

# NOTICE OF MEETING

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OF THE  
**ENGINEERING, OPERATIONS,  
AND BIOSOLIDS MANAGEMENT  
COMMITTEE**

OF THE  
BOARD OF DIRECTORS  
OF THE



IS SCHEDULED FOR  
**WEDNESDAY, MAY 13, 2015**  
**10:00 A.M.**

*Or immediately following the  
Public, Legislative Affairs, and Water Resources  
Committee Meeting*

AT THE ADMINISTRATION HEADQUARTERS  
6075 Kimball Avenue, Building A  
Chino, CA 91708



**ENGINEERING, OPERATIONS, AND  
BIOSOLIDS MANAGEMENT  
COMMITTEE MEETING  
OF THE BOARD OF DIRECTORS  
INLAND EMPIRE UTILITIES AGENCY\*  
AGENCY HEADQUARTERS, CHINO, CALIFORNIA**

**WEDNESDAY, MAY 13, 2015  
10:00 A.M.**

***Or immediately following the  
Public, Legislative Affairs, and Water Resources  
Committee Meeting***

**CALL TO ORDER**

**PUBLIC COMMENT**

Members of the public may address the Board on any item that is within the jurisdiction of the Board; however, no action may be taken on any item not appearing on the agenda unless the action is otherwise authorized by Subdivision (b) of Section 54954.2 of the Government Code. Those persons wishing to address the Board on any matter, whether or not it appears on the agenda, are requested to complete and submit to the Board Secretary a "Request to Speak" form which is available on the table in the Board Room. Comments will be limited to five minutes per speaker. Thank you.

**ADDITIONS TO THE AGENDA**

In accordance with Section 54954.2 of the Government Code (Brown Act), additions to the agenda require two-thirds vote of the legislative body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted.

**1. ACTION ITEMS**

**A. MINUTES**

The Committee will be asked to approve the Engineering, Operations, and Biosolids Management Committee meeting minutes from the April 8, 2015 meeting.

**B. ENGINEERING CONTRACT AWARD FOR THE SAN SEVAINE BASIN  
RMPU IMPROVEMENTS**

It is recommended that the Committee/Board:

1. Approve the consulting engineering services contract award for the San Sevaime Basin Recharge Master Plan Update Improvements,

Project No. EN13001, to Dudek for the not-to-exceed amount of \$358,828; and

2. Authorize the General Manager to execute the contract.

**C. CONSULTING ENGINEERING SERVICES CONTRACT AWARD FOR THE NEW WATER QUALITY LABORATORY**

It is recommended that the Committee/Board:

1. Approve the consulting engineering services contract award to The Austin Company for the New Water Quality Laboratory, Project No. EN15008, for the not-to-exceed amount of \$1,273,900;
2. Approve a Fiscal Year (FY) 2014/15 budget appropriation in the amount of \$100,000; and
3. Authorize the General Manager to execute the budget appropriation and contract.

**D. BIOSOLIDS TRANSPORTATION AND RECYCLING SERVICES CONTRACT**

It is recommended that the Committee/Board:

1. Approve a two-year contract with three one-year renewal options with Viramontes Express, Inc. for biosolids transportation and recycling services for approximately \$500,000 per year (renewals to be adjusted annually using the Consumer Price Index) not-to-exceed \$3,000,000 for five years; and
2. Authorize the General Manager to execute the contract.

**E. CONTRACT AMENDMENT TO POLYDYNE INC.**

It is recommended that the Committee/Board:

1. Approve a Contract Amendment No. 4600000676-005 to Polydyne Inc., extending the contract for one year to supply Flosperse 30S at a fixed unit price of \$0.919/pound, including sales tax and delivery; and
2. Authorize the General Manager to execute the amendment.

**F. AGENCY-WIDE ELECTRICAL TRANSFORMER TESTING SERVICE CONTRACT**

It is recommended that the Committee/Board:

1. Award Contract No. 4600001860 to Transformer Testing and Repairs, Inc. for the provision of testing and analyzing Agency-wide electrical

power transformers for a five-year term for the not-to-exceed amount of \$147,675; and

2. Authorize the General Manager to execute the contract.

**G. AGENCY-WIDE CONTRACT SERVICES FOR THE REPAIR, REBUILD, OR REFURBISHMENT OF ROTATING MACHINERY**

It is recommended that the Committee/Board:

1. Approve the award of Contract No. 4600001868 to Superior Electric Motor Service, Inc. to provide repair, rebuild, or refurbishment services of rotating machinery for a total aggregate not-to-exceed amount of \$240,000 over a three-year period with a one-year option to extend;
2. Approve the award of Contract No. 4600001864 to Vaughn's Industrial Repair, Inc. to provide repair, rebuild, or refurbishment services of rotating machinery for a total aggregate not-to-exceed amount of \$240,000 over a three-year period with a one-year option to extend; and
3. Authorize the General Manager to execute the contracts.

**2. INFORMATION ITEMS**

**A. RP-1 FUEL CELL UPDATE (POWERPOINT)**

**B. ODOR STUDY (POWERPOINT)**

**RECEIVE AND FILE INFORMATION ITEM**

**C. ENGINEERING AND CONSTRUCTION MANAGEMENT FY 2013/14 MONTHLY UPDATE (POWERPOINT)**

**3. GENERAL MANAGER'S COMMENTS**

**4. COMMITTEE MEMBER COMMENTS**

**5. COMMITTEE MEMBER REQUESTED FUTURE AGENDA ITEMS**

**6. ADJOURN**

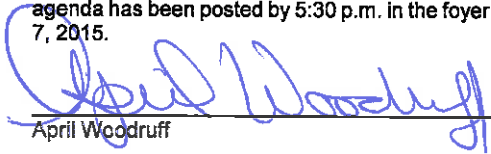
\*A Municipal Water District

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Board Secretary (909-993-1736), 48 hours prior to the scheduled meeting so that the Agency can make reasonable arrangements

Proofed by: \_\_\_\_\_

**DECLARATION OF POSTING**

I, April Woodruff, Board Secretary of the Inland Empire Utilities Agency, A Municipal Water District, hereby certify that a copy of the agenda has been posted by 5:30 p.m. in the foyer at the Agency's main office, 6075 Kimball Ave., Building A, Chino, CA on Thursday, May 7, 2015.

  
\_\_\_\_\_  
April Woodruff

**ACTION  
ITEM  
1A**



## **MINUTES**

### **ENGINEERING, OPERATIONS, AND BIOSOLIDS MANAGEMENT COMMITTEE MEETING INLAND EMPIRE UTILITIES AGENCY\* AGENCY HEADQUARTERS, CHINO, CA**

**WEDNESDAY, APRIL 8, 2015  
10:00 A.M.**

#### **COMMITTEE MEMBERS PRESENT**

Terry Catlin, Chair  
Jasmin A. Hall

#### **COMMITTEE MEMBERS ABSENT**

Michael Camacho

#### **STAFF PRESENT**

P. Joseph Grindstaff, General Manager  
Christina Valencia, Chief Financial Officer/Assistant General Manager  
Ernest Yeboah, Executive Manager of Operations/Assistant General Manager  
Harlan Delzer, Contracts/Programs Administrator  
Joel Ignacio, Senior Engineer  
Majid Karim, Acting Manager of Engineering  
Sylvie Lee, Manager of Planning and Environmental Compliance  
David Mendez, Deputy Manager of Construction Management  
Lisa Morgan-Perales, Water Resources Analyst II  
Jesse Pompa, Senior Associate Engineer  
April Woodruff, Board Secretary/Office Manager

#### **OTHERS PRESENT**

Jean Cihigoyenette, Cihigoyenette, Grossberg, and Clouse  
Chuck Tobin, Burrtec  
John Bosler, Cucamonga Valley Water District

The meeting was called to order at 10:00 a.m. There were no public comments received or additions to the agenda.

#### **ACTION ITEMS**

The Committee:

- ◆ Approved the Engineering, Operations, and Biosolids Management Committee meeting minutes of March 11, 2015.
- ◆ Recommended that the Board:
  1. Approve the consulting engineering contract award for the 1630 West Recycled Water Pump Station Surge Protection, Project No. EN15055 to Stantec Consulting Services, Inc. for the not-to-exceed amount of \$155,273; and

2. Authorize the General Manager to execute the contract;  
as a Consent Calendar Item on the April 15, 2015 Board meeting agenda.

◆ Recommended that the Board:

1. Approve the construction contract award to J.R. Filanc Construction Inc. for the Regional Water Recycling Plant No. 1 (RP-1) Primary Clarifier Rehabilitation, Project No. EN08023.05, in the amount of \$630,100; and

2. Authorize the General Manager to execute the contract;

as a Consent Calendar Item on the April 15, 2015 Board meeting agenda.

◆ Recommended that the Board:

1. Amend the Recharge Master Plan Task Order No. 1, Project No. RW15003, under the Master Agreement with Chino Basin Watermaster; and

2. Authorize the General Manager to execute the amendment;

as a Consent Calendar Item on the April 15 2015, Board meeting agenda.

◆ Recommended that the Board:

1. Amend the Master Agreement with Chino Basin Watermaster for the San Sevaine Basin Improvement Task Order No. 8, Project No. EN13001, and increase the total project cost by \$2.96 million; and

2. Authorize the General Manager to execute the amendment;

as a Consent Calendar Item on the April 15, 2015 Board meeting agenda.

◆ Recommended that the Board:

1. Approve the consulting engineering services contract award for the RP-1 Power System Upgrades, Project No. EN13048, to Tetra Tech Inc. for the not-to-exceed amount of \$269,380; and

2. Authorize the General Manager to execute the contract;

as a Consent Calendar Item on the April 15, 2015 Board meeting agenda.

◆ Recommended that the Board:

1. Amend the current agreement with Shell Energy North America (SENA) US, L.P. for one year to purchase 1.5 megawatts (MW) of electricity per hour at a variable rate;

2. Amend the current agreement with SENA US, L.P. for one year to purchase 200 MMBtu per day of natural gas at a variable rate; and

3. Authorize the General Manager to finalize and execute the amended agreements.



as a Consent Calendar Item on the April 15, 2015 Board meeting agenda.

◆ Recommended that the Board:

1. Award Contract No. 4600001845 to J.F. Shea Construction, Inc. for the Regional Water Recycling Plant No. 1 (RP-1) Preliminary Treatment Rehabilitation Project for a total amount of \$623,041;
2. Award Contract No. 4600001842 to Sunbelt Rentals Pump and Power Services to provide by-pass pumping service at the preliminary treatment area for a total not-to-exceed amount of \$175,483.50; and
3. Authorize the General Manager to execute the contracts;

as an Action Item on the April 15, 2015 Board meeting agenda.

◆ Recommended that the Board:

1. Award Contract No. 4600001847 to AMP Mechanical Inc., for the provision of Agency-wide heating, ventilating, and air conditioning (HVAC) maintenance and emergency/call-out services for a three-year term for the not-to-exceed amount of \$156,100 with a one-year option to extend; and
2. Authorize the General Manager to execute the contract;

as a Consent Calendar Item on the April 15, 2015 Board meeting agenda.

### **INFORMATION ITEMS**

The following information items were presented or received and filed by the Committee:

- ◆ Engineering and Construction Management Monthly Update
- ◆ 3<sup>rd</sup> Quarter Planning and Environmental Compliance Update

### **GENERAL MANAGER'S COMMENTS**

General Manager P. Joseph Grindstaff reported that last night the State Board released their draft plan to implement the Governor's Executive Order, which the Governor issued a week ago. He stated that the draft plan would require two of the member agencies – Cucamonga Valley Water District and the City of Upland – to reduce water use by 35%, the rest of the member agencies by 25%, of total water usage based on 2013 usage. Mr. Grindstaff reported that the Governor's Executive Order calls for a 25% statewide reduction in urban water usage by February 28, 2016. He stated that this is going to be very financially challenging for the member agencies. He stated that it foretells a dramatic change in landscape. He mentioned that by using a lot less water on landscape, it may impact safe yield long-term. Mr. Grindstaff noted that the Governor's Executive Order is strong by stating that we have to reduce urban usage by 25%.

### **COMMITTEE MEMBER COMMENTS**

None.

### **COMMITTEE MEMBER REQUESTED FUTURE AGENDA ITEMS**

None.

Engineering, Operations, and Biosolids Management Committee  
April 8, 2015  
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With no further business, the meeting adjourned at 11:02 a.m.

Respectfully submitted,

April Woodruff  
Board Secretary/Office Manager

\*A Municipal Water District

**APPROVED: MAY 13, 2015**

**ACTION  
ITEM  
1B**



Date: May 20, 2015

To: The Honorable Board of Directors

Through: Engineering, Operations, and Biosolids Management Committee  
(05/13/15)

From: *for* P. Joseph Grindstaff *WJG*  
General Manager

Submitted by: *for* Chris Berch *WJG*  
Executive Manager of Engineering/Assistant General Manager

Majid Karim *MJK*  
Acting Manager of Engineering

Subject: Engineering Contract Award for the San Sevaine Basin RMPU  
Improvements

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### **RECOMMENDATION**

It is recommended that the Board of Directors:

1. Approve the consulting engineering services contract award for the San Sevaine Basin Recharge Master Plan Update Improvements, Project No. EN13001, to Dudek for the not-to-exceed amount of \$358,828; and
2. Authorize the General Manager to execute the contract.

### **BACKGROUND**

The 2013 Amendment to the 2010 Recharge Master Plan Update (RMPU) was approved by both Inland Empire Utilities Agency (IEUA) and Chino Basin Watermaster (Watermaster). The proposed San Sevaine Basin Improvement project is a part of the RMPU to capture an additional 642 acre-feet of storm water and 4,100 acre-feet of recycled water for the Chino Basin Groundwater System. The \$6.45 million capital project is a fifty-fifty cost share between Watermaster and IEUA. The improvement proposes to design and construct a new pump station in the lower downstream basin and placement of conveyance equipment to the upper basins. The upper basins historically performed at higher groundwater recharge rates which allow for more capture and help mitigate vector issues within the area.

On March 5, 2015, IEUA issued a request for proposals (RFP) to provide design services and engineering support in construction. On April 7, 2015, IEUA received proposals from the following firms: Dudek, Lee & Ro, Inc., PACE - Advance Water Engineering, and Stantec Consultant Services, Inc.

A review committee, which comprised of four IEUA staff; one Watermaster staff; and one Watermaster pool member, finalized selection on April 21, 2015. Based on qualifications and experience, innovation, understanding of the project scope, and ability to meet the project schedule, the committee reached a consensus that Dudek was the most qualified and responsive firm. Contract negotiations were immediately initiated to discuss their proposal fee and scope.

Negotiations lead to a fair and best value for a not-to-exceed contract of \$358,828 which is within the projected budget. The following is the project's cost breakdown, schedule, and the cost share between IEUA and Watermaster.

Project Phase	Start	Finish	Total Project Budget	IEUA Share	Watermaster Share
Preliminary Design	Oct. 2012	Apr. 2015	\$160,000	\$80,000	\$80,000
Environmental Impact	Jun. 2013	May 2015	\$30,000	\$15,000	\$15,000
Consultant Services	May. 2015	Jan. 2016	\$358,828	\$179,414	\$179,414
Design (IEUA Labor)			\$41,172	\$20,586	\$20,586
Permits	May 2013	Dec. 2015	\$25,000	\$12,500	\$12,500
Bid and Award	Jan. 2016	Mar. 2016	\$5,000	\$2,500	\$2,500
Construction	Mar. 2016	Apr. 2017	\$5,840,000	\$2,920,000	\$2,920,000
<b>Total:</b>			<b>\$6,460,000</b>	<b>\$3,230,000</b>	<b>\$3,230,000</b>

The contract award meets IEUA's water reliability business goals by maximizing the beneficial reuse of recycled water and sources of groundwater recharge through the enhancement of groundwater recharge facilities.

**PRIOR BOARD ACTION**

On April 15, 2015, the Board of Directors approved the amendment to Task Order No. 8, under the 2014 Master Agreement between Inland Empire Utilities Agency and Chino Basin Watermaster.

On August 20, 2014, the Board of Directors approved the Task Order No. 8, under the 2014 Master Agreement between Inland Empire Utilities Agency and Chino Basin Watermaster.

Engineering Contract Award for the San Sevaine Basin RMPU Improvements  
May 20, 2015  
Page 3 of 3

On July 16, 2014, the Board of Directors approved the Master Cost Sharing Agreement (Master Agreement) between Inland Empire Utilities Agency and Chino Basin Watermaster.

### **IMPACT ON BUDGET**

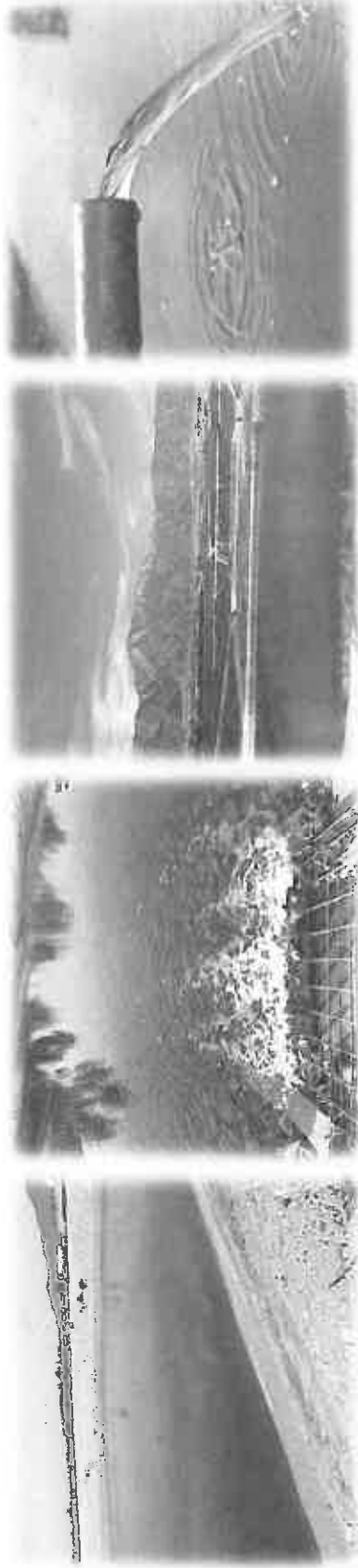
If approved, the cost of the consulting engineering services contract for the San Sevaine Basin RMPU Improvement, Project No. EN13001 for the not-to-exceed amount of \$358,828 is within the current total project budget of \$3,550,000 which is planned to be revised to \$6,460,000 in FY 2015/16 through the TYCIP budget process. Currently the FY 2014/15 appropriation for EN13001 is \$214,203 in the Recycled Water (WC) fund of which approximately \$104,000 has already been spent or committed and leaves a budget of \$110,203. This remaining amount for this fiscal year is sufficient to cover the expected contract expenditures because the contract efforts will be spread over two fiscal years where \$20,000 will be allocated this fiscal year and the remaining will be allocated for the next 2015/16 fiscal year. The contract's scope of work is not expecting to expend over \$20,000 before the end of June 2015. The project's planned ten year budget for FY 2015/16 and FY 2016/17 is \$3,400,000 and \$3,000,000 respectively.

The project also received a \$750,000 grant from Santa Ana Watershed Authority's Proposition 84 funding which will reduce the project cost accordingly.

PJG:CB:MK:jsi

# San Sevaine Basin RMPU Improvements Engineering Service Contract Award

Project No. EN13001  
May 2015



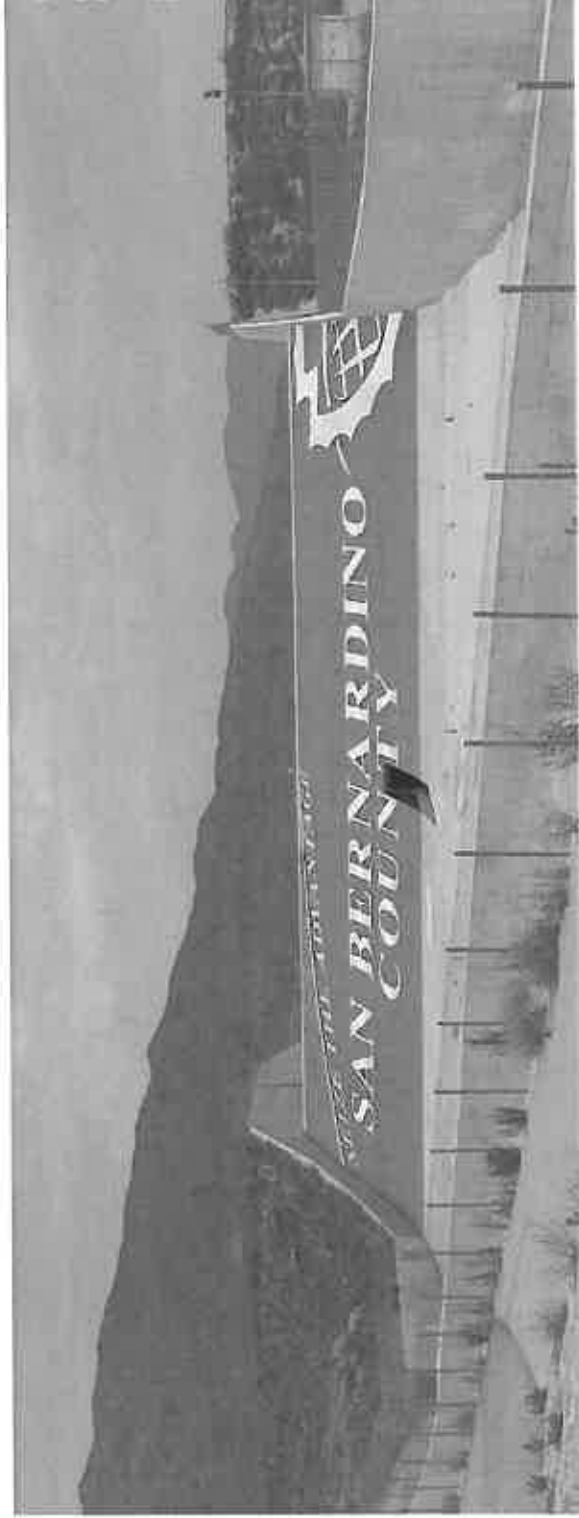
Majid Karim, P.E.  
Acting Manager of Engineering

Joel Ignacio, P.E.  
Senior Engineer



# Project Request

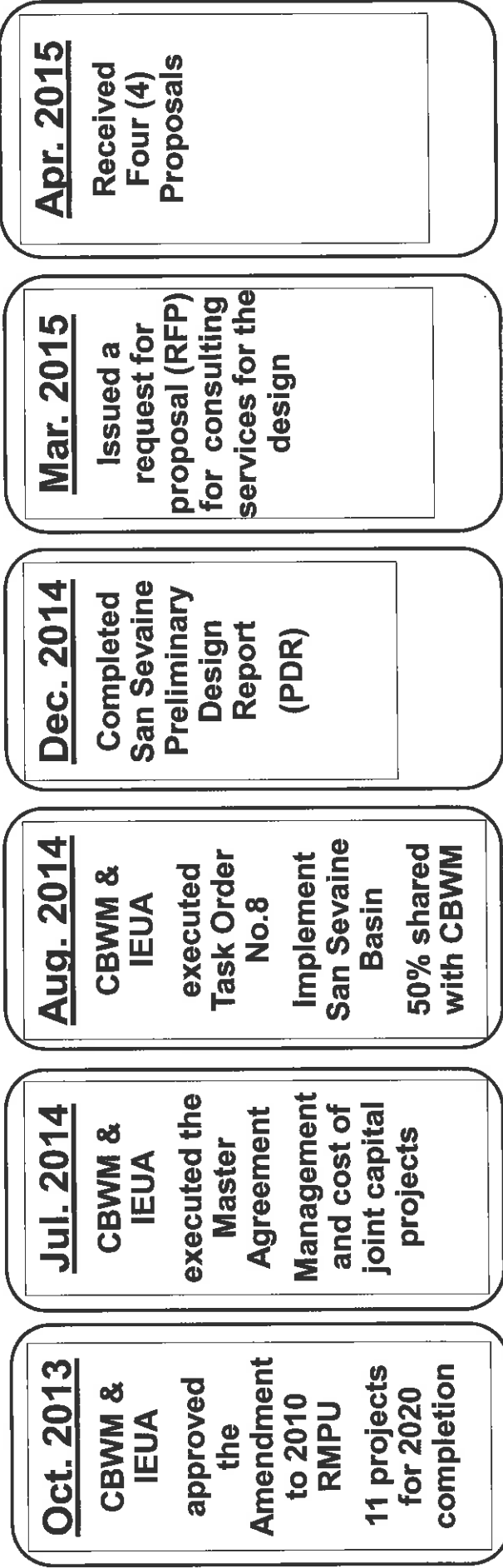
- Staff recommends the approval of the contract award to Dudek to provide consulting services for the design of the San Sevaline Basins as part of the Recharge Master Plan Update (RMPU)



San Sevaline Basin's Spillway Structure at Basin 5



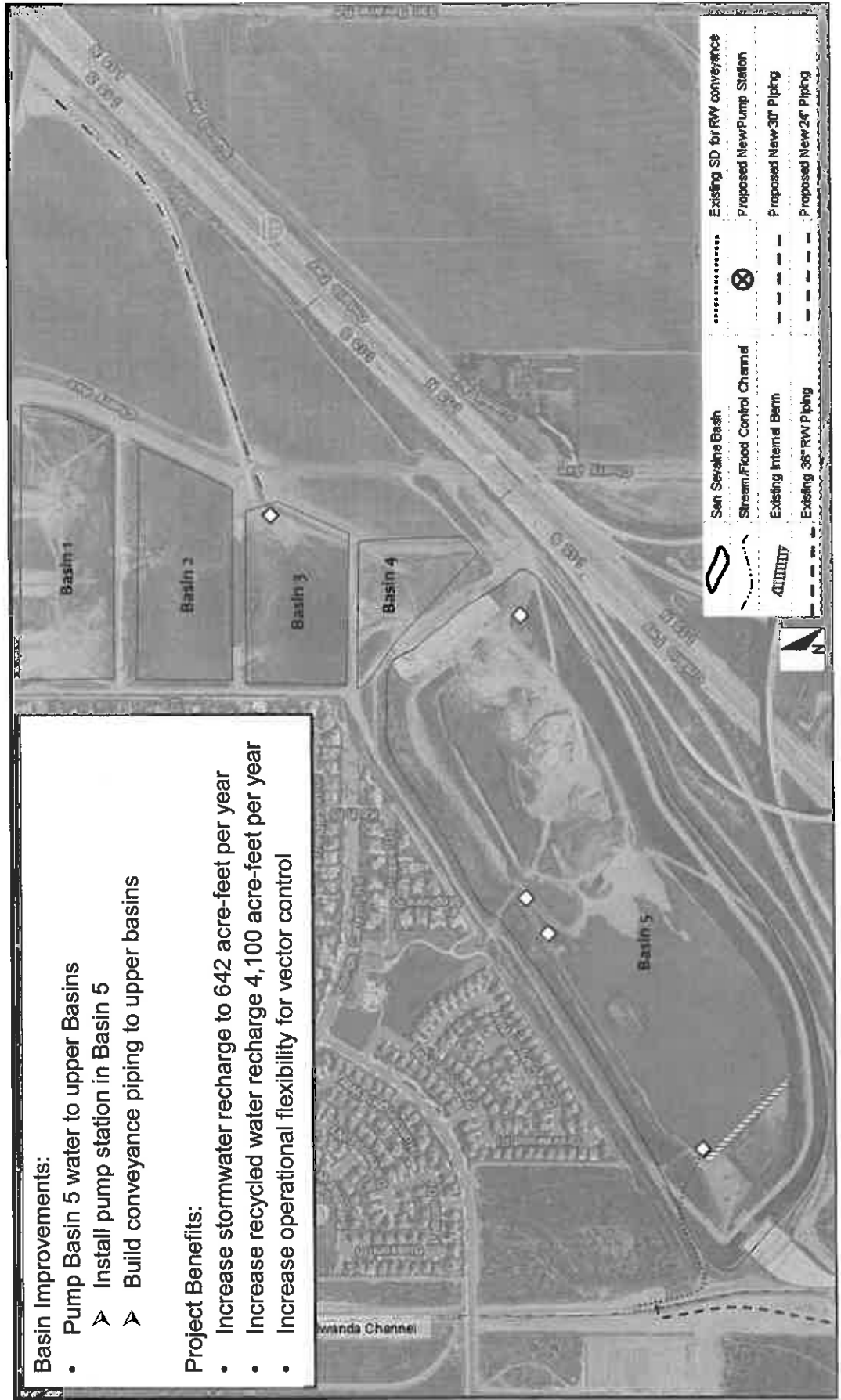
# Project Background



# Project Location



# Project Scope



## Basin Improvements:

- Pump Basin 5 water to upper Basins
- Install pump station in Basin 5
- Build conveyance piping to upper basins

## Project Benefits:

- Increase stormwater recharge to 642 acre-feet per year
- Increase recycled water recharge 4,100 acre-feet per year
- Increase operational flexibility for vector control

# Consultant Selection

- Received four proposals:
  - Dudek
  - Lee & Ro, Inc.
  - PACE – Advance Water Engineering
  - Stantec Consulting Services, Inc.
- Justification for selecting Dudek
  - History to perform work
  - Qualification and Experience
  - Innovation in project approach
  - Understanding of project scope
  - Work effort to perform services
  - Ability to meet project schedule
- Proposal Review/Selection Committee
  - 4 - IEUA staff
  - 1 - Watermaster staff
  - 1 - Watermaster's Appropriate Pool
- Not-to-exceed contract of \$358,828

# Project Budget and Schedule

Project Phases	Start	Finish	Projected Cost	IEUA Share	CBWM Share
Preliminary Design	Oct. 2012	Apr. 2015	\$160,000	\$80,000	\$80,000
Environmental Impact	Jun. 2013	May 2015	\$30,000	\$15,000	\$15,000
Consultant Service	May. 2015	Jan. 2016	\$358,828	\$179,414	\$179,414
Design (IEUA Labor)			\$41,172	\$20,586	\$20,586
Permits	May 2013	Dec. 2015	\$25,000	\$12,500	\$12,500
Bid and Award	Jan. 2016	Mar. 2016	\$5,000	\$2,500	\$2,500
Construction	Mar. 2016	Apr. 2017	\$5,840,000	\$2,920,000	\$2,920,000
		Total:	\$6,460,000	\$3,230,000	\$3,230,000

- Approved for \$750,000 grant from the Department of Water Resources through the Santa Ana Watershed Project Authority as part of Proposition 84

# Recommendation

- Staff recommends Board approval of the engineering design services contract with Dudek for a not-to-exceed cost of \$358,828 for the design of the San Sevaine Basin RMPU Improvement, Project No. EN13001

*Project meets IEUA business goals by maximizing the beneficial reuse of recycled water and sources of groundwater recharge through the enhancement of groundwater recharge facilities*



# Questions?



Inland Empire Utilities Agency  
A MUNICIPAL WATER DISTRICT



**DRAFT**



**CONTRACT NUMBER: 4600001875**  
**FOR**  
**DESIGN SERVICES FOR**  
**SAN SEVAINE BASIN IMPROVEMENTS**

THIS CONTRACT (the "Contract"), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the Inland Empire Utilities Agency, a Municipal Water District, organized and existing in the County of San Bernardino under and by virtue of the laws of the State of California (hereinafter referred to as "Agency") and Dudek with offices located in Encinitas, California (hereinafter referred to as "Consultant"), to provide consulting engineering services during the design, bid, and construction of San Sevaime Basin Improvements Project, No. EN13001.00.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties agree as follows:

1. **PROJECT MANAGER ASSIGNMENT:** All technical direction related to this Contract shall come from the designated Project Manager. Details of the Agency's assignment are listed below.

Project Manager: Joel Ignacio, P.E., Senior Engineer  
Address: 6075 Kimball Avenue, Building B  
Chino, California 91708  
Telephone: (909) 993-1913  
Email: [jjignacio@ieua.org](mailto:jjignacio@ieua.org)  
Facsimile: (909) 993-1982

2. **CONSULTANT ASSIGNMENT:** Special inquiries related to this Contract and the effects of this Contract shall be referred to the following:

Consultant: Russ Bergholz, P.E., PMP, Project Manager  
Address: 605 Third Street  
Encinitas, CA 92024  
Telephone: (760) 942-5147  
Email: [rbergholz@dudek.com](mailto:rbergholz@dudek.com)  
Facsimile: (760) 632-0164

3. **ORDER OF PRECEDENCE:** The documents referenced below represent the Contract Documents. Where any conflicts exist between the General Terms and Conditions, or addenda attached, then the governing order of precedence shall be as follows:



1. Amendments to Contract 4600001875.
2. Contract Number 4600001875, General Terms and Conditions.
3. Agency's Request for Proposal RFP-RW-15-008 and all germane Addenda and correspondence, incorporated herein by this reference.
4. Consultant's Original Proposal dated April 15, 2015, incorporated herein by this reference, and subsequent Revised Scope of Work dated April 28, 2015, the latter of which is attached hereto, incorporated herein and made a part hereof by this reference as **Exhibit A**.

4. **SCOPE OF WORK AND SERVICES:** Consultant services and responsibilities shall include and be in accordance with tasks identified in RFP-RW-15-008 dated March 5, 2015, Consultant's Original Proposal dated April 15, 2015 and subsequent Revised Scope of Work dated April 28, 2015, the latter of which is attached hereto, incorporated herein and made a part hereof by this reference as **Exhibit A**.

5. **TERM:** The term of this Contract shall extend from the date of the Notice to Proceed and terminate one (1) year after acceptance of the construction project by the Agency's Board of Directors, unless agreed to by both parties, reduced to writing, and amended to this Contract.

6. **COMPENSATION:** The Agency shall pay Consultant's properly-executed invoices, subsequent to approval by the Project Manager, within thirty (30) calendar days following receipt of the invoice. Payment will be withheld for any service which does not meet the requirements of this Contract or has proven unacceptable until such service is revised, resubmitted, and accepted by the Project Manager.

As compensation for work performed under this Contract, Agency shall pay Consultant, on a **Fixed Price Level-of-Effort basis** at the rates specified within Consultant's revised Fee Estimate dated April 28, 2015, which is referenced herein, attached hereto, and made a part hereof as **Exhibit B**, up to the **NOT-TO-EXCEED maximum contract price established at \$358,828.00** in accordance with Consultant's revised Fee Estimate dated April 28, 2015, referenced herein, attached hereto, and made a part hereof as **Exhibit B**.

Consultant's invoice must be submitted according to milestones achieved by Consultant and accepted by the Agency's Project Manager, and shall include a breakdown by items completed, all associated labor categories provided, labor hours supplied and associated hourly rates, dates worked, the current monthly amount due, and the cumulative amount invoiced to-date against this Contract, using the Agency's standard Excel-based invoicing template **Exhibit C**. Invoice shall not be submitted in advance and shall not be dated earlier than the actual date of submittal.

All invoices shall be submitted electronically with all required back-up to [apgroup@ieua.org](mailto:apgroup@ieua.org).

Payment shall be made according to milestones achieved by Consultant and accepted by the Agency's Project Manager.

7. **CONTROL OF THE WORK:** Consultant shall perform the Work in compliance with the Work Schedule. If performance of the Work falls behind schedule, the Consultant shall accelerate the performance of the Work to comply with the Work Schedule as directed by the Project Manager. If the nature of the Work is such that Consultant is unable to accelerate the Work, Consultant

shall promptly notify the Project Manager of the delay, the causes of the delay, and submit a proposed revised Work Schedule.

8. FITNESS FOR DUTY:

A. Fitness: Consultant and its Subcontractor personnel on the Jobsite:

1. Shall report for work in a manner fit to do their job;
2. Shall not be under the influence of or in possession of any alcoholic beverages or of any controlled substance (except a controlled substance as prescribed by a physician so long as the performance or safety of the Work is not affected thereby); and
3. Shall not have been convicted of any serious criminal offense which, by its nature, may have a discernible adverse impact on the business or reputation of Agency.

B. Compliance: Consultant shall advise all Consultant and subcontractor personnel and associated third parties of the requirements of this Contract ("Fitness for Duty Requirements") before they enter on the Jobsite and shall immediately remove from the Jobsite any employee determined to be in violation of these requirements. Consultant shall impose these requirements on its Subcontractors. Agency may cancel the Contract if Consultant violates these Fitness for Duty Requirements.

1. INSURANCE: During the term of this Contract, the Consultant shall maintain at Consultant's sole expense, the following insurance.

A. Minimum Scope of Insurance:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number GL 0001-87 covering Comprehensive General Liability. If 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 single occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 87, covering Automobile Liability, including "any auto."
3. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California and employers Liability limits of \$1,000,000 per accident.
4. Professional Liability Insurance in the amount of \$1,000,000 per occurrence.

B. Deductibles and Self-Insured Retention: Any deductibles or self-insured retention must be declared to and approved by the Agency. At the option of the Agency, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the Agency, its officers, officials, employees and volunteers; or the Consultant shall procure a

bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

C. Other Insurance Provisions: The policies are to contain, or be endorsed to contain, the following provisions:

1. **General Liability and Automobile Liability Coverage**

- a. The Agency, its officers, officials, employees, volunteers, property owners and any engineers under contract to the Agency are to be covered as insureds, endorsements GL 20 11 07 66, CG2010 1185 and/or CA 20 01 (Ed. 0178), as respects: liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied or used by the Consultant, or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Agency, its officers, officials, employees or volunteers.
- b. The Consultant's insurance coverage shall be primary insurance as respects the Agency, its officer, officials, employees and volunteers. Any insurance or self-insurance maintained by the Agency, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, its officers, officials, employees or volunteers.
- d. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. The Consultant may satisfy the limit requirements in a single policy or multiple policies. Any Such additional policies written as excess insurance shall not provide any less coverage than that provided by the first or primary policy.

2. **Workers' Compensation and Employers Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the Agency, its officers, officials, employees and volunteers for losses arising from work performed by the Consultant for the Agency.

3. **All Coverages**

Each insurance policy required by this contract shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.

- D. Acceptability of Insurers: All insurance is to be placed with insurers with a Best's rating of no less than A:VII, and who are admitted insurers in the State of California.
- E. Verification of Coverage: Consultant shall furnish the Agency with certificates of insurance and with original endorsements effecting coverage required by the Agency for themselves and all subcontractors prior to commencing work or allowing any subcontractor to commence work under any subcontract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be approved by the Agency before work commences. The Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.
- F. Submittal of Certificates: Consultant shall submit all required certificates and endorsements to the following:

Attn. Ms. Angela Witte, Risk Representative  
c/o Inland Empire Utilities Agency  
P.O. Box 9020  
Chino Hills, California 91709

10. LEGAL RELATIONS AND RESPONSIBILITIES

- A. Professional Responsibility: The Consultant shall be responsible, to the level of competency presently maintained by other practicing professionals performing the same or similar type of work.
- B. Status of Consultant: The Consultant is retained as an independent Consultant only, for the sole purpose of rendering the services described herein, and is not an employee of the Agency.
- C. Observing Laws and Ordinances: The Consultant shall keep itself fully informed of all existing and future state and federal laws and all county and city ordinances and regulations which in any manner affect the conduct of any services or tasks performed under this Contract, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. The Consultant shall at all times observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect and indemnify, as required herein, the Agency, its officers and employees against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by the Consultant or its employees.
- D. Subcontract Services: Any subcontracts for the performance of any services under this Contract shall be subject to the written approval of the Project Manager.
- E. Hours of Labor: The Consultant shall comply with all applicable provisions of California Labor Code Sections 1810 to 1817 relating to working hours. The Consultant shall, as a penalty to the Agency, forfeit \$25.00 for each worker employed in the execution of the Contract by the Consultant 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 one (1)

calendar day and forty (40) hours in any one (1) calendar week in violation of the provisions of the Labor Code.

- F. Travel and Subsistence Pay: The Consultant shall make payment to each worker for travel and subsistence payments which are needed to execute the work and/or service, as such travel and subsistence payments are defined in the applicable collective bargaining agreements with the worker.
- G. Liens: Consultant shall pay all sums of money that become due from any labor, services, materials or equipment furnished to Consultant on account of said services to be rendered or said materials to be furnished under this Contract and that may be secured by any lien against the Agency. Consultant shall fully discharge each such lien at the time performance of the obligation secured matures and becomes due.
- H. Conflict of Interest: No official of the Agency who is authorized in such capacity and on behalf of the Agency to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving this Contract, or any subcontract relating to services or tasks to be performed pursuant to this Contract, shall become directly or indirectly personally interested in this Contract.
- I. Equal Opportunity and Unlawful Discrimination: During the performance of this Contract, the Consultant shall not unlawfully discriminate against any employee or employment applicant because of race, color, religion, sex, age, marital status, ancestry, physical or mental disability, sexual orientation, veteran status or national origin. The Agency is committed to creating and maintaining an environment free from harassment and discrimination. To accomplish these goals the Agency has established procedures regarding the implementation and enforcement of the Agency's Harassment Prohibition and Equal Employment Opportunity commitments. Please refer to Agency Policies A-29 (Equal Employment Opportunity) and A-30 Harassment Prohibition for detailed information or contact the Agency's Human Resources Administrator. A copy of either of these Policies can be obtained by contacting the Project Manager for your respective Contract. Please advise any of your staff that believes they might have been harassed or discriminated against while on Agency property, to report said possible incident to either the Project Manager, or the Agency's Human Resources Administrator. Please be assured that any possible infraction shall be thoroughly investigated by the Agency.
- J. Non-Conforming Work and Warranty: Consultant represents and warrants that the Work and Documentation shall be adequate to serve the purposes described in the Contract. For a period of not less than one (1) year after acceptance of the completed Work, Consultant shall, at no additional cost to Agency, correct any and all errors in and shortcomings of the Work or Documentation, regardless of whether any such errors or shortcoming is brought to the attention of Consultant by Agency, or any other person or entity. Consultant shall within three (3) calendar days, correct any error or shortcoming that renders the Work or Documentation dysfunctional or unusable and shall correct other errors within thirty (30) calendar days after Consultant's receipt of notice of the error. Upon request of Agency, Consultant shall correct any such error deemed important by

Agency in its sole discretion to Agency's continued use of the Work or Documentation within seven (7) calendar days after Consultant's receipt of notice of the error. If the Project Manager rejects all or any part of the Work or Documentation as unacceptable and agreement to correct such Work or Documentation cannot be reached without modification to the Contract, Consultant shall notify the Project Manager, in writing, detailing the dispute and reason for the Consultant's position. Any dispute that cannot be resolved between the Project Manager and Consultant shall be resolved in accordance with the provisions of this Contract.

The total amount of all claims the Agency may have against the Consultant under this Contract or arising from the performance or non-performance of the Work under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the lesser of the fees or \$500,000. As the Agency's sole and exclusive remedy under this Contract any claim, demand or suit shall be directed and/or asserted only against the Consultant and not against any of the Consultant's employees, officers or directors.

The Consultant's liability with respect to any claims arising out of this Contract shall be absolutely limited to direct damages arising out of the Work and the Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the Agency, including but not limited to, claims for loss of use, loss of profits and loss of markets.

K. Disputes:

1. All disputes arising out of or in relation to this Contract shall be determined in accordance with this section. The Consultant shall pursue the work to completion in accordance with the instruction of the Agency's Project Manager notwithstanding the existence of dispute. By entering into this Contract, both parties are obligated, and hereby agree, to submit all disputes arising under or relating to the Contract, which remain unresolved after the exhaustion of the procedures provided herein, to independent arbitration. Except as otherwise provided herein, arbitration shall be conducted under California Code of Civil Procedure Sections 1280, et. seq, or their successor.
2. Any and all disputes during the pendency of the work shall be subject to resolution by the Agency Project Manager and the Consultant shall comply, pursuant to the Agency Project Manager instructions. If the Consultant is not satisfied with any such resolution by the Agency Project Manager, they may file a written protest with the Agency Project Manager within seven (7) calendar days after receiving written notice of the Agency's decision. Failure by Consultant to file a written protest within seven (7) calendar days shall constitute waiver of protest, and acceptance of the Agency Project Manager's resolution. The Agency's Project Manager shall submit the Consultant's written protests to the General Manager, together with a copy of the Agency Project Manager's written decision, for his or her consideration within seven (7) calendar days after receipt of said protest(s). The General Manager shall

make his or her determination with respect to each protest filed with the Agency Project Manager within ten (10) calendar days after receipt of said protest(s). If Consultant is not satisfied with any such resolution by the General Manager, they may file a written request for arbitration with the Project Manager within seven (7) calendar days after receiving written notice of the General Manager's decision.

3. In the event of arbitration, the parties hereto agree that there shall be a single neutral Arbitrator who shall be selected in the following manner:
  - a. The Demand for Arbitration shall include a list of five names of persons acceptable to the Consultant to be appointed as Arbitrator. The Agency shall determine if any of the names submitted by Consultant are acceptable and, if so, such person shall be designated as Arbitrator.
  - b. In the event that none of the names submitted by Consultant are acceptable to Agency, or if for any reason the Arbitrator selected in Step (a) is unable to serve, the Agency shall submit to Consultant a list of five names of persons acceptable to Agency for appointment as Arbitrator. The Consultant shall, in turn, have seven (7) calendar days in which to determine if one such person is acceptable.
  - c. If after Steps (a) and (b), the parties are unable to mutually agree upon a neutral Arbitrator, the matter of selection of an Arbitrator shall be submitted to the San Bernardino County Superior Court pursuant to Code of Civil Procedure Section 1281.6, or its successor. The costs of arbitration, including but not limited to reasonable attorneys' fees, shall be recoverable by the party prevailing in the arbitration. If this arbitration is appealed to a court pursuant to the procedure under California Code of Civil Procedure Section 1294, et. seq., or their successor, the costs of arbitration shall also include court costs associated with such appeals, including but not limited to reasonable attorneys' fees which shall be recoverable by the prevailing party.
4. Joinder in Mediation/Arbitration: The Agency may join the Consultant in mediation or arbitration commenced by a contractor on the Project pursuant to Public Contracts Code Sections 20104 et seq. Such joinder shall be initiated by written notice from the Agency's representative to the Consultant.

11. **INDEMNIFICATION:** Consultant shall indemnify the Agency, its directors, employees and assigns, and hold them harmless from all liabilities, demands, actions, claims, losses and expenses, including reasonable attorneys' fees, which arise out of or are related to the negligence, recklessness or willful misconduct of the Consultant, its directors, employees, agents and assigns, in the performance of work under this contract. Notwithstanding the foregoing, to the extent that this Contract includes design professional services under Civil

Code Section 2782.8, as may be amended from time to time, such duties of Consultant to defend and to indemnify Agency shall only be to the full extent permitted by Civil Code Section 2782.8.

12. OWNERSHIP OF MATERIALS AND DOCUMENTS/CONFIDENTIALITY: The Agency retains ownership of any and all partial or complete reports, drawings, plans, notes, computations, lists, and/or other materials, documents, information, or data ("Work Product") prepared by the Consultant and/or the Consultant's subcontractor(s) pertaining to this Contract upon full payment of all monies owed to the Consultant. Said materials and documents are confidential and shall be available to the Agency from the moment of their preparation, and the Consultant shall deliver same to the Agency whenever requested to do so by the Project Manager and/or Agency. The Consultant agrees that same shall not be made available to any individual or organization, private or public, without the prior written consent of the Agency.

13. TITLE AND RISK OF LOSS:

- A. Documentation: Title to the Documentation shall pass to Agency when prepared; however, a copy may be retained by Consultant for its records and internal use. Consultant shall retain such Documentation in a controlled access file, and shall not reveal, display or disclose the contents of the Documentation to others without the prior written authorization of Agency or for the performance of Work related to the project.
- B. Material: Title to all Material, field or research equipment, and laboratory models, procured or fabricated under the Contract shall pass to Agency when procured or fabricated, and such title shall be free and clear of any and all encumbrances. Consultant shall have risk of loss of any Material or Agency-owned equipment of which it has custody.
- C. Disposition: Consultant shall dispose of items to which Agency has title as directed in writing by the Agreement Administrator and/or Agency.

14. PROPRIETARY RIGHTS:

- A. Rights and Ownership: Agency's rights to inventions, discoveries, trade secrets, patents, copyrights, and other intellectual property, including the Information and Documentation, and revisions thereto (hereinafter collectively referred to as "Proprietary Rights"), used or developed by Consultant in the performance of the Work, shall be governed by the following provisions:

Proprietary Rights conceived, developed, or reduced to practice by Consultant in the performance of the Work shall be the property of Agency, and Consultant shall cooperate with all appropriate requests to assign and transfer same to Agency.

If Proprietary Rights conceived, developed, or reduced to practice by Consultant prior to the performance of the Work are used in and become integral with the Work or Documentation, or are necessary for Agency to have complete enjoyment of the Work or Documentation, Consultant



shall grant to Agency a non-exclusive, irrevocable, royalty-free license, as may be required by Agency for the complete enjoyment of the Work and Documentation, including the right to reproduce, correct, repair, replace, maintain, translate, publish, use, modify, copy or dispose of any or all of the Work and Documentation and grant sublicenses to others with respect to the Work and Documentation.

If the Work or Documentation includes the Proprietary Rights of others, Consultant shall procure, at no additional cost to Agency, all necessary licenses regarding such Proprietary Rights so as to allow Agency the complete enjoyment of the Work and Documentation, including the right to reproduce, correct, repair, replace, maintain, translate, publish, use, modify, copy or dispose of any or all of the Work and Documentation and grant sublicenses to others with respect to the Work and Documentation.

All such licenses shall be in writing and shall be irrevocable and royalty-free to Agency.

B. No Additional Compensation: Nothing Set forth in this Contract shall be deemed to require payment by Agency to Consultant of any compensation specifically for the assignments and assurances required hereby, other than the payment of expenses as may be actually incurred by Consultant in complying with this Contract.

15. INFRINGEMENT: Consultant represents and warrants that the Work and Documentation shall be free of any claim of trade secret, trade mark, trade name, copyright, or patent infringement or other violations of any Proprietary Rights of any person.

Consultant shall indemnify and hold harmless Agency, its officers, directors, employees, successors, assigns, and servants free and harmless from any and all liability, damages, losses, claims, demands, actions, causes of action, and costs including reasonable attorney's fees and expenses arising out of any claim that use of the Work or Documentation infringes upon any trade secret, trade mark, trade name, copyright, patent, or other Proprietary Rights.

Consultant shall, at its expense and at Agency's option, refund any amount paid by Agency under the Contract, or exert its reasonable efforts to procure for Agency the right to use the Work and Documentation, to replace or modify the Work and Documentation as approved by Agency so as to obviate any such claim of infringement.

16. NOTICES: Any notice may be served upon either party by delivering it in person, or by depositing it in a United States Mail deposit box with the postage thereon fully prepaid, and addressed to the party at the address set forth below:

Agency: Mr. Warren T. Green  
Manager of Contracts and Facilities Services  
Inland Empire Utilities Agency  
P.O. Box 9020  
Chino Hills, California 91709

Consultant: Mr. Frank J.C. Dudek, P.E.  
President  
Dudek  
605 Third Street  
Encinitas, CA 92024

Any notice given hereunder shall be deemed effective in the case of personal delivery, upon receipt thereof, or, in the case of mailing, at the moment of deposit in the course of transmission with the United States Postal Service.

17. **SUCCESSORS AND ASSIGNS:** All of the terms, conditions and provisions of this Contract shall inure to the benefit of and be binding upon the Agency, the Consultant, and their respective successors and assigns. Notwithstanding the foregoing, no assignment of the duties or benefits of the Consultant under this Contract may be assigned, transferred or otherwise disposed of without the prior written consent of the Agency; and any such purported or attempted assignment, transfer or disposal without the prior written consent of the Agency shall be null, void and of no legal effect whatsoever.

18. **PUBLIC RECORDS POLICY:** Information made available to the Agency may be subject to the California Public Records Act (Government Code Section 6250 et seq.) The Agency's use and disclosure of its records are governed by this Act. The Agency shall use its best efforts to notify Consultant of any requests for disclosure of any documents pertaining to Consultant.

In the event of litigation concerning disclosure of information Consultant considers exempt from disclosure; (e.g., Trade Secret, Confidential, or Proprietary) Agency shall act as a stakeholder only, holding the information until otherwise ordered by a court or other legal process. If Agency is required to defend an action arising out of a Public Records Act request for any of the information Consultant has marked "Confidential," "Proprietary," or "Trade Secret," Consultant shall defend and indemnify Agency from all liability, damages, costs, and expenses, including attorneys' fees, in any action or proceeding arising under the Public Records Act.

19. **RIGHT TO AUDIT:** The Agency reserves the right to review and/or audit all Consultant's records related to the Work. The option to review and/or audit may be exercised during the term of the Contract, upon termination, upon completion of the Contract, or at any time thereafter up to twelve (12) months after final payment has been made to Consultant. The Consultant shall make all records and related documentation available within three (3) working days after said records are requested by the Agency.

20. **INTEGRATION:** The Contract Documents represent the entire Contract of the Agency and the Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered by the Contract Documents. This Contract may not be modified, altered or amended except by written mutual agreement by the Agency and the Consultant.

- 21. GOVERNING LAW: This Contract is to be governed by and constructed in accordance with the laws of the State of California.
- 22. TERMINATION FOR CONVENIENCE: The Agency reserves and has the right to immediately suspend, cancel or terminate this Contract at any time upon written notice to the Consultant. In the event of such termination, the Agency shall pay Consultant for all authorized and Consultant-invoiced services up to the date of such termination.
- 23. FORCE MAJEURE: Neither party shall hold the other responsible for the effects of acts occurring beyond their control; e.g., war, riots, strikes, natural disasters, etcetera.
- 24. NOTICE TO PROCEED: No services shall be performed or furnished under this Contract unless and until this document has been properly signed by all responsible parties and a Notice to Proceed order has been issued to the Consultant.

IN WITNESS WHEREOF, the parties hereto have caused the Contract to be entered as of the day and year written above.

INLAND EMPIRE UTILITIES AGENCY:

DUDEK:

\_\_\_\_\_  
P. Joseph Grindstaff  
General Manager

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Frank J.C. Dudek, P.E.  
President

\_\_\_\_\_  
(Date)

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# Exhibit A

# DUDEK

HEAD OFFICE  
685 THIRD STREET  
ENCINITAS, CALIFORNIA 92024  
T 760.949.5147 T 800.459.1618 F 760.932.0164

April 28, 2015

Mr. Joel Ignacio, P.E.  
Senior Engineer  
Inland Empire Utilities Agency  
P.O. Box 9020  
Chino Hills, California, 91708

Subject: Negotiated Fee Proposal for the San Sevaine Basin Improvements  
Project No. EN13001

Dear Mr. Ignacio:

Thank you for the opportunity to meet with you and your staff on April 27, 2015 to discuss the details of the above IEUA project. The enclosed negotiated fee table represents the following changes in scope items discussed:

1. Reduction in geotechnical investigation cost as a result of the elimination of deep soils testing needed for deep pipe construction (Task 1.2).
2. Reduction in survey cost. All easement documentation (plats/legals) and associated title report research will be prepared by IEUA. Dudek will provide survey topo and easement limit linework in CAD format (Task 3.5).
3. Addition of Thomas Harder & Co. for quality control review and as-needed assistance with relation to monitoring well and Lysimeter design (Task 2.2 and Task 2.5).
4. Reduction in Bid Phase Support level of effort (Task 6.1).
5. Eliminate preparation of post construction facility O&M Manual (Task 6.8)

The negotiated total, not-to-exceed fee for the above project is \$358,828.

We also confirm that Dudek takes no exceptions to the terms and conditions of the IEUA Sample of Standard Contract.

The Dudek Team is excited about this opportunity to work with IEUA. Please contact me at [rbergholz@dudek.com](mailto:rbergholz@dudek.com) or 760.749.4107 to discuss the project further.

Sincerely,  
DUDEK



Bob Ohlund, PE  
Vice President



Russ Bergholz, PE, PMP  
Senior Project Manager

# **Exhibit B**

**Inland Empire Utility Agency**  
 San Sevaine Basin Improvements, Project No. EN13001  
 DUDEK FEE ESTIMATE  
 4/28/2015

Project Name / Scope	PIC	QA/QC	Project Manager	Labor Hours and Rates				TOTAL HOURS	DUDEK LABOR COST	Submittal Hours and Fees				TOTAL HOURS	OTHER DIRECT COSTS	TOTAL FEE ESTIMATE
				Engineer	Checker	Survey	Admin			Well Engineer	Geotechnical	Environmental	Well Engineer			
	(\$/hr)	(\$/hr)	(\$/hr)	(\$/hr)	(\$/hr)	(\$/hr)	(\$/hr)	(\$)	(\$/hr)	(\$/hr)	(\$/hr)	(\$/hr)	(\$)	(\$)	(\$)	
<b>Task 1 - Preliminary Design</b>																
1.1 Field Surveying	4		4	8		4	8	1,260							45,194	
1.2 Geotechnical Investigation							12	2,260	\$32,336						34,596	
1.3 Pipeline Preliminary Design	8		8	12		8	30	4,900							4,900	
1.4 Pump Station Preliminary Design	2		2	16		8	36	6,340	\$2,244						8,584	
1.5 Lysimeter Preliminary Design	8		8	8		8	12	2,360							2,360	
<b>Subtotal Task 1</b>	<b>2</b>	<b>2</b>	<b>28</b>	<b>36</b>	<b>8</b>	<b>13</b>	<b>98</b>	<b>17,140</b>	<b>2,244</b>	<b>43,934</b>	<b>32,336</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>95,654</b>	
<b>Task 2 - Monitoring Wells</b>																
2.1 Site Investigation	8		8	8		8	8	1,600							1,700	
2.2 Design Package Preparation	16		16	16		12	28	4,640		\$2,200					6,840	
2.3 Bid Assistance	8		8	8		8	8	1,600							1,680	
2.4 Construction Support	40		40	40		40	40	8,000							8,200	
2.5 Hydrogeological Study	4		4	48		48	56	11,240		\$4,400					15,740	
2.6 Recommendations	18		18	16		16	18	3,600							3,680	
<b>Subtotal Task 2</b>	<b>8</b>	<b>8</b>	<b>134</b>	<b>134</b>	<b>16</b>	<b>12</b>	<b>158</b>	<b>30,740</b>	<b>0</b>	<b>6,600</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>450</b>	<b>37,790</b>	
<b>Task 3 - Final Design</b>																
3.1 RW Pipeline Design (PS&E)	16		16	80		60	146	22,570							22,570	
3.2 Pump Station Design (PS&E)	16		16	80		72	168	26,560	\$28,670						55,230	
3.3 Lysimeter Design (PS&E)	4		4	16		16	36	5,900							5,900	
3.4 SWPPP	2		2	24		8	34	5,790							5,790	
3.5 Title Reports/Examined (by IEUA)	4		4	24		24	4	780							780	
3.6 Supporting Structural	42		42	186		186	412	66,040	28,670						94,710	
<b>Subtotal Task 3</b>	<b>4</b>	<b>4</b>	<b>68</b>	<b>24</b>	<b>16</b>	<b>158</b>	<b>60</b>	<b>20,320</b>	<b>28,670</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>550</b>	<b>20,870</b>	
<b>Task 4 - Meetings, PM, QC, &amp; Deliverables</b>																
4.1 Kickoff Meeting and Progress Meetings	60		60	24		24	60	11,700							11,700	
4.2 Project Management	16		16	16		16	16	3,440							3,440	
4.3 Quality Control	4		4	16		8	44	8,160							8,210	
4.4 Draft PDR (Deliverable)	4		4	12		4	22	3,910							3,960	
4.5 Final PDR (Deliverable)	4		4	4		4	4	800							850	
4.6 Monitoring Wells (85% Design)	4		4	4		4	4	800							850	
4.7 Monitoring Wells (100% Design)	4		4	4		4	4	800							850	
4.8 Monitoring Wells (Final Design)	4		4	4		4	4	800							850	
4.9 Pipeline/Pump Station (30% Design)	2		2	8		8	25	4,105							4,155	
4.10 Pipeline/Pump Station (50% Design)	2		2	8		8	23	3,595							3,645	
4.11 Pipeline/Pump Station (85% Design)	2		2	8		8	25	4,105							4,155	
4.12 Pipeline/Pump Station (100% Design)	2		2	8		8	23	3,595							3,645	
4.13 Pipeline/Pump Station (Final Design)	2		2	8		8	25	4,105							4,155	
4.14 As-Built Submittal	2		2	8		8	2	380							440	
<b>Subtotal Task 4</b>	<b>14</b>	<b>27</b>	<b>162</b>	<b>93</b>	<b>24</b>	<b>52</b>	<b>381</b>	<b>69,825</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,100</b>	<b>70,925</b>	
<b>Task 5 - Control Philosophy and Programming Scope</b>																
5.1 Control Philosophy and Programming Scope	8		8	24		24	32	6,000	\$6,962						12,962	
<b>Subtotal Task 5</b>	<b>8</b>	<b>8</b>	<b>24</b>	<b>24</b>	<b>16</b>	<b>24</b>	<b>32</b>	<b>6,000</b>	<b>6,962</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12,962</b>	
<b>Task 6 - Engineering Services During Construction</b>																
6.1 Bid Phase Support	8		8	8		8	8	1,560							1,660	
6.2 Pre-Construction Meeting	8		8	8		8	8	1,560							1,660	
6.3 RF Assistance (up to 5)	15		15	15		15	15	2,925							2,925	
6.4 Submittal Review (up to 20 + 1 resubmittal each)	80		80	80		80	80	15,600	\$2,712						18,312	
6.5 On-site Meetings during Construction (up to 10)	60		60	60		60	60	11,700							12,900	
6.6 Assist in Change Orders	24		24	24		24	24	4,680							4,680	
6.7 Prepare As-Built Drawings	4		4	8		20	32	4,680							4,680	
<b>Subtotal Task 6</b>	<b>199</b>	<b>8</b>	<b>413</b>	<b>348</b>	<b>162</b>	<b>258</b>	<b>227</b>	<b>42,685</b>	<b>2,712</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,400</b>	<b>46,797</b>	
<b>Total Hours and Fee Estimate</b>	<b>18</b>	<b>37</b>	<b>413</b>	<b>348</b>	<b>162</b>	<b>258</b>	<b>1,308</b>	<b>\$32,430</b>	<b>\$40,576</b>	<b>\$43,834</b>	<b>\$39,336</b>	<b>\$6,600</b>	<b>\$0</b>	<b>\$2,950</b>	<b>\$158,028</b>	

**DUDEK**

# Exhibit C



## Exhibit C CONSULTING SERVICES INVOICE

Consultant:	Pay Estimate No.:	Contract Date:	Invoice Date:
Address:	Project No.:	IEUA Project Manager:	This Period:
	Contract No.:		From:
			To:
Project Name and Location:	Account No.:	Consultant Reference No.:	

**ORIGINAL CONTRACT:**

Task No.	Item Description	Original Contract Value	Total This Period		Total to Date		Progress to Date
		Amount (\$)	% Complete	Amount (\$)	% Complete	Amount (\$)	% Complete
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
Subtotal Original Contract:		\$0.00		\$0.00		\$0.00	

**CONTRACT AMENDMENTS:**

Amend No.	Amendment Description	Amended Contract Value	Total This Period		Total to Date		Progress to Date
		Amount (\$)	% Complete	Amount (\$)	% Complete	Amount (\$)	% Complete
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
Subtotal Contract Amendments:		\$0.00		\$0.00		\$0.00	
Total Contract with Amendments:		\$0.00		\$0.00		\$0.00	

**PAYMENT SUMMARY FOR THIS PERIOD:**

	Total This Period From: 1/0/2015 To: 1/0/2015
Amount Earned Original Contract	\$0.00
Amount Earned Amendments	\$0.00
Back Charges	\$0.00
<b>Amount Due This Period</b>	<b>\$0.00</b>

**PRIOR PAYMENT SUMMARY:**

	Total to Date From: 1/0/2015 To: 1/0/2015
Amount Earned Original Contract	\$0.00
Amount Earned Amendments	\$0.00
Back Charges	\$0.00
Prior Payments	\$0.00

**TOTAL PAYMENT SUMMARY:**

	Total Contract
Total Original Contract	\$0.00
Total Contract Amendments	\$0.00
Total Adjusted Contract	\$0.00
Total Payments to Date	\$0.00
Back Charges	\$0.00
<b>Balance of Contract</b>	<b>\$0.00</b>

**CONTRACT SCHEDULE SUMMARY:**

Contract Start Date:	1/0/2015
Contract Duration:	0
Contract Completion Date:	
Authorized Time Extension:	0
Revised Completion Date:	

**PROJECT COMPLETION SUMMARY:**

Contract Time Expired:	#DIV/0!
Contract Work Complete:	#DIV/0!

**APPROVALS:**

**Consultant Approval:**

Title: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Inland Empire Utilities Agency Approvals:**

Project Manager/Engineer: _____	Date: _____	Executive Manager: _____
		Date: _____
Supervising Engineer: _____	Date: _____	General Manager/CEO: _____
		Date: _____
Department Manager: _____	Date: _____	

**ACTION  
ITEM  
1C**

Date: May 20, 2015

To: The Honorable Board of Directors

Through: Engineering, Operations, and Biosolids Management Committee  
(05/13/15)  
Finance, Legal and Administration Committee (05/13/15)

From: *for* P. Joseph Grindstaff *WJG*  
General Manager

Submitted by: *for* Chris Berch *CB*  
Executive Manager of Engineering/Assistant General Manager

Majid Karim *MK*  
Acting Manager of Engineering

Subject: Consulting Engineering Services Contract Award for the New Water Quality Laboratory

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### **RECOMMENDATION**

It is recommended that the Board of Directors:

1. Approve the consulting engineering services contract award to The Austin Company for the New Water Quality Laboratory, Project No. EN15008, for the not-to-exceed amount of \$1,273,900;
2. Approve a Fiscal Year (FY) 2014/15 budget appropriation in the amount of \$100,000; and
3. Authorize the General Manager to execute the budget appropriation and contract.

### **BACKGROUND**

A preliminary evaluation of the existing laboratory facility was performed by Lisa Ohlund of RCM Consulting Engineers in December 2005. This review concluded that the existing laboratory facility at Regional Water Recycling Plant No. 1 (RP-1) presents several challenges including inadequate ventilation, lack of building insulation, numerous structural and storage space issues, in addition to being crowded and putting a limit on the annual number of samples

analyzed. Lack of insulation creates inadequate heating and cooling of the facility; which presents a challenge in maintaining conditions for bioassay and other tests to be performed successfully.

The Agency retained The Austin Company on April 19, 2006 to conduct a feasibility study for a new laboratory facility. In addition to considering all the challenges aforementioned, the Austin Company evaluated the future needs of the new laboratory and provided four alternatives for the location of the new facility supported by a Business Case Evaluation. The preferred alternative was to build the new laboratory facility on the RP-5 campus. In November 2009, the Agency has assembled a "Technical Panel" comprised of leading experts in laboratory design to review and discuss the feasibility study and prioritize items to be included in the new laboratory.

On May 19, 2010, the Agency retained The Austin Company via competitive solicitation process to provide consulting engineering services for the new main laboratory under Project No. EN08009. The Austin Company completed and delivered the 50 percent design submittal for Agency review; however, before it was reviewed the project was put on hold on October 26, 2010 as part of the Agency's cost containment plan,

In December 2013, the Agency decided to move forward with the New Water Quality Laboratory under a new Project No. EN15008, which was set to start in Fiscal Year (FY) 2015/16 upon Board approval. The New Water Quality Laboratory project's consultant scope will include the following major activities:

- Update the original 50 percent design to include necessary code changes
- Update the 50 percent design to include revisions of Leadership in Energy & Environmental Design (L.E.E.D), which is a green building certification program that recognizes best-in-class building strategies and practices
- Perform geotechnical investigation to ensure land stability at the New Lab site
- Expand the existing HVAC System for the buildings to include all necessary cooling for the Laboratory Building
- Finalize designs for the New Water Quality Laboratory and HVAC System
- Provide construction administration services throughout the project
- Provide necessary commissioning, testing and start-up services
- Retain a panel of experts to help review the major activities throughout the project

Since The Austin Company was selected through a formal solicitation and evaluation process to perform the initial design phase, Agency staff determined the most cost effective approach is to continue with The Austin Company to complete the project. Staff requested an updated proposal from The Austin Company based on the updated scope provided above. On April 13, 2015, the Agency received The Austin Company's proposal for comprehensive consulting engineering services for the not-to-exceed amount of \$1,273,900. The Austin Company committed to provide

the same project team to complete the design. The staff carefully reviewed, evaluated, and negotiated the said proposal with The Austin Company.

The New Water Quality Laboratory's original State Revolving Fund (SRF) financing Agreement with California State Water Resources Control Board (SWRCB) was revised in December 2013 upon the Agency's decision to resume the project to reflect updated construction milestones. The said Agreement will be revised again after receiving the construction bids (per State's instructions) to reflect the new project scope, costs and milestones. Current SRF loan financing Agreement by SWRCB includes 2.1 percent interest rate per annum and contingent principal forgiveness of \$1,050,337 (based on Recipient's performance under Agreement).

The Engineering and Construction project management approach to implement all design efforts for this project will utilize the Engineering Project Manager, Construction Manager, and designated staff from Operations and Laboratory. Additionally, the Agency will retain a panel of technical advisers with laboratory experience for quality assurance during design and construction. Due to the nature of this project, this will provide consistent coordination and retain centralized decision making in the project's execution.

Staff is requesting a budget reallocation of \$100,000 from FY 2015/16 to the current FY 2014/15 to cover consultant and IEUA staff costs until the beginning of FY 2015/16.

Following is the requested amended FY budget allocations:

	FY 2014/15	FY 2015/16
Current Allocation	\$0	\$1,800,000
Requested Allocation	\$100,000	\$1,700,000

The total projected costs are as follows:

PROJECT PHASE	PROJECTED COSTS
Total Project Budget (FY 2014/15)	<b>\$17,100,000</b>
Original Project Expenditure (consultant and IEUA labor – 50% Design)	\$650,000
Consultant Engineering Services	<b>\$1,273,900</b>
Design (IEUA Labor)	\$750,000
Technical Experts Panel/Support	\$200,000
Construction Management	\$1,800,000
Estimated Construction Cost	\$14,026,100
Contingency (~15%)	\$2,200,000
<b>Total</b>	<b>\$20,900,000</b>
<b>Total Project Budget (FY 2015/16)</b>	<b>\$20,900,000</b>

The following is the projected project schedule:

PROJECT PHASE	DATE
Consulting Engineering Services Contract Award	May 20, 2015
Design Kickoff	June 1, 2015
Design Completion	January 2016
Advertise Bid	February 2016
Construction Contract Award	April 20, 2016
Project Completion	May 2019

The New Water Quality Laboratory Project is part of the Agency's Wastewater Management Capacity Business Goal to maintain capacity within systems and facilities to meet essential service demands and to protect public health and environment.

#### **PRIOR BOARD ACTION**

On May 19, 2010, the Board awarded the consulting engineering contract to The Austin Company.

On April 19, 2006, the Board awarded a contract for the Performance Needs Assessment and Feasibility Study for a New IEUA Laboratory to The Austin Company.

#### **IMPACT ON BUDGET**

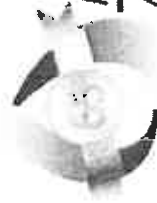
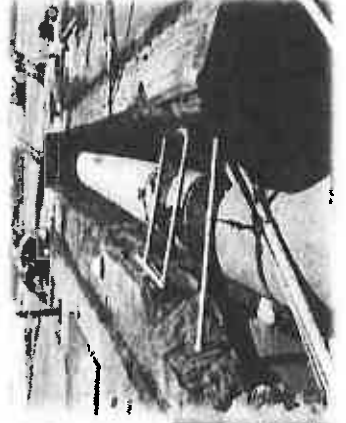
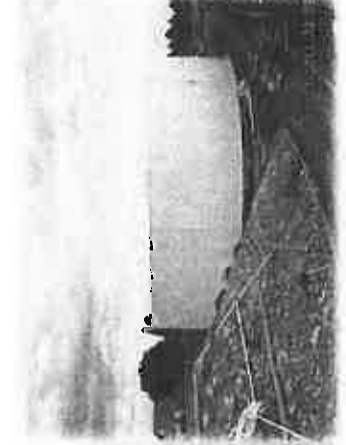
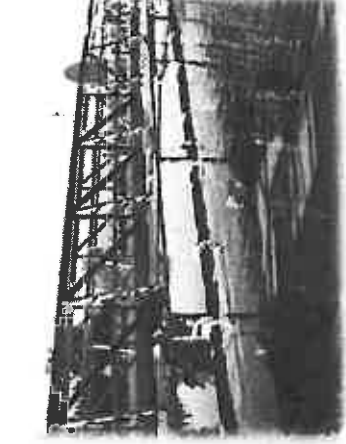
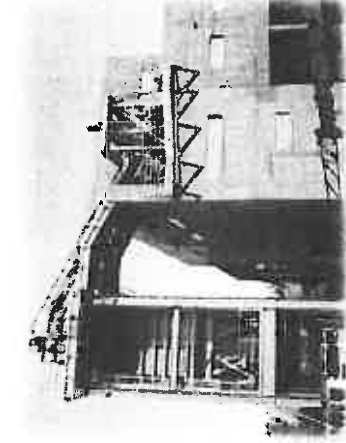
If approved, the consulting engineering services contract for the New Water Quality Laboratory Project No. EN15008, for the not-to exceed amount of \$1,273,900 in the Regional Wastewater O&M (RO) fund is within the total project budget of \$17,100,000. The FY 2014/15 appropriation will be \$100,000 and \$1,700,000 for FY 2015/16.

PJG:CB:MK:jz

# New Water Quality Laboratory Consulting Engineering Services Contract Award

Project No. EN15008

May 2015



*Inland Empire Utilities Agency*  
A MUNICIPAL WATER DISTRICT

Majid Karim, P.E.,  
Acting Manager of Engineering

Jamal Zughbi, P.E.  
Project Manager

# Project Request/Background

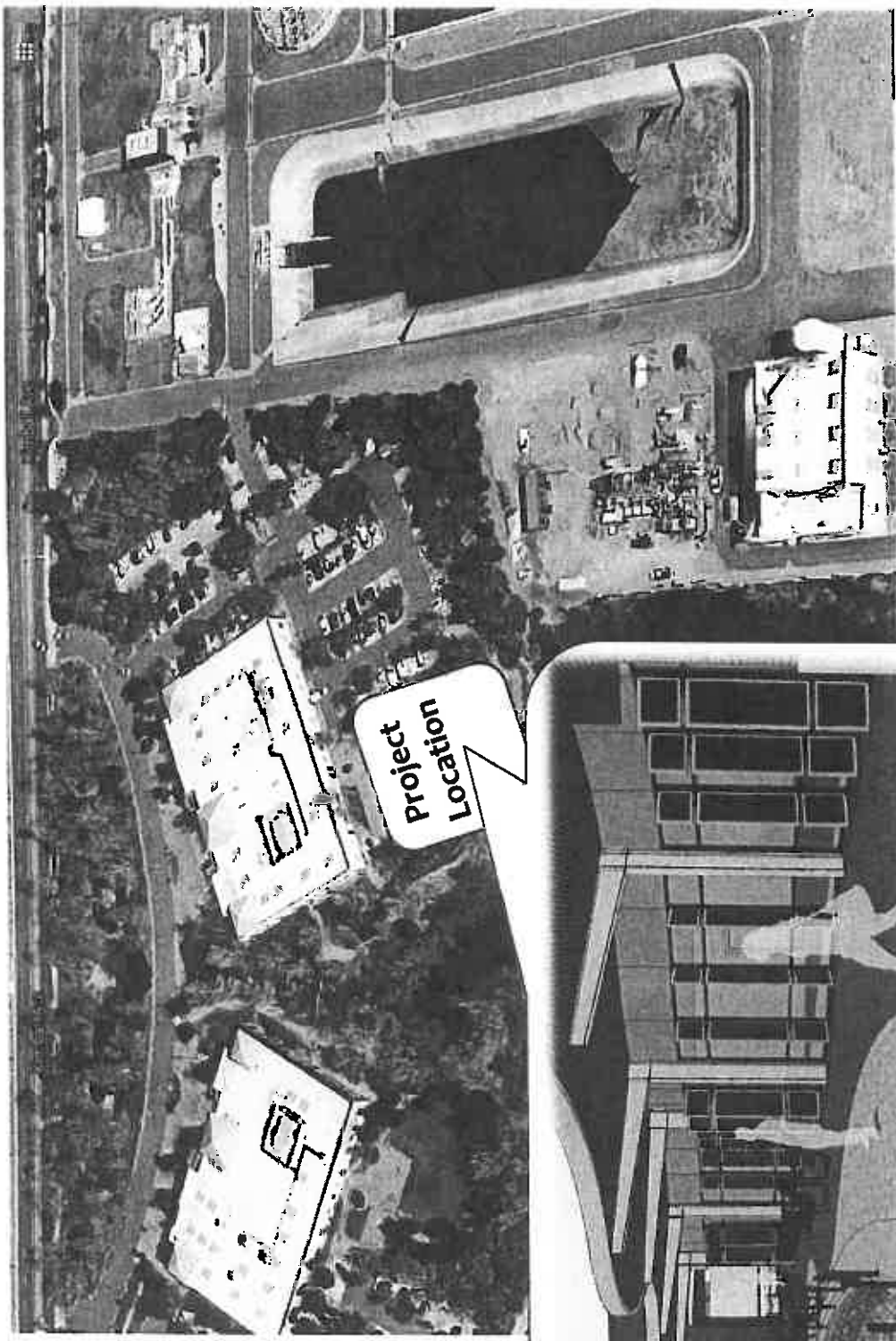
- Consulting Engineering Contract Award to The Austin Company (Austin)
- Current condition of RP-1 Laboratory:
  - Old and crowded (6,200 sq.ft.)
  - Limited expandability for future needs
  - Inadequate ventilation
  - Poor building insulation
  - Numerous Structural and storage issues
  - Limits on annual number of samples analyzed



Existing Lab



# Headquarters Aerial View (New Lab Location)



# Project Progress

**2005**  
 Existing Laboratory Preliminary Evaluation By RCM Consulting Identified Challenges Recommended- Feasibility Study

**Apr. 2006**  
 Performance Needs Assessment & Feasibility Study By Austin Quality Work Complete Report Good Firm

**May 2010**  
 Retained Austin for Consulting Engineering Services  
**Oct. 2010**  
 Project Put on Hold at 50% design Level

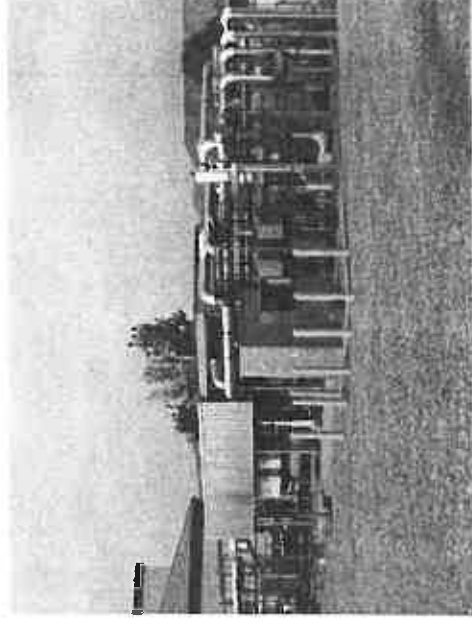
**Dec. 2013**  
 Decision to resume project SRF Loan/Grant SRF Agreement Updated Funds allocated in TYCIP

**Feb. 2015**  
 Decision to re-hire Austin Most Qualified/Cost Effective Same Design Team Project Discussion Resumed with Austin

**Mar-Apr. 2015**  
 RFP sent out to Austin Received Austin's Proposal Scope Negotiation Accepted Austin's Proposal

# Project Scope

- New 16,000 sq.ft. laboratory
- Update design for L.E.E.D and code changes
- Expand existing HVAC/Chiller System
- Geotechnical investigations
- Complete project design
- Construction administration services
- Startup and testing services



Central Chiller Plant

# Project Cost Summary

Project Phase	Projected Cost
Total Project Budget (FY2014/15)	\$17,100,000
Original Project Expenditure (consultant and IEUA labor – 50% Design)	\$650,000
Consultant Engineering Services	<b>\$1,273,900</b>
Design (IEUA Labor)	\$750,000
Technical Experts Panel/Support	\$200,000
Construction Management	\$1,800,000
Estimated Construction Cost	\$14,026,100
Contingency (~15%)	\$2,200,000
<b>Total</b>	<b>\$20,900,000</b>
<b>Total Project Budget (FY2015/16)</b>	<b>\$20,900,000</b>

# Project Schedule

<b>Project Phase</b>	<b>Date</b>
Consulting Engineering Services Contract Award	May 20, 2015
Design Kickoff	June 1, 2015
Design Completion	January 2016
Advertise Bid	February 2016
Construction Contract Award	April 20, 2016
Project Completion	May 2019

# Agency Goal/Recommendation

Staff recommends that the Board of Directors approve the consulting engineering services contract award to The Austin Company for the New Water Quality Laboratory, Project No. EN15008, for the not-to-exceed amount of \$1,273,900, and also approve Fiscal Year (FY) 2014/15 budget appropriation in the amount of \$100,000.

*Project is part of the Agency's Wastewater Management Capacity Business Goal to maintain capacity within facilities to meet essential service demands and to protect public health and environment*

# Questions?



*Inland Empire Utilities Agency*  
A MUNICIPAL WATER DISTRICT



**CONTRACT NUMBER: 4600001869**

**FOR**

**NEW WATER QUALITY LABORATORY**

THIS CONTRACT (the "Contract"), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the Inland Empire Utilities Agency, a Municipal Water District, organized and existing in the County of San Bernardino under and by virtue of the laws of the State of California (hereinafter referred to interchangeably as "IEUA" and "Agency"), and Austin Building and Design, Inc. dba The Austin Company of Irvine, California (hereinafter referred to as "Consultant"), to provide comprehensive consulting engineering services, bid period, and construction administration assistance of the New Water Quality Laboratory, Project EN15008.00.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties agree as follows:

1. **PROJECT MANAGER ASSIGNMENT:** All technical direction related to this Contract shall come from the designated Project Manager. Details of the Agency's assignment are listed below.

Project Manager: Jamal Zughbi, P.E., Senior Engineer  
Address: 6075 Kimball Avenue, Building B  
Chino, CA 91708  
  
Telephone: (909) 993-1698  
Email: [jzughbi@ieua.org](mailto:jzughbi@ieua.org)

2. **CONSULTANT ASSIGNMENT:** Special inquiries related to this Contract and the effects of this Contract shall be referred to the following:

Consultant's Principal: Gregory S. Clamp, AIA, LEED AP  
Address: 6410 Oak Canyon, Suite 150  
Irvine, California 92618-5213  
  
Telephone: (949) 451-9011  
Email: [Greg.Clamp@theaustin.com](mailto:Greg.Clamp@theaustin.com)

Consultant's Project Manager: James S. Robinson, AIA, LEED AP BD+C  
Address: 6410 Oak Canyon, Suite 150  
Irvine, California 92618-5213  
  
Telephone: (949) 451-9034  
Email: [Jim.Robinson@theaustin.com](mailto:Jim.Robinson@theaustin.com)



3. **ORDER OF PRECEDENCE:** The documents referenced below represent the Contract Documents. Where any conflicts exist between the General Terms and Conditions, or addenda attached, then the governing order of precedence shall be as follows:
  1. Amendments to Contract number 4600001869;
  2. Contract number 4600001869 General Terms and Conditions;
  3. Project Manager's Request for Proposals and all germane Addenda and correspondence, incorporated herein and made a part hereof by this reference;
  4. Consultant's original proposal dated April 13, 2015, Consultant's revised schedule of work in hours dated April 17, 2015, and Consultant's revised fee proposal dated April 17, 2015, incorporated herein and made a part hereof by this reference.
4. **SCOPE OF WORK AND SERVICES:** Consultant services and responsibilities shall include and be in accordance with the Project Manager's Request for Proposal, which is incorporated herein and made a part hereof by this reference. Consultant shall ensure that the project design and construction shall be in accordance with the California State Water Resource Control Board, Clean Water State Revolving Fund requirements included in **Exhibit C**.
5. **TERM:** The term of this Contract shall extend from the date of the Notice to Proceed, and terminate upon acceptance of the design's construction by the Agency's Board of Directors, unless agreed to by both parties, reduced to writing, and amended to this Contract.
6. **PAYMENT, INVOICING AND COMPENSATION:** Agency shall pay Consultant's properly-executed once-monthly invoice approved by the Project Manager within thirty (30) days following receipt of the invoice. Payment will be withheld for any service which does not meet or exceed Agency requirements or have proven unacceptable until such service is revised, resubmitted, and accepted by the Project Manager. All invoices shall be submitted electronically with all required back-up to [apgroup@ieua.org](mailto:apgroup@ieua.org) .

Agency may at any time make changes to the Work including additions, reductions, and changes to any or all of the Work, as directed in writing by the Agency. Such changes shall be made by an Amendment to the Contract. The NOT-TO-EXCEED Amount and Work Schedule shall be equitably adjusted, if required, to account for such changes and shall be set forth in the Amendment.

In compensation for the work represented by this Contract, Agency shall pay Consultant a **NOT-TO-EXCEED maximum total of \$1,273,900.00** for all services provided in accordance with the Agency's Request for Proposal, Consultant's Revised Fee Proposal, and Consultant's Revised Schedule of Work in Hours, both referenced herein, attached hereto, and made a part hereof as **Exhibit A**. Consultant's invoice must be submitted according to milestones achieved by Consultant and accepted by the Agency's Project Manager, and shall include a breakdown by items completed, referencing State Prevailing Wages, all associated labor categories provided, labor hours supplied and associated hourly rates, dates worked, the current monthly amount due, and the cumulative amount invoiced to-date against this Contract, using the Agency's standard Excel-based invoicing template **Exhibit B**. Invoice shall not be submitted in advance and shall not be dated earlier than the actual date of submittal.

7. **INSURANCE:** During the term of this Contract, the Consultant shall maintain at Consultant's sole expense, the following insurance.

A. **Minimum Scope of Insurance:**

1. **General Liability:** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number GL 0001-87 covering Comprehensive General Liability. If 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.
2. **Automobile Liability:** \$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 87, covering Automobile Liability, including "any auto."
3. **Workers' Compensation and Employers Liability:** Workers' compensation limits as required by the Labor Code of the State of California and employers Liability limits of \$1,000,000 per accident.
4. **Professional Liability insurance** in the amount of \$1,000,000 per claim.

B. **Deductibles and Self-Insured Retention:** Any deductibles or self-insured retention must be declared to and approved by the Agency. At the option of the Agency, either: the insurer shall reduce or eliminate such deductibles or self-insured retention (as respects the Agency), its officers, officials, employees, volunteers, property owners and engineers under contract to the Agency; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

C. **Other Insurance Provisions:** The policies are to contain, or be endorsed to contain, the following provisions:

1. **General Liability and Automobile Liability Coverage**
  - a. The Agency, its officers, officials, employees, volunteers, property owners and any engineers under contract to the Agency are to be covered as insureds, endorsement CG2010 1185, as respects: liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied or used by the Consultant, or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Agency, its officers, officials, employees, volunteers, property owners or engineers under contract to the Agency.
  - b. The Consultant's insurance coverage shall be primary insurance as respects the Agency, its officer, officials, employees, volunteers, property owners or engineers under contract to the Agency. Any insurance or self-insurance

maintained by the Agency, its officers, officials, employees, volunteers, property owners or engineers under contract to the Agency shall be excess of the Consultant's insurance and shall not contribute with it.

- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, its officers, officials, employees, volunteers, property owners or engineers under contract to the Agency
- d. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. The Consultant may satisfy the limit requirements in a single policy or multiple policies. Any Such additional policies written as excess insurance shall not provide any less coverage than that provided by the first or primary policy.

2. **Workers' Compensation and Employers Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the Agency, its officers, officials, employees, volunteers, property owners or engineers under contract to the Agency for losses arising from work performed by the Consultant for the Agency.

3. **All Coverages**

Each insurance policy required by this contract shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.

- D. Acceptability of Insurers: Insurance is to be placed with insurers with a Best's rating of no less than A:VII, and who are admitted insurers in the State of California.
- E. Verification of Coverage: Consultant shall furnish the Agency with certificates of insurance and with original endorsements effecting coverage required by the Agency for themselves and all subConsultants prior to commencing work or allowing any subConsultant to commence work under any subcontract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be approved by the Agency before work commences. The Agency reserves the right to review the policies of all required insurance at Consultant's offices during regular business hours.
- F. Submittal of Certificates: Consultant shall submit all required certificates and endorsements to the following:

Inland Empire Utilities Agency  
Attn: Ms. Angela Witte, Risk Specialist  
P.O. Box 9020  
Chino Hills, California 91709-0902

8. CONTROL OF THE WORK: Consultant shall perform the Work in compliance with the Work Schedule. If performance of the Work falls behind schedule, the Consultant shall accelerate the

performance of the Work to comply with the Work Schedule as directed by the Project Manager. If the nature of the Work is such that Consultant is unable to accelerate the Work, Consultant shall promptly notify the Project Manager of the delay, the causes of the delay, and submit a proposed revised Work Schedule.

9. LEGAL RELATIONS AND RESPONSIBILITIES

- A. Professional Responsibility: The Consultant shall be responsible, to the level of competency presently maintained by other practicing professionals performing the same or similar type of work.
- B. Status of Consultant: The Consultant is retained as an independent Consultant only, for the sole purpose of rendering the services described herein, and is not an employee of the Agency.
- C. Observing Laws and Ordinances: The Consultant shall keep itself fully informed of all existing and future state and federal laws and all county and city ordinances and regulations which in any manner affect the conduct of any services or tasks performed under this Contract, and of all such orders and decrees of bodies or tribunals having any jurisdiction or Agency over the same. The Consultant shall at all times observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect and indemnify, as required herein, the Agency, its officers, employees and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by the Consultant or its employees.
- D. Grant-Funded Projects: This is a grant-funded (e.g., State Revolving Funds) project. The Consultant shall be responsible to comply with all grant requirements related to the project as outlined in **Exhibit C**, attached hereto and made a part hereof. These may include, but shall not be limited to: Davis-Bacon Act, Endangered Species Act, Executive Order 11246 (Affirmative Action Requirements), Equal Opportunity, Competitive Solicitation, Record Retention and Public Access to Records, and Compliance Review. Federal funding of any portion of this project will have separate, additional reporting accountability on the use of funds.
- E. Subcontract Services: Any subcontracts for the performance of any services under this Contract shall be subject to the written approval of the Project Manager.
- F. Hours of Labor: The Consultant shall comply with all applicable provisions of California Labor Code Sections 1810 to 1817 relating to working hours. The Consultant shall, as a penalty to the Agency, forfeit \$25.00 for each worker employed in the execution of the Contract by the Consultant or by any subConsultant for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code.
- G. Travel and Subsistence Pay: The Consultant shall make payment to each worker for travel and subsistence payments which are needed to execute the work and/or service, as such travel and subsistence payments are defined in the applicable collective bargaining agreements with the worker.
- H. Liens: Consultant shall pay all sums of money that become due from any labor, services, materials or equipment furnished to Consultant on account of said services to be rendered or said materials to be furnished under this Contract and that may be secured by any lien

against the Agency. Consultant shall fully discharge each such lien at the time performance of the obligation secured matures and becomes due, provided Consultant has been paid in full.

- I. Indemnification: Consultant shall indemnify the Agency, its directors, employees and assigns, and shall defend and hold them harmless from all liabilities, demands, actions, claims, losses and expenses, including reasonable attorneys' fees, which arise out of or are related to the negligence, recklessness or willful misconduct of the Consultant, its directors, employees, agents and assigns, in the performance of work under this Contract, to the extent caused by Consultant's negligence or willful misconduct. Consultant shall not defend the Agency, but rather shall reimburse the Agency for its attorneys' fee and costs of defense in proportion to Consultant's percentage of fault as determined by the court or arbitrator.
- J. Conflict of Interest: No official of the Agency who is authorized in such capacity and on behalf of the Agency to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving this Contract, or any subcontract relating to services or tasks to be performed pursuant to this Contract, shall become directly or indirectly personally interested in this Contract.
- K. Equal Opportunity: During the performance of this Contract, the Consultant shall not unlawfully discriminate against any employee or employment applicant because of race, color, religion, sex, age, marital status, ancestry, physical or mental disability, sexual orientation, veteran status or national origin.
- L. Disputes:
  1. All disputes arising out of or in relation to this Contract shall be determined in accordance with this section. The Consultant shall pursue the work to completion in accordance with the instruction of the Agency's Project Manager notwithstanding the existence of dispute. By entering into this Contract, both parties are obligated, and hereby agree, to submit all disputes arising under or relating to the Contract which remain unresolved after the exhaustion of the procedures provided herein, to independent arbitration. Except as otherwise provided herein, arbitration shall be conducted under California Code of Civil Procedure Sections 1280, et. seq, or their successor.
  2. Any and all disputes during the pendency of the work shall be subject to resolution by the Agency Project Manager and the Consultant shall comply, pursuant to the Agency Project Manager instructions. If the Consultant is not satisfied with any such resolution by the Agency Project Manager, they may file a written protest with the Agency Project Manager within seven (7) calendar days after receiving written notice of the Agency's decision. Failure by Consultant to file a written protest within seven (7) calendar days shall constitute waiver of protest, and acceptance of the Agency Project Manager's resolution. The Agency's Project Manager shall submit the Consultant's written protests to the General Manager, together with a copy of the Agency Project Manager's written decision, for his or her consideration within seven (7) calendar days after receipt of said protest(s). The General Manager shall make his or her determination with respect to each protest filed with the Agency Project Manager within ten (10) calendar days after receipt of said protest(s). If

Consultant is not satisfied with any such resolution by the General Manager, they may file a written request for arbitration with the Project Manager within seven (7) calendar days after receiving written notice of the General Manager's decision.

3. In the event of arbitration, the parties hereto agree that there shall be a single neutral Arbitrator who shall be selected in the following manner:
  - a. The Demand for Arbitration shall include a list of five names of persons acceptable to the Consultant to be appointed as Arbitrator. The Agency shall determine if any of the names submitted by Consultant are acceptable and, if so, such person will be designated as Arbitrator.
  - b. In the event that none of the names submitted by Consultant are acceptable to Agency, or if for any reason the Arbitrator selected in Step (a) is unable to serve, the Agency shall submit to Consultant a list of five names of persons acceptable to Agency for appointment as Arbitrator. The Consultant shall, in turn, have seven (7) calendar days in which to determine if one such person is acceptable.
  - c. If after Steps (a) and (b), the parties are unable to mutually agree upon a neutral Arbitrator, the matter of selection of an Arbitrator shall be submitted to the San Bernardino County Superior Court pursuant to Code of Civil Procedure Section 1281.6, or its successor. The costs of arbitration, including but not limited to reasonable attorneys' fees, shall be recoverable by the party prevailing in the arbitration. If this arbitration is appealed to a court pursuant to the procedure under California Code of Civil Procedure Section 1294, et. seq., or their successor, the costs of arbitration shall also include court costs associated with such appeals, including but not limited to reasonable attorneys' fees which shall be recoverable by the prevailing party.
4. Joinder in Mediation/Arbitration: The Agency may join the Consultant in mediation or arbitration commenced by a Consultant on the Project pursuant to Public Contracts Code Sections 20104 et seq. Such joinder shall be initiated by written notice from the Agency's representative to the Consultant.
- M. Workers' Legal Status: For performance against this Contract, Supplier shall only utilize employees and/or subConsultants that are authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986.
- N. Prevailing Wage Requirements: Pursuant to Section 1770 and following, of the California Labor Code, the Consultant shall not pay less than the general prevailing wage rates, as determined by the Director of the State of California Department of Industrial Relations for the locality in which the work is to be performed and for each craft or type of worker needed to execute the work contemplated under the Contract. The Consultant or any subConsultant performing part of said work shall strictly adhere to all provisions of the Labor Code, including, but not limited to, minimum wages, work days, nondiscrimination, apprentices, maintenance and availability of accurate payroll

records and any other matters required under all Federal, State and local laws related to labor.

10. FITNESS FOR DUTY:

A. Fitness: Consultant and its SubConsultant personnel on the Jobsite:

1. shall report for work in a manner fit to do their job;
2. shall not be under the influence of or in possession of any alcoholic beverages or of any controlled substance (except a controlled substance as prescribed by a physician so long as the performance or safety of the Work is not affected thereby); and
3. shall not have been convicted of any serious criminal offense which, by its nature, may have a discernible adverse impact on the business or reputation of the Agency.

B. Compliance: Consultant shall advise all Consultant and subConsultant personnel and associated third parties of the requirements of this Contract ("Fitness for Duty Requirements") before they enter on the Jobsite and shall immediately remove from the Jobsite any employee determined to be in violation of these requirements. Consultant shall impose these requirements on its SubConsultants. Agency may cancel the Contract if Consultant violates these Fitness for Duty Requirements.

11. OWNERSHIP OF MATERIALS AND DOCUMENTS/CONFIDENTIALITY: The Agency retains ownership of any and all partial or complete reports, drawings, plans, notes, computations, lists, and/or other materials, documents, information, or data prepared by the Consultant and/or the Consultant's subConsultant(s) pertaining to this Contract. Said materials and documents are confidential and shall be available to the Agency from the moment of their preparation, and the Consultant shall deliver same to the Agency whenever requested to do so by the Project Manager and/or Agency. The Consultant agrees that same shall not be made available to any individual or organization, private or public, without the prior written consent of the Agency. Agency shall indemnify, defend, and hold harmless Consultant for any Agency reuse of materials or documents for any purpose other than originally intended. Agency shall defend, indemnify, and hold harmless Consultant for any claims or actions resulting from changes to a reuse of such materials.

12. TITLE AND RISK OF LOSS:

Documentation: Title to the Documentation shall pass to Agency when prepared; however, a copy may be retained by Consultant for its records and internal use Consultant shall retain such Documentation in a controlled access file, and shall not reveal, display or disclose the contents of the Documentation to others without the prior written authorization of Agency or for the performance of Work related to the project.

Material: Title to all Material, field or research equipment, and laboratory models, procured or fabricated under the Contract shall pass to Agency when procured or fabricated, and such title

shall be free and clear of any and all encumbrances. Consultant shall have risk of loss of any Material or Agency-owned equipment of which it has custody.

Disposition: Consultant shall dispose of items to which Agency has title as directed in writing by the Agreement Administrator and/or Agency.

13. PROPRIETARY RIGHTS:

A. Rights and Ownership: Agency's rights to inventions, discoveries, trade secrets, patents, copyrights, and other intellectual property, including the Information and Documentation, and revisions thereto (hereinafter collectively referred to as "Proprietary Rights"), used or developed by Consultant in the performance of the Work, shall be governed by the following provisions:

Proprietary Rights conceived, developed, or reduced to practice by Consultant in the performance of the Work shall be the property of Agency, and Consultant shall cooperate with all appropriate requests to assign and transfer same to Agency.

If Proprietary Rights conceived, developed, or reduced to practice by Consultant prior to the performance of the Work are used in and become integral with the Work or Documentation, or are necessary for Agency to have complete enjoyment of the Work or Documentation, Consultant shall grant to Agency a non-exclusive, irrevocable, royalty-free license, as may be required by Agency for the complete enjoyment of the Work and Documentation, including the right to reproduce, correct, repair, replace, maintain, translate, publish, use, modify, copy or dispose of any or all of the Work and Documentation and grant sublicenses to others with respect to the Work and Documentation.

If the Work or Documentation includes the Proprietary Rights of others, Consultant shall procure, at no additional cost to Agency, all necessary licenses regarding such Proprietary Rights so as to allow Agency the complete enjoyment of the Work and Documentation, including the right to reproduce, correct, repair, replace, maintain, translate, publish, use, modify, copy or dispose of any or all of the Work and Documentation and grant sublicenses to others with respect to the Work and Documentation. All such licenses shall be in writing and shall be irrevocable and royalty-free to Agency. Agency shall defend indemnify and hold harmless Consultant for any claims or actions resulting from changes to a reuse of such materials.

B. No Additional Compensation: Nothing Set forth in this Contract shall be deemed to require payment by Agency to Consultant of any compensation specifically for the assignments and assurances required hereby, other than the payment of expenses as may be actually incurred by Consultant in complying with this Contract.

14. INFRINGEMENT: Consultant represents and warrants that the Work and Documentation shall be free of any claim of trade secret, trade mark, trade name, copyright, or patent infringement or other violations of any Proprietary Rights of any person.

Consultant shall defend, indemnify and hold harmless, Agency, its officers, directors, agents, employees, successors, assigns, servants, and volunteers free and harmless from any and all liability, damages, losses, claims, demands, actions, causes of action, and costs including reasonable attorney's fees and expenses arising out of any claim that use of the Work or Documentation infringes upon any trade secret, trade mark, trade name, copyright, patent, or



other Proprietary Rights. Consultant shall, at its expense and at Agency's option, refund any amount paid by Agency under the Contract, or exert its best efforts to procure for Agency the right to use the Work and Documentation, to replace or modify the Work and Documentation as approved by Agency so as to obviate any such claim of infringement, or to put up a satisfactory bond to permit Agency's continued use of the Work and Documentation.

15. **PUBLIC RECORDS POLICY:** Information made available to the Agency may be subject to the California Public Records Act (Government Code Section 6250 et seq.) The Agency's use and disclosure of its records are governed by this Act. The Agency shall use its best efforts to notify Consultant of any requests for disclosure of any documents pertaining to Consultant.

In the event of litigation concerning disclosure of information Consultant considers exempt from disclosure; (e.g., Trade Secret, Confidential, or Proprietary) Agency shall act as a stakeholder only, holding the information until otherwise ordered by a court or other legal process. If Agency is required to defend an action arising out of a Public Records Act request for any of the information Consultant has marked "Confidential," "Proprietary," or "Trade Secret," Consultant shall defend and indemnify Agency from all liability, damages, costs, and expenses, including attorneys' fees, in any action or proceeding arising under the Public Records Act.

16. **NON-CONFORMING WORK AND WARRANTY:** Consultant represents and warrants that the Work shall be in conformance with the specifications provided herein and shall serve the purposes described. For a period of not less than one (1) year after acceptance of the completed Work, Consultant shall, at no additional cost to Agency, correct any and all errors or shortcomings of the Work, regardless of whether any such errors or shortcomings is brought to the attention of the Consultant by Agency, or any other person or entity.

17. **NOTICES:** Any notice may be served upon either party by delivering it in person, or by depositing it in a United States Mail deposit box with the postage thereon fully prepaid, and addressed to the party at the address set forth below:

Agency: Attn: Mr. Warren T. Green, Manager of Contracts and Facilities Services  
c/o Inland Empire Utilities Agency  
P.O. Box 9020  
Chino Hills, California 91709-0902

Consultant: Attn: Curtis D. Miller, Vice President & General Manager  
c/o Austin Building and Design, Inc. dba The Austin Company  
6410 Oak Canyon, Suite 150  
Irvine, California 92618-5213

Any notice given hereunder shall be deemed effective in the case of personal delivery, upon receipt thereof, or, in the case of mailing, at the moment of deposit in the course of transmission with the United States Postal Service.

18. **SUCCESSORS AND ASSIGNS:** All of the terms, conditions and provisions of this Contract shall inure to the benefit of and be binding upon the Agency, the Consultant, and their respective successors and assigns. Notwithstanding the foregoing, no assignment of the duties or benefits

of the Consultant under this Contract may be assigned, transferred or otherwise disposed of without the prior written consent of the Agency; and any such purported or attempted assignment, transfer or disposal without the prior written consent of the Agency shall be null, void and of no legal effect whatsoever.

19. **INTEGRATION**: The Contract Documents represent the entire Contract of the Agency and the Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered by the Contract Documents. This Contract may not be modified, altered or amended except by written mutual agreement by the Agency and the Consultant.
20. **GOVERNING LAW**: This Contract is to be governed by and constructed in accordance with the laws of the State of California.
21. **TERMINATION FOR CONVENIENCE**: The Agency reserves and has the right to immediately suspend, cancel or terminate this Contract at any time upon written notice to the Consultant. In the event of such termination, the Agency shall pay Consultant for all authorized Consultant services up to the date of such termination.
22. **RIGHT TO AUDIT**: The Agency reserves the right to review and/or audit all Consultants' records related to the Work. The option to review and/or audit may be exercised during the term of the Contract, upon termination, upon completion of the Contract, or at any time thereafter up to twelve (12) months after final payment has been made to Consultant. The Consultant shall make all records and related documentation available within three (3) working days after said records are requested by the Agency.
23. **FORCE MAJEURE**: Neither party shall hold the other responsible for the effects of acts occurring beyond their control, e.g., war, riots, strikes, natural disasters, et cetera.
24. **NOTICE TO PROCEED**: No services shall be performed or furnished under this Contract unless and until this document has been properly signed by all responsible parties and a Notice to Proceed order has been issued to the Consultant.

AS WITNESS HEREOF, the parties hereto have caused the Contract to be entered as of the day and year written above.

INLAND EMPIRE UTILITIES AGENCY:

AUSTIN BUILDING AND DESIGN, INC. DBA THE  
AUSTIN COMPANY:

\_\_\_\_\_  
P. Joseph Grindstaff  
General Manager

(Date)

\_\_\_\_\_  
Curtis D. Miller  
Vice President & General Manager

(Date)

# Exhibit A



6410 Oak Canyon, Suite 150  
Irvine, California 92618  
www.theaustin.com

PH 949.451.9000 FX 949.451.9011

April 17, 2015

Mr. Jamal Zughbi, P.E.  
**Inland Empire Utilities Agency**  
Engineering & Construction Management Department  
6075 Kimball Avenue  
Building "B"  
Chino Hills, California 91708

Re: **Consulting Engineering Services for the New Water Quality Laboratory &  
Central Chiller Plant Expansion**  
Project No. 15008  
Fee Proposal (revised)

Dear Jamal,

In accordance with the Request for Proposal, the fees for The Austin Company's proposal dated April 13, 2015 are provided below. A Lump Sum fee for the Scope of work is defined, along with a breakdown for individual work phases. Fees are inclusive of customary reimbursable expenses.

Austin's fee proposal is as follows:

<b>New Water Quality Laboratory:</b>	
Update 50% Lab Design	\$84,900
50%/85%/100% Lab Design workshops	16,900
Lab CD's	427,700
Lab LEED effort	83,400
3D CADD	27,200
<b>Subconsultants Work:</b>	
Civil Lab (Penco)	61,700
Civil Central Plant (Penco)	30,000
Landscape (Brandow)	14,600
Commissioning Authority Central Plant	33,800
Geotechnical (Ninyo & Moore)	15,700
Potholing (Penco)	19,900
<b>Central Plant:</b>	
Preliminary Design Central Plant	51,600
30%/50%/85%/100% CP Design workshops	13,900
Central Plant CD's	118,400



Construction Assistance:

Bid assistance	7,700
Shop Drwg/RFI/	104,100
Weekly Meetings	107,200
O&M/Startup Assistance	34,800
Record Drawings/Training	20,400

**Total Design Fee** **\$1,273,900**

Qualifiers

1. It is Austin's anticipation that Austin will manage the survey services, but the contract will be between sub-consultant and IEUA.
2. Per our April 16 meeting, it is agreed the contract language stating: "The Consultant will reimburse the Agency for any additional costs that may result from inadequate existing utility research or detailing" refers to 'professional services standard of care'. This clause will not be enforced providing Austin meets this 'standard of care'.

Please contact me at 949.451.9900 or by e-mail at [greg.clamp@theaustin.com](mailto:greg.clamp@theaustin.com) if you require any additional information or clarification regarding this proposal.

Sincerely,

Gregory S. Clamp, AIA LEED AP



**CONSULTING ENGINEERING SERVICES, NEW WATER  
QUALITY LABORATORY & CENTRAL CHILLER PLANT EXPANSION**

Inland Empire Utilities Agency, Chino Hills, CA

EN15008.00

**SCHEDULE OF WORK IN HOURS**

The table below shows Austin's estimate of labor by discipline and by task. The task numbers used in the column headings relate to the following:

**Lab Construction Docs**

- 1 Update 50% Lab Design
- 2 50%/85%/100% Lab Design Workshops
- 3 Lab CD's
- 4 Lab LEED® Effort
- 19 3D CADD

**Subconsultant Services**

- 5 Civil Lab (Penco)
- 6 Civil CP (Penco)
- 7 Geotechnical (Ninyo & Moore)
- 8 Landscape (Brandow)
- 9 Potholing (Penco)
- 18 Commissioning Authority for CP

**Central Plant Construction Docs**

- 10 Preliminary Design Central Plant (CP)
- 11 30%/50%/85%/100% CP Design Workshops
- 12 Central Plant CD's

**Construction Administration**

- 13 Bid Assistance
- 14 Shop Dwg/RFI
- 15 Weekly Meetings
- 16 O&M/Startup Assistance
- 17 Record Drawings/Training

Task	Arch	Struc	Civil	HVAC	Plumb/FP	Elec	Support	PM	Acct	Mgmt	Est	Totals
1	180	64		140	80	180	80	80	24	32	0	860
2	24	24	0	24	0	24	0	24	4	16	0	140
3	680	420	0	720	400	820	160	360	100	80	120	3860
4	200	0	0	140	40	240	40	56	16	24	0	756
5	0	56	310	0	0	0	0	0	0	0	0	366
6	0	24	355	0	0	0	0	0	0	0	0	379
7	0	0	237	0	0	0	0	0	0	0	0	237
8	12	12	100	0	0	0	0	12	0	0	0	136
9	0	0	150	0	0	0	0	0	0	0	0	150
10	56	40	0	200	0	64	40	40	12	16	0	468
11	24	0	0	24	0	24	0	24	0	12	0	108
12	80	240	0	430	0	180	0	0	0	0	120	1050
13	8	4	0	8	4	8	4	24	2	2	0	64
14	160	120	0	160	120	160	48	128	24	24	0	944
15	20	20	0	20	0	20	0	600	20	20	0	720
16	24	4	0	72	40	56	48	48	10	12	0	314
17	36	8	0	52	20	28	4	20	4	6	0	178
18	0	0	0	24	0	16	0	24	2	2	0	68
19	100	24	0	40	40	32	0	12	4	4	0	256
<b>Totals</b>	<b>1604</b>	<b>1060</b>	<b>1152</b>	<b>2054</b>	<b>744</b>	<b>1852</b>	<b>424</b>	<b>1452</b>	<b>222</b>	<b>250</b>	<b>240</b>	<b>11054</b>



# Exhibit B

## Exhibit B CONSULTING SERVICES INVOICE

Consultant:	Pay Estimate No.:	Contract Date:	Invoice Date:
Address:	Project No.:	IEUA Project Manager:	This Period:
	Contract No.:		From:
			To:
Project Name and Location:	Account No.:	Consultant Reference No.:	

**ORIGINAL CONTRACT:**

Task No.	Item Description	Original Contract Value	Total This Period		Total to Date		Progress to Date
		Amount (\$)	% Complete	Amount (\$)	% Complete	Amount (\$)	% Complete
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
Subtotal Original Contract:		\$0.00		\$0.00		\$0.00	

**CONTRACT AMENDMENTS:**

Amendment No.	Amendment Description	Amended Contract Value	Total This Period		Total to Date		Progress to Date
		Amount (\$)	% Complete	Amount (\$)	% Complete	Amount (\$)	% Complete
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
				\$0.00		\$0.00	0%
Subtotal Contract Amendments:		\$0.00		\$0.00		\$0.00	
Total Contract with Amendments:		\$0.00		\$0.00		\$0.00	

**PAYMENT SUMMARY FOR THIS PERIOD:**

	Total This Period
	From: 1/0/2015
	To: 1/0/2015
Amount Earned Original Contract	\$0.00
Amount Earned Amendments	\$0.00
Back Charges	\$0.00
<b>Amount Due This Period</b>	<b>\$0.00</b>

**PRIOR PAYMENT SUMMARY:**

	Total to Date
	From: 1/0/2015
	To: 1/0/2015
Amount Earned Original Contract	\$0.00
Amount Earned Amendments	\$0.00
Back Charges	\$0.00
Prior Payments	\$0.00

**TOTAL PAYMENT SUMMARY:**

	Total Contract
Total Original Contract	\$0.00
Total Contract Amendments	\$0.00
Total Adjusted Contract	\$0.00
Total Payments to Date	\$0.00
Back Charges	\$0.00
<b>Balance of Contract</b>	<b>\$0.00</b>

**CONTRACT SCHEDULE SUMMARY:**

Contract Start Date:	1/0/2015
Contract Duration:	0
Contract Completion Date:	
Authorized Time Extension:	0
Revised Completion Date:	

**PROJECT COMPLETION SUMMARY:**

Contract Time Expired:	#DIV/0!
Contract Work Complete:	#DIV/0!

**APPROVALS:**

**Consultant Approval:**

Title: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Inland Empire Utilities Agency Approvals:**

Project Manager/Engineer: \_\_\_\_\_ Date: \_\_\_\_\_

Executive Manager: \_\_\_\_\_

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

Supervising Engineer: \_\_\_\_\_ Date: \_\_\_\_\_

General Manager/CEO: \_\_\_\_\_

Department Manager: \_\_\_\_\_ Date: \_\_\_\_\_

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



# Exhibit C

## IEUA Regional Water Quality Laboratory Project Agreement Requirements

The IEUA Regional Water Quality Laboratory Project (Project) will be funded by a State Water Resources Control Board State Revolving Fund Loan (Agreement.) The Agreement has regulatory requirements that the Inland Empire Utilities Agency is required to include in all contracts for work related to the performance of the Agreement. The consultants and contractors must assist IEUA in meeting the federal and state requirements that apply to the scope stated in their contracts. These requirements include, but are not limited to, the State Prevailing Wages, Federal Davis-Bacon requirements, Federal Disadvantaged Business Enterprise (DBE), Audit, and Record Retention and Review, etc. If a sub is hired, the Agreement requirement language must be included in the sub's contract in its entirety. The follow attachments provide more details about the specific requirements and must be included in all contracts for this Project:

- 1. Article V - Miscellaneous Provisions**
- 2. Exhibit E - Federal Conditions & Cross-Cutters**
- 3. Exhibit G - Davis-Bacon Labor Compliance Requirements**
- 4. DBE instructions/forms**
- 5. Signage on Construction Site**
- 6. Records**

## ARTICLE V MISCELLANEOUS PROVISIONS

### 5.1 Covenants.

- (a) **Tax Covenant.** Notwithstanding any other provision hereof, the Recipient covenants and agrees that it will comply with the Tax Covenants set forth in Article IV attached hereto if any portion of the Project Funds is derived from proceeds of Bonds.
- (b) **Disclosure of Financial Information, Operating Data, and Other Information.** The Recipient covenants to furnish such financial, operating and other data pertaining to the Recipient as may be requested by the State Water Board to: (i) enable the State Water Board to cause the issuance of Bonds and provide for security therefor; or (ii) enable any underwriter of Bonds issued for the benefit of the State Water Board to comply with Rule 15c2-12(b)(5). The Recipient further covenants to provide the State Water Board with copies of all continuing disclosure reports and materials concerning the Recipient required by the terms of any financing other than this Agreement and to submit such reports to the State Water Board at the same time such reports are submitted to any dissemination agent, trustee, nationally recognized municipal securities information repository, the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (EMMA) website or other person or entity.

### 5.2 Assignability.

The Recipient agrees and consents to any pledge, sale, or assignment to the Bank or a trustee for the benefit of the owners of the Bonds, if any, at any time of any portion of the State Water Board's estate, right, title, and interest and claim in, to and under this Agreement and the right to make all related waivers and agreements in the name and on behalf of the State Water Board, as agent and attorney-in-fact, and to perform all other related acts which are necessary and appropriate under this Agreement, if any, and the State Water Board's estate, right, title, and interest and claim in, to and under this Agreement to Installment Payments (but excluding the State Water Board's rights to Additional Payments and to notices, opinions and indemnification under each Obligation). This Agreement is not assignable by the Recipient, either in whole or in part, without the consent of the State Water Board in the form of a formal written amendment to this Agreement.

### 5.3 State Reviews and Indemnification.

The parties agree that review or approval of Project plans and specifications by the State Water Board is for administrative purposes only and does not relieve the Recipient of its responsibility to properly plan, design, construct, operate, and maintain the Project. To the extent permitted by law, the Recipient agrees to indemnify, defend, and hold harmless the State Water Board, the Bank, and any trustee, and their officers, employees, and agents for the Bonds, if any (collectively, "Indemnified Persons"), against any loss or liability arising out of any claim or action brought against any Indemnified Persons from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character, and nature whatsoever arising out of, resulting from, or in any way connected with (1) the System or the Project or the conditions, occupancy, use, possession, conduct, or management of, work done in or about, or the planning, design, acquisition, installation, or construction, of the System or the Project or any part thereof; (2) the carrying out of any of the transactions contemplated by this Agreement or any related document; (3) any violation of any applicable law, rule or regulation, any environmental law (including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the California Hazardous Substance Account Act, the Federal Water Pollution Control Act, the Clean Air Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Safe Drinking Water Act, the California Hazardous Waste Control Law, and California Water Code Section 13304, and any successors to said laws), rule or regulation or the release of any toxic substance on or near the System; or (4) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements required to be stated therein, in light of the circumstances under which

they were made, not misleading with respect to any information provided by the Recipient for use in any disclosure document utilized in connection with any of the transactions contemplated by this Agreement. To the fullest extent permitted by law, the Recipient agrees to pay and discharge any judgment or award entered or made against Indemnified Persons with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section shall survive the discharge of the Recipient's Obligation hereunder.

#### 5.4 Termination; Immediate Repayment; Interest.

- (a) This Agreement may be terminated by written notice during construction of the Project, or thereafter at any time prior to complete repayment by the Recipient, at the option of the State Water Board, upon violation by the Recipient of any material provision of this Agreement after such violation has been called to the attention of the Recipient and after failure of the Recipient to bring itself into compliance with the provisions of this Agreement within a reasonable time as established by the Division.
- (b) In the event of such termination, the Recipient agrees, upon demand, to immediately repay to the State Water Board an amount equal to Installment Payments due hereunder, including accrued interest, and all penalty assessments due. In the event of termination, interest shall accrue on all amounts due at the highest legal rate of interest from the date that notice of termination is mailed to the Recipient to the date of full repayment by the Recipient.
- (c) Where the Recipient is a private entity that has been determined to have violated an applicable prohibition in the Prohibition Statement below or has an employee who is determined by USEPA to have violated an applicable prohibition in the Prohibition Statement below that is either associated with performance under this aware or imputed to the Recipient using the standards and due process for imputing the conduct of an individual to an organization pursuant to 2 CFR Part 180, the Recipient acknowledges and agrees that this Obligation may become immediately due and payable and that penalties up to \$175 million may be due by the Recipient to the State Water Board, in addition to any other criminal or civil penalties that may become due. The Recipient, its employees, its contractors, and any subrecipients or subcontractors may not engage in trafficking in persons, procure a commercial sex act, or use forced labor.

#### 5.5 Income Restrictions.

The Recipient agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Recipient under this Agreement shall be paid by the Recipient to the State, to the extent that they are properly allocable to costs for which the Recipient has been reimbursed by the State under this Agreement.

#### 5.6 Prevailing Wages.

The Recipient agrees to be bound by all the provisions of State Labor Code Section 1771 regarding prevailing wages. The Recipient shall monitor all agreements subject to reimbursement from this Agreement to assure that the prevailing wage provisions of State Labor Code Section 1771 are being met.

#### 5.7 Timeliness.

Time is of the essence in this Agreement.

#### 5.8 Governing Law.

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

**5.9 Amendment.**

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.

**5.10 Bonding.**

Where contractors are used, the Recipient shall not authorize construction to begin until each contractor has furnished a performance bond in favor of the Recipient in the following amounts: faithful performance (100%) of contract value; labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$20,000.00.

**5.11 Compliance with Law, Regulations, etc.**

- (a) The Recipient agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, the Recipient agrees that, to the extent applicable, the Recipient will:
- (1) Comply with the provisions of the adopted environmental mitigation plan for the term of this Agreement;
  - (2) Comply with the State Water Board's "Policy for Implementing the Clean Water State Revolving Fund," dated May 7, 2013;
  - (3) Comply with and require its contractors and subcontractors on the Project to comply with federal DBE requirements; and
  - (4) Comply with and require its contractors and subcontractors to comply with the list of federal laws attached as Exhibit E.

**5.12 Conflict of Interest.**

The Recipient certifies that it is in compliance with applicable state and/or federal conflict of interest laws.

**5.13 Damages for Breach Affecting Tax Exempt Status or Federal Compliance**

In the event that any breach of any of the provisions of this Agreement by the Recipient shall result in the loss of tax exempt status for any bonds of the State or any subdivision or agency thereof, including Bonds issued on behalf of the State Water Board, or if such breach shall result in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government by reason of any arbitrage profits, the Recipient shall immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

In the event that any breach of any of the provisions of this Agreement by the Recipient shall result in the failure of Project Funds to be used pursuant to the provisions of this Agreement, or if such breach shall result in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government, the Recipient shall immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

5.14 Disputes.

- (a) An applicant or recipient may appeal a staff decision within 30 days to the Deputy Director of the Division or designee, for a final Division decision. An applicant or recipient may appeal a final Division decision to the State Water Board within 30 days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute.
- (b) This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law.
- (c) Recipient shall continue with the responsibilities under this Agreement during any dispute.

5.15 Independent Actor.

The Recipient, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State Water Board.

5.16 Non-Discrimination Clause.

- (a) During the performance of this Agreement, Recipient and its contractors and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave.
- (b) The Recipient, its contractors, and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- (c) The Recipient, its contractors, and subcontractors shall comply with the provisions of the Fair Employment and Housing Act and the applicable regulations promulgated thereunder. (Gov. Code, §12990, subds. (a)-(f) et seq.; Cal. Code Regs., tit. 2, § 7285 et seq.) Such regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
- (d) The Recipient, its contractors, and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (e) The Recipient shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

5.17 No Third Party Rights.

The parties to this Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or of any duty, covenant, obligation, or undertaking established herein.

#### **5.18 Operation and Maintenance; Insurance.**

The Recipient agrees to sufficiently and properly staff, operate and maintain all portions of the Project during its useful life in accordance with all applicable state and federal laws, rules and regulations.

The Recipient will procure and maintain or cause to be maintained insurance on the System with responsible insurers, or as part of a reasonable system of self-insurance, in such amounts and against such risks (including damage to or destruction of the System) as are usually covered in connection with systems similar to the System. Such insurance may be maintained by the maintenance of a self-insurance plan so long as any such plan provides for (i) the establishment by the Recipient of a separate segregated self-insurance fund funded in an amount determined (initially and on at least an annual basis) by an independent insurance consultant experienced in the field of risk management employing accepted actuarial techniques and (ii) the establishment and maintenance of a claims processing and risk management program.

In the event of any damage to or destruction of the System caused by the perils covered by such insurance, the net proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the System. The Recipient shall begin such reconstruction, repair or replacement as expeditiously as possible, and shall pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same shall be completed and the System shall be free and clear of all claims and liens. If such net proceeds are insufficient to enable the Recipient to pay all remaining unpaid principal portions of the Installment Payments, the Recipient shall provide additional funds to restore or replace the damaged portions of the System.

#### **5.19 Permits, Subcontracting, and Remedies.**

The Recipient shall comply in all material respects with all applicable federal, state and local laws, rules and regulations. Recipient shall procure all permits, licenses and other authorizations necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Signed copies of any such permits or licenses shall be submitted to the Division before construction begins.

#### **5.20 Recipient's Responsibility for Work.**

The Recipient shall be responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Recipient shall be responsible for any and all disputes arising out of its contracts for work on the Project. The State Water Board will not mediate disputes between the Recipient and any other entity concerning responsibility for performance of work.

#### **5.21 Related Litigation.**

Under no circumstances may a Recipient use funds from any disbursement under this Agreement to pay costs associated with any litigation the Recipient pursues against the State Water Board or any Regional Water Quality Control Board. Regardless of the outcome of any such litigation, and notwithstanding any conflicting language in this Agreement, the Recipient agrees to complete the Project funded by this Agreement or to repay all of the disbursed funds plus interest.

#### **5.22 Rights in Data.**

The Recipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Recipient may copyright the same, except that, as to any work which is copyrighted by the Recipient, the State reserves a royalty-free,

nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so, and to receive electronic copies from the Recipient upon request. (40 CFR 31.34, 31.36)

**5.23 State Water Board Action; Costs and Attorney Fees.**

The Recipient agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the State Water Board as a result of breach of this Agreement by the Recipient, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this Agreement by the State Water Board shall not preclude the State Water Board from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this Agreement, it is agreed that each party shall bear its own costs and attorney fees.

**5.24 Unenforceable Provision.**

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

**5.25 Useful Life.**

The economic useful life of the Project, commencing at Project Completion, is at least equal to the term of this Agreement, as set forth in Exhibit B hereto.

**5.26 Venue.**

The State Water Board and the Recipient hereby agree that any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California.

**5.27 Waiver and Rights of the State Water Board.**

Any waiver of rights by the State Water Board with respect to a default or other matter arising under the Agreement at any time shall not be considered a waiver of rights with respect to any other default or matter.

Any rights and remedies of the State Water Board provided for in this Agreement are in addition to any other rights and remedies provided by law.



IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

**INLAND EMPIRE UTILITIES AGENCY:**

By: \_\_\_\_\_  
Name: P. Joseph Grindstaff  
Title: General Manager  
Date: \_\_\_\_\_

**STATE WATER RESOURCES CONTROL BOARD:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Deputy Director  
Division of Financial Assistance  
Date: \_\_\_\_\_

EXHIBIT E — FEDERAL CONDITIONS & CROSS-CUTTERS

The Recipient agrees to comply with the following conditions required by USEPA:

1. No Recipient or subrecipient may receive funding under this Agreement unless it has provided its DUNS number to the State Water Board. (2011 Cap Grant)
2. Executive Compensation. Where the Recipient received 80 percent or more of its annual gross revenues from federal procurement contracts (and subcontracts) and \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), the Recipient agrees to notify the State Water Board. The Recipient agrees to provide information regarding executive compensation to the State Water Board upon request, in order for the State Water Board to comply with USEPA requirements.
3. Trafficking in Persons. The Recipient, its employees, contractors and subcontractors and their employees may not engage in severe forms of trafficking in persons during the term of this Agreement, procure a commercial sex act during the term of this Agreement, or use forced labor in the performance of this Agreement. The Recipient must include this provision in its contracts and subcontracts under this Agreement. The Recipient must inform the State Water Board immediately of any information regarding a violation of the foregoing. The Recipient understands that failure to comply with this provision may subject the State Water Board to loss of federal funds in the amount of \$101,065,000. The Recipient agrees to compensate the State Water Board for any such funds lost due to its failure to comply with this condition, or the failure of its contractors or subcontractors to comply with this condition. The State Water Board may unilaterally terminate this Agreement and full repayment will be due immediately, if a subrecipient that is a private entity is determined to have violated the foregoing. Trafficking Victims Protection Act of 2000.
4. Contractors, Subcontractors, Debarment and Suspension, Executive Order 12549; 2 CFR Part 180; 2 CFR Part 1532. The Recipient shall not subcontract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension". The Recipient shall not subcontract with any individual or organization on USEPA's List of Violating Facilities. (40 CFR, Part 31.35, Gov. Code 4477)

The Recipient certifies to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- (b) Have not within a three (3) year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

EXHIBIT E — FEDERAL CONDITIONS & CROSS-CUTTERS

Suspension and debarment information can be accessed at <http://www.sam.gov>. The Recipient represents and warrants that it has or will include a term or conditions requiring compliance with this provision in all of its contracts and subcontracts under this Agreement. The Recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the termination, delay or negation of this Agreement, or pursuance of legal remedies, including suspension and debarment.

5. Anti-Lobbying Provisions (40 CFR Part 34) & Anti-Litigation Provisions (2 CFR 220, 225, or 230). The Recipient shall ensure that no funds under this Agreement are used to engage in lobbying of the federal government or in litigation against the United States unless authorized under existing law. The Recipient shall abide by 2 CFR 225 (OMB Circular A-87) (or, if not applicable, other parallel requirements), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities. The Recipient agrees to comply with 40 CFR Part 24, New Restrictions on Lobbying. The Recipient agrees to submit certification and disclosure forms in accordance with these provisions. In accordance with the Byrd Anti-Lobbying Amendment, any Recipient who makes a prohibited expenditure under 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure. The Recipient shall abide by its respective 2 CFR 200, 225, or 230, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.
6. Disadvantaged Business Enterprises. 40 CFR Part 33. The Recipient agrees to comply with the requirements of USEPA's Program for Utilization of Small, Minority and Women's Business Enterprises. The DBE rule can be accessed at [www.epa.gov/osbp](http://www.epa.gov/osbp). The Recipient shall comply with, and agrees to require its prime contractors to comply with 40 CFR Section 33.301, and retain all records documenting compliance with the six good faith efforts.
7. The Recipient agrees to comply with the Davis-Bacon provisions attached as Exhibit G.

The Recipient agrees to comply with the following federal laws, as applicable to recipients of CWSRF funding:

**Environmental Authorities**

1. Archeological and Historical Preservation Act of 1974, Pub. L. 86-523, as amended, Pub. L. 93-291 16 USC § 469a-1.
2. Clean Air Act, Pub. L. 84-159, as amended.
3. Coastal Barrier Resources Act, Pub. L. 97-348, 96 Stat. 1653; 16 USC § 3501 et seq.
4. Coastal Zone Management Act, Pub. L. 92-583, as amended; 16 USC § 1451 et seq.
5. Endangered Species Act, Pub. L. 93-205, as amended; 16 USC § 1531 et seq..
6. Environmental Justice, Executive Order 12898.
7. Floodplain Management, Executive Order, 11988 as amended by Executive Order 12148.
8. Protection of Wetlands, Executive Order 11990, as amended by Executive Order No. 12608.

EXHIBIT E — FEDERAL CONDITIONS & CROSS-CUTTERS

9. Farmland Protection Policy Act, Pub. L. 97-98; 7 USC § 4201 et seq.
10. Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended.
11. National Historic Preservation Act of 1966, Pub. L. 89-665, as amended, 80 Stat. 917 (1966) 16 USC § 470 et seq.
12. Safe Drinking Water Act, Pub. L. 93-523, as amended; 42 USC § 300f et seq.
13. Wild and Scenic Rivers Act, Pub. L. 90-542, as amended, 82 Stat. 913; 16 USC § 1271 et seq.
14. Essential Fish Habitat Consultation. Pub. L. 94-265, as amended, 16 USC § 1801 et seq.
15. Recycled Materials. Executive Order 13101; Section 6002 Resource Conservation and Recovery Act – 42 USC § 6962.

**Economic and Miscellaneous Authorities**

1. Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended, Executive Order 12372/ 42 USC § 3331 et seq.
2. Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans; 42 USC § 7606; 33 USC § 1368; 40 CFR Part 31.
3. Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended; 42 USC §§4601-4655
- 4.. Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, EO 13202, as amended by EO 13208.
6. Hotel and Motel Fire Safety Act of 1990 (PL 101-391, as amended). All conference, meeting, convention, or training funded in whole or in part with federal funds shall comply with the protection and control guidelines of this act. Recipients may search <http://www.usfa.dhs.gov/applications/hotel/>.
7. Records and financial reporting requirements. 40 CFR Part 31.
8. Copyright requirements. 40 CFR Part 31.

**Social Policy Authorities**

1. Age Discrimination Act of 1975, Pub. L. 94-135; 42 USC § 6102.
2. Race Discrimination. Title VI of the Civil Rights Act of 1964, Pub. L. 88-352.1; 42 USC § 2000d; 40 CFR Part 7.
3. Sex Discrimination. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act); 33 USC § 1251; 40 CFR Part 7.

Name of Recipient  
Agreement No.: XX-XXX-550  
Project No.: C-06-XXXX-XXX

**EXHIBIT E — FEDERAL CONDITIONS & CROSS-CUTTERS**

4. **Disability Discrimination.** Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250); 29 USC § 794; 40 CFR Part 7.
5. **Equal Employment Opportunity,** Executive Order 11246.
6. **Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988,** Pub. L. 100-590.

EXHIBIT G – DAVIS BACON REQUIREMENTS

**1. Contract and Subcontract provisions for Recipients**

(a) The Recipient shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, [www.dol.gov](http://www.dol.gov).

(ii)(A) The Recipient, on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**EXHIBIT G – DAVIS BACON REQUIREMENTS**

- (2) The classification is utilized in the area by the construction industry; and
  - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Recipient agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the Recipient to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and Recipient do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
  - (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

EXHIBIT G – DAVIS BACON REQUIREMENTS

- (2) **Withholding.** The Recipient, shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- (3) **Payrolls and basic records.**
- (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the Recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State or EPA. As to each payroll copy received, the Recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime



EXHIBIT G – DAVIS BACON REQUIREMENTS

contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Recipient for transmission to the State Water Board or EPA if requested by EPA, the State Water Board, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Recipient.

- (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
  - (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
  - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
- (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required

EXHIBIT G – DAVIS BACON REQUIREMENTS

records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

- (4) Apprentices and trainees.
- (i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe

**EXHIBIT G – DAVIS BACON REQUIREMENTS**

- benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- (5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- (7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Recipient, State, EPA, the U.S. Department of Labor, or the employees or their representatives.
- (10) Certification of eligibility.
- (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or

**EXHIBIT G – DAVIS BACON REQUIREMENTS**

firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

- (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**2. Contract Provision for Contracts in Excess of \$100,000.**

(a) **Contract Work Hours and Safety Standards Act.** The Recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Section 1, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

- (1) **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.
- (3) **Withholding for unpaid wages and liquidated damages.** The Recipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- (4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The

### EXHIBIT G – DAVIS BACON REQUIREMENTS

prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

- (b) In addition to the clauses contained in Section 1, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the United States Environmental Protection Agency, the Department of Labor, or the State Water Resources Control Board, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

### 3. Compliance Verification

- (a) The Recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.
- (b) The Recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the Recipient should conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. The Recipient must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. The Recipient shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.
- (c) The Recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The Recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the Recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. The Recipient must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the Recipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.
- (d) The Recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that

**EXHIBIT G – DAVIS BACON REQUIREMENTS**

contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

- (e) The Recipient must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/esa/contacts/whd/america2.htm>.

**California State Water Resources Control Board**  
**Division of Financial Assistance (Division)**  
1001 I Street • Sacramento, California 95814 • (916) 341-5700 FAX (916) 341-5707  
Mailing Address: P. O. Box 944212 • Sacramento, California • 94244-2120  
Internet Address: <http://www.waterboards.ca.gov>

**Guidelines for Meeting the Clean Water State Revolving Fund (CWSRF) Program**  
**Disadvantaged Business Enterprise (DBE) Requirements**

The DBE Program is an outreach, education, and objectives program designed to increase the participation of DBEs in the CWSRF Program.

**How to Achieve the Purpose of the Program**

Recipients of CWSRF financing are required to seek, and are encouraged to use, DBEs for their procurement needs. Financial assistance recipients should award a "fair share" of sub-agreements to DBEs. This applies to all sub-agreements for equipment, supplies, construction, and services.

The key functional components of the DBE Program are as follows.

- Fair Share Objectives
- DBE Certification
- Six Good Faith Efforts
- Contract Administration Requirements
- DBE Reporting

**Disadvantaged Business Enterprise's are:**

- entities owned and/or controlled by socially and economically disadvantaged individuals as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note) (10% statute), and Public Law 102-389 (42 U.S.C. 4370d) (8% statute), respectively;
- a Minority Business Enterprise (MBE) are entities that are at least 51% owned and/or controlled by a socially and economically disadvantaged individual as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note), and Public Law 102-389 (42 U.S.C. 4370d), respectively.
- a Women Business Enterprise (WBE) are entities that are at least 51% owned and/or controlled by women.
- a Small Business Enterprise (SBE);
- a Small Business in a Rural Area (SBRA);
- a Labor Surplus Area Firm (LSAF); or
- an Historically Underutilized Business (HUB) Zone Small Business Concern or a concern under a successor program.

**Certifying DBE Firms:**

Under the DBE Program, entities can no longer self-certify and contractors and sub-contractors must be certified at bid opening. Contractors and sub-contractors must provide to the CWSRF recipient proof of DBE certification. Certifications will be accepted from the following:

- The US Environmental Protection Agency (USEPA)
- The Small Business Administration(SBA);
- The Department of Transportation's State implemented DBE Certification Program (with U.S. citizenship);
- Tribal, State and Local governments;
- Independent private organization certifications.

If an entity holds one of these certifications, it is considered acceptable for establishing status under the DBE Program.

**Six Good Faith Efforts (GFE)**

All CWSRF financing recipients are required to complete and ensure that the prime contractor complies with the GFE below to ensure that DBEs have the opportunity to compete for financial assistance dollars.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practical through outreach and recruitment activities. For Tribal, State and Local Government Recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs. Posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid opening date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs.
4. Encourage contracting with a group of DBEs when a contract is too large for one firm to handle individually.
5. Use the services and assistance of the SBA and Minority Business Development Agency (MBDA) of the US Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the above steps.

The forms listed in the table below and attached to these guidelines; must be completed and submitted with the GFE:

FORM NUMBER	FORM NAME	REQUIREMENT	PROVIDED BY	COMPLETED BY	SUBMITTED TO
1	DBE Contractor/Subcontractor Certification	Proof of DBE certification	Recipient	Prime Contractor and Sub-Contractor	SWRCB by Recipient
2	DBE Selected Prime Contractor and Sub-Contractors	List selected DBEs	Recipient	Prime Contractor	SWRCB by Recipient

The completed forms should be submitted with each Bid or Proposal. The recipient shall review the bidder's documents closely to determine that the GFE was performed prior to bid or proposal opening date. Failure to complete the GFE and to substantiate completion of the GFE before the bid opening date could jeopardize CWSRF financing for the project. The following situations and circumstances require action as indicated:

1. If the apparent successful low bidder was rejected, a complete explanation must be provided;
2. Failure of the apparent low bidder to perform the GFE prior to bid opening constitutes a non-responsive bid. The construction contract may then be awarded to the next low, responsive, and responsible bidder that meets the requirements or the Recipient may re-advertise the project.
3. If there is a bid dispute, all disputes shall be settled prior to submission of the Final Budget Approval Form.

**Administration Requirements**

- A recipient of CWSRF financing must require entities receiving funds to create and maintain a Bidders List if the recipient of the financing agreement is subject to, or chooses to follow, competitive bidding requirements;
- The Bidders list must include all firms that bid or quote on prime contracts, or bid or quote on subcontracts, including both DBEs and non-DBEs;



- Information retained on the Bidder's List must include the following:
  1. Entity's name with point of contact;
  2. Entity's mailing address and telephone number;
  3. The project description on which the entity bid or quoted and when;
  4. Amount of bid/quote; and
  5. Entity's status as a DBE or non-DBE.
- The Bidders List must be kept until the recipient is no longer receiving funding under the agreement.
- The recipient shall include Bidders List as part of the Final Budget Approval Form.
- A recipient must require its prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the Recipient.
- A recipient must be notified in writing by its prime contractor prior to any termination of a DBE subcontractor by the prime contractor.
- If a DBE subcontractor fails to complete work under the subcontract for any reason, the recipient must require the prime contractor to employ the six GFEs if soliciting a replacement subcontractor.
- A recipient must require its prime contractor to employ the six GFEs even if the prime contractor has achieved its fair share objectives.

### **Reporting Requirements**

For the duration of the construction contract(s), the recipient is required to submit to the State Water Resources Control Board DBE reports semi-annually by April 10 and October 10 of each fiscal year on the attached Utilization Report form (UR-334). Failure to provide this information as stipulated in the financial agreement language may be cause for withholding disbursements.

### **CONTACT FOR MORE INFORMATION**

SWRCB – CWSRF Barbara August (916) 341-6952 [barbara.august@waterboards.ca.gov](mailto:barbara.august@waterboards.ca.gov)  
 SWRCB – CWSRF Susan Damian (916) 341-5494 [susan.damian@waterboards.ca.gov](mailto:susan.damian@waterboards.ca.gov).  
 US-EPA Region 9 – Joe Ochab (415) 972-3761 [ochab.joe@epa.gov](mailto:ochab.joe@epa.gov).

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
CONTRACTOR/SUBCONTRACTOR CERTIFICATION**

Entity Name:	Phone:
Address:	
Principal Service or Product:	Bid Amount \$

PLEASE INDICATE PERCENTAGE OF OWNERSHIP BELOW

<input type="checkbox"/> DBE _____% Ownership	
<input type="checkbox"/> Prime Contractor	<input type="checkbox"/> Supplier of Material/Service
<input type="checkbox"/> Subcontractor	
<input type="checkbox"/> Sole Ownership	<input type="checkbox"/> Corporation
<input type="checkbox"/> Partnership	<input type="checkbox"/> Joint Venture
Certified by:	Title:
Name:	Date:

Contractors can no longer self-certify. They must be certified by USEPA, Small Business Administration (SBA), Department of Transportation (DOT) or by State, Local, Tribal or private entities whose certification criteria match USEPA's. Proof of Certification must be provided. A copy of the contractor certification must be submitted with this form.

**NOTE: This form shall be completed prior to Bid or Proposal Opening.**

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)**  
**SELECTED PRIME CONTRACTOR/RECIPIENT**

ENTITY NAME		CONTRACT NO. OR SPECIFICATION NO.	
PROJECT DESCRIPTION		PROJECT LOCATION	
<b>PRIME CONTRACTOR DBE INFORMATION</b>			
DBE Qualifying Status: <input type="checkbox"/> NONE <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> OTHER DBE		NAME AND ADDRESS (Include ZIP Code, Phone)	
AMOUNT OF CONTRACT \$		Federal Employer Tax ID #	
<b>SUB-CONTRACTOR DBE INFORMATION</b>			
DBE Qualifying Status: <input type="checkbox"/> NONE <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> OTHER DBE		NAME AND ADDRESS (Include ZIP Code,)	
<input type="checkbox"/> SUBCONTRACTOR <input type="checkbox"/> JOINT VENTURE	<input type="checkbox"/> SUPPLIER/SERVICE		
AMOUNT OF CONTRACT \$		PHONE	
WORK TO BE PERFORMED			
DBE Qualifying Status: <input type="checkbox"/> NONE <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> OTHER DBE		NAME AND ADDRESS (Include ZIP Code)	
<input type="checkbox"/> SUBCONTRACTOR <input type="checkbox"/> JOINT VENTURE	<input type="checkbox"/> SUPPLIER/SERVICE		
AMOUNT OF CONTRACT \$		PHONE	
WORK TO BE PERFORMED			
DBE Qualifying Status: <input type="checkbox"/> NONE <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> OTHER DBE		NAME AND ADDRESS (Include ZIP Code,)	
<input type="checkbox"/> SUBCONTRACTOR <input type="checkbox"/> JOINT VENTURE	<input type="checkbox"/> SUPPLIER/SERVICE		
AMOUNT OF CONTRACT \$		PHONE	
WORK TO BE PERFORMED			
TOTAL DBE AMOUNT: \$			
SIGNATURE OF PERSON COMPLETING FORM:			
TITLE:	PHONE:	DATE:	

**NOTE:** Negative reports (those with no DBE's listed) are required. Original signature and date are required. Failure to complete and submit this form with the bid or proposal will cause the bid to be rejected as non-responsive.

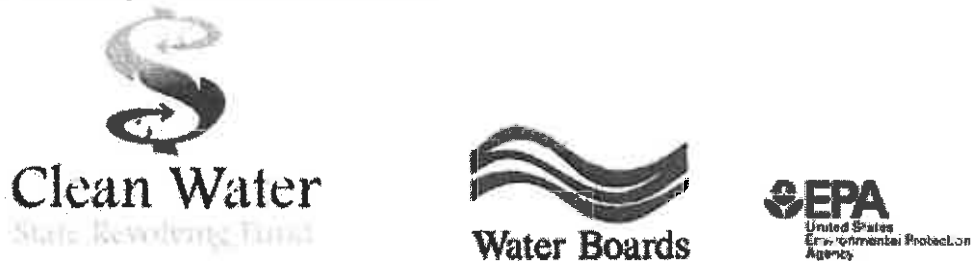


**STATE WATER RESOURCES CONTROL BOARD - DIVISION OF FINANCIAL ASSISTANCE  
DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION  
CLEAN WATER STATE REVOLVING FUND  
INSTRUCTIONS FOR COMPLETING FORM UR-334**

- Box 1** Grant or Financing Agreement Number.
- Box 2** Semi-annual reporting period. Choose one semi-annual period and enter the correct years.
- Box 3** Enter the dates between which you made procurements under this financing agreement or grant.
- Box 4** Enter the total amount of payments paid to the contractor or sub-contractors during this reporting period.
- Box 5** Enter Recipient's Name and Address.
- Box 6** Enter Recipient's Contact Name and Phone Number.
- Box 7** Enter details for the **DBE purchases only** and be sure to limit them to the current period. 1) Use either an "R" or a "C" to represent "Recipient" or "Contractor." 2) Enter a dollar total for DBE and total the two columns at the bottom of the section. 3) Provide the payment date. 4) Enter a product type choice from those at the bottom of the page. 5) List the vendor name and address in the right-hand column
- Box 8** Initial here if no DBE contractors or sub-contractors were paid during this reporting period.
- Box 9** Initial this box only if all purchases under this financing agreement or grant have been completed during this reporting period or a previous period. If you initial this box, we will no longer send you a survey.
- Box 10** This box is for explanatory information or questions.
- Box 11** Provide an authorized representative signature.
- Box 12** Enter the date form completed.

2.20 Signage.

The Recipient shall place a sign at least four feet tall by eight feet wide made of ¾ inch thick exterior grade plywood or other approved material in a prominent location on the Project site and shall maintain the sign in good condition for the duration of the construction period. The sign shall include the following color logos (available from the Division) and the following disclosure statement:



“Funding for this project has been provided in full or in part by the Clean Water State Revolving Fund through an agreement with the State Water Resources Control Board. California’s Clean Water State Revolving Fund is capitalized through a variety of funding sources, including grants from the United States Environmental Protection Agency and state bond proceeds.”

The Project sign may include another agency's required promotional information so long as the above logos and disclosure statement are equally prominent on the sign. The sign shall be prepared in a professional manner.

The Recipient shall include the following disclosure statement in any document, written report, or brochure prepared in whole or in part pursuant to this Agreement:

“Funding for this project has been provided in full or in part through an agreement with the State Water Resources Control Board. The contents of this document do not necessarily reflect the views and policies of the State Water Resources Control Board, nor does mention of trade names or commercial products constitute endorsement or recommendation for use. (Gov. Code § 7550, 40 CFR § 31.20.)”

The Recipient shall be required to maintain separate books, records and other material relative to the Project. The Recipient shall also be required to retain such books, records, and other material for itself and for each contractor or subcontractor who performed work on this project for a minimum of thirty-six (36) years after Project Completion. The Recipient shall require that such books, records, and other material be subject at all reasonable times (at a minimum during normal business hours) to inspection, copying, and audit by the State Water Board, the Bureau of State Audits, the United States Environmental Protection Agency (USEPA), the Office of Inspector General, the Internal Revenue Service, the Governor, or any authorized representatives of the aforementioned, and shall allow interviews during normal business hours of any employees who might reasonably have information related to such records. The Recipient agrees to include a similar right regarding audit, interviews, and records retention in any subcontract related to the performance of this Agreement. The provisions of this section shall survive the discharge of the Recipient's Obligation hereunder and shall survive the term of this Agreement.

**ACTION  
ITEM  
1D**



Date: May 20, 2015

To: The Honorable Board of Directors

Through: Engineering, Operations, and Biosolids Management Committee  
(05/13/15)

From: *for* P. Joseph Grindstaff *aka*  
General Manager

Submitted by: *for* Ernest Yeboah *aka*  
Executive Manager of Operations/Assistant General Manager

*for* Jeff Ziegenbein *aka*  
Manager of Regional Compost Operations

Subject: Biosolids Transportation and Recycling Services Contract

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### **RECOMMENDATION**

It is recommended that the Board of Directors:

1. Approve a two-year contract with three one-year renewal options with Viramontes Express, Inc. for biosolids transportation and recycling services for approximately \$500,000 per year (renewals to be adjusted annually using the Consumer Price Index) not to exceed \$3,000,000 for five years; and
2. Authorize the General Manager to execute the contract.

### **BACKGROUND**

Gabriel I. Cruz (GIC) Transport, Inc. is currently under contract with the Inland Empire Utilities Agency (IEUA) for biosolids transportation and recycling services through June 30, 2015. The current contract includes transportation services to deliver biosolids to the Inland Empire Regional Composting Facility (IERCF), and alternate locations, as needed, during the contract term. On March 24, 2015, a Request for Proposal was prepared and sent via the BidNet Network System, as well as individual mailings to contractors, soliciting prices for the transportation of biosolids produced at IEUA's Regional Water Recycling Plant No. 1 (RP-1) and Regional Water Recycling Plant No. 2 (RP-2) to the IERCF and to alternate locations.

The IERCF has been operating at full capacity since late December 2008, and processes approximately 150,000 wet tons of biosolids per year. IEUA and County Sanitation District of

Biosolids Transportation and Recycling Services Contract

May 20, 2015

Page 2 of 3

Los Angeles County (CSDLAC) are each contributing biosolids to the facility. IEUA produces approximately 60,000 wet tons per year and requires transportation services to haul the biosolids to IERCF or alternate approved locations.

Three contractors, GIC Transport, Inc., Denali, and Viramontes Express submitted responsive proposals on April 16, 2015. Summary of the current and proposed rates are shown below:

Company	RP-1 to IERCF	RP-2 to IERCF	RP-1 to RP-2 (drying bed)	Alternative Recycling Location	Annual Total
<b>Current Rate (/wet ton)</b>					
GIC	\$5.38	\$6.48	\$6.48	\$42.84	\$401,575
<b>Proposed Rate (/wet ton)</b>					
Viramontes Express	\$5.60	\$6.00	\$4.00	\$50.00	\$401,952
GIC	\$5.92	\$8.63	\$5.92	\$43.75	\$477,861
Denali	\$7.49	\$7.49	\$7.49	\$52.50	\$515,324

Viramontes proposes to use Nursery Products as its approved alternative recycling location for excess IEUA biosolids. Nursery Products, located in Barstow, California, is fully permitted to receive biosolids from IEUA.

Operations staff provided a technical review of the three proposals and recommend awarding the contract to Viramontes Express, Inc.

**PRIOR BOARD ACTION**

On April 16, 2014, the IEUA Board of Directors approved the one-year option to renew Contract No. 4600000926 with GIC Transport, Inc. for biosolids transportation and recycling services in the amount of \$500,000 through June 30, 2015.

On June 19, 2013, the IEUA Board of Directors approved an amendment to the GIC contract for \$500,000 through June 30, 2014.

On September 19, 2012, the IEUA Board of Directors approved an amendment to the GIC contract for \$500,000 through June 30, 2013. The contract was amended to include additional funds to cover unforeseen transportation expenses related to tonnage reductions at the IERCF.

On June 15, 2011, the IEUA Board of Directors awarded a two-year service contract to GIC Transport, Inc. for the period beginning July 1, 2011 through June 30, 2013.

**IMPACT ON BUDGET**

If approved, the biosolids transportation and recycling services will be funded from the Fiscal Year 2015/16 through Fiscal Year 2019/20 budgets of Regional Wastewater Operations and Maintenance (RO) funds.



**CONTRACT NUMBER: 4600001876**

**FOR**

**BIOFILTER MEDIA PROCUREMENT, DELIVERY,  
AND REPLACEMENT SERVICES**

THIS CONTRACT (the "Contract"), is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the Inland Empire Utilities Agency, a Municipal Water District, organized and existing in the County of San Bernardino under and by virtue of the laws of the State of California (hereinafter referred to as "Agency" or "IEUA"), and Viramontes Express, of Corona, California (hereinafter referred to as "Contractor"), for all services needed to provide biosolids transportation and recycling services for a multi-year term.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties agree as follows:

1. **PROJECT MANAGER ASSIGNMENT:** All technical direction related to this Contract shall come from the designated Project Manager. Details of the Agency's assignment are listed below.

Project Manager: Jeff Ziegenbein  
Address: 2662 Walnut Street  
Ontario, California 91761  
Telephone: (909) 993-1628  
Facsimile: (909) 947-1847  
Cell: (909) 275-4780  
Email: [jziegenbein@ieua.org](mailto:jziegenbein@ieua.org)

2. **CONTRACTOR ASSIGNMENT:** Special inquiries related to this Contract and the effects of this Contract shall be referred to the following:

Contractor: Henry Viramontes, Owner  
Address: 17130 Hellman Avenue  
Corona, California 92880  
Telephone: (909) 597-7232  
Facsimile: (909) 597-6473  
Cell: (951) 712-9712  
Email: [ViramontesXpress@msn.com](mailto:ViramontesXpress@msn.com)

3. **ORDER OF PRECEDENCE:** The documents referenced below represent the Contract Documents. Where any conflicts exist between the General Terms and Conditions, or addenda attached, then the governing order of precedence shall be as follows:
  - A. Amendments to Contract Number 4600001876.
  - B. Contract Number 4600001876 General Terms and Conditions.
  - C. Agency's Request for Proposal, RFP-HD-15-026, dated March 24, 2015.
  - D. Contractor's proposal, dated April 16, 2015.
  
4. **SCOPE OF WORK AND SERVICES:** Contractor's services and responsibilities shall encompass the procurement and deployment of equipment and personnel required to provide biosolids transportation services; and, when needed, biosolids recycling services. All services provided will be in accordance with both the Agency's Request for Proposal, RFP-HD-15-026, dated March 24, 2015, (see Attachment A) and the Contractor's proposal, dated April 16, 2015, (see Attachment B). Both attachments are, by this reference incorporated into this contract and made a part thereof.
  - A. Services shall begin on July 1, 2015.
  - B. Prior to July 1, 2015, the Contractor shall prepare a schedule of work and services for review and approval by the Agency's Project Manager.
  - C. Through the duration of this contract, the Agency and Contractor may identify additional tasks, which on a "time and material" basis, shall be reduced to writing, signed by both parties, and amended to this contract.
  
5. **TERM:** The approved term of this contract shall be up to five years. The current term shall be twenty-four months (two years). There will be an option for the Project Manager to annually extend the term of the contract annually, after the initial two-year term. A total of three additional (one year) extensions can be executed to extend the term of the contract to a total of five years. The contract will terminate after five years, on June 30, 2020. In the event that additional one-year extensions are in the best interest of the Agency, amendments to the contract shall be prepared, mutually agreed upon, reduced to writing, signed by both parties, and formally amended to this contract.
  
6. **COMPENSATION:** Agency shall pay Contractor's properly executed monthly invoices, which have been reviewed and approved by the Project Manager, within thirty (30) days following receipt of the invoice. Payment will be withheld for any service that doesn't meet the Agency requirements or has proven to be unacceptable until such service is revised, the invoice resubmitted, and accepted by the Project Manager.

All invoices shall display "Contract Number 4600001876" and Contract Release Purchase Order Number \_\_\_\_\_ to qualify for payment.

All invoices will be formulated in a manner consistent with the rates and fees provided in Attachment B, incorporated herein and made a part hereof by this reference.

Compensation for the satisfactory performance of the work and services represented by this Contract, shall be determined by the individuals identified on Page 1 of this contract. The mutually agreed compensation for the Contractor, as shown in Attachment B, shall be firmly fixed for the initial two-year term of the contract. Thereafter, should additional one-year term amendments be amended to the contract, the compensation rates will be adjusted in accordance with an agreed-upon index (such as the CPI for Los Angeles County, Riverside County, and San Bernardino County).

Agency may, at any time, make changes to the Scope of Work, including additions, reductions, and changes to any or all of the Work, as directed in writing by the Agency. Such changes shall be made by an Amendment to the Contract. The Total Authorized Amount and Term shall be equitably adjusted, if required, to account for such changes, and shall be set forth in the written Amendment, agreed to and signed by both parties, prior to becoming effective.

7. CONTROL OF THE WORK: The Contractor shall perform the Work in compliance with the Work Schedule. If performance of the Work falls behind schedule, the Contractor shall accelerate the performance of the Work to comply with the Work Schedule as directed by the Project Manager. If the nature of the Work is such that Contractor is unable to accelerate the Work, Contractor shall promptly notify the Project Manager of the delay, the causes of the delay, and submit a proposed revised Work Schedule.

8. FITNESS FOR DUTY:

A. Fitness: Contractor on the Jobsite:

1. Shall report for work in a manner fit to do their job;
2. Shall not be under the influence of or in possession of any alcoholic beverages or of any controlled substance (except a controlled substance as prescribed by a physician so long as the performance or safety of the Work is not affected thereby); and
3. Shall not have been convicted of any serious criminal offense which, by its nature, may have a discernible adverse impact on the business or reputation of Agency.

9. INSURANCE: During the term of this Contract, the Contractor shall maintain at its sole expense, the following insurance.

A. Minimum Scope of Insurance:

1. **General Liability:** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number GL 00 01 10 01, covering Comprehensive General Liability. If 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.
  2. **Automobile Liability:** Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 10 01, covering Automobile Liability, including "any auto."
  3. **Workers' Compensation and Employers Liability:** Workers' compensation limits as required by the Labor Code of the State of California and employers Liability limits of \$1,000,000 per accident.
- B. **Deductibles and Self-Insured Retention:** Any deductibles or self-insured retention must be declared to and approved by the Agency. At the option of the Agency, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the Agency, its officers, officials, employees and volunteers.
- C. **Other Insurance Provisions:** The policies are to contain, or be endorsed to contain, the following provisions:
1. **General Liability and Automobile Liability Coverage**
    - a. The Agency, its officers, officials, employees and volunteers are to be covered as insureds, endorsement GL 2010 11 85, as respects: liability arising out of activities performed by or on behalf of the Contractor, products and completed operations of the Contractor, premises owned, occupied or used by the Contractor, or automobiles owned, leased, hired, or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Agency, its officers, officials, employees, or volunteers. If Form CG 2010 10 93 or CG 2010 03 97 are issued in place of the CG 2010 11 85, then it is also necessary to issue a Form CG2037 10 01 in addition to Form CG 2010 10 93 or CG 2010 03 97.

- b. The Contractor's insurance coverage shall be primary insurance as respects the Agency, its officer, officials, employees and volunteers. Any insurance or self-insurance maintained by the Agency, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, its officers, officials, employees or volunteers.
- d. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. The Contractor may satisfy the limit requirements in a single policy or multiple policies. Any Such additional policies written as excess insurance shall not provide any less coverage than that provided by the first or primary policy.

2. Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Agency, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the Agency.

3. All Coverages

Each insurance policy required by this contract shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the Agency.

- D. Acceptability of Insurers: With the exception of Professional Liability Insurance, all insurance is to be placed with insurers with a Best's rating of no less than A:VII, and who are admitted insurers in the State of California. Professional Liability Insurance is to be placed with insurers with a Best's rating of no less than B:VII, and who are admitted insurers in the State of California.
- E. Verification of Coverage: Contractor shall furnish the Agency with certificates of insurance and with original endorsements effecting coverage required by the Agency for themselves and all subcontractors prior to commencing work or allowing any subcontractor to commence work under any subcontract. The certificates and endorsements for each



insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be approved by the Agency before work commences. The Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

10. Submittal of Certificates: Contractor shall submit all required certificates and endorsements to the following:

Inland Empire Utilities Agency  
Attn: Angela Witte  
P.O. Box 9020  
Chino Hills, California 91709

11. LEGAL RELATIONS AND RESPONSIBILITIES

- A. Professional Responsibility: The Contractor shall be responsible, to the level of competency presently maintained by other practicing professionals performing the same or similar type of work.
- B. Status of Contractor: The Contractor is retained as an independent Contractor only, for the sole purpose of rendering the services described herein, and is not an employee of the Agency.
- C. Observing Laws and Ordinances: The Contractor shall keep itself fully informed of existing and future state and federal laws and county and city ordinances and regulations which in any manner affect the conduct of any services or tasks performed under this Contract, and of such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. The Contractor shall at all times observe and comply with such existing, at the time services are rendered, laws, ordinances, regulations, orders and decrees, and shall protect and indemnify, as required herein, the Agency, its officers, employees and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, in effect at the time the services are performed, whether by the Contractor or its employees.
- D. Subcontract Services: Any subcontracts for the performance of any services under this Contract shall be subject to the written approval of the Project Manager.
- E. Conflict of Interest: No official of the Agency who is authorized in such capacity and on behalf of the Agency to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving this Contract, or any subcontract relating to services or tasks to be performed pursuant to this Contract, shall become directly or indirectly personally interested in this Contract.

F. Equal Opportunity and Unlawful Discrimination: During the performance of this Contract, the Contractor shall not unlawfully discriminate against any employee or employment applicant because of race, color, religion, sex, age, marital status, ancestry, physical or mental disability, sexual orientation, veteran status or national origin. The Agency is committed to creating and maintaining an environment free from harassment and discrimination. Please be assured that any possible infraction will be thoroughly investigated by the Agency.

G. Prevailing Wage Project: This Contract is subject to the requirements Section 1770 (and the following) of the California Labor Code. Contractor shall not pay less than general prevailing wage rates, as determined by the Director of the State of California Department of Industrial Relations, for the locality in which the work is to be performed, and for each craft or type of worker needed to execute the work required under this contract. The Contractor, and any sub-consultant performing part of said work, shall strictly adhere to all provisions of the Labor Code, including, but not limited to, minimum wages, work days, non-discrimination, apprentices, maintenance, availability, and submittal of accurate payroll records, and any other matters required under all Federal, State, and local laws related to labor.

H. Disputes:

1. All disputes arising out of or in relation to this Contract shall be determined in accordance with this section. The Contractor shall pursue the work to completion in accordance with the instruction of the Agency's Project Manager notwithstanding the existence of dispute. By entering into this Contract, both parties are obligated, and hereby agree, to submit all disputes arising under or relating to the Contract, which remain unresolved after the exhaustion of the procedures provided herein, to independent arbitration. Except as otherwise provided herein, arbitration shall be conducted under California Code of Civil Procedure Sections 1280, et. seq, or their successor.
2. Any and all disputes during the pendency of the work shall be subject to resolution by the Agency Project Manager and the Contractor shall comply, pursuant to the Agency Project Manager instructions. If the Contractor is not satisfied with any such resolution by the Agency Project Manager, they may file a written protest with the Agency Project Manager within seven (7) calendar days after receiving written notice of the Agency's decision. Failure by Contractor to file a written protest within seven (7) calendar days shall constitute waiver of protest, and acceptance of the Agency Project Manager's resolution. The Agency's Project Manager shall submit the Contractor's written protests to the General Manager, together with a copy of the Agency Project Manager's written decision, for his or her consideration within

seven (7) calendar days after receipt of said protest(s). The General Manager shall make his or her determination with respect to each protest filed with the Agency Project Manager within ten (10) calendar days after receipt of said protest(s). If Contractor is not satisfied with any such resolution by the General Manager, they may file a written request for mediation with the Project Manager within seven (7) calendar days after receiving written notice of the General Manager's decision.

3. In the event of arbitration, the parties hereto agree that there shall be a single neutral Arbitrator who shall be selected in the following manner:
  - a. The Demand for Arbitration shall include a list of five names of persons acceptable to the Contractor to be appointed as Arbitrator. The Agency shall determine if any of the names submitted by Contractor are acceptable and, if so, such person will be designated as Arbitrator.
  - b. In the event that none of the names submitted by Contractor are acceptable to Agency, or if for any reason the Arbitrator selected in Step (a) is unable to serve, the Agency shall submit to Contractor a list of five names of persons acceptable to Agency for appointment as Arbitrator. The Contractor shall, in turn, have seven (7) calendar days in which to determine if one such person is acceptable.
  - c. If after Steps (a) and (b), the parties are unable to mutually agree upon a neutral Arbitrator, the matter of selection of an Arbitrator shall be submitted to the San Bernardino County Superior Court pursuant to Code of Civil Procedure Section 1281.6, or its successor. The costs of arbitration shall be recoverable by the party prevailing in the arbitration. If this arbitration is appealed to a court pursuant to the procedure under California Code of Civil Procedure Section 1294, et. seq., or their successor, the costs of arbitration shall also include court costs associated with such appeals, which shall be recoverable by the prevailing party.
4. Joinder in Mediation/Arbitration: The Agency may join the Contractor in mediation or arbitration commenced by a contractor on the Project pursuant to Public Contracts Code Sections 20104 et seq. Such joinder shall be initiated by written notice from the Agency's representative to the Contractor.

12. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall indemnify the Agency, its directors, employees and assigns, and shall defend

and hold them harmless for all liabilities, demands, actions, claims, losses, and expenses, which arise out of or are related to the negligence, recklessness, or willful misconduct of the Contractor, its directors, employees, agents and assigns in the performance of the work under this contract.

13. TITLE AND RISK OF LOSS:

- A. Documentation: Title to the Documentation shall pass to Agency when prepared; however, a copy may be retained by Contractor for its records and internal use. Contractor shall retain such Documentation in a controlled access file, and shall not reveal, display or disclose the contents of the Documentation to others without the prior written authorization of Agency or for the performance of Work related to the Scope of Work described herein.
- B. Material: Title to all Material, field or research equipment, and laboratory models, procured or fabricated under the Contract shall pass to Agency when procured or fabricated, and such title shall be free and clear of any and all encumbrances. Contractor shall have risk of loss of any Material or Agency-owned equipment of which it has custody.
- C. Disposition: Contractor shall dispose of items to which Agency has title as directed in writing by the Project Manager and/or a designated Agency representative.

14. PROPRIETARY RIGHTS:

- A. Rights and Ownership: Agency's rights to inventions, discoveries, trade secrets, patents, copyrights, and other intellectual property, including the Information and Documentation, and revisions thereto (hereinafter collectively referred to as "Proprietary Rights"), used or developed by Contractor in the performance of the Work, shall be governed by the following provisions:
  - 1. Proprietary Rights conceived, developed, or reduced to practice by Contractor in the performance of the Work shall be the property of Agency, and Contractor shall cooperate with all appropriate requests to assign and transfer same to Agency.
  - 2. If Proprietary Rights conceived, developed, or reduced to practice by Contractor prior to the performance of the Work are used in and become integral with the Work or Documentation, or are necessary for Agency to have complete enjoyment of the Work or Documentation, Contractor shall grant to Agency a non-exclusive, irrevocable, royalty-free license, as may be required by Agency for the complete enjoyment of the Work and Documentation, including the right to reproduce, correct, repair, replace, maintain, translate, publish, use, modify, copy or dispose of any or all of the Work and Documentation and grant sublicenses to others with respect to the Work and Documentation.

3. If the Work or Documentation includes the Proprietary Rights of others, Contractor shall procure, at no additional cost to Agency, all necessary licenses regarding such Proprietary Rights so as to allow Agency the complete enjoyment of the Work and Documentation, including the right to reproduce, correct, repair, replace, maintain, translate, publish, use, modify, copy or dispose of any or all of the Work and Documentation and grant sublicenses to others with respect to the Work and Documentation. All such licenses shall be in writing and shall be irrevocable and royalty-free to Agency.
- B. No Additional Compensation: Nothing Set forth in this Contract shall be deemed to require payment by Agency to Contractor of any compensation specifically for the assignments and assurances required hereby, other than the payment of expenses as may be actually incurred by Contractor in complying with this Contract.
15. LIENS: Contractor represents that the Work and Documentation shall be free of any claim of trade secret, trade mark, trade name, copyright, or patent infringement or other violations of any Proprietary Rights of any person.
- Contractor shall pay all sums of money that become due for any labor, services, materials, or equipment furnished to Contractor on account of said services to be rendered or said materials to be furnished under this contract and that may be secured by any lien against the Agency. Contractor shall fully discharge each such lien at the time performance of the obligation secured matures and becomes due.
16. NOTICES: Any notice may be served upon either party by delivering it in person, or by depositing it in a United States Mail deposit box with the postage thereon fully prepaid, and addressed to the party at the address set forth below:
- Agency: Warren T. Green, Manager of Contracts/Procurement  
and Facilities Services  
Inland Empire Utilities Agency  
P.O. Box 9020  
Chino Hills, California 91709
- Contractor: Henry Viramontes  
17130 Hellman Avenue  
Corona, California 92880
- Any notice given hereunder shall be deemed effective in the case of personal delivery, upon receipt thereof, or, in the case of mailing, at the moment of deposit in the course of transmission with the United States Postal Service.
17. SUCCESSORS AND ASSIGNS: All of the terms, conditions and provisions of this Contract shall inure to the benefit of and be binding upon the Agency, the Contractor, and their respective successors and assigns. Notwithstanding the foregoing, no assignment of the duties or benefits of the Contractor under this Contract may be assigned, transferred or otherwise disposed of without the prior

written consent of the Agency; and any such purported or attempted assignment, transfer or disposal without the prior written consent of the Agency shall be null, void and of no legal effect whatsoever.

18. **PUBLIC RECORDS POLICY:** Information made available to the Agency may be subject to the California Public Records Act (Government Code Section 6250 et seq.) The Agency's use and disclosure of its records are governed by this Act. The Agency shall use its best efforts to notify Contractor of any requests for disclosure of any documents pertaining to this work.

In the event of litigation concerning disclosure of information Contractor considers exempt from disclosure; (e.g., Trade Secret, Confidential, or Proprietary) Agency shall act as a stakeholder only, holding the information until otherwise ordered by a court or other legal process. If Agency is required to defend an action arising out of a Public Records Act request for any of the information Contractor has marked "Confidential," "Proprietary," or "Trade Secret," Contractor shall defend and indemnify Agency from all liability, damages, costs, and expenses, in any action or proceeding arising under the Public Records Act.

19. **RIGHT TO AUDIT:** The Agency reserves the right to review and/or audit all Contractor's records related to the Work. The option to review and/or audit may be exercised during the term of the Contract, upon termination, upon completion of the Contract, or at any time thereafter up to twelve (12) months after final payment has been made to Contractor. The Contractor shall make all records and related documentation available within three (3) working days after said records are requested by the Agency.
20. **INTEGRATION:** The Contract Documents represent the entire Contract of the Agency and the Contractor as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered by the Contract Documents. This Contract may not be modified, altered or amended except by written mutual agreement by the Agency and the Contractor.
21. **GOVERNING LAW:** This Contract is to be governed by and constructed in accordance with the laws of the State of California, County of San Bernardino.
22. **TERMINATION FOR CONVENIENCE:** The Agency and/or Contractor each reserve and has the right to immediately suspend, cancel, or terminate this Contract at any time upon written notice to the other party. In the event of such termination, the Agency shall pay Contractor for all authorized and Contractor-invoiced services up to the date of such termination.
23. **FORCE MAJEURE:** Neither party shall hold the other responsible for the effects of acts occurring beyond their control; e.g., war, riots, strikes, natural disasters, etcetera.

24. **NOTICE TO PROCEED**: No services shall be performed or furnished under this Contract unless and until this document has been properly signed by all responsible parties and a Notice to Proceed order has been issued to the Contractor.

IN WITNESS WHEREOF, the parties hereto have caused the Contract to be entered as of the day and year written above.

**INLAND EMPIRE UTILITIES AGENCY:**

**VIRAMONTES EXPRESS, INC.:**

\_\_\_\_\_  
P. Joseph Grindstaff  
General Manager

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Henry Viramontes  
Owner

\_\_\_\_\_  
(Date)

**ACTION  
ITEM  
1E**



Date: May 20, 2015

To: The Honorable Board of Directors

Through: Engineering, Operations, and Biosolids Management Committee  
(05/13/15)  
Finance, Legal, and Administration Committee (05/13/15)

From: *PJ* P. Joseph Grindstaff  
General Manager *OK*

Submitted by: *EY* Ernest Yeboah *OK*  
Executive Manager of Operations/Assistant General Manager

Subject: Contract Amendment to Polydyne Inc.

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### **RECOMMENDATION**

It is recommended that the Board of Directors:

1. Approve a Contract Amendment No. 4600000676-005 to Polydyne Inc., extending the contract for one year to supply Flosperse 30S at a fixed unit price of \$0.919/pound, including sales tax and delivery; and
2. Authorize the General Manager to execute the amendment.

### **BACKGROUND**

During the dewatering process, struvite (a combination of various minerals in wastewater that deposit on surfaces) can form. Without treatment, RP-1 experiences substantial struvite build-up. Struvite build-up is a common problem in sludge dewatering processes within the wastewater industry. Agency Operations and Maintenance staff have been challenged by struvite formation on sludge dewatering equipment for many years. Some of the equipment have experienced clogging and failures due to struvite build-up. The addition of Flosperse 30S has provided significant benefits in the form of reduced struvite deposits in the dewatering process, fewer disruptions to dewatering operations, and the need for less frequent cleaning of discharge lines.

In 2010 staff researched the manufacturing market for anti-struvite chemicals. Based on that research, Contracts and Facilities staff issued invitations to participate in a chemical trial to seven prospective candidates. Only one firm, Polydyne, Inc., elected to pursue this business opportunity by submitting the required product pre-qualifying information. Staff then decided to

Contract Amendment to Polydyne Inc.

May 20, 2015

Page 2 of 2

forego the balance of the chemical trials process and immediately initiate negotiations with Polydyne, Inc. Following the negotiations, the Board approved a five-year contract with Polydyne Inc. to supply the chemical. Polydyne, Inc, has been the source for all anti-struvite chemical products purchased and used by the Agency for the last eight years and staff has a high degree of confidence in the effectiveness of their product, Flosperse 30S.

The five-year contract awarded to Polydyne Inc. in 2010 is expiring on June 30, 2015. Contracts and Facilities staff negotiated with Polydyne Inc. to extend the contract for an additional year at the same current price of \$0.919/pound including tax and delivery. Staff considers these terms to be favorable and requests the Board's approval to extend the contract for an additional year. During this one year extension, staff will be researching the current market to determine if any significant changes have occurred or if any new suppliers may be available. If new options have become available, staff will attempt to conduct trials and bid a long term contract. If not, staff will attempt to establish a new long term contract with Polydyne Inc. for the continued supply of Flosperse.

#### **PRIOR BOARD ACTION**

On June 16, 2010, the Board of Directors awarded a five-year contract to Polydyne Inc.

#### **IMPACT ON BUDGET**

If approved, the anticipated chemical expenditures will be funded from the Fiscal Year 2015/16 Regional Wastewater Operations and Maintenance (RO) Flosperse budget.



*Inland Empire Utilities Agency*  
A MUNICIPAL WATER DISTRICT

# Contract Amendment to Polydyne Inc.

*May 2015*

**Matthew Melendrez**  
**Deputy Manager of Operations**

# Struvite Control

- **Flosperser 30S is used to control struvite deposits in dewatering processes**
- **Struvite is a phosphate mineral containing several constituents commonly found in wastewater.**

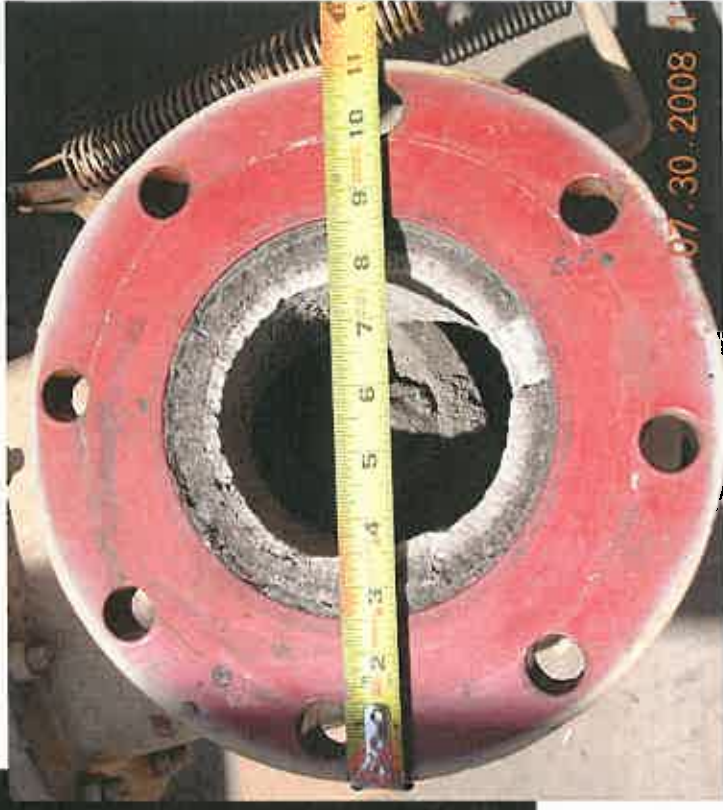


# Struvite Control

- **Struvite deposits restrict and plug flow in pipelines, valves, pumps, etc.**



**Pump Impeller**



# Contract Extension

- Staff requests Board approval to extend the Polydyne Inc. contract for one year at the current price
- \$.919/pound including tax and delivery





*Inland Empire Utilities Agency*  
A MUNICIPAL WATER DISTRICT

Questions?



Inland Empire  
UTILITIES AGENCY

AMENDMENT NUMBER: 4600000676-005  
TO  
CONTRACT NO. 4600000676  
FOR  
SUPPLY OF FLOSPERSE 30S

THIS AMENDMENT, Number 4600000676-005, to Contract No. 4600000676, between the Inland Empire Utilities Agency (IEUA) and Polydyne, Inc. (Supplier), for supply and delivery of Flosperser 30S, revises the Contract as follows:

Section E, TERM OF CONTRACT AND OPTIONS, is revised to read:

- E. TERM OF CONTRACT AND OPTIONS: The term of this Contract is hereby extended through a revised expiration date of June 30, 2016, or as mutually agreed to between Supplier and Agency in any subsequent written amendment to this Contract.

Section G, PAYMENT, INVOICING AND COMPENSATION, is amended to read:

- G. PAYMENT, INVOICING AND COMPENSATION: The Agency shall pay Supplier's properly prepared invoice(s) within thirty (30) calendar days following receipt of the invoice(s). Payment will be withheld for any product which does not meet the Contract requirements or has proven unacceptable until such time as the non-compliant product is removed and replacement product is accepted by the Agency.

Supplier's invoices shall be mailed to: Inland Empire Utilities Agency  
Attn: Accounts Payable Dept.  
P.O. Box 9020  
Chino Hills, CA 91709

Or alternatively, submitted via e-mail to: APGroup@ieua.org



Effective July 1, 2015 through June 30, 2016, as compensation for product delivered against this Contract, Agency shall pay Supplier in accordance with the following price schedule:

PRODUCT PRICE (delivered)	\$ .851 / lb.
SALES TAX @ 8.0%	\$ .068 / lb.
TOTAL NET PRICE (delivered)	\$ .919 / lb.

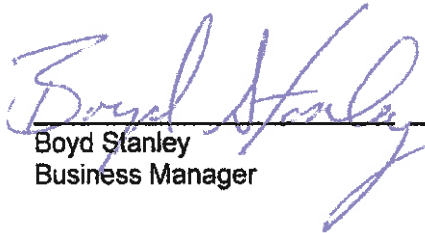
ALL OTHER PROVISIONS OF CONTRACT NUMBER 460000676 REMAIN UNCHANGED.

As evidenced by the signatures below, the Parties hereto mutually agree and covenant as to the above-stated amendment item(s), and in doing so have incorporated this Amendment as an integral part of the Contract documents.

INLAND EMPIRE UTILITIES AGENCY:

POLYDYNE, Inc.:

\_\_\_\_\_  
P. Joseph Grindstaff                      Date  
General Manager

  
\_\_\_\_\_  
Boyd Stanley                                      Date  
Business Manager                                      4/21/2015

**ACTION  
ITEM  
1F**

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Date: May 20, 2015

To: The Honorable Board of Directors

Through: Engineering, Operations, and Biosolids Management Committee  
(05/13/15)  
Finance, Legal, and Administration Committee (05/13/15)

From: *for* P. Joseph Grindstaff *Whe*  
General Manager

Submitted by: *Er* Ernest Yeboah *Whe*  
Executive Manager of Operations/Assistant General Manager

Subject: Agency-Wide Electrical Transformer Testing Service Contract

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### **RECOMMENDATION**

It is recommended that the Board:

1. Award Contract No. 4600001860 to Transformer Testing and Repairs, Inc. for the provision of testing and analyzing Agency-wide electrical power transformers for a five-year term for the not-to-exceed amount of \$147,675; and
2. Authorize the General Manager to execute the contract.

### **BACKGROUND:**

The Agency has 55 electrical transformers throughout its facilities that require annual testing and oil analyses to ensure optimum equipment operation and reliability. Having a five-year contract with a reputable and highly qualified service provider ensures that the majority of the contract terms (e.g., shop rates, evidence of insurance, indemnification language, warranty provision, etc.) are established up front, will expedite the testing and analysis process. Staff will issue a task order for any work required.

A Request for Proposal RFP-RH-15-002 was issued through the BidNet Network for the oil analysis of the Agency's electrical transformers. Three proposals were received, with Transformer Testing & Repairs, Inc. of Suisun City, California being the lowest responsive bidder. RFP-RH-15-002 bid results are as follows:

<b>Bidder</b>	<b>Annual Transformer Testing Proposal</b>
Transformer Testing & Repairs, Inc.	\$ 29,535
Industrial Oil Recovery	\$ 41,484
ABM Electrical Power	\$ 128,700

**PRIOR BOARD ACTION**

None.

**IMPACT ON BUDGET**

If approved, the not-to exceed amount of \$147,685 will be funded from the O&M contract labor account included in the Fiscal Year 2015/16 through Fiscal Year 2019/20 budgets of Regional Wastewater Operations and Maintenance (RO) fund.



**CONTRACT NUMBER: 4600001860**

**For Provision of**

**TRANSFORMER TESTING SERVICES**

THIS CONTRACT (the "Contract") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the Inland Empire Utilities Agency, a Municipal Water District, organized and existing in the County of San Bernardino under and by virtue of the laws of the State of California (hereinafter referred to as "Agency") and Transformer Testing & Repairs, Inc., (hereinafter referred to as "Contractor") to provide transformer testing services at various Agency facility locations.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties agree as follows:

1. **PROJECT MANAGER ASSIGNMENT:** All technical direction related to this Contract shall come from the designated Project Manager. Details of the Agency's assignment are listed below.

Project Manager: Joseph King  
Address: 14950 Telephone Ave.  
Chino, CA 91708  
Telephone: (909) 993-11734  
Facsimile: (909) 393-4826  
E-mail: jdking@ieua.org

2. **CONTRACTOR ASSIGNMENT:** Special inquiries related to this Contract and the effects of this Contract shall be referred to the following:

Contractor: Michael Ducharme  
Address: P.O. Box 2219  
Suisun City, CA 94585-5219  
Telephone: (707) 421-9398  
Facsimile: (707) 421-9662  
E-mail: mducharme@transformerservices.com

3. **ORDER OF PRECEDENCE:** The documents referenced below represent the Contract Documents. Where any conflicts exist between the General Terms and Conditions, or addenda attached, then the governing order of precedence shall be as follows:

1. Amendments to Contract No. 4600001860
2. Contract No. 4600001860 general terms and conditions

3. Exhibit A – Statement of Work
4. Agency Request for Proposal No. RFP-RH-15-002
5. Contractor's proposal 2015-8037, dated January 22, 2015

4. SCOPE OF WORK AND SERVICES: Contractor services and responsibilities shall include and be in accordance with the tasks, requirements and specifications detailed within Exhibit A – Statement of Work, which appears at the end of this document.
5. TERM OF CONTRACT: The term of this Contract shall extend from the date of its bi-lateral execution through May 31, 2020, unless a change in the Contract period of performance is agreed to by both parties, reduced to writing, and amended to this Contract.
6. PAYMENT, INVOICING AND COMPENSATION: Subsequent to submittal of each deliverable test report, the Contractor may invoice for the agreed-upon test price(s) and other charges, as shown in the Rate Schedule below, multiplied by the total number of each test performed and documented with the submitted report. Agency shall pay Contractor's properly executed invoice, approved by the Project Manager, within thirty (30) days following receipt of the invoice. Payment will be withheld for any service which does not meet the requirements of this Contract, until such service is revised, the invoice resubmitted and accepted by the Project Manager.

Contractor's invoices shall be submitted as follows: Inland Empire Utilities Agency  
Attention: Accounts Payable Dept.  
P.O. Box 9020  
Chino Hills, CA 91709

OR, alternatively, invoices may be submitted via e-mail to: APGroup@ieua.org

Concurrent with submittal of each original invoice to the Agency's Accounts Payable Department, the Contractor shall e-mail a copy of said invoice to the Agency's designated Project Manager identified on page 1 of this Contract.

As compensation for the work performed under this Contract, Agency shall pay Contractor, **on a fixed unit price basis, a total not-to-exceed price of \$155,058.75** during the five year term of this Contract for all work/ services/products satisfactorily provided hereunder.

Rate Schedule

<u>Item / Test Description</u>	<u>Year One Estimate Quantities</u>	<u>Unit Price</u>
Waiver of Subrogation Charge	-	5 % of inv. value
Technician Mobilization Charge *	1 Lot*	\$ 385.00*
Furan analysis	As Ordered	\$ 55.00
Nitrogen gas pressurization service	As Ordered	\$ 40.00
Resistivity test	As Ordered	\$ 45.00
Corrosive sulfur test	As Ordered	\$ 50.00
Power factor test at 100 degrees C	As Ordered	\$ 45.00
Particle counts	As Ordered	\$ 45.00
D1816 dielectric test	As Ordered	\$ 40.00
PCB content in insulating fluid	As Ordered	\$ 45.00
5 Star fluid essential testing package, including**:	As Ordered	\$ 165.00

\* based on 1 contiguous mobilization schedule per year

\*\*oil quality analyses including dielectric strength test, interfacial tension test (excluding silicone), acid test, specific gravity analysis, color analysis and visual analysis

\*\*water content analysis for moisture content in ppm (parts per million) using Karl Fischer Method

\*\*gas chromatography for dissolved gas to check for combustibles and other detrimental conditions within the transformers

\*\*power loss analyses in insulating fluid, tested at 25 degrees Celsius

\*\*oxidation inhibitor content analyses

7. INSURANCE: During the term of this Contract, the Contractor shall maintain at Contractor's sole expense, the following insurance.

A. Minimum Scope of Insurance:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number GL 0001-87 covering Comprehensive General Liability. If 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.
2. Automobile Liability: \$500,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 87, covering Automobile Liability, including "any auto."
3. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California and employers Liability limits of \$1,000,000 per accident.

4. Professional Liability insurance in the amount of \$1,000,000 per claim.
- a. Deductibles and Self-Insured Retention: Contractor shall maintain self-insurance in the amount of \$25 million per occurrence throughout the term of this Contract.
- b. Other Insurance Provisions: The policies are to contain, or be endorsed to contain, the following provisions:
1. General Liability and Automobile Liability Coverage
    - a. The Agency, its officers, officials, employees are to be covered as additional insureds, to the extent of Contractor's negligence, as respects: liability arising out of activities performed by or on behalf of the Contractor, products and completed operations of the Contractor, premises owned, occupied or used by the Contractor, or automobiles owned, leased, hired or borrowed by the Contractor. Except as stated herein, the coverage shall contain no special limitations on the scope of protection afforded to the Agency, its officers, officials, employees or volunteers.
    - b. The Contractor's insurance coverage shall be primary insurance as respects the Agency, its officer, officials, employees to the extent of Contractor's negligence. Any insurance or self-insurance maintained by the Agency, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it, except to the extent of the Agency's negligence.
    - c. (This section has been intentionally deleted.)
    - d. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, its officers, officials, employees or volunteers.
    - e. (This section has been intentionally deleted.)
    - f. The Contractor may satisfy the limit requirements in a single policy or multiple policies. Any Such additional policies written as excess insurance shall not provide any less coverage than that provided by the first or primary policy.
  2. Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Agency, its officers, officials, employees for losses arising from work performed by the Contractor for the Agency, to the extent of the Contractor's negligence.
  3. All Coverages

Each insurance policy required by this contract shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.
- D. Acceptability of Insurers: All insurance is to be placed with insurers with a Best's rating of no less than A minus:VII, and who are admitted insurers in the State of California.



E. Verification of Coverage: Contractor shall furnish the Agency with certificates of insurance and with original endorsements effecting coverage required by the Agency for themselves and all subcontractors prior to commencing work or allowing any subcontractor to commence work under any subcontract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be approved by the Agency before work commences.

F. Submittal of Certificates: Contractor shall submit all required certificates and endorsements to the following:

Attention: Roger Hughbanks (e-mail: rhughbanks@ieua.org)  
Inland Empire Utilities Agency  
P.O. Box 9020  
Chino Hills, California 91709

8. CONTROL OF THE WORK: Contractor shall perform the Work in compliance with the Work Schedule. If performance of the Work falls behind schedule, the Contractor shall accelerate the performance of the Work to comply with the Work Schedule as directed by the Project Manager. If the nature of the Work is such that Contractor is unable to accelerate the Work, Contractor shall promptly notify the Project Manager of the delay, the causes of the delay, and submit a proposed revised Work Schedule.

9. LEGAL RELATIONS AND RESPONSIBILITIES

A. Professional Responsibility: The Contractor shall be responsible, to the level of competency presently maintained by other practicing professionals performing the same or similar type of work.

B. Status of Contractor: The Contractor is retained as an independent Contractor only, for the sole purpose of rendering the services described herein, and is not an employee of the Agency.

C. Observing Laws and Ordinances: The Contractor shall keep itself fully informed of all existing and future state and federal laws and all county and city ordinances and regulations which in any manner affect the conduct of any services or tasks performed under this Contract, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. The Contractor shall at all times observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect and indemnify, as required herein, the Agency, its officers, employees and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by the Contractor or its employees.

D. Confined Space Work: Work requiring confined space entry must follow Cal-OSHA Regulation 8 CCR, Sections 5157 - 5158. This regulation requires the following to be submitted to IEUA for approval prior to entry:

A written plan that includes identification of confined spaces within the construction site, alternate procedures where appropriate, contractor provisions, specific procedures for permit-required and non-permit required spaces, a

rescue plan, and monthly status of each confined space defining any changes to the space.

Proof of training on confined space procedures, as defined in Cal-OSHA Regulation 8 CCR, Section 5157, must also be submitted to IEUA for approval prior to confined space entry.

- E. Subcontract Services: Any subcontracts for the performance of any services under this Contract shall be subject to the written approval of the Project Manager.
- F. Hours of Labor: The Contractor shall comply with all applicable provisions of California Labor Code Sections 1810 to 1817 relating to working hours. The Contractor shall, as a penalty to the Agency, forfeit \$25.00 for each worker employed in the execution of the 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 hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code.
- G. Travel and Subsistence Pay: The Contractor shall make payment to each worker for travel and subsistence payments which are needed to execute the work and/or service, as such travel and subsistence payments are defined in the applicable collective bargaining agreements with the worker.
- H. Liens: Contractor shall pay all sums of money that become due from any labor, services, materials or equipment furnished to Contractor on account of said services to be rendered or said materials to be furnished under this Contract and that may be secured by any lien against the Agency. Contractor shall fully discharge each such lien at the time performance of the obligation secured matures and becomes due.
- I. Indemnification: Contractor shall indemnify and hold harmless and defend as permitted by law, the Agency, its directors, officers, employees, or authorized volunteers, each of them from and against:
  - A. Any and all claims, demands, causes of action, damages, costs, expenses, losses or liabilities, in law or in equity, of every kind or nature whatsoever for, but not limited to, injury to or death of any person including Agency and/or Consultant, or any directors, officers, employees, or authorized volunteers of Agency or Consultant, and damages to or destruction of property of any person, including but not limited to, Agency and/or Consultant or their directors, officers, employees, or authorized volunteers, arising out of or in any manner directly or indirectly connected with the work to be performed under this agreement, however caused, except for the sole negligence or willful misconduct or active negligence of the Agency or its directors, officers, employees, or authorized volunteers;
  - B. Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, or 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 the Consultant;
  - C. Any and all losses, expenses, damages (including damages to the work itself), attorneys' fees, and other costs, including all costs of defense, which any of them may incur with respects to the failure, neglect, or refusal or Consultant to faithfully perform the work and all of the Consultant's

obligations under the agreement. Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by the indemnified parties in any lawsuit to which they are a party.

- J. Conflict of Interest: No official of the Agency who is authorized in such capacity and on behalf of the Agency to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving this Contract, or any subcontract relating to services or tasks to be performed pursuant to this Contract, shall become directly or indirectly personally interested in this Contract.
- K. Equal Opportunity: During the performance of this Contract, the Contractor shall not unlawfully discriminate against any employee or employment applicant because of race, color, religion, sex, age, marital status, ancestry, physical or mental disability, sexual orientation, veteran status or national origin.
- L. Disputes:
1. All disputes arising out of or in relation to this Contract shall be determined in accordance with this section. The Contractor shall pursue the work to completion in accordance with the instruction of the Agency's Project Manager notwithstanding the existence of dispute. By entering into this Contract, both parties are obligated, and hereby agree, to submit all disputes arising under or relating to the Contract which remain unresolved after the exhaustion of the procedures provided herein, to independent arbitration. Except as otherwise provided herein, arbitration shall be conducted under California Code of Civil Procedure Sections 1280, et. seq, or their successor.
  2. Any and all disputes during the pendency of the work shall be subject to resolution by the Agency Project Manager and the Contractor shall comply, pursuant to the Agency Project Manager instructions. If the Contractor is not satisfied with any such resolution by the Agency Project Manager, they may file a written protest with the Agency Project Manager within seven (7) calendar days after receiving written notice of the Agency's decision. Failure by Contractor to file a written protest within seven (7) calendar days shall constitute waiver of protest, and acceptance of the Agency Project Manager's resolution. The Agency's Project Manager shall submit the Contractor's written protests to the General Manager, together with a copy of the Agency Project Manager's written decision, for his or her consideration within seven (7) calendar days after receipt of said protest(s). The General Manager shall make his or her determination with respect to each protest filed with the Agency Project Manager within ten (10) calendar days after receipt of said protest(s). If Contractor is not satisfied with any such resolution by the General Manager, they may file a written request for arbitration with the Project Manager within seven (7) calendar days after receiving written notice of the General Manager's decision.
  3. In the event of arbitration, the parties hereto agree that there shall be a single neutral Arbitrator who shall be selected in the following manner:

- a. The Demand for Arbitration shall include a list of five names of persons acceptable to the Contractor to be appointed as Arbitrator. The Agency shall determine if any of the names submitted by Contractor are acceptable and, if so, such person will be designated as Arbitrator.
- b. In the event that none of the names submitted by Contractor are acceptable to Agency, or if for any reason the Arbitrator selected in Step (a) is unable to serve, the Agency shall submit to Contractor a list of five names of persons acceptable to Agency for appointment as Arbitrator. The Contractor shall, in turn, have seven (7) calendar days in which to determine if one such person is acceptable.
- c. If after Steps (a) and (b), the parties are unable to mutually agree upon a neutral Arbitrator, the matter of selection of an Arbitrator shall be submitted to the San Bernardino County Superior Court pursuant to Code of Civil Procedure Section 1281.6, or its successor. The costs of arbitration, including but not limited to reasonable attorneys' fees, shall be recoverable by the party prevailing in the arbitration. If this arbitration is appealed to a court pursuant to the procedure under California Code of Civil Procedure Section 1294, et. seq., or their successor, the costs of arbitration shall also include court costs associated with such appeals, including but not limited to reasonable attorneys' fees which shall be recoverable by the prevailing party.

4. Joinder in Mediation/Arbitration: The Agency may join the Contractor in mediation or arbitration commenced by a contractor on the Project pursuant to Public Contracts Code Sections 20104 et seq. Such joinder shall be initiated by written notice from the Agency's representative to the Contractor.

M. Attorney Fees: In the event an action is commenced by a party to this Contract against the other to enforce its rights or obligations arising from this Contract, the prevailing party in such action, in addition to any other relief and recovery ordered by the court or arbitration, shall be entitled to recover all statutory costs, plus reasonable attorneys' fees.

N. Workers' Legal Status: For performance against this Contract, Supplier shall only utilize employees and/or subcontractors that are authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986.

O. Prevailing Wage Requirements: Not applicable to this contract.

10. FITNESS FOR DUTY:

A. Fitness: Consultant and its Subcontractor personnel on the Jobsite:

- 1. shall report for work in a manner fit to do their job;
- 2. shall not be under the influence of or in possession of any alcoholic beverages or of any controlled substance (except a controlled substance as prescribed by a

physician so long as the performance or safety of the Work is not affected thereby); and

3. shall not have been convicted of any serious criminal offense which, by its nature, may have a discernible adverse impact on the business or reputation of Agency.

B. Inspection: Searches by Agency authorized personnel may be made of lockers, storage areas, vehicles, persons or personal effects on Agency-owned, or leased property at various times without prior announcement. Such facility inspections may be conducted using detection dog teams to search work areas and other common areas in order to detect evidence of unlawful drug use or the presence of pyrotechnics, explosives, firearms, weapons, or facsimiles thereof, alcoholic beverages and illegal drugs ("Prohibited Items"). Prohibited Items must not be brought onto, or kept on, Agency property.

C. Compliance: Consultant shall advise all contractor and subcontractor personnel and associated third parties of the requirements of this Contract ("Fitness for Duty Requirements") before they enter on the Jobsite and shall immediately remove from the Jobsite any employee determined to be in violation of these requirements. Consultant shall impose these requirements on its Subcontractors. Agency may cancel the Contract if Consultant violates these Fitness for Duty Requirements.

11. OWNERSHIP OF MATERIALS AND DOCUMENTS/CONFIDENTIALITY: The Agency retains ownership of any and all partial or complete reports, drawings, plans, notes, computations, lists, and/or other materials, documents, information, or data prepared by the Contractor and/or the Contractor's subcontractor(s) pertaining to this Contract. Said materials and documents are confidential and shall be available to the Agency from the moment of their preparation, and the Contractor shall deliver same to the Agency whenever requested to do so by the Project Manager and/or Agency. The Contractor agrees that same shall not be made available to any individual or organization, private or public, without the prior written consent of the Agency.

12. PUBLIC RECORDS POLICY: Information made available to the Agency may be subject to the California Public Records Act (Government Code Section 6250 et seq.) The Agency's use and disclosure of its records are governed by this Act. The Agency shall use its best efforts to notify Contractor of any requests for disclosure of any documents pertaining to Contractor.

In the event of litigation concerning disclosure of information Contractor considers exempt from disclosure; (e.g., Trade Secret, Confidential, or Proprietary) Agency shall act as a stakeholder only, holding the information until otherwise ordered by a court or other legal process. If Agency is required to defend an action arising out of a Public Records Act request for any of the information Contractor has marked "Confidential," "Proprietary," or "Trade Secret," Contractor shall defend and indemnify Agency from all liability, damages, costs, and expenses, including attorneys' fees, in any action or proceeding arising under the Public Records Act.

13. NON-CONFORMING WORK AND WARRANTY: Contractor represents and warrants that the Work shall be in conformance with the specifications provided herein and shall serve the purposes described. For a period of not less than one (1) year after acceptance of the completed Work, Contractor shall, at no additional cost to Agency, correct any and all errors or shortcomings of the

Work, regardless of whether any such errors or shortcomings is brought to the attention of the Contractor by Agency, or any other person or entity.

14. **NOTICES:** Any notice may be served upon either party by delivering it in person, or by depositing it in a United States Mail deposit box with the postage thereon fully prepaid, and addressed to the party at the address set forth below:

Agency: Inland Empire Utilities Agency  
Attn: Warren Green  
Manager Contracts/Procurement & Facilities Services  
P.O. Box 9020  
Chino Hills, California 91709

Contractor: Transformer Testing & Repairs, Inc.  
Attn: Michael Ducharme  
P.O. Box 2219  
Suisun City, CA 94585-5219

Any notice given hereunder shall be deemed effective in the case of personal delivery, upon receipt thereof, or, in the case of mailing, at the moment of deposit in the course of transmission with the United States Postal Service.

15. **SUCCESSORS AND ASSIGNS:** All of the terms, conditions and provisions of this Contract shall inure to the benefit of and be binding upon the Agency, the Contractor, and their respective successors and assigns. Notwithstanding the foregoing, no assignment of the duties or benefits of the Contractor under this Contract may be assigned, transferred or otherwise disposed of without the prior written consent of the Agency; and any such purported or attempted assignment, transfer or disposal without the prior written consent of the Agency shall be null, void and of no legal effect whatsoever.
16. **INTEGRATION:** The Contract Documents represent the entire Contract of the Agency and the Contractor as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered by the Contract Documents. This Contract may not be modified, altered or amended except by written mutual agreement by the Agency and the Contractor.
17. **GOVERNING LAW:** This Contract is to be governed by and constructed in accordance with the laws of the State of California.
18. **TERMINATION FOR CONVENIENCE:** The Agency reserves and has the right to immediately suspend, cancel or terminate this Contract at any time upon written notice to the Contractor. In the event of such termination, the Agency shall pay Contractor for all authorized and Contractor-invoiced services up to the date of such termination.
19. **RIGHT TO AUDIT:** The Agency reserves the right to review and/or audit all Contractor's records related to the Work. The option to review and/or audit may be exercised during the term of the Contract, upon termination, upon completion of the Contract, or at any time thereafter up to twelve (12) months after final payment has been made to Contractor. The Contractor shall make

all records and related documentation available within three (3) working days after said records are requested by the Agency.

- 20. **FORCE MAJEURE:** Neither party shall hold the other responsible for the effects of acts occurring beyond their control; e.g., war, riots, strikes, natural disasters, etcetera.
- 21. **CHANGES:** The Agency may, at any time, make changes to this Contract's Scope of Work; including additions, reductions and other alterations to any or all of the work. However, such changes shall only be made via written amendment to this Contract. The Contract Price and Work Schedule shall be equitably adjusted, if required, to account for such changes and shall be set forth within the Contract Amendment.
- 22. **NOTICE TO PROCEED:** No services shall be performed or furnished under this Contract unless and until this document has been properly signed by all responsible parties and a Notice to Proceed order has been issued to the Contractor.

AS WITNESS HEREOF, the parties hereto have caused the Contract to be entered as of the day and year written above.

**INLAND EMPIRE UTILITIES AGENCY:**

**TRANSFORMER TESTING & REPAIRS,  
Inc.:**

\_\_\_\_\_  
P. Joseph Grindstaff (Date)  
General Manager

*Michael J. Ducharme* 4/13/15  
\_\_\_\_\_  
Michael Ducharme (Date)  
Authorized Representative

**ACTION  
ITEM  
1G**





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Date: May 20, 2015

To: The Honorable Board of Directors

Through: Engineering, Operations, and Biosolids Management Committee  
(05/13/15)  
Finance, Legal, and Administration Committee (05/13/15)

From: *for* P. Joseph Grindstaff *Chair*  
General Manager

Submitted by: *for* Ernest Yeboah *Chair*  
Executive Manager of Operations/Assistant General Manager

Subject: Agency-Wide Contract Services for the Repair, Rebuild, or Refurbishment  
of Rotating Machinery

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### **RECOMMENDATION**

It is recommended that the Board of Directors:

1. Approve the award of Contract No. 4600001868 to Superior Electric Motor Service, Inc. to provide repair, rebuild, or refurbishment services of rotating machinery for a total aggregate not-to-exceed amount of \$240,000 over a three-year period with a one-year option to extend;
2. Approve the award of Contract No. 4600001864 to Vaughan's Industrial Repair, Inc. to provide repair, rebuild, or refurbishment services of rotating machinery for a total aggregate not-to-exceed amount of \$240,000 over a three-year period with a one-year option to extend; and
3. Authorize the General Manager to execute the contracts.

### **BACKGROUND**

The Agency has rotating equipment such as pumps, blowers, gearboxes, compressors, mixers, etc. that periodically require major overhaul. Having a three-year contract with a reputable and highly-qualified service provider ensures that the majority of the contract terms (e.g., shop rates, evidence of insurance, indemnification language, warranty provision, etc.) are established up front. In addition, having a contract with multiple vendors allows the Agency to have the

flexibility of acquiring an expedited repair process should one of the vendors experience a limited availability. Staff will issue a task order for any work required.

On March 16, 2015 staff issued a Request for Proposal RFP-RH-15-004 through the BidNet Network online solicitation system. Five proposals were received, with Superior Electric Motor Service, Inc. of Vernon, California and Vaughan's Industrial Repair, Inc. of Paramount, California as the two lowest responsive bidders. Maintenance staff conducted a tour of both vendors' facilities and verified they had the proper tools and capabilities to perform the repair and rebuild requirements for the type of machineries the Agency owns.

RFP-RH-15-004 bid results are as follows:

Bidder	Pickup and Delivery Cost (\$)	Equipment Failure Report (\$)	Machining Labor Rate (\$/Hr.)	Repair Labor Rate (\$/Hr.)
Superior Electric Motor Service, Inc.	No Charge	\$25.00	\$60.00	\$50.00
Vaughan's Industrial Repair, Inc.	No Charge	No Charge	\$75.00	\$75.00
RLS Industries	\$70.00	\$80.00 (minimum)	\$80.00	\$80.00
Pamco Machine Works	No Charge	No Charge	\$90.00	\$90.00
MMC, Inc.	\$350.00	\$250.00	\$90.00	\$90.00

**PRIOR BOARD ACTION**

On December 19, 2012, the Board of Directors approved the award of Contract No. 4600001340 to Pamco Machine Works, Inc. to provide repair, rebuild, or refurbishment services of rotating machinery for a total aggregate not-to-exceed amount of \$300,000 over a two-year period, which expired on December 30, 2014.

**IMPACT ON BUDGET**

If approved, sufficient funds are available in Fiscal Year 2015/16 through Fiscal Year 2017/18 Regional Operations and Maintenance (RO), Recycled Water (WC), and Non-Reclaimable Wastewater (NC) Funds, Professional Fees and Services Budget, to support the contract services related to the repair, rebuild, and refurbishments of rotating machinery.



**Inland Empire**  
UTILITIES AGENCY

**CONTRACT No. 4600001864**

**For**

**Mechanical Equipment Repair and/or Rebuild Projects**

THIS CONTRACT (the "Contract") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the Inland Empire Utilities Agency, a Municipal Water District, organized and existing in the County of San Bernardino under and by virtue of the laws of the State of California (hereinafter referred to as "Agency") and Vaughan's Industrial Repair Company, Inc., (hereinafter referred to as "Contractor") in order to establish the terms and conditions which will govern various "as needed / as requested" mechanical equipment repair and/or rebuild projects that may arise during the term of this contract.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties agree as follows:

1. **PROJECT MANAGER ASSIGNMENT:** All technical direction related to this Contract shall come from the designated Project Manager. Details of the Agency's assignment are listed below.

Project Manager: Albert Van Breukelen  
Address: 2662 E. Walnut Street  
Ontario, CA 91761  
Telephone: (909) 993-1628  
E-mail: avanbreukelen@ieua.org

2. **CONTRACTOR ASSIGNMENT:** Special inquiries related to this Contract and the effects of this Contract shall be referred to the following:

Contractor's Project Manager: Jack Wilber  
Address: 16224 Garfield Ave., Paramount, CA 90723  
Paramount, CA 90723  
Telephone: (562) 822-2387  
Facsimile: (562) 633-1504  
E-mail: jack@virc1.com

3. **ORDER OF PRECEDENCE:** The documents referenced below represent the Contract Documents; each of which is hereby incorporated as an integral part of this Contract. Where any conflicts exist between the General Terms and Conditions, or addenda attached, then the governing order of precedence shall be as follows:

1. Amendments to Contract No. 4600001864
2. Contract No. 4600001864 including Exhibit A - Statement of Work
3. Agency Request for Proposal No. RFP-RH-15-004
4. Contractor's Proposal, dated March 13, 2015

4. **SCOPE OF WORK AND ORDERING PROTOCOL:** Contractor services and responsibilities shall include and be in accordance with the descriptions and content listed within Exhibit A - Statement of Work which appears at the end of this Contract.

On an "as needed / as requested" basis, the Agency's assigned Project Manager may contact the Contractor, discuss the particulars of a given equipment repair project and (once agreement is reached as to the appropriate level-of-effort, not-to-exceed price involved and the associated repair schedule) request via e-mail (not verbally) the Contractor to travel to the appropriate IEUA location, pick-up the designated equipment in need of repair, and proceed with the agreed-upon repair or rebuild task(s). IEUA will be responsible for disconnecting, removing and palletizing (if feasible) the designated equipment prior to the Contractor's arrival on-site for equipment pick-up, as well as for re-installation of the repaired equipment subsequent to the Contractor's return delivery. The IEUA Project Manager's e-mail authorization shall/must convey a separate and discrete billing purchase order number which is to be referenced on the Contractor's associated invoice.

5. **TERM:** The term of this Contract shall extend from the date of its bi-lateral execution and terminate June 30, 2018, unless an extension is agreed to by both parties, reduced to writing and incorporated as a formal amendment to this Contract.
6. **PAYMENT, INVOICING AND COMPENSATION:** Contractor may invoice subsequent to completion of each equipment repair/rebuild job authorized under this Contract. The Contractor's ~~monthly~~ invoices shall be formulated consistent with the Schedule of Rates shown below. *KTU*

<u>Item Description</u>	<u>Invoiceable Rate</u>
Pick-up/Delivery R/T Chrg	No Charge
Failure Analysis Reports	No Charge
Hourly Machining Rate	\$ 75.00
Hourly In-Shop Labor Rate	\$ 75.00
Replacement Parts	(@ actual costs plus Contractor mark-up)
Subcontracted Services	(@ actual costs plus Contractor mark-up)
Contractor Mark-Up %	15.0 %

Agency shall pay Contractor's properly executed invoice, approved by the Project Manager, within thirty (30) days following receipt of the invoice. Payment will be withheld for any service which does not meet the requirements of this Contract, until such service is revised, the invoice resubmitted and accepted by the Project Manager.

Contractor's invoices shall be submitted as follows: Inland Empire Utilities Agency  
Attention: Accounts Payable Department  
P.O. Box 9020  
Chino Hills, CA 91709

OR e-mail invoice submittal via: APGroup@ieua.org

Concurrent with submittal of the original invoice to the Agency's Accounts Payable Department, the Contractor shall e-mail a copy of said invoice to the Agency's designated Project Manager identified on page 1 of this Contract.

As compensation for the work performed under this Contract, Agency shall pay Contractor, on a fixed price level-of-effort basis, a total aggregate price not-to-exceed \$ 240,000.00 for all work/services satisfactorily provided hereunder.

7. **LIQUIDATED DAMAGES:** Liquidated damages are not applicable to this contract.
8. **CONTROL OF THE WORK:** Contractor shall perform the Work in compliance with the Work Schedule established by the Agency's Project Manager. If performance of the Work falls behind schedule, the Contractor shall accelerate the performance of the Work to comply with the Work Schedule as directed by the Project Manager. If the nature of the Work is such that Contractor is unable to accelerate the Work, Contractor shall promptly notify the Project Manager of the delay, the causes of the delay, and submit a proposed revised Work Schedule.
9. **FITNESS FOR DUTY:**
- A. **Fitness:** Contractor and its Subcontractor personnel on the Jobsite:
1. shall report for work in a manner fit to do their job;
  2. shall not be under the influence of or in possession of any alcoholic beverages or of any controlled substance (except a controlled substance as prescribed by a physician so long as the performance or safety of the Work is not affected thereby); and
  3. shall not have been convicted of any serious criminal offense which, by its nature, may have a discernible adverse impact on the business or reputation of Agency.
- B. **Compliance:** Contractor shall advise all contractor and subcontractor personnel and associated third parties of the requirements of this Contract ("Fitness for Duty Requirements") before they enter on the Jobsite and shall immediately remove from the Jobsite any employee determined to be in violation of these requirements. Contractor shall impose these requirements on its Subcontractors. Agency may cancel the Contract if Contractor violates these Fitness for Duty Requirements.
10. **INSURANCE:** During the term of this Contract, the Contractor shall maintain at Contractor's sole expense, the following insurance.
- A. **Minimum Scope of Insurance:**
1. **General Liability:** \$ 1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number GL 00 01 10 01 covering Commercial General Liability. If 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.
  2. **Automobile Liability:** \$ 300,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 10 01, covering Automobile Liability, including "any auto."

3. **Workers' Compensation and Employers Liability:** Workers' compensation limits as required by the Labor Code of the State of California and employers Liability limits of \$1,000,000 per accident.
- B. **Deductibles and Self-Insured Retention:** Any deductibles or self-insured retention must be declared to and approved by the Agency. At the option of the Agency, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the Agency, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- C. **Other Insurance Provisions:** The policies are to contain, or be endorsed to contain, the following provisions:
1. **General Liability and Automobile Liability Coverage**
    - a. The Agency, its officers, officials, employees, volunteers, property owners and any engineers under contract to the Agency are to be covered as insureds, endorsements CG2010 1185 as respects: liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied or used by the Consultant, or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Agency, its officers, officials, employees or volunteers. If Form CG 2010 10 93 or CG 2010 03 97 are issued in place of the CG 2010 11 85 form, then it is necessary to issue Form CG 2037 10 01 in addition to the 10 93 or 03 97 Forms.
    - b. The Consultant's insurance coverage shall be primary insurance as respects the Agency, its officer, officials, employees and volunteers. Any insurance or self-insurance maintained by the Agency, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
    - c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, its officers, officials, employees or volunteers.
    - d. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
    - e. The Consultant may satisfy the limit requirements in a single policy or multiple policies. Any Such additional policies written as excess insurance shall not provide any less coverage than that provided by the first or primary policy.
  2. **Workers' Compensation and Employers Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the Agency, its officers, officials, employees and volunteers for losses arising from work performed by the Consultant for the Agency.

### 3. All Coverages

Each insurance policy required by this contract shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.

- D. Acceptability of Insurers: With the exception of Professional Liability Insurance, all insurance is to be placed with Insurers with a Best's rating of no less than A minus:VII, and who are admitted insurers in the State of California. Professional Liability Insurance is to be placed with insurers with a Best's rating of no less than B:VII, and who are admitted insurers in the State of California.
- E. Verification of Coverage: Consultant shall furnish the Agency with certificates of insurance and with original endorsements effecting coverage required by the Agency for themselves and all subcontractors prior to commencing work or allowing any subcontractor to commence work under any subcontract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be approved by the Agency before work commences. The Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.
- F. Submittal of Certificates: Consultant shall submit all required certificates and endorsements to the following:

Roger Hughbanks, Contracts Administrator  
Inland Empire Utilities Agency (via)  
E-mail address: rhughbanks@ieua.org

## 11. LEGAL RELATIONS AND RESPONSIBILITIES

- A. Professional Responsibility: The Contractor shall be responsible, to the level of competency presently maintained by other practicing professionals performing the same or similar type of work.
- B. Status of Contractor: The Contractor is retained as an independent Contractor only, for the sole purpose of rendering the services described herein, and is not an employee of the Agency.
- C. Observing Laws and Ordinances: The Contractor shall keep itself fully informed of all existing state and federal laws and all county and city ordinances and regulations which in any manner affect the conduct of any services or tasks performed under this Contract, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. The Contractor shall at all times observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect and indemnify, as required herein, the Agency, its officers, employees and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by the Contractor or its employees.
- D. Subcontract Services: Any subcontracts for the performance of any services under this Contract shall be subject to the written approval of the Agency's Project Manager.

- E. **Hours of Labor:** The Contractor shall comply with all applicable provisions of California Labor Code Sections 1810 to 1817 relating to working hours. The Contractor shall, as a penalty to the Agency, forfeit \$25.00 for each worker employed in the execution of the 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 hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code.
- F. **Travel and Subsistence Pay:** The Contractor shall make payment to each worker for travel and subsistence payments which are needed to execute the work and/or service, as such travel and subsistence payments are defined in the applicable collective bargaining agreements with the worker.
- G. **Liens:** Contractor shall pay all sums of money that become due from any labor, services, materials or equipment furnished to Contractor on account of said services to be rendered or said materials to be furnished under this Contract and that may be secured by any lien against the Agency. Contractor shall fully discharge each such lien at the time performance of the obligation secured matures and becomes due.
- H. **Conflict of Interest:** No official of the Agency who is authorized in such capacity and on behalf of the Agency to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving this Contract, or any subcontract relating to services or tasks to be performed pursuant to this Contract, shall become directly or indirectly personally interested in this Contract.
- I. **Equal Opportunity and Unlawful Discrimination:** During the performance of this Contract, the Contractor shall not unlawfully discriminate against any employee or employment applicant because of race, color, religion, sex, age, marital status, ancestry, physical or mental disability, sexual orientation, veteran status or national origin. The Agency is committed to creating and maintaining an environment free from harassment and discrimination. To accomplish these goals the Agency has established procedures regarding the implementation and enforcement of the Agency's Harassment Prohibition and Equal Employment Opportunity commitments. Please refer to Agency Policies A-29 (Equal Employment Opportunity) and A-30 Harassment Prohibition for detailed information or contact the Agency's Human Resources Administrator. A copy of either of these Policies can be obtained by contacting the Project Manager for your respective Contract. Please advise any of your staff that believes they might have been harassed or discriminated against while on Agency property, to report said possible incident to either the Project Manager, or the Agency's Human Resources Administrator. Please be assured that any possible infraction will be thoroughly investigated by the Agency.
- J. **Non-Conforming Work and Warranty:** Contractor represents and warrants that the Work and Documentation shall be adequate to serve the purposes described in the Contract. For a period of not less than one (1) year after acceptance of the completed Work, Contractor shall, at no additional cost to Agency, correct any and all errors in and shortcomings of the Work or Documentation, regardless of whether any such errors or shortcoming is brought to the attention of Contractor by Agency, or any other person or entity. Contractor shall within three (3) calendar days, correct any error or shortcoming that renders the Work or Documentation unusable and shall correct other errors within thirty (30) calendar days after Contractor's receipt of notice of the error. Upon request of Agency, Contractor shall correct any such error deemed important by Agency in its sole discretion to Agency's continued use of the Work or Documentation within seven (7) calendar days after Contractor's receipt of notice of the error. If the Project Manager rejects all or any part of the Work or Documentation as unacceptable and agreement to correct such Work or Documentation cannot be reached without



modification to the Contract, Contractor shall notify the Project Manager, in writing, detailing the dispute and reason for the Contractor's position. Any dispute that cannot be resolved between the Project Manager and Contractor shall be resolved in accordance with the provisions of this Contract.

**K. Disputes:**

1. All disputes arising out of or in relation to this Contract shall be determined in accordance with this section. The Contractor shall pursue the work to completion in accordance with the instruction of the Agency's Project Manager notwithstanding the existence of dispute. By entering into this Contract, both parties are obligated, and hereby agree, to submit all disputes arising under or relating to the Contract, which remain unresolved after the exhaustion of the procedures provided herein, to independent arbitration. Except as otherwise provided herein, arbitration shall be conducted under California Code of Civil Procedure Sections 1280, et. seq, or their successor.
2. Any and all disputes during the pendency of the work shall be subject to resolution by the Agency Project Manager and the Contractor shall comply, pursuant to the Agency Project Manager instructions. If the Contractor is not satisfied with any such resolution by the Agency Project Manager, they may file a written protest with the Agency Project Manager within seven (7) calendar days after receiving written notice of the Agency's decision. Failure by Contractor to file a written protest within seven (7) calendar days shall constitute waiver of protest, and acceptance of the Agency Project Manager's resolution. The Agency's Project Manager shall submit the Contractor's written protests to the General Manager, together with a copy of the Agency Project Manager's written decision, for his or her consideration within seven (7) calendar days after receipt of said protest(s). The General Manager shall make his or her determination with respect to each protest filed with the Agency Project Manager within ten (10) calendar days after receipt of said protest(s). If Contractor is not satisfied with any such resolution by the General Manager, they may file a written request for arbitration with the Project Manager within seven (7) calendar days after receiving written notice of the General Manager's decision.
3. In the event of arbitration, the parties hereto agree that there shall be a single neutral Arbitrator who shall be selected in the following manner:
  - a. The Demand for Arbitration shall include a list of five names of persons acceptable to the Contractor to be appointed as Arbitrator. The Agency shall determine if any of the names submitted by Contractor are acceptable and, if so, such person will be designated as Arbitrator.
  - b. In the event that none of the names submitted by Contractor are acceptable to Agency, or if for any reason the Arbitrator selected in Step (a) is unable to serve, the Agency shall submit to Contractor a list of five names of persons acceptable to Agency for appointment as Arbitrator. The Contractor shall, in turn, have seven (7) calendar days in which to determine if one such person is acceptable.
  - c. If after Steps (a) and (b), the parties are unable to mutually agree upon a neutral Arbitrator, the matter of selection of an Arbitrator shall be submitted to the San Bernardino County Superior Court pursuant to Code of Civil

Procedure Section 1281.6, or its successor. The costs of arbitration, including but not limited to reasonable attorneys' fees, shall be recoverable by the party prevailing in the arbitration. If this arbitration is appealed to a court pursuant to the procedure under California Code of Civil Procedure Section 1294, et. seq., or their successor, the costs of arbitration shall also include court costs associated with such appeals, including but not limited to reasonable attorneys' fees which shall be recoverable by the prevailing party.

4. **Joinder in Mediation/Arbitration:** The Agency may join the Contractor in mediation or arbitration commenced by a contractor on the Project pursuant to Public Contracts Code Sections 20104 et seq. Such joinder shall be initiated by written notice from the Agency's representative to the Contractor.
  - L. **Workers' Legal Status:** For performance against this Contract, Contractor shall only utilize employees and/or subcontractors that are authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986.
12. **INDEMNIFICATION:** Contractor shall indemnify and hold harmless and defend as permitted by law, the Agency, its directors, officers, employees, or authorized volunteers, each of them from and against:
- A. Any and all claims, demands, causes of action, damages, costs, expenses, losses or liabilities, in law or in equity, of every kind or nature whatsoever for, but not limited to, injury to or death of any person including Agency and/or Contractor, or any directors, officers, employees, or authorized volunteers of Agency or Contractor, and damages to or destruction of property of any person, including but not limited to, Agency and/or Contractor or their directors, officers, employees, or authorized volunteers, arising out of or in any manner directly or indirectly connected with the work to be performed under this agreement, however caused, except for the sole negligence or willful misconduct or active negligence of the Agency or its directors, officers, employees, or authorized volunteers;
  - B. Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, or 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 the Contractor;
  - C. Any and all losses, expenses, damages (including damages to the work itself), attorneys' fees, and other costs, including all costs of defense, which any of them may incur with respects to the failure, neglect, or refusal of Contractor to faithfully perform the work and all of the Contractor's obligations under the agreement. Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by the indemnified parties in any lawsuit to which they are a party.
13. **OWNERSHIP OF MATERIALS AND DOCUMENTS/CONFIDENTIALITY:** The Agency retains ownership of any and all partial or complete reports, drawings, plans, notes, computations, lists, and/or other materials, documents, information, or data prepared by the Contractor and/or the Contractor's subcontractor(s) pertaining to this Contract. Said materials and documents are confidential and shall be available to the Agency from the moment of their preparation, and the Contractor shall deliver same to the Agency whenever requested to do so by the Project Manager and/or Agency. The Contractor agrees that same shall not be made available to any individual or organization, private or public, without the prior written consent of the Agency.

14. TITLE AND RISK OF LOSS:

- A. Documentation: Title to any/all Documentation shall pass to Agency when prepared; however, a copy may be retained by Contractor for its records and internal use. Contractor shall retain such Documentation in a controlled access file, and shall not reveal, display or disclose the contents of the Documentation to others without the prior written authorization of Agency or for the performance of Work related to the Project.
- B. Material: Title to all Material, equipment, procured or fabricated under the Contract shall pass to Agency when delivered to the Agency's job-site and such title shall be free and clear of any and all encumbrances. Contractor shall have risk of loss of any Material or Agency-owned equipment of which it has custody.
- C. Disposition: Contractor shall dispose of items to which Agency has title as directed in writing by the Agency.

15. PROPRIETARY RIGHTS:

- A. Rights and Ownership: Agency's rights to inventions, discoveries, trade secrets, patents, copyrights, and other intellectual property, including the Information and Documentation, and revisions thereto (hereinafter collectively referred to as "Proprietary Rights"), used or developed by Contractor in the performance of the Work, shall be governed by the following provisions:
  - 1. Proprietary Rights conceived, developed, or reduced to practice by Contractor in the performance of the Work shall be the property of Agency, and Contractor shall cooperate with all appropriate requests to assign and transfer same to Agency.
  - 2. If Proprietary Rights conceived, developed, or reduced to practice by Contractor prior to the performance of the Work are used in and become integral with the Work or Documentation, or are necessary for Agency to have complete enjoyment of the Work or Documentation, Contractor shall grant to Agency a non-exclusive, irrevocable, royalty-free license, as may be required by Agency for the complete enjoyment of the Work and Documentation, including the right to reproduce, correct, repair, replace, maintain, translate, publish, use, modify, copy or dispose of any or all of the Work and Documentation and grant sublicenses to others with respect to the Work and Documentation.
  - 3. If the Work or Documentation includes the Proprietary Rights of others, Contractor shall procure, at no additional cost to Agency, all necessary licenses regarding such Proprietary Rights so as to allow Agency the complete enjoyment of the Work and Documentation, including the right to reproduce, correct, repair, replace, maintain, translate, publish, use, modify, copy or dispose of any or all of the Work and Documentation and grant sublicenses to others with respect to the Work and Documentation. All such licenses shall be in writing and shall be irrevocable and royalty-free to Agency.
- B. No Additional Compensation: Nothing Set forth in this Contract shall be deemed to require payment by Agency to Contractor of any compensation specifically for the assignments and assurances required hereby, other than the payment of expenses as may be actually incurred by Contractor in complying with this Contract.

16. **INFRINGEMENT:** Contractor represents and warrants that the Work and Documentation shall be free of any claim of trade secret, trade mark, trade name, copyright, or patent infringement or other violations of any Proprietary Rights of any person.

Contractor shall defend, indemnify and hold harmless, Agency, its officers, directors, agents, employees, successors, assigns, servants, and volunteers free and harmless from any and all liability, damages, losses, claims, demands, actions, causes of action, and costs including reasonable attorney's fees and expenses arising out of any claim that use of the Work or Documentation infringes upon any trade secret, trade mark, trade name, copyright, patent, or other Proprietary Rights.

Contractor shall, at its expense and at Agency's option, refund any amount paid by Agency under the Contract, or exert its best efforts to procure for Agency the right to use the Work and Documentation, to replace or modify the Work and Documentation as approved by Agency so as to obviate any such claim of infringement, or to put up a satisfactory bond to permit Agency's continued use of the Work and Documentation.

17. **NOTICES:** Any notice may be served upon either party by delivering it in person, or by depositing it in a United States Mail deposit box with the postage thereon fully prepaid, and addressed to the party at the address set forth below:

Agency: Warren T. Green  
Manager of Contracts/Procurement & Facilities Services  
Inland Empire Utilities Agency  
P.O. Box 9020  
Chino Hills, California 91709

Contractor: Keven Vaughan  
Vice President  
Vaughan's Industrial Repair Co., Inc.  
P.O. Box 1898  
Paramount, CA 90723

Any notice given hereunder shall be deemed effective in the case of personal delivery, upon receipt thereof, or, in the case of mailing, at the moment of deposit in the course of transmission with the United States Postal Service.

18. **SUCCESSORS AND ASSIGNS:** All of the terms, conditions and provisions of this Contract shall inure to the benefit of and be binding upon the Agency, the Contractor, and their respective successors and assigns. Notwithstanding the foregoing, no assignment of the duties or benefits of the Contractor under this Contract may be assigned, transferred or otherwise disposed of without the prior written consent of the Agency; and any such purported or attempted assignment, transfer or disposal without the prior written consent of the Agency shall be null, void and of no legal effect whatsoever.
19. **PUBLIC RECORDS POLICY:** Information made available to the Agency may be subject to the California Public Records Act (Government Code Section 6250 et seq.) The Agency's use and disclosure of its records are governed by this Act. The Agency shall use its best efforts to notify Contractor of any requests for disclosure of any documents pertaining to Contractor.

In the event of litigation concerning disclosure of information Contractor considers exempt from disclosure; (e.g., Trade Secret, Confidential, or Proprietary) Agency shall act as a stakeholder only, holding the information until otherwise ordered by a court or other legal process. If Agency

is required to defend an action arising out of a Public Records Act request for any of the information Contractor has marked "Confidential," "Proprietary," or "Trade Secret, " Contractor shall defend and indemnify Agency from all liability, damages, costs, and expenses, including attorneys' fees, in any action or proceeding arising under the Public Records Act.

20. **RIGHT TO AUDIT:** The Agency reserves the right to review and/or audit all Contractor's records related to the Work. The option to review and/or audit may be exercised during the term of the Contract, upon termination, upon completion of the Contract, or at any time thereafter up to twelve (12) months after final payment has been made to Contractor. The Contractor shall make all records and related documentation available within three (3) working days after said records are requested by the Agency.
21. **INTEGRATION:** The Contract Documents represent the entire Contract of the Agency and the Contractor as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered by the Contract Documents. This Contract may not be modified, altered or amended except by written mutual agreement by the Agency and the Contractor.
22. **GOVERNING LAW:** This Contract is to be governed by and interpreted in accordance with the laws of the State of California.
23. **TERMINATION FOR CONVENIENCE:** The Agency reserves and has the right to immediately suspend, cancel or terminate this Contract at any time upon written notice to the Contractor. In the event of such termination, the Agency shall pay Contractor for all authorized and Contractor-invoiced services up to the date of such termination.
24. **FORCE MAJEURE:** Neither party shall hold the other responsible for the effects of acts occurring beyond their control; e.g., war, riots, strikes, natural disasters, etcetera.
25. **CHANGES:** The Agency may, at any time, make changes to this Contract's Scope of Work; including additions, reductions and other alterations to any or all of the work. However, such changes shall only be made via written amendment to this Contract. The Contract Price and Work Schedule shall be equitably adjusted, if required, to account for such changes and shall be set forth within the Contract Amendment.
26. **NOTICE TO PROCEED:** No services shall be performed or furnished under this Contract unless and until this document has been properly signed by all responsible parties and a separate billing purchase order number has been relayed to the Contractor for each job/project authorized under this contract.

AS WITNESS HEREOF, the parties hereto have caused the Contract to be entered as of the day and year written above.

INLAND EMPIRE UTILITIES AGENCY:

VAUGHAN'S INDUSTRIAL REPAIR Co., Inc.

\_\_\_\_\_  
P. Joseph Grindstaff  
General Manager

(Date)

  
Keven Vaughan  
Vice President

4-15-15  
(Date)

## EXHIBIT A

### STATEMENT OF WORK

#### SUMMARY:

On an "as needed / as requested" basis, the Agency's assigned Project Manager may contact the Contractor, discuss the particulars of a given equipment repair project and (once agreement is reached as to the appropriate level-of-effort, not-to-exceed price involved and the associated repair schedule) request via e-mail (not verbally) the Contractor to travel to the appropriate IEUA location, pick-up the designated equipment in need of repair, and proceed with the agreed-upon repair or rebuild task(s). IEUA will be responsible for disconnecting, removing and palletizing (if feasible) the designated equipment prior to the Contractor's arrival on-site for equipment pick-up, as well as for re-installation of the repaired equipment subsequent to the Contractor's return delivery. The IEUA Project Manager's e-mail authorization shall/must convey a separate and discrete billing purchase order number which is to be referenced on the Contractor's associated invoice. **Note: The Agency reserves the right to send staff to Contractor's facility in order to witness final inspection/test of the repaired equipment prior to return shipment to the Agency.** Contractor services and responsibilities shall include and be in accordance with the below-detailed descriptions, information, scope of work statements and specifications.

#### PROJECT DESCRIPTION

This Statement of Work is intended to support the solicitation of proposals for a three (3) year master agreement covering repair and service of IEUA pumps, mixers, blowers and/or compressors.

#### PROJECT LOCATIONS

Potentially, any/all Agency water and waste water equipment locations.

#### SCOPE OF WORK

The selected contractor shall provide service and repairs on an "as needed / as requested basis" for the Agency's pumps, mixers, blowers and/or compressors. Contractor must be able to provide on-site pick-up service and subsequent return delivery service of repaired equipment to any of the Agency's waste water treatment facilities and/or other equipment locations (e.g. lift stations, well sites, etc.).

Optimally, the selected contractor can provide the following:

1. Must be capable of machining parts if required.
2. Following are the different types of equipment the Agency uses and what the selected contractor may be asked to provide service to.
  - a) Centrifugal pumps
  - b) Vertical Turbine pumps
  - c) Horizontal split case pumps
  - d) Trash pumps
  - e) Multi-stage pumps
  - f) Well pumps
  - g) Positive displacement pumps
  - h) Lobe pumps
  - i) Gear pumps
  - j) Progressive cavity pumps
  - k) Piston pumps

- l) Blowers
- m) Compressors
- n) Gearboxes
- o) Mixers
- p) Conveyor systems (Screw & Belt types)
- q) Grinders (i.e. Muffin Monsters)
- r) Submersible pumps

3. Below is a list of manufacturers that are commonly used but it may not be all inclusive. Contractor may be asked to provide service, support and OEM parts.

- a) Fairbanks Morse
- b) Flo-way
- c) Moyno
- d) Alfweiler
- e) ABS
- f) Peabody
- g) Vaughn
- h) Leeson
- i) Wemco
- j) Gorman-Rupp
- k) Aurora
- l) Peerless
- m) Paco
- n) Myers
- o) Netzsch
- p) Monoflo
- q) Seepex
- r) Gould
- s) Aerzen
- t) SEW Eurodrive
- u) Clearstream

#### PROJECT SCHEDULE

All services to be provided on an "as needed / as requested basis" as required by the Agency throughout the duration of the anticipated three year master agreement.

#### ASSUMPTIONS & APPLICABLE SPECIFICATIONS

1. For each piece of equipment repaired, contractor must provide a repair completion report with analysis of equipment failure as found.
  - a) Documentation shall include pictures and a description of repairs performed.
  - b) Report shall include "as-found" conditions and corrective actions performed.
  - c) Contractor must have the capability to provide functionality report related to:
    - I. Pressure testing
    - II. Head Flow profile verification.
    - III. ~~Laser alignments after installation.~~ *See, KW-KH*
2. Contractor shall provide pick-up and return delivery as part of its service.
3. Contractor shall provide the following services: pick-up of designated equipment at Agency location, perform failure analysis and associated report generation & submittal, repair/rebuild the designated equipment, return delivery of repaired equipment to Agency location. Contractor shall provide all equipment and tools to accomplish the above tasks.
4. Contractor shall provide a one year warranty on all parts and labor.
5. Contractor must be able to provide emergency response within 24hrs notice.
6. Contractor must be able to prove capability in terms of:

- a) A local facility available for tour with Agency's representatives prior to award.
- b) Must be able to provide minimum of five (5) references, including company or agency information.

7. All repairs shall receive OEM parts only unless otherwise approved by authorized maintenance representatives.





**MASTER CONTRACT No. 4600001868**

**For**

**Mechanical Equipment Repair and/or Rebuild Projects**

THIS CONTRACT (the "Contract") is made and entered into this 15 day of April, 2015, by and between the Inland Empire Utilities Agency, a Municipal Water District, organized and existing in the County of San Bernardino under and by virtue of the laws of the State of California (hereinafter referred to as "Agency") and Superior Electric Motor Service, Inc., of Los Angeles, California (hereinafter referred to as "Contractor") in order to establish the terms and conditions which will govern various "as needed / as requested" mechanical equipment repair and/or rebuild projects that may arise during the term of this contract.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties agree as follows:

1. **PROJECT MANAGER ASSIGNMENT:** All technical direction related to this Contract shall come from the designated Project Manager. Details of the Agency's assignment are listed below.

Project Manager: Albert Van Breukelen  
Address: 2662 E. Walnut Street  
Ontario, CA 91761  
Telephone: (909) 993-1628  
E-mail: avanbreukelen@ieua.org

2. **CONTRACTOR ASSIGNMENT:** Special inquiries related to this Contract and the effects of this Contract shall be referred to the following:

Contractor's Project Manager: Chris Marachelian  
Address: 4623 Hampton Street  
Los Angeles, CA 90058  
Telephone: (323) 583-1040  
Facsimile: (323) 583-9266  
E-mail: ChrisM@superiorelectricmotors.com

3. **ORDER OF PRECEDENCE:** The documents referenced below represent the Contract Documents; each of which is hereby incorporated as an integral part of this Contract. Where any conflicts exist between the General Terms and Conditions, or addenda attached, then the governing order of precedence shall be as follows:

1. Amendments to Contract No. 4600001868
2. Contract No. 4600001868 including Exhibit A - Statement of Work
3. Agency Request for Proposal No. RFP-RH-15-004
4. Contractor's Proposal, dated March 6, 2015

4. SCOPE OF WORK AND ORDERING PROTOCOL: Contractor services and responsibilities shall include and be in accordance with the descriptions and content listed within Exhibit A - Statement of Work which appears at the end of this Contract.

On an "as needed / as requested" basis, the Agency's assigned Project Manager may contact the Contractor, discuss the particulars of a given equipment repair project and (once agreement is reached as to the appropriate level-of-effort, not-to-exceed price involved and the associated repair schedule) request via e-mail (not verbally) the Contractor to travel to the appropriate IEUA location, pick-up the designated equipment in need of repair, and proceed with the agreed-upon repair or rebuild task(s). IEUA will be responsible for disconnecting, removing and palletizing (if feasible) the designated equipment prior to the Contractor's arrival on-site for equipment pick-up, as well as for re-installation of the repaired equipment subsequent to the Contractor's return delivery. The IEUA Project Manager's e-mail authorization shall/must convey a separate and discrete billing purchase order number which is to be referenced on the Contractor's associated invoice.

5. TERM: The term of this Contract shall extend from the date of its bi-lateral execution and terminate June 30, 2018, unless an extension is agreed to by both parties, reduced to writing and incorporated as a formal amendment to this Contract.
6. PAYMENT, INVOICING AND COMPENSATION: Contractor may invoice subsequent to completion and return delivery of each equipment repair/rebuild job authorized under this Contract. The Contractor's invoices shall be formulated consistent with the Schedule of Rates shown below.

<u>Item Description</u>	<u>Invoiceable Rate</u>
Pick-up/Delivery R/T Charge	No Charge
Failure Analysis Reports	\$ 25.00
Hourly Machining Rate	\$ 60.00
Hourly In-Shop Labor Rate	\$ 50.00
Replacement Parts	(@ actual costs plus Contractor mark-up)
Subcontracted Services	(@ actual costs plus Contractor mark-up)
Contractor Mark-Up %	25.0 %

Agency shall pay Contractor's properly executed invoice, approved by the Project Manager, within thirty (30) days following receipt of the invoice. Payment will be withheld for any service which does not meet the requirements of this Contract, until such service is revised, the invoice resubmitted and accepted by the Project Manager.

Contractor's invoices shall be submitted as follows: Inland Empire Utilities Agency  
 Attention: Accounts Payable Department  
 P.O. Box 9020  
 Chino Hills, CA 91709

OR e-mail invoice submittal via: APGroup@ieua.org

Concurrent with submittal of the original invoice to the Agency's Accounts Payable Department, the Contractor shall e-mail a copy of said invoice to the Agency's designated Project Manager identified on page 1 of this Contract.

As compensation for the work performed under this Contract, Agency shall pay Contractor, on a **fixed price level-of-effort basis**, a total aggregate price **not-to-exceed \$240,000.00** for all work/services satisfactorily provided hereunder.

7. LIQUIDATED DAMAGES: Liquidated damages are not applicable to this contract.
8. CONTROL OF THE WORK: Contractor shall perform the Work in compliance with the Work Schedule established by the Agency's Project Manager. If performance of the Work falls behind schedule, the Contractor shall accelerate the performance of the Work to comply with the Work Schedule as directed by the Project Manager. If the nature of the Work is such that Contractor is unable to accelerate the Work, Contractor shall promptly notify the Project Manager of the delay, the causes of the delay, and submit a proposed revised Work Schedule.
9. FITNESS FOR DUTY:
- A. Fitness: Contractor and its Subcontractor personnel on the Jobsite:
1. shall report for work in a manner fit to do their job;
  2. shall not be under the influence of or in possession of any alcoholic beverages or of any controlled substance (except a controlled substance as prescribed by a physician so long as the performance or safety of the Work is not affected thereby); and
  3. shall not have been convicted of any serious criminal offense which, by its nature, may have a discernible adverse impact on the business or reputation of Agency.
- B. Compliance: Contractor shall advise all contractor and subcontractor personnel and associated third parties of the requirements of this Contract ("Fitness for Duty Requirements") before they enter on the Jobsite and shall immediately remove from the Jobsite any employee determined to be in violation of these requirements. Contractor shall impose these requirements on its Subcontractors. Agency may cancel the Contract if Contractor violates these Fitness for Duty Requirements.
10. INSURANCE: During the term of this Contract, the Contractor shall maintain at Contractor's sole expense, the following insurance.
- A. Minimum Scope of Insurance:
1. General Liability: \$ 1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number GL 00 01 10 01 covering Commercial General Liability. If 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.
  2. Automobile Liability: \$ 300,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 10 01, covering Automobile Liability, including "any auto."
  3. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California and employers Liability limits of \$1,000,000 per accident.

- B. **Deductibles and Self-Insured Retention:** Any deductibles or self-insured retention must be declared to and approved by the Agency. At the option of the Agency, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the Agency, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- C. **Other Insurance Provisions:** The policies are to contain, or be endorsed to contain, the following provisions:
1. **General Liability and Automobile Liability Coverage**
    - a. The Agency, its officers, officials, employees, volunteers, property owners and any engineers under contract to the Agency are to be covered as insureds, endorsements CG2010 1185 as respects: liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied or used by the Consultant, or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Agency, its officers, officials, employees or volunteers. If Form CG 2010 10 93 or CG 2010 03 97 are issued in place of the CG 2010 11 85 form, then it is necessary to issue Form CG 2037 10 01 in addition to the 10 93 or 03 97 Forms.
    - b. The Consultant's insurance coverage shall be primary insurance as respects the Agency, its officer, officials, employees and volunteers. Any insurance or self-insurance maintained by the Agency, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
    - c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, its officers, officials, employees or volunteers.
    - d. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
    - e. The Consultant may satisfy the limit requirements in a single policy or multiple policies. Any Such additional policies written as excess insurance shall not provide any less coverage than that provided by the first or primary policy.
  2. **Workers' Compensation and Employers Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the Agency, its officers, officials, employees and volunteers for losses arising from work performed by the Consultant for the Agency.
  3. **All Coverages**

Each insurance policy required by this contract shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in

coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.

- D. Acceptability of Insurers: With the exception of Professional Liability Insurance, all insurance is to be placed with insurers with a Best's rating of no less than A minus:VII, and who are admitted insurers in the State of California. Professional Liability Insurance is to be placed with insurers with a Best's rating of no less than B:VII, and who are admitted insurers in the State of California.
- E. Verification of Coverage: Consultant shall furnish the Agency with certificates of insurance and with original endorsements effecting coverage required by the Agency for themselves and all subcontractors prior to commencing work or allowing any subcontractor to commence work under any subcontract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be approved by the Agency before work commences. The Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.
- F. Submittal of Certificates: Consultant shall submit all required certificates and endorsements to the following:
  - Roger Hughbanks, Contracts Administrator  
Inland Empire Utilities Agency (via)  
E-mail address: rhughbanks@ieua.org

## 11. LEGAL RELATIONS AND RESPONSIBILITIES

- A. Professional Responsibility: The Contractor shall be responsible, to the level of competency presently maintained by other practicing professionals performing the same or similar type of work.
- B. Status of Contractor: The Contractor is retained as an independent Contractor only, for the sole purpose of rendering the services described herein, and is not an employee of the Agency.
- C. Observing Laws and Ordinances: The Contractor shall keep itself fully informed of all existing state and federal laws and all county and city ordinances and regulations which in any manner affect the conduct of any services or tasks performed under this Contract, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. The Contractor shall at all times observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect and indemnify, as required herein, the Agency, its officers, employees and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by the Contractor or its employees.
- D. Subcontract Services: Any subcontracts for the performance of any services under this Contract shall be subject to the written approval of the Agency's Project Manager.
- E. Hours of Labor: The Contractor shall comply with all applicable provisions of California Labor Code Sections 1810 to 1817 relating to working hours. The Contractor shall, as a penalty to the Agency, forfeit \$25.00 for each worker employed in the execution of the 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 hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code.

- F. Travel and Subsistence Pay: The Contractor shall make payment to each worker for travel and subsistence payments which are needed to execute the work and/or service, as such travel and subsistence payments are defined in the applicable collective bargaining agreements with the worker.
- G. Liens: Contractor shall pay all sums of money that become due from any labor, services, materials or equipment furnished to Contractor on account of said services to be rendered or said materials to be furnished under this Contract and that may be secured by any lien against the Agency. Contractor shall fully discharge each such lien at the time performance of the obligation secured matures and becomes due.
- H. Conflict of Interest: No official of the Agency who is authorized in such capacity and on behalf of the Agency to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving this Contract, or any subcontract relating to services or tasks to be performed pursuant to this Contract, shall become directly or indirectly personally interested in this Contract.
- I. Equal Opportunity and Unlawful Discrimination: During the performance of this Contract, the Contractor shall not unlawfully discriminate against any employee or employment applicant because of race, color, religion, sex, age, marital status, ancestry, physical or mental disability, sexual orientation, veteran status or national origin. The Agency is committed to creating and maintaining an environment free from harassment and discrimination. To accomplish these goals the Agency has established procedures regarding the implementation and enforcement of the Agency's Harassment Prohibition and Equal Employment Opportunity commitments. Please refer to Agency Policies A-29 (Equal Employment Opportunity) and A-30 Harassment Prohibition for detailed information or contact the Agency's Human Resources Administrator. A copy of either of these Policies can be obtained by contacting the Project Manager for your respective Contract. Please advise any of your staff that believes they might have been harassed or discriminated against while on Agency property, to report said possible incident to either the Project Manager, or the Agency's Human Resources Administrator. Please be assured that any possible infraction will be thoroughly investigated by the Agency.
- J. Non-Conforming Work and Warranty: Contractor represents and warrants that the Work and Documentation shall be adequate to serve the purposes described in the Contract. For a period of not less than one (1) year after acceptance of the completed Work, Contractor shall, at no additional cost to Agency, correct any and all errors in and shortcomings of the Work or Documentation, regardless of whether any such errors or shortcoming is brought to the attention of Contractor by Agency, or any other person or entity. Contractor shall within three (3) calendar days, correct any error or shortcoming that renders the Work or Documentation unusable and shall correct other errors within thirty (30) calendar days after Contractor's receipt of notice of the error. Upon request of Agency, Contractor shall correct any such error deemed important by Agency in its sole discretion to Agency's continued use of the Work or Documentation within seven (7) calendar days after Contractor's receipt of notice of the error. If the Project Manager rejects all or any part of the Work or Documentation as unacceptable and agreement to correct such Work or Documentation cannot be reached without modification to the Contract, Contractor shall notify the Project Manager, in writing, detailing the dispute and reason for the Contractor's position. Any dispute that cannot be resolved between the Project Manager and Contractor shall be resolved in accordance with the provisions of this Contract.

**K. Disputes:**

1. All disputes arising out of or in relation to this Contract shall be determined in accordance with this section. The Contractor shall pursue the work to completion in accordance with the instruction of the Agency's Project Manager notwithstanding the existence of dispute. By entering into this Contract, both parties are obligated, and hereby agree, to submit all disputes arising under or relating to the Contract, which remain unresolved after the exhaustion of the procedures provided herein, to independent arbitration. Except as otherwise provided herein, arbitration shall be conducted under California Code of Civil Procedure Sections 1280, et. seq, or their successor.
2. Any and all disputes during the pendency of the work shall be subject to resolution by the Agency Project Manager and the Contractor shall comply, pursuant to the Agency Project Manager instructions. If the Contractor is not satisfied with any such resolution by the Agency Project Manager, they may file a written protest with the Agency Project Manager within seven (7) calendar days after receiving written notice of the Agency's decision. Failure by Contractor to file a written protest within seven (7) calendar days shall constitute waiver of protest, and acceptance of the Agency Project Manager's resolution. The Agency's Project Manager shall submit the Contractor's written protests to the General Manager, together with a copy of the Agency Project Manager's written decision, for his or her consideration within seven (7) calendar days after receipt of said protest(s). The General Manager shall make his or her determination with respect to each protest filed with the Agency Project Manager within ten (10) calendar days after receipt of said protest(s). If Contractor is not satisfied with any such resolution by the General Manager, they may file a written request for arbitration with the Project Manager within seven (7) calendar days after receiving written notice of the General Manager's decision.
3. In the event of arbitration, the parties hereto agree that there shall be a single neutral Arbitrator who shall be selected in the following manner:
  - a. The Demand for Arbitration shall include a list of five names of persons acceptable to the Contractor to be appointed as Arbitrator. The Agency shall determine if any of the names submitted by Contractor are acceptable and, if so, such person will be designated as Arbitrator.
  - b. In the event that none of the names submitted by Contractor are acceptable to Agency, or if for any reason the Arbitrator selected in Step (a) is unable to serve, the Agency shall submit to Contractor a list of five names of persons acceptable to Agency for appointment as Arbitrator. The Contractor shall, in turn, have seven (7) calendar days in which to determine if one such person is acceptable.
  - c. If after Steps (a) and (b), the parties are unable to mutually agree upon a neutral Arbitrator, the matter of selection of an Arbitrator shall be submitted to the San Bernardino County Superior Court pursuant to Code of Civil Procedure Section 1281.6, or its successor. The costs of arbitration, including but not limited to reasonable attorneys' fees, shall be recoverable by the party prevailing in the arbitration. If this arbitration is appealed to a court pursuant to the procedure under California Code of Civil Procedure Section 1294, et. seq., or their successor, the costs of arbitration shall also

include court costs associated with such appeals, including but not limited to reasonable attorneys' fees which shall be recoverable by the prevailing party.

4. **Joinder in Mediation/Arbitration:** The Agency may join the Contractor in mediation or arbitration commenced by a contractor on the Project pursuant to Public Contracts Code Sections 20104 *et seq.* Such joinder shall be initiated by written notice from the Agency's representative to the Contractor.
  - L. **Workers' Legal Status:** For performance against this Contract, Contractor shall only utilize employees and/or subcontractors that are authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986.
12. **INDEMNIFICATION:** Contractor shall indemnify and hold harmless and defend as permitted by law, the Agency, its directors, officers, employees, or authorized volunteers, each of them from and against:
- A. Any and all claims, demands, causes of action, damages, costs, expenses, losses or liabilities, in law or in equity, of every kind or nature whatsoever for, but not limited to, injury to or death of any person including Agency and/or Contractor, or any directors, officers, employees, or authorized volunteers of Agency or Contractor, and damages to or destruction of property of any person, including but not limited to, Agency and/or Contractor or their directors, officers, employees, or authorized volunteers, arising out of or in any manner directly or indirectly connected with the work to be performed under this agreement, however caused, except for the sole negligence or willful misconduct or active negligence of the Agency or its directors, officers, employees, or authorized volunteers;
  - B. Any and all actions, proceedings, damages, costs, expenses, 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 the Contractor;
  - C. Any and all losses, expenses, damages (including damages to the work itself), attorneys' fees, and other costs, including all costs of defense, which any of them may incur with respects to the failure, neglect, or refusal of Contractor to faithfully perform the work and all of the Contractor's obligations under the agreement. Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by the indemnified parties in any lawsuit to which they are a party.
13. **OWNERSHIP OF MATERIALS AND DOCUMENTS/CONFIDENTIALITY:** The Agency retains ownership of any and all partial or complete reports, drawings, plans, notes, computations, lists, and/or other materials, documents, information, or data prepared by the Contractor and/or the Contractor's subcontractor(s) pertaining to this Contract. Said materials and documents are confidential and shall be available to the Agency from the moment of their preparation, and the Contractor shall deliver same to the Agency whenever requested to do so by the Project Manager and/or Agency. The Contractor agrees that same shall not be made available to any individual or organization, private or public, without the prior written consent of the Agency.
14. **TITLE AND RISK OF LOSS:**
- A. **Documentation:** Title to any/all Documentation shall pass to Agency when prepared; however, a copy may be retained by Contractor for its records and internal use. Contractor shall retain such Documentation in a controlled access file, and shall not



reveal, display or disclose the contents of the Documentation to others without the prior written authorization of Agency or for the performance of Work related to the Project.

- B. Material: Title to all Material, equipment, procured or fabricated under the Contract shall pass to Agency when delivered to the Agency's job-site and such title shall be free and clear of any and all encumbrances. Contractor shall have risk of loss of any Material or Agency-owned equipment of which it has custody.
- C. Disposition: Contractor shall dispose of items to which Agency has title as directed in writing by the Agency.

15. PROPRIETARY RIGHTS:

- A. Rights and Ownership: Agency's rights to inventions, discoveries, trade secrets, patents, copyrights, and other intellectual property, including the Information and Documentation, and revisions thereto (hereinafter collectively referred to as "Proprietary Rights"), used or developed by Contractor in the performance of the Work, shall be governed by the following provisions:
  - 1. Proprietary Rights conceived, developed, or reduced to practice by Contractor in the performance of the Work shall be the property of Agency, and Contractor shall cooperate with all appropriate requests to assign and transfer same to Agency.
  - 2. If Proprietary Rights conceived, developed, or reduced to practice by Contractor prior to the performance of the Work are used in and become integral with the Work or Documentation, or are necessary for Agency to have complete enjoyment of the Work or Documentation, Contractor shall grant to Agency a non-exclusive, irrevocable, royalty-free license, as may be required by Agency for the complete enjoyment of the Work and Documentation, including the right to reproduce, correct, repair, replace, maintain, translate, publish, use, modify, copy or dispose of any or all of the Work and Documentation and grant sublicenses to others with respect to the Work and Documentation.
  - 3. If the Work or Documentation includes the Proprietary Rights of others, Contractor shall procure, at no additional cost to Agency, all necessary licenses regarding such Proprietary Rights so as to allow Agency the complete enjoyment of the Work and Documentation, including the right to reproduce, correct, repair, replace, maintain, translate, publish, use, modify, copy or dispose of any or all of the Work and Documentation and grant sublicenses to others with respect to the Work and Documentation. All such licenses shall be in writing and shall be irrevocable and royalty-free to Agency.
- B. No Additional Compensation: Nothing Set forth in this Contract shall be deemed to require payment by Agency to Contractor of any compensation specifically for the assignments and assurances required hereby, other than the payment of expenses as may be actually incurred by Contractor in complying with this Contract.

16. INFRINGEMENT: Contractor represents and warrants that the Work and Documentation shall be free of any claim of trade secret, trade mark, trade name, copyright, or patent infringement or other violations of any Proprietary Rights of any person.

Contractor shall defend, indemnify and hold harmless, Agency, its officers, directors, agents, employees, successors, assigns, servants, and volunteers free and harmless from any and all liability, damages, losses, claims, demands, actions, causes of action, and costs including reasonable attorney's fees and expenses arising out of any claim that use of the Work or Documentation infringes upon any trade secret, trade mark, trade name, copyright, patent, or other Proprietary Rights.

Contractor shall, at its expense and at Agency's option, refund any amount paid by Agency under the Contract, or exert its best efforts to procure for Agency the right to use the Work and Documentation, to replace or modify the Work and Documentation as approved by Agency so as to obviate any such claim of infringement, or to put up a satisfactory bond to permit Agency's continued use of the Work and Documentation.

17. **NOTICES:** Any notice may be served upon either party by delivering it in person, or by depositing it in a United States Mail deposit box with the postage thereon fully prepaid, and addressed to the party at the address set forth below:

Agency: Warren T. Green  
Manager of Contracts/Procurement & Facilities Services  
Inland Empire Utilities Agency  
P.O. Box 9020  
Chino Hills, California 91709

Contractor: Chris Marachelian  
Vice President  
Superior Electric Motor Service, Inc.  
4623 Hampton Street  
Los Angeles, CA 90058

Any notice given hereunder shall be deemed effective in the case of personal delivery, upon receipt thereof, or, in the case of mailing, at the moment of deposit in the course of transmission with the United States Postal Service.

18. **SUCCESSORS AND ASSIGNS:** All of the terms, conditions and provisions of this Contract shall inure to the benefit of and be binding upon the Agency, the Contractor, and their respective successors and assigns. Notwithstanding the foregoing, no assignment of the duties or benefits of the Contractor under this Contract may be assigned, transferred or otherwise disposed of without the prior written consent of the Agency; and any such purported or attempted assignment, transfer or disposal without the prior written consent of the Agency shall be null, void and of no legal effect whatsoever.
19. **PUBLIC RECORDS POLICY:** Information made available to the Agency may be subject to the California Public Records Act (Government Code Section 6250 et seq.) The Agency's use and disclosure of its records are governed by this Act. The Agency shall use its best efforts to notify Contractor of any requests for disclosure of any documents pertaining to Contractor.

In the event of litigation concerning disclosure of information Contractor considers exempt from disclosure; (e.g., Trade Secret, Confidential, or Proprietary) Agency shall act as a stakeholder only, holding the information until otherwise ordered by a court or other legal process. If Agency is required to defend an action arising out of a Public Records Act request for any of the information Contractor has marked "Confidential," "Proprietary," or "Trade Secret," Contractor shall defend and indemnify Agency from all liability, damages, costs, and expenses, including attorneys' fees, in any action or proceeding arising under the Public Records Act.

20. RIGHT TO AUDIT: The Agency reserves the right to review and/or audit all Contractor's records related to the Work. The option to review and/or audit may be exercised during the term of the Contract, upon termination, upon completion of the Contract, or at any time thereafter up to twelve (12) months after final payment has been made to Contractor. The Contractor shall make all records and related documentation available within three (3) working days after said records are requested by the Agency.
21. INTEGRATION: The Contract Documents represent the entire Contract of the Agency and the Contractor as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered by the Contract Documents. This Contract may not be modified, altered or amended except by written mutual agreement by the Agency and the Contractor.
22. GOVERNING LAW: This Contract is to be governed by and interpreted in accordance with the laws of the State of California.
23. TERMINATION FOR CONVENIENCE: The Agency reserves and has the right to immediately suspend, cancel or terminate this Contract at any time upon written notice to the Contractor. In the event of such termination, the Agency shall pay Contractor for all authorized and Contractor-invoiced services up to the date of such termination.
24. FORCE MAJEURE: Neither party shall hold the other responsible for the effects of acts occurring beyond their control; e.g., war, riots, strikes, natural disasters, etcetera.
25. CHANGES: The Agency may, at any time, make changes to this Contract's Scope of Work; including additions, reductions and other alterations to any or all of the work. However, such changes shall only be made via written amendment to this Contract. The Contract Price and Work Schedule shall be equitably adjusted, if required, to account for such changes and shall be set forth within the Contract Amendment.
26. NOTICE TO PROCEED: No services shall be performed or furnished under this Contract unless and until this document has been properly signed by all responsible parties and a separate billing purchase order number has been relayed to the Contractor for each job/project authorized under this contract.

AS WITNESS HEREOF, the parties hereto have caused the Contract to be entered as of the day and year written above.

**INLAND EMPIRE UTILITIES AGENCY:**

**SUPERIOR ELECTRIC MOTOR SERVICE, Inc.**

\_\_\_\_\_  
P. Joseph Grindstaff  
General Manager

(Date)

  
\_\_\_\_\_  
Chris Marachelian  
Vice President

4/15/15  
(Date)

## EXHIBIT A

### STATEMENT OF WORK

#### SUMMARY:

On an "as needed / as requested" basis, the Agency's assigned Project Manager may contact the Contractor, discuss the particulars of a given equipment repair project and (once agreement is reached as to the appropriate level-of-effort, not-to-exceed price involved and the associated repair schedule) request via e-mail (not verbally) the Contractor to travel to the appropriate IEUA location, pick-up the designated equipment in need of repair, and proceed with the agreed-upon repair or rebuild task(s). IEUA will be responsible for disconnecting, removing and palletizing (if feasible) the designated equipment prior to the Contractor's arrival on-site for equipment pick-up, as well as for re-installation of the repaired equipment subsequent to the Contractor's return delivery. The IEUA Project Manager's e-mail authorization shall/must convey a separate and discrete billing purchase order number which is to be referenced on the Contractor's associated invoice. **Note: The Agency reserves the right to send staff to Contractor's facility in order to witness final inspection/test of the repaired equipment prior to return shipment to the Agency.** Contractor services and responsibilities shall include and be in accordance with the below-detailed descriptions, information, scope of work statements and specifications.

#### PROJECT DESCRIPTION

This Statement of Work is intended to support the solicitation of proposals for a three (3) year master agreement covering repair and service of IEUA pumps, mixers, blowers and/or compressors.

#### PROJECT LOCATIONS

Potentially, any/all Agency water and waste water equipment locations.

#### SCOPE OF WORK

The selected contractor shall provide service and repairs on an "as needed / as requested basis" for the Agency's pumps, mixers, blowers and/or compressors. Contractor must be able to provide on-site pick-up service and subsequent return delivery service of repaired equipment to any of the Agency's waste water treatment facilities and/or other equipment locations (e.g. lift stations, well sites, etc.).

Optimally, the selected contractor can provide the following:

1. Must be capable of machining parts if required.
2. Following are the different types of equipment the Agency uses and what the selected contractor may be asked to provide service to.
  - a) Centrifugal pumps
  - b) Vertical Turbine pumps
  - c) Horizontal split case pumps
  - d) Trash pumps
  - e) Multi-stage pumps
  - f) Well pumps
  - g) Positive displacement pumps
  - h) Lobe pumps
  - i) Gear pumps
  - j) Progressive cavity pumps
  - k) Piston pumps

- l) Blowers
- m) Compressors
- n) Gearboxes
- o) Mixers
- p) Conveyor systems (Screw & Belt types)
- q) Grinders (i.e. Muffin Monsters)
- r) Submersible pumps

3. Below is a list of manufacturers that are commonly used but it may not be all inclusive. Contractor may be asked to provide service, support and OEM parts.

- a) Fairbanks Morse
- b) Flo-way
- c) Moyno
- d) Allweiler
- e) ABS
- f) Peabody
- g) Vaughn
- h) Leeson
- i) Wemco
- j) Gorman-Rupp
- k) Aurora
- l) Peerless
- m) Paco
- n) Myers
- o) Netzsch
- p) Monoflo
- q) Seepex
- r) Gould
- s) Aerzen
- t) SEW Eurodrive
- u) Clearstream

#### **PROJECT SCHEDULE**

All services to be provided on an "as needed / as requested basis" as required by the Agency throughout the duration of the anticipated three year master agreement.

#### **ASSUMPTIONS & APPLICABLE SPECIFICATIONS**

1. For each piece of equipment repaired, contractor must provide a repair completion report with analysis of equipment failure as found.
  - a) Documentation shall include pictures and a description of repairs performed.
  - b) Report shall include "as-found" conditions and corrective actions performed.
  - c) Contractor must have the capability to provide functionality report related to:
    - I. Pressure testing
    - II. Head Flow profile verification.
    - III. Laser alignments after installation.
2. Contractor shall provide pick-up and return delivery as part of its service.
3. Contractor shall provide the following services: pick-up of designated equipment at Agency location, perform failure analysis and associated report generation & submittal, repair/rebuild the designated equipment, return delivery of repaired equipment to Agency location. Contractor shall provide all equipment and tools to accomplish the above tasks.
4. Contractor shall provide a one year warranty on all parts and labor.
5. Contractor must be able to provide emergency response within 24hrs notice.
6. Contractor must be able to prove capability in terms of:

- a) A local facility available for tour with Agency's representatives prior to award.
- b) Must be able to provide minimum of five (5) references, including company or agency information.

7. All repairs shall receive OEM parts only unless otherwise approved by authorized maintenance representatives.

**INFORMATION  
ITEM  
2A**

# RP-1 Fuel Cell Update

## May 2015



***Inland Empire Utilities Agency***  
**A MUNICIPAL WATER DISTRICT**

**Ernest Yeboah**  
Executive Manager of Operations/Assistant General Manager

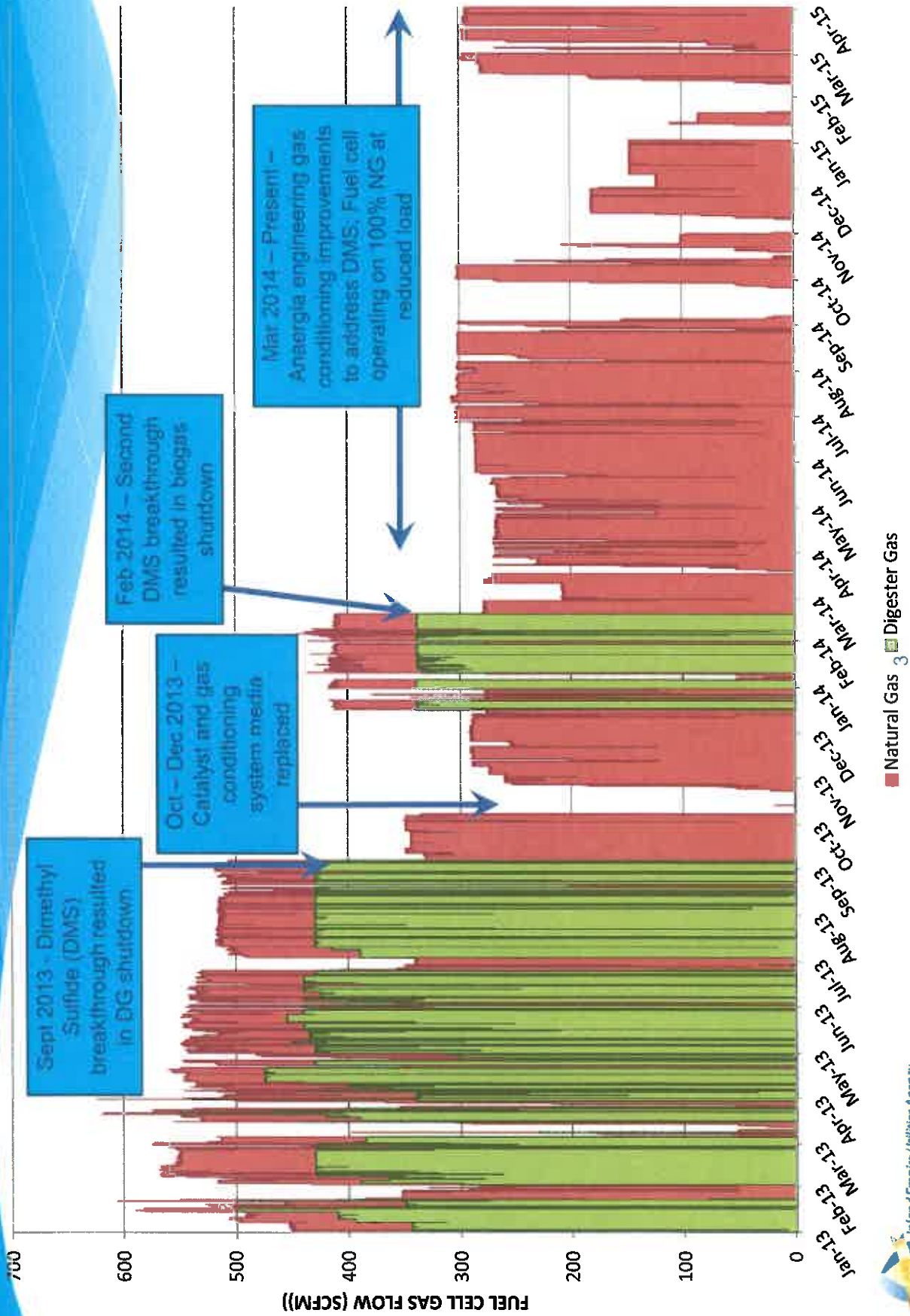


# Project Background

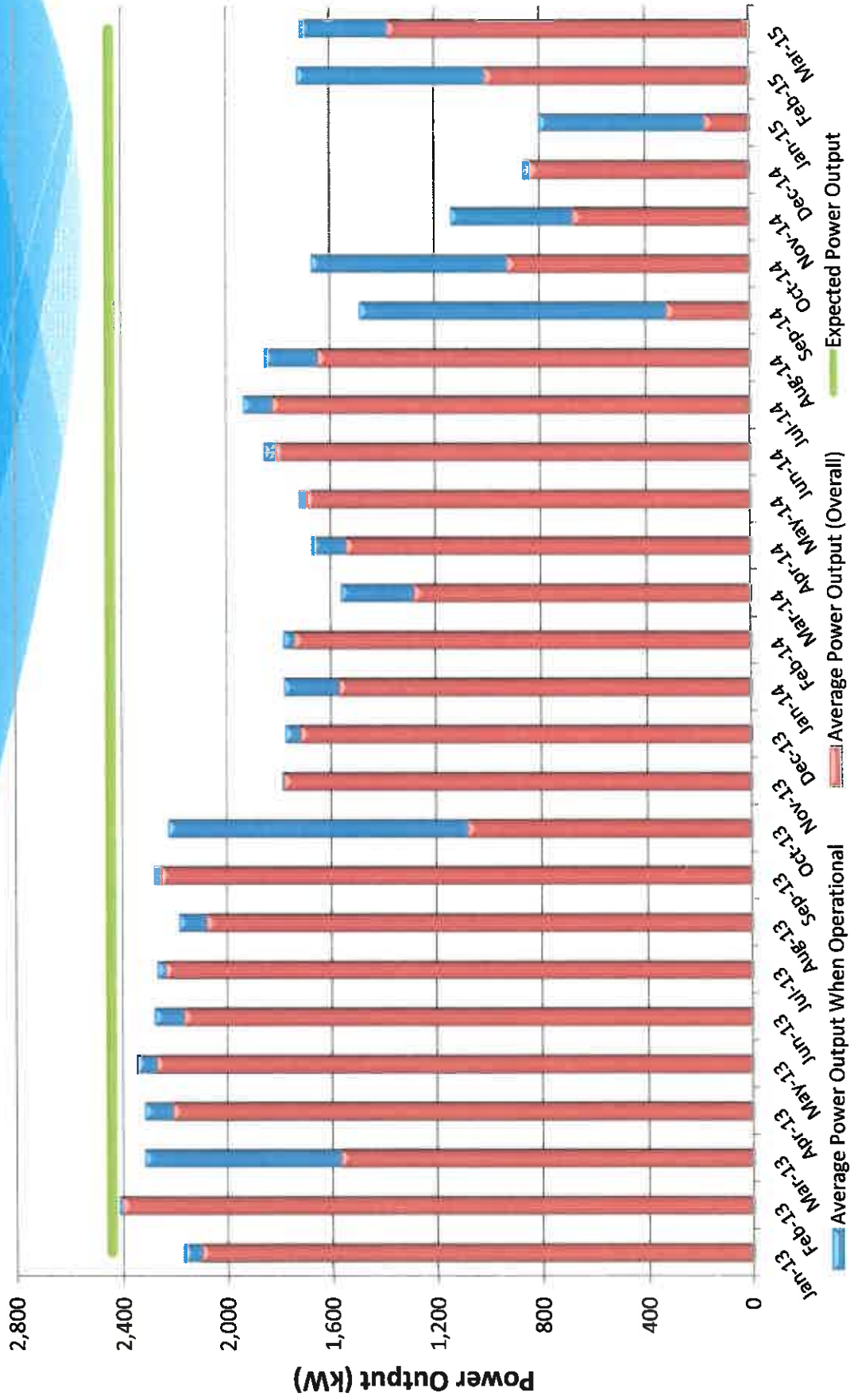
- 20-year agreement
- Commercial operation began 1/1/2013
- Goals
  - 75/25 mixture of DG/NG
  - 425 scfm of DG usage
  - Average ~2,400 kW
  - 4.25 MMBtu heat recovery



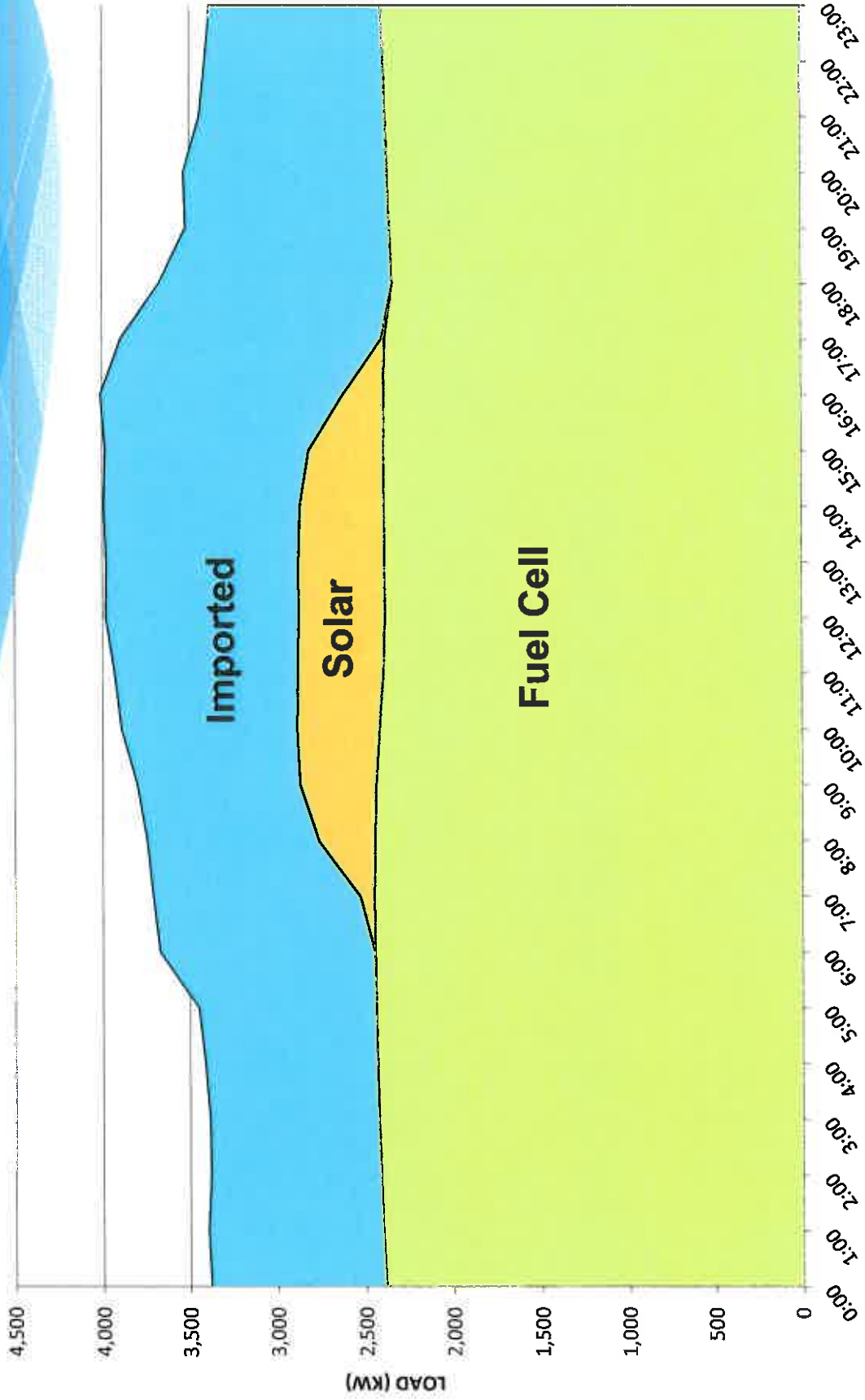
# Gas Flow to Fuel Cell (1/1/13 – 3/30/15)



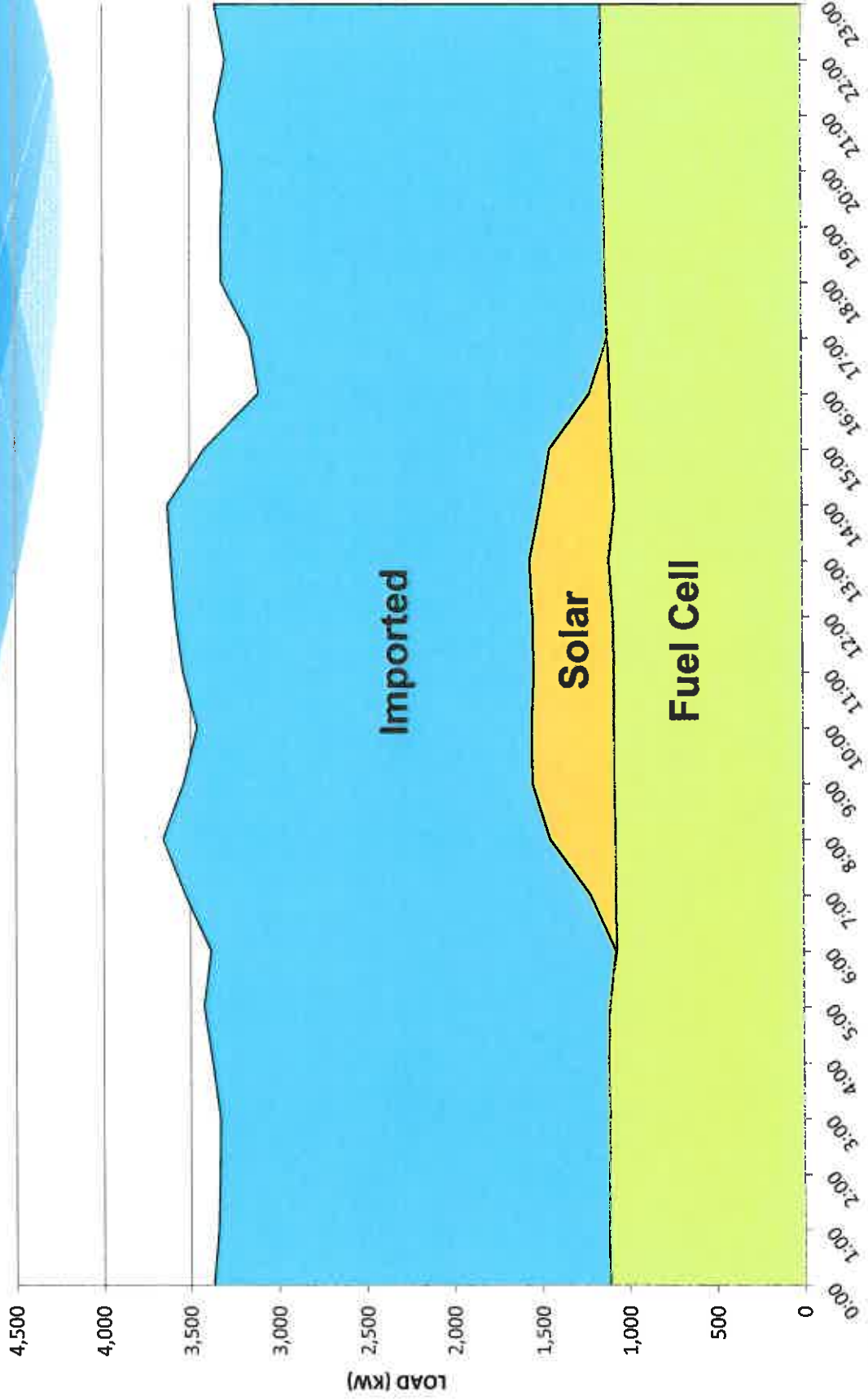
# Average Monthly Power Output



# February 2013 RP-1 Average Load



# February 2015 RP-1 Average Load



# Power Costs

- Current Fuel Cell Rate = 13.3¢/kWh + 1.0¢/kWh for NG
  - Heat recovered when operating on DG
- SCE Rate = 12.6¢/kWh
- Solar Rate = 15.7¢/kWh
- Wind Rate = 9.0¢/kWh (At RP-4)

# Agreement Terms

- **Contract Termination Triggers**
  - IEUA – if power delivered <60% of expected for 36 consecutive months
  - Anaergia – Bankruptcy or IEUA default
- **Annual Liquidated Damages for Delivery Shortfall**

# Future Efforts

- Anaergia Exploring Options to Install Cogeneration Engine as Backup
- Schedule to Commence DG operation Being Developed
  - Anticipated generation ~1,920 kW





# Questions?



**INFORMATION**

**ITEM**

**2B**

# Odor Study May 2015



**Inland Empire Utilities Agency**  
A MUNICIPAL WATER DISTRICT

**Sylvia Lee, P.E.,**  
Manager of Planning and Environmental Compliance

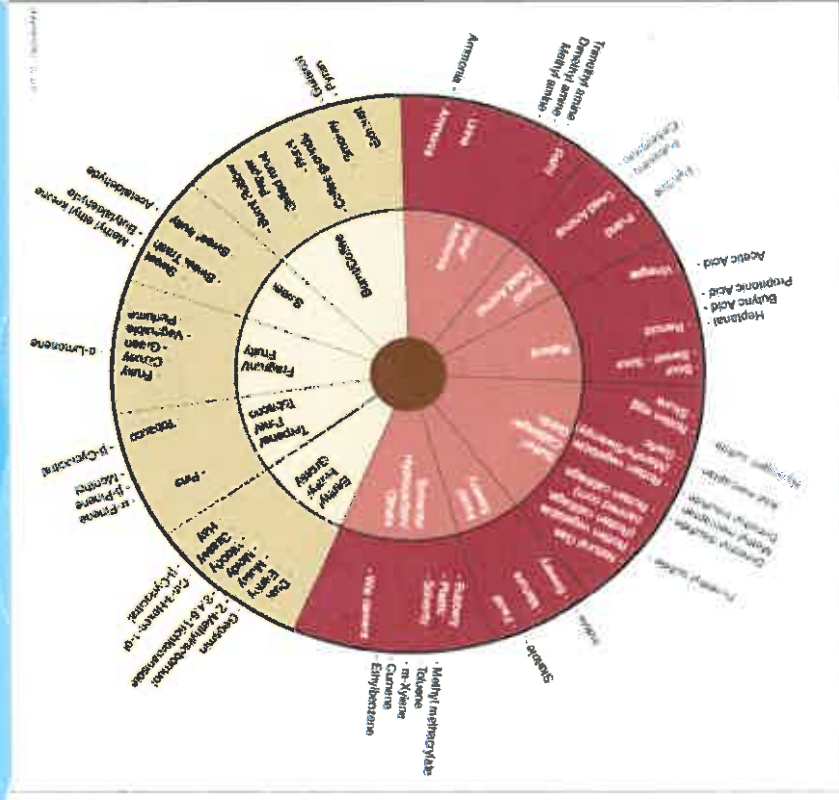
**Jesse Pompa, P.E.,**  
Senior Associate Engineer

# IEUA Odor Study

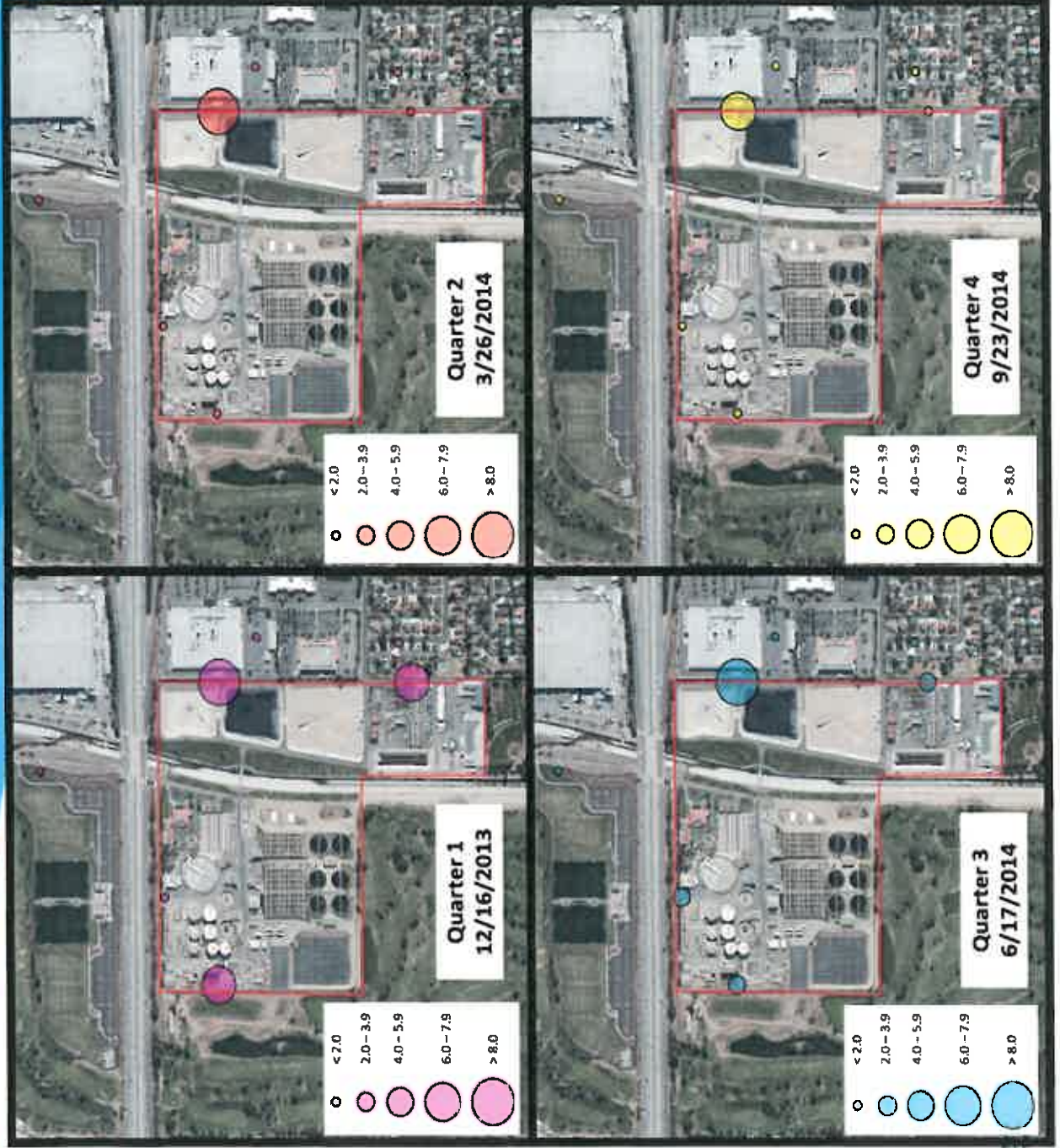
- Objective:
  - Be a good neighbor and address odor complaints
- Quarterly from Dec 2013 – Sep 2014
  - Sampling points at treatment plant fencelines to establish odor baselines and off-site exposure
  - Chemical samples provided for potential odor descriptors
  - Meteorological conditions recorded
  - Odor range and criteria developed

# IEUA Odor Studies

- Panel Members
  - Chino – Environmental Coordinator
  - Ontario – Water/Wastewater Technician
  - CWWD – Inspector
  - IEUA – Sr. Operations Specialist
  - Advanced Environmental Compliance (AEC) – Emissions Testing and Monitoring



# RP-1 Quarterly Results



# RP-1 Annual Average



# Future Efforts

- TYCIP – Project EN19007 to eliminate primary effluent equalization
  - Kick-off expected in FY 23/24
- Report to be generated with all initial findings
- Quarterly sampling to continue

*This project meets the Agency's Environmental Stewardship's Good Neighbor Business Goal in establishing odor baselines and being a good neighbor to the local community.*

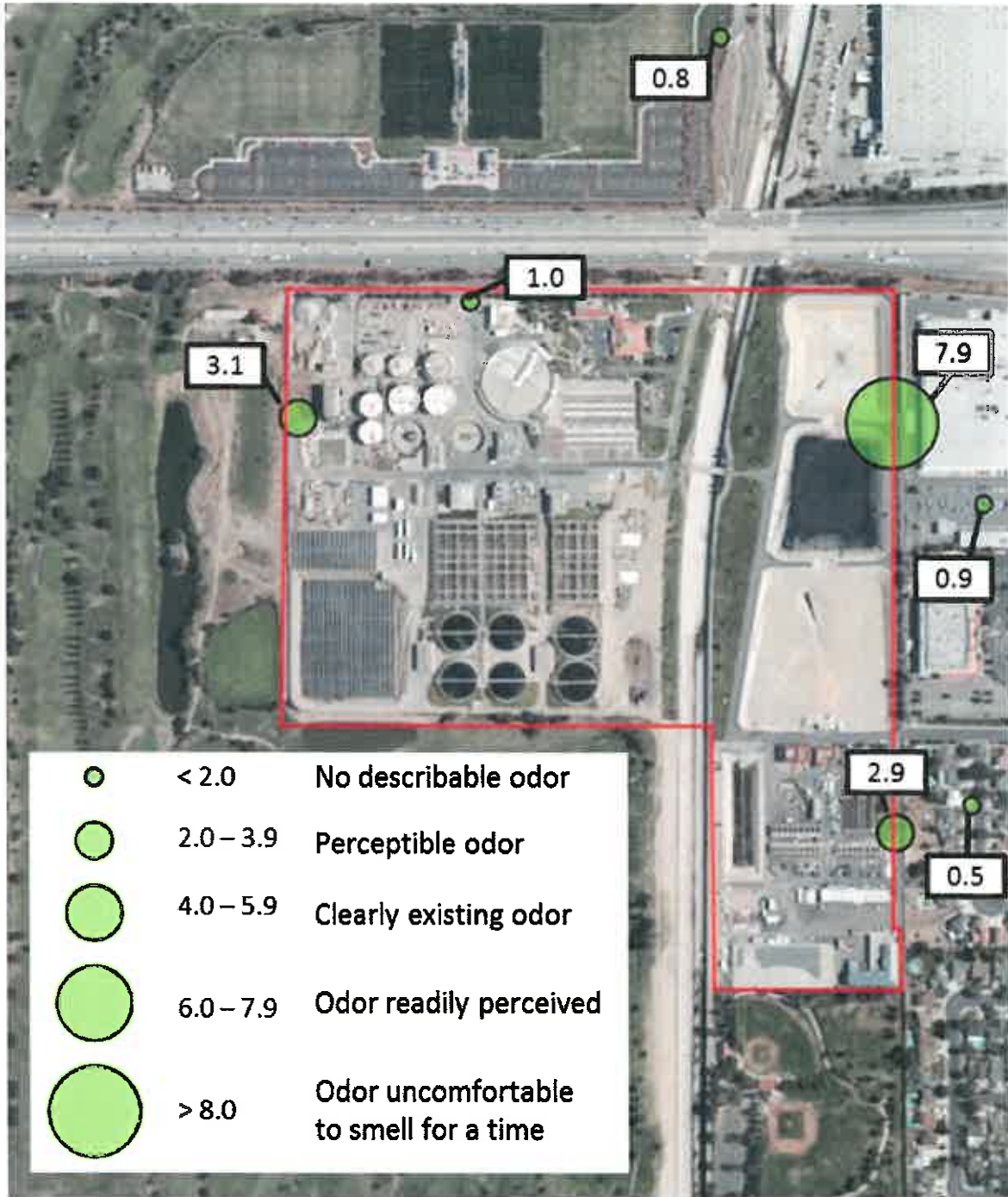




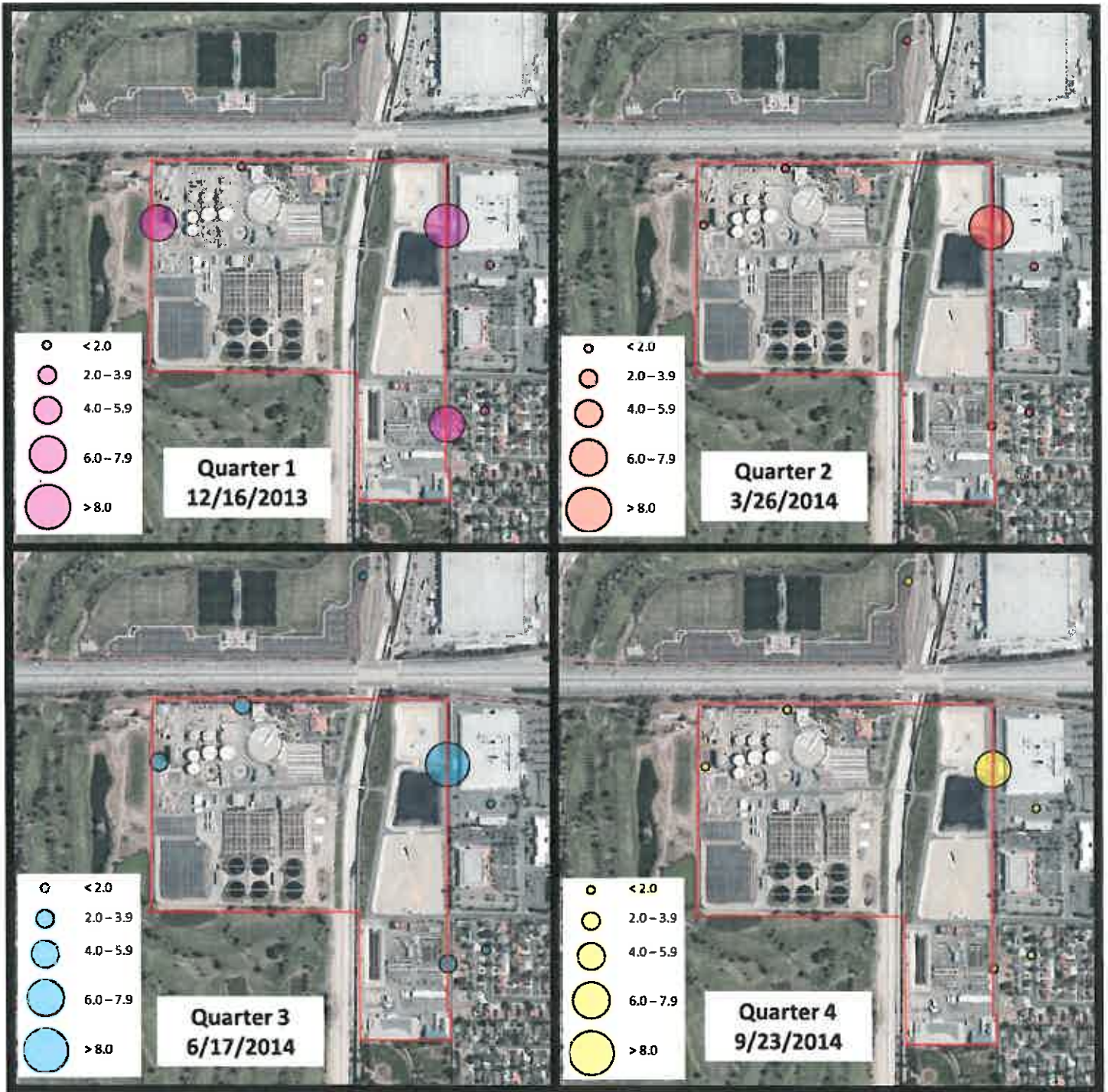
# Questions?



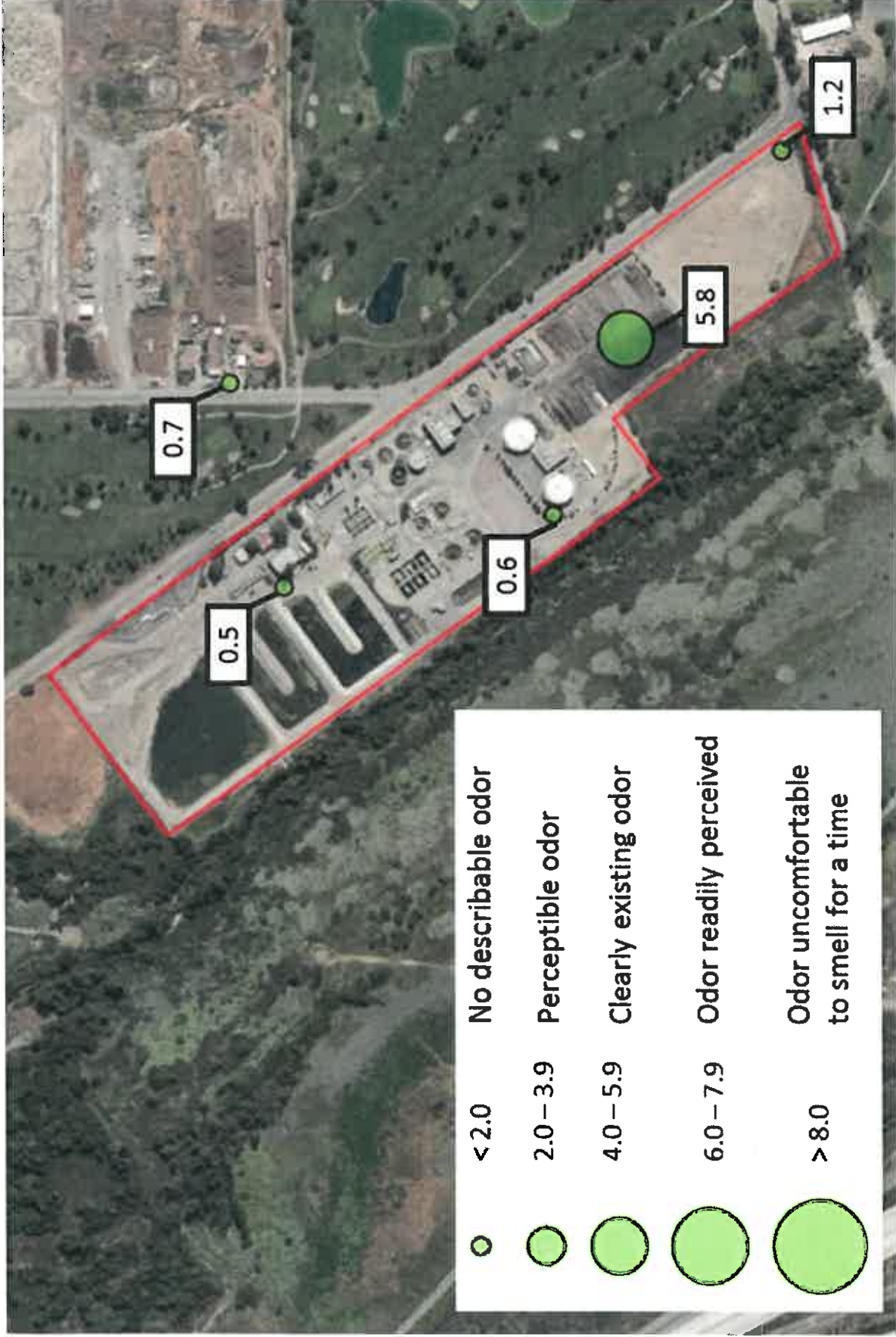
### RP-1 Annual Average



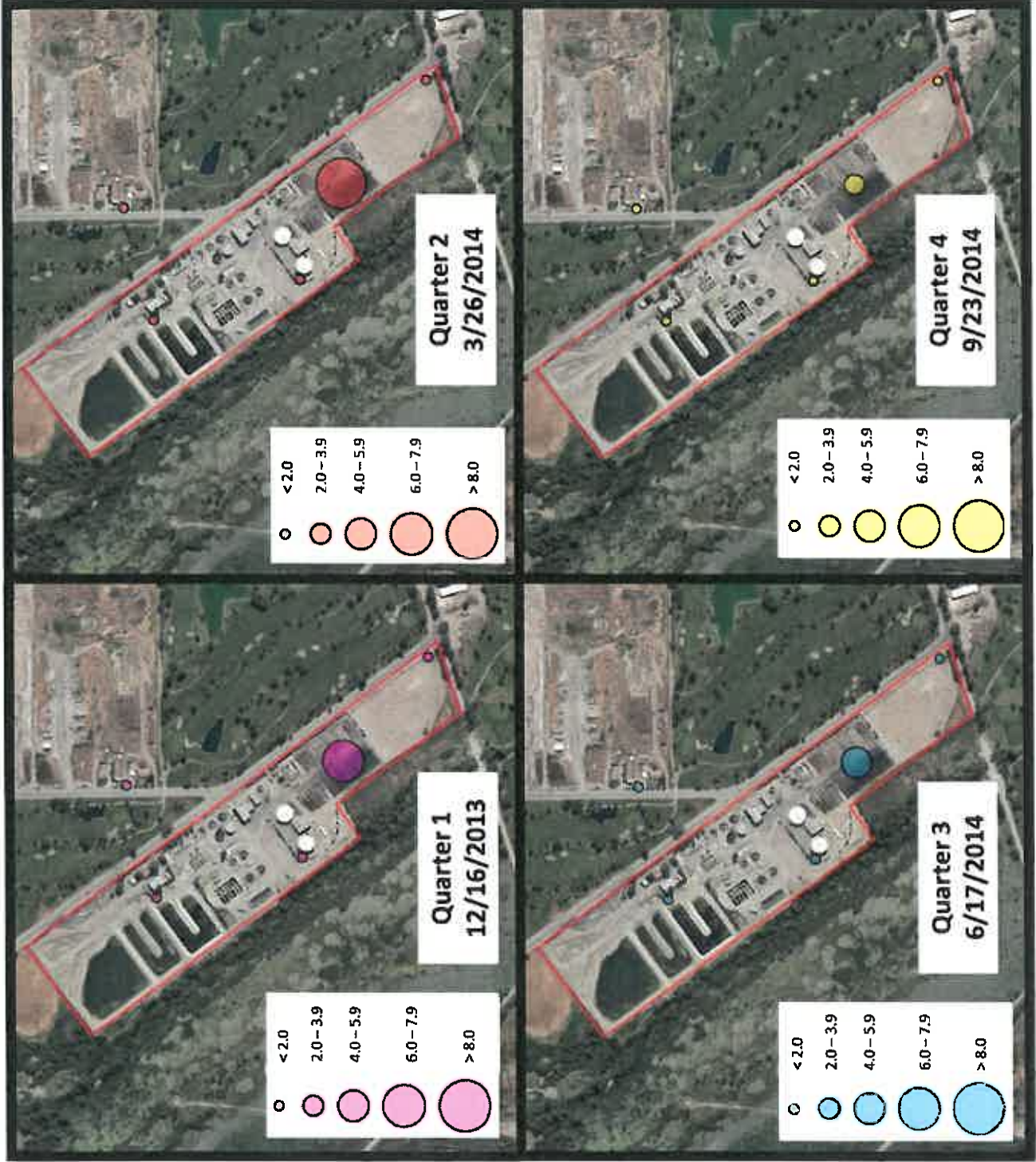
# RP-1 Quarterly Results



RP-2 Annual Average



RP-2 Quarterly Results



RP-4/IERCF Annual Average



RP-4/IERCF Quarterly Results

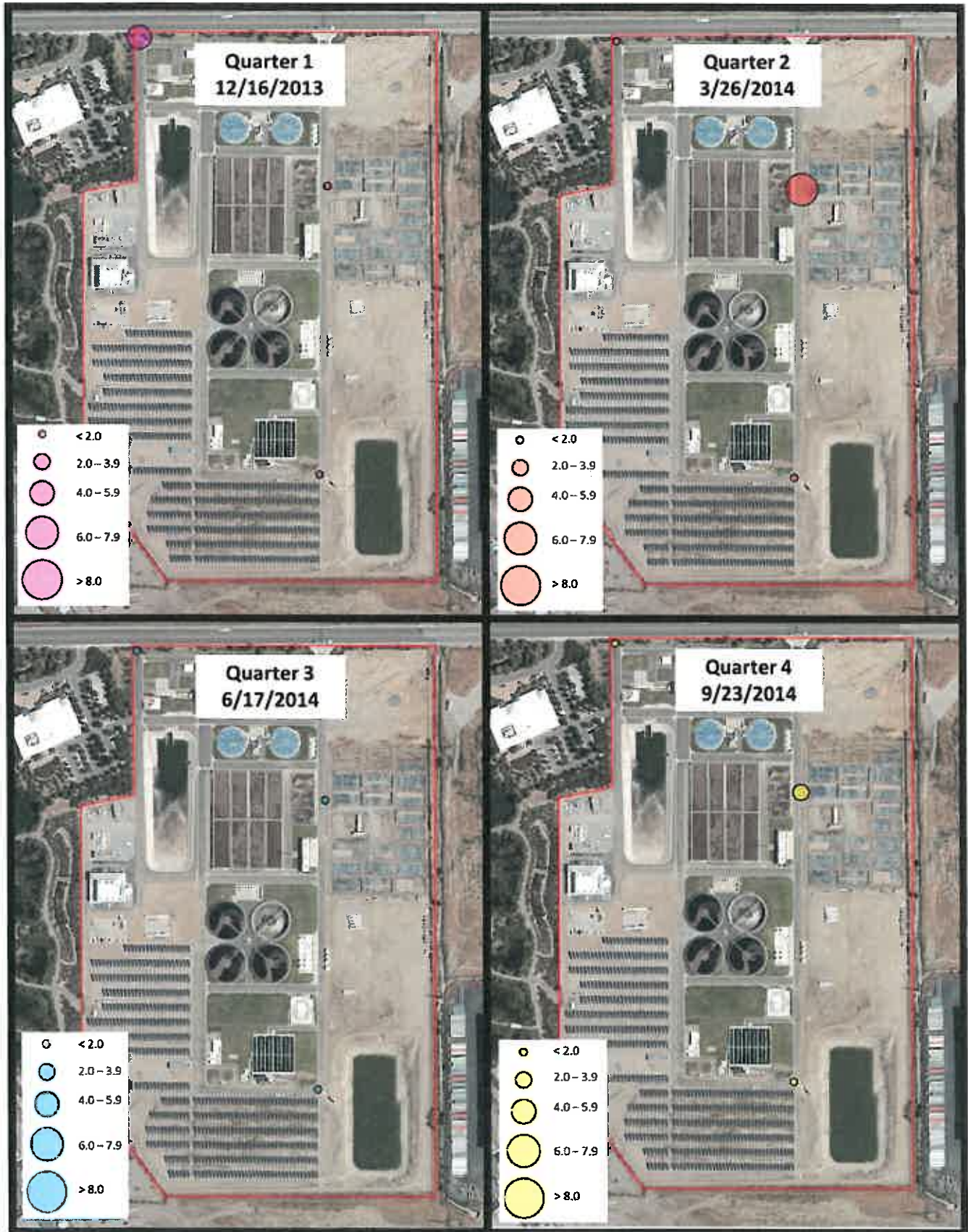




RP-5 Annual Average



# RP-5 Quarterly Results



RP-5 SHF Annual Average



RP-5 SHF Quarterly Results



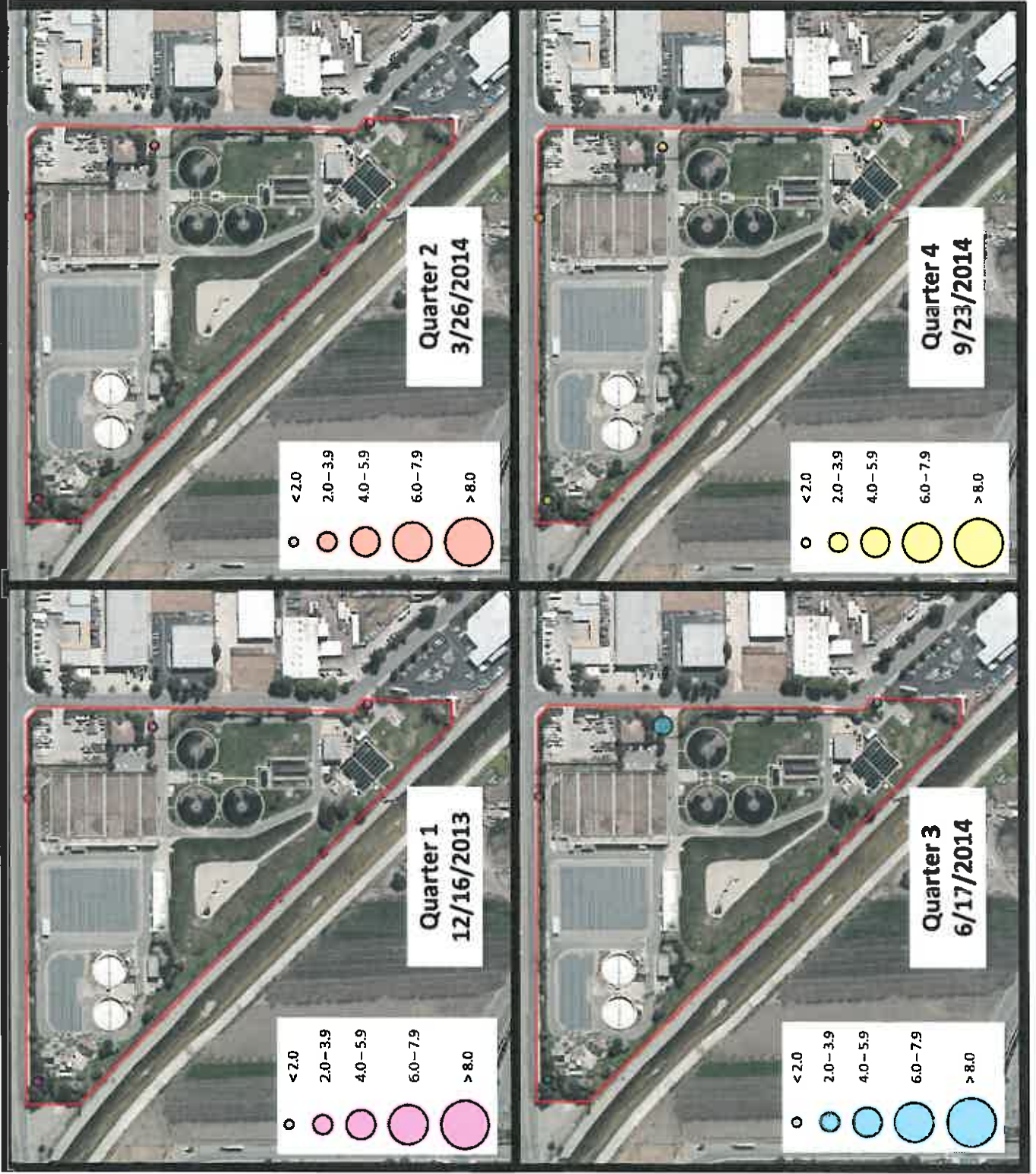
RP-5 SHF Quarterly Results



CCWRF Annual Average



CCWRF Quarterly Results



**INFORMATION**

**ITEM**

**2C**



# Engineering and Construction Management Project Updates

May 2015



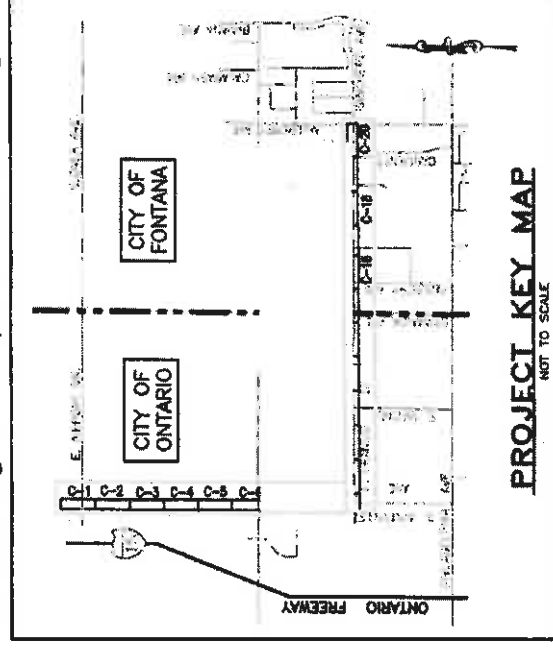
Majid Karim, P.E.,  
Acting Manager of Engineering

David Mendez,  
Deputy Manager of Construction Management

# EN06025 – Wineville Recycled Water Pipeline Extension Segment A

- Contractor: CCL Contracting, Inc.
- Current Contract: \$10.2 M
- Scope of Work: Construct 2.6 miles of 36-in RW Pipeline and 1.0 mile of 24-in RW Pipeline
- Current Activities:
  - ~ 2.6 miles of 36" pipe installed (approx. 13,500-ft)
  - ~ 1.0 miles of 24" pipe installed (approx. 5,400-ft)
  - Hydrostatic testing complete
- Contract Completion: July 2015
- Percent Complete: 85%
- Focus Points:
  - Project closeout activities

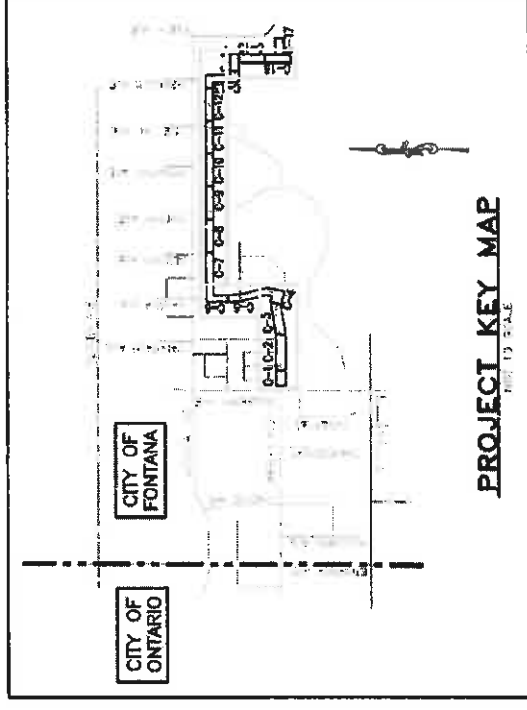
Wineville Segment A Pipeline Installation Progress



# EN13045 – Wineville Recycled Water Pipeline Extension Segment B

- Contractor: Mike Bubalo Construction
- Current Contract Value: \$8.3 M (with VE)
- Scope of Work: Construct 2.6 miles of RW Pipeline (VE Alignment Total)
- Current Activities:
  - Flow control structures
  - ~2.3 miles of 36" pipe installed (approx. 12,000-ft)
  - ~0.2 miles of 16" PVC pipe installed (approx. 1,000-ft)
- Contract Completion: July 2015
- Percent Complete: 85%
- Focus Points:
  - Delivery of RP-3 control panel, which is a long lead item

Wineville Segment B Pipeline Installation Progress



# RA11004 – IERCF Conveyance Improvements

- Contractor: Olsson Construction
- Current Contract Value: \$3.5 M
- Scope of Work: Belt conveyor modifications
- Current Activities:
  - Punch list and pickup work
- Contract Completion: April 2015
- Percent Complete: 99%
- Focus Points:
  - Project Closeout
  - 90 day Reliability Acceptance Testing

BC-18 After Mod's, Catwalk Installation Ongoing

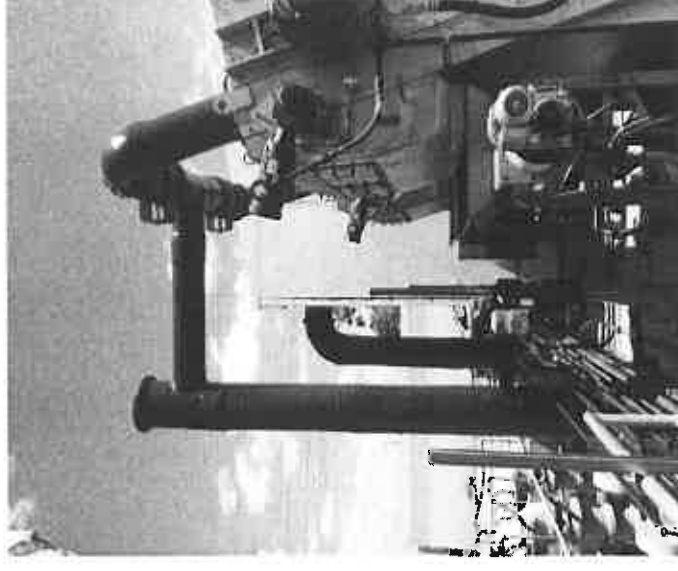


BC-19 Discharge Pile in New Configuration to Curing

# EN09021 – RP-4 Headworks Retrofits

- Contractor: J.R. Filanc Construction
- Current Contract: \$1,176,000
- Scope of Work: Install new JWCE fine screens, washer/compactor and fiberglass reinforced plastic headworks building
- Current Activities:
  - FRP building erected and odor control piping complete and functional
  - Rollup doors and final paving remain to be completed
- Contract Completion: June 2015
- Percent Complete: 85%
- Focus Point:
  - Final adjustments being made to Washer/Compactor

Backside of New Screening Process



# EN14027 – CCWRF Rehab Secondary Clarifier No. 3

- Contractor: GSE Construction
- Current Contract: \$652,000
- Scope of Work: Rehab of Secondary Clarifier
- Current Activities:
  - Installation of weir wall baffles
  - CCTV and cleaning of 36' Influent and Effluent Piping
  - Installation of Clarifier Equipment
- Contract Completion: May 2015
- Percent Complete: 95%
- Focus Point:
  - Startup of Clarifier No.3 Equipment

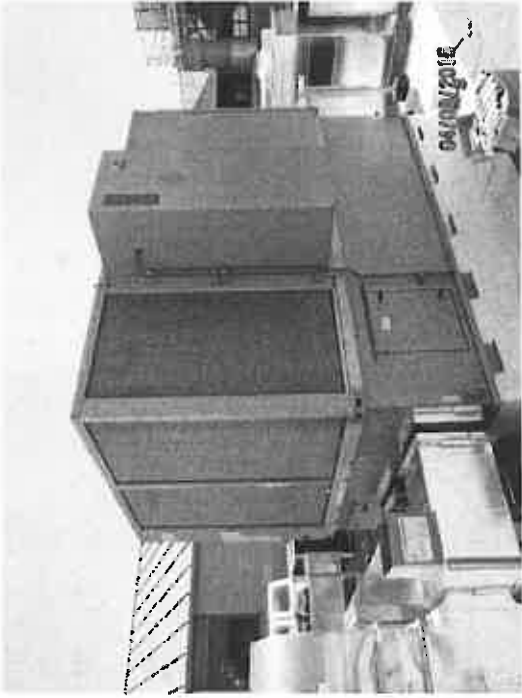
Weir Wall Baffle Installation



# EN13056 – Agency Wide HVAC Improvements Package No. 3

- Contractor: Allison Mechanical Inc.
- Current Contract: \$557,000
- Scope of Work: HVAC Improvements at RP-1, RP-4, CCWRF
- Current Activities:
  - Install HVAC systems at RP-1, RP-4
- Contract Completion: April 2015
- Percent Complete: 95%
- Focus Point:
  - Installation and Startup of HVAC systems

20 Ton AC unit at RP-1 Maintenance Bldg.



# Design –Build

- EN13016.01 CCWRF Control & Server Room Modifications
  - IDS Group and SCA General Contracting Inc.
  - Current Contract: \$104,716
- EN13046 RP-1 Flare Bypass Improvements
  - W. A. Rasic and Civiltec
  - Current Contract: \$406,600
- EN15056 RP-1 Digester Gas System Evaluation & Improvements
  - J.R. Filanc Construction and PID Engineering
  - Current Contract: \$407,835



# Questions?



*Inland Empire Utilities Agency*  
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