

Borrego Water District Board of Directors
Special Meeting
October 8, 2024 @ 9:00 A.M.
806 Palm Canyon Drive
Borrego Springs, CA 92004

The Borrego Water District Board of Directors meeting as scheduled will be conducted in person and in an electronic format please note BWD is providing remote attendance options solely as a matter of convenience to the public. BWD will not stop or suspend its in-person public meeting should a technological interruption occur with respect to the GoTo meeting or call-in line listed on the agenda. We encourage members of the public to attend BWD meetings in-person at the address printed on page 1 of this agenda. Anyone who wants to listen to or participate in the meeting remotely is encouraged to observe the GO TO MEETING at:

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I. OPENING PROCEDURES -

- A. Call to Order
- B. Pledge of Allegiance
- C. Directors' Roll Call: President Dice, Vice President Baker, ***Sec/Treas Johnson** and Directors Duncan & Moran.
* **Teleconference available at: 10 Bralorne Crescent York, ON M6S 4R2 Canada**
- D. Approval of Agenda
- E. Comments from the Public & Requests for Future Agenda Items (may be limited to 3 min)
- F. Comments from Directors
- G. Correspondence Received from the Public - None

II. ITEMS FOR BOARD CONSIDERATION AND POSSIBLE ACTION -

- A. Purchase and Sale Agreement with Anza Borrego Foundation for sale 2 parcels: 1. Highway 78 & 2. Clark Dry Lake – G Poole
- B. Borrego Days Update – K Dice/D Johnson/G Poole
- C. Borrego Springs Subbasin Watermaster Board – VERBAL D Duncan/K Dice/T Driscoll
 - 1. Update on Board Activities Including 10-12-24 Agenda Items
 - 2. Update on Technical Advisory Committee Activities

III. BOARD COMMITTEE REPORTS, IF NEEDED

STANDING:

- A. Operations and Infrastructure: Duncan/Baker
- B. Budget and Audit: Dice/Moran
- C. ACWA/JPIA Insurance: Dice/Johnson

AGENDA: October 8, 2024: The Borrego Springs Water District complies with the Americans with Disabilities Act. Persons with special needs should call Geoff Poole, General Manager – 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.

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.

AD HOC:

- A. Prop 68 Implementation: Baker/Johnson
- B. Public Outreach: Dice/Johnson:
- C. Grants: Dice/Johnson
- D. Cyber Security/Risk Management: Baker
- E. Developer's Agreement: Baker/Duncan
- F. Finance: Baker/Moran
- H. Borrego Springs Basin Water Quality: Moran/Johnson
- I. Automated Metering Implementation: Baker/Moran

IV. STAFF REPORTS – VERBAL

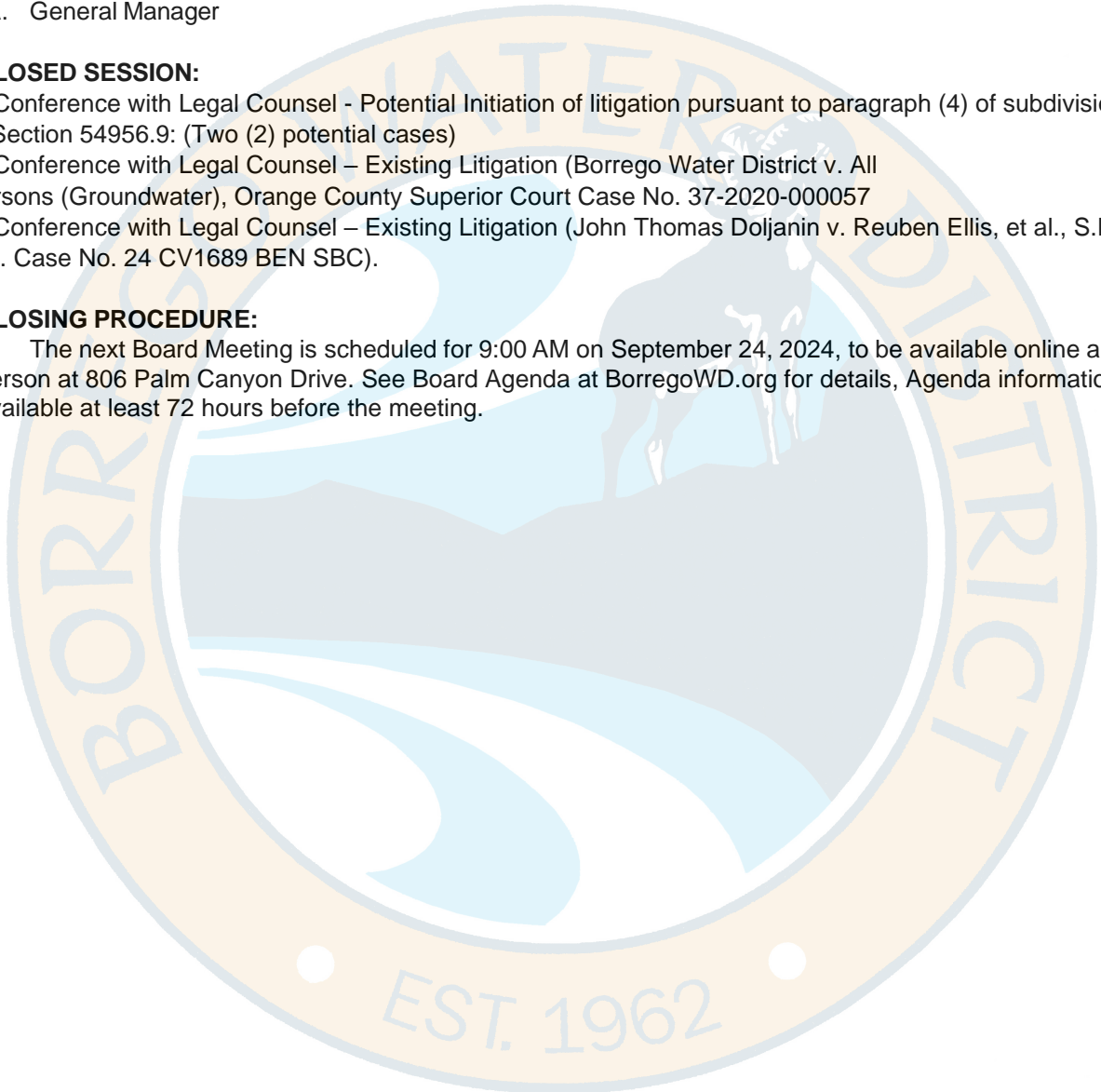
- A. General Manager

V. CLOSED SESSION:

- A. Conference with Legal Counsel - Potential Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (Two (2) potential cases)
- B. Conference with Legal Counsel – Existing Litigation (Borrego Water District v. All Persons (Groundwater), Orange County Superior Court Case No. 37-2020-000057
- C. Conference with Legal Counsel – Existing Litigation (John Thomas Doljanin v. Reuben Ellis, et al., S.D. Cal. Case No. 24 CV1689 BEN SBC).

VI. CLOSING PROCEDURE:

- A. The next Board Meeting is scheduled for 9:00 AM on September 24, 2024, to be available online and in person at 806 Palm Canyon Drive. See Board Agenda at BorregoWD.org for details, Agenda information available at least 72 hours before the meeting.



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BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
OCTOBER 8, 2024
AGENDA ITEM II.A

October 1, 2024

TO: Board of Directors

FROM: Geoffrey Poole, General Manager

SUBJECT: Purchase and Sale Agreement with Anza Borrego Foundation for sale of Highway 78 and Clark Dry Lake parcels– G Poole

RECOMMENDED ACTION:

Approve Purchase and Sale Agreement

ITEM EXPLANATION:

The Anza Borrego Foundation has approached BWD with an interest to purchase two parcels. Attached is the Purchase and Sale Agreement for the transaction.

NEXT STEPS

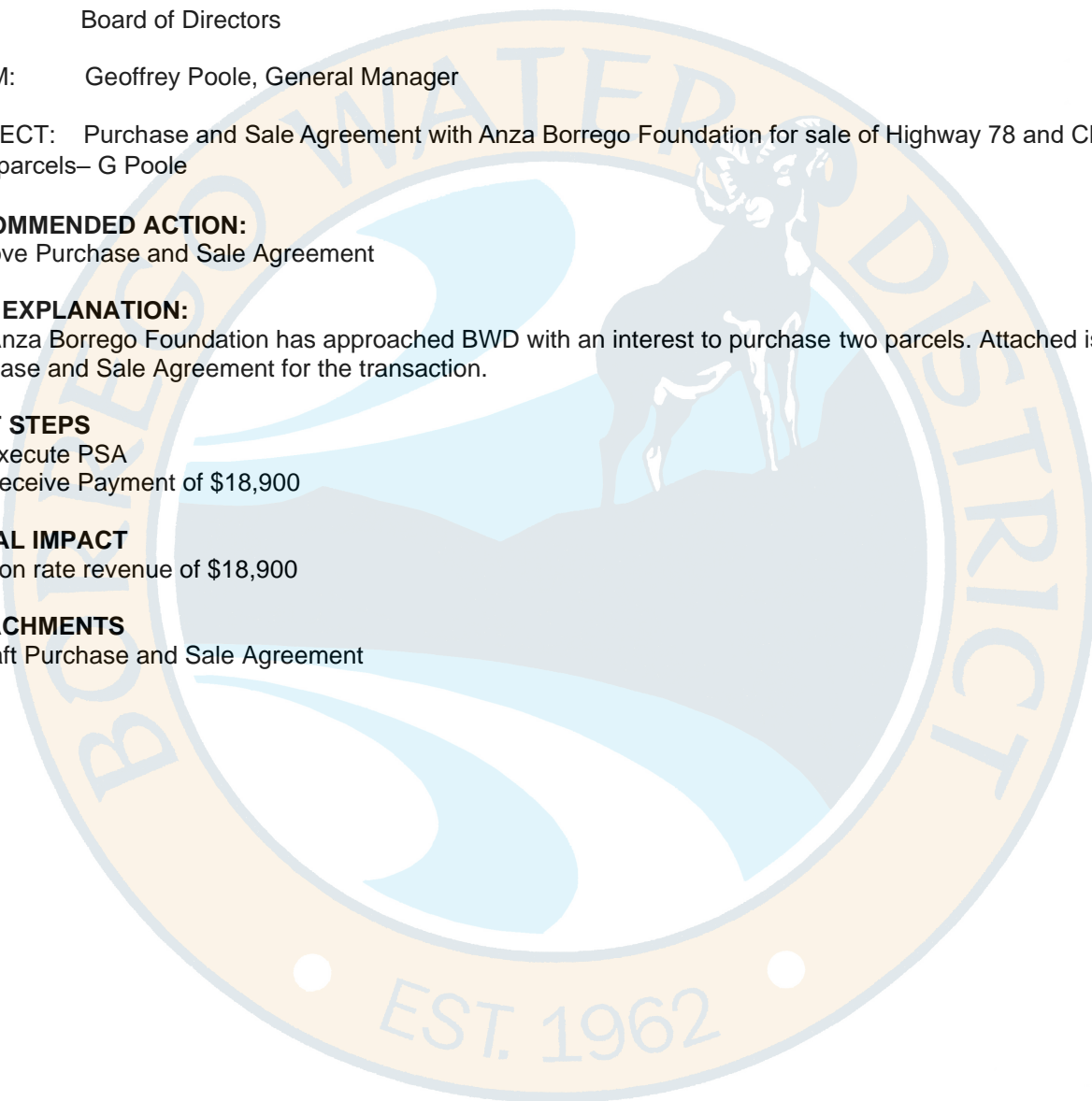
1. Execute PSA
2. Receive Payment of \$18,900

FISCAL IMPACT

1. Non rate revenue of \$18,900

ATTACHMENTS

1. Draft Purchase and Sale Agreement



**Agreement for Purchase and Sale of Real Property
with Escrow Instructions**

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY WITH ESCROW INSTRUCTIONS (“Agreement”) is entered into as of _____, 2024 (the “Effective Date”) between the ANZA-BORREGO FOUNDATION (referred to herein as “Purchaser”), and BORREGO WATER DISTRICT (referred to herein as “Seller”).

Recitals

A. Seller is the owner of approximately 15 acres of real property located in County of San Diego, State of California within the Anza-Borrego Desert State Park, known as Assessor’s Parcel Number 120-020-01 and 252-041-20 (“Real Property”), more particularly described in the Legal Description attached as Exhibit A.

B. Purchaser desires to purchase the Property to augment the wildlife and plant habitat conservation region in the same geographic area, and Seller desires to sell the Property, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the above Recitals, which are incorporated into this Agreement, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Definitions. As used in this Agreement the following terms shall have the following definitions:

“Agreement” is defined in the preamble.

“Approved Exceptions” is defined in Section 9(c).

“Assignment” is defined in Section 15.

“Close of Escrow” is defined in Section 10(d).

“Closing Date” is defined in Section 10(d).

“Deed” is defined in Section 10(b)(i).

“Disapproved Exception” is defined in Section 9(d)

“Effective Date” is defined in the preamble.

“Environmental Laws” means all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance (as defined subsequently in this Agreement), or pertaining to occupational health or industrial hygiene (and only to the extent that the occupational health or industrial

hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under, or about the Property), occupational or environmental conditions on, under, or about the Property, as now in effect, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C.A. §§ 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 (RCRA) and the Solid Waste Disposal Act [42 U.S.C.A. §§ 6901 et seq.]; the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) [33 U.S.C.A. §§ 1251 et seq.]; the Toxic Substances Control Act (TSCA) [15 U.S.C.A. §§ 2601 et seq.]; the Hazardous Materials Transportation Act (HMTA) [49 U.S.C.A. §§ 5101 et seq.]; the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) [7 U.S.C.A. §§ 136 et seq.]; the Clean Air Act (CAA) [42 U.S.C.A. §§ 7401 et seq.]; the Safe Drinking Water Act (SDWA) [42 U.S.C.A. §§ 300f et seq.]; the Surface Mining Control and Reclamation Act of 1977 (SMCRA) [30 U.S.C.A. §§ 1201 et seq.]; the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA or EPCRTKA) [42 U.S.C.A. §§ 11001 et seq.]; the Occupational Safety and Health Act of 1970 (OSHA) [29 U.S.C.A. §§ 651 et seq.]; the California laws regarding the underground storage of hazardous substances [H & S C §§ 25280 et seq.]; the Hazardous Substance Account Act [H & S C §§ 25300 et seq.]; the California laws regarding hazardous waste control [H & S C §§ 25100 et seq.]; the Safe Drinking Water and Toxic Enforcement Act of 1986 [H & S C §§ 25249.5 et seq.]; the Porter-Cologne Water Quality Control Act [Wat C §§ 13000 et seq.], and any amendments of or regulations promulgated under the statutes cited above and any other federal, state, or local law, statute, ordinance, or regulation now in effect that pertains to occupational health or industrial hygiene, and only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under, or about the Property, or the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use.

“EPA” is defined in Section (b) in the definition for “Hazardous Substances.”

“Escrow” is defined in Section 4.

“Escrow Agent” is defined in Section 4.

“Exception” is defined in Section 9(c).

“Existing Adverse Condition” is defined in Section 8(a).

“Feasibility Period” is defined in Section 5(a).

“FIRPTA Affidavit” is defined in Section 10(b)(ii).

“Hazardous Substances” includes without limitation:

(a) Those substances included within the definitions of “hazardous substance,” “hazardous waste,” “hazardous material,” “toxic substance,” “solid waste,” or “pollutant or contaminant” in CERCLA, RCRA, TSCA, HMTA, or under any other Environmental Law;

(b) Those substances listed in the United States Department of Transportation (DOT) Table [49 CFR 172.101], or by the Environmental Protection Agency (EPA), or any successor agency, as hazardous substances [40 CFR Part 302];

(c) Other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and

(d) Any material, waste, or substance that is:

(i) a petroleum or refined petroleum product,

(ii) asbestos,

(iii) polychlorinated biphenyl,

(iv) designated as a hazardous substance pursuant to 33 U.S.C.A. § 1321 or listed pursuant to 33 U.S.C.A. § 1317,

(v) a flammable explosive, or

(vi) a radioactive material.

“Laws” shall mean all federal, state and local laws, codes, ordinances and regulations, excluding Environmental Laws.

“Monetary Liens” is defined in Section 9(c).

“Preliminary Report” is defined in Section 9(a).

“Prevailing Party” is defined in Section 16.

“Property” means collectively the Real Property, all improvements presently or hereafter existing on the Real Property, all water rights, all mineral rights, all plans and specifications relating to the present or planned construction of improvements on the Real Property, including all governmental permits or licenses, utility contracts, service contracts, maintenance contracts, operating contracts, or other intangible property (if any) now or in the future owned by Seller in connection with the development, operation, or ownership of the Property or other rights relating to the ownership, use, or operation of the Property, including all materials purchased by Seller for use on the Property or in the construction of improvements on the Property, and all of Seller’s rights in and to any fees paid to any governmental agency or utility.

“Purchase Price” is defined in Section 3.

“Purchaser” is defined in the preamble.

“Seller” is defined in the preamble.

“Title Policy” is defined in Section 10(a).

“Withholding Affidavit” is defined in Section 10(b)(iii).

2. Purchase and Sale. Seller agrees to sell and Purchaser agrees to purchase the Property subject to the terms and conditions in this Agreement.

3. Purchase Price. The purchase price for the Property shall be EIGHTEEN THOUSAND NINE HUNDRED AND NO/100’s DOLLARS (\$18,900.00) (“Purchase Price”). On or before the Closing Date, Purchaser shall deposit with Escrow Agent the full amount of the Purchase Price incash or in immediately available funds.

4. Escrow. By this Agreement, Purchaser and Seller establish an escrow (“Escrow”) with a reputable title company chosen by Purchaser (the “Escrow Agent”), subject to the provisions of the standard conditions for acceptance of escrow and the terms and conditions in this Agreement, with a signed counterpart of this document to be delivered as escrow instructions to Escrow Agent. In the event of any conflict between the terms of this Agreement and the standard conditions for acceptance of escrow, the terms of this Agreement shall control. Purchaser’s agent for matters related to the Closing of Escrow shall either be Purchaser’s staff or Best Best & Krieger, Purchaser’s General Counsel.

5. Feasibility Period.

(a) During the period commencing on the date of this Agreement and terminating on a date which is sixty (60) days from the date of this Agreement (“Feasibility Period”), Purchaser may undertake at Purchaser’s expense an inspection of the Property. Said inspection may include: (i) a review of the physical condition of the Property, including but not limited to, inspection and examination of soils, environmental factors, Hazardous Substances, if any, and archeological information relating to the Property; and (ii) a review and investigation of the effect of any zoning, maps, permits, reports, engineering data, regulations, ordinances, and laws affecting the Property. Within ten (10) days following the full execution of this Agreement by both parties, Seller shall deliver to Purchaser copies of all surveys and other documents pertaining to the physical or environmental condition of the Property that are owned by or in the possession of Seller.

(b) If Purchaser’s environmental consultant requires additional time to determine the existence and extent of any Hazardous Substances on the Property, Purchaser shall have the right, exercisable by delivering written notice to Seller prior to the expiration of the Feasibility Period, to extend the Feasibility Period for up to an additional sixty (60) days to complete the testing.

(c) If Purchaser disapproves of the results of the inspection and review or the results of any Phase I Environmental Report, Purchaser may elect, prior to the last day of the Feasibility Period (or any extension thereof), to terminate this Agreement by giving Seller written notification prior to the last day of the Feasibility Period (or any extension thereof). If Purchaser fails to properly notify Seller of the intent to terminate this Agreement, Purchaser shall be deemed to be satisfied with the results of the inspection and shall be deemed to have waived the right to terminate this Agreement pursuant to this provision.

6. Conditions to Purchaser's Performance. Purchaser's obligation to perform under this Agreement is subject to the following conditions:

- (a) Purchaser's approval of the condition of the Property as provided in Section 5.
- (b) Seller's representations and warranties in this Agreement being correct as of the date of this Agreement and as of the Close of Escrow;
- (c) No adverse material change shall have occurred with respect to the condition of the Property from the end of the Feasibility Period through the Closing Date;
- (d) Seller's performance of all obligations under this Agreement;
- (e) Escrow Agent being prepared to issue the Title Policy on the Close of Escrow, subject only to the Approved Exceptions; and

7. Conditions to Seller's Performance. Seller's obligation to perform under this Agreement is subject to Purchaser's performance of all of the obligations which it is required to perform pursuant to this Agreement.

8. Access.

(a) Access to the Property during the Feasibility Period shall be given to Purchaser, its agents, employees, or contractors during normal business hours upon at least one (1) business days' notice to Seller, at Purchaser's own cost and risk, for any purposes, including, but not limited to, inspecting the Property, taking samples of the soil, and conducting an environmental audit (including an investigation of past and current uses of the Property). Purchaser shall indemnify and defend Seller against and hold Seller harmless from all losses, costs, damages, liabilities, and expenses, including, without limitation, reasonable attorney fees arising out of Purchaser's entry onto the Property or any activity thereon by Purchaser or its agents, employees, or contractors prior to the Close of Escrow except to the extent any such losses, costs, damages, liabilities, and expenses arise out of the gross negligence or willful acts of Seller. Any entry onto the Property by Purchaser or its agents, employees, or contractors shall be at reasonable times. The provisions of this Section shall survive the Close of Escrow. Notwithstanding anything herein to the contrary, Purchaser and Seller agree that Purchaser shall not incur any liability hereunder merely by the discovery of an "Existing Adverse Condition" (as defined below) regardless of whether such Existing Adverse Condition, once revealed, negatively impacts the value of the Property or otherwise causes Seller to incur liabilities, costs or expenses. The term "Existing Adverse Condition" shall mean an adverse condition existing on or with respect to the Property that is discovered or revealed by Purchaser in the course of its Property inspection hereunder.

(b) In addition to the provisions of Section 8(a), Purchaser and its agents, employees, or contractors shall have the right, from the date of this Agreement until the Closing Date, to contact any federal, state, or local governmental authority or agency to investigate any matters relating to the Property. Seller agrees to cooperate reasonably with Purchaser and its agents, employees, or contractors in the inspection of the Property and agrees to deliver to Purchaser all information in Seller's possession or control pertaining to the condition of the

Property, including engineering and environmental reports, studies, tests, monitoring results, and related documentation.

9. Title.

(a) Within ten (10) days following the execution of this Agreement by both parties, Purchaser shall cause Escrow Agent to issue to Purchaser (with a copy to Seller) a preliminary report for an ALTA Standard Policy of Title Insurance for the Property, setting forth all liens, encumbrances, easements, restrictions, conditions, pending litigation, judgments, administrative proceedings, and other matters of record affecting Seller's title to the Property ("Preliminary Report"), together with copies of all documents relating to title exceptions referred to in the Preliminary Report.

(b) Seller agrees to deliver to Purchaser, promptly following the full execution and delivery of this Agreement, copies of any survey of the Property in the possession of Seller.

(c) Purchaser shall approve or disapprove, in writing to Seller with a copy to Escrow Agent, each exception shown on the Preliminary Report and each encroachment, overlap, or boundary line dispute, or any other matter that materially and adversely affects title to the Property or that violates any law, rule, or regulation (each an "Exception") within thirty (30) days following the receipt of the Preliminary Report or the execution of this Agreement, whichever is later ("Review Period"). Purchaser's failure to approve or disapprove within the Review Period shall be deemed to be a disapproval of the Exceptions. The Exceptions approved by Purchaser hereunder shall be referred to as the "Approved Exceptions." All monetary liens or monetary encumbrances on the Property except for liens for general and special taxes and assessments not yet due and payable (collectively, "Monetary Liens") are disapproved and Seller shall eliminate the same prior to or upon the Closing Date.

(d) If any Exception is disapproved or deemed disapproved (each a "Disapproved Exception"), Seller shall have the right, but not the obligation, within thirty (30) days following expiration of the Review Period, to cause each Disapproved Exception to be discharged, satisfied, released, or terminated, as the case may be, of record, and in a form that is reasonably satisfactory to Purchaser and Escrow Agent, all at Seller's sole cost and expense. Seller authorizes Escrow Agent to disburse from the cash portion of the Purchase Price and proceeds otherwise disbursable to Seller upon Closing the sum sufficient to discharge any Disapproved Exception that may be discharged only by the payment of money. If Seller is unable or unwilling to obtain a discharge, satisfaction, release, or termination of any Disapproved Exception within the period specified above, then this Agreement shall automatically terminate ten (10) business days after expiration of the thirty day period for curing the Disapproved Exceptions or after Seller advises Purchaser in writing that Seller is unable or unwilling to cause such discharge, satisfaction, release, or termination, whichever occurs first, unless within such ten business day period, Purchaser waives in writing such Disapproved Exception, in which event such Disapproved Exception shall be deemed an Approved Exception under this Agreement. If this Agreement terminates pursuant to the foregoing sentence, then Seller shall pay all charges of the Escrow Agent in connection with this transaction, including the charges of the surveyor and environmental engineering company, the parties shall be relieved of all further obligations and liabilities to each other under this Agreement except as otherwise provided herein, and all funds and documents

deposited with Escrow Agent shall be promptly refunded or returned, as the case may be, by Escrow Agent to the depositing party. Anything above to the contrary notwithstanding, it is understood and agreed that Purchaser's indemnity obligations under Section 8 shall not terminate upon termination of this Agreement pursuant to this or any other provision hereof.

10. Close of Escrow.

(a) Title. Simultaneously with the Close of Escrow, Escrow Agent shall issue an ALTA Standard Policy of Title Insurance (formerly referred to as a CLTA Title Policy) ("Title Policy") in the amount of the Purchase Price, subject only to Approved Exceptions.

(b) Seller's Deposits into Escrow. Seller shall deposit with Escrow Agent on or prior to the Close of Escrow the following documents:

(i) a grant deed in the form attached hereto as Exhibit "B" executed and acknowledged by Seller, conveying to Purchaser good and marketable fee simple title to the Property, subject only to the Approved Exceptions ("Deed");

(ii) Seller's affidavit of nonforeign status as contemplated by Section 1445 of the Internal Revenue Code of 1986, as amended ("FIRPTA Affidavit");

(iii) California Franchise Tax Board Form 593-C regarding the withholding of California taxes on the sale of California real estate ("Withholding Affidavit");

(iv) Seller's approval of the draft of Escrow Agent's closing statement.

(c) Purchaser's Deposits into Escrow. Purchaser shall deposit with Escrow Agent, on or prior to the Close of Escrow, the balance of the Purchase Price in accordance with Section 3, the Certificate of Acceptance for the Grant Deed, and Purchaser's approval of the draft of Escrow Agent's closing statement.

(d) Closing Date. The conveyance of the Property to Purchaser and the closing of this transaction ("Close of Escrow") shall take place within five (5) business days of the satisfaction of the conditions set forth in Section 6 and Section 7, provided, however, that in no event shall the Close of Escrow occur later than one hundred twenty (120) days following the execution of this Agreement ("Closing Date"), except as otherwise agreed by Purchaser and Seller in writing or unless the Feasibility Period shall have been extended, in which case the Closing Date shall be similarly extended. Either Purchaser or Seller shall have the right to terminate Escrow and this Agreement if the conditions set forth in Section 6 (for Purchaser) or Section 7 (for Seller) have not been satisfied as of the Closing Date.

(e) Closing Statement. No more than two days prior to the Closing Date, Escrow Agent shall deliver to Purchaser and to Seller, for their respective approvals, drafts of Escrow Agent's closing statement showing all receipts and disbursements of the Escrow.

(f) Closing Instructions. On the Closing Date (or any extension thereof), Escrow Agent shall close Escrow as follows:

(i) record the Deed (marked for return to Purchaser) with the San Diego County Recorder;

(ii) issue the Title Policy;

(iii) prorate taxes, assessments, rents, and other charges as provided in Section 10(g);

(iv) disburse to Seller the Purchase Price less prorated amounts and charges to be paid by, retained for, or on behalf of Seller;

(v) charge Purchaser for those costs and expenses to be paid by Purchaser pursuant to this Agreement and disburse any net funds remaining after the preceding disbursements to Purchaser;

(vi) prepare and deliver to both Purchaser and Seller one signed copy of Escrow Agent's closing statement showing all receipts and disbursements of the Escrow;

(vii) deliver to Purchaser an Assignment (if any), the FIRPTA Affidavit, and the Withholding Affidavit and withhold from the Purchase Price a sufficient amount necessary to comply with any federal or State withholding requirements.

If Escrow Agent is unable to simultaneously perform all of the instructions set forth above, Escrow Agent shall notify Purchaser and Seller and retain all funds and documents pending receipt of further instructions jointly issued by Purchaser and Seller. It is mutually further agreed by and between Purchaser and Seller that if all, and each and every one, of the terms and conditions of this Purchase Agreement are not met within their respective specified time periods, then the Purchaser's deposit, if any, shall be immediately returned to Purchaser, this Purchase Agreement and the Escrow shall terminate and neither party shall have any further rights or obligations to the other party, and the Escrow shall be cancelled, unless extended in writing by both Purchaser and Seller.

(g) Cost Allocations. Escrow Agent shall allocate the following costs at the Close of Escrow:

(i) Purchaser shall pay:

(A) the recording charges in connection with recordation of the Deed; provided, however, that this Deed is entitled to be recorded without a fee pursuant to Government Code Section 27383 because the Deed is for the benefit of a public agency;

(B) all governmental conveyancing fees and taxes due upon transfer of the Property, provided, however, that no documentary transfer tax will be payable with respect to this transaction, pursuant to Revenue and Taxation Code Section 11922;

(C) all charges in connection with issuance of a ALTA Standard Policy of Title Insurance in the amount of the Purchase Price; and

(D) the escrow fee charged by Escrow Agent.

(h) Possession. Possession of the Property shall be delivered to Purchaser at the Close of Escrow.

11. Seller's Representations and Warranties. To Seller's actual knowledge, Seller represents and warrants to Purchaser that as of the date of this Agreement and as of the Close of Escrow:

(a) Hazardous Substances. The Property: (i) is free from Hazardous Substances; (ii) contains no buried or partially buried storage tanks located on the Property; (iii) has not been used for the generation, storage or disposal of any Hazardous Substance and no Hazardous Substance has been spilled, disposed of, or stored on, under, or at the Property; and (iv) has never been used as a dump or landfill;

(b) Compliance with Law. The Property is in material compliance with all applicable Laws and Environmental Laws;

(c) Leases. No recorded or unrecorded leases, licenses, or other agreements allowing any third party rights to use or rights of possession in the Property are or will be in force as of the Closing;

(d) Litigation and Investigations. There is no pending or threatened litigation, administrative proceeding, or other legal or governmental action with respect to the Property, and Seller has received no notice, warning, administrative complaint, judicial complaint, or other formal or informal notice alleging that conditions on the Property are or have been in violation of any Laws or Environmental Laws, or informing Seller that the Property is subject to investigation or inquiry regarding the violation of any Laws or Environmental Laws.

(e) Condition of Property. There are no natural or artificial conditions upon the Property or any part of the Property that could result in a material and adverse change in the condition of the Property;

(f) Access to the Property. There is vehicular access to the Property either directly through a public right of way or through a recorded easement; and

(g) No Insolvency Proceedings. Seller has not (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by its creditors; (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets; (iv) suffered the attachment or other judicial seizure of substantially all of its assets; or (v) admitted in writing its inability to pay its debts as they come due.

(h) No Other Agreements, Undertakings or Tenancies. Seller will not enter into any agreements or undertake any new obligations prior to Close of Escrow which will in any way burden, encumber or otherwise affect the Property without the prior written consent of Purchaser.

(i) Disclosure. Seller has disclosed to Purchaser all information, records, and studies in Seller's possession in connection with the Property, including any reports or studies concerning Hazardous Substances. All information that Seller has delivered to Purchaser, either directly or through Seller's agents, is accurate and Seller has disclosed all material facts concerning the operation, development, or condition of the Property.

Seller shall promptly notify Purchaser of any facts that would cause any of the representations contained in this Agreement to be untrue as of the Close of Escrow. If Purchaser reasonably concludes that a fact materially and adversely affects the Property, Purchaser shall have the option to terminate this Agreement by delivering written notice to Seller and Escrow Agent. If Purchaser terminates this Agreement pursuant to this Section, Escrow Agent shall cancel the Escrow and Seller shall be responsible for all costs of escrow. For the purposes of this Section 11, "Seller's actual knowledge" means Geoff Poole's actual, current knowledge without any representation or warranty regarding investigation or inquiry completed by Geoff Poole.

12. Seller's Covenants. Commencing with the full execution of this Agreement by both parties and until the Close of Escrow:

(a) Seller shall not permit any liens, encumbrances, or easements to be placed on the Property, other than the Approved Exceptions, nor shall Seller enter into any agreement regarding the sale, rental, management, repair, improvement, or any other matter affecting the Property that would be binding on Purchaser or the Property after the Close of Escrow without the prior written consent of Purchaser.

(b) Seller shall not permit any act of waste or act that would tend to diminish the value of the Property for any reason, except that caused by ordinary wear and tear.

13. Authority of Parties.

(a) Seller warrants that this Agreement and all other documents delivered prior to or at the Close of Escrow have been authorized, executed, and delivered by Seller; (i) are binding obligations of Seller; and (ii) are collectively sufficient to transfer all of Seller's rights to the Property and do not violate the provisions of any agreement to which Seller is a party or which affects the Property. If Seller is a corporation, partnership, limited partnership, limited liability company, trust or other legal entity, then Seller further represents that Seller is duly formed and validly existing and in good standing under the laws of the jurisdiction set forth in the first paragraph of this Agreement. If said jurisdiction is other than California, then Seller warrants that to the extent required by applicable law, Seller is registered to do business and is in good standing in the state of California.

(b) Purchaser warrants that this Agreement and all other documents delivered prior to or on the Close of Escrow have been authorized, executed, and delivered by Purchaser; and are binding obligations of Purchaser.

(c) The parties warrant that the persons executing this Agreement on their behalf are authorized to do so, and on execution of this Agreement, this Agreement shall be valid and enforceable against Purchaser or Seller in accordance with this Agreement.

14. Brokers. Each party shall be solely responsible for the fees or commissions of any broker that has been retained or consulted by such party in connection with this transaction. Each party agrees to defend, indemnify, and hold harmless the other party from any claims, expenses, costs, or liabilities arising in connection with a claim by a broker for any such fees or commissions.

15. Assignment. Purchaser shall have the right to assign all rights and liabilities under this Agreement to any party or governmental agency.

16. Attorney Fees. In any action to enforce the terms of this Agreement, the Prevailing Party shall be entitled to recover from the nonprevailing party all reasonable attorneys' fees and costs. "Prevailing Party" shall include without limitation a party who dismisses an action in exchange for sums allegedly due; the party who receives performance from the other party for an alleged breach of contract or a desired remedy where the performance is substantially equal to the relief sought in an action; or the party determined to be the prevailing party by a court of law.

17. Notices. As used in this Agreement, notice includes but is not limited to, the communication of any notice, request, demand, approval, statement, report, acceptance, consent, waiver and appointment. All notices must be in writing. Notice is given either (i) when delivered in person to the person or company intended named below, or (ii) when sent via reputable overnight courier (such as Federal Express), addressed by name and addressed to the party or persons intended, as follows:

To Anza-Borrego Foundation: Anza-Borrego Foundation
PO Box 2001
Borrego Springs, CA 92004
Attention: Executive Director

With copy to: Best Best & Krieger LLP
3390 University Avenue, 5th Floor
Riverside, CA 92501
Phone: (951) 826-8279
Attention: Steve Anderson

To Seller: Borrego Water District
806 Palm Canyon Drive
Borrego Springs, CA 92004
Attention: General Manager

until such time as a party gives notice of the change of address in accordance with the terms of this section.

18. Entire Agreement. This Agreement and the documents referenced herein contain the entire agreement between the parties to this Agreement and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

19. Severability. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

20. Waivers. A waiver or breach of covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act.

21. Construction. The Section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The Section headings, captions, and arrangement of this instrument do not in any way affect, limit, amplify, or modify the terms and provisions of this Agreement. The singular form shall include plural, and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. Unless otherwise indicated, all references to Sections are to this Agreement. All exhibits referred to in this Agreement are attached to it and incorporated in it by this reference.

22. Merger. All of the terms, provisions, representations, warranties, and covenants of the parties under this Agreement shall survive the Close of Escrow and shall not be merged in the Deed or other documents.

23. Counterparts. This Agreement may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

24. No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties hereto, to any person or entity other than the parties hereto.

25. Amendment to this Agreement. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

26. Time of the Essence. Time is of the essence in this Agreement.

27. Successors. This Agreement shall inure to the benefit of and shall be binding upon the parties to this Agreement and their respective heirs, successors, and assigns.

28. Governing Law and Venue. This Agreement and any dispute arising hereunder shall be governed by California law. Each party hereby consents to the exclusive jurisdiction of the state and federal courts sitting in the County of San Diego, State of California, in any action on a claim arising out of, under or in connection with this Agreement or the transactions contemplated by this Agreement. SELLER HEREBY ACKNOWLEDGES THAT THE FOREGOING VENUE PROVISIONS HAVE BEEN CHOSEN AS THE APPROPRIATE AND CONVENIENT FORUM FOR ANY SUCH ACTION AND WAIVES ANY RIGHT TO OBJECT TO JURISDICTION ON THE BASIS OF LACK OF PERSONAL JURISDICTION OR FORUM NON CONVENIENS. The Parties hereby consent to service of process via mail or overnight courier to the address specified in Section 17 or by any other method permitted under California law.

29. Survival. All representations, warranties, covenants and indemnity obligations of the parties shall survive the Closing of this Agreement.

30. Cooperation. Seller understands that Purchaser may seek from third party governmental agencies funding to reimburse Purchaser in whole or in part for the Purchase Price of the Property. Seller agrees to reasonably cooperate to assist Purchaser during the process to seek such funding and to provide such documentation as reasonably necessary to assist Purchaser in applying for such funding.

IN WITNESS WHEREOF, Purchaser and Seller have executed this Agreement to be effective on and as of the Effective Date set forth in the preamble to this Agreement.

<p>PURCHASER:</p> <p>ANZA-BORREGO FOUNDATION, a California non-profit corporation</p> <p>By: _____ Brianna Fordem Executive Director</p>	<p>SELLER:</p> <p>BORREGO WATER DISTRICT, a California special district</p> <p>_____</p> <p>Kathy Lee Dice, President Board of Directors</p>
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EXHIBIT A
LEGAL DESCRIPTION

**EXHIBIT B
(GRANT DEED)**

RECORDED AT REQUEST OF AND
RETURN TO:

Borrego Water District
806 Palm Canyon Drive
Borrego Springs, CA 92004
Attn: General Manager

FREE RECORDING

This instrument is for the benefit of the
Borrego Water District, and is entitled to be
recorded without fee. (Govt. Code 27383)

(Space above this line reserved for Recorder's use)

GRANT DEED

APN: 120-020-01 AND 252-041-20

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
BORREGO WATER DISTRICT, herein called "Grantor", hereby GRANTS to ANZA-
BORREGO FOUNDATION, a California non-profit 501(c)(3) corporation ("Grantee"), the real
property in the County of San Diego, State of California, described as:

See Exhibit "A" attached hereto and made a part hereof

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of the ___th day of
_____, 2024.

BORREGO WATER DISTRICT, a
California special district

Kathy Lee Dice, President
Board of Directors

ATTACH NOTARY ACKNOWLEDGEMENT

CERTIFICATE OF ACCEPTANCE

This is to certify that the real property conveyed by BORREGO WATER DISTRICT, on the Grant Deed dated _____, 2024 to the **ANZA-BORREGO FOUNDATION** (Grantee), is hereby accepted by the undersigned officer on behalf of the Grantee, pursuant to authority conferred by the Board of Directors, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2024

GRANTEE:

ANZA-BORREGO FOUNDATION, a non-profit
501(c)(3) corporation

By: _____
Brianna Fordem, Executive Director

BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
OCTOBER 8, 2024
AGENDA ITEM II.B

October 1, 2024

TO: Board of Directors

FROM: Geoffrey Poole, General Manager

SUBJECT: Borrego Days Update – K Dice/D Johnson/G Poole

RECOMMENDED ACTION:

Receive Update

ITEM EXPLANATION:

Staff and the Outreach Committee will update the Board on the latest plans for Borrego Days 24.

NEXT STEPS

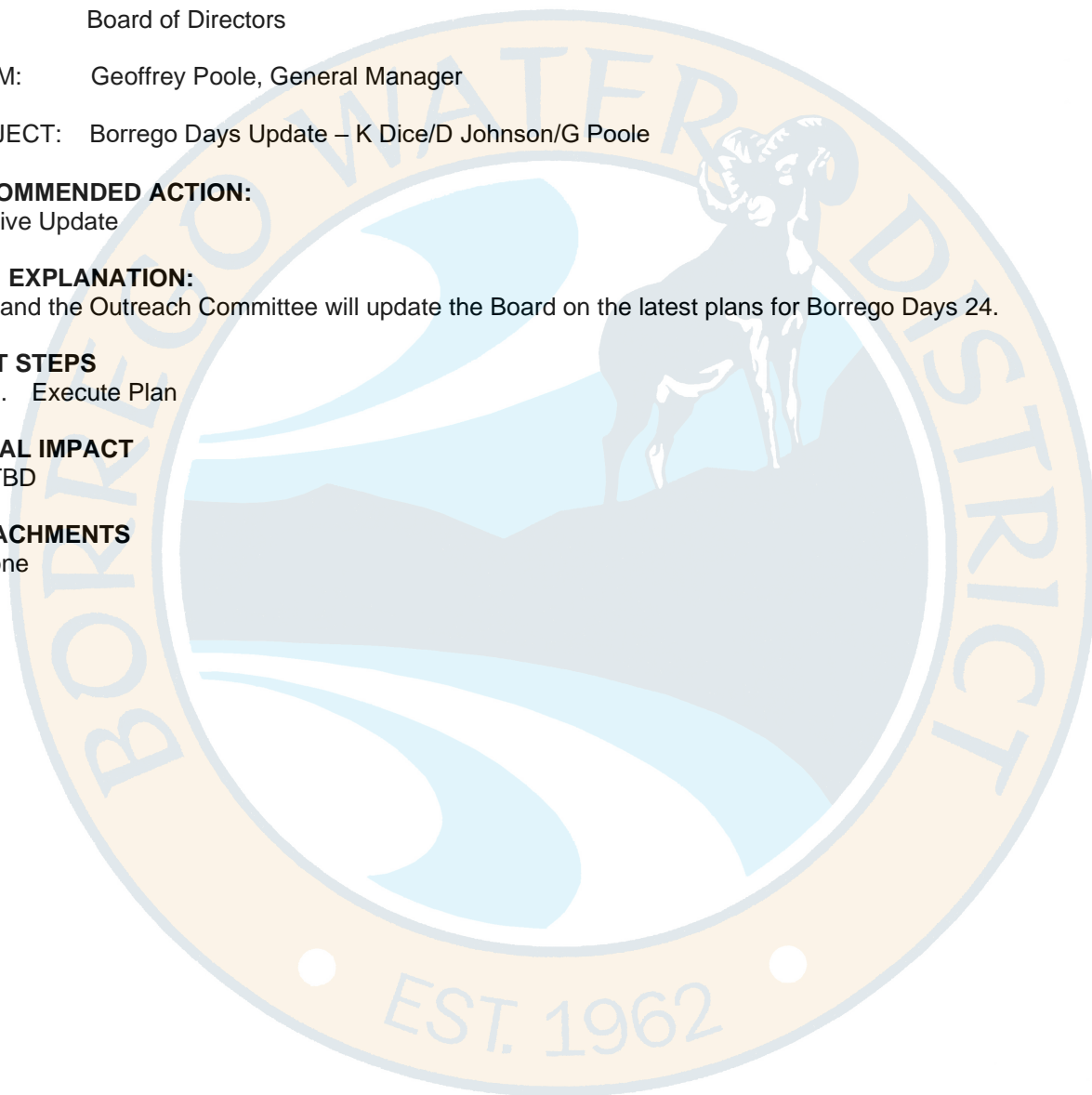
1. Execute Plan

FISCAL IMPACT

1. TBD

ATTACHMENTS

1. None



BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
OCTOBER 8, 2024
AGENDA ITEM II.BC

October 1, 2024

TO: Board of Directors

FROM: Geoffrey Poole, General Manager

SUBJECT: Borrego Springs Subbasin Watermaster Board – VERBAL D Duncan/K Dice/T Driscoll

1. Update on Board Activities Including 10-10-24 Agenda Items
2. Update on Technical Advisory Committee Activities

RECOMMENDED ACTION:

Discuss upcoming Watermaster related activities

ITEM EXPLANATION:

BWD Representatives from the Watermaster and TAC will provide a review of recent events and an update on upcoming meetings including a review of the Agenda for October 10.

NEXT STEPS

1. TBD

FISCAL IMPACT

1. TBD

ATTACHMENTS

1. None

