



**SRWA**  
STANISLAUS REGIONAL  
WATER AUTHORITY

156 S. Broadway, Ste. 270, Turlock, CA 95380

(209) 668-4142 (phone) (209) 668-5695 (fax)

## **Board Meeting Agenda**

**November 19, 2020 at 3:30 p.m.**

**156 S. Broadway, Turlock, CA, Second Floor, Yosemite Conference Room**

Chair, Chris Vierra  
Vice Chair, Amy Bublak  
Director, Bret Durossette  
Director, Gil Esquer  
Director (alternate), Linda Ryno  
Director (alternate), Nicole Larson

General Manager, Robert Granberg  
Interim Legal Counsel, Richard P. Shanahan  
Board Secretary, Allison Martin

**NOTICE: THIS MEETING WILL BE HELD IN ACCORDANCE WITH EXECUTIVE ORDER N-29-20, ISSUED BY CALIFORNIA GOVERNOR GAVIN NEWSOM ON MARCH 17, 2020, THE RALPH M. BROWN ACT (CALIFORNIA GOVERNMENT CODE SECTION 54950, ET SEQ.), AND THE FEDERAL AMERICANS WITH DISABILITIES ACT.**

**THIS MEETING WILL NOT BE PHYSICALLY OPEN TO THE PUBLIC. MEMBERS OF THE PUBLIC MAY PARTICIPATE IN THE MEETING VIA THE FOLLOWING METHODS:**

**JOIN BY CLICKING ON THE MEETING LINK: <https://us02web.zoom.us/j/82724910297>**  
OR

**JOIN BY ACCESSING THE ZOOM WEBSITE: <https://zoom.us/join>**  
WEBINAR ID: 827 2491 0297

OR  
**JOIN BY TELEPHONE: 669-900-6833**  
WEBINAR ID: 827 2491 0297

**NOTICE REGARDING NON-ENGLISH SPEAKERS:** The Stanislaus Regional Water Authority (SRWA) meetings are conducted in English and translation to other languages is not provided. Please make arrangements for an interpreter if necessary.

**EQUAL ACCESS POLICY:** If you have a disability which affects your access to public facilities or services, contact the Board Secretary at the phone number set forth above. The Board is committed to taking all reasonable measures to provide access to its facilities and services. Please allow sufficient time for the Board to process and respond to your request.

**NOTICE:** Pursuant to California Government Code Section 54954.3, any member of the public may directly address the Board on any item appearing on the agenda, including Consent Calendar and Scheduled Matters, before or during the Board's consideration of the item.

**AGENDA PACKETS:** Prior to the Stanislaus Regional Water Authority Board meeting, a complete Agenda Packet (excluding any closed session materials) is available for review on the SRWA's website at [www.stanrwa.org](http://www.stanrwa.org) and in the Board Secretary's Office at 156 S. Broadway, Suite 270, Turlock, during normal business hours. Materials related to an item on this Agenda submitted to the Board after distribution of the Agenda Packet are also available for public inspection in the Board Secretary's Office at the address set forth above. Such documents may be available on the SRWA's website subject to staff's ability to post the documents before the meeting.

1. A. CALL TO ORDER
- B. SALUTE TO THE FLAG

2. RECOGNITION, APPOINTMENTS, ANNOUNCEMENTS & PRESENTATIONS:

- A. Appointment: Chair
- B. Appointment: Vice Chair
- C. Appointment: Board members

3. A. SPECIAL BRIEFINGS: None

B. STAFF UPDATES

- 1. General Manager Update (*Granberg*)
- 2. Finance Director Report (*Lorenzi*)

C. **PUBLIC PARTICIPATION:** This time is set aside for members of the public to address the Board concerning any item that has been described in the notice for the meeting, including Consent Calendar items, before or during consideration of that item. You will be allowed five (5) minutes for your comments. If you wish to speak regarding an item on the agenda, you may be asked to defer your remarks until the Board addresses the matter.

4. DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS

5. **CONSENT CALENDAR:** Information concerning the Consent items listed below has been forwarded to each Board member prior to this meeting for study. Unless the Chair, a Board member, or member of the audience has questions concerning the Consent Calendar, the items are approved at one time by the Board. The action taken by the Board in approving the Consent items is set forth in the explanation of the individual items.

- A. *Motion:* Approving corrected minutes of Special Meeting of March 28, 2019
- B. *Motion:* Approving minutes of Regular Meeting of September 17, 2020

6. PUBLIC HEARINGS: None

7. SCHEDULED MATTERS:

A. Adopt a resolution approving the SRWA Regional Surface Water Supply Project SRF-Related Agreement (*Granberg*)

**Recommended Action:**

*Resolution:* Adopting a resolution approving the SRWA Regional Surface Water Supply Project SRF-Related Agreement

B. Approve Amendment No. 9 to the Agreement for Special Services with West Yost Associates for Phase 3 Program Management Services for the Regional Surface Water Supply Project reducing their approved contract by \$2,698,827 to a revised total of \$13,104,032 and Reduce the fiscal year 2020-21 budget for account number 950-53-552.43060\_012 "Program Management Services" and related member agency contributions in the amount of \$851,500 representing that portion of Task #22 "Construction Oversight" and the related 5% contingency budgeted in fiscal year 2020-21 (*Granberg*)

**Recommended Action:**

*Motion:* Approving Amendment No. 9 to the Agreement for Special Services with West Yost Associates for Phase 3 Program Management Services for the Regional Surface Water Supply Project reducing their approved contract by \$2,698,827 to a revised total of \$13,104,032

*Resolution:* Reducing the fiscal year 2020-21 budget for account number 950-53-552.43060\_012 "Program Management Services" and related member agency contributions in the amount of \$851,500 representing that portion of Task #22 "Construction Oversight" and the related 5% contingency budgeted in fiscal year 2020-21

- C. Approve an Agreement for Special Services with the Inferrera Construction Management Group, Inc. for the Regional Surface Water Supply Project, Phase 3 Design-Build Contract in an amount not to exceed \$1,586,368, and appropriate \$396,600 to account number 950-53-553-51802\_002 "Construction Management" to be funded via contributions from SRWA participating agencies as outlined in the Phase 3 Design and Construction Funding Agreement (*Granberg*)

**Recommended Action:**

*Motion:* Approving an Agreement for Special Services with the Inferrera Construction Management Group, Inc. for the Regional Surface Water Supply Project, Phase 3 Design-Build Contract in an amount not to exceed \$1,586,368

*Resolution:* Appropriating \$396,600 to account number 950-53-553-51802\_002 "Construction Management" to be funded via contributions from SRWA participating agencies as outlined in the Phase 3 Design and Construction Funding Agreement

**8. MATTERS TOO LATE FOR THE AGENDA**

**9. BOARD ITEMS FOR FUTURE CONSIDERATION**

- 10. BOARD COMMENTS:** Board members may provide a brief report on notable topics of interest. The Brown Act does not allow discussion or action by the legislative body.

**11. NEXT MEETING DATE:** December 17, 2020, Regular meeting

**12. CLOSED SESSION:** None

**13. ADJOURNMENT**

3.B.2.



**SRWA**  
STANISLAUS REGIONAL  
WATER AUTHORITY

November 19, 2020

**To: SRWABoard**  
**From: Marie Lorenzi, Finance Director**  
**Subject: Financial Summary as of November 13, 2020**

Attached Financial Documents include:

**Activity for YTD Fiscal June 30, 2020**

- 1 – SRWA financial status as of 11-13-2020 for the 2019-20 fiscal year (Exhibit A):  
 Revenue received from the participating agencies \$6,236,923.85 (including \$30,723.85 of interest income)  
 Expenses paid total \$4,229,195.47
- 2 – SRWA financial status through 6-30-2020 (Exhibit B):  
 Revenue life to date totals \$19,762,839.03 (includes \$76,388.66 of interest)  
 Expenses life to date total \$17,431,432.39  
 Cumulative unexpended Revenues as of 6-30-2020 = \$ 2,331,496.64

**Activity for YTD Fiscal June 30, 2021**

- 1 – SRWA financial status as of 11-13-2020 for the 2020-21 fiscal year (Exhibit C):  
 Revenue received from the participating agencies \$10,942,500.00  
 Expenses paid total \$5,873,053.38
- 2 – SRWA financial status– life to date as of 11-13-2020 (Exhibit D):  
 Revenue life to date totals \$30,705,339.03 (includes \$76,388.66 of interest)  
 Expenses life to date total \$23,304,395.77  
 Cumulative unexpended Revenues as of 11-13-2020 = \$ 7,400,943.26

**Unpaid Invoices received as of 11-13-2020**

3 – The following invoices are in the process of being paid at 11-13-2020 and the related costs are not included in the information presented in Exhibits A - D.

Bartkiewicz, Kronick & Shanahan	\$ 3,630.00
	<u>\$ 3,630.00</u>

**Stanislaus Regional Water Authority**

For FY 2019-20 (Updated 11-13-2020)

Account Name	Original Budget		Amended Budget	Unaudited Actual	Totals for			
	Budget	Amendments	2019-20	2019-20	Ceres	Turlock	TID	
<b>REVENUES</b>								
Interest Income			0.00	30,723.85	19,977.25	10,746.60		30,723.85
34900_001 Agency Contribution - City of Turlock	4,340,300.00	35,874.00	4,376,174.00	3,598,100.00		3,598,100.00		3,598,100.00
34900_002 Agency Contribution - City of Ceres	3,458,900.00	75,317.00	3,534,217.00	2,013,600.00	2,013,600.00			2,013,600.00
34900_004 Agency Contribution - Turlock Irrigation District	724,700.00	(25,404.00)	699,296.00	594,500.00			594,500.00	594,500.00
<b>Total Revenues</b>	<b>8,523,900.00</b>	<b>85,787.00</b>	<b>8,609,687.00</b>	<b>6,236,923.85</b>	<b>2,033,577.25</b>	<b>3,608,846.60</b>	<b>594,500.00</b>	<b>6,236,923.85</b>
<b>EXPENDITURES</b>								
43011 Gov'l Relations			0.00		0.00	0.00		0.00
43055_002 Consultant Audit	4,590.00	890.00	5,480.00	5,480.00	2,740.00	2,740.00		5,480.00
43060_000 Contract Services			0.00		0.00	0.00		0.00
43060_012 Contract Services Program Mgmt	2,339,464.00	197,105.00	2,536,569.00	975,019.23	464,376.10	489,189.99	21,453.14	975,019.23
43060_021 Contract Services General Manager	300,000.00	(890.00)	299,110.00	170,321.03	85,160.52	85,160.51		170,321.03
43060_022 Contract Services - Contractor Finan Eval			0.00					0.00
43060_023 Contract Services - Watershed Sanitary Survey	64,876.00		64,876.00	81,321.34	40,660.67	40,660.67		81,321.34
43195 Special Legal Counsel	259,403.00	17,767.00	277,170.00	104,830.70	51,550.23	51,550.23	1,730.24	104,830.70
43329 Environmental Services	55,060.00	(28,075.00)	26,985.00					0.00
43332 Permitting	6,000.00	6,000.00	12,000.00	12,173.00	6,086.50	6,086.50		12,173.00
43332_001 Permitting - Environmental Mitigation			0.00		0.00	0.00		0.00
43332_002 Permitting - Water Rights Acquisition	35,000.00		35,000.00	(3,355.19)	(1,677.60)	(1,677.59)		(3,355.19)
51001 Property Acquisition - facility site	1,436,675.00		1,436,675.00		0.00	0.00		0.00
51001 Property Acquisition - infiltration gallery	739,445.00		739,445.00		0.00	0.00		0.00
51800_001 Wet Well Design		47,981.00	47,981.00	48,074.72	12,821.53	25,638.25	9,614.94	48,074.72
<b>Wet Well Construction</b>								
51801_001 Construction Contract (Overaa)	2,872,909.00	(172,573.00)	2,700,336.00	2,475,007.00	660,826.87	1,319,178.73	495,001.40	2,475,007.00
51801_002 Construction Management (Infererra)	311,840.00	(15,758.00)	296,082.00	230,068.52	61,428.29	122,626.52	46,013.71	230,068.52
51801_005 Environmental (Horizon)	72,294.00	30,640.00	102,934.00	102,713.32	34,020.57	52,763.69	15,929.06	102,713.32
45002_000 TID - electrical service			0.00	1,234.80	411.56	823.24	0.00	1,234.80
43105_003 Interdepartmental Admin Support								
Legal			0.00		0.00	0.00		0.00
Clerical	12,500.00		12,500.00	12,075.94	6,037.97	6,037.97		12,075.94
Financial/Accounting	10,000.00		10,000.00	10,522.69	5,261.35	5,261.34		10,522.69
43106_001 Admin Support - Ceres			0.00		0.00	0.00		0.00
44001_000 Supplies	500.00		500.00		0.00	0.00		0.00
44035 Photocopies	500.00		500.00	16.53	8.27	8.26		16.53
44040_000 Postage	500.00		500.00	11.84	5.92	5.92		11.84
47310 Bank Charges	100.00		100.00		0.00	0.00		0.00
47040_000 Dues	1,000.00	2,700.00	3,700.00	3,680.00	1,840.00	1,840.00		3,680.00
47090_001 Testing & Recruitment - General Manager			0.00		0.00	0.00		0.00
47095_000 Training	1,000.00		1,000.00		0.00	0.00		0.00
<b>Total Expenditures</b>	<b>8,523,656.00</b>	<b>85,787.00</b>	<b>8,609,443.00</b>	<b>4,229,195.47</b>	<b>1,431,558.75</b>	<b>2,207,894.23</b>	<b>589,742.49</b>	<b>4,229,195.47</b>
<b>Revenues Over (Under) Expenditures</b>	<b>244.00</b>	<b>0.00</b>	<b>244.00</b>	<b>2,007,728.38</b>	<b>602,018.50</b>	<b>1,400,952.37</b>	<b>4,757.51</b>	<b>2,007,728.38</b>

0.00

# Stanislaus Regional Water Authority

Project to Date (updated as of 11-13-2020)

				Project to Date	Actuals Thru	Actuals For	
	City of Ceres	City of Turlock	TID	Total Since Dec 2015	6/30/2019	2019-20	Total
<b>Agency Contributions</b>							
Received from Agencies- 2015-16	379,561.50	347,487.50		727,049.00	727,049.00		727,049.00
Received from Agencies- 2016-17	1,138,659.60	1,175,000.00	106,958.25	2,420,617.85	2,420,617.85		2,420,617.85
Received from Agencies - 2017-18	1,055,176.00	1,160,500.00	114,507.52	2,330,183.52	2,330,183.52		2,330,183.52
Received from Agencies -2018-19	2,872,300.00	4,072,700.00	1,057,400.00	8,002,400.00	8,002,400.00		8,002,400.00
Received from Agencies - 2019-20	2,013,600.00	3,598,100.00	594,500.00	6,206,200.00		6,206,200.00	6,206,200.00
Interest Income	42,918.86	33,469.80		76,388.66	45,664.81	30,723.85	76,388.66
					0.00		0.00
<b>Total Agency Contributions</b>	<b>7,502,215.96</b>	<b>10,387,257.30</b>	<b>1,873,365.77</b>	<b>19,762,839.03</b>	<b>13,525,915.18</b>	<b>6,236,923.85</b>	<b>19,762,839.03</b>
<b>Expenditures</b>							
Government Relations	(74,723.55)	(74,723.55)	0.00	(149,447.10)	(149,447.10)	0.00	(149,447.10)
Environmental Services (Phase I)	(250,664.65)	(250,664.65)	(32,520.11)	(533,849.41)	(533,849.41)	0.00	(533,849.41)
Project Management Services	(3,294,014.86)	(3,436,629.48)	(169,023.18)	(6,899,667.52)	(5,924,648.29)	(975,019.23)	(6,899,667.52)
Special Legal Expenses	(211,658.70)	(211,658.71)	(5,302.43)	(428,619.84)	(323,789.14)	(104,830.70)	(428,619.84)
Wet Well Design (West Yost)	(166,904.88)	(206,872.74)	(93,444.40)	(467,222.02)	(419,147.30)	(48,074.72)	(467,222.02)
Fees to Stan County-CEQA related to wet well	(1,136.63)	(1,136.62)	0.00	(2,273.25)	(2,273.25)		(2,273.25)
Permitting	(17,630.08)	(17,630.09)	0.00	(35,260.17)	(23,087.17)	(12,173.00)	(35,260.17)
Permitting - Water Rights Acquisition	(36,240.88)	(36,240.89)	0.00	(72,481.77)	(75,836.96)	3,355.19	(72,481.77)
Water Shed Survey	(40,660.67)	(40,660.67)	0.00	(81,321.34)	0.00	(81,321.34)	(81,321.34)
Wet Well Construction							
Construction Contract	(1,888,242.96)	(3,769,413.84)	(1,414,414.20)	(7,072,071.00)	(4,597,064.00)	(2,475,007.00)	(7,072,071.00)
Construction Management	(145,962.80)	(291,378.94)	(109,335.45)	(546,677.19)	(316,608.67)	(230,068.52)	(546,677.19)
Environmental (Phase II)	(103,524.75)	(155,193.07)	(47,798.97)	(306,516.79)	(203,803.47)	(102,713.32)	(306,516.79)
Contractor Financial Evaluation	(18,944.30)	(18,944.30)	(761.40)	(38,650.00)	(38,650.00)	0.00	(38,650.00)
TID - electrical service	(411.56)	(823.24)	0.00	(1,234.80)		(1,234.80)	(1,234.80)
Administrative Support							
Clerical Services	(20,853.86)	(20,853.86)	0.00	(41,707.72)	(29,631.78)	(12,075.94)	(41,707.72)
Accounting Services	(22,096.68)	(22,096.67)	0.00	(44,193.35)	(33,670.66)	(10,522.69)	(44,193.35)
Interim JPA attorney	(22,662.50)	(22,662.50)	0.00	(45,325.00)	(45,325.00)		(45,325.00)
Interim General Manager	(121,991.80)	(121,991.80)	0.00	(243,983.60)	(243,983.60)		(243,983.60)
General Manager	(195,383.37)	(195,383.35)	0.00	(390,766.72)	(220,445.69)	(170,321.03)	(390,766.72)
External Audit	(9,365.00)	(9,365.00)	0.00	(18,730.00)	(13,250.00)	(5,480.00)	(18,730.00)
Supplies and other Miscellaneous Expenses	(5,671.91)	(5,671.89)	0.00	(11,343.80)	(7,635.43)	(3,708.37)	(11,343.80)
<b>Total Expenditures</b>	<b>(6,648,746.39)</b>	<b>(8,909,995.86)</b>	<b>(1,872,600.14)</b>	<b>(17,431,342.39)</b>	<b>(13,202,146.92)</b>	<b>(4,229,195.47)</b>	<b>(17,431,342.39)</b>
<b>Contributions over (under) Expenditures - project to date</b>	<b>853,469.57</b>	<b>1,477,261.44</b>	<b>765.63</b>	<b>2,331,496.64</b>	<b>323,768.26</b>	<b>2,007,728.38</b>	<b>2,331,496.64</b>

**Stanislaus Regional Water Authority**

For FY 2020-21 (Updated 11-13-2020)

Account Name	Original Budget	Amendments	Amended Budget 2020-21	Unaudited Actual 2020-21	Totals for 2020-21			Totals for 2020-21
					Ceres	Turlock	TID	
<b>REVENUES</b>								
Interest Income			0					0.00
34900_001 Agency Contribution - City of Turlock	38,257,747		38,257,747	9,557,500.00		9,557,500.00		9,557,500.00
34900_002 Agency Contribution - City of Ceres	19,509,718		19,509,718	1,300,000.00	1,300,000.00			1,300,000.00
34900_004 Agency Contribution - Turlock Irrigation District	1,075,231		1,075,231	85,000.00			85,000.00	85,000.00
<b>Total Revenues</b>	<b>58,842,696</b>	<b>0</b>	<b>58,842,696</b>	<b>10,942,500.00</b>	<b>1,300,000.00</b>	<b>9,557,500.00</b>	<b>85,000.00</b>	<b>10,942,500.00</b>
<b>EXPENSES</b>								
43011 Gov't Relations								
<b>Pre-Treatment Plant Construction Project Expenses (950-53-552)</b>								
43060_012 Contact Services Program Mgmt	125,628		125,628	30,036.74	15,201.63	14,789.37	45.74	30,036.74
43195 Special Legal Counsel	38,500		38,500	330.00	165.00	165.00	0.00	330.00
43332 Permitting	7,000		7,000					0.00
43332_002 Permitting - Water Rights Acquisition	20,000		20,000					0.00
45002_000 TID - electrical service	5,000		5,000	1,538.34	769.17	769.17	0.00	1,538.34
51001 Property Acquisition - facility site	1,508,508		1,508,508					0.00
51901 Property Acquisition - infiltration gallery	739,442		739,442					0.00
51001 Property Acquisition - Geer Road easement	132,300		132,300					0.00
51001 Property Acquisition - delivery facilities	50,000		50,000					0.00
<b>Treatment Plant Construction - SRF funding eligible (950-53-553)</b>								
43060_012 Contract Services - Program Mgmt Services	2,733,688		2,733,688	211,916.61	89,979.01	119,277.90	2,659.70	211,916.61
43195 Special Legal Counsel	29,700		29,700	11,797.50	5,782.54	5,782.54	232.42	11,797.50
43329 Environmental Services	233,500		233,500	39,933.06	16,405.00	16,787.58	6,740.48	39,933.06
43332 Permitting	71,014		71,014	13,351.25		13,351.25		13,351.25
43332_001 Permitting - Environmental Mitigation	214,000		214,000		0.00	0.00		0.00
51802_001 Regional Trtmt Plant - Design/Build Contract	54,947,428		54,947,428	5,490,000.00	1,763,388.00	3,608,577.00	118,035.00	5,490,000.00
<b>Administrative Expenses (950-53-552)</b>								
43055_002 Consultant Audit	4,740		4,740		0.00	0.00		0.00
43060_021 Contract Services General Manager	300,000		300,000	69,969.88	34,984.94	34,984.94		69,969.88
43105_003 Interdepartmental Admin Support								
Clerical	12,500		12,500		0.00	0.00		0.00
Financial/Accounting	12,500		12,500		0.00	0.00		0.00
44001_000 Supplies	500	(180)	320		0.00	0.00		0.00
44035 Photocopies	500		500		0.00	0.00		0.00
44040_000 Postage	500		500		0.00	0.00		0.00
47010 Bank Charges	750		750		0.00	0.00		0.00
47040_000 Dues	4,000	180	4,180	4,180.00	2,090.00	2,090.00		4,180.00
47095_000 Training	1,000		1,000		0.00	0.00		0.00
<b>Total Expenditures</b>	<b>61,192,698</b>	<b>0</b>	<b>61,192,698</b>	<b>5,873,053.38</b>	<b>1,928,765.29</b>	<b>3,816,574.75</b>	<b>127,713.34</b>	<b>5,873,053.38</b>
<b>Revenues Over (Under) Expenditures</b>	<b>(2,350,002)</b>	<b>0</b>	<b>(2,350,002)</b>	<b>5,069,446.62</b>	<b>(628,765.29)</b>	<b>5,740,925.25</b>	<b>(42,713.34)</b>	<b>5,069,446.62</b>

0.00

# Stanislaus Regional Water Authority

Project to Date (updated as of 11-13-2020)

	Project to Date			Actuals Thru	Actuals For	Total	
	City of Ceres	City of Turlock	TID	Total Since Dec 2015	6/30/2020	2020-21	
<b>Agency Contributions</b>							
Received from Agencies-2015-16	379,561.50	347,487.50		727,049.00	727,049.00		727,049.00
Received from Agencies-2016-17	1,138,659.60	1,175,000.00	106,958.25	2,420,617.85	2,420,617.85		2,420,617.85
Received from Agencies-2017-18	1,055,176.00	1,160,500.00	114,507.52	2,330,183.52	2,330,183.52		2,330,183.52
Received from Agencies-2018-19	2,872,300.00	4,072,700.00	1,057,400.00	8,002,400.00	8,002,400.00		8,002,400.00
Received from Agencies - 2019-20	2,013,600.00	3,598,100.00	594,500.00	6,206,200.00	6,206,200.00		6,206,200.00
Received from Agencies - 2020-21	1,300,000.00	9,557,500.00	85,000.00	10,942,500.00		10,942,500.00	10,942,500.00
Interest Income	42,918.86	33,469.80	0.00	76,388.66	76,388.66		76,388.66
					0.00		0.00
<b>Total Agency Contributions</b>	<b>8,802,215.96</b>	<b>19,944,757.30</b>	<b>1,958,365.77</b>	<b>30,705,339.03</b>	<b>19,762,839.03</b>	<b>10,942,500.00</b>	<b>30,705,339.03</b>
<b>Expenditures</b>							
<b>Pre-Treatment Plant Construction Project Expenses (950-52-553)</b>							
Government Relations	(74,723.55)	(74,723.55)	0.00	(149,447.10)	(149,447.10)	0.00	(149,447.10)
Environmental Services (Phase I)	(250,664.65)	(250,664.65)	(32,520.11)	(533,849.41)	(533,849.41)	0.00	(533,849.41)
Project Management Services	(3,309,216.49)	(3,451,418.85)	(169,068.92)	(6,929,704.26)	(6,899,667.52)	(30,036.74)	(6,929,704.26)
Special Legal Expenses	(211,823.70)	(211,823.71)	(5,302.43)	(428,949.84)	(428,619.84)	(330.00)	(428,949.84)
Wet Well Design (West Yost)	(166,904.88)	(206,872.74)	(93,444.40)	(467,222.02)	(467,222.02)	0.00	(467,222.02)
Fees to Stan County-CEQA related to wet well	(1,136.63)	(1,136.62)	0.00	(2,273.25)	(2,273.25)		(2,273.25)
Permitting	(17,630.08)	(17,630.09)	0.00	(35,260.17)	(35,260.17)	0.00	(35,260.17)
Permitting - Water Rights Acquisition	(36,240.88)	(36,240.89)	0.00	(72,481.77)	(72,481.77)	0.00	(72,481.77)
Water Shed Survey	(40,660.67)	(40,660.67)	0.00	(81,321.34)	(81,321.34)	0.00	(81,321.34)
Property Acquisition - facility site				0.00	0.00	0.00	0.00
Property Acquisition - infiltration gallery				0.00	0.00	0.00	0.00
Property Acquisition - Geer Road easement				0.00	0.00	0.00	0.00
Property Acquisition - delivery facilities				0.00	0.00	0.00	0.00
Wet Well Contruction							
Construction Contract	(1,888,242.96)	(3,769,413.84)	(1,414,414.20)	(7,072,071.00)	(7,072,071.00)	0.00	(7,072,071.00)
Construction Management	(145,962.80)	(291,378.94)	(109,335.45)	(546,677.19)	(546,677.19)	0.00	(546,677.19)
Environmental (Phase II)	(103,524.75)	(155,193.07)	(47,798.97)	(306,516.79)	(306,516.79)	0.00	(306,516.79)
Contractor Financial Evaluation	(18,944.30)	(18,944.30)	(761.40)	(38,650.00)	(38,650.00)	0.00	(38,650.00)
TID - electrical service	(1,180.73)	(1,592.41)	0.00	(2,773.14)	(1,234.80)	(1,538.34)	(2,773.14)
<b>Treatment Plant Construction - SRF funding eligible (950-53-553)</b>							
Contract Services - Program Mgmt Services	(89,979.01)	(119,277.90)	(2,659.70)	(211,916.61)	0.00	(211,916.61)	(211,916.61)
Special Legal Counsel	(5,782.54)	(5,782.54)	(232.42)	(11,797.50)	0.00	(11,797.50)	(11,797.50)
Environmental Services	(16,405.00)	(16,787.58)	(6,740.48)	(39,933.06)	0.00	(39,933.06)	(39,933.06)
Permitting	0.00	(13,351.25)	0.00	(13,351.25)	0.00	(13,351.25)	(13,351.25)
Permitting - Environmental Mitigation	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Regional Trtmt Plant - Design/Build Contract	(1,763,388.00)	(3,608,577.00)	(118,035.00)	(5,490,000.00)	0.00	(5,490,000.00)	(5,490,000.00)



**Stanislaus Regional Water Authority**

Project to Date (updated as of 11-13-2020)

	City of Ceres	City of Turlock	TID	Project to Date Total Since Dec2015	Actuals Thru 6/30/2020	Actuals For 2020-21	Total
<b>Administrative Support</b>							
Clerical Services	(20,853.86)	(20,853.86)	0.00	(41,707.72)	(41,707.72)	0.00	(41,707.72)
Accounting Services	(22,096.68)	(22,096.67)	0.00	(44,193.35)	(44,193.35)	0.00	(44,193.35)
Interim JPA attorney	(22,662.50)	(22,662.50)	0.00	(45,325.00)	(45,325.00)		(45,325.00)
Interim General Manager	(121,991.80)	(121,991.80)	0.00	(243,983.60)	(243,983.60)		(243,983.60)
General Manager	(230,368.30)	(230,368.30)	0.00	(460,736.60)	(390,766.72)	(69,969.88)	(460,736.60)
External Audit	(9,365.00)	(9,365.00)	0.00	(18,730.00)	(18,730.00)	0.00	(18,730.00)
Supplies and other Miscellaneous Expenses	(7,761.90)	(7,761.90)	0.00	(15,523.80)	(11,343.80)	(4,180.00)	(15,523.80)
<b>Total Expenditures</b>	<b>(8,577,511.66)</b>	<b>(12,726,570.63)</b>	<b>(2,000,313.48)</b>	<b>(23,304,395.77)</b>	<b>(17,431,342.39)</b>	<b>(5,873,053.38)</b>	<b>(23,304,395.77)</b>
<b>Contributions over (under) Expenditures - project to date</b>	<b>224,704.30</b>	<b>7,218,186.67</b>	<b>(41,947.71)</b>	<b>7,400,943.26</b>	<b>2,331,496.64</b>	<b>5,069,446.62</b>	<b>7,400,943.26</b>



1. A. **CALL TO ORDER:** Chair Vierra called the meeting to order at 3:31 p.m.  
PRESENT: Director Esquer, Director Durossette, Director Bublak, Chair Vierra  
ABSENT: None

B. **SALUTE TO THE FLAG**

2. **RECOGNITION, APPOINTMENTS, ANNOUNCEMENTS & PRESENTATIONS:**

A. Appointment: Chair

Director Bublak recommended that current Chair Vierra be re-appointed to the position of Chair.

**Action:** Motion by Director Bublak, seconded by Director Esquer, re-appointing current Chair Vierra to the position of Chair, effective immediately.  
Motion carried 4/0 by the following vote:

Director Esquer	Director Durossette	Director Bublak	Chair Vierra
Yes	Yes	Yes	Yes

B. Appointment: Vice Chair

Director Bublak recommended that Director Esquer be appointed to the position of Vice Chair.

**Action:** Motion by Director Bublak, seconded by Director Durossette, appointing Director Esquer to the position of Vice Chair, effective immediately.  
Motion carried 3/1 by the following vote:

Vice Chair Esquer	Director Durossette	Director Bublak	Chair Vierra
No	Yes	Yes	Yes

3. A. **SPECIAL BRIEFINGS:** None

B. **STAFF UPDATES:**

- Consultant Gerry Nakano with West Yost Associates, Inc. provided an update on Major TAC and PM Team Work Focus Areas, including working with 3 short-listed Design-Build Teams who are preparing proposals for our Project, working with our partner, TID, on the water rights petition for change, Wet Well Construction Activities, and Project Funding and Opportunities for grants and loans. Upcoming critical milestones and tasks: design-build procurement, submit the required SRF application packages, development of finance plan, and award of the DB contract in September.
- Finance Director Marie Lorenzi provided an update on financial activity as of March 22, 2019. Revenue and expenses were reviewed.

C. PUBLIC PARTICIPATION:

Citizen Milt Trieweler inquired about funding for the Project.

4. DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS: None

5. CONSENT CALENDAR:

Action: Motion by Director Bublak, second by Vice Chair Esquer, adopting the consent calendar and approving the minutes of the Special Meeting of November 16, 2018. Motion carried by the following vote:

Vice Chair Esquer	Director Durossette	Director Bublak	Chair Vierra
Yes	Yes	Yes	Yes

6. PUBLIC HEARINGS: None

7. SCHEDULED MATTERS:

A. General Manager Granberg requested to approve amendments to the Bylaws of the Stanislaus Regional Water Authority. The previous bylaw amendment was in 2015. The changes include updating the project language to match the project status and updating the SRWA Board participation, voting requirements and meeting schedule.

Discussion:

A discussion commenced regarding Robert's Rules of Order and term limits.

Chair Vierra opened public participation.

Citizen Milt Trieweler inquired about the number of Board members.

Chair Vierra closed public participation.

Action: Motion by Director Durossette, second by Vice Chair Esquer, approving amendments as proposed and altered as discussed to the Bylaws of the Stanislaus Regional Water Authority. Motion carried by the following vote:

Vice Chair Esquer	Director Durossette	Director Bublak	Chair Vierra
Yes	Yes	Yes	Yes

B. General Manager Granberg requested to authorize a WaterSMART water and energy efficiency grant application with the Bureau of Reclamation.

Discussion:

Lindsay Smith from West Yost Associates, Inc. prepared the application and will submit it if approved.

Chair Vierra opened public participation. There being no public response, Chair Vierra closed public participation.

**Action:** Resolution 2019-001 Motion by Director Bublak, second by Vice Chair Esquer, authorizing a WaterSMART water and energy efficiency grant application with the Bureau of Reclamation. Motion carried by the following vote:

Vice Chair Esquer	Director Durossette	Director Bublak	Chair Vierra
Yes	Yes	Yes	Yes

- C. General Manager Granberg requested to accept Geer Road Ranch, LLC easements and appropriate \$126,000 to account number 950-53-552.51001 "Property Acquisition" to provide funding for permanent and temporary easement acquisitions related to the Ceres Finished Water Transmission Main Alignment to be funded by contributions from the City of Ceres.

**Discussion:**

Lindsay Smith from West Yost Associates, Inc. presented an overview of the easement for the Ceres water transmission main line.

Chair Vierra opened public participation. There being no public response, Chair Vierra closed public participation.

**Action:** Resolution 2019-002 Motion by Director Bublak, second by Director Durossette, accepting Geer Road Ranch, LLC easements and appropriating \$126,000 to account number 950-53-552.51001 "Property Acquisition" to provide funding for permanent and temporary easement acquisitions related to the Ceres Finished Water Transmission Main Alignment to be funded by contributions from the City of Ceres. Motion carried by the following vote:

Vice Chair Esquer	Director Durossette	Director Bublak	Chair Vierra
Yes	Yes	Yes	Yes

- D. General Manager Granberg requested to approve an amendment to the Special Services Agreement with West Yost Associates for the Wet Well Design Revision, Surface Water Supply Project (Project) to provide on-going "Engineering Services During Construction (ESDC)" for the Project and increasing the contract amount by \$29,273 to a new total of \$419,432, and appropriate \$29,273 to account number 950-53-552.51800\_001 "Wet Well Design" to be funded by contributions from SRWA participating members in accordance with previously approved cost sharing agreements.

**Discussion:**

General Manager Granberg explained the reason for the increase as related to the modifications of the Wet Well design and construction.

Chair Vierra opened public participation. There being no public response, Chair Vierra closed public participation.

**Action:** Motion by Director Durossette, second by Vice Chair Esquer, approving an amendment to the Special Services Agreement with West Yost Associates for the Wet Well Design Revision, Surface Water Supply Project (Project) to provide on-

going “Engineering Services During Construction (ESDC)” for the Project and increasing the contract amount by \$29,273 to a new total of \$419,432. Motion carried by the following vote:

Vice Chair Esquer	Director Durossette	Director Bublak	Chair Vierra
Yes	Yes	Yes	Yes

**Action:** Resolution 2019-003 Motion by Director Durossette, second by Vice chair Esquer, appropriating \$29,273 to account number 950-53-552.51800\_001 “Wet Well Design” to be funded by contributions from SRWA participating members in accordance with previously approved cost sharing agreements. Motion carried by the following vote:

Vice Chair Esquer	Director Durossette	Director Bublak	Chair Vierra
Yes	Yes	Yes	Yes

E. General Manager Granberg requested to approve a letter /agreement with Modesto Irrigation District concerning cooperation and cost sharing on a Tuolumne River watershed sanitary survey.

**Discussion:**

Lindsay Smith from West Yost Associates, Inc. discussed the benefits of joining the Modesto Irrigation District on the survey, including a significant cost savings.

Chair Vierra opened public participation. There being no public response, Chair Vierra closed public participation.

**Action:** ~~Resolution 2019-003~~ Motion by Director Bublak, second by Director Durossette, approving a letter/agreement with Modesto Irrigation District concerning cooperation and cost sharing on a Tuolumne River watershed sanitary survey. Motion carried by the following vote:

Vice Chair Esquer	Director Durossette	Director Bublak	Chair Vierra
Yes	Yes	Yes	Yes

- 8. MATTERS TOO LATE FOR THE AGENDA: None
- 9. BOARD ITEMS FOR FUTURE CONSIDERATION: None
- 10. BOARD COMMENTS:

Director Durossette thanked the Board and staff for altering the meeting schedule.

Director Bublak stated she is working with the State and Federal governments for Project financing options, and is interested in communicating with Stanislaus County to make the Project more regional.

Chair Vierra updated the Board on the Project tour with Congressman Josh Harder who will be assisting with possible funding options.

11. NEXT MEETING DATE: April 18, 2019 Regular Meeting
12. ADJOURNMENT: Motion by Vice Chair Esquer, second by Director Durossette, to adjourn at 4:17 p.m. Motion carried 4/0.

*Respectfully submitted,*

DRAFT

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Allison Martin, Board Secretary



- 1. A. **CALL TO ORDER:** Chair Vierra called the meeting to order at 3:33 p.m.  
 PRESENT: Chair Vierra (*via teleconference*), Vice Chair Bublak (*via teleconference*),  
 Director Ryno (*via teleconference*), Director Esquer  
 ABSENT: None

B. **SALUTE TO THE FLAG**

- 2. **RECOGNITION, APPOINTMENTS, ANNOUNCEMENTS & PRESENTATIONS:** None

- 3. A. **SPECIAL BRIEFINGS:** None

B. **STAFF UPDATES:**

- 1. General Manager Robert Granberg provided an update on Major TAC and PM Team Work Focus Areas, including Design-Build Phase 3 Project Activities, joint SRWA/Ceres RFP for Construction Management Services, website design, and a funding/financing update.

Chair Vierra opened public participation. There being no public response, Chair Vierra closed public participation.

C. **PUBLIC PARTICIPATION:** None

- 4. **DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS:** None

5. **CONSENT CALENDAR:**

Action: Motion by Director Esquer, seconded by Director Ryno, approving the minutes for the Regular Meeting of August 20, 2020. Motion carried 4/0 by the following vote:

Director Esquer	Director Ryno	Vice Chair Bublak	Chair Vierra
Yes	Yes	Yes	Yes

- 6. **PUBLIC HEARINGS:** None

7. **SCHEDULED MATTERS:**

- A. General Manager Robert Granberg recommended that the Board adopt the 2018 East Stanislaus Integrated Regional Water Management Plan Update.

Lindsay Smith from West Yost Associates presented information on the Round 1 Prop 1 IRWM Implementation Grant, inclusion of the SRWA in the application, East Stanislaus IRWM Round 1 Grant Project timeline and eligibility requirements, including the adoption of the 2018 East Stanislaus Integrated Regional Water Management Plan Update.

Chair Vierra opened public participation. The following members of the public spoke:

Milt Trieweiler

Chair Vierra closed public participation.

The Board and staff discussed the frequency of grant funding availability for the Project.

Action: Resolution 2020-008 Motion by Director Esquer, seconded by Vice Chair Bublak, adopting the 2018 East Stanislaus Integrated Regional Water Management Plan Update. Motion carried 4/0 by the following vote:

Director Esquer	Director Ryno	Vice Chair Bublak	Chair Vierra
Yes	Yes	Yes	Yes

8. MATTERS TOO LATE FOR THE AGENDA: None

9. BOARD ITEMS FOR FUTURE CONSIDERATION:

Chair Vierra recommended Chair and Vice Chair appointments be agendized for future consideration.

10. BOARD COMMENTS: None

11. NEXT MEETING DATE: October 15, 2020, Regular meeting

12. CLOSED SESSION: None

13. ADJOURNMENT: Motion by Director Ryno, second by Director Esquer, to adjourn at 3:57 p.m. Motion carried 4/0.

*Respectfully submitted,*

**DRAFT**

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Allison Martin, Board Secretary



From: Robert Granberg, General Manager  
Prepared by: Richard Shanahan, General Counsel

**1. ACTION RECOMMENDED:**

Resolution: Adopting a resolution approving the SRWA Regional Surface Water Supply Project SRF-Related Agreement

**2. DISCUSSION OF ISSUE:**

Stanislaus Regional Water Authority (SRWA) has awarded a design-build contract for the design and construction of the Regional Surface Water Supply Project, including the raw water pump station, water treatment plant, raw and finished water pipelines and Aldrich Road Bridge replacement. The project costs will be funded by the Cities of Ceres and Turlock and Turlock Irrigation District.

On February 28, 2020, SRWA and the three funding agencies approved the Regional Surface Water Supply Phase 3 Project Design and Construction Funding Agreement (the Phase 3 Funding Agreement) to facilitate the funding, cash flow, and bookkeeping for the performance of the design-build work. As part of that agreement, the cities consented to SRWA approval and award of the design-build contract, and SRWA's application to the State Water Resources Control Board (SWRCB) for loan financing under the Drinking Water State Revolving Fund (SRF) program. The Phase 3 Funding Agreement sets forth detailed procedures concerning the capital costs budget, quarterly forecasts and payments, SRF financing reconciliation, and year-end and post-construction accountings.

The Phase 3 Funding Agreement explains that SRWA and the cities plan to eventually fund the project costs through the SRF financing and that, until the SRF financing, each city will fund its share of the costs through interim financing arranged by each city. Section 2.2 of the agreement provides: "If SWRCB decides to approve the SRF Financing agreement with SRWA, then, prior to the final approval of that agreement, SRWA and the Cities plan to enter into a separate agreement as a supplement to this Agreement that would (a) confirm each City's commitment to fund its share of the SRF Financing costs, (b) pledge certain City water system enterprise net revenue to support the SRF Financing, and (c) set forth additional acceptable City covenants and other contract terms relating to the SRF Financing."

Since February 2020, SRWA has continued to work on its SWRCB SRF funding agreement and the SWRCB has continued to evaluate the application and credit risk. Recently, SWRCB provided to SRWA a proposed SRF construction installment sale agreement (the SRF Financing Agreement) and the SWRCB has indicated that it expects to soon finalize and approve the SRF Financing Agreement. SWRCB plans to rely on the SRWA/cities SRF-related agreement to be approved under Phase 3 Funding Agreement section 2.2 as part of its loan security.

SRWA and the cities therefore have negotiated and prepared the SRWA Regional Surface Water Supply Project SRF-Related Agreement (in the form as presented at this meeting; the SRF-Related Agreement) pursuant to section 2.2 of the Phase 3 Funding Agreement. The following is a brief summary of the key terms of the proposed SRF-Related Agreement:

- Each city reaffirms its consent to the SRF financing (subject to review and approval of the final SRF Financing Agreement).
- Each city agrees to pay its share of the SRF installment loan payments. Initially, the repayment shares would be Ceres 33.33% and Turlock 66.67%. Following project construction, the repayment shares would be recalculated and reconciled based on each city's final total capital costs for the project as calculated pursuant to the Phase 3 Funding Agreement (and detailed cost shares set forth in an attachment to that agreement).
- Each city pledges to maintain a water system enterprise fund.
- Each city's share of the installment loan payments would be secured by a lien on and pledge of its net water system revenue.
- Each city pledges to fix and collect water system service charges sufficient to generate revenue to cover its share of the installment loan payments together with other water system costs.
- There are provisions restricting a city's ability to incur additional debt secured by its water system revenue.

Approval of the SRF-Related Agreement at this time would provide financial security for the SWRCB as it continues to evaluate whether to approve the SRF Financing Agreement.

SRWA staff recommend approval of the SRF-Related Agreement. Staff have prepared a resolution approving the agreement and recommend that the Board adopt the resolution.

**3. FISCAL IMPACT / BUDGET AMENDMENT:**

SRWA and the cities already are committed to fund the project pursuant to the terms of the Phase 3 Funding Agreement and CH2M HILL design-build contract. Approval of the SRF-Related Agreement should facilitate the final approval of the SRF Financing Agreement and its favorable loan and repayment terms. Consequently, the overall fiscal impact of the agreement should be positive.

**4. GENERAL MANAGER COMMENTS:**

Recommends adoption of the resolution.

**5. ENVIRONMENTAL DETERMINATION:**

The approval of the SRF-Related Agreement would facilitate funding of the design and construction of the project-related improvements that are set forth in the project description in the SRWA final environmental impact report for the project. This action therefore is consistent with and covered by the previously certified FEIR.

**6. ALTERNATIVES:**

Do not approve the agreement at this time. Under this scenario, the SWRCB probably would not proceed to approve the SRF Financing Agreement.



**BEFORE THE GOVERNING BOARD OF THE STANISLAUS REGIONAL  
WATER AUTHORITY**

**IN THE MATTER OF APPROVING }  
SRWA REGIONAL SURFACE WATER SUPPLY }  
PROJECT SRF-RELATED FUNDING }  
AGREEMENT }**

**RESOLUTION NO. 2020-\_\_\_\_**

**BE IT RESOLVED** by the Governing Board of the Stanislaus Regional Water Authority as follows:

1. Recitals. This resolution is adopted with reference to the following background recitals:

a. The Stanislaus Regional Water Authority has awarded a design-build contract for the design and construction of the Regional Surface Water Supply Project. On February 28, 2020, SRWA, Cities of Ceres and Turlock, and Turlock Irrigation District approved the Regional Surface Water Supply Phase 3 Project Design and Construction Funding Agreement (the Phase 3 Funding Agreement) to facilitate the funding, cash flow, and bookkeeping for the performance of the design-build work.

b. The Phase 3 Funding Agreement explains that SRWA and the cities plan to fund the project costs through a Drinking Water State Revolving Fund (SRF) financing agreement. SRWA and the cities have negotiated and prepared the SRWA Regional Surface Water Supply Project SRF-Related Agreement to facilitate and support the SRF financing.

c. The General Manager recommends that the Board approve the SRWA Regional Surface Water Supply Project SRF-Related Agreement in the form as presented at this meeting.

2. Approval of Agreement. The Board approves the SRWA Regional Surface Water Supply Project SRF-Related Agreement in the form as presented at this meeting and authorizes and directs the General Manager to sign the agreement. The Board further authorizes the delivery and performance of the agreement.

**PASSED AND ADOPTED** at a regular meeting of the Governing Board of the Stanislaus Regional Water Authority on November 19, 2020, by the following vote:

AYES:  
NOES:  
NOT PARTICIPATING:  
ABSENT:

ATTEST:

\_\_\_\_\_  
Allison Martin, Board Secretary

**SRWA REGIONAL SURFACE WATER SUPPLY PROJECT  
SRF-RELATED FUNDING AGREEMENT**

THIS AGREEMENT is made between Stanislaus Regional Water Authority, a joint powers authority ("SRWA"), City of Ceres, a general law city ("Ceres"), and City of Turlock, a general law city ("Turlock"). Ceres and Turlock are referred to collectively as the "Cities" or a "City." The parties agree as follows:

**1. Effective and Operative Dates.** This Agreement will become effective when (a) it is approved and signed by all three parties, and (b) both Cities have notified SRWA in writing that the conditions to the issuance of additional Parity Obligations (defined below) can be satisfied in accordance with section 5.2. The Cities understand and acknowledge that SRWA and the State Water Resources Control Board will rely on this Agreement in deciding whether to execute and deliver a Construction Installment Sale Agreement under the Drinking Water State Revolving Fund program.

**2. Definitions.** Unless otherwise specified, the capitalized terms used in this Agreement have the following meanings:

2.1. "Additional Revenue" means any or all of the following amounts:

a. An allowance for Net Revenue from any additions or improvements to or extensions of the Enterprise to be made with the proceeds of such Parity Obligations and also for Net Revenue from any such additions, improvements or extensions which have been made from moneys from any source but in any case which, during all or any part of the latest fiscal year or any twelve (12) consecutive month period within the immediately preceding eighteen (18) months, were not in service, all in an amount equal to ninety percent (90%) of the estimated additional average annual Net Revenue to be derived from such additions, improvements and extensions for the first thirty-six (36) month period in which each addition, improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of a qualified independent professional engineer (which may but need not be the outside firm providing engineering services) retained by the applicable City.

b. An allowance for Net Revenue arising from any increase in the charges made for service from the Enterprise which has become effective prior to the incurring of such Parity Obligations but which increase in charges, during all or any part of the latest fiscal year or other such twelve (12) month period selected by the City, was not in effect, in an amount equal to the total amount by which the Net Revenue would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or twelve (12) month period, all as shown by the certificate or opinion of an Independent Certified Public Accountant (which may but need not be the outside firm providing auditing services) retained by the applicable City.

2.2. "Agreement" means this SRWA Regional Surface Water Supply Project SRF-Related Funding Agreement, as amended in accordance with its terms.

2.3. "City," "Cities," "Ceres," "Turlock" and "SRWA" are defined in the first paragraph.

2.4. "Ceres Share" has the meaning set forth at section 5.3(c).

2.5. "Dedicated Capacity" means the dedicated capacity in the Regional Water Project facilities (as defined in the Phase 3 Funding Agreement) purchased by each City as described further in sections 5.1 and 5.2.

2.6. "Design-Build Contract" means the Design-Build Contract for the Regional Surface Water Supply Project dated July 6, 2020 between SRWA and CH2M HILL Engineers, Inc., as the same may be amended.

2.7. "Enterprise Fund" means, for each City, the enterprise fund in which the City deposits its Revenue.

2.8. "Independent Certified Public Accountant" means any firm of certified public accountants appointed by the applicable City, each of whom is independent of the Cities and SRWA pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

2.9. "Joint Powers Agreement" means the Amended Drinking Water Supply Project Joint Exercise of Powers Agreement Between the Cities of Ceres and Turlock for the Purpose of Creating a Joint Powers Authority Responsible for Decisions in Certain Matters Pertaining to the Municipal and Industrial Water Supply Programs for the Aforementioned Public Entities dated December 12, 2015, as amended.

2.10. "Master Installment Purchase Agreement" means the Master Installment Purchase Agreement, dated June 1, 2017 between Turlock and the Turlock Public Financing Authority (which is attached as Exhibit A), as the same may be supplemented, amended or replaced in accordance with the terms thereof.

2.11. "Operations and Maintenance Costs" means, so long as any System Obligation other than the obligation of each City to make payments under this Agreement is outstanding:

a. "Operation and Maintenance Costs" as defined in the 2020 Wastewater Installment Agreement as it relates to Ceres, and

b. "Maintenance and Operation Costs of the Water System" as defined in the Master Installment Purchase Agreement as it relates to Turlock,

and if the only System Obligation of a City that is outstanding is the obligation of such City to make payments under this Agreement, as it relates to such City, the reasonable and necessary costs paid or incurred by such City for maintaining and operating its potable water system, determined in accordance with generally accepted accounting principles, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the potable water system in good repair and working order, and including all reasonable and necessary administrative costs of such City that are charged directly or apportioned to the operation of the potable water system, such as salaries and wages of employees, overhead, taxes (if any), the cost of permits, licenses, and charges to operate the potable water system and insurance premiums; but excluding, in all

cases depreciation, replacement, and obsolescence charges or reserves therefor and amortization of intangibles.

#### 2.12. Parity Obligation

a. For Ceres, “Parity Obligation” has the meaning given to such term in the 2020 Water Installment Agreement.

b. For Turlock, “Parity Obligation” has the meaning given such term in the Master Installment Purchase Agreement and includes Turlock’s obligations to make installment payments relating to the Turlock Public Financing Authority Water System Revenue Bonds, Series 2017.

2.13. “Phase 3 Funding Agreement” means the Regional Surface Water Supply Phase 3 Project Design and Construction Funding Agreement dated February 28, 2020 among SRWA, Cities, and Turlock Irrigation District (which is attached as Exhibit B), as the same may be amended.

2.14. “Project” means the Phase 3 Project (as defined in the Phase 3 Funding Agreement) to be financed (and refinanced) by the SRF Agreement and as further described in that agreement.

2.15. “Project Costs” mean the Phase 3 Project Costs (as defined in the Phase 3 Funding Agreement) that are eligible for financial assistance under the SRF Agreement, including SRF-eligible costs to be paid under the Design-Build Contract. For the avoidance of doubt, any Project Costs that are financed by a City’s Interim Financing (as defined in the Phase 3 Funding Agreement) shall be eligible for refinancing under the SRF Agreement.

#### 2.16. Revenue and Net Revenue

a. For Ceres, “Revenue” and “Net Revenue” have the meanings given to the terms “Revenues” and “Net Revenues” in the 2020 Water Installment Agreement.

b. For Turlock, “Revenue” and “Net Revenue” have the meanings given to the terms “System Revenues” and “Net System Revenues” in the Master Installment Purchase Agreement.

2.13. “SRF Agreement” means the Stanislaus Regional Water Authority and California State Water Resources Control Board Construction Installment Sale Agreement for the Project financing as executed and delivered by SRWA and the State Water Board under the SRF Program.

2.14. “SRF Payment” means payment by SRWA to the State Water Board as required by, and as the term “Payment” is defined in, the SRF Agreement.

2.15. “SRF Program” means the Drinking Water State Revolving Fund program administered by the State Water Board. YY “State Water Board” means the California State Water Resources Control Board.



2.16. "System" means, for so long as any System Obligations other than each City's obligations to make payments under this Agreement is outstanding, "Water System" as defined in the Master Installment Purchase Agreement as it relates to Turlock, and "Enterprise", as defined in the 2020 Water Installment Agreement as it relates to Ceres, and thereafter, means the water system of each City.

2.17. "System Obligation" means any obligation of a City payable from its Net Revenue, including, but not limited to, a City's obligation to make installment payments to SRWA under this Agreement, any Parity Obligation, and such additional obligations as may hereafter be issued.

2.18. "Turlock Share" has the meaning set forth at section 5.3(c).

2.19. "2020 Water Installment Agreement" shall mean that certain 2020 Water Installment Agreement dated as of March 1, 2020 between Ceres and CN Financing, Inc., a California corporation (which is attached as Exhibit C), as the same may be amended or supplemented.

**3. Recitals.** This Agreement is made with reference to the following background recitals:

3.1. SRWA was formed by the Cities pursuant to the Joint Powers Agreement. On February 28, 2020, SRWA, the Cities, and Turlock Irrigation District entered into the Phase 3 Funding Agreement relating to the design, construction, and funding of certain Project facilities. On June 29, 2020, SRWA awarded the Design-Build Contract to CH2M HILL Engineers, Inc. for the design and construction of Project facilities.

3.2. SRWA has applied to the State Water Board for financial assistance under the SRF Program to finance the Project Costs. SRWA anticipates entering into the SRF Agreement with the State Water Board in coming months.

3.3. Under the Phase 3 Funding Agreement, each City has advanced and will advance funding to SRWA for the City's share of the Project Costs, which has enabled SRWA to award and begin work under the Design-Build Contract and pay some Project Costs ahead of the SRF Agreement. The Cities advanced the funds with the expectation that, if SRWA and the State Water Board approve the SRF Agreement, disbursements under the SRF Agreement will be used to reimburse each City for its advance funding (to the extent eligible under the terms of the SRF Agreement).

3.4. Each City is also pursuing Interim Financing to finance such City's share of the Project Costs in anticipation of the execution and delivery of the SRF Agreement. As a condition to the effectiveness of this Agreement, the SRF Agreement shall explicitly contain the agreement of the State Water Board that the proceeds of the financing under the SRF Agreement will refinance the portion of each Interim Financing used to pay Project Costs.

3.5. SRWA therefore has used and will use the funding advances received from the Cities to pay Project Costs (e.g., for SRWA payments to CH2M HILL Engineers, Inc. under the Design-Build Contract). Following execution and delivery of the SRF Agreement, SRWA plans to request SRF Agreement disbursements to reimburse SRWA for its direct expenses incurred on eligible Project Costs. After State Water Board disbursement and

reimbursement to SRWA, SRWA plans to use those funds to repay the funding advances from the Cities (to the extent eligible under the terms of the SRF Agreement).

3.6. SRWA will supply a wholesale treated water supply to the Cities. SRWA will not be a retail water service provider and it will not receive water enterprise rates and charges from retail customers. Instead, SRWA's principal revenue source will be funding contributions from the Cities pursuant to the terms of the Phase 3 Funding Agreement and this Agreement. Phase 3 Funding Agreement section 2.2 provides: "If SWRCB decides to approve the SRF Financing agreement with SRWA, then, prior to the final approval of that agreement, SRWA and the Cities plan to enter into a separate agreement as a supplement to this Agreement that would (a) confirm each City's commitment to fund its share of the SRF Financing costs, (b) pledge certain City water system enterprise net revenue to support the SRF Financing, and (c) set forth additional acceptable City covenants and other contract terms relating to the SRF Financing." This Agreement is the supplemental agreement contemplated by section 2.2 of the Phase 3 Funding Agreement.

3.7. This Agreement supplements the Phase 3 Funding Agreement with regard to SRWA and the Cities. This Agreement is intended to commit each City to fund its share of SRF Payments under the SRF Agreement, pledge each City's Net Revenue to support the SRF Agreement financing, and make other City covenants consistent with the SRF Agreement.

a. For Turlock, this Agreement shall constitute a Parity Obligation as defined under the Master Installment Purchase Agreement and accordingly Turlock's obligations to make payments under this Agreement shall be secured by the lien on Net Revenue created by the Master Installment Purchase Agreement and shall be payable on a parity with the other Parity Obligations.

b. For Ceres, this Agreement shall constitute a Parity Obligation as defined under the 2020 Water Installment Agreement and accordingly Ceres' obligations to make payments under this Agreement shall be secured by the lien on Net Revenue created by the 2020 Water Installment Agreement and shall be payable on a parity with the other Parity Obligations.

#### **4. Consent to SRF Agreement**

4.1. Each City acknowledges that it has consented to the following in the Phase 3 Funding Agreement: (a) SRWA has applied for SRF Program financing in order to finance each City's share of the Project Costs, (b) SRWA will fund its SRF Payment obligations through funding contributions provided by the Cities pursuant to the Joint Powers Agreement, Phase 3 Funding Agreement, and this Agreement, and (c) if approved by the State Water Board, SRWA may accept the SRF Program financing and execute and deliver the SRF Agreement. Pursuant to Section 2.2 of the Phase 3 Funding Agreement, SRWA has agreed to provide a final draft of the SRF Agreement to the Cities, prior to final approval.

4.2. Each City further consents that SRWA and its General Manager will represent SRWA in implementing and carrying out SRWA's responsibilities under the SRF Agreement, including approving and submitting disbursement requests (including claims

for reimbursement) or other required documentation, complying with applicable federal and state laws, and making any necessary certifications.

4.3. Each City acknowledges that the State Water Board will make SRF Agreement disbursements as and after SRWA incurs and pays Project Costs (except for the disbursements under the SRF Agreement to repay each City's Interim Financing as described in Section 3.4). Consequently, SRWA will require and the Phase 3 Funding Agreement provides for construction cash flow advance funding by the Cities to SRWA in order to satisfy SRWA's cash flow needs and enable SRWA to meet its contract obligations to timely pay Project Costs while awaiting the disbursement of money under the SRF Agreement.

## 5. City Commitment to Fund Share of SRF Payments

5.1. In the Phase 3 Funding Agreement, SRWA agrees to sell and convey, and each City agrees and commits to purchase, the Dedicated Capacity (as defined in the Phase 3 Funding Agreement). Ceres' Dedicated Capacity is 5 million gallons per day and Turlock's Dedicated Capacity is 10 million gallons per day. As the purchase price to be paid under the Phase 3 Funding Agreement, each City agreed in the Phase 3 Funding Agreement to purchase its share of Dedicated Capacity through satisfaction of its respective payment and funding obligations as set forth in the Phase 3 Funding Agreement and this Agreement. This Agreement supplements the purchase price to be paid by each City for its Dedicated Capacity.

5.2. The SRF Agreement provides for the State Water Board to loan and disburse Project funds to SRWA in a sum not to exceed a principal amount of \$184,923,690 (the "Project Funding Amount"). The Cities will share the obligation to fund SRWA's installment loan payments to the State Water Board under the SRF Agreement. Initially, Ceres' share of the SRF Agreement financing will be 33.33% and be equal to the Ceres Dedicated Capacity purchase price, and Turlock's share of the SRF Agreement financing will be 66.67% and be equal to the Turlock Dedicated Capacity purchase price.

As a condition to the effectiveness of this Agreement as it relates to Turlock, (1) SRWA shall provide to Turlock the calculation of 66.7% of the Project Funding Amount within 30 days before the SRF Agreement is to be executed and delivered by SRWA, and (2) Turlock shall notify SRWA that the conditions to the issuance of additional Parity Obligations under the Master Installment Purchase Agreement can be satisfied. If Turlock cannot satisfy the conditions to the issuance of additional Parity Obligations, Turlock will notify SRWA of same and this Agreement shall not become effective as to each City.

As a condition to the effectiveness of this Agreement as it relates to Ceres, (1) SRWA shall provide to Ceres the calculation of 33.3% of the Project Funding Amount within 30 days before the SRF Agreement is to be executed and delivered by SRWA, and (2) Ceres shall notify SRWA that the conditions to the issuance of additional Parity Obligations under the 2020 Water Installment Agreement can be satisfied. If Ceres cannot satisfy the conditions to the issuance of additional Parity Obligations, Ceres will notify SRWA of same and this Agreement shall not become effective as to each City.

5.3. The Cities acknowledge that the percentage shares in section 5.2 are preliminary and that SRWA plans to later modify each City's share based on this section 5.3 and a post-Project construction accounting and reconciliation in accordance with Phase 3 Funding Agreement section 5.5.

a. SRWA will prepare a post-construction accounting and reconciliation pursuant to Phase 3 Funding Agreement section 5.5. The reconciliation will include the calculation and preparation of a statement showing each City's final total capital costs for the Project as calculated and determined pursuant to the Phase 3 Funding Agreement (and incorporating the detailed breakout of the respective City shares for different Project components set forth in Exhibit A of that agreement). Subject to subsection (b), each City's final percentage share of the SRF Agreement financing will be the City's total final cost as shown on that statement as compared to the total costs for both Cities. For example, Ceres' share will equal Ceres' final, total costs divided by the Cities' final, total costs.

b. After completing the Phase 3 Funding Agreement section 5.5 reconciliation and statement, SRWA shall provide the statement (together with the proposed modified City percentage shares calculated based on the statement) to the Cities as soon as practicable. Upon receipt of the statement, each City promptly shall review its existing Revenue-secured bond and financing agreements to determine if the City's final, modified share and resulting City installment payments can be accommodated in compliance with such agreements. If a City determines that it can accommodate its share in compliance with the City's existing Revenue-secured bond and financing agreements, then the City promptly shall so notify SRWA and the other City in writing. If both Cities so determine and provide such notice, then the modified City shares shall take effect upon the date of the later of the City notices. If a City determines that it cannot accommodate its modified share in compliance with its existing Revenue-secured bond and financing agreements, then the City promptly shall (i) so notify SRWA and the other City in writing, and (ii) take and implement the necessary action to increase its Net Revenue or take such other steps as appropriate to make the modified share consistent with its Revenue-secured bond and financing agreements; in which case the modified City shares shall take effect upon the City's completion of such action. For avoidance of doubt, no changes can be made to increase the Turlock Share or the Ceres Share without satisfying the requirements of the Master Installment Purchase Agreement or the 2020 Water Installment Agreement, as applicable, for the incurrence of additional Parity Obligations.

c. The "Ceres Share" shall be the Ceres' percentage share of the SRF Agreement financing as determined in accordance with sections 5.2 and 5.3. The "Turlock Share" shall be the Turlock percentage share of the SRF Agreement financing as determined in accordance with section 5.2 and only if the conditions of section 5.3 are satisfied, then section 5.3.

5.4. Ceres agrees to pay SRWA the Ceres Dedicated Capacity purchase price by paying installment payments to SRWA in an amount equal to the Ceres Share of the SRF. Payments required to be paid by SRWA to the State Water Board pursuant to the SRF Agreement.

5.5. Turlock agrees to pay SRWA the Turlock Dedicated Capacity purchase price by paying installment payments to SRWA in an amount equal to the Turlock Share of the SRF.

Payments required to be paid by SRWA to the State Water Board pursuant to the SRF Agreement.

5.6. SRWA shall provide written notice to each City of the amount of installment payments (which also shall include City funding of the SRWA reserve fund required by the SRF Agreement in the proportion of 33.33% for Ceres and 66.67% for Turlock) due under this section 5 and the due date, at least 30 days prior to the due date. Each City shall remit each installment payment to SRWA by the corresponding due date. The City installment payment obligations will be based on the payment schedule provided by the State Water Board to SRWA under the SRF Agreement. The Cities acknowledge that the payment schedule included as an SRF Agreement exhibit will be modified and updated by the State Water Board after completion of Project construction to reflect the actual final loan amounts and dates of disbursements to SRWA.

5.7. The obligation of each City to make the installment payments under this Agreement is absolute and unconditional and shall continue in effect until such time as SRWA has paid in full the City's share of the total SRF Payments payable by SRWA under the SRF Agreement. A City must not discontinue or suspend any installment payments required to be made by it under this Agreement when due, whether or not the Project, or any related part thereof, is operating or operable or has been completed, or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such installment payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

## **6. City Revenue Pledge and Establishment of Enterprise Fund**

6.1. In order to carry out its System Obligations, each City covenants that it shall establish and maintain or shall have established and maintained the Enterprise Fund. All Revenue received by each City shall be deposited when and as received in trust in the City's Enterprise Fund.

6.2. Each City's obligation under this Agreement shall be secured by a lien on and pledge of its Net Revenue on parity with the Parity Obligations. Each City pledges and grants such lien on and pledge of the Net Revenue to secure its obligation under this Agreement, including payment of its installment payments. The Net Revenue in the Enterprise Fund shall be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against a City.

6.3. Subject to the provisions of any outstanding System Obligation, including the Master Installment Purchase Agreement as it relates to Turlock and the 2020 Water Installment Agreement as it relates to Ceres, money on deposit in a City's Enterprise Fund shall be applied and used first, to pay the Operations and Maintenance Costs, and thereafter, all amounts due and payable with respect to the System Obligations without preference in priority. As it relates to each City, in the event of a shortfall, moneys on deposits in the Enterprise Fund shall be applied pro rata among Parity Obligations as set forth in the 2020 Water Installment Agreement, in the case of Ceres, and as set forth in the Master Installment Purchase Agreement, in the case of Turlock. After making all

payments hereinabove required to be made in each fiscal year, each City may expend in such fiscal year any remaining money in its Enterprise Fund for any lawful purpose of the City, including payment of subordinate debt.

6.4. A City must not make any pledge of or place any lien on Revenue except as otherwise provided or permitted by this Agreement and by the 2020 Water Installment Agreement, in the case of Ceres.

## **7. City Water Rate Covenant**

7.1. Each City must, to the extent permitted by law, fix, prescribe, and collect rates, fees, and charges for the System during each fiscal year that are reasonable, fair, and nondiscriminatory and that will be sufficient to generate Revenue in the amounts necessary to cover Operations and Maintenance Costs and to generate annual Net Revenue that is equal to the sum of (a) at least 120% of its Debt Service for such fiscal year with respect to all outstanding System Obligations senior to and on parity with the obligation under this Agreement, and (b) at least 100% of the Debt Service for such fiscal year with respect to all outstanding System Obligations subordinate to the obligation under this Agreement. For purposes of this calculation, "Debt Service" shall have the meanings as set forth in the SRF Agreement.

7.2. Each City may make adjustments from time to time in such rates, fees, and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates, fees, and charges then in effect unless the Net Revenue from such reduced rates, fees, and charges will at all times be sufficient to meet the requirements of this section 7.

7.3. Upon consideration of a voter initiative to reduce Revenue, a City must make an evaluation and finding regarding the effect of such a reduction on the City's ability to satisfy the rate covenant set forth in this section 7. Each City must make its findings available to the public and must request, if necessary, the city council of the City to file litigation to challenge any such initiative that it finds will render it unable to satisfy the rate covenant set forth in this section 7. Each City must diligently pursue and bear any and all costs related to such a challenge. Each City must notify and regularly update SRWA and the State Water Board regarding the status of any such challenge.

## **8. City Additional Debt Covenant**

8.1. Each City's future debt that is secured by Revenue pledged in this Agreement may not be senior to the City's obligation to make installment payments under this Agreement, except where the (a) new senior obligation refunds or refinances a senior obligation with the same lien position as the existing senior obligation, (b) the new senior obligation has the same or earlier repayment term as the refunded senior debt, (c) the new senior debt service is the same or lower than the existing debt service, and (d) the new senior debt will not diminish the City's ability to satisfy its installment payment obligation under this Agreement.

8.2. Each City may issue additional parity or subordinate debt only if its Net Revenue in the most recent fiscal year, excluding transfers from a rate stabilization fund, if any,

meets the ratio for the rate covenant in section 7 and with respect to any outstanding and proposed additional obligations. For purposes of the foregoing calculation of Net Revenue, each City may add to such Net Revenue any Additional Revenue.

## **9. General Provisions**

9.1. **Entire Agreement.** The parties intend this document, together with the Phase 3 Funding Agreement, to be the sole, final, complete, exclusive, and integrated expression and statement of the terms of their contract concerning the subject matter of this document. Other than the Phase 3 Funding Agreement, this Agreement supersedes all prior oral or written negotiations, representations, contracts or other documents that may be related to the subject matter of this Agreement, except those other documents that may be expressly referenced in this Agreement.

9.2. **Construction and Interpretation.** The parties agree and acknowledge that this Agreement has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

9.3. **Waiver.** The waiver at any time by any party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

9.4. **Amendment.** This Agreement may be modified or amended only by a subsequent written agreement approved and executed by all parties. Amendment by a party requires approval by that party's governing board at a noticed public meeting.

9.5. **Assignment.** This Agreement and all rights and obligations under it are personal to the parties. The Agreement may not be transferred, assigned, delegated, or subcontracted in whole or in part, whether by assignment, subcontract, merger, operation of law or otherwise, by a party without the prior written consent of the other parties. Any transfer, assignment, delegation, or subcontract in violation of this provision is null and void.

9.6. **Third-Party Beneficiary.** The parties intend for the State Water Board to be a third-party beneficiary of this Agreement, including but not limited to the provisions in Sections 5, 6, 7, and 8 and all the SRWA's rights and remedies.

9.7. **Records.** Upon request of the SRWA or the State Water Board, the Cities shall promptly provide any records, documents, or other information related to this Agreement, a City's Net Revenues, or the Project financed in accordance with this Agreement (to the extent the information is not otherwise in the possession of the SRWA). This includes but is not limited to records, documents, or other information regarding the Cities' compliance with the requirements in Sections 5, 6, 7, and 8 and may include information to be prepared by the Cities at the request of the SRWA or the State Water Board.

9.8. **Remedies Not Exclusive.** The remedies provided in this Agreement are cumulative and not exclusive, and are in addition to any other remedies that may be provided by law or

equity. A party's exercise of any remedy under this Agreement will not prejudice or affect the enforcement of any other remedy. If a City fails to make timely installment payments and fails to cure within 30 days from the date of notice by SRWA, SRWA may declare the unpaid balance of installment payments to be immediately due and payable. SRWA may enforce its right to receive installment payments by any judicial proceeding, including but not limited to an accounting and by mandamus or other proceeding to compel performance by the City and its officials and employees.

9.9. Notices. Any notice, demand, invoice or other communication required or permitted to be given under this Agreement must be in writing and delivered either (a) in person, (b) by prepaid, first class U.S. mail, (c) by a nationally-recognized commercial overnight courier service that guarantees next day delivery and provides a receipt, or (d) by email with confirmed receipt. Such notices, etc. shall be addressed as follows:

<p>SRWA:</p> <p>General Manager  Stanislaus Regional Water Authority  c/o City of Turlock  156 S. Broadway, Suite 270  Turlock, CA 95380  granbergassociates@gmail.com</p>	<p>City of Ceres:</p> <p>City Manager  City of Ceres  2220 Magnolia Street  Ceres, CA 95307  Tom.Westbrook@ci.ceres.ca.us</p>
<p>City of Turlock:</p> <p>City Manager  City of Turlock  156 S. Broadway  Turlock, CA 95380  TWells@turlock.ca.us</p>	

Notice given as above will be deemed given (a) when delivered in person, (b) three days after deposited in prepaid, first class U.S. mail, (c) on the date of delivery as shown on the overnight courier service receipt, or (d) upon the sender's receipt of an email from the other party confirming the delivery of the notice, etc. Any party may change its contact information by notifying the other party of the change in the manner provided above.

So long as the SRF Agreement is outstanding, a City shall provide notice to the SRWA and the State Water Board within 5 business days of the occurrence of any of the following events: (1) an action taken by the City in anticipation of bankruptcy; (2) failure to meet any of the requirements of Sections 5, 6, and 7; (3) litigation against the City with respect to this Agreement or the Project; (4) circulation of a petition to repeal, reduce, or otherwise



challenge the validity of the rates and charges for the System; or (5) the issuance of additional obligations secured by Net Revenues.

STANISLAUS REGIONAL WATER  
AUTHORITY

CITY OF CERES

Dated: \_\_\_\_\_, 2020

Dated: \_\_\_\_\_, 2020

By: \_\_\_\_\_  
Robert Granberg  
General Manager

By: \_\_\_\_\_  
City Manager

Attest:  
  
\_\_\_\_\_

Attest:  
  
\_\_\_\_\_

Approved as to form and content:

Approved as to form and content:

\_\_\_\_\_  
Richard P. Shanahan  
General Counsel

\_\_\_\_\_  
City Attorney

CITY OF TURLOCK

Dated: \_\_\_\_\_, 2020

By: \_\_\_\_\_  
City Manager

Attest:  
  
\_\_\_\_\_

Approved as to form and content:

\_\_\_\_\_  
City Attorney

**EXHIBIT A**  
**2017 Master Installment Purchase Agreement between Turlock and Turlock**  
**Public Financing Authority**

MASTER  
INSTALLMENT PURCHASE  
AGREEMENT

between the  
CITY OF TURLOCK

and the

TURLOCK PUBLIC FINANCING AUTHORITY

Dated as of June 1, 2017

RELATING TO  
INSTALLMENT PAYMENTS SECURED BY  
THE WATER FUND OF  
THE CITY OF TURLOCK, CALIFORNIA

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## MASTER INSTALLMENT PURCHASE AGREEMENT

This MASTER INSTALLMENT PURCHASE AGREEMENT, dated as of June 1, 2017, between the CITY OF TURLOCK, a municipal corporation duly organized and existing under and by virtue of the laws of the State of California (the "City"), and the TURLOCK PUBLIC FINANCING AUTHORITY, a joint exercise of powers entity duly organized and existing under and by virtue of the laws of the State of California (the "Authority");

### WITNESSETH:

WHEREAS, the City has previously undertaken and proposes to undertake in the future the acquisition, construction, installation and improvement of its water system (the "Project");

WHEREAS, the Authority has previously assisted the City in financing and refinancing components of the Project and has agreed to assist the City in financing and refinancing components of the Project for the City;

WHEREAS, the Authority proposes to sell components of the Project from time to time to the City and the City desires to purchase components of the Project from the Authority upon the terms and conditions set forth herein;

WHEREAS, the City has determined that the purchase of components of the Project by the City is necessary and proper for City uses and purposes;

WHEREAS, the City and the Authority have duly authorized the execution of this Installment Purchase Agreement;

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Installment Purchase Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Installment Purchase Agreement;

NOW, THEREFORE, IN CONSIDERATION OF THESE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

### ARTICLE I

#### DEFINITIONS

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein or therein have the meanings

defined herein, all of the following definitions shall be equally applicable to both the singular and plural forms of any of the terms defined herein:

Accountant's Report

The term "Accountant's Report" means a report signed by an Independent Certified Public Accountant.

Acquisition or Construction Fund

The term "Acquisition or Construction Fund" means any fund designated as such and established pursuant to any Issuing Instrument.

Authority

The term "Authority" means the Turlock Public Financing Authority, a joint exercise of powers entity duly organized and existing under and by virtue of the laws of the State of California.

Authorized City Representative

The term "Authorized City Representative" means the Mayor or the City Manager of the City or such other officer or employee of the City or other person who has been designated in writing as such representative by any of the foregoing or by resolution of the City Council of the City.

Balloon Indebtedness

The term "Balloon Indebtedness" means, with respect to any Series of Obligations twenty-five percent (25%) or more of the principal of which matures on the same date or within a 12-month period (with sinking fund payments on Term Obligations deemed to be payments of matured principal), that portion of such Series of Obligations which matures on such date or within such 12-month period; provided, however, that to constitute Balloon Indebtedness the amount of indebtedness maturing on a single date or over a 12-month period must equal or exceed 150% of the amount of such Series of Obligations which matures during any preceding 12-month period. For purposes of this definition, the principal amount maturing on any date shall be reduced by the amount of such indebtedness which is required, by the documents governing such indebtedness, to be amortized by prepayment or redemption prior to its stated maturity date.

Bond Counsel

The term "Bond Counsel" means a firm of attorneys which are nationally recognized as experts in the area of municipal finance.



### City

The term "City" means the City of Turlock, a municipal corporation, duly organized and existing under and by virtue of the laws of the State of California.

### Code

The term "Code" means the Internal Revenue Code of 1986, as amended, and the regulations thereunder and any successor to the Internal Revenue Code of 1986.

### Components

The term "Components" means components of the Project specified in a Supplement.

### Consultant

The term "Consultant" means the consultant, consulting firm, engineer, architect, engineering firm, architectural firm, accountant or accounting firm retained by the City to perform acts or carry out the duties provided for such consultant in this Installment Purchase Agreement. Such consultant, consulting firm, engineer, architect, engineering firm or architectural firm shall be nationally or regionally recognized within its profession for work of the character required. Any such accountants or accounting firms shall be independent certified public accountants licensed to practice in the State of California.

### Contracts

The term "Contracts" means any contract or lease of the City (including this Installment Purchase Agreement) authorized and executed by the City, the installment or lease payments of which are payable from the Net System Revenues and which are payable on a parity with Installment Payments.

### Credit Provider

The term "Credit Provider" means any municipal bond insurance company, bank or other financial institution or organization which is performing in all material respects its obligations under any Credit Support arrangements for some or all of the Parity Obligations.

### Credit Provider Reimbursement Obligations

The term "Credit Provider Reimbursement Obligations" means obligations of the City to repay, from Net System Revenues, amounts advanced by a Credit Provider as credit support or liquidity for Parity Obligations, including any interest on or other payments with respect to such amounts.

### Credit Support

The term "Credit Support" means a policy of insurance, a letter of credit, a stand-by purchase agreement, revolving credit agreement or other credit arrangement pursuant to which a Credit Provider provides credit or liquidity support with respect to the payment of interest, principal or the purchase price of any Parity Obligations.

### Debt Service

Except as otherwise provided in the next sentence, the term "Debt Service" means, for any Fiscal Year, the sum of (1) the interest payable during such Fiscal Year on all Outstanding Parity Obligations, assuming that all Outstanding Serial Parity Obligations are retired as scheduled and that all Outstanding Term Parity Obligations are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is to be paid from the proceeds of sale of any Parity Obligations), (2) that portion of the principal amount of all Outstanding Serial Parity Obligations maturing on the next succeeding principal payment date which falls in such Fiscal Year (excluding Serial Obligations which at the time of issuance are intended to be paid from the sale of a corresponding amount of Parity Obligations), (3) that portion of the principal amount of all Outstanding Term Parity Obligations required to be redeemed or paid on any redemption date which falls in such Fiscal Year (together with the redemption premiums, if any, thereon), and (4) any other regularly scheduled payments coming due on Parity Obligations in such Fiscal Year and not otherwise included in clauses (1) through (3) of this definition; provided that, (a) as to any Balloon Indebtedness, Tender Indebtedness and Variable Rate Indebtedness, interest thereon shall be calculated as provided in the definition of Maximum Annual Debt Service and principal shall be deemed due at the nominal maturity dates thereof; (b) the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Parity Obligations for which such debt service reserve fund was established and in each preceding year until such amount is exhausted; (c) the amount of any interest payable on any Parity Obligation for which there exists a Qualified Swap Agreement shall be the net amount payable by the City as provided in subsection (iv), subsection (v) or subsection (viii), as applicable, of the definition of Maximum Annual Debt Service; (d) the amount of payments on account of Parity Obligations which are redeemed, retired or repaid on the basis of the accreted value due on the scheduled redemption, retirement or repayment date shall be deemed principal payments, and interest that is compounded and paid as part of the accreted value shall be deemed payable on the scheduled redemption, retirement or repayment date but not before; and (e) principal of and interest on Outstanding Parity Obligations shall be reduced by the amount of any Subsidy Payments that the City receives or expects to receive relating to or in connection with such Outstanding Parity Obligations.

### Defaulted Obligations

The term "Defaulted Obligations" means Obligations in respect of which an Event of Default has occurred and is continuing.

### Event of Default

The term "Event of Default" means an event described in Section 8.01.

### Fiscal Year

The term "Fiscal Year" means the period beginning on July 1 of each year and ending on the next succeeding June 30, or any other twelve-month period selected and designated as the official Fiscal Year of the City.

### Independent Certified Public Accountant

The term "Independent Certified Public Accountant" means any firm of certified public accountants appointed by the City, and each of whom is independent pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

### Installment Payment Date

The term "Installment Payment Date" means any date on which an Installment Payment is due as specified in or determined pursuant to a Supplement.

### Installment Payments

The term "Installment Payments" means the Installment Payments scheduled to be paid by the City under and pursuant hereto and any Supplement.

### Installment Payment Obligations

The term "Installment Payment Obligations" means Obligations consisting of or which are supported in whole by Installment Payments.

### Installment Purchase Agreement

The term "Installment Purchase Agreement" means this Master Installment Purchase Agreement between the City and the Authority, dated as of June 1, 2017, as originally executed and as it may from time to time be amended or supplemented in accordance herewith.

### Issuing Instrument

The term "Issuing Instrument" shall mean any indenture, trust agreement or Installment Purchase Agreement including any Supplement or any other document under which Obligations are issued or created.

### Maintenance and Operation Costs of the Water System

The term "Maintenance and Operation Costs of the Water System" means the reasonable and necessary costs spent or incurred by the City for maintaining and operating the Water System, calculated in accordance with generally accepted accounting principles, including

(among other things) the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Water System in good repair and working order, and including administrative costs of the City attributable to the Project and this Installment Purchase Agreement, salaries and wages of employees, payments to employees retirement systems (to the extent paid from System Revenues), overhead, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms of the Obligations, including this Installment Purchase Agreement, including any amounts required to be deposited in any Rebate Fund pursuant to any Tax Certificate, and fees or expenses payable to any Credit Provider (other than in repayment of a Credit Provider Reimbursement Obligation), but excluding in all cases (i) depreciation, replacement and obsolescence charges or reserves therefor, (ii) amortization of intangibles or other bookkeeping entries of a similar nature, (iii) costs of capital additions, replacements, betterments, extensions or improvements to the Water System which under generally accepted accounting principles are chargeable to a capital account or to a reserve for depreciation, (iv) charges for the payment of principal and interest on any general obligation bond heretofore or hereafter issued for Water System purposes, (v) charges for the payment of principal and interest on any debt service on account of any obligation on a parity with or subordinate to the Installment Payments, and (vi) any adjustments to the carrying value of assets, liabilities, deferred inflows and/or deferred outflows due to the application of Governmental Accounting Standards Board (GASB) Statement No. 68 (pension accounting), or GASB Statement No. 45 (other post-employment benefits (OPEB) accounting), or any successor GASB pronouncements, including non-cash adjustments to salaries and benefits related to pension and other post-employment benefits costs.

#### Maximum Annual Debt Service

The term "Maximum Annual Debt Service" means, at any point in time, with respect to Parity Obligations then Outstanding, the maximum amount of principal and interest becoming due on the Parity Obligations in the then current or any future Fiscal Year, calculated by the City, a financial Consultant or an Independent Certified Public Accountant as provided in this definition and provided to the Trustee. For purposes of calculating Maximum Annual Debt Service, the following assumptions shall be used to calculate the principal and interest becoming due in any Fiscal Year:

(i) in determining the principal amount due in each year, payments shall (except to the extent a different subsection of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made in accordance with any amortization schedule established for such debt, including the amount of any Parity Obligations which are or have the characteristics of commercial paper and which are not intended at the time of issuance to be retired from the sale of a corresponding amount of Parity Obligations, and including any scheduled mandatory redemption or prepayment of Parity Obligations on the basis of principal or accreted value (as applicable) due upon such redemption or prepayment, and for such purpose, the redemption payment or prepayment shall be deemed a principal payment; in determining the interest due in each year, interest payable at a fixed rate shall (except to the extent subsection (ii) or (iii) of this definition applies) be assumed to be made at such fixed rate and on the required payment dates;

(ii) if all or any portion or portions of an Outstanding Series of Parity Obligations constitutes Balloon Indebtedness or if all or any portion or portions of a Series of Parity Obligations or such payments then proposed to be issued would constitute Balloon Indebtedness, then, for purposes of determining Maximum Annual Debt Service, each maturity which constitutes Balloon Indebtedness shall be treated as if it were to be amortized in substantially equal annual installments of principal and interest over a term of 25 years commencing in the year the stated maturity of such Balloon Indebtedness occurs, the interest rate used for such computation shall be determined as provided in subsection (iv) or (v) below, as appropriate, and all payments of principal and interest becoming due prior to the year of the stated maturity of the Balloon Indebtedness shall be treated as described in subsection (i) above;

(iii) if any of the Outstanding Series of Parity Obligations constitutes Tender Indebtedness or if Parity Obligations proposed to be issued would constitute Tender Indebtedness, then for purposes of determining Maximum Annual Debt Service, Tender Indebtedness shall be treated as if the principal amount of such Parity Obligations were to be amortized in accordance with the amortization schedule set forth in such Tender Indebtedness or in the standby purchase or liquidity facility established with respect to such Tender Indebtedness, or if no such amortization schedule is set forth, then such Tender Indebtedness shall be deemed to be amortized in substantially equal annual installments of principal and interest over a term of 25 years commencing in the year in which such Series is first subject to tender, the interest rate used for such computation shall be determined as provided in subsection (iv) or (v) below, as appropriate;

(iv) if any Outstanding Parity Obligations constitute Variable Rate Indebtedness (except to the extent subsection (ii) relating to Balloon Indebtedness or subsection (iii) relating to Tender Indebtedness applies), the interest rate on such Obligation shall be assumed to be the highest of the actual rate on the date of calculation, or if such Variable Rate Indebtedness has been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, provided that in the event that a Qualified Swap Agreement has been entered into with respect to such Variable Rate Indebtedness, the interest rate for purposes of computing Maximum Annual Debt Service shall be determined by (x) calculating the annualized net amount paid by the City under such Variable Rate Indebtedness and Qualified Swap Agreement (after giving effect to payments made under the Variable Rate Indebtedness and made and received by the City under the Qualified Swap Agreement) during the 12 months ending with the month preceding the date of calculation, or such shorter period that such Qualified Swap Agreement has been in effect, and (y) dividing the amount calculated in clause (x) by the average daily balance of the related Parity Obligations Outstanding during the 12-month period contemplated by clause (x);

(v) if Parity Obligations proposed to be issued will be Variable Rate Indebtedness (except to the extent subsection (ii) relating to Balloon Indebtedness or subsection (iii) relating to Tender Indebtedness applies), then such Parity Obligations shall be assumed to bear interest based on the following: if interest on the proposed Variable Rate Indebtedness is excludable from gross income under the applicable provisions of the Code, the most recently published Bond Buyer "Revenue Bond Index"

(or comparable index, if no longer published) plus 50 basis points, or if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities plus 50 basis points; provided that in the event that a Qualified Swap Agreement has been or is proposed to be entered into with respect to such Variable Rate Indebtedness, the interest rate for purposes of computing Maximum Annual Debt Service shall be determined by (a) calculating the net amount to be paid by the City under such Variable Rate Indebtedness and Qualified Swap Agreement (after giving effect to payments to be made under the Variable Rate Indebtedness and to be made and received by the City under the Qualified Swap Agreement) for the period during which the Qualified Swap Agreement is to be in effect and for this purpose any variable rate of interest agreed to be paid thereunder shall be deemed to be the rate at which the related Parity Obligation shall be assumed to bear interest, and (b) dividing the amount calculated in clause (a) by the average principal amount of the related Parity Obligation to be Outstanding during the first year after the issuance of such Parity Obligation;

(vi) if moneys or Permitted Investments have been deposited by the City into a separate fund or account or are otherwise held by the City or by a fiduciary to be used to pay principal and/or interest on specified Parity Obligations, then the principal and/or interest to be paid from such moneys, Permitted Investments or from the earnings thereon shall be disregarded and not included in calculating Maximum Annual Debt Service;

(vii) if Parity Obligations are Paired Obligations, the interest thereon shall be the resulting linked rate or effective fixed rate to be paid with respect to such Paired Obligations;

(viii) if an agreement or commitment which, at the time of calculation is a Qualified Swap Agreement, is or will be in effect with respect to a Parity Obligation which is not Variable Rate Indebtedness, the interest rate of such Parity Obligation for purposes of calculating Maximum Annual Debt Service shall be calculated as follows:

(a) for such a Qualified Swap Agreement which is in effect on the date of calculation, the interest rate shall be calculated in the same manner as is specified in subsection (iv) for a Qualified Swap Agreement issued in connection with Variable Rate Indebtedness which is Outstanding on the date of calculation; and

(b) for such a Qualified Swap Agreement which is not in effect on the date of calculation, the interest rate shall be calculated in the same manner as is specified in subsection (v) for a Qualified Swap Agreement to be issued in connection with Variable Rate Indebtedness to be Outstanding after the date of calculation, and for this purpose any variable rate of interest agreed to be paid thereunder shall be assumed to be the rate assumed for Variable Rate Indebtedness described in subsection (v); and

(ix) principal of and interest on Parity Obligations shall be reduced by the amount of any Subsidy Payments that the City receives or expects to receive relating to or in connection with such Parity Obligations.

### Maximum Rate

The term "Maximum Rate" means, on any day, the maximum interest rate allowed by law.

### Moody's

The term "Moody's" means Moody's Investors Service, Inc., a Delaware corporation, and its successors, and if such corporation shall for any reason no longer perform the functions of a securities rating agency, the term "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the City.

### Net Proceeds

The term "Net Proceeds" means, when used with respect to any insurance, self insurance or condemnation award, the proceeds from such award remaining after payment of all expenses (including attorneys' fees) incurred in the collection of such proceeds.

### Net System Revenues

The term "Net System Revenues" means, for any Fiscal Year, the System Revenues for such Fiscal Year less the Maintenance and Operation Costs of the Water System for such Fiscal Year; provided, that for purposes of the calculations required pursuant to Sections 5.03(c), 6.08(a) and 6.19, Net System Revenues for a Fiscal Year shall be reduced by the amount of any Subsidy Payments received or expected to be received by the City in such Fiscal Year with respect to or in connection with Outstanding Parity Obligations the extent the calculation of Debt Service on such Outstanding Parity Obligations is reduced by such Subsidy Payments as provided in the definition of Debt Service.

### Obligations

The term "Obligations" means (i) obligations of the City for money borrowed (such as bonds, notes or other evidences of indebtedness) or as installment purchase payments under any contract (including Installment Payments), or as lease payments under any financing lease (determined to be such in accordance with generally accepted accounting principles), the payments on which are payable from Net System Revenues; (ii) obligations to replenish any debt service reserve funds with respect to such obligations of the City; (iii) obligations secured by or payable from any of such obligations of the City; and (iv) obligations of the City payable from Net System Revenues under (a) any contract providing for payments based on levels of, or changes in, interest rates, currency exchange rates, stock or other indices, (b) any contract to exchange cash flows or a series of payments or (c) any contract to hedge payment, currency, rate spread or similar exposure, including but not limited to interest rate swap agreements and interest rate cap agreements.

### Outstanding

The term "Outstanding," when used as of any particular time with respect to Obligations, means all Obligations theretofore or thereupon executed, authenticated and

delivered by the City or any trustee or other fiduciary, except (i) Obligations theretofore cancelled or surrendered for cancellation; (ii) Obligations paid or deemed to be paid within the meaning of any defeasance provisions thereof; (iii) Obligations owned by the City or the Authority; and (iv) Obligations in lieu of or in substitution for which other Obligations have been executed and delivered.

#### Owner

The term "Owner" means the registered owner of any Outstanding Obligation certificate or other evidence of a right to receive Installment Payments directly or as security for payment of the Obligation.

#### Paired Obligations

The term "Paired Obligations" means any Series (or portion thereof) of Parity Obligations designated as Paired Obligations in a Supplement or related Issuing Instrument or other document authorizing the issuance or incurrence thereof, which are simultaneously issued or incurred (i) the principal of which is of equal amount maturing and to be redeemed (or cancelled after acquisition thereof) on the same dates and in the same amounts, and (ii) the interest rates which, taken together, result in an irrevocably fixed interest rate obligation of the City for the terms of such Paired Obligations.

#### Parity Installment Obligation

The term "Parity Installment Obligation" means Obligations consisting of or payable from Installment Payments which are not subordinated in right of payment to other Installment Payments.

#### Parity Obligations

The term "Parity Obligations" means (i) Parity Installment Obligations, (ii) Obligations the payments with respect to which are payable on a parity with Parity Installment Obligations, (iii) Qualified Take or Pay Obligations, (iv) Qualified Swap Agreements, and (v) Credit Provider Reimbursement Obligations. Notwithstanding the foregoing, any amounts payable with respect to a Qualified Swap Agreement which represent termination payments or unwinding payments shall not be deemed to be Parity Obligations unless (a) such Qualified Swap Agreement expressly states that such termination payments or unwinding payments are to be considered Parity Obligations and (b) each Rating Agency which maintains a rating with respect to any Parity Obligation at the request of the City confirms in writing to the City that the inclusion of such termination payments or unwinding payments as Parity Obligations will not result in a downgrading, withdrawal or suspension of such rating.

#### Paying Agent or Paying Agents

The term "Paying Agent" or "Paying Agents" means, with respect to an Installment Payment Obligation or Series of Installment Payment Obligations, the bank, trust company or other financial institution, if any, or other entities designated as the place or entity



which shall make payment on such Installment Payment Obligation or a Series of Installment Payment Obligations and/or the interest thereon instead of or in addition to the City.

Payment Fund

The term "Payment Fund" means the fund designated in the Issuing Instrument as the fund into which Installment Payments are to be deposited for the purposes of paying payments on related Obligations.

Permitted Investments

The term "Permitted Investments" means investments which pursuant to an Issuing Instrument are permissible for the investment of funds received from the sale of Obligations pursuant to the Issuing Instrument or from other funds held pursuant to the Issuing Instrument.

Project

The term "Project" means the construction, replacement and improvements to the Water System.

Purchase Price

The term "Purchase Price" means the principal amount plus interest thereon owed by the City to the Authority under the terms hereof as provided in Section 4.01 and as specified in a Supplement.

Qualified Swap Agreement

The term "Qualified Swap Agreement" means a contract or agreement, payable from Net System Revenues on a parity with Parity Obligations, intended to place Obligations on the interest rate, currency, cash flow or other basis desired by the City, including, without limitation, any interest rate swap agreement, currency swap agreement, forward payment conversion agreement or futures contract, any contract providing for payments based on levels of, or changes in, interest rates, currency exchange rates, stock or other indices, any contract to exchange cash flows or a series of payments, or any contract, including, without limitation, an interest rate floor or cap, or an option, put or call, to hedge payment, currency, rate, spread or similar exposure, between the City and a counterparty.

Qualified Take or Pay Obligation

The term "Qualified Take or Pay Obligation" means the obligation of the City to make use of any facility, property or services, or some portion of the capacity thereof, or to pay therefor from System Revenues, or both, whether or not such facilities, properties or services are ever made available to the City for use, and there is provided by the City a certificate of the City or, at the City's option, a Consultant to the effect that the incurrence of such obligation will not adversely affect the ability of the City to comply with the provisions of Section 6.08(a) for each

of the five (5) full Fiscal Years following the execution of such proposed Qualified Take or Pay Obligation.

#### Rating Agencies

The term "Rating Agencies" means Moody's and S&P, or whichever of them is rating Parity Obligations at the request of the City.

#### Rebate Fund

The term "Rebate Fund" means the fund by that name established pursuant to any Issuing Instrument or Tax Certificate.

#### Rebate Requirement

The term "Rebate Requirement" shall have the meaning specified in any Tax Certificate.

#### Regional Surface Water Supply Project Contract

The term "Regional Surface Water Supply Project Contract" means any contract relating to the capital costs of the Regional Surface Water Supply Project between the City and the Turlock Irrigation District and/or the City of Ceres and/or the Stanislaus Regional Water Authority.

#### Reserve Fund and Reserve Account

The terms "Reserve Fund" and "Reserve Account" shall have the meanings given to such terms in any Issuing Instrument.

#### Reserve Fund Deposit Amount

The term "Reserve Fund Deposit Amount" means (i) the amount necessary to cause the amount on deposit in the applicable Reserve Fund or Reserve Account to equal the applicable Reserve Requirement, in the case of deposits being made annually, and (ii) one-fourth of the amount described in clause (i) in the case of deposits being made quarterly; provided that the last such quarterly deposit may be in such lesser amount as is necessary to cause the balance in such Reserve Fund or Reserve Account to equal the applicable Reserve Requirement.

#### Reserve Fund Deposit Date

The term "Reserve Fund Deposit Date" means (i) each March 15, June 15, September 15, and December 15 in the case of a deficiency in any Reserve Fund or Reserve Account due to the withdrawal of cash from, or the unreimbursed drawing on any credit facility on deposit in, any Reserve Fund or Reserve Account, and (ii) each September 15 in the case of a deficiency in any Reserve Fund or Reserve Account for any other reason, including without limitation the downward valuation of investments on deposit in such Reserve Fund or Reserve Account.

### Reserve Requirement

The term "Reserve Requirement" shall have the meaning given to such term in any Issuing Instrument.

### S&P

The term "S&P" means S&P Global Ratings, a business of Standard & Poor's Financial Services, LLC, and its successors, and if such entity shall for any reason no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the City.

### Serial Parity Obligations

The term "Serial Parity Obligations" means Serial Obligations which are Parity Installment Obligations or are payable on a parity with Parity Installment Obligations.

### Serial Obligations

The term "Serial Obligations" means Obligations for which no sinking fund payments are provided.

### Series

The term "Series" means Obligations issued at the same time or sharing some other common term or characteristic and designated as a separate Series.

### Subordinated Obligations

The term "Subordinated Obligations" means any Obligations, the payment of principal and interest on which are subordinated in right of payment to Parity Obligations.

### Subsidy Payments

The term "Subsidy Payments" means payments with respect to the interest due on any Parity Obligations or the interest due on any obligations secured by Parity Obligations made by the United States Treasury to the City, the Authority, or either of their designated payees pursuant to Section 54AA of the Code, Section 6431 of the Code or Section 1400U-2 of the Code or any successor to or extension or replacement of any of such provisions of the Code, or any provisions of the Code that create substantially similar direct-pay subsidy programs to such programs created pursuant to Sections 54AA, Section 6431 or Section 1400U-2 of the Code.

### Supplement

The term "Supplement" means a Supplement providing for the payment of specific Installment Payments as the Purchase Price for Components of the Project, executed and delivered by the City and the Authority.

### System Revenues

The term "System Revenues" means all income, rents, rates, fees, charges and other moneys derived from the ownership or operation of the Water System determined in accordance with generally accepted accounting principles, including, without limiting the generality of the foregoing, (i) all income, rents, rates, fees, charges (including standby, capacity and connection charges and excluding development impact fees and developer reimbursements), or other moneys derived by the City from the water services, facilities, and commodities or byproducts sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the Water System, but including, without limitation, all earnings and income derived from the investment of all such money and derived from the investment of all money in the Water Fund and investment earnings on the operating reserves to the extent that the use of such earnings is limited to the Water System by or pursuant to law and earnings on any Reserve Fund for Obligations but only to the extent that such earnings may be utilized under the Issuing Instrument for the payment of such Obligations; (ii) the proceeds derived by the City directly or indirectly from the lease of a part of the Water System; (iii) any amount received from the levy or collection of taxes which are solely available and are earmarked for the support of the operation of the Water System; (iv) all proceeds of insurance covering business interruption loss relating to the Water System; and (v) any Subsidy Payments. Notwithstanding the foregoing, System Revenues shall not include: (a) in all cases, customers' deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the City; and (b) the proceeds of borrowings. Notwithstanding the foregoing, there shall be deducted from System Revenues any amounts transferred into a Rate Stabilization Fund as contemplated by Section 6.08(b), and there shall be added to System Revenues any amounts transferred out of such Rate Stabilization Fund to pay Maintenance and Operation Costs of the Water System.

### Tax Certificate

The term "Tax Certificate" means any certificate delivered with respect to the maintenance of the tax-exempt status of Tax-Exempt Installment Payment Obligations.

### Tax-Exempt Installment Payment Obligations

The term "Tax-Exempt Installment Payment Obligations" means Installment Payment Obligations in respect of which it is intended that the interest component thereof will be excluded from gross income pursuant to Section 103 of the Code.

### Tender Indebtedness

The term "Tender Indebtedness" means any Parity Obligations or portions of Parity Obligations, a feature of which is an option, on the part of the holders thereof, or an obligation, under the terms of such Parity Obligations, to tender all or a portion of such Parity Obligations to the City, a Paying Agent or other fiduciary or agent for payment or purchase and requiring that such Parity Obligations or portions of Parity Obligations or that such rights to payments or portions of payments be purchased if properly presented.

Term Obligations

The term "Term Obligations" means Obligations which are payable on or before their specified maturity dates from sinking fund payments established for that purpose and calculated to retire such Obligations on or before their specified maturity dates.

Term Parity Obligations

The term "Term Parity Obligations" means Term Obligations which are Parity Installment Obligations or are payable on a parity with Parity Installment Obligations.

Trustee

The term "Trustee" means a financial institution acting in its capacity as Trustee under and pursuant to the any Issuing Instrument, and its successors and assigns.

Variable Rate Indebtedness

The term "Variable Rate Indebtedness" means any portion of indebtedness evidenced by Parity Obligations the interest rate on which is not established at the time of incurrence of such indebtedness and has not, at some subsequent date, been established at a rate which is not subject to fluctuation or subsequent adjustment, excluding Paired Obligations.

Water Fund

The term "Water Fund" has the meaning ascribed thereto in Section 5.02 hereof.

Water Service

The term "Water Service" means the water services made available or provided by the Water System.

Water System

The term "Water System" means any and all facilities, properties and improvements at any time owned, controlled or operated by the City as part of the Water Fund for providing retail water service to residents and water users.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations by the City. The City makes the following representations:

(a) The City is a municipal corporation organized and existing under and by virtue of the laws of the State of California.

(b) The City has full legal right, power and authority to enter into this Installment Purchase Agreement and carry out its obligations hereunder and to carry out and consummate all transactions contemplated by this Installment Purchase Agreement.

(c) By proper action, the City has duly authorized the execution, delivery and due performance of this Installment Purchase Agreement.

(d) The execution and delivery of this Installment Purchase Agreement and the consummation of the transactions herein contemplated will not violate any provision of law, any order of any court or other agency of government, or any indenture, material agreement or other instrument to which the City is now a party or by which it or any of its properties or assets is bound, or be in conflict with, result in a breach of or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement or other instrument, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the City.

(e) The City has determined that it is necessary and proper for City uses and purposes that the City acquire components of the Project in the manner provided for in this Installment Purchase Agreement, in order to provide essential services and facilities to the persons residing in the City.

Section 2.02. Representations and Warranties by the Authority. The Authority makes the following representations and warranties:

(a) The Authority is a joint exercise of powers entity duly organized and existing under and by virtue of the laws of the State of California.

(b) The Authority has full legal right, power and authority to enter into this Installment Purchase Agreement and to carry out and consummate all transactions contemplated by this Installment Purchase Agreement.

(c) By proper action, the Authority has duly authorized the execution, delivery and due performance of this Installment Purchase Agreement.

(d) The execution and delivery of this Installment Purchase Agreement and the consummation of the transactions herein contemplated will not violate any provision of law, any order of any court or other agency of government, or any indenture, material agreement or other instrument to which the Authority is now a party or by which it or any of its properties or assets is bound, or be in conflict with, result in a breach of or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement or other instrument, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Authority.

(e) The interest components of Tax-Exempt Installment Payment Obligations will not be includable in the gross income of the owners of such Obligations for federal income tax purposes.

## ARTICLE III

### ACQUISITION AND CONSTRUCTION OF COMPONENTS OF THE PROJECT

Section 3.01. Acquisition and Construction of the Components. The Authority hereby agrees to cause the Components to be constructed, acquired and installed by the City, as agent of the Authority. The City shall enter into contracts and provide for, as agent of the Authority, the complete construction, acquisition and installation of such Components. The City hereby agrees that it will cause the construction, acquisition and installation of the Components to be diligently performed.

It is hereby expressly understood and agreed that, except to the extent of proceeds of Obligations which are deposited in an Acquisition or Construction Fund, the Authority shall be under no liability of any kind or character whatsoever for the payment of any cost of any Components. In the event the proceeds of Obligations deposited in an Acquisition or Construction Fund are insufficient to complete the construction, acquisition and installation of Components, the City shall cause to be deposited in such Acquisition or Construction Fund (or shall otherwise appropriate and encumber) from and to the extent of available amounts on deposit in the Water Fund (or other lawfully available moneys) an amount equal to that necessary to complete the construction, acquisition and installation of such Components.

The Authority will not undertake to cause any Component to be constructed, acquired or installed unless and until the City and the Authority have entered into a Supplement specifying the Components to be installed and the purchase price to be paid by the City hereunder for such Components, and the Installment Payments or the method of calculating Installment Payments.

Section 3.02. Changes to the Components. The City may substitute other improvements for those listed as Components in any Supplement, but only if the City first files with the Authority and the Trustee a certificate of an Authorized City Representative:

- (i) identifying the Components to be substituted and the Components they replace;
- (ii) stating that the substituted Components will be accounted for in the Water Fund; and
- (iii) stating that with respect to Components financed with Tax-Exempt Installment Payment Obligations, the estimated costs of construction, acquisition and installation of the substituted improvements are not less than such costs for the improvements previously planned (or that the amount of any excess has been deposited in an Acquisition or Construction Fund or is otherwise appropriated and encumbered).

Substituted Components may include or consist of an undivided interest in such Components, in which event the costs associated with the substituted Components over and above the undivided interest need not be deposited in an Acquisition or Construction Fund (or otherwise appropriated and encumbered); provided that the certificate of an Authorized City

Representative specifies that the funds necessary to complete the substituted Components are on deposit in an Acquisition or Construction Fund or otherwise appropriated and encumbered.

## ARTICLE IV

### INSTALLMENT PAYMENTS

#### Section 4.01. Purchase Price.

(a) The City will pay the Purchase Price for any Components being purchased as provided in a Supplement. The Purchase Price to be paid by the City to the Authority pursuant to any Supplement hereto, solely from Net System Revenues and from no other sources, is the sum of the principal amount of the City's obligations under such Supplement plus the interest to accrue on the unpaid balance of such principal amount from the effective date thereof over the term thereof, subject to prepayment as provided therein.

(b) The principal amount of the Installment Payments to be made by the City under a Supplement shall be paid at least five days prior to the date such Installment Payments are payable as specified in such Supplement or at such other earlier time or times and in the manner or manners as specified in such Supplement.

(c) The interest to accrue on the unpaid balance of such principal amount shall be paid at least five days prior to the date such interest is payable as specified in a Supplement or at such other earlier time or times as specified in such Supplement, and shall be paid by the City as and constitute interest paid on the principal amount of the City's obligations thereunder. Interest shall be payable in an amount not exceeding the Maximum Rate, at such intervals and according to such interest rate formulas as shall be specified in a Supplement, and shall be payable with such frequency as shall be specified therein.

#### Section 4.02. Installment Payments; Reserve Fund Deposits

(a) The City may, subject to any rights of prepayment provided for in a Supplement, pay to the Authority, solely from Net System Revenues and from no other sources, the Purchase Price in installment payments over a period not to exceed the maximum period permitted by law, all as specified in a Supplement.

In the event that a Trustee notifies the City that the amount on deposit in a Reserve Fund or Reserve Account is less than the applicable Reserve Requirement, the City shall deposit or cause to be deposited, solely from Net System Revenues, in such Reserve Fund or Reserve Account the Reserve Fund Deposit Amount on or before the next succeeding Reserve Fund Deposit Date.

(b) The obligation of the City to make the Installment Payments solely from Net System Revenues is absolute and unconditional, and until such time as the Purchase Price shall have been paid in full (or provision for the payment thereof shall have been made pursuant to Article IX), the City will not discontinue or suspend any Installment Payments required to be made by it under this section when due, whether or not the Project or any part thereof is operating or operable or has been completed, or its use is suspended, interfered with, reduced or



curtailed or terminated in whole or in part, and such Installment Payments shall not be subject to reduction whether by offset or otherwise and shall not be conditioned upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

## ARTICLE V

### SYSTEM REVENUES

Section 5.01. Commitment of the Net System Revenues. All Parity Obligations, including Parity Installment Payment Obligations, shall be secured by a prior lien on and pledge of Net System Revenues, and within such lien priority, such Parity Obligations shall be of equal rank without preference, priority or distinction of any Parity Obligations over any other Parity Obligations. The City does hereby grant such prior lien on and pledge of Net System Revenues to secure Parity Obligations. Such lien and pledge shall constitute a first lien on Net System Revenues; provided, however, that out of Net System Revenues there may be apportioned such sums for such purposes as are expressly permitted by this Article V.

Section 5.02. Allocation of System Revenues. (a) In order to carry out and effectuate the commitment and pledge contained in Section 5.01, the City agrees and covenants that all System Revenues shall be received by the City in trust and shall be deposited when and as received in the City of Turlock Water Fund (the "Water Fund"), which fund the City agrees and covenants to maintain so long as any Parity Obligations remain Outstanding, and all moneys in the Water Fund shall be so held in trust and applied and used solely as provided herein. From amounts on deposit in the Water Fund, the City shall pay (i) directly or as otherwise required all Maintenance and Operation Costs of the Water System, (ii) to the applicable Trustee, as assignee of the Authority, for deposit in the applicable Payment Fund for Parity Obligations or to any other payee for Parity Obligations, the amounts specified in any Issuing Instrument, as payments due on account of Parity Obligations other than (A) payments due on account of Qualified Take or Pay Obligations, (B) payments due by the City under a Qualified Swap Agreement and (C) payments due to any Credit Provider for Credit Provider Reimbursement Obligations, (iii) to the obligee specified therein, any payment due as to Qualified Take or Pay Obligations, (iv) to the counterparty specified in any Qualified Swap Agreement, the amounts or payments due under such Qualified Swap Agreement that constitute Parity Obligations, and (v) to each Credit Provider, or its designated payee, the Credit Provider Reimbursement Obligations which have become due. In the event there are insufficient Net System Revenues to make all of the payments contemplated by clauses (ii), (iii), (iv) and (v) of the immediately preceding sentence due on a given date, then said payments should be made as nearly as practicable, pro rata, based upon the respective unpaid amounts of said Parity Obligations.

(b) On each Reserve Fund Deposit Date, after the payments, if any, required by paragraph (a) above to be made on or before such date have been made, any remaining Net System Revenues shall be used to fund the Reserve Fund Deposit Amount in the applicable Reserve Funds and Reserve Accounts for Parity Obligations. In the event there are insufficient Net System Revenues to pay all of the Reserve Fund Deposit Amounts for all Parity Obligations, such payments into Reserve Funds and Reserve Accounts shall be made as nearly as practicable pro rata based on the respective unpaid principal amount of all Parity Obligations secured by a Reserve Fund or Reserve Account. Any amounts thereafter remaining in the Water Fund may

from time to time be used to pay for capital expenditures for the Water System or any other Water System purpose, including payments on account of Subordinated Obligations, provided the following conditions are met:

(1) all Maintenance and Operation Costs of the Water System are being and have been paid and are then current; and

(2) all deposits and payments contemplated by clauses (ii), (iii) and (iv) of paragraph (a) above shall have been made in full and no deficiency in any Reserve Fund or Reserve Account for Parity Obligations shall exist, and there shall have been paid, or segregated within the Water Fund, the amounts payable during the current month pursuant to clauses (ii), (iii) and (iv) of paragraph (a) above.

Section 5.03. Additional Obligations. (a) The City may not create any Obligations the payments of which are senior or prior in right to the payment by the City of Parity Obligations.

(b) Without regard to Section 5.03(c), the City may at any time enter into or create an obligation or commitment which is a Credit Provider Reimbursement Obligation or a Qualified Swap Agreement provided the Obligation to which the Credit Provider Reimbursement Obligation or the Qualified Swap Agreement relates is a Parity Obligation.

(c) After the initial issuance of Parity Obligations hereunder, the City may at any time and from time to time issue or create any other Parity Obligations, provided:

(1) There shall not have occurred and be continuing (i) an Event of Default under the terms of this Installment Purchase Agreement or any Issuing Instrument or (ii) an Event of Default or Termination Event (as defined in any Qualified Swap Agreement) under any Qualified Swap Agreement; and

(2) The City obtains or provides a certificate or certificates, prepared by the City or at the City's option by a Consultant, showing that either:

(A) the Net System Revenues for either the most recent Fiscal Year for which audited financial statements are available or any 12 consecutive calendar month period during the 18 consecutive calendar month period ending immediately prior to the incurring of such additional Parity Obligations were at least sufficient to satisfy the rate covenant set forth in Section 6.08(a) for each of the next five full Fiscal Years following the incurring of such additional Parity Obligations or each of the next three full Fiscal Years following the incurring of such additional Parity Obligations during which no interest is capitalized, whichever is later, including the Debt Service during such Fiscal Years on such additional Parity Obligations; and for the purpose of providing such certificate or certificates, the City or the City's Consultant, as applicable, may adjust the Net System Revenues for such Fiscal Year or 12 calendar month period, as the case may be, to reflect:

(i) an allowance for Net System Revenues that would have been derived from each new connection to the Water System that was made prior to the incurrence of such additional Parity Obligations but which was not in existence, during all or any part of such Fiscal Year or 12 calendar month period under consideration, in an amount equal to ninety-five per cent (95%) of the estimated additional Net System Revenues that would have been derived from each such connection if it had been made prior to the beginning of such Fiscal Year or 12 calendar month period, and

(ii) an allowance for Net System Revenues that would have been derived from any increase in the rates, fees and charges fixed and prescribed for Water Service which became effective prior to the incurrence of such additional Parity Obligations but which was not in effect, during all or any part of such Fiscal Year or 12 calendar month period, in an amount equal to the estimated additional Net System Revenues that would have been derived from such increase in rates, fees and charges if it had been in effect prior to the beginning of such Fiscal Year or 12 calendar month period; or.

(B) the estimated Net System Revenues for each of the five full Fiscal Years next following the earlier of (i) the end of the period during which interest on such additional Parity Obligations is to be capitalized or, if no interest is capitalized, the Fiscal Year in which such additional Parity Obligations are incurred, or (ii) the date on which substantially all Components financed with such additional Parity Obligations plus all Components financed with all existing Parity Obligations are expected to commence operations, will be at least sufficient to satisfy the rate covenant set forth in Section 6.08(a) for such period; and for the purpose of providing such certificate or certificates, the City or the City's Consultant, as applicable, may adjust the foregoing estimated Net System Revenues to reflect:

(i) an allowance for Net System Revenues that are estimated to be derived from any increase in the rates, fees and charges for Water Service which have been adopted by the City and which will be in effect during all or any portion of the period for which such estimates are provided; and

(ii) an allowance for Net System Revenues that are estimated to be derived from new customers of the Water System anticipated to be served by any additions or improvements to or extensions of the Water System reasonably expected to become available during such five year period in an amount equal to ninety-five percent (95%) of the additional Net System Revenues that are estimated to be derived from such customers.

For purposes of clause (B) above, with respect to Maintenance and Operation Costs of the Water System, the City or the City's Consultant, as applicable, shall use such assumptions (which shall be set forth in such certificate or certificates) as such believes to be reasonable, taking into account: (i) historical Maintenance and Operation Costs of the Water System, (ii) Maintenance and Operation Costs of the Water System associated with the additions or improvements to or extensions of the Water System to be financed with the proceeds of such additional Parity Obligations and any other new additions or improvements to or extensions of the Water System during such five year period and (iii) such other factors, including inflation and changing operations or policies of the City, as the City or the City's Consultant, as applicable, believes to be appropriate.

The certificate or certificates described above in subsection (c)(2) shall not be required if the Parity Obligations being issued are for the purpose of (i) issuing the Parity Obligations initially issued under this Installment Purchase Agreement or (ii) refunding (x) then Outstanding Parity Obligations, if at the time of the issuance of such refunding Parity Obligations a certificate of an Authorized City Representative shall be delivered showing that Debt Service in each Fiscal Year on all Parity Obligations Outstanding after the issuance of the refunding Parity Obligations will not exceed Debt Service in each corresponding Fiscal Year on all Parity Obligations Outstanding prior to the issuance of such refunding Parity Obligations; or (y) then Outstanding Balloon Indebtedness, Tender Indebtedness or Variable Rate Indebtedness, but only to the extent that the principal amount of such indebtedness has been put, tendered to or otherwise purchased by a standby purchase or other liquidity facility relating to such indebtedness.

(d) Without regard to Section 5.03(c), if (i) no Event of Default has occurred and is continuing hereunder or under any Issuing Instrument and (ii) no Event of Default or Termination Event (as defined in any Qualified Swap Agreement) under any Qualified Swap Agreement has occurred and is continuing, the City may issue or incur Subordinated Obligations, and such Subordinated Obligations may be paid only in accordance with the provisions of the second paragraph of Section 5.02.

## ARTICLE VI

### COVENANTS OF THE CITY

Section 6.01. Compliance with Installment Purchase Agreement and Ancillary Agreements. The City will punctually pay Parity Obligations in strict conformity with the terms hereof and thereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not terminate this Installment Purchase Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either or any failure of the Authority to observe or perform any agreement, condition, covenant or term contained herein required to be observed and performed by it, whether express or implied, or any duty, liability or obligation arising out of or connected

herewith or the insolvency, or deemed insolvency, or bankruptcy or liquidation of the Authority or any force majeure, including acts of God, tempest, storm, earthquake, war, rebellion, riot, civil disorder, acts of public enemies, blockade or embargo, strikes, industrial disputes, lock outs, lack of transportation facilities, fire, explosion, or acts or regulations of governmental authorities.

The City will faithfully observe and perform all the agreements, conditions, covenants and terms contained in this Installment Purchase Agreement, including Supplements, and any Issuing Instrument or Qualified Swap Agreement relating to Parity Obligations required to be observed and performed by it, and it is expressly understood and agreed by and between the parties to this Installment Purchase Agreement that, subject to Section 10.07, each of the agreements, conditions, covenants and terms contained herein and therein is an essential and material term of the purchase of and payment for each Component by the City.

The City shall be unconditionally and irrevocably obligated, as long as any Obligations remain Outstanding, to take all lawful action necessary or required to continue to entitle the City to collect and deposit such System Revenues in the Water Fund for use as provided in this Installment Purchase Agreement.

Section 6.02. Against Encumbrances. The City will not make any pledge of or place any lien on the Net System Revenues except as otherwise provided or permitted herein; provided, that nothing contained herein shall limit the ability of the City to issue or incur Obligations, including Subordinated Obligations, that are secured by a pledge, lien or other encumbrance on Net System Revenues so long as that pledge, lien or encumbrance is subordinate to the pledge, lien and encumbrance on Net System Revenues that secures Parity Obligations.

Section 6.03. Debt Service Reserve Fund. The City will maintain or cause to be maintained each Reserve Fund and Reserve Account at the applicable Reserve Requirement. In the event the amount in any such fund or account falls below the applicable Reserve Requirement, the City will replenish such fund or account up to the applicable Reserve Requirement pursuant to Section 5.02.

Section 6.04. Against Sale or Other Disposition of Property. Except as otherwise provided in Section 6.19, the City will not sell, lease or otherwise dispose of the Water System or any part thereof essential to the proper operation of the Water System or to the maintenance of the System Revenues, except as provided herein. Further, the City will not, except as otherwise provided herein, enter into any agreement or lease which impairs the operation of the Water System or any part thereof necessary to secure adequate Net System Revenues for the payment of the Parity Obligations or which would otherwise impair the rights of the Authority with respect to the System Revenues or the operation of the Water System. Any real or personal property which has become nonoperative or which is not needed for the efficient and proper operation of the Water System, or any material or equipment which has become worn out, may be sold if such sale will not materially reduce the Net System Revenues and if the proceeds of such sale are deposited in the Water Fund.

Section 6.05. Against Competitive Facilities. The City will not, to the extent permitted by existing law, construct, acquire, maintain or operate and will not, to the extent

permitted by existing law and within the scope of its powers, permit any other public or private agency, authority, district or political subdivision or any person whomsoever to acquire, construct, maintain or operate within the City any facilities, properties or improvements for providing retail water service to residents and water users competitive with the Water System.

Section 6.06. Prompt Acquisition and Construction. The City will take all necessary and appropriate steps to construct, acquire and install the Components, as agent of the Authority, with all practicable dispatch and in an expeditious manner and in conformity with law so as to complete the same as soon as possible.

Section 6.07. Maintenance and Operation of the Water System. The City will maintain and preserve the Water System in good repair and working order at all times and will operate the Water System in an efficient and economical manner and will pay all Maintenance and Operation Costs of the Water System as they become due and payable.

Section 6.08. Amount of Rates and Charges; Rate Stabilization Fund.

(a) The City will fix, prescribe and collect rates and charges for the Water Service which will be at least sufficient (i) to pay all Obligations (other than Parity Obligations), and (ii) to yield during each Fiscal Year Net System Revenues equal to one hundred twenty percent (120%) of the Debt Service for such Fiscal Year. The City may make adjustments from time to time in such rates and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net System Revenues from such reduced rates and charges will at all times be sufficient to meet the requirements of this section.

(b) The City may establish, as a fund within the Water Fund, a fund denominated the Rate Stabilization Fund. From time to time the City may deposit into the Rate Stabilization Fund, from current System Revenues, such amounts as the City shall determine and the amount of available current System Revenues shall be reduced by the amount so transferred. Amounts may be transferred from the Rate Stabilization Fund solely and exclusively to pay Maintenance and Operation Costs of the Water System, and any amounts so transferred shall be deemed System Revenues when so transferred. Deposits to and transfers from the Rate Stabilization Fund for each Fiscal Year shall be made within one year after the end of such Fiscal Year. All interest or other earnings upon amounts in the Rate Stabilization Fund may be withdrawn therefrom and accounted for as System Revenues. The City may not deposit System Revenues in the Rate Stabilization Fund to the extent that such System Revenues were used in calculating, and were necessary to satisfy, the debt service coverage tests in Section 6.08(a), or Section 5.03(c).

Section 6.09. Payment of Claims. The City will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien on the Net System Revenues or any part thereof or on any funds in the hands of the City or the Trustee might impair the security of the Installment Payments, but the City shall not be required to pay such claims if the validity thereof shall be contested in good faith.

Section 6.10. Compliance with Contracts. The City will comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in all contracts for the use of the Water System and all other contracts affecting or involving the Water System to the extent that the City is a party thereto.

Section 6.11. Insurance. (a) The City will procure and maintain or cause to be procured and maintained insurance on the Water System with responsible insurers, or provide self insurance reserves, in such amounts and against such risks (including accident to or destruction of the Water System) as are usually covered in connection with Water Systems similar to the Water System. In the event of any damage to or destruction of the Water System caused by the perils covered by such insurance or self insurance, the Net Proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the Water System. The City shall begin such reconstruction, repair or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete 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 Water System shall be free and clear of all claims and liens unless the City determines that such property or facility is not necessary to the efficient or proper operation of the Water System and therefore determines not to reconstruct, repair or replace such project or facility. If such Net Proceeds exceed the costs of such reconstruction, repair or replacement, then the excess Net Proceeds shall be deposited in the Water Fund and be available for other proper uses of funds deposited in the Water Fund.

(b) The City will procure and maintain such other insurance which it shall deem advisable or necessary to protect its interests and the interests of the Authority, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with water systems similar to the Water System; provided that any such insurance may be maintained under a self-insurance program so long as such self-insurance is maintained in the amounts and manner usually maintained in connection with water systems similar to the Water System and is, in the opinion of an accredited actuary, actuarially sound.

All policies of insurance required to be maintained herein shall, to extent reasonably obtainable, provide that the Authority and the Trustee shall be given thirty (30) days' written notice of any intended cancellation thereof or reduction of coverage provided thereby. The City shall certify to the Authority and Trustee annually on or before [September 14] that it is in compliance with the insurance requirements hereunder.

Section 6.12. Accounting Records and Financial Statements. (a) The City will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the Water System, which records shall be available for inspection by the Authority and the Trustee at reasonable hours and under reasonable conditions.

(b) The City will prepare (commencing with the Fiscal Year ending June 30, 2017), within two hundred and seventy (270) days after the end of each Fiscal Year, financial statements of the Water Fund for the preceding Fiscal Year prepared in accordance with generally accepted accounting principles, together with an Accountant's Report thereon.

(c) The City will furnish a copy of the financial statements referred to in (b)(1) above to any Owner of Obligations requesting a copy thereof.

Section 6.13. Protection of Security and Rights of the Authority. The City will preserve and protect the security hereof and the rights of the Authority to the Installment Payments hereunder and will warrant and defend such rights against all claims and demands of all persons.

Section 6.14. Payment of Taxes and Compliance with Governmental Regulations. The City will pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Water System or any part thereof or upon the System Revenues when the same shall become due. The City will duly observe and conform with all valid regulations and requirements of any governmental authority relative to the operation of the Water System or any part thereof, but the City shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

Section 6.15. Collection of Rates and Charges; No Free Service. The City will have in effect at all times rules and regulations for the payment of bills for Water Service. Such regulations may provide that where the City furnishes water to the property receiving Water Service, the Water Service charges shall be collected together with the water rates upon the same bill providing for a due date and a delinquency date for each bill. In each case where such bill remains unpaid in whole or in part after it becomes delinquent, the City may disconnect such premises from the water service, and such premises shall not thereafter be reconnected to the water service except in accordance with City operating rules and regulations governing such situations of delinquency. The City will not permit any part of the Water System or any facility thereof to be used or taken advantage of free of charge by any authority, firm or person, or by any public agency (including the United States of America, the State of California and any city, county, district, political subdivision, public authority or agency thereof).

Section 6.16. Eminent Domain Proceeds. If all or any part of the Water System shall be taken by eminent domain proceedings, then subject to the provisions of any Issuing Instrument, the Net Proceeds thereof shall be applied to the replacement of the property or facilities so taken, unless the City determines that such property or facility is not necessary to the efficient or proper operation of the Water System and therefore determines not to replace such property or facilities. Any Net Proceeds of such award not applied to replacement or remaining after such work has been completed shall be deposited in the Water Fund and be available for other proper uses of funds deposited in the Water Fund.

Section 6.17. Tax Covenants. There shall be included in each Supplement relating to Tax-Exempt Installment Payment Obligations such covenants as are deemed necessary or appropriate by Bond Counsel for the purpose of assuring that interest on such Installment Payment Obligations shall be excluded from gross income under Section 103 of the Code.

Section 6.18. Further Assurances. The City will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary



or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Authority of the rights and benefits provided to it herein.

Section 6.19. Operate Water System. The City will operate the Water System in an efficient and economical manner, provided that the City may remove from service on a temporary or permanent basis such part or parts of the Water System so long as (a) Net System Revenues are equal to one hundred twenty percent (120%) of the Debt Service for the then current Fiscal Year and for each Fiscal Year thereafter to and including the Fiscal Year during which the last Installment Payment is due as evidenced by a certificate or certificates, prepared by the City or at the City's option by a Consultant and (b) the City shall have filed with the Trustee an opinion of nationally recognized Bond Counsel to the effect that the removal of such part or parts of the Water System will not, in and of itself, result in the inclusion of the interest on Tax-Exempt Installment Payment Obligations in gross income for federal tax purposes.

Section 6.20. Entry into Regional Surface Water Supply Project Contract. The City may not, except as provided in this Section 6.20, enter into any Regional Surface Water Supply Project Contract the payments of which are senior or prior in right to or on a parity with the payment by the City of Parity Obligations. Notwithstanding anything else to the contrary contained in this Installment Purchase Agreement, the City may, at any time, and from time to time, enter into any Regional Surface Water Supply Project Contract provided that the City obtains or provides a certificate or certificates, prepared by the City or, at the City's option, a Consultant, showing that the requirements of Section 5.03(c) are satisfied when the payments by the City allocable to the capital costs of the Regional Surface Water Supply Project are treated as Debt Service on Parity Obligations, regardless of whether or not the City's obligations under such Regional Surface Water Supply Project Contract would be treated as Maintenance and Operation Costs of the Water System under generally accepted accounting principles. Nothing in this Section 6.20 shall prevent the City from including all of the payments under any Regional Surface Water Supply Project Contract as Maintenance and Operation Costs of the Water System for purposes of Section 6.08(a).

Section 6.21. Additional Covenants. The City may provide additional covenants pursuant to any Supplement or other Issuing Instrument, including covenants relating to any Credit Support obtained for Installment Payment Obligations; provided, however, that such additional covenants do not materially and adversely affect the right of Owners of Outstanding Obligations issued prior to any such Supplement or other Issuing Instrument.

## ARTICLE VII

### PREPAYMENT OF INSTALLMENT PAYMENTS

Section 7.01. Prepayment of Installment Payments. Provisions may be made in any Supplement for the prepayment of Installment Payments, in whole or in part, in such multiples and in such order of maturity and from funds of any source, and with such prepayment premiums and other terms as are specified in the Supplement. Said Supplement shall also provide for any notices to be given relating to such prepayment.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES OF THE AUTHORITY

Section 8.01. Events of Default and Acceleration of Maturities. If one or more of the following Events of Default shall happen, that is to say:

- (1) if default shall be made in the due and punctual payment of or on account of any Parity Obligation as the same shall become due and payable;
- (2) if default shall be made by the City in the performance of any of the agreements or covenants required herein to be performed by it pursuant to this Installment Purchase Agreement (other than as specified in (1) above), and such default shall have continued for a period of sixty (60) days after the City shall have been given notice in writing of such default by the Authority;
- (3) if any Event of Default specified in any Supplement or Issuing Instrument shall have occurred and be continuing; or
- (4) if the City shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the City seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property;

then and in each and every such case during the continuance of such Event of Default the Authority shall upon the written request of the Owners of twenty-five percent (25%) or more of the aggregate principal amount of all Parity Obligations Outstanding, voting collectively as a single class, by notice in writing to the City, declare the entire unpaid principal amount thereof and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything contained herein to the contrary notwithstanding; provided, that with respect to a Series of Parity Installment Obligations which is credit enhanced by Credit Support, acceleration shall not be effective unless the declaration is consented to by the related Credit Provider and, provided further, that nothing herein shall affect the rights of the parties to a Qualified Swap Agreement to terminate such Qualified Swap Agreement. This section however, is subject to the condition that if at any time after the entire principal amount of all Parity Obligations and the accrued interest thereon shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the City shall deposit with the Authority a sum sufficient to pay the unpaid principal amount of all such Parity Obligations and the unpaid payments of any other Parity Obligations referred to in clause (1) above due prior to such declaration and the accrued interest thereon, with interest on such overdue installments at the rate or rates applicable thereto in accordance with their terms, and the reasonable expenses of the Authority, and any and all other defaults known to the Authority (other than in the payment of

the entire principal amount of the unpaid Parity Obligations and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Authority or provision deemed by the Authority to be adequate shall have been made therefor, then and in every such case the Authority, by written notice to the City, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

Section 8.02. Application of Net System Revenues Upon Acceleration. Subject to the provisions of any Issuing Instrument, all Net System Revenues received after the date of the declaration of acceleration by the Authority as provided in Section 8.01 shall be applied in the following order:

First, to the payment of the costs and expenses of the Authority if any, in carrying out the provisions of this article, including reasonable compensation to its accountants and counsel; and

Second, to the payment of the entire principal amount of the unpaid Parity Installment Obligations and the unpaid principal amount of all other Parity Obligations and the accrued interest thereon (and payments due to the counterparty to a Qualified Swap Agreement that constitute Parity Obligations), with interest on the overdue installments at the rate or rates of interest applicable thereto in accordance with their respective terms. In the event there are insufficient Net System Revenues to pay the entire principal amount and accrued interest on all Parity Obligations (and payments due to the counterparty to a Qualified Swap Agreement that constitute Parity Obligations), then accrued interest (and payments due to the counterparty to a Qualified Swap Agreement that constitute Parity Obligations) shall first be paid and any remaining amount shall be paid on account of principal, and in the event there are insufficient Net System Revenues to fully pay either interest (and payments due to the counterparty to a Qualified Swap Agreement that constitute Parity Obligations) or principal in accordance with the foregoing, then payment shall be prorated within a priority based upon the total amounts due in the priority.

Section 8.03. Other Remedies of the Authority. The Authority shall have the right, subject to receipt of consent from any Credit Provider with respect to a particular Series of Parity Installment Obligations:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the City or any councilmember, officer or employee thereof, and to compel the City or any such councilmember, officer or employee to perform and carry out its or his duties under the Law and the agreements and covenants required to be performed by it or him contained herein;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Authority;

(c) by suit in equity upon the happening of an Event of Default to require the City and its councilmembers, officers and employees to account as the trustee of an express trust, or

(d) by suit in equity to cause the appointment of a receiver.

Section 8.04. Non-Waiver. Nothing in this article or in any other provision hereof shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the Installment Payments to the Authority at the respective due dates or upon prepayment from the Net System Revenues and the other funds herein committed for such payment, or shall affect or impair the right of the Authority, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

A waiver of any default or breach of duty or contract by the Authority shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Authority to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Authority by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Authority.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Authority, the City and the Authority shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 8.05. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Authority or a counterparty to a Qualified Swap Agreement is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by law.

## ARTICLE IX

### DISCHARGE OF OBLIGATIONS

Section 9.01. Discharge of Obligations. If the City shall pay or cause to be paid or there shall otherwise be paid to the Owners all Outstanding Installment Payment Obligations of a Series the interest thereon and the principal thereof and the redemption premiums, if any, thereon or if all such Outstanding Obligations shall be deemed to have been paid at the times and in the manner stipulated in the applicable Issuing Instrument, then all agreements, covenants and other obligations of the City hereunder shall thereupon cease, terminate and become void and be discharged and satisfied (but only as to such Series).

## ARTICLE X

### MISCELLANEOUS

#### Section 10.01. Liability of City Limited to Net System Revenues.

Notwithstanding anything contained herein, the City shall not be required to advance any moneys derived from any source of income other than the Net System Revenues and the other funds provided herein for the payment of the Installment Payments or for the performance of any other agreements or covenants required to be performed by it contained herein. The City may, however, but in no event shall be obligated to, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the City for such purpose.

The obligation of the City to make the Installment Payments is a special obligation of the City payable solely from such Net System Revenues and other funds provided for herein, and does not constitute a debt of the City or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction.

#### Section 10.02. Benefits of Installment Purchase Agreement Limited to Parties.

Nothing contained herein, expressed or implied, is intended to give to any person other than the City, the Authority or the assigns of the Authority and any Credit Provider any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of the City or the Authority shall be for the sole and exclusive benefit of the other party. Each party hereto agrees for the benefit of any counterparty to a Qualified Swap Agreement that covenants contained herein that are expressly applicable to such a counterparty, are also intended to benefit such counterparty and each such counterparty shall be deemed to be a third party beneficiary with respect thereto, entitled to enforce directly and in its own name any rights or claims it may have against such party and otherwise protect its rights hereunder.

Section 10.03. Amendments. This Installment Purchase Agreement may be amended with respect to a Series of Installment Payment Obligations in writing as may be mutually agreed by the City and the Authority, with the written consent of the Owners of a majority in aggregate principal amount of such Installment Payment Obligations then Outstanding, provided that no such amendment shall (a) extend the payment date of any Installment Payment, or reduce the amount of any Installment Payment without the prior written consent of the Owner of each Obligation so affected, or (b) reduce the percentage of Installment Payment Obligations the consent of the Owners of which is required for the execution of any amendment of this Installment Purchase Agreement.

This Installment Purchase Agreement and the rights and obligations of the City and the Authority hereunder may also be amended or supplemented at any time by an amendment hereof or supplement hereto which shall become binding upon execution by the City and the Authority, without the written consents of any Owner of Installment Obligations, but only to the extent permitted by law and only upon receipt of an opinion of nationally recognized Bond Counsel selected by the City and approved by the Authority to the effect that such amendment or supplement is permitted by the provisions of this Installment Purchase Agreement.

and does not, in and of itself, result in the inclusion of the interest portion of the Installment Payments received by the Owners in gross income for federal income tax purposes, and only for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Authority or the City contained in this Installment Purchase Agreement other covenants and agreements thereafter to be observed or to surrender any right or power herein reserved to or conferred upon the Authority or the City, and which shall not adversely affect the interests of the Owners of the Installment Payment Obligations;

(2) to cure, correct or supplement any ambiguous or defective provision contained in this Installment Purchase Agreement or in regard to questions arising under this Installment Purchase Agreement, as the Authority or the City may deem necessary or desirable and which shall not adversely affect the interests of the Owners of the Installment Payment Obligations; and

(3) to make such other amendments or modifications which shall not materially adversely affect the interests of the Owners of the Installment Payment Obligations.

Notwithstanding anything herein to the contrary, the written consent of any Credit Provider or counterparty to a Qualified Swap Agreement shall not be required for the execution of a Supplement in connection with the issuance of Parity Obligations or Subordinated Obligations in accordance with the terms hereof.

Section 10.04. Successor Is Deemed Included in all References to Predecessor. Except as otherwise provided herein, whenever either the City or the Authority is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the City or the Authority, and all agreements and covenants required hereby to be performed by or on behalf of the City or the Authority shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

Section 10.05. Waiver of Personal Liability. No official, officer or employee of the City shall be individually or personally liable for the payment of the Installment Payments, but nothing contained herein shall relieve any official, officer or employee of the City from the performance of any official duty provided by any applicable provisions of law or hereby.

Section 10.06. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith" and other words of similar import refer to this Installment Purchase Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

Section 10.07. Partial Invalidation. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the City or the Authority shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof.

Section 10.08. Assignment. This Installment Purchase Agreement and any rights hereunder may be assigned by the Authority, as a whole or in part, without the necessity of obtaining the prior consent of the City. The assignment of this Installment Purchase Agreement or rights hereunder or under a Supplement to a Trustee is solely in its capacity as Trustee and the duties, powers and liabilities of the Trustee in acting hereunder shall be subject to the provisions of the Issuing Instrument.

Section 10.09. Net Contract. This Installment Purchase Agreement shall be deemed and construed to be a net contract, and the City shall pay absolutely net during the term hereof the Installment Payments and all other payments required hereunder, free of any deductions and without abatement, diminution or setoff whatsoever.

Section 10.10. California Law. This Installment Purchase Agreement shall be construed and governed in accordance with the laws of the State of California.

Section 10.11. Notices. All written notices to be given hereunder shall be given by first class mail, postage prepaid, courier or hand delivery to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

If to the City:                   City of Turlock  
  Administrative Services  
  156 South Broadway, Suite 230  
  Turlock, CA 95380-5435  
  Attn: City Manager

If to the Authority:           Turlock Public Financing Authority  
  156 South Broadway, Suite 230  
  Turlock, CA 95380-5435  
  Attn: Executive Director

Section 10.12. Effective Date. This Installment Purchase Agreement shall become effective as to Installment Payments provided for in a Supplement upon the execution and delivery of such Supplement or as otherwise specified therein, and shall terminate as to such Supplement when the Installment Payments contemplated by such Supplement shall have been fully paid or prepaid (or provision for the payment thereof shall have been made as provided herein) and any related Qualified Swap Agreement or Credit Support arrangement is no longer in effect and all payments due under such Qualified Swap Agreement or Credit Support arrangement have been paid or duly provided for.

Section 10.13. Execution in Counterparts. This Installment Purchase Agreement and each Supplement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

[Remainder of page intentionally left blank]



IN WITNESS WHEREOF, the parties hereto have executed this Installment Purchase Agreement by their officers thereunto duly authorized as of the day and year first written above.

CITY OF TURLOCK

By  \_\_\_\_\_  
City Manager

TURLOCK PUBLIC FINANCING AUTHORITY

By  \_\_\_\_\_  
Executive Director

**EXHIBIT B**  
**Phase 3 Funding Agreement**

**REGIONAL SURFACE WATER SUPPLY PHASE 3 PROJECT  
DESIGN AND CONSTRUCTION FUNDING AGREEMENT**

THIS AGREEMENT is made between Stanislaus Regional Water Authority, a joint powers authority ("SRWA"), City of Ceres, a general law city ("Ceres"), City of Turlock, a general law city ("Turlock"), and Turlock Irrigation District, a special district ("TID"). Ceres and Turlock are referred to collectively as the "Cities" or a "City." This Agreement will become effective on the date that it is signed by the last party to sign as indicated by the date associated with that party's signature below (referred to herein as the "Effective Date"). The parties agree as follows:

1. **Recitals.** This Agreement is made with reference to the following background recitals:

1.1. SRWA was formed by the Cities pursuant to the 2015 Amended Drinking Water Supply Project Joint Exercise of Powers Agreement Between the Cities of Ceres and Turlock for the Purpose of Creating a Joint Powers Authority Responsible for Decisions in Certain Matters Pertaining to the Municipal and Industrial Water Supply Programs for the Aforementioned Public Entities, as amended (the "Joint Powers Agreement"). SRWA was established to, among other things, design, construct, own and operate the Project Facilities (as defined in the Joint Powers Agreement). The Project Facilities consist of facilities to divert and treat surface water from the Tuolumne River and deliver it for use by the Cities in order to provide a safe, reliable, and high-quality surface water supply (the "Regional Water Project").

1.2. On July 28, 2015, SRWA and TID approved the Water Sales Agreement (as amended, the "TID/SRWA Agreement") by which TID agrees to sell and deliver raw water to SRWA and SRWA and TID agree to cooperate on the construction of facilities to deliver water through an existing TID infiltration gallery and a to-be-constructed wet well, raw water pump station, and raw water delivery pipelines. SRWA and TID plan to use the existing infiltration gallery as the river water intake facility for both the Regional Water Project and emergency operations and limited deliveries for TID uses. The TID/SRWA Agreement provides for the capital costs to design and construct the new wet well, raw water pump station, and raw water delivery pipelines to be allocated between SRWA and TID as follows: SRWA - 80%; TID - 20%.

1.3. In 2018, the parties approved the Raw Water Pump Station Phase 1 Project Construction Funding Agreement that provides construction funding and cost sharing for SRWA's construction of the Raw Water Pump Station Phase 1 Project (aka Infiltration Gallery Testing Project; the "Phase 1 Project"), which is the first phase of the Regional Water Project. The Phase 1 Project involves the (a) excavation of an area to access the infiltration gallery, (b) construction of a wet well and associated facilities above and around the existing infiltration gallery, (c) pumping of river water through the infiltration gallery to inspect and evaluate the infiltration gallery condition, production capacity, and raw water quality, and (d) development test pumping of the infiltration gallery pipes to dislodge sediment. SRWA awarded a contract to C. Overaa & Co. in 2018 for the construction of the Phase 1 Project and related work. The Phase 1 Project remains under construction.

1.4. In 2018 and 2019, the parties performed and undertook various Regional Water Project planning, preliminary design work, and design-build procurement tasks and work, which constituted Phase 2 of the Regional Water Project.

1.5. SRWA now plans to award a contract in 2020 for the design and construction of the remaining Regional Water Project facilities (the “Phase 3 Project”). The Phase 3 Project facilities are the raw water pump station at the wet well, raw water pipelines connecting the pump station to the existing, nearby TID Ceres Main Canal (for use within the TID irrigation water system) and to a new water treatment plant (for treatment and delivery to the Cities), water treatment plant, finished water pipelines to each City, and demolition and replacement of a bridge crossing the TID Ceres Main Canal. The Phase 3 Project facilities are described in more detail in the draft SRWA Design-Build Contract for the Regional Surface Water Supply Project and its appendices (the “Design-Build Contract”), which has been provided to the Cities and TID. The Phase 3 Project is being designed to provide Regional Water Project facilities capable of delivering 15 million gallons per day (“mgd”) of treated water to the Cities.

1.6. SRWA has applied to the State Water Resources Control Board (“SWRCB”) for financing under the Drinking Water State Revolving Fund program (the “SRF Financing”) to fund the Cities’ share of the Phase 3 Project design, construction, and related capital costs (the “Phase 3 Project Costs”). SRWA continues to process the SRF Financing application and SRWA anticipates entering into a SRF Financing agreement with the SWRCB in late 2020.

1.7. Each City has approved or expects to approve interim financing (the “Interim Financing”) to finance a portion of its share of the Phase 3 Project design, construction, and related capital costs until the anticipated SRF Financing is received from the SWRCB, which SRF Financing is expected to be used to reimburse each City for the principal portion of its respective Interim Financing and cover all remaining Phase 3 Project Costs.

1.8. The Cities and TID (the “Funding Parties” or a “Funding Agency”) have agreed on a methodology for allocating the Regional Water Project costs among them as set forth in a memorandum from the SRWA Project Management Team to the SRWA Technical Advisory Committee dated June 19, 2019 which is attached as Exhibit A. The cost sharing percentages provided for in this Agreement are consistent with that memorandum.

1.9. The principal purposes of this Agreement are (a) for TID and the Cities to fund the Phase 3 Project Costs, and (b) for the Cities to coordinate funding their portion of such Phase 3 Project Costs (in advance of the anticipated reimbursement thereof by the proceeds of the SRF Financing). Nothing herein is intended to amend or modify any provision in the TID/SRWA Agreement.

## 2. City Consent and SRF Financing

2.1. Each City consents that SRWA may award the Design-Build Contract and commence Project design and construction.

2.2. Each City consents that the SRWA General Manager may sign and file a financial assistance application for an SRF Financing agreement with the SWRCB to fund Phase 3

Project Costs and that the SRF Financing is for and on behalf of each City's interests under the Joint Powers Agreement. SRWA will provide a final draft of the SRF Financing Agreement to the Cities, prior to final approval. If SWRCB decides to approve the SRF Financing agreement with SRWA, then, prior to the final approval of that agreement, SRWA and the Cities plan to enter into a separate agreement as a supplement to this Agreement that would (a) confirm each City's commitment to fund its share of the SRF Financing costs, (b) pledge certain City water system enterprise net revenue to support the SRF Financing, and (c) set forth additional acceptable City covenants and other contract terms relating to the SRF Financing.

### 3. Sale of Dedicated Capacity to Cities

3.1. "Dedicated Capacity" for purposes of this Agreement means the 15 million gallons per day of water capacity of the Regional Water Project facilities. The "Ceres Dedicated Capacity" for purposes of this Agreement means the 5 million gallons per day of Dedicated Capacity purchased by Ceres pursuant to this Agreement. The "Turlock Dedicated Capacity" for purposes of this Agreement means the 10 million gallons per day of Dedicated Capacity purchased by Turlock pursuant to this Agreement. The Cities agree that the provisions of Section 3 of this Agreement amend and replace the provisions of the Joint Powers Agreement relating to Dedicated Capacity. The Dedicated Capacity shares are as follows:

Table 1  
Dedicated Capacity Shares

City	Daily Flow Limit	Percentage Share
Ceres	5 mgd	33.3%
Turlock	10 mgd	66.7%
Total	15mgd	100%

3.2. SRWA agrees to sell and convey the Ceres Dedicated Capacity in the Regional Water Project facilities to Ceres, and Ceres agrees to purchase the Ceres Dedicated Capacity in the Regional Water Project facilities from SRWA. SRWA agrees to sell and convey the Turlock Dedicated Capacity in the Regional Water Project facilities to Turlock, and Turlock agrees to purchase the Turlock Dedicated Capacity in the Regional Water Project facilities from SRWA. Each City agrees to purchase its share of Dedicated Capacity through satisfaction of its respective payment and funding obligations under its Interim Financing or SRF Financing and sections 4, 5 and 6 of this Agreement. Each City shall be entitled to exclusive use of its Dedicated Capacity in the Regional Water Project facilities as set forth in Table 1 without regard to whether such City actually uses such facilities for the delivery of water.

3.3. Upon completion of construction of the Regional Water Project facilities, SRWA shall make available and deliver to each City a total amount of treated water up to its Dedicated Capacity, subject to the terms and conditions of this Agreement, Joint Powers Agreement (as amended by this Agreement), TID/SRWA Agreement, and the availability of water. The treated water shall be delivered to each City's point of delivery as shown on the final Regional Water Project plans and specifications. SRWA shall operate, or cause to be operated, the Regional Water Project and use its best efforts to ensure that the (1) Ceres

Dedicated Capacity is, at all times, fully available for use by Ceres within its service area and (2) Turlock Dedicated Capacity is, at all times, fully available for use by Turlock within its service area.

3.4. All Regional Water Project facilities, lands, and easements shall be owned or leased by and held in the name of SRWA for the benefit of the Cities in accordance with the terms of this Agreement and the Joint Powers Agreement.

3.5. Joint Powers Agreement article 23 authorizes the Cities to “adjust their respective Dedicated Capacity shares and redistribute their respective shares among themselves, so long as the total Dedicated Capacity share percentages of the Participants in the redistribution remains the same after the redistribution.” The modified Dedicated Capacity shares as set forth in this section 3 constitutes an adjustment and redistribution pursuant to Joint Powers Agreement article 23. This change is permanent and will remain in effect until modified by subsequent action by the Cities pursuant to Joint Powers Agreement article 23 or an amendment of the Joint Powers Agreement.

#### **4. Funding Commitment by Cities and TID**

4.1. For purposes of this Agreement, “Capital Costs” mean the costs of the following: (a) the “Design-Build Work” as defined and used in the final Design-Build Contract as approved by SRWA, and including any SRWA-approved change orders (subject to section 6); (b) SRWA procurement of any SRWA-provided materials, parts, or equipment for the Design-Build Work; (c) Phase 3 Project design/construction management, inspection, testing, and claims/dispute evaluation and resolution services and work performed by the SRWA General Manager (Granberg & Associates), engineer (West Yost Associates), attorney (Bartkiewicz, Kronick & Shanahan), or construction manager (a person or firm to be retained by SRWA prior to the start of the Design-Build Work); (d) Phase 3 Project services and work relating to CEQA mitigation and monitoring plan and permit condition monitoring, compliance, and implementation performed by the SRWA CEQA/permitting consultant (Horizon Water and Environment); and (e) any other engineering or consulting services agreement approved by SRWA with a scope of work that directly relates to the design, construction, management, startup, or closeout of the Phase 3 Project. If SRWA changes one of the above-listed firms or adds a firm performing Capital Costs-related work, then the meaning of Capital Costs shall be modified concurrent with that change to include services by the new or additional firm.

4.2. In managing the agreements, services, and work described in section 4.1 and the related bookkeeping, SRWA shall fairly and reasonably allocate and apportion the Capital Costs among the tasks set forth on Table 1 (Cost Allocation Percentages for Project Costs Effective July 1, 2019) of Exhibit A.

4.3. Each Funding Agency agrees and commits to fund its respective share of the Capital Costs for the various components of the Phase 3 Project facilities in accordance with section 5. The Capital Costs shares are shown as the Funding Agency responsibility percentages listed on Table 1 of Exhibit A. Each Funding Agency shall budget and appropriate sufficient funds to satisfy its funding obligation under this Agreement in accordance with section 5. The Phase 3 Project budget to be prepared by SRWA pursuant to section 5.1 and the quarterly forecasts, payment requests, reconciliations, and statements

to be prepared by SRWA pursuant to sections 5.2 to 5.5 shall incorporate and the Capital Costs shall be broken out and allocated based on the Phase 3 Project facilities and cost share percentages as set forth in Exhibit A.

4.4. For the Cities, their Capital Costs payment obligations are expected to be financed initially through each City's Interim Financing and later, if approved, the SRF Financing (and any grant funding for the Phase 3 Project received by SRWA). If the SRF Financing is not entered into, each City shall use its best efforts to enter into a long-term financing arrangement (the "Long-Term Financing") in order to take-out the applicable Interim Financing and cover that City's remaining share of the Capital Costs.

4.5. In the event a Funding Agency fails or refuses to timely pay its share of the Capital Costs funding as required by this Agreement, SRWA shall provide written notice to such Funding Agency of this failure and if payment is not received within 30 days after receipt of such notice, the Funding Agency shall be liable to SRWA for (a) any late payment, penalty, interest, costs, or attorney fees incurred by SRWA or recovered by third parties from SRWA as a result of the Funding Agency's default, and (b) any costs, including consequential damages, incurred by SRWA or recovered by third parties from SRWA as a result of any contract termination or cancellation or breach of contract action by any contractor, subcontractor, supplier, or service provider as a result of the Funding Agency's default. SRWA shall provide a calculation of any such amounts to the Funding Agency. Any such liability shall be paid from net revenues of the Funding Agency.

## **5. Capital Costs Budget, Quarterly Payments, and SRF Reconciliation**

5.1. Design and construction funding pursuant to this Agreement will commence concurrent with the design-build contractor's start of work under the Design-Build Contract. Upon the Effective Date of this Agreement and at least 30 days prior to the Design-Build Contract start of work, SRWA shall prepare a proposed budget for the planned expenditure of the Capital Costs, including a projected cash flow during the design and construction period. SRWA may include a 10% contingency/reserve in its budget of expected design and construction costs in order to cover unanticipated or extraordinary costs or aid in covering SRWA cash flow needs. Upon completion of the proposed Capital Costs budget, SRWA shall provide the proposed budget to each of the Funding Agencies. The budget will be subject to the review and approval by each of the Funding Agencies. SRWA may approve a mid-fiscal year Capital Costs budget adjustment in the event of any significant change in the expected or planned expenditures or other significant changed circumstance, subject to the review and approval by each of the Funding Agencies.

5.2. After SRWA and the Funding Agencies have approved the Capital Costs budget, SRWA shall prepare and provide to the Funding Agencies a forecast of Capital Costs funds needed from the start of the Design-Build Work until the completion of the next calendar quarter and based on the approved budget. Thereafter, prior to the beginning of each quarter during the term of Phase 3 Project work, SRWA shall prepare and provide to the Funding Agencies a forecast of funds needed for the upcoming quarter. The quarterly funding forecasts shall be based upon the Capital Costs budget and, if and after the SWRCB approves the SRF Financing, the actual and expected receipt of the proceeds of the SRF Financing. Each quarterly forecast also shall include each Funding Agency's share

(based on section 4.3) of the funds needed for the upcoming quarter broken down by each component of the Phase 3 Project facilities (the "Quarterly Payment Request").

5.3. Within 30 days after receipt of a quarterly forecast and Quarterly Payment Request, each Funding Agency shall deposit its Quarterly Payment Request amount with SRWA to fund the Capital Costs allocated to such Funding Agency (subject to annual appropriation). SRWA will deposit the Funding Agency deposits into a special fund called the "Capital Costs Fund" with separate accounts therein for each Funding Agency called the "Ceres Capital Costs Account," the "Turlock Capital Costs Account" and the "TID Capital Costs Account" for the purpose of paying such Capital Costs and SRWA will draw on the funds in each Funding Agency's account to pay the Capital Costs allocated to such Funding Agency. SRWA will keep and maintain accurate bookkeeping records documenting all the deposits and withdrawals from the Capital Costs Fund, the Ceres Capital Costs Account, the Turlock Capital Costs Account and the TID Capital Costs Account, quarterly forecasts, Quarterly Payment Requests, Quarterly Payment Request deposits, and Capital Costs (broken down by each component of the Phase 3 Project facilities for each Funding Agency) paid from the Capital Costs Fund, the Ceres Capital Costs Account, the Turlock Capital Costs Account and the TID Capital Costs Account. If and after the SWRCB approves the SRF Financing, SRWA shall deposit the proceeds of the SRF Financing into a separate special fund called the "SRF Financing Fund". The proceeds on deposit in the SRF Financing Fund shall only be used by SRWA to (1) fund the Capital Costs allocated to the Cities or (2) reimburse the Cities for prior payment by Cities of such Capital Costs, in each case, in the manner directed by each City to SRWA. SRWA shall prepare and provide to each Funding Agency an annual statement of the monies deposited into and all Capital Costs paid from the Capital Costs Fund, the Ceres Capital Costs Account, the Turlock Capital Costs Account and the TID Capital Costs Account. If and after the SWRCB approves the SRF Financing, SRWA shall prepare and provide to the Cities an annual statement of the monies deposited into the SRF Financing Fund and the use of any withdrawals from the SRF Financing Fund. Each Funding Agency and its employees, accountants, attorneys, and agents may review, inspect, copy and audit these records, including all source documents.

If the SRF Financing is not entered into, each City shall use its best efforts to enter into a Long-Term Financing, the proceeds of which shall be deposited into either the Ceres Account or the Turlock Account of the Long-Term Financing Fund, as applicable. The proceeds on deposit in the Long-Term Financing Fund shall only be used by SRWA to (1) fund the Capital Costs allocated to the Cities or (2) reimburse the Cities for prior payment by Cities of such Capital Costs, in each case, in the manner directed by each City to SRWA. SRWA shall prepare and provide to each Funding Agency an annual statement of the monies deposited into and all Capital Costs paid from the Capital Costs Fund, the Ceres Capital Costs Account, the Turlock Capital Costs Account and the TID Capital Costs Account. If Long-Term Financings are entered into, SRWA shall prepare and provide to the Cities an annual statement of the monies deposited into the Long-Term Financing Fund and the use of any withdrawals from the Long-Term Financing Fund. Each Funding Agency and its employees, accountants, attorneys, and agents may review, inspect, copy and audit these records, including all source documents.

5.4. At the end of each fiscal year, SRWA shall undertake a reconciliation of the Capital Costs forecast for the year against the actual Capital Costs paid in the year. The



reconciliation shall determine the amount to which the actual costs exceeded or were less than the Funding Agency deposits made under section 5.3 for the year and the difference shall be credited or debited, as appropriate, into the calculation of the projected Capital Costs and Quarterly Payment Requests for the subsequent year. The reconciliation shall apply any grant funding received in the year to adjust and offset the calculation of each City's share of the projected Capital Costs for the subsequent year. If and after the SWRCB approves the SRF Financing, or if a Long-Term Financing is entered into, the reconciliation also shall apply to any SRF Financing or Long-Term Financing disbursements received in the year to adjust and offset the calculation of each City's share of the projected Capital Costs for the subsequent year. If the SWRCB approves the SRF Financing, or if a Long-Term Financing is entered into, and SRWA later determines that the Capital Costs allocable to the Cities may exceed the expected proceeds of the SRF Financing or Long-Term Financing, as applicable, SRWA promptly will give written notice of this determination to each City together with a forecast and explanation of the potential or expected SRF Financing or Long-Term Financing shortfall.

5.5. Upon completion of the Design-Build Work and other Phase 3 Project work and services (e.g., permit closeout) and payment of all Capital Costs and, if applicable, after receipt of the final SRF Financing disbursement (which will occur sometime after completion of construction), SRWA will prepare and provide to each Funding Agency a final statement of the total Capital Costs for the Phase 3 Project work, including a breakdown of amounts for each component for each Funding Agency, the monies deposited to the Capital Costs Fund, the Ceres Capital Costs Account, the Turlock Capital Costs Account and the TID Capital Costs Account, all SRWA costs paid or reimbursed from such fund and accounts, the total amount of any proceeds of SRF Financing or Long-Term Financing, and any grant funding. Any amounts remaining in the Capital Costs Fund, the Ceres Capital Costs Account, the Turlock Capital Costs Account, and the TID Capital Costs Account shall be refunded without interest to the applicable Funding Agency. Any money remaining in the SRF Financing Fund shall be processed by SRWA in accordance with the SRWA/SWRCB SRF Financing agreement. Any moneys remaining in an account of the Long-Term Financing Fund shall be returned to the City on whose behalf the Account is held. For the Cities, and assuming SWRCB approval of the SRF Financing or the issuance of the Long-Term Financing, this final statement also shall include a final calculation and reconciliation of the City funding advances and SRF Financing or Long-Term Financing disbursements (and any grant funding).

**6. Interim Financing and Long-Term Financing.** The parties acknowledge that each City will use its best efforts to enter into an Interim Financing for the purpose of funding each City's initial share of the Capital Costs. The principal amount of the Interim Financing for Ceres is expected to be an amount not to exceed \$\_\_\_\_\_ and the principal amount of the Interim Financing for Turlock is expected to be an amount not to exceed \$\_\_\_\_\_. Each City expects to be able to use a portion of the proceeds of the SRF Financing, if and when received by SRWA, to repay the principal portion of its Interim Financing. However, in the event that the SRF Financing is not entered into, each City agrees that it will use its best efforts to enter into a Long-Term Financing to pay its proportionate share of the Capital Costs. The proceeds of each City's Long-Term Financing are expected to be used to repay such City's Interim Financing.

7. **Change Orders.** The Capital Costs shall include additional costs relating to any additive Design-Build Contract change order approved by SRWA. Prior to approving any such change order, SRWA shall provide the proposed change order (including a description of how the change order will impact the Capital Costs of each Funding Agency) to each Funding Agency for its prior review and approval. If a Funding Agency requests a Design-Build Work change that results in an additive change order to the Design-Build Contract, then the Funding Agency requesting the change shall pay all change order-related costs to SRWA, unless the parties otherwise agree in writing.

## 8. General Provisions

8.1. **Entire Agreement.** The parties intend this document to be the sole, final, complete, exclusive, and integrated expression and statement of the terms of their contract concerning the subject matter of this document. This Agreement supersedes all prior oral or written negotiations, representations, contracts or other documents that may be related to the subject matter of this Agreement, except those other documents that may be expressly referenced in this Agreement.

a. However, the Raw Water Pump Station Phase 1 Project Construction Funding Agreement among the parties shall continue to apply to the completion of construction and closeout of the Phase 1 Project work, SRWA/C. Overaa & Co. contract, and related costs.

b. If there are any irreconcilable differences between this Agreement and the TID/SRWAAgreement or the Joint Powers Agreement as to the funding of the Phase 3 Project and, if applicable, the SRF Financing, this Agreement shall govern.

8.2. **Construction and Interpretation.** The parties agree and acknowledge that this Agreement has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

8.3. **Waiver.** The waiver at any time by any party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

8.4. **Amendment.** This Agreement may be modified or amended only by a subsequent written agreement approved and executed by all parties. Amendment by SRWA requires approval by the SRWA Board of Directors at a noticed public meeting.

8.5. **Assignment.** This Agreement and all rights and obligations under it are personal to the parties. The Agreement may not be transferred, assigned, delegated, or subcontracted in whole or in part, whether by assignment, subcontract, merger, operation of law or otherwise, by a party without the prior written consent of the other parties. Any transfer, assignment, delegation, or subcontract in violation of this provision is null and void.

8.6. **Remedies Not Exclusive.** The remedies provided in this Agreement are cumulative and not exclusive, and are in addition to any other remedies that may be provided by law or

equity. A party's exercise of any remedy under this Agreement will not prejudice or affect the enforcement of any other remedy.

8.7. Notices. Any notice, demand, invoice or other communication required or permitted to be given under this Agreement must be in writing and delivered either (a) in person, (b) by prepaid, first class U.S. mail, (c) by a nationally-recognized commercial overnight courier service that guarantees next day delivery and provides a receipt, or (d) by email with confirmed receipt. Such notices, etc. shall be addressed as follows:

<p>SRWA:   General Manager  Stanislaus Regional Water Authority  c/o City of Turlock  156 S. Broadway, Suite 270  Turlock, CA 95380  granbergassociates@gmail.com</p>	<p>City of Ceres:   City Manager  City of Ceres  2220 Magnolia Street  Ceres, CA 95307  toby.wells@ci.ceres.ca.us</p>
<p>City of Turlock:   Interim City Manager  City of Turlock  156 S. Broadway  Turlock, CA 95380  mcooke@turlock.ca.us</p>	<p>TID:   General Manager  Turlock Irrigation District  333 East Canal Drive  P.O. Box 949  Turlock, CA 95381  mareimers@tid.org</p>

Notice given as above will be deemed given (a) when delivered in person, (b) three days after deposited in prepaid, first class U.S. mail, (c) on the date of delivery as shown on the overnight courier service receipt, or (d) upon the sender's receipt of an email from the other

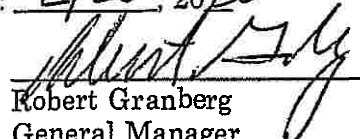
party confirming the delivery of the notice, etc. Any party may change its contact information by notifying the other party of the change in the manner provided above.

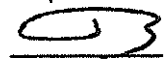
STANISLAUS REGIONAL WATER AUTHORITY

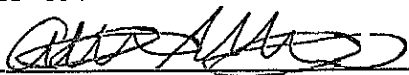
CITY OF CERES


Dated: 2/20, 2020


Dated: 2/20, 2020

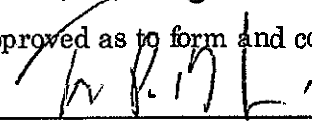
By:   
Robert Granberg  
General Manager

By:   
Toby Wells  
City Manager

Attest:  


Attest:  


Approved as to form and content:  
  
Richard P. Shanahan  
General Counsel

Approved as to form and content:  
  
City Attorney

CITY OF TURLOCK


TURLOCK IRRIGATION DISTRICT

Dated: Feb 10, 2020

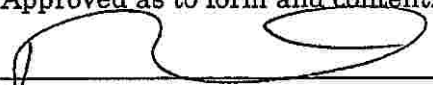
Dated: 2/28, 2020

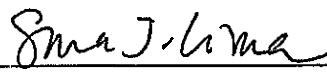
By:   
City Manager

By:   
General Manager

Attest:  


Attest:  


Approved as to form and content:  
  
Douglas L. White  
City Attorney

Approved as to form and content:  
  
Sara J. Lima  
Asst. General Counsel

**EXHIBIT A**  
**SRWA Project Management Team Memorandum dated June 19, 2019**



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## MEMORANDUM

DATE: June 19, 2019

TO: Technical Advisory Committee

FROM: Project Management Team

SUBJECT: Cost Allocations for SRWA Surface Water Supply Project

This memo documents cost allocations (shown as percentages in Table 1 below) for the City of Turlock, City of Ceres, and Turlock Irrigation District's (TID) financial contribution toward the Stanislaus Regional Water Authority (SRWA) Surface Water Supply Project (Project). This memo is an update to the memo dated October 10, 2018 which provided a tabulation of the percentage of each task's cost allocations. The percent allocations that have changed, or been added in the case of new tasks, since the October 2018 memo are highlighted in Table 1.

For TID's cost share, the cost allocation percentages shown in Table 1 are consistent with the District Delivery Facilities Capital Cost Allocation stated in the 2015 Water Sales Agreement, which states that TID is responsible for paying 20 percent of the District Delivery Facilities Capital Cost. Therefore, where tasks are 100% related to District Delivery Facilities, TID's responsibility shown in the last column of Table 1 is 20%. Note that many tasks are only partially related to District Delivery Facilities and therefore, because TID is only responsible for 20% of District Delivery Facility activities, TID's responsibility for these tasks is less than 20%.

All cost allocations presented in Table 1 shall be considered effective July 1, 2019.

Table 1. Cost Allocation Percentages for Project Costs Effective July 1, 2019

Task No.	General Ledger No.	Consultant/Task No.	Party Performing Service	Task Name	City of Turlock Responsibility, percent	City of Ceres Responsibility, percent	TID's Responsibility, percent
100	-	-	-	Program Management	-	-	-
101	43060_012	02.00	West Yost	General Manager Selection	50.00	50.00	0.00
102	43060_012	13.00	West Yost	Discussions with Potential Project Partners	50.00	50.00	0.00
103	43060_012	19.00, 19.01, 19.12	West Yost	Public Outreach	50.00	50.00	0.00
104	43060_012	01.01, 01.02, 01.03, 01.04, 01.05, 01.06	West Yost	Program Management Activities	50.00	50.00	0.00
105	43060_012	17.00, 17.01	West Yost	Future Phase Planning	50.00	50.00	0.00
106	43105_003	NA	SRWA	SRWA Staff: Treasurer/Accounting	50.00	50.00	0.00
107	43060_021	NA	Granberg	SRWA Staff: General Manager	50.00	50.00	0.00
108	43105_000	NA	SRWA	SRWA Staff: Secretary	50.00	50.00	0.00
109	43105_003	NA	SRWA	SRWA Staff: General Counsel	50.00	50.00	0.00
110	43195	8863-0001	BKS	Specialty Legal Counsel	50.00	50.00	0.00
111	43011	N/A	TBD	Government Relations and Public Affairs Consultant	50.00	50.00	0.00
112	43055_002	N/A	SRWA	SRWA Audits	50.00	50.00	0.00
113	44001_000, 44035, 44040_000, 47010, 47040_000, 47090_001, 47095_000	N/A	SRWA	Incidental Costs	50.00	50.00	0.00
200	-	-	-	Finance/Funding	-	-	-
201	43060_012	06.00, 06.01	West Yost	Funding Strategy	50.00	50.00	0.00
202	43060_012	18.00, 18.14	West Yost	Preliminary Financial Evaluation of Impact to Existing Rates	50.00	50.00	0.00
203	43060_012	08.03	West Yost	Grant Funding	50.00	50.00	0.00
204	43060_012	NA	West Yost	Funding Opportunities - Turlock Facilities	100.00	0.00	0.00
205	43060_012	NA	West Yost	Funding Opportunities - Ceres Facilities	0.00	100.00	0.00
206	43060_012	06.02, 06.04, 09.20	West Yost	State Revolving Fund Loans	50.00	50.00	0.00
207	43060_012	NA	West Yost	SRF Loan - Turlock Facilities	100.00	0.00	0.00
208	43060_012	NA	West Yost	SRF Loan - Ceres Facilities	0.00	100.00	0.00
209	43329	18 (Phase 2 contract)	Horizon	State Revolving Fund Loans - Environmental Package	50.00	50.00	0.00
300	-	-	-	Facilities Planning	-	-	-
301	43060_012	01.07	West Yost	Review Previous Work	50.00	50.00	0.00
302	43060_012	03.00	West Yost	Demand and Supply Analysis	50.00	50.00	0.00
303	43060_012	07.01, 07.02, 07.03, 07.11, 07.17A, 07.18, 07.19 (Phase 2)	West Yost	Water Quality	50.00	50.00	0.00
304	43060_012	07.04, 07.13 (Phase 2)	West Yost	Infiltration Gallery Evaluation	53.33	26.67	20.00
305	43060_012	08.00	West Yost	Technical Assistance with TID's Water Transfer	66.67	33.33	0.00
306	43060_012	09.00, 09.18A	West Yost	Alignment Study	48.10	48.10	3.80
307	43060_012	10.00, 10.02	West Yost	Hydraulic Analysis	50.00	50.00	0.00
308	43060_012	11.01, 11.02, 11.11	West Yost	Treatment Process Evaluation	50.00	50.00	0.00
309	N/A	NA	TBD	Integration Study	50.00	50.00	0.00
310	43060_012	10.02A	West Yost	Integration Study Modeling Support - Ceres	0.00	100.00	0.00
311	43060_012	10.02B	West Yost	Integration Study Modeling Support - Turlock	100.00	0.00	0.00
312	43060_012	12.00	West Yost	Project Delivery Evaluation	50.00	50.00	0.00
313	43060_012	14.00, 14.01	West Yost	Schedule Development	50.00	50.00	0.00
314	43060_012	15.00, 15.01, 15.02, 15.03, 15.04, 15.11, 15.17, 15.20, 15.21	West Yost	Program Budgeting	50.00	50.00	0.00
315	43060_012	16.00	West Yost	Project Definition TM	50.00	50.00	0.00
316	43060_012	NA	West Yost	Technical Services - SRWA	50.00	50.00	0.00
317	43060_012	NA	West Yost	Technical Services - Turlock	100.00	0.00	0.00
318	43060_012	NA	West Yost	Technical Services - Ceres	0.00	100.00	0.00
319	43060_012	NA	West Yost	Technical Services - TID	0.00	0.00	100.00
400	-	-	-	Permitting and Environmental Documentation	-	-	-
401	43329	15 (Phase 1 contract)	Horizon	Well Well CEQA/NEPA	53.33	26.67	20.00
402	43329	1 - NA (Phase 1 contract), 13 (Phase 2 contract)	Horizon	Project Coordination Regional Project CEQA/NEPA	50.00	50.00	0.00
403	43329	14 (Phase 1 contract), 16 (Phase 1 contract, for well), and 58, 14 of 19 (Phase 2 contract)	Horizon	Environmental Permits	41.22	41.22	17.56
404	43329	\$24,000 of Task 19 (Phase 2 contract)	Horizon	Water Transfer Environmental Support	50.00	50.00	0.00

Table 1. Cost Allocation Percentages for Project Costs Effective July 1, 2019

Task No.	General Ledger No.	Consultation/Task No.	Party Performing Service	Task/Activity	City of Turlock Responsibility Percent	City of Ceres Responsibility Percent	TID's Responsibility Percent
405	43060_012	04.00, 04.01, 04.13, 04.17, 04.20, 04.25	West Yost	EIR Technical Assistance	46.85	46.85	6.30
406	43060_012	05.00, 05.01, 05.11, 05.15	West Yost	Non-Environmental Permits/Utility Coordination	46.39	46.39	7.22
407	43195	8863-0003	BKS	CEQA Legal Support	50.00	50.00	0.00
408	43060_023	N/A	MID/HDR	Watershed Sanitary Survey	50.00	50.00	0.00
409	43332	N/A	SRWA	Pre-Construction Permit Fees	50.00	50.00	0.00
410	43332_002	N/A	SRWA	Water Transfer Fee	66.67	33.33	0.00
500	--	--	--	ROW Acquisition	--	--	--
501	43060_012	09.01, 09.15, 09.22, 09.22A, 09.23	West Yost	ROW Acquisition - District Delivery Facilities	53.33	26.67	20.00
502	43060_012	09.03, 09.23B	West Yost	ROW Acquisition - Turlock Facilities	100.00	0.00	0.00
503	43060_012	09.02, 09.23A	West Yost	ROW Acquisition - Ceres Facilities	0.00	100.00	0.00
504	51001	N/A	SRWA	Appraisals - District Delivery Facilities	53.33	26.67	20.00
505	51001	N/A	SRWA	Appraisals - Turlock Facilities	100.00	0.00	0.00
506	51001	N/A	SRWA	Appraisals - Ceres Facilities	0.00	100.00	0.00
507	none assigned	N/A	TID	Eminent Domain - District Delivery Facilities	53.33	26.67	20.00
508	51001	N/A	SRWA	Land/Easement Purchase - District Delivery Facilities	53.33	26.67	20.00
509	51001	N/A	SRWA	Land/Easement Purchase - Regional Facilities	66.67	33.33	0.00
510	51001	N/A	SRWA	Land/Easement Purchase - Turlock Facilities	100.00	0.00	0.00
511	51001	N/A	SRWA	Land/Easement Purchase - Ceres Facilities	0.00	100.00	0.00
600	--	--	--	Infrastructure	--	--	--
601	--	--	--	Wet Well Project	--	--	--
602	51800_001	7.04(F), 1-5 (Wet Well Design Contract)	West Yost	Wet Well Design & Engineering Services During Construction	53.33	26.67	20.00
603	51801_002	N/A	ICM	Wet Well Construction Management	53.33	26.67	20.00
604	51801_001	N/A	Oversee	Wet Well Construction	53.33	26.67	20.00
605	43332	N/A	SRWA	Wet Well Permit and Utility Fees	53.33	26.67	20.00
606	51801_005	7 (Phase 2 contract)	Horizon	Wet Well Environmental Monitoring & Permit Compliance	53.33	26.67	20.00
607	43195	8863-0002	BKS	Legal Services Related to Wet Well and District Delivery Facilities	53.33	26.67	20.00
608		N/A	SRWA	Infiltration Gallery Construction Reimbursement	66.67	33.33	0.00
609	--	--	--	Regional Design-Build Project	--	--	--
610	43060_012	12.01, 12.02, 12.03, 12.04, 12.05, 12.11, 12.16A, 12.16B, 12.17A, 12.17B, 12.20A, 12.20B, 12.20C	West Yost	Project Procurement	49.02	49.02	1.97
611	43060_012	04.02, 05.02, 07.05, 07.16, 07-17B, 07.20, 07.25, 07.26, 09.04, 09.05, 09.22D, 09.26A, 10.01, 11.04, 11.05, 11.17, 11.20, 11.22, 11.24, 11.25, 11.26, 11.27	West Yost	Predesign & Technical Appendices	48.24	48.24	3.52
612	43060_012	09.06, 09.16B, 09.22B, 09.26B	West Yost	Ceres Pipeline Predesign & Technical Appendices	0.00	100.00	0.00
613	43060_012	09.07, 09.16C, 09.22C, 09.26C	West Yost	Turlock Pipeline Predesign & Technical Appendices	100.00	0.00	0.00
614	43195	8863-0003	BKS	Specialty Procurement Legal Counsel	49.02	49.02	1.97
615	43060_022	N/A	PFAL	Financial Evaluation of Proposals	49.02	49.02	1.97
616	43060_012	N/A	West Yost	Contract Compliance	65.68	32.35	1.97
617	43060_012	N/A	West Yost	Construction Oversight	65.68	32.35	1.97
618	43332	N/A	SRWA	Regional DB Permit and Utility Fees	49.02	49.02	1.97
619	43329	N/A	Horizon	Regional DB Environmental Monitoring	43.00	43.00	14.00
620	43332_001	N/A	SRWA	Environmental Mitigation	53.33	26.67	20.00
621	none assigned	N/A	TBD	DB Contract: Pre-Construction Date	62.50	35.00	2.50
622	none assigned	N/A	TBD	DB Contract: Raw Water Pump Station Design and Construction	53.33	26.67	20.00
623	none assigned	N/A	TBD	DB Contract: Raw Water Transmission Main Design and Construction	53.33	26.67	20.00
624	none assigned	N/A	TBD	DB Contract: Water Treatment Plant Design and Construction	66.67	33.33	0.00
625	none assigned	N/A	TBD	DB Contract: Finished Turlock Water Transmission Mains Design and Construction	0.00	100.00	0.00
626	none assigned	N/A	TBD	DB Contract: Finished Ceres Water Transmission Mains Design and Construction	100.00	0.00	0.00



Table 1. Cost Allocation Percentages for Project Costs Effective July 1, 2019

Task No.	General Ledger No.	Consultant/Task No.	Party Performing Service	Task/Name	City of Turlock Responsibility Percent	City of Ceres Responsibility Percent	TID's Responsibility Percent
627	none assigned	N/A	TBD	DB Contract: Project Instrumentation, Controls, and Security Systems	50.00	50.00	0.00
628	none assigned	N/A	SRWA	Raw Material Price Adjustment	62.50	35.00	2.50
629	none assigned	N/A	SRWA	SRWA Contract Risk Transfer Items	50.00	50.00	0.00
630	-	-	-	Ceres Local Improvements	-	-	-
631	none assigned	N/A	Blackwater	Ceres Design & Engineering Services During Construction	0.00	100.00	0.00
632	none assigned	N/A	TBD	Ceres Construction Management	0.00	100.00	0.00
633	none assigned	N/A	TBD	Ceres Construction	0.00	100.00	0.00
634	none assigned	N/A	TBD	Ceres Permit and Utility Fees	0.00	100.00	0.00
635	none assigned	N/A	TBD	Ceres Environmental Monitoring	0.00	100.00	0.00
636	-	-	-	Turlock Local Improvements	-	-	-
637	none assigned	N/A	Carollo	Turlock Design & Engineering Services During Construction	100.00	0.00	0.00
638	none assigned	N/A	TBD	Turlock Construction Management	100.00	0.00	0.00
639	none assigned	N/A	TBD	Turlock Construction	100.00	0.00	0.00
640	none assigned	N/A	TBD	Turlock Permit and Utility Fees	100.00	0.00	0.00
641	none assigned	N/A	TBD	Turlock Environmental Monitoring	100.00	0.00	0.00
700	-	-	-	Contingency	-	-	-
701	43060_012, 51801_001	West Yost contract: 20.00, 20.01; Overaa contract: no specific task #	Overaa, West Yost	Capital Contingency	60.05 <sup>(a)</sup>	37.70 <sup>(a)</sup>	2.25 <sup>(a)</sup>

- (a) SRWA Item 303 may have included West Yost Tasks 7.01, 7.02, 7.03, 7.04, 7.11, 7.13, 7.17, 7.18, or 7.19 during Phase 1 or Tasks 7.03, 7.11, 7.13, 7.18, or 7.19 during Phase 2. Prior to 2018, "Water Quality and Infiltration Gallery Evaluation" was at line item 303 but starting with the FY18/19 budget, this line item is split up into 303 (for Water Quality) and 304 (for Infiltration Gallery Evaluation).
- (b) Tasks 7.03, 7.11, 7.18, and 7.19 are 100% water quality-related and were active during Phase 1 and Phase 2; and Task 7.17 is 100% water quality-related and is only active during Phase 2.
- (c) Tasks 7.04 and 7.13 are only Infiltration Gallery Evaluation (IGE)-related and were active during Phase 1 and Phase 2.
- (d) These allocation percentages are presented only for budgeting purposes. Invoices containing charges to the Capital Contingency line item will need to specify the appropriate cost allocation percentages for the particular work done during the invoice period.

BKS = Barkiewicz, Kronick & Shanahan  
 Blackwater = Blackwater Construction  
 Carollo = Carollo Engineers  
 CEQA = California Environmental Quality Act  
 DB = Design-Build  
 EIR = Environmental Impact Report  
 Granberg = Granberg & Associates  
 HDR = HDR Engineering  
 Horizon = Horizon Water and Environment  
 ICM = Interera Construction Management Group, Inc.  
 MAD = Modesto Irrigation District  
 N/A = Not applicable  
 NEPA = National Environmental Policy Act  
 Overaa = Overaa Construction  
 PFRM = Project Finance Advisory, Ltd.  
 ROW = Right-of-Way  
 SRWA = Stanislaus Region of Water Authority  
 TAC = Technical Advisory Committee  
 TBD = To be determined  
 TID = Turlock Irrigation District  
 West Yost = West Yost Associates

Cost allocations are new due to new tasks since the October 10, 2018 Cost Allocation Memo

Cost allocations have changed since the October 10, 2018 Cost Allocation Memo

**EXHIBIT C**  
**2020 Water Installment Agreement between Ceres and CN Financing, Inc.**

**2020 WATER INSTALLMENT AGREEMENT**

by and between

**CITY OF CERES**

and

**CN FINANCING, INC.,  
a California corporation**

Dated as of March 1, 2020

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## 2020 WATER INSTALLMENT AGREEMENT

This 2020 WATER INSTALLMENT AGREEMENT (the "Agreement"), made and entered into as of March 1, 2020 by and between CITY OF CERES (the "City"), a municipal organization and general law city duly organized and existing under and by virtue of the laws of the State of California, and CN FINANCING, INC. (the "Corporation"), a California corporation.

### WITNESSETH:

WHEREAS, the Ceres Financing Authority (the "Authority") previously issued its 2009 Water Revenue Bonds, Series A (the "2009 Bonds") for the purpose of financing the costs of the acquisition and construction of public capital improvements of the water enterprise system of the City;

WHEREAS, the City previously entered into a Water Installment Purchase Agreement (the "Prior Agreement"), dated as of December 1, 2009, with the Authority for the purpose of securing the payments due on the 2009 Bonds;

WHEREAS, the City is authorized by Title 4 of the Government Code of the State of California, including, but not limited to Sections 37350 and 40404, to acquire property for its water enterprise and to refinance the acquisition of property for its water enterprise;

WHEREAS, the City is entering into this Agreement and refinancing the 2009 Bonds in accordance with the provisions of Articles 10 and 11 of Chapter 3 of Part I of Division 2 of Title 5 of the California Government Code of the State of California, under which this Agreement shall be considered a refunding bond;

WHEREAS, the Corporation has agreed to assist the City in refinancing the Prior Agreement on the terms and conditions set forth in this Agreement;

WHEREAS, the refinancing of the Prior Agreement will result in a simultaneous refunding of the 2009 Bonds;

WHEREAS, the City and the Corporation have duly authorized the execution of this Agreement; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Agreement;

NOW, THEREFORE, IN CONSIDERATION OF THESE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

## ARTICLE I

### DEFINITIONS

**Section 1.1 Definitions.** Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein.

“Accountant’s Report” means a report signed by an Independent Certified Public Accountant.

“Additional Revenues” means, with respect to the issuance of any Parity Obligations, any or all of the following amounts:

(a) An allowance for Net Revenues from any additions or improvements to or extensions of the Enterprise to be made with the proceeds of such Parity Obligations and also for Net Revenues from any such additions, improvements or extensions which have been made from moneys from any source but in any case which, during all or any part of the latest Fiscal Year or any twelve (12) consecutive month period within the immediately preceding eighteen (18) months, were not in service, all in an amount equal to ninety percent (90%) of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions for the first thirty-six (36) month period in which each addition, improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of a qualified independent professional engineer (which may but need not be the outside firm providing engineering services) retained by the City.

(b) An allowance for Net Revenues arising from any increase in the charges made for service from the Enterprise which has become effective prior to the incurring of such Parity Obligations but which increase in charges, during all or any part of the latest Fiscal Year or other such twelve (12) month period selected by the City, was not in effect, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or twelve (12) month period, all as shown by the certificate or opinion of an Independent Certified Public Accountant (which may but need not be the outside firm providing auditing services) retained by the City.

“Agreement” means this 2020 Water Installment Agreement, dated as of March 1, 2020, by and between the City and the Corporation, as originally executed and as it may from time to time be amended or supplemented in accordance herewith.

“Authority” means the Ceres Financing Authority.

“Bond Counsel” means any attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is excludable from gross income for purposes of federal income taxation under Section 103 of the Tax Code.

“Business Day” means a day which is not a Saturday, Sunday or legal holiday on which banking institutions in the State of California are closed.

“City” means the City of Ceres.

“City Representative” means the Mayor of the City, the City Manager or the Finance Director of the City or any other person authorized by resolution of the City Council of the City to act on behalf of the City under or with respect to this Agreement.

“Closing Date” means March 12, 2020, being the date of execution and delivery of this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended.

“Corporation” means CN Financing, Inc., a California corporation.

“Enterprise” means the entire water supply, treatment, storage and distribution system of the City, including but not limited to all facilities, properties and improvements at any time owned, controlled or operated by the City for the supply, treatment and storage of water to residents of the City and adjacent areas, and any necessary lands, rights, entitlements and other property useful in connection therewith, together with all extensions thereof and improvements thereto at any time acquired, constructed or installed by the City.

“Enterprise Fund” means the Water Fund established and held by the City with respect to the Enterprise for the receipt and deposit of Revenues.

“Escrow Agreement” means that Water Escrow Agreement dated as of March 1, 2020, by and between the City and the Escrow Bank.

“Escrow Bank” means U.S. Bank National Association.

“Event of Default” means an event described in Section 8.1.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the last day of June of the succeeding year, or any other twelve-month period selected and designated as the official Fiscal Year of the City.

“Governmental Authority” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, City or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“Independent Certified Public Accountant” means any firm of certified public accountants appointed by the City, each of whom is independent of the City and the Corporation pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

“Independent Financial Consultant” means a financial consultant or firm of such consultants appointed by the City, and who, or each of whom: (1) is in fact independent and not under domination of the City; (2) does not have any substantial interest, direct or indirect, with the City; and (3) is not connected with the City as an officer or employee thereof, but who may be regularly retained to make reports thereto.

“Installment Payment Date” means: (i) each June 1 and December 1, commencing June 1, 2020, to and including June 1, 2039, or if said date is not a Business Day, then the succeeding



Business Day; or (ii) any other date upon which Installment Payments become due and payable, whether by acceleration, prepayment or otherwise.

“Installment Payments” means the installment payments of interest and principal scheduled to be paid by the City under and pursuant hereto.

“Law” means the Government Code of the State of California and all laws amendatory thereof or supplemental thereto.

“Material Adverse Effect” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of the City; (b) the ability of the City to carry out its business in the manner conducted as of the date of this Agreement or to meet or perform its obligations under this Agreement on a timely basis; (c) the validity or enforceability of this Agreement; or (d) the exclusion of interest with respect to the Installment Payments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes.

“Material Litigation” means any action, suit, proceeding, inquiry or investigation against the City in any court or before any arbitrator of any kind or before or by any Governmental Authority, of which the City has notice or knowledge and which, (a) if determined adversely to the City, may have a Material Adverse Effect; (b) seek to restrain or enjoin any of the transactions contemplated hereby or by this Agreement; or (c) may adversely affect (i) the exclusion of interest with respect to the Installment Payments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes; or (ii) the ability of the City to perform its obligations under this Agreement.

“Maximum Annual Debt Service” means, as of the date of any calculation, the maximum sum obtained for the current or any future Fiscal Year during the term of this Agreement by totaling the aggregate amount of (i) the Installment Payments coming due in such Fiscal Year, and (ii) the principal and interest coming due and payable in such Fiscal Year on any Parity Obligations, including the principal amount coming due and payable by operation of mandatory sinking fund redemption. There shall be excluded from such calculation any principal of and interest on the Installment Payments and any Parity Obligations which have been defeased or discharged, or for the payment of which a security deposit has been posted. With respect to any Parity Obligations which then bear interest at a variable rate, such interest shall be calculated at an assumed rate equal to the higher of: (i) the then current variable interest rate borne by such Parity Obligations plus 1%; or (ii) the highest variable rate borne over the preceding 24 months by outstanding variable rate debt issued by the City or, if no such variable rate debt is at the time outstanding, by variable rate debt of which the interest rate is computed by reference to an index comparable to that to be utilized in determining the interest rate for the debt then proposed to be issued.

“Net Proceeds” means, when used with respect to any casualty insurance or condemnation award, the proceeds from such insurance or condemnation award remaining after payment of all expenses (including attorneys’ fees) incurred in the collection of such proceeds.

“Net Revenues” means, for any Fiscal Year, the Revenues for such Fiscal Year less the Operation and Maintenance Costs for such Fiscal Year.

“Operation and Maintenance Costs” means (i) costs spent or incurred for maintenance and operation of the Enterprise calculated in accordance with generally accepted accounting principles, including (among other things) the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Enterprise in good repair and working order, and including administrative costs of the City that are charged directly or apportioned to the Enterprise, including but not limited to salaries and wages of employees, payments to the Public Employees Retirement System, overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the City or charges (other than debt service payments) required to be paid by it to comply with the terms of this Agreement or any Parity Obligation Document; and (ii) costs spent or incurred in the purchase of water for the Enterprise; but excluding in all cases depreciation, replacement and obsolescence charges or reserves therefor, and amortization of intangibles or other bookkeeping entries of a similar nature and all capital charges, and any extraordinary expenses authorized to be excluded from Operations and Maintenance Costs as set forth in a Written Consent of the Corporation.

“Parity Obligations” means any bonds, notes or other obligations of the City payable from and secured by a pledge of and lien on a parity with the Installment Payments, previously or hereafter issued or incurred by the City in accordance with Section 5.4, including but not limited to payments made in connection with future loans from the State of California or any department or instrumentality thereof.

“Parity Obligation Documents” means, collectively, the installment sale agreement, indenture of trust, trust agreement or other document authorizing the issuance of any Parity Obligations or any securities which evidence Parity Obligations.

“Permitted Investments” means any of the following which at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein:

(a) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America;

(b) bonds, debentures, notes or other evidences of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America; provided that stripped securities are only permitted if they have been stripped by the agency itself:

- (i) U.S. Export-Import Bank (Eximbank)  
Direct obligations or fully guaranteed certificates of beneficial ownership
- (ii) Farmers Home Administration (FmHA)  
Certificates of Beneficial Ownership
- (iii) Federal Financing Bank
- (iv) Federal Housing Administration Debentures (FHA)

- (v) General Services Administration  
Participation Certificates
- (vi) Government National Mortgage Association (GNMA or Ginnie Mae)  
GNMA—guaranteed mortgage-backed bonds GNMA—guaranteed  
pass- through obligations
- (vii) U.S. Maritime Administration  
Guaranteed Title XI financing
- (viii) U.S. Department of Housing and Urban Development (HUD)  
Project Notes  
Local Corporation Bonds  
New Communities Debentures—U.S. government guaranteed  
debenture U.S. Public Housing Notes and Bonds—U.S. government  
guaranteed public housing notes and bonds

(c) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies which are not backed by the full faith and credit of the United States of America; provided that stripped securities are only permitted if they have been stripped by the agency itself:

- (i) Federal Home Loan Bank System  
Senior debt obligations
- (ii) Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac)  
Participation Certificate Senior debt obligations
- (iii) Federal National Mortgage Association (FNMA or Fannie Mae)  
Mortgage-backed securities and senior debt obligations
- (iv) Resolution Funding Corp. (REFCORP) obligations
- (v) Farm Credit System  
Consolidated systemwide bonds and notes

(d) money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of “AAAm-G;” “AAA-m;” or “AA-m” and if rated by Moody’s rated “Aaa,” “Aa1” or “Aa2” including funds for which the Trustee, its parent holding company, if any, or any affiliates or subsidiaries of the Trustee or such holding company provide investment advisory or other management services;

(e) savings accounts, deposit accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF which may include those of the Trustee and its affiliates;

(f) commercial paper rated, at the time of purchase, “Prime -1” by Moody’s and “A-1” or better by S&P;

(g) bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such rating agencies;

(h) federal funds or bankers acceptances with a maximum term of one year of any bank, including the Trustee and its affiliates, which has an unsecured, uninsured and unguaranteed obligation rating of "Prime 1" or "A3" or better by Moody's and "A-1" or "A" or better by S&P;

(i) investment pools sponsored by the State of California or the Treasurer-Tax Collector.

"Prior Agreement" means the Water Installment Purchase Agreement, dated as of December 1, 2009, by and between the City and the Authority.

"Purchase Price" means the principal amount plus interest thereon owed by the City to the Corporation under the terms hereof as provided in Section 4.1.

"Revenues" means all income, rents, rates, fees, charges and other moneys derived from the ownership or operation of the Enterprise, including, without limiting the generality of the foregoing,

(1) all income, rents, rates, fees, charges or other moneys derived by the City from the sale, furnishing and supplying of the water or other services, facilities, and commodities sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the Enterprise,

(2) the proceeds of any stand-by or water availability charges, development fees and connection charges collected by the City,

(3) the earnings on and income derived from the investment of amounts described in clauses (1) and (2) above and from Enterprise Fund reserves,

but excluding

(x) customers' deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the City,

(y) any proceeds of taxes or assessments restricted by law to be used by the City to pay bonds or other obligations heretofore or hereafter issued; and

(z) revenues of any water system acquired through merger, consolidation or similar action to the extent the exclusion of such acquired water system is required pursuant to the terms of such merger, consolidation or similar action.

"Tax Collector" means the Treasurer-Tax Collector of the County of Stanislaus.

"Written Consent of the Corporation or City," "Written Order of the Corporation or City," "Written Request of the Corporation or City," and "Written Requisition of the Corporation or City" mean, respectively, a written consent, order, request or requisition signed by or on behalf of: (a) the Corporation by an authorized representative; or (b) the City by the Mayor of the City or its City Manager, City Clerk or Finance Director or by any two persons (whether or not officers of the City

Council) who are specifically authorized by resolution of the City to sign or execute such a document on its behalf.

“2009 Bonds” means the Ceres Financing Authority’s 2009 Water Revenue Bonds, Series A.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**Section 2.1 Representations by the City.** The City makes the following representations:

(a) The City is a municipal organization and a general law city, duly organized and existing under the laws of the State of California.

(b) The City has full legal right, power and authority to enter into this Agreement and carry out its obligations hereunder, to carry out and consummate all other transactions contemplated by this Agreement, and the City has complied with the provisions of the Law in all matters relating to such transactions.

(c) By proper action, the City has duly authorized the execution, delivery and due performance of this Agreement.

(d) The City will not take or, to the extent within its power, permit any action to be taken which results in the interest portion of the Installment Payments due under the terms of this Agreement being included in the gross income of the Corporation for purposes of federal or State of California income taxation.

(e) Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the City, other than as set forth herein.

(f) No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement, or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.

(g) There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, educational or other governmental authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, educational or other governmental authority, which

default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement or the financial conditions, assets, properties or operations of the City.

(h) The City has not issued or incurred any obligations which are currently outstanding having any priority in payment out of the Revenues or the Net Revenues over the payment of the Installment Payments.

(i) There has been no material adverse change in the financial condition of the City since the fiscal year ended June 30, 2019.

(j) The City is not in default under the terms of any agreement or instrument to which the City is a party or by which the City is bound.

(k) The City has determined that it is necessary and proper to refinance the 2009 Bonds and the Prior Agreement in the manner provided for in this Agreement.

(l) The City acknowledges and agrees that (i) the transaction contemplated herein is an arm's length commercial transaction between the City and the Corporation and its affiliates, (ii) in connection with such transaction, the Corporation and its affiliates are acting solely as a principal and not as an advisor including, without limitation, a "Municipal Advisor" as such term is defined in Section 15B of the Securities and Exchange Act of 1934, as amended, and the related final rules (the "Municipal Advisor Rules"), agent or fiduciary of the City, (iii) the Corporation and its affiliates have not provided any advice or assumed any advisory or fiduciary responsibility in favor of the City with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto, (iv) the Corporation and its affiliates have financial and other interests that differ from those of the City and (v) the City has consulted with its own financial, legal, accounting, tax and other advisors, as applicable, to the extent it deemed appropriate.

**Section 2.2 Representations and Warranties by the Corporation.** The Corporation represents, warrants and covenants to the City as follows:

(a) The Corporation is a corporation duly organized and existing under the laws of the State of California, and is authorized to enter into this Agreement and to perform its obligations hereunder.

(b) The representative of the Corporation executing this Agreement is fully authorized to do so.

(c) This Agreement has been duly authorized, executed and delivered by the Corporation and constitutes the legal, valid and binding agreement of the Corporation, enforceable against the Corporation in accordance with its terms.

(d) Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation

or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation.

(e) No consent or approval of any trustee or holder of any indebtedness of the Corporation, and no consent, permission, authorization, order or license of or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) Except as provided herein, the Corporation will not assign this Agreement, its right to receive Installment Payments from the City or its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in this section.

### ARTICLE III

#### APPLICATION OF PROCEEDS

**Section 3.1 Amount of Proceeds.** The parties hereby agree that \$3,658,000.00 shall be the amount of proceeds received hereunder.

**Section 3.2 Deposit.** From such proceeds, the Corporation hereby agrees to cause \$3,596,946.46 to be deposited with the Escrow Bank for deposit to the Escrow Fund established under the Escrow Agreement.

**Section 3.3 Costs of Issuance.** Furthermore, from such proceeds, the Corporation will deposit \$49,082.27 with the Escrow Bank, acting as costs of issuance custodian, to pay the costs of issuance related to the execution and delivery of this Agreement. All costs of issuance shall be directly paid from such amount.

**Section 3.4 Project Funds.** In addition, from such proceeds, the Corporation hereby agrees to cause \$11,971.27 to be transferred to the City for use by the City for projects relating to the Enterprise.

### ARTICLE IV

#### INSTALLMENT PAYMENTS

**Section 4.1 Purchase Price.**

(a) The Purchase Price to be paid by the City hereunder to the Corporation is the sum of the principal amount of the City's obligations hereunder plus the interest to accrue on the unpaid balance of such principal amount from the effective date hereof over the term hereof, subject to prepayment as provided in Article VII. The Purchase Price represents the amount to be repaid to the Corporation by the City in exchange for the amount set forth in Section 3.1 hereof, which amount is being loaned by the Corporation to the City.

(b) The principal amount of the payments to be made by the City hereunder is set forth in Exhibit A hereto.

(c) The interest to accrue on the unpaid balance of such principal amount shall be 3.27% per annum, as specified in Section 4.2 and Exhibit A hereto, and shall be paid by the City as and constitute interest paid with respect to the principal amount of the City's obligations hereunder.

**Section 4.2 Installment Payments.** The City shall, subject to any rights of prepayment provided in Article VII, pay the Corporation the Purchase Price in installment payments of interest and principal in the amounts and on the Installment Payment Dates as set forth in Exhibit A hereto. Whenever any Installment Payment to be made hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, with the same force and effect as if made on the applicable Installment Payment Date. Interest on the Installment Payments shall be calculated based upon a 360-day year of twelve thirty-day months.

Each Installment Payment shall be paid to the Corporation in lawful money of the United States of America. In the event that the City fails to make any of the payments required to be made by it under this section, such payment shall continue as an obligation of the City until such amount shall have been fully paid; and the City agrees to pay the same with interest accruing thereon at the rate or rates of interest then applicable to the remaining unpaid principal balance of the Installment Payments if paid in accordance with their terms.

Subject to Section 10.1 hereof, the obligation of the City to make the Installment Payments is absolute and unconditional, and until such time as the Purchase Price shall have been paid in full (or provision for the payment thereof shall have been made pursuant to Article IX), the City will not discontinue or suspend any Installment Payments required to be made by it under this section when due, whether or not the Enterprise or any part thereof is operating or operable, or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and whether or not the refinancing of the 2009 Bonds and the Prior Agreement has been completed, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

If the City fails to make any of the payments required in this Section 4.2 within 10 days of an Installment Payment Date, the payment in default shall continue as an obligation of the City until the amount in default has been fully paid, and the City agrees to pay the same with interest thereon, to the extent permitted by law, from the Installment Payment Date to the applicable date of payment.

Installment Payments shall be made from the City to the Corporation by wire transfer pursuant to the instructions included in an invoice provided by the Corporation to the City at least 15 days prior to each Installment Payment Date, which invoice will state the amount due on such Interest Payment Date.

## ARTICLE V

### SECURITY

**Section 5.1 Pledge of Revenues.** All Revenues and all amounts on deposit in the Enterprise Fund are hereby irrevocably pledged to the payment of the Installment Payments as provided herein, and the Revenues shall not be used for any other purpose while any of the Installment Payments remain unpaid; provided that out of the Revenues there may be apportioned such sums for such purposes as are expressly permitted herein. This pledge, together with the pledge created in favor of all other Parity Obligations, shall constitute a first lien on Net Revenues and,



subject to application of Revenues and all amounts on deposit in the Enterprise Fund as permitted herein, on the funds and accounts created hereunder for the payment of the Installment Payments and all other Parity Obligations in accordance with the terms hereof.

**Section 5.2 Allocation of Revenues.** Subject to Section 5.3 below, in order to carry out and effectuate the pledge and lien contained herein, the City agrees and covenants that all Revenues shall be received by the City in trust hereunder and shall be deposited when and as received in a special fund designated as the "Enterprise Fund," which fund has been established and which fund the City agrees and covenants to continue to maintain and to hold separate and apart from other funds so long as any Parity Obligations remain unpaid.

The City shall, from the moneys in the Enterprise Fund, pay all Operation and Maintenance Costs (including amounts reasonably required to be set aside in contingency reserves for Operation and Maintenance Costs, the payment of which is not then immediately required) as such Operation and Maintenance Costs become due and payable. Thereafter, all remaining moneys in the Enterprise Fund shall be applied by the City at the following times for the transfer to the following respective special funds in the following order of priority; and all moneys in each of such funds shall be held in trust and shall be applied, used and withdrawn only for the purposes set forth in this section.

(a) Installment Payments. The City shall, from available moneys in the Enterprise Fund and elsewhere, wire to the Corporation the portion of each Installment Payment due in accordance with the wiring instruction set forth in Section 4.2, and shall transfer to the applicable trustee for deposit in the respective payment fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, any other debt service in accordance with the provisions of any Parity Obligation Documents.

(b) Reserve Funds. The City shall, from available moneys in the Enterprise Fund and elsewhere, thereafter, without preference or priority and in the event of any insufficiency of such moneys ratably without any discrimination or preference, transfer to the applicable trustee for such other reserve funds and/or accounts, if any, as may have been established in connection with Parity Obligation Documents the amount required to be deposited therein pursuant to such Parity Obligation Documents, as applicable.

(c) Other Payments. The City shall, from available moneys in the Enterprise Fund and elsewhere, thereafter, without preference or priority and in the event of any insufficiency of such moneys ratably without any discrimination or preference: (i) pay all other amounts when and as due and payable under this Agreement, and (ii) transfer all other amounts to otherwise comply with the Parity Obligation Agreements.

(d) Surplus. Moneys on deposit in the Enterprise Fund not necessary to make any of the payments required above may be expended by the City at any time for capital expenditures or for any other purpose permitted by law.

**Section 5.3 [Reserved.]**

**Section 5.4 Issuance of Parity Obligations and Subordinate Debt.** Except for obligations incurred to prepay or defease the Installment Payments or any other Parity Obligation in whole or in part, the City may not issue or incur any Parity Obligations unless:

(a) The City is not then in default under the terms of this Agreement or any other Parity Obligation.

(b) The Net Revenues (excluding connection charges), calculated in accordance with sound accounting principles, as shown by the books of the City for the latest Fiscal Year or as shown by the books of the City for any more recent consecutive 12 month period selected by the City, in either case verified by a certificate or opinion of an Independent Certified Public Accountant (which may be, but not need be, the outside firm providing auditing services) employed by the City, plus (at the option of the City) the Additional Revenues, at least equal one hundred ten percent (110%) of the amount of Maximum Annual Debt Service; provided, however, that this subsection (b) does not apply to any issue of Parity Obligations the net proceeds of which are applied to refund any Parity Obligations in whole or in part, so long as (i) the final maturity of such Parity Obligations does not exceed the final maturity of the obligations being refunded, and (ii) the aggregate amount of debt service on such Parity Obligations in each Fiscal Year does not exceed the amount of debt service which would otherwise come due and payable in such Fiscal Year on the obligations being refunded.

For purposes of the foregoing calculation of Net Revenues under this subsection (b), the City may add to such Net Revenues any Additional Revenues.

(c) Notwithstanding the above, the City may incur obligations payable from Net Revenues which is payable on a basis which is junior to the payment of the Installment Payments.

**Section 5.5 Investments.** All moneys held by the City in the Enterprise Fund shall be invested in Permitted Investments, and the investment earnings thereon shall remain on deposit in such fund, except as otherwise provided herein.

**Section 5.6 No Reserve.** The Installment Payments shall not be secured by any reserve fund or account, and such payments are not payable, and are not secured by, and reserve fund or account established with respect to any Parity Obligations.

## ARTICLE VI

### COVENANTS OF THE CITY

**Section 6.1 Compliance with Installment Agreement and Ancillary Agreements.** The City will punctually pay the Installment Payments in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not terminate this Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the improvements financed or refinanced by the 2009 Bonds and the Prior Agreement, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either or any failure of the Corporation to observe or perform any agreement, condition, covenant or term contained herein required to be observed and performed by it, whether express or implied, or any duty, liability or obligation arising out of or connected herewith or the insolvency, or deemed insolvency, or bankruptcy or liquidation of the Corporation or any force majeure, including acts of God, tempest, storm, earthquake, war, rebellion, riot, civil disorder, acts of public enemies, blockade or embargo, strikes, industrial disputes, lock outs, lack of transportation facilities, fire, explosion, or acts or regulations of governmental authorities.

The City will faithfully observe and perform all of the agreements, conditions, covenants and terms required to be observed and performed by it pursuant to all outstanding Parity Obligations as such may from time to time be executed or issued, as the case may be.

**Section 6.2 Against Encumbrances.** The City will not make any pledge of or place any lien on the Revenues except as provided in Sections 5.1 and 5.4 hereof. The City will not make any pledge of or place any lien on any other Revenues or the moneys in the Enterprise Fund prior to the lien created in Section 5.1 hereof. The City will not make any pledge of or place any lien on any other Revenues or the moneys in the Enterprise Fund on a parity with the lien created in Section 5.1 hereof except as provided in Section 5.4.

**Section 6.3 Against Sale or Other Disposition of Property.** The City will not enter into any agreement or lease which impairs the operation of the Enterprise or any part thereof. Any real or personal property which has become nonoperative or which is not needed for the efficient and proper operation of the Enterprise, or any material or equipment which has become worn out, may be sold if such sale will not impair the ability of the City to pay the Installment Payments and if the proceeds of such sale are deposited in the Enterprise Fund.

Nothing herein shall restrict the ability of the City to sell any portion of the Enterprise if such portion is immediately repurchased by the City and if such arrangement cannot by its terms result in: (i) the purchaser of such portion of the Enterprise exercising any remedy which would deprive the City of or otherwise interfere with its right to own and operate such portion of the Enterprise; or (ii) the creation of a payment obligation of the City structurally or contractually senior to the obligation to make Installment Payments.

**Section 6.4 Against Competitive Facilities.** To the extent permitted by law, the City covenants that it will not acquire, construct, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, corporation, City or political subdivision or any person whomsoever to acquire, construct, maintain or operate within the City any solid waste system competitive with the Enterprise.

**Section 6.5 Tax Covenants.** Notwithstanding any other provision of this Agreement, absent an opinion of nationally recognized bond counsel that the exclusion from gross income of the interest component of the Installment Payments will not be adversely affected for federal income tax purposes, the City and the Corporation covenant to comply with all applicable requirements of the Code necessary to preserve such exclusion from gross income and specifically covenant, without limiting the generality of the foregoing, as follows:

(a) Private Activity. The City and the Corporation will not take or omit to take any action or make any use of moneys or property which would cause the Installment Payments to be "private activity bonds" within the meaning of Section 141 of the Code.

(b) Arbitrage. The City and the Corporation will make no use of moneys or property, regardless of the source, or take or omit to take any action which would cause the Installment Payments to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(c) Federal Guarantee. The City and the Corporation will not take or omit to take any action that would cause the Installment Payments to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(d) Information Reporting. The City and the Corporation will take or cause to be taken all necessary action to comply with the informational reporting requirements of Section 149(e) of the Code.

(e) Hedge Bonds. The City and the Corporation will make no use of moneys or property, regardless of the source, or take any action or refrain from taking any action that would cause the Installment Payments to be considered "hedge bonds" within the meaning of Section 149(g) of the Code unless the City takes all necessary action to assure compliance with the requirements of Section 149(g) of the Code to maintain the exclusion from gross income of the interest component of the Installment Payments for federal income tax purposes.

(f) Miscellaneous. The City and the Corporation will take no action, or omit to take any action, inconsistent with the expectations stated in any tax certificate executed in connection with the Installment Payments and will comply with the covenants and requirements stated therein and incorporated by reference herein.

This section and the covenants set forth herein shall not be applicable to, and nothing contained herein shall be deemed to prevent the City and the Corporation from causing to be executed and delivered or to issue Parity Obligations, the interest with respect to which has been determined by nationally recognized bond counsel not to be subject to federal income taxation.

**Section 6.6 Operation and Maintenance of the Enterprise.** The City will maintain and preserve the Enterprise in good repair and working order at all times and will operate the Enterprise in an efficient and economical manner and will pay all Operation and Maintenance Costs as they become due and payable.

**Section 6.7 Payment of Claims.** The City will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien on the Revenues or the funds or accounts created hereunder or on any funds in the hands of the City pledged to pay the Installment Payments or to the owners of Parity Obligations prior or superior to the lien of the Installment Payments or which might impair the security of the Installment Payments.

**Section 6.8 Compliance with Contracts.** The City will neither take nor omit to take any action under any contract, if the effect of such act or failure to act would in any manner materially adversely impair the ability of the City to pay Installment Payments; and the City will comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in all other contracts affecting or involving the Enterprise to the extent that the City is a party thereto.

**Section 6.9 Insurance.**

(a) The City will procure and maintain or cause to be procured and maintained insurance on the Enterprise with responsible insurers in such amounts and against such risks (including damage to or destruction of the Enterprise) as are usually covered in connection with solid waste systems similar to the Enterprise so long as such insurance is available from reputable insurance companies.

In the event of any damage to or destruction of the Enterprise 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 Enterprise or the prepayment of Installment Payments in accordance with Section 7.1(b). The City shall begin such reconstruction, repair or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete 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 Enterprise shall be free and clear of all claims and liens.

If such Net Proceeds exceed the costs of such reconstruction, repair or replacement, then the excess Net Proceeds shall be applied by the City in any manner permitted by law.

(b) The City will procure and maintain such other insurance as it shall deem advisable or necessary to protect its interests and the interests of the Corporation, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with solid waste systems similar to the Enterprise.

(c) Any insurance required to be maintained by paragraph (a) above and, if the City determines to procure and maintain insurance pursuant to paragraph (b) above, such insurance, may be maintained under a self-insurance program so long as such self-insurance is maintained in the amounts and manner usually maintained in connection with solid waste systems similar to the Enterprise and is, in the opinion of an accredited actuary, actuarially sound.

**Section 6.10 Eminent Domain of Enterprise.** Any amounts received as awards as a result of the taking of all or any part of the Enterprise by the lawful exercise of eminent domain, if and to the extent that such right can be exercised against such property of the City, shall either (a) be used for the acquisition or construction of improvements and extension or replacement facilities of the Enterprise, or (b) be applied to prepay or redeem the Installment Payments and any Parity Obligations, on a pro rata basis, in the manner provided in Section 7.1(b) herein and in the instruments authorizing such Parity Obligations.

If such eminent domain proceedings have had no effect, or at most an immaterial effect, upon the Net Revenues and the ability of the City to pay the Installment Payments under this Agreement and the Parity Obligation Documents, and a Certificate of the City to such effect has been filed with the Corporation, then the City shall be permitted to deposit such proceeds in the Enterprise Fund.

**Section 6.11 Accounting Records; Financial Statements and Other Reports.**

(a) The City will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the City, which records shall be available for inspection by the Corporation at reasonable hours and under reasonable conditions.

(b) The City will prepare and file with the Corporation annually within two hundred seventy (270) days after the close of each Fiscal Year (commencing with the Fiscal Year ending June 30, 2019) financial statements of the City for the preceding Fiscal Year prepared in accordance with generally accepted accounting principles, together with an Accountant's Report thereon.

(c) The City will deliver a copy of its operating budget, or evidence of the City's appropriation of moneys sufficient to pay the Installment Payments due in such Fiscal Year, to the Corporation annually within thirty (30) days after the commencement of such Fiscal Year.

(d) The City shall file with the Corporation a Certificate of the City stating that it is in compliance with the covenants set forth in Section 6.13 relating to the rates and charges for the Enterprise for each Fiscal Year, not more than two hundred seventy (270) days after the close of each Fiscal Year.

(e) The City shall furnish at the Corporation's request such additional information that the Corporation may from time to time reasonably request.

**Section 6.12 Protection of Security and Rights of the Corporation.** The City will preserve and protect the security hereof and the rights of the Corporation to the Installment Payments hereunder and will warrant and defend such rights against all claims and demands of all persons.

**Section 6.13 Amounts of Rates and Charges.**

(a) Covenant Regarding Revenues. The City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise during each Fiscal Year which (together with existing unencumbered cash and cash-equivalent balances which are lawfully available to the City for payment of any of the following amounts during such Fiscal Year) are at least sufficient, after making allowances for contingencies and error in the estimates, to pay the following amounts in the following order:

(i) All Operation and Maintenance Costs estimated by the City to become due and payable with respect to such Fiscal Year;

(ii) The Installment Payments and all principal of and interest and premium (if any) on any Parity Obligations as they become due and payable with respect to such Fiscal Year, without preference or priority;

(iii) All payments coming due and payable with respect to such Fiscal Year and required for compliance with this Agreement and any Parity Obligation Documents; and

(iv) All payments required to meet any other obligations of the City which are charges, liens, encumbrances upon or payable from the Revenues with respect to such Fiscal Year.

(b) Covenant Regarding Net Revenues. In addition to the covenant set forth in the preceding clause (a) of this Section, the City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise which will be at least sufficient to yield during each Fiscal Year Net Revenues equal to one hundred ten percent (110%) of the aggregate amount of Installment Payments and principal of and interest on any Parity Obligations coming due in such Fiscal Year. For purposes of the prior sentence, Net Revenues shall also include existing unencumbered cash and cash-equivalent balances as of the last day of the immediately preceding Fiscal Year. The City may make adjustments from time to time in such rates and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates and

charges then in effect unless the Net Revenues from such reduced rates and charges will at all times be sufficient to meet the requirements of this section.

**Section 6.14 Payment of Taxes and Compliance with Governmental Regulations.** The City will pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Enterprise or any part thereof or upon the Revenues when the same shall become due. The City will duly observe and conform to all valid regulations and requirements of any governmental authority relative to the operation of the Enterprise or any part thereof, but the City shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

**Section 6.15 Further Assurances.** The City will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Corporation of the rights and benefits provided to it herein.

**Section 6.16 Enforcement of Contracts.** The City will not voluntarily consent to or permit any rescission of, nor will it consent to any amendment to or otherwise take any action under or in connection with any contracts previously or hereafter entered into, if such rescission or amendment would result in a default by the City in the payment of Installment Payments.

**Section 6.17 Observance of Laws and Regulations.** To the extent necessary to assure its performance hereunder, the City will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States of America, or of the State of California, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the City, respectively, including its right to exist and carry on its business, to the end that such contracts, rights and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

**Section 6.18 Collection of Rates and Charges.** The City will have in effect at all times by-laws, rules and regulations requiring each customer to pay the rates and charges applicable to the services and facilities furnished by the Enterprise to such land and providing for the billing thereof and for a due date and a delinquency date for each bill. In each case where such bill remains unpaid in whole or in part after it becomes delinquent, the City may discontinue such service from the Enterprise, and such service shall not thereafter be recommenced except in accordance with the City laws or rules and regulations governing such situations of delinquency.

**Section 6.19 Maintenance of Tax Exemption.** The City shall take all actions necessary to assure the exclusion of the interest component of the Installment Payments from the gross income of the Corporation to the same extent as such interest is permitted to be excluded from gross income under the Tax Code.

## ARTICLE VII

### PREPAYMENT OF INSTALLMENT PAYMENTS

#### Section 7.1 Prepayment.

(a) Optional Prepayment. The City may prepay the Installment Payments, as a whole or in part, in the order of payment date as directed by the City, on any date on and after March 12, 2027 at a prepayment price equal to the principal amount being prepaid, together with accrued interest thereon to the prepayment date, without premium.

(b) Mandatory Prepayment. The City shall prepay the unpaid principal balance of the Installment Payments in whole or in part on any date from and to the extent the City determines to apply any Net Proceeds for such purpose under Section 6.9 and 6.10 at a price equal to the principal amount to be prepaid plus interest accrued thereon to such date, without premium.

**Section 7.2 Method of Prepayment.** Before making any prepayment pursuant to Section 7.1, the City shall give written notice to the Corporation specifying the date on which the Installment Payments will be paid, which date shall be not less than thirty (30) days from the date such notice is given.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES OF THE CORPORATION

**Section 8.1 Events of Default and Acceleration of Installment Payments.** If one or more of the following Events of Default shall happen:

(a) if default shall be made by the City in the due and punctual payment of any Installment Payment or any Parity Obligations when and as the same shall become due and payable;

(b) if default shall be made by the City in the performance of any of the other agreements or covenants required herein (other than the covenant set forth in Section 6.13(c)) or in any Parity Obligation Document to be performed by it, and such default shall have continued for a period of thirty (30) days after the City shall have been given notice in writing of such default by the Corporation;

(c) if the City shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the City seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property;

(d) if payment of the principal of any Parity Obligations is accelerated in accordance with its terms; or



- (e) if any representation, warranty or certification of the City shall have been false when made;
- (f) the dissolution, termination of existence, insolvency or business failure of the City;
- (g) the occurrence of any event that has a Material Adverse Effect; and
- (h) if any court of competent jurisdiction with jurisdiction to rule on the validity of any provision of this Agreement shall find or rule that this Agreement is not valid or not binding on the City.

then and in each and every such case during the continuance of such Event of Default specified above, the Corporation may, by notice in writing to the City, declare the entire principal amount of the unpaid Installment Payments and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything contained herein to the contrary notwithstanding. This section however, is subject to the condition that, if at any time after the entire principal amount of the unpaid Installment Payments and the accrued interest thereon shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the City shall deposit with the Corporation a sum sufficient to pay the unpaid principal amount of the Installment Payments and/or the unpaid payment of any other Parity Obligations referred to in clause (a) above due prior to such declaration and the accrued interest thereon, with interest on such overdue installments, at the rate or rates applicable to the remaining unpaid principal balance of the Installment Payments or such Parity Obligations if paid in accordance with their terms, and the reasonable expenses of the Corporation, and any and all other defaults known to the Corporation (other than in the payment of the entire principal amount of the unpaid Installment Payments and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Corporation, or provision deemed by the Corporation to be adequate shall have been made therefor, then and in every such case the Corporation, by written notice to the City, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

**Section 8.2 Application of Funds Upon Acceleration.** Upon the date of the declaration of acceleration as provided in Section 8.1, all Revenues thereafter received shall be applied to the payment of Installment Payments in accordance with Sections 5.1 and 5.2 hereof and all Revenues thereafter received shall be applied in the following order:

First, to the payment of the fees, costs and expenses of the Corporation, if any, including reasonable compensation to its accountants and counsel;

Second, to the payment of the Operation and Maintenance Costs; and

Third, to the payment of the entire principal amount of the unpaid Installment Payments and the entire unpaid principal amount of all Parity Obligations and the accrued interest thereon, on a pro rata basis, with interest on the overdue installments at the rate or rates of interest applicable to the Installment Payments and such Parity Obligations if paid in accordance with their respective terms.

**Section 8.3 Other Remedies of the Corporation.** The Corporation shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the City or any director, officer or employee thereof, and to compel the City or any such director, officer or employee to perform and carry out its or his duties under the Law and the agreements and covenants required to be performed by it or him contained herein;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Corporation; or

(c) by suit in equity upon the happening of an Event of Default to require the City and its directors, officers and employees to account as the trustee of an express trust.

Notwithstanding anything contained herein, the Corporation shall have no security interest in or mortgage on the Enterprise or other assets of the City, and no default hereunder shall result in the loss of the Enterprise or other assets of the City.

**Section 8.4 Non-Waiver.** Nothing in this article or in any other provision hereof shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the Installment Payments to the Corporation at the respective due dates or upon prepayment from the Net Revenues, the Enterprise Fund and the other funds herein pledged for such payment, or shall affect or impair the right of the Corporation, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

A waiver of any default or breach of duty or contract by the Corporation shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Corporation to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Corporation by the Law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Corporation.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned, the City and the Corporation shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

**Section 8.5 Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by the Law or any other law.

If any remedial action is discontinued or abandoned, the Corporation shall be restored to their former positions.

## ARTICLE IX

### DISCHARGE OF OBLIGATIONS

#### Section 9.1 Discharge of Obligations.

(a) When all or any portion of the Installment Payments shall have become due and payable in accordance herewith or a written notice of the City to prepay all or any portion of the Installment Payments shall have been filed with the Corporation; and

(b) there shall have been deposited with the Corporation or an independent escrow agent at or prior to the Installment Payment Dates or date (or dates) specified for prepayment, in trust for the benefit of the Corporation or its assigns and irrevocably appropriated and set aside to the payment of all or any portion of the Installment Payments, sufficient moneys and non-callable Permitted Investments, issued by the United States of America and described in clause (a) of the definition thereof, the principal of and interest on which when due will provide money sufficient, without reinvestment, to pay all principal, prepayment premium, if any, and interest of such Installment Payments to their respective Installment Payment Dates or prepayment date or dates as the case may be, as evidenced by a special report prepared by an Independent Certified Public Accountant or Independent Financial Consultant addressed to the Corporation and the Corporation has received an opinion addressed to it in form and substance satisfactory to the Corporation in its sole discretion of qualified counsel to the effect that such deposit and prepayment will not cause the interest component of Installment Payments to be included in gross income for federal income tax purposes;

then and in that event, the right, title and interest of the Corporation herein and the obligations of the City hereunder shall, with respect to all or such portion of the Installment Payments as have been so provided for, thereupon cease, terminate, become void and be completely discharged and satisfied (except for the right of the Corporation and the obligation of the City to have such moneys and such Permitted Investments applied to the payment of such Installment Payments, and the obligation of the City to pay any deficiency in such moneys and Permitted Investments).

Upon payment in full of the principal component of all Installment Payments plus interest thereon to the date of payment, the Corporation shall pay over to the City as an overpayment of Installment Payments, all such moneys or such Permitted Investments held by it pursuant hereto other than such moneys and such Permitted Investments as are required for the payment or prepayment of the Installment Payments, which moneys and Permitted Investments shall continue to be held by the Corporation in trust for the payment of the Installment Payments and shall be applied by the Corporation to the payment of the Installment Payments of the City.

## ARTICLE X

### MISCELLANEOUS

**Section 10.1 Liability of City Limited.** The obligation of the City to make the Installment Payments is a special obligation of the City payable solely from Net Revenues, and does not constitute a debt of the City or of the State of California or of any political subdivision thereof in contravention of any constitutional or statutory debt limitation or restriction. Notwithstanding anything contained herein, the City shall not be required to advance any moneys derived from any

source of income other than the Revenues and the Enterprise Fund for the payment of amounts due hereunder or for the performance of any agreements or covenants required to be performed by it contained herein. The City may, however, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the City for such purpose.

**Section 10.2 Benefits of Installment Agreement Limited to Parties.** Nothing contained herein, expressed or implied, is intended to give to any person other than the City and the Corporation any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of the City or the Corporation shall be for the sole and exclusive benefit of the other party.

**Section 10.3 Successor Is Deemed Included in all References to Predecessor.** Whenever either the City or the Corporation is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the City or the Corporation, and all agreements and covenants required hereby to be performed by or on behalf of the City or the Corporation shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

**Section 10.4 Waiver of Personal Liability.** No director, officer or employee of the City shall be individually or personally liable for the payment of the Installment Payments, but nothing contained herein shall relieve any director, officer or employee of the City from the performance of any official duty provided by any applicable provisions of law or hereby.

**Section 10.5 Article and Section Headings, Gender and References.** The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby", "herein," "hereof," "hereto," "herewith" and other words of similar import refer to this Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

**Section 10.6 Partial Invalidity.** If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the City or the Corporation shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof. The City and the Corporation hereby declare that they would have executed this Agreement, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

**Section 10.7 Assignment.** This Agreement and any rights hereunder may not be assigned by the Corporation, as a whole or in part, unless the Corporation has complied with Section 10.14 hereof.

**Section 10.8 Net Contract.** This Agreement shall be deemed and construed to be a net contract, and the City shall pay absolutely net during the term hereof the Installment Payments and all other payments required hereunder, free of any deductions and without abatement, diminution or set-off whatsoever.

**Section 10.9 California Law.** THIS AGREEMENT SHALL BE CONSTRUED AND GOVERNED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

**Section 10.10 Notices.** All written notices to be given hereunder shall be given by mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

If to the City:                   City of Ceres  
  2220 Magnolia Street  
  Ceres, California 95307  
  Attention: City Manager

If to the Corporation:       CN Financing, Inc.  
  555 South Flower Street, 21st Floor  
  Los Angeles, California 90071  
  Attention: Credit Management

**Section 10.11 Effective Date.** This Agreement shall become effective upon its execution and delivery, and shall terminate when the Purchase Price shall have been fully paid (or provision for the payment thereof shall have been made to the written satisfaction of the Corporation).

**Section 10.12 Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Section 10.13 Servicing; Appointment of Servicer.** The Corporation may engage a servicer, and collaterally assign some or all of its rights under this Agreement, to act on behalf of the Corporation under this Agreement as the "Servicer". The Corporation may at any time and from time to time terminate or remove and replace any such Servicer. The Corporation shall give written notice to the City of its appointment, termination, removal or replacement of any Servicer, and the parties may rely on any such notice until any subsequent notice is given. The Corporation is under no obligation to appoint a Servicer; if at any time a Servicer has not been designated by the Corporation, any references to the "Servicer" herein shall refer to the Corporation. Any opinion or certificate provide for herein that is directed to the Servicer shall also be directed to, and may be relied upon by, the Corporation. The Corporation understands and agrees that it may resell or otherwise transfer its interest in this Agreement in whole, and not simply a portion thereof, only to a Servicer that (i) the Corporation reasonably believes is either (x) a qualified institutional buyer or (y) an "accredited investor" in accordance with Section 10.14 hereof, and (ii) otherwise complies in all respects with the provisions herein regarding such sale or transfer.

The Corporation shall be solely responsible for providing the proceeds in accordance with Section 3.1. From and after the Closing Date, if the Corporation has appointed a Servicer for the Corporation under this Agreement, the City acknowledges and agree that the Servicer shall exercise all of the rights and remedies of the Corporation under this Agreement, shall receive all reports,

statements, notices and other communications from the City on behalf of the Corporation required to be delivered to the Corporation under this Agreement and shall be entitled to all of the protections afforded the Corporation under this Agreement.

**Section 10.14 Transfer.** This Agreement is not subject to transfer or assignment by the City. The City acknowledges that the Corporation may transfer or assign this Agreement in whole and not in part provided that:

(a) the transferring holder thereof shall first have complied with all applicable state and federal securities laws and regulations;

(b) the transferring holder thereof can transfer this Agreement only to a transferee who executes and delivers to the City a letter of the transferee substantially in the form attached hereto as Exhibit B and who qualifies as an:

(i) a qualified institutional buyer pursuant to Rule 144A of the 1933 Securities Act; or

(ii) an "accredited investor" within the meaning of Section 2(15) of the 1933 Securities Act; and

(c) the transferring holder thereof will not prepare or furnish, or cause to be prepared or furnished, any disclosure regarding the City without the prior review and written consent of the City, in the City's sole discretion.

**Section 10.15 Notices to the Corporation.** The City shall provide notices to the Corporation as set forth below:

(a) The City shall immediately notify the Corporation by telephone, promptly confirmed in writing, of any event, action or failure to take any action which constitutes an Event of Default under this Agreement, together with a detailed statement by a City Representative of the steps being taken by the City to cure the effect of such Event of Default.

(b) The City shall promptly notify the Corporation in writing (i) of any action, suit or proceeding or any investigation, inquiry or similar proceeding by or before any court or other governmental authority, domestic or foreign, against the City or any of the Enterprise or the Revenues which involve claims equal to or in excess of \$100,000 or that seeks injunctive relief; or (ii) of any loss or destruction of or damage to any portion of the Enterprise in excess of \$100,000.

(c) The City shall promptly notify the Corporation in writing of any Material Litigation, or any investigation, inquiry or similar proceeding by any Governmental Authority with respect to any matter that relates to or could impact any of the Revenues or Net Revenues.

(d) The City shall promptly notify the Corporation in writing in the event of any termination or cancellation of any insurance policy which the City is required to maintain, or any uninsured or partially uninsured loss through liability or property damage, or through fire, theft or any other cause affecting the City property in excess of an aggregate of \$100,000.

(e) The City shall promptly notify the Corporation in writing of any event that may have a Material Adverse Effect

(f) The City shall file with the Corporation such additional information as the Corporation may reasonably request in writing, within a reasonable period of time after the receipt of such written request by the City.

**Section 10.16 Amendments Permitted.** This Agreement and the rights and obligations of the Corporation and the City may be modified or amended at any time by an amendment hereto which shall become binding when the written consents of the Corporation and the City.

IN WITNESS WHEREOF, the parties hereto have executed and attested this Agreement by their officers thereunto duly authorized as of the day and year first written above.

CITY OF CERES

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CITY MANAGER

CN FINANCING, INC., a California corporation

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SENIOR VICE PRESIDENT



**EXHIBIT A**  
**PURCHASE PRICE**

1. The principal amount of payments to be made by the City hereunder is \$3,658,000.
2. The installment payments of principal and interest are payable in the amounts and on the Installment Payment Dates as follows:

<i>Installment Payment Date</i>	<i>Amount Attributable to Principal</i>	<i>Amount Attributable to Interest<sup>(1)(2)</sup></i>	<i>Total</i>
6/1/2020	\$ 154,000.00	\$ 26,249.20	\$ 180,249.20
12/1/2020	0.00	57,290.40	57,290.40
6/1/2021	145,000.00	57,290.40	202,290.40
12/1/2021	0.00	54,919.65	54,919.65
6/1/2022	149,000.00	54,919.65	203,919.65
12/1/2022	0.00	52,483.50	52,483.50
6/1/2023	154,000.00	52,483.50	206,483.50
12/1/2023	0.00	49,965.60	49,965.60
6/1/2024	163,000.00	49,965.60	212,965.60
12/1/2024	0.00	47,300.55	47,300.55
6/1/2025	167,000.00	47,300.55	214,300.55
12/1/2025	0.00	44,570.10	44,570.10
6/1/2026	171,000.00	44,570.10	215,570.10
12/1/2026	0.00	41,774.25	41,774.25
6/1/2027	179,000.00	41,774.25	220,774.25
12/1/2027	0.00	38,847.60	38,847.60
6/1/2028	182,000.00	38,847.60	220,847.60
12/1/2028	0.00	35,871.90	35,871.90
6/1/2029	190,000.00	35,871.90	225,871.90
12/1/2029	0.00	32,765.40	32,765.40
6/1/2030	197,000.00	32,765.40	229,765.40
12/1/2030	0.00	29,544.45	29,544.45
6/1/2031	200,000.00	29,544.45	229,544.45
12/1/2031	0.00	26,274.45	26,274.45
6/1/2032	207,000.00	26,274.45	233,274.45
12/1/2032	0.00	22,890.00	22,890.00
6/1/2033	213,000.00	22,890.00	235,890.00
12/1/2033	0.00	19,407.45	19,407.45
6/1/2034	224,000.00	19,407.45	243,407.45
12/1/2034	0.00	15,745.05	15,745.05
6/1/2035	230,000.00	15,745.05	245,745.05
12/1/2035	0.00	11,984.55	11,984.55
6/1/2036	236,000.00	11,984.55	247,984.55
12/1/2036	0.00	8,125.95	8,125.95
6/1/2037	246,000.00	8,125.95	254,125.95
12/1/2037	0.00	4,103.85	4,103.85
6/1/2038	251,000.00	4,103.85	255,103.85
<b>Total</b>	<b>\$3,658,000.00</b>	<b>\$1,213,978.60</b>	<b>\$4,871,978.60</b>

<sup>(1)</sup> Amounts are estimated and actual amounts will be provided by invoice to the City by the Corporation.  
<sup>(2)</sup> May change if payment dates fall on non-business days.

**EXHIBIT B**  
**FORM OF INVESTOR LETTER**

City Council  
City of Ceres  
Ceres, California

*Re: City of Ceres 2020 Water Installment Agreement*

Ladies and Gentlemen:

The undersigned, an authorized representative of \_\_\_\_\_ (the "Purchaser") hereby represents and warrants to you as follows:

1. The Purchaser has entered into the above-reference agreement (the "Agreement") approved pursuant to that certain Resolution adopted by the City Council of the City of Ceres (the "City") on June 10, 2019 (the "Resolution").

2. The Purchaser has sufficient knowledge and experience in business and financial matters in general, and the acquisition of privately-placed financial instruments in particular, to enable the Purchaser to evaluate the Agreement, the credit of the City, the collateral and the Agreement terms and that the Purchaser will make or has made its own independent credit analysis and decision to enter into the Agreement based on an independent examination and evaluation of the transaction and the information deemed appropriate, without reliance on the City or its affiliates, its directors, officers, employees, attorneys or agents.

3. The Purchaser acknowledges that no official statement has been prepared in connection with the Agreement, that the execution and delivery of the Agreement is exempt from Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, pursuant to Section (d) of said Rule, and that the City will not be entering into a continuing disclosure agreement to provide ongoing disclosure respecting the Agreement or the security therefor. The Purchaser has been offered copies of or full access to all documents relating to the Agreement and all records, reports, financial statements and other information concerning the City and pertinent to the source of payments due under the Agreement as deemed material by the Purchaser, which the Purchaser has requested and to which the Purchaser would attach significance in making a transaction decision.

4. The Purchaser confirms that its execution and delivery of the Agreement constitutes an acquisition that is suitable for and consistent with its loan portfolio and that the Purchaser is able to bear the economic risk of the execution and delivery of the Agreement, including a complete loss under the Agreement.

5. The Purchaser is executing and delivering the Agreement for not more than one account, solely for its own loan account, and not with a present view to, or in connection with, any distribution, resale, pledging, fractionalization, subdivision or other disposition thereof (subject to the understanding that disposition of Purchaser's property will remain at all times within its control). Because the Purchaser intends to treat the execution and delivery of the Agreement as a loan and hold the Agreement in its loan portfolio, the Purchaser has not directed or requested a CUSIP number for this transaction, or applied for eligibility with The Depository Trust Company (DTC).

6. The Purchaser understands that (i) the Agreement (a) has not been registered under the Securities Act of 1933 (the "Securities Act"), (b) has not been registered or qualified under any state securities or "Blue Sky" laws, (c) will not be listed on any stock or other securities exchange, (d) will carry no rating from any rating service specific to the Agreement at the request of the City (although similar securities of the City may carry ratings), and (e) due to a lack of a rating and lack of registration with a securities depository may not be readily marketable and the Purchaser will be required to bear the risk of an investment in the Agreement for a certain period of time; and (ii) the Resolution has not been qualified under the Trust Indenture Act of 1939, as amended.

7. The Purchaser has been furnished with and has examined the Agreement, the Resolution and other documents, certificates and the legal opinions delivered in connection with the execution and delivery of the Agreement.

8. The Purchaser is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it was incorporated or formed and is authorized to execute and deliver the Agreement. The person executing this letter on behalf of the Purchaser is duly authorized to do so on the Purchaser's behalf.

9. The Purchaser is a "qualified institutional buyer" (a "Qualified Institutional Buyer") within the meaning of Rule 144A promulgated under the Securities Act, or an institutional "accredited investor" (an "Institutional Accredited Investor") as defined in Section 501(a)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act.

10. The Purchaser understands and agrees that interest in the Agreement may be transferred (i) only to a Person that the Purchaser reasonably believes is either (A) a Qualified Institutional Buyer that is receiving an interest in the Agreement for not more than one account, for their own account and not with a view to distributing such interest, or (B) an Institutional Accredited Investor that is receiving an interest in the Agreement for not more than one account and not with a view to distributing such interest, and (ii) only if such Qualified Institutional Buyer or Institutional Accredited Investor delivers to the City a completed and duly executed Investor Letter substantially in the form hereof. The Purchaser retains the right to participate its interests in the Agreement but only to Qualified Institutional Buyers or Institutional Accredited Investors.

11. Inasmuch as the Agreement represents a negotiated transaction, the Purchaser is not acting as a fiduciary of the City, but rather is acting solely in its capacity as the Purchaser, for its own loan account.

12. The Purchaser understands that the City, Brandis Tallman LLC, and Urban Futures, Inc., and their respective counsel, and bond counsel, will rely upon the accuracy and truthfulness of the representations and warranties contained herein and hereby consents to such reliance.

13. No person has made any direct or indirect representation or warranty of any kind to the Purchaser with respect to the economic return which may accrue to the Purchaser. The Purchaser has consulted with its own tax counsel and other advisors with respect to the investment represented by the Agreement.

IN WITNESS WHEREOF, the Purchaser has executed this Purchaser Letter as of the date set forth below.

Dated: \_\_\_\_\_, \_\_\_\_\_

Very truly yours,

\_\_\_\_\_

By: \_\_\_\_\_

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

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

From: Robert Granberg, General Manager  
Prepared by: Robert Granberg, General Manager

**1. ACTION RECOMMENDED:**

Motion: Approving Amendment No. 9 to the Agreement for Special Services with West Yost Associates for Phase 3 Program Management Services for the Regional Surface Water Supply Project reducing their approved contract by \$2,698,827 to a revised total of \$13,104,032

Resolution: Reducing the fiscal year 2020-21 budget for account number 950-53-553.43060\_012 "Program Management Services" and related member agency contributions in the amount of \$851,500 representing that portion of Task #22 "Construction Oversight" and the related 5% contingency budgeted in fiscal year 2020-21

**2. DISCUSSION OF ISSUE:**

On June 29, 2020, the SRWA Board approved Amendment No. 8 to the Agreement for Special Services with West Yost Associates (West Yost) to perform Phase 3 design and construction services in the amount of \$7,341,642, which included Task 22, construction management oversight in the amount of \$2,570,311 and associated 5% engineering contingency of \$128,516 included in Task 20.01.

Subsequent to execution of Amendment No. 8, and prior to work performed under Task 22, a Request for Proposals (RFP) was posted to the SRWA website and firms were contacted regarding Owner Advisor Construction Monitoring Services for the Design-Build Contract for the Regional Surface Water Supply Project. On September 24, 2020, Inferrera Construction Management Group, Inc. and Carollo Engineers, Inc. submitted proposals in response to the RFP.

The Technical Advisory Committee (TAC) reviewed the proposals and is recommending a Special Services Agreement for Owners Advisor Construction Monitoring Services be awarded to the Inferrera Construction Management Group, Inc. in the amount of \$1,586,368 under a separate Board action.

West Yost's Contract Amendment No. 9 is attached. All other Program Management tasks identified in Amendment No. 8 remain unchanged.

**3. FISCAL IMPACT / BUDGET AMENDMENT:**

Amendment No. 9 to the West Yost Associates, Inc. Agreement reduces the total estimated fee for Phase 3 services contained in Amendment No. 8 by \$2,698,827. The fiscal year 2020-21 budget included \$851,500 of this total projected cost.

Therefore, Staff is requesting the approval of a budget reduction to account number 950-53-553.43060\_012 "Program Management Services" in the amount of \$851,500 with corresponding reductions in the revenue to be collected from the project's partners. The following table summarizes the proposed budget reduction:

Acct Number	Acct Name	2020-21 Approved Budget	Amendment	2020-21 Amended Budget
<b>Expenditures</b>				
950-53-553.43060_012	Project Mgmt Services	\$2,733,688	(\$851,500)	\$1,882,188
<b>Revenues</b>				
950-53-552.34900_001	Contributions - Turlock	38,257,747	(559,690)	37,698,057
950-53-552.34900_002	Contributions - Ceres	19,509,718	(273,500)	19,236,218
950-53-552.34900_004	Contributions - TID	1,075,231	( 18,310)	1,056,921

**4. GENERAL MANAGER'S COMMENTS:**

Recommends approval.

**5. ENVIRONMENTAL DETERMINATION:**

N/A

**6. ALTERNATIVES:**

The Board could choose to not to not approve Amendment No. 9 and continue the entire scope of services - including construction management - contained in Amendment No. 8 previously approved by the Board.



**AMENDMENT NO. 9**  
to the  
**AGREEMENT FOR SPECIAL SERVICES**  
between  
**STANISLAUS REGIONAL WATER AUTHORITY**  
and  
**WEST YOST ASSOCIATES**  
for  
**PROGRAM MANAGEMENT SERVICES**

**THIS AMENDMENT**, dated November 19, 2020, is entered into by and between the STANISLAUS REGIONAL WATER AUTHORITY, a Joint Powers Authority of the State of California, hereinafter referred to as "SRWA" and WEST YOST & ASSOCIATES, Inc., a California corporation, hereinafter referred to as "CONSULTANT".

**WHEREAS**, the Stanislaus Regional Water Authority (SRWA) entered into an agreement dated April 13, 2016 with West Yost Associates (**CONSULTANT**) for program management services (hereinafter the "Agreement") in the amount of \$2,007,472; and

**WHEREAS**, on September 22, 2016, the Agreement was amended (Amendment No. 1) in the amount of \$105,000; and

**WHEREAS**, on November 10, 2016, the Agreement was amended (Amendment No. 2) in the amount of \$255,232; and

**WHEREAS**, on January 26, 2017, the Agreement was amended (Amendment No. 3) in the amount of \$177,206; and

**WHEREAS**, on August 3, 2017, the Agreement was amended (Amendment No.4) in the amount of \$273,255; and

**WHEREAS**, on October 26, 2017, the Agreement was amended (Amendment No. 5) in the amount of \$5,667,453; and

**WHEREAS**, on August 1, 2019, the Agreement was amended (Amendment No. 6), to extend the Agreement term from August 31, 2019 to December 31, 2019 with no additional compensation; and

**WHEREAS**, on November 21, 2019, the Agreement was amended (Amendment No. 7), to extend the Agreement term from December 31, 2019 to June 30, 2020 with no additional compensation; and

**WHEREAS**, on November 21, 2019, the Board passed Resolution 2019-011 decreasing the Agreement by \$24,401 for engineering services provided during construction of the Wet Well project; and

**WHEREAS**, on June 29, 2020, the Agreement was amended (Amendment No. 8), in the amount of \$7,341,642.

**NOW, THEREFORE**, the parties hereto mutually agree to amend said Agreement as follows:

1. The scope of services (Paragraph 1 of the Agreement) is amended to remove Task 22 from Exhibit A of Amendment No. 8. CONSULTANT shall not perform that task.

2. CONSULTANT's total compensation for the services to be provided under Amendment No. 8 shall be reduced by the amount of Two Million Six Hundred Ninety-Eight Thousand Eight Hundred Twenty-Seven Dollars (\$2,698,827). Paragraph 4 of the Agreement therefore is amended to read as follows:

"4. COMPENSATION: SRWA agrees to pay CONSULTANT additional compensation in the amount of \$4,642,815 in accordance with Amendment No. 8 Exhibit B (with the exclusion of Task 22) and the payment-related provisions of the Agreement for services to be performed under Amendment No. 8 as modified by this Amendment No. 9. Compensation for completion of all items of work, as set forth in the Agreement as amended by Amendment Nos. 1 through 9 shall not exceed \$13,104,032, which includes a 5% contingency for Amendment No. 8 services. Such maximum amount shall be compensation for all of CONSULTANT'S expenses incurred in the performance of the Agreement, as amended by Amendment Nos. 1 through 9".

All other terms and conditions of the Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by and through their respective officers thereunto duly authorized.



**STANISLAUS REGIONAL WATER  
AUTHORITY, a Joint Powers Authority**

By: \_\_\_\_\_  
Chris Vierra  
Board Chair

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

**WEST YOST & ASSOCIATES, Inc.**  
a California corporation

By: Lindsay Smith  
Lindsay Smith  
Treasurer

Date: November 5, 2020

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Richard P. Shanahan  
Interim General Counsel



**SRWA**  
 STANISLAUS REGIONAL  
 WATER AUTHORITY

**BEFORE THE GOVERNING BOARD OF THE STANISLAUS REGIONAL  
 WATER AUTHORITY**

IN THE MATTER OF REDUCING THE FISCAL }  
 YEAR 2020-21 BUDGET FOR ACCOUNT }  
 NUMBER 950-53-553.43060\_012 "PROGRAM }  
 MANAGEMENT SERVICES" AND RELATED }  
 MEMBER AGENCY CONTRIBUTIONS IN THE }  
 AMOUNT OF \$851,500 REPRESENTING THAT }  
 PORTION OF TASK #22 "CONSTRUCTION }  
 OVERSIGHT" AND THE RELATED 5% }  
 CONTINGENCY BUDGETED IN FISCAL }  
 YEAR 2020-21 }

RESOLUTION NO.2020-\_\_\_\_

WHEREAS, by separate action the SRWA Board has approved Amendment No. 9 to the Special Services Agreement with West Yost Associates, Inc. moving Task #22 along with a related 5% contingency and reducing their approved contract by \$2,698,827; and

WHEREAS, the approved fiscal year 2020-21 budget included \$851,500 for Task #22 and related 5% contingency; and

WHEREAS, to properly account for the approved contract amendment, the budget for account number 950-53-553.43060\_012 "Program Management Services" as well as the corresponding member contribution accounts need to be reduced by \$851,500.

NOW, THEREFORE, BE IT RESOLVED that the Board of the Stanislaus Regional Water Authority does hereby authorize the following budget amendments:

Acct Number	Acct Name	2020-21 Approved Budget	Amendment	2020-21 Amended Budget
<b>Expenditures</b>				
950-53-553.43060_012	Project Mgmt Services	\$2,733,688	(\$851,500)	\$1,882,188
<b>Revenues</b>				
950-53-552.34900_001	Contributions - Turlock	38,257,747	(559,690)	37,698,057
950-53-552.34900_002	Contributions - Ceres	19,509,718	(273,500)	19,236,218

950-53-552.34900_004	Contributions - TID	1,075,231	( 18,310)	1,056,921
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**PASSED AND ADOPTED** at a regular meeting of the Board of the Stanislaus Regional Water Authority this 19<sup>th</sup> day of November 2020, by the following vote:

AYES:

NOES:

NOT PARTICIPATING:

ABSENT:

ATTEST:

\_\_\_\_\_  
Allison Martin, Board Secretary



From: Robert Granberg, General Manager  
Prepared by: Robert Granberg, General Manager

**1. ACTION RECOMMENDED:**

Motion: Approving an Agreement for Special Services with the Inferrera Construction Management Group, Inc. for the Regional Surface Water Supply Project, Phase 3 Design-Build Contract in an amount not to exceed \$1,586,368

Resolution: Appropriating \$396,600 to account number 950-53-553.51802\_002 "Construction Management" to be funded via contributions from SRWA participating agencies as outlined in the Phase 3 Design and Construction Funding Agreement

**2. DISCUSSION OF ISSUE:**

On August 21, 2020, a joint Owners Advisor Design-Build Construction Monitoring Services and City of Ceres Local Facilities Construction Management Services Request for Proposals (RFP) was posted to the SRWA website. In addition, several construction management firms were contacted regarding the RFP. On September 24, 2020, the Inferrera Construction Management Group Inc. and Carollo Engineers, Inc. submitted proposals for SRWA Construction Monitoring Services in response to the RFP.

The Technical Advisory Committee (TAC) reviewed the proposals and is recommending a Special Services Agreement be awarded to the Inferrera Construction Management Group, Inc. in the amount of \$1,586,368, which includes a 10% contingency above the fee amount contained in the submitted proposal. All work contemplated in the Agreement will be done on a time-and-materials basis with a not-to-exceed amount as identified above.

The Agreement, scope of work and fee estimate are attached for services concurrent with the Design-Build contract construction activities through December 31, 2023.

**3. FISCAL IMPACT / BUDGET AMENDMENT:**

Since the construction management services scope of work will span the entire, multi-year construction period, Staff is currently requesting a budget appropriation in the amount of \$396,600 representing the projected cost for fiscal year 2020-21. The remaining contract amount will be budgeted in successive fiscal years. This amount will be funded via contributions from SRWA participating agencies as outlined in the Regional Surface Water Supply Phase 3 Design and Construction

Funding Agreement dated February 28, 2020 and any future supplements. The following summarizes the recommended budget amendments for fiscal year 2020-21:

Acct Number	Acct Name	2020-21 Approved Budget	Amendment	2020-21 Amended Budget
<b>Expenditures</b>				
950-53-553.51802_002	Construction Mgmt	-0-	\$396,600	\$396,600
<b>Revenues</b>				
950-53-552.34900_001	Contributions - Turlock	-0-	260,685	260,685
950-53-552.34900_002	Contributions - Ceres	-0-	127,390	127,390
950-53-552.34900_004	Contributions - TID	-0-	8,525	8,525

**4. GENERAL MANAGER’S COMMENTS:**

Recommends approval.

**5. ENVIRONMENTAL DETERMINATION:**

N/A

**6. ALTERNATIVES:**

The Board could choose to not approve an Agreement with the Inferrera Construction Management Group, Inc. and direct Staff to negotiate an agreement for construction monitoring services with Carollo Engineers, Inc.



**SRWA**  
 STANISLAUS REGIONAL  
 WATER AUTHORITY

**AGREEMENT FOR SPECIAL SERVICES**  
 between  
**Stanislaus Regional Water Authority**  
 and  
**Inferrera Construction Management Group, Inc.**  
 For  
**Owners Advisor Construction Monitoring Services**  
 For The  
**Stanislaus Regional Water Authority**  
**Regional Surface Water Supply Project**  
**Design-Build Contract**

**THIS AGREEMENT** is made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the **Stanislaus Regional Water Authority**, a joint powers authority of the State of California hereinafter referred to as "SRWA" and **Inferrera Construction Management Group, Inc.**, a California corporation, hereinafter referred to as "CONSULTANT."

**WITNESSETH:**

**WHEREAS**, in accordance with California Government Code §37103, SRWA has a need for Owners Advisor Construction Monitoring services; and

**WHEREAS**, CONSULTANT has represented itself as duly trained, qualified, and experienced to provide such special service, hereinafter referred to as "Services."

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

**1. SCOPE OF WORK:** CONSULTANT shall furnish all labor, equipment, materials and process, implements, tools, and machinery, except as otherwise specified, which are necessary and required to provide the Services and shall perform such special services in accordance with the standards of its profession and contained in CONSULTANT's Proposal for Owners Advisor Design-Build Construction Monitoring Services dated September 24, 2020, attached hereto as Exhibit A. CONSULTANT shall provide Services that are acceptable to SRWA.

**2. PERSONNEL AND EQUIPMENT:** CONSULTANT shall provide all personnel needed to accomplish the Services hereunder. CONSULTANT shall additionally acquire, provide, maintain, and repair, at its sole cost and expense, such equipment, materials, and supplies as CONSULTANT shall reasonably required to accomplish said Services.

**3. SAFETY REQUIREMENT:** All Services and merchandise must comply with California State Division of Industrial Safety orders and O.S.H.A.

**4. COMPENSATION:** SRWA agrees to pay CONSULTANT in accordance with Exhibit B as full remuneration for performing all Services and furnishing all staffing and materials called for in Exhibit A and for performance by CONSULTANT of all of its duties and obligations under this Agreement. In no event shall the total amount of this Agreement exceed One Million Five Hundred Eighty Six Thousand Three Hundred Sixty Eight and 30/100<sup>ths</sup> Dollars (\$1,586,368.30), which includes a 10% contingency amount added to the fee estimate provided by Inferred Construction Management Group, Inc. to the SRWA in the Cost Proposal dated September 24, 2020. CONSULTANT agrees that compensation shall be paid in the manner and at the times set forth below:

(a) Invoices: CONSULTANT shall submit dated invoices to SRWA specifying the date, location and service rendered, and the charge therefor.

(b) Payment:

(1) All payments by SRWA shall be made in arrears, after satisfactory service, as determined and approved by SRWA, has been provided. Payment shall be made by SRWA no more than thirty (30) days from the SRWA's receipt of invoice.

(2) SRWA shall normally pay by voucher or check within ten (10) working days after each SRWA Board meeting at which payments can be authorized, provided that the SRWA receives the invoice at least five (5) working days prior to the SRWA's Board meeting date.

(3) If SRWA disputes any items on an invoice for a reasonable cause, which includes but is not limited to unsatisfactory service, SRWA may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deletions shall be documented to CONSULTANT within fifteen (15) working days after receipt of invoice by SRWA. SRWA shall assign a sequential reference number to each deletion.

(4) If dispute is settled, payment shall be by voucher or check payable to and mailed to CONSULTANT within five (5) working days of dispute settlement.

(5) SRWA reserves the right to only pay for such services rendered to the satisfaction of SRWA.

**5. TERM OF AGREEMENT:** This Agreement shall become effective November 19, 2020 and end December 31, 2023, subject to availability of funds.

**6. INSURANCE:** CONSULTANT shall not commence work or services under this Agreement until CONSULTANT has obtained SRWA's approval regarding all insurance requirements, forms, endorsements, amounts, and carrier ratings, nor shall CONSULTANT allow any subcontractor to commence work or services on a subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved. CONSULTANT shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work or services hereunder by CONSULTANT, its agents, representatives, employees or

subcontractors. Failure to maintain or renew coverage or to provide evidence of renewal may constitute a material breach of contract.

(a) Minimum Scope of Insurance: When applicable, coverage shall be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01) with an additional insured endorsement (form CG 2010 for ongoing operations and 20 37 for products/completed operations), to be approved by the SRWA .

(2) Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(4) Errors and Omissions/Professional Liability Insurance.

(b) Minimum Limits of Insurance: CONSULTANT shall maintain limits no less than:

(1) General Liability (including operations, products and completed operations): \$2,000,000 per occurrence for bodily injury, personal injury and property damage. 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 per occurrence for bodily injury and property damage.

(3) Workers' Compensation: as statutorily required by the State of California. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

(4) Errors and Omissions/Professional Liability: \$1,000,000 per claim.

(c) Deductibles and Self-Insured Retentions: Upon request of SRWA, any deductibles or self-insured retentions must be declared to and approved by SRWA. At the option of SRWA, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects SRWA, its elective and appointive boards, officers, agents, employees, and volunteers; or (2) CONSULTANT shall provide a financial guarantee satisfactory to SRWA guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(d) Other Insurance Provisions: The commercial general liability policy shall contain, or be endorsed to contain, the following provisions:



(1) SRWA, its elective and appointive boards, officers, agents, employees, and volunteers are to be covered as additional insured with respect to liability arising out of work or operations performed by or on behalf of CONSULTANT, including materials, parts or equipment furnished in connection with such work or operations, which coverage shall be maintained in effect for at least three (3) years following the completion of the work specified in the contract. General liability coverage can be provided in the form of an endorsement to CONSULTANT's insurance (at least as broad as CG 20 10 for ongoing operations and CG 20 37 for products/completed operations), or as a separate Owners and Contractors Protective Liability policy providing both ongoing operations and completed operations coverage.

(2) For any claims related to this project, CONSULTANT's insurance coverage shall be primary insurance as respects SRWA and any insurance or self-insurance maintained by SRWA shall be excess of CONSULTANT's insurance and shall not contribute with it.

(3) In the event of cancellation, non-renewal, or material change that reduces or restricts the insurance coverage afforded to SRWA under this Agreement, the insurer, broker/producer, or CONSULTANT shall provide SRWA with thirty (30) days' prior written notice of such cancellation, non-renewal, or material change.

(4) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

(e) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

(f) Verification of Coverage: CONSULTANT shall furnish SRWA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by SRWA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONSULTANT'S obligation to provide them. SRWA reserves the right, at any time, to require complete, certified copies of all required insurance policies and endorsements.

(g) Waiver of Subrogation: With the exception of professional liability, CONSULTANT hereby agrees to waive subrogation which any insurer of CONSULTANT may acquire from CONSULTANT by virtue of the payment of any loss. The commercial general liability policy and workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of SRWA for all work performed by CONSULTANT, its agents, employees, independent contractors and subcontractors. CONSULTANT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

(h) Subcontractors: CONSULTANT shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All insurance coverage for subcontractors shall be subject to all of the requirements stated herein.

**7. INDEMNIFICATION:** CONSULTANT shall indemnify, defend, and hold harmless SRWA and its elective and appointive boards, officers, agents, employees, and volunteers from and against any and all claim, demand, cost, or liability that arises out of, pertains to, or relates to, the negligence, recklessness, or willful misconduct of CONSULTANT and its employees or

agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful misconduct of SRWA.

**8. INDEPENDENT CONTRACTOR RELATIONSHIP:** All acts of CONSULTANT, its agents, officers, and employees and all others acting on behalf of CONSULTANT relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of SRWA. CONSULTANT, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of SRWA. CONSULTANT has no authority or responsibility to exercise any rights or power vested in the SRWA. No agent, officer, or employee of the SRWA is to be considered an employee of CONSULTANT. It is understood by both CONSULTANT and SRWA that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

CONSULTANT, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of SRWA.

CONSULTANT shall determine the method, details, and means of performing the work and services to be provided by CONSULTANT under this Agreement. CONSULTANT shall be responsible to SRWA only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to SRWA's control with respect to the physical action or activities of the CONSULTANT in fulfillment of this Agreement. CONSULTANT has control over the manner and means of performing the services under this Agreement. CONSULTANT is permitted to provide services to others during the same period service is provided to SRWA under this Agreement. If necessary, CONSULTANT has the responsibility for employing other persons or firms to assist CONSULTANT in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by CONSULTANT, such persons shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the CONSULTANT.

It is understood and agreed that as an independent contractor and not an employee of SRWA neither the CONSULTANT or CONSULTANT'S assigned personnel shall have any entitlement as a SRWA employee, right to act on behalf of the Authority in any capacity whatsoever as an agent, or to bind the SRWA to any obligation whatsoever.

It is further understood and agreed that CONSULTANT must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONSULTANT'S personnel.

As an independent contractor, CONSULTANT hereby indemnifies and holds SRWA harmless from any and all claims that may be made against SRWA based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

**9. VOLUNTARY TERMINATION:** SRWA may terminate this Agreement without cause or legal excuse by providing thirty (30) days' written notice to CONSULTANT.

## 10. TERMINATION OF STATED EVENT:

(a) Termination on Occurrence of Stated Events. This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of CONSULTANT, (2) legal dissolution of CONSULTANT, or (3) death of key principal(s) of CONSULTANT.

(b) Termination by SRWA for Default of CONSULTANT. Should CONSULTANT default in the performance of this Agreement or materially breach any of its provisions, at its option SRWA may terminate this Agreement by giving written notification to CONSULTANT. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of SRWA's property by CONSULTANT, dishonesty, or theft.

(c) Termination by CONSULTANT for Default of SRWA. Should SRWA default in the performance of this Agreement or materially breach any of its provisions, at its option CONSULTANT may terminate this Agreement by giving written notice to SRWA. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with CONSULTANT, willful destruction of CONSULTANT's property by SRWA, dishonesty or theft.

(d) Termination for Failure to Make Agreed-Upon Payments. Should SRWA fail to pay CONSULTANT all or any part of the payments set forth in this Agreement on the date due, at its option CONSULTANT may terminate this Agreement if the failure is not remedied within thirty (30) days after CONSULTANT notifies SRWA in writing of such failure to pay. The termination date shall be the effective date of the notice.

(e) Termination by SRWA for Change of CONSULTANT'S Tax Status. If the Authority determines that CONSULTANT does not meet the requirements of federal and state tax laws for independent contractor status, SRWA may terminate this Agreement by giving written notice to CONSULTANT. The termination date shall be the effective date of the notice.

(f) In the Event of Termination. If this Agreement is terminated pursuant to this Paragraph, CONSULTANT shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If SRWA so requests, and at SRWA's cost, CONSULTANT shall provide sufficient oral or written status reports to make SRWA reasonably aware of the status of CONSULTANT'S work on the project. Further, if SRWA so requests, and at SRWA's cost, CONSULTANT shall deliver to SRWA any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, SRWA will pay CONSULTANT an amount based on the percentage of work completed on the termination date, this percentage shall be determined by SRWA in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by SRWA for Default of CONSULTANT, CONSULTANT understands and agrees that SRWA may, in SRWA's sole discretion, refuse to pay CONSULTANT for that portion of CONSULTANT'S

services which were performed by CONSULTANT on the project prior to the termination date and which remain unacceptable and/or not useful to SRWA as of the termination date.

**11. CONFORMANCE WITH FEDERAL AND STATE LAW:** All equipment, supplies and services used by CONSULTANT in the performance of this Agreement shall conform to the laws of the government of the United States and the State of California.

**12. NONDISCRIMINATION:** In connection with the execution of this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race religion, color, sex, or national origin. CONSULTANT shall take affirmative action to ensure that applicants are employed, and the employees are treated during their employment, without regard to their age, race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotions, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT shall also comply with the requirement of Title VII of the Civil Rights Act of 1964 (P.L. 88-352) and with all applicable regulations, statutes, laws, etc., promulgated pursuant to the civil rights acts of the government of the United States and the State of California now in existence or hereafter enacted. Further, CONSULTANT shall comply with the provisions of Section 1735 of the California Labor Code.

**13. TIME:** Time is of the essence in this Agreement.

**14. ENTIRE AGREEMENT AND MODIFICATION:** This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. CONSULTANT shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. CONSULTANT specifically acknowledges that in entering and executing this Agreement, CONSULTANT relies solely upon the provisions contained in this Agreement and no others.

**15. OBLIGATIONS OF CONSULTANT:** Throughout the term of this Agreement, CONSULTANT shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. CONSULTANT warrants that it has all the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the SRWA with the services contemplated by this Agreement. CONSULTANT further represents that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

**16. OWNERSHIP OF DOCUMENTS:** All reports, data, drawings, plans, designs, specifications, graphics, calculations, working papers, models, flow diagrams, visual aids, and other incidental work or materials furnished hereunder shall become and remain the property of the SRWA, and may be used by SRWA as it may require without any additional cost to SRWA. No reports shall be used by the CONSULTANT for purposes other than this contract without the express prior written consent of SRWA.

**17. NEWS AND INFORMATION RELEASE:** CONSULTANT agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from the Authority.

**18. INTEREST OF CONSULTANT:** CONSULTANT warrants that it presently has no

interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT warrants that, in performance of this Agreement, CONSULTANT shall not employ any person having any such interest. CONSULTANT agrees to file a Statement of Economic Interests with the Agency at the start and end of this contract if so required at the option of SRWA.

**19. AMENDMENTS:** Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for SRWA or CONSULTANT to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with SRWA and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, SRWA will not be responsible to pay any charges CONSULTANT may incur in performing such additional services, and CONSULTANT shall not be required to perform any such additional services.

**20. PATENT/COPYRIGHT MATERIALS:** Unless otherwise expressly provided in the contract, CONSULTANT shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. CONSULTANT shall furnish a warranty of such right to use to SRWA at the request of SRWA.

**21. CERTIFIED PAYROLL REQUIREMENT:** For CONSULTANTS performing field work on public works contracts on which prevailing wages are required, CONSULTANT shall comply with the provisions of the California Labor Code including, but not limited to, Section 1776 regarding payroll records, and shall require its sub-consultants and sub-contractors to comply with that section as may be required by law.

**22. PARTIAL INVALIDITY:** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

**23. WAIVER:** The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

**24. AUDIT:** SRWA's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify CONSULTANT'S charges to SRWA under this Agreement.

CONSULTANT agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for CONSULTANT services. SRWA's representative shall have the right to reproduce any of the aforesaid documents.

**25. GOVERNING LAW:** This Agreement shall be governed according to the laws of the State of California.

**26. HEADINGS NOT CONTROLLING:** Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

**27. COMPLIANCE WITH LAWS:** CONSULTANT shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws including, but not limited to, prevailing wage laws, if applicable. CONSULTANT shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits.

**28. BUSINESS LICENSE:** CONSULTANT will have a Stanislaus County business license.

**29. ASSIGNMENT:** This Agreement is binding upon SRWA and CONSULTANT and their successors. Except as otherwise provided herein, neither SRWA nor CONSULTANT shall assign, sublet, or transfer interest in this Agreement or any part thereof without the prior written consent of the other.

**30. RECORD INSPECTION AND AUDIT:** CONSULTANT shall maintain adequate records to permit inspection and audit of CONSULTANT's time and material charges under this Agreement. CONSULTANT shall make such records available to SRWA during normal business hours upon reasonable notice. Such records shall be turned over to SRWA upon request.

**31. EXCLUSIVE USE:** Services provided within the scope of this Agreement are for the exclusive use of SRWA and CONSULTANT agrees that, until final approval by SRWA, all data, plans, specifications, reports, and other documents will not be released to third parties by CONSULTANT without the prior written consent of SRWA.

**32. EMPLOYMENT OF AUTHORITY OFFICIAL OR EMPLOYEE:** CONSULTANT shall employ no SRWA official or employee in the work performed pursuant to this Agreement. No officer or employee of SRWA shall have any financial interest in this Agreement in violation of California Government Code Sections 1090 *et seq.*; nor shall AUTHORITY violate any provision of its Conflict of Interest Code adopted pursuant to the provisions of California Government Code Sections 87300 *et seq.*

**33. NOTICE:** Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail, if delivery is by postage paid, registered, or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time:

**for CONSULTANT:** Inferrera Construction Management Group, Inc.  
Attn: Jeffrey Inferrera, P.E.  
7040 Settlers Trail  
Shingle Springs, CA 95682  
Phone: (916) 792-9871  
Email: [jinferrera@icmgroupusa.com](mailto:jinferrera@icmgroupusa.com)

**for AUTHORITY:** Stanislaus Regional Water Authority  
Attn: Robert L. Granberg, P.E., DBIA  
156 South Broadway, Suite 270  
Turlock, CA 95380

Phone: (209) 668-4142  
Email: granbergassociates@gmail.com

**34. AUTHORITY CONTRACT ADMINISTRATOR:** The SRWA's contract administrator and contact person for this Agreement is:

Robert L. Granberg, P.E., DBIA  
156 S. Broadway, Ste. 270  
Turlock, California 95380-5456  
Telephone: (209) 401-0439  
E-mail: [granbergassociates@gmail.com](mailto:granbergassociates@gmail.com)

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by and through their respective officers thereunto duly authorized.

**STANISLAUS REGIONAL WATER  
AUTHORITY, a Joint Powers Authority**

**INFERRERA CONSTRUCTION MANAGEMENT  
GROUP, INC., a California corporation**

By: \_\_\_\_\_  
Chris Vierra  
Board Chair

By: \_\_\_\_\_  
Jeffrey Inferrera  
President

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

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

**APPROVED AS TO FORM:**

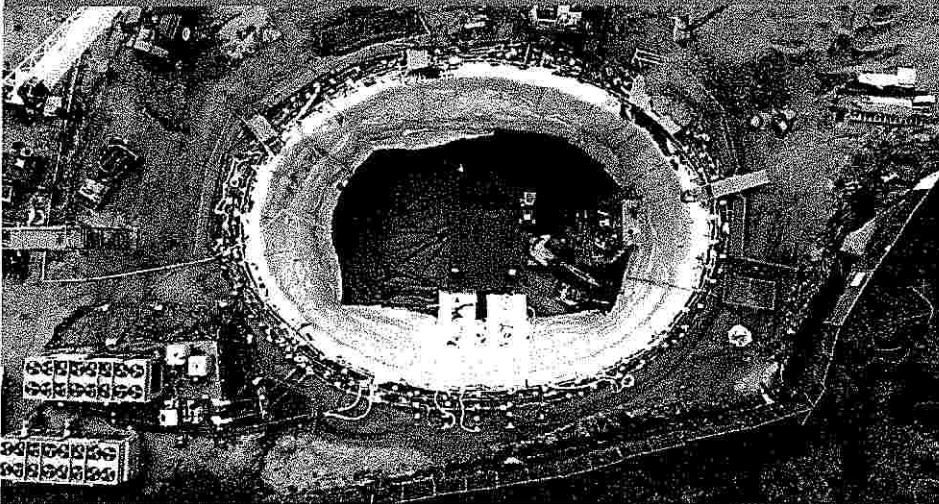
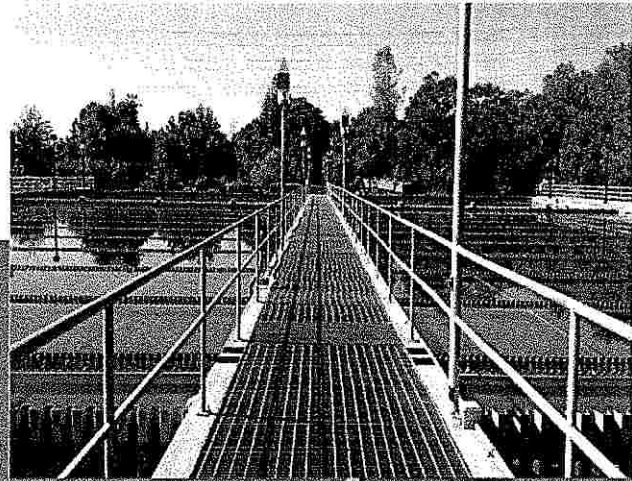
By: \_\_\_\_\_  
Richard P. Shanahan  
Interim General Counsel

# EXHIBIT A

Prepared for  
Stanislaus Regional Water Authority



**SRWA**  
STANISLAUS REGIONAL  
WATER AUTHORITY



Proposal for

**OWNERS ADVISOR DESIGN-BUILD  
CONSTRUCTION MONITORING  
SERVICES**

**SRWA Regional Surface Water  
Supply Project**

September 24, 2020

# ICM

7040 Settlers Trail  
Shingle Springs, CA 95682  
(916) 792-9871  
[www.icmgroupusa.com](http://www.icmgroupusa.com)





September 24, 2020

Mr. Robert Granberg, PE  
Stanislaus Regional Water Authority  
156 South Broadway, Ste. 270  
Turlock, CA 95380

**RE: Proposal for Owners Advisor Design-Build Construction Monitoring Services for the SRWA Regional Surface Water Supply Project**

Dear Mr. Granberg:

I am excited to provide you with our enclosed Proposal as Owner's Advisor providing Construction Monitoring Services for the SRWA Regional Surface Water Supply Project (Project). I have been involved in the effort to increase the beneficial use of water from this part of the Tuolumne River, in varying capacities, for over 15 years. More recently, you and I, Jeff Naff (of C. Overaa & Co.), the members of the Technical Advisory Committee, and West Yost formed a strong team that successfully completed the Raw Water Pump Station Project. As we can all recall, the start of that project was difficult due to the ground conditions, shoring system decisions and missing our first milestone. But we were not only successful, we completed early! What made the difference on that Project? Teamwork. And teamwork is most important on a design build project like SRWA's Regional Surface Water Supply Project.

The Raw Water Pump Station Project team was truly successful. We propose to keep the same team together for the construction of SRWA's new Project. Bob, I propose being your construction manager again, seamlessly working with you to steer the Project to a successful completion. Matt Livingston, like on the Raw Water Pump Station Project, will be our eyes and ears. Together we will work with the Technical Advisory Committee, CH2M Hill Engineers, and West Yost to produce a high performing team able to focus the best minds of our team to resolve each issue that comes our way.

I bring much more to the team than only my successful management of the Raw Water Pump Station Project. My firm, Inferre Construction Management Group, Inc. (ICM), is built upon the success of our many projects. Although we have grown over the years, all my clients, including SRWA, know that I personally manage my own projects, as I did for the Pump Station Project.

My stellar performance on projects goes back to my days with Black and Veatch where I worked on large international projects, obtaining my first exposure to design build as well as hard bid construction. As vice president of HDR Engineering I held HDR Design Build Inc.'s Class A contractor's license and worked with the design build group, was a member of DBIA, and advised EJCDC on their design build documents.

I have worked on the construction of water and wastewater treatment plants, pump stations, and pipelines my entire career. Experienced with design build projects, I know where the strengths

and weaknesses are in a design build project and I know where to concentrate my time and resources mitigating risks to SRWA. If I were to sum up the reason for my successes over my career, I would say it is my experience coupled with my emphasis on a team approach.

Please recall that ICM is a third-party CM firm that does not offer design services. This is a great benefit to the Agency because it allows us to be a truly fair and unbiased construction manager with no conflicts of interests.

In our Proposal, I will briefly discuss my thoughts on SRWA's Design Build Contract which is comprehensive enough to make most of the construction management straightforward. I will also provide you with our CM-lite team as well as our Scope of Services. Our Fee information is provided under separate cover.

ICM complies with the Department of Industrial Relations Prevailing Wage requirements. Our DIR number is: 1000036717.

If you have any questions or comments, please call me at 916-792-9871 or email me at [jinferrera@icmgroupusa.com](mailto:jinferrera@icmgroupusa.com).

Sincerely,  
**Inferrera Construction Management Group, Inc.**

A handwritten signature in black ink, appearing to read 'Jeffrey Inferrera', with a long horizontal stroke extending to the right.

Jeffrey Inferrera, PE  
President

Enclosure

**ICM**



**PROPOSAL TRANSMITTAL LETTER**

September 24, 2020

Robert L. Granberg, P.E., DBIA  
Stanislaus Regional Water Authority  
2020 Research Park Drive, Suite 100  
Davis, CA 95618

Re: **Request for Proposals for SRWA Owners Advisor Design-Build Construction Monitoring Services & City of Ceres Local Facilities Construction Management Services**

Inferrera Construction Management Group, Inc. (the Proposer) hereby submits its Proposal in response to the Request for Proposals for SRWA Owners Advisor **Design-Build Construction Monitoring Services & City of Ceres Local Facilities Construction Management Services** Request for Proposals (RFP) issued by the Stanislaus Regional Water Authority on August 21, 2020, as amended.

The Proposer acknowledges receipt of the RFP and the following addenda:

<u>No.</u>	<u>Date</u>
<u>1</u>	<u>September 8, 2020</u>
<u>2</u>	<u>September 14, 2020</u>

Jeffrey Inferrera, P.E.,

President



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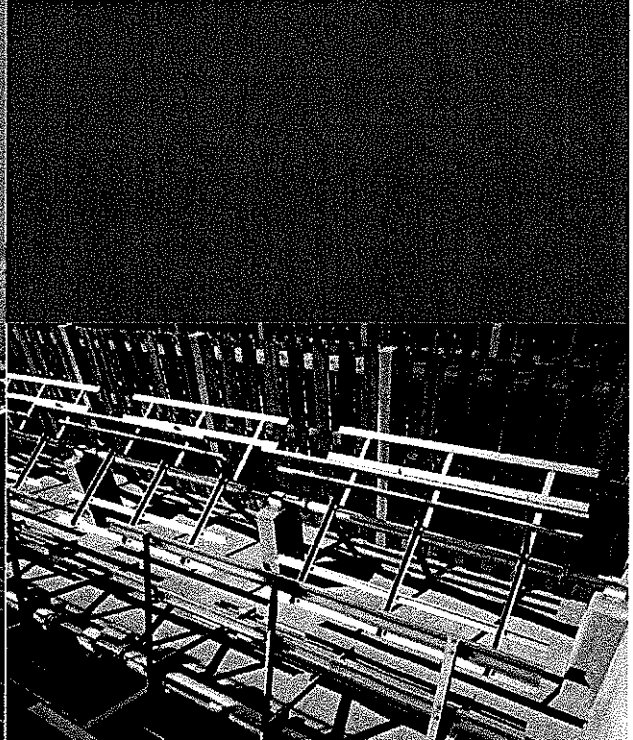
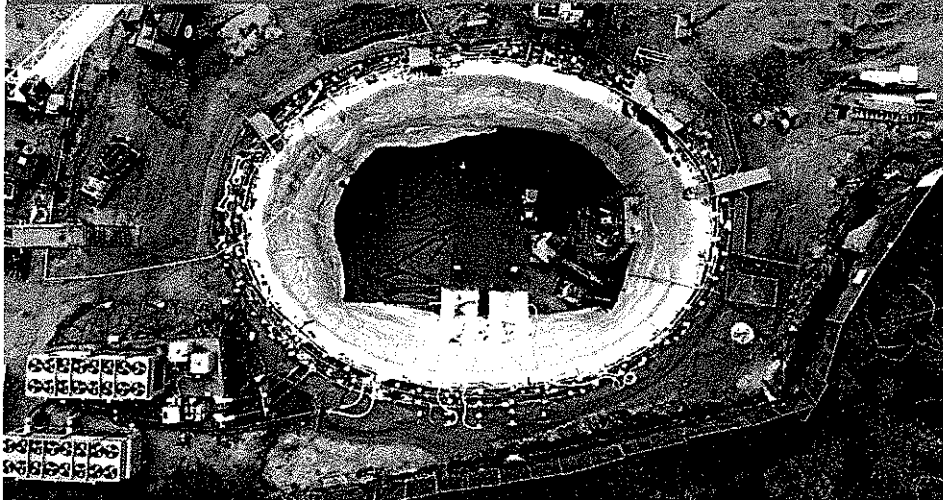
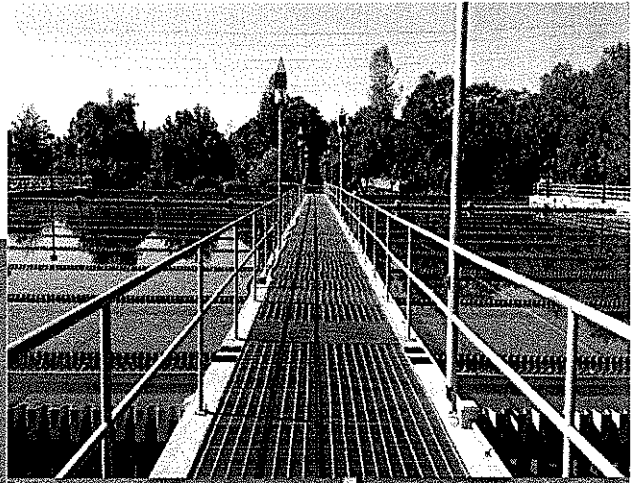
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# 1. PROJECT UNDERSTANDING



## 1. Project Understanding

### a. Project Physical Components

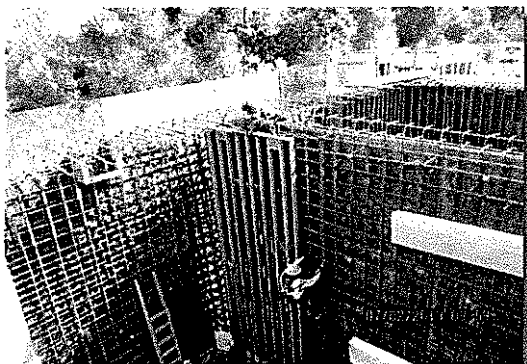
SRWA's Regional Surface Water Supply Project includes the following components:

#### Water Treatment Plant

The treatment plant will be located on a 47.9-acre site located adjacent to Fox Grove Park. It will utilize proven technologies to treat surface water from the Tuolumne River to potable water standards. Having an initial capacity of 15 MGD with a final capacity of 45 MGD, Finished Water will be pumped to the Cities of Ceres and Turlock. The treatment plant system components will include pre-oxidation with permanganate; flash mixing; flocculation; sedimentation; ozonation; GAC/sand filters; chlorine disinfection; clearwell; pumping station; residuals handling facility; chemical storage and feed equipment; corrosion control; cybersecurity provisions; power supply and emergency generator power; instrumentation and controls; administration, operation, maintenance, and laboratory facilities; and site civil improvements.



*SRWA WTP and Intake Location*



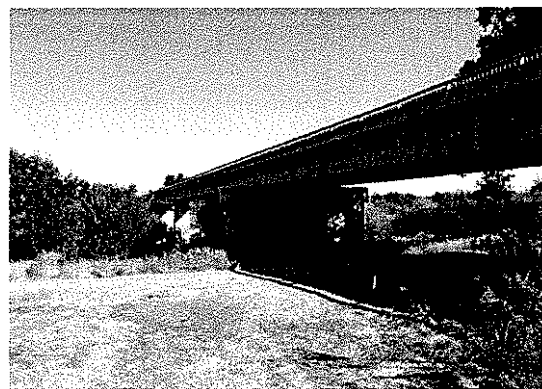
*SRWA Raw Water Pump Station*

#### Raw Water Pump Station

The existing Raw Water Pump Station will pump water from the Tuolumne River through the existing infiltration gallery and to the new water treatment plant. Pumps, piping and related equipment will be added to the wet well. Other features include surge protection systems; corrosion control system; instrumentation, control and communications systems; sediment management facilities; chemical addition system; and power supply and distribution system, including standby power generation facilities.

#### Raw Water Transmission Main

The raw water transmission main will convey water from the Raw Water Pump Station to the Plant through a single 4,000 feet 60-inch diameter transmission main. It will include hydraulic surge protection systems; corrosion control system; valves; access ports; blow offs; and an access road.



*Raw Water Pipeline Route*

### **Replacement Bridge**

The Replacement Bridge at Aldrich Road and the Ceres Main Canal will accommodate heavy vehicles for construction and operations at the Plant.

### **Ceres Finished Water Transmission Main**

The Ceres Finished Water Transmission Main will convey water westward to the City of Ceres through a single 5 mile 30-inch diameter pipeline. The pipeline will cross waterways, drainage and irrigation canals, railroads, and intersections and include hydraulic surge protection system, corrosion control system, valves, manholes, and blow-offs. The Point of Interconnection of this pipeline will be at the City of Ceres.



*Aldrich Road Bridge*

### **Turlock Finished Water Transmission Main**

The Turlock Finished Water Transmission Main will convey water southward to the City of Turlock through a single 7 mile 42-inch diameter pipeline. The pipeline will cross waterways, drainage and irrigation canals, railroads, and intersections and include hydraulic surge protection system, corrosion control system, valves, manholes, and blow-offs. The Point of Interconnection of this pipeline will be at the City of Turlock.

All of these different Project parts have well established components and construction methods. There are no aspects of the work that should pose a new and difficult challenge to CH2M Hill Engineers.

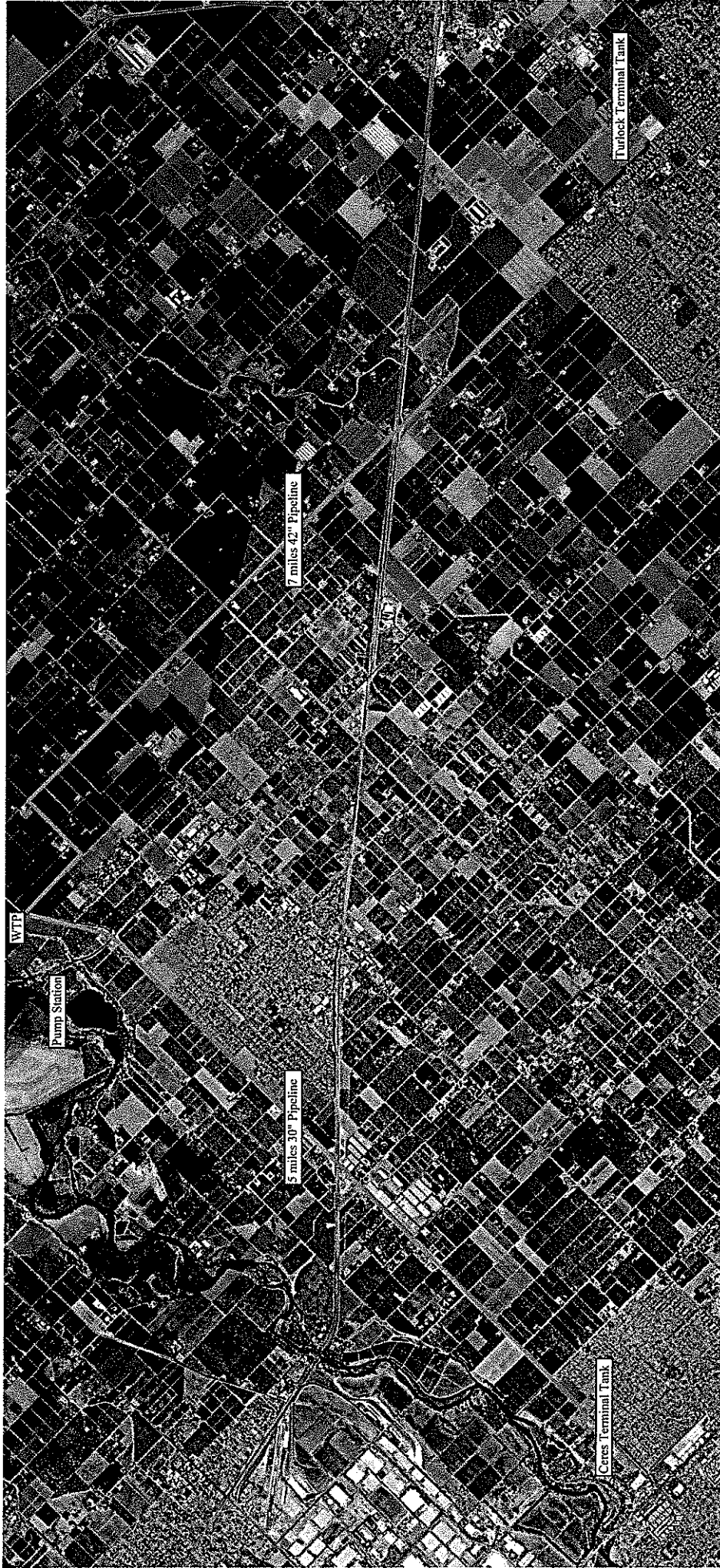
The Project is currently under design by the Design Builder, CH2M Hill Engineers. The Project uses the Design Build procurement method. Design Build is an established procurement method with sufficient legal precedence to provide the benefits of design flexibility, cost competitiveness and schedule improvement with minimal risk to the Cities. Typical keys to a successful design build project include sufficiently clear and detailed Design Build Contract and design concepts; excellent communication between all parties; and a team approach.



*Manteca FEZ Project*

CH2M Hill Engineers is tasked to provide design, construction, construction management, startup and acceptance testing services. The construction value is \$195,400,357. Construction is anticipated to start in March 2021 and be completed by December 2023. The next page presents an overview of the work.

Stanislaus Regional Water Authority  
SRWA Regional Surface Water Supply Project



September 24, 2020

ICM



## b. The Design Build Contract

I (Jeff Inferrera) have reviewed the Design Build Contract, associated Appendices, and reports. The Contract is very thorough and clear. There are few ambiguities, that I mention below, but overall, it is a solid contract that apportions the Project risks onto the entity most able to minimize the risk. For managing the Project, the Contract is perfectly acceptable. A well-formed team will be able to successfully execute the Contract conditions as long as everyone, especially the Design Builder, is reminded every step of the way of their responsibilities.

### **The Design Build Contract (Attachment B of the Design Build RFP)**

Key areas to manage the Contract is to focus on the following:

**Industry Standard Practice** - The work must be completed in accordance with the approved design and industry standard practice. The Design Builder is tasked with complying with the approved design, industry standard practices, codes and regulations. Matt Livingston and I will verify that the Quality Control and Assurance Plan is comprehensive, and the Design Builder follows their Plan.

**Acceptance Testing** – Preparation for Acceptance Testing needs to start early. I will start Acceptance Testing meetings within one month after the concrete submittal is approved. We will have Acceptance Testing meetings once per month early in the Project and more often the closer we get to the Testing. It will be interesting to discuss the coordination and inter-relation between the Design Builder and SRWA's operation and maintenance staff as we get closer to SRWA taking over the treatment plant.

**Performance Standards** – West Yost based the design build conceptualization with technology that has a long, proven history. This project is expected to easily meet the performance standards. Even issues such as changes in water quality has been well addressed in this Contract. However, we will still need to have more detail on achieving the performance standards of the treatment plant as well as the pump station and transmission mains.

**Closeout**–The Contract adequately addresses the closeout of the Project. Matt Livingston and I will start implementing closeout procedures at about 75 percent completion. In this way, by preparing early to end the Project we can be expected to finish on time. I will manage the Punchlist, Final Completion and Warranty aspects of the Project to have a smooth transition from the Design Builder to SRWA.

**Points of Interconnection with the Cities of Ceres and Turlock** – Matt Livingston and I will stay in touch with the cities to coordinate the schedule for this Project and the two city projects. I am proposed as the construction management on the Ceres Project which will aid in this coordination. There is a risk to SRWA if the cities are not ready to accept water during the Acceptance Testing (Section 5.1.B), so the interconnection coordination is important. Review of



*Raw Water PS Excavation*



the Surface Water Integration Plan will allow the team to brainstorm on all facets of the points of interconnection.

**COVID Impacts** – I am experienced in dealing with potential schedule delays that are caused by COVID disruptions and other reasons. Recently, COVID has disrupted cement supply which has impacted concrete precasters and ready-mix concrete supplies. In addition, some permitting agencies have almost doubled their review time for permits. I will work with the Design Builder to identify these potential delays early and determine ways to mitigate their impacts to the schedule. Section 5.2.D will govern how we manage delay claims.

I would like to emphasize that all the appendices are well thought out. Some of them I could not find a single item to comment on. The few comments I have are as follows:

#### **Appendix 1 - Design Build Work Requirements**

Section 1.3.6.4 Weather Impacts is not well defined. However, we can work with what is provided for a fair resolution to any weather impact discussion.

In regard Section 1.4 Daily Report, contractors are very hesitant to provide daily reports. However, it is not only a Contract requirement, but I also believe it is important and will make sure it gets done.

#### **Appendix 2 – Design Build Work Review Requirements**

One key to Appendix 2 is for Bob, I and West Yost to stay on top of requested changes during construction after the Design Builder encounters problems with adhering to approved materials or the approved design. Matt Livingston will be instrumental in doing the legwork to understand the field issues and provide a recommendation to the team.

#### **Appendix 3 – Construction Work Requirements**

As listed in Appendix 3, we are going to have to pay close attention to the coordination of milestones, other projects, and with other agencies.

#### **Appendix 4 – Design Build Quality Management**

The Design Build Quality Management appendix is excellent. Matt Livingston will verify that the Definable Features of Work (DFOW) have their respective preparatory and pre-work meetings and follow up procedures upon DFOW completion. Matt and I will assemble a Quality Assurance Plan to reflect an approximate 10 percent oversight of the CH2M Hill Engineers quality control tasks. If we encounter failure of CH2M Hill Engineers' quality control procedures, then we will increase our oversight for that DFOW.



### **Appendix 5 – Project Technical Requirements**

The Project Technical Requirements Appendix 5 is comprehensive, and I look forward to working with West Yost to discuss the most sensitive technical requirements.

### **Appendix 6 – Performance Standards**

One comment, based on the Performance Standards stated in Appendix 6, is that the entire SRWA team needs to emphasize that we expect and require a clean and organized project site. This is going to be a beautiful water treatment plant and we want it clean, NSF61 compliant, properly disinfected and the work in an orderly manner. I like to emphasize that the new workers coming to this Project gets a good first impression, on their first day, of the work ethic of the Project and they need to see a clean, organized and safe work space. They will try harder to keep it that way if they see everyone is doing the same. This is a nuanced management strategy but effective in providing the Owner with a quality project, having a safe project, and getting positive reviews.

### **Appendix 7 – Acceptance Testing**

The Acceptance Testing requirements are well written especially requirements like Loss of PLC Control Challenge Testing and the other challenge tests. I would like to meet with West Yost and the Design Builder to discuss the user demand needs to better understand the impacts of power outages, control outages, and mechanical disruptions and their impacts on the cities.

### **Appendix 8 – Property Easement Data**

The Property Easement Data section is a good attempt to identify everything that may be in conflict. We are bound to encounter unknowns but we can deal with them promptly as they arise.

### **Appendix 9 – Government Approvals, Utilities and Landowner Coordination**

This Appendix 9 contains an excellent summary and listing of items.

### **Appendix 10 – Key Personnel and Approved Subcontractors**

No comments

### **Appendix 11 – Required Insurance**

No comments

### **Appendix 12 – Additional Labor Requirements**

No comments



### **Appendix 13 – SRF Requirements**

No comments

### **Appendix 14 – Resolution of Company Claims**

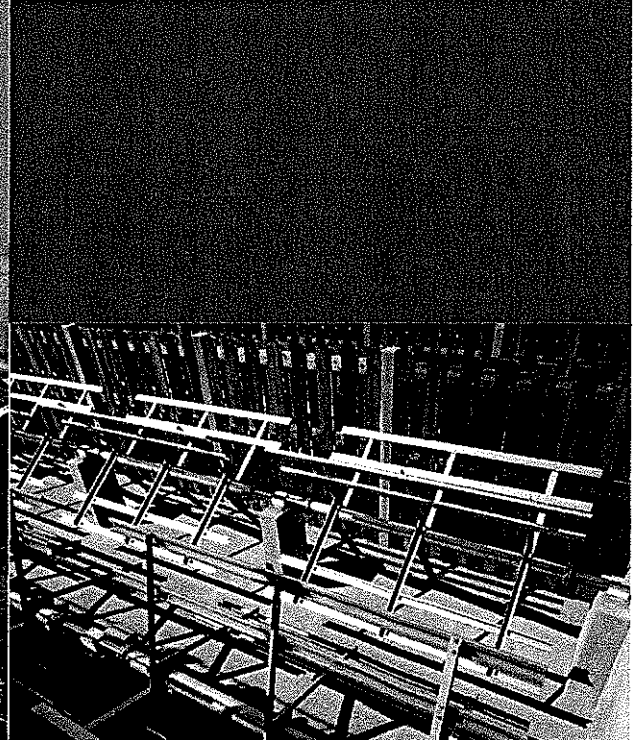
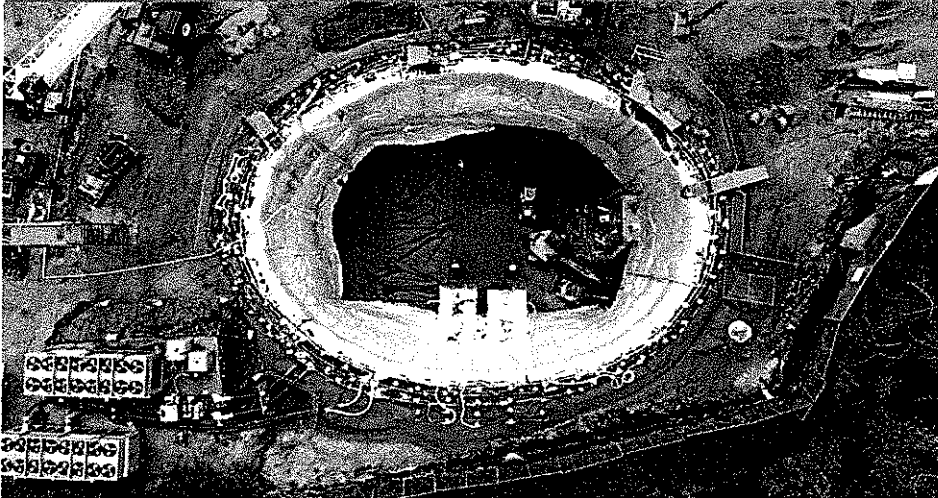
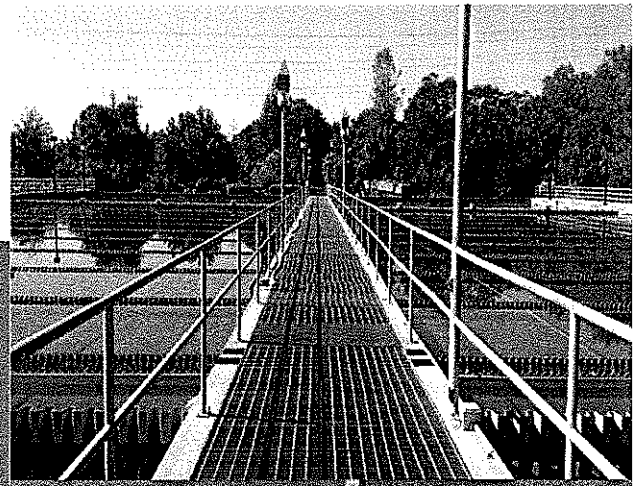
Section 14.9, which is a “Duty to Proceed” clause is good language as it relates to claims. However, stronger language to require Duty to Proceed under all change order circumstances would have been a good addition. Normally, when contractors see a Duty to Proceed clause anywhere in the Contract, they allow it to be applied to all applicable conditions.

I also reviewed other very interesting and helpful design documents including the following:

- Operations Technology Preliminary Designs
- Pipeline Alignment Alternatives Memo
- Preliminary Phasing and Plant Sizing
- Preliminary Bridge Replacement Design
- Preliminary Design of WTP
- Public Outreach Plan

In conclusion, I am encouraged to see West Yost and the SRWA team produce such a complete set of Design Build documents. The foundation of the Project, in my opinion, is secure. The successful execution of Project will require forward thinking leadership, a proactive attitude, and teamwork.

## 2. QUALIFICATIONS



## 2. Qualifications

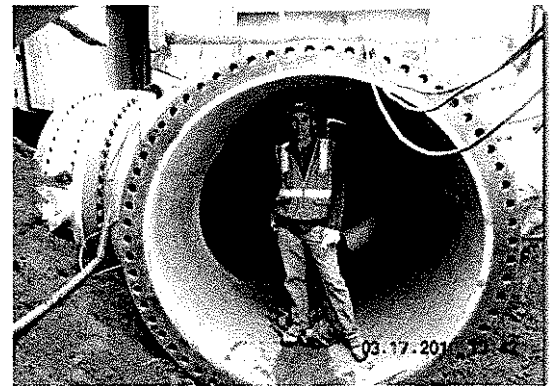
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For many years \_\_\_\_\_

### a. Background and General Information

Inferrera Construction Management Group, Inc. (ICM) is a California corporation and was founded by Jeffrey Inferrera in 2005 to provide local districts, cities, counties, and agencies specialized third party construction management and inspection services for their water and wastewater projects. Early in his career, Jeff was mentored in construction management and construction claims by some of the best construction managers in the business while working ten years for Black and Veatch. His projects included hard bid construction of water and wastewater treatment plants and included large national and international projects.

Moving to California in 1999, Jeff joined HDR Engineering and quickly became a recognized leader in construction management, holding HDR Design Build Inc.'s Class A Contractor's license, being promoted to Vice President, and becoming involved with the Design Build Institute, American Construction Inspectors Association and the Engineers Joint Contract Documents Committee. Jeff's dedication to client service, precision to the details that make a successful project, and commitment to a flat organizational structure propelled him to start ICM Group. For the SRWA's Regional Surface Water Supply Project, we propose Jeff Inferrera as the Construction Manager. He will provide unparalleled experience in all facets of the project.



**Jeff in 72" Transmission Pipe**

But Jeff is not alone, ICM has experienced construction management and inspection staff that provide added depth of resources for public agency clients both large and small.

Since its founding, Jeff has hired engineers and inspectors with a strong background in water and wastewater and with a drive for excellence. Most of our inspectors are certified by ACIA, with most of them having worked in the water and wastewater business for over 20-years. Together they have successfully completed the construction management and inspection of 20 treatment plants, 22 pump stations and over 60 pipeline projects.

#### ICM's Authorized Person:

Jeffrey Inferrera is President of Inferrera Construction Management Group, Inc. and is authorized to negotiate contract terms and make binding agreements.



### ICM's Office Locations:

Main Office: 7040 Settlers Trail  
Shingle Springs, CA 95682

Field Offices: 2450 W. Yosemite Avenue  
Manteca, CA 95337

302 Burns Drive  
City of Yuba City, CA 95993

400 W 8th Street  
Pittsburg, CA 94565

## b. Services

ICM manages roughly \$40 million dollars of water and wastewater construction projects for its public agency clients throughout Northern California annually. Following is the General Scope of Services that ICM provides:

- Construction Management
- Resident Engineering
- Contract Administration
- Inspection
- Special Inspection
- Document Control
- Constructability Review
- Bid Support
- Startup Support
- Schedule Review
- Cost Estimating
- Claims Mitigation
- Training

## c. Management Approach

### Design Build Approach

ICM's approach to Design Build is first and foremost to foster a team approach to achieving the Owner's goal. We become a reliable advisor to the Owner to support the project and align the Design Builder's team with the Owner's goals. For the SRWA Project, we assist the Project team to achieve the following:

- Improve drinking water quality
- Improved water supply reliability
- Improved operational flexibility in a cost-effective manner.

By using a high degree of cooperation and collaboration, Design Build procurement system is an effective means to meet the Owner's objectives and guard the public's interests.



### Construction Oversight Approach

ICM's construction oversight approach is to adopt a partnering attitude with all of the team members. As a pure third-party construction management firm, we want everyone to win.

But our first priority is to protect the interests of the Water Authority. We want the Water Authority to have a winning project, recognizing that we work for you. We will protect your interests before anyone else and keep the Water Authority up to date on the status of the project. In addition, the Construction Monitor will keep the Water Authority Project Manager informed on a daily basis on project details.

We want the Design-Builder to have a winning project. As such, we will have great communication with them and anticipate their work so that we can discuss any issues that might be coming in the future. We will let them know if they are falling behind on paperwork and give them priorities, so they stay on track. And if we see potential issues, we will call and discuss to avoid issues before they affect the project. At ICM, we are a third-party CM firm that does not provide design services, so we have no conflict of interest. On the contrary, we want designers to look good so that they are motivated to do a good job for the Water Authority. The Design Builder's presentation of the look ahead schedules at weekly progress meetings are instrumental to keeping key project players informed on upcoming work so that issues can be expeditiously resolved.

With ICM, we have the leadership, technical, and facilitative skills to bring the Project to success. Our areas of expertise include the following:

- Construction methods
- Risk allocation
- Environmental sensitivity
- Permit compliance
- Innovation
- Safe work practices
- Stakeholder/public facilitation
- Integrated project delivery
- Conflict awareness and resolution

### Quality Assurance Approach

For this Project, CH2M Hill Engineers is providing the construction management and inspection team. ICM's role is to verify that they are successfully implementing their quality control plan. We believe an approximate ten percent verification of material testing will provide a basis to determine that CH2M's quality control plan is being effective. If not, we would recommend modification to the CH2M's testing protocol to obtain the quality construction required. We can also increase the quantity of testing to determine if there are systemic quality issues.

Photographic documentation is crucial. For daily photographs, we routinely take between 40 to 60 project photographs a day. Taking many photos has a big effect on the Design-Builder and it is our





opinion that taking large quantities of daily photographs probably is the single most effective way for the field crews to do higher quality work and prevent claims.

Documentation of the location and configuration of underground utilities is important for the Operation and Maintenance staff. We suggest SRWA consider one of the following two approaches to document underground utilities at the treatment plant prior to them being covered:

- GIS documentation of all underground utilities. This would require the use of GPS survey equipment and an operator.
- Photographic documentation via drone camera. Using a drone camera, with all photographs being taken at the same elevation, a composite of photographs can be created to show the entire underground utility system at the site.

This would be in addition to the Design Builder providing as-built drawings.

### **Role of Owner's Advisor for Design Build vs. Design Bid Build**

Compared to a design bid build project, the Owner's Advisor for a design build project steps back a little and lets the Design Builder take the lead to drive the Project to success. Since the design is the responsibility of the Design Builder, the Design Builder has the responsibility to meet the Owner's overall goals with their design and their construction means and methods. This provides price flexibility, design flexibility, and schedule flexibility that is the strength of the Design Build procurement system. As the Owner Advisor on a design build project, we verify the Owner's goals are met, we perform quality assurance on the Design Builder's quality control problem, we verify issues are not be covered up, and we coordinate the Owner's decisions with the Design Builder. Thus, a design build project naturally lends itself to partnering between the Owner and the Design Builder and therefore a team approach is important.

In a design bid build project, since the Owner provides the design (that is not perfect), the Owner's construction manager takes the lead to manage the budget and schedule and inspect the work. For success, it is truly just as important to have a team approach for design bid build projects. However, this style of project lends itself more to having an adversarial relationship.

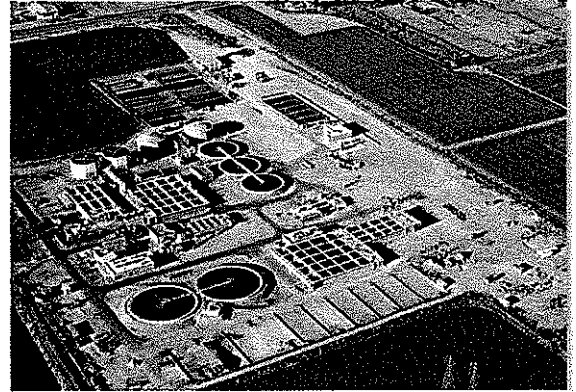


## ICM Project Examples

### **Manteca WQCF Expansion and Improvements Projects, Manteca, CA** **\$100 Million (over five contracts)**

*Completed with NO claims<sup>1</sup>*

The Manteca WQCF Phase Expansion and Improvements Projects consisted of increasing the wastewater plant capacity from 7 MGD to 20 MGD and other improvements. The projects included a new influent pump station, bar screens, grit tanks, sedimentation basins, aeration basins, secondary clarifiers, foul air biofilter, solids handling building with centrifuges, new digesters, secondary filtration system, UV system, Title 22 water distribution, CNG facility, food waste/FOG receiving station, lined treatment ponds, new 17Kv electrical system, new SCADA system, new CMMS system, new administration building, new laboratory, maintenance building and employee locker building.



**ICM has provided CM services for the City of Manteca's Water Quality Control Facility Expansion Projects Continuously for 13-years**

ICM provided construction management (change orders, weekly meetings, schedule review, progress payments, monthly reports, claims mitigation), contract administration (document control, meeting minutes), inspection (civil, structural, mechanical, electrical, I&C), testing (soils, concrete, welding, coatings), and startup support. Post-construction phase services consisted of coordination with the design engineer for the finalization of record drawings and preparation of the construction completion report. Based on the success of the project, the City of Manteca was awarded the CWEA "Plant of the Year" award.

### **Raw Water Pump Station, Phase 1, Turlock, CA** **\$7.5 Million**

*Completed with NO claims*

The Raw Water Pump Station Project consisted of the construction of a new wet well pump station over an existing infiltration gallery of four 36-inch HDPE pipes from the Tuolumne River. The 40-foot deep excavation was accomplished by SoilFreeze, Inc. using over a hundred 90-foot pipes, which continuously pumped -20°F brine to freeze the ground water into a solid wall.



**SRWA Pump Station**

ICM provided constructability review, bidding support, construction management, inspection, and document control services. Our services included inspection of construction materials and methods; monthly updates; change order review and processing; claims mitigation; and processing RFIs, submittals, and progress payments.

Note 1: For these project examples, we define "claims" as those claims that rise to the level of dispute that the claim resolution is processed by attorneys.

**Design Build of the Atherton Booster Pump Station, City of Manteca, CA**  
**\$5.6 Million**

*Completed with NO claims*

The Atherton Booster Pump Station and Tank Project was a design/build project consisting of a new 3.6 million-gallon steel tank, five 150-hp vertical turbine pumps, motor control center, SCADA, emergency generator, masonry building, yard piping, valves, electrical, detention basin, perimeter wall, and paving.

ICM provided constructability review, bidding support, construction management, inspection, and document control services. Our services included inspection of construction materials and methods; monthly updates for City managers; change order review and processing; claims mitigation; and processing RFIs, submittals, and progress payments.



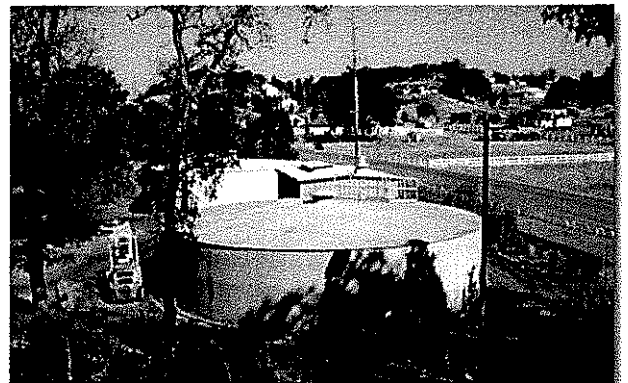
*Potable Water Tank*

**Jenny Lind Water Treatment Filter Addition, Calaveras County Water District, CA**  
**\$3.2 Million**

*Completed with NO claims*

The Jenny Lind Water Treatment Plant is a 5-MGD plant that treats surface water from the Calaveras River. The Jenny Lind Water Treatment Plant Filter Expansion Project increases the plant capacity to 6-MGD. The project consisted of adding a 700-gpm filter and 2,000-square foot of floor area to an existing treatment building, installing a solids thickener and sludge collector equipment, and upgrading instrumentation and control systems.

ICM provided construction management and inspection services including resident engineering, inspection of construction materials and methods, specialty inspection, change order review, progress payments, monthly updates for the District, document control, and claims avoidance.

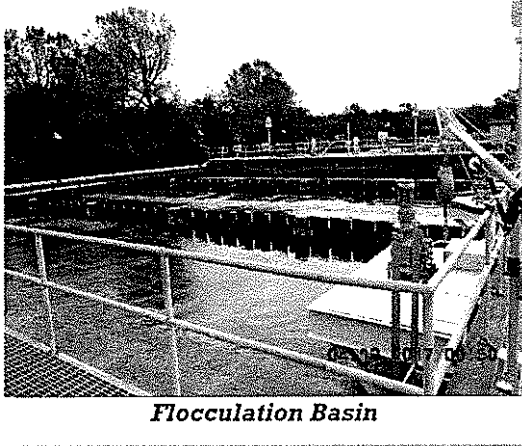


*Jenny Lind Water Treatment Plant*

**Peterson 100 MGD Water Treatment Plant Rehabilitation, San Juan Water District, CA**  
**\$6.0 Million**

*Completed with NO claims*

This project included the replacement of flocculation equipment, replacement of sludge collection equipment, construction of new concrete settled water conveyance channel and overflow structure, redwood baffle wall additions and replacements, and improvements to sedimentation basin launder column anchorage.



*Flocculation Basin*

ICM provided construction management and inspection services including resident engineering, inspection of construction materials and methods, specialty inspection, change order review, progress payments, monthly updates for the District, document control, and claims avoidance.

**Treated Water Pipeline and Cooperative Transmission Bypass Pipeline Improvement Project, San Juan Water District, CA**

**\$4 Million**

*Completed with NO claims*

This San Juan Water District Project included the installation of 72 inch, 60 inch, 30 inch, and 24 inch pipelines interconnected to the District's main lines within the Peterson Treatment Plant and in the distribution system. Also included is the construction of a new chemical feed vault, sample pipelines, valves, corrosion protection. Trenching consisted of open and shored trenches, blasting, and dewatering.

ICM Group, Inc. provided inspection, construction management, and document control for the duration of the project. Services included inspection of construction materials and methods, coordination with treatment plant personnel, monthly updates for City managers, change order review and processing, claims mitigation, partnering, processing RFIs and submittals, and progress payments.



*72-inch pipeline at SJWD WTP*

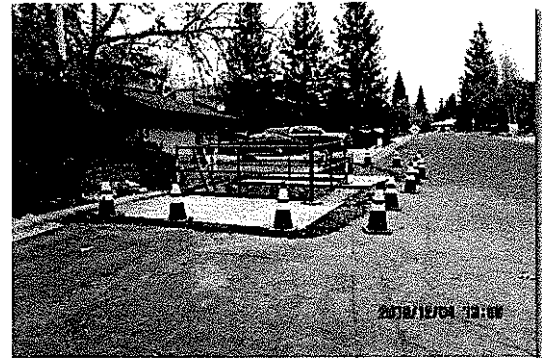


**40" Transmission Pipeline Rehabilitation Project, San Juan Water District, CA**  
**\$1.5 Million**

*Completed with NO claims*

The Fair Oaks 40-inch transmission pipeline is a two-mile long conveyance pipeline which transports water from the District to the Fair Oaks water system. This project consisted of welding all unwelded internal joints, closure plates, repair plates, installation of a 42-inch inline butterfly valve, installation of a new 15' long pipe section, mortar demolition and spot repair, and disinfection.

ICM provided inspection of all internal pipeline work including verification of weldments, quantities of mortar removed and repaired. ICM provided construction management for progress payments, weekly meetings, and change orders. Inspection included torque testing of pipe flange bolts, welding inspection, leak testing, and compliance with contract specifications and manufacturers installation requirements.



*Neighborhood Location of Pipeline*

**Design Building of the Operations Headquarters Building Project, Calaveras County Water District, CA**

**\$2.4 Million**

*Completed with NO claims*

This project consisted of the design and construction of a 14,000 square foot Operations Headquarters Building for the Calaveras County Water District. Design considerations included public access to lobby and customer service areas, board room, engineering workspace, operation, and maintenance offices. This design build project was completed as a lump sum contract and had no change orders or increased cost above the lump sum price.



*CCWD HQ Building*

ICM Group, Inc. provided conceptual design services, constructability review, bidding support, construction management, document control, and full-time inspection by a certified inspector. Included in our services was daily inspection, photographic documentation of work progress, progress payment review, RFI review, submittal review, technical support, schedule review, and claims mitigation measures. Material testing and ICC inspection was provided by Neil O. Anderson and Associates.



#### d. Public Agencies

At ICM we have many repeat clients. Clients want us to work on their projects because of the experienced and high caliber resident engineers and inspectors on our staff. Currently, we have four licensed engineers, twelve inspectors, and one document controller on staff. All are dedicated exclusively to water and wastewater public works projects.

Tony Barela, PE, Operation Manager for the San Juan Water District provided this reference:

*“Jeff Inferred and the ICM staff have worked for six years on five very complex projects for the District. With them on the District team, our projects were completed on time, on budget and, of utmost importance, no claim. We are thrilled to work with them. In my opinion, their experience, professionalism, attention to detail, and excellent communication skills is the reason for their success.”*

Jason DeGroot, PE, Senior Engineer (formerly with the City of Manteca Public Works Department but now with Central Contra Costa Sanitary District) provided the following reference:

*“I have had the pleasure of working with ICM Group for six years. ICM has provided outstanding construction management and inspection services at the Manteca WWTP on four very large and complex plant improvement projects. ICM has provided detailed and thorough inspection on our projects, always professional and highly knowledgeable on all aspects of construction. Consequently, we have had no claims on over \$75 million of construction.”*

ICM keeps projects on track. An example of this was when the Calaveras County Water District (CCWD) had an emergency project to expand the Jenny Lind Treatment Plant capacity. This project was a complicated expansion requiring multiple plant shutdowns and intense coordination with plant staff. The project was completed early, on budget, and with no claims. Since then, ICM has successfully completed three other District projects and trained District staff in construction management methodology.

Bill Perley, Utility Director (now retired) for CCWD states:

*“ICM does an outstanding job. We’ve had a lot of CM firms working at the District. ICM’s the only one I trust.”*

With ICM on your side, you can expect a quality project, completed on budget, on time, and with no claims or end of project issues.

ICM staff are trained using our in-house training program. In addition, our staff is encouraged to obtain inspection certification through the American Construction Inspectors Association. Our inspectors know what to look for on treatment plant, pump station and pipeline projects and we know how to keep projects on track.



Our public agency clients include the following:

<b>ICM</b> <i>Client List and Their Facilities</i>	Size (x1,000 Customers)	Public	State	Wastewater Treatment Plants	Water Treatment Plants	Sewer Lift Station	Water Pump Station	Water Storage Tanks	Sewer Pipelines	Water Pipelines	Water Services	Developer Projects	Reservoirs and Canals	Number of ICM Projects
El Dorado Irrigation District	100	Yes	CA	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	28
City of Manteca	72	Yes	CA	♦		♦	♦	♦	♦	♦	♦	♦		20
City of Folsom	73	Yes	CA		♦	♦	♦	♦	♦	♦	♦	♦		6
Citrus Heights Water District	67	Yes	CA		♦	♦	♦	♦	♦	♦	♦	♦		8
Calaveras County Water District	17	Yes	CA			♦	♦	♦	♦	♦	♦	♦	♦	5
Town of Discovery Bay	13	Yes	CA	♦		♦	♦	♦	♦	♦	♦	♦		1
City of Davis	66	Yes	CA	♦		♦	♦	♦	♦	♦	♦	♦		1
Sacramento Suburban Water District	173	Yes	CA							♦	♦	♦		2
Nevada County	98	Yes	CA	♦		♦			♦			♦		1
San Juan Water District	160	Yes	CA		♦		♦			♦	♦	♦	♦	6
Groveland Community Services District	5	Yes	CA	♦		♦		♦	♦	♦	♦			2
Contra Costa Water District	500	Yes	CA		♦		♦			♦	♦		♦	2
Delta Diablo Sanitation District	200	Yes	CA	♦		♦			♦					2
Stanislaus Regional Water Authority	100	Yes	CA				♦							1
Golden State Water Company	255	No	CA		♦		♦			♦	♦	♦	♦	6





### e. References

Below are our references for the projects listed in Section 2c. Project Examples:

<b>Client Reference #1</b>	Mr. Robert Granberg, PE Stanislaus Regional Water Authority (209) 401-0439, granbergassociates@gmail.com	Raw Water Pump Station
<b>Client Reference #2</b>	Mr. Phil Govea, Department Manager Turlock Irrigation District (formerly Assistant Dep. Director in Manteca) (209) 883-3447, pdgovea@tid.org	Manteca WQCF Project
<b>Client Reference #3</b>	Mr. Jason DeGroot, PE Central Contra Costa Sanitary District (formerly of the City of Manteca) (925) 229-7209, jdegroot@centralsan.org	Manteca WQCF Project
<b>Client Reference #4</b>	Mr. Tony Barela, Senior Engineer San Juan Water District (916) 791-6939, tbarela@sjwd.org	San Juan Water District Projects
<b>Client Reference #5</b>	Mr. Bret Swain, Senior Civil Engineer Town of Moraga (formerly of the City of Manteca) (925) 888-7025, bswain@moraga.ca.us	Atherton Pump Station Project
<b>Client Reference #6</b>	Mr. Bill Perley, Utility Director Calaveras County Water District (Now retired) (209) 768-6203, billperley@icloud.com	Calaveras County Projects





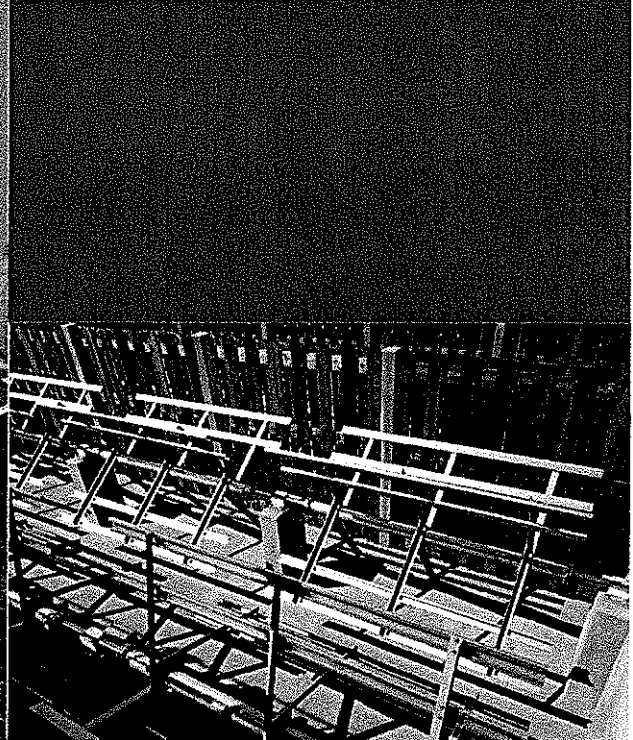
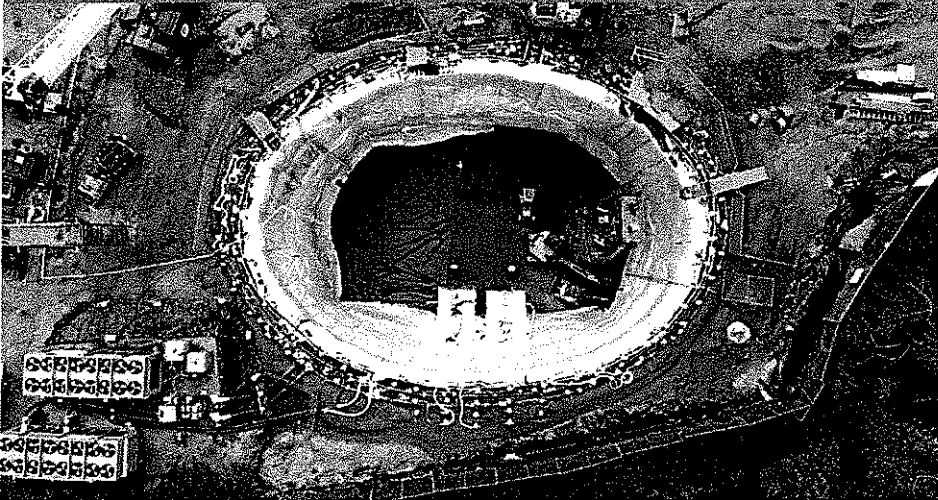
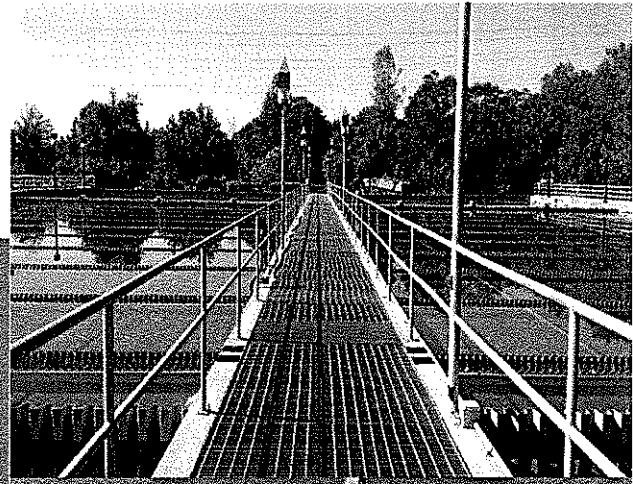
## **f. Pending Claims and Litigation**

ICM has had no CM and/or inspection contracts terminated, either partially or completely, by any client for convenience or default within the past five (5) years. ICM has not been party to any litigation or claim in its 15-year history.

In regard to the Projects we manage, only two, in 15 years, have had a claim from the contractor to the owner that went to dispute resolution led by an attorney. Both contractor claims were below \$150,000 in value. One claim was dropped before the commencement of arbitration. The other claim was settled at arbitration by the owner for \$60,000.

Nevertheless, ICM has a stellar track record with over \$200,000,000 in complex construction projects completed with only two small claims that involved attorneys.

### 3. PROJECT TEAM



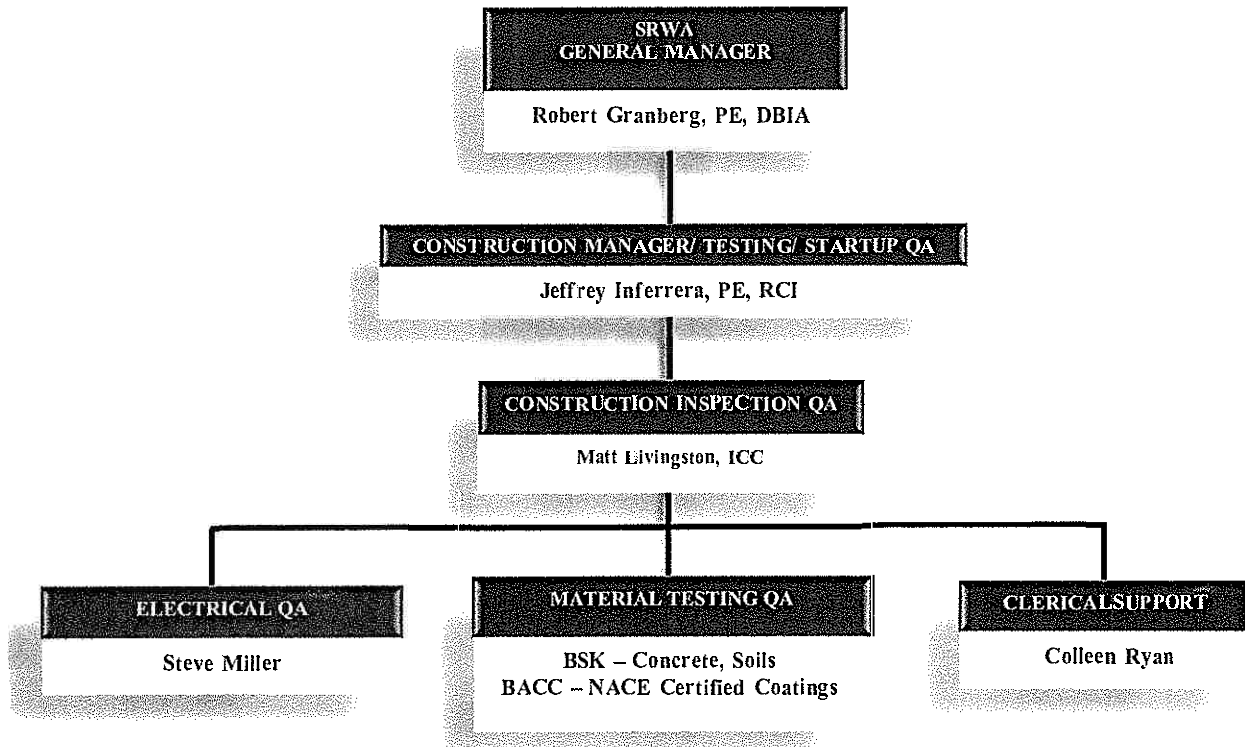


### 3. Project Team

#### The Team Members

##### a. ICM Organization Chart

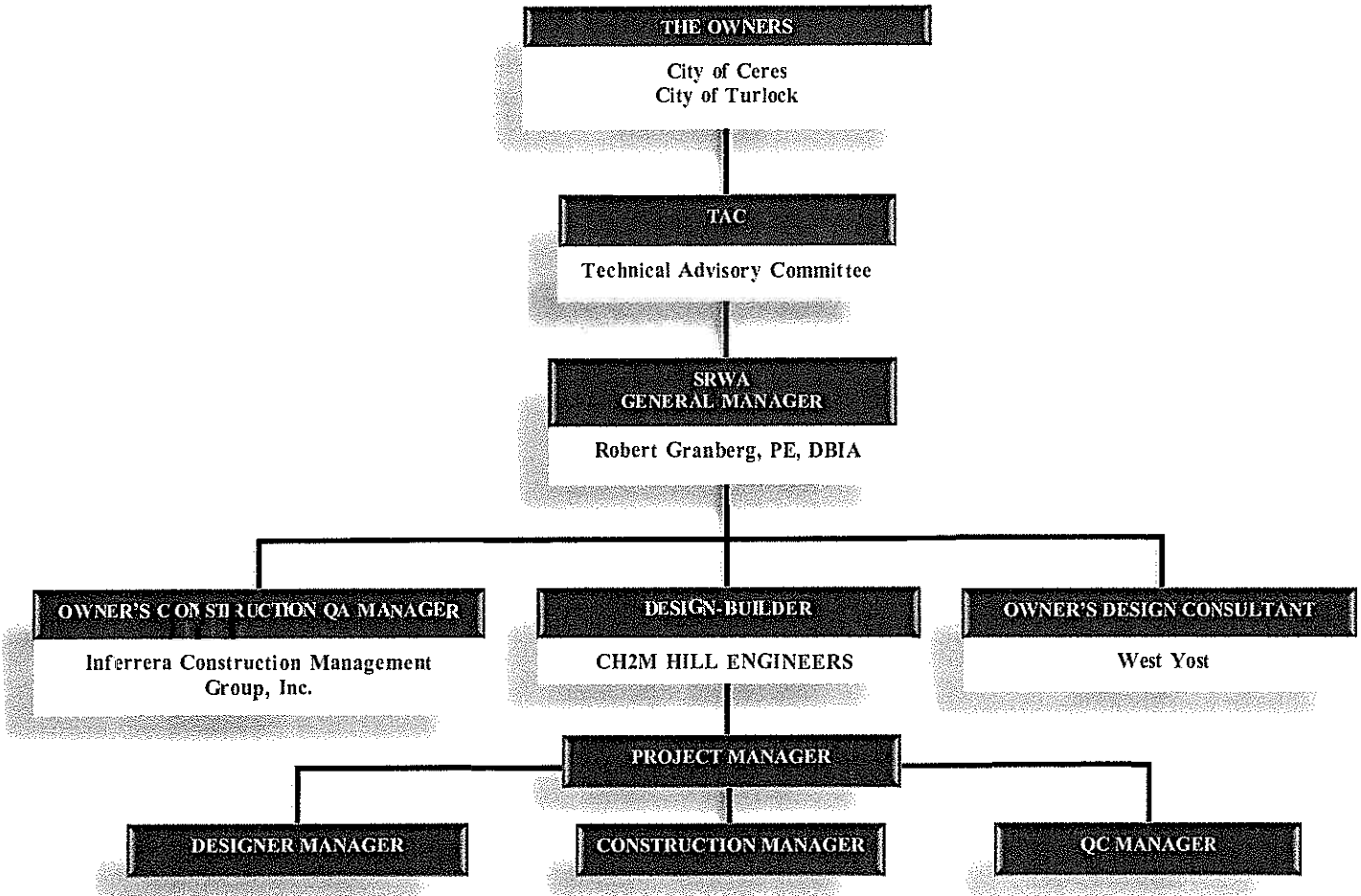
ICM has assembled a highly experienced and qualified group of professionals for the Regional Surface Water Supply Project. Our team has worked on numerous water treatment plants, pump stations, and pipelines similar to the Water Authority’s Project. ICM will not substitute team personnel during the duration of this project; each member of our team will be dedicated to ensuring the success of the Project, from start to finish. ICM’s project team is comprised of the following professionals presented in this organizational chart:





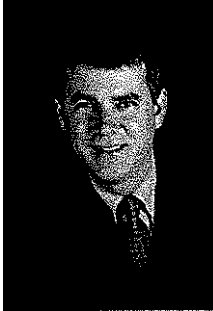
## b. Overall Project Organization Chart

ICM will be part of the overall Project team, supporting its members to be successful and using our experience to provide proactive, value added ideas to overcome contractual as well as technical issues. The organization chart below shows our understanding of the key project participants within the SRWA team.



### c. Team Members

**Jeffrey Inferrera, PE, RCI – Construction Manager / Testing / Startup QA**



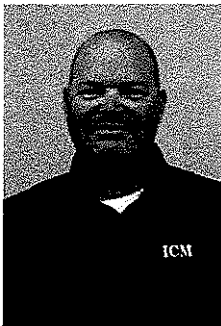
**Area of Expertise:** Construction management of water and wastewater treatment plants, pump stations, storage tanks, and pipelines.

**Education:** BS Env. Science and Engineering, Rutgers University  
MS Environmental Engineering, Cornell University

**Certifications:** California Licensed Civil Engineer, C62190  
Registered Construction Inspector, ACIA #5832

**Experience:** Jeff has over 30-years of experience as a construction manager and resident engineer working on large public water and wastewater systems. He is experienced on Design Build projects and with Army Corps Construction Quality Management Procedures.

**Matt Livingston, ICC – Construction Inspector QA**



**Area of Expertise:** QA/QC of all trades, including pump stations, treatment plants, and pipelines.

**Certifications:** ICC Building Inspector, 5232456-10  
ACI Level 1 01031459  
Troxler Nuclear Gauge Certification 44154

**Experience:** Mr. Livingston has over 19 years of experience working on construction projects. His experience includes treatment plants, pump stations, pipelines, force mains, gravity lines, trenching, jack and bore, roads, working in streets and working with the public. His inspector duties include ensuring work is installed per plans and specifications, documenting work with photographs and daily reports, completing as-built drawings, and coordinating with the design engineer, agencies, and public.

**Steve Miller – Electrical Inspector QA**



**Area of Expertise:** Special Inspection of electrical, fiber optic, instrumentation, and control systems for treatment plants and pump stations projects.

**Education:** Engineering Science coursework, American River College

**Experience:** Steve has over 35-years of experience as an electrical inspector and electrician. He has performed the electrical inspection on every one of ICM's treatment plant and pump station projects since 2004. He is experienced with medium voltage power and has provided special inspection of PLC consolidation and upgrades, 17kV power installation, and MCCs.



### Keith De Lapp – Back Up Construction Inspector QA



**Area of Expertise:** QA/QC of all trades, including pump stations, treatment plants, and pipelines.

**Experience:** Mr. De Lapp has over 30 years of experience working on public works construction projects. His experience includes inspection of pump stations, pipelines, trenching, working in streets and working with the public. His inspector duties include ensuring work is installed per plans and specifications, documenting work with photographs and daily reports, completing as-built drawings, and coordinating with the design engineer, agencies, and public.

### Subconsultants

**Bay Area Coating Consultants, Inc. (BACC)** will provide NACE Certified Coating and Lining Inspection Services. ICM has worked with BACC for the past 5 years. BACC has been in the coating inspection industry for the past 25-years. BACC is a valuable team member successfully performing their scope of work responsibilities to the satisfaction of all team members.

**Office Location:** Bay Area Coating Consultants, Inc.  
1119 K Street  
Modesto, CA 95354  
(209) 652-6962



**BSK Associates** will provide soils, materials, and special inspection testing services, including compaction testing, concrete, rebar, and welding inspection. BSK Associates will also be available for geotechnical review. ICM has worked extensively with BSK at the Manteca WCQF Improvements project for the past several years. BSK has proven to be a valuable team member successfully performing their scope of work responsibilities to the satisfaction of all team members.

**Office Location:** BSK Associates  
399 Lindbergh Ave.  
Livermore, CA 94551  
(925) 315-3151





Our staff resource chart is presented below. It shows additional staff available to support ICM's Project Team.

<b>ICM</b> Resources Chart	CA Licensed Engineer	Construction Management	Treatment Plant Inspection	Pump Stations Inspection	Pipeline Inspection	Civil Inspection	Structural Inspection	Mechanical Inspection	Electrical Inspection	Coatings Inspection	OSHA 10 Hour Safety	Confined Space	Years at ICM	Years' Experience
<b>Principle / Project Manager / Construction Manager / Inspector</b>														
Jeffrey Inferrera, PE, RCI	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	15	31
<b>Construction Manager / Inspectors</b>														
Ricardo Bedoy, PE	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	4	36
Ken Zeier, PE	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	6	27
Don Kurosaka, PE	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	2	30
<b>Inspectors</b>														
Paul Lopez, RCI		♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	8	30
Steve Miller		♦	♦	♦	♦				♦		♦	♦	13	32
Hitesh Joshi, RCI			♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	13	30
David Steinbeck			♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	5	15
Thomas Gomes				♦	♦	♦	♦				♦	♦	5	35
Matt Livingston, ICC			♦		♦	♦	♦		♦	♦	♦	♦	2	18
Larry Mathews					♦	♦					♦	♦	4	40
Chris Inferrera, EIT			♦	♦	♦	♦	♦	♦	♦	♦	♦	♦	4	6
George Ackerman, RCI			♦	♦	♦				♦		♦	♦	2	25
Keith De Lapp, B. Sc. Arch. Eng.		♦	♦	♦	♦	♦	♦				♦	♦	1	30
Kyle Drury, PE				♦	♦						♦	♦	1	1
Augustine Inferrera, EIT				♦	♦						♦	♦	1	1
<b>Document Control / Administration</b>														
Colleen Ryan											♦	♦	2	2



#### **d. Summary of Team Experience**

In summary we address SRWA's specific Experience questions as presented in the Request for Proposal as follows:

➤ **Water treatment plants, pump stations and pipeline construction projects**

Jeff Inferrera – Jeff has performed construction management on thirteen treatment plants, of which six were water treatment plants. He performed construction management on nine pump stations of which three were water pump stations. He performed construction management and inspection on over 30 pipeline projects of which about half were water force mains.

Matt Livingston - Matt has performed inspection one treatment plant. He performed inspection on six pump stations. He performed inspection on over 20 pipeline projects of which about half were water force mains.

Steve Miller – Steve has performed electrical inspection every treatment plant project managed by ICM, 23 in total. He performed electrical inspection on every pump stations project managed by ICM, 20 in total.

Working Together – Jeff and Matt has been working together for five years and have worked on four projects together. Steve has been working with Jeff and Matt on all of their projects as the electrical inspector.

➤ **Integrated project delivery**

Jeff Inferrera has worked on all project delivery methods, including design build, and on all size of projects including \$100 million of treatment plant work at the City of Manteca, a \$100 million treatment plant expansion at the City of Las Vegas, and \$400 million Boca Baracas Treatment Plant and Flood Control Project in Buenos Aires, Argentina. He has been involved with the Design Build Institute of America (DBIA), Engineers Joint Contract Document Committee (EJCDC), is experienced and knowledgeable in construction law, construction claims, and coming up with win-win solutions when the contracts do not adequately address the project issues that need to be resolved.

➤ **Project management information tools**

Colleen Ryan takes the lead in our company to manage the project information tools and provides training to ICM staff on new tools. Currently, ICM is experienced at using ProCore, SharePoint, Synology, EADOC, and Primavera construction software including P6.

➤ **Fostering and maintaining cooperative atmosphere**

The best proof that ICM fosters and maintains a cooperative atmosphere is how the entire Technical Advisory Committee witnessed our work on the SRWA Pump Station Project. The





Pump Station Project had some early hurdles that I had to deal with in regard to Overaa's baseline schedule, their falling behind early in the Project, and the risks to SRWA with the shoring design. Then during the soil freeze period there were unknown conditions and Overaa's requests for price adjustment, some that were large and partially justified and some that were large and not justified. Throughout the Pump Station Project Jeff kept a great partnering-type of relationship with Bob Granberg, Jeff Naff, Manuel Azevedo, and Andy Smith, building a high powered team of professionals, and as a team, we had a very successful project.

In the field, Matt Livingston maintained an excellent working relationship with the superintendent, Jose Duarte, the foremen of each trade, the landowner, Gary Nazareno, the staff at Horizon, and the representatives of the cities who visited the site. His steady vigilance prevented many issues on the Project and kept a positive attitude that we all fed off of.

➤ **Construction industry standards and codes**

The ICM team is knowledgeable of construction industry standards, codes and practices. We have been doing treatment plant construction, the most complex public works projects, for decades. Jeff Infrerra is a Professional Engineer and Registered Construction Inspector and Matt Livingston is an ICC certified inspector.

➤ **Environmental (CEQA)**

The ICM team is experienced with the Project's CEQA requirements based on our experience at the SRWA Pump Station Project as well as other treatment plant and pipeline projects with similar requirements.

➤ **Permitting (NPDES, WDR, SWPPP, Air, Encroachment)**

The ICM team is experienced with the Project's permitting requirements based on our experience at the SRWA Pump Station Project as well as other treatment plant and pipeline projects with similar requirements. This includes working with WDR on receiving approval to put new potable water systems on line and conveying finished water into distribution systems.

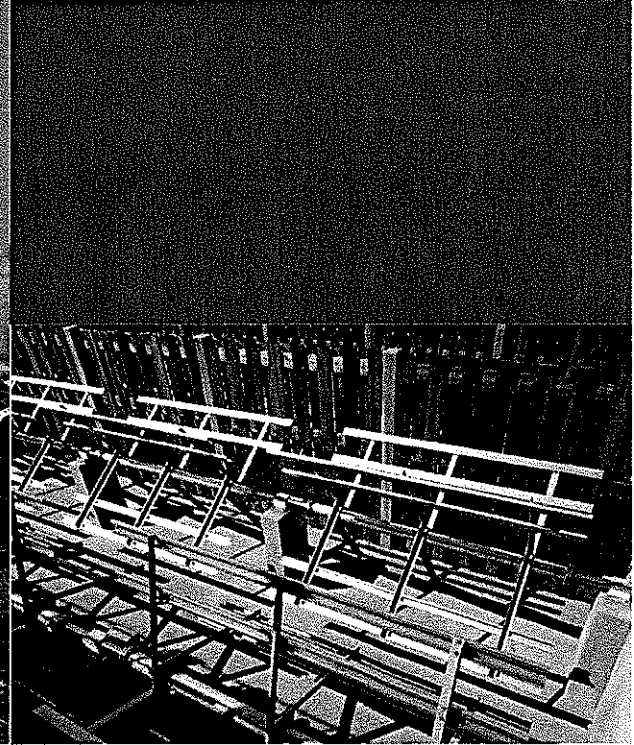
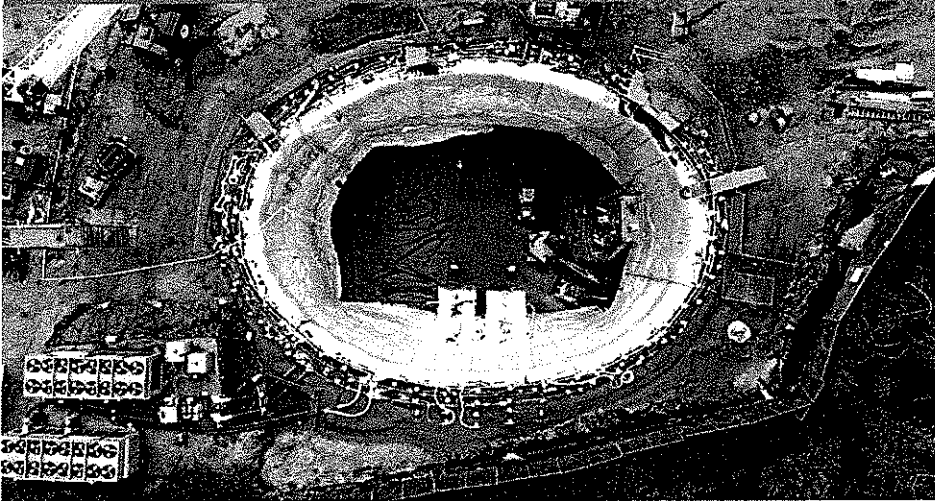
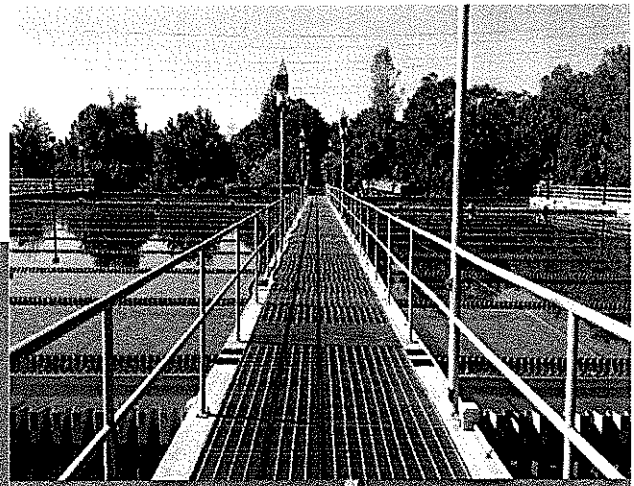
➤ **Regulatory agencies**

The ICM team is experienced with coordinating with the Project's regulatory agencies based on our experience at the SRWA Pump Station Project as well as other treatment plant and pipeline projects with similar requirements.

➤ **Project close out**

The ICM team has closed out numerous Design Build and design bid build projects and is experienced with training, acceptance testing, startup, prove out, Punch List, warranty, substantial completion and final completion paperwork including release of retention.

## 4. SCOPE OF SERVICES





## 4. Scope of Services

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The scope of services outlined below represents what SRWA is requesting of their Construction Management QA team. It can be called “CM-lite” and it is “lite” because the Design Builder is responsible to do the construction management and inspection services traditionally done by the Owner’s consultant on a design-bid-build project. We are tasked to verify the Design Builder does the quality control and does it well. Jeff Inferrera will also work closely with Bob Granberg to lead the SRWA team and facilitate a productive partnership with the CH2M Hill Engineers.

We agree with SRWA’s Scope of Services and there is no need to repeat the Scope of Services as presented in SRWA’s Request for Proposal. ICM perform all of the requested services on every one of our projects, whether design build or design bid build. We have the following comments on the Scope of Services:

The SRWA Scope of Services states “Attendance at all established Design-Builder construction planning and regular construction meetings and other meetings in coordination with the Design-Build team and SRWA.” ICM will also attend partnering meetings.

The SRWA Scope of Services states “Maintain detailed project records including inspection reports, photos, measurement of quantities, meeting minutes, progress payment requests and log decisions. Describe your intended method of project documentation.” The ideal method for project documentation is to include the documentation within the Project internet based management program so there is access to allowed individuals. If that is not available, ICM will use our standard project documentation method, Synology, and we are flexible enough to modify the method as needed for the needs of SRWA and the Project.

ICM will provide the Scope of Services as required of SRWA’s Design Build Contract Appendix 4 and shown below:



<b>Construction Quality Control and Assurance Responsibility Matrix</b>		
Task	Design-Build Contractor <sup>(a)</sup>	SRWA
Overall Construction Management/Administration	F	-
Pre-Construction Meeting	F,N	A
Inspection Procedures	F	R
Weekly Construction Meeting	F,N	A
Baseline Schedule Meeting	F,N	A
Monthly Schedule Update Meeting	F,N	A
Baseline Schedule of Values	F	R
Monthly Payment Application	F	R, V
Monthly Construction Report	F	R
Tracking Property Owner Coordination and Public Complaint	F	P1
Submittal Review and Response	F	R
RFI Response	F	R
Earthwork Inspection	F	P1
Differing Site Conditions Identification	F	R, V
Civil/Sitework Inspection	F	P2
Pipeline Inspection	F	P1
Concrete & Reinforcement Inspection	F	P1
Mechanical & Plumbing Inspection	F	P2
Electrical Inspection	F	P1
Instrumentation and Controls (I&C) Inspection	F	P2
Painting and Coating Inspection	F	P2
Building/Structural Inspection	F	P1
Materials & Laboratory Testing (i.e. concrete strength, etc.)	F	P2
Specialty Inspection	F	P2,R
Environmental Construction Monitoring	F	P1
Field Witness Testing (i.e. leakage testing, etc.)	F	P2
Construction Safety Observation	F	P2
Factory Witness Testing	F	O
Daily Inspection Reports	F	R
Non-Compliance Notices and Resolution	F	P1, R, V
Change Order/Claims Management	F	R, V
Start-Up Meetings	F,N	A
Start-Up Inspection	F	P2
Operations and Maintenance (O&M) Trainings	F	A
Acceptance Testing	F	P1
Record Documents	F	R, V
Communication & Notifications to the SRWA	F	-

<sup>(a)</sup> The Contract requires that the Design-Build Contractor be responsible for all construction quality control. The tasks listed herein is not comprehensive and omissions from this list do not relieve the Design-Build Contractor from its duty to perform all tasks necessary to provide sufficient quality control. The SRWA may monitor for compliance with this and other Contract requirements.

Legend:  
 F= Full Responsibility Periodic:  
 P1= Level I P2  
 = Level II  
 --=None  
 N=Admin  
 R=Review  
 A=Attend  
 V=Approve  
 O=Optional



The SRWA Scope of Services states “Document and review potential contract change orders. Provide recommendation for SRWA’s action of potential change orders.” We will also provide independent cost evaluation for potential change orders.

The SRWA Scope of Services states “Review and comment on Design-Builder monthly progress reports narrative and photographic documentation of major work items completed, outstanding issues, and work to be pursued in the upcoming month.” ICM will provide additional information and metrics to the District to supplement the Design Builder’s monthly progress report. Appendix B contains an example of our monthly reports. Information that we will include is potential claim issues, internal Design Builder Team submittal and RFI turnaround times, as well as SRWA turnaround times, cash flow projections, S curve calculations and other pertinent graphic representations.

The SRWA Scope of Services states “Participate in substantial completion inspections, generation of punchlist items, and monitor successful completion of punchlist corrections.” ICM will require the Design Builder to generate the Punchlist, of which we will provide additional items that we observe. We will also provide the Design Builder with an Open Item List, starting at 75 percent of completion, so that outstanding items are not forgotten.

The SRWA Scope of Services states “Participate in facility acceptance testing planning and execution.” Jeff Inferrera is well known in the industry for specializing in complete and thorough startup and testing of treatment systems and will work with the startup and testing team to test all possible scenarios and devices so the operation and maintenance staff are not surprised by issues while operating the plant.

Other services we will perform as follows:

**Duties of ICM as SRWA’s Construction Manager** – Per Section 4.15 of Appendix, we will provide services as stated. “the SRWA Construction Manager may review and monitor construction progress, payments and procedures; review baseline schedule; review schedule of values; review monthly progress reports; attend weekly construction meetings; issue construction non-compliance notices and recommend to SRWA that payment be withheld for work that is not completed satisfactorily; determine the completion of specified portions of the Design-Build Work; review proposed changes to the Design and Construction Requirements and proposed variations in the Secondary Technical Criteria; attend monthly Project status meetings; review plans, Drawings and specifications of the Regional Water Facilities for compliance with the Design and Construction Requirements and the Secondary Technical Criteria; review the validity of the Design Builder’s written notice that an Uncontrollable Circumstance has occurred; observe and monitor the Design Builder’s compliance with the Design-Build Quality Management Plan, Governmental Approvals and related conditions, Environmental Mitigation Measures and the critical path method schedule; review Company submittals and construction-related requests for information; review Record Documents; review before and after construction photographs; and perform such other duties as may be necessary.”

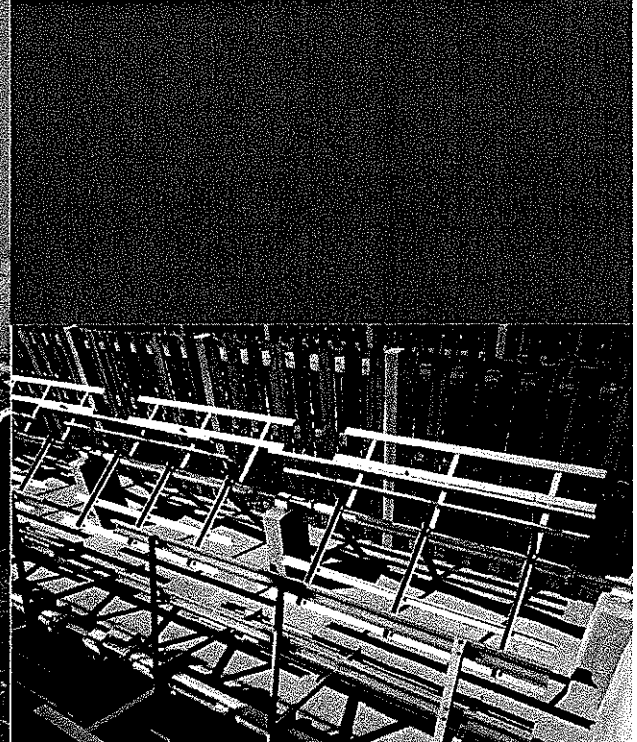
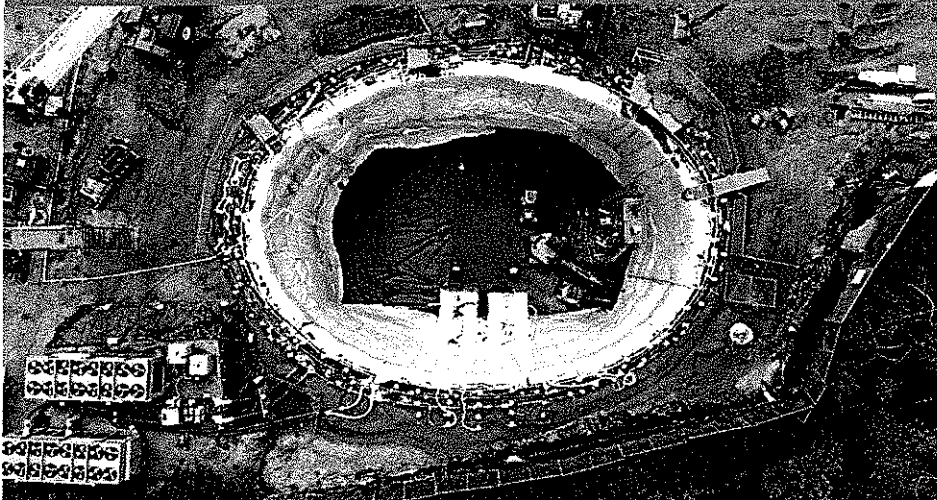
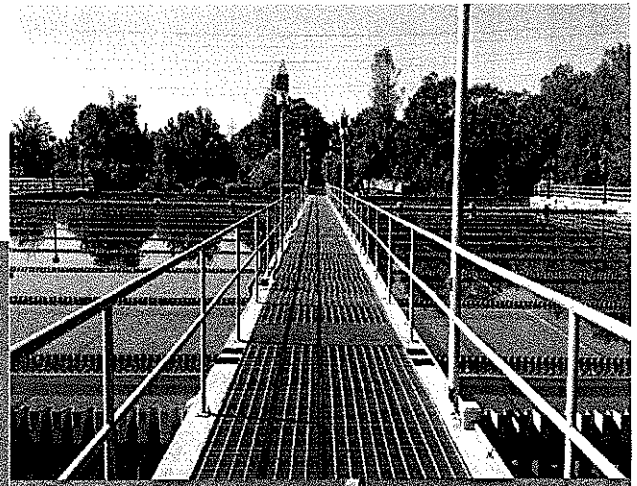


**O&M Staff Site Walks** – We will conduct site walks with operation and maintenance staff to show them the underground utilities so that they will have a historical memory of the site utilities. We will also conduct site walks with O&M staff to review the field location of valves to verify their convenient location and orientation before the work is completed.

#### **Exclusions**

1. ICM will not collect certified payroll since they are available on the California Department of Industrial Relations website.
2. CEQA compliance. It is being monitored by Horizon.
3. Design QA. It is being completed by West Yost.
4. ADA compliance certification or warranty.
5. Bidding support including bid advertisement and bid evaluations.
6. SWPPP plan development, SWPPP certification and SWPPP uploading to State web site.
7. Surveying by a California Licensed Land Surveyor.
8. Construction staking.
9. ICM is not responsible for Design Builder's safety or safety program.
10. ICM is not responsible for Design Builder's schedule.
11. We did not include budget for litigation, arbitration, or other dispute resolution support.
12. Engineering support services such as technical review of submittals and RFIs with the exception of schedule submittal, schedule of values submittal, and RFIs better answered by our field staff.
13. Cost for alternate document management and storage systems such as Primavera, EADOC, or ProCore.
14. Cost for onsite field office and associated utilities and appurtenances.
15. Building official reports or sign offs.

# 5. LABOR ESTIMATE





## 5. Labor Estimate

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### Time and Effort

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When determining the level of effort for the oversight of a Design Build project with multiple components spread out over 7 miles, it is important to understand the management and QA/QC System. Based on our experience and review of the Design Build documents we believe your Project will be best served by a resident engineer to watch over the schedule, claims and coordination aspects of the project and an inspector who can verify Design Builder inspection is being completed, properly documented and witnessing the inspection points of greatest concern. We developed the following estimate of labor utilization:

**Level of Effort Table**

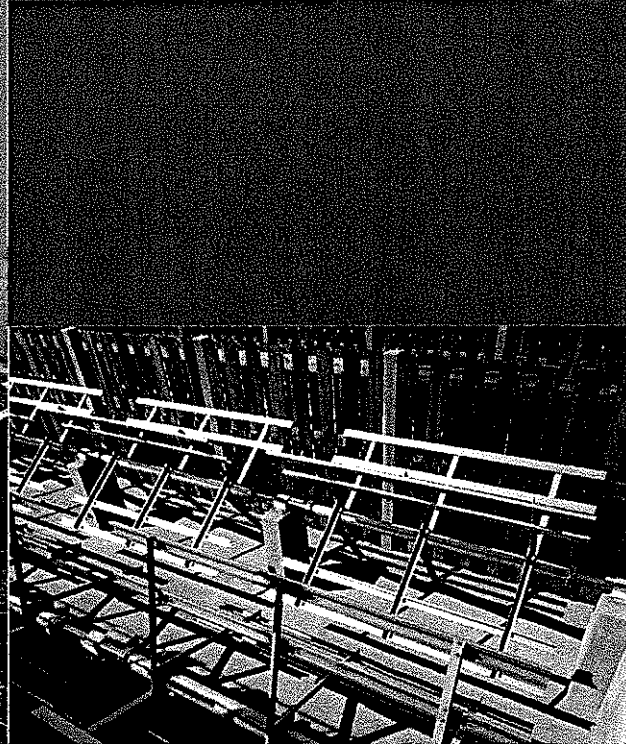
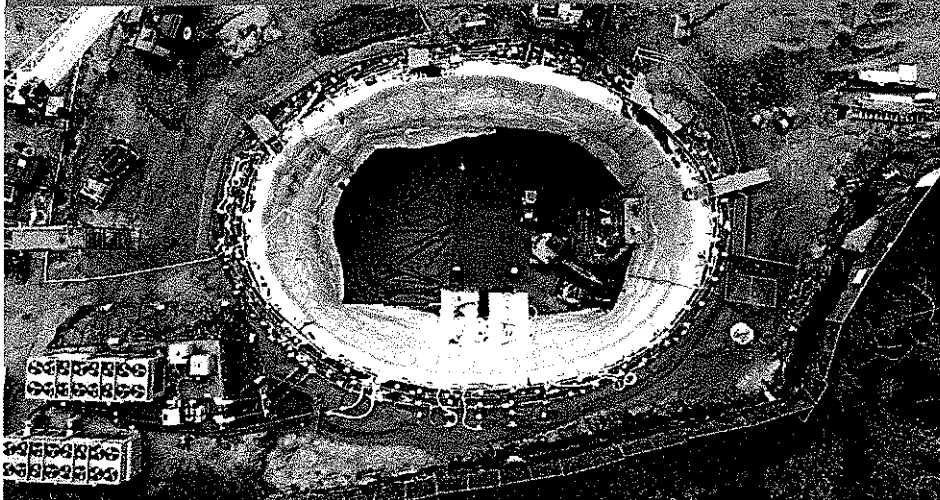
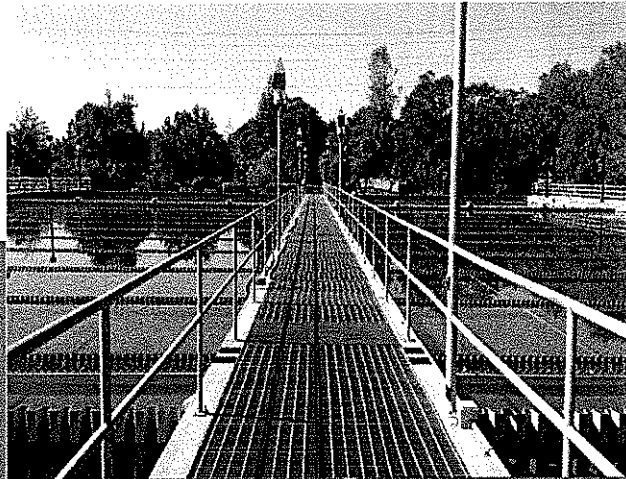
<b>Position</b>	<b>Average Utilization</b>	<b>Estimated Hours</b>
Construction Manager	40%	2590
Construction Inspector QA	100%	5564
Electrical Inspector QA	5%	104
Document Controller	20%	508
Material Testing QA	As needed	
Coating Inspector QA	As needed	

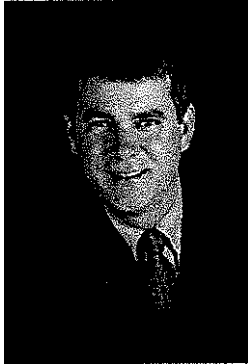
Below is a table that presents staff hours over the duration of the Project:





APPENDIX A  
REUMÉS





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*Mr. Inferrera has more than 30 years of experience in the water and wastewater industry with emphasis in construction management, resident engineering, and inspection. He specializes in pump stations, wastewater and water treatment plants and pipelines*

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### Qualifications

#### **Registrations:**

Professional Civil Engineer, California No. 62190

Registered Construction Inspector (Division 1) ACIA, No. 5832

California SWPPP QSP, QSD No. 23237

#### **Education:**

MS, Environmental Engineering, Cornell University, 1991

BS, *cum laude*, Environmental Science and Engineering, Rutgers University, 1986

**SRWA Raw Water Pump Station Project**, Construction Manager for a 45,000 gpm (100 cfs) raw water pump station in the levee of the Tuolumne River, east of Modesto. This work included soil freeze excavation shoring and construction of a large pump station within a levee. Site civil work in the flood plain and discharge of high pump station flows in the river made this Project environmentally sensitive.

**Atherton Booster Pump Station and Tank Project, City of Manteca** - Construction manager for the construction of a 5 MGD booster pump station, 3.6 million steel tank, and related electrical, controls, instrumentation, piping, and site civil work. Mr. Inferrera was responsible for contract administration, inspection, change orders, resolution of contractor conflicts and of technical issues.

**Oak Avenue Wastewater Pump Station, City of Folsom** - Performed resident engineering and inspection of the Oak Avenue Wastewater Pump Station. Station consisted of the construction vector discharge location, piping, concrete ramp, manhole, and fencing. Mr. Inferrera was responsible for contract administration, inspection, change orders, resolution of contractor conflicts and of technical issues.

**Lake Forest Pump Station, City of Folsom** - Resident Engineer for the demolition of the existing pump station and the construction of a new pump station with wet well, electrical, instruments, pumps, piping, flow meter, associated equipment and site improvements. Two 15 hp submersible pumps were set at the bottom of a wet well. The pumps discharged to 8inch ductile iron force main and flowed through a magnetic flowmeter. Mr. Inferrera was responsible for contract administration, change orders, resolution of contractor conflicts and of technical issues.

**Influent Pump Station, City of Manteca** - Construction manager for the successful construction of a 20 MGD influent pump station and wastewater treatment plant expansion. The pump station consisted of a 40-foot deep structure, two 10 mgd and two 5 mgd pumps, variable frequency drives, piping, and valves. Jeff handled change orders, ran weekly meetings, monitored contractor schedule, was responsible for change orders, RFIs, CPRs, work orders, resolution of contractor conflicts, initiation of owner requested design changes, control of engineer's response to submittals and RFIs, construction cost estimates, and performed startup and SCADA prove out.

**Woodbridge Pump Station, City of Manteca** - Resident engineer for the construction of a 5 mgd pumping station including a 30-foot deep wet well and dry well, two 30 hp pumps, two generators, piping, valves, and vaults. Mr. Inferrera was responsible for contract administration, inspection, document control, change orders, and resolution of technical issues and performed startup and SCADA prove out.

**St. Andrew's Lift Station Upgrade, El Dorado Irrigation District** - Resident engineer for the \$1 million upgrade of St. Andrew's Lift Station upgrade project. Construction work includes demolition of the existing electrical/mechanical dry pit, installation of five raw sewage pumps ranging from 3 to 150 hp, conversion of the dry pit to a wet pit, conversion of the wet pit to an emergency storage tank, installation of a 500 kW generator, miscellaneous valves and piping, and construction of a masonry electrical control building. Mr. Inferrera was responsible for contract administration, inspection, change orders, resolution of contractor conflicts and of technical issues.

**Fruitridge Center Sewage Pumping Station, Power Inn Sewage Pumping Station, and Fruitridge Road Pipeline, Sacramento Regional County Sanitation District** - Provided construction management and administration services for two new sewage pumping stations and gravity and forcemain sewer pipelines. This project included a 10 mgd pump station consisting of four 150 hp pumps in two wet wells, valves and metering vaults, odor control building, and a generator/electrical building and a 22 mgd pump station consisting of four 200 hp pumps in two wet wells, valve metering vaults, a control building, and a biofilter. The pipeline included over 32,000 ft of gravity and interceptor sewer pipeline ranging in size from 8 to 54 inches in diameter, 186 manholes, 22,000 ft of forcemain ranging in size from 24 to 30 inches in diameter, four railroad crossings, pipe reaming, cathodic protection system, slip-lining, water line relocations, and service connections. Mr. Inferrera was responsible for contract administration, change orders, resolution of contractor conflicts and of technical issues.

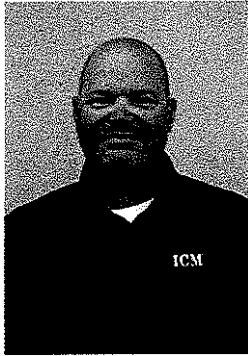
**South River and New Natomas Pumping Stations, Sacramento Regional County Sanitation District** Performed constructability review and completed construction schedule for a new 120" diameter pipeline, and two large wastewater pump stations capable of 235 mgd. Total construction value at \$96 million.

**Mather Tank and Booster Pump Station Main Improvements - California-American Water Company, Sacramento, CA.** Provided construction management and inspection services for the construction of a 2 MGD booster pump station feeding a new 3 MG water storage tank and 16-inch-diameter water main improvements. Pipeline components included ductile iron, steel pipe, welded connections, bolted connections, magmeter installation, coatings and disinfection.

**Las Vegas Wastewater Treatment Plant - Las Vegas, NV** - Resident engineer for plant expansion of city's water pollution control facility expansion from 66 to 93 mgd. This \$105 million expansion program involved 13 separate construction contracts, six separate contractors, and multiple contracts. Facilities involved in this expansion include secondary clarifiers, blower building, primary sedimentation, biological nutrient removal, chlorination/dichlorination, chemical feed facilities, filtration, anaerobic digesters, pumping stations, SCADA, headworks, mechanical dewatering, odor control, and O&M building. Approximately 10,000 lineal feet of pipeline was installed ranging in size from 8 to 120 inches in diameter.

**City of Manteca Project Wastewater Quality Control Facility Expansion - Manteca, CA**  
Construction manager and/or inspector for over \$100 million of construction projects for the City of Manteca including the following:

- Inspection of Union and Louise Road Cured in Place Pipeline (CIPP) Rehabilitation Project.
- Inspection of South Trunk Sewer Project as part of the FEZ Project Phase
- New WWTP Influent Pump Station.
- Construction of aeration basins and secondary clarifiers.
- New 10 mgd tertiary filtration and UV disinfection.
- New solids handling facility including sludge mixing tank.
- North Plant Aeration Efficiency Improvements
- Two new digesters, rehabilitation of two existing digesters, new digester control building.
- Tara Park and Woodbridge sewer lift stations.
- Atherton Tank and Pump Station Project.



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*Mr. Livingston has over 18 years of experience working on construction projects. His experience includes site civil work, pipelines, force mains, gravity lines, trenching, jack and bore, working in streets and working with the public. His inspector duties include ensuring work is installed per plans and specifications, documenting work with photographs and daily reports, completing as-built drawings, and coordinating with the design engineer, agencies, and public.*

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**Qualifications**

**Certifications:**

ICC Building Inspector,  
5232456-10

ACI Level 1 01031459

Troxler Nuclear Gauge  
Certification 44154

**SRWA Raw Water Pump Station Project**, Inspector for a 45,000 gpm (100 cfs) raw water pump station in the levee of the Tuolumne River, east of Modesto. This work included soil freeze excavation shoring and construction of a large pump station within a levee. Site civil work in the flood plain and discharge of high pump station flows in the river made this Project environmentally sensitive.

**WQCF Digester Project – Manteca, CA**, lead inspector for the construction of two digesters, and rehabilitation of two existing digesters including grading, stone column soil densification, underground utilities (gas, electrical, process piping, storm water), reinforced concrete structures, CMU digester control building, 17kv power, instrumentation, controls, CMMS, and SCADA.

**FEZ RCP Trunk Sewer and Water Force Main Project – Manteca, CA**, Inspector for the construction of two miles of 48-inch T-Lock lined RCP sewer pipe and 12-inch C900 water force main including micro tunneling under Highway 120. Consisted of extensive dewatering. (2016-2017)

**North Trunk Sewer and Water Force Main Project – Manteca, CA**, Inspector for the construction of two miles of 54-inch T-Lock lined RCP sewer pipe and 12-inch C900 water force main including micro tunneling under Yosemite Avenue. Consisted of extensive dewatering (2020)

**SFPUC San Joaquin Eastern Segment Water Pipeline**, Civil QA Inspector on a 6.7-mile, 78-inch water pipeline project with a construction cost of \$45,000,000. Responsible for QA inspection of rebar & concrete construction for three Valve Vault structures and the Oakdale Portal Protection structure.

**SFPUC San Joaquin Western Segment Water Pipeline**, Civil QA Inspector on an 11-mile, 78-inch water pipeline project with a construction cost of \$48,000,000. Responsible for QA inspection of native soil cement placement in the pipe zone & trench backfill.

**FEZ Underground Piping Project – Manteca, CA**, Inspector for the construction of two miles of 48-inch RCP sewer pipe and 12-inch C900 water force main including micro tunneling under Highway 120.

**SFPUC Tesla Water Treatment Facility**, Civil QA Inspector on design-build project with a construction cost of \$84,000,000. Responsible for inspection of concrete, roofing, building inspection of the various building trades, AC paving, and punch list inspections.

**BART Intermodal Modernization Project - Union City CA**, as a Quality Control Manager, provided all inspection work for civil, underground, concrete structures and building trades.

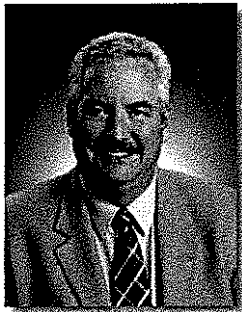
Matthew Livingston, ICC | Inspector

**ICM**

**Presidio Monterey, General Instruction Building, Provided QC inspection of structural construction. Perform all civil and building inspection of general civil works and the various building trades. \$42 Million**

**Deuel Institute, Water Treatment Facility- Tracy CA, Performed all civil testing and inspection.**

**Deuel Institute, Reverse Osmosis Facility - Tracy CA, Performed all civil testing and inspection throughout entire project. Performed special inspections including epoxy anchors and pull testing. \$32M**



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*Mr. Miller has more than 30 years of experience in the construction industry as an electrical inspector, electrician, and quality assurance officer on a wide variety of public works projects. Mr. Miller has extensive expertise in power distribution systems and controls and instrumentation systems.*

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**Qualifications**

**Education:**  
Building Technology,  
Short Circuit Analysis,  
NEC courses, Circuit  
Breaker Coordination –  
Sierra College

Engineering Science –  
American River College

**Certifications:**  
Certified Electrical  
Inspector, ICC No  
1060878-E2 (not current)

**Atherton Booster Pump Station and Tank Project | City of Manteca, CA | 2014 | \$5.6 million**

Electrical inspector for this new pump station and tank project. Inspected underground conduits, wiring, and panels to specifications and code compliance. Performed FAT for MCCs and PLCs plus startup support.

**New Natomas and South River Pump Stations, Sac County Sanitation District | 2004 | \$125 million**

Special Inspector (electrical) of medium-voltage distribution for new force main pumping stations for the County of Sacramento Regional Sanitation District

**Raw Water Pump Station Phase 1 | Stanislaus Regional Water Authority | 2019 | \$6.6 million**

Electrical inspector for all electrical on job including valve controls, power and control for pumps and other site electrical

**Jenny Lind Treatment Plant Filter & Solids Handling Project, Valley Springs, CA | 2007 | \$3.1 million**

Electrical Inspector for the treatment plant expansion upgrading the plant capacity from 5MGD to 6 MGD. Duties consisted of inspection of conduit, wiring, panels, PLCs, and compliance with electrical code and contract.

**Wastewater Quality Control Facility Digester Expansion | Manteca, CA | 2017-2019 | \$20.2 million**  
Special Inspector (electrical) for wastewater treatment facility expansion project. Tasks inspected included motor-controls and instrumentation, building power and lighting, conduit, wiring, panels, PLCs, and compliance to the electrical code and contract documents. Performed FAT for MCCs and PLCs plus startup support.

**Wastewater Quality Control Facility South Plant Expansion | City of Manteca | 2006 | \$30.7 million**  
Electrical inspector for the electrical, instrumentation, controls, PLCs, and SCADA associated with the construction of a new influent pump station, grit tanks, sedimentation basins, aeration basins, secondary clarifiers, foul air biofilter, new electrical systems, new SCADA system, new transformers, MCCs, pumps, blowers, and a new PG&E service. Performed FAT for MCCs and PLCs plus startup support.

**Wastewater Quality Control Facility UV and Filtration | Manteca, CA | 2008 | \$22.7 million**  
Special Inspector (electrical) for wastewater treatment facility expansion project. Inspection included 17kV and 480-volt electrical distribution systems, motor-controls and instrumentation, building power and lighting, UV lighting disinfection system, conduit, wiring, panels, PLCs, and compliance to the electrical code and contract documents. Performed FAT for MCCs and PLCs plus startup support.

**Wastewater Quality Control Facility Solids Handling | Manteca, CA | 2009 | \$4.5 million**

Special Inspector (electrical) for wastewater treatment facility expansion project. Tasks inspected included motor-controls and instrumentation, building power and lighting, conduit, wiring, panels, PLCs, and compliance to the electrical code and contract documents. Performed FAT for MCCs and PLCs plus startup Support.

**Yuba WWTP Rehabilitation | City of Yuba City, CA | 2019-2020 | \$18 million**

Electrical inspector for rehabilitation project including replacing all Plant PLCs, all five Plant transformers, all Plant motor control centers, new VFDs, and new fiber optic backbone. Assisted with shutdowns, startup, and inspected conduits, wiring, and panels to specifications and code.

**Bridlewood Pump Station | El Dorado Irrigation District, El Dorado Hills, CA | 2016 | \$3.5 million**

Electrical inspector wastewater pump station rehabilitation project.

**Tara Park Pump Station | City of Manteca | 2006 | \$2 million**

ICM's signatory for Release for Power Notification to PG&E. Electrical inspector for the construction of a 4 MGD pumping station. Performed inspection of all electrical associated with pumps, an odor control biofilter, generator, valves, and a new PG&E service entrance.

**Woodbridge Pump Station | City of Manteca | 2008 | \$2.5 million**

ICM's signatory for Release for Power Notification to PG&E. Electrical inspector for the construction of a 5 MGD pumping station built for future expansion to 7 MGD which included new pumps, an odor control biofilter, a generator, valves, vaults and new PG&E service.

**Lake Forest Pump Station | City of Folsom, CA | 2010 | \$740,000**

Electrical inspector for this new pump station. Inspected underground conduits, wiring, and panels to specifications and code compliance. Performed FAT on panels.

**Oak Avenue Pump Station | City of Folsom, CA | 2015 | \$2.2 million**

Electrical inspector for this pump station rehabilitation. Inspected underground conduits, wiring, and panels to specifications and code compliance. Performed FAT on MCCs and PLCs.

**Davis WWTP Rehabilitation | City of Davis, CA | 2014 | \$4.5 million**

Electrical inspector for rehabilitation project including new VFDs and new influent pumps. Inspected conduits, wiring, and panels to specifications and code.

**WWTP Compliance Project Phase 1B | City of Ione | 2015 | \$1.6 million**

Electrical Inspector for the construction of two new pump stations and new outlet structures and piping to connect ponds to the pump stations. Electrical inspector during a critical shutdown and power cutover. Provided inspection and testing for SCADA and two new aerators.

**Sacramento International Airport, Connty of Sacramento | 2000 | \$48 million**

Special Inspector (electrical) on multiple contracts that included: conversion of electrical distribution system from 4KV to 12KV, installation of new fire alarm, paging system, security controls & CCTV monitoring.





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*Mr. De Lapp has more than 30 years of experience in construction and engineering with emphasis in field engineering, construction observation, and design. His experience includes pumps stations, water systems, wastewater treatment plants, and pipelines.*

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**Qualifications**

**Education:**  
B.S., Architectural  
Engineering, California  
Polytechnic State  
University, San Luis  
Obispo, 1988

**Pump Station Rehabilitation Project – Antioch, CA**

Construction manager and inspector for Delta Diablo Sanitation District's project to rehabilitate five pump stations. Work included all trades including site civil work to protect facilities from floods, concrete rehabilitation, new piping, new pumps, new electrical and I&C, HVAC, building construction.

**Lighthouse Marina Pump Station – Sacramento County, CA**

An underground open system concrete storm drain pump station featuring two 250 and two 350-horsepower pumps and gravity out-fall. Field engineer responsible for installation of subsurface drainage system developed to mitigate settlement of adjacent structures caused by construction dewatering.

**Lakeside Pump Station – Sacramento County, CA**

An underground closed system concrete storm drain pump station featuring three 125-horsepower pumps. Field engineer responsible for installation of subsurface drainage system developed to mitigate settlement of adjacent structures caused by construction dewatering.

**Sump Pump 160 – Sacramento County, CA**

An underground closed system concrete storm drain pump station featuring two 400 and two 600-horsepower pumps. Field engineer responsible for installation of subsurface drainage system developed to mitigate settlement of adjacent structures caused by construction dewatering.

**PG&E Lake Valley Pipeline Replacement – Nevada County, CA**

Led the effort for this Engineer-Procure-Construct (EPC) project requiring the replacement of 1,150-feet of 15-inch diameter straight seam welded steel pipe on a 30-degree slope supported by concrete anchor blocks rock-bolted to available underlying rock. In addition to design, responsibilities included construction observation.

**Digester Improvements Project – Manteca, CA**

Construction manager and inspector for the construction of two digesters and rehabilitation of two digesters. Work included pumps, piping, concrete structures, welding, electrical, I&C.

**PG&E Spaulding Powerhouse #1 – Nevada County, CA**

Led the effort for this Engineer-Procure-Construct (EPC) project requiring the replacement of two 100-year old 48-inch diameter Butterfly Guard Valves and replacement of the pressure reducing valve (PRV) discharge horn liners. In addition to design, responsibilities included construction observation of activities which included extensive piping disassembly/reassembly, drill-and-bond anchoring and grouting of the replacement stainless steel discharge horn liners and monitoring of strain gage instrumentation deployed to monitor steel stresses in the 48-inch diameter 100-year old penstock flanges during torquing of bolts.

**PG&E Kings River Powerhouse PRV and Controls Rehabilitation—Fresno County, CA**

Construction manager for the first ever rehabilitation and maintenance of the pressure reducing valve (PRV) for the 52-MW hydroelectric turbine in operation since 1962. The refurbishment included the following:

- PRV removal and transportation to machine shop
- Complete PRV disassembly and cleaning
- Recordation of all as-found measurements
- Refurbishment of numerous bushings, the plunger seat ring and the dash pot
- Replacement of pilot valve and plunger seats with custom machined parts
- PRV Reassembly and transportation to powerhouse
- PRV Installation and startup and testing

Mr. De Lapp coordinated all material procurement, prepared all RFI's and submittals, and provided on-site supervisory oversight in the powerhouse and machine shop during critical activities resulting in the successful startup and testing prior to the client's scheduled return to service date.

**Hyperion Wastewater Treatment Facility— Los Angeles, CA**

Construction manager for the \$2.7 million subcontract for the manufacture of 38,000-square feet of architectural precast concrete wall panels for the 5-story laboratory and adjacent power buildings. Project responsibilities included the following:

- Daily quality control inspection of epoxy coated reinforcement and 316L stainless steel connection embedment placement
- Production of shop drawings
- Procurement of all materials
- Transportation planning for precast concrete panels from Northern California plant to the project site
- Development of comprehensive rigging and erection plan utilizing a 165-ton conventional crane

Mr. De Lapp personally supervised all precast concrete panel erection activities, including welding.

**NID Bowman Lake Dam Emergency Penstock Repair—Nevada County, CA**

Led the effort to develop the emergency repair of a 78-inch diameter penstock bifurcated at the toe of the dam into two 42-inch diameter conduits terminating at a valve house serving as a low level outlet. The penstock was discovered to have cracked and was leaking due to a transient event caused by operational error of a butterfly valve. Repair included demolition of the existing bifurcation and valve house; grouting and anchoring a 66-inch diameter sleeve extending inside the existing 78-inch conduit 3 ½ diameters upstream of the tunnel portal; and design of a thrust block anchored with 8- 1 ¾ -inch diameter rock anchors. In addition to design, responsibilities included construction observation during the entire five-month long construction period.

**SFW&PA Miners Ranch Canal Condition Assessment – Butte County, CA**

Led the effort for this "walkdown" inspection and condition assessment (CA) of the Miners Ranch Canal (MRC) which was constructed in 1967. The conveyance is comprised of a series of gunite canals, composite gunite bench flumes, two sections of metal flume, two under creek siphons, three sand traps and two sections of corrugated metal pipe conduit with an overall length (excluding siphons) of 33,981 feet. The results of the "walkdown" and CA identified that the vertical wall panel concrete is experiencing the effects of advanced Carbonation as evidenced by reduced pH values. FEM Analysis of the CBF was performed to determine the factor of safety associated with the design basis earthquake load case. Risks associated with CBF remaining life and panel replacement alternatives were presented.

## Cristiano Melo, PE, GE – Geotechnical Group Manager

### **Professional Background:**

Mr. Melo is the geotechnical group manager at BSK's Livermore office. He is a licensed Civil and Geotechnical Engineer in the State of California with nearly 18 years of engineering experience throughout the San Francisco Bay Area and beyond, supporting projects from design through construction. His experience includes geotechnical investigations for numerous public works/capital improvements projects, including water and wastewater facilities.

### **Relevant Experience:**

***City of Manteca Family Entertainment Zone Daniels Street Infrastructure Improvements, Manteca, California*** – Mr. Melo served as Project Manager and lead geotechnical engineer for a large underground utility corridor infrastructure project to support the above-ground improvements for the Family Entertainment Zone development on the west side of Manteca. The project included the construction of a new **pump station** for a storm drain force main and approximately 7,000 lineal feet of new underground utilities, and large diameter utility lines to be installed using microtunneling trenchless excavation underneath State Highway 120. BSK provided geotechnical, materials testing, and special inspections services during construction of Phase 1 of the project, which lasted from late summer of 2016 to the fall of 2017.

***City of Manteca Water Quality Control Facility Improvements, Manteca, California*** - Mr. Melo served as the Project Manager and lead geotechnical engineer for the geotechnical investigation for two new 65-foot diameter by 12 feet deep digesters, a 6,500-square foot digester control building, underground pipelines, new paved driveways, and demolition and filling of existing drying beds. Mr. Melo's design recommendations for the project included establishing the criteria for the design of stone columns for ground improvement, foundation design of shallow foundations, pavements, and earthwork. Mr. Melo has maintained his role as the Geotechnical Engineer-of-Record during construction. BSK has been assisting ICM Group, the Construction Manager, in providing geotechnical, materials testing, and special inspections services during construction of this project, which started in the winter of 2016 and is still ongoing.

***New Pacific Properties Sewer Lift Station, Hercules, California*** – Mr. Melo coordinated and performed the geotechnical investigation for a new sewer lift station for a large, 200-acre subdivision. Mr. Melo reviewed soil boring logs, assigned laboratory testing, performed geotechnical engineering calculations, and provided geotechnical recommendations including foundation, open cut trench excavation, shoring, temporary dewatering, and earthwork for the design and construction of the project.



### **Qualifications**

#### **Registrations:**

Civil Engineer, California,  
No. 64025, 2002

Geotechnical Engineer,  
California, No. 2756, 2007

#### **Education:**

MS, Civil Engineering,  
University of Idaho, 2000

BS, Civil Engineering,  
University of Idaho, 1997

#### **Experience:**

BSK Associates  
Livermore, California  
2013 to present

Kleinfelder  
Pleasanton, California  
2000 to 2013

Idaho Transportation  
Department  
Caldwell, Idaho  
Summers of 1996, 1997,  
and 1998



## Tim Rodriguez – Northern Regional Manager

### **Professional Background:**

A resident of San Joaquin County, Mr. Rodriguez has over 25 years of experience in materials testing and inspection, encompassing a wide range of work including soils, asphalt, concrete, and steel laboratory testing, as well as field inspections of soils, paving, concrete and reinforcing steel. He serves as Branch Manager and Construction Services Group Manager for the BSK Livermore office and has a wide range of project management and technical supervision experience for numerous projects throughout the San Francisco Bay Area and Central Valley regions of California.

Mr. Rodriguez is a Past-President for the statewide California Council of Testing and Inspection Agencies (CCTIA) and has extensive experience in many specialized testing applications including ground penetrating radar surveys, floor flatness testing, reinforcing steel surveys, pulse-velocity testing of concrete, specialty load testing, fire damage assessments and condition surveys. He serves as project manager for many of BSK's municipal retainer-type agreements and is experienced in supporting our client's technical needs while focusing on customer service.

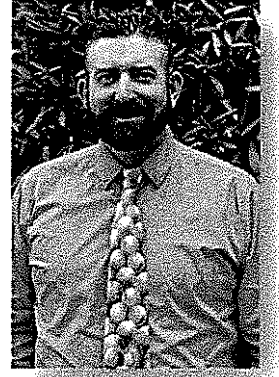
### **Relevant Project Experience:**

***City of Tracy, Tracy Recycled Water Transmission Mains and WWTP Pump Station Project CIP 74091--Phases 1 and 2, Tracy, CA***— Mr. Rodriguez serves as the project manager for the materials testing and special inspection of improvements to include +30,000 feet of recycled water pipe. BSK is providing soils and HMA sampling and testing, concrete inspections, welding inspections, and non-destructive testing.

***City of Tracy On-Call Materials Testing and Geotechnical Services, Tracy California*** – Mr. Rodriguez serves as project manager for BSK's on-call contract with the City of Tracy. Projects thus far have included a recycled water pipeline, overlay projects, widening projects, building renovations, and a fire training facility.

***City of Manteca, Highway 120 and Union Road Diverging Diamond Interchange, Manteca, California***- Mr. Rodriguez serves as BSK's Contract and Project Manager for the quality assurance materials testing services to this project. As part of the City of Manteca's Construction Management Team, BSK supports the project with materials testing and inspection services for earthwork, hot-mix asphalt, reinforced concrete, and source inspection.

***Stanislaus County Public Works, On-Call Materials Testing Services, Warnerville Road and Bentley Road Roadway Reconstruction Task Order, Stanislaus County, California*** – Mr. Rodriguez served as BSK's Project Manager and technical manager for this project which incorporated two methods of full-depth reclamation of existing materials (Lithtec and Cement Stabilization) on Warnerville and Bentley Roads, along with Hot-Mix Asphalt pavement and chip seal application.



### **Qualifications**

#### **Certifications:**

ICC Earthwork  
ICC Reinforced Concrete  
ICC Prestressed Concrete  
ICC Masonry  
ICC Spray-Applied  
Fireproofing  
DSA Shotcrete Inspector  
ACI - Concrete Field Testing  
Technician Grade 1  
ACI – Adhesive Anchor  
Special Inspector  
Nuclear Moisture/Density  
Gauge  
F-Number Measurement  
(Floor Flatness)  
SWPPP Training Program  
Caltrans CTM 504, 518,  
539,540,543,556,557

#### **Experience:**

BSK Associates, 2012 to  
Present  
2008 – 2012, Signet Testing  
Sacramento Office  
Manager, Northern  
California Operations  
Manager  
2006 – 2008, Terrasearch,  
Inc.  
Project Manager/ Special  
Inspection Manager  
1995 –2006, Signet Testing  
Special Inspector/  
Laboratory Technician,  
Special Testing Department  
Manager



## James K. Auser, PE – Senior Materials Engineer

### **Professional Background:**

Mr. Auser has developed a significant amount of hands-on experience during his 25 year career in the construction industry. As a registered civil engineer, he provides significant levels of support to our clients in his role as project manager and responsible engineer. His project specific duties cover a wide range of services, including mix design preparation, job specification review and review of project construction submittals. He is the laboratory manager and provides quality control for BSK's Livermore soils and materials testing laboratory, as well as engineering oversight for our field inspectors/technicians.

Mr. Auser specializes in concrete construction and their constituents, as well as in the development of specialty load test applications. He is flexible, creative and cost conscious in his engineering approach, and consistently works cooperatively with project teams at all levels.

### **Relevant Project Experience:**

***City of Manteca, Daniels Street Infrastructure for Manteca Family Entertainment Zone Phase I, Manteca, California*** – Mr. Auser served as the Materials Engineer for a large underground utility corridor infrastructure project to support the above ground improvements for the Family Entertainment Zone development.

***Stanislaus County, Geer/Whitmore Road Intersection Improvements, Hughson, California*** – Mr. Auser served as the Materials Engineer for this project which incorporated subgrade, aggregate base, hot-mix asphalt pavement, and full-depth reclamation.

***Stanislaus County, Santa Fe Road Bridge Replacement Project, Stanislaus County, California***– The \$14.3 million bridge replacement project was necessary after the existing bridge was deemed to be functionally obsolete and was largely funded with federal and state funds. Mr. Auser serves as BSK's Responsible Engineer for the earthwork, concrete, and reinforcing steel elements during construction.

***Stanislaus County, 2018 Urban Pavement Preservation Project, Task Order for Materials Testing On-Call Services Contract, Stanislaus County, California*** – The 2018 Urban Pavement Preservation Project consists of the application of rapid setting slurry and asphalt rubber chip seal on 17 miles of roadway in Stanislaus County. Mr. Auser serves as BSK's Responsible Engineer for the earthwork, concrete, hot-mix asphalt pavement and slurry/chip seals during construction.

***Stanislaus County, Warnerville Road and Bentley Road Roadway Reconstruction, Stanislaus County, California***– Mr. Auser serves as the project's Responsible Engineer. The project incorporates two methods of full-depth reclamation of existing materials (Lithtec and Cement Stabilization) along with Hot-Mix Asphalt pavement and chip seal application.



### **Qualifications**

Civil Engineer,  
California, 59941  
Radiation Safety and Use of  
Nuclear Gauges  
ACI Field Testing  
Technician Grade I  
ICC

Reinforced Concrete  
Structural Masonry  
Prestressed Concrete  
Caltrans CTM 504, 518,  
539, 540, 543, 556, 557

### **Education:**

BS, Civil Engineering,  
California State University,  
Chico, 1994

### **Experience:**

BSK Associates, 2008-  
present

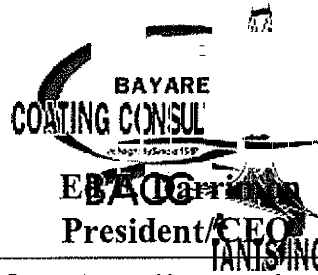
1996– 2008, ENGEQ Inc.,  
Field Engineer, Project  
Engineer, Laboratory  
Manager,

1995 –1996, A Teichert &  
Son Inc., Readymix Division  
Quality Assurance Field  
Technician

1994 –1995, Construction  
Testing & Engineering Inc.,  
Field Engineer

1988–1996, California  
Army National Guard  
Combat Engineer





**NACE No.106**

NACE Certified Level 3

(42 years of industry experience)



**Professional Affiliations**



Ed formed B.A.C.C. in 1987 and has 42 years of experience in the Coatings & Linings Field. Ed has completed thousands of projects in the past 42 years.

Ed administers the daily operations and provides high performance technical coating and lining specifications, failure analysis, surveys, and technical consulting.

Ed Darrimon was employed by East Bay Municipal Utility District for eleven years in the Engineering & Maintenance Departments as supervising coating specialist. Mr. Darrimon designed and developed the District's physical coating and lining testing lab for accelerated testing and the Districts Rehabilitation program of 170 reservoirs, water treatment plants, and two hydroelectric plants including penstocks.

**ACCOMPLISHMENTS**

**STEEL STRUCTURES PAINTING COUNCIL: (S.S.P.C.)**

- \* National Board of Directors from 1988-92 (Pittsburg PA). Re-elected in 1992-96 to serve second four-year term.
- \* National award 1989 for Outstanding Chairman.
- \* Past President and Founder of the first S.S.P.C. chapter in the U.S.A and which has won the most chapter awards since 1986.
- \* Member of numerous committees, Education, Lead Removal, Urethane, Zinc, Epoxy, and Inspection.

**NATIONAL ASSOCIATION OF CORROSION ENGINEERS: (N.A.C.E.)**

- \*Past Chairperson/ Bay Area Section
- NACE Certified Level III Inspector #106

**AMERICAN WATER WORKS ASSOCIATION: (A.W.W.A)**

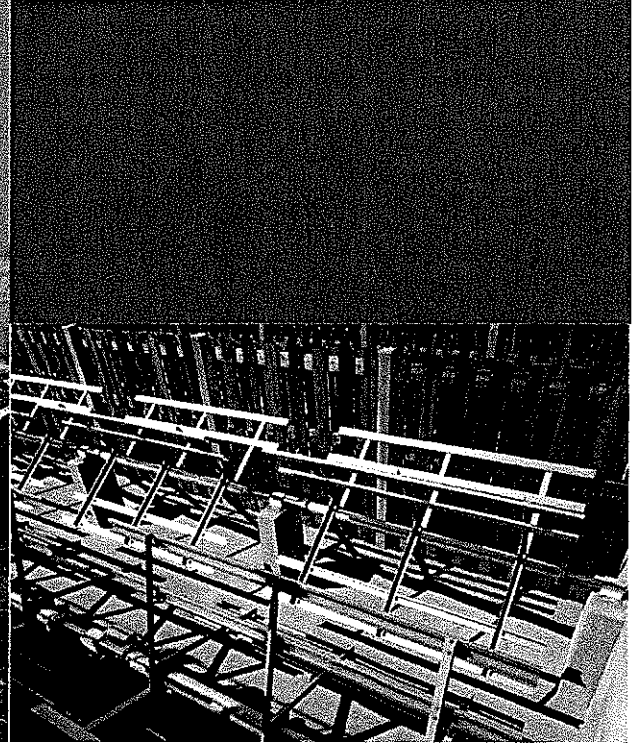
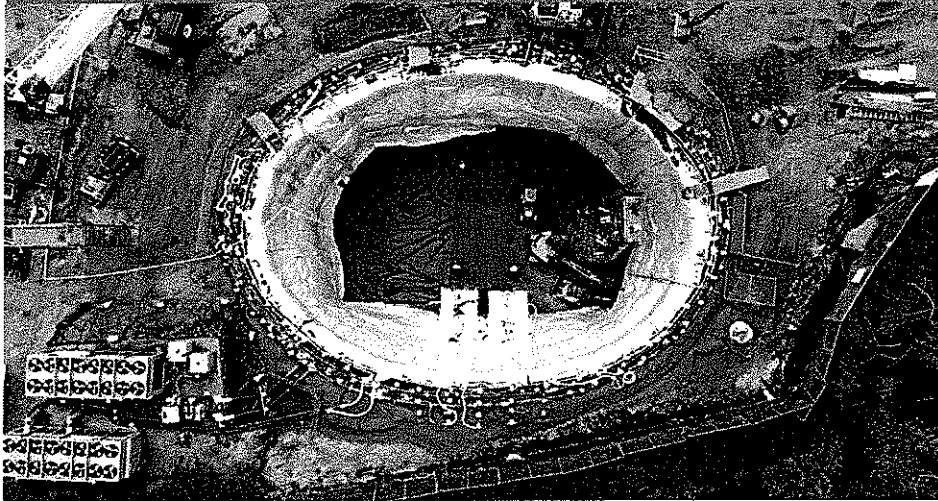
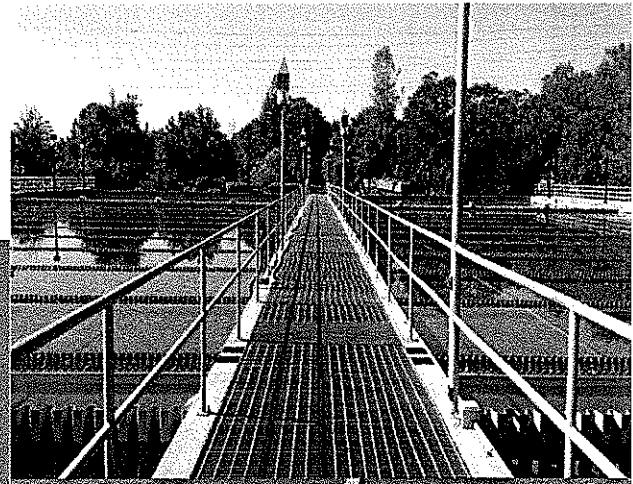
- \* Member National D-100, 103, 104, 106, 108, & 102 Standards Committee (30+ Years and going)
- \* Cal/NV Corrosion Committee. \* Cal/NV past Vice Chairman Maintenance Committee.

Mr. Darrimon has presented numerous talks to the following Organizations: A.W.W.A., N.A.C.E., & S.S.P.C. on the following topics: \* Tank linings, 100% solids technology using epoxies and polyurethanes, Tank inspection, Specifications, Abrasive blasting, & Dehumidification use. Ed has published articles for the National Association of Corrosion Engineers on 100% solids usage, technology and performance. Published author in Material Performance on tank linings.

**Past Projects:**

- PSEP Program –so. Cal Gas Pipeline
- SFPUC – Numerous pipeline, penstock, treatment plant and tank projects
- City of Livermore Bernal Bridge inspection
- County of Sacramento– Technical consulting Zone 7
- County of San Francisco– Technical consulting, specifications, and inspection Numerous projects the past 19 years.
- County of Butte Technical consulting, specifications, and inspection
- Modesto Irrigation District– Technical Consulting and Inspection
- Numerous Water Districts in California/Nevada– Technical Consulting,

APPENDIX B  
EXAMPLE MONTHLY REPORT



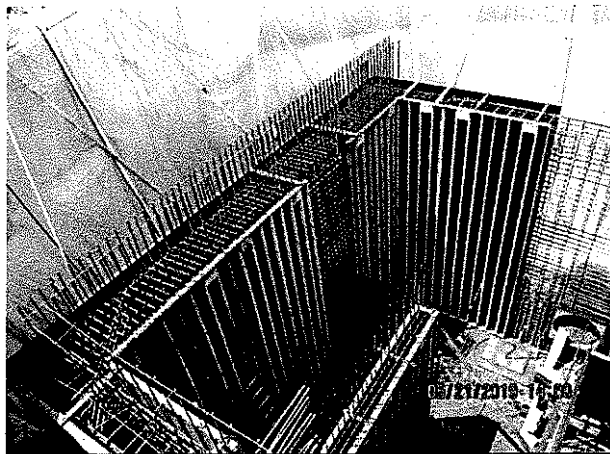
**JUNE 2019**  
**PROJECT STATUS REPORT**  
STANISLAUS REGIONAL WATER AUTHORITY  
RAW WATER PUMP STATION PROJECT



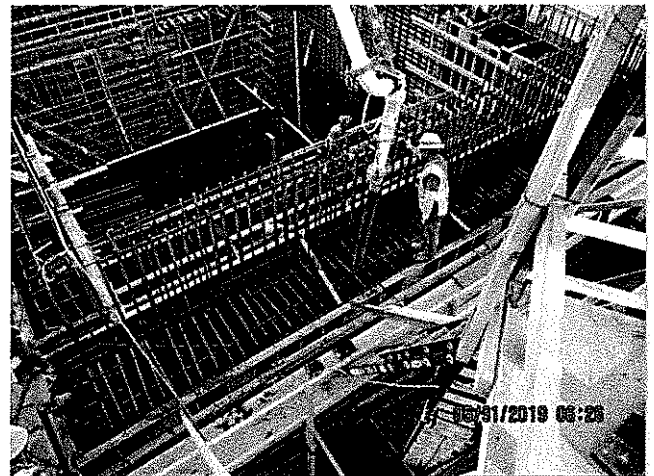
*Placing the Foundation Slab Concrete*



*Pump Station Reinforcing Steel*



*Pump Station Wall Form Work*



*Placing Lower Pump Station Wall*

**ICM**

June 30, 2019



# CONTRACTOR PROGRESS SUMMARY

## I. Overaa Construction Activities Completed

In the month of May, Overaa performed the following activities:

- Maintained SoilFreeze ground freeze shoring system.
- Completed foundation slab formwork, reinforcing steel, and concrete.
- Commenced lower wall formwork, reinforcing steel, and concrete
- Maintained SWPPP BMPs and dust control.
- Attended three progress meetings and one startup meeting.
- Submitted 1 submittal.
- Submitted 4 RFIs.

Freezing of soil wall commenced on December 12, 2018 and was completed on March 8, 2019.

## II. Project Budget

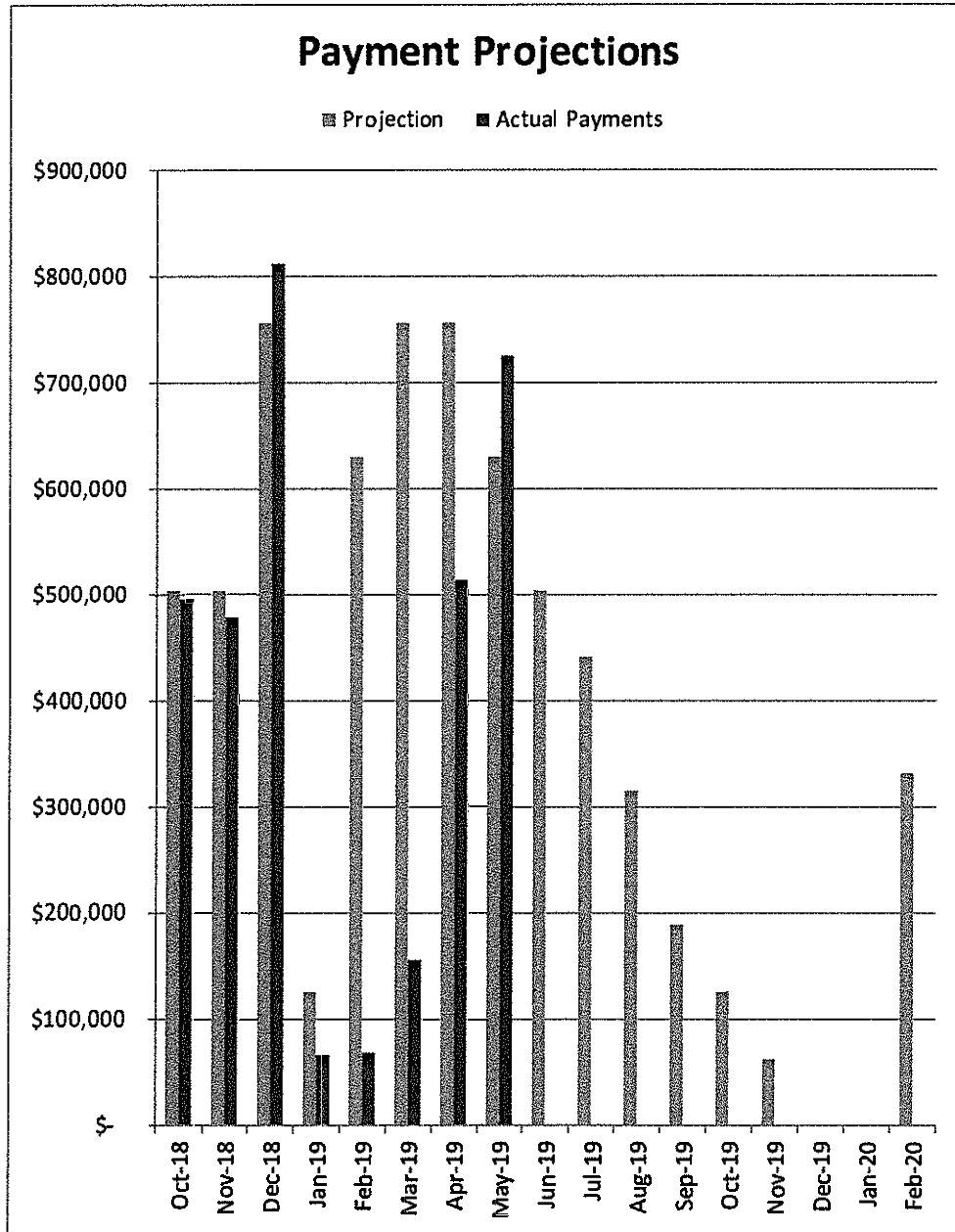
The Project Budget Summary Table is presented below. Actual Payments and Retention to Date are based on invoices from Overaa up to May 31, 2019. Possible change orders are based on work performed up to the end of March.

Project Budget Summary Table	
Original Budget	\$6,634,000.00
Approved Change Orders	\$47,066.00
Current Budget	\$6,655,463.00
Possible Change Orders	\$(11,200.00)
Budget Projection	\$6,644,263.00
Actual Contractor Payments as of end of May	\$3,317,508.30
Retention To Date	\$174,605.70

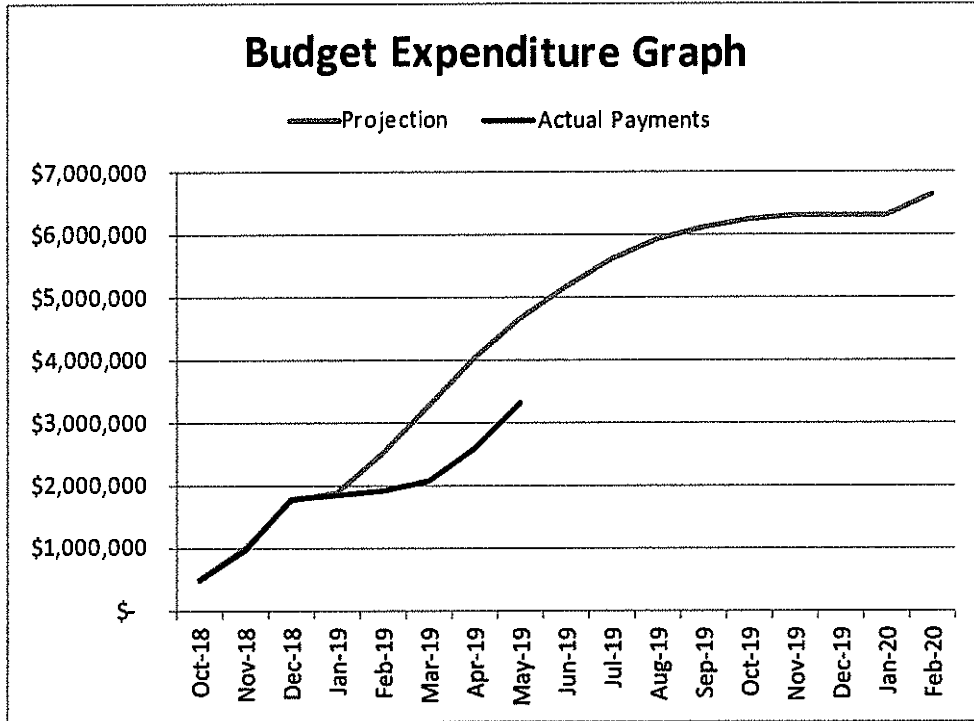
Change Order Details Table	
Approved Change Orders	\$21,463.00
CO1 (CPRs 2 and 3)	\$21,463.00
CO2 (CPRs 5, 6, 7, 8)	\$25,603.00
Proposed Change Orders	Estimated at \$(11,200.00)
CPR4 Inspector Overtime Credit	\$(11,200.00)

The Payment Projections and Budget Expenditure Diagrams are shown below. Projection values are estimates based on Overaa's latest Cash Flow Projection. Actual Payments are based on Overaa's approved monthly progress payment invoices.

**Payment Projections.** This chart provides a visual representation of monthly cash flow from SRWA to Overaa. Values are adjusted to account for overhead and retainage.



**Budget Expenditure Graph.** This chart provides a visual representation of cumulative monthly cash flow from the SRWA to Overaa. Values are adjusted to account for overhead and retainage.



### III. Schedule/Schedule Impacts

At the end of May, 59 percent of the project time has been expended.

Based on Overaa's schedule update dated April 26, 2019, the critical path activities are as follows:

- 1) Concrete Construction
- 2) Leak Testing
- 3) Backfill
- 4) Infiltration Gallery Testing (October 17 – December 26, 2019)
- 5) Complete Mechanical and Electrical Work
- 6) Punchlist

Pertinent dates from Overaa's schedule are shown on the Schedule Summary Table below.

Schedule Summary Table		
Activity	Initial Contractual Dates	Current/Updated Dates
Notice To Proceed	April 16, 2018	April 16, 2018
Milestone A Excavation/Shoring	January 20, 2019	March 30, 2019
Milestone B Wet Well Structure	November 26, 2019	November 25, 2019
Milestone C Infiltration Gallery Test	February 4, 2020	December 30, 2019
Milestone D Final Completion	March 15, 2020	January 17, 2019

**Milestone A Substantial Completion of Excavation and Shoring was completed on March 30, 2019, 69 days late.** ICM has notified Overaa that liquidated damages have been assessed but no money has been withheld to date.

The other Milestone Completions are ahead of schedule.

# CONSTRUCTION MANAGEMENT TEAM PROGRESS SUMMARY

## I. CM Activities Completed

Up to the end of May, ICM performed the following activities:

- Coordinated activities on a regular basis with Overaa.
- Inspected and observed Overaa's work.
- Concrete testing.
- Conducted three progress meetings.
- Conducted one startup meeting.
- Daily report and photographic documentation of project progress.
- Provided administrative services.
- Processed one pay application.
- Processed 1 submittal.
- Processed 4 RFIs.

## II. CM Project Budget

At the end of May, approximately 59 percent of the construction management and inspection budget has been expended over 46 percent of the contractor's scheduled project time.

# DESIGN TEAM PROGRESS SUMMARY

## I. West Yost Activities Completed

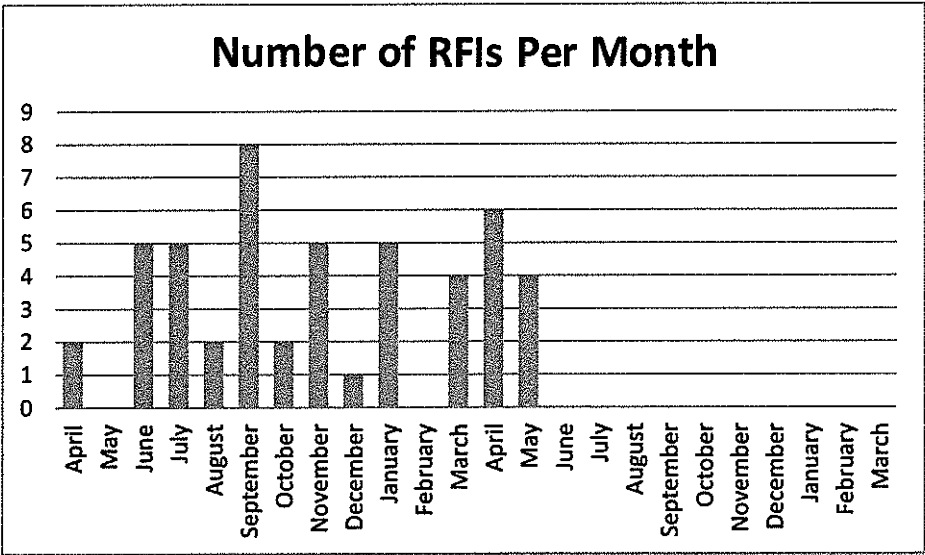
Up to the end of May, West Yost performed the following activities:

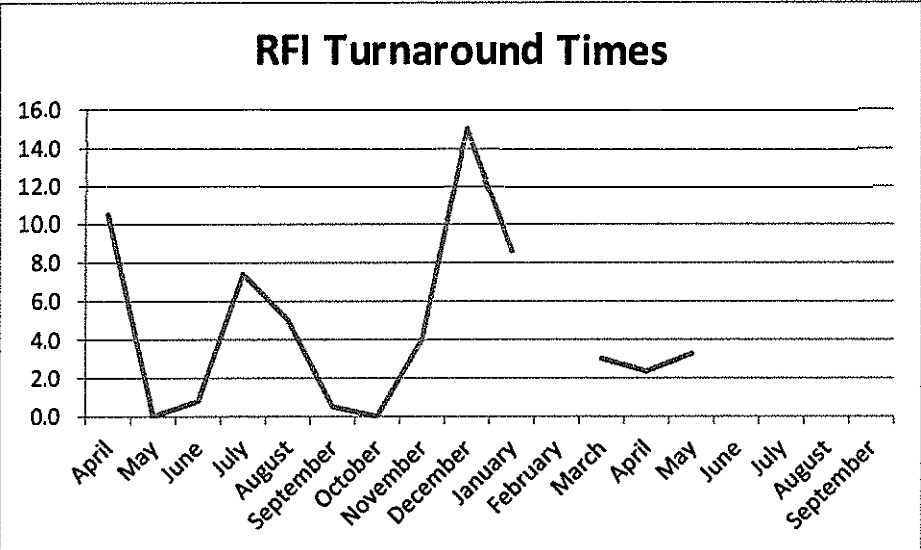
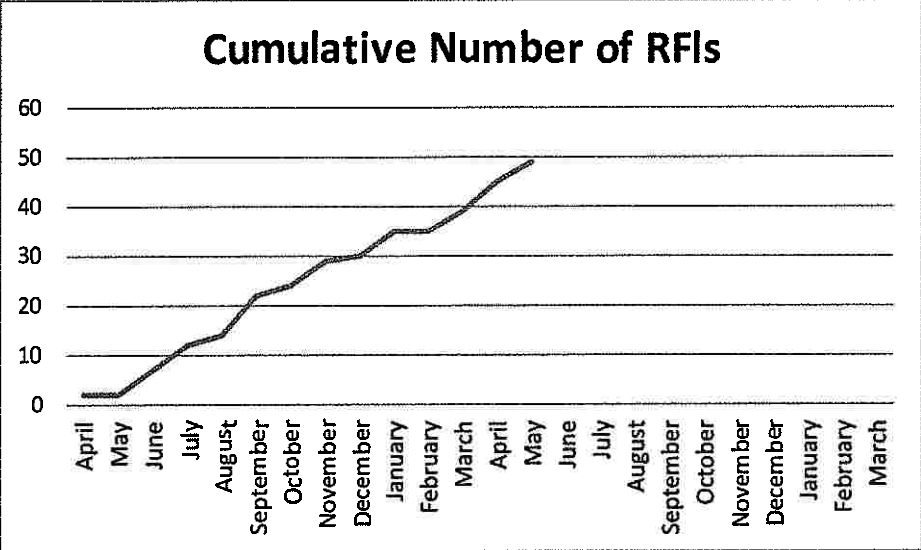
- Received for review 4 RFIs and responded to 4 RFIs.
- Received for review 1 submittal and reviewed 1 submittal.
- Attended three weekly progress meetings via conference call.

## II. Request For Information

As of the end of May, there have been 49 RFIs. Based on the RFI count of the past twelve months and projecting to February 2020, the number of RFIs is anticipated to be 98.

Total average project turnaround time on RFIs is 3.9 days. Graph of RFIs per Month, Cumulative RFI Count and Average Turnaround Time per Month are shown below.

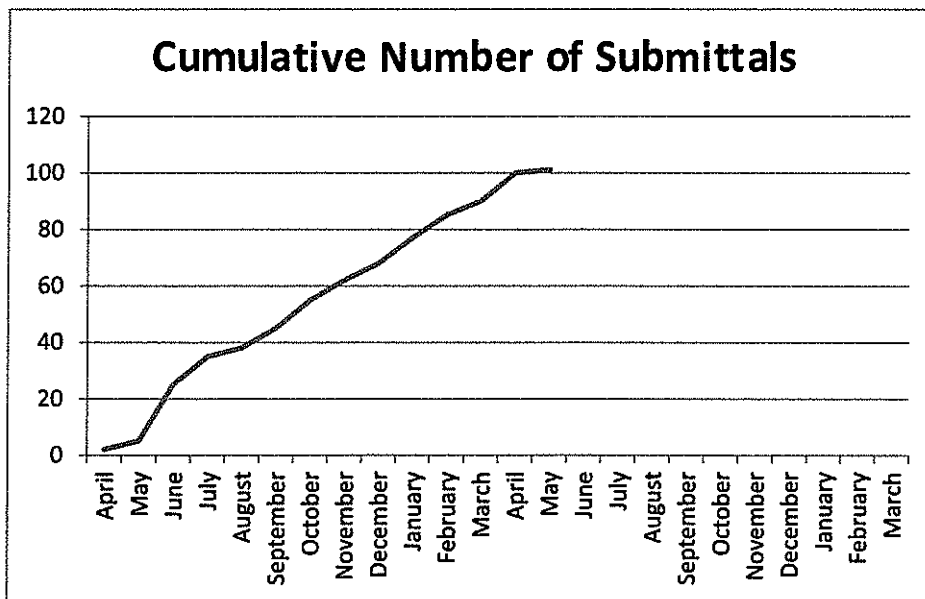
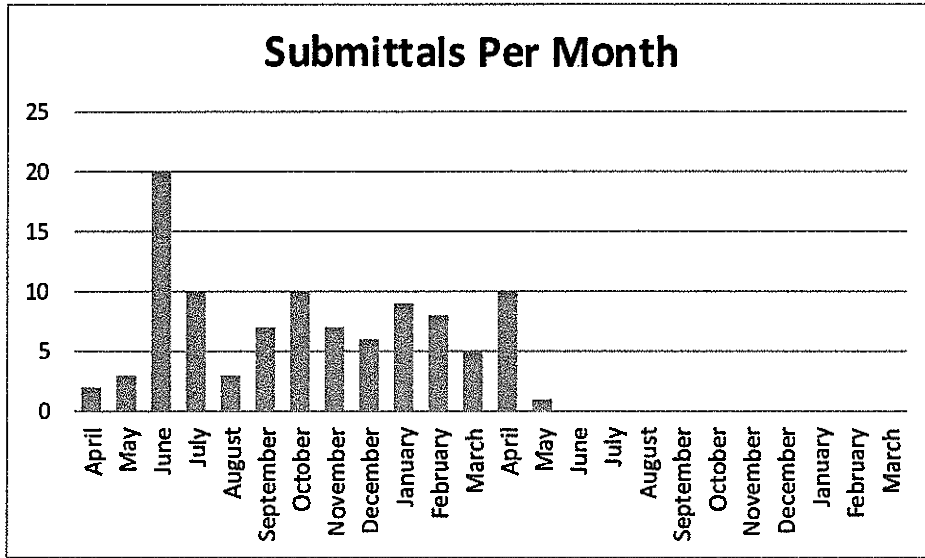




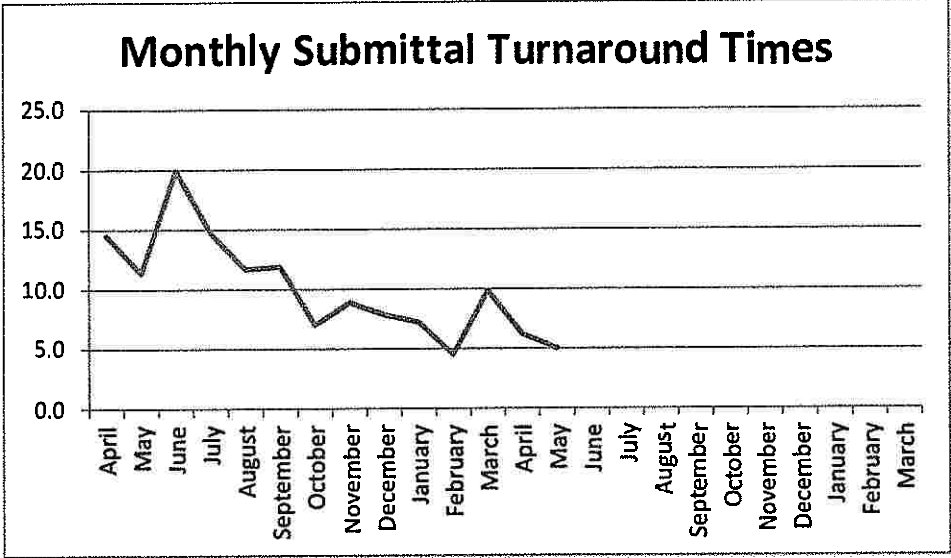
### III. Submittals

Currently, there have been 101 submittals with an average turnaround time of 11 days. We estimate that there will be approximately 340 submittals on this project. Therefore, there are approximately 239 submittals remaining.

Graph of Submittals per Month, Cumulative Submittals, and Submittal Turnaround Times are shown below.





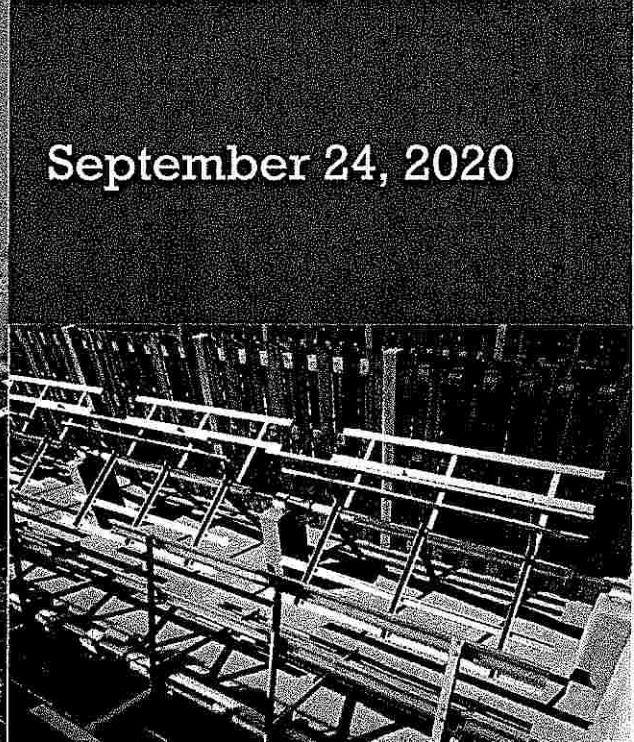
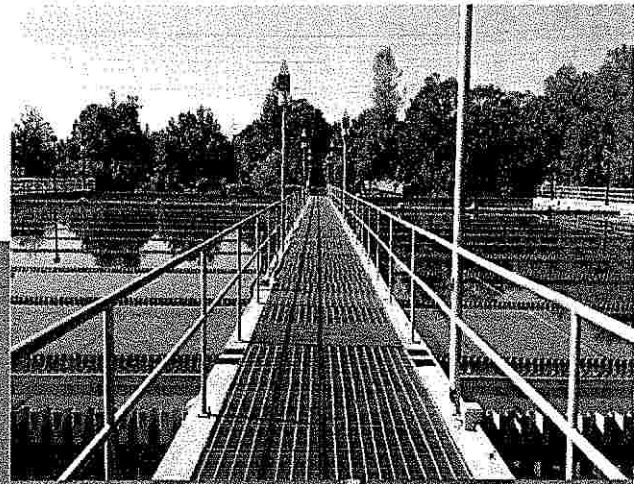


# EXHIBIT B

Prepared for  
Stanislaus Regional Water Authority



**SRWA**  
STANISLAUS REGIONAL  
WATER AUTHORITY



Cost Proposal for

OWNERS ADVISOR DESIGN-BUILD  
CONSTRUCTION MONITORING  
SERVICES

SRWA Regional Surface Water  
Supply Project

September 24, 2020

**ICM**

7040 Settlers Trail  
Shingle Springs, CA 95682  
(916) 792-9871  
[www.icmgroupusa.com](http://www.icmgroupusa.com)



September 24, 2020

Mr. Robert Granberg, PE  
Stanislaus Regional Water Authority  
156 South Broadway, Ste. 270  
Turlock, CA 95380

**RE: Cost Proposal for Owners Advisor Design-Build Construction Monitoring Services  
for the SRWA Regional Surface Water Supply Project**

Dear Mr. Granberg:

Inferrera Construction Management Group, Inc. (ICM) is pleased to present this Cost Proposal for Owners Advisor Design-Build Construction Monitoring Services for the SRWA Regional Surface Water Supply Project (Project). We have included ICM's Fee Schedule and a Proposed Budget Table with hours and costs.

Based on our experience and our review of project information, we have proposed a project budget that should be sufficient to complete the work, dependent upon the performance of the Design-Builder. Our proposed budget of \$1,442,153 includes QA staffing levels which we believe are necessary to properly perform QA monitoring of the Design-Builder's work.

We look forward to working with you on this important Project. If you have questions, please call me at 916-792-9871.

Sincerely,  
**Inferrera Construction Management Group, Inc.**

A handwritten signature in black ink, appearing to read 'Jeffrey Inferrera', is written over a horizontal line.

Jeffrey Inferrera, PE  
President

Enclosure

Inferrera Construction Management Group, Inc.  
Fee Schedule  
For Stanislaus Regional Water Authority

Labor Hourly Rates by Position

Construction Manager QA	\$180
Construction Inspector QA	\$140
Electrical Inspector QA	\$160
Administrator	\$80

Expense Rates

Vehicle, monthly	\$1,500
Vehicle, day	\$60
Field Computer, monthly	\$115
Field Phone, monthly	\$60
Other ODCs billed separately	

Administrative Fees

Expenses	0%
Subconsultants	10%

**Notes:**

1. Minimum 4-hour onsite charge per site or off-site visits.
2. Overtime will be charged 1.5 times the hourly rate for time worked over eight hours a day and Saturdays. Sundays, Holidays, and time worked over twelve hours a day are charged at 2 times the hourly rate. Second shift work performed between 5 p.m. and 5 a.m. will be charged an additional \$15 per hour.
3. This Rate Schedule is valid until December 31, 2021. After December 31, 2021, rates subject to adjustment.

Inferrera Construction Management Group, Inc.  
Budget Table  
For Stanislaus Regional Water Authority  
Owner's Advisor Design Build  
Construction Monitoring Services

1. Agreement with RFP Scope of Services with comments in our Proposal.
2. Construction management services starting on or about January 2021.
3. Contractor Notice To Construct issued approximately March 2021.
4. Final Acceptance and Completion Date of December 2023.
5. Construction management services ending December 2023.
6. We assume 0 hours overtime for this Project.
7. This proposal is based on a time and materials contract. This cost proposal is only an estimate; actual labor effort will be dependent on the contractor's schedule. Budgeted hours and cost proposal may change based on the actual project schedule. ICM reserves the right to transfer budgeted hours between tasks and subtasks.
8. This proposal excludes hiring of an inspector apprentice which can be required by the State Department of Industrial Relations although we have not seen it done to date and have not included hours for an apprentice.
9. Field office provided by SRWA.





**SRWA**  
 STANISLAUS REGIONAL  
 WATER AUTHORITY

**BEFORE THE GOVERNING BOARD OF THE STANISLAUS REGIONAL  
 WATER AUTHORITY**

IN THE MATTER OF APPROPRIATING }  
 \$396,600 TO ACCOUNT NUMBER }  
 950-53-553.51802\_002 "CONSTRUCTION }  
 MANAGEMENT" TO BE FUNDED VIA }  
 CONTRIBUTIONS FROM SRWA }  
 PARTICIPATING AGENCIES AS OUTLINED IN }  
 THE PHASE 3 PROJECT DESIGN AND }  
 AND CONSTRUCTION FUNDING }  
 AGREEMENT }

RESOLUTION NO. 2020-\_\_\_

**WHEREAS**, Phase 3 of the Regional Surface Water Supply Project consists of construction of the Raw Water Pump Station, Raw Water Pipeline, Water Treatment Plant, Turlock Finished Water Pipeline, Ceres Finished Water Pipeline and Aldrich Road Bridge Replacement; and

**WHEREAS**, it is desirable to hire a construction management firm to oversee project construction with specific expertise and experience in this type of work; and

**WHEREAS**, a Request for Proposals for construction monitoring services was advertised with proposals due on September 24, 2020; and

**WHEREAS**, a total of two (2) qualified proposals were received; and

**WHEREAS**, Inferrera Construction Management Group, Inc. was found to be the most qualified and lowest cost firm for this work in the amount of \$1,442,153; and

**WHEREAS**, the Technical Advisory Group recommends awarding an Agreement for Special Services to Inferrera Construction Management Group, Inc. in the amount of \$1,442,153, with a 10% contingency in the amount of \$144,215 for a total not-to-exceed amount of \$1,586,368 and by separate action the Board has approved this Agreement; and

**WHEREAS**, the scope of work for this Agreement will span four (4) fiscal years and at this time Staff is requesting the appropriation of the projected cost for only fiscal year 2020-21 in the amount of \$396,600.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of the Stanislaus Regional Water Authority does hereby approve the following amendments to the fiscal year 2020-21 budget:

Acct Number	Acct Name	2020-21 Approved Budget	Amendment	2020-21 Amended Budget
<b>Expenditures</b>				
950-53-553.51802_002	Construction Mgmt	-0-	\$396,600	\$396,600
<b>Revenues</b>				
950-53-552.34900_001	Contributions - Turlock	-0-	260,685	260,685
950-53-552.34900_002	Contributions - Ceres	-0-	127,390	127,390
950-53-552.34900_004	Contributions - TID	-0-	8,525	8,525

**PASSED AND ADOPTED** at a regular meeting of the Board of the Stanislaus Regional Water Authority this 19<sup>th</sup> day of November 2020, by the following vote:

AYES:  
NOES:  
NOT PARTICIPATING:  
ABSENT:

ATTEST:

\_\_\_\_\_  
Allison Martin, Board Secretary