

**Borrego Water District
Board of Directors Regular Meeting
October 24, 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: September 18, 2018
 - 2. Regular Meeting Minutes: September 26, 2018
- 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

- 1. Bid Documents for Phase One of BWD Pipeline Replacement Program: Frying Pan and Double O – G Poole
- 2. Well Replacement #2 Site Selection – G Poole
- 3. Amended contract with The Rick Alexander Company for continued Grant Assistance – R Alexander
- 4. Open new Bank Accounts and Signature Cards at Community Valley Bank – K Pittman
- 5. Proposition 3 Schedules – L Brecht/G Poole
- 6. November and December BWD Board Meeting Schedule – G Poole
- 7. Update Conflict of Interest Code – G Poole

B. BORREGO SPRINGS SUB BASIN GROUNDWATER SUSTAINABILTY

- 1. Fallowing Standards Review – All

III. INFORMATIONAL ITEMS

- A. Comprehensive solar RFP – J. Tatusko

IV. STANDING AND AD-HOC BOARD COMMITTEE REPORTS

A. STANDING:

- 1. Operations and Infrastructure – Delahay & Tatusko

B. AD-HOC:

- 1. GSP Preparation - Brecht
- 2. 2017-18 Audit – Brecht & Ehrlich
- 3. Rams Hill Operating Agreement
- 4. Risk – Ehrlich & Tatusko

AGENDA: October 16, 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.

- V. STAFF REPORT
 - A. Water and Wastewater Operations Report: August 2018
 - B. Water Production/Use Records: August 2018
 - C. General Manager
- 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)
 - B. CLOSED SESSION: 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).
- VII. CLOSING PROCEDURE
 - A. Suggested Items for Next/Future Agenda
 - B. The next Meeting of the Board of Directors is scheduled for November 28, 2018, at the Borrego Water District

AGENDA: October 24, 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.

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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.

3. Contract for Construction Management Services on BWD CIP Pipeline Projects by Dynamic Engineering. Director Ehrlich thought the total contract should be for \$294,300. Mr. Poole agreed to double check. ***MSC: Brecht/Delahay approving the contract for construction management services on BWD CIP pipeline projects by Dynamic Engineering, subject to confirmation of the correct dollar amount.***

4. Results of Well Siting Study for BWD Replacement Well. Mr. Poole reported that Dudek had completed the well siting study, funded by a Proposition 1 grant. Trey Driscoll explained that he evaluated all District and County-owned sites for potential extraction wells. He updated the distribution system model and evaluated existing wells for pump efficiency and estimated remaining useful life. Aquifer thickness was considered, concentrating on the middle and lower aquifers, as well as water quality. The South Management Area was eliminated due to aquifer saturation and water quality. He also looked at potential interference from nearby existing wells, which could increase pumping costs, as well as proximity to the distribution system. After considering all these factors, Mr. Driscoll developed a well location ranking matrix. Approximately 50 sites were evaluated, then narrowed down to four. The first choice is Well 4 in ID 4, which needs to be replaced anyway. There is existing infrastructure. The second choice would be near the airport, but he recommended a test well to determine water quality. The District needs to replace two or three wells in the next three to five years. Director Brecht requested a written report for the next meeting.

5. Authorize staff to develop Contract for Construction Management Services for ID 4-4 Well Replacement. ***MSC: Tatusko/Ehrlich authorizing staff to prepare a contract with Dudek for the ID 4-4 Well replacement construction management.*** Mr. Poole will bring the contract to the next meeting.

6. Response to Sun GSP question. Director Brecht reported that the *Borrego Sun* had written to the BWD Board and the Core Team on July 12, asking whether water rates were being considered in GSP planning. His draft response from BWD was included in the Board package, and had been reviewed by President Hart and legal counsel. He pointed out that SGMA requires the overdraft to be addressed, and someone has to pay for it. The *Sun's* letter also questioned whether 20 years was an appropriate reduction period, and Director Brecht pointed out that 20 years is the maximum according to the legislation. Director Brecht's draft response pointed out that rather than arbitrarily selecting a different reduction period, alternatives were being carefully considered. Cathy Milkey asked what the District was doing to insure they have looked at different modeling scenarios, and Director Brecht replied that they have retained a hydrologist under the SDAC grant to look at those issues and associated risk factors. He asked that further comments and questions be submitted in advance of the next meeting for discussion.

B. GSA – BORREGO SUB BASIN GROUNDWATER SUSTAINABILITY PLAN:

1. Acceptance of Letter of Resignation from Dave Duncan and consideration of Groundwater Sustainability Plan (GSP) Advisory Committee BWD Ratepayer Representative Selection Process. Mr. Poole reported that President Hart and Director Brecht have begun advertising for the vacancy on the GSP Advisory Committee due to Mr. Duncan's election to the Board. The response deadline is September 20. So far there is one applicant, Gary Haldeman. The candidate(s) will be interviewed and a recommendation made to the Board next week. Director Brecht asked that Mr. Duncan's letter of resignation and any applicants for his position on the AC be included in the next Board package. ***MSC: Ehrlich/Brecht accepting Mr. Duncan's resignation from the AC and appointing President Hart and Director Tatusko as an ad hoc committee to interview candidates if necessary and bring back a recommendation to the Board at its next meeting.***

2. Appointment of Dave Duncan as member of BWD GSP Core Team to replace Beth Hart. Mr. Poole reported that the next AC meeting is October 4. He had discussed the possible appointment of Mr. Duncan to replace President Hart on the Core Team with counsel, who said it was acceptable, as

did the County. *MSC: Brecht/Tatusko appointing Mr. Duncan as a member of the GSP Core Team to replace Beth Hart.* Mr. Poole will notify Jim Bennett.

3. Working Draft Technical Memorandum: Agricultural Land Fallowing Analysis and Restoration Potential. Trey Driscoll narrated a slide presentation regarding his analysis of the Viking Ranch fallowing and restoration potential. Director Brecht asked that hard copies of the slides be included in the next Board package. Mr. Driscoll explained that the Viking Ranch consisted of 160 acres in the north portion of the basin, previously a citrus farm. The fallowing was part of the water credit program, and the site is currently vacant. BWD owns most of the land, and a portion was retained by the Lundberg Trust. The former trees were chipped and spread on the property as mulch. At the time of fallowing, there was no documentation of potential pesticides and limited documentation of soil stabilization. Dudek reviewed aerial photos and took soil samples. Petroleum is stored on the Lundberg property in plastic containers and should be removed. The County should be notified. Mr. Poole will work with Mr. Driscoll to contact the County and the Lundbergs. There is equipment from an abandoned well, also on Lundberg property, which needs to be removed or perhaps restored for a monitoring well. There was no indication of pesticides or arsenic above an acceptable level in the soil.

4. Preliminary Environmental Site Assessment: Viking Ranch. Mr. Driscoll went on to explain the Preliminary Environmental Site Assessment at Viking Ranch, which can serve as a blueprint for future fallowing. He showed a map of property which had been fallowed between 2006 and 2017 as part of the District's water credit program. Two more parcels are currently in the process of fallowing, the Burnand property and Roadrunner Farms. Dudek evaluated the Viking site for flooding, windblown sand, native plants and weeds. Three sectors were analyzed, northwest, southeast and northeast. Where there was flooding from Coyote Creek, in the northwest and southeast fields, the native plants are coming back. Windblown sand was significant only in the northwest field, and there were minor weeds in all areas. The northeast field, which has no flood flow, might benefit from some active restoration.

For future surface stabilization and habitat restoration, Mr. Driscoll recommended removal of any structures, cutting trees at grade (no stumps, but leaving roots), and mulching to minimize windblown sand and help with regrowth. He compared estimated costs for a bonded fiber matrix, passive restoration and active restoration. He did not recommend the current "piecemeal" method of fallowing, pointing out that fallowing contiguous parcels is more cost effective. Discussion followed regarding how much of this would be included in the GSP and what is required under CEQA. Director Brecht asked Mr. Driscoll for written suggestions as to what Dudek's role would be if the November water bond measure passes. Ms. Milkey asked whether private parties interested in acquiring and fallowing land had been considered, and recommended making the public aware of the requirements.

5. Risk and Vulnerability Assessment. This item was continued to the next meeting.

6. Review of FY 2019 budget regarding District GSA Reimbursables. Mr. Poole invited the Board's attention to the list of District GSA reimbursables, which he and Ms. Pitman developed, in the Board package. Director Brecht requested a list of requirements for GSA reimbursables.

III. INFORMATIONAL ITEMS

A. BORREGO WATER DISTRICT:

1. September 12th Supervisors' Public Hearing on DS8 and DS24 Property Specific Requests. Dave Duncan reported that he had made a presentation on behalf of BWD to the Board of Supervisors. Director Brecht asked that it be included in the next Board package. He reported that the Supervisors accepted the staff recommendation to maintain the existing zoning on PSRs DS8 and DS24, and staff was instructed to prepare a report and bring it back in December.

2. Risk Management Failures. This item was continued to the next meeting.

3. Prop 3 Bond Proceeds Committee. Director Tatusko asked whether he and President Hart should continue the Prop 3 Bond Proceeds Committee, now that the election is nearing. Steve Anderson explained that it is difficult to comply with the law if a public agency endorses a proposition.

The law requires any publicity by the Board to show both sides of the issue. After discussion, the Committee was dissolved.

B. BORREGO BASIN: GROUNDWATER SUSTAINABILITY PLAN:

1. BWD Groundwater Sustainability Plan Advisory Committee Representative Report. No report.

IV. STAFF REPORT

A. General Manager: Mr. Poole distributed his written report for review and discussion at the next meeting.

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 12:00 p.m., and the open session reconvened at 1:45 p.m. There was no reportable action.

VI. 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 September 26, 2018 at the Borrego Water District: There being no further business, the Board adjourned at 1:45 p.m.

Borrego Water District Board of Directors
MINUTES
Regular Meeting
September 26, 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
 Kim Pitman, Administration Manager
 Wendy Quinn, Recording Secretary

 Public: Michael Sadler, *Borrego Sun* Diane Johnson,
 Jay Jones, Environmental Stewardship
 Navigation Services Council
 (via teleconference) Dave Duncan,
 Rick Alexander Advisory
 Committee

D. Approval of Agenda: Director Brecht requested that Item II.A.7 (Response to Sun Article) be moved to the first item in Section II.A. ***MSC: Ehrlich/Brecht approving the Agenda as amended.***

- E. Approval of Minutes:
 - 1. July 17, 2018

MSC: Delahay/Brecht approving the Minutes of the Special Meeting of July 17, 2018 as written. Director Ehrlich abstained from the vote due to his absence from the meeting, and all other Directors voted aye.

- 2. July 25, 2018

MSC: Delahay/Tatusko approving the Minutes of the Regular Board Meeting of July 25, 2018 as written. Director Ehrlich abstained from the vote due to his absence from the meeting, and all other Directors voted aye.

- 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:

7. Response to Sun Article. Director Brecht requested a change in his response in the Board package: Delete from the last paragraph: “Arbitrarily choosing a shorter reduction period or a faster annual reduction rate may not materially reduce this risk. And, reducing risk always has a cost associated with it.” He pointed out that this was in response to discussions with Cathy Milkey of Rams Hill. Director Ehrlich asked Michael Sadler to send Director Brecht the final version of the response before publishing it. ***MSC: Ehrlich/Tatusko approving the response to the Sun article as amended.***

1. Credit Card Payment Services for BWD Customers: Payment Services Network Inc. Kim Pitman reported that Payment Services Network made a good presentation on

providing service to enable customers to pay water bills by credit card. It was submitted to the Board today for review. Ms. Pitman pointed out that Payment Services can work with the existing billing system, and customers choosing to use credit cards will pay the additional fee. Director Ehrlich raised questions regarding how the firm was selected and whether others were considered, costs to the District and its customers, and whether there is adequate insurance to indemnify the District. Director Tatusko asked whether all customers would see an increase in their bills, and Ms. Pitman replied that they would not; only those that use credit cards. Mr. Poole agreed to bring the matter back to the Board with responses to the questions.

2. Consideration of Contract with Dudek Engineering for Construction Management and related services on Well ID 4-4 Replacement. Director Brecht felt that since the Board had discussed the scope of work and cost, it wasn't necessary to see the actual contract. He asked whether the Operations and Infrastructure Committee would manage the construction management, and whether they had reviewed the scope of work. Director Delahay stated that the scope of work was fine. The Committee decided to let Dudek handle the construction management on the first well and then decide whether to continue with them on subsequent wells or consider the other bidder, IEC. Director Tatusko noted that Dudek had suggested doing two wells at once to save money. He suggested that the Committee review the proposal further and come back to the Board with a recommendation. Director Ehrlich asked the O&I Committee to review Dudek's fees, which he thought were too high. Director Tatusko asked Mr. Poole to schedule a teleconference with Dudek. ***MSC: Brecht/Tatusko approving the contract with Dudek for construction management and related services on Well ID 4-4 replacement subject to O&I discussion with Dudek on scope and cost.*** President Hart suggested asking if there would be a cost reduction if two wells were done simultaneously or one right after another.

3. Plans and Specifications and authorization to bid Double O and Frying Pan Pipeline Projects. Mr. Poole noted that plans and specifications for the first phase of the bond-funded water and sewer line improvements on Double O and Frying Pan were now available. ***MSC: Tatusko/Delahay authorizing the General Manager to develop bid documents and return to the Board before going out to bid.***

4. CIP Construction Project Reporting Review. Mr. Poole invited the Board's attention to two CIP construction project reports in the Board package, and promised to have the rest by the next Board meeting. There was also a timeline prepared by Carlos Beltran. Director Delahay recommended getting a feel for how quickly the projects are moving forward before committing to a long-range schedule. Mr. Sadler recommended informing the public of any road closures or detours associated with the projects.

5. Sunset Sewerline Acceptance. Mr. Poole explained that as part of the construction of the library, park and Sheriff's station, a sewer line had to be extended. The improvements were constructed and paid for by Bill Wright. It is now time for the District to accept the improvements and make them part of the BWD system. ***MSC: Ehrlich/Delahay accepting the Sunset sewerline into the BWD system.***

6. Road Runner Farms Following Proposal. Mr. Poole reported that Jack McGrory had e-mailed him asking to resurrect the Roadrunner Farms following proposal for 50 acres. He had approached the District previously but decided not to pursue it at that time. Director Brecht asked whether the new following standards proposed by Dudek were being incorporated. Mr. Poole replied that Trey Driscoll had reviewed the following proposal and made some changes, but was not yet ready to incorporate his entire proposal. The property owner will submit a final proposal and it is up to the District whether to approve it or not.

8. Update on Proposition One Water and Wastewater Grant Applications. Rick Alexander stated that he had reported to the O&I Committee and had included his written report

in today's Board package. The District had applied for Proposition 1 funds to upgrade the treatment plant, replace three storage tanks and upgrade the Wilcox well. All the State's questions have been responded to regarding the treatment plant upgrade, and State staff has nearly completed its review. The environmental section has been approved. Other projects will be reviewed once the treatment plant upgrade funding has been approved.

Director Tatusko expressed concern about the time this is taking and reiterated his request to Mr. Poole for a detailed, written report in the next Board package. Mr. Alexander explained that once the grant is approved, the State will develop a contract and the project will be bid according to BWD's procedure. President Hart asked whether the O&I Committee had been involved. Director Tatusko replied that they had identified Holt as the supplier and will work with Mr. Beltran to find a contractor. Director Ehrlich recommended developing an implementation plan. Mr. Alexander presented his response to the State's inquiry about the number of vacation rentals in Borrego Springs and explained how it was calculated.

Mr. Alexander reported he was investigating other sources of funding for future projects, including the Bureau of Reclamation, other State sources and the US Department of Agriculture. Director Brecht recommended investigating low cost loans. Director Ehrlich asked Mr. Alexander to compile a list of funding possibilities.

B. GSA: Borrego Springs Subbasin:

1. Appointment of BWD Ratepayer Representative on Groundwater Sustainability Plan Advisory Committee. President Hart thanked Dave Duncan for his service to the AC and for becoming a member of the BWD Board. She reported that she and Director Tatusko met with Gary Haldeman, the only applicant for the ratepayer representative position on the AC. Director Tatusko felt Mr. Haldeman was fair and impartial, and noted he had worked with the BWD Board and community. Ray Shindler, a previous candidate, supports him. ***MSC: Tatusko/Ehrlich supporting Mr. Haldeman as the AC ratepayer representative.*** Mr. Poole will inform Jim Bennett.

2. WQ Monitoring update on water quality monitoring network. Mr. Poole invited the Board's attention to Dudek's updated map of monitoring well sites in the Board package. Director Ehrlich asked whether any new locations had been tested, and recommended doing so and getting them into the system as soon as possible.

3. Risk and Vulnerability Assessment. Jay Jones explained his overdraft analysis methodology and presented slides. He is studying how the overdraft might be affected by changes in pumping over the 20-year GSP implementation period, and how District operations could be affected. Included is assessment of possible changes in water quality, projects and management actions. The inflows (recharge, groundwater irrigation, return flows) and outflows (pumping, groundwater extraction, evapotranspiration) were calculated. Dr. Jones pointed out that the calculations vary according to rainfall. The overdraft equals outflow minus inflow. In summary, the overdraft analysis methodology provides a structure recognizing all water balance components. The model results are not exact, but can be used to develop a statistically based analysis, assess different pumping rates over time and potential outcomes, and track progress.

President Hart asked whether Dr. Jones had done a specific analysis of outcomes as to BWD costs. He replied that he was working on potential water quality problems and putting together historical data from wells to see how stable the water quality is over time. Once that study has been completed, he will look at the probable operational costs. Director Brecht asked how this information would be driven into the GSP as results become available. Dr. Jones explained that he would report to the BWD Board first. He had been working with Mr. Driscoll and sharing information. He had requested a closed session review due to potential legal

ramifications and will get back to Mr. Poole with a date. Director Ehrlich recommended that Dr. Jones continue to work with Mr. Driscoll. The Board concurred.

III. INFORMATIONAL ITEMS

None

IV. STANDING AND AD-HOC BOARD COMMITTEE REPORTS

A. Standing:

1. Operations and Infrastructure. This report was already covered. Director Tatusko will include the September 4 Minutes in the next Board package. Director Brecht asked whether the Committee was taking on construction management matters. Director Delahay replied that the construction manager is meeting with Mr. Poole and Greg Holloway and will report to the Committee.

B. Ad-Hoc:

1. GSP Preparation. President Hart reported that she was resigning from the Committee.

2. BWD Bond Financing. This Committee will be deleted and replaced by the Audit Committee, still composed of Directors Brecht and Ehrlich.

3. Rams Hill Operating Agreement. Mr. Poole referred to the long-term cooperation agreement between BWD and Rams Hill requiring them to purchase surplus water. He spoke yesterday by phone with Rams Hill and Raftelis regarding calculation of the payment amounts, and the issue has been resolved. Mr. Poole also met with Rams Hill on Monday regarding their BPA and will continue to discuss it. The existing operating agreement expires in January.

4. Cyber Security. Mr. Poole announced he would have a full report on the third-party assessment in October. Director Ehrlich pointed out that the Committee was also dealing with other security issues, such as physical security, and was looking for staff recommendations. Director Brecht suggested renaming the Committee as the “Risk Management Committee.”

V. STAFF REPORTS

A. Financial Reports, June 2018 and July 2018: Kim Pitman reported that the revenues were seven percent over budget in June. Interest income was higher than budgeted due to Community Valley Bank’s interest rates. Telemetry expenses were up because of the new tank. There were extra costs in computer billing associated with cyber security. Mr. Pitman noted that 42 homes other than condos have not requested a refund in CSD fees. The condo refunds are complete. There are still problems with the Santiago Estates refunds, as Santiago Estates management has a different count of residents than BWD does. President Hart asked Ms. Pitman to arrange a conference call to straighten it out.

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

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

D. General Manager: Mr. Poole distributed his written report. President Hart asked about Mesquite Ranch’s request for cessation of its sewer standby charges, and Mr. Poole agreed to report in October. Ms. Pitman pointed out that they were subject to the Town Center Sewer Agreement, and the District could take back the EDUs for nonpayment. President Hart asked for a copy of the Agreement for each Board member. Mr. Poole pointed out that if the District is

changing the rate structure by providing exemptions, it could be subject to Proposition 218. President Hart asked for any available information on Proposition 218 and other legal issues.

Mr. Poole reported he had asked Leanne Crow for an update on the reimbursement agreement with the County, and President Hart recommended that the Board review it again. Director Brecht reiterated his request for an explanation of the rationale for designating certain expenses as GSP-related. Ms. Pitman replied that Esmeralda Garcia was working on it.

President Hart inquired about the Club Circle trash collection. Mr. Poole explained that they are paying a reduced rate, and he had provided some alternate prices to Susan Percival. The District cannot discontinue trash service without going through LAFCO and providing an alternative.

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 11:45 a.m., and the open session reconvened at 1:10 p.m. There was no reportable action.

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 October 16, 2018 at the Borrego Water District Office. There being no further business, the Board adjourned at 1:10 p.m.

**BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
October 24, 2018**

Agenda Bill Item II.A.1

October 18, 2018

TO: Board of Directors

FROM: Geoff Poole, General Manager

SUBJECT: Bid Documents for Phase One of BWD Pipeline Replacement Program: Frying Pan and Double O – G Poole

RECOMMENDED ACTION

Receive Bid Documents and Authorize Staff to Initiate Bidding Process

ITEM EXPLANATION

Attached are the bid documents created by Legal Counsel for Phase One of BWD Pipeline Projects.

FISCAL IMPACT

The construction cost estimate for these projects is \$629,850

ATTACHMENTS

1. Bid Documents

BORREGO WATER DISTRICT

CONTRACT DOCUMENTS AND SPECIFICATIONS FOR

DOUBLE “O” ROAD (PIPELINE 9) AND FRYING PAN ROAD (PIPELINE 8) WATER IMPROVEMENTS PROJECT

(BWD Capital Improvements Projects)

October 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 Thursday, November 1, 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 **Double “O” Road and Frying Pan Road Water Improvements Project** (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 procurement of materials and the installation of a new 6 inch diameter water main pipeline along Double “O” Road and Frying Pan Road. The work also includes installation of a 6 inch water line along T Anchor Drive and Weather Vane Drive and the tie-in to the existing 6 inch water lines along T Anchor Drive and Weather Vane Drive. The work also includes the installation of new fire hydrants along Double “O” Road and Frying Pan Road. Construction staking will be provided by the DISTRICT.

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 **[**INSERT WRITTEN AMOUNT (\$____)**]**. A non-refundable charge of **[**INSERT WRITTEN AMOUNT (\$____)**]** 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 contractor plan room.

[INSERT PARAGRAPHS BELOW IF DISTRICT WILL MAKE DOCUMENTS AVAILABLE ONLINE & DELETE PARAGRAPH ABOVE; OTHERWISE DELETE**]**

[Bids must be submitted on the DISTRICT’s Bid Forms. Bidders may obtain a copy of the Contract Documents from [INSERT WEBSITE], [INSERT ADDRESS], [INSERT PHONE/FAX NUMBER]. 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 [INSERT WEBSITE]. It is the responsibility of each prospective bidder to check [INSERT WEBSITE] 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 [INSERT WEBSITE] may change without notice to prospective bidders. The Contract Documents shall supersede any information posted or transmitted by [INSERT WEBSITE].]**

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 28th 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. 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/

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 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 Double "O" Road and Frying Pan Road Water Improvements Project

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 Thursday, December 11, 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:

Double “O” Road and Frying Pan Road Water Improvements Project

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 of equipment and material, Performance Bond, Payment Bond, General Liability Insurance, Workman's Compensation Insurance, Construction water, freight, project signs, Air pollution control district requirements and fees, Restroom Facilities, Vehicle Insurance, Taxes, Permits, Business license, and Similar expenses and other costs not specifically addressed within this bid item list.	\$	\$
2	1	LS	Implementation of Traffic Control Plans and Construction Area Signs	\$	\$
3	1	LS	Potholing of the Existing Underground Utilities and Pipelines as indicated on Improvement Plans.	\$	\$
4	1	LS	Geotechnical Testing	\$	\$
5	7,500	LF	Furnish and Install New 6-inch Dia. AWWA C- 900 DR 18 - Pressure Class 150 PVC Water Pipeline, Including Native Material Backfill and Compaction.	\$	\$
6	800	CY	Install Granular Sand Backfill Within Pipe Trench per Construction	\$	\$
7	5	EA	Install Utility Crossing per Detail "1" on Sheet 14. Include Pipe Bends and Appurtenances	\$	\$
8	3	EA	Furnish and Install New 6-Inch Dia. MJ x MJ Ductile Iron Epoxy-Coated 22.5-Degree Elbow and Thrust Blocks.	\$	\$
9	14	EA	Furnish and Install New 6-Dia. Ductile Iron Resilient Wedge Gate Valve with Valve Cover and Riser.	\$	\$

10	2	EA	Furnish and Install New 6-Inch Dia. Epoxy-Coated Ductile Iron Cross	\$	\$
11	2	EA	Furnish and Install New 6-Inch Dia. Epoxy-Coated Ductile Iron Tee	\$	\$
12	17	EA	Furnish and Install New Fire Hydrant Assembly Including gate Valve and Valve Can	\$	\$
13	4	EA	Furnish and Install New 6-Inch Dia. Epoxy-Coated Ductile Iron Transition Coupling Adapter with Stainless Steel Hardware	\$	\$
14	2	EA	Install New Blow-Off Assembly per Construction Keynote 4 .	\$	\$
15	1	LS	Contractor to Complete Hydrostatic Pressure Testing per Specifications.	\$	\$
16	1	LS	Contractor to Complete Disinfection of the New Pipeline per Specifications	\$	\$
17	1,560	LF	Sawcut Existing AC Pavement	\$	\$
18	2,400	SF	Remove and Dispose AC Pavement	\$	\$
19	65	Tons	Install 4 Inches of AC Pavement 3/4" Type III Class B3 (Per San Diego County Standards and Specifications)	\$	\$

20	70	CYS	Install 9 Inches of Class II Base	\$	\$
21	1	LS	Remove and Dispose Existing 8' x 20' Concrete Driveway and Replace with New 8' X 20' by 6-inches Thick 3,000 PSI Concrete Driveway	\$	\$
22	70	CYS	Preparation and Implementation of Dust Control Plan Per San Diego County Air Pollution Control District.	\$	\$

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.

B. TOTAL BID PRICE:

<p>TOTAL BID PRICE BASED ON BID SCHEDULE TOTAL OF UNIT PRICES FOR: Double "O" Road and Frying Pan Road Water Improvements Project</p>	
\$	<p>_____</p>
<p>Total Bid Price in Numbers</p>	
\$	<p>_____</p>
<p>Total Bid Price in Written Form</p>	
<p>In case of discrepancy between the written price and the numerical price, the written price shall prevail.</p>	

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).

ITEM	QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
23	34	EA	Install 1 inch Water Lateral including Connection to 6" Water Main, 1 Inch Copper Pipe to Property Line and 1 inch Bronze Angle Meter Stop with Lockwing. (Do not include Water Meter, Meter box and Shut Off Valve).	\$	\$
24	29	LS	Install 1 inch Water Lateral (Via Directional Drill under Paved Road) including Connection to 6" Water Main, 1 Inch Copper Pipe to Property Line and 1 inch Bronze Angle Meter Stop with Lockwing. (Do not include Water Meter, Meter box and Shut Off Valve).	\$	\$

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):

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 Double "O" Road and Frying Pan Road Water Improvements Project.

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

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.

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 the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

END OF BID BOND

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:

14.0 List Bank References (Bank and Branch Address):

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

[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:

2. Summarize each person's specialized education:

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

4. Summarize such experience:

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.

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:

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/PublicWorks/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.¹

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 _____

¹ 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:

Double "O" Road and Frying Pan Road Water Improvements Project

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

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

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

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.

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 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

- 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.

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 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 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. 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 allege 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 Work of Contract, maintain all of the insurance described in this Article. 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 forms 20 10 and 20 37 (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 State law. 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 policy shall be endorsed, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement and contain a Waiver of Subrogation in favor of the DISTRICT.
- 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 \$1,000,000 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”] 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, and vandalism and malicious mischief, 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 named insureds shall be Contractor, all Subcontractors of any tier (excluding those solely responsible for design work), suppliers, and DISTRICT, its elected officials, officers, employees, agents and authorized volunteers, as their interests may appear. Contractor shall not be required to maintain property insurance for any portion of the Work following acceptance by DISTRICT.
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.

- C. The Certificate(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, 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. The Certificate(s) of Insurance, policies and endorsements shall so covenant and shall be construed as primary, and the DISTRICT's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- 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.

- I. 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 of 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:

1.2 Location of the Project.

A. The Project is located Double “O” Road and Frying Pan Road.

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/m². (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/m². (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 Modification of Hours of Work. ****CHOOSE ONE OF THE TWO BELOW AND THEN DELETE THIS****

[NOT USED.]

OR

INSERT PERMISSIBLE HOURS OF WORK IF NOT 7:00 a.m. and 3:30 p.m. M – F. CONSIDER ANY NOISE RESTRICTIONS FOR BLASTING OR CRUSHING AND ANY TRAFFIC RESTRICTIONS FOR ROAD CLOSURES]

1.14 Project Retention

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

1.15 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.

1.16 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.

1.17 Schedule Constraints.

NOT USED.

1.18 Noise Restrictions ****CHOOSE ONE OF THE THREE BELOW AND THEN DELETE THIS****

NOT USED.

OR

- 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.
- B. Contractor shall comply with the most restrictive of the following: (1) local sound control and noise level rules, regulations and ordinances and (2) the requirements contained in these Contract Documents, including hours of operation requirements.
- C. No internal combustion engine shall be operated on the Project without a muffler of the type recommended by the manufacturer. Should any muffler or other control device sustain damage or be determined to be ineffective or defective, the Contractor shall promptly remove the equipment and shall not return said equipment to the job until the device is repaired or replaced. Said noise and vibration level requirements shall apply to all equipment on the job or related to the job, including but not limited to, trucks, transit mixers or transit equipment that may or may not be owned by the Contractor.

OR

[***DISTRICT TO INSERT SPECIFIC NOISE RESTRICTIONS, INCLUDING ANY RESTRICTIONS MANDATED BY PROJECT ENVIRONMENTAL DOCUMENT. RESTRICTIVE LANGUAGE SHOULD BE INCLUDED IF PROJECT AFFECTS RESIDENTIAL AREA ***]

1.19 Safety Programs. ****CHOOSE ONE OF THE TWO BELOW AND THEN DELETE THIS****

[NOT USED.

OR

- A. In addition to all other safety requirements of the Contract Documents, Contractor must comply with [INSERT NAME OF SAFETY PROGRAM] at all times during the completion of the Work.
- B. 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 shall include the procurement of materials and the installation of a new 6 inch diameter water main pipeline along Double “O” Road and Frying Pan Road. The work also includes installation of a 6 inch water line along T Anchor Drive and Weather Vane Drive and the tie-in to the existing 6 inch water lines along T Anchor Drive and Weather Vane Drive. The work also includes the installation of new fire hydrants along Double “O” Road and Frying Pan Road.

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.

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.

- C. 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.

D. Photographs.

1. 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.
2. 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.

3. 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.
4. 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.

E. Video Recording.

1. 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.
2. 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.
3. Video equipment shall be capable of producing high resolution images and shall have zoom capabilities.
4. 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.
5. 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.
6. 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.

F. 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.

G. 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.

H. 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.

I. Soils Compaction Testing.

1. 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.
 - (e) 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.
5. 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

1.01 STANDARD SPECIFICATIONS:

Unless indicated otherwise, the work embraced herein shall be done in accordance with the appropriate provisions of construction details as shown in the specifications entitled "GREENBOOK Standard Specifications for Public Works Construction," the latest edition, insofar as the same may apply, which specifications are hereinafter referred to as the Standard Specifications and in accordance with the following provisions.

Water main pipeline construction work shall be completed per the water improvement plans, technical specifications, and latest AWWA C900 and AWWA C651 standards.

In case of conflict between the Standard Specifications and these Technical Specifications, the Technical Specifications shall take precedence over and be used in lieu of such conflicting portions.

1.02 SCOPE OF WORK:

The work is generally described as follows:\

The work shall include the procurement of materials and the installation of a new 6 inch diameter water main pipeline along Double "O" Road and Frying Pan Road. The work also includes installation of a 6 inch water line along T Anchor Drive and Weather Vane Drive and the tie-in to the existing 6 inch water lines along T Anchor Drive and Weather Vane Drive. The work also includes the installation of new fire hydrants along Double "O" Road and Frying Pan Road. Construction staking will be provided by the DISTRICT.

LIST OF TECHNICAL SPECIFICATION SECTIONS:

SECTION 01300 – CONTRACTOR SUBMITTALS

SECTION 01520 - TEMPORARY FACILITIES

SECTION 01530 - PROTECTION OF EXISTING FACILITIES

SECTION 01550 - SITE ACCESS AND STORAGE

SECTION 01560 - PROJECT ENVIRONMENTAL CONTROLS

SECTION 01600 - MATERIALS AND EQUIPMENT PART 1 GENERAL

SECTION 02150 - SHEETING, SHORING AND BRACING

SECTION 02200 - EARTHWORK

SECTION 02221 - TRENCHING, BACKFILLING AND COMPACTING

SECTION 02640 - PVC PIPE

SECTION 02641 - PVC PRESSURE PIPE AWWA C900

SECTION 02650 - PIPE FITTINGS, TRANSITION COUPLINGS, MECHANICAL RESTRAINED
JOINT FITTINGS, FLANGED COUPLING ADAPTERS AND HARDWARE

SECTION 02666 – PRESSURE PIPELINE WATER TESTING

SECTION 02670 - DISINFECTION OF POTABLE WATER PIPELINES

SECTION 15615 - RESILIENT GATE VALVES, BUTTERFLY VALVES, OS&Y
VALVES AND SWING CHECK VALVES

SECTION 15830 - MISCELLANEOUS VALVES

[CUT AND PASTE TECHNICAL SPECIFICATIONS HERE AND THEN REMOVE THIS**]**

PROJECT VICINITY MAP

Borrego Springs, California



PROJECT PLANS

Double "O" Road and Frying Pan Road Water
Improvements Project
31000.00001\31544538.1

143

project plans

**EXHIBIT "A"
CHANGE ORDER FORM**

Borrego Water District

*806 Palm Canyon Drive
Borrego Springs, CA 92204*

Contract Change Order #

Project:	Change Order No.:		
	Orig. Contract Amt.: \$		Days
Contract No.:			
Contractor:	Prev. Appvd. Changes: \$		Days
Owner: Borrego Water District	This Change: \$		Days
	Revised Contract Amt.: \$		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			
	Totals	\$	

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) ****INSERT NAME, TITLE**** _____
Date

Approved:

 (Signature) ****INSERT NAME, TITLE**** _____
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 initialed by or on behalf of both the Contractor and the Borrego Water District.

**BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
October 24, 2018**

Agenda Bill Item II.A.2

October 18, 2018

TO: Board of Directors
FROM: Geoff Poole, General Manager
SUBJECT: Well Replacement #2 Site Selection – G Poole

RECOMMENDED ACTION

Review Staff Recommendation for Well Replacement Site #2 and Direct Staff Accordingly.

ITEM EXPLANATION

Staff and Dudek will be meeting before the 10-24 meeting to discuss site alternatives for well replacement #2. The results of these discussions will be shared with the Board.

FISCAL IMPACT

The construction cost estimate for these projects is \$1,500,000

ATTACHMENTS

1. None

**BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
October 24, 2018**

Agenda Bill Item II.A.3

October 18, 2018

TO: Board of Directors
FROM: Geoff Poole, General Manager
SUBJECT: Amended contract with The Rick Alexander Company for continued Grant Assistance –
R Alexander

RECOMMENDED ACTION

Receive report from Rick Alexander and Direct Staff Accordingly.

ITEM EXPLANATION

At the last Board Meeting, the Board requested an updated estimate and Amendment to the contract with Rick Alexander to continue supporting BWD Grant Activities. Rick has promised to have the Amendment ready on Monday and this will be shared as soon as it is received.

As a follow up to the last meeting, State Staff just informed BWD the Federal Cross Cutting requirements will be necessary for our Grant Applications. Staff will initiate the necessary work immediately.

FISCAL IMPACT

TBD

ATTACHMENTS

1. None

**BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
October 24, 2018**

Agenda Bill Item II.A.4

October 18, 2018

TO: Board of Directors

FROM: Geoff Poole, General Manager

SUBJECT: Amended contract with The Rick Alexander Company for continued Grant Assistance –
R Alexander

RECOMMENDED ACTION

Receive report from Rick Alexander and Direct Staff Accordingly.

ITEM EXPLANATION

At the last Board Meeting, the Board requested an updated estimate and Amendment to the contract with Rick Alexander to continue supporting BWD Grant Activities. Rick has promised to have the Amendment ready on Monday and this will be shared as soon as it is received.

FISCAL IMPACT

TBD

ATTACHMENTS

1. Proposal to be distributed when received

**BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
October 24, 2018**

Agenda Bill Item II.A.4

October 18, 2018

TO: Board of Directors

FROM: Geoff Poole, General Manager

SUBJECT: Open new Bank Accounts and Signature Cards at Community Valley Bank – K Pittman

RECOMMENDED ACTION

Authorize staff to update bank signature cards and open a additional bank account.

ITEM EXPLANATION

Due to the changes from Umpqua to Community Bank, the Borrego Water District Board of Directors, and Staff changes Borrego Water District Administration will need to update Bank Signature Cards and open an additional account.

FISCAL IMPACT

N/A

ATTACHMENTS

None

**BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
October 24, 2018**

Agenda Bill Item II.A.5

October 18, 2018

TO: Board of Directors
FROM: Geoff Poole, General Manager
SUBJECT: Proposition 3 Update – G Poole

RECOMMENDED ACTION

Receive update on availability and time limit for spending the funds if Prop 3 is successful.

ITEM EXPLANATION

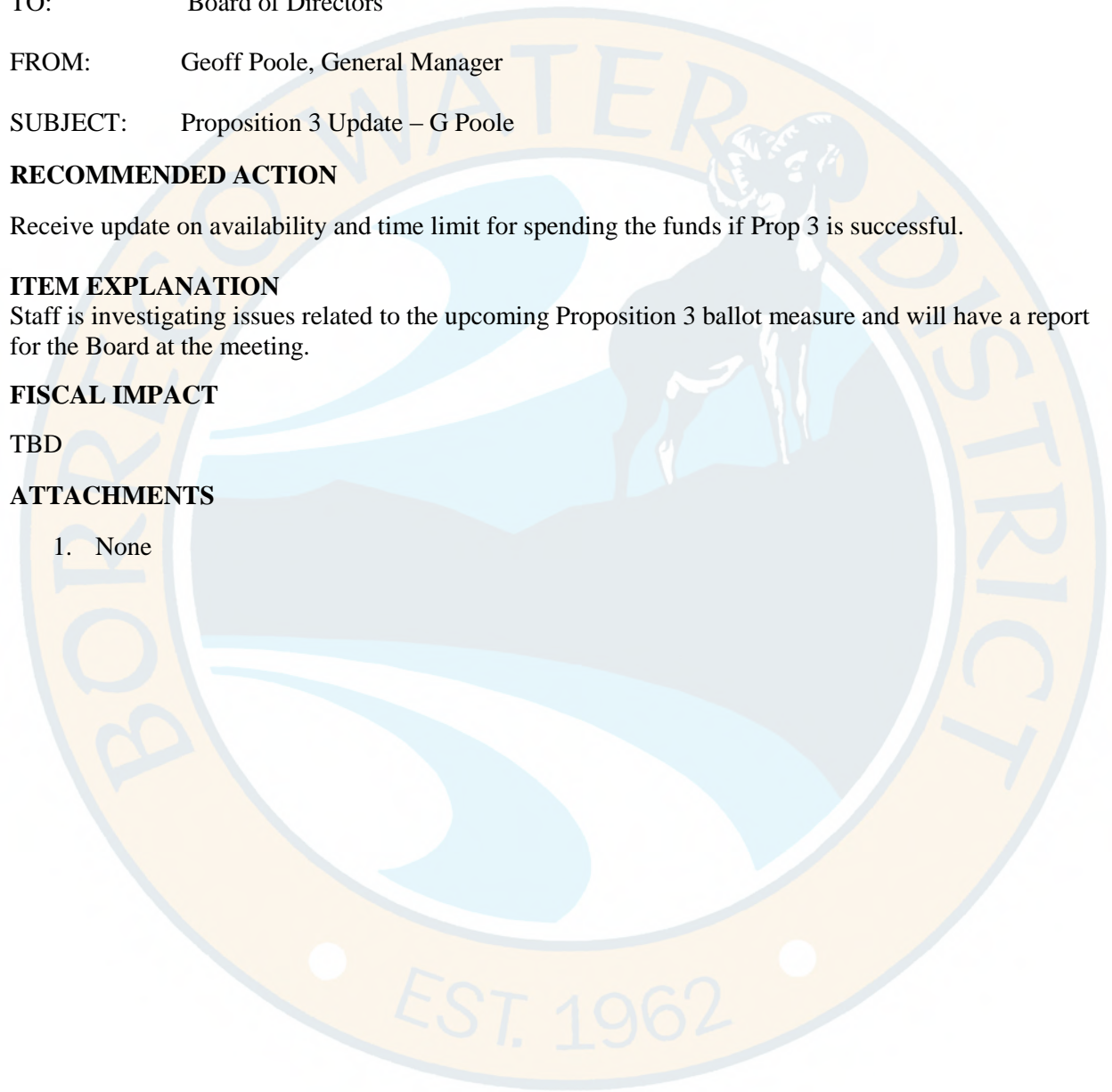
Staff is investigating issues related to the upcoming Proposition 3 ballot measure and will have a report for the Board at the meeting.

FISCAL IMPACT

TBD

ATTACHMENTS

1. None



**BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
October 24, 2018**

Agenda Bill Item II.A.6

October 18, 2018

TO: Board of Directors
FROM: Geoff Poole, General Manager
SUBJECT: November and December 2018 Board Meeting Schedule – G Poole

RECOMMENDED ACTION

Receive report from Staff/Legal Counsel on options for November meeting dates.

ITEM EXPLANATION

New Directors are to be seated on the first Friday in December, which would be December 7th this year. Therefore, there is no need to coordinate seating of Directors when looking at Meeting Dates in November.

November: The regular Board Meeting for November would be the 28th. If the Board desires to hold a Special meeting after the Nov 3rd election, the week of November 12 would be timely.

December: As previously mentioned, December 7th is the first date for seating new Directors. The regular Meeting in December would take place on Christmas week this year. The Special Board Meeting would occur one week before Christmas (12-18), therefore a meeting on the 7th for new Director seating and the 18th

FISCAL IMPACT

N/A

ATTACHMENTS

1. None

**BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
October 24, 2018**

Agenda Bill Item II.A.7

October 18, 2018

TO: Board of Directors
FROM: Geoff Poole, General Manager
SUBJECT: Update BWDs Conflict of Interest Code – G Poole

RECOMMENDED ACTION

Receive report from Staff/Legal Counsel and approve new COI Code

ITEM EXPLANATION

BWD's Conflict of Interest Code has not been updated for 2 years, and Staff and Legal Counsel have reviewed the document and incorporated the necessary changes. Legal Counsel will be available to review the document and answer any questions at the meeting.

FISCAL IMPACT

N/A

ATTACHMENTS

1. Updated Conflict of Interest Code

**BORREGO WATER DISTRICT
NOTICE OF INTENTION TO ADOPT A
CONFLICT OF INTEREST CODE OF THE**

NOTICE IS HEREBY GIVEN that the Board of Directors of the Borrego Water District intends to adopt a Conflict of Interest Code pursuant to Government Code Section 87300.

A conflict of interest code designates those employees, members, officers and consultants who make or participate in the making of decisions which may affect financial interests, who must disclose those interests in financial disclosure statements, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

The proposed Conflict of Interest Code will be considered by the Board of Directors on October 24, 2018, at 9:00 am at the District Office, 806 Palm Canyon Drive, Borrego Springs, California. Any interested person may be present and comment at the public meeting or may submit written comments concerning the proposed Code. Any comments or inquiries should be directed to the attention of Diana Del Bono, Administrative Assistant, District Office, 806 Palm Canyon Drive, Borrego Springs, California; (760) 767-5806. Written comments must be submitted no later than October 24, 2018, at 9:00 am.

The proposed Code may also be reviewed at, and copies obtained from, the Administrative Assistant.

LEGISLATIVE VERSION
(SHOWS CHANGES MADE)

CONFLICT OF INTEREST CODE

OF THE

BORREGO WATER DISTRICT

CONFLICT OF INTEREST CODE OF THE BORREGO WATER DISTRICT

(Adopted October 24, 2018)

The Political Reform Act, (~~Gov.ernment~~ Code ~~Sections-§~~ 81000, et seq.), requires state and local government agencies to adopt and promulgate ~~Conflict-conflict~~ of ~~Interest~~ ~~interest~~ ~~Codescodes~~. The Fair Political Practices Commission has adopted a regulation, (~~2~~ Cal. Code of Regs. ~~Section_§~~ 18730), ~~which-that~~ contains the terms of a standard ~~Conflict-conflict~~ of ~~Interest-interest~~ ~~Code~~ ~~code~~, which can be incorporated by reference, ~~and~~ ~~which may be in an agency's code~~ after public notice and hearings ~~Regulation 18730 may~~ ~~be~~ amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulation ~~Section~~ ~~section~~ 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, ~~along with the attached Appendix A in which officials and employees are designated and~~ ~~are hereby incorporated by reference. This Incorporation Page, Regulation 18730, and the attached Appendix, disclosure categories, are set forth, are hereby incorporated by reference and~~ ~~designating positions and establishing disclosure categories,~~ ~~shall~~ constitute the Conflict of Interest Code of **BORREGO WATER DISTRICT** (“District”).

~~Designated employees shall file statements of economic interests with the District. Upon receipt of the statements of the Directors, the District shall make and retain a copy and forward the original of these statements to the Clerk of the Board of Supervisors. The original statements for all other designated employees will be retained by the District.~~

All officials and designated positions required to submit a statement of economic interests shall file their statements with the **Administrative Assistant** as the District's Filing Officer. The **Administrative Assistant** shall make and retain a copy of all statements filed by the Board of Directors and General Manager and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of San Diego. The **Administrative Assistant** shall retain the original statements filed by all other officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

~~BORREGO WATER DISTRICT~~

APPENDIX A

CONFLICT OF INTEREST CODE

OF THE

BORREGO WATER DISTRICT

(Amended October 24, 2018)

PART "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Officials who manage public investments, as defined by 2 Cal. Code of Regs. §18700.3(b), are NOT subject to the District's Code but must file disclosure statements under Government Code section 87200 et seq. [Regs. § 18730(b)(3)]

It has been determined that the positions listed below are Officials who manage public investments¹. These positions are listed here for informational purposes only.

Members of the Board of Directors

Investment Consultant

¹ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OF FUNCTION</u> ²	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Engineer	<u>1, 2, 3, 5</u>
General Counsel	1, 2
General Manager	1, 2
<u>Operations Manager</u>	<u>4</u>
Consultants <u>and New Positions</u> ^{3,4}	<u>1, 2</u>

² ~~Officials Who Manage Public Investments. It has been determined that the positions listed below manage public investments and will file a statement of economic interest pursuant to Government Code Section 87200: Directors, Chairman, Vice Chairman, Secretary and Treasurer.~~

~~Individuals holding one of the above listed positions may contact the FPPC for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC makes the final determination whether a position is covered by Government Code Section 87200.~~

³ ~~With respect to Consultants, the General Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to comply with the disclosure requirements described in this Appendix. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements applicable to the consultant. These written determinations shall remain on file in the same manner and location as this Conflict of Interest Code. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code.~~

⁴ ~~Individuals serving as a consultant as defined in FPPC Reg. 18700.3(a) or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure set forth in this Code subject to the following limitation:~~

~~The General Manager may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.) The General Manger's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)~~

Disclosure Category 1

~~Persons designated in this category must report all investments, business positions, interests in real property, and income.~~

Disclosure Category 2

~~Persons designated in this category must report all entities in which they have investments, all business positions in business entities, and any income from sources which are of the type which within the previous two years have provided services, equipment, leased space, motor vehicles, materials, or supplies to the Borrego Water District.~~

PART “B”

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.⁵ “Investment” means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in, doing business in, planning to do business in, or have done business during the previous two years in the jurisdiction of the District.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the boundaries of the District.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the District.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the District.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position’s department, unit or division.

⁵ This Conflict of Interest Code does not require the reporting of gifts from outside this agency’s jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)

**BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
October 24, 2018**

Agenda Bill Item II.B.1

October 18, 2018

TO: Board of Directors
FROM: Geoff Poole, General Manager
SUBJECT: Fallowing Standards Review - All

RECOMMENDED ACTION

Receive Information and direct staff accordingly

ITEM EXPLANATION

What I am hearing from my community sources is that it is highly unlikely the public would be willing to support any GSP that does not sufficiently address measures to fallow and restore farmland that is fallowed to effectuate water transfers the attachments review the following:

- ongoing enforcement of mitigation of these fallowed properties to reduce environmental and public health impacts
- an estimate of the sustainable population for Borrego, given SGMA supply constraints (presently, there is a growing resistance to a GSP that appears to be focused only on water limitations w/o tying this to potential for growth)
- work on economic growth paths if farming no longer is viable in the Valley (essentially, this is a stopper for public support if it appears SGMA takes away one economic sector; threatens another, golf; leaves residential development in limbo due to water rates pricing with a singular focus on meeting DWR regulatory SGMA supply constraints. I cannot stress this issue too highly. The community wants to know the economic and business reality going forward w/ SGMA to be on-board.)

FISCAL IMPACT: N/A

ATTACHMENTS:

1. Land Fallowing Checklist
2. Proposed Approach to Borrego Water District Groundwater Sustainability Program
3. Land Fallowing Sites

WORKING DRAFT MEMORANDUM

To: Geoff Poole, General Manger, Borrego Water District
From: Trey Driscoll, PG, CHG
Subject: Land Fallowing Checklist
Date: October 18, 2018
cc: Lyle Brecht, Vice President Board of Directors, Borrego Water District
Attachment(s): Attachment A: Land Fallowing Checklist

This land fallowing checklist has been developed based on a review of typical property transaction due diligence standards and a site-specific case study of one property, Viking Ranch, which was fallowed as part of the Borrego Water District's Demand Offset Mitigation Water Credits Policy (WCP).¹

1 Property Transaction Due Diligence

Phase I Environmental Site Assessment (ESA) performed in accordance with ASTM Standard E1527-13 should be performed to identify recognized environmental conditions (RECs) on properties, as well as historical RECs and controlled RECs. The Phase I ESA will include a database search, agency records review, historical source review, site reconnaissance, interviews, review of prior site investigations, and report preparation. A Phase I ESA satisfies reporting requirements to meet the U.S. Environmental Protection Agency's (EPA) "All Appropriate Inquires" rule to obtain certain protections from liability under the federal Superfund Law: Comprehensive Environmental Response Compensation and Liability Act (CERCLA). If a property transaction does not occur as part of a fallowing project, a preliminary Phase I ESA should still be conducted to identify RECs. The Phase I ESA will identify RECs and also make recommendations depending on the results as to whether sampling and testing of surficial and sub-surficial soil, groundwater, asbestos, and lead etc. is warranted. As much of the land in Borrego Springs historically was used for farming, limited sampling and testing of surficial soil for organochlorine pesticides, herbicides, and metals such as arsenic could be included as part of the Phase I ESA. Additionally, sampling of groundwater for constituents of concern (COCs) is also recommended as part of the Phase 1 ESA.

2 Preliminary Land Fallowing Standards

Preliminary land fallowing standards for the Borrego Springs Subbasin (Subbasin) have been developed based on detailed evaluation of the Viking Ranch and limited reconnaissance of other fallowed sites in the Subbasin (Dudek 2018a, 2018b). The attached Working Draft Land Fallowing Checklist is under development and will be revised as

¹ The WCP is designed to encourage the conversion of local farmland and high water use areas (i.e. golf courses) to land uses with less water demand. A Memorandum of Agreement (MOA) between the County and the District identifies criteria that must be met in order to receive credit for fallowed lands (BWD and County of San Diego 2013).

part of the Projects and Management Actions development for Groundwater Sustainability Plan (GSP) implementation.

3 References

BWD and County of San Diego. 2013. Memorandum of Agreement Between the Borrego Water District and the County of San Diego Regarding Water Credits. February 4, 2013.

Dudek. 2018a. Preliminary Environmental Site Assessment Viking Ranch, Borrego Springs, San Diego County, California. APNs 140-030-09, 140-030-10, and 140-030-11. July 2018.

Dudek. 2018b. Working Draft Memorandum Agricultural Land Following Analysis and Restoration Potential. August 25, 2018.

Attachment A

Working Draft Land Fallowing Checklist

Borrego Springs Working Draft Land Following Checklist

Item	Required	Status	Additional Action
Property Transaction Due Diligence			
Phase I ESA	Yes		
Limited Soil Sampling	Yes		
Limited Groundwater Sampling	Yes		
Phase II ESA	Based on Phase 1 ESA recommendations		
Well Inspection	Yes		
Land Following Standards			
Site Evaluation, Required If Land Following Does Not Involve Property Transaction			
Limited ESA	If full Phase I ESA not prepared		
Limited Soil Sampling	Yes		
Limited Groundwater Sampling	Yes		
Phase II ESA	Based on Limited ESA recommendations		
Well Inspection	Yes		
Following Plan	Yes. Plan can either be site-specific or be based on the following minimum Best Management Practices (BMPs)		
Surface Stabilization			
Remove agricultural infrastructure (e.g. irrigation lines, posts, structures etc.	Yes. May require site-specific demolition/remediation plan based on findings Phase I ESA or Limited ESA		
Convert existing well(s) to monitoring well(s) or abandon well(s) per state and county standards	Yes, Requires site-specific well inspection and GSA recommendation		
Cut Trees at grade to eliminate remnant tree stumps and leave tree root system intact and undisturbed	Yes		

Borrego Springs Working Draft Land Following Checklist

Item	Required	Status	Additional Action
Woody material should be chipped to a 4 to 6 inch size and spread evenly across the surface. Wood chips should be a minimum of two inches thick on the surface. There should be 100% coverage of the surface with woody material.	Yes		
If there is inadequate woody material to create a mulch layer over 100% of the surface or to the desired thickness, any bare areas should be sprayed with a hydraulic mulch material and a tackifier (e.g., bonded fiber matrix).	Site-specific evaluation to be performed to determine appropriate use of hydraulic mulch and a tackifier.		
Wind barrier (e.g. san fence)	Site-specific evaluation required to determine potential to use wind barriers.		
Habitat Restoration, Includes Above Items Plus The Following:			
Passive Restoration			
Pre-agricultural natural landform should be re-established, including removing all impediments to surface flow, unnatural berms, drainage ditches, culverts, graded roads, or other unnatural features (potential downstream affects would need to be evaluated for berm removal).	Requires site-specific analysis.		
Compacted areas should be de-compacted (e.g., cross-ripped) to a depth of at least 12 inches.	Requires site-specific analysis.		

Borrego Springs Working Draft Land Following Checklist

Item	Required	Status	Additional Action
If surface hydrology has been re-introduced through restoring the landform, a passive restoration approach is appropriate, wherein native species are allowed to recruit naturally.	Requires site-specific analysis.		
Weed control	Requires site-specific analysis.		
Active Restoration, Includes Passive Restoration Items Plus The Following:			
Surface should be seeded with an imprinter or drill seeder in the fall with a native seed mix consisting of appropriate species	Requires site-specific analysis.		

Proposed Approach for Support to the Borrego Water District Groundwater Sustainability Program

Goal

To reduce groundwater pumping and evapotranspiration (ET) loss in the Borrego Groundwater Basin, fallowing of farmland is very likely to be one of the primary strategies to achieve groundwater sustainability. Development of effective desert habitat repurposing practices and procedures is essential to minimize environmental impacts in the areas of the Basin no longer being actively farmed.

Background

The community of Borrego Springs is located in an unincorporated area northeast of San Diego within the Borrego Basin. The Basin is comprised of Borrego Valley (about 110 square miles) and portions of the surrounding 600,000 acre Anza-Borrego Desert State Park (ABDSP). There is currently limited development within the community with approximately 3,400 residents documented in the 2010 census.

The US Geological Survey (USGS) has identified a Basin inflow of 5700 acre-feet per year (afy) and an outflow of 19,100 afy, which creates an approximate 70% deficit in terms of a sustainable groundwater resource. Due to this imbalance, the California Department of Water Resources has classified the Basin as being in Critical Overdraft and therefore a GSP must be developed and finalized by January 2020. The County of San Diego and BWD recently commenced this process.

The current estimated water use in the Basin is: agriculture 70%, recreation 20%, and municipal 10%. The BWD and all other water users in the Basin must reduce its water use by approximately 70% over the next 20 years to meet GSP requirements. One mechanism to meet this requirement is to fallow and repurpose high-water use agricultural properties and eliminate water use on the property.

Proposed DRI Scope

To provide technical expertise, analysis, and decision support for BWD to meet its need for reclamation of fallowed farmland while minimizing the environmental impacts.

DRI is familiar with the conditions in the Borrego Basin and the challenges being addressed by BWD and other stakeholders. We propose to support BWD in a 3-phase approach as delineated below.

Phase I: Problem Identification

Task 1. Project Management and Support to BWD for Fallowing and Repurposing of Irrigated Farmlands

DRI will provide technical advice and decision support on the development of land reclamation practices for properties that were formerly irrigated farmland. DRI will work with BWD and stakeholders including ABDSP and others to understand stakeholder desires and needs regarding land repurposing, including visions for how the repurposed land should appear and function. A kickoff meeting and site tour will be coordinated with BWD and other stakeholders wherein we will discuss the intent and goals for the project, extant data and data needs, site access, project timeline, and any constraints, and we will receive feedback regarding stakeholder needs and desires.

Task 2. Establish Initial Conditions

DRI will collect and synthesize existing data and information for the vicinity of Borrego Springs, as well as research literature and best practices regarding agricultural fallowing, desert restoration, and fugitive dust control. We will perform a field reconnaissance and collect data and information to determine the condition of the proposed site(s) for potential repurposing to natural conditions and/or low-water productive land uses. This examination will include ecological parameters of adjacent lands. We will examine adjacent parcels of developed and undeveloped land to place the repurposed lands in context and provide a basis for identifying and mitigating potential hydrologic and other consequences of repurposing activities. In preliminary discussion with BWD staff, it appears 240 acres of the Oasis Ranch may be the best candidate for reclamation and this parcel may be available in the near future. This parcel will be specifically evaluated as part of this task.

Task 3. Develop Mutual Desired End State for Fallowing and Repurposing of Irrigated Farmlands

DRI will work with BWD and stakeholders including ABDSP and others to develop a consensus-based vision for the desired end state for repurposing the land. Issues to be considered may include extent of land use repurposing, desired habitat values, aesthetics, overall timelines for fallowing, and whether to include low-water crops in the mix of solutions in order to preserve the local agricultural economy.

This will also include describing any regulatory, policy-based, or other constraints that must be considered. The intent is to develop a shared vision for the end state of this project, to understand institutional factors bearing upon the success and acceptance of the project, and to develop stakeholder “buy-in” for the project.

Task 4. Evaluation of Alternatives to Repurpose High-Water Use Agricultural Lands to Meet GSP Requirements

DRI will develop and evaluate the benefits and costs of alternatives for fallowing and repurposing of agricultural lands, returning them to natural conditions and/or a different lower-water productive

use. It is envisioned that some parcels are more amenable to restoration to desert conditions (for example: alluvial plain, low-gradient alluvial fan, active channel within a wash, and similar landforms), while other land forms may be desired for continued production of some form such as aloe, jojoba, or similar crops to be determined. Different reclamation practices with varying degrees of effort may need to be developed since not all parcels in the Borrego Basin are candidates for full desert habitat reclamation.

DRI will consider such techniques as sand fencing, furrowing, grading/contouring, cover plantings, lower-water use crops, and other methods to control re-vegetation, fugitive dust, and stormwater runoff, as well as disposition of wood and other debris from fallowed fields/orchards.

If the State Park system or another stakeholder possesses land reclamation standards that must be taken into account, then DRI will include consideration of these in alternatives development.

DRI will evaluate the alternatives and support the BWD decision-making process. The process will include prioritization of sites and proposed sequencing of fallowing progression. This process will be iterative with opportunities for BWD and stakeholder feedback. A Draft Report will be submitted for review and comment. Comments will be incorporated into the published Final Report.

We will also work with the BWD to determine whether this process requires CEQA documentation, and if so, whether this may be tiered off other existing CEQA analyses and/or covered within the GSP process.

Phase I Deliverables: Regular Progress Updates; Meeting attendance; Draft and Final Report for Phase I Evaluation of Alternatives to Repurpose High-Water Use Agricultural Lands; Draft Fallowing Reclamation Practices.

Desired End State: BWD selects alternative(s) for repurposing of high-water use agricultural lands and begin discussion of Draft Reclamation Practices with Stakeholders

Phase II: Solution Testing

In Phase 2 we will rigorously test proposed methods for fallowing and repurposing before scaling up so that stakeholders can be confident that resources allocated for full-field projects will not be wasted on methods that appear good in concept but do not pan out during implementation.

Task 1. Project Management and Support to BWD for GSP Development

DRI will continue to provide technical advice and decision support as BWD navigates the process of GSP development and initiates implementation. The focus for work during this phase will be testing and evaluation of methods for achieving the alternative(s) selected by BWD at the end of Phase I. DRI will keep the BWD, ADBSP, and other stakeholders informed and involved as the project progresses.

Task 2. Testing and Modeling Estimation of Key Site Parameters

DRI will perform testing and modeling to determine projected ET, water recharge, carbon/biomass production, mitigation of fugitive dust emissions, and other factors to achieve effective land repurposing and use of low-water crops. Laboratory facilities may include greenhouses and EcoPods at DRI or in the vicinity of, or in-situ at, the Borrego Basin. Modeling may address restoration of site hydrology, hydraulics, and sediment transport with consideration of stormwater management as required to protect adjacent and downstream land uses.

Task 3. Pilot Testing / Field Optimization in Borrego Basin

Information developed in Task 2 will be translated into action in the field during Task 3. DRI will perform pilot tests in the Basin to evaluate performance of selected methods and to provide an opportunity to capitalize on lessons learned prior to scaling up the repurposing activities. This work will include development of site safety, stormwater runoff, and QA/QC control plans for the test site. DRI will work with the BWD for regulatory permitting if necessary for the pilot test.

A Report regarding the laboratory testing, modeling, and pilot test will be developed to document methods and findings, recommend reclamation practices, and provide information useful for other land reclamation initiatives within the Borrego Basin and elsewhere. The Draft Report will be submitted for review and comment. Comments will be incorporated into the published Final Report.

Phase II Deliverables: Regular Progress Updates; Meeting attendance; Draft and Final Reports for Phase II Solution Testing to Fallow and Repurpose High-Water Use Agricultural Lands; Maps to support decision-making process; data; Revised Reclamation Practices.

Desired End State: Development of an implementation plan for repurposing the land and reducing water use and the knowledge necessary to successfully perform the repurposing and achieve the BWD's water savings goals without detrimental consequences and in keeping with stakeholder needs and desires.

Phase III: Scale-up and Implementation Support

Task 1. Project Management and Support to BWD for GSP Implementation

DRI will continue to provide technical advice and decision support as BWD implements the GSP. The focus for work during this phase will be performing land fallowing and repurposing. DRI will keep the BWD, ADBSP, and other stakeholders informed and involved as the project progresses.

Task 2. Scale-up Analysis and Design Repurposing

DRI will design and oversee performance of the land repurposing project(s). This work will include development of site safety, stormwater runoff, and QA/QC control plans. DRI will work with the BWD for regulatory permitting as necessary.

DRI will consider plant mix, dust control methods, and runoff issues relative to areas down-gradient that have yet to be fallowed or are developed.

Task 3. Assessment of Implementation Results

DRI will assess results of fallowing and repurposing projects in the field. A Draft Report regarding the implementation and assessment will be submitted for review and comment. Comments will be incorporated into the published Final Report.

Phase III Deliverables: Regular Progress Updates; Meeting attendance; Draft and Final Report for Phase III Fallowing and Repurposing of High-Water Use Agricultural Lands; Maps to support decision-making process; data; Final Reclamation Practices.

Desired End States: Successful land repurposing to natural conditions and/or low-water use production. Annual water savings necessary for the BWD to meet GSP obligations.

DRI Key Personnel

Scott Thomas, Ph.D. – Project Manager

Mr. Thomas is an experienced ecologist, natural resources specialist, and project manager with over 25 years of experience working in the arid regions of Southern California. His area of expertise is in advising agencies and watershed managers in developing sustainable solutions for land and water resource degradation. Recent relevant research includes groundwater management planning, fluvial geomorphological analyses, and stormwater capture and reuse/recharge in arid and semi-arid regions of San Diego, Riverside, and San Bernardino Counties.

Steve Bacon – M.S., C.E.G., P.G. – GeoHydrology and Geomorphology

Mr. Bacon is a geologist with over 15 years of experience specializing in field investigations associated with geomorphology, engineering geology related to terrain and geotechnical site characterizations, landscape evolution, and geologic hazards. He recently completed a characterization of the Borrego Basin's active and inactive alluvial fan areas within a 61 square mile area of the watershed per FEMA guidance (Figure 1 below). Historical aerial photographs, satellite imagery, and on-site analysis were employed to identify high- and low-gradient alluvial fans within an ArcGIS platform during geomorphic mapping. Recent relevant research also includes geomorphic-based predictive terrain modeling of mobility and dust emission hazards.

Mary E. Cablk, Ph.D. – Ecology and Scenario Evaluation

Dr. Cablk is a landscape ecologist, remote sensing specialist and has expertise in desert ecosystem assessment including scenario modeling and futures evaluation. She has worked with federal and state agencies to interface on large-scale desert programs including the statewide (NV) National Science Foundation Sponsored Solar Nexus Project and the DOD funded Mojave Desert Alternative Future Scenario Project. Additional recent relevant research includes developing methods for quantifying and modeling flood extent on desert playas, assessing ecological impacts and recovery from wildfire in desert ecosystems of the southwestern US, and contributing to groundwater assessments in desert ecosystems through vegetation mapping and modeling from high-resolution satellite imagery.

Brittany Kruger, Ph.D. – Ecology and Land Reclamation/Revegetation

Ms. Kruger is an ecologist who focuses on water policy issues and scientific evaluation of aqueous or water-impacted environments. Recent relevant experience includes assessment of soil recovery from wildfire disturbance in the Mojave Desert, focusing on microbiological re-colonization that can contribute to biological crust formation and soil stability.

Jayson Medema – Geographic Information Systems and Remote Sensing

Mr. Medema is a technical analyst with experience in geospatial science projects including: GIS based infrastructure analytical products, remote sensing, 3D modeling, and environmental monitoring.

Other DRI specialists in the fields of restoration ecology, hydrology, soils science, geomorphology, air quality and dust control, and related fields are available as needed to support this work.

Proposed Budget

- Phase I: \$77,200
- Phase II: \$121,900
- Phase III: TBD during Phase II based on alternatives developed and selected.

Preliminary Schedule

- Dec 2017 – Aug 2018 Phase I
- Aug 2018 – Apr 2020 Phase II
- 2020+ Phase III

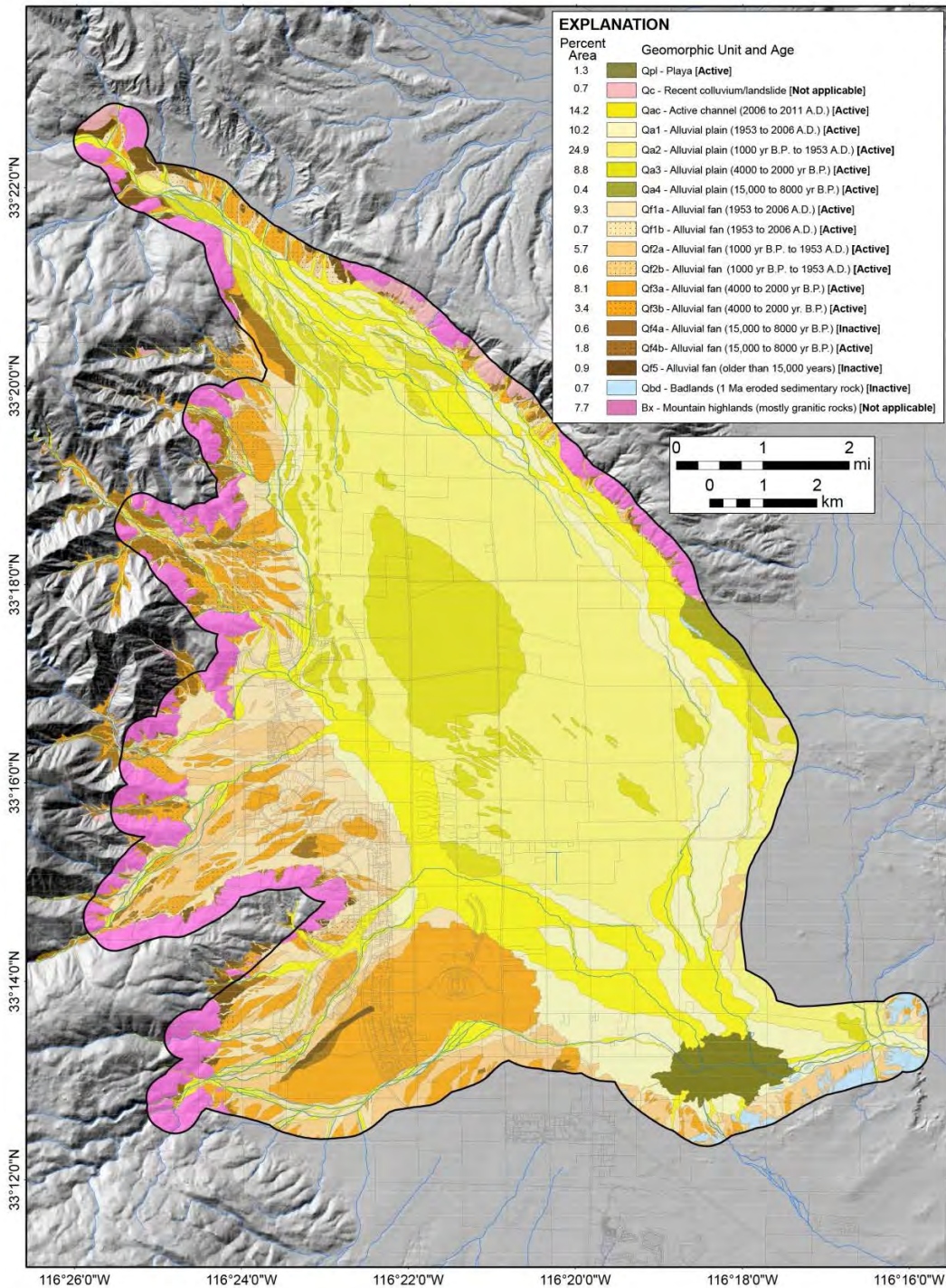
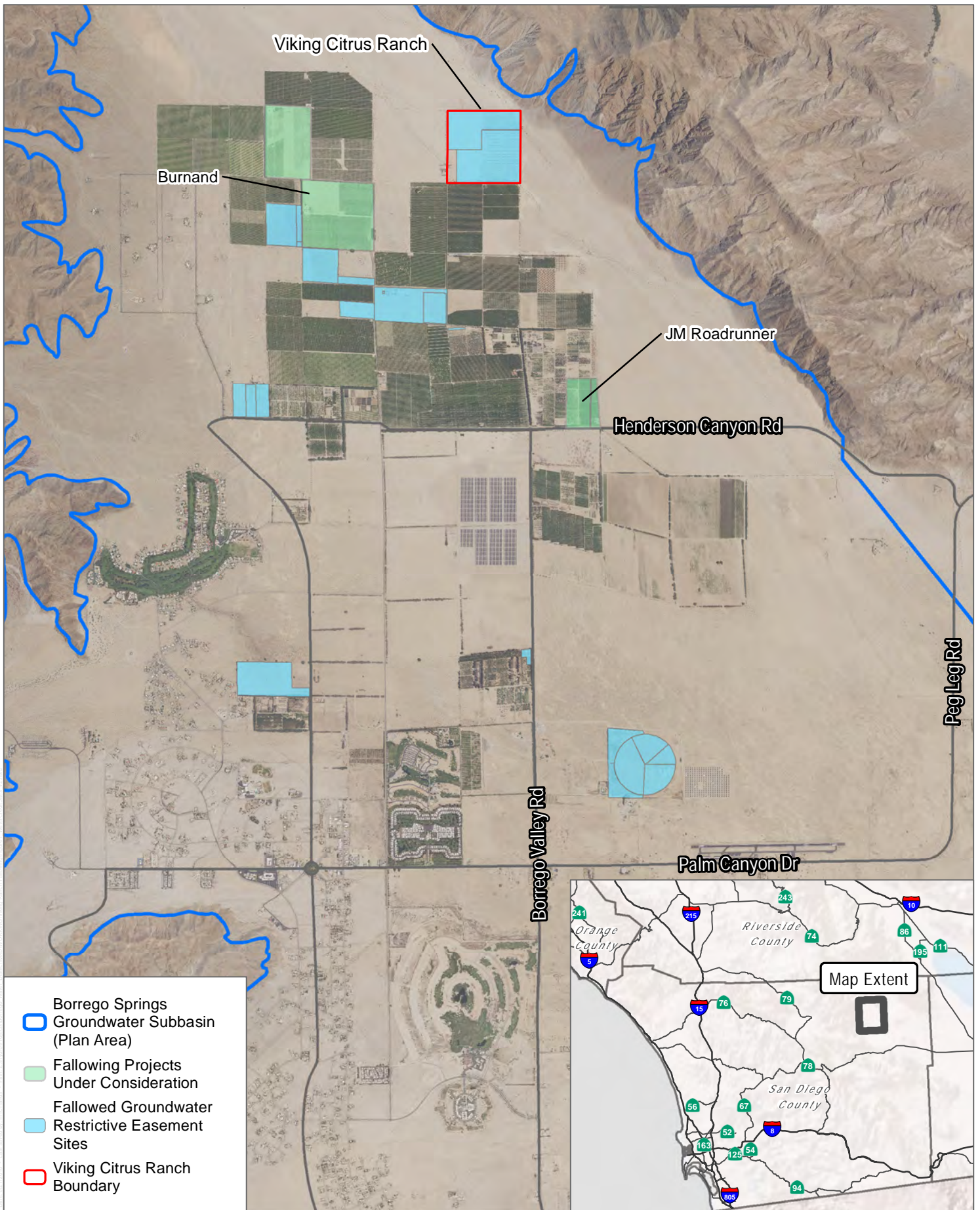
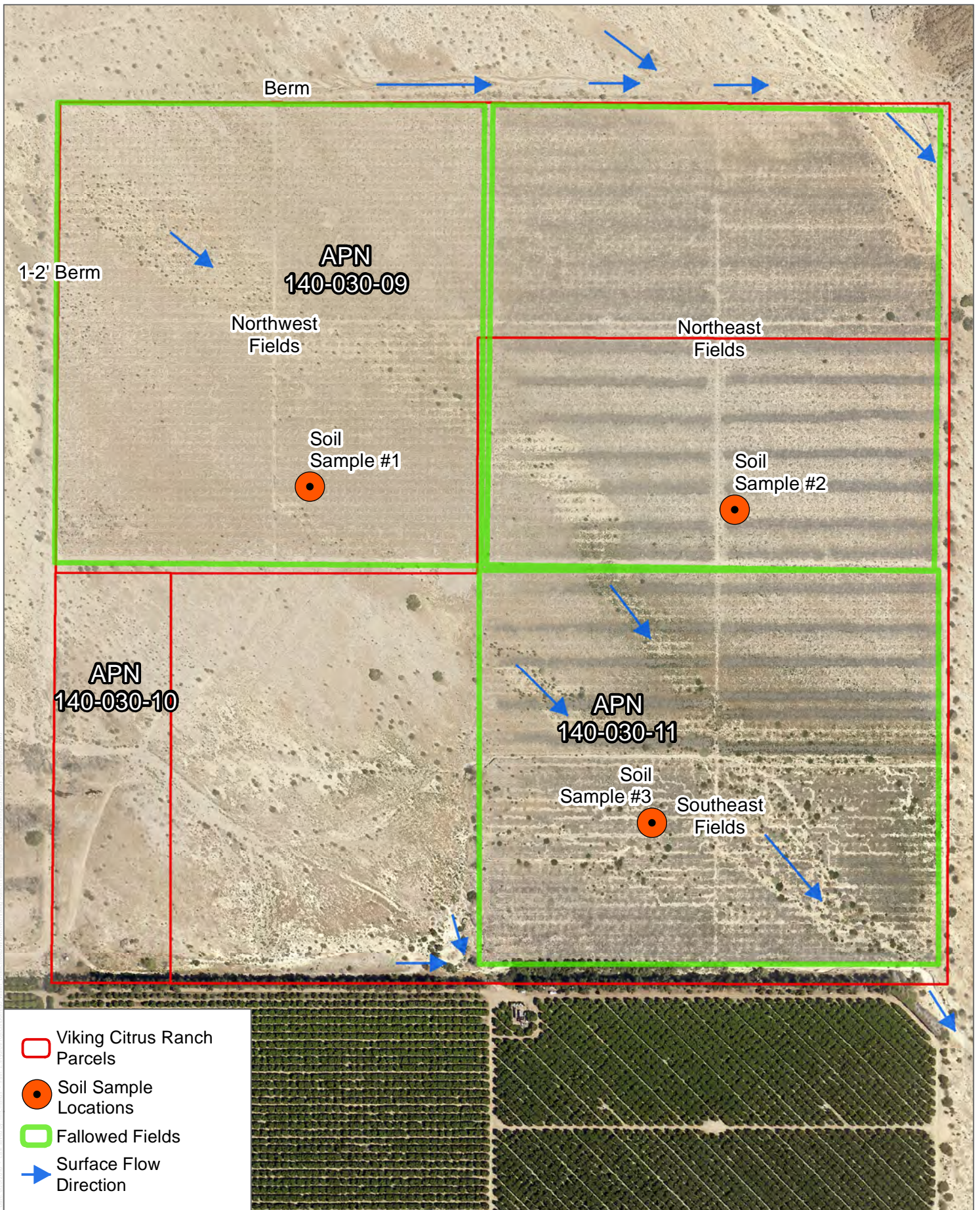


Figure 1. Geomorphologic map of the Borrego Valley watershed and study area showing unit descriptors, landform type, age, and percent area of each map unit. The geomorphologic and hydraulic activity level is noted in bold. Source: Bacon, S., J. Miller, and R. French. Borrego Springs Alluvial Fan Active and Inactive Area Mapping, County of San Diego, California. Prepared by the Desert Research Institute.



SOURCE: NAIP 2016

FIGURE 1
Fallowed Sites



SOURCE: NAIP 2017, SanGIS 2018

FIGURE 2

Case Study: Viking Citrus Ranch

Agricultural Land Fallowing Analysis and Reclamation Potential

**BORREGO WATER DISTRICT
BOARD OF DIRECTORS MEETING
October 24, 2018**

Agenda Bill Item III A

INFORMATIONAL

TO: Board of Directors
FROM: Director Joe Tatusko
SUBJECT: Comprehensive Solar

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

October 24, 2018

Borrego Water District (BWD)

Request to Provide a PV Power & Battery Backup, Comprehensive System Analysis & 3 cost effective Recommendations, PHASE 1 and to Minimize Upfront Capital Cost PHASE 2 and Recurring SDG&E Monthly Charges

Due By: xx-xx-xxx

DRAFT

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

- 1. Purpose of the PHASE 1 RFQ:** The purpose of this RFQ is to identify a qualified P.E. Engineer contractor/vendor to provide BWD with a reliable comprehensive electrical energy source evaluation from solar power & battery backup using current technology, and to provide BWD with the ongoing electrical power at a lower cost than is currently available from SDG&E for a minimum of 25 years. Provide BWD with 3, PHASE 1 options considering available BWD owned land location, land size at the BWD meter locations.
- 2. Immediate Objectives:** The objective of this Request for Proposal (RFP) is to identify and select the most qualified turnkey photovoltaic (PV) system P.E. Engineer/Contractor/Vendor. Upon selection of the most qualified Engineer/Contractor/Vendor, BWD intends to send out Requests for Proposals (RFP) for the possible future construction PHASE 2. The contractor shall size the comprehensive solar system **kW units including inverters, storage batteries, etc.** Also, provide financing options, available grants and/or low interest loan sources.
- 3. Background:** BWD is in beautiful Borrego Springs, California (Borrego), a retirement and resort community located about 90 miles drive NE of San Diego in the County of San Diego. The BWD services about 2100 fresh water rate payers and 800 WWTP customers. A SCADA system operates about 9 production wells to keep water reservoir tanks to preprogrammed fresh water levels.

BWD is a significant power consumer in Borrego Springs, relying on grid-purchased electricity from SDG&E to run its various facilities, about \$33,000.00 per month. BWD has two operational solar fields. One 100 kW system at the Waste Water Treatment Plant (WWTP) location and one 35 kW system at the office building/maintenance building location.

With SDG&E steadily increasing the kWh electricity rates charged to BWD year after year, BWD is seeking a means to minimize its reliance on SDG&E and to achieve both long-term electricity cost savings for the ratepayers and cost certainty through the use of

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

solar and possible battery backup. The proposed comprehensive solar system options presented would interconnect to the grid under the SDG&E Net Energy Metering (“NEM”) program. Under NEM, the electric energy generated by on-site solar is used to offset the electric energy provided by SDG&E to the BWD property. NEM is the standard program for commercial and residential solar systems in SDG&E territory and in the State of California. The proposed solar system would reduce, or eliminate in full, the net amount of electricity purchased from SDG&E.

4. General:

The scope of services provided by the Contractor/Vendor shall include all tasks required to provide 3 options with rough order of magnitude (ROM) pricing. The scope shall also include, but not be limited to, securing all permits and approvals from governing agencies, all labor, taxes, services, permit fees, and equipment necessary to produce a fully operational solar PV and battery backup system. The proposal shall contain a detailed explanation of the complete project and delineation of all work tasks to be performed by the awarded P.E. Engineer/Contractor/Vendor.

Contractor/Vendor should prepare system summary detailing the equipment/size, and a sample cash flow analysis detailing expected savings (both k wh and dollar) and long-term savings.

The PV system will be located on property owned by BWD. Proposer is to determine the feasibility and costs for installing the PV system at BWD sites including security fences, camera monitors, etc.

5. Scope of Project:

5-1 PHASE 2 - Design, Engineering, & Permitting

Design/engineer the solar PV system to maximize the solar energy resources, taking into consideration BWD electrical demand and load patterns (time of use), proposed installation site, available solar resources, existing site conditions, proposed future site

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

improvements, and other relevant factors. One year of SDG&E meter billings is attached to this RFP.

Provide design documents that provide the following minimum information for the selected option:

- Timeline/Project Schedule
- System description
- Equipment details and description
- Preliminary Layout of installation
- Preliminary Layout of equipment
- Selection of key equipment
- Specifications for equipment procurement and installation
- All engineering associated with structural and mounting details
- Performance of equipment components, and subsystems
- Integration of solar PV system with other power sources such as batteries
- Electrical grid interconnection requirements
- Controls, monitors, and instrumentation
- System electronic remote performance monitoring

Awarded Contractor/Vendor will secure from governing agencies and the utility company all required rights, permits, approvals, and interconnection agreements at no additional cost to BWD. BWD will become the signatory on applications, permits, and utility agreements only where necessary. The awarded P.E. Engineer/Contractor/Vendor will complete and submit in a timely manner all documentation required to qualify for available rebates and incentives.

5-2 Installation

Supply all equipment, materials, and labor necessary to install the solar PV systems at BWD owned sites and integrate them with other power sources.

5-3 Electrical Interconnections

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

Supply and install all equipment required to interconnect the solar PV systems to SDG&E distribution system. The awarded Contractor/Vendor will fulfill all application, studies, and testing procedures to complete the interconnection process. All costs associated with utility interconnection shall be borne by the awarded Contractor/Vendor.

5-4 Commissioning & Acceptance Testing

During the startup, BWD, and/or its independent engineer/consultant, shall observe and verify each system performance. Required commissioning and acceptance test services include:

- Starting up the solar PV systems until it achieves the performance requirements
- Conducting the performance testing over a consecutive twenty-four (24) hour period
- Conducting the successful delivery of power within thirty (30) days following completion of the system, meeting each benchmark.

5-5 Operation and Maintenance Manuals and As-Built Drawings

Provide three (3) sets of operation, maintenance, and parts manuals for the solar PV system. The manual shall cover all components, options, and accessories supplied. It shall include maintenance, trouble-shooting, and safety precautions specific to the supplied equipment. It shall also delineate responsibilities of both parties.

5-6 Monitoring

Monitoring of system performance is a required element of the RFP.

Provide the equipment and services to tie into the SDG&E system to allow the BWD to monitor, analyze, and display historical and live solar electricity generation data. The regularly collected data should reflect, but not be limited to, the following:

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

- System performance
- System availability
- Average and accumulated output
- Capacity factor
- Degradation
- Cost avoidance

Provide a long term cost for electricity (kWh) for the term of the awarded contract and any assumptions used in these calculations.

6. Warranties and Guarantees

The vendor/contractor shall warrant to BWD that during the one (1) year period from and after the date on which the work was completed (“warranty date”) the solar array and all appurtenances thereto including all materials, hardware and other improvements shall be free from defects caused by faulty workmanship and defective materials. If a defect or faulty workmanship is identified within the one year warranty period, the vendor/contractor shall immediately make the necessary repairs at no cost to BWD. Solar panels, inverters and batteries, etc. warranties shall be included in the PHASE 2 bid.

7. Operation and Maintenance

Provide a financial impact or price for operating and maintaining the PV system on the District’s behalf for a twenty five (25) year service term. Perform all required regularly scheduled maintenance activities (at an additional cost as identified in the cost proposal) in order to keep the system operational and performing to production guarantees. Attached is a cash flow analysis over time.

8. Insurance

The contractor/vendor is responsible and shall pay for insurance for the project during construction and maintenance activities. Insurance shall include both general liability

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

(\$2,000,000) and property insurance (\$1,000,000). BWD shall be named as additional insured on the policies.

9. Licensing/Certification

Contractor/Vendor must be properly licensed in the State of California. The Contractor license shall appear clearly on Contractor/Vendor's proposal and the license expiration date appear on the Contractor/Vendor's Proposal.

10. Operation & Maintenance Requirements

The Contractor's operation and maintenance service program should provide the following minimum requirements:

- Annual on-site system inspection, including:
- System testing (operating current of each electrical string)
- Routine preventive maintenance
- Repair and/or replacement of regularly scheduled replacement parts (including equipment and labor)
- System performance monitoring and historical data access for customer. Data should include:
 - System energy and power production
 - Insolation

11. Contractor Qualification PHASE 1 and PHASE 2

Please provide the following information:

- Status (private/publicly-held)
- Number of employees
- States in which you do business
- Target customers (residential, commercial, industrial, government, etc.)
- Project team profile, including resumes of personnel to be directly involved with the development of the proposed systems.
- Team leader identification for the entire Proposal, including full contact information.

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

- Identification of each entity, sub-contractor, person or firm involved in the Proposal and their role/responsibility, e.g. design, installation, permitting, equipment supply by component, operations and maintenance.
- Identification of the lead person responsible for each of the entities or firms described in above.

12. Contractor Experience

Provide overview of the firm's) commercial grid-connected PV experience (do not include residential PV experience)

- Average commercial grid-connected PV system size installed by your company during the last five years.
- Total commercial MW of grid-connected PV systems installed
- Experience with SDG&E.
- Experience with local government projects.

13. Contractor References

List five (5) or more commercial grid-connected PV projects installed in the United States over the last five years. Include for each project:

- Exact role(s) your organization performed for the project (e.g. material supplier, lead contractor, electrical subcontractor, design, consulting, etc.).
- Location.
- Application description.
- Product name/type.
- Customer name and contact information.
- Date installed.
- Project cost.
- PV module used.
- KW rating.
- Current operational status of system.

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

Proposals shall provide evidence that the proposed technology and equipment would meet or exceed all currently applicable and proposed safety and interconnection standards. All equipment components must be UL certified, and meet existing facility structural and fire safety requirements.

Proposals shall provide evidence that the proposed technology and equipment would meet or exceed all currently applicable and proposed environmental standards.

14. Pricing

Provide pricing for a turnkey (design/build) PV system located on BWD possible site recommendations. Pricing shall include:

1. US dollars for selling the entire (contractor to determine ____ kW PV) system to BWD upon completion of construction and acceptance by BWD. No Buy America requirement.

The lump sum price shall be broken down into the following

- (1) Preliminary activities: including but not limited to site review, equipment specifications, engineering, design package submittal, prepare SDG&E interconnection applications, prepare application for rebates, coordinate final design with suppliers, hold pre-construction meeting, electrical engineer PE review and stamp (if necessary), and permitting.
- (2) Delivery and installation of equipment: Included but not limited to all necessary equipment, trenching wiring, mounting, etc. to make a functional T.B.D. kW system. Also include construction inspections, meetings and documentation.
- (3) Final start-up, commissioning and reports.

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

2. Include estimated regular and scheduled maintenance of the T.B.D. kW PV system over the 25 year period.
3. When comparing BWD cost savings, assume a 3.0% annual escalator in SDG&E prices.
4. Proposed payment terms.

15. Schedule

The Contractor/Vendor shall provide a proposed schedule for completion of the project.

16. Walk Through

A non-mandatory project walkthrough date for all interested vendors/contractors has been scheduled for **T.B.D. at T.B.D am** BWD's office location.

17. Incurring Cost

BWD is not liable for any cost incurred by entities prior to executing a contract.

18. Selection Process

The BWD General Manager and Operations & Infrastructure (O&I) committee has been tasked with overseeing the identification and recommendation of a qualified P.E.

Engineer/contractor/vendor to approve.

Proposals will be evaluated by the BWD Advisory Committee based on:

- The competence to perform the services as reflected by past experience in providing the services outlined herein.
- The ability to meet the requirements of this RFP.
- Overall package and financial benefit to BWD.

BWD reserves the right to select or short-list any Contractor/Vendor that, in its opinion and at its sole discretion, is deemed to be most advantageous and in the best interests of St. Richard, including granting a preference to local contractors. BWD also reserves the right to delay or discontinue this selection process at any time during the process. BWD

REQUEST FOR PROPOSAL (RFP) TO PROVIDE A SOLAR POWER SYSTEM

shall not be liable for any cost incurred by any Contractor/Vendor during the selection process. BWD also reserves the right to reject the selected Contractor/Vendor and contract with another party if BWD and the selected Contractor/Vendor cannot successfully negotiate a contract for the proposed work.

19. Proposal Deadline

Three copies of the Proposal to Provide a Solar Power System must be delivered to:

Borrego Water District (BWD), Att. Geoff Poole, GM
P.O. Box 1870
Borrego Springs, CA 92004

By: **TBD at 3:00 PM**

20. Inquires

Inquiries can be directed to BWD, Geoff Poole at

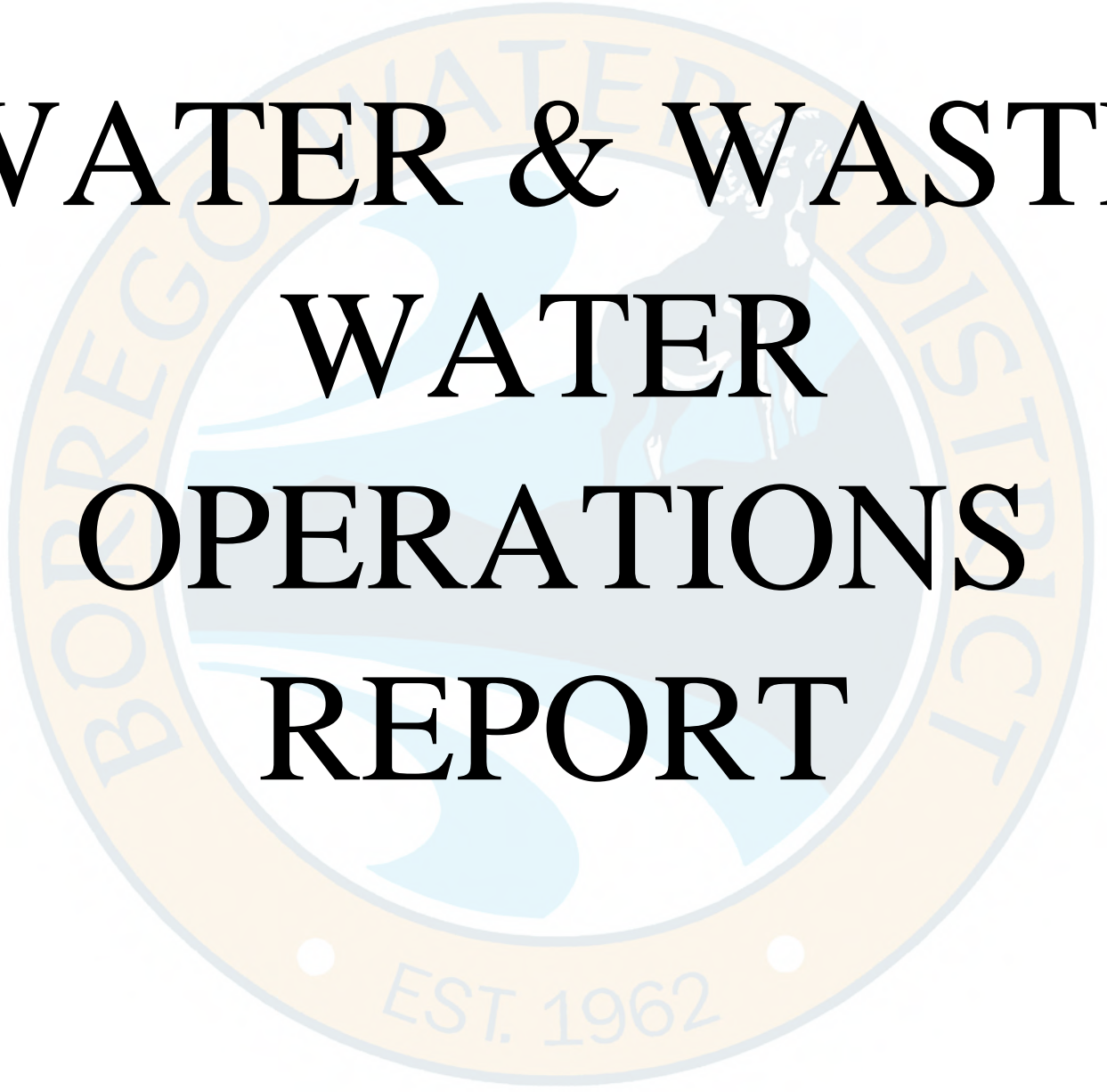
P.O. Box 1870
Borrego Springs, CA 92004

Or by phone at 760-767-5806

Or email at Geoff@borregowd.org

V

**WATER & WASTE
WATER
OPERATIONS
REPORT**





BORREGO WATER DISTRICT

August 2018

WATER OPERATIONS REPORT

WELL	TYPE	FLOW RATE	STATUS	COMMENT
ID1-8	Production	350	In Use	
ID1-10	Production	300	In Use	
ID1-12	Production	900	In Use	
ID1-16	Production	750	In Use	
Wilcox	Production	80	In Use	Diesel backup well for ID-4
ID4-4	Production	400	In Use	
ID4-11	Production	900	In Use	Diesel engine drive exercised monthly
ID4-18	Production	150	In Use	
ID5-5	Production	850	In Use	

System Problems: All production wells are in service. All reservoirs are in operating condition.

WASTEWATER OPERATIONS REPORT

Rams Hill Wastewater Treatment Facility serving ID-1, ID-2 and ID-5 Total Cap. 0.25 MGD (million gallons per day):

Average flow: 49,952 (gallons per day)

Peak flow: 66,200 gpd Thursday August 16, 2018

WATER PRODUCTION/ USE RECORDS





BORREGO WATER DISTRICT

WATER PRODUCTION SUMMARY

AUGUST 2018

DATE	WATER USE	WATER PROD	WATER %NRW	ID4 USE	ID4 PROD	ID4 %NRW	TOTAL USE	TOTAL PROD
Aug-16	41.77	43.61	4.21	115.77	141.88	18.40	157.54	185.48
Sep-16	43.67	46.58	6.25	119.76	118.50	-1.06	163.43	165.09
Oct-16	34.51	37.64	8.31	102.51	122.73	16.48	137.02	160.37
Nov-16	31.55	31.58	0.10	102.59	112.11	8.50	134.14	143.70
Dec-16	27.15	27.95	2.87	73.25	82.85	11.59	100.40	110.81
Jan-17	17.49	16.18	-8.10	51.59	59.32	13.02	69.08	75.50
Feb-17	11.72	14.64	19.93	63.23	73.40	13.85	74.95	88.04
Mar-17	17.15	18.48	7.17	63.65	68.34	6.86	80.81	86.82
Apr-17	25.02	26.02	3.83	90.17	99.02	8.94	115.18	125.03
May-17	28.18	29.45	4.30	98.06	113.48	13.58	126.25	142.93
Jun-17	29.25	33.42	12.48	96.28	106.02	9.19	125.52	139.44
Jul-17	32.84	34.17	3.90	107.37	122.38	12.26	140.21	156.55
Aug-17	35.64	40.65	12.32	127.56	141.43	9.81	163.19	182.07
Sep-17	40.98	43.11	4.93	102.46	114.72	10.69	143.44	157.83
Oct-17	29.35	31.05	5.48	108.42	119.22	9.06	137.77	150.28
Nov-17	26.03	27.67	5.92	107.09	120.15	10.87	133.12	147.82
Dec-17	23.23	26.28	11.60	80.91	89.46	9.55	104.14	115.73
Jan-18	19.40	19.95	2.74	86.60	95.01	8.85	106.01	114.96
Feb-18	19.77	21.14	6.49	78.55	87.58	10.31	98.32	108.72
Mar-18	19.90	20.26	1.77	73.56	80.32	8.42	93.46	100.58
Apr-18	22.01	22.72	3.11	88.49	99.08	10.69	110.50	121.80
May-18	25.10	25.46	1.40	98.95	108.29	8.62	124.05	133.75
Jun-18	29.06	29.87	2.72	100.42	108.40	7.36	129.48	138.28
Jul-18	30.87	31.47	1.89	96.80	111.42	13.12	127.67	142.89
Aug-18	36.34	38.25	4.99	124.77	142.84	12.65	161.11	181.09
12 Mo. TOTAL	357.70	377.88	5.03	1274.57	1417.92	10.00	1632.27	1795.80

Totals reflect Water (ID1 & ID3) and ID4 (ID4 & ID5) . Interties to SA3 are no longer needed to be separated. ID4 and SA5 are combined because all water production is pumped from ID4. All figures are in Acre Feet of water pumped.

NON-REVENUE WATER SUMMARY (%)

DATE	WATER	ID-4	ID-5	DISTRICT-WIDE AVERAGE
Jun-18	4.99	12.65	N/A	8.82
12 Mo. Average	5.03	10.00	N/A	7.51

GENERAL MANAGER 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: I have continued to support the AC and attended all events and respond to inquiries on GSA/GSP related issues including. Outside groups spoken to/met with during **October were Road Runner/Springs new owners. Meetings were held last week with County and Dudek re: Responses to BPA letters, Core Team meeting is scheduled for October 25th**

Next Steps: **The Core Team and Legal Counsel is continuing to focus on review of the Draft Finance Plan, Chapters 3 and 4 of the GSP, CEQA and overall GSP timing up to and following approval.**

- b. Expand Water Quality Monitoring Network
 - i. Contact well owners and request participation

Current Status: **The newly added wells for BS Elementary, Road Runner and De Anza CC are scheduled to be monitored during the first week of November.**

Next Steps: **Staff will continue to work with Dudek, Petersen and others on identifying new potential sites.**

- c. Provide input into GSP Following Plan
 - i. Viking Ranch Assessment

Current Status: **A comprehensive report was made on the September 18th Agenda, and the issue of Following Standards is scheduled for the October 24th Agenda.**

Next Steps: **Implement the Boards Direction from the 10-24 meeting**

- ii. Air Quality Monitoring System

Current Status Acquisition of the equipment is underway.

Next Steps: Continue to work with Dudek, Dr Zender and Dave Garmon on the air quality monitoring plan development and equipment acquisition.

- d. Participate in Baseline Pumping Allocation meetings

Current Status: **I participated in one meeting with County staff on the latest BPA recommendations following receipt of responses from pumpers. Follow up meetings with Rams Hill and Road Runner Farms is scheduled for November.**

Next Steps: Attend Rams Hill BPS meeting scheduled for Sept 24th and others as needed in the coming weeks

- e. Manage SDAC Contracts (See Grants Section)

Info follows

- f. Determine most beneficial EIR approval strategy and support County

Current Status: County and BWD continue to evaluate EIR/CEQA strategies.

Next Steps: Continue to work with County and Dudek on EIR development strategy as well as review Draft GSP Chapters now to avoid CEQA triggers in GSP documents.

- 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 Received: SDAC grant from DWR - Manage Contracts: Jun. 2018 – Jul. 2019

- a. Le Sar Development Consultants: Public Outreach

- i. Develop Materials, Survey/Data Acquisition, Business Survey Distribution

Business surveys from the larger water users are now coming in and the information is being forwarded to Jones and Le Sar.

Next Steps: Contact the smaller, traditional commercial establishments. Continue to work with Farmers on obtaining labor info.

- ii. Participate in Outreach efforts including AC Ad hoc Committee meeting and public workshops etc..

Current Status: Ongoing. **Next Ad Hoc Committee Meeting scheduled for October 26th.**

Next Steps: Continued outreach. **The next major event is planned for January 2019, following release of the Draft GSP.**

- b. Dr Jay Jones: Socioeconomic Modeling

- i. Submit info from surveys, provide data and other advice/input into model design

Current Status: Ongoing and Jones to present to BWD Board on Sept 26th

Next Steps: Continue to support Jones and provide survey information for Socioeconomic modeling.

c. Dudek/USGS: 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: Meter locations defined with cost estimates

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

Ongoing

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

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.

Next Steps: Promptly answer any additional questions on the WWTP Application and commence Federal Cross Cutting requirements immediately.

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.

Next Steps: Staff and Rick Alexander recently presented options and Rick Alexander will be providing a amendment to his agreement to cover completion of the existing Grant Applications and evaluate future opportunities.

D. BWD Bond - Capital Improvement Plan

Current Status: Bid Documents for Phase One of the BWD Pipeline projects are scheduled for approval on October 24th. Staff has recently produced a Project Phasing List to the Board.

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

Nothing to report

- a. Provide support for BWD Board Bond Proceeds Ad Hoc Committee

Committee abolished

- b. If successful, create structure and organization needed for expenditure of funds.
c. If unsuccessful, take steps necessary to obtain future BWD supplies including land acquisition in the short term, “wait and see strategy” or others.

TBD

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: Develop CIP Implementation Plan incorporating recently approved Project Phasing

- B. Develop new Budget and CIP Review Process
a. Evaluate existing Budget Format/Process – Revise as needed: Jan - Jun 2019

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 facilities including physical improvements and video cameras

Next Steps: Staff will develop a Plan and return in October and obtain written estimates if the Board concurs with the Plan

- E. Repair Flood Control Facility

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

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

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.

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

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 October. Staff is researching ways in which to enhance the enforcement powers for Roy, if needed.

I. Evaluate feasibility of well field solar power conversion

A proposal for well field conversion is due in the next few weeks and will be presented to O and I Committee and report to BWD Board in November

J. Miscellaneous Projects: Lorch easement, Sunset sewer acceptance and future extension, time card review, monthly staff meetings

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: Complete appraisal and determine if BWD prefers to acquire easement or parcel. Negotiate with Mrs. Lorch

K. Evaluate Cyber Security at BWD

Staff has contacted ACWA JPIA and solicited assistance from their Cyber Security Contractors. Proposals are due in the next few days and will be processed thru the Risk Management Committee.

Next Steps: Staff and the Risk Committee are evaluating options for further Cyber testing and will return in November 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 - Oct 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, Club Circle Trash, New 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: Discussions ongoing.

Rams Hill LTCA: Staff and Rams Hill representatives are scheduled to talk on 10-22. Operations staff have determined the available flow rates to the Golf Course (500 gpm for 12 hours).

Mesquite Ranch: A letter is being sent to Doug Wilson

Time Card Review: Time spent on specific activities are now being captured on employee timecards

Staff Meetings: Staff meeting for Cyber and Purchasing Policy training was held and all employees attended.