid review																						
Bid Phase	2.3	Bid granted and Notice to Proceed																						
Well Construction Phase	3.1	Drill Rig Mobilization																						
Well Construction Phase	3.2	Pilot Borehole																						
Well Construction Phase	3.3	Well Design and Casing and Filter Pack Delivery																						
Well Construction Phase	3.4	Borehole Reaming and Construction																						
Well Development and Testing Phase	4.1	Well Development																						
Well Development and Testing Phase	4.2	Aquifer Test																						
Well Development and Testing Phase	4.3	Disinfection																						
Permitting and Plumbing Phase	5.1	Well Completion Report and DWSAP Permitting																						
Permitting and Plumbing Phase	5.2	Well Hookup with Water Supply System																						

**BORREGO WATER DISTRICT**  
**BOARD OF DIRECTORS MEETING – NOVEMBER 13, 2018**  
**AGENDA BILL II.A.2**

November 7, 2018

**TO:** Board of Directors, Borrego Water District  
**FROM:** Geoff Poole, GM  
**SUBJECT:** Bid Package for BWD Well Replacement #1 ID 4-4 – T Driscoll

**RECOMMENDED ACTION:**

Authorize Staff to advertise drilling of BWD Replacement Well #1.

**ITEM EXPLANATION:**

As part of the BWD CIP program, ID 4-4 well has been selected at Replacement Well #1. Dudek has been selected as the project Construction Manager and worked with staff and BBK on the proposed Bid Package, attached.

**FISCAL IMPACT**

The budget for Replacement Well #1 is \$1,500,000.

**ATTACHMENTS**

1. DRAFT Bid Package for Replacement Well #1

# **BORREGO WATER DISTRICT**



**CONTRACT DOCUMENTS AND SPECIFICATIONS FOR**

## **NEW EXTRACTION WELL AT WELL #ID4-4 LOCATION DRILLING AND CONSTRUCTION**

**(BWD Capital Improvements Projects)**

**November 2018**

**Borrego Water District  
806 Palm Canyon Drive  
Borrego Springs, California 92004**

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## 00 11 16 – NOTICE INVITING BIDS

NOTICE IS HEREBY GIVEN that the Borrego Water District (“DISTRICT”) invites and will receive sealed Bids up to but not later than **2:00 p.m. on Tuesday, December 4, 2018** at 806 Palm Canyon Drive, Borrego Springs, California 92004, for the furnishing to DISTRICT of all labor, equipment, materials, tools, services, transportation, permits, utilities, and all other items necessary for the **Installation of New Extraction Well at the Well ID4-4 Location** (the “Project”). At said time, Bids will be publicly opened and read aloud at the DISTRICT Office. Bids received after said time shall be returned unopened. Bids shall be valid for a period of 60 calendar days after the Bid opening date.

**The work shall include the drilling, constructing, developing, pump testing, and disinfecting of one extraction well. The extraction well is to be drilled into the unconsolidated deposits of the Borrego Springs Groundwater Subbasin (Subbasin) to a depth of approximately 1,000 feet using direct or reverse circulation mud-rotary drilling.**

Bids must be submitted on the DISTRICT’s Bid Forms. Bidders may obtain a copy of the Contract Documents from the DISTRICT at: 806 Palm Canyon Dr, Borrego Springs CA or Geoff@BorregoWD.org or 760-767-5806 for \$30 (Thirty Dollars)\*\*]. A non-refundable charge \$50 (Fifty) will be required of any bidder who requests that the Contract Documents be mailed within California (costs for out-of-state mailings will be higher). To the extent required by section 20103.7 of the Public Contract Code, upon request from a contractor plan room service, the DISTRICT shall provide an electronic copy of the Contract Documents at no charge to the

Bids must be submitted on the DISTRICT’s Bid Forms. Bidders may obtain a copy of the Contract Documents from the Borrego Water District Website (BorregoWD.org) on the BULLETIN BOARD located on the Home Page. To the extent required by section 20103.7 of the Public Contract Code, upon request from a contractor plan room service, the DISTRICT shall provide an electronic copy of the Contract Documents at no charge to the contractor plan room.

It is the responsibility of each prospective bidder to download and print all Bid Documents for review and to verify the completeness of Bid Documents before submitting a bid. Any Addenda will be posted on BorregoWD.org. It is the responsibility of each prospective bidder to check BorregoWD.org on a daily basis through the close of bids for any applicable addenda or updates. The DISTRICT does not assume any liability or responsibility based on any defective or incomplete copying, excerpting, scanning, faxing, downloading or printing of the Bid Documents. Information on BorregoWD.org may change without notice to prospective bidders. The Contract Documents shall supersede any information posted or transmitted by BorregoWD.org

Each Bid shall be accompanied by cash, a certified or cashier’s check, or Bid Bond secured from a surety company satisfactory to the General Manager, the amount of which shall not be less than ten percent (10%) of the submitted Total Bid Price, made payable to Borrego Water District as bid security. The bid security shall be provided as a guarantee that within five (5) working days after the DISTRICT provides the successful bidder the Notice of Award, the successful Bidder will enter into a contract and provide the necessary bonds and certificates of insurance. The bid security will be declared forfeited if the successful Bidder fails to comply within said time. No interest will be paid on funds deposited with DISTRICT.

A Mandatory Pre-Bid Conference is scheduled for November 28<sup>th</sup> at 1:30 PM to review the Project’s existing conditions at BWD Office (806 Palm Canyon Dr.). Representatives of the DISTRICT and consulting engineers, if any, will be present or participate via webinar. Questions



asked by Bidders at the Pre-Bid Conference not specifically addressed within the Contract Documents shall be answered in writing, and shall be sent to all Bidders present at the Pre-Bid Conference. Bids will not be accepted from any bidder who did not attend the mandatory Pre-Bid Conference.

The successful Bidder will be required to furnish a Faithful Performance Bond and a Labor and Material Payment Bond each in an amount equal to one hundred percent (100%) of the Contract Price. Each bond shall be in the forms set forth herein, shall be secured from a surety company that meets all State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120, and that is a California admitted surety insurer.

Pursuant to Section 22300 of the Public Contract Code of the State of California, the successful Bidder may substitute certain securities for funds withheld by DISTRICT to ensure its performance under the contract.

Pursuant to Labor Code Section 1773, DISTRICT has obtained the prevailing rate of per diem wages and the prevailing wage rate for holiday and overtime work applicable in San Diego County from the Director of the Department of Industrial Relations for each craft, classification, or type of worker needed to execute this contract. A copy of these prevailing wage rates may be obtained via the internet at: [www.dir.ca.gov/dlsr/](http://www.dir.ca.gov/dlsr/)

In addition, a copy of the prevailing rate of per diem wages is available at the DISTRICT's office and shall be made available to interested parties upon request. The successful bidder shall post a copy of the prevailing wage rates at each job site. It shall be mandatory upon the Bidder to whom the Contract is awarded, and upon any subcontractors, to comply with all Labor Code provisions, which include but are not limited to the payment of not less than the said specified prevailing wage rates to all workers employed by them in the execution of the Contract, employment of apprentices, hours of labor and debarment of contractors and subcontractors.

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No Bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a contract, the Bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. In bidding on this Project, it shall be the Bidder's sole responsibility to evaluate and include the cost of complying with all labor compliance requirements under this contract and applicable law in its Bid.

Unless otherwise provided in the Instructions for Bidders, each Bidder shall be a licensed contractor pursuant to sections 7000 et seq. of the Business and Professions Code in the following classification(s) throughout the time it submits its Bid and for the duration of the contract:

**Class A (General).**

Substitution requests shall be made within 35 calendar days after the award of the contract. Pursuant to Public Contract Code Section 3400(b), the DISTRICT may make findings designating that certain additional materials, methods or services by specific brand or trade name other than those listed in the Standard Specifications be used for the Project. Such findings, if any, as well as the materials, methods or services and their specific brand or trade names that must be used for the Project may be found in the Special Conditions.

DISTRICT shall award the contract for the Project to the lowest responsive, responsible Bidder as determined by the DISTRICT from the **BASE BID ALONE**. DISTRICT reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding process.

For further information, contact Geoff Poole, General Manager at [Geoff@BorregoWD.Org](mailto:Geoff@BorregoWD.Org) or 760-767-5806.

**END OF NOTICE INVITING BIDS**

## **00 21 13 – INSTRUCTIONS TO BIDDERS**

### **ARTICLE 1. SECURING DOCUMENTS**

Bids must be submitted to the DISTRICT on the Bid Forms which are a part of the Bid Package for the Project. Bid and Contract Documents may be obtained from the DISTRICT at the location(s) and at the time(s) indicated in the Notice Inviting Bids. Prospective bidders are encouraged to telephone in advance to determine the availability of Contract Documents. Any charge for the Contract Documents is stated in the Notice Inviting Bids.

The DISTRICT may also make the Contract Documents available for review at one or more plan rooms, as indicated in the Notice Inviting Bids. Please Note: Prospective Bidders who choose to review the Contract Documents at a plan room must contact the DISTRICT to obtain the required Contract Documents if they decide to submit a bid for the Project.

Addenda, if any, issued during the bid period will be sent only to those contractors who have obtained documents from the DISTRICT.” Failure to acknowledge addenda may make a bid nonresponsive and not eligible for award of the contract.

### **ARTICLE 2. EXAMINATION OF SITE AND CONTRACT DOCUMENTS**

At its own expense and prior to submitting its Bid, each Bidder shall visit the site of the proposed work and fully acquaint itself with the conditions relating to the construction and labor required so that the Bidder may fully understand the work, including but not limited to difficulties and restrictions attending the execution of the work under the contract. Each Bidder shall carefully examine the Drawings, and shall read the Specifications, Contract, and all other documents referenced herein. Each Bidder shall also determine the local conditions which may in any way affect the performance of the work, including local tax structure, contractors’ licensing requirements, availability of required insurance, the prevailing wages and other relevant cost factors, shall familiarize itself with all federal, state and local laws, ordinances, rules, regulations and codes affecting the performance of the work, including the cost of permits and licenses required for the work, and shall make such surveys and investigations, including investigations of subsurface or latent physical conditions at the site or where work is to be performed as may be required. Bidders are responsible for consulting the standards referenced in the Contract. The failure or omission of any Bidder to receive or examine any contract documents, forms, instruments, addenda, or other documents, or to visit the site and acquaint itself with conditions there existing shall in no way relieve any Bidder from any obligation with respect to its Bid or to the contract and no relief for error or omission will be given except as required under State law. The submission of a Bid shall be taken as conclusive evidence of compliance with this Article.

### **ARTICLE 3. INTERPRETATION OF DRAWINGS AND DOCUMENTS**

Prospective Bidders unclear as to the true meaning of any part of the Drawings, Specifications or other proposed contract documents may submit to the Engineer of the DISTRICT a written request for interpretation. The prospective Bidder submitting the request is responsible for prompt delivery. Interpretation of the Drawings, Specifications or other proposed contract documents will be made only by a written addendum duly issued and a copy of such addenda will be mailed or delivered to each prospective Bidder who has purchased a set of Drawings and Specifications. The DISTRICT will not be responsible for any other explanation or interpretations of the proposed documents. If a Prospective Bidders becomes aware of any errors or omissions in any part of the Contract Documents, it is the obligation of the Prospective Bidder to promptly bring it to the

attention of the DISTRICT.

#### **ARTICLE 4. PRE-BID CONFERENCE**

A MANDATORY Pre-Bid Conference is scheduled for November 28, 2018 at 1:30 PM at 806 Palm Canyon Dr, Borrego Springs CA to review the Project's existing conditions. Representatives of the DISTRICT and consulting engineers, if any, will be present. Questions asked by Bidders at the Pre-Bid Conference not specifically addressed within the Contract Documents shall be answered in writing, and shall be sent to all Bidders present at the Pre-Bid Conference. Bids will not be accepted from any bidder who did not attend the mandatory Pre-Bid Conference.

#### **ARTICLE 5. ADDENDA**

The DISTRICT reserves the right to revise the Contract Documents prior to the Bid opening date. Revisions, if any, shall be made by written Addenda. All Addenda issued by the DISTRICT shall be included in the Bid and made part of the Contract Documents. Pursuant to Public Contract Code Section 4104.5, if the DISTRICT issues an Addendum which includes material changes to the Project less than 72 hours prior to the deadline for submission of Bids, the DISTRICT will extend the deadline for submission of Bids. The DISTRICT may determine, in its sole discretion, whether an Addendum warrants postponement of the Bid submission date. Each prospective Bidder shall provide DISTRICT a name, address, email address, and facsimile number to which Addenda may be sent, as well as a telephone number by which the DISTRICT can contact the Bidder. Copies of Addenda will be furnished by email, facsimile, first class mail, express mail or other proper means of delivery without charge to all parties who have obtained a copy of the Contract Documents and provided such current information. Please Note: Bidders are responsible for ensuring that they have received any and all Addenda. To this end, each Bidder should contact Geoff Poole to verify that it has received all Addenda issued, if any, prior to the Bid opening. The Bidder shall indicate the Addenda received prior to bidding in the space provided in the Bid Form. Failure to indicate all Addenda may be sufficient cause for rejecting the Bid.

#### **ARTICLE 6. ALTERNATE BIDS**

If alternate bid items are called for in the Contract Documents, the time required for completion of the alternate bid items has already been factored into the Contract duration and no additional Contract time will be awarded for any of the alternate bid items. The DISTRICT may elect to include one or more of the alternate bid items, or to otherwise remove certain work from the Project scope of work. Accordingly, each bidder must ensure that each bid item contains a proportionate share of profit, overhead, and other costs or expenses which will be incurred by the bidder.

#### **ARTICLE 7. COMPLETION OF BID FORMS**

Bids shall only be prepared using copies of the Bid Forms which are included in the Contract Documents. The use of substitute Bid Forms other than clear and correct photocopies of those provided by the DISTRICT will not be permitted. Bids shall be executed by an authorized signatory as described in these Instructions to Bidders. In addition, Bidders shall fill in all blank spaces (including inserting "N/A" where applicable), and initial all interlineations, alterations, or erasures to the Bid Forms. Bidders shall neither delete, modify, nor supplement the printed matter on the Bid Forms nor make substitutions thereon. USE OF BLACK OR BLUE INK, INDELIBLE

PENCIL, OR A TYPEWRITER IS REQUIRED. Deviations in the Bid Forms may result in the Bid being deemed non-responsive.

#### **ARTICLE 8. MODIFICATIONS OF BIDS**

Each Bidder shall submit its Bid in strict conformity with the requirements of the Contract Documents. Unauthorized additions, modifications, revisions, conditions, limitations, exclusions or provisions attached to a Bid may render it non-responsive and may cause its rejection. Bidders shall not delete, modify, or supplement the printed matter on the Bid Forms, or make substitutions thereon. Oral, telephonic and electronic modifications will not be considered.

#### **ARTICLE 9. SUBCONTRACTORS**

Bidder shall set forth the name, address of the place of business, and contractor license number of each subcontractor who will perform work, labor, furnish materials or render services to the bidder on said contract and each subcontractor licensed by the State of California who, under subcontract to bidder, specially fabricates and installs a portion of the Work described in the Drawings and Specifications in an amount in excess of one half of one percent (0.5%) of the total bid price, and shall indicate the portion of the work to be done by such subcontractor in accordance with Public Contract Code Section 4104.

#### **ARTICLE 10. LICENSING REQUIREMENTS**

Pursuant to Business and Professions Code Section 7028.15 and Public Contract Code Section 3300, all bidders must possess proper licenses for performance of this Contract. Subcontractors must possess the appropriate licenses for each specialty subcontracted. Pursuant to Business and Professions Code Section 7028.5, the DISTRICT shall consider any bid submitted by a contractor not currently licensed in accordance with state law and pursuant to the requirements found in the Contract Documents to be nonresponsive, and the DISTRICT shall reject the Bid. The DISTRICT shall have the right to request, and Bidders shall provide within ten (10) calendar days, evidence satisfactory to the DISTRICT of all valid license(s) currently held by that Bidder and each of the Bidder's subcontractors, before awarding the Contract.

Notwithstanding anything contained herein, if the Work involves federal funds, the Contractor shall be properly licensed by the time the Contract is awarded, pursuant to the provisions of Public Contract Code section 20103.5.

#### **ARTICLE 11. BID GUARANTEE (BOND)**

Each bid shall be accompanied by: (a) cash; (b) a certified or cashier's check made payable to Borrego Water District; or (c) a Bid Bond secured from a surety company satisfactory to the General Manager, the amount of which shall not be less than ten percent (10%) of the Total Bid Price, made payable to Borrego Water District as bid security. Personal sureties and unregistered surety companies are unacceptable. The surety insurer shall be California admitted surety insurer, as defined in Code of Civil Procedure Section 995.120. The bid security shall be provided as a guarantee that within ten (10) working days after the DISTRICT provides the successful bidder the Notice of Award, the successful bidder will enter into a contract and provide the necessary bonds and certificates of insurance. The bid security will be declared forfeited if the successful bidder fails to comply within said time, and DISTRICT may enter into a contract with the next lowest responsive responsible bidder, or may call for new bids. No interest shall be paid

on funds deposited with the DISTRICT. DISTRICT will return the security accompanying the bids of all unsuccessful bidders no later than 60 calendar days after award of the contract.

#### **ARTICLE 12. IRAN CONTRACTING ACT OF 2010**

In accordance with Public Contract Code Section 2200 *et seq.*, the DISTRICT requires that any person that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the DISTRICT with respect to goods or services of one million dollars (\$1,000,000) or more, certify at the time the bid is submitted or the contract is renewed, that the person is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

The form of such Iran Contracting Certificate is included with the bid package and must be signed and dated under penalty of perjury.

#### **ARTICLE 13. NONCOLLUSION DECLARATION**

Bidders on all public works contracts are required to submit a declaration of noncollusion with their bid. This form is included with the bid package and must be signed and dated under penalty of perjury.

#### **ARTICLE 14. PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION**

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a contract, the bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project. To this end, Bidder shall sign and submit with its Bid the Public Works Contractor Registration Certification on the form provided, attesting to the facts contained therein. Failure to submit this form may render the bid non-responsive. In addition, each Bidder shall provide the registration number for each listed subcontractor in the space provided in the Designation of Subcontractors form.

#### **ARTICLE 15. BIDDER INFORMATION AND EXPERIENCE FORM**

Each Bidder shall complete the questionnaire provided herein and shall submit the questionnaire along with its Bid. Failure to provide all information requested within the questionnaire along with the Bid may cause the bid to be rejected as non-responsive. The DISTRICT reserves the right to reject any Bid if an investigation of the information submitted does not satisfy the Engineer that the Bidder is qualified to properly carry out the terms of the contract.

#### **ARTICLE 16. WORKERS' COMPENSATION CERTIFICATION**

In accordance with the provisions of Labor Code Section 3700, Contractor shall secure the payment of compensation to its employees. Contractor shall sign and file with the DISTRICT the following certificate prior to performing the work under this Contract:

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

The form of such Workers' Compensation Certificate is included as part of this document.

#### **ARTICLE 17. SIGNING OF BIDS**

All Bids submitted shall be executed by the Bidder or its authorized representative. Bidders may be asked to provide evidence in the form of an authenticated resolution of its Board of Directors or a Power of Attorney evidencing the capacity of the person signing the Bid to bind the Bidder to each Bid and to any Contract arising therefrom.

If a Bidder is a joint venture or partnership, it may be asked to submit an authenticated Power of Attorney executed by each joint venturer or partner appointing and designating one of the joint venturers or partners as a management sponsor to execute the Bid on behalf of Bidder. Only that joint venturer or partner shall execute the Bid. The Power of Attorney shall also: (1) authorize that particular joint venturer or partner to act for and bind Bidder in all matters relating to the Bid; and (2) provide that each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of Bidder assumed under the Bid and under any Contract arising therefrom. The Bid shall be executed by the designated joint venturer or partner on behalf of the joint venture or partnership in its legal name.

#### **ARTICLE 18. SUBMISSION OF SEALED BIDS**

Once the Bid and supporting documents have been completed and signed as set forth herein, they shall be placed, along with the Bid Guarantee and other required materials, in a sealed envelope, addressed and delivered or mailed, postage prepaid, to the Engineering Department of the DISTRICT before the time and day set for the receipt of bids. The envelope shall bear the title of the work and the name of the bidder. No oral or telephonic bids will be considered. No forms transmitted via the internet, e-mail, facsimile, or any other electronic means will be considered unless specifically authorized by the DISTRICT as provided herein. Bids received after the time and day set for the receipt of bids shall be returned to the bidder unopened. The envelope shall also contain the following in the lower left-hand corner thereof:

**Bid of \_\_\_\_\_ (Bidder's Name)  
for the Installation of New Extraction Well at the Well ID4-4 Location**

Only where expressly permitted in the Notice Inviting Bids may bidders submit their bids via electronic transmission pursuant to Public Contract Code sections 1600 and 1601. Any acceptable method(s) of electronic transmission shall be stated in the Notice Inviting Bids. DISTRICT may reject any bid not strictly complying with DISTRICT's designated methods for delivery.

#### **ARTICLE 19. OPENING OF BIDS**

At the time and place set for the opening and reading of bids, or any time thereafter, each and every bid received prior to the time and day set for the receipt of bids will be publicly opened and read. The DISTRICT will leave unopened any Bid received after the specified date and time, and any such unopened Bid will be returned to the bidder. It is the bidder's sole responsibility to

ensure that its Bid is received as specified. Bids may be submitted earlier than the date(s) and time(s) indicated.

The public reading of each bid will include the following information:

- A. The name and business location of the bidder.
- B. The nature and amount of the bid security furnished by bidder.
- C. The bid amount.

Bidders or their representatives and other interested persons may be present at the opening of the bids. The DISTRICT may, in its sole discretion, elect to postpone the opening of the submitted Bids. The DISTRICT reserves the right to reject any or all Bids and to waive any informality or irregularity in any Bid.

#### **ARTICLE 20. WITHDRAWAL OF BID**

Any bid may be withdrawn either personally or by written request, incurring no penalty, at any time prior to the scheduled closing time for receipt of bids. Requests to withdraw bids shall be worded so as not to reveal the amount of the original bid. Withdrawn bids may be resubmitted until the time and day set for the receipt of bids, provided that resubmitted bids are in conformance with the instructions herein.

Bids may be withdrawn after bid opening only by providing written notice to DISTRICT within five (5) working days of the bid opening and in compliance with Public Contract Code Section 5100 *et seq.*, or as otherwise may be allowed with the consent of the DISTRICT.

#### **ARTICLE 21. BIDDERS INTERESTED IN MORE THAN ONE BID**

No Bidder shall be allowed to make, file or be interested in more than one bid for the same work unless alternate bids are specifically called for. A person, firm or corporation that has submitted a sub-proposal to a Bidder, or that has quoted prices of materials to a Bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders. No person, firm, corporation, or other entity may submit a sub-proposal to a Bidder, or quote prices of materials to a Bidder, when also submitting a prime Bid on the same Project.

#### **ARTICLE 22. SUBSTITUTION OF SECURITY**

The Contract Documents call for monthly progress payments based upon the percentage of the Work completed. The DISTRICT will retain a percentage of each progress payment as provided by the Contract Documents. At the request and expense of the successful Bidder, the DISTRICT will substitute securities for the amount so retained in accordance with Public Contract Code Section 22300.

#### **ARTICLE 23. PREVAILING WAGES**

The DISTRICT has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages in the locality in which this work is to be performed for each craft or type of worker needed to execute the Contract. These rates are available at the



DISTRICT or may be obtained online at <http://www.dir.ca.gov>. Bidders are advised that a copy of these rates must be posted by the successful Bidder at the job site(s).

#### **ARTICLE 24. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS**

In accordance with the provisions of the Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code Sections 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to the DISTRICT. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

#### **ARTICLE 25. INSURANCE REQUIREMENTS**

Prior to commencing work, the successful bidder shall purchase and maintain insurance as set forth in the General Conditions.

#### **ARTICLE 26. PERFORMANCE BOND AND PAYMENT BOND REQUIREMENTS**

The successful bidder will be required to furnish a Labor and Material Payment Bond and a Faithful Performance Bond each in an amount equal to one hundred percent (100%) of the contract price. Each bond shall be secured from a surety company that meets all State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120 and is admitted by the State of California. Each bond shall be accompanied, upon the request of DISTRICT, with all documents required by California Code of Civil Procedure Section 995.660 to the extent required by law. All bonding and insurance requirements shall be completed and submitted to DISTRICT within ten (10) working days from the date the DISTRICT provides the successful bidder with the Notice of Award.

#### **ARTICLE 27. SALES AND OTHER APPLICABLE TAXES, PERMITS, LICENSES AND FEES**

Contractor and its subcontractors performing work under this Contract will be required to pay California sales tax and other applicable taxes, and to pay for permits, licenses and fees required by the agencies with authority in the jurisdiction in which the Work will be located, unless otherwise expressly provided by the Contract Documents.

#### **ARTICLE 28. PERMIT AND INSPECTION FEE ALLOWANCE**

Notwithstanding anything contained herein, the Bid Form contains an allowance for the Contractor's cost of acquiring traffic control permits and for construction inspection fees that may be charged to the Contractor by the Agency of Jurisdiction. The allowance is included within the Bid Form to eliminate the need by bidders to research or estimate the costs of traffic control permits and construction inspection fees prior to submitting a bid. The allowance is specifically intended to account for the costs of traffic control permits and construction inspection fees charged by the local Agency of Jurisdiction only. No other costs payable by Contractor to the Agency of Jurisdiction are included within the allowance.

## **ARTICLE 29. FILING OF BID PROTESTS**

Bidders may file a “protest” of a Bid with the DISTRICT’s General Manager. In order for a Bidder’s protest to be considered valid, the protest must:

- A. Be filed in writing within five (5) calendar days after the bid opening date;
- B. Clearly identify the specific irregularity or accusation;
- C. Clearly identify the specific DISTRICT staff determination or recommendation being protested;
- D. Specify in detail the grounds for protest and the facts supporting the protest; and
- E. Include all relevant, supporting documentation with the protest at time of filing.

If the protest does not comply with each of these requirements, the DISTRICT may reject the protest without further review.

If the protest is timely and complies with the above requirements, the DISTRICT’s General Manager, or other designated DISTRICT staff member, shall review the protest, any response from the challenged Bidder(s), and all other relevant information. The General Manager will provide a written decision to the protestor.

The procedure and time limits set forth in this Article are mandatory and are the sole and exclusive remedy in the event of a Bid protest. Failure to comply with these procedures shall constitute a failure to exhaust administrative remedies and a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings.

## **ARTICLE 30. BASIS OF AWARD; BALANCED BID**

The DISTRICT shall award the Contract to the lowest responsible Bidder submitting a responsive Bid. The lowest Bid will be determined on the basis of the Total Bid Price. **AWARD WILL BE ON THE BASIS OF THE TOTAL BASE BID ALONE, NOT INCLUDING ALTERNATIVE BID ITEMS.**

The DISTRICT may reject any Bid which, in its opinion when compared to other Bids received or to the DISTRICT’s internal estimates, does not accurately reflect the cost to perform the Work. The DISTRICT may reject as non-responsive any Bid which unevenly weights or allocates costs, including but not limited to overhead and profit to one or more particular bid items.

## **ARTICLE 31. AWARD PROCESS**

Once all Bids are opened and reviewed to determine the lowest responsive and responsible Bidder, the DISTRICT may award the contract. The apparent successful Bidder should begin to prepare the following documents: (1) the Performance Bond; (2) the Payment Bond; and (3) the required insurance certificates and endorsements. Once the DISTRICT notifies the Bidder of the award, the Bidder will have ten (10) working days from the date of this notification to execute the Contract and supply the DISTRICT with all of the required documents and certifications. Once the DISTRICT receives all of the properly drafted and executed documents and certifications from the Bidder, the DISTRICT shall issue a Notice to Proceed to that Bidder. The Contractor shall begin work within ten (10) days after receiving the Notice to Proceed.

## **ARTICLE 32. EXECUTION OF CONTRACT**

As required herein the Bidder to whom an award is made shall execute the Contract in the amount determined by the Contract Documents. The DISTRICT may require appropriate evidence that the persons executing the Contract are duly empowered to do so. The Contract and bond forms to be executed by the successful Bidder are included within these Specifications and shall not be detached.

## **ARTICLE 33. QUESTIONS**

Questions regarding this Notice Inviting Bids may be directed to the General Manager at 760-767-5806 or email at Geoff@BorregoWD.Org. No other members of the DISTRICT's staff or Board of Directors should be contacted about this procurement during the bidding process. Any and all inquiries and comments regarding this Bid must be communicated in writing, unless otherwise instructed by the DISTRICT. The DISTRICT may, in its sole discretion, disqualify any Bidder who engages in any prohibited communications.

**00 41 43 – BID FORMS**

1.1 Bid.

Bids will be received at the Office of the Borrego Water District, located at 806 Palm Canyon Drive, Borrego Springs, California 92004 until **2:00 p.m. on Tuesday, December 4, 2018.**

**NAME OF BIDDER:** \_\_\_\_\_

To the General Manager  
of the Borrego Water District  
806 Palm Canyon Drive  
Borrego Springs, California 92004

The undersigned hereby declare that we have carefully examined the location of the proposed Work, and have read and examined the Contract Documents, including all plans, specifications, and all addenda, if any for the following Project:

**New Extraction Well at the Well ID4-4 Location**

We hereby propose to furnish all labor, materials, equipment, tools, transportation, and services, and to discharge all duties and obligations necessary and required to perform and complete the Project, as described and in strict conformity with the Drawings, and these Specifications for TOTAL BID PRICE indicated herein.

The undersigned acknowledges receipt, understanding, and full consideration of the following addenda to the Contract Documents:

Addenda No. \_\_\_\_\_

1. Attached is the required Bid Guarantee in the amount of not less than 10% of the Total Bid Price.
2. Attached is the completed Designation of Subcontractors form.
3. Attached is the fully executed Noncollusion Declaration form.
4. Attached is the completed Iran Contracting Act Certification form.
5. Attached is the completed Public Works Contractor Registration Certification form.
6. Attached is the completed Contractor's Certificate Regarding Workers' Compensation form.
7. Attached is the completed Bidder Information and Experience form.

**A. BID SCHEDULE**

ITEM	QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
1	1	LS	Mobilization, demobilization, and site preparation including water pollution control compliance and site BMPs.	\$	\$
2	50	LF	Drill a 40-inch diameter conductor borehole, set 30-inch conductor casing, and sanitary seal to minimum 50 feet.	\$	\$
3	1,000	LF	Drill a 17.5-inch diameter test borehole.	\$	\$
4	1	LS	Run geophysical logs, including guard log.	\$	\$
5	3	LS	Perform zone testing (optional).	\$	\$
6	1,000	LF	Ream borehole to 26-inch diameter.	\$	\$
7	1	LS	Perform caliper survey.	\$	\$
8	500	LF	Furnish and install 16-inch diameter mild steel blank well casing and 3-inch gravel feed tube.	\$	\$
9	1	LS	Furnish and install a dielectric coupler (mechanical connector) between the mild steel and stainless steel casing.	\$	\$
10	500	LF	Furnish and install 16-inch diameter 304L stainless steel louver well screen with 0.060 slot and end cap at bottom of screen for sump.	\$	\$
11	700	LF	Furnish and install filter pack.	\$	\$
12	300	LF	Furnish and install cement annular seal.	\$	\$
13	24	HR	Develop well with air-lift swab and drill rig.	\$	\$
14	24	HR	Develop well with line swab and pump rig.	\$	\$
15	12	HR	Develop well with test pump.	\$	\$

16	60	HR	Pumping Test (12-hour step test and 48-hour constant rate test).	\$	\$
17	1	LS	Video survey, spinner survey and deviation test.	\$	\$
18	1	LS	Well Disinfection.	\$	\$
19	1	HR	Standby time rate.	\$	\$

The costs for any Work shown or required in the Contract Documents, but not specifically identified as a line item are to be included in the related line items and no additional compensation shall be due to Contractor for the performance of the Work.

In case of discrepancy between the Unit Price and the Item Cost set forth for a unit basis item, the unit price shall prevail and shall be utilized as the basis for determining the lowest responsive, responsible Bidder. However, if the amount set forth as a unit price is ambiguous, unintelligible or uncertain for any cause, or is omitted, or is the same amount as the entry in the "Item Cost" column, then the amount set forth in the "Item Cost" column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the Unit Price.

For purposes of evaluating Bids, the DISTRICT will correct any apparent errors in the extension of unit prices and any apparent errors in the addition of lump sum and extended prices.

The estimated quantities for Unit Price items are for purposes of comparing Bids only and the DISTRICT makes no representation that the actual quantities of work performed will not vary from the estimates. Final payment shall be determined by the Engineer from measured quantities of work performed based upon the Unit Price.

### Description of Payment Items

Payment for work satisfactorily completed as specified in these Contract Documents shall be made according to the Proposal as agreed upon by the Owner and Contractor and as stated in the Agreement. The contract price for each item shall constitute full compensation for furnishing all labor, equipment, and supplies and for performing all operations for completion of the Work so specified in the Contract Documents or as directed by the District Representative. The following payment descriptions are applicable to and correlate with line items on the Cost Proposal form.

#### Cost Proposal Items – New Extraction Well

1. Mobilization, demobilization, and site preparation, including water pollution control compliance and site BMPs. Payment for this item shall include all materials, equipment, labor and transportation, necessary to perform the move-in, set-up for well drilling and construction of the well, tear-down and move-out of all well drilling and construction equipment, and installation and maintenance of water pollution control BMPs. Payment for this item shall also include all miscellaneous operations not included elsewhere for payment, such as, but not limited to, well disinfection, capping, and site clean-up. Payment shall be made at the lump sum price as stated

in Item A of Cost Proposal form. No hourly rate shall be applicable during the performance of these operations.

2. Drill 40-inch diameter conductor borehole, set 30-inch conductor casing, set 50-foot sanitary seal. Payment for this item shall include the cost of all labor, equipment, materials, and all other costs incurred in drilling 30-inch diameter borehole, installing a 30-inch diameter steel conductor casing and 50-foot sanitary seal consisting of cement. Measurement for payment, estimated to the nearest foot by the District Representative, shall be made for the vertical distance to the bottom of the conductor casing. Payment shall be at the unit price per linear foot as stated under Item B of Cost Proposal form.
3. Drill 17.5-inch diameter test borehole. Payment for this item shall include the cost of all labor, equipment, materials, and all other costs incurred in drilling a 17.5-inch maximum diameter pilot hole to a depth of 1,000 feet and securing all required drill cuttings and grain size analysis samples. Measurement for payment, estimated to the nearest foot by the District Representative, shall be made for the vertical distance from the bottom of the conductor casing to the total depth of the pilot hole. Payment shall be at the unit price per linear foot as stated under Item C of Cost Proposal form.
4. Run geophysical logs including guard log. Payment for this item shall include the cost of an electric log (i.e., SP, 16- and 64-inch resistivity, guard log, deviation survey, gamma), borehole conditioning, copies of the log, and time required for logging. A lump sum cost is stated in Item D of the Cost Proposal Form.
5. Perform zone testing (optional). Payment for this item shall include the cost of all labor, services, equipment, materials and all other costs incurred in zone testing of specific depth within the aquifer. Measurement of payment shall be made based on the number of zones tested and the unit price bid per zone as stated in Item E of the Cost Proposal Form.
6. Ream borehole to 26-inch diameter. Payment for this item shall include the cost of all labor, equipment, materials, and all other costs incurred in reaming borehole to 26-inch diameter. Measurement for payment, estimated to the nearest foot by the District Representative, shall be made for the vertical distance from the bottom of the conductor casing to the total depth of the reamed borehole. Payment shall be at the unit price per linear foot as stated under Item F of Cost Proposal form.
7. Perform caliper survey. Payment for the caliper survey will be based on the lump sum price of bid item G. Payment shall include full compensation for fluid circulation, removal of the drill string, operation of the drilling rig and other equipment, furnishing and operating caliper survey equipment as specified, and providing whatever assistance may be required to complete the caliper survey.
8. Furnish and install blank well casing, and gravel feed tube. Payment for this item shall include the cost of all labor, services, equipment, materials and all other costs incurred in furnishing and installing the 16-inch diameter mild steel blank well casing, 3-inch diameter gravel feed tube, fittings and accessories. Measurement of payment shall be made for the actual number of feet of screen installed, measured to the nearest foot by the District Representative. Payment shall be made at the unit price per linear foot of screen installed as stated in Item H of the Cost Proposal Form. No hourly rate shall be applicable during the performance of these operations.
9. Furnish and install dielectric coupler (mechanical connector). Payment for this item shall include the cost of all labor, and materials and all other costs incurred in

furnishing and installing a dielectric coupler between the mild steel and stainless steel casing. Measurement of payment shall be made for the actual number of couplers installed. Payment shall be made as stated in Item I of the Cost Proposal Form.

10. Furnish and install well screen. Payment for this item shall include the cost of all labor, services, equipment, materials and all other costs incurred in furnishing and installing the 16-inch diameter 304L stainless steel screened well casing with 0.060 slots, end cap at bottom, fittings and accessories. Measurement of payment shall be made for the actual number of feet of screen installed, measured to the nearest foot by the District Representative. Payment shall be made at the unit price per linear foot of screen installed as stated in Item I of the Cost Proposal Form. No hourly rate shall be applicable during the performance of these operations.
11. Furnish and install filter pack. Payment for this item shall include the cost of all labor, services, equipment, materials and all other costs incurred in furnishing and installing the filter (gravel) pack. Payment for the gravel pack will be based on measurement of the vertical feet of gravel installed in the annulus from the bottom of the borehole up and includes payment for any consolidation of the gravel pack which occurs during well development. Payment shall be made at the unit price per linear foot of screen installed as stated in Item J of the Cost Proposal Form. No hourly rate shall be applicable during the performance of these operations.
12. Furnish and install cement annular seal. Payment for this item shall include the cost of all labor, services, equipment, materials and all other costs incurred in furnishing and installing the cement annular well seal. Payment for the annular well seal will be based on measurement of the vertical feet of sealing material installed in the annulus. Payment shall be made at the unit price per linear foot as stated in Item L of the Cost Proposal Form. No hourly rate shall be applicable during the performance of these operations..
13. Develop well with air-lift swab and drill rig. Payment for this item shall include only the time that dual swab and air-lift development of the well is actually in operation, as directed by the District Representative. Payment for actual operational time, estimated to the nearest one-half hour, shall be made at the unit price per hour as stated in Item M of the Cost Proposal Form. No payment shall be made under this item for servicing of equipment; for delays due to breakdown or inadequacy of plant, equipment, personnel or materials; for time spent in setting up, installing or removing equipment; for work not in accordance with specifications or directions of the District Representative; nor for failure to conduct the work in a workmanlike manner by which the desired result could ordinarily be expected. Payment for removal of accumulated mud, sand, or gravel to the full depth of the well using a bailer or other acceptable method, shall be at the unit price per hour stated for swab development.
14. Develop well with line swab and pump rig. Payment for this item shall include only the time when swab development of the well is actually in operation, as directed by the District Representative. Payment for actual operational time, estimated to the nearest one-half hour, shall be made at the unit price per hour as stated in Item N of the Cost Proposal Form. No payment shall be made under this item for servicing of equipment; for delays due to the breakdown or inadequacy of plant, equipment, personnel, or materials; for time spent in setting up, installing or removing equipment; for work not in accordance with the specifications or directions of the District Representative; nor for failure to conduct the work in a workmanlike manner



by which the desired result could ordinarily be expected. Payment for removal of accumulated mud, sand, or gravel to the full depth of the well using a bailer or other acceptable method, shall be at the unit price per hour stated for swab development.

15. Develop well with test pump. Payment for this item shall include the time when the pumping equipment is actually in operation for development, as directed by the District Representative. Payment for actual operational time, estimated to the nearest one-half hour, shall be made at the unit price per hour as stated in Item O of the Cost Proposal Form. No payment shall be made under this item for servicing of equipment; for delays due to breakdown or inadequacy of plant, equipment, personnel or materials; for time spent in setting up, installing or removing equipment; for work not in accordance with specifications or directions of the District Representative; nor for failure to conduct the work in a workmanlike manner by which the desired result could ordinarily be expected
16. Test Pumping. Payment for this item shall include the time when the pumping equipment is actually in operation, as directed by the District Representative, such as during testing and development periods. Payment for actual operational time, estimated to the nearest one-half hour, shall be made at the unit price per hour as stated in Item P of the Cost Proposal Form. No payment shall be made under this item for servicing of equipment; for delays due to breakdown or inadequacy of plant, equipment, personnel or materials; for time spent in setting up, installing or removing equipment; for work not in accordance with specifications or directions of the District Representative; nor for failure to conduct the work in a workmanlike manner by which the desired result could ordinarily be expected.
17. Video survey, spinner survey, and deviation tests. Payment for this item shall include the cost of all equipment, labor, materials and all other costs incurred in the lump sum price in Item Q of the Cost Proposal Form.
18. Well Disinfection. Payment for this item shall include the cost of all equipment, labor, materials and all other costs incurred in the lump sum price in Item R of the Cost Proposal Form.
19. Standby time rate. Payment for this item (if accrued) shall include the cost as stated in Item S of the Cost Proposal Form.

No hourly rates shall be applicable without prior approval of the District Representative, nor shall they apply during the performance of any operation covered by either a lump sum or unit price. The performance of any operations noted in this section or similar operations conducted by the Contractor for his convenience in drilling, construction, development and testing of the wells shall not be included in hourly rate payment.

No separate payment will be made for work, equipment or materials necessary for keeping records and determining plumbness and alignment. The cost of all such work, equipment and materials shall be included in the proposal costs for applicable proposal items.

The hourly rates for the operation of swabbing, cleaning, and pumping equipment shall not become effective until the Contractor has installed all equipment and is ready to start operations. If during the development period, move-in and move-out, and the installation and removal of the equipment, the Contractor chooses not to work for a given period, he shall not be paid an hourly rate during the shutdown periods.

The Contractor shall be expected to anticipate material and equipment requirements to complete operations. Any delays in operation resulting from the lack of proper equipment and/or materials at the drill sites shall be at the Contractor's expense.

#### **Non-Payment for Lost and Rejected Holes**

The District shall not pay for lost or rejected holes, including but not limited to, holes which the Contractor is forced to abandon because of defective workmanship or faulty equipment, failure to properly protect the drill hole and drilling work from the natural elements, cave-in resulting from formational conditions and inability to drill the well to the depth specified in the Contract Documents or to such lesser depth as ordered by the District Representative. Any rejected hole shall be replaced by another adjacent hole at a location determined by the District Representative. Payment for labor and materials involved in the drilling and construction of the replacement hole(s) will be made on the same basis as the rejected hole(s) and as specified under these Specifications. All lost holes shall be backfilled in accordance with applicable law. No payment will be made for backfilled lost holes.

The District shall not pay for any work or materials involved in the drilling and/or construction of holes that fail after taking corrective measures to meet the alignment requirements as specified herein and as determined by the District Representative. Furthermore, the Owner shall recover from the Contractor all costs for work and material incurred by the Owner on lost or rejected holes resulting from the Contractor's negligence.

**B. TOTAL BID PRICE:**

<b>TOTAL BID PRICE BASED ON BID SCHEDULE TOTAL OF UNIT PRICES FOR: <b>New Extraction Well at Well ID4-4 Location</b></b>	
\$ _____	Total Bid Price in Numbers
\$ _____	Total Bid Price in Written Form
In case of discrepancy between the written price and the numerical price, the written price shall prevail.	

The undersigned agrees that this Bid Form constitutes a firm offer to the DISTRICT which cannot be withdrawn for the number of calendar days indicated in the Notice Inviting Bids from and after the Bid opening, or until a Contract for the Work is fully executed by the DISTRICT and a third party, whichever is earlier.

The DISTRICT can choose to include any, all, or none of the Alternate Bid items in the Work. If the DISTRICT selects any of the Alternate Bid items, the corresponding Alternate Bid prices shall be added to Base Bid Price for the Work. The DISTRICT can award/select Alternate Bid items at any time(s).

The successful bidder hereby agrees to sign the contract and furnish the necessary bonds and certificates of insurance within ten (10) working days after the DISTRICT provides the successful bidder with the Notice of Award.

Upon receipt of the signed contract and other required documents, the contract will be executed by the DISTRICT, after which the DISTRICT will prepare a letter giving Contractor Notice to Proceed. The official starting date shall be the date of the Notice to Proceed, unless otherwise specified. The undersigned agrees to begin the Work within ten (10) working days of the date of the Notice to Proceed, unless otherwise specified.

The undersigned has examined the location of the proposed work and is familiar with the Drawings and Specifications and the local conditions at the place where work is to be done.

If awarded the contract, the undersigned agrees that there shall be paid by the undersigned and by all subcontractors to all laborers, workers and mechanics employed in the execution of such contract no less than the prevailing wage rate within San Diego County for each craft,

classification, or type of worker needed to complete the Work contemplated by this contract as established by the Director of the Department of Industrial Relations. A copy of the prevailing rate of per diem wages are on file at the DISTRICT's Administration Office and shall be made available to interested parties upon request.

Enclosed find cash, bidder's bond, or cashier's or certified check No. \_\_\_\_\_ from the \_\_\_\_\_ Bank in the amount of \_\_\_\_\_, which is not less than ten percent (10%) of this bid, payable to Borrego Water District as bid security and which is given as a guarantee that the undersigned will enter into a contract and provide the necessary bonds and certificates of insurance if awarded the Work.

The bidder furthermore agrees that in case of bidder's default in executing said contract and furnishing required bonds and certificates of insurance, the cash, bidder's bond, or cashier's or certified check accompanying this proposal and the money payable thereon shall become and shall remain the property of the Borrego Water District.

Bidder is an individual \_\_\_\_\_, or corporation \_\_\_\_\_, or partnership \_\_\_\_\_, organized under the laws of the State of \_\_\_\_\_.

Bidder confirms license(s) required by California State Contractor's License Law for the performance of the subject project are in full effect and proper order. The following are the Bidder's applicable license number(s), with their expiration date(s) and class of license(s):

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If the Bidder is a joint venture, each member of the joint venture must include the required licensing information.

Sureties that will furnish the Faithful Performance Bond and the Labor and Material Payment Bond, in the form specified herein, in an amount equal to one hundred percent (100%) of the contract price within ten (10) working days from the date the DISTRICT provides the successful bidder the Notice of Award. Sureties must meet all of the State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120 and must be authorized by the State of California.

The insurance company or companies to provide the insurance required in the contract documents must have a Financial Strength Rating of not less than "A-" and a Financial Size Category of not less than "Class VII" according to the latest Best Key Rating Guide. At the sole discretion of the DISTRICT, the DISTRICT may waive the Financial Strength Rating and the Financial Size Category classifications for Workers' Compensation insurance.

(signatures continued on next page)

I hereby certify under penalty of perjury under the laws of the State of California that all of the information submitted in connection with this Bid and all of the representations made herein are true and correct.

Executed at \_\_\_\_\_, on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Bidders Name – Print or Type)

\_\_\_\_\_  
(Name and Title)

(Corporate Seal)

\_\_\_\_\_  
(Signature)

Names of individual members of firm or names and titles of all officers of corporation and their addresses are listed below:

Name \_\_\_\_\_ Title \_\_\_\_\_

Complete Address \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Complete Address \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Complete Address \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Complete Address \_\_\_\_\_

Phone \_\_\_\_\_ FAX \_\_\_\_\_

1.2 Bid Bond

**[Note: Not required when other form of Bidder's Security, e.g. cash, certified check or cashier's check, accompanies bid.]**

The makers of this bond are, \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety and are held and firmly bound unto the Borrego Water District, hereinafter called the DISTRICT, in the penal sum of TEN PERCENT (10%) OF THE TOTAL BID PRICE of the Principal submitted to DISTRICT for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying bid dated \_\_\_\_\_, 20 \_\_\_\_, for New Extraction Well at Well ID4-4 Location.

If the Principal does not withdraw its Bid within the time specified in the Contract Documents; and if the Principal is awarded the Contract and provides all documents to the DISTRICT as required by the Contract Documents; then this obligation shall be null and void. Otherwise, this bond will remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents shall affect its obligation under this bond, and Surety does hereby waive notice of any such changes.

In the event a lawsuit is brought upon this bond by the DISTRICT and judgment is recovered, the Surety shall pay all litigation expenses incurred by the DISTRICT in such suit, including reasonable attorneys' fees, court costs, expert witness fees and expenses.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporation.

(Corporate Seal)

\_\_\_\_\_  
Contractor/ Principal

By \_\_\_\_\_

Title \_\_\_\_\_

(Corporate Seal)

\_\_\_\_\_  
Surety

By \_\_\_\_\_  
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title \_\_\_\_\_

# Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
 COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory

Name(s) of Signer(s)

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public \_\_\_\_\_

### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

#### CAPACITY CLAIMED BY SIGNER

- Individual
- Corporate Officer

Title(s)

- Partner(s)
  - Limited
  - General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Signer is representing:  
 Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
 \_\_\_\_\_

#### DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.





1.3 List of Subcontractors

In compliance with the Subletting and Subcontracting Fair Practices Act Chapter 4 (commencing at Section 4100), Part 1, Division 2 of the Public Contract Code of the State of California and any amendments thereof, Bidder shall set forth below: (a) the name and the location of the place of business, (b) the California contractor license number, (c) the DIR public works contractor registration number unless exempt pursuant to Labor Code Sections 1725.5 and 1771.1, and (d) the portion of the work which will be done by each subcontractor who will perform work or labor or render service to the Bidder in or about the construction of the work or improvement to be performed under this Contract in an amount in excess of one-half of one percent (0.5%) of the Bidder's Total Bid Price. Notwithstanding the foregoing, if the work involves the construction of streets and highways, then the Bidder shall list each subcontractor who will perform work or labor or render service to the Bidder in or about the work in an amount in excess of one-half of one percent (0.5%) of the Bidder's Total Bid Price or \$10,000, whichever is greater. No additional time shall be granted to provide the below requested information.

If a Bidder fails to specify a subcontractor or if a contractor specifies more than one subcontractor for the same portion of work, then the Bidder shall be deemed to have agreed that it is fully qualified to perform that portion of work and that it shall perform that portion itself.

Work to be done by Subcontractor	Name of Subcontractor	Location of Business	CSLB Contractor License No.	DIR Registration Number	% of Work

Work to be done by Subcontractor	Name of Subcontractor	Location of Business	CSLB Contractor License No.	DIR Registration Number	% of Work

(Attach additional sheets if necessary)

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name and Title \_\_\_\_\_

Dated \_\_\_\_\_

1.4 Bidder Information and Experience Form

**ARTICLE 1. INFORMATION ABOUT BIDDER**

(Indicate not applicable (“N/A”) where appropriate.)

**NOTE:** Where Bidder is a joint venture, pages shall be duplicated and information provided for all parties to the joint venture.

1.0 Name of Bidder: \_\_\_\_\_

2.0 Type, if Entity: \_\_\_\_\_

3.0 Bidder Address: \_\_\_\_\_

\_\_\_\_\_

Facsimile Number

Telephone Number

\_\_\_\_\_

Email Address

4.0 How many years has Bidder’s organization been in business as a Contractor?

\_\_\_\_\_

5.0 How many years has Bidder’s organization been in business under its present name? \_\_\_\_\_

5.1 Under what other or former names has Bidder’s organization operated? \_\_\_\_\_

6.0 If Bidder’s organization is a corporation, answer the following:

6.1 Date of Incorporation: \_\_\_\_\_

6.2 State of Incorporation: \_\_\_\_\_

6.3 President’s Name: \_\_\_\_\_

6.4 Vice-President’s Name(s): \_\_\_\_\_

\_\_\_\_\_

6.5 Secretary’s Name: \_\_\_\_\_

6.6 Treasurer’s Name: \_\_\_\_\_

7.0 If an individual or a partnership, answer the following:

7.1 Date of Organization: \_\_\_\_\_

7.2 Name and address of all partners (state whether general or limited partnership):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8.0 If other than a corporation or partnership, describe organization and name principals:

\_\_\_\_\_  
\_\_\_\_\_

9.0 List other states in which Bidder's organization is legally qualified to do business.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10.0 What type of work does the Bidder normally perform with its own forces?

\_\_\_\_\_  
\_\_\_\_\_

11.0 Has Bidder ever failed to complete any work awarded to it? If so, note when, where, and why:

\_\_\_\_\_  
\_\_\_\_\_

12.0 Within the last five years, has any officer or partner of Bidder's organization ever been an officer or partner of another organization when it failed to complete a contract? If so, attach a separate sheet of explanation:

\_\_\_\_\_  
\_\_\_\_\_

13.0 List Trade References:

\_\_\_\_\_  
\_\_\_\_\_

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14.0 List Bank References (Bank and Branch Address):

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15.0 Name of Bonding Company and Name and Address of Agent:

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**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

**ARTICLE 2. LIST OF CURRENT PROJECTS (BACKLOG)**

[\*\*Duplicate Page if needed for listing additional current projects.\*\*]

Project	Description of Bidder's Work	Completion Date	Cost of Bidder's Work

**ARTICLE 3. LIST OF COMPLETED PROJECTS – LAST THREE YEARS**

[\*\*Duplicate Page if needed for listing additional completed projects.\*\*]

Please include only those projects which are similar enough to demonstrate Bidder’s ability to perform the required Work.

Project	Description of Bidder’s Work	Completion Date	Cost of Bidder’s Work

**ARTICLE 4. EXPERIENCE AND TECHNICAL QUALIFICATIONS QUESTIONNAIRE**

***Personnel:***

The Bidder shall identify the key personnel to be assigned to this project in a management, construction supervision or engineering capacity.

1. List each person's job title, name and percent of time to be allocated to this project:

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2. Summarize each person's specialized education:

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3. List each person's years of construction experience relevant to the project:

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4. Summarize such experience:

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---

Bidder agrees that personnel named in this Bid will remain on this Project until completion of all relevant Work, unless substituted by personnel of equivalent experience and qualifications approved in advance by the DISTRICT.

***Changes Occuring Since Prequalification***

If any substantive changes have occurred since Bidder submitted its prequalification package for this Project, Bidder shall list them below. If none are listed, Bidder certifies that no substantive changes have occurred.

---

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**Additional Bidder's Statements:**

If the Bidder feels that there is additional information which has not been included in the questionnaire above, and which would contribute to the qualification review, it may add that information in a statement here or on an attached sheet, appropriately marked:

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**ARTICLE 5. VERIFICATION AND EXECUTION**

These Bid Forms shall be executed only by a duly authorized official of the Bidder:

I declare under penalty of perjury under the laws of the State of California that the foregoing information is true and correct:

Name of Bidder\_\_\_\_\_

Signature\_\_\_\_\_

Name\_\_\_\_\_

Title\_\_\_\_\_

Date\_\_\_\_\_

1.5 Non-Collusion Declaration

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party making the foregoing Bid.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham bid, or to refrain from bidding. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid Price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost element of the Bid Price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted his or her Bid Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state].

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

1.6 Iran Contracting Act Certification.  
(Public Contract Code section 2200 et seq.)

As required by California Public Contract Code Section 2204, the Contractor certifies subject to penalty for perjury that the option checked below relating to the Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) is true and correct:

The Contractor is not:

(1) identified on the current list of person and entities engaged in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or

(2) a financial instruction that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.

The DISTRICT has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, the DISTRICT will be unable to obtain the goods and/or services to be provided pursuant to the Contract.

The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Date: \_\_\_\_\_

Note: In accordance with Public Contract Code Section 2205, false certification of this form shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Contract amount, termination of the Contract and/or ineligibility to bid on contracts for three years.

1.7 Public Works Contractor Registration Certification

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Bidder hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.<sup>1</sup>

Name of Bidder: \_\_\_\_\_

DIR Registration Number: \_\_\_\_\_

DIR Registration Expiration: \_\_\_\_\_

Small Project Exemption: \_\_\_\_\_ Yes or \_\_\_\_\_ No

Unless Bidder is exempt pursuant to the small project exemption, Bidder further acknowledges:

1. Bidder shall maintain a current DIR registration for the duration of the project.
2. Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.
3. Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name and Title \_\_\_\_\_

Dated \_\_\_\_\_

<sup>1</sup> If the Project is exempt from the contractor registration requirements pursuant to the small project exemption under Labor Code Sections 1725.5 and 1771.1, please mark "Yes" in response to "Small Project Exemption."

1.8 Contractor's Certificate Regarding Workers' Compensation.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract.

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

**00 52 13 – CONTRACT**

This CONTRACT, No. \_\_\_\_\_ is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Borrego Water District, sometimes hereinafter called "DISTRICT," and \_\_\_\_\_, sometimes hereinafter called "Contractor."

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

a. **SCOPE OF WORK.** The Contractor shall perform all Work within the time stipulated in the Contract, and shall provide all labor, materials, equipment, tools, utility services, and transportation to complete all of the Work required in strict compliance with the Contract Documents as specified in Article 5, below, for the following Project:

**New Extraction Well at Well ID4-4 Location**

The Contractor and its surety shall be liable to the DISTRICT for any damages arising as a result of the Contractor's failure to comply with this obligation.

b. **TIME FOR COMPLETION.** Time is of the essence in the performance of the Work. The Work shall be commenced on the date stated in the DISTRICT's Notice to Proceed. The Contractor shall complete all Work required by the Contract Documents within **SIXTY (60) CALENDAR DAYS** from the commencement date stated in the Notice to Proceed. By its signature hereunder, Contractor agrees the time for completion set forth above is adequate and reasonable to complete the Work.

c. **CONTRACT PRICE.** The DISTRICT shall pay to the Contractor as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_). Payment shall be made as set forth in the General Conditions.

d. **LIQUIDATED DAMAGES.** In accordance with Government Code section 53069.85, it is agreed that the Contractor will pay the DISTRICT the sum set forth in Section 00 73 13, Article 1.11 for each and every calendar day of delay beyond the time prescribed in the Contract Documents for finishing the Work, as Liquidated Damages and not as a penalty or forfeiture. In the event this is not paid, the Contractor agrees the DISTRICT may deduct that amount from any money due or that may become due the Contractor under the Contract. This Article does not exclude recovery of other damages specified in the Contract Documents.

e. **COMPONENT PARTS OF THE CONTRACT.** The "Contract Documents" include the following:

- Notice Inviting Bids
- Instructions to Bidders
- Bid Form
- Bid Bond
- Designation of Subcontractors
- Information Required of Bidders

Non-Collusion Declaration Form  
Iran Contracting Act Certification  
Public Works Contractor Registration Certification  
Performance Bond  
Payment (Labor and Materials) Bond  
General Conditions  
Special Conditions  
General Requirements  
Technical Specifications  
Addenda  
Plans and Drawings  
Standard Specifications for Public Works Construction “Greenbook”, latest edition, Except Sections 1-9  
Applicable Local Agency Standards and Specifications, as last revised  
Approved and fully executed change orders  
Any other documents contained in or incorporated into the Contract

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. This Contract shall supersede any prior agreement of the parties.

f. **PROVISIONS REQUIRED BY LAW AND CONTRACTOR COMPLIANCE.** Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

g. **INDEMNIFICATION.** Contractor shall provide indemnification and defense as set forth in the General Conditions.

h. **PREVAILING WAGES.** Contractor shall be required to pay the prevailing rate of wages in accordance with the Labor Code which such rates shall be made available at the DISTRICT’s Administrative Office or may be obtained online at <http://www.dir.ca.gov> and which must be posted at the job site.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year above written.

\_\_\_\_\_  
Name of Contractor

**BORREGO WATER DISTRICT**

By \_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_  
General Manager

Name and Title:  
\_\_\_\_\_

Date:  
\_\_\_\_\_

License No.  
\_\_\_\_\_

Date:  
\_\_\_\_\_

**(CONTRACTOR'S SIGNATURE MUST BE  
NOTARIZED AND CORPORATE  
SEAL AFFIXED, IF APPLICABLE)**

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Attorney for Borrego Water District

**END OF CONTRACT**



# Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
 COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public \_\_\_\_\_

### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

#### CAPACITY CLAIMED BY SIGNER

- Individual
- Corporate Officer

\_\_\_\_\_ Title(s)

- Partner(s)                       Limited
- General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Signer is representing:  
 Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
 \_\_\_\_\_

#### DESCRIPTION OF ATTACHED DOCUMENT

\_\_\_\_\_ Title or Type of Document

\_\_\_\_\_ Number of Pages

\_\_\_\_\_ Date of Document

\_\_\_\_\_ Signer(s) Other Than Named Above

**00 61 13 – BOND FORMS**

1.1 Performance Bond.

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the Borrego Water District, (hereinafter referred to as “DISTRICT”) has awarded to \_\_\_\_\_, (hereinafter referred to as the “Contractor”) an agreement for **Contract No.** \_\_\_\_\_, (hereinafter referred to as the “Project”).

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated \_\_\_\_\_, (hereinafter referred to as “Contract Documents”), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, \_\_\_\_\_, the undersigned Contractor and \_\_\_\_\_ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the DISTRICT in the sum of \_\_\_\_\_ DOLLARS, (\$ \_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one (1) year guarantee of all materials and workmanship; and shall indemnify and save harmless the DISTRICT, its officials, officers, employees, and authorized volunteers, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorney’s fees, incurred by DISTRICT in enforcing such obligation.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by DISTRICT, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the DISTRICT from loss or damage resulting from or caused by defective materials or faulty workmanship. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the DISTRICT’s rights or the Contractor or Surety’s obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure Section 337.15.

Whenever Contractor shall be, and is declared by the DISTRICT to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the DISTRICT's option:

- i. Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or
- ii. Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the DISTRICT, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the DISTRICT under the Contract and any modification thereto, less any amount previously paid by the DISTRICT to the Contractor and any other set offs pursuant to the Contract Documents.
- iii. Permit the DISTRICT to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the DISTRICT under the Contract and any modification thereto, less any amount previously paid by the DISTRICT to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the DISTRICT may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the DISTRICT, when declaring the Contractor in default, notifies Surety of the DISTRICT's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Corporate Seal)

\_\_\_\_\_  
Contractor/ Principal

By \_\_\_\_\_

Title \_\_\_\_\_

(Corporate Seal)

\_\_\_\_\_  
Surety

By \_\_\_\_\_  
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title \_\_\_\_\_

The rate of premium on this bond is \_\_\_\_\_ per thousand. The total amount of premium charges is \$\_\_\_\_\_.  
(The above must be filled in by corporate attorney.)

**THIS IS A REQUIRED FORM**

Any claims under this bond may be addressed to:

(Name and Address of Surety)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Name and Address of Agent or Representative for service of process in California, if different from above)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Telephone number of Surety and Agent or Representative for service of process in California)

\_\_\_\_\_

# Notary Acknowledgment

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STATE OF CALIFORNIA  
 COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public \_\_\_\_\_

### OPTIONAL

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#### CAPACITY CLAIMED BY SIGNER

- Individual
- Corporate Officer

\_\_\_\_\_ Title(s)

- Partner(s)                       Limited
- General

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Signer is representing:  
 Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
 \_\_\_\_\_

#### DESCRIPTION OF ATTACHED DOCUMENT

\_\_\_\_\_ Title or Type of Document

\_\_\_\_\_ Number of Pages

\_\_\_\_\_ Date of Document

\_\_\_\_\_ Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

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\_\_\_\_\_ Title(s)

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- General

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Signer is representing:  
 Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
 \_\_\_\_\_

#### DESCRIPTION OF ATTACHED DOCUMENT

\_\_\_\_\_ Title or Type of Document

\_\_\_\_\_ Number of Pages

\_\_\_\_\_ Date of Document

\_\_\_\_\_ Signer(s) Other Than Named Above

**NOTE:** This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of Attorney to local representatives of the bonding company must also be attached.

**END OF PERFORMANCE BOND**

1.2 Payment Bond (Labor and Materials).

KNOW ALL MEN BY THESE PRESENTS That

WHEREAS, the Borrego Water District (hereinafter designated as the "DISTRICT"), by action taken or a resolution passed \_\_\_\_\_, 20\_\_\_\_, has awarded to \_\_\_\_\_ hereinafter designated as the "Principal," a contract for the work described as follows: **Contract No.** \_\_\_\_\_ (the "Project"); and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and \_\_\_\_\_ as Surety, are held and firmly bound unto the DISTRICT in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Civil Code Section 9100, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Revenue and Taxation Code Section 18663, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by the DISTRICT in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that

this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or DISTRICT and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Civil Code Section 9100, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Corporate Seal)

\_\_\_\_\_  
Contractor/ Principal

By \_\_\_\_\_

Title \_\_\_\_\_

(Corporate Seal)

\_\_\_\_\_  
Surety

By \_\_\_\_\_  
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title \_\_\_\_\_



## Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
 COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public \_\_\_\_\_

### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

#### CAPACITY CLAIMED BY SIGNER

#### DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

\_\_\_\_\_ Title(s)

\_\_\_\_\_ Title or Type of Document

- Partner(s)
  - Limited
  - General

\_\_\_\_\_ Number of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

\_\_\_\_\_ Date of Document

Signer is representing:  
 Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

# Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
 COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public \_\_\_\_\_

### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

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- Partner(s)                       Limited
- General

\_\_\_\_\_ Number of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

\_\_\_\_\_ Date of Document

Signer is representing:  
 Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ Signer(s) Other Than Named Above

**NOTE:** This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

**END OF PAYMENT BOND**

## 00 72 13 – GENERAL CONDITIONS

### ARTICLE 1. DEFINED TERMS

Whenever used in the Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined below, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

- A. Act of God – An earthquake of magnitude of 3.5 or higher on the Richter scale or a tidal wave.
- B. Addenda -- Written or graphic instruments issued prior to the submission of Bids which clarify, correct, or change the Contract Documents.
- C. Additional Work -- New or unforeseen work will be classified as “Additional Work” when the DISTRICT’s Representative determines that it is not covered by the Contract.
- D. Applicable Laws -- The laws, statutes, ordinances, rules, codes, regulations, permits, and licenses of any kind, issued by local, state or federal governmental authorities or private authorities with jurisdiction (including utilities), to the extent they apply to the Work.
- E. Bid -- The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices and other terms for the Work to be performed.
- F. Bidder -- The individual or entity who submits a Bid directly to the DISTRICT.
- G. Board; Board of Directors – Borrego Water District Board of Directors.
- H. Change Order (“CO”) -- A document that authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Contract, in accordance with the Contract Documents and in the form contained in the Contract Documents.
- I. Change Order Request (“COR”) -- A request made by the Contractor for an adjustment in the Contract Price and/or Contract Times as the result of a Contractor-claimed change to the Work. This term may also be referred to as a Change Order Proposal (“COP”), or Request for Change (“RFC”).
- J. Claim -- A demand or assertion by the DISTRICT or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
- K. Contract -- The entire integrated written agreement between the DISTRICT and Contractor concerning the Work. “Contract” may be used interchangeably with “Agreement” in the Contract Documents. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral, and includes all Contract Documents.

- L. Contract Documents -- The documents listed in Section 00 52 13, Article 5. Some documents provided by the DISTRICT to the Bidders and Contractor, including but not limited to reports and drawings of subsurface and physical conditions are not Contract Documents.
- M. Contract Price -- Amount to be paid by the DISTRICT to the Contractor as full compensation for the performance of the Contract and completion of the Work, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs.
- N. Contract Times -- The number of days or the dates stated in the Contract Documents to: achieve defined Milestones, if any; and to complete the Work so that it is ready for final payment.
- O. Contractor -- The individual or entity with which the DISTRICT has contracted for performance of the Work.
- P. Contractor's Designated On-Site Representative -- The Contractor's Designated On-Site Representative will be as identified in Section 00 72 13, Article 3 and shall not be changed without prior written consent of the DISTRICT.
- Q. Daily Rate -- The Daily Rate stipulated in the Contract Documents as full compensation to the Contractor due to the DISTRICT's unreasonable delay to the Project that was not contemplated by the parties.
- R. Day -- A calendar day of 24 hours measured from midnight to the next midnight.
- S. Defective Work -- Work that is unsatisfactory, faulty, or deficient; or that does not conform to the Contract Documents; or that does not meet the requirements of any inspection, reference standard, test, or approval referenced in the Contract Documents.
- T. Demobilization -- The complete dismantling and removal by the Contractor of all of the Contractor's temporary facilities, equipment, and personnel at the Site.
- U. District -- Borrego Water District.
- V. District's Representative -- The individual or entity as identified in the Special Conditions to act as the DISTRICT's Representative.
- W. Drawings -- That part of the Contract Documents prepared by of the Engineer of Record which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
- X. Effective Date of the Contract -- The date indicated in the Contract on which it becomes effective, but if no such date is indicated, it means the date on which the Contract is signed and delivered by the last of the two parties to sign and deliver.
- Y. Engineer, whenever not qualified, shall mean the General Manger of the DISTRICT, acting either directly or through properly authorized agents, such agents acting

severally within the scope of the particular duties entrusted to them. On all questions concerning the acceptance of materials, machinery, the classifications of material, the execution of work, conflicting interest of the contractors performing related work and the determination of costs, the decision of the Engineer, duly authorized by the Board of Directors, shall be binding and final upon both parties.

Z. Engineer of Record -- The individual, partnership, corporation, joint venture, or other legal entity named as such in Section 00 73 13, Article 1.1. or any succeeding entity designated by the DISTRICT.

AA. General Manager – Borrego Water District’s General Manager/Engineer, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties entrusted to them.

BB. Green Book -- The current edition of the Standard Specifications for Public Works Construction promulgated by the Joint Cooperative Committee of the Southern California Chapter American Public Works Association and the Southern California Districts of the Associated General Contractors of California.

CC. Hazardous Waste -- The term “Hazardous Waste” shall have the meaning provided in Section 104 of the Solid Waste Disposal Act (42 U.S.C. § 6903) as amended from time to time or, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a class I, class II, or class III disposal site in accordance with provisions of existing law, whichever is more restrictive.

DD. Holiday – The Holidays occur on:

- New Year’s Day - January 1
- President’s Day – Third Monday in February
- Memorial Day - Last Monday in May
- Independence Day - July 4
- Labor Day - First Monday in September
- Veteran’s Day - November 11
- Thanksgiving Day - Fourth Thursday in November
- Friday after Thanksgiving
- Christmas Eve – December 24
- Christmas Day - December 25
- Day After Christmas – December 26
- New Year’s Eve – December 31

If any Holiday listed above falls on a Saturday, Saturday and the preceding Friday are both Holidays. If the Holiday should fall on a Sunday, Sunday and the following Monday are both Holidays.

EE. Notice of Award -- The written notice by the DISTRICT to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, the DISTRICT will sign and deliver the Contract.

FF. Notice of Completion -- The form which may be executed by the DISTRICT and recorded by the county where the Project is located constituting final acceptance of the Project.

- GG. Notice to Proceed -- A written notice given by the DISTRICT to Contractor fixing the date on which the Contractor may proceed with the Work and when Contract Times will commence to run.
- HH. Project -- The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
- II. Recyclable Waste Materials -- Materials removed from the Site which are required to be diverted to a recycling center rather than an area landfill. Recyclable Waste Materials include asphalt, concrete, brick, concrete block, and rock.
- JJ. Schedule of Submittals -- A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to facilitate scheduled performance of related construction activities.
- KK. Shop Drawings -- All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
- LL. Specifications -- That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
- MM. Stop Payment Notice -- A written notice as defined in Civil Code section 8044.
- NN. Subcontractor -- An individual or entity other than a Contractor having a contract with any other entity than the DISTRICT for performance of any portion of the Work at the Site.
- OO. Submittal -- Written and graphic information and physical samples prepared and supplied by the Contractor demonstrating various portions of the Work.
- PP. Successful Bidder -- The Bidder submitting a responsive Bid to whom the DISTRICT makes an award.
- QQ. Supplier -- A manufacturer, fabricator, supplier, distributor, material man, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment used in the performance of the Work or to be incorporated in the Work.
- RR. Underground Facilities -- All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
- SS. Unit Price Work -- Work to be paid for on the basis of unit prices as provided by the Contractor in its bid or as adjusted in accordance with the Contract Documents.

TT. Warranty -- A written guarantee provided to the DISTRICT by the Contractor that the Work will remain free of defects and suitable for its intended use for the period required by the Contract Documents or the longest period permitted by the law of this State, whichever is longer.

UU. Work -- The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

## ARTICLE 2. CONTRACT DOCUMENTS

A. **Contract Documents.** The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all.

B. **Interpretations.** The Contract Documents are intended to be fully cooperative and complementary. If the Contractor observes that any documents are in conflict, the Contractor shall promptly notify the Engineer in writing. In case of conflicts between the Contract Documents, the order of precedence shall be as follows:

1. Change Orders
2. Addenda
3. Special Conditions
4. Technical Specifications
5. General Requirements
6. Plans (Contract Drawings)
7. Contract
8. General Conditions
9. Instructions to Bidders
10. Notice Inviting Bids
11. Contractor's Bid Forms
12. Standard Specifications for Public Works Construction (Sections 1-9 Excluded), Latest Edition.
13. Applicable Local Agency Standards and Specifications
14. Standard Drawings
15. Reference Documents

With reference to the Drawings, the order of precedence shall be as follows:

1. Figures govern over scaled dimensions
2. Detail drawings govern over general drawings
3. Addenda or Change Order drawings govern over Contract Drawings
4. Contract Drawings govern over Standard Drawings
5. Contract Drawings govern over Shop Drawings

C. **Conflicts in Contract Documents.** Notwithstanding the orders of precedence established above, in the event of conflicts, the higher standard, higher quality, and most expensive shall always apply.

- D. **Organization of Contract Documents.** Organization of the Contract Documents into divisions, sections, and articles, and arrangement of drawings shall not control the Contractor in dividing Project Work among subcontractors or in establishing the extent of Work to be performed by any trade.

### **ARTICLE 3. PRECONSTRUCTION AND CONSTRUCTION COMMUNICATION**

Before any Work at the site is started, a conference attended by the DISTRICT, Contractor, DISTRICT's Representative, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to herein, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

At this conference the DISTRICT and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

At the discretion of the Engineer, periodic meetings involving project personnel (the Contractor, utility and others) will be held for the purpose of coordinating project activities.

### **ARTICLE 4. CONTRACT DOCUMENTS: COPIES & MAINTENANCE**

Contractor will be furnished, free of charge, **five (5)** copies of the Contract Documents. Additional copies may be obtained at cost of reproduction.

Contractor shall maintain a clean, undamaged set of Contract Documents, including submittals, at the Project site.

### **ARTICLE 5. EXAMINATION OF DRAWINGS, SPECIFICATIONS AND SITE OF WORK**

- A. **Examination of Contract Documents.** Before commencing any portion of the Work, Contractor shall again carefully examine all applicable Contract Documents, the Project site, and other information given to Contractor as to materials and methods of construction and other Project requirements. Contractor shall immediately notify the Engineer of any potential error, inconsistency, ambiguity, conflict, or lack of detail or explanation. If Contractor performs, permits, or causes the performance of any Work which is in error, inconsistent or ambiguous, or not sufficiently detailed or explained, Contractor shall bear any and all resulting costs, including, without limitation, the cost of correction. In no case shall the Contractor or any subcontractor proceed with Work if uncertain as to the applicable requirements.
- B. **Additional Instructions.** After notification of any error, inconsistency, ambiguity, conflict, or lack of detail or explanation, the Engineer will provide any required additional instructions, by means of drawings or other written direction, necessary for proper execution of Work.
- C. **Quality of Parts, Construction and Finish.** All parts of the Work shall be of the best quality of their respective kinds and the Contractor must use all diligence to inform itself fully as to the required construction and finish.



- D. **Contractor's Variation from Contract Document Requirements.** If it is found that the Contractor has varied from the requirements of the Contract Documents including the requirement to comply with all applicable laws, ordinances, rules and regulations, the Engineer may at any time, before or after completion of the Work, order the improper Work removed, remade or replaced by the Contractor at the Contractor's expense.

## ARTICLE 6. MOBILIZATION

- A. When a bid item is included in the Bid Form for mobilization, the costs of Work in advance of construction operations and not directly attributable to any specific bid item will be included in the progress estimate ("Initial Mobilization"). When no bid item is provided for "Initial Mobilization," payment for such costs will be deemed to be included in the other items of the Work.
- B. Payment for Initial Mobilization based on the lump sum provided in the Bid Form, which shall constitute full compensation for all such Work. No payment for Initial Mobilization will be made until all of the listed items have been completed to the satisfaction of the Engineer. The scope of the Work included under Initial Mobilization shall include, but shall not be limited to, the following principal items:
1. Obtaining and paying for all bonds, insurance, and permits.
  2. Moving on to the Project site of all Contractor's plant and equipment required for the first month's operations.
  3. Installing temporary construction power, wiring, and lighting facilities, as applicable.
  4. Establishing fire protection system, as applicable.
  5. Developing and installing a construction water supply, if applicable.
  6. Providing and maintaining the field office trailers for the Contractor, if necessary, and the Engineer (if specified), complete, with all specified furnishings and utility services.
  7. Providing on-site sanitary facilities and potable water facilities as specified per Cal-OSHA and these Contract Documents.
  8. Furnishing, installing, and maintaining all storage buildings or sheds required for temporary storage of products, equipment, or materials that have not yet been installed in the Work. All such storage shall meet manufacturer's specified storage requirements, and the specific provisions of the specifications, including temperature and humidity control, if recommended by the manufacturer, and for all security.
  9. Arranging for and erection of Contractor's work and storage yard.
  10. Posting all OSHA required notices and establishment of safety programs per Cal-OSHA.

11. Full-time presence of Contractor's superintendent at the job site as required herein.
12. Providing on-site Contractor's sanitary facilities.
13. Install project sign, if required.
14. Submittal of Schedule of Values.
15. Submittal of Construction Schedule as required by the Contract Documents.

## ARTICLE 7. EXISTENCE OF UTILITIES AT THE WORK SITE

- A. The DISTRICT has endeavored to determine the existence of utilities at the Project site from the records of the owners of known utilities in the vicinity of the Project. The positions of these utilities as derived from such records are shown on the Plans.
- B. Unless indicated otherwise on the Plans and Specifications, no excavations were made to verify the locations shown for underground utilities. The service connections to these utilities are not shown on the Plans. Water service connections may be shown on the Plans showing general locations of such connections. It shall be the responsibility of the Contractor to determine the exact location of all service connections. The Contractor shall make its own investigations, including exploratory excavations, to determine the locations and type of service connections, prior to commencing Work which could result in damage to such utilities. The Contractor shall immediately notify the DISTRICT in writing of any utility discovered in a different position than shown on the Plans or which is not shown on the Plans.
- C. If applicable, all water meters, water valves, fire hydrants, electrical utility vaults, telephone vaults, gas utility valves, and other subsurface structures shall be relocated or adjusted to final grade by the Contractor. Locations of existing utilities shown on the Plans are approximate and may not be complete. The Contractor shall be responsible for coordinating its Work with all utility companies during the construction of the Work.
- D. Notwithstanding the above, pursuant to section 4215 of the Government Code, the DISTRICT has the responsibility to identify, with reasonable accuracy, main or trunkline facilities on the plans and specifications. In the event that main or trunkline utility facilities are not identified with reasonable accuracy in the plans and specifications made a part of the invitation for Bids, the DISTRICT shall assume the responsibility for their timely removal, relocation, or protection.
- E. Contractor, except in an emergency, shall contact the appropriate regional notification center, Southern California Underground Service Alert at 811 or 1-800-227-2600 or on-line at [www.digalert.org](http://www.digalert.org) at least two working days prior to commencing any excavation if the excavation will be performed in an area which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the DISTRICT, and obtain an inquiry identification number from that notification center. No excavation shall be commenced or carried out by the Contractor unless such an inquiry identification number has been assigned to the Contractor or any subcontractor of the Contractor and the DISTRICT has been given the identification number by the Contractor.

## **ARTICLE 8. SOILS INVESTIGATIONS**

- A. Reports and Drawings. The Special Conditions identify:
1. those reports known to the DISTRICT of explorations and tests of subsurface conditions at or contiguous to the site; and
  2. those drawings known to the DISTRICT of physical conditions relating to existing surface or subsurface structures at the site (except Underground Facilities).
- B. Limited Reliance by Contractor on Technical Data Authorized. Contractor may rely upon the accuracy of the “technical data” contained in such reports and drawings, which were expressly not created or obtained to evaluate or assist in the evaluation of constructability, and are not Contract Documents. Contractor shall make its own interpretation of the “technical data” and shall be solely responsible for any such interpretations. Except for reliance on the accuracy of such “technical data,” Contractor may not rely upon or make any claim against the DISTRICT, DISTRICT’s Representative, or Engineer of Record, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
1. the completeness of such reports and drawings for Contractor’s purposes, including without limitation any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
  2. other data, interpretations, opinions, conclusions and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions, or information.

## **ARTICLE 9. CONTRACTOR’S SUPERVISION**

Contractor shall continuously keep at the Project site, a competent and experienced full-time Project superintendent acceptable to the DISTRICT. Superintendent must be able to proficiently speak, read and write in English and shall have the authority to make decisions on behalf of the Contractor. Contractor shall continuously provide efficient supervision of the Project.

## **ARTICLE 10. WORKERS**

- A. Contractor shall at all times enforce strict discipline and good order among its employees. Contractor shall not employ on the Project any unfit person or any one not skilled in the Work assigned to him or her.
- B. Any person in the employ of the Contractor whom the DISTRICT may deem incompetent or unfit shall be dismissed from the Work and shall not be employed on this Project.

## **ARTICLE 11. INDEPENDENT CONTRACTORS**

Contractor shall be an independent contractor for the DISTRICT and not an employee. Contractor understands and agrees that it and all of its employees shall not be considered officers, employees, or agents of DISTRICT and are not entitled to benefits of any kind normally provided employees of DISTRICT, including but not limited to, state unemployment compensation or workers' compensation. Contractor assumes full responsibility for the acts and omissions of its employees or agents related to the Work.

## **ARTICLE 12. SUBCONTRACTS**

- A. Contractor agrees to bind every subcontractor to the terms of the Contract Documents as far as such terms are applicable to subcontractor's portion of the Work. Contractor shall be as fully responsible to the DISTRICT for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by its subcontractors, as Contractor is for acts and omissions of persons directly employed by Contractor. Nothing contained in these Contract Documents shall create any contractual relationship between any subcontractor and the DISTRICT.
- B. The DISTRICT reserves the right to accept all subcontractors. The DISTRICT's acceptance of any subcontractor under this Contract shall not in any way relieve Contractor of its obligations in the Contract Documents.
- C. Prior to substituting any subcontractor listed in the Bid Forms, Contractor must comply with the requirements of the Subletting and Subcontracting Fair Practices Act pursuant to California Public Contract Code section 4100 et seq.

## **ARTICLE 13. VERIFICATION OF EMPLOYMENT ELIGIBILITY**

By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subcontractors, sub-subcontractors and consultants to comply with the same. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor and that any of the following shall be grounds for the DISTRICT to terminate the Contract for cause: (1) failure of the Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in this Article; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.

## **ARTICLE 14. REQUESTS FOR SUBSTITUTION**

- A. For the purposes of this provision, the term "substitution" shall mean the substitution of any material, method or service substantially equal to or better in every respect to that indicated in the Standard Specifications or otherwise referenced herein.
- B. Pursuant to Public Contract Code section 3400(b), the DISTRICT may make a finding that is described in the Notice Inviting Bids that designates certain products, things, or services by specific brand or trade name.

- C. Unless specifically designated in the Special Conditions, whenever any material, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such specifications shall be deemed to be used for the purpose of facilitating the description of the material, process, or article desired and shall be deemed to be followed by the words "or equal." Contractor may, unless otherwise stated, offer for substitution any material, process, or article which may be substantially equal to or better in every respect to that so indicated or specified in the Contract Documents. However, the DISTRICT has adopted uniform standards for certain materials, processes, and articles.
- D. The Contractor shall submit substitution requests, together with substantiating data, for substitution of any "or equal" material, process, or article no later than thirty-five (35) calendar days after award of Contract. Provisions regarding submission of substitution requests shall not in any way authorize an extension of time for the performance of this Contract. If a substitution request is rejected by the DISTRICT, the Contractor shall provide the material, method or service specified herein. The DISTRICT shall not be responsible for any costs incurred by the Contractor associated with substitution requests. The burden of proof as to the equality of any material, process, or article shall rest with the Contractor. The Engineer has the complete and sole discretion to determine if a material, process, or article is substantially equal to or better than that specified and to approve or reject all substitution requests.
- E. Substantiating data as described above shall include, at a minimum, the following information:
1. A signed affidavit from the Contractor stating that the material, process, or article proposed as a substitution is substantially equal to or better than that specified in every way except as may be listed on the affidavit.
  2. Illustrations, specifications, catalog cut sheets, and any other relevant data required to prove that the material, process, or article is substantially equal to or better than that specified.
  3. A statement of the cost implications of the substitution being requested, indicating whether and why the proposed substitution will reduce or increase the amount of the contract.
  4. Information detailing the durability and lifecycle costs of the proposed substitution.
- F. Failure to submit all the required substantiating data detailed above in a timely manner so that the substitution request can be adequately reviewed may result in rejection of the substitution request. The Engineer is not obligated to review multiple submittals related the same substitution request resulting from the Contractor's failure to initially submit a complete package.
- G. Time limitations within this Article shall be strictly complied with and in no case will an extension of time for completion of the contract be granted because of Contractor's failure to provide substitution requests at the time and in the manner described herein.
- H. The Contractor shall bear the costs of all DISTRICT work associated with the review of substitution requests.

- I. If substitution requests approved by the Engineer require that Contractor furnish materials, methods or services more expensive than that specified, the increased costs shall be borne by Contractor.

#### **ARTICLE 15. SHOP DRAWINGS**

- A. Contractor shall check and verify all field measurements and shall submit with such promptness as to provide adequate time for review and cause no delay in its own Work or in that of any other contractor, subcontractor, or worker on the Project, six (6) copies of all shop drawings, calculations, schedules, and materials list, and all other provisions required by the Contract Documents. Contractor shall sign all submittals affirming that submittals have been reviewed and approved by Contractor prior to submission to Engineer. Each signed submittal shall affirm that the submittal meets all the requirements of the Contract Documents except as specifically and clearly noted and listed on the transmittal letter of the submittal.
- B. Contractor shall make any corrections required by the Engineer, and file with the Engineer six (6) corrected copies each, and furnish such other copies as may be needed for completion of the Work. Engineer's acceptance of shop drawings shall not relieve Contractor from responsibility for deviations from the Contract Documents unless Contractor has, in writing, called Engineer's attention to such deviations at time of submission and has secured the Engineer's written acceptance. Engineer's acceptance of shop drawings shall not relieve Contractor from responsibility for errors in shop drawings.

#### **ARTICLE 16. SUBMITTALS**

- A. Contractor shall furnish to the Engineer for approval, prior to purchasing or commencing any Work, a log of all samples, material lists and certifications, mix designs, schedules, and other submittals, as required in the Contract Documents. The log shall indicate whether samples will be provided in accordance with other provisions of this Contract.
- B. Contractor will provide samples and submittals, together with catalogs and supporting data required by the Engineer, to the Engineer within a reasonable time period to provide for adequate review and avoid delays in the Work.
- C. These requirements shall not authorize any extension of time for performance of this Contract. Engineer will check and approve such samples, but only for conformance with design concept of work and for compliance with information given in the Contract Documents. Work shall be in accordance with approved samples and submittals.

#### **ARTICLE 17. MATERIALS**

- A. Except as otherwise specifically stated in the Contract Documents, Contractor shall provide and pay for all materials, labor, tools, equipment, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this Contract within specified time.

- B. Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted and/or specified, and workmanship shall be of good quality.
- C. Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of the Work and shall be stored properly and protected as required by the Contract Documents. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or Work.
- D. No materials, supplies, or equipment for Work under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in the Work and agrees upon completion of all work to deliver the Project, to the DISTRICT free from any claims, liens, or charges.
- E. Materials shall be stored on the Project site in such manner so as not to interfere with any operations of the DISTRICT or any independent contractor.
- F. Contractor shall verify all measurements, dimensions, elevations, and quantities before ordering any materials or performing any Work, and the DISTRICT shall not be liable for Contractor's failure to do so. No additional compensation, over and above payment for the actual quantities at the prices set out in the Bid Form, will be allowed because of differences between actual measurements, dimension, elevations and quantities and those indicated on the Plans and in the Specifications. Any difference therein shall be submitted to the Engineer for consideration before proceeding with the Work.

## **ARTICLE 18. PERMITS AND LICENSES**

- A. DISTRICT will apply and pay for the review of necessary encroachment permits for Work within the public rights-of-way. Contractor shall obtain all other necessary permits and licenses for the construction of the Project, including encroachment permits, and shall pay all fees required by law and shall comply with all laws, ordinances, rules and regulations relating to the Work and to the preservation of public health and safety. Before acceptance of the Project, the Contractor shall submit all licenses, permits, certificates of inspection and required approvals to the DISTRICT.
- B. The Bid Form contains an allowance for the Contractor's cost of acquiring traffic control permits and for construction inspection fees that may be charged to the Contractor by the Agency of Jurisdiction. The allowance is included within the Bid Form to eliminate the need by bidders to research or estimate the costs of traffic control permits and construction inspection fees prior to submitting a bid. The allowance is specifically intended to account for the costs of traffic control permits and construction inspection fees charged by the local Agency of Jurisdiction only. No other costs payable by Contractor to the Agency of Jurisdiction are included within the allowance. Payment by DISTRICT to Contractor under the Permit and Inspection Allowance Bid Item shall be made based on actual cost receipts only and in accordance with the provisions of these specifications.

## ARTICLE 19. TRENCHES

- A. **Trenches Five Feet or More in Depth.** Contractor shall submit to the Engineer at the preconstruction meeting, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from hazards of caving ground during the excavation of any trench or trenches five feet or more in depth. If such plan varies from shoring system standards established by the Construction Safety Orders of the California Code of Regulations, Department of Industrial Relations, the plan shall be prepared by a California registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations. The Contractor shall designate in writing the “competent person” as defined in Title 8, California Code of Regulations, who shall be present at the Work Site each day that trenching/excavation is in progress. The “competent person” shall prepare and provide daily trenching/excavation inspection reports to the Engineer. Contractor shall also submit a copy of its annual California Occupational Safety and Health Administration (Cal/OSHA) trench/excavation permit.
- B. **Excavations Deeper than Four Feet.** If the Work involves excavating trenches or other excavations that extend deeper than four feet below the surface, Contractor shall promptly, and before the excavation is further disturbed, notify the DISTRICT in writing of any of the following conditions:
1. Material that the Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
  2. Subsurface or latent physical conditions at the site differing from those indicated.
  3. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract

The DISTRICT shall promptly investigate the conditions, and if it finds that the conditions do so materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor’s cost of, or the time required for, performance of any part of the Work, shall issue a change order under the procedures described in the Contract Documents.

In the event that a dispute arises between the DISTRICT and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor’s cost of, or time required for, performance of any part of the Work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all Work to be performed under the Contract. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the parties.



## **ARTICLE 20. TRAFFIC CONTROL**

- A. Traffic control plan(s) for the Work may be required by the Agency(s) of Jurisdiction. Traffic control plans, if required, shall be prepared at Contractor's expense, and traffic control shall be performed at Contractor's expense in accordance with the requirements of the Agency(s) of Jurisdiction. The Permit and Inspection Allowance included within the Bid Form includes the cost of required traffic control permit(s) and construction inspection by the Agency(s) of Jurisdiction only. The Permit and Inspection Allowance does not include costs for preparation of any required traffic control plans, implementation of any traffic control requirements or for any traffic signal services that may be required. Costs for traffic control plans, implementation of traffic control, or traffic signal services required by the Agency(s) of Jurisdiction shall be included in the Contractor's Bid.
- B. All warning signs and safety devices used by the Contractor to perform the Work shall conform to the requirements contained in the State of California, Department of Transportation's current edition of "Manual of Traffic Controls for Construction and Maintenance Work Zones" or to the requirements of the local agency. The Contractor shall also be responsible for all traffic control required by the agency having jurisdiction over the project on the intersecting streets. Contractor shall submit two (2) traffic control plans to the agency having jurisdiction over the project and the General Manager a minimum of forty-eight (48) hours prior to starting work for approval.
- C. The Contractor's representative on the site responsible for traffic control shall produce evidence that he/she has completed training acceptable to the California Department of Transportation for safety through construction zones. All of the streets in which the Work will occur shall remain open to traffic and one lane of traffic maintained at all times unless otherwise directed by the agency of jurisdiction. Businesses and residences adjacent to the Work shall be notified forty-eight (48) hours in advance of closing of driveways. The Contractor shall make every effort to minimize the amount of public parking temporarily eliminated due to construction in areas fronting businesses. No stockpiles of pipe or other material will be allowed in traveled right-of-ways after working hours unless otherwise approved by the Engineer.

## **ARTICLE 21. DIVERSION OF RECYCLABLE WASTE MATERIALS**

In compliance with the applicable DISTRICT's waste reduction and recycling efforts, Contractor shall divert all Recyclable Waste Materials to appropriate recycling centers as required for compliance with the local jurisdiction's waste diversion ordinances. Contractor will be required to submit weight tickets and written proof of diversion with its monthly progress payment requests. Contractor shall complete and execute any certification forms required by DISTRICT or other applicable agencies to document Contractor's compliance with these diversion requirements. All costs incurred for these waste diversion efforts shall be the responsibility of the Contractor.

## **ARTICLE 22. REMOVAL OF HAZARDOUS MATERIALS**

Should Contractor encounter material reasonably believed to be polychlorinated biphenyl (PCB) or other toxic wastes and hazardous materials which have not been rendered harmless at the Project site, the Contractor shall immediately stop work at the affected Project site and shall report the condition to the DISTRICT in writing. The DISTRICT shall contract for any services required to directly remove and/or abate PCBs and other toxic wastes and hazardous materials, if required

by the Project site(s), and shall not require the Contractor to subcontract for such services. The Work in the affected area shall not thereafter be resumed except by written agreement of the DISTRICT and Contractor.

### **ARTICLE 23. SANITARY FACILITIES**

Contractor shall provide sanitary temporary toilet buildings and hand washing facilities for the use of all workers. All toilets and hand washing facilities shall comply with local codes and ordinances. Toilets shall be kept supplied with toilet paper and shall have workable door fasteners. Toilets and hand washing facilities shall be serviced no less than once weekly and shall be present in a quantity of not less than 1 per 20 workers as required by Cal/OSHA regulations. The toilets and hand washing facilities shall be maintained in a sanitary condition at all times. Use of toilet and hand washing facilities in the Work under construction shall not be permitted. Any other Sanitary Facilities required by Cal/OSHA shall be the responsibility of the Contractor.

### **ARTICLE 24. AIR POLLUTION CONTROL**

Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes, including, but not limited to, those required by the South Coast Air Quality Management District. All containers of paint, thinner, curing compound, solvent or liquid asphalt shall be labeled to indicate that the contents fully comply with the applicable material requirements.

### **ARTICLE 25. LAYOUT AND FIELD ENGINEERING**

All field engineering required for laying out the Work and establishing grades for earthwork operations shall be furnished by the Contractor at its expense.

### **ARTICLE 26. TESTS AND INSPECTIONS**

- A. If the Contract Documents, the Engineer, or any instructions, laws, ordinances, or public authority requires any part of the Work to be tested or Approved, Contractor shall provide the Engineer at least two (2) working days' notice of its readiness for observation or inspection. If inspection is by a public authority other than the DISTRICT, Contractor shall promptly inform the DISTRICT of the date fixed for such inspection. Required certificates of inspection (or similar) shall be secured by Contractor. Costs for DISTRICT testing and DISTRICT inspection shall be paid by the DISTRICT. Costs of tests for Work found not to be in compliance shall be paid by the Contractor.
- B. If any Work is done or covered up without the required testing or approval, the Contractor shall uncover or deconstruct the Work, and the Work shall be redone after completion of the testing at the Contractor's cost in compliance with the Contract Documents.
- C. Where inspection and testing are to be conducted by an independent laboratory or agency, materials or samples of materials to be inspected or tested shall be selected by such laboratory or agency, or by the DISTRICT, and not by Contractor. All tests or inspections of materials shall be made in accordance with the commonly recognized standards of national organizations.

- D. In advance of manufacture of materials to be supplied by Contractor which must be tested or inspected, Contractor shall notify the DISTRICT so that the DISTRICT may arrange for testing at the source of supply. Any materials which have not satisfactorily passed such testing and inspection shall not be incorporated into the Work.
- E. If the manufacture of materials to be inspected or tested will occur in a plant or location greater than sixty (60) miles from the DISTRICT, the Contractor shall pay for any excessive or unusual costs associated with such testing or inspection, including but not limited to excessive travel time, standby time and required lodging.
- F. Reexamination of Work may be ordered by the DISTRICT. If so ordered, Work must be uncovered or deconstructed by Contractor. If Work is found to be in accordance with the Contract Documents, the DISTRICT shall pay the costs of reexamination and reconstruction. If such work is found not to be in accordance with the Contract Documents, Contractor shall pay all costs.

## **ARTICLE 27. PROTECTION OF WORK AND PROPERTY**

- A. The Contractor shall be responsible for all damages to persons or property that occurs as a result of the Work. Contractor shall be responsible for the proper care and protection of all materials delivered and Work performed until completion and final Acceptance by the DISTRICT. All Work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support as necessary. Contractor shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the Project site where Work is being performed. Contractor shall erect and properly maintain at all times, as required by field conditions and progress of work, all necessary safeguards, signs, barriers, lights, and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created in the course of construction.
- B. In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from the Engineer, is hereby permitted to act to prevent such threatened loss or injury; and Contractor shall so act, without appeal, if so authorized or instructed by the Engineer or the DISTRICT. Any compensation claimed by Contractor on account of emergency work shall be determined by and agreed upon by the DISTRICT and the Contractor.

## **ARTICLE 28. CONTRACTOR'S MEANS AND METHODS**

Contractor is solely responsible for the means and methods utilized to perform the Work. In no case shall the Contractor's means and methods deviate from commonly used industry standards.

## **ARTICLE 29. AUTHORIZED REPRESENTATIVES**

The DISTRICT shall designate representatives, who shall have the right to be present at the Project site at all times. The DISTRICT may designate an inspector who shall have the right to observe all of the Contractor's Work. The inspector shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. Contractor shall provide safe and proper facilities for such access.

## ARTICLE 30. HOURS OF WORK

- A. As provided in Article 3 (commencing at section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, Contractor stipulates that eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any subcontractor on any subcontract under this Contract upon the Work or upon any part of the Work contemplated by this Contract is limited and restricted to eight (8) hours during any one calendar day and 40 hours during any one calendar week, except as hereinafter provided. Notwithstanding the provisions herein above set forth, work performed by employees of Contractor in excess of eight (8) hours per day, and 40 hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.
- B. The Contractor and every subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all reasonable hours to the inspection of the DISTRICT and to the Division of Labor Law Enforcement, Department of Industrial Relations of the State of California.
- C. The Contractor shall pay to the DISTRICT a penalty of twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Article 3 (commencing at section 1810), Chapter 1, Part 7, Division 2 of the Labor Code.
- D. Any work necessary to be performed after regular working hours, or on Saturdays and Sundays or other holidays, shall be performed without additional expense to the DISTRICT.
- E. DISTRICT will provide inspection during normal working hours from 7:00 a.m. to 3:30 p.m. Monday through Friday. Inspection before or after this time will be charged to the Contractor as reimbursable inspection time. Inspections on weekends requires two days' notice for review and approval. Upon written request and approval the 8.5 hour working day may be changed to other limits subject to city/county ordinance.
- F. It shall be unlawful for any person to operate, permit, use, or cause to operate any of the following at the Project site, other than between the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, with no Work allowed on the DISTRICT-observed holidays, unless otherwise approved by the DISTRICT:
  - 1. Powered Vehicles
  - 2. Construction Equipment
  - 3. Loading and Unloading Vehicles
  - 4. Domestic Power Tools

## ARTICLE 31. PAYROLL RECORDS; LABOR COMPLIANCE

- A. Pursuant to Labor Code section 1776, Contractor and all subcontractors shall maintain weekly certified payroll records, showing the names, addresses, Social Security numbers, work classifications, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by them in connection with the Work under this Contract. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury.
- B. In accordance with Labor Code section 1771.4, the Contractor and each subcontractor shall furnish the certified payroll records directly to the Department of Industrial Relations (“DIR”) on the specified interval and format prescribed by the DIR, which may include electronic submission. Contractor shall comply with all requirements and regulations from the DIR relating to labor compliance monitoring and enforcement. The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.
- C. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor’s performance of Work, including any delay, shall be Contractor’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay subject to any applicable liquidated damages and shall not be compensable by the DISTRICT. Contractor shall defend, indemnify and hold the DISTRICT, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.
- D. The payroll records described herein shall be certified and submitted by the Contractor at a time designated by the DISTRICT. The Contractor shall also provide the following:
  - 1. A certified copy of the employee’s payroll records shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
  - 2. A certified copy of all payroll records described herein shall be made available for inspection or furnished upon request of the DIR.
- E. Unless submitted electronically, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement (“DLSE”) of the DIR or shall contain the same information as the forms provided by the DLSE.
- F. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency, the DISTRICT, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor awarded the Contract or performing the contract shall not be marked or obliterated.

- G. In the event of noncompliance with the requirements of this Article, the Contractor shall have ten (10) calendar days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this Article. Should noncompliance still be evident after such 10-day period, the Contractor shall pay a penalty of one hundred dollars (\$100.00) to the DISTRICT for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payment then due.
- H. The responsibility for compliance with this Article shall rest upon the Contractor.

## **ARTICLE 32. PREVAILING RATES OF WAGES**

- A. The Contractor is aware of the requirements of Labor Code sections 1720 *et seq.* and 1770 *et seq.*, as well as California Code of Regulations, Title 8, Section 16000 *et seq.* (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. Since this Project involves an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Contract from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at [www.dir.ca.gov](http://www.dir.ca.gov). In the alternative, the Contractor may view a copy of the prevailing rate of per diem wages which are on file at the DISTRICT’s Administration Office and shall be made available to interested parties upon request. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor’s principal place of business and at the Project site. Contractor shall defend, indemnify and hold the DISTRICT, its officials, officers, employees and authorized volunteers free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.
- B. The Contractor shall forfeit as a penalty to the DISTRICT not more than Two Hundred Dollars (\$200.00), pursuant to Labor Code section 1775, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate as determined by the Director of the Department of Industrial Relations for such work or craft in which such worker is employed for any public work done under the Contract by it or by any subcontractor under it. The difference between such prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.
- C. Contractor shall post, at appropriate conspicuous points on the Project site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

### **ARTICLE 33. PUBLIC WORKS CONTRACTOR REGISTRATION**

Pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and its subcontractors must be registered with the Department of Industrial Relations prior to the execution of a contract to perform public works. By entering into this Contract, Contractor represents that it is aware of the registration requirement and is currently registered with the DIR. Contractor shall maintain a current registration for the duration of the Project. Contractor shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in any subcontract and ensure that all subcontractors are registered at the time this Contract is entered into and maintain registration for the duration of the Project. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

### **ARTICLE 34. EMPLOYMENT OF APPRENTICES**

- A. Contractor and all subcontractors shall comply with the requirements of Labor Code sections 1777.5 and 1777.6 in the employment of apprentices.
- B. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.
- C. Knowing violations of Labor Code section 1777.5 will result in forfeiture not to exceed one hundred dollars (\$100.00) for each calendar day of non-compliance pursuant to Labor Code section 1777.7.
- D. The responsibility for compliance with this Article shall rest upon the Contractor.

### **ARTICLE 35. NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY**

Pursuant to Labor Code section 1735 and other applicable provisions of law, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other classifications protected by law on this Project. The Contractor will take affirmative action to insure that employees are treated during employment or training without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other classifications protected by law.

Employment Eligibility; Contractor. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Contract, and shall not violate any such law at any time during the term of the Contract. Contractor shall avoid any violation of any such law during the term of this Contract by

participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the DISTRICT or its representatives for inspection and copy at any time during normal business hours. The DISTRICT shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for or referred to herein.

Employment Eligibility; Subcontractors, Sub-subcontractors and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any part of the Work or of this Contract to make the same verifications and comply with all requirements and restrictions provided for herein.

Employment Eligibility; Failure to Comply. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the DISTRICT to terminate the Contract for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for herein; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.

#### **ARTICLE 36. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS**

Contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code section 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid, or may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the DISTRICT. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.

#### **ARTICLE 37. LABOR/EMPLOYMENT SAFETY**

The Contractor shall comply with all applicable laws and regulations of the federal, state, and local government, including Cal/OSHA requirements and requirements for verification of employees' legal right to work in the United States.

The Contractor shall maintain emergency first aid treatment for his employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 *et seq.*), and California Code of Regulations, Title 8, Industrial Relations Division 1, Department of Industrial Relations, Chapter 4. The Contractor shall ensure the availability of emergency medical services for its employees in accordance with California Code of Regulations, Title 8, Section 1512.

The Contractor shall submit the Illness and Injury Prevention Program and a Project site specific safety program to the DISTRICT prior to beginning Work at the Project site. Contractor shall maintain a confined space program that meets or exceeds the DISTRICT Standards. Contractor shall adhere to the DISTRICT's lock out tag out program.



## ARTICLE 38. INSURANCE

The Contractor shall obtain, and at all times during performance of the Contract, maintain, and for five (5) years thereafter, insurance described in this Article against claims for injuries or death to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by the Contractor, his agents, representatives, employees, or subcontractors. Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the DISTRICT that it has secured all insurance required hereunder. Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the DISTRICT that the subcontractor has secured all insurance required under this Article. Failure to provide and maintain all required insurance shall be grounds for the DISTRICT to terminate this Contract for cause. Contractor shall furnish DISTRICT with original certificates of insurance and endorsements effective coverage required by this Contract on forms satisfactory to the DISTRICT. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms acceptable to the DISTRICT. All certificates and endorsements must be received and approved by the DISTRICT before Work commences.

- A. **Additional Insureds; Waiver of Subrogation.** The DISTRICT, its officials, officers, employees, agents and authorized volunteers shall be named as Additional Insureds on Contractor's All Risk policy and on Contractor's and its subcontractors' policies of Commercial General Liability and Automobile Liability insurance using, for Contractor's policy/ies of Commercial General Liability insurance, ISO CG form 20 10 11 85 or if not available, through the addition of **both** CG 20 10 10 01 and 20 37 10 01 (or endorsements providing the exact same coverage, including completed operations), and, for subcontractors' policies of Commercial General Liability insurance, ISO CG form 20 38 (or endorsements providing the exact same coverage). Notwithstanding the minimum limits set forth in this Contract for any type of insurance coverage, all available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as Additional Insureds hereunder. Contractor and its insurance carriers shall provide a Waiver of Subrogation in favor of those parties.
- B. **Workers' Compensation Insurance.** The Contractor shall provide workers' compensation insurance for all of the employees engaged in Work under this Contract, on or at the Site, and, in case of any sublet Work, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees as prescribed by the state of California, with Statutory Limits. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this Contract, on or at the Site, is not protected under the Workers' Compensation Statutes, the Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected. The Contractor is required to secure payment of compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. The Contractor shall file with the DISTRICT certificates of his insurance protecting workers. Company or companies providing insurance coverage shall be acceptable to the DISTRICT, if in the form and coverage as set forth in the Contract Documents.
- C. **Employer's Liability Insurance.** Contractor shall provide Employer's Liability Insurance, including Occupational Disease, in the amount of at least one million dollars

(\$1,000,000.00) per person per accident. Contractor shall provide DISTRICT with a certificate of Employer's Liability Insurance. Such insurance shall comply with the provisions of the Contract Documents. The Contractor hereby agrees to waive rights of subrogation to obtain endorsement necessary to affect this waiver of subrogation in favor of the DISTRICT, its directors, officers, employees, and authorized volunteers, for losses paid under the terms of this coverage which arise from Work performed by the Named Insured for the DISTRICT; this provision applies regardless of whether or not the DISTRICT has received a waiver of subrogation from the insurer.

**D. Commercial General Liability Insurance.** Contractor shall provide "occurrence" form Commercial General Liability insurance coverage at least as broad as the most current ISO CGL Form 00 01, including but not limited to, premises liability, contractual liability, products/completed operations, personal and advertising injury which may arise from or out of Contractor's operations, use, and management of the Site, or the performance of its obligations hereunder. The policy shall not contain any exclusion contrary to this Contract including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 39); or (2) cross-liability for claims or suits against one insured against another. Policy limits shall not be less than \$5,000,000 per occurrence for bodily injury, personal injury and property damage. Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Defense costs shall be paid in addition to the limits.

1. Such policy shall comply with all the requirements of this Article. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit Contractor's indemnification obligations to the DISTRICT, and shall not preclude the DISTRICT from taking such other actions available to the DISTRICT under other provisions of the Contract Documents or law.
2. All general liability policies provided pursuant to the provisions of this Article shall comply with the provisions of the Contract Documents.
3. All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, under-ground excavation, removal of lateral support, and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Contractor of that part of the indemnification contained in these General Conditions relating to liability for injury to or death of persons and damage to property.
4. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, the DISTRICT may require additional coverage to be purchased by Contractor to restore the required limits. Contractor may combine primary, umbrella, and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy

shall include the additional insured endorsement described in the Contract Documents.

5. All policies of general liability insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.

**E. Automobile Liability Insurance.** Contractor shall provide “occurrence” form Automobile Liability Insurance at least as broad as ISO CA 00 01 (Any Auto) in the amount of, at least, one million dollars (\$1,000,000) per accident for bodily injury and property damage. Such insurance shall provide coverage with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible, in a form and with insurance companies acceptable to the DISTRICT. All policies of automobile insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.

**F. Builder’s Risk [“All Risk”]**

1. It is the Contractor’s responsibility to maintain or cause to be maintained Builder’s Risk [“All Risk”] or an installation floater (for materials and equipment) extended coverage insurance on all work, material, equipment, appliances, tools, and structures that are or will become part of the Work and subject to loss or damage by fire, vandalism and malicious mischief, and collapse, in an amount to cover 100% of the replacement cost. The DISTRICT accepts no responsibility for the Work until the Work is formally accepted by the DISTRICT. The Contractor shall provide a certificate evidencing this coverage before commencing performance of the Work.
2. The Policy shall be endorsed with DISTRICT, its directors, officers, employees, and authorized volunteers named as loss payee, as their interest may appear.
3. Policy shall be provided for replacement value on an “all risk” basis. There shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for any ensuing loss from faulty workmanship, nonconforming work, omission or deficiency in design or specifications; (2) coverage against machinery accidents and operational testing; (3) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures and all other properties constituting a part of the Project; (4) transit coverage, including ocean marine coverage (unless insured by the supplier), with sub-limits sufficient to insure the full replacement value of any key equipment item; and (5) coverage with sub-limits sufficient to insure the full replacement value of any property or equipment stored either on or off the Site. Such insurance shall be on a form acceptable to DISTRICT to ensure adequacy and sublimit.
4. In addition, the policy shall meet the following requirements:
  - a. Insurance policies shall be so conditioned as to cover the performance of any extra work performed under the Contract.

- b. Coverage shall include all materials stored on site and in transit.
  - c. Coverage shall include Contractor's tools and equipment.
  - d. Insurance shall include boiler, machinery and material hoist coverage.
- G. Contractor shall require all tiers of sub-contractors working under this Contract to provide the insurance required under this Article unless otherwise agreed to in writing by DISTRICT. Contractor shall make certain that any and all subcontractors hired by Contractor are insured in accordance with this Contract. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold the DISTRICT harmless from any damage, loss, cost, or expense, including attorneys' fees, incurred by the DISTRICT as a result thereof.

### **ARTICLE 39. FORM AND PROOF OF CARRIAGE OF INSURANCE**

- A. Any insurance carrier providing insurance coverage required by the Contract Documents shall be admitted to and authorized to do business in the State of California unless waived, in writing, by the DISTRICT's Risk Manager. Carrier(s) shall have an A.M. Best rating of not less than an A:VII. Insurance deductibles or self-insured retentions must be declared by the Contractor. At the election of the DISTRICT the Contractor shall either 1) reduce or eliminate such deductibles or self-insured retentions, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses. If umbrella or excess liability coverage is used to meet any required limit(s) specified herein, the Contractor shall provide a "follow form" endorsement satisfactory to the DISTRICT indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.
- B. Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or cancelled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the DISTRICT; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the DISTRICT, its officials, officers, agents, employees, and volunteers. When any of the required coverages expire during the term of this agreement, the Contractor shall deliver the renewal certificate(s) including the general liability additional insured endorsement and evidence of waiver of rights of subrogation against Member Water Agency (if builder's risk insurance is applicable) to Member Water Agency at least ten (10) days prior to the expiration date.
- C. The Certificates(s) and policies of insurance shall contain or shall be endorsed to contain the covenant of the insurance carrier(s) that it shall provide no less than thirty (30) days written notice be given to the DISTRICT prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, the DISTRICT may terminate the Contract or stop the Work in accordance with the Contract Documents, unless the DISTRICT receives, at least ten (10) days prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. Contractor shall not take

possession, or use the Site, or commence operations under this Contract until the DISTRICT has been furnished original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this Article. The original endorsements for each policy and the Certificate of Insurance shall be signed by an individual authorized by the insurance carrier to do so on its behalf.

- D. For any claims related to this Project, the Contractor's insurance coverage shall be primary at least as broad as ISO CG 20 01 04 13 as respects to the DISTRICT, its directors, officers, employees, and authorized volunteers. Any insurance or self-insurance maintained by the DISTRICT, its directors, officers, employees, and authorized volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- E. DISTRICT reserves the right to adjust the monetary limits of insurance coverages during the term of this Contract including any extension thereof if, in the DISTRICT's reasonable judgment, the amount or type of insurance carried by the Contractor becomes inadequate.
- F. Contractor shall report to the DISTRICT, in addition to the Contractor's insurer, any and all insurance claims submitted by the Contractor in connection with the Work under this Contract.

#### **ARTICLE 40. TIME FOR COMPLETION AND LIQUIDATED DAMAGES**

- A. **Time for Completion/Liquidated Damages.** Time is of the essence in the completion of the Work. Work shall be commenced within ten (10) Days of the date stated in the DISTRICT's Notice to Proceed and shall be completed by Contractor in the time specified in the Contract Documents. The DISTRICT is under no obligation to consider early completion of the Project; and the Contract completion date shall not be amended by the DISTRICT's receipt or acceptance of the Contractor's proposed earlier completion date. Furthermore, Contractor shall not, under any circumstances, receive additional compensation from the DISTRICT (including but not limited to indirect, general, administrative or other forms of overhead costs) for the period between the time of earlier completion proposed by the Contractor and the Contract completion date. If the Work is not completed as stated in the Contract Documents, it is understood that the DISTRICT will suffer damage. In accordance with Government Code section 53069.85, being impractical and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to the DISTRICT as fixed and liquidated damages, and not as a penalty, the sum stipulated in the Contract for each calendar day of delay until the Work is fully completed. Contractor and its surety shall be liable for any liquidated damages. Any money due or to become due the Contractor may be retained to cover liquidated damages.
- B. **Inclement Weather.** Contractor shall abide by the Engineer's determination of what constitutes inclement weather. Time extensions for inclement weather shall only be granted when the Work stopped during inclement weather is on the critical path of the Project schedule.
- C. **Extension of Time.** Contractor shall not be charged liquidated damages because of any delays in completion of the Work due to unforeseeable causes beyond the control

and without the fault or negligence of Contractor (or its subcontractors or suppliers). Contractor shall within five (5) Days of identifying any such delay notify the DISTRICT in writing of causes of delay. The DISTRICT shall ascertain the facts and extent of delay and grant extension of time for completing the Work when, in its judgment, the facts justify such an extension. Time extensions to the Project shall be requested by the Contractor as they occur and without delay. No delay claims shall be permitted unless the event or occurrence delays the completion of the Project beyond the Contract completion date.

- D. **No Damages for Reasonable Delay.** The DISTRICT's liability to Contractor for delays for which the DISTRICT is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall the DISTRICT be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs. Damages caused by unreasonable DISTRICT delay, including delays caused by items that are the responsibility of the DISTRICT pursuant to Government Code section 4215, shall be based on actual costs only, no proportions or formulas shall be used to calculate any delay damages.

#### **ARTICLE 41. COST BREAKDOWN AND PERIODIC ESTIMATES**

Contractor shall furnish on forms Approved by the DISTRICT:

- A. Within ten (10) Days of Notice to Proceed with the Contract, a detailed estimate giving a complete breakdown of the Contract price, if the Contract amount is a lump sum.
- B. A monthly itemized estimate of Work done for the purpose of making progress payments. In order for the DISTRICT to consider and evaluate each progress payment application, the Contractor shall submit a detailed measurement of Work performed and a progress estimate of the value thereof before the tenth (10th) Day of the following month.
- C. Contractor shall submit, with each of its payment requests, an adjusted list of actual quantities, verified by the Engineer, for unit price items listed, if any, in the Bid Form.
- D. Following the DISTRICT's Acceptance of the Work, the Contractor shall submit to the DISTRICT a written statement of the final quantities of unit price items for inclusion in the final payment request.
- E. The DISTRICT shall have the right to adjust any estimate of quantity and to subsequently correct any error made in any estimate for payment.

Contractor shall certify under penalty of perjury, that all cost breakdowns and periodic estimates accurately reflect the Work on the Project.

#### **ARTICLE 42. PROGRESS ESTIMATES AND PAYMENT**

- A. By the tenth (10th) Day of the following calendar month, Contractor shall submit to Engineer a payment request which shall set forth in detail the value of the Work done for the period beginning with the date work was first commenced and ending on the end of the calendar month for which the payment request is prepared. Contractor shall

include any amount earned for authorized extra work. From the total thus computed, a deduction shall be made in the amount of five percent (5%) for retention, except where the DISTRICT has adopted a finding that the Work done under the Contract is substantially complex, and then the amount withheld as retention shall be the percentage specified in the Notice Inviting Bids. From the remainder a further deduction may be made in accordance with Section B below. The amount computed, less the amount withheld for retention and any amounts withheld as set forth below, shall be the amount of the Contractor's payment request.

- B. The DISTRICT may withhold a sufficient amount or amounts of any payment or payments otherwise due to Contractor, as in his judgment may be necessary to cover:
1. Payments which may be past due and payable for just claims against Contractor or any subcontractors for labor or materials furnished in and about the performance of work on the Project under this Contract.
  2. Defective work not remedied.
  3. Failure of Contractor to make proper payments to his subcontractor or for material or labor.
  4. Completion of the Contract if there is a reasonable doubt that the Work can be completed for balance then unpaid.
  5. Damage to another contractor or a third party.
  6. Amounts which may be due the DISTRICT for claims against Contractor.
  7. Failure of Contractor to keep the record ("as-built") drawings up to date.
  8. Failure to provide update on construction schedule as required herein.
  9. Site cleanup.
  10. Failure to comply with Contract Documents.
  11. Liquidated damages.
  12. Legally permitted penalties.
- C. The DISTRICT may apply such withheld amount or amounts to payment of such claims or obligations at its discretion with the exception of subsections (B)(1), (3), and (5) of this Article, which must be retained or applied in accordance with applicable law. In so doing, the DISTRICT shall be deemed the agent of Contractor and any payment so made by the DISTRICT shall be considered as a payment made under contract by the DISTRICT to Contractor and the DISTRICT shall not be liable to Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligations. The DISTRICT will render Contractor a proper accounting of such funds disbursed on behalf of Contractor.

- D. Upon receipt, the Engineer shall review the payment request to determine whether it is undisputed and suitable for payment. If the payment request is determined to be unsuitable for payment, it shall be returned to Contractor as soon as practicable but not later than seven (7) Days after receipt, accompanied by a document setting forth in writing the reasons why the payment request is not proper. The DISTRICT shall make the progress payment within 30 calendar days after the receipt of an undisputed and properly submitted payment request from Contractor, provided that a release of liens and claims has been received from the Contractor pursuant to Civil Code section 8132. The number of days available to the DISTRICT to make a payment without incurring interest pursuant to this paragraph shall be reduced by the number of days by which the Engineer exceeds the seven (7) Day requirement.
- E. A payment request shall be considered properly executed if funds are available for payment of the payment request and payment is not delayed due to an audit inquiry by the financial officer of the DISTRICT.

#### **ARTICLE 43. SECURITIES FOR MONEY WITHHELD**

Pursuant to section 22300 of the Public Contract Code of the State of California, Contractor may request the DISTRICT to make retention payments directly to an escrow agent or may substitute securities for any money withheld by the DISTRICT to ensure performance under the contract. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with the DISTRICT or with a state or federally chartered bank as the escrow agent who shall return such securities to Contractor upon satisfactory completion of the contract. Deposit of securities with an escrow agent shall be subject to a written agreement substantially in the form provided in section 22300 of the Public Contract Code.

#### **ARTICLE 44. CHANGES AND EXTRA WORK.**

##### **A. Contract Change Orders.**

1. The DISTRICT, without invalidating the Contract, may order changes in the Work consisting of additions, deletions or other revisions, and the Contract Price and Contract Time shall be adjusted accordingly. Except as otherwise provided herein, all such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including any adjustment in the Contract Price or the Contract Time, and the full and final settlement of all costs (direct, indirect and overhead) related to the Work authorized by the Change Order.
2. Contractor shall promptly execute changes in the Work as directed in writing by the DISTRICT even when the parties have not reached agreement on whether the change increases the scope of Work or affects the Contract Price or Contract Time. All claims for additional compensation to the Contractor shall be presented in writing. No claim will be considered after the Work in question has been done unless a written Change Order has been issued or a timely written notice of claim has been made by Contractor.



3. Whenever any change is made as provided for herein, such change shall be considered and treated as though originally included in the Contract, and shall be subject to all terms, conditions, and provisions of the original Contract.
4. Contractor shall not be entitled to claim or bring suit for damages, whether for loss of profits or otherwise, on account of any decrease or omission of any item or portion of Work to be done.
5. No dispute, disagreement, or failure of the parties to reach agreement on the terms of the Change Order shall relieve the Contractor from the obligation to proceed with performance of the work, including Additional Work, promptly and expeditiously.
6. Contractor shall make available to the DISTRICT any of the Contractor's documents related to the Project immediately upon request of the DISTRICT, as set forth in Article 52.
7. Any alterations, extensions of time, Additional Work, or any other changes may be made without securing consent of the Contractor's surety or sureties.

**B. Contract Price Change.**

1. Process for Determining Adjustments in Contract Price.
  - a. Owner Initiated Change. The Contractor must submit a complete cost proposal, including any change in the Contract Price or Contract Time, within seven (7) Days after receipt of a scope of a proposed change order initiated by the DISTRICT, unless the DISTRICT requests that proposals be submitted in less than seven (7) Days.
  - b. Contractor Initiated Change. The Contractor must give written notice of a proposed change order required for compliance with the Contract Documents within seven (7) Days of discovery of the facts giving rise to the proposed change order.
  - c. Whenever possible, any changes to the Contract amount shall be in a lump sum mutually agreed to by the Contractor and the DISTRICT.
  - d. Price quotations from the Contractor shall be accompanied by sufficiently detailed supporting documentation to permit verification by the DISTRICT, including but not limited to estimates and quotations from subcontractors or material suppliers, as the DISTRICT may reasonably request. Contractor shall certify the accuracy of all Change Order Requests under penalty of perjury.
  - e. If the Contractor fails to submit a complete cost proposal within the seven (7) Day period (or as requested), the DISTRICT has the right to order the Contractor in writing to commence the Work immediately on a time and materials basis and/or issue a lump sum change to the Contract Price and/or Contract Time in accordance with the DISTRICT's estimate. If the change is issued based on the DISTRICT's estimate, the Contractor will waive its right to dispute the action unless within fifteen (15) Days following completion of the

added/deleted work, the Contractor presents written proof that the DISTRICT's estimate was in error.

2. Unit Price Change Orders.

- a. When the actual quantity of a Unit Price item varies from the Bid Form, compensation for the change in quantity will be calculated by multiplying the actual quantity by the Unit Price. This calculation may result in either an additive or deductive Final Change Order pursuant to the Contract Documents.
- b. No Mark up for Overhead and Profit. Because the Contract Unit Prices provided in the Bid Form include Overhead and Profit as determined by Contractor at the time of Bid submission, no mark up or deduction for Overhead and Profit will be included in Unit Price Change Orders.
- c. Bid items included on the Bid Form may be deducted from the Work in their entirety without any negotiated extra costs.
- d. Contractor acknowledges that unit quantities are estimates and agrees that the estimated unit quantities listed on the Bid Form will be adjusted to reflect the actual unit quantities which may result in an adjustment to the Contract Unit Prices. Such an adjustment will be made by execution of a final additive or deductive Change Order following Contractor's completion of the Work. Upon notification, Contractor's failure to respond within seven (7) Days will result in DISTRICT's issuance of a unit quantity adjustment to the Contract Unit Prices and/or Contract Time in accordance with the Contract Documents.
- e. The DISTRICT or Contractor may make a Claim for an adjustment in the Unit Price in accordance with the Contract Documents if:
  - i. the quantity of any item of Unit Price Work performed by Contractor differs by twenty-five percent (25%) or more from the estimated quantity of such item indicated in the Contract; and
  - ii. there is no corresponding adjustment with respect to any other item of Work; and
  - iii. Contractor believes that Contractor is entitled to an increase in Unit Price as a result of having incurred additional expense or the DISTRICT believes that the DISTRICT is entitled to a decrease in Unit Price and the parties are unable to agree as to the amount of any such increase or decrease..

3. Lump Sum Change Orders. Contractor shall incorporate the provisions of this Section into all agreements with Subcontractors. Compensation for Lump Sum Change Orders shall be limited to expenditures necessitated specifically by the Additional Work, and shall be according to the following:

- a. Overview. The Contractor will submit a properly itemized Lump Sum Change Order Proposal covering the Additional Work and/or the work to be deleted. This proposal will be itemized for the various components of the Additional Work and segregated by labor, material, and equipment in a detailed format

satisfactory to the DISTRICT. The DISTRICT will require itemized change orders on all change order proposals from the Contractor, subcontractors, and sub-subcontractors regardless of tier. Details to be submitted will include detailed line item estimates showing detailed materials quantity take-offs, material prices by item and related labor hour pricing information and extensions (by line item or by drawing as applicable).

- b. Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft or type of worker at the time the Additional Work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State or local laws, as well as assessment or benefits required by lawful collective bargaining agreements. The use of a labor classification which would increase the Additional Work cost will not be permitted unless the Contractor establishes the necessity for such new classifications. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

Estimated labor hours must only include hours for those workmen and working foremen directly involved in performing the change order work. Supervision above the level of working foremen (such as general foremen, superintendent, project manager, etc.) is considered to be included in the markup percentages as outlined below. Note that no separate allowances for warranty expense will be allowed as a direct cost of a change order. Costs attributed to warranty expenses will be considered to be covered by the markup.

- c. Labor Burden. Labor burden allowable in change orders shall be defined as employer's net actual cost of payroll taxes (FICA, Medicare, SUTA, FUTA), net actual cost for employer's cost of union benefits (or other usual and customary fringe benefits if the employees are not union employees), and net actual cost to employer for worker's compensation insurance taking into consideration adjustments for experience modifiers, premium discounts, dividends, rebates, expense constants, assigned risk pool costs, net cost reductions due to policies with deductibles for self-insured losses, assigned risk rebates, etc. Contractor shall reduce their standard payroll tax percentages to properly reflect the effective cost reduction due to the estimated impact of the annual maximum wages subject to payroll taxes. An estimated percentage for labor burden may be used for pricing change orders. However, the percentage used for labor burden to price change orders will be examined at the conclusion of the Project and an adjustment to the approved change orders will be processed if it is determined that the actual labor burden percentage should have been more or less than the estimated percentage used.
- d. Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available in the quantities involved, plus sales tax, freight, and delivery. Materials costs shall be based upon supplier or manufacturer's invoice. If invoices or other satisfactory evidence of cost are not furnished within fifteen (15) Days of delivery, then the DISTRICT shall determine the materials cost, at its sole discretion. Estimated material change order costs shall reflect the Contractor's reasonably anticipated net actual cost for the purchase of the material needed for the change order work.

Estimated material costs shall reflect cost reductions available to the Contractor due to “non-cash” discounts, trade discounts, free material credits, and/or volume rebates. “Cash” discounts (i.e., prompt payment discounts of 2% or less) available on material purchased for change order work shall be credited to the DISTRICT if the Contractor is provided the DISTRICT funds in time for Contractor to take advantage of any such “cash” discounts. The portion of any “cash” discounts greater than 2% will not be considered “non-cash” discount for purposes of this provision. Price quotations from material suppliers must be itemized with unit prices for each specific item to be purchased. "Lot pricing" quotations will not be considered sufficient substantiating detail.

- e. Tool and Equipment Use. Costs for the use of small tools, which are tools that have a replacement value of \$1,000 or less, shall be considered included in the Overhead and Profit mark-ups established below. Allowable change order estimated costs may include appropriate amounts for rental of major equipment specifically needed to perform the change order work (defined as tools and equipment with an individual purchase cost of more than \$750). For Contractor owned equipment, the "bare" equipment rental rates allowed to be used for pricing change order proposals shall be 75% of the monthly rate listed in the most current publication of The AED Green Book divided by 176 to arrive at a maximum hourly rate to be applied to the hours the equipment is used performing the change order work. Further, for Contractor owned equipment, the aggregate equipment rent charges for any single piece of equipment used in all change order work shall be limited to 50% of the fair market value of the piece of equipment when the first change order is priced involving usage of the piece of equipment. Fuel necessary to operate the equipment will be considered as a separate direct cost associated with the change order work.
- f. Maximum Markup Percentage Allowable on Self-Performed Work. With respect to pricing change orders, the maximum markup percentage to be paid to any Contractor or subcontractor (regardless of tier) on self-performed work shall be a single markup percentage not-to-exceed fifteen percent (15%) of the net direct cost of (1) direct labor and allowable labor burden costs applicable to the change in the Work; (2) the net cost of material and installed equipment incorporated into the change in the Work, and (3) net rental cost of major equipment and related fuel costs necessary to complete the change in the Work. The markup computed using the above formula shall be considered to be allocated 2/3 to cover applicable overhead costs directly attributable to the field overhead costs related to processing, supervising and performing, the change order work, and the remaining 1/3 to cover home office overhead costs and profit
- g. Maximum Markup Percentages Allowable on Work Performed by Lower Tier Subcontractors. With respect to pricing the portion of change order proposals involving Work performed by lower tier contractors, the maximum markup percentage allowable to the Contractor or subcontractor supervising the lower tier subcontractor's work shall not exceed five percent (5%) of the net of all approved change order work performed by all subcontractors combined for any particular change order proposal. The markup computed using the above formula shall be considered to be allocated 2/3 to cover applicable overhead

costs directly attributable to the field overhead costs related to processing, supervising and performing the change order work, and the remaining 1/3 to cover home office overhead costs and profit.

- h. No Markup on Bonds and Liability Insurance Costs. Change order cost adjustments due to increases or decreases in bond or insurance costs (if applicable) shall not be subject to any markup.
  - i. Direct and Indirect Costs Covered by Markup Percentages. As a further clarification, the agreed upon markup percentage set forth above is intended to cover the Contractor's profit and all indirect costs associated with the change order work. Items intended to be covered by the markup percentage include, but are not limited to: home office expenses, branch office and field office overhead expense of any kind, project management, superintendents, general foremen, estimating, engineering, coordinating, expediting, purchasing, detailing, legal, accounting, data processing or other administrative expenses, shop drawings, permits, auto insurance and umbrella insurance, pick-up truck costs, and warranty expense costs. The cost for the use of small tools is also to be considered covered by the markup percentage established above. Small tools shall be defined as tools and equipment (power or non-power) with an individual purchase cost of less than \$750.
  - j. Deduct Change Orders and Net Deduct Changes. The application of the markup percentages referenced above will apply to both additive and deductive change orders. In the case of a deductive change order, the credit will be computed by applying the sliding scale percentages as outlined above so that a deductive change order would be computed in the same manner as an additive change order. In those instances where a change involves both additive and deductive work, the additions and deductions will be netted and the markup percentage adjustments will be applied to the net amount.
  - k. Contingency. In no event will any lump sum or percentage amounts for "contingency" be allowed to be added as a separate line item in change order estimates. Unknowns attributable to labor hours will be accounted for when estimating labor hours anticipated performing the work. Unknowns attributable to material scrap and waste will be estimated as part of material costs.
  - l. Insurance and Bonds. In the event the Contractor has been required to furnish insurance and/or bonds as part of the base contract price, a final contract change order will be processed to account for the Contractor's net increase or decrease in insurance costs and/or bond premium costs associated with change orders to Contractor's base Contract Price
4. Time and Materials Change Orders.
- a. General. The term Time and Materials means the sum of all costs reasonably and necessarily incurred and paid by Contractor for labor, materials, and equipment in the proper performance of Additional Work. Except as otherwise may be agreed to in writing by the DISTRICT, such costs shall be in amounts no higher than those prevailing in the locality of the Project, and shall include only the following items.

- b. Timely and Final Documentation.
- i. T&M Daily Sheets. Contractor must submit timesheets, materials invoices, records of equipment hours, and records of rental equipment hours to the DISTRICT's Representative for an approval signature **each day** Additional Work is performed. Failure to get the DISTRICT's Representative's approval signature each Day shall result in a waiver of Contractor's right to claim these costs. The DISTRICT's Representative's signature on time sheets only serves as verification that the Work was performed and is not indicative of DISTRICT's agreement to Contractor's entitlement to the cost.
  - ii. T&M Daily Summary Sheets. All documentation of incurred costs ("T&M Daily Summary Sheets") shall be submitted by Contractor within **three (3) Days** of incurring the cost for labor, material, equipment, and special services as Additional Work is performed. Contractor's actual costs shall be presented in a summary table in an electronic spreadsheet file by labor, material, equipment, and special services. Each T&M Daily Summary Sheet shall include Contractor's actual costs incurred for the Additional Work performed that day and a cumulative total of Contractor's actual costs incurred for the Additional Work. Contractor's failure to provide a T&M Daily Summary Sheet showing a total cost summary within three (3) Days but within five (5) Days of performance of the Work will result in the Contractor's otherwise allowable overhead and profit being reduced by 50% for that portion of Additional Work which was not documented in a timely manner. Contractor's failure to submit the T&M Daily Summary Sheet within five (5) Days of performance of the Work will result in a total waiver of Contractor's right to claim these costs.
  - iii. T&M Total Cost Summary Sheet. Contractor shall submit a T&M Total Cost Summary Sheet, which shall include total actual costs, within **seven (7) Days** following completion of DISTRICT approved Additional Work. Contractor's total actual cost shall be presented in a summary table in an electronic spreadsheet file by labor, material, equipment, and special services. Contractor's failure to submit the T&M Total Cost Summary Sheet within seven (7) Days of completion of the Additional Work will result in Contractor's waiver for any reimbursement of any costs associated with the T&M Summary Sheets or the performance of the Additional Work.
- c. Labor. The Contractor will be paid the cost of labor for the workers used in the actual and direct performance of the Work. The cost of labor will be the sum of the actual wages paid (which shall include any employer payments to or on behalf of the workers for health and welfare, pension, vacation, and similar purposes) substantiated by timesheets and certified payroll for wages prevailing for each craft or type of workers performing the Additional Work at the time the Additional Work is done, and the labor surcharge set forth in the Department of Transportation publication entitled *Labor Surcharge and Equipment Rental Rates*, which is in effect on the date upon which the Work is accomplished and which is a part of the Contract. The labor surcharge shall constitute full compensation for all payments imposed by Federal, State, or local laws and for all other payments made to, or on behalf of, the workers, other than actual wages.

- i. Equipment Operator Exception. Labor costs for equipment operators and helpers shall be paid only when such costs are not included in the invoice for equipment rental.
  - ii. Foreman Exception. The labor costs for foremen shall be proportioned to all of their assigned work and only that applicable to the Additional Work shall be paid. Indirect labor costs, including, without limitation, the superintendent, project manager, and other labor identified in the Contract Documents will be considered Overhead.
- d. Materials. The cost of materials reported shall be itemized at invoice or lowest current price at which materials are locally available and delivered to the Project site in the quantities involved, plus the cost of sales tax, freight, delivery, and storage.
- i. Trade discounts available to the purchaser shall be credited to the DISTRICT notwithstanding the fact that such discounts may not have been taken by Contractor.
  - ii. For materials secured by other than a direct purchase and direct billing to the purchaser, the cost shall be deemed to be the price paid to the actual supplier as determined by the DISTRICT's Representative.
  - iii. Payment for materials from sources owned wholly or in part by the purchaser shall not exceed the price paid by the purchaser for similar materials from said sources on Additional Work items or the current wholesale price for such materials delivered to the Project site, whichever price is lower.
  - iv. If, in the opinion of the DISTRICT's Representative, the cost of materials is excessive, or Contractor does not furnish satisfactory evidence of the cost of such materials, then the cost shall be deemed to be the lowest current wholesale price for the total quantity concerned delivered to the Project site less trade discounts.
  - v. The DISTRICT reserves the right to furnish materials for the Additional Work and no Claim shall be allowed by Contractor for costs of such materials or Indirect Costs or profit on DISTRICT furnished materials.
- e. Equipment.
- i. Rental Time. The rental time to be paid for equipment on the Project site shall be the time the equipment is in productive operation on the Additional Work being performed and, in addition, shall include the time required to move the equipment to the location of the Additional Work and return it to the original location or to another location requiring no more time than that required to return it to its original location; except that moving time will not be paid if the equipment is used on other than the Additional Work, even though located at the site of the Additional Work.

- (a) Rental Time Not Allowed. Rental time will not be allowed while equipment is inoperative due to breakdowns.
- (b) Computation Method. The following shall be used in computing the rental time of equipment on the Project site.
  - (i) When hourly rates are paid, any part of an hour less than 30 minutes of operation shall be considered to be 1/2-hour of operation, and any part of an hour in excess of 30 minutes will be considered one hour of operation.
  - (ii) When daily rates are paid, any part of a day less than 4 hours operation shall be considered to be 1/2-day of operation, and any part of an hour in excess of 4 hours will be considered one day of operation.
- ii. Rental Rates. Contractor will be paid for the use of equipment at the lesser of (i) the actual rental rate, or (ii) the rental rate listed for that equipment in the California Department of Transportation publication entitled *Labor Surcharge and Equipment Rental Rates*, which is in effect on the date upon which the Contract was executed. Such rental rates will be used to compute payments for equipment whether the equipment is under Contractor's control through direct ownership, leasing, renting, or another method of acquisition. The rental rate to be applied for use of each item of equipment shall be the rate (i.e., daily, monthly) resulting in the least total cost to the DISTRICT for the total period of use. If it is deemed necessary by Contractor to use equipment not listed in the publication, an equitable rental rate for the equipment will be established by the DISTRICT's Representative. Contractor may furnish cost data which might assist the DISTRICT's Representative in the establishment of the rental rate.
- iii. Contractor-Owned Equipment.
  - (a) For Contractor-owned equipment, the allowed equipment rental rate will be limited to the monthly equipment rental rate using a utilization rate of 173 hours per month.
  - (b) For Contractor-owned equipment, the rental time to be paid for equipment on the Site shall be the time the equipment is in productive operation, unless, in the instance of standby time, the equipment could be actively used by Contractor on another project, then DISTRICT shall pay for the entirety of the time the equipment is on Site. It shall be Contractor's burden to demonstrate to the DISTRICT that the equipment could be actively used on another project.
- iv. All equipment shall, in the opinion of the DISTRICT's Representative, be in good working condition and suitable for the purpose for which the equipment is to be used.
- v. Before construction equipment is used on the Additional Work, Contractor shall plainly stencil or stamp an identifying number thereon at a



conspicuous location, and shall furnish to the DISTRICT's Representative, in duplicate, a description of the equipment and its identifying number and the scheduled Additional Work activities planned.

- vi. Unless otherwise specified, manufacturer's rating and manufacturer approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer.
- f. Special Services. Special work or services are defined as that Additional Work characterized by extraordinary complexity, sophistication, or innovation or a combination of the foregoing attributes which are unique to the construction industry.
  - i. Invoices for Special Services. When the DISTRICT's Representative and Contractor determine that a special service is required which cannot be performed by the forces of Contractor or those of any of its Subcontractors, the special service may be performed by an entity especially skilled in the Additional Work. Invoices for special services based upon the current fair market value thereof may be accepted without complete itemization of labor, material, and equipment rental costs, after validation of market values by the DISTRICT's Representative.
  - ii. Discount and Allowance. All invoices for special services will be adjusted by deducting all trade discounts offered or available, whether the discounts were taken or not. In lieu of Overhead and Profit specified herein, a total allowance not to exceed fifteen percent (15%) for Overhead and Profit will be added to invoices for Special Services.
  - iii. When the DISTRICT determines, in its sole discretion, that competitive bidding is necessary for certain special services, Contractor shall solicit competitive bids for those special services.
- g. Excluded Costs. The term Time and Material shall not include any of the following costs or any other home or field office overhead costs, all of which are to be considered administrative costs covered by Contractor's allowance for Overhead and Profit.
  - i. Overhead Cost. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, timekeepers, clerks, and other personnel employed by Contractor whether at the Site or in Contractor's principal office or any branch office, material yard, or shop for general administration of the Additional Work;
  - ii. Office Expenses. Expenses of Contractor's principal and branch offices;
  - iii. Capital Expenses. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Additional Work and charges against Contractor for delinquent payments;

- iv. Negligence. Costs due to the negligence of Contractor or any Subcontractor or Supplier, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including without limitation the correction of Defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property;
  - v. Other. Other overhead or general expense costs of any kind and the cost of any item not specifically and expressly included in the Contract Documents;
  - vi. Small Tools. Cost of small tools valued at less than \$1,000 and that remain the property of Contractor;
  - vii. Administrative Costs. Costs associated with the preparation of Change Orders (whether or not ultimately authorized), cost estimates, or the preparation or filing of Claims;
  - viii. Anticipated Lost Profits. Expenses of Contractor associated with anticipated lost profits or lost revenues, lost income or earnings, lost interest on earnings, or unpaid retention;
  - ix. Home Office Overhead. Costs derived from the computation of a "home office overhead" rate by application of the *Eichleay, Allegheny*, burden fluctuation, or other similar methods;
  - x. Special Consultants and Attorneys. Costs of special consultants or attorneys, whether or not in the direct employ of Contractor, employed for services specifically related to the resolution of a Claim, dispute, or other matter arising out of or relating to the performance of the Additional Work.
- h. Overhead, Profit and Other Charges. The mark-up for overhead (including supervision) and profit on work added to the Contract shall be according to the following:
- i. "Net Cost" is defined as consisting of costs of labor, materials, and tools and equipment only excluding overhead and profit. The costs of applicable insurance and bond premium will be reimbursed to the Contractor and subcontractors at cost only, without mark-up. Contractor shall provide DISTRICT with documentation of the costs, including, but not limited to, payroll records, invoices, and such other information as DISTRICT may reasonably request.
  - ii. For Work performed by the Contractor's forces, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the Net Cost of the Work.
  - iii. For Work performed by a subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the subcontractor's Net Cost of the Work to which the Contractor may add five percent (5%) of the subcontractor's Net Cost.

- iv. For Work performed by a sub-subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the sub-subcontractor's Net Cost for Work to which the subcontractor and general contractor may each add an additional five percent (5%) of the Net Cost of the lower tier subcontractor.
  - v. No additional mark-up will be allowed for lower tier subcontractors, and in no case shall the added cost for overhead and profit payable by DISTRICT exceed twenty-five percent (25%) of the Net Cost as defined herein, of the party that performs the Work.
5. All of the following costs are included in the markups for overhead and profit described above, and Contractor shall not receive any additional compensation for: Submittals, drawings, field drawings, Shop Drawings, including submissions of drawings; field inspection; General Superintendence; General administration and preparation of cost proposals, schedule analysis, Change Orders, and other supporting documentation; computer services; reproduction services; Salaries of project engineer, superintendent, timekeeper, storekeeper, and secretaries; Janitorial services; Small tools, incidentals and consumables; Temporary On-Site facilities (Offices, Telephones, High Speed Internet Access, Plumbing, Electrical Power, Lighting; Platforms, Fencing, Water), Jobsite and Home office overhead or other expenses; vehicles and fuel used for work otherwise included in the Contract Documents; Surveying; Estimating; Protection of Work; Handling and disposal fees; Final Cleanup; Other Incidental Work; Related Warranties; insurance and bond premiums.
6. For added or deducted Work by subcontractors, the Contractor shall furnish to the DISTRICT the subcontractor's signed detailed record of the cost of labor, material and equipment, including the subcontractor markup for overhead and profit. The same requirement shall apply to sub-subcontractors
7. For added or deducted work furnished by a vendor or supplier, the Contractor shall furnish to the DISTRICT a detailed record of the cost to the Contractor, signed by such vendor or supplier.
8. Any change in the Work involving both additions and deletions shall indicate a net total cost, including subcontracts and materials. Allowance for overhead and profit, as specified herein, shall be applied if the net total cost is an increase in the Contract Price; overhead and profit allowances shall not be applied if the net total cost is a deduction to the Contract Price. The estimated cost of deductions shall be based on labor and material prices on the date the Contract was executed.
9. Contractor shall not reserve a right to assert impact costs, extended job site costs, extended overhead, constructive acceleration and/or actual acceleration beyond what is stated in the Change Order for Work. No claims shall be allowed for impact, extended overhead costs, constructive acceleration and/or actual acceleration due to a multiplicity of changes and/or clarifications. The Contractor may not change or modify the DISTRICT's change order form in an attempt to reserve additional rights.

10. If the DISTRICT disagrees with the proposal submitted by Contractor, it will notify the Contractor and the DISTRICT will provide its opinion of the appropriate price and/or time extension. If the Contractor agrees with the DISTRICT, a Change Order will be issued by the DISTRICT. If no agreement can be reached, the DISTRICT shall have the right to issue a unilateral Change Order setting forth its determination of the reasonable additions or savings in costs and time attributable to the extra or deleted work. Such determination shall become final and binding if the Contractor fails to submit a claim in writing to the DISTRICT within fifteen (15) Days of the issuance of the unilateral Change Order, disputing the terms of the unilateral Change Order, and providing such supporting documentation for its position as the DISTRICT may require.

**C. Change of Contract Times.**

1. The Contract Times may only be changed by a Change Order.
2. All changes in the Contract Price and/or adjustments to the Contract Times related to each change shall be included in Contractor's COR pursuant to this Article. No cost or time will be allowed for cumulative effects of multiple changes. All Change Orders must state that the Contract Time is not changed or is either increased or decreased by a specific number of days. Failure to include a change to time shall waive any change to the time unless the parties mutually agree in writing to postpone a determination of the change to time resulting from the Change Order.
3. Notice of the amount of the request for adjustment in the Contract Times with supporting data shall be delivered within seven (7) Days after such start of occurrence, unless DISTRICT's Representative allows an additional period of time to ascertain more accurate data in support of the request. No extension of time or additional compensation shall be given for a delay if the Contractor failed to give notice in the manner and within the time prescribed.
4. DISTRICT may elect, at DISTRICT's sole discretion, to grant an extension in Contract Times, without Contractor's request, because of delays or other factors.
5. Use of Float and Critical Path.
  - a. Float is for the benefit of the Project. Float shall not be considered for the exclusive use or benefit of either the DISTRICT or the Contractor.
  - b. Contractor shall not be entitled to compensation, and DISTRICT will not compensate Contractor, for delays which impact early completion. Any difference in time between the Contractor's early completion and the Contract Time shall be considered a part of the Project float.
6. Contractor's entitlement to an extension of the Contract Times is limited to a DISTRICT-caused extension of the critical path, reduced by the Contractor's concurrent delays, and established by a proper time impact analysis. No time extension shall be allowed unless, and then only to the extent that, the DISTRICT-caused delay extends the critical path beyond the previously approved Contract Time. If approved, the increase in time required to complete the Work shall be added to the Contract Time.

- a. Contractor shall not be entitled to an adjustment in the Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.
  - b. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions (as determined by the DISTRICT), Acts of God, acts or failures to act of utility owners not under the control of DISTRICT, or other causes not the fault of and beyond control of DISTRICT and Contractor, then Contractor shall be entitled to a time extension when the Work stopped is on the critical path. Such a non-compensable adjustment shall be Contractor's sole and exclusive remedy for such delays. Contractor must submit a timely request in accordance with the requirements of this Article.
  - c. Utility-Related Delays.
    - i. Contractor shall immediately notify in writing the utility owner and DISTRICT's Representative of its construction schedule and any subsequent changes in the construction schedule which will affect the time available for protection, removal, or relocation of utilities. Requests for extensions of time arising out of utility relocation or repair delays shall be filed in accordance with this Article.
    - ii. Contractor shall not be entitled to damages or additional payment for delays attributable to utility relocations or alterations if correctly located, as noted in the Contract Documents or by the Underground Service Alert survey.
7. Content for Requests for Contract Extension. Contractor's justification for entitlement shall be clear and complete citing specific Contract Document references and reasons on which Contractor's entitlement is based. At a minimum, each request for a time extension must include:
- a. Each request for an extension of Contract Time must identify the impacting event, in narrative form, providing a description of the delay event and sufficient justification as to why the Contractor is entitled to a time extension. Contractor must demonstrate that the delay arises from unforeseeable causes beyond the control and without the fault or negligence of both Contractor and any Subcontractors or Suppliers, or any other persons or organizations employed by any of them or for whose acts any of them may be liable, and that such causes in fact lead to performance or completion of the Work, or specified part in question, beyond the corresponding Contract Times, despite Contractor's reasonable and diligent actions to guard against those effects.
  - b. Each request for an extension of Contract Time must include a time impact analysis in CPM format, using the Contemporaneous Impacted As-Planned Schedule Analysis to calculate the impact of the delay event.
8. No Damages for Reasonable Delay.

- a. DISTRICT's liability to Contractor for delays for which DISTRICT is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall DISTRICT be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs.
  - b. Damages caused by unreasonable DISTRICT delay that impact the critical path, including delays caused by items that are the responsibility of the DISTRICT pursuant to Government Code section 4215, shall be compensated at the Daily Rate established in the Special Conditions. No other calculations, proportions or formulas shall be used to calculate any delay damages.
  - c. DISTRICT and DISTRICT's Representative, and the officers, members, partners, employees, agents, consultants, or subcontractors of each of them, shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
9. Contractor's failure, neglect, or refusal to comply with the requirements of the Contract Documents, or any portion thereof, shall bar Contractor's request for extensions of the Contract Times. Such failure, neglect, or refusal prejudices DISTRICT's and DISTRICT's Representative's ability to recognize and mitigate delay, and such failure, neglect, or refusal prevent the timely analysis of requests for extensions of Contract Times, and whether such extensions may be warranted. Contractor hereby waives all rights to extensions of Contract Times due to delays or accelerations that result from or occur during periods of time for which Contractor fails, neglects, or refuses to fully comply with the requirements of this Article.

#### **ARTICLE 45. FINAL ACCEPTANCE AND PAYMENT**

- A. The acceptance of the Work on behalf of the DISTRICT will be made by the Engineer. Such acceptance by the DISTRICT shall not constitute a waiver of defects. When the Work has been accepted there shall be paid to Contractor a sum equal to the contract price less any amounts previously paid Contractor and less any amounts withheld by the DISTRICT from Contractor under the terms of the contract. The final five percent (5%), or the percentage specified in the notice inviting bids where the DISTRICT has adopted a finding of substantially complete, shall not become due and payable until five (5) calendar days shall have elapsed after the expiration of the period within which all claims may be filed under the provisions of Civil Code section 9356. If the Contractor has placed securities with the DISTRICT as described herein, the Contractor shall be paid a sum equal to one hundred percent (100%) of the contract price less any amounts due the DISTRICT under the terms of the Contract.
- B. Unless Contractor advises the DISTRICT in writing prior to acceptance of the final five percent (5%) or the percentage specified in the notice inviting bids where the DISTRICT has adopted a finding of substantially complete, or the return of securities held as described herein, said acceptance shall operate as a release to the DISTRICT

of all claims and all liability to Contractor for all things done or furnished in connection with this work and for every act of negligence of the DISTRICT and for all other claims relating to or arising out of this work. If Contractor advises the DISTRICT in writing prior to acceptance of final payment or return of the securities that there is a dispute regarding the amount due the Contractor, the DISTRICT may pay the undisputed amount contingent upon the Contractor furnishing a release of all undisputed claims against the DISTRICT with the disputed claims in stated amounts being specifically excluded by Contractor from the operation of the release. No payments, however, final or otherwise, shall operate to release Contractor or its sureties from the Faithful Performance Bond, Labor and Material Payment Bond, or from any other obligation under this contract.

- C. In case of suspension of the contract any unpaid balance shall be and become the sole and absolute property of the DISTRICT to the extent necessary to repay the DISTRICT any excess in the cost of the Work above the contract price.
- D. Final payment shall be made no later than 60 days after the date of acceptance of the Work by the DISTRICT or the date of occupation, beneficial use and enjoyment of the Work by the DISTRICT including any operation only for testing, start-up or commissioning accompanied by cessation of labor on the Work, provided that a release of liens and claims has been received from the Contractor pursuant to Civil Code section 8136. In the event of a dispute between the DISTRICT and the Contractor, the DISTRICT may withhold from the final payment an amount not to exceed 150% of the disputed amount.
- E. Within ten (10) calendar days from the time that all or any portion of the retention proceeds are received by Contractor, Contractor shall pay each of its subcontractors from whom retention has been withheld each subcontractor's share of the retention received. However, if a retention payment received by Contractor is specifically designated for a particular subcontractor, payment of the retention shall be made to the designated subcontractor if the payment is consistent with the terms of the subcontract.

#### **ARTICLE 46. OCCUPANCY**

The DISTRICT reserves the right to occupy or utilize any portion of the Work at any time before completion, and such occupancy or use shall not constitute acceptance of any part of Work covered by this Contract. This use shall not relieve the Contractor of its responsibilities under the Contract.

#### **ARTICLE 47. INDEMNIFICATION**

To the fullest extent permitted by law, Contractor shall immediately defend (with counsel of the DISTRICT's choosing), indemnify and hold harmless the DISTRICT, officials, officers, agents, employees, and representatives, and each of them from and against:

- A. Any and all claims, demands, causes of action, costs, expenses, injuries, losses or liabilities, in law or in equity, of every kind or nature whatsoever, but not limited to, injury to or death, including wrongful death, of any person, and damages to or destruction of property of any person, arising out of, related to, or in any manner directly or indirectly connected with the Work or this Contract, including claims made

by subcontractors for nonpayment, including without limitation the payment of all consequential damages and attorney's fees and other related costs and expenses, however caused, regardless of whether the allegations are false, fraudulent, or groundless, and regardless of any negligence of the DISTRICT or its officers, employees, or authorized volunteers (including passive negligence), except the sole negligence or willful misconduct or active negligence of the DISTRICT or its officials, officers, employees, or authorized volunteers.

- B. Contractor's defense and indemnity obligation herein includes, but is not limited to damages, fines, penalties, attorney's fees and costs arising from claims under the Americans with Disabilities Act (ADA) or other federal or state disability access or discrimination laws arising from Contractor's Work during the course of construction of the improvements or after the Work is complete, as the result of defects or negligence in Contractor's construction of the improvements.
- C. Any and all actions, proceedings, damages, costs, expenses, fines, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Contractor;
- D. Any and all losses, expenses, damages (including damages to the Work itself), attorney's fees, and other costs, including all costs of defense which any of them may incur with respect to the failure, neglect, or refusal of Contractor to faithfully perform the Work and all of Contractor's obligations under the agreement. Such costs, expenses, and damages shall include all costs, including attorney's fees, incurred by the indemnified parties in any lawsuit to which they are a party.

Contractor shall immediately defend, at Contractor's own cost, expense and risk, with the DISTRICT Council's choosing, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the DISTRICT, its officials, officers, agents, employees and representatives. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the DISTRICT, its officials, officers, employees, agents, employees and representatives, in any such suit, action or other legal proceeding. Contractor shall reimburse the DISTRICT, its officials, officers, agents, employees and representatives for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code section 2782.

#### **ARTICLE 48. PROCEDURE FOR RESOLVING DISPUTES**

Contractor shall timely comply with all notices and requests for changes to the Contract Time or Contract Price, including but not limited to all requirements of Article 44, Changes and Extra Work, as a prerequisite to filing any claim governed by this Article. The failure to timely submit a notice of delay or notice of change, or to timely request a change to the Contract Price or Contract Time, or to timely provide any other notice or request required herein shall constitute a waiver of the right to further pursue the claim under the Contract or at law.

- A. **Intent.** Effective January 1, 1991, Section 20104 et seq., of the California Public Contract Code prescribes a process utilizing informal conferences, non-binding judicial supervised mediation, and judicial arbitration to resolve disputes on construction claims of \$375,000 or less. Effective January 1, 2017, Section 9204 of the Public



Contract Code prescribes a process for negotiation and mediation to resolve disputes on construction claims. The intent of this Article is to implement Sections 20104 et seq. and Section 9204 of the California Public Contract Code. This Article shall be construed to be consistent with said statutes.

- B. Claims.** For purposes of this Article, "Claim" means a separate demand by the Contractor, after a change order duly requested in accordance with Article 44 "Changes and Extra Work" has been denied by the DISTRICT, for (A) a time extension, (B) payment of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract, or (C) an amount the payment of which is disputed by the DISTRICT. Claims governed by this Article may not be filed unless and until the Contractor completes all procedures for giving notice of delay or change and for the requesting of a time extension or change order, including but not necessarily limited to the procedures contained in Article 44, Changes and Extra Work, and Contractor's request for a change has been denied in whole or in part. Claims governed by this Article must be filed no later than the date of final payment. The claim shall be submitted in writing to the DISTRICT and shall include on its first page the following in 16 point capital font: "THIS IS A CLAIM." Furthermore, the claim shall include the documents necessary to substantiate the claim. Nothing herein is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims, including all requirements pertaining to compensation or payment for extra Work, disputed Work, and/or changed conditions. Failure to follow such contractual requirements shall bar any claims or subsequent lawsuits for compensation or payment thereon.
- C. Supporting Documentation.** The Contractor shall submit all claims in the following format:
1. Summary of claim merit and price, reference Contract Document provisions pursuant to which the claim is made
  2. List of documents relating to claim:
    - a. Specifications
    - b. Drawings
    - c. Clarifications (Requests for Information)
    - d. Schedules
    - e. Other
  3. Chronology of events and correspondence
  4. Analysis of claim merit
  5. Analysis of claim cost
  6. Time impact analysis in CPM format

- D. **DISTRICT's Response.** Upon receipt of a claim pursuant to this Article, DISTRICT shall conduct a reasonable review of the claim and, within a period not to exceed 45 Days, shall provide the Contractor a written statement identifying what portion of the claim is disputed and what portion is undisputed. Any payment due on an undisputed portion of the claim will be processed and made within 60 Days after the DISTRICT issues its written statement.
1. If the DISTRICT needs approval from its governing body to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the claim, and the DISTRICT's governing body does not meet within the 45 Days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the DISTRICT shall have up to three Days following the next duly publicly noticed meeting of the DISTRICT's governing body after the 45-Day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.
  2. Within 30 Days of receipt of a claim, the DISTRICT may request in writing additional documentation supporting the claim or relating to defenses or claims the DISTRICT may have against the Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of DISTRICT and the Contractor. The DISTRICT's written response to the claim, as further documented, shall be submitted to the Contractor within 30 Days (if the claim is less than \$15,000, within 15 Days) after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.
- E. **Meet and Confer.** If the Contractor disputes the DISTRICT's written response, or the DISTRICT fails to respond within the time prescribed, the Contractor may so notify the DISTRICT, in writing, either within 15 Days of receipt of the DISTRICT's response or within 15 Days of the DISTRICT's failure to respond within the time prescribed, respectively, and demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, the DISTRICT shall schedule a meet and confer conference within 30 Days for settlement of the dispute.
- F. **Mediation.** Within 10 business Days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the Contractor a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 Days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the Contractor sharing the associated costs equally. The public entity and Contractor shall mutually agree to a mediator within 10 business Days after the disputed portion of the claim has been identified in writing, unless the parties agree to select a mediator at a later time.
1. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs

charged by its respective mediator in connection with the selection of the neutral mediator.

2. For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.
3. Unless otherwise agreed to by the public entity and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.
4. The mediation shall be held no earlier than the date the Contractor completes the Work or the date that the Contractor last performs Work, whichever is earlier. All unresolved claims shall be considered jointly in a single mediation, unless a new unrelated claim arises after mediation is completed.

**G. Procedures After Mediation.** If following the mediation, the claim or any portion remains in dispute, the Contractor must file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code prior to initiating litigation. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her written claim pursuant to subdivision (a) until the time the claim is denied, including any period of time utilized by the meet and confer conference.

**H. Civil Actions.** The following procedures are established for all civil actions filed to resolve claims of \$375,000 or less:

1. Within 60 Days, but no earlier than 30 Days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties or unless mediation was held prior to commencement of the action in accordance with Public Contract Code section 9204 and the terms of this Agreement. The mediation process shall provide for the selection within 15 Days by both parties of a disinterested third person as mediator, shall be commenced within 30 Days of the submittal, and shall be concluded within 15 Days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court.
2. If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1114.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, (A) arbitrators shall, when possible, be experienced in construction law, and (B) any party appealing an arbitration award who does not obtain a more favorable judgment shall, in addition to payment of

costs and fees under that chapter, also pay the attorney's fees on appeal of the other party.

- I. **Government Code Claims.** In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra Work, disputed Work, construction claims and/or changed conditions, the Contractor must comply with the claim procedures set forth in Government Code Sections 900, et seq. prior to filing any lawsuit against the DISTRICT. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra Work, disputed Work, construction claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if the prerequisite contractual requirements are not satisfied, no action against the DISTRICT may be filed. **A Government Code claim must be filed no earlier than the date the Work is completed or the date the Contractor last performs Work on the Project, whichever occurs first. A Government Code claim shall be inclusive of all unresolved claims unless a new unrelated claim arises after the Government Code claim is submitted.**
- J. **Non-Waiver.** The DISTRICT's failure to respond to a claim from the Contractor within the time periods described in this Article or to otherwise meet the time requirements of this Article shall result in the claim being deemed rejected in its entirety.

#### **ARTICLE 49. DISTRICT'S RIGHT TO TERMINATE CONTRACT**

##### **A. Termination for Cause by the DISTRICT:**

1. In the sole estimation of the DISTRICT, if the Contractor refuses or fails to prosecute the Work or any separable part thereof with such diligence as will insure its completion within the time specified by the Contract Documents, or any extension thereof, or fails to complete such Work within such time, or if the Contractor should be adjudged a bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or the Contractor or any of its subcontractors should violate any of the provisions of this Contract, the DISTRICT may serve written notice upon the Contractor and its Surety of the DISTRICT's intention to terminate this Contract. This notice of intent to terminate shall contain the reasons for such intention to terminate this Contract, and a statement to the effect that the Contractor's right to perform this Contract shall cease and terminate upon the expiration of ten (10) calendar days unless such violations have ceased and arrangements satisfactory to the DISTRICT have been made for correction of said violations.
2. In the event that the DISTRICT serves such written notice of termination upon the Contractor and the Surety, the Surety shall have the right to take over and perform the Contract. If the Surety does not: (1) give the DISTRICT written notice of Surety's intention to take over and commence performance of the Contract within 15 calendar days of the DISTRICT's service of said notice of intent to terminate upon Surety; and (2) actually commence performance of the Contract within 30 calendar days of the DISTRICT's service of said notice upon Surety; then the DISTRICT may take over the Work and prosecute the same to completion by

separate contract or by any other method it may deem advisable for the account and at the expense of the Contractor.

3. In the event that the DISTRICT elects to obtain an alternative performance of the Contract as specified above: (1) the DISTRICT may, without liability for so doing, take possession of and utilize in completion of the Work such materials, appliances, plants and other property belonging to the Contractor that are on the site and reasonably necessary for such completion (A special lien to secure the claims of the DISTRICT in the event of such suspension is hereby created against any property of Contractor taken into the possession of the DISTRICT under the terms hereof and such lien may be enforced by sale of such property under the direction of the Board without notice to Contractor. The proceeds of the sale after deducting all expenses thereof and connected therewith shall be credited to Contractor. If the net credits shall be in excess of the claims of the DISTRICT against Contractor, the balance will be paid to Contractor or Contractor's legal representatives.); and (2) Surety shall be liable to the DISTRICT for any cost or other damage to the DISTRICT necessitated by the DISTRICT securing an alternate performance pursuant to this Article.

**B. Termination for Convenience by the DISTRICT:**

1. The DISTRICT may terminate performance of the Work called for by the Contract Documents in whole or, from time to time, in part, if the DISTRICT determines that a termination is in the DISTRICT's interest.
2. The Contractor shall terminate all or any part of the Work upon delivery to the Contractor of a Notice of Termination specifying that the termination is for the convenience of the DISTRICT, the extent of termination, and the Effective Date of such termination.
3. After receipt of Notice of Termination, and except as directed by the DISTRICT's Representative, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:
  - a. Stop Work as specified in the Notice.
  - b. Complete any Work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents.
  - c. Leave the property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Document is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety.
  - d. Terminate all subcontracts to the extent that they relate to the portions of the Work terminated.
  - e. Place no further subcontracts or orders, except as necessary to complete the continued portion of the Contract.

- f. Submit to the DISTRICT's Representative, within ten (10) calendar days from the Effective Date of the Notice of Termination, all of the usual documentation called for by the Contract Documents to substantiate all costs incurred by the Contractor for labor, materials and equipment through the Effective Date of the Notice of Termination. Any documentation substantiating costs incurred by the Contractor solely as a result of the DISTRICT's exercise of its right to terminate this Contract pursuant to this clause, which costs the contractor is authorized under the Contract documents to incur, shall: (1) be submitted to and received by the Engineer no later than 30 calendar days after the Effective Date of the Notice of Termination; (2) describe the costs incurred with particularity; and (3) be conspicuously identified as "Termination Costs occasioned by the DISTRICT's Termination for Convenience."
4. Termination of the Contract shall not relieve Surety of its obligation for any just claims arising out of or relating to the Work performed.
5. In the event that the DISTRICT exercises its right to terminate this Contract pursuant to this clause, the DISTRICT shall pay the Contractor, upon the Contractor's submission of the documentation required by this clause and other applicable provisions of the Contract Documents, the following amounts:
  - a. All actual reimbursable costs incurred according to the provisions of this Contract.
  - b. A reasonable allowance for profit on the cost of the Work performed, provided Contractor establishes to the satisfaction of the DISTRICT's Representative that it is reasonably probable that Contractor would have made a profit had the Contract been completed and provided further, that the profit allowed shall in no event exceed fifteen (15%) percent of the costs.
  - c. A reasonable allowance for Contractor's administrative costs in determining the amount payable due to termination of the Contract under this Article.
- C. Notwithstanding any other provision of this Article, when immediate action is necessary to protect life and safety or to reduce significant exposure or liability, the DISTRICT may immediately order Contractor to cease Work on the Project until such safety or liability issues are addressed to the satisfaction of the DISTRICT or the Contract is terminated.

## **ARTICLE 50. WARRANTY AND GUARANTEE OF WORK**

- A. Contractor hereby warrants that materials and Work shall be completed in conformance with the Contract Documents and that the materials and Work provided will fulfill the requirements of this Warranty. Contractor hereby agrees to repair or replace, at the discretion of the DISTRICT, any or all Work that may prove to be defective in its workmanship, materials furnished, methods of installation or fail to conform to the Contract Document requirements together with any other Work which may be damaged or displaced by such defect(s) within a period of one (1) year from the date of the Notice of Completion of the Project without any expense whatever to the DISTRICT, ordinary wear and tear and unusual abuse and neglect excepted. The DISTRICT will perform an inspection before the warrant period expires. Contractor

shall be required to promptly repair or replace defective equipment or materials, at Contractor's option. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstatement of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor.

- B. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one (1) year period, commencing with the date of acceptance of such corrected Work. The reinstatement of the one (1) year warranty shall apply only to that portion of work that was corrected. Contractor shall perform such tests as DISTRICT may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. In the event of Contractor's failure to comply with the above-mentioned conditions within ten (10) calendar days after being notified in writing of required repairs, to the reasonable satisfaction of the DISTRICT, the DISTRICT shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the DISTRICT for any expenses incurred hereunder immediately upon demand.
- C. In addition to the warranty set forth in this Article, Contractor shall obtain for DISTRICT all warranties that would be given in normal commercial practice and assign to DISTRICT any and all manufacturer's or installer's warranties for equipment or materials not manufactured by Contractor and provided as part of the Work, to the extent that such third-party warranties are assignable and extend beyond the warranty period set forth in this Article. Contractor shall furnish the DISTRICT with all warranty and guarantee documents prior to final Acceptance of the Project by the DISTRICT as required.
- D. When specifically indicated in the Contract Documents or when directed by the Engineer, the DISTRICT may furnish materials or products to the Contractor for installation. In the event any act or failure to act by Contractor shall cause a warranty applicable to any materials or products purchased by the DISTRICT for installation by the Contractor to be voided or reduced, Contractor shall indemnify DISTRICT from and against any cost, expense, or other liability arising therefrom, and shall be responsible to the DISTRICT for the cost of any repairs, replacement or other costs that would have been covered by the warranty but for such act or failure to act by Contractor.
- E. The Contractor shall remedy at its expense any damage to DISTRICT-owned or controlled real or personal property.
- F. The DISTRICT shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. The Contractor shall within ten (10) calendar days after being notified commence and perform with due diligence all necessary Work. If the Contractor fails to promptly remedy any defect, or damage; the DISTRICT shall have the right to replace, repair or otherwise remedy the defect, or damage at the Contractor's expense.
- G. In the event of any emergency constituting an immediate hazard to health, safety, property, or licensees, when caused by Work of the Contractor not in accordance with

the Contract requirements, the DISTRICT may undertake at Contractor's expense, and without prior notice, all Work necessary to correct such condition.

H. Acceptance of Defective Work.

1. If, instead of requiring correction or removal and replacement of Defective Work, the DISTRICT prefers to accept it, DISTRICT may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to DISTRICT's evaluation of and determination to accept such Defective Work and for the diminished value of the Work.
2. If any acceptance of defective work occurs prior to release of the Project Retention, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and DISTRICT shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work and all costs incurred by DISTRICT.
3. If the Project Retention is held in an escrow account as permitted by the Contract Documents, Contractor will promptly alert the escrow holder, in writing, of the amount of Retention to be paid to DISTRICT.
4. If the acceptance of Defective Work occurs after release of the Project Retention, an appropriate amount will be paid by Contractor to DISTRICT.

I. DISTRICT May Correct Defective Work.

1. If Contractor fails within a reasonable time after written notice from DISTRICT's Representative to correct Defective Work, or to remove and replace rejected Work as required by DISTRICT, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, DISTRICT may, after seven (7) Days' written notice to Contractor, correct, or remedy any such deficiency.
2. In connection with such corrective or remedial action, DISTRICT may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which DISTRICT has paid Contractor but which are stored elsewhere. Contractor shall allow DISTRICT and DISTRICT's Representative, and the agents, employees, other contractors, and consultants of each of them, access to the Site to enable DISTRICT to exercise the rights and remedies to correct the Defective Work.
3. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by DISTRICT correcting the Defective Work will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions into the Contract



Documents with respect to the Work; and DISTRICT shall be entitled to an appropriate decrease in the Contract Price.

4. Such claims, costs, losses and damages will include, but not be limited to, all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Defective Work.
  5. If the Change Order is executed after all payments under the Contract have been paid by DISTRICT and the Project Retention is held in an escrow account as permitted by the Contract Documents, Contractor will promptly alert the escrow holder, in writing, of the amount of Retention to be paid to DISTRICT.
  6. If the Change Order is executed after release of the Project Retention, an appropriate amount will be paid by Contractor to DISTRICT.
  7. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to DISTRICT correcting Defective work.
- J. Nothing in the Warranty or in the Contract Documents shall be construed to limit the rights and remedies available to DISTRICT at law or in equity, including, but not limited to, Code of Civil Procedure section 337.15.

#### **ARTICLE 51. DOCUMENT RETENTION & EXAMINATION**

- A. In accordance with Government Code section 8546.7, records of both the DISTRICT and the Contractor shall be subject to examination and audit by the State Auditor General for a period of three (3) years after final payment.
- B. Contractor shall make available to the DISTRICT any of the Contractor's other documents related to the Project immediately upon request of the DISTRICT.
- C. In addition to the State Auditor rights above, the DISTRICT shall have the right to examine and audit all books, estimates, records, contracts, documents, bid documents, subcontracts, and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the modification in order to evaluate the accuracy and completeness of the cost or pricing data at no additional cost to the DISTRICT, for a period of four (4) years after final payment.

#### **ARTICLE 52. SEPARATE CONTRACTS**

- A. The DISTRICT reserves the right to let other contracts in connection with this Work or on the Project site. Contractor shall permit other contractors reasonable access and storage of their materials and execution of their work and shall properly connect and coordinate its Work with theirs.
- B. To ensure proper execution of its subsequent Work, Contractor shall immediately inspect work already in place and shall at once report to the Engineer any problems with the Work in place or discrepancies with the Contract Documents.

- C. Contractor shall ascertain to its own satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by the DISTRICT in prosecution of the Project to the end that Contractor may perform this Contract in the light of such other contracts, if any. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at site of the Project. Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on the Project. If simultaneous execution of any contract for the Project is likely to cause interference with performance of some other contract or contracts, the Engineer shall decide which Contractor shall cease Work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously. The DISTRICT shall not be responsible for any damages suffered or for extra costs incurred by Contractor resulting directly or indirectly from award, performance, or attempted performance of any other contract or contracts on the Project site.

### **ARTICLE 53. NOTICE AND SERVICE THEREOF**

All notices shall be in writing and either served by personal delivery or mailed to the other party as designated in the Bid Forms. Written notice to the Contractor shall be addressed to Contractor's principal place of business unless Contractor designates another address in writing for service of notice. Notice to DISTRICT shall be addressed to the DISTRICT as designated in the Notice Inviting Bids unless DISTRICT designates another address in writing for service of notice. Notice shall be effective upon receipt or five (5) calendar days after being sent by first class mail, whichever is earlier. Notice given by facsimile shall not be effective unless acknowledged in writing by the receiving party.

### **ARTICLE 54. NOTICE OF THIRD PARTY CLAIMS**

Pursuant to Public Contract Code section 9201, the DISTRICT shall provide the Contractor with timely notification of the receipt of any third-party claims relating to the Contract. The DISTRICT is entitled to recover reasonable costs incurred in providing such notification.

### **ARTICLE 55. STATE LICENSE BOARD NOTICE**

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

### **ARTICLE 56. INTEGRATION**

- A. **Oral Modifications Ineffective.** No oral order, objection, direction, claim or notice by any party or person shall affect or modify any of the terms or obligations contained in the Contract Documents.
- B. **Contract Documents Represent Entire Contract.** The Contract Documents represent the entire agreement of the DISTRICT and Contractor.

## **ARTICLE 57. ASSIGNMENT OF CONTRACT**

Contractor shall not assign, transfer, convey, sublet or otherwise dispose of the rights or title of interest of any or all of this contract without the prior written consent of the DISTRICT. Any assignment or change of Contractor's name or legal entity without the written consent of the DISTRICT shall be void. Any assignment of money due or to become due under this Contract shall be subject to a prior lien for services rendered or Material supplied for performance of Work called for under the Contract Documents in favor of all persons, firms, or corporations rendering such services or supplying such Materials to the extent that claims are filed pursuant to the Civil Code, the Code of Civil Procedure or the Government Code.

## **ARTICLE 58. CHANGE IN NAME AND NATURE OF CONTRACTOR'S LEGAL ENTITY**

Should a change be contemplated in the name or nature of the Contractor's legal entity, the Contractor shall first notify the DISTRICT in order that proper steps may be taken to have the change reflected on the Contract and all related documents. No change of Contractor's name or nature will affect DISTRICT's rights under the Contract, including but not limited to the bonds.

## **ARTICLE 59. ASSIGNMENT OF ANTITRUST ACTIONS**

Pursuant to Public Contract Code section 7103.5, in entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, Contractor or subcontractor offers and agrees to assign to the DISTRICT all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC, Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from the purchase of goods, services, or materials pursuant to this contract or any subcontract. This assignment shall be made and become effective at the time the DISTRICT tenders final payment to the Contractor, without further acknowledgment by the parties.

## **ARTICLE 60. PROHIBITED INTERESTS**

No DISTRICT official or representative who is authorized in such capacity and on behalf of the DISTRICT to negotiate, supervise, make, accept, or approve, or to take part in negotiating, supervising, making, accepting or approving any engineering, inspection, construction or material supply contract or any subcontract in connection with construction of the project, shall be or become directly or indirectly interested financially in the Contract.

## **ARTICLE 61. CONTROLLING LAW**

Notwithstanding any subcontract or other contract with any subcontractor, supplier, or other person or organization performing any part of the Work, this Contract shall be governed by the law of the State of California excluding any choice of law provisions.

## **ARTICLE 62. JURISDICTION; VENUE**

Contractor and any subcontractor, supplier, or other person or organization performing any part of the Work agrees that any action or suits at law or in equity arising out of or related to the bidding, award, or performance of the Work shall be maintained in the Superior Court of San Diego County, California, and expressly consent to the jurisdiction of said court, regardless of residence or domicile, and agree that said court shall be a proper venue for any such action.

## **ARTICLE 63. LAWS AND REGULATIONS**

- A. Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct of work as indicated and specified. If Contractor observes that drawings and specifications are at variance therewith, it shall promptly notify the Engineer in writing and any necessary changes shall be adjusted as provided for in this Contract for changes in work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Engineer, it shall bear all costs arising therefrom.
- B. Contractor shall be responsible for familiarity with the Americans with Disabilities Act (“ADA”) (42 U.S.C. § 12101 et seq.). The Work will be performed in compliance with ADA regulations.

## **ARTICLE 64. PATENTS**

Contractor shall hold and save the DISTRICT, officials, officers, employees, and authorized volunteers harmless from liability of any nature or kind of claim therefrom including costs and expenses for or on account of any patented or unpatented invention, article or appliance manufactured, furnished or used by Contractor in the performance of this contract.

## **ARTICLE 65. OWNERSHIP OF CONTRACT DOCUMENTS**

All Contract Documents furnished by the DISTRICT are DISTRICT property. They are not to be used by Contractor or any subcontractor on other work nor shall Contractor claim any right to such documents. With exception of one complete set of Contract Documents, all documents shall be returned to the DISTRICT on request at completion of the Work.

## **ARTICLE 66. NOTICE OF TAXABLE POSSESSORY INTEREST**

In accordance with Revenue and Taxation Code section 107.6, the Contract Documents may create a possessory interest subject to personal property taxation for which Contractor will be responsible.

## **ARTICLE 67. SURVIVAL OF OBLIGATIONS**

All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

## 00 73 13 – SPECIAL CONDITIONS

### 1.1 Engineer of Record.

- A. For purposes of this Project, the Engineer of Record or Engineer shall be: Derek Reed, PE, Dudek, and the Professional Geologist (PG) and Certified Hydrogeologist (CHG) of record shall be Trey Driscoll, PG, CHG.

### 1.2 Location of the Project.

- A. The Project is located at the existing Well ID4-4 location.

### 1.3 Construction Area Signs.

- A. The Contractor shall furnish, install, maintain and remove all construction area signs in conformance with the plans and Sections 12-3.06 of the State of California Department of Transportation (Caltrans) Standard Specifications, latest edition.

### 1.4 Dust Control

- A. Dust control shall be performed in accordance with Subsection 7-8.1, "Clean up and Dust Control," of the Standard Specifications, San Diego County Air Pollution Control District (APCD) Rules, the General Conditions and the following provision.

Dust resulting from the Contractor's performance of the work, either inside or outside, the right-of-way shall be controlled by the Contractor. Dust control includes the action necessary to prevent, reduce or control dust within the work area as required to complete the work. The Contractor shall carry out proper and efficient measures to prevent his operations from producing dust in amounts damaging to property or causing a nuisance or harm to persons living nearby or occupying buildings in the vicinity of the work. The Contractor shall control dust twenty-four (24) hours a day, seven (7) days a week. The methods to be used for controlling dust in the construction area and along haul roads shall be approved by the Engineer prior to starting any work.

Dust or dirt accumulations generated by the Contractor's operations shall be cleaned and removed by the Contractor from all areas as designated by the Engineer. The cost for cleaning and removal of dust or dirt shall be at the Contractor's expense and no additional compensation will be made therefore.

Water for use in dust control shall, at the option of the Contractor, be potable or non-potable. Non-potable water shall consist of reclaimed waste water or non-potable water developed from other sources.

If the Contractor uses reclaimed waste water in the work, the sources and discharge of reclaimed waste water shall meet the California Department of Health Services Water Reclamation Criteria and the Regional Water Quality Control Board requirements. The Contractor shall obtain either a waste water discharge permit or a

waiver from the Regional Water Quality Control Board. Copies of permits or waivers from the Regional Water Quality Control Board shall be delivered to the engineer before using reclaimed waste water in the work.

Water shall be applied in the amounts, at the locations, and for the purposes designated in the Special Provision and these Specifications, and as order by the Engineer.

Water for compacting embankment material, sub-base, base and surfacing material and for laying dust, shall be applied by means of pressure-type distributors or pipe lines equipped with a spray system or hoses with nozzles that will ensure a uniform application of water.

All equipment used for the application of water shall be equipped with a positive means of shut-off.

Unless otherwise permitted by the Engineer or unless all the water is applied by means of pipe lines, at least one mobile unit with a minimum capacity of 3700 L (1,000 gallons) shall be available for applying water on the project at all times.

Chemical additives or binder may be used in water for compaction or dust palliative. If such additives are used, furnishing and applying the additives shall be at the Contractor's expense.

The right is reserved by the Engineer to prohibit the use of a particular type of additive, to designate the locations where a particular type of additive may not be used, or to limit the amount of a particular type of additive to be used at certain locations, all if the Engineer has reasonable ground for believing that such use will in any way be detrimental.

The additive or binder shall be either miscible in water or be some form of material that is directly applied to the surface without mixing with water.

Additives or binders that are miscible in water shall be either a resin emulsion, an SS1 type asphaltic emulsion, materials composed essentially of lignin sulfonate or any other binder that is miscible in water in the proportions provided herein is non-corrosive, and is effective as a dust palliative.

Resin emulsion shall be composed of from fifty-seven percent (57%) to sixty-three percent (63%) of semi-liquid petroleum resin and the remainder water to which a suitable emulsifying agent has been added. The resin emulsion shall be readily miscible with water and when diluted with any hard water in the proportions of one (1) part of emulsion to ten (10) parts water shall show no signs of breakdown or separation of the petroleum resin base. Resin emulsion, which has been stored in closed containers at temperatures above freezing for a period up to three (3) months shall show no signs of separation. Any resin emulsion which has been stored for more than three (3) months shall not be used until tested and approved.

SS1 type asphaltic emulsion shall conform to the provisions in Subsection 203-3, "Emulsified Asphalt."

Additives or binders that are miscible in water shall be mixed with additional water at the rate of from four (4) to nineteen (19) parts of water to one (1) part of binder, the exact rate to be determined by the Engineer. Mixing shall be accomplished by placing the binder and water in the spreading equipment simultaneously or by some other mixing method that will produce equivalent results.

The resulting mixture shall be applied with pressure type water distributor trucks equipped with a spray system or pressure type asphalt distributors at an approximate rate of from 0.9- to 3.6 L/m<sup>2</sup>. (0.2 to 0.8 gallon on per square yard)

Additives or binders that are directly applied to the surface without mixing with water shall be applied with equipment approved by the Engineer. The binder shall be applied at a rate of from 0.4- to 1.1L/m<sup>2</sup>. (0.10 to 0.25 gallons per square yard)

The exact rate and number of applications of binders will be determined by the Engineer.

Dust control ordered by the Engineer to be applied on Saturdays, Sundays or holidays will be included in the Contract price for dust control and no additional compensation will be allowed therefore.

No adjustment of compensation will be made for any increase or decrease in the quantity of dust control required, regardless of the reason for such increase or decrease.

The full compensation for all direct and indirect costs incurred for work performed or materials used to control dust resulting from the Contractor's performance of the work and caused by public traffic, either inside or outside the right-of-way shall be considered as included in the Contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

## 1.5 Cooperation and Collateral Work

- A. The Contractor shall be responsible for ascertaining the nature and extent of any simultaneous, collateral and essential work by others and coordinating with the work by others. The DISTRICT, other contractors and utilities shall have the right to operate within or adjacent to the work site during the performance of such work.

Should construction be under way by other forces or by other contractors within or adjacent to the limits of the work specified or should work of any other nature be under way by other forces within or adjacent to those limits, the Contractor shall cooperate with all the other contractors or other forces to the end that any delay or hindrance to their work will be avoided. The right is reserved to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces.

Each contractor shall be responsible to the other for all damage to work, to persons or property caused to the other by their operations, and for loss caused the other due to unnecessary delays or failure to finish the work within the time specified for completion.

**The Contractor shall include in its proposal all costs involved as a result of coordinating its work with others. The Contractor will not be entitled to additional compensation from the DISTRICT for damages resulting from such simultaneous, collateral and essential work. If necessary to avoid or minimize such damage or delay, the Contractor shall re-deploy its work force to other parts of the work.**

Should the Contractor be delayed by the DISTRICT, and such delay could not have been reasonably foreseen or prevented by the Contractor, the Engineer will determine the extent of the delay, the effect on the project and any extension of time. Should any agency or utility company's work result in delays to the Contractor's work schedule, the Contractor shall be entitled only to an equivalent extension of time for the completion of the contract, and shall not be entitled to damages due to downtime and idled equipment or additional payments over and above the agreed upon unit prices.

Compensation for compliance with all collateral work shall be considered as being included in the various Contract items in the proposal schedule and no additional compensation will be allowed therefore.

1.6 Existing Improvement

- A. The Contractor shall make every effort to protect all existing improvements and facilities from damage during the progress of his/her/its work. No trees, planters, walks, shrubs, signs, fences or other such facilities shall be removed except as shown or called for on the plans or unless specifically authorized in writing by the Engineer. The Contractor shall be held responsible for the care and preservation of the present premises and of adjacent premises and coterminous property. Any parts of them which are injured, damaged or disturbed because of his work shall be repaired, replaced or cleaned by him at his expense.

1.7 Existing Utilities

- A. The Contractor will be required to work around public utilities and other improvements that are to remain in place within the construction area. The Contractor will be held liable for any damage to existing improvements or interference with service resulting from his operations. The Contractor shall pothole and ascertain the exact location of all underground facilities and improvements within the construction area before using equipment that may damage such facilities.

1.8 Resident Access to Their Properties During Construction

- A. The Contractor shall provide access to local residents at all times. The contractor shall notify the residents of the construction schedule and when construction activities will take place in front of their properties. The Contractor shall install steel plates over open trench (for the width of a standard residential driveway) to provide vehicular access in



and out of local residences. The compensation for providing steel plates for resident vehicular access shall be included (factored) in the unit price (LF) of the 6 inch diameter PVC pipe installation. No additional cost shall be incurred.

1.9 Status of the Project Area and Rights-of-Way.

- A. DISTRICT, at its expense, will provide all rights-of-way or permits, or both, covering the crossing of private property and public and private rights-of-way necessary for the permanent Work; provided, however, Contractor shall, at its expense, obtain any bonds or insurance policies or pay any fees and enter into any agreements required by a controlling authority, e.g., Caltrans or Southern Pacific Railroad Company, before Contractor enters upon any property or right-of-way under the jurisdiction of any such controlling authority for the purpose of performing Work.
- B. DISTRICT has acquired or is negotiating to acquire any rights-of-way, or both, necessary for the permanent Work.
- C. If such permits are required, all operations of Contractor shall conform to the restrictions, regulations, and requirements set forth in said permits, copies of which will be included in the Contract Documents.
- D. Contractor may be required, as a condition for receiving final payment, to obtain, and provide DISTRICT's Representative with copies of, executed damage releases from the owners of public and private property whose property has been damaged by the Work. The damage releases will be on a form provided by DISTRICT.
- E. Contractor shall, also, as a condition for receiving final payment, obtain, and provide DISTRICT's Representative with copies of, executed damage releases from the owners of certain public and private property or areas which have been crossed by the Work or otherwise affected by the Work. The damage releases will be on a form provided by DISTRICT.

1.10 Site Data.

NOT USED.

1.11 Pre-Purchased or Pre-Negotiated Material.

NOT USED.

1.12 Designation of DISTRICT's Representative.

- A. Unless otherwise modified by DISTRICT, DISTRICT's Representative shall be its General Manager.

1.13 Project Retention

In accordance with Public Contract Code § 7201, DISTRICT will withhold 5% of each progress payment as retention on the Project.

1.14 Liquidated Damages Due to Contractor Delay.

- A. Time is of the essence. Should Contractor fail to complete all or any part of the Work within the time specified in the Contract Documents, DISTRICT will suffer damage, the amount of which is difficult, if not impossible, to ascertain and, pursuant to the authority of Government Code section 53069.85, DISTRICT shall therefore be entitled to **\$1,000.00 per Day** as liquidated damages for each Day or part thereof that actual completion extends beyond the time specified.
- B. Liquidated damages may be deducted from progress payments due Contractor, Project retention or may be collected directly from Contractor, or from Contractor's surety. These provisions for liquidated damages shall not prevent DISTRICT, in case of Contractor's default, from terminating the Contractor.

1.15 Utility Outages – Notices to Residents.

- A. Should Contractor's operations require interruption of any utility service, Contractor shall notify DISTRICT at least ten (10) Days prior to the scheduled outage. Contractor will notify all impacted residents on a form provided by DISTRICT at least seven (7) Days prior to the scheduled outage.
- B. Contractor shall be responsible for providing, at its cost, any temporary utility or facilities necessitated by the utility outage.

1.16 Schedule Constraints.

NOT USED.

1.17 Noise Restrictions

- A. Contractor shall use only such equipment on the Work and in such state of repair so that the emission of sound therefrom is within the noise tolerance level of that equipment as established by Cal/OSHA.

1.18 Safety Programs.

- A. DISTRICT has considered these Safety Programs when determining the Contract Times and no additional time or compensation will be added to the Contract due to these Programs.]

**END OF SPECIAL CONDITIONS**

## 01 00 00 – GENERAL REQUIREMENTS

### PART 1 -- GENERAL

#### 1.1 DESCRIPTION

- A. The work to be performed under this Contract shall consist of all plant, labor, equipment, materials, tools, transportation, and services required for the fulfillment of the Contract in strict accordance with the Contract Documents and Specifications. The work shall be complete, and all work, materials, and services not expressly shown or called for in the Contract Documents and Specifications which may be necessary for the complete and proper construction of the work in good faith shall be performed, furnished, and installed by the contractor as though originally so specified or shown, at no increasing cost to the District.
- B. The work of this Contract is comprised of drilling, constructing, developing, pump testing, and disinfecting one new extraction well located on District-owned land, as detailed in the Request for Proposal.

#### 1.2 RELATED REQUIREMENTS SPECIFIED ELSEWHERE

### PART 2 -- PRODUCTS (NOT USED)

### PART 3 -- EXECUTION

#### 3.1 LAYOUT OF WORK AND QUANTITY SURVEYS

- A. General. Construction staking will be provided by the DISTRICT.
- B. Quantity surveys. The Contractor shall perform such surveys and computations as are necessary to determine quantities of Work performed or placed during each progress payment period, and shall perform all surveys necessary for the DISTRICT Representative to determine final quantities of Work in place. The DISTRICT Representative will determine final quantities based upon the survey data provided by the Contractor, and the design lines and grades. If requested by the DISTRICT Representative, the Contractor shall provide an electronic copy of data used for quantity computations.
- C. All surveys performed for measurement of final quantities of Work and material shall be subject to approval of DISTRICT's Representative. Unless waived by DISTRICT's Representative in each specific case, quantity surveys made by the Contractor shall be made in the presence of DISTRICT's Representative.
- D. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required for quantity surveys shall be included in the Schedule of Pay Items for items of work requiring the surveys. No additional compensation shall be made to the Contractor for this Work.

### 3.2 SCHEDULE

- A. Estimated Schedule. Within ten (10) Days after the issuance of the Notice to Proceed, Contractor shall prepare a Project schedule and shall submit this to the Engineer for Approval. The receipt or Approval of any schedules by the Engineer or the DISTRICT shall not in any way relieve the Contractor of its obligations under the Contract Documents. The Contractor is fully responsible to determine and provide for any and all staffing and resources at levels which allow for good quality and timely completion of the Project. Contractor's failure to incorporate all elements of Work required for the performance of the Contract or any inaccuracy in the schedule shall not excuse the Contractor from performing all Work required for a completed Project within the specified Contract time period. If the required schedule is not received by the time the first payment under the Contract is due, Contractor shall not be paid until the schedule is received, reviewed and accepted by the Engineer.
- B. Schedule Contents. The schedule shall indicate the beginning and completion dates of all phases of construction; critical path for all critical, sequential time related activities; and "float time" for all "slack" or "gaps" in the non-critical activities. The schedule shall clearly identify all staffing and other resources which in the Contractor's judgment are needed to complete the Project within the time specified for completion. The overall Project Schedule duration shall be within the Contract time.
- C. Schedule Updates. Contractor shall continuously update its construction schedule. Contractor shall submit an updated and accurate construction schedule to the Engineer monthly when requested to do so by Engineer. Contractor shall also submit schedules showing a three week detailed look-ahead at bi-weekly meetings conducted with the DISTRICT. The Engineer may withhold progress payments or other amounts due under the Contract Documents if Contractor fails to submit an updated and accurate construction schedule.

### 3.3 TEMPORARY FIELD OFFICE

NOT USED

### 3.4 PROTECTION OF WORK AND PROPERTY

- A. All traffic detector loops, fences, walls, culverts, property line monuments, or other obstructions (except property line monuments within five (5) feet of the centerline of the mains) which are removed, damaged, or destroyed in the course of the Work, shall be replaced or repaired to the original condition. If Contractor provides the DISTRICT with reasonable notice of the need for such repair or replacement, it shall be performed by the DISTRICT. If the Contractor fails to provide the DISTRICT with reasonable notice, the repair or replacement shall be performed by and at the expense of the Contractor to the satisfaction of the DISTRICT, whether or not those obstructions have been shown on the Plans, unless otherwise stated herein. It is then the Contractor's responsibility to employ at its expense a Licensed Land Surveyor to restore all property line monuments located more than five (5) feet from the centerline of the mains, which are destroyed or obliterated. Property line monuments located within five (5) feet of the centerline of the mains will be replaced by the DISTRICT at no expense to the Contractor, provided the DISTRICT is notified at least 48 hours before the property line monuments are damaged.

- B. Contractor shall provide such heat, covering, and enclosures as are necessary to protect all Work, materials, equipment, appliances, and tools against damage by weather conditions.
- C. Contractor shall take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, and other adjoining property and structures, and to avoid damage thereto, and Contractor shall repair any damage thereto caused by the Work operations. Contractor shall:
  - 1. Enclose the working area with a substantial barricade, and arrange work to cause minimum amount of inconvenience and danger to the public.
  - 2. Provide substantial barricades around any shrubs or trees indicated to be preserved.
  - 3. Deliver materials to the Project site over a route designated by the Engineer.
  - 4. Provide any and all dust control required and follow the Applicable air quality regulations as appropriate. If the Contractor does not comply, the DISTRICT shall have the immediate authority to provide dust control and deduct the cost from payments to the Contractor.
  - 5. Confine Contractor's apparatus, the storage of materials, and the operations of its workers to limits required by law, ordinances, permits, or directions of the Engineer. Contractor shall not unreasonably encumber the Project site with its materials.
  - 6. Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by a civil engineer or land surveyor acceptable to the DISTRICT, at no cost to the DISTRICT.
  - 7. Ensure that existing facilities, fences and other structures are all adequately protected and that, upon completion of all Work, all facilities that may have been damaged are restored to a condition acceptable to the DISTRICT.
  - 8. Preserve and protect from injury all buildings, pole lines and all direction, warning and mileage signs that have been placed within the right-of-way.
  - 9. At the completion of work each day, leave the Project site in a clean, safe condition.
  - 10. Comply with any stage construction and traffic control plans. Access to residences and businesses shall be maintained at all times, unless otherwise permitted in writing by the DISTRICT.
- D. These precautionary measures will apply continuously and not be limited to normal working hours. Full compensation for the Work involved in the preservation of life, safety and property as above specified shall be considered as included in the prices paid for the various contract items of Work, and no additional allowance will be made therefore.

- E. Should damage to persons or property occur as a result of the Work, Contractor shall be responsible for proper investigation, documentation, including video or photography, to adequately memorialize and make a record of what transpired. The DISTRICT shall be entitled to inspect and copy any such documentation, video, or photographs.

### 3.5 SITE CONDITIONS SURVEYS

#### A. Work Included.

Contractor shall conduct thorough pre-construction and post-construction site condition surveys of the entire project area. Site Conditions surveys shall include written documentation of the conditions found, as well as photographs and video recordings of the area within at least 80 feet of any construction area and staging area. The written notes, photographs, and video shall be suitable for forensic purposes to resolve any damage claims that may arise as a result of construction.

#### B. Submittals.

1. Written documentation of site condition survey at pre-construction and post-construction.
2. Photographs as described herein of pre-construction and post-construction conditions.
3. Video recordings as described herein of pre-construction and post-construction conditions.
4. Submittals shall be made within three days of the surveys. All post-construction data shall be submitted prior to the final project inspection.

#### C. Site Condition Written Documentation.

Written documentation shall include the time, date, and conditions under which the site survey was made. The documentation shall note the condition of structures, pavement, sidewalks, utilities, fences, and etc. within the work areas.

#### Photographs.

General – Contractor shall take enough photographs during each site survey to provide a record of conditions existing prior to construction and conditions after construction. Pre-construction photographs shall be taken prior to any construction or mobilization of equipment, but not more than one week prior to actual start of work. The pre-construction photographs may be staged at different times to match the progression of the Work.

The photographs shall document existing damage to public and private facilities, both prior to and after construction. Conditions to be documented include, but are not limited to: sidewalk cracks, broken curbs, separated property walls, improvements within public right-of-ways, access roads used, utility covers and markings, signs, pavement striping, pavement, unique or unusual conditions, adjacent driveways,

landscaping, survey markers, and any feature directed by the Engineer. Private property that is adjacent to the public right-of-way shall be documented to the extent visible from the public right-of-way.

Photographs shall include items to indicate scale, as needed. In particular, scales or other items shall be laid next to close ups of structural cracks and other damaged areas being recorded. Scaling shall also be used to document elevation differences, as needed.

One set of color prints shall be submitted. Additional sets shall be available for reviewing in settling any construction disputes. A set of photos shall also be furnished in electronic format. The resolution shall be at least equal to 7 megapixels. All photos shall be documented as to time and date taken, photographer, project number, location, and orientation. Documentation shall include a brief description of objects photographed.

#### Video Recording.

Video recordings shall document the conditions of the entire area affected by construction, as well as nearby structures and facilities. The general documentation requirements for videos are the same as for photographs. Video recorders shall accurately and continuously record the time and date.

Video recordings shall include an audio portion made simultaneously during the videoing. The audio recording shall describe the location, time, orientation, and objects being recorded. Special commentary shall be provided for unusual conditions or damage noted.

Video equipment shall be capable of producing high resolution images and shall have zoom capabilities.

Video recordings shall provide an overall picture of the sites and shall provide detailed images of damaged areas. Video shall extend to the maximum height of structures.

The Engineer shall have the right to reject any audio video recordings submitted with unintelligible audio, uncontrolled pan or zoom, or of poor quality. Video recordings shall be repeated when rejected.

Video recordings shall be submitted with labels indicating the project, date, recorder, and other pertinent information. Recordings shall be submitted on standard DVDs in a standard format.

#### Timing.

Contractor shall provide written notice of the time scheduled for the site conditions survey and the place it is to begin. Contractor shall obtain the Engineer's concurrence prior to beginning the condition survey. The Engineer reserves the right to cancel the survey due to weather conditions or other problems. Videoing shall be done during times of good visibility and no videoing or photography shall be done during periods of visible precipitation or when standing water obscures

pavement. Contractor shall provide the Engineer with an opportunity to have a representative present when taking the photos and provide guidance during photographing.

#### Site Surveyor.

The site condition surveyor(s) shall be experienced in construction and potential damage concerns. The site condition surveyor(s) shall be familiar with the photography and video equipment being used.

#### Field Quality Control.

Prior to submitting videos and photographs, the Contractor shall spot check the photos and videos in the field to insure they accurately reflect the actual conditions and to insure they are correctly labeled.

#### Soils Compaction Testing.

All soils compaction testing will be done by a licensed geotechnical engineer furnished by the Contractor.

### 3.6 SUBMITTAL REQUIREMENTS FOR MANUALS AND RECORD DRAWINGS

A. General. The Contractor shall furnish all materials and perform all Work required for furnishing submittals to DISTRICT in accordance with Contract Documents.

B. Technical Manuals.

1. The Contractor shall submit technical operation and maintenance information for each item of mechanical, electrical and instrumentation equipment in an organized manner in the Technical Manual. It shall be written so that it can be used and understood by DISTRICT's operation and maintenance staff.

2. The Technical Manual shall be subdivided first by specification section number; second, by equipment item; and last, by "Category." "Categories" shall conform to the following (as applicable):

(a) Category 1 - Equipment Summary:

(1) Summary: A summary table shall indicate the equipment name, equipment number, and process area in which the equipment is installed.

(b) Category 2 - Operational Procedures:

(1) Procedures: Manufacturer-recommended procedures on the following shall be included in Part 2:

- a. Installation
- b. Adjustment
- c. Startup



- d. Location of controls, special tools, equipment required, or related instrumentation needed for operation
- e. Operation procedures
- f. Load changes
- g. Calibration
- h. Shutdown
- i. Troubleshooting
- j. Disassembly
- k. Reassembly
- l. Realignment
- m. Testing to determine performance efficiency
- n. Tabulation of proper settings for all pressure relief valves, low and high pressure switches, and other protection devices
- o. List of all electrical relay settings including alarm and contact settings

(c) Category 3 - Preventive Maintenance Procedures:

- (1) Procedures: Preventive maintenance procedures shall include all manufacturer-recommended procedures to be performed on a periodic basis, both by removing and replacing the equipment or component, and by leaving the equipment in place.
- (2) Schedules: Recommended frequency of preventive maintenance procedures shall be included. Lubrication schedules, including lubricant SAE grade, type, and temperature ranges, shall be covered.

(d) Category 4 - Parts List:

- (1) Parts List: A complete parts list shall be furnished, including a generic description and manufacturer's identification number for each part. Addresses and telephone numbers of the nearest supplier and parts warehouse shall be included.
- (2) Drawings: Cross-sectional or exploded view drawings shall accompany the parts list.

(e) Category 5 - Wiring Diagrams:

- (1) Diagrams: Part 5 shall include complete internal and connection wiring diagrams for electrical equipment items.

(f) Category 6 - Shop Drawings:

- (1) Drawings: This part shall include approved shop or fabrication drawings, complete with dimensions.
  - (g) Category 7 - Safety:
    - (1) Procedures: This part describes the safety precautions to be taken when operating and maintaining the equipment or working near it.
  - (h) Category 8 - Documentation:
    - (1) All equipment warranties, affidavits, and certifications required by the Technical Specifications shall be placed in this part.
  3. The Contractor shall furnish to DISTRICT six (6) identical Technical Manuals. Each set shall consist of one or more volumes, each of which shall be bound in a standard binder.
- C. Spare Parts List - The Contractor shall furnish to DISTRICT six (6) identical sets of spare parts information for all mechanical, electrical, and instrumentation equipment. The spare parts list shall include the current list price of each spare part. The spare parts list shall include those spare parts which each manufacturer recommends be maintained by DISTRICT in inventory. Each manufacturer or supplier shall indicate the name, address, and telephone number of its nearest outlet of spare parts to assist DISTRICT in ordering. The Contractor shall cross-reference all spare parts lists to the equipment numbers designated in the Contract Documents. The spare parts lists shall be bound in standard size, 3-ring binder.
- D. Record Drawings
1. The Contractor shall maintain one record set of Drawings at the Site. On these, it shall mark all Project conditions, locations, configurations, and any other changes or deviations which may vary from the information represented in the original Contract Documents, including buried or concealed construction and utility features which are revealed during the course of construction. Special attention shall be given to recording the horizontal and vertical location of all buried utilities that differ from the locations indicated, or which were not indicated on the Contract Drawings. Said record drawings shall be supplemented by any detailed sketches as necessary or directed to fully indicate the Work as actually constructed. These master record drawings of the as-built conditions, including all revisions made necessary by Addenda and Change Orders shall be maintained up-to-date during the progress of the Project. Red ink shall be used for alterations and notes. Notes shall identify relevant Change Orders by number and date.
  2. For all Projects involving the installation of any pipeline, Contractor shall survey and record the top of the pipe at a minimum of every 100 linear feet, and at each bend, recording both the horizontal and vertical locations.
  3. Record drawings shall be accessible to DISTRICT's Representative at all times during the construction period. Failure on the Contractor's part to keep record drawings current could result in withholding partial payment.

4. Upon Completion of the Project and as a condition of final acceptance, the Contractor shall finalize and deliver a complete set of Record Drawings to DISTRICT's Representative. The information submitted by the Contractor will be assumed to be correct, and the Contractor shall be responsible for, and liable to DISTRICT, for the accuracy of such information, and for any errors or omissions which may or may not appear on the Record Drawings.
- E. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete the Manuals and Record Drawings shall be included in Contractor's bid and distributed in the Schedule of Pay. No additional compensation shall be made to the Contractor for this Work.

### 3.7 MATERIALS

#### A. Materials to be Furnished by the Contractor

1. Inspection of Materials. Materials furnished by the Contractor which will become a part of the Project shall be subject to inspection at any one or more of the following locations, as determined by DISTRICT's Representative: at the place of production or manufacture, at the shipping point, or at the site of the Work. To allow sufficient time to provide for inspection, the Contractor shall submit to DISTRICT's Representative, at the time of issuance, copies of purchase orders or other written instrument confirming procurement of the materials, including drawings and other pertinent information, covering materials on which inspection will be made.
2. No later than fourteen (14) Days prior to manufacture of material, Contractor shall inform DISTRICT's Representative, in writing, the date the material is to be manufactured.
3. Contractors Obligations. The inspection of materials at any of the locations specified above or the waiving of the inspection thereof shall not impact whether the materials and equipment conform to the Contract Documents. Contractor will not be relieved from furnishing materials meeting the requirements of the Contract Documents due to DISTRICT's inspection or lack of inspection of the equipment or materials. Acceptance of any materials will be made only after materials are installed in the Project.
4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to accommodate DISTRICT's testing efforts, including any travel required by Contractor's forces, shall be included in Contractor's bid and distributed in the Schedule of Pay Items related to the materials requiring testing. No additional compensation shall be made to the Contractor for this Work.

### 3.8 LOCAL CONDITIONS AND REQUIREMENTS

#### A. Access to Work and Haul Routes

1. General. All work on the rights-of-way necessary for access to the Site shall be performed by the Contractor.

2. Access, Damage, Restoration. The Contractor shall make his own investigation of the condition of available public or private roads and of clearances, restrictions, bridge-load limits, permit or bond requirements, and other limitations that affect or may affect transportation and ingress or egress at the Site. Claims for changes in Contract Price or Contract Times arising out of the unavailability of transportation facilities or limitations thereon shall not be considered by DISTRICT.
  3. The Contractor shall maintain and repair any damage arising out of Contractor's operations to all roads used during construction of the Project, and upon completion of all Work, but prior to final acceptance, the roads shall be restored to their original condition. Prior to using any road for access to the Site, the Contractor shall conduct a photograph and/or video survey of the roadway with a copy submitted to DISTRICT's Representative.
  4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete this Work, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.
- B. Power. Contractor shall provide at its own expense all necessary power required for operations under the contract. The Contractor shall provide and maintain in good order such modern equipment and installations as shall be adequate in the opinion of the Engineer to perform in a safe and satisfactory manner the Work required by the contract.
- C. Construction Water.
1. Construction water shall not be used for purposes other than those required to satisfactorily complete the contract.
  2. All connections to the DISTRICT's water system used for the purposes of obtaining construction water shall utilize a temporary construction meter and backflow prevention device supplied by the DISTRICT. The DISTRICT-furnished backflow prevention device shall be tested immediately after installation and the construction meter and backflow prevention device shall not be placed into service until the backflow prevention device passes such tests. Backflow prevention device testing shall be performed in accordance with the most recent edition of the Manual of Cross-Connection Control as published by the University of Southern California by a person selected from Borrego Water District's "DISTRICT-Approved Certified Backflow Assembly Testers" list, and test results shall be provided to the Engineer. If the temporary construction meter and backflow prevention device are moved to alternate location(s) during construction, the backflow prevention device shall again be tested as described above immediately after re-installation.
  3. For each temporary construction meter requested by the Contractor for the performance of work under this contract, an amount equivalent to the deposit requirement for temporary construction meters listed in the current approved version of the DISTRICT's Policies and Procedures Manual shall be withheld from the final contract payment until the temporary construction meters are returned.
- D. Operation of Existing Water Facilities

1. The Contractor shall not operate any of the existing water systems, including pumps, motors, and hydrants, but shall contact the DISTRICT two (2) working days in advance with a list and location of the water system facilities that will require operating, opening, stopping, or closure by the DISTRICT.
2. At the option of the Engineer, the Contractor may be permitted to operate valves for the purpose of making connections to existing mains. The DISTRICT will perform all notification to existing customers regarding temporary loss of service.
3. Contractor shall submit a request on DISTRICT's standard form for any shut-down of existing water facilities.

#### E. Construction at Existing Utilities

1. General. Where the Work to be performed crosses or otherwise interferes with water, sewer, gas, or oil pipelines; buried cable; or other public or private utilities, the Contractor shall perform construction in such a manner so that no damage will result to either public or private utilities. It shall be the responsibility of the Contractor to determine the actual locations of, and make accommodations to maintain, all utilities.
2. Permission, Notice and Liability. Before any utility is taken out of service, permission shall be obtained by the Contractor from the owner. The owner, any impacted resident or business owner and the DISTRICT Representative will be advised of the nature and duration of the utility outage as well as the Contractor's plan for providing temporary utilities if required by the owner. The Contractor shall be liable for all damage which may result from its failure to maintain utilities during the progress of the Work, and the Contractor shall indemnify DISTRICT as required by the Contract Documents from all claims arising out of or connected with damage to utilities encountered during construction; damages resulting from disruption of service; and injury to persons or damage to property resulting from the negligent, accidental, or intentional breaching of utilities.
3. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete this Work, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

#### F. Traffic Control

1. General. Contractor shall abide by traffic control plans approved by the appropriate jurisdiction.
2. Protections. Roads subject to interference by the Work shall be kept open or suitable temporary passages through the Work shall be provided and maintained by the Contractor. The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient flasher lights, flag persons, danger signals, and signs, and shall take all necessary precautions for the protection of the Work and the safety of the public. No construction work along public or private roads may proceed until the Contractor has proper barricades, flasher lights, flag persons, signals, and signs in place at the construction site.

3. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete this Work, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

G. Cleaning Up

1. Contractor at all times shall keep premises free from debris such as waste, rubbish, and excess materials and equipment. Contractor shall not store debris under, in, or about the premises. Contractor shall also clean all asphalt and concrete areas to the degree necessary to remove oil, grease, fuel, or other stains caused by Contractor operations or equipment. The use of water, resulting in mud on streets, will not be permitted as substitute for sweeping or other methods. Dust control may require having a water truck onsite for the duration of the project, and/or use of temporary hoses and pipelines to convey water.
2. Contractor shall fully clean up the site at the completion of the Work. If the Contractor fails to immediately clean up at the completion of the Work, the DISTRICT may do so and the cost of such clean up shall be charged back to the Contractor.

3.9 ENVIRONMENTAL QUALITY PROTECTION

A. Environmental Conditions

NOT USED.

B. Landscape and Vegetation Preservation

1. General. The Contractor shall exercise care to preserve the natural landscape and vegetation, and shall conduct operations so as to prevent unnecessary destruction, scarring, or defacing of the natural surroundings in the vicinity of the Work.
2. Damage and Restoration. Movement of crews and equipment within the rights-of-way and over routes provided for access to the Work shall be performed in a manner to prevent damage to property. When no longer required, construction roads shall be restored to original contours.
3. Upon completion of the Work, and following removal of construction facilities and required cleanup, land used for construction purposes and not required for the completed installation shall be scarified and regraded, as required, so that all surfaces are left in a condition that will facilitate natural revegetation, provide for proper drainage, and prevent erosion.
4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete this Work, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

C. Protected Species

1. General. If, in the performance of the Work, evidence of the possible occurrence of any Federally listed threatened or endangered plant or animal is discovered, the Contractor shall notify the DISTRICT Representative immediately, giving the location and nature of the findings. Written confirmation of the evidence, location and nature of the findings shall be forwarded to DISTRICT within 2 Days.
2. Procedures. The Contractor shall immediately cease all construction activities in the immediate area of the discovery to the extent necessary to protect the endangered plant or animal.

If directed by the DISTRICT Representative, Contractor will refrain from working in the immediate area, suspend the Work in its entirety, or alter its performance to ensure full compliance with all applicable permits, laws and regulations. Any DISTRICT directed changes to the Work as a result of a siting will be pursuant to the Contract Documents.

3. False Siting. Any costs or delays incurred by DISTRICT or the Contractor due to unreasonable or false notification of an endangered plant or animal will be borne by the Contractor.
4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to comply with this paragraph, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

#### D. Preservation of Historical and Archeological Resources

1. General. If, in the performance of the Work, Contractor should unearth cultural resources (for example, human remains, animal bones, stone tools, artifacts and/or midden deposits) through excavation, grading, watering or other means, the Contractor notify the Construction/Archeological Monitor and/or the DISTRICT Representative immediately, giving the location and nature of the findings. Written confirmation of the evidence, location and nature of the findings shall be forwarded to the Construction/Archeological Monitor and/or DISTRICT within 2 Days.
2. Procedures. The Contractor shall immediately cease all construction activities in the immediate area of the discovery to the extent necessary to protect the cultural resource.

If directed by the DISTRICT Representative, Contractor will refrain from working in the immediate area, suspend the Work in its entirety, or re-sequence and/or alter its performance to ensure full compliance with all applicable permits, laws and regulations. Should the presence of cultural resources be confirmed, the Contractor will assist the DISTRICT Representative and the Construction/Archeological Monitor in the preparation and implementation of a data recovery plan. The Contractor shall provide such cooperation and assistance as may be necessary to preserve the cultural resources for removal or other disposition. Any DISTRICT directed changes to the Work as a result of the cultural resource will be pursuant to the Contract Documents.

3. Contractor's Liability. Should Contractor, without permission, injure, destroy, excavate, appropriate, or remove any cultural resource on or adjacent to the Site, it will be subject to disciplinary action, arrest and penalty under applicable law. The Contractor shall be principally responsible for all costs of mitigation and/or restoration of cultural resources related to the unauthorized actions identified above. Contractor shall be required to pay for unauthorized damage and mitigation costs to cultural resources (historical and archeological resources) as a result of unauthorized activities that damage cultural resources and shall indemnify DISTRICT pursuant to the Contract Documents.
4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to comply with this paragraph, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

E. Dust and Pollution Control

1. Contractor shall provide all necessary material, equipment and labor to prevent and control the emission of dust and any other potential pollutant on site.
2. Contractor shall not discharge into the atmosphere from any source smoke, dust or other air contaminants in violation of the law, rules, and regulations of the governing agency.
3. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to comply with this paragraph, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

F. Fugitive Dust

NOT USED.

G. Management of Storm, Surface and Other Waters

1. Storm water, surface water, groundwater, and nuisance, or other waters may be encountered at various times during construction of the Project. Federal and State laws require the DISTRICT and its contractors to manage such waters pursuant to the requirements of California State Water Resources Control Board Order Number 2009-0009-DWQ, the Federal Clean Water Act, and the California Porter Cologne Water Quality Control Act. Contractor acknowledges that it has investigated the risk arising from such waters in conjunction with the Project, and assumes any and all risks and liabilities arising therefrom.
2. The Contractor shall perform all construction operations in such a manner as to comply, and ensure all subcontractors to comply, with all applicable Federal, State, and local laws, orders, and regulations concerning the control and abatement of water pollution; and all terms and conditions of any applicable permits issued for the Project. In the event there is a conflict between Federal, State, and local laws, regulations, and requirements, the most stringent shall apply.



3. Contractor violations. If noncompliance should occur, the Contractor shall report this to the DISTRICT Representative immediately, with the specific information submitted in writing within 2 Days. Consistent violations of applicable Federal, State, or local laws, orders, regulations, or Water Quality Standards may result in DISTRICT stopping all site activity until compliance is ensured. The Contractor shall not be entitled to any change in Contract Price or Contract Times, claim for damage, or additional compensation by reason of such a work stoppage. Corrective measures required to bring activities into compliance shall be at the Contractor's expense.
4. Compliance with Construction General Storm water Permit. Contractor shall be required to comply with all aspects of the State Water Resources Control Board (State Board) Water Quality Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity (Permit) for all projects that involve construction on or disturbance of one acre or more of land or which are part of a larger common area of development.
  - (a) Contractor shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for the Project site based on the appropriate Risk Level requirements, and draft and coordinate submittal of all Permit related documents with DISTRICT's Legally Responsible Person and/or Authorized Signatory as those terms are defined in the Permit. The Contractor shall submit the SWPPP to the DISTRICT Representative for review not less than fifteen (15) Days prior to the start of on- site construction work. DISTRICT will file the Notice of Intent and pay the filing fee.
  - (b) The SWPPP shall be developed by a Qualified SWPPP Developer and implemented by a Qualified SWPPP Practitioner as those terms are defined in the Permit and shall include industry standard requirements for water quality control including but not be limited to the following:
    - (1) Sediment and erosion control measures to manage sediment and erosion including vegetative practices, structural control, silt fences, straw dikes, sediment controls or operator controls as appropriate. Storm water management measures shall be instituted as required, including velocity dissipaters, and solid waste controls shall address controls for building materials and offsite tracking of sediment.
    - (2) Wastewater and storm water management controls to divert offsite surface flows around the Project site and to divert surface flows within the Project area away from areas of open earth or stockpiles of building and other materials. Wastewater from general construction activities, such as drain water collection, aggregate processing, concrete batching, drilling, grouting, or other construction operations, shall not enter flowing or dry watercourses without having met the authorized non-storm water discharge requirements listed in State Board Water Quality Order No. 2009-0009-DWQ, Section III.C., including proper notification to the Regional Water Board.
    - (3) Pollution prevention measures including methods of dewatering, unwatering, excavating, or stockpiling earth and rock materials which include prevention measures to control silting and erosion, and which will

- intercept and settle any runoff of sediment-laden waters.
- (4) Turbidity prevention measures for prevention of excess turbidity including, but are not restricted to, intercepting ditches, settling ponds, gravel filter entrapment dikes, flocculating processes, recirculation, combinations thereof, or other approved methods that are not harmful to aquatic life. All such wastewaters discharged into surface waters, shall contain the least concentration of settleable material possible, and shall meet all conditions of section 402, the National Pollutant Discharge Elimination System (NPDES) permit.
  - (5) Overall construction site management measures to address changes at the Project site as the Project moves through different phases and changes that account for rainy and dry season management practices.
  - (6) Pollution control measures and construction activity methods that will prevent entrance, or accidental spillage, of solid matter, contaminants, debris, or other pollutants or wastes, into streams, flowing or dry watercourses, lakes, wetlands, reservoirs, or underground water sources. Such pollutants and wastes include, but are not restricted to: refuse, garbage, cement, sanitary waste, industrial waste, hazardous materials, radioactive substances, oil and other petroleum products, aggregate processing, tailings, mineral salts, and thermal pollution.
  - (7) Control measures for stockpiled or deposited materials prohibiting the stockpile or deposit of excavated materials, or other construction materials, near or on stream banks, lake shorelines, or other watercourse perimeters where they can be washed away by high water or storm runoff, or can, in any way, encroach upon the watercourse.
  - (8) Develop and implement a Rain Event Action Plan (REAP), if required, that must be designed and implemented to protect all exposed portions of the site 48 hours prior to any likely precipitation event.
  - (9) Monitoring, reporting and record keeping, as necessary to achieve compliance with applicable Permit requirements, including but not limited to annual reports and rain event reports.
- (c) Before any Permit related documents, including the SWPPP, rain event reports, or annual reports may be submitted to the State Board or implemented on the Project site, they must first be reviewed and approved by DISTRICT.
  - (d) DISTRICT retains the right to procure and maintain coverage under the Permit for the Project site if the Contractor fails to draft a SWPPP or other Permit related document, or fails to proceed in a manner that is satisfactory to DISTRICT. DISTRICT reserves the right to implement its own SWPPP at the Project site, and hire additional contractors to maintain compliance. Whether Contractor has adequately maintained compliance with the Permit shall be DISTRICT's sole determination. In the event that Contractor has failed or is unable to maintain compliance with the Permit, any costs or fines incurred by DISTRICT in implementing a SWPPP, or otherwise maintaining compliance with the Construction General Permit shall be paid by the Contractor.

5. Failure to implement the SWPPP or otherwise comply with the Permit is a violation of federal and state law. Contractor hereby agrees to indemnify DISTRICT as required by the Contract Documents for any noncompliance or alleged noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the sole established negligence, willful misconduct or active negligence of DISTRICT. DISTRICT may seek damages from Contractor for delay in completing the Contract in accordance with the Contract Documents, caused by Contractor's failure to comply with the Permit. In addition to compliance with the Permit, Contractor shall comply with the lawful requirements of any applicable municipality, district, drainage district, flood control district, and other local agencies regarding discharges of storm water, surface water, groundwater or other nuisance waters off of the Project site.
6. Oil storage tanks management.
  - (a) Storage tank placement. All oil or other petroleum product (hereinafter referred to collectively as oil) storage tanks shall be placed at least 20 feet from streams, flowing or dry watercourses, lakes, wetlands, reservoirs, and any other water source.
  - (b) Storage area dikes. Storage areas shall be diked at least 12 inches high or graded and sloped to permit safe containment of leaks and spills equal to the capacity of all tanks and/or containers located within each area, plus a sufficient amount of freeboard to contain the 25-year rainstorm.
  - (c) Diked area barriers. Diked areas shall have an impermeable barrier at least 10 mils thick. Areas used for refueling operations shall have an impermeable liner at least 10 mils thick buried under 2 to 4 inches of soil.
  - (d) Spill Prevention Control and Countermeasure Plan (SPCC). Where the location of a construction site is such that oil from an accidental spillage could reasonably be expected to enter into or upon the navigable waters of the United States or adjoining shorelines, and the aggregate storage of oil at the site is over 1,320 gallons or a single container has a capacity in excess of 660 gallons, the Contractor shall prepare an SPCC Plan. The Contractor shall submit the SPCC Plan to the Engineer at least 30 days prior to delivery or storage of oil at the site. The Plan must have been reviewed and certified by a registered professional engineer in accordance with 40 C.F.R., part 112
7. Underground tank prohibition. The Contractor shall not use underground storage tanks.
8. Construction safety standards. The Contractor shall comply with the sanitation and potable water requirements of Section 7 of United States Bureau of Reclamation's publication "Reclamation Safety And Health Standards."
9. Other Permits.
  - (a) Other permits applicable to the Project are listed in the Special Conditions. The Contractor shall obtain all other necessary licenses and permits.

- (b) Monitoring. The Contractor is required to conduct monitoring in order to meet the requirements of the permits, which may include sampling, testing and inspections.
  - (c) Recordkeeping. The Contractor shall retain all records and data required by the permits for the time specified in the contract.
10. Cost. Except as specified herein, the cost of complying with this section shall be included in the Schedule of Pay Items for work which necessitate the water pollution prevention measures required by this paragraph.

**END OF GENERAL REQUIREMENTS**

## TECHNICAL SPECIFICATIONS

### 1.1. WELL CONSTRUCTION:

#### 1.1.1. Operating Requirements for Water Well Drilling and Construction

The Contractor shall provide, in addition to the proposed construction schedule following the District's acceptance of the Proposal, a description of the proposed drilling program including method, on-site equipment, fluids, and additives to be used. The proposed drilling program must include information regarding the types of fluid to be used, intended drilling fluid weights, viscosities, sand and solids contents, water loss control, **and the specification of all additives** to be used.

Excavated pits for drilling fluid circulation will be prohibited. Contractor shall furnish a mud pump, shaker, desander and drilling fluids storage system capable of circulating at a minimum 500 gallons per minute. The solids (sand) content of the drilling fluids re-circulated to the borehole shall not exceed 2% at any time during drilling operations. Generation of these "heavy" drilling fluids shall require removal and off-site disposal by pump truck. All fluids generated during initial well development and pumping shall be conveyed through the series of tanks described above prior to disposal.

The drill cuttings can be stockpiled on site to dry and the final disposition of cuttings will be the responsibility of the District.

All clean development and test water will be discharged to land surface.

Delays during the drilling operation caused by the inadequacy of the drilling equipment shall be the responsibility of the Contractor. Owner will require replacement of such inadequate equipment by the Contractor. This does not include the mechanical failure of equipment normally considered capable of performing the required work. The Contractor shall be held responsible for, and payment may be withheld for, damages done to the well from faulty operation due to negligence or any other cause.

The equipment to be furnished for the specified well drilling and construction shall comply with all State and local safety regulations, shall be subject to the inspection and approval of the Owner, and shall meet the minimum requirements and include the equipment listed below:

- a. **Direct or Reverse circulation rotary drilling equipment**, including mast, substructure, draw works and prime mover with sufficient capacity to drill and ream the required diameter borehole through the formations encountered in the area of drilling to a depth of 1,200 feet.
- b. All of the accessory equipment necessary for the completion of the work including an approved circulating cleaner system, equipment for measuring drilling

fluid properties, sluice box or other equipment capable of separating cutting samples from drilling fluid, settlement system (tanks), groundwater level measuring instrument(s), bottom sounding device, and approved drill cutting sample bags.

c. An auxiliary power plant (if needed, see II.2 below), sufficient in size to provide for all electrical power required during the entire operation of drilling and construction.

d. Welding equipment and material, as needed.

e. Portable sanitation facilities, including hand washing accommodations.

f. Air compressor with adequate capacity for drilling and/or well development.

g. Submersible and/or turbine well pump to perform zone testing, well development and pump testing.

h. All other equipment necessary to complete work described herein including earthmoving equipment, and water trucks, as necessary.

The omission of listing equipment necessary to satisfactorily complete the work specified does not relieve the Contractor from providing necessary equipment. All equipment necessary to complete the work shall be determined by the Contractor and described to the District in the proposed drilling program within ten (10) working days of the District's acceptance of the Proposal.

#### **1.1.2. Equipment and Operating Requirements for Development and Pump Testing**

The Contractor shall furnish, install, operate and remove all equipment and tools, including a rig and appurtenances capable of setting and properly operating the pumping equipment, swabs and bailers to meet the requirements of the Contract for pump testing, development and cleaning of the well. All fuel, lubricating oil and other necessary materials shall be provided by the Contractor.

The pumping equipment shall be capable of pumping at a variable rate from 500 to 2,500 gallons per minute at a maximum pumping level of 700 feet below ground surface. The expected static groundwater level at the well site is approximately 293 feet bgs. The pumping unit shall be complete with a variable frequency drive, controls and appurtenances, and shall be capable of being operated without interruptions for a period of 48 hours.

The Contractor shall furnish all necessary discharge assemblage which shall be of sufficient size and length to allow the proper functioning of the discharge meter. The Contractor shall furnish, install and maintain a discharge meter capable of directly and

accurately reading instantaneous flow in gallons per minute and total pumpage, a gate valve on the discharge line, and a pressure gage.

One 2-inch diameter PVC pipe and one 1.0-inch diameter PVC pipe shall be installed from the well head to a depth below the pump intake, to remain in place for the duration of the pump testing period as a conduit for measuring depth to groundwater, using an electrode type water-level indicator, and for sounding the accumulation of sediment at the bottom of the well during development. The bottom two feet of the 1.0-inch PVC pipe shall be perforated. The top of the pipe at the well head shall be installed in such a way as to allow easy access for groundwater level and well bottom measurements. The 2-inch diameter PVC pipe shall be open-ended and extend to a depth below the pump intake to allow for a spinner survey with a Titan Spinner/Flowmeter that has a tool diameter of 1.6875 inches or similar tooling approved by the District Representative. Should the PVC pipe break, become obstructed, or be rendered unusable for any reason during development and test pumping, the Contractor shall immediately reinstall the pipe at no additional cost to the District.

The Contractor shall provide two, probe-type water level measuring devices (primary and back-up) capable of measuring groundwater level to a depth of 700 feet bgs, as well as any additional equipment necessary for development and testing, including replacement equipment, unless otherwise noted herein.

### **1.1.3. Records and Samples**

During the drilling of the pilot hole, the Contractor shall maintain careful and accurate real-time logging of each formation encountered a description of the materials at each change in formation, and the penetration rate of the drilling per drill stem. Additionally, the driller shall measure and record the weight, viscosity, and sand content of the drilling fluid, at periodic intervals as determined by the District Representative, to assure consistency with the Contractor's proposed drilling program (see II.1 above). Drilling fluid characteristics including viscosity, weight, sand content, water loss, and wall cake thickness shall be determined not less than every four hours by the Contractor and reported to the District Representative. At any time, the District Representative may request additional tests to be run or repeated. A record shall be maintained indicating the addition and amount of approved chemical products or water required during drilling. The depths at which such changes are required shall also be including in the fluids log.

During all drilling and construction phases, the Contractor shall also record the work done during each day including the items of work accomplished, including but not limited to the following: 1) depth drilled; 2) properties of drilling fluid and amount of additives used; 3) casing set, including the number, size and length of individual pipe installed in the well; 4) volume and specifications of filter pack used; 5) volume and specifications for concrete

used in the annular seal and all other pertinent data requested by the District Representative.

The above required data shall be recorded at the time of occurrences or observation. Records shall be legibly written and each recorded item or event shall include the date and the time of day. A copy of daily reports shall be submitted to the District Representative each day for the prior day's completed work. The State-required (i.e., Department of Water Resources) drilling report, shall be submitted to the District Representative upon completion of the project and before final payment is made. A consulting geologist or District staff will be on site to monitor activities and gather data on behalf of the District during drilling all or a portion of the pilot hole, reaming, well construction, and during development activities. This does not relieve the Contractor of his requirement to provide a driller's log of formations encountered for inclusion on the well completion report.

During the drilling of the pilot hole, the Contractor shall carefully collect samples from the depth of the conductor casing to the total depth of the well at 10-foot intervals and at each change of formation. These samples shall be collected during the drilling and placed in bags with labels that indicate the depth from which each sample was obtained. The Contractor shall accurately account for the time required for cuttings to rise to the surface based on the volumetric flow of the drilling fluid from the hole. Samples collected shall be representative of the samples taken from the designated depth. Occasionally, extra samples will be sent for grain size analysis as directed by the District Representative. The method of collecting samples shall be subject to the approval of the District Representative. The Owner shall retain all samples.

Following the installation of the filter pack and throughout the development period, the Contractor shall maintain a written record that includes date, static groundwater level, time, pumping rate in gallons per minute and corresponding operating or pumping groundwater level. The Contractor's records throughout the development and test pumping activities shall include a **daily measurement of the static groundwater level at the beginning and ending of each work day, before commencement of any pumping or other development activities and at the end of all such activities, respectively**. All groundwater level data shall be recorded to the nearest tenth of a foot (0.1 ft). Entries shall be made for each change of pumping and when comment is desirable. During periods of constant pumping, entries shall be made at intervals of not more than one hour. Upon completion and before final payment, the Contractor shall provide the District Representative with a copy of the development records. The District Representative shall maintain pump test records and shall request assistance, as needed, to obtain the necessary measurements. The Contractor shall have a worker available to assist the District Representative in taking measurements and to operate and service the pumping equipment.

#### 1.1.4. Move-In and Site Preparation Work



The Contractor shall perform all necessary move-in and set-up, of all rigs, equipment and materials and all other miscellaneous work associated with drilling, well construction, development and testing at the well site. If additional temporary construction fencing is required to adequately enclose the work site, it shall be included as part of the site preparation work, and will be the responsibility of the Contractor.

The Contractor must satisfy as to the adequacy of the well site for drill rig set-up. Any earthwork necessary (e.g., compaction) to accommodate the drill rig or appurtenant drilling equipment and machinery (circulation system, mud tanks, etc.) shall be the responsibility of the Contractor. Any grading deemed necessary by the Contractor in preparation for site work shall be determined in advance and agreed to by the District Representative. Any excavated top soil shall be stockpiled on site for replacement at the completion of the project.

In the event of a spill or leakage of fuels, lubricants, or other hazardous materials during site move-in/move-out, drilling, development, or pumping operations, the Contractor shall take immediate steps to contain the spill. Clean-up and disposition of any hazardous materials released by Contractor during the conduct of the described work shall be completed to the satisfaction of the District Representative and shall be the responsibility of the Contractor.

#### **1.1.5. Conductor Borehole, Casing and Sanitary Seal**

This item includes drilling a conductor borehole, installation of conductor casing and installation of a cement grout sanitary seal in the annulus between the borehole and conductor casing to the minimum depth of 50 feet. The sanitary seal installed shall meet the requirements of California Department of Water Resources Bulletins 74-81 and 74-90, and all requirements of the County of San Diego Department of Environmental Health Services. Continuous (24-hour/day) operations will be allowed during borehole drilling. The conductor casing diameter, wall thickness and material shall have the following specifications:

- a. 40-inch diameter conductor borehole
- b. Minimum 50 feet depth
- c. 30-inch O.D., minimum 3/8-inch wall thickness
- d. Mild steel, ASTM A53, Grade B or approved equal

During drilling, the Contractor shall collect and preserve representative samples of formation materials at 10-foot intervals and each major change in formation. Upon completion of drilling, the Contractor shall condition the borehole and take whatever steps are necessary to maintain and prevent collapse of the borehole prior to and during placement of the conductor casing and cement grout sanitary seal. All field joints shall be

properly butt-welded to assure complete penetration during welding with a minimum of two passes. All joints shall be watertight. Special care shall be exercised to ensure that the casing is straight. All field welding shall be performed in accordance with American Welding Society Standards by a certified welder. Welder Certifications shall be specific to the metal type (i.e. stainless steel)

After the conductor casing is installed and aligned, the annular space between the conductor casing and the conductor casing borehole shall be filled with cement grout from the bottom of the borehole to the ground surface. The MINIMUM depth of the grout seal shall be 50 feet. The grout shall be pumped into the annular space through a tremie pipe installed to the bottom of the borehole. The bottom of the tremie pipe shall remain submerged in the grout throughout the placement of the grout. The placement procedure shall be approved by the District prior to installation of the grout seal. The Contractor shall take all precautions to prevent the collapse of the conductor casing and borehole during placement of the grout. The grout seal shall be placed in one continuous pour. The contractor shall not operate any equipment on-site during the 24-hour period immediately after the sanitary seal has been placed.

In the event the borehole or part of the borehole collapses prior to completion of grouting, the Contractor shall take whatever steps are necessary to reopen the borehole, reset the casing and place the grout as required. Any such remedial action shall be conducted at the Contractor's expense.

Potable water for use by the Contractor will be available from nearby fire hydrant. Any hard-plumbed connection must be protected by an air gap or approved by the District Representative. Water used by the Contractor will be metered by the District but will be provided at no charge.

Recirculation of drill cuttings with the drilling fluid shall be kept to a practical minimum.

#### **1.1.6. Borehole**

The Contractor shall drill a 17.5-inch diameter pilot borehole to a depth of 1,000 feet. Continuous (24-hour/day) operations will be allowed during pilot borehole drilling. The diameter shall not exceed 17.5 inches without the approval of the District Representative. The borehole shall be drilled to a depth of approximately 1,000 feet below the existing ground surface at the well location. The exact total depth shall be as directed by the District Representative, and will be determined by the nature of the materials encountered.

The drilling fluid shall possess such characteristics as are required to (a) adequately maintain the walls of the borehole to prevent caving, (b) permit recovery of representative samples of drill cuttings, (c) prevent the swelling of clay zones, (d) prevent loss of shear strength or other borehole stability problems, and (e) allow the fluid and mud cake to be readily removed from the borehole and borehole wall during placement of the gravel pack and development of the well. It shall be the responsibility of the Contractor to collect,

measure, and record drilling fluid samples. Unless otherwise approved by the District's Representative, only fresh water with Baroid Poly-Bore shall be used as the circulating medium for reverse circulation method. Any other method must be disclosed for approval by the District Representative. If 'lost circulation' or other drilling problems require the addition of bentonite gel or other materials, such materials may be added only with the prior approval of the District Representative.

For direct mud rotary method only high-grade approved products such as Baroid Aqua-Gel or Quick-Gel, or other product pre-approved by the District Representative shall be used in the make-up of the drilling fluid. Drilling with a mixture of water and unprocessed mud, clay, or other material will not be permitted.

Potable water for use by the Contractor will be available from nearby fire hydrant. Any hard-plumbed connection must be protected by an air gap or approved by the District Representative. Water used by the Contractor will be metered by the District but will be provided at no charge.

As described in II.3 above, the Contractor shall periodically collect samples, representative of the strata penetrated, for lithological description and grain size analysis. Recirculation of drill cuttings with the drilling fluid shall be kept to a practical minimum.

#### 1.1.7. **Borehole Deviation**

At the discretion of the District Representative, evaluation of borehole deviation may be requested, to be performed by a professional logging service, following the drilling of the hole, as a component of the geophysical logging (see item II.7 below). The subcontractor(s) proposed to complete the geophysical logging shall be submitted to the Owner and District Representative for review and approval prior to Contractor mobilization. The maximum allowable horizontal deviation (drift) of the borehole from the vertical shall not exceed one diameter of the borehole per 200 feet of depth.

#### 1.1.8. **Electric Log of Borehole**

Upon completion of the borehole, the Contractor shall condition the hole and drilling fluid for geophysical logging (electric log) of the hole. The electric logging of the hole shall consist of spontaneous potential, 16- and 64-inch resistivity surveys, a guard log, a borehole deviation survey, and a natural gamma survey, all in API format. Six (6) copies of the various logging runs shall be delivered to the District Representative on site immediately following the logging of the hole, **at a vertical scale of 2 inches equals 100 feet.**

#### 1.1.9. **Isolated Aquifer Zone Testing (optional)**

This optional line item includes installation of sampling equipment in the pilot borehole, development pumping, water quality sampling and analyses, and groundwater level

monitoring to be completed at the option of the District in isolated aquifer zones selected by the District. Upon completion of the downhole geophysical surveys, the District will prepare a schedule of testing and sampling for specific isolated aquifer zones. The schedule will specify the number and depth of individual zones to be tested, depth intervals for gravel pack and seals, specific sampling requirements and method of pumping for sample collection (air-lift and/or submersible pump).

The Contractor shall be responsible for the collection, storage, transport and analysis of groundwater samples during isolated aquifer zone testing. Laboratory analyses of water samples shall include the chemicals listed and be completed within 48 hours after submittal to the laboratory. Laboratory results shall be provided to the District in paper copy and District approved digital formats on compact disk.

#### **1.1.10. Final Reamed Borehole and Caliper Survey**

This item includes reaming the pilot borehole to the final borehole diameter(s) and depth(s) specified by the District in the final well design. Upon receipt of a written final well design from the District, the Contractor shall ream the pilot borehole to a diameter of 26 inches and to a depth to be specified upon completion of the pilot borehole and zone testing.

A record shall be kept by the Contractor showing any variation in the addition and amount of drilling fluid or water required during the drilling operation. The depths at which such changes are required shall be shown in the daily reports.

Upon completion of the reaming operations, a caliper survey and deviation survey shall be run to verify the alignment, final diameters and depths reamed. If the caliper survey shows the reamed borehole to be less than the specified diameter(s) at any point or the final borehole is less than the specified depth, the borehole shall be re-reamed or re-drilled and re-surveyed at the Contractor's expense.

#### **1.1.11. Installation of Well Casing and Screen**

The Contractor shall, upon completion of reaming and caliper survey, install a string of casing and screen as directed by the District Representative in the approved final well design. The casing shall extend 12 inches above the existing ground surface. The entire well casing string (i.e., blank casing, well screen, final blank section, and bottom plate) shall be suspended in tension from the surface by means of an appropriate hanger or clamp prior to placement of the filter pack so that the casing is not supported from the bottom of the hole.

The blank casing shall be 16-inch diameter mild steel well casing. The Contractor shall install a dielectric coupler (mechanical connector) anywhere mild steel and stainless steel casing connected to minimize potential for corrosion between dissimilar metals. The mechanical connector shall be manufactured by Roscoe Moss or other approved manufacturer.

The well screen shall be manufactured in accordance with the aforementioned casing requirements for blank casing. The screened well casing shall be 16-inch diameter 304L stainless steel, louvered type Roscoe Moss Ful Flo Shutter Screen with machine made openings that are horizontal to the axis of the casing with an aperture facing downward. For bidding purposes only, the aperture size shall be 0.060 inches. Actual specifications for the screened casing will be determined by the District following interpretation of grain size analyses and electrical logging results and will be specified in the final well design prepared by the District. The blank well casing shall have the same I.D., thickness as the screened well casing.

The blank casing and screen shall be plumb and centered in the hole. Centralizers with 120 degree spacing shall be installed to blank casing sections, as specified in this section unless otherwise directed by the District Representative, to hold the casing in the proper position for placement of the filter pack. Three centralizers shall be placed as follows: 1) five feet from the bottom of the casing; 2) five feet above the uppermost screen; and 3) sixty feet from the ground surface. The guides shall be placed in the blank casing sections only. No centralizers shall be attached adjacent to screened casing.

All field joints shall be properly lap or butt-welded during installation with a minimum of two continuous passes per circumference. All field welding shall be performed in accordance with American Welding Society Standards by a certified welder. Welder Certifications shall be specific to metal type (i.e. stainless steel certification).

A 3-inch diameter permanent gravel feed tube shall be installed in the reamed borehole prior to installation of the well casing. The gravel feed tube shall consist of 3.5-inch outside diameter mild steel flush treaded to Schedule 80 PVC for the section of tube adjacent to any stainless steel well casing. The bottom of the tube shall be placed below the planned top of the gravel pack as specified in the final well design. The top of the gravel feed tube shall extend above the ground surface.

A temporary construction tremie pipe shall be installed in the reamed borehole prior to installation of well casing. The tremie pipe shall be used to install gravel pack, annular seal and sanitary seal materials in the annulus between the well casing and borehole. The tremie pipe shall be completely removed after placement of the upper annular seal.

Sounding tubes shall be installed as specified in the final well design. Sounding tubes shall enter the well casing at the depths specified in the final well design. At the point of entry, a sounding tube shall be securely welded to the casing in a manner and at an angle approved by the District. All rough cut edges shall be ground smooth prior to completing the splice.

#### **1.1.12. Installation of Filter Pack**

Upon completion of the installation of the well casing string, the Contractor shall circulate the drilling fluid and any chemical additives in order to remove all solids from the completion fluid in preparation for the installation of the filter pack.

The filter pack material shall be natural, hard, water worn, well rounded and washed clean of all clay, silt and foreign material. Mechanically crushed rock will not be acceptable. For bidding purposes only, the required filter pack material shall be NSF 61 approved by SRI Supreme with U.S. Standard Sieve Size 8X16, or equivalent approved by the District Representative. Filter pack material shall be delivered to the site in "super sacks", weighed by a certified weigh master prior to delivery. Accurate volume measurement may substitute for weighing certification.

Actual filter pack specifications shall be determined by the District following interpretation of grain size analyses and geophysical logging (i.e., e-log) results and will be specified in the final well design prepared by the District. A certificate of quality and gradation of the filter pack material from an approved testing laboratory shall be submitted to the District Representative for every 40 sacks delivered to the site, before the filter pack material is delivered to the site.

Prior to placement of the filter pack in the well, the drilling fluid shall be thinned with clean water to reduce weight and viscosity. Disinfection of the filter pack shall follow the guidelines contained in Section 3.1, AWWA 654-03 and shall include the following: 1) sodium hypochlorite solution or calcium hypochlorite shall be added to the circulating fluid until a concentration of 50 mg/l is achieved in the entire volume of fluid within the well hole; 2) calcium hypochlorite powder or tablets (5 gram size max) shall be uniformly mixed with the filter pack at a rate of ¼ pound per ton of filter pack prior to placement in the well. Chlorinated water shall be circulated while installing the filter pack. The filter pack shall be placed by pumping through a tremie pipe extending to the bottom of the casing-hole annulus. The tremie pipe shall gradually be withdrawn as the filter pack is placed. Circulating shall be continued during placement until the filter pack is completely in place. Before the filter pack installation begins, the Contractor shall make adequate preparations to insure that circulation will be continuous.

The gravel pack shall be installed in the annular space between the reamed borehole and well casing through a construction tremie pipe from the bottom of the borehole. A circulating system with one or more positive displacement pumps utilizing fresh water shall be used for the purpose of introducing the gravel into the annulus. Under no circumstances will the gravel pack be allowed to "free-fall" down into the annular space. The Contractor shall be responsible for any damage to the well resulting from the filter pack installation process.

The Contractor shall provide to the District an estimate of the volume of annular space between the casing and borehole wall prior to installing the gravel pack. The Contractor shall also record the volume of gravel installed. The volume shall not be less than the calculated volume of the annular space between the casing and the borehole wall based

on the caliper survey. A significant discrepancy may be grounds for rejection of the well by the District.

#### 1.1.13. Development

Prior to any development activity, the Contractor is required to sound and record the depth to the bottom of the well. This can be accomplished by a weighted wireline or other equivalent means.

The Contractor shall initially develop the well by line swabbing with a bailer or swab opposite the perforations to stabilize and settle the gravel pack. The gravel pack will be topped off during swabbing operations, as necessary. After initial swabbing has been completed, the Contractor shall remove all accumulations of mud, sand, or gravel to the full depth of the well using a bailer. The total number of feet of material swabbed into the well shall be recorded in the driller's log.

Following initial swabbing and removal of accumulated debris, development will continue using air-lift pumping in conjunction with a dual swab development tool. The tool will consist of a 10-foot length of perforated pipe with flexible rubber swabs attached to each end. The tool shall be mounted on an eductor pipe and raised and lowered for a minimum of 15 minutes for every 20-foot screened section while water is simultaneously pumped through the eductor by air lifting. Dual swab airlifting development shall proceed from top to bottom of the screen in 20-foot sections until complete to the satisfaction of the District Representative. The Contractor shall provide sufficient airline diameter, airline submergence, eductor pipe diameter, and air compressor capacity in combination to produce a flow rate of at least 300 gallons per minute from the swab development tool. The Contractor shall bail or air lift sediment from the bottom of the well periodically during and at the end of well swab development activities as directed by the District Representative.

Upon completion of development and removal of collected debris, the Contractor shall install the test pump and discharge to land surface in accordance with the District's NPDES Permit. All drilling fluid will be retained on site. Discharge of the chlorinated well water shall be treated with sodium thiosulfate to remove chlorine residual. The use of temporary storage tanks (e.g., Baker tanks), of sufficient size to allow for the adequate settlement of solids (as described above), shall be required to assure compliance with discharge requirements.

The initial pumping rate shall be restricted and, as the water clears, shall be gradually increased until a maximum rate is reached. The maximum rate will be determined by the District Representative, after consideration of the well's drawdown and discharge characteristics but will not exceed 2,500 gpm. At proper intervals, the pump shall be stopped and the water in the pump column shall be allowed to surge back through the pump bowls and through the screened portion of the well.

The Contractor shall continue development as directed by the District Representative. During development, sand production will be measured using centrifugal sand separating device (i.e., Rossum sampler) supplied by the Contractor and installed on the discharge piping, if necessary.

#### **1.1.14. Pumping Test**

Following development operations and at least a twenty-four (24) hour groundwater level recovery period, well testing shall begin under the direction of the District Representative. The Contractor shall pump the well at three (3) or four (4) constant discharge rates as designated by the District Representative. The pumping rates shall be uniformly increased until the final pumping rate is near the maximum pump-well capacity. It is estimated that the total “step” pump test shall require a pumping period of at least twelve (12) hours.

Upon completion of the “step” pump test, the groundwater level shall be allowed to recover for at least twenty-four (24) hours. Following the groundwater level recovery, the Contractor shall be prepared to conduct a “constant rate” pump test under the direction of the District Representative. If deemed necessary, the “constant rate” pump test would require a continuous pumping period of at least 48 hours at a rate to be determined by the District Representative.

The District Representative shall measure the groundwater level recovery for twelve (12) hours after completion of test pumping. At the end of the test pumping, the Contractor shall sound the depth to the bottom of the well to measure any accumulation of sediment. The Contractor shall not be required to have personnel at the well during the recovery periods.

Should a breakdown of the equipment occur prior to the completion of the pumping test period that renders the test results invalid, the Contractor, at his expense, must then proceed, after a sufficient recovery period, with a new test period. The District Representative shall determine if the test results are invalid and length of the recovery period. Time stated for the duration of the test period is an estimate only and the District Representative reserves the right to require the Contractor to reduce such period of test, change the discharge rate, or change the test procedure.

Prior to commencing the constant-rate discharge test, the District and Contractor shall set a start time for the flow meter survey. The flow meter survey shall be run at the rate of discharge selected for the constant rate discharge test.

#### **1.1.15. Video Survey, and Alignment/Deviation Tests**

A color video survey shall be conducted after removal of the test pump and before final disinfection of the well. The survey shall be conducted (1) after all sediment accumulating in the well from test pumping has been removed, (2) after fresh water has been introduced



from the surface to clarify water standing in the well, and (3) before final disinfection of the well. Video survey results will serve as a final inspection document for the well.

The Contractor shall conduct alignment/deviation tests, using a gyroscopic tool, to determine the plumbness and straightness of the well casing. The alignment/deviation test shall be conducted throughout the entire length of casing and screen. Alignment tests shall be conducted upon completion of the downhole color video survey.

#### **1.1.16. Disinfection**

Prior to removal of the test pump from the well and final well cleaning, the Contractor shall sterilize the well in accordance with Section 5.1, AWWA C654-03, Standard for Disinfection of Wells, and as directed by the District Representative. After disinfection and flushing of the well, the District Representative shall sample the well water for coliform bacteria. If testing indicates the presence of coliform bacteria, Contractor shall repeat the disinfection and flushing procedure at no additional cost to the District until satisfactory results (i.e., no coliform bacteria detected) are achieved. "Pool" chlorine will not be acceptable for well disinfection. Chlorine products used for disinfection of the well shall be designed for potable water use (i.e., NSF 61 certified), delivered to the site in original closed containers, and bear the original label, indicating the percentage of available chlorine.

Chlorinated well water shall be treated with sodium thiosulfate or equivalent, as directed by the District Representative, to remove residual chlorine from the discharge water.

#### **1.1.17. Well Capping**

At times during the progress and at completion of the work, the Contractor shall protect the well in such manner as will effectively prevent either tampering with the well or entrance of foreign matter into it, and. Upon completion of well disinfection, the well casing and all accessory tubing shall be capped with welded steel plates.

#### **1.1.18. Move-Out, Clean-up and Miscellaneous Work at Well**

Following completion of all well pumping and clean-up work to the satisfaction of the District Representative, the Contractor will move all equipment (including sanitation facilities) off the site. Final disposition of cuttings will be the District's responsibility. Final site restoration following completion of the work will be the responsibility of the District.

**PROJECT PLANS AND TECHNICAL SPECIFICATIONS - ATTACHED**

**PROJECT VICINITY MAP**  
Borrego Springs, California



SOURCE: NAP 2017; SanGIS



**FIGURE 1**

**Proposed Production Well Site Location Map**  
Borrego Water District New Production Well

New Extraction Well at Well ID4-4 Location

153

project plans AND TECHNICAL SPECIFICATIONS -  
ATTACHED

New Extraction Well at Well ID4-4 Location

154

project plans AND TECHNICAL SPECIFICATIONS -  
ATTACHED

**EXHIBIT "A"  
CHANGE ORDER FORM**

**Borrego Water District**

*806 Palm Canyon Drive  
Borrego Springs, CA 92204*

**Contract Change Order #**

<b>Project:</b>	<b>Change Order No.:</b>		
<b>Contract No.:</b>	<b>Orig. Contract Amt.:</b> \$		Days
<b>Contractor:</b>	<b>Prev. Appvd. Changes:</b> \$		Days
<b>Owner:</b> Borrego Water District	<b>This Change:</b> \$		Days
	<b>Revised Contract Amt.:</b> \$		Days

This Change Order covers changes to the subject contract as described herein. The Contractor shall construct, furnish equipment and materials, and perform all work as necessary or required to complete the Change Order items for a lump sum price agreed upon between the Contractor and Borrego Water District, otherwise referred to as Owner.

Item No.	Description of Changes	Increase/ (Decrease) in Contract Amount	Contract Time Extension, Days
1			
2			
	<b>Totals</b>	<b>\$</b>	

This Contract Change Order consists of **2 pages** and any exhibits attached to this Contract Change Order shall not be part of the Contract Change Order unless specifically initialed by or on behalf of both the Contractor and the Borrego Water District.

Contract Change Order # \_\_\_\_\_ Page 1 of 2

The amount of the contract will be increased by the sum of \$\_\_\_\_\_ and the contract time shall be extended by working days. The undersigned Contractor approves the foregoing Change Order # as to the changes, if any, in the contract price specified for each item including any and all supervision costs and other miscellaneous costs relating to the change in work, and as to the extension of time allowed, if any, for completion of the entire work on account of said Change Order #. The Contractor agrees to furnish all labor and materials and perform all other necessary work, inclusive of the directly or indirectly related to the approved time extension, required to complete the Change order items. This document will become a supplement of the contract and all provisions will apply hereto. It is understood that the Change Order shall be effective when approved by the Owner.

Contractor accepts the terms and conditions stated above as full and final settlement of any and all claims arising out of or related to the subject of this Change Order and acknowledges that the compensation (time and cost) set forth herein comprises the total compensation due for the work or change defined in the Change Order, including all impact on any unchanged work. By signing this Change Order, the Contractor acknowledges and agrees that the stipulated compensation includes payment for all Work contained in the Change Order, plus all payment for any acceleration or interruption of schedules, extended overhead costs, delay, and all impact or cumulative impact on all Work under this Contract. The signing of this Change Order acknowledges full mutual accord and satisfaction for the change and that the stated time and/or cost constitute the total equitable adjustment owed the Contractor as a result of the change. The Contractor hereby releases and agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of, or as a result of, this Change Order and/or its impact on the remainder of the Work under the Contract.

Accepted:

\_\_\_\_\_  
 (Signature) Contractor's Authorized Representative \_\_\_\_\_  
Date

Recommended:

\_\_\_\_\_  
 (Signature) Carlos Beltran, District Engineer \_\_\_\_\_  
Date

Approved:

\_\_\_\_\_  
 (Signature) Geoff Poole, Borrego Water District \_\_\_\_\_  
Date

Item No.	Justification for Change(s)
1	
2	

This Contract Change Order consists of **2 pages** and any exhibits attached to this Contract Change Order shall not be part of the Contract Change Order unless specifically initiated by or on behalf of both the Contractor and the Borrego Water District.

Contract Change Order #

Page 2 of 2

BORREGO WATER DISTRICT  
BOARD OF DIRECTORS MEETING – NOVEMBER 13, 2018  
AGENDA BILL II.A.3

November 7, 2018

TO: Board of Directors, Borrego Water District  
FROM: Geoff Poole, GM  
SUBJECT: Selection of Dudek Engineering for Well Siting and Construction Management Services for Replacement Well #2 – T Driscoll

**RECOMMENDED ACTION:**

Authorize Staff to enter into BWD Standard Consulting Agreement with Dudek Engineering for well siting and C/M services on Well Replacement No. 2.

**ITEM EXPLANATION:**

To meet the 3 year spend requirement for BWD Bond Financing proceeds, Staff is recommending proceeding with Replacement Well #2 as soon as possible. A Target Zone has been developed and staff has identified 4 APNs on parcels of most interest. A hydraulic analysis of the sites will occur in the coming weeks, The BWD hydraulic model will be run to show the impact of adding a new supply at these specific locations. The attached Proposal from Dudek will provide the assistance needed to complete evaluation of alternatives as well as C/M on well drilling for Replacement Well #2.

**FISCAL IMPACT:**

The budget for Replacement Well #1 is \$1,500,000.

**ATTACHMENTS**

1. Standard BWD Consultant Agreement
2. Proposal for Well Siting Services - Replacement Well #2
3. Proposal for Construction Management Services - Replacement Well #2



**BORREGO WATER DISTRICT  
PROFESSIONAL SERVICES AGREEMENT**

**DUDEK ENGINEERING: WELL REPLACEMENT #2 SERVICES**

**1. PARTIES AND DATE.**

This Agreement is made and entered into this 13<sup>th</sup> day of November, 2018 by and between the Borrego Water District, a California municipal water district, with its principal place of business at 806 Palm Canyon Drive, Borrego Springs, CA 92004 (“District”) and Dudek Engineering Inc. with its principle place of business at 605 3<sup>rd</sup> Avenue, Encinitas, CA 92024 (“Consultant”). District and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

**2. RECITALS.**

**2.1 Consultant.**

Consultant desires to perform and assume responsibility for the provision of certain professional services required by District on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing various services outlined in the Attached Proposal to the District for drilling of Replacement Well #2, is licensed in the State of California, and is familiar with the plans of District.

**2.2 Project.**

District desires to engage Consultant to render such services for Construction Management and Related Services Project for Replacement Well #2 (“Project”) as set forth in this Agreement.

**3. TERMS.**

**3.1 Scope and Schedule of Services.**

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to District all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional consulting services necessary for the Project (“Services”). The Services are more particularly described in Exhibit “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules, and regulations.

3.1.2 Term. The term of this Agreement shall be from November 13, 2018 through the completion of the Project on the schedule described in Attachment A, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.1.3 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with a mutually agreeable Schedule of Services to be developed by both Parties. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In

order to facilitate Consultant's conformance with the Schedule, District shall respond to Consultant's submittals in a timely manner. Upon request of District, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

### **3.2 Fees and Payments.**

3.2.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "A" attached hereto and incorporated herein by reference. The total compensation shall not exceed the amount shown in costs without written approval by District. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

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

3.2.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by District.

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

### **3.3 Responsibilities of Consultant.**

3.3.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. District retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of District and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.3.2 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally,

Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from District, any services necessary to correct errors or omissions which are caused by Consultant's failure to comply with the standard of care provided for herein. Any employee of Consultant or its sub-consultants who is determined by District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to District, shall be promptly removed from the Project by Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.3.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of District.

3.3.4 Substitution of Key Personnel. Consultant has represented to District that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of District. In the event that District and Consultant cannot agree as to the substitution of key personnel, District shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to District, or who are determined by District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by Consultant at the request of District. The key personnel for performance of this Agreement is Trey Driscoll – Dudek Engineering Inc.

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

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

3.3.7 Labor Code Provisions.

(a) Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total

compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. District shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request and shall post copies at Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold District, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

(b) Registration and Labor Compliance. If the services are being performed as part of an applicable "public works" or "maintenance" project, then, in addition to the foregoing, pursuant to Labor Code sections 1725.5 and 1771.1, Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the project and require the same of any subconsultants. This project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

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

3.3.8 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life-saving equipment and procedures; (B) instructions in accident prevention for all employees and subconsultants, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3.9 Accounting Records. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of District during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

3.3.10 Air Quality. To the extent applicable, Consultant must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Although the SCAQMD and CARB limits and requirements are more broad,

Consultant shall specifically be aware of their application to "portable equipment", which definition is considered by SCAQMD and CARB to include any item of equipment with a fuel-powered engine. Consultant shall indemnify District against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

### **3.4 Representatives of the Parties.**

3.4.1 District's Representative. District hereby designates its General Manager, or his or her designee, to act as its representative for the performance of this Agreement ("District's Representative"). Consultant shall not accept direction or orders from any person other than the District's Representative or his or her designee.

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

### **3.5 Indemnification.**

To the fullest extent permitted by law, Consultant shall immediately indemnify and hold District, its directors, officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of Consultant's Services, the Project or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant.

Consultant shall immediately defend, with Counsel of District's choosing and at Consultant's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind that may be brought or instituted against District or its directors, officials, officers, employees, volunteers and agents. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against District or its directors, officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Consultant shall also reimburse District for the cost of any settlement paid by District or its directors, officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for District's attorneys' fees and costs, including expert witness fees. Consultant shall reimburse District and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement, and

shall not be restricted to insurance proceeds, if any, received by District, its directors, officials, officers, employees, agents, or volunteers.

### **3.6 Insurance.**

3.6.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to District that it has secured all insurance required under this section, in a form and with insurance companies acceptable to District. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

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

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *if Consultant has an employees, Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

3.6.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 per claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

3.6.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by District to add the following provisions to the insurance policies:

(A) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent consultants coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give District, its directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be "primary and non-contributory" and will not seek contribution from District's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) District, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Consultant or for which Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects District, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by District, its directors, officials, officers, employees and agents shall be excess of Consultant's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against District, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by Consultant.

(D) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to District, its directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of District (if agreed to in a written contract or agreement) before District's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide District at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to District at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by District, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, District has the right but not the duty to obtain the insurance it deems necessary and any premium paid by District will be promptly reimbursed by Consultant or District will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, District may cancel this Agreement. District may require Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.



(viii) Neither District nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

3.6.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by District. If District does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of District, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects District, its directors, officials, officers, employees and agents; or, (2) Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.6.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to District.

3.6.7 Verification of Coverage. Consultant shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by District before work commences. District reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.6.8 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to District that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name District as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, District may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

### **3.7 Termination of Agreement.**

3.7.1 Grounds for Termination. District may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to District, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

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

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

### **3.8 Ownership of Materials and Confidentiality.**

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

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

3.8.3 Right to Use. District shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at District's sole risk. If District uses or reuses the Documents & Data on any project other than this Project, it shall remove Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to District upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom Consultant is legally responsible or liable, or anyone approved by Consultant.

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

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

### **3.9 Subcontracting/Subconsulting.**

3.9.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of District. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

### **3.10 General Provisions.**

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

**DISTRICT:**

Borrego Water District  
806 Palm Canyon Drive  
Borrego Springs, CA 92004  
Attn: Geoff Poole

**CONSULTANT:**

Trey Driscoll  
Dudek Engineering Inc  
605 3<sup>rd</sup> Ave  
Encinitas, CA 92024

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

3.10.2 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or

termination. Consultant shall also comply with all relevant provisions of District's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

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

3.10.4 District's Right to Employ Other Consultants. District reserves right to employ other consultants in connection with this Project.

3.10.5 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

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

3.10.7 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to District include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

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

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

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

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

3.10.12 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, District, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic

Interest with the District's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, District shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

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

3.10.14 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Diego County.

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

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

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

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

3.10.19 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

**SIGNATURE PAGE  
TO  
BORREGO WATER DISTRICT  
PROFESSIONAL SERVICES AGREEMENT**

**BORREGO WATER DISTRICT**

**DUDEK ENGINEERING INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_  
(Authorized Representative of Vendor)

Printed Name: Geoff Poole

Printed Name: Trey Driscoll

Title: General Manager

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

November 8, 2018

Mr. Geoff Poole  
General Manager  
Borrego Water District  
806 Palm Canyon Dr.  
Borrego Springs, CA 92004  
(Submitted via e-mail: geoff@borregowd.org)

**Subject:** *Proposed Scope of Work and Fee to Provide Hydrogeological and Engineering Support for Location of a New Production Well – Second Well*

Dear Mr. Poole:

Dudek is pleased to present this proposed scope of work and fee to the Borrego Water District (BWD, District) to provide hydrogeological and engineering support for the well locating analysis for a new second production well in the Central Management Area (CMA) of the Borrego Springs Groundwater Subbasin. Additionally, Dudek will use the District's water distribution model to evaluate the operation of the new well.

## Scope of Work

Dudek will assist the District with the final well-locating and hydraulic analysis of a new second production well site.

Services provided will included, but are not limited to:

- Assist the District with evaluating the feasibility of drilling and constructing a new second production well in the CMA.
- Review of District's water distribution infrastructure and existing well information in the CMA.
- Review of basin geometry, aquifer thickness, and lithology in the CMA.
- Review of water quality from existing wells in the CMA.
- Review of well interference at proposed new second production well sites (well sites).
- Use the District's water system distribution model (WaterCAD model) to predict pressure and flow rate scenarios for proposed well sites.

### Task 1 Hydrogeological Analysis of Proposed Wellsites

Dudek will conduct a parcel specific well feasibility analysis of proposed drilling well sites. Dudek will evaluate the saturated aquifer thickness, well interference, proximity to existing District water distribution infrastructure, and groundwater quality at each proposed well site based on available information. Dudek will rank each proposed well site and assist the District with determining the ultimate location for the drilling and construction of a new second production well. Dudek will incorporate work developed as part of the ongoing Proposition 1 grant as part of this

Mr. Geoff Poole

Subject: Proposed Scope of Work and Fee to Provide Hydrogeological and Engineering Support for Location of a New Production Well – Second Well

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effort including the Wellsite Feasibility Analysis prepared by Dudek, and the Water Quality Evaluation prepared by Environmental Navigations Services (ENSI).

**Cost for Task 1 ..... \$4,800.00**

## Task 2 Water Distribution Model Analysis

A hydraulic model for the BWD’s water distribution system was developed in 2005 using Bentley® WaterCAD and recently updated by Dudek as part of a Proposition 1 grant. Water demands and updated system controls of newly constructed, and currently under construction, facilities (construction occurring in 2016 and 2017) were included in the water distribution model as part of the update. Additionally, the WaterCAD model was calibrated to match field pressure data.

The water distribution analysis will evaluate estimated flow rates and pressures for select proposed well sites using the WaterCAD model. Proposed well sites will be evaluated under two scenarios. The first scenario will simulate the pumping of both the proposed well and other wells within the same pressure zone. The second scenario will simulate the pumping of the proposed well with all other wells within the same pressure zone not pumping. Additionally, the ability of each proposed well site to fill specific District water tanks and interconnect with multiple pressure zones will be evaluated.

**Cost for Task 2 ..... \$5,160.00**

## Task 3 Water Distribution Model Analysis District Staff Scenarios

This task provides for ten hours of as-needed analysis of the WaterCad model directed by District staff. This task assumes that District staff will meet with Dudek’s engineer, Elizabeth Caliva, at Dudek’s offices in Encinitas, California to review the model and perform additional scenario evaluation. The District will be billed at an hourly rate for up to an approved 10 hours.

**Cost for Task 3 ..... \$2,150.00**

## Task 4 Technical Memorandum

Dudek will prepare a technical memorandum summarizing the results of the above tasks. A draft technical memorandum will be submitted for District comments. Comments will be incorporated into the final technical memorandum. The result of the technical memorandum will be presented via a conference call. This task does not include budget for presentation to the BWD Board.

**Deliverable:** Draft and Final technical memorandum submitted electronically. Hardcopies available upon request.

**Cost for Task 4 ..... \$6,420.00**



Mr. Geoff Poole

Subject: Proposed Scope of Work and Fee to Provide Hydrogeological and Engineering Support for Location of a New Production Well – Second Well

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## Fee Summary

A total Dudek project fee of \$18,530.00 is proposed to complete the scope of work outlined above. Table 1 provides a cost break-down by task. All work will be billed in accordance with our 2019 Standard Schedule of Charges. The contract amount reflected above shall not be exceeded unless authorization is received from the District via a contract amendment process.

**TOTAL COST.....\$18,530.00**

## Schedule

Dudek anticipates that it will take five weeks from the date of authorization to complete the above scope of work.

Please feel free to contact Trey Driscoll at tdriscoll@dudek.com or (760) 415-1425 if you have any questions.

Sincerely,



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Trey Driscoll, PG No. 8511, CHG No. 936  
Principal Hydrogeologist

Att.: Table 1  
cc: Elizabeth Caliva, Dudek

Table 1. Cost Estimate

Task	Project Team Role:	PM - Principal Hydrogeologist	Senior Engineer	Project Hydrogeologist	TOTAL DUDEK HOURS	DUDEK LABOR COSTS	OTHER DIRECT COSTS*	TOTAL FEE	
		Team Member:	Driscoll	Caliva					McManus
		Billable Rate :	\$240	\$215					\$120
	<b>Construction Management and Testing Services</b>								
1	Hydrogeological Analysis of Proposed Wellsites	8		24	32	\$ 4,800	\$ -	\$ 4,800	
2	Water Distribution Model Analysis		24		24	\$ 5,160	\$ -	\$ 5,160	
3	Water Distribution Model Analysis District Staff Scenarios		10		10	\$ 2,150	\$ -	\$ 2,150	
4	Technical Memorandum	8	12	16	36	\$ 6,420	\$ -	\$ 6,420	
	<b>Total Hours</b>	<b>16</b>	<b>46</b>	<b>40</b>	<b>102</b>	<b>\$ 18,530</b>	<b>\$ -</b>	<b>\$ 18,530</b>	
	<b>Total</b>	<b>\$ 3,840</b>	<b>\$ 9,890</b>	<b>\$ 4,800</b>		<b>\$ 18,530</b>	<b>\$ -</b>	<b>\$ 18,530</b>	

*\*Travel Costs, miles, meal, well permit fees, water quality meter*

## ATTACHMENT A SCOPE OF WORK

November 7, 2018

Mr. Geoff Poole  
General Manager  
Borrego Water  
District 806 Palm  
Canyon Dr.  
Borrego Springs, CA 92004  
(Submitted via e-mail: [geoff@borregowd.org](mailto:geoff@borregowd.org))

*Subject: Proposed Scope of Work and Fee to Provide Construction Management Associated with Installation of a New Production Well – Second Well*

Dear Mr. Poole

Dudek is pleased to present this proposed scope of work and fee to the Borrego Water District (BWD, District) to provide support during the installation of a second new production well as part of the District's ongoing Capital Improvement Plan.

### Scope of Work

Dudek will assist the District with preparation, review, and submittal of a bid package with detailed specifications for all work to be performed during installation of the new production well. During the drilling, construction, and well development process, Dudek will provide hydrogeologic construction management support to oversee and document key information needed to design the well, materials used, and to assure quality performance of the contractor. Dudek will make sure that drillers follow the technical specifications for well construction and document any deviations. To document daily project activities, we will utilize our proprietary Web application to provide daily email updates. The updates will outline contractor staff on site, a summary of the daily tasks completed, and photographs documenting the site conditions. This work will be completed in coordination with the District staff and will supervise the contractor 24 hours per day and 7 days per week.

Services provided will included, but are not limited to:

- Assist the District with development and review of a bid package to be used to secure a drilling contractor;
- Document drilling, construction and testing of the well;
- Review all data collected and inspect all material used during well construction to ensure it meets all specifications;
- Collect samples, conduct, consult, and report on analyses required for the successful completion of the well;
- Produce, present, revise (if necessary), and supply to the contractor a final design of the well based on conditions encountered during drilling, initial testing, and District feedback;
- Design and implement, with District concurrence, well development and pump testing procedures;
- Provide well construction report; and
- Provide permitting assistance and submit DWSAP, if necessary. [Project Schedule](#)

Dudek will provide a revised project schedule after the kickoff meeting based on the drilling contractors start time. Project schedule will be revised as necessary based on Contractor progress. [Project](#)

## Submittals and Requests for Information

Dudek will respond to contractor project submittals and requests for information (RFIs).

## Meetings

Meetings will include, but not be limited to:

- Kickoff. This will take place prior to construction.
- Final Design. This meeting will include review of borehole lithology, geophysical logs, and zone test analytical data.
- As-needed drilling and construction meetings. Up to five (3) as-needed meetings have been scheduled. Dudek has also scheduled a meeting to review borehole data, discuss with the District, and select zone test depths.

## Tasks

Specific tasks and subtasks for the new municipal groundwater production well will include the following:

Notice to Proceed and Kickoff.

Upon receiving the notice to proceed, Dudek will hold a kickoff meeting with District staff.

Assist with Bid Package and Well Permitting.

Dudek will assist with preparing the bid package and specifications that will be sent out to drilling contractors and be used to direct all work during well construction activities. Dudek will provide a draft bid

package for District review, address all comments and finalize prior to submitting the bid package. Dudek understands that the District will select the drilling contractor and contract directly with the drilling contractor; therefore, those costs are not included in this proposal. In addition, this proposal includes costs to secure a well permit application for the new production well, per County requirements.

#### Drilling Contractor Mobilization to Site.

Dudek will work with District staff and the drilling contractor to locate all of the site-required drilling equipment, including drill rig, pipe truck, mud tank, settling tanks, and a field office. Any additional pre-drilling requirements not performed by the drilling subcontractor will be addressed by Dudek, per District's request. Dudek will confirm the location of the wellhead with the District's land surveyor prior to Contractor mobilization.

#### Conductor Casing Installation.

Dudek and District staff will oversee installation of the conductor casing and sanitary seal prior to commencement of pilot borehole drilling.

#### Drilling Operations Observation.

Dudek and District staff will observe and document pilot borehole drilling operations. This will include, but not be limited to producing a visual lithological log, observing downhole geophysical logs, documenting drilling mud characteristics, borehole deviation measurements, field observations, and progress reporting. It is assumed the District staff will provide 24/7 staffing during this phase of well installation. Dudek recommends having a Professional Geologist on site 8 hours per day during the pilot borehole drilling operations and for the geophysical logs. Dudek staff will also be available to cover shifts for District staff as necessary.

#### Aquifer-Specific Zone Sampling and Oversight.

Dudek will provide review and recommendations for the number and depths of individual isolation zone tests to the District after analysis of the visual lithologic log, downhole geophysical logs, and other District supplied information.

Dudek will provide recommendations on the analytical tests to be performed for the aquifer-specific zone samples. Dudek will provide oversight of the aquifer-specific zone sampling including the zone tool and zone seal installation, zone purging, and water quality sampling at each interval. A water quality meter will be used to document parameters such as pH, electrical conductivity (EC), and turbidity during zone testing. Dudek will provide the zone samples to the District designated certified laboratory. When lab reports are available, Dudek will provide any recommended changes in the well design based on these results. Dudek assumes that there will be up to three (3) aquifer specific zone samples.

#### Sample Analysis and Final Design Recommendation.

Dudek will select up to 10 drill cuttings samples for analysis, analyze and summarize the data, and use the results with those obtained from the aquifer specific zone sampling to make final well design recommendations to the

District. Dudek will document the color, texture, and soil type per the Unified Soil Classification System. District staff and Dudek will collect a 1-quart size sample at each 100-foot interval or a change in the formation. The samples will be sent to a certified laboratory for a laser sieve analysis. Dudek will present the final design to the District with a schedule of materials within the time allowed in the District's drilling

contract specification. Dudek revisions may include, but are not limited to, screen interval placement, screen openings sizes, filter/gravel pack size, final depth, and the placement of annular seals.

#### Borehole Reaming and Caliper Log.

Dudek will make observations during the reaming of the borehole and caliper log of the final reamed borehole. Following the pilot hole drilling, Dudek will prepare a detailed stratigraphic log of the geologic materials. Dudek field personnel will pay close attention to borehole mud properties, especially when the ream drilling pass traverses the targeted well screen depths. Each day, an email detailing daily activities will be sent to the project team. This email will include the field observations of the borehole reaming for that day. At the District's request, it is assumed Dudek will be on site 8 hours per day during reaming and District staff will manage the remaining hours on site each day.

This proposal reflects that level of effort.

#### Well Construction.

Dudek will oversee well construction, facilitating construction to all specifications. Casing will be inspected when delivered to verify casing metal alloy, diameter, wall thickness, screen and blank lengths, slot size, welding collars and squareness of casing ends. As casing is installed, Dudek will verify that screen/blank sections are assembled in order according to final design. During filter pack placement, Dudek will verify that volume placed in well is in appropriate concordance with results of borehole caliper survey.

When cement annular seals are placed, Dudek will obtain copies of cement load tickets, verify correct mix design on cement load tickets, and verify as possible that volume pumped is in concordance with annular volume as determined from borehole caliper survey.

#### Mechanical Well Development.

District staff and Dudek will be on site to observe the well development procedures to verify they are completed per the District and contractor technical specifications, as mechanical well development is one of the most critical factors for thorough development and optimal well production. A water quality meter will be used during development activities to document pH, EC, and turbidity. Dudek will be on site 8 hours per day during mechanical well development and District staff will manage the remaining hours on site each day.

#### Pumping and Surging Well Development.

Dudek will take appropriate measurements and maintain records of turbine pump surge development. This will include water levels, drawdowns, specific capacity, turbidity as detected with Imhoff Cone and turbidity meter, sand content with Roscoe Moss "Rossum" sand tester, electrical conductance (EC), and other measurements as needed. Dudek will be on site 8 hours per day during mechanical well development and District staff will manage the remaining hours on site each day.

#### Well Testing.

Dudek will supervise and record water levels during the 12-hour step drawdown test, 48-hour constant rate test (minimum 24-hour recovery period before constant rate pump test), plus a minimum of 24-hour recovery after constant rate pumping ends. Dudek will monitor water quality parameters during pump testing using a water quality meter.

#### Final Well Alignment and Video Log.

District staff and Dudek will provide oversight of final well alignment survey, and the final borehole video inspection log.

Well Disinfection.

District staff and Dudek will provide oversight of well disinfection and assure Drilling Contractor specifications for chlorine concentration, placement, contact time, and neutralization are met.

Well Completion Report.

Dudek will prepare a draft report for the District's review and comment prior to finalization of the report, documenting all activities, testing, investigations, and findings during drilling and testing of the well consistent in content and containing similar information, at a minimum.

Permitting Assistance and DWSAP Submittal.

Dudek will provide permitting assistance in the form of documentation gathered and/or generated during fieldwork (i.e., lithological logs, field notes, bills of lading, etc.), photos of site and equipment, calculation sheets, and representative drill cuttings, and will also prepare and submit draft and final reports; and DWSAP.

## Fee Summary

A total Dudek labor fee of \$111,285.00 plus direct costs of \$8,150.00 for a total project fee of \$119,435.00 is proposed to complete the scope of work outlined above. Table 1 provides a cost break-down by task. All work will be billed in accordance with our 2018 Standard Schedule of Charges. The contract amount reflected above shall not be exceeded unless authorization is received from the District via a contract amendment process.

TOTAL COST .....  
\$119,435.00

Please feel free to contact Trey Driscoll at tdriscoll@dudek.com or (760) 415-1425 if you have any questions

Sincerely,



Trey Driscoll, PG No. 8511, CHG No. 936  
Principal Hydrogeologist

Att.: Table 1  
cc: Kayvan Ilkhanipour, Dudek, Patrick Rentz, Dudek

Table 1. Fee Estimate

<i>Project Team Role:</i>	PM - Principal Hydrogeologist	Senior Hydrogeologist	Project Hydrogeologist	Project Hydrogeologist	Project Hydrogeologist	TOTAL DUDEK HOURS	DUDEK LABOR COSTS	OTHER DIRECT COSTS*	TOTAL FEE
<i>Team Member:</i>	Driscoll	Ilkhanipour	Rentz	McManus	Pritchard-Peterson				
<i>Billable Rate :</i>	\$240	\$225	\$180	\$120	\$110				
<b>Construction Management and Testing Services</b>									
Project Management Services (Includes weekly status reports during drilling, shift change emails, changes in drilling status, and invoices)	20	40		20	8	88	\$ 17,080	\$ -	\$ 17,080
Anticipated Project Schedule		4				4	\$ 900	\$ -	\$ 900
Response to Project Submittals and RFIs	2	12				14	\$ 3,180	\$ -	\$ 3,180
Kick-off meeting		8		8		16	\$ 2,760	\$ 100	\$ 2,860
Final design Meeting	4	4				8	\$ 1,860	\$ 100	\$ 1,960
Up to 3 "as needed" drilling and construction meetings	8	12		12		32	\$ 6,060	\$ 300	\$ 6,360
Assist with Bid Package and Well Permitting	1	8	8	4		21	\$ 3,960	\$ 300	\$ 4,260
Mobilization to and from the site				8		8	\$ 960	\$ 200	\$ 1,160
Conductor Casing Installation				16		16	\$ 1,920	\$ 200	\$ 2,120
Observe and document pilot hole drilling operations (8 hours per day for 5 days plus travel)	1	2	8	24	24	59	\$ 7,650	\$ 1,100	\$ 8,750
Selection of samples for analysis		1	2	6		9	\$ 1,305	\$ -	\$ 1,305
Review e-logs and recommend zone test intervals	1	4	2	2		9	\$ 1,740	\$ -	\$ 1,740
Aquifer specific zone sampling and oversite (assumes three)	2	2		36	36	40	\$ 9,210	\$ 900	\$ 10,110
Sample Analysis and Final Design Recommendations	4	8	8	4		24	\$ 4,680	\$ -	\$ 4,680
Borehole reaming and caliper log (assumes 8 hrs/day for 4 days plus travel)					36		\$ 3,960	\$ 900	\$ 4,860
Well construction		2		24	24	50	\$ 5,970	\$ 700	\$ 6,670
Mechanical well development		2		36	36	74	\$ 8,730	\$ 700	\$ 9,430
Pumping and surging well development				12	12	12	\$ 2,760	\$ 700	\$ 3,460
Well testing	2	4		16	16	38	\$ 5,060	\$ 1,250	\$ 6,310
Oversight of final well alignment and video log				10		10	\$ 1,200	\$ 300	\$ 1,500
Oversight of well disinfection			2	16		18	\$ 2,280	\$ 200	\$ 2,480
Preparation of draft well completion report	2	4	16	16	12	50	\$ 7,500	\$ 200	\$ 7,700
Provide permitting assistance and submittal of DWSAP	2	8		20		30	\$ 4,680	\$ -	\$ 4,680
Project Submittals	8	8	12			28	\$ 5,880	\$ -	\$ 5,880
<b>Total Hours</b>	<b>57</b>	<b>133</b>	<b>58</b>	<b>290</b>	<b>204</b>	<b>742</b>	<b>\$ 111,285</b>	<b>\$ 8,150</b>	<b>\$ 119,435</b>
<b>Total</b>	<b>\$ 13,680</b>	<b>\$ 29,925</b>	<b>\$ 10,440</b>	<b>\$ 34,800</b>	<b>\$ 22,440</b>		<b>\$ 111,285</b>	<b>\$ 8,150</b>	<b>\$ 119,435</b>



BORREGO WATER DISTRICT  
 BOARD OF DIRECTORS MEETING – NOVEMBER 13, 2018  
 AGENDA BILL II.A.4

November 7, 2018

TO: Board of Directors, Borrego Water District  
 FROM: Geoff Poole, GM  
 SUBJECT: Proposition 3 Outcome/Update – G Poole

**RECOMMENDED ACTION:**

Receive Report on Proposition 3 Outcome and Next Steps

**ITEM EXPLANATION:**

The results are in and Proposition 3 failed by 321,000 votes or 2.3% + 1 voter. Here are the Official Results:

**California General Election**  
 Tuesday, November 6, 2018  
 SECRETARY OF STATE ALEX PADILLA

**Semi-Official Election Results**

Results Home | County Reporting Status | Unprocessed Ballots Status | Maps | Frequently Asked Questions | Contact Us | Search

**Statewide Contests**

- Governor
- Lieutenant Governor
- Secretary of State
- Controller
- Treasurer
- Attorney General
- Insurance Commissioner
- Superintendent of Public Instruction
- U.S. Senate
- State Supreme Court
- State Ballot Measures

**Quick Links**

- Statewide Contests
- District Contests
- State Ballot Measures
- Maps
- My Contests

**State Ballot Measures - Statewide Results**

( 24,312 of 24,312 ) precincts partially reporting as of November 7, 2018, 5:50 p.m.   
 Visit the [County Reporting Status](#) page to determine when a county has submitted its latest report.

County Results			Other Links			
			<a href="#">Statewide Map</a>			
		Proposition Title	Yes Votes	%	No Votes	%
Yes	1	Bonds to Fund Veteran & Affordable Housing.	3,721,203	54.1%	3,161,877	45.9%
Yes	2	Amend Existing Housing Program for Mental Illness.	4,225,225	61.1%	2,686,908	38.9%
No	3	Bond for Water and Environmental Projects.	3,255,293	47.7%	3,576,379	52.3%
Yes	4	Bond for Children's Hospital Construction.	4,184,700	60.6%	2,725,388	39.4%
No	5	Senior Property Reduction	2,870,452	41.0%	2,098,907	59.1%

Proposition 3 creator/writer, Jerry Meral sent out the following email today to share his thoughts and thank those who participated, see following page. My thanks to Lyle for spending a considerable amount of time on this effort.

Dear friends

Thanks for all your generous contributions, endorsements and hard work on behalf of Proposition 3.

Sadly, Proposition 3 was defeated 48-52. Some of the factors that undoubtedly contributed to this loss were

**Campaign funding.** While we put on a vigorous mail and digital campaign, we never had enough funds for television, so we could not get out our winning message about safe drinking water.

**Weak Central Valley support.** Although Proposition 3 probably provided more benefits to the Central Valley than any previous statewide measure, it fared poorly in Central Valley counties. It barely passed in Yolo, Fresno, Tulare, and Merced Counties, and failed in all the others.

**Lack of urgency.** Memory of the drought has faded, so water was not considered a high priority.

**Newspaper opposition.** In recent elections, that has not meant too much, but their argument about “pay-to-play” may have resonated.

In any case, it was great working with all of you. We came very close, and can be proud of our mutual effort. Let’s hope the Legislature addresses the water issue in the coming session.

Best regards

Jerry

--

Jerry Meral, Ph.D.  
Director  
California Water Program  
Natural Heritage Institute

## **FISCAL IMPACT**

N/A

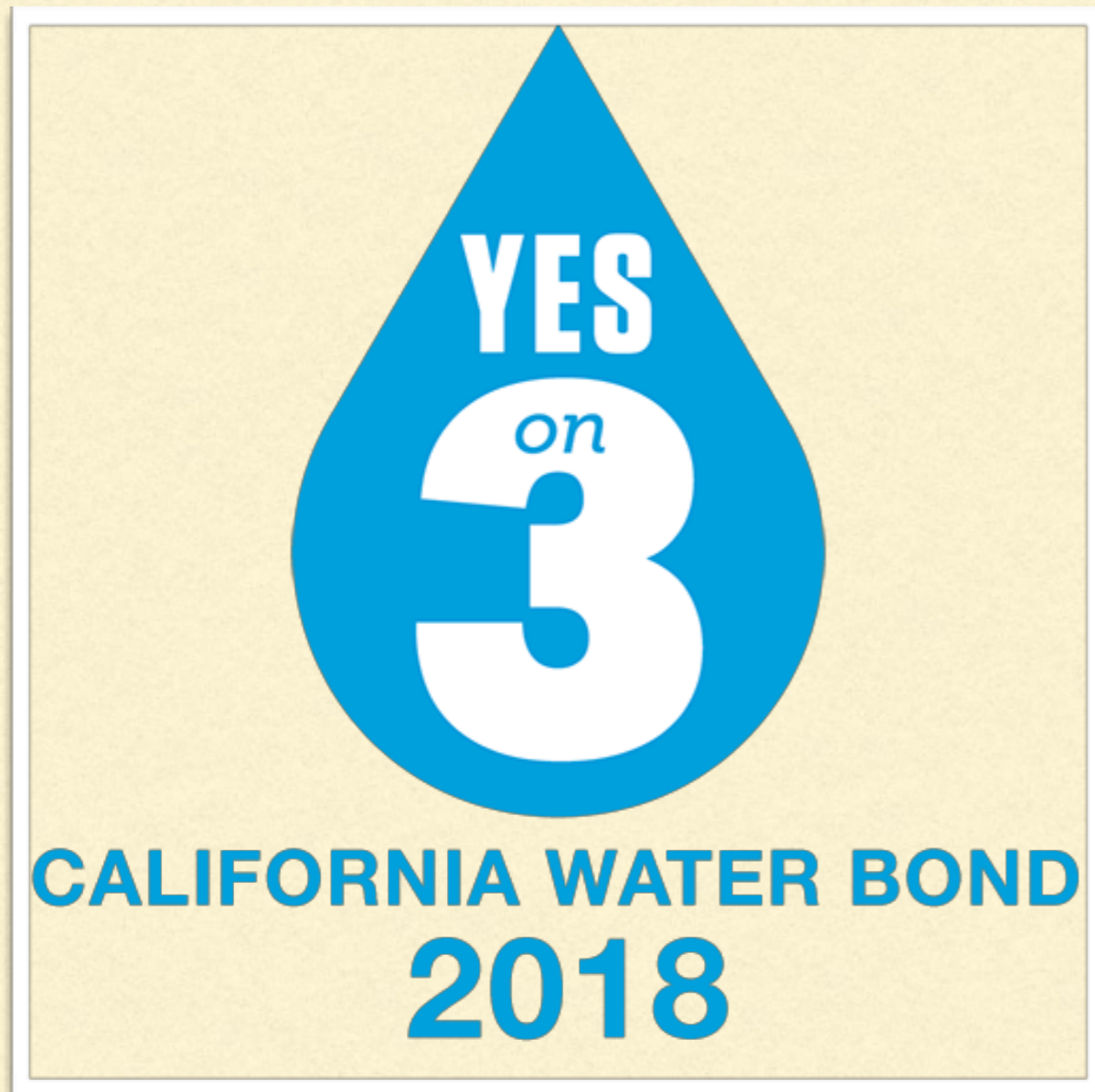
## **ATTACHMENTS**

1. Info from Director Brecht

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# PROPOSITION THREE - NO

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- prop 3 included a provision for a \$35M allocation for Borrego
- the intent of this allocation was to address the critical overdraft of the Borrego Springs Subbasin
- the rationale for this allocation was to provide assistance to Borrego as a Severely Disadvantaged Community

BORREGO WATER DISTRICT  
BOARD OF DIRECTORS MEETING – NOVEMBER 13, 2018  
AGENDA BILL II.A.5

November 7, 2018

TO: Board of Directors, Borrego Water District  
FROM: Geoff Poole, GM  
SUBJECT: Fiscal Year 2017-18 Audit – L Brecht

**RECOMMENDED ACTION:**

Receive report from Director Brecht

**ITEM EXPLANATION:**

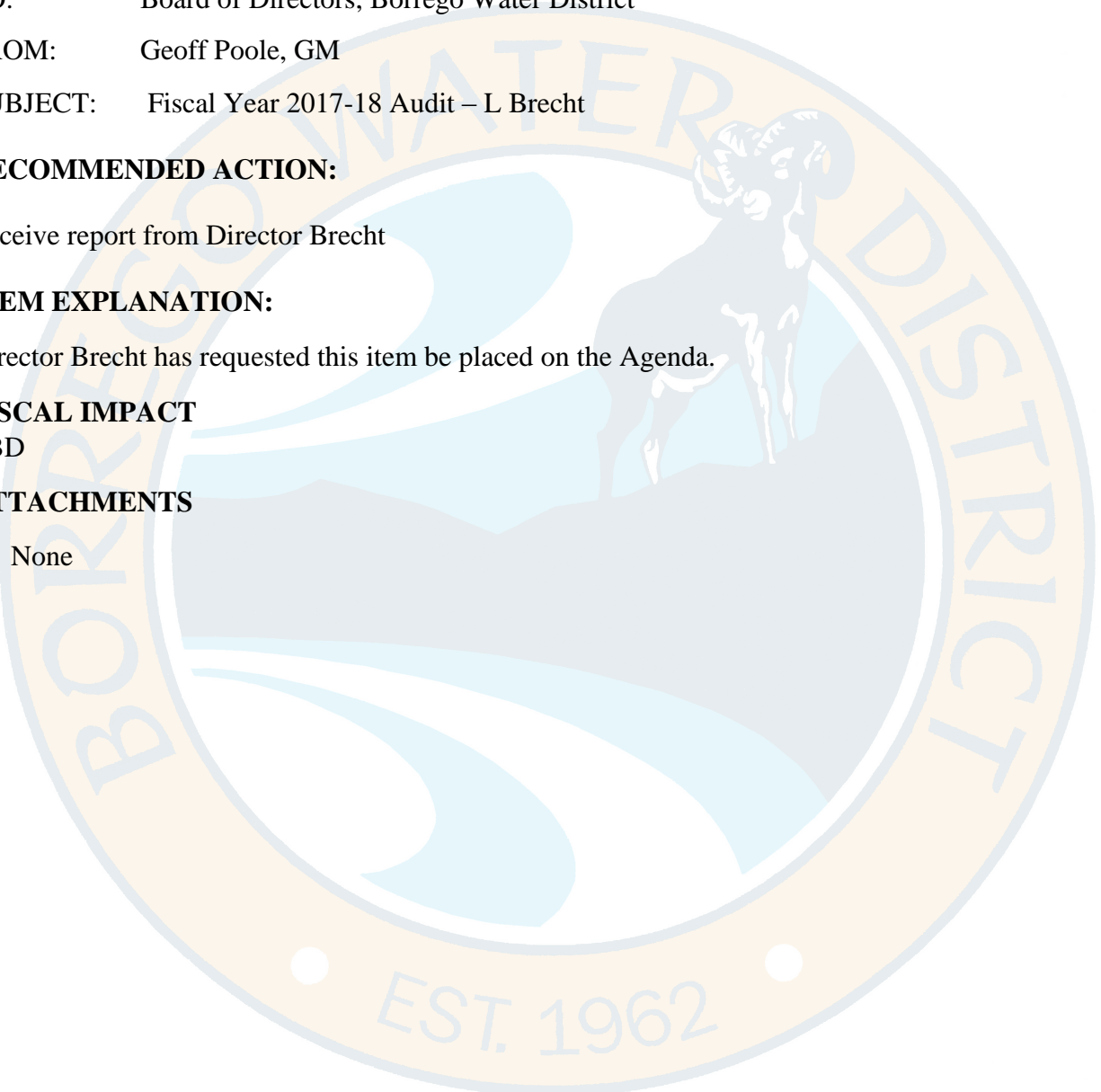
Director Brecht has requested this item be placed on the Agenda.

**FISCAL IMPACT**

TBD

**ATTACHMENTS**

1. None



BORREGO WATER DISTRICT  
BOARD OF DIRECTORS MEETING – NOVEMBER 13, 2018  
AGENDA BILL II.A.6

November 7, 2018

TO: Board of Directors, Borrego Water District  
FROM: Geoff Poole, GM  
SUBJECT: Sewer EDU sale from ABNHA to Carlees's – K Pittman

**RECOMMENDED ACTION:**

Approve sale of sewer EDUs from ABNHA to Carlee's

**ITEM EXPLANATION:**

Carlee's has recently connected to the BWD sewer system and needed to purchase 7 EDUs. A portion were purchased from BWD and the remainder from ABNHA and the attached documents facilitate the transaction.

**FISCAL IMPACT**

N/A

**ATTACHMENTS**

1. Required Documents

**BORREGO WATER DISTRICT**

**ASSIGNMENT**

ABDNHA, Holder hereby assigns and transfers to ANDREW R MACOGA, CARLGG'S, Assignee, all of Holder's rights under the Agreement Respecting in the Town Center Sewer and Deed, dated as of July 13, 1988, with the BORREGO WATER DISTRICT, with respect to the following number of EDUs: 4

Assignee hereby promises to perform all Holders' duties under said Agreement with respect to said EDUs.

Nothing in this Assignment shall modify the rights or obligations of Holder or District under such Agreement and Deed with respect to any of Holder's EDU's which are not being assigned to Assignee.

This Assignment shall become effective on the approval of the Board of Directors of the BORREGO WATER DISTRICT.

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Holder/Assignor

DATED: 11-5-2018 BY: [Signature]  
Purchaser/Assignee

Acknowledgements attached hereto and made a part hereof.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

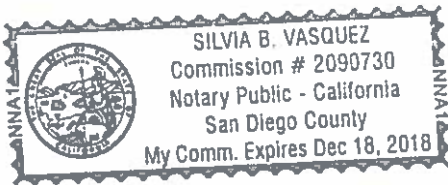
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }  
County of SAN DIEGO }

On November 5, 2018 before me, SILVIA B. VASQUEZ NOTARY PUBLIC  
Date Here Insert Name and Title of the Officer

personally appeared ANDREW R. MACUGA  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal and/or Stamp Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Silvia B. Vasquez  
Signature of Notary Public

**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: ASSIGNMENT (Bourego Water District)

Document Date: 11/05/2018 Number of Pages: 1

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_

Corporate Officer – Title(s): \_\_\_\_\_  Corporate Officer – Title(s): \_\_\_\_\_

Partner –  Limited  General  Partner –  Limited  General

Individual  Attorney in Fact  Individual  Attorney in Fact

Trustee  Guardian of Conservator  Trustee  Guardian of Conservator

Other: \_\_\_\_\_  Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_ Signer is Representing: \_\_\_\_\_

**BORREGO WATER DISTRICT**

**ASSIGNMENT**

ABDNHA \_\_\_\_\_, Holder hereby assigns and transfers to

ANDY MAGUCA, CARLES, Assignee, all of Holder's rights under the Agreement Respecting in the Town Center Sewer and Deed, dated as of July 13, 1988, with the BORREGO WATER DISTRICT, with respect to the following number of EDUs: 4

Assignee hereby promises to perform all Holders' duties under said Agreement with respect to said EDUs.

Nothing in this Assignment shall modify the rights or obligations of Holder or District under such Agreement and Deed with respect to any of Holder's EDU's which are not being assigned to Assignee.

This Assignment shall become effective on the approval of the Board of Directors of the BORREGO WATER DISTRICT.

DATED: 11-5-2018 BY: *Mormon J. Wien*  
Holder/Assignor

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Purchaser/Assignee

Acknowledgements attached hereto and made a part hereof.



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

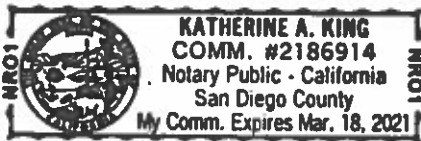
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of San Diego  
On 11-5-18 before me, Katherine A King, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Norman J Wilson  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: BWD- Assignment of EDUs  
Document Date: 11-5-18 Number of Pages: 1  
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

BORREGO WATER DISTRICT  
BOARD OF DIRECTORS MEETING – NOVEMBER 13, 2018  
AGENDA BILL III.B.1

November 7, 2018

TO: Board of Directors, Borrego Water District  
FROM: Geoff Poole, GM  
SUBJECT: SGMA GSP Development Issues – L Brecht

**RECOMMENDED ACTION:**

Receive report from Director Brecht on SGMA GSP Development Issues

**ITEM EXPLANATION:**

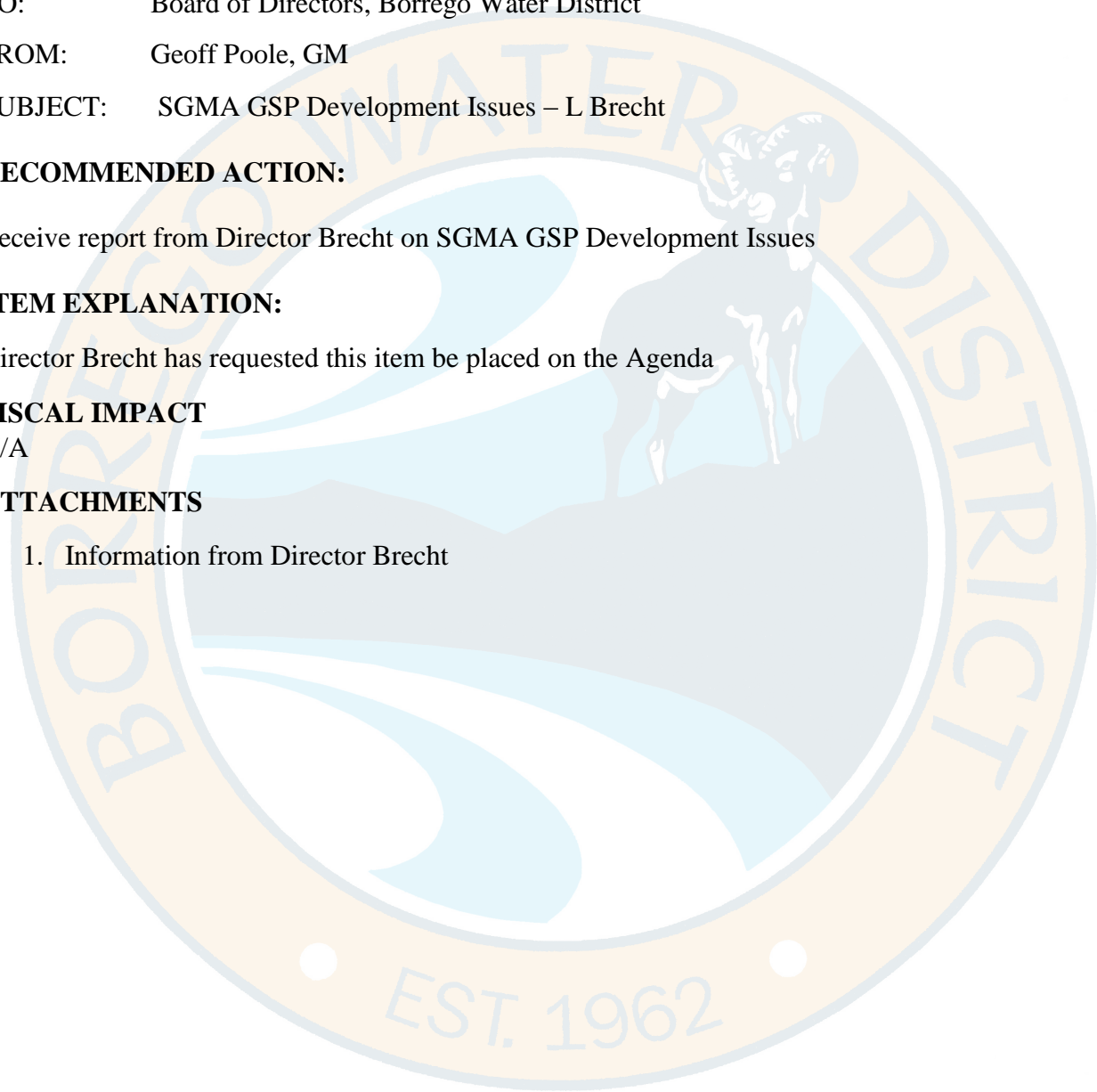
Director Brecht has requested this item be placed on the Agenda

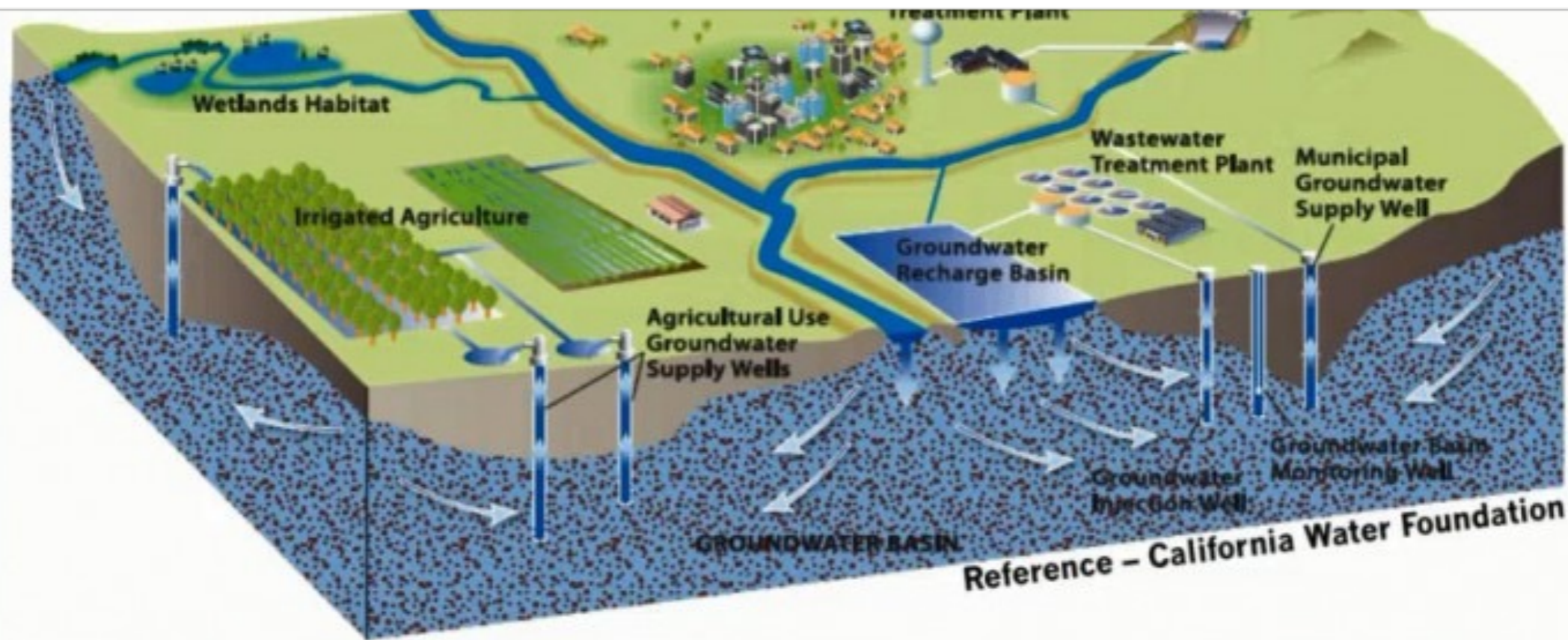
**FISCAL IMPACT**

N/A

**ATTACHMENTS**

1. Information from Director Brecht





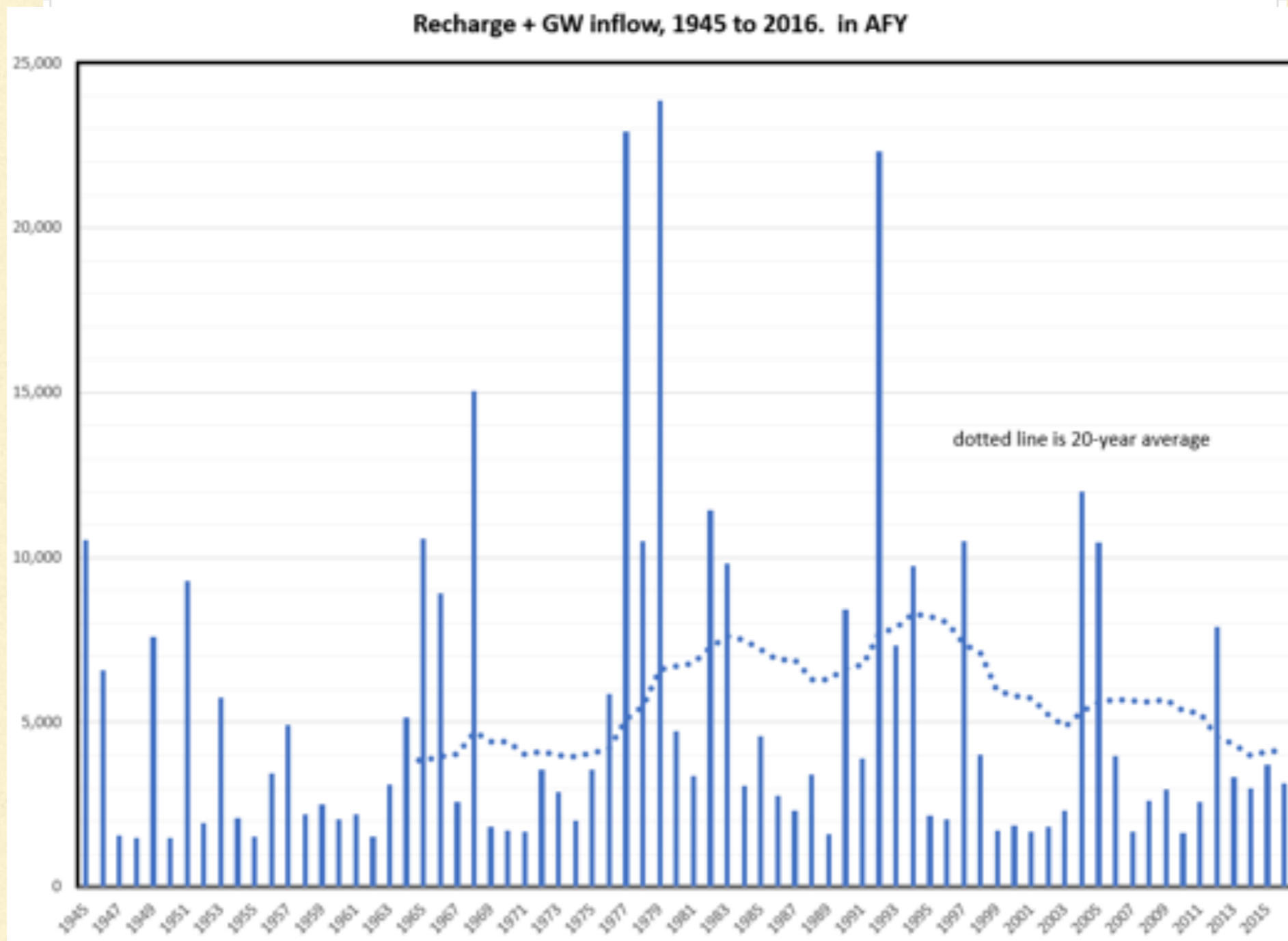
# The Sustainable Groundwater Management Act

## GSP DISCUSSION

Risk Management View

Draft 1.1 November 7, 2018

# PHYSICAL SYSTEM



# WATER BUDGET FROM MODEL

		<u>Current</u>		<u>Target</u>	
		Inflows	Outflows	Inflows	Outflows
Groundwater		1400	525	1400	525
Natural Recharge		4300		4300	
GW-Dependent ET			400		400
Irrigation Return Flow (10%)		2204		570	
	Pumping		<b>22,044</b>		<b>5,700</b>
	totals	<u>7904</u>	<u>22969</u>	<u>6270</u>	<u>6625</u>
	net		<b>-15065</b>		<b>-355</b>

# SGMA & LAND USE

- SGMA specifically exempts County land use decisions & authorities from mandates
- but SGMA also implies County land use decisions may not impede GSP objectives
- DWR's GSP regs are primarily hydrology based planning criteria
- CEQA is an environmental analysis of the GSP discretionary programs
- nowhere in GSP or CEQA law is there a requirement for integrated planning or risk management



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# GSP BASICS

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- setting a cap on basin-wide pumping (BPAs)
- measuring individual pumpers' annual pumping
- agreeing on a basin-wide pumping target to be reached by January 2040
- setting a reduction period & velocity of reductions
- agreeing on data collection triggers to alter Plan if meeting 5-year targets are at risk
- recommending changes to the County's Master Plan for Borrego
- agreeing on fees to pay for Plan and penalties for not meeting individual annual pumping allocations

BORREGO WATER DISTRICT  
BOARD OF DIRECTORS MEETING – NOVEMBER 13, 2018  
AGENDA BILL III.B.2

November 7, 2018

**TO:** Board of Directors, Borrego Water District  
**FROM:** Geoff Poole, GM  
**SUBJECT:** Report from BWD Ratepayer Representative on Groundwater Sustainability Plan Advisory Committee – G Haldeman

**RECOMMENDED ACTION:**

Receive report from BWD Representative Gary Haldeman

**ITEM EXPLANATION:**

Staff asked Gary to come in and share his observation and experiences from his first meeting as BWD GSP Representative and anything else he wants to tell us.

**FISCAL IMPACT**

N/A

**ATTACHMENTS**

1. None

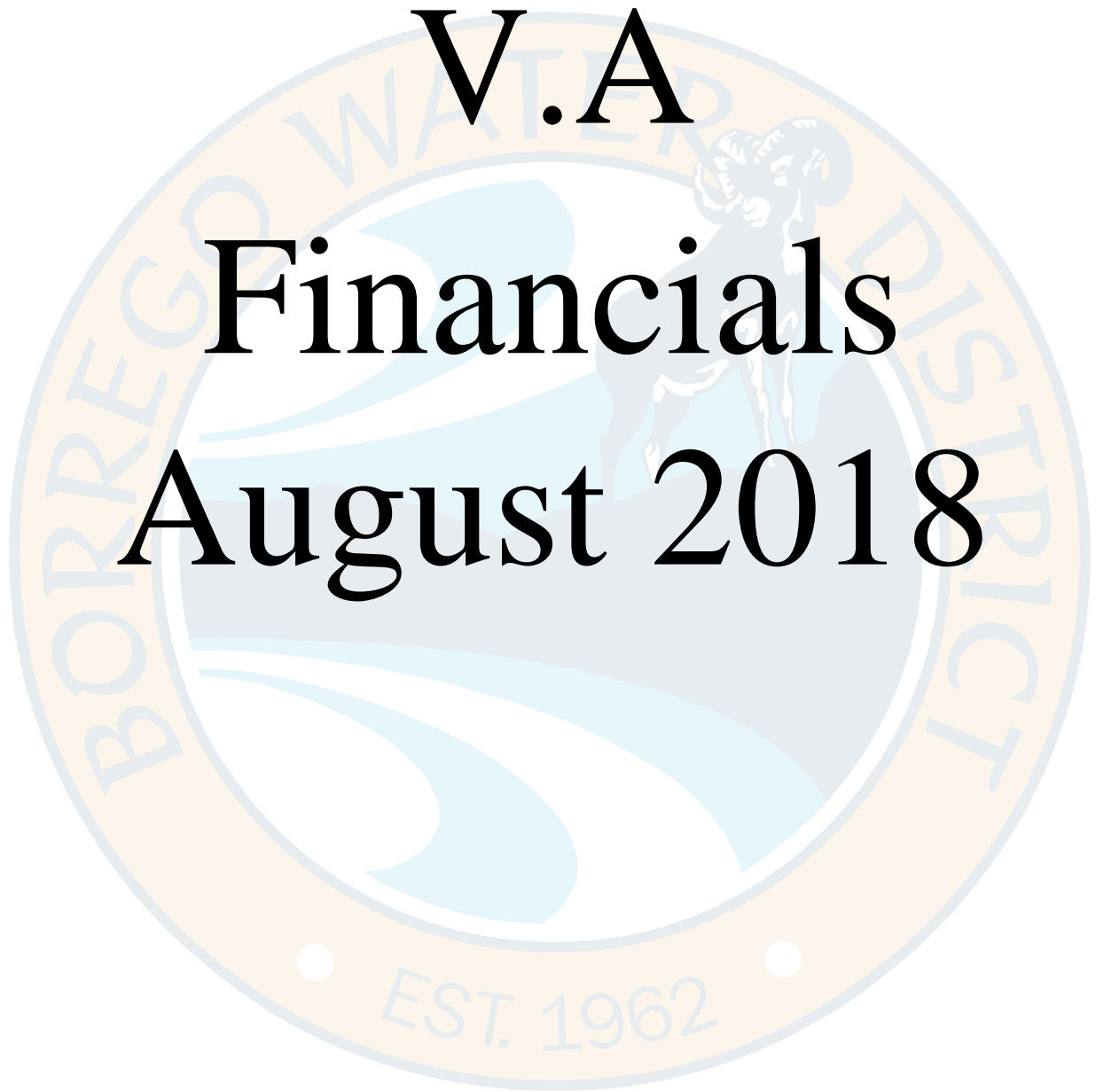


# Item

## V.A

# Financials

# August 2018



	C	AB	AC	AD	AE
1	<b>BWD</b>	<b>6/19/2018</b>			
2	<b>BUDGET CASH FLOW</b>	<b>ADOPTED</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
3	<b>2018-2019</b>	<b>BUDGET</b>	<b>August</b>	<b>August</b>	<b>YTD</b>
4		<b>2018-2019</b>	<b>2018</b>	<b>2018</b>	<b>2018-2019</b>
5					
6	<b>REVENUE</b>				
7	<b>WATER REVENUE</b>				
8	Residential Water Sales	950,994	105,699	116,087	186,640
9	Commercial Water Sales	417,885	48,119	45,713	83,608
10	Irrigation Water Sales	237,061	30,248	32,545	50,065
11	GWM Surcharge	181,749	20,470	21,378	35,485
12	Water Sales Power Portion	514,706	56,227	59,186	97,728
13	<b>TOTAL WATER COMMODITY REVENUE:</b>	<b>2,302,395</b>	<b>260,763</b>	<b>274,909</b>	<b>453,527</b>
14					
15	Readiness Water Charge	1,154,976	96,522	96,248	192,279
18	Meter Install/Reconnect Fees	20,680	0	-	-
19	Backflow Testing/Installation	5,100	0	-	-
20	Bulk Water Sales	1,200	750	100	4,613
21	Penalty & Interest Water Collection	40,000	5,129	4,000	9,520
22	<b>TOTAL WATER REVENUE:</b>	<b>3,524,351</b>	<b>363,164</b>	<b>375,257</b>	<b>660,658</b>
23					
24	<b>PROPERTY ASSESSMENTS/AVAILABILITY CHARGES</b>				
25	641500 1% Property Assessments	62,300	929	929	929
26	641502 Property Assess wtr/swr/fld	106,212	0	-	-
28	641501 Water avail Standby	82,376	203	203	203
30	641504 ID 3 Water Standby (La Casa)	33,647	0	-	-
31	641503 Pest standby	17,870	22	22	22
32	<b>TOTAL PROPERTY ASSES/AVAIL CHARGES:</b>	<b>302,404</b>	<b>1,154</b>	<b>1,154</b>	<b>1,154</b>
33					
34	<b>SEWER SERVICE CHARGES</b>				
35	Town Center Sewer Holder fees	234,593	19,549	19,549	37,776
36	Town Center Sewer User Fees	88,695	7,392	7,391	14,498
37	Sewer user Fees	278,304	23,783	23,192	46,436
39	Penalty Interest-Sewer	1,248	2,561	104	4,492
41	<b>TOTAL SEWER SERVICE CHARGES:</b>	<b>602,840</b>	<b>53,285</b>	<b>50,236</b>	<b>102,472</b>
42					
43	<b>OTHER INCOME</b>				
48	Water Credits income	22,000	0	-	-
49	WTF Solar Rebate	50,000			
50	R/H Surplus Water Revenue	200,000		200,000	
51	Interest Income	8,000	4,683	2,000	7,659
52	<b>TOTAL OTHER INCOME:</b>	<b>278,000</b>	<b>4,683</b>	<b>202,000</b>	<b>7,659</b>
53					
54	<b>TOTAL INCOME:</b>	<b>4,707,595</b>	<b>422,287</b>	<b>628,647</b>	<b>771,943</b>
55					
56	<b>CASH BASIS ADJUSTMENTS</b>				
57	Decrease (Increase) in Accounts Receivable		(51,721)		(70,614)
58	Deposits				-
59	Other Cash Basis Adjustments				-
60	<b>TOTAL CASH BASIS ADJUSTMENTS:</b>		<b>(51,721)</b>		<b>(70,614)</b>
61					
62	<b>TOTAL OPERATING INCOME RECEIVED:</b>	<b>4,707,595</b>	<b>370,566</b>	<b>628,647</b>	<b>701,329</b>
63					
64	<b>GRANT &amp; DEBT PROCEEDS</b>				
65	Prop 1 GSP Grant	500,000		500,000	-
66	Pacific Western Bank 2018 IPA	5,500,000			5,654,707
67	<b>TOTAL GRANT &amp; DEBT PROCEEDS:</b>	<b>6,000,000</b>	<b>0</b>	<b>500,000</b>	<b>5,654,707</b>
68					
69	<b>TOTAL INCOME, GRANT &amp; DEBT PROCEEDS:</b>	<b>10,707,595</b>	<b>370,566</b>	<b>1,128,647</b>	<b>6,356,036</b>
70					

	C	AG	AH	AI	AJ	AK
1	<b>BWD</b>					
2	<b>BUDGET CASH FLOW</b>					
3	<b>2018-2019</b>					
4		Projected	Projected	Projected	Projected	Projected
5		2018-2019	September	October	November	December
6			2018	2018	2018	2018
7	<b>REVENUE</b>					
8	<b>WATER REVENUE</b>					
9	Residential Water Sales	746,431	96,426	81,463	82,693	68,756
10	Commercial Water Sales	333,344	33,282	41,505	42,757	30,278
11	Irrigation Water Sales	186,924	25,976	28,770	19,873	14,674
12	GWM Surcharge	144,652	17,183	16,667	16,092	12,532
13	Water Sales Power Portion	411,119	47,497	46,029	44,450	34,619
14	<b>TOTAL WATER COMMODITY REVENUE:</b>	<b>1,822,470</b>	<b>220,364</b>	<b>214,433</b>	<b>205,864</b>	<b>160,860</b>
15	Readiness Water Charge	962,480	96,248	96,248	96,248	96,248
16	Meter Install/Reconnect Fees	20,680	10,000		340	
17	Backflow Testing/installation	5,100	-	0	0	0
18	Bulk Water Sales	1,000	100	100	100	100
19	Penalty & Interest Water Collection	32,000	4,000	4,000	0	0
20	<b>TOTAL WATER REVENUE:</b>	<b>2,843,730</b>	<b>330,712</b>	<b>314,781</b>	<b>302,552</b>	<b>257,208</b>
21	<b>PROPERTY ASSESSMENTS/AVAILABILITY CHARGES</b>					
22	641500 1% Property Assessments	61,069	362	836	3,114	20,365
23	641502 Property Assess wtr/swr/fld	106,254	191	0	3,064	44,237
24	641501 Water avail Standby	78,054	295	377	7,507	18,082
25	641504 ID 3 Water Standby (La Casa)	33,211	43	267	1,491	3,007
26	641503 Pest standby	17,370	42	59	611	5,063
27	<b>TOTAL PROPERTY ASSES/AVAIL CHARGES:</b>	<b>295,958</b>	<b>933</b>	<b>1,539</b>	<b>15,788</b>	<b>90,754</b>
28	<b>SEWER SERVICE CHARGES</b>					
29	Town Center Sewer Holder fees	195,494	19,549	19,549	19,549	19,549
30	Town Center Sewer User Fees	73,913	7,391	7,391	7,391	7,391
31	Sewer user Fees	231,920	23,192	23,192	23,192	23,192
32	Penalty Interest-Sewer	1,040	104	104	104	104
33	<b>TOTAL SEWER SERVICE CHARGES:</b>	<b>502,367</b>	<b>50,236</b>	<b>50,236</b>	<b>50,236</b>	<b>50,236</b>
34	<b>OTHER INCOME</b>					
35	Water Credits income	22,000	11,000	0	0	0
36	WTF Solar Rebate	35,441	35,441			
37	R/H Surplus Water Revenue	200,000				200,000
38	Interest Income	20,000	2,000	2,000	2,000	2,000
39	<b>TOTAL OTHER INCOME:</b>	<b>277,441</b>	<b>48,441</b>	<b>2,000</b>	<b>2,000</b>	<b>202,000</b>
40	<b>TOTAL INCOME:</b>	<b>3,919,496</b>	<b>430,321</b>	<b>368,556</b>	<b>370,576</b>	<b>600,199</b>
41	<b>CASH BASIS ADJUSTMENTS</b>					
42	Decrease (Increase) in Accounts Receivable					
43	Deposits					
44	Other Cash Basis Adjustments					
45	<b>TOTAL CASH BASIS ADJUSTMENTS:</b>					
46	<b>TOTAL OPERATING INCOME RECEIVED:</b>	<b>3,919,496</b>	<b>430,321</b>	<b>368,556</b>	<b>370,576</b>	<b>600,199</b>
47	<b>GRANT &amp; DEBT PROCEEDS</b>					
48	Prop 1 GSP Grant	0				
49	Pacific Western Bank 2018 IPA	0				
50	<b>TOTAL GRANT &amp; DEBT PROCEEDS:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
51	<b>TOTAL INCOME, GRANT &amp; DEBT PROCEEDS:</b>	<b>3,919,496</b>	<b>430,321</b>	<b>368,556</b>	<b>370,576</b>	<b>600,199</b>

	C	AL	AM	AN	AO	AP	AQ
1	<b>BWD</b>						
2	<b>BUDGET CASH FLOW</b>						
3	<b>2018-2019</b>						
4		Projected	Projected	Projected	Projected	Projected	Projected
5		January	February	March	April	May	June
6		2019	2019	2019	2019	2019	2019
7	<b>REVENUE</b>						
8	<b>WATER REVENUE</b>						
9	Residential Water Sales	66,088	66,152	57,509	70,304	75,920	81,120
10	Commercial Water Sales	36,898	30,234	31,031	26,000	30,160	31,200
11	Irrigation Water Sales	19,746	15,000	12,450	13,520	16,640	20,276
12	GWM Surcharge	13,121	12,068	11,075	15,293	15,310	15,310
13	Water Sales Power Portion	36,220	33,310	30,560	47,230	44,632	46,572
14	<b>TOTAL WATER COMMODITY REVENUE:</b>	<b>172,073</b>	<b>156,763</b>	<b>142,625</b>	<b>172,347</b>	<b>182,662</b>	<b>194,477</b>
15	Readiness Water Charge	96,248	96,248	96,248	96,248	96,248	96,248
16	Meter Install/Reconnect Fees		10,000		340		
17	Backflow Testing/Installation	0	0	0	0	0	5,100
18	Bulk Water Sales	100	100	100	100	100	100
19	Penalty & Interest Water Collection	4,000	4,000	4,000	4,000	4,000	4,000
20	<b>TOTAL WATER REVENUE:</b>	<b>272,421</b>	<b>267,111</b>	<b>242,973</b>	<b>273,035</b>	<b>283,010</b>	<b>299,925</b>
21	<b>PROPERTY ASSESSMENTS/AVAILABILITY CHARGES</b>						
22	641500 1% Property Assessments	9,633	5,635	2,102	12,153	6,671	200
23	641502 Property Assess wtr/swr/fld	10,451	0	693	1,056	46,262	300
24	641501 Water avail Standby	29,301	0	3,015	3,732	13,745	2,000
25	641504 ID 3 Water Standby (La Casa)	14,101	0	889	396	12,527	490
26	641503 Pest standby	4,070	0	416	651	5,936	523
27	<b>TOTAL PROPERTY ASSES/AVAIL CHARGES:</b>	<b>67,556</b>	<b>5,635</b>	<b>7,114</b>	<b>17,987</b>	<b>85,140</b>	<b>3,513</b>
28	<b>SEWER SERVICE CHARGES</b>						
29	Town Center Sewer Holder fees	19,549	19,549	19,549	19,549	19,549	19,553
30	Town Center Sewer User Fees	7,391	7,391	7,391	7,391	7,391	7,394
31	Sewer user Fees	23,192	23,192	23,192	23,192	23,192	23,192
32	Penalty Interest-Sewer	104	104	104	104	104	104
33	<b>TOTAL SEWER SERVICE CHARGES:</b>	<b>50,236</b>	<b>50,236</b>	<b>50,236</b>	<b>50,236</b>	<b>50,236</b>	<b>50,243</b>
34	<b>OTHER INCOME</b>						
35	Water Credits income	0	11,000	0	0	0	0
36	WTF Solar Rebate						
37	R/H Surplus Water Revenue						
38	Interest Income	2,000	2,000	2,000	2,000	2,000	2,000
39	<b>TOTAL OTHER INCOME:</b>	<b>2,000</b>	<b>13,000</b>	<b>2,000</b>	<b>2,000</b>	<b>2,000</b>	<b>2,000</b>
40	<b>TOTAL INCOME:</b>	<b>392,213</b>	<b>335,982</b>	<b>302,324</b>	<b>343,258</b>	<b>420,386</b>	<b>355,681</b>
41	<b>CASH BASIS ADJUSTMENTS</b>						
42	Decrease (Increase) in Accounts Receivable						
43	Deposits						
44	Other Cash Basis Adjustments						
45	<b>TOTAL CASH BASIS ADJUSTMENTS:</b>						
46	<b>TOTAL OPERATING INCOME RECEIVED:</b>	<b>392,213</b>	<b>335,982</b>	<b>302,324</b>	<b>343,258</b>	<b>420,386</b>	<b>355,681</b>
47	<b>GRANT &amp; DEBT PROCEEDS</b>						
48	Prop 1 GSP Grant						
49	Pacific Western Bank 2018 IPA						
50	<b>TOTAL GRANT &amp; DEBT PROCEEDS:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
51	<b>TOTAL INCOME, GRANT &amp; DEBT PROCEEDS:</b>	<b>392,213</b>	<b>335,982</b>	<b>302,324</b>	<b>343,258</b>	<b>420,386</b>	<b>355,681</b>

	C	AB	AC	AD	AE
1	<b>BWD</b>	6/19/2018			
2	<b>BUDGET CASH FLOW</b>	<b>ADOPTED</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
3	<b>2018-2019</b>	<b>BUDGET</b>	<b>August</b>	<b>August</b>	<b>YTD</b>
4		<b>2018-2019</b>	<b>2018</b>	<b>2018</b>	<b>2018-2019</b>
71	<b>EXPENSES</b>				
72					
73	<b>MAINTENANCE EXPENSE</b>				
74	R & M Buildings & Equipment	180,000	2,153	15,000	17,181
75	R & M - WWTP	180,000	9,632	15,000	23,756
76	Telemetry	10,000	1,672	2,000	1,672
77	Trash Removal	4,200	854	350	1,273
78	Vehicle Expense	18,000	3,751	1,500	4,543
79	Fuel & Oil	30,000	3,375	2,500	3,375
80	<b>TOTAL MAINTENANCE EXPENSE:</b>	<b>422,200</b>	<b>21,439</b>	<b>36,350</b>	<b>51,800</b>
81					
82	<b>PROFESSIONAL SERVICES EXPENSE</b>				
83	Tax Accounting (Tausig)	3,000	0	-	2,251
84	Administrative Services (ADP)	3,000	216	240	430
85	Audit Fees (Squarmliner)	18,995	5,665	5,665	11,329
86	Computer billing (Accela/Parker)	25,000	0	-	6,743
87	Financial/Technical Consulting (Raftelis) (Fieldman) (Holt Group)	80,000	124,232	124,232	147,234
88	Engineering (Dynamic/Dudek)	80,000	0	5,000	-
89	District Legal Services (Downey Brand/BBK)	100,000	1,558	8,500	1,558
90	Testing/lab work (Babcock Lab)	12,000	1,670	1,000	2,685
91	Regulatory Permit Fees (SWRB/DEH/Dig alerts/APCD)	25,000	360	793	3,485
92	Management Consulting (CIP)	50,000		4,100	-
93	<b>TOTAL PROFESSIONAL SERVICES EXPENSE:</b>	<b>374,994</b>	<b>133,701</b>	<b>149,530</b>	<b>175,715</b>
94					
95	<b>INSURANCE EXPENSE</b>				
96	ACWA/JPIA Program Insurance	57,000	0	-	-
97	ACWA/JPIA Workers Comp	17,600	0	-	-
98	<b>TOTAL INSURANCE EXPENSE:</b>	<b>74,600</b>	<b>0</b>	<b>-</b>	<b>-</b>
99					
100	<b>DEBT EXPENSE</b>				
101	Compass Bank Note 2018A	254,500	0	-	-
102	Compass Bank Note 2018B	143,000	0	-	-
103	Pacific Western Bank 2018 IPA	500,000	0	-	-
104	<b>TOTAL DEBT EXPENSE:</b>	<b>897,500</b>	<b>0</b>	<b>-</b>	<b>-</b>
105					
106	<b>PERSONNEL EXPENSE</b>				
107	Board Meeting Expense (board stipend/board secretary)	25,000	0	-	1,025
108	Salaries & Wages (gross)	890,000	70,841	75,890	144,606
109	Salaries & Wages offset account (board stipends/staff project salaries)	-80,000	(7,417)	(5,000)	(13,342)
110	Consulting services/Contract Labor	15,000	0	1,250	-
111	Taxes on Payroll	22,300	987	1,338	2,123
112	Medical Insurance Benefits	229,000	38,428	38,428	56,922
113	Calpers Retirement Benefits	170,170	7,212	7,100	103,076
114	Conference/Conventions/Training/Seminars	17,000	0	5,774	-
115	<b>TOTAL PERSONNEL EXPENSE:</b>	<b>1,308,470</b>	<b>110,049</b>	<b>124,780</b>	<b>294,410</b>
116					
117	<b>OFFICE EXPENSE</b>				
118	Office Supplies	20,000	702	1,951	1,921
119	Office Equipment/ Rental/Maintenance Agreements	35,000	948	2,872	5,390
120	Postage & Freight	15,000	1,663	2,050	1,663
121	Taxes on Property	2,334	0	-	-
122	Telephone/Answering Service/Cell	24,000	1,493	2,000	3,020
123	Dues & Subscriptions (ACWA/CSDA)	21,000	0	1,253	76
124	Printing, Publications & Notices	2,500	1,050	167	1,050
125	Uniforms	6,500	565	540	1,013
126	OSHA Requirements/Emergency preparedness	4,000	145	270	145
127	<b>TOTAL OFFICE EXPENSE:</b>	<b>130,335</b>	<b>6,566</b>	<b>11,103</b>	<b>14,278</b>
128					
129	<b>UTILITIES EXPENSE</b>				
130	Pumping-Electricity	308,000	30,391	31,968	58,726
131	Office/Shop Utilities	1,200	1,163	100	1,498
133	<b>TOTAL UTILITIES EXPENSE:</b>	<b>309,200</b>	<b>31,554</b>	<b>32,068</b>	<b>60,224</b>
134					
135	<b>GROUNDWATER MANAGEMENT EXPENSE</b>				
136	SGMA GSP Costs	308,000	33,000	25,500	39,048
137	Prop 1 Grant Expense	60,000		5,000	66,608
139	<b>TOTAL GWM EXPENSE:</b>	<b>368,000</b>	<b>33,000</b>	<b>30,500</b>	<b>105,655</b>
140					
141	<b>TOTAL EXPENSES:</b>	<b>3,885,298</b>	<b>336,308</b>	<b>384,330</b>	<b>702,082</b>
142	<b>CASH BASIS ADJUSTMENTS</b>				
143	Decrease (Increase) in Accounts Payable		15,507		176,789
144	Increase (Decrease) in Inventory		9,759		11,185
145	Other Cash Basis Adjustments-CSD refunds		26,466		40,063
146	<b>TOTAL CASH BASIS ADJUSTMENTS:</b>		<b>51,731</b>		<b>228,037</b>
147					
148	<b>TOTAL OPERATING EXPENSES PAID:</b>	<b>3,885,299</b>	<b>388,039</b>	<b>384,330</b>	<b>930,118</b>
149					
150	<b>UNEXPENDED DEBT PROCEEDS:</b>	<b>4,698,000</b>	<b>5,508,713</b>	<b>5,632,945</b>	<b>5,508,713</b>
151					
152	<b>TOTAL EXPENSES AND UNEXPENDED DEBT PROCEEDS:</b>	<b>8,583,489</b>	<b>8,896,753</b>	<b>6,017,275</b>	<b>6,438,832</b>
153					
154	<b>NET OPERATING INCOME:</b>	<b>822,296</b>	<b>(17,473)</b>	<b>244,317</b>	<b>(228,789)</b>

	C	AG	AH	AI	AJ	AK
1	<b>BWD</b>					
2	<b>BUDGET CASH FLOW</b>					
3	<b>2018-2019</b>					
4		Projected	Projected	Projected	Projected	Projected
71	<b>EXPENSES</b>		September	October	November	December
72		2018-2019	2018	2018	2018	2018
73	<b>MAINTENANCE EXPENSE</b>					
74	R & M Buildings & Equipment	150,000	15,000	15,000	15,000	15,000
75	R & M - WWTP	150,000	15,000	15,000	15,000	15,000
76	Telemetry	8,000	-	0	0	4,000
77	Trash Removal	3,500	350	350	350	350
78	Vehicle Expense	15,000	1,500	1,500	1,500	1,500
79	Fuel & Oil	25,000	2,500	2,500	2,500	2,500
80	<b>TOTAL MAINTENANCE EXPENSE:</b>	<b>351,500</b>	<b>34,350</b>	<b>34,350</b>	<b>34,350</b>	<b>38,350</b>
81						
82	<b>PROFESSIONAL SERVICES EXPENSE</b>					
83	Tax Accounting (Tausig)	749	-	0	0	0
84	Administrative Services (ADP)	2,520	240	240	240	240
85	Audit Fees (Squamliner)	5,665	-	0	5,665	0
86	Computer billing (Accela/Parker)	11,500	1,000	0	2,500	0
87	Financial/Technical Consulting (Raftelis) (Fieldman) (Holt Group)	67,000	6,500	6,500	6,500	6,500
88	Engineering (Dynamic/Dudek)	50,000	5,000	5,000	5,000	5,000
89	District Legal Services (Downey Brand/BBK)	83,000	8,500	8,500	8,500	8,500
90	Testing/lab work (Babcock Lab)	10,000	1,000	1,000	1,000	1,000
91	Regulatory Permit Fees (SWRB/DEH/Dig alerts/APCD)	19,878	637	3	80	80
92	Management Consulting (CIP)	41,800	4,100	4,200	4,200	4,200
93	<b>TOTAL PROFESSIONAL SERVICES EXPENSE:</b>	<b>292,112</b>	<b>26,977</b>	<b>25,443</b>	<b>33,685</b>	<b>25,520</b>
94						
95	<b>INSURANCE EXPENSE</b>					
96	ACWA/JPIA Program Insurance	57,000	24,000	0	0	0
97	ACWA/JPIA Workers Comp	17,600	4,400	0	0	4,400
98	<b>TOTAL INSURANCE EXPENSE:</b>	<b>74,600</b>	<b>28,400</b>	<b>-</b>	<b>-</b>	<b>4,400</b>
99						
100	<b>DEBT EXPENSE</b>					
101	Compass Bank Note 2018A	254,500	209,050	0	0	0
102	Compass Bank Note 2018B	143,000	-	143,000	0	0
103	Pacific Western Bank 2018 IPA	354,006	-	354,006	-	-
104	<b>TOTAL DEBT EXPENSE:</b>	<b>751,506</b>	<b>209,050</b>	<b>497,006</b>	<b>-</b>	<b>-</b>
105						
106	<b>PERSONNEL EXPENSE</b>					
107	Board Meeting Expense (board stipend/board secretary)	23,030	1,970	1,970	1,970	1,970
108	Salaries & Wages (gross)	740,167	70,297	75,890	79,527	72,162
109	Salaries & Wages offset account (board stipends/staff project salaries)	(50,000)	(5,000)	(5,000)	(5,000)	(5,000)
110	Consulting services/Contract Labor	12,500	1,250	1,250	1,250	1,250
111	Taxes on Payroll	19,401	1,115	892	1,338	669
112	Medical Insurance Benefits	173,280	18,570	18,570	18,570	18,570
113	Calpers Retirement Benefits	72,400	7,100	7,100	7,100	7,100
114	Conference/Conventions/Training/Seminars	10,328	5,200	519	488	0
115	<b>TOTAL PERSONNEL EXPENSE:</b>	<b>1,001,107</b>	<b>100,502</b>	<b>101,192</b>	<b>105,243</b>	<b>96,721</b>
116						
117	<b>OFFICE EXPENSE</b>					
118	Office Supplies	16,549	1,578	1,367	2,409	2,009
119	Office Equipment/ Rental/Maintenance Agreements	28,555	5,782	4,538	5,543	578
120	Postage & Freight	12,950	-	2,050	40	2,060
121	Taxes on Property	2,334	-	2,334	0	0
122	Telephone/Answering Service/Cell	20,000	2,000	2,000	2,000	2,000
123	Dues & Subscriptions (ACWA/CSDA)	19,529	363	0	293	16,218
124	Printing, Publications & Notices	2,109	111	100	167	0
125	Uniforms	5,420	540	540	540	540
126	OSHA Requirements/Emergency preparedness	3,223	1,103	500	265	0
127	<b>TOTAL OFFICE EXPENSE:</b>	<b>110,667</b>	<b>11,478</b>	<b>13,429</b>	<b>11,258</b>	<b>23,405</b>
128						
129	<b>UTILITIES EXPENSE</b>					
130	Pumping-Electricity	246,627	33,272	29,349	25,526	23,511
131	Office/Shop Utilities	1,000	100	100	100	100
133	<b>TOTAL UTILITIES EXPENSE:</b>	<b>249,819</b>	<b>33,372</b>	<b>29,449</b>	<b>25,626</b>	<b>23,611</b>
134						
135	<b>GROUNDWATER MANAGEMENT EXPENSE</b>					
136	SGMA GSP Costs	257,000	25,500	25,500	25,500	25,500
137	Prop 1 Grant Expense	50,000	5,000	5,000	5,000	5,000
139	<b>TOTAL GWM EXPENSE:</b>	<b>299,645</b>	<b>30,500</b>	<b>30,500</b>	<b>30,500</b>	<b>30,500</b>
140						
141	<b>TOTAL EXPENSES:</b>	<b>3,130,957</b>	<b>474,628</b>	<b>731,368</b>	<b>240,662</b>	<b>242,507</b>
142	<b>CASH BASIS ADJUSTMENTS</b>					
143	Decrease (Increase) in Accounts Payable					
144	Increase (Decrease) in Inventory					
145	Other Cash Basis Adjustments-CSD refunds					
146	<b>TOTAL CASH BASIS ADJUSTMENTS:</b>					
147						
148	<b>TOTAL OPERATING EXPENSES PAID:</b>	<b>3,130,957</b>	<b>474,628</b>	<b>731,368</b>	<b>240,662</b>	<b>242,507</b>
149						
150	<b>UNEXPENDED DEBT PROCEEDS:</b>	<b>4,906,713</b>	<b>5,508,713</b>	<b>6,308,713</b>	<b>5,308,713</b>	<b>5,108,713</b>
151						
152	<b>TOTAL EXPENSES AND UNEXPENDED DEBT PROCEEDS:</b>	<b>8,037,671</b>	<b>5,983,342</b>	<b>6,040,082</b>	<b>5,549,375</b>	<b>5,351,220</b>
153						
154	<b>NET OPERATING INCOME:</b>	<b>788,539</b>	<b>(44,307)</b>	<b>(362,812)</b>	<b>129,914</b>	<b>357,692</b>

	C	AL	AM	AN	AO	AP	AQ
1	<b>BWD</b>						
2	<b>BUDGET CASH FLOW</b>	Projected	Projected	Projected	Projected	Projected	Projected
3	<b>2018-2019</b>	January	February	March	April	May	June
4		2019	2019	2019	2019	2019	2019
71	<b>EXPENSES</b>						
72							
73	<b>MAINTENANCE EXPENSE</b>						
74	R & M Buildings & Equipment	15,000	15,000	15,000	15,000	15,000	15,000
75	R & M - WWTP	15,000	15,000	15,000	15,000	15,000	15,000
76	Telemetry	0	0	2,000	0	2,000	0
77	Trash Removal	350	350	350	350	350	350
78	Vehicle Expense	1,500	1,500	1,500	1,500	1,500	1,500
79	Fuel & Oil	2,500	2,500	2,500	2,500	2,500	2,500
80	<b>TOTAL MAINTENANCE EXPENSE:</b>	<b>34,350</b>	<b>34,350</b>	<b>36,350</b>	<b>34,350</b>	<b>36,350</b>	<b>34,350</b>
81							
82	<b>PROFESSIONAL SERVICES EXPENSE</b>						
83	Tax Accounting (Taussig)	0	662	0	0	0	87
84	Administrative Services (ADP)	360	240	240	240	240	240
85	Audit Fees (Squamliner)	0	0	0	0	0	0
86	Computer billing (Accela/Parker)	1,000	5,000	1,000	205	795	0
87	Financial/Technical Consulting (Raftelis) (Fieldman) (Holt Group)	6,500	6,500	7,000	7,000	7,000	7,000
88	Engineering (Dynamic/Dudek)	5,000	5,000	5,000	5,000	5,000	5,000
89	District Legal Services (Downey Brand/BBK)	8,500	8,500	8,000	8,000	8,000	8,000
90	Testing/lab work (Babcock Lab)	1,000	1,000	1,000	1,000	1,000	1,000
91	Regulatory Permit Fees (SWRB/DEH/Dig alerts/APCD)	12,081	197	5,000	500	800	500
92	Management Consulting (CIP)	4,200	4,200	4,200	4,200	4,200	4,100
93	<b>TOTAL PROFESSIONAL SERVICES EXPENSE:</b>	<b>38,641</b>	<b>31,299</b>	<b>31,440</b>	<b>26,145</b>	<b>27,035</b>	<b>25,927</b>
94							
95	<b>INSURANCE EXPENSE</b>						
96	ACWA/JPIA Program Insurance	0	0	33,000	0	0	0
97	ACWA/JPIA Workers Comp	0	0	4,400	0	0	4,400
98	<b>TOTAL INSURANCE EXPENSE:</b>	<b>-</b>	<b>-</b>	<b>37,400</b>	<b>-</b>	<b>-</b>	<b>4,400</b>
99							
100	<b>DEBT EXPENSE</b>						
101	Compass Bank Note 2018A	0	0	45,450	0	0	0
102	Compass Bank Note 2018B	0					
103	Pacific Western Bank 2018 IPA						
104	<b>TOTAL DEBT EXPENSE:</b>	<b>-</b>	<b>-</b>	<b>45,450</b>	<b>-</b>	<b>-</b>	<b>-</b>
105							
106	<b>PERSONNEL EXPENSE</b>						
107	Board Meeting Expense (board stipend/board secretary)	1,970	1,970	1,970	1,970	5,045	2,225
108	Salaries & Wages (gross)	75,890	70,297	75,890	74,026	75,890	70,297
109	Salaries & Wages offset account (board stipends/staff project salaries)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)
110	Consulting services/Contract Labor	1,250	1,250	1,250	1,250	1,250	1,250
111	Taxes on Payroll	5,352	2,676	1,784	1,561	2,230	1,784
112	Medical Insurance Benefits	19,500	19,500	19,500	19,500	21,000	
113	Calpers Retirement Benefits	7,200	7,300	7,300	7,400	7,400	7,400
114	Conference/Conventions/Training/Seminars	1,783	34	400	1,278	500	126
115	<b>TOTAL PERSONNEL EXPENSE:</b>	<b>107,945</b>	<b>98,027</b>	<b>103,095</b>	<b>101,985</b>	<b>108,316</b>	<b>78,082</b>
116							
117	<b>OFFICE EXPENSE</b>						
118	Office Supplies	2,917	1,569	1,000	1,200	1,500	1,000
119	Office Equipment/ Rental/Maintenance Agreements	3,122	2,519	1,990	1,837	1,645	1,000
120	Postage & Freight	0	2,100	400	2,100	2,100	2,100
121	Taxes on Property	0	0	0	0	0	0
122	Telephone/Answering Service/Cell	2,000	2,000	2,000	2,000	2,000	2,000
123	Dues & Subscriptions (ACWA/CSDA)	350	124	239	1,449	347	145
124	Printing, Publications & Notices	111	698	0	322	400	200
125	Uniforms	540	540	540	540	550	550
126	OSHA Requirements/Emergency preparedness	96	291	108	300	300	259
127	<b>TOTAL OFFICE EXPENSE:</b>	<b>9,136</b>	<b>9,842</b>	<b>6,277</b>	<b>9,748</b>	<b>8,842</b>	<b>7,254</b>
128							
129	<b>UTILITIES EXPENSE</b>						
130	Pumping-Electricity	22,243	20,518	21,488	23,000	23,721	24,000
131	Office/Shop Utilities	100	100	100	100	100	100
133	<b>TOTAL UTILITIES EXPENSE:</b>	<b>22,343</b>	<b>20,618</b>	<b>23,780</b>	<b>23,100</b>	<b>23,821</b>	<b>24,100</b>
134							
135	<b>GROUNDWATER MANAGEMENT EXPENSE</b>						
136	SGMA GSP Costs	25,500	25,500	26,000	26,000	26,000	26,000
137	Prop 1 Grant Expense	5,000	5,000	5,000	5,000	5,000	5,000
139	<b>TOTAL GWM EXPENSE:</b>	<b>30,500</b>	<b>30,500</b>	<b>33,645</b>	<b>31,000</b>	<b>31,000</b>	<b>31,000</b>
140							
141	<b>TOTAL EXPENSES:</b>	<b>242,915</b>	<b>224,636</b>	<b>307,436</b>	<b>226,328</b>	<b>235,364</b>	<b>205,113</b>
142	<b>CASH BASIS ADJUSTMENTS</b>						
143	Decrease (Increase) in Accounts Payable						
144	Increase (Decrease) in Inventory						
145	Other Cash Basis Adjustments-CSD refunds						
146	<b>TOTAL CASH BASIS ADJUSTMENTS:</b>						
147							
148	<b>TOTAL OPERATING EXPENSES PAID:</b>	<b>242,915</b>	<b>224,636</b>	<b>307,436</b>	<b>226,328</b>	<b>235,364</b>	<b>205,113</b>
149							
150	<b>UNEXPENDED DEBT PROCEEDS:</b>	<b>5,108,713</b>	<b>5,108,713</b>	<b>5,108,713</b>	<b>4,906,713</b>	<b>4,906,713</b>	<b>4,906,713</b>
151							
152	<b>TOTAL EXPENSES AND UNEXPENDED DEBT PROCEEDS:</b>	<b>5,351,629</b>	<b>5,333,350</b>	<b>5,416,149</b>	<b>5,133,041</b>	<b>5,142,077</b>	<b>5,111,827</b>
153							<b>223</b>
154	<b>NET OPERATING INCOME:</b>	<b>149,298</b>	<b>111,346</b>	<b>(5,112)</b>	<b>116,930</b>	<b>185,023</b>	<b>150,568</b>



## TREASURER'S REPORT August, 2018

% of Portfolio

Bank Balance	Carrying Value	Fair Value	Current Actual	Rate of Interest	Maturity	Valuation Source
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### Cash and Cash Equivalents:

Demand Accounts at CVB/LAIF

General Account/Petty Cash	\$ 4,511,352	\$ 4,459,041	\$ 4,459,041	44.30%	0.00%	N/A	CVB
Payroll Account	\$ 73,096	\$ 68,281	\$ 68,281	0.68%	0.00%	N/A	CVB
MMA (Bond Funds)	\$ 5,516,435	\$ 5,516,435	\$ 5,516,435	54.81%	1.01%	N/A	CVB
LAIF	\$ 21,531	\$ 21,531	\$ 21,531	0.21%	1.20%	N/A	LAIF

<b>Total Cash and Cash Equivalents</b>	<b>\$ 10,122,414</b>	<b>\$ 10,065,288</b>	<b>\$ 10,065,288</b>	<b>100.00%</b>
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### Facilities District No. 2017-1A-B

Special Tax Bond- Rams Hill -US BANK	\$ 240,673	\$ 240,673	\$ 240,673
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<b>Total Cash,Cash Equivalents &amp; Investments</b>	<b>\$ 10,363,087</b>	<b>\$ 10,305,961</b>	<b>\$ 10,305,961</b>
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Cash and investments conform to the District's Investment Policy statement filed with the Board of Directors on July 19, 2018

Cash, investments and future cash flows are sufficient to meet the needs of the District for the next six months.

Sources of valuations are Umpqua Bank, LAIF and US Trust Bank.

Kim Pitman, Administration Manager





To: BWD Board of Directors  
 From: Kim Pitman  
 Subject: Consideration of the Disbursements and Claims Paid  
 Month Ending August, 2018

**Vendor disbursements paid during this period:** **\$ 180,351.54**

Significant items:

San Diego Gas & Electric	\$	31,553.99
Medical Health Benefits	\$	19,933.37
CalPERS	\$	5,293.30
Borrego Springs Homeowners Association-CSD Rebate	\$	26,466.00

**Capital Projects/Fixed Asset Outlays:**

**Total Professional Services for this Period:**

Squarmilner- Second payment		Audit	\$	5,665.00
Dudek		GSP	\$	15,079.83

**Payroll for this Period:**

Gross Payroll	\$	70,841.00
Employer Payroll Taxes and ADP Fee	\$	1,227.00
<b>Total</b>	<b>\$</b>	<b>72,068.00</b>

# Accounts Payable

Board Report August 2018



Check	Vendor	Vendor	Check Date	Check Amount
32676	10972	3158 Orleans LLC	09/11/2018	355.42
32568	1032	A-1 IRRIGATION, INC.	08/21/2018	19.56
32659	1032	A-1 IRRIGATION, INC.	09/11/2018	194.28
32591	10924	Abigail Eden	08/28/2018	294.26
32629	1109	ABILITY ANSWERING/PAGING SER	08/30/2018	224.64
32569	1266	AFLAC	08/21/2018	1,551.62
32651	10966	Albert Dean	09/06/2018	355.42
32596	10915	Alec House	08/28/2018	294.26
32682	10970	Alfred Guillot	09/11/2018	233.11
32660	72	ALL IN 1 TREE CARE	09/11/2018	930.00
32636	1001	AMERICAN LINEN INC.	09/05/2018	564.58
32565	UB*00024	ANNETTE SHINE	08/21/2018	2.34
32617	10944	Antonio & Donna Franco	08/29/2018	233.11
32637	61	AT&T MOBILITY	09/05/2018	728.86
32638	9529	AT&T-CALNET 3	09/05/2018	380.12
32571	9450	AWWA CALIF-NEVADA SECTION	08/21/2018	55.00
32661	9255	BABCOCK LABRATORIES	09/11/2018	2,330.00
32593	10922	Barry Graceman	08/28/2018	294.26
32570	9269	BENITO ARTEAGA	08/21/2018	145.46
32630	10884	BEST BEST & KRIEGER ATTORNEYS AT	08/30/2018	5,550.13
32662	10884	BEST BEST & KRIEGER ATTORNEYS AT	09/11/2018	4,870.16
32663	88	BORREGO AUTO PARTS, INC.	09/11/2018	481.06
32639	1003	BORREGO SPRINGS BOTTLED WATER	09/05/2018	71.33
32664	9556	CALIFORNIA PUBLIC EMP'S RETIREMEN	09/11/2018	1,050.00
32581	10936	Carol Barling	08/28/2018	294.26
32250	1196	CASH	8/10/2018	622.5
32597	10929	Charles & Debra Langdon	08/28/2018	882.78
32683	10968	CLARE HAGAN	09/11/2018	233.11
32657	10960	Clark & Jean Volmar	09/06/2018	233.11
32588	10911	Club Circle East HOA	08/28/2018	1,322.96
32599	10916	Dave Oliveira	08/28/2018	294.26
32611	10955	David Born	08/29/2018	355.42
32621	10939	David Lasley	08/29/2018	355.42
32574	1222	DEBBIE MORETTI	08/21/2018	122.00
32685	10976	Dhyana Simmons	09/11/2018	355.42
32580	10913	Dorothy Baber	08/28/2018	294.26
32687	9640	DUDEK	09/17/2018	15,079.83
32592	10931	Eileen Frahm	08/28/2018	294.26

32620	10949	Elizabeth Gramoy	08/29/2018	233.11
32604	10926	Emily Sommers	08/28/2018	294.26
32652	10963	Eric Gregory	09/06/2018	233.11
32680	10975	Ermelinda Figueroa	09/11/2018	355.42
32573	3024	FED EX	08/21/2018	57.35
32681	10971	Gary Funk & Sandy Jorgensen Funk	09/11/2018	233.11
32586	10912	Gibson Rosalind / Cloward Richard	08/28/2018	294.26
32666	9579	GREEN DESERT LANDSCAPE	09/11/2018	4,770.00
32649	10965	Guido Buratto	09/06/2018	355.42
32654	10967	HANS & DELIA HOEFER	09/06/2018	355.42
32595	10918	Harapat Sheryl / Helvig Richard	08/28/2018	294.26
32667	1012	HIDDEN VALLEY PUMP SYSTEMS INC	09/11/2018	1,518.75
32668	1136	HOME DEPOT CREDIT SERVICES	09/11/2018	820.70
32631	9644	HVAC	08/30/2018	198.00
32653	10964	Jack & Helen Hamilton	09/06/2018	233.11
32584	10930	Jackie Busch	08/28/2018	294.26
32609	10943	James & Patricia Barr	08/29/2018	233.11
32640	1022	JAMES HORMUTH DE ANZA TRUE VALL	09/05/2018	81.69
32669	65	JC LABS & MONITORING SERVICE	09/11/2018	1,500.00
32655	10958	Jeff Mansfield	09/06/2018	233.11
32623	10947	Jerol Mitchell	08/29/2018	233.11
32615	10953	Jim and Debie Dillahunt	08/29/2018	355.42
32612	10948	Jim Byrnes	08/29/2018	233.11
32589	10934	Jim Cooper	08/28/2018	294.26
32583	10937	Justin & Michelle Burkhard	08/28/2018	294.26
32619	10945	Kenneth Gilstrap	08/29/2018	233.11
32684	10977	Larry & Bernice Hofer	09/11/2018	129.72
32678	10969	Lawrence Dukes	09/11/2018	233.11
32582	10920	Libbey Brunette	08/28/2018	294.26
32563	UB*00025	Lisa Mizzi	08/21/2018	73.98
32579	10910	LORETO MOLINA TITO'S AUTO CARE	08/21/2018	1,491.19
32650	10961	Louis Carson	09/06/2018	233.11
32587	10938	Makola David / Cloward Richard	08/28/2018	294.26
32627	UB*00029	Maria Vilches	08/29/2018	108.41
32686	ub*00012	MATTHEW WILSON	09/11/2018	355.42
32548	1000	MEDICAL ACWA-JPIA	08/07/2018	39,866.74
32598	10914	Michael & Laurie Malone	08/28/2018	294.26
32606	10932	Michael Syoen	08/28/2018	294.26
32610	10951	Morton Linda / Bole Leonard	08/29/2018	355.42
32670	1016	NAPA AUTO PARTS INC	09/11/2018	437.75
32632	10891	NEOPOST USA INC	08/30/2018	1,605.22
32575	1208	PACIFIC PIPELINE SUPPLY INC	08/21/2018	9,051.00
32633	1208	PACIFIC PIPELINE SUPPLY INC	08/30/2018	707.96
32585	10923	Patricia Clark	08/28/2018	294.26
32590	10917	Patrick Duncan	08/28/2018	294.26
32561	UB*00027	PATRICK MEEHAN	08/21/2018	752.03
32562	UB*00028	PATRICK MEEHAN	08/21/2018	4,359.16
32677	10974	Paul Berg	09/11/2018	355.42
32559	UB*00026	PAUL ENSLEY	08/21/2018	81.58
32602	10928	Paul Robinson	08/28/2018	294.26
32641	9633	RAMONA DISPOSAL SERVICE	09/05/2018	3,431.51
32672	9633	RAMONA DISPOSAL SERVICE	09/11/2018	436.32
32626	10957	Rene Tuchscher	08/29/2018	355.42
32605	10921	Richard & Deirdre Stafford	08/28/2018	294.26

32567	UB*00023	RICK THOMPSON	08/21/2018	2.00
32608	10954	Robert Amato	08/29/2018	355.42
32594	10919	Robert Halsted	08/28/2018	294.26
32624	10940	Robert Morton	08/29/2018	355.42
32625	10956	Robert Sabo	08/29/2018	355.42
32618	10950	Rosalind Gibson	08/29/2018	355.42
32642	9481	RS INSTRUMENTS & SERVICES	09/05/2018	592.00
32607	10933	Sallie Estep Warren	08/28/2018	588.52
32634	1065	SAN DIEGO GAS & ELECTRIC	08/30/2018	31,553.99
32600	10925	Sandra Pettit	08/28/2018	294.26
32603	10927	Scott Family Trust / Scott, William & Susan	08/28/2018	294.26
32622	10942	Scott Lick	08/29/2018	233.11
32658	10959	Sharilyn Westrick	09/06/2018	233.11
32616	10946	Siegfried (Sid) Engel	08/29/2018	233.11
32576	10853	SQUARMILNER	08/21/2018	5,665.00
32673	1059	STAPLES CREDIT PLAN	09/11/2018	326.57
32572	9046	STATE WATER RESOURCE CONTROL BC	08/21/2018	120.00
32628	9046	STATE WATER RESOURCE CONTROL BC	08/29/2018	90.00
32635	9046	STATE WATER RESOURCE CONTROL BC	08/30/2018	95.00
32577	9106	T.S. INDUSTRIAL SUPPLY	08/21/2018	316.54
32613	10941	Terry & Sandy Cole	08/29/2018	233.11
32549	10885	THE SOCO GROUP, INC.	08/07/2018	599.78
32578	10885	THE SOCO GROUP, INC.	08/21/2018	959.96
32643	10885	THE SOCO GROUP, INC.	09/05/2018	1,763.41
32614	10952	Todd Cure	08/29/2018	355.42
32644	3000	U.S.BANK CORPORATE PAYMENT SYS	09/05/2018	3,041.07
32645	9666	UC REGENTS	09/05/2018	50.00
32674	1023	UNDERGROUND SERVICE ALERT	09/11/2018	16.60
32646	10847	USA COMMUNICATIONS	09/05/2018	240.94
32647	9439	USABLUEBOOK	09/05/2018	207.95
32688	1100	VERIZON WIRELESS	09/17/2018	159.26
32656	10962	Verle & Joan Prickett	09/06/2018	233.11
32665	1027	VICTOR VALENTI CONTRON SCADA SY!	09/11/2018	1,672.20
32679	10973	Walter Faust	09/11/2018	355.42
32671	1623	WENDY QUINN	09/11/2018	112.50
32601	10935	William Ringkamp	08/28/2018	294.26
32675	1064	WYMORE, INC. INDUSTRIES	09/11/2018	4,371.30
32648	92	XEROX FINANCIAL SERVICES	09/05/2018	377.00

Report Total (130 checks): 180,351.54



<b>ASSETS</b>	<b>BALANCE SHEET August 31, 2018 (unaudited)</b>	<b>BALANCE SHEET July 31, 2018 (unaudited)</b>	<b>MONTHLY CHANGE (unaudited)</b>
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	\$ 4,548,853.42	\$ 4,446,778.07	\$ 102,075.35
Accounts receivable from water sales and sewer charges	\$ 534,766.62	\$ 477,546.03	\$ 57,220.59
Inventory	\$ 125,868.86	\$ 116,109.90	\$ 9,758.96
Prepaid expenses	\$ 31,826.98	\$ 31,826.98	\$ -
<b>TOTAL CURRENT ASSETS</b>	<b>\$ 5,241,315.88</b>	<b>\$ 5,072,260.98</b>	<b>\$ 169,054.90</b>
<b>RESTRICTED ASSETS</b>			
<b>Debt Service:</b>			
Deferred amount of COP Refunding	\$ 92,538.01	\$ 92,538.01	\$ -
Deferred Outflow of Resources-CalPERS	\$ 356,748.00	\$ 356,748.00	\$ -
Total Debt service	\$ 449,286.01	\$ 449,286.01	\$ -
<b>Trust/Bond funds:</b>			
Investments with fiscal agent -CFD 2017-1	\$ 240,673.22	\$ 315,912.98	\$ (75,239.76)
2018 Certificates of Participation to fund CIP Projects	\$ 5,516,434.72	\$ 5,635,983.37	\$ (119,548.65)
Total Trust/Bond funds	\$ 5,757,107.94	\$ 5,951,896.35	\$ (194,788.41)
<b>TOTAL RESTRICTED ASSETS</b>	<b>\$ 6,206,393.95</b>	<b>\$ 6,401,182.36</b>	
<b>UTILITY PLANT IN SERVICE</b>			
Land	\$ 2,251,663.65	\$ 2,251,663.65	\$ -
Flood Control Facilities	\$ 4,287,340.00	\$ 4,287,340.00	\$ -
Capital Improvement Projects	\$ 222,922.61	\$ 222,922.61	\$ -
Sewer Facilities	\$ 6,175,596.99	\$ 6,175,596.99	\$ -
Water facilities	\$ 11,621,513.88	\$ 11,621,513.88	\$ -
General facilities	\$ 1,006,881.07	\$ 1,006,881.07	\$ -
Equipment and furniture	\$ 585,522.57	\$ 585,522.57	\$ -
Vehicles	\$ 626,779.55	\$ 626,779.55	\$ -
Accumulated depreciation	\$ (13,268,053.10)	\$ (13,268,053.10)	\$ -
<b>NET UTILITY PLANT IN SERVICE</b>	<b>\$ 13,510,167.22</b>	<b>\$ 13,510,167.22</b>	<b>\$ -</b>
<b>OTHER ASSETS</b>			
Water rights -ID4	\$ 185,000.00	\$ 185,000.00	\$ -
<b>TOTAL OTHER ASSETS</b>	<b>\$ 185,000.00</b>	<b>\$ 185,000.00</b>	
<b>TOTAL ASSETS</b>	<b>\$ 25,142,877.05</b>	<b>\$ 25,168,610.56</b>	<b>\$ (25,733.51)</b>



Balance sheet continued

	<b>BALANCE SHEET</b> <b>August 31, 2018</b> <b>(unaudited)</b>	<b>BALANCE SHEET</b> <b>July 31, 2018</b> <b>(unaudited)</b>	<b>MONTHLY</b> <b>CHANGE</b> <b>(unaudited)</b>
<b>LIABILITIES</b>			
<b>CURRENT LIABILITIES PAYABLE FROM CURRENT ASSETS</b>			
Accounts Payable	\$ 58,500.45	\$ 74,007.18	\$ (15,506.73)
Accrued expenses	\$ 147,386.12	\$ 147,386.12	\$ -
CSD Refund Payable	\$ 75,397.31	\$ 101,862.97	\$ (26,465.66)
Deposits	\$ 16,103.26	\$ 16,103.26	\$ -
<b>TOTAL CURRENT LIABILITIES PAYABLE FROM CURRENT ASSETS</b>	<b>\$ 297,387.14</b>	<b>\$ 339,359.53</b>	<b>\$ (41,972.39)</b>
<b>CURRENT LIABILITIES PAYABLE FROM RESTRICTED ASSETS</b>			
Debt Service:			
Accounts Payable to CFD 2017-1	\$ 240,673.22	\$ 315,912.98	\$ (75,239.76)
<b>TOTAL CURRENT LIABILITIES PAYABLE FROM RESTRICTED ASSETS</b>	<b>\$ 240,673.22</b>	<b>\$ 315,912.98</b>	<b>\$ (75,239.76)</b>
<b>LONG TERM LIABILITIES</b>			
2008 Certificates of Participation-ID 4 infrastructure	\$ 2,180,000.00	\$ 2,180,000.00	\$ -
2018 Certificates of Participation to fund CIP Projects	\$ 5,586,000.00	\$ 5,632,945.11	\$ (46,945.11)
BBVA Compass Bank Loan	\$ 844,505.85	\$ 844,505.85	\$ -
Net Pension Liability-CalPERS	\$ 819,059.00	\$ 819,059.00	\$ -
Deferred Inflow of Resources-CalPERS	\$ 163,076.00	\$ 163,076.00	\$ -
<b>TOTAL LONG TERM LIABILITIES</b>	<b>\$ 9,592,640.85</b>	<b>\$ 9,639,585.96</b>	<b>\$ (46,945.11)</b>
<b>TOTAL LIABILITIES</b>	<b>\$ 10,130,701.21</b>	<b>\$ 10,294,858.47</b>	<b>\$ (164,157.26)</b>
<b>FUND EQUITY</b>			
Contributed equity	\$ 9,611,814.35	\$ 9,611,814.35	\$ -
Retained Earnings:			
Unrestricted Reserves/Retained Earnings	\$ 5,400,361.49	\$ 5,261,937.74	\$ 138,423.75
<b>Total retained earnings</b>	<b>\$ 5,400,361.49</b>	<b>\$ 5,261,937.74</b>	<b>\$ 138,423.75</b>
<b>TOTAL FUND EQUITY</b>	<b>\$ 15,012,175.84</b>	<b>\$ 14,873,752.09</b>	<b>\$ 138,423.75</b>
<b>TOTAL LIABILITIES AND FUND EQUITY</b>	<b>\$ 25,142,877.05</b>	<b>\$ 25,168,610.56</b>	<b>\$ (25,733.51)</b>



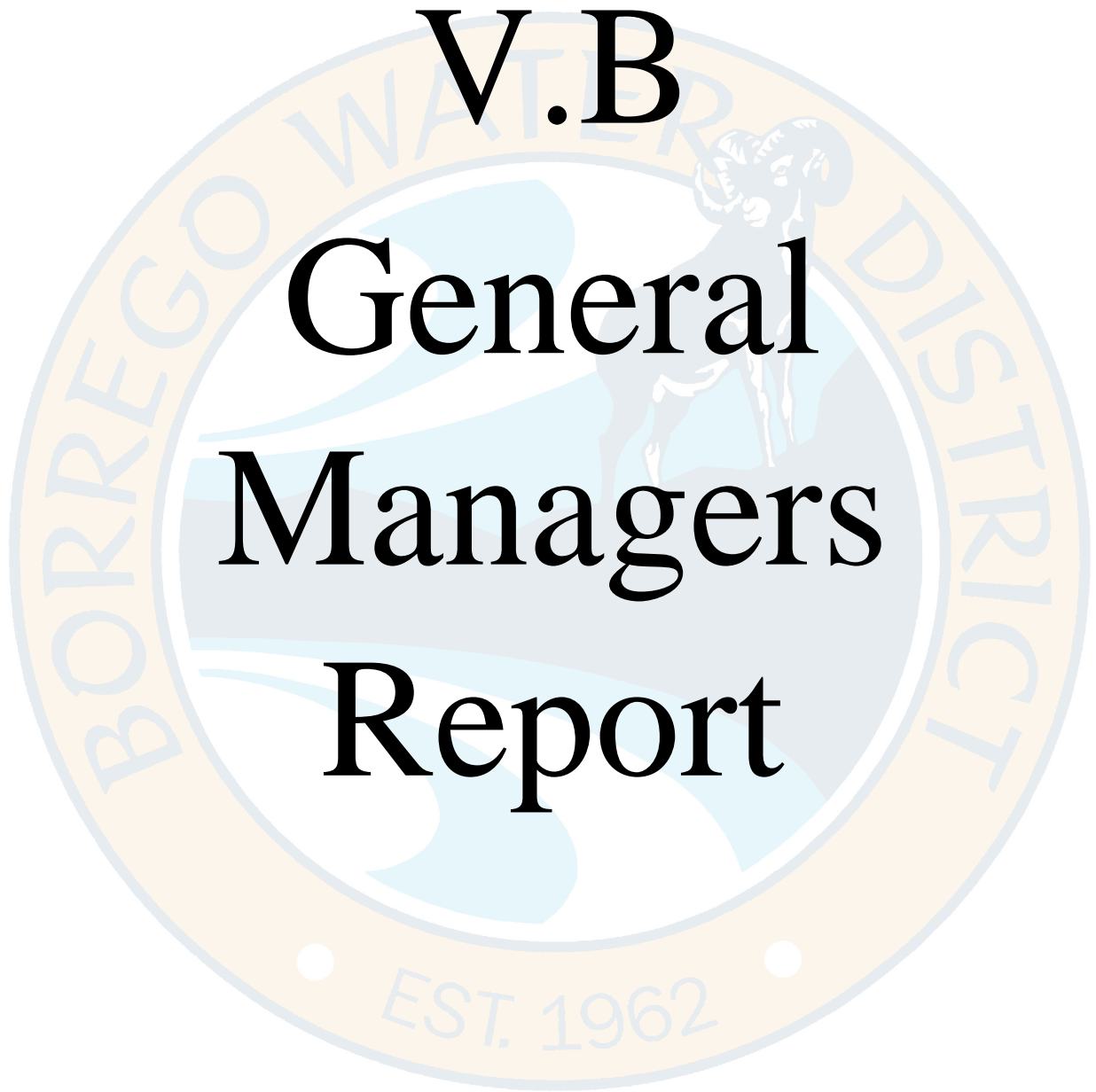
**GROUNDWATER MANAGEMENT  
ACCOUNTING  
FY 2019  
Acct #10154800**

	A	C	D	E	I	J	L	O	P	Q
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15				Wendy Quinn		Misc/conf/classes	Water Advisory		Monthly	FYE 2018
16	Month	BBK	DUDEK	Minutes	Staff Allocation		Committee-Lunches	Babcock	Total	Total
17										
18	Jul-17			250.00	5,000.00		798.36		6,048.36	6,048.36
19	Aug-17	8,862.29	15,079.83	112.50	7,417.44	632.49	175.00	720.00	32,999.55	39,047.91
20	Sep-17								-	39,047.91
21	Oct-17								-	39,047.91
22	Nov-17								-	39,047.91
23	Dec-17								-	39,047.91
24	Jan-18								-	39,047.91
25	Feb-18								-	39,047.91
26	Mar-18								-	39,047.91
27	Apr-18								-	39,047.91
28	May-18								-	39,047.91
29	Jun-18								-	39,047.91
30										
31	<b>Total</b>	<b>8,862.29</b>	<b>15,079.83</b>	<b>362.50</b>	<b>12,417.44</b>	<b>632.49</b>	<b>973.36</b>	<b>720.00</b>	<b>39,047.91</b>	<b>39,047.91</b>

# Item

## V.B

# General Managers Report





**Borrego Water District**  
**General Managers Organizational Goals and Objectives**  
**Fiscal Year 2018-19**

1. **GROUNDWATER SUSTAINABILITY PLAN:** Work in conjunction with the County of San Diego, State of California, Borrego Basin GSP Advisory Committee and other stakeholder groups to prepare an implementable GSP within the proposed timeline.
  - A. Organize/Participate in Core Team and Advisory Committee activities: Jul. 2018 – Jun. 2019
    - a. Support AC Constituent Groups and outside organizations, as needed

**Current Status:** During October, Staff attended one Core Team Face to Face meeting and various related meeting and phone calls

**Next Steps:** The Core Team and Legal Counsel is providing its final comments into the Draft Plan on Chapters 1, 3 and 4. Follow up meetings will be held with the County to review each Agency’s comments and create the Final Draft that will be released for public review in late 2018 or early 2019.

- b. Expand Water Quality Monitoring Network
        - i. Contact well owners and request participation

**Current Status:** All 5 wells recently added to the Network are scheduled to be sampled on Nov 13<sup>th</sup> (BS Elementary, Road Runner and De Anza CC )

**Next Steps:** Staff has received comments from John Petersen that he feels more wells in the North Management Area are need and staff will focus in those areas in the future.

- c. Provide input into GSP Following Plan
          - i. Viking Ranch Assessment

**Current Status:** A comprehensive report was made on the September 18<sup>th</sup> Agenda, and the issue of Following Standards was also provided in the packet for the October 24<sup>th</sup> Agenda. Representatives from Dudek recently informed BWD there may be an opportunity to use Viking Ranch as an offsite mitigation location, which could provide a funding source to remove the barriers and allow for natural drainage to occur and possibly other improvements to the property. More details to follow in the coming weeks

**Next Steps:** Staff will continue to investigate the mitigation concept

- ii. Air Quality Monitoring System

**Current Status:** The equipment has been purchased and set for delivery to UCI in approx. 60 days

**Next Steps:** Ensure the equipment is sent to UCI as soon as it is received and installed.

- d. Participate in Baseline Pumping Allocation meetings

**Current Status:** I participated in a BPA meeting for Road Runner Farms in Oct.

**Next Steps:** Will attend Rams Hill BPS meeting to be scheduled for later in Nov.

- e. Manage SDAC Contracts (See Grants Section)

Info follows

- f. Determine most beneficial EIR approval strategy and support County

**Current Status:** GSP is being reviewed to eliminate any “CEQA Triggers”

**Next Steps:** Continue to work with County and Dudek on EIR development strategy as continue to review Draft GSP Chapters now to avoid CEQA triggers in the document.

- g. Monitor County of SD PSR Process - DONE

**Current Status:** Issue resolved at B of Supervisor meeting on 9-12.

**Next Steps:** Discuss various development related issues with the County Planners/Managers.

- h. Miscellaneous Projects: GSA Expense Description, DCF Model

**Current Status:** GSA Expense Summary completed. No update on DCF Model

**Next Steps:** Continue to monitor GSP costs and work with Dudek on DCF model

- 2. GRANTS/BONDS/PUBLIC INITIATIVES: Maximize the use of alternative funding sources as an alternative to BWD Ratepayer revenues.

- A. Grants Tentatively Approved: SDAC grant from DWR - Manage Contracts: Jun. 2018 – Jul. 2019

- a. Le Sar Development Consultants: Public Outreach

- i. Develop Materials, Participate in Outreach Events, Survey/Data Acquisition, Business Survey Distribution

**Current Status:** Business surveys from the larger water users are now coming in and the information is being forwarded to Jones and Le Sar. Individual business owners in the commercial area of BS will soon be surveyed.

**Next Steps:** Support Le Sar in contacting local business owners.

- ii. Participate in Outreach efforts including AC Ad hoc Committee meeting and public workshops etc..

**Current Status:** Ongoing. Public Outreach Workshop Scheduled for Nov 15<sup>th</sup>.

**Next Steps:** Plan future meetings dates. The next major event is planned for January 2019, following release of the Draft GSP.

- b. Dr Jay Jones: Socioeconomic Modeling and Impact of GSP on BWD infrastructure

- i. Submit info from surveys, provide data and other advice/input into model design

**Current Status:** BWD and Le Sar providing socio economic survey info to Jones

**Next Steps:** Continue to support Jones and provide survey information for Socioeconomic modeling.

- c. Dudek: Investigative Well Drilling

- i. Site evaluation for Well #2 is underway. Once a short list is developed, model runs of the BWD Hydrologic Model is needed to ensure the well will deliver water at the necessary pressure.

**Current Status:** Development of Bid Package for Well #1 has begun. Work is underway to develop a short list of sites for Well #2.

**Next Steps:** Run hydrologic model to determine impact of well on BWD operations.

- d. Dudek: Meter Installation Financial Assistance
  - i. Assist consultant in working with local participants in the program

**Current Status:** Participants have been identified

**Next Steps:** Support Dudek, as needed.

- e. Receive approvals from BWD Board on Reimbursement Agreement with County of SD for SDAC Grant proceeds – Aug. 2018

**Current Status/Next Steps:** STILL Waiting for documents containing detailed Grant requirements from DWR to attach to Reimbursement Agreement. Request was made to Leanne Crow for an update and Staff will share this info at the Board Meeting.

- f. Center for Collaborative Policy = GSP AC and CT Facilitation
  - i. Liaison with Facilitator for meeting preparation, organization and other related activities

**Current Status/Next Steps:** Continue to work with CCP on agenda development and related services for Advisory Committee and Core Team events.

- B. Manage Grant Applications for DWR water and SWRCB wastewater Grants
  - a. Applications submitted: Monitor comments from staff with questions/info request
  - b. Resolve Twin Tanks lot discrepancy with the State of CA
  - c. Provide periodic updates to SD Air Pollution Control Staff re Diesel Motor Replacement

**Current Status:** Wastewater Application is still under review by SWRCB Staff. Rick Alexander and Staff provided a detailed update for the Board at the most recent meeting and will continue to do so. The archeological and biological assessments approved in October are scheduled to commence beginning the week of Nov 12.

**Next Steps:** Promptly answer any additional questions on the WWTP Application

- C. Pursue other Grant Opportunities
  - i. USDA, DWR Monitoring Well, EPA, Others

**Current Status:** Without losing focus on the existing Grant Applications, future grant opportunities are under review by staff and Rick Alexander. Funding land acquisition is a new focus of this effort.

**Next Steps:** Staff and Rick Alexander are evaluating opportunities for various grants/loans and will update the Board in December.

- D. BWD Bond - Capital Improvement Plan

**Current Status:** Bid Documents for Phase One of the BWD Pipeline projects are on the streets and scheduled for a bid opening on December 4<sup>th</sup>. Composition of Phases Two and Three are still under development by Staff and Consultants. Project schedules for pipelines and wells have been developed.

**Next Steps:** Proceed with the bidding process for Phase One and develop overall CIP Implementation Plan using the recently approved Project Phasing and assumptions for replacement well construction

- E. Public Initiative: Scenario Planning for 2018 California Water Bond – Develop planning scenarios for both positive & negative election results

**Current Status/Next Steps:** Proposition 3 failed. Evaluate alternatives for minimizing impact to BWD Ratepayers.

3. OPERATIONS: Provide the oversight, as needed, and support management of the water and wastewater systems to meet or exceed all State and Federal standards in a safe environment for BWD employees.
  - A. Create structure for BWD Operations staff to be coordinated with CIP projects. Aug 2018

**Current Status:** Operations Staff is fully engaged in the design of Phase One of the BWD Pipeline Projects

**Next Steps:** Continue with planning of the well replacement and pipeline projects

- B. Develop new Budget and CIP Review Process
  - a. Evaluate existing Budget Format/Process – Revise as needed: Jan - Jun 2019

**Current Status/Next Steps:** Staff will begin this process later in early 2019 following completion of audit and other finance related projects.

- C. Test Emergency Preparedness Plan with local groups (school, fire, businesses, County etc...)

**Next Steps:** Staff will develop a schedule for review of the Plan and update the Board at a future meeting.

- D. Provide improved security for BWD computers, facilities including physical improvements and video cameras

**Next Steps:** Staff will develop a Plan and return in December and obtain written estimates if the Board concurs with the Plan

- E. Repair Flood Control Facility

**Next Steps:** Repairs Underway by BWD staff. Alan Aasche has extensive experience in this area and has taken the lead on the repairs.

- F. Receive SWRCB Discharge Permit for WasteWater Treatment Plant

**Current Status/Next Steps:** Staff and Joe C are waiting for any official correspondence on the issuance of a new Discharge Permit for BWD.

- G. Resolve Wastewater Treatment Plant odors in collection system

**Current Status:** With the repairs of the Town Center Sewer manholes, cleanout of the force main, re-installation of the weir and new operating procedures, significant progress has been made in improving system operations and controlling the odor issues. However, there are still times when odors are present.

**Next Steps:** Continue to monitor the situation and work with La Casa del Zorro on their grease handling systems.

- H. Implement BWDs new Fats Oils and Grease Policy including Elementary School

**Current Status:** Roy Martinez has been doing an excellent job implementing the new FOG program and grease collection barrels are now at all Food Service Establishments.

Next Steps: Following a few months of implementation, staff will be recommending some changes to the FOG policy in early 2019. Staff is researching ways in which to enhance the enforcement powers for Roy, if needed.

- I. Evaluate feasibility of well field solar power conversion

**Current Status/Next Steps:** Staff has received a proposal for well field conversion and it will be presented to O and I Committee and report to BWD Board in December

- J. Miscellaneous Projects: Lorch easement, Sunset sewer acceptance and future extension, time card review, monthly staff meetings

**Current Status:** Greg contacted Mrs Lorch and she was satisfied with our proposal of obtaining an appraisal for the Property. Greg also suggested we get a price for both the easement and acquisition of the entire parcel. Kent Smith is preparing an appraisal.

**Next Steps:** Present appraisal to BWD Board in December.

- K. Evaluate Cyber Security at BWD

**Current Status:** Staff has contacted ACWA JPIA and received a proposal from one of their Cyber Security Contractors.

**Next Steps:** Staff and the Risk Committee are evaluating options for further Cyber testing and will return in December with recommendations.

- 4. BUDGET/FINANCE: Manage the financial assets of the District to provide the funds necessary for BWD Operations, Capital, Reserve Funds and Debt Service needs in a transparent manner.

- A. 2017-18 Audit – Interface with auditor, present documents to Board of Directors: Jul - Nov 2018

**Current Status:** Directors Brecht and Ehrlich recently participated in a call with BWD Auditors

**Next Steps:** Respond to Auditor inquiries and support Financial Statement development

- B. Develop new Budget and CIP Review Process

- a. Evaluate existing Budget Format/Process – Revise as needed: Jan - Jun 2019

**Next Steps:** Begin in early 2019

- C. 2018 BWD Bond Financing – Work with Consultants on finalizing \$5.5 M Bond Issue: Jul 2019

Done

Next Steps: Implement Project Accounting System

- D. Miscellaneous Projects: Club Circle Golf Course Reimbursements, Rams Hill Long Term Cooperation Agreement Negotiations, Mesquite Ranch Fee Waiver, Time Card Review, Monthly Staff Meetings

Club Circle reimbursements are continuing. Staff will provide an update at November meeting.

Club Circle Trash: The request to change trash service has been revoked.

Rams Hill LTCA: Staff and Rams Hill representatives are scheduled to talk on 11-7.

Mesquite Ranch: A letter was sent to Doug Wilson

Time Card Review: Time spent on specific activities are now being captures on employee timecards

Staff Meetings: Staff meeting for Cyber and Purchasing Policy training was held and all employees attended. Bi Monthly meetings are being planned for the future.