

**COMMISSIONERS**

ROBERT PARRIS, *Chair*

KATHY MAC LAREN-GOMEZ, *Vice Chair*

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KEITH DYAS, *Commissioner*

BARBARA HOGAN, *Commissioner*

OFFICERS

PETER THOMPSON II, *General Manager*

TOM BARNES, *Resources Manager*

DENNIS HOFFMEYER, *Controller*

DANIELLE HENRY, *Management Analyst*

December 1, 2022

***Agenda for the Regular Meeting of the Commissioners
of the Antelope Valley State Water Contractors Association***

to be held at 2029 East Avenue Q, Palmdale

or via video conference: <https://bit.ly/3IZ5qoK> or

teleconference: (669) 900-6833 Meeting ID: 839 3795 7835#

FOR THE PUBLIC: VIA TELECONFERENCE ONLY

Dial-In Number: (669) 900-6833 Meeting ID: 839 3795 7835#

Thursday, December 8, 2022

6:00 p.m.

NOTE: To comply with the Americans with Disabilities Act, to participate in any Association meeting please contact Danielle Henry at 661-947-4111 x1059 at least 48 hours prior to an Association meeting to inform us of your needs and to determine if accommodation is feasible.

Agenda item materials, as well as materials related to agenda items submitted after distribution of the agenda packets, are available for public review at the Palmdale Water District's office located at 2029 E. Ave. Q, Palmdale. Please call Danielle Henry at 661-947-4111 x1059 for public review of materials.

PUBLIC COMMENT GUIDELINES: The prescribed time limit per speaker is three-minutes. Please refrain from public displays or outbursts such as unsolicited applause, comments, or cheering. Any disruptive activities that substantially interfere with the ability of the Association to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.

Each item on the agenda shall be deemed to include any appropriate motion, resolution, or ordinance to take action on any item.

- 1) Pledge of Allegiance.
- 2) Roll call.
- 3) Adoption of agenda.
- 4) Public comments for items not on the agenda.

- 5) Consideration and possible action on minutes of regular meeting held October 13, 2022.
- 6) Payment of bills.
- 7) Consideration and possible action on Resolution No. 2022-6 being a Resolution of the Board of Commissioners of the Antelope Valley State Water Contractors Association Ratifying the Proclamation of a State of Emergency by the Governor Issued March 4, 2020, and Authorizing Remote Teleconference Meetings of the Legislative Bodies of the Antelope Valley State Water Contractors Association for the Period Beginning December 8, 2022 and Ending January 7, 2023 Pursuant to Brown Act Provisions. (General Counsel Markman/General Manager Thompson II)
- 8) Consideration and possible action on acceptance of Draft Feasibility Report for the Big Rock Creek Joint Groundwater Recharge Project. (General Manager Thompson II/Mr. Paul Chau, Kennedy/Jenks Consultants)
- 9) Discussion and possible action on Emergency Response Agreement with Antelope Valley Mutual Water Companies. (General Manager Thompson II)
- 10) Consideration and possible action on Resolution No. 2022-7 being a Resolution of the Board of Commissioners of the Antelope Valley State Water Contractors Association Approving Submittal of Proposal to the California Department of Water Resources to Obtain a Round 2 Integrated Regional Water Management Implementation Grant on Behalf of the Antelope Valley Integrated Regional Water Management Group. (General Manager Thompson II)
- 11) Report of General Manager.
 - a) Status updates:
 - 1) Antelope Valley Watermaster meetings.
 - 2) Antelope Valley and Fremont Basin IRWMP Stakeholder meetings.
 - 3) Ethics AB 1234 Training.
- 12) Report of Controller.
 - a) Update on Revenue, Expenses and Change in Net Position.
 - b) Update on Association's Citizens Bank account.
- 13) Reports of Commissioners.
- 14) Report of Attorney.
- 15) Commission members' requests for future agenda items.
- 16) Consideration and action on scheduling the next Association meeting February 9, 2023.
- 17) Adjournment.

RESOLUTION NO. 2022-6

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY THE GOVERNOR ISSUED MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION FOR THE PERIOD BEGINNING DECEMBER 8, 2022 AND ENDING JANUARY 7, 2023 PURSUANT TO BROWN ACT PROVISIONS.

WHEREAS, the Antelope Valley Water Contractors Association (“AVSCWA”) is committed to preserving and nurturing public access and participation in meetings of the Board of Commissioners; and

WHEREAS, all meetings of AVSCWA’s legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch AVSCWA’s legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within AVSCWA’s boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in AVSCWA, specifically, a State of Emergency has been proclaimed by the Governor of the State of California on March 4, 2020 in response to the global outbreak of the novel Coronavirus disease (“COVID-19”); and

WHEREAS, meeting in person would present an imminent risk to the health and safety of attendees due to the continued impact of the COVID-19 pandemic; and

WHEREAS, the Board of Commissioners does hereby find that a State of Emergency has been proclaimed as a result of the threat of COVID-19 and the contagious nature of COVID-19 have caused, and will continue to cause, conditions of peril to the safety of persons within AVSCWA that are likely to be beyond the control of services, personnel, equipment, and facilities of AVSCWA, and desires to ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, such conditions now exist in AVSCWA, specifically County of Los Angeles Department of Public Health – Order of the Health Officer issued April 21, 2022 and effective April 22, 2022, the State Public Health Officer Order – Beyond the Blueprint last updated June 8, 2022, Beyond the Blueprint for Industry and Business Sectors updated as of May 2, 2022, strongly recommending continued use of face masks while indoors in general, regardless of vaccination status, and requiring the continued use of face masks for indoor settings with higher risks for transmission, due to the evidence of increasing

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transmission of COVID-19 within the County and worldwide, particularly due to the Omicron variant of the virus. Further, County health orders and guidance incorporates a variety of local, state, and federal declarations, proclamations, guidance, and recommendations, including continued social distancing of six (6) feet from others, especially while indoors, and especially while indoors for extended periods of time; and

WHEREAS, as a consequence of the imminent risks to the health and safety of attendees due to the continued impact of the COVID-19 pandemic, the Board of Commissioners does hereby find that the legislative bodies of the AVSCWA shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Finding of Imminent Risks. The Board hereby finds that meeting in person would present imminent risks to the health and safety of attendees due to the serious and contagious nature of COVID-19.

Section 3. Ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of a State of Emergency, effective as of its issuance date of March 4, 2020.

Section 4. Remote Teleconference Meetings. The staff, General Manager, and legislative bodies of AVSWCA are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) January 7, 2023, which is 30 days from the adoption of this Resolution, or (ii) such time the Board of Commissioners adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the Antelope Valley State Water Contractors Association may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of Commissioners of the Antelope Valley State Water Contractors Association this 8th day of December, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert Parris, Chair

ATTEST:

Don Wilson, Secretary

APPROVED AS TO FORM:

Richards, Watson & Gershon, General Counsel

ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION

COMMISSION MEMORANDUM

DATE: November 29, 2022
TO: AVSWCA Commissioners
FROM: Mr. Peter Thompson II, General Manager
RE: *AGENDA ITEM NO. 8 – CONSIDERATION AND POSSIBLE ACTION ON ACCEPTANCE OF DRAFT FEASIBILITY REPORT FOR THE BIG ROCK CREEK JOINT GROUNDWATER RECHARGE PROJECT. (GENERAL MANAGER THOMPSON II/MR. PAUL CHAU, KENNEDY/JENKS CONSULTANTS)*

Recommendation:

Staff recommends that the Commissioners approve the acceptance of the Draft Feasibility Report for the Big Rock Creek Joint Groundwater Recharge Project by Kennedy/Jenks Consultants as the Final Report.

Background:

Staff discussed the Draft Feasibility Report with Kennedy/Jenks and reached the consensus that, for purposes of the Feasibility Report, Kennedy/Jenks has completed its review of the potential options for groundwater recharge at the Big Rock Creek site. There are three unsettled issues that impact the feasibility of the two most favorable recharge Alternatives. Alternative 2 (Culverts at East Avenue T and East Avenue S) requires feedback and coordination with Los Angeles (LA) County Flood Control District and Alternative 3 (Offsite Recharge Basins and Pipelines) requires coordinated analysis between PWD and AVEK to determine how soon this Project would be utilized by either agency and projections of when other East Branch Contractors may have additional supplies that could be delivered to the Project. Both Alternatives require confirmation from the Department of Water Resources (DWR) that the siphon at the Big Rock Creek test site can be utilized as a turnout for the Project. Staff's inquiries with LA County Flood and DWR are still awaiting feedback. It is the opinion of staff that these final unsettled issues should not hold up the completion of the Feasibility Study by Kennedy/Jenks and that staff can continue to pursue resolutions and report back to the Commissioners as these issues are resolved.

Supporting Documents:

- Draft Feasibility Report for the Big Rock Creek Joint Groundwater Recharge Project to be presented at the meeting.

**ANTELOPE VALLEY
STATE WATER CONTRACTORS ASSOCIATION
COMMISSION MEMORANDUM**

DATE: November 29, 2022 **December 8, 2022**
TO: AVSWCA Commissioners **Commission Meeting**
FROM: Mr. Peter Thompson II, General Manager
RE: *AGENDA ITEM NO. 9 – DISCUSSION AND POSSIBLE ACTION ON EMERGENCY RESPONSE AGREEMENT WITH ANTELOPE VALLEY MUTUAL WATER COMPANIES. (GENERAL MANAGER THOMPSON II)*

Recommendation:

Staff recommends that the Commissioners approve the Emergency Response Agreement with Antelope Valley Mutual Water Companies for review and consideration by the member agencies’ Boards and their legal counsels.

Background:

The Board of Commissioners have long shown interest in providing greater water security within the Antelope Valley and, to that end, have directed staff to develop a path for emergency response coordination for mutual companies within our collective service areas. Following an unsuccessful attempt to include the mutual water companies in the Antelope Valley Mutual Response Agreement (AV MRA) due to the liability insurance requirement amount, the Commissioners directed staff to develop an agreement between the member agencies of the Association and Antelope Valley mutual water companies. The AV MRA was utilized as a template for this draft Agreement. Feedback from the Association of California Water Agencies/Joint Powers Insurance Authority, several mutual water companies, and the the Association’s attorney have shaped this draft. This Agreement will require some additional administrative work from Association staff and is anticipated to add eight hours of coordination work annually to the Resources Manager position. Upon approval, this Agreement can be presented to the member agencies’ Boards for consideration. As soon as one member agency has approved the Agreement, it can be sent to the interested mutual water companies to sign on as a Requesting Agency.

Supporting Documents:

- Draft Emergency Response Agreement with Antelope Valley Mutual Water Companies

Emergency Response Agreement
Between the Antelope Valley State Water Contractors Association
and Antelope Valley Mutual Water Companies

This AGREEMENT is made and entered into by the member agencies of the Antelope Valley State Water Contractors Association (Association), as listed on Exhibit A hereto, which have adopted and signed this Agreement to provide emergency assistance to mutual water companies located within their shared service areas and provides terms for the reimbursement for equipment, supplies and personnel made available on an emergency basis as specified herein. Mutual Water Companies that desire to seek emergency aid from the members agencies of the Association must meet the qualifications of the Agreement and become signatories to it.

Said agencies are individually referred to herein as an “Association Agency.” Mutual Water Companies who sign the Agreement are individually referred to herein as “Requestor Agency.”

In consideration of the covenants and agreements hereinafter set forth, the Association Agencies agree to provide assistance to Requestor Agencies in times of emergency as follows:

ARTICLE I.
PURPOSE

Recognizing the importance of functioning water systems within the Antelope Valley and that emergencies may require assistance in the form of personnel, equipment, and supplies in excess of an individual mutual water company’s resources, the Association Agencies hereby establish a regional program for emergency aid, response, and assistance. Through this Emergency Response Program (the “Program”), Association Agencies may individually or in coordination respond to Requestor Agencies, share resources during emergencies, and assist during local emergencies, as defined herein. This Agreement sets forth the procedures and standards for the administration of the Program among the parties.

ARTICLE II.
DEFINITIONS

- A. **Authorized Official** – An employee or officer of an Association or Requestor Agency who is authorized to do any of the following:
 - 1. Request assistance;
 - 2. Offer assistance;
 - 3. Refuse to offer assistance or
 - 4. Withdraw assistance under this agreement.

- B. **Emergency** – A natural or human caused event or circumstance causing, or imminently threatening to cause, impact to the operations of a Member Agency, loss of life, injury to person or property, human suffering, or financial loss, and includes, but is not limited to, fire, flood, severe weather, earthquake, civil disturbance, riot, explosion, drought, volcanic activity, spills or releases of oil or hazardous materials, contamination, utility or transportation emergencies, disease, blight, infestation, intentional acts, sabotage, declaration of war, or other condition

which will, or is likely to, require a greater level of personnel, equipment, facilities and services than a Member Agency can provide on its own, and thus will require mutual assistance.

- C. **Members or Member Agencies** – Any Association Agency or public or private Requestor Agency that manifests intent to participate in the Program by executing this Agreement.
1. **Requesting Member** – A Requestor Agency that requests aid or assistance under the Program.
 2. **Responding Member** – An Association Agency that responds to a request for aid or assistance under the Program.
 3. **Non-Responding Member** – An Association Agency that does not provide aid or assistance during a Period of Assistance under the Program.
- D. **Confidential Information** – Any document shared with any signatory of this Agreement that is marked confidential, including but not limited to, any map, report, notes, papers, opinion, or e-mail which relates to the system vulnerabilities of a Member Agency.
- E. **Period of Assistance** – A specified period of time when a Responding Member assists a Requesting Member. The period commences when personnel, equipment, or supplies depart from Responding Member’s facility and ends when the resources return to their facility (portal to portal). All protections identified in this Agreement apply during this period. The specified Period of Assistance may occur during response to or recovery from an Emergency, as previously defined, or during an Outage, as defined herein.
- F. **National Incident Management System (NIMS)** – A national, standardized approach to incident management and response that sets uniform processes and procedures for emergency response operations.
- G. **Standardized Emergency Management System (SEMS)** – A standardized approach to field command and jurisdictional management and response set forth by State of California Code of Regulations for multi-agency or multijurisdictional response to an emergency.
- H. **Outage** – A period of time where a Member’s utility supply is interrupted to the extent that the interruption jeopardizes the health and safety of the Members’ customers/constituents. An Outage is “planned” when the Member is given at least three (3) days prior notice of the interruption in supply. An Outage is “unplanned” when the Outage occurs without at least three (3) days prior notice of the interruption in supply, including when the Outage occurs unexpectedly.

ARTICLE III. **ADMINISTRATION**

The Program shall be administered through the Association and the Association Resource Manager shall serve as the Coordinator (the “Coordinator”).

The Coordinator shall serve as the point of contact for collecting and distributing the signed Agreements and maintaining the list of Authorized Officials. The Coordinator shall schedule at least one annual meeting for the member agencies to review the Program and any actions previously taken pursuant to the Program.

ARTICLE IV.
PROCEDURES

- A. Procedures for the Program will be developed in alignment with the Antelope Valley Mutual Response Agreement. These procedures shall be consistent with the Standardized Emergency Management System (SEMS), the National Incident Management System (NIMS) and this Agreement. These procedures shall be reviewed at least annually and updated as needed by the Coordinator.
- B. Requests for emergency assistance or assistance with any Outage under this Agreement shall be directed to the appropriate Authorized Official(s) from the list of Members.

ARTICLE V.
REQUESTS FOR ASSISTANCE

In general, assistance will be in the form of resources, such as equipment, supplemental water supplies, other supplies, and personnel. Assistance shall be given only when a Responding Member determines that its own needs can be met while rendering assistance. The execution of this Agreement shall not create any duty to respond on the part of any party hereto. A potential Responding Member shall not be held liable for failing to provide assistance. A potential Responding Member has the absolute discretion to decline to provide any requested assistance.

- A. **Responsibility** – Members provide an Authorized Official's, and at least one alternate's, contact information including 24-hour access, and maintain resource information that may be available from the agency for mutual aid and assistance response. Such contact information shall be updated annually or when changes occur and be promptly provided to the Coordinator.
- B. **Member Request** – In the event of an Emergency or Outage (planned or unplanned), a Member's Authorized Official may request mutual aid and assistance from a participating Member. Requests for assistance can be made orally or in writing. When made orally, the request for personnel, equipment, supplemental water supplies and other supplies shall be memorialized in writing as soon as practicable. Requests for assistance shall be directed to the Authorized Official of the participating Member. Specific protocols for requesting aid shall be provided in the required procedures to be established by the committee pursuant to Article IV hereof.
- C. **Response to a Request for Assistance** – Members are not obligated to respond to a Requesting Member's request. After a Member receives a request for assistance, that Member's Authorized Official evaluates whether to respond, whether resources are available to respond, or if other circumstances would hinder response. Following the evaluation, that Member's Authorized Representative shall inform, as soon as possible, the Requesting Member whether that Member will respond. If the Member is willing and able to provide assistance, the Member shall inform the Requesting Member about the type of available resources and the approximate arrival time of

such assistance. If a Member determines it cannot respond to a request for assistance, that Member shall not be responsible for any consequences associated with its failure to respond.

- D. ***Discretion of Responding Member's Authorized Official*** – Execution of this Agreement does not create any duty for a Responding Member to respond to a request for assistance. When a Responding Member receives a request for assistance, the Authorized Official shall have sole and absolute discretion as to whether or not to respond, or the availability of resources to be used in such response. An Authorized Official's decisions on the availability of resources shall be final.

ARTICLE VI. **RESPONSE COORDINATION**

When providing assistance under this Agreement, the Requesting Member and Responding Member shall be organized and shall function under the Standard Emergency Management System and National Incident Management System protocols and procedures.

- A. ***Personnel*** – Responding Member retains the right to identify the specific employees to be provided to a Requesting Member and the resources that are available.
- B. ***Control*** – While employees so provided may be under the supervision of the Responding Member, the Responding Member's employees come under the direction and control of the Requesting Member, consistent with the NIMS Incident Command System to address the needs identified by the Requesting Member. The Requesting Member's Authorized Official shall coordinate response activities with the designated supervisor of the Responding Member(s). Whenever practical, Responding Member personnel must be self-sufficient for up to 72 hours. The Responding Member's designated supervisor(s) must keep accurate records of work performed by Responding Member's personnel during the specified Period of Assistance.
- C. ***Food and shelter*** – When possible, the Requesting Member shall supply reasonable food and shelter for Responding Member personnel. If the Requesting Member is unable to provide food and shelter for Responding Member personnel, the Responding Member's designated supervisor is authorized to secure the resources necessary to meet the needs of its personnel. Except as provided below, the cost for such resources must not exceed the state per diem rates for that area. To the extent food and shelter costs exceed the state per diem rates for the area, the Responding Member must demonstrate that the additional costs were reasonable and necessary under the circumstances. Unless otherwise agreed to in writing, the Requesting Member remains responsible for reimbursing the Responding Member for all reasonable and necessary costs associated with providing food and shelter, if such resources are not provided.
- D. ***Communication*** – The Requesting Member shall provide Responding Member personnel with radio equipment as available, or radio frequency information to program existing radios, in order to facilitate communications with local responders and utility personnel.
- E. ***Status*** – Unless otherwise provided by law, the Responding Member's officers and employees retain the same privileges, immunities, rights, duties, and benefits as provided in their respective jurisdictions; and shall remain officers and employees, as applicable, of the Responding Member.

- F. **Licenses and Permits** – To the extent permitted by law, Responding Member personnel that hold licenses, certificates, or permits evidencing professional, mechanical, or other skills shall be allowed to carry out activities and tasks relevant and related to their respective credentials during the specified Period of Assistance.
- G. **Right to Withdraw Resources** – The Responding Member’s Authorized Official retains the right to withdraw some or all of its resources at any time for any reason in the Responding Member’s sole and absolute discretion. Notice of intention to withdraw must be communicated to the Requesting Member’s Authorized Official as soon as is practicable under the circumstances.

ARTICLE VII.
COST REIMBURSEMENT

Unless otherwise mutually agreed in whole or in part by both parties, the Requesting Member shall reimburse the Responding Member for each of the following categories of costs incurred while providing aid and assistance during the specified Period of Assistance.

- A. **Personnel** – Responding Member(s) will make such employees as are willing to participate available to Requesting Member at Requesting Member’s expense equal to any Responding Member’s full cost, i.e., equal to the employee’s applicable salary or hourly wage, plus fringe benefits and overhead, and consistent with Responding Member’s collective bargaining agreements, if applicable, or other conditions of employment. All costs incurred for work performed during the specified Period of Assistance will be included. The Requesting Member shall be responsible for all direct and indirect labor costs.
- B. **Equipment** – Use of equipment, such as construction equipment, vehicles, tools, pumps and generators, shall be at a Responding Member’s current equipment rate and subject to the following conditions: The Requesting Member shall reimburse the Responding Member for the use of equipment during the specified Period of Assistance, including, but not limited to, reasonable rental rates, all fuel, lubrication, maintenance, transportation, and loading/unloading of loaned equipment. All equipment shall be returned to the Responding Member as soon as is practicable and reasonable under the circumstances.
 - 1. At the option of Responding Member, equipment may be provided with an operator.
 - 2. Equipment shall be returned to Responding Member within 24 hours after receipt of an oral or written request for return.
 - 3. During the Period of Assistance, Requesting Member shall, at its own expense, supply all fuel, lubrication, and maintenance for furnished equipment; provided that Requesting Member shall obtain Responding Member’s consent before performing any such maintenance.
 - 4. Responding Member’s cost related to the transportation, handling and loading/unloading of equipment shall be chargeable to Requesting Member.
 - 5. In the event equipment is damaged while being dispatched to Requesting Member, or while in the custody and use of Requesting Member, Requesting Member shall reimburse

Responding Member for the reasonable cost of repairing said damaged equipment. If the equipment cannot be repaired, then Requesting Member shall reimburse Responding Member for the reasonable cost of replacing such equipment with equipment that is of at least equal capability as determined by the Responding Member. If Responding Member must lease a piece of equipment while Responding Member equipment is being repaired or replaced, Requesting Member shall reimburse Responding Member for such reasonable lease costs.

- C. **Materials and Supplies** – The Requesting Member must reimburse the Responding Member in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies. The Responding Member must not charge direct fees or rental charges to the Requesting Member for other supplies and reusable items that are returned to the Responding Member in a clean, damage-free condition. Reusable supplies that are returned to the Responding Member with damage must be treated as expendable supplies for purposes of cost reimbursement.
- D. **Supplemental Water Supplies** – The Responding Member will provide the Requesting Member with a bill showing the amount of water delivered to the Requesting Member. Water will be billed at the highest rate incurred for imported water by the Responding Member, or as the Responding Member may otherwise agree.
- E. **Payment Period** – The Responding Member must provide an itemized bill to the Requesting Member for all expenses incurred by the Responding Member while providing assistance under this Agreement. The Responding Member must send the itemized bill not later than ninety (90) days following the end of the Period of Assistance. The Responding Member may request additional periods of time within which to submit the itemized bill and Requesting Member shall not unreasonably withhold consent to such request. The Requesting Member must pay the bill within 60 days following the billing date. The Requesting Member may request additional periods of time within which to pay the itemized bill and Responding Member shall not unreasonably withhold consent to such request, provided, however, that all payment shall occur not later than six months after the date a final itemized bill is submitted to the Requesting Member.
- F. **Records** – Each Requesting Member and its duly authorized representatives shall have access to a Responding Member's books, documents, notes, reports, papers, and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance or regulatory audit. To the extent it deems necessary, each Responding Member and its duly authorized representatives shall have access to a Requesting Member's books, documents, notes, reports, papers, and records which are directly pertinent to this Agreement. Any audit shall occur during normal business hours upon giving reasonable notice to the Responding Member of the intent to conduct such an audit. In the event of such an audit, the employees of Responding Member shall comply with the reasonable requests of the Requesting Member, its representatives, and agents. Such records shall be maintained for at least three (3) years or longer where required by law and as needed for federal reimbursement practices.

ARTICLE VIII.
ARBITRATION

If any controversy or claim arises out of, or relates to, the Agreement, including, but not limited to an alleged breach of the Agreement, the disputing Members shall first attempt in good faith to resolve the dispute by negotiation, followed by confidential mediation and finally shall be settled by binding arbitration in accordance with the Rules of the American Arbitration Association. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

ARTICLE IX.
REQUESTING MEMBER'S DUTY TO INDEMNIFY

Pursuant to Government Code Section 895.4, and subject to Article X, Requesting Member shall assume the defense of, fully indemnify and hold harmless Responding Member, its Directors, elected officials, officers, employees and agents (collectively, for purposes of this Article, "Responding Member"), from all claims, loss, damage, injury and liability of every kind, nature and description, including reasonable attorney's and expert's fees, incurred to the extent directly or indirectly arising from the Emergency and/or aid and assistance provided hereunder during the Period of Assistance, including, but not limited to, negligent or wrongful use of equipment, supplies or personnel provided to Requesting Member except where caused by the sole, active negligence or willful misconduct of Responding Member.

ARTICLE X.
SIGNATORY INDEMNIFICATION

In the event of a liability, claim, demand, action or proceeding, of whatever kind or nature arising out of the rendering of assistance through the Agreement, the Requesting Member agrees to indemnify, defend, and hold harmless all Members whose only involvement is the execution and approval of this Agreement, in the transaction or occurrence which is the subject of such claim, action, demand or other proceeding. Such indemnification shall include indemnity for all claims, demands, liability, damages, and costs, including reasonable attorneys' fees and other costs of defense, for injury, property damage and worker's compensation.

ARTICLE XI.
WORKER'S COMPENSATION CLAIMS

The Responding Member is responsible for providing worker's compensation benefits and administering worker's compensation for its employees, provided, however, that the Requesting Member shall be responsible for reimbursing any amounts paid or due as benefits to Responding Member's employees due to personal injury or death occurring during the Period of Assistance. The Requesting Member is responsible for providing worker's compensation benefits and administering worker's compensation for its employees.

ARTICLE XII.
NOTICE

Each party hereto shall give to the others prompt and timely written notice of any claim made or any suit instituted coming to its knowledge, which in any way, directly or indirectly, contingently or otherwise, affects or might affect them, and each Member shall have the right to participate in the defense of the

same, as it considers necessary to protect its own interest, subject to the indemnification, hold harmless and defense provisions set forth in Article IX.

ARTICLE XIII.
INSURANCE

Each Member shall procure and maintain, at its sole and exclusive expense, insurance coverage, including \$1,000,000 comprehensive liability, personal injury, property damage, and worker's compensation.

ARTICLE XIV.
CONFIDENTIAL INFORMATION

To the extent allowed by law, any Member (for purposes of this Article "Receiving Party") shall maintain in the strictest confidence and shall take all reasonable steps necessary to prevent the disclosure of any Confidential Information provided to it by another Member (for purposes of this Article, "Disclosing Party") pursuant to this Agreement. In the event that the Receiving Party is required, in the opinion of its legal counsel, to disclose any of the Confidential Information by applicable law (including, but not limited to, the California Public Records Act (Cal. Govt. Code §6250 *et seq.*), the Bagley-Keene Open Meeting Act (Cal. Govt. Code §11120 *et seq.*), the Brown Act (Cal. Govt. Code §54950 *et seq.*), and the Federal Freedom of Information Act), regulation or legal process, the Receiving Party will promptly notify the Disclosing Party so that the Disclosing Party may seek a protective order or other appropriate remedy or, in its sole discretion, waive compliance with the terms of this Agreement. The Receiving Party will reasonably cooperate with the Disclosing Party to obtain such a protective order, at the sole cost and expense of the Disclosing Party, and, in any event, will exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information that is ultimately required to be disclosed.

ARTICLE XV
EFFECTIVE DATE

This Agreement shall be in full force and effect upon the execution of the Agreement by one Association Agency and one Requestor Agency (2) Member Agencies. This Agreement shall take effect for a subsequent new party immediately upon its execution by said party.

ARTICLE XVI.
WITHDRAWAL

Any party may terminate its participation in this Agreement by written notice to the Coordinator, who shall provide notice of withdrawal to all current Members. Withdrawal takes effect 60 days after the appropriate official receives notice. Withdrawal from this Agreement shall in no way affect a Requesting Member's duty to reimburse a Responding Member for cost incurred during a Period of Assistance or indemnify any Member pursuant to Section IX and X. These duties shall survive such withdrawal.

**ARTICLE XVII.
MODIFICATION**

No provision of this Agreement may be modified, altered, or rescinded by individual parties to the Agreement. Modifications to this Agreement require a simple majority vote of Association Commissioners. The Association will notify all parties of modifications to this Agreement in writing and those modifications shall be effective upon 60 days' written notice to the parties.

**ARTICLE XVIII.
SEVERABILITY**

If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

**ARTICLE XIX
PRIOR AGREEMENTS**

This Agreement supersedes all prior Agreements between Members to the extent that such prior Agreements are inconsistent with this Agreement.

**ARTICLE XX.
PROHIBITION ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS/DUTIES**

This Agreement is for the sole benefit of the Members and no person or entity shall have any rights under this Agreement as a third-party beneficiary. Assignments of benefits and delegations of duties created by this Agreement are prohibited and any such attempted assignment or delegation shall have no effect.

**ARTICLE XXI.
TORT CLAIMS**

This Agreement in no way abrogates or waives any immunity or defense available under California law.

**ARTICLE XXII.
INTRASTATE AND INTERSTATE MUTUAL AID AND ASSISTANCE PROGRAMS**

To the extent practicable, Members retain the right to participate in other mutual aid and assistance activities, including but not limited to, those conducted under the State of California Intrastate WARN Mutual Aid and Assistance Program, the Interstate Emergency Management Assistance Compact (EMAC), and similar programs.

Now, therefore, in consideration of the covenants and obligations set forth in this Agreement, the Agency listed here manifests its intent to be a Member Agency in the Program by executing this Agreement on this _____ day of _____ 2023.

Member: _____

By: _____

Title: _____

Please Print Name

By: _____

Title: _____

Please Print Name

Approved as to form and legality

By: _____

Attorney for Agency

Please Print Name

ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION

COMMISSION MEMORANDUM

DATE: November 29, 2022 December 8, 2022
TO: AVSWCA Commissioners Commission Meeting
FROM: Mr. Peter Thompson II, General Manager
RE: *AGENDA ITEM NO. 10 – CONSIDERATION AND POSSIBLE ACTION ON RESOLUTION NO. 2022-7 BEING A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION APPROVING SUBMITTAL OF PROPOSAL TO THE CALIFORNIA DEPARTMENT OF WATER RESOURCES TO OBTAIN A ROUND 2 INTEGRATED REGIONAL WATER MANAGEMENT IMPLEMENTATION GRANT ON BEHALF OF THE ANTELOPE VALLEY INTEGRATED REGIONAL WATER MANAGEMENT GROUP. (GENERAL MANAGER THOMPSON II)*

Recommendation:

Staff recommends that the Commissioners approve Resolution No. 2022-7 authorizing staff to submit the Proposition 1 Round 2 grant application and enter into an Agreement with the Department of Water Resources (DWR) on behalf of the Antelope Valley Integrated Regional Water Management Group (AVRWMG) for this grant funding.

Background:

The Association, in coordination with Woodard and Curran, continues to work with the AVRWMG on grant administration support for five projects that were accepted during Proposition 1 Round 1 grant funding. On March 3, 2022 the Commissioners approved a Professional Services Agreement for grant administration support for AVRWMG’s Prop. 1 Round 2 grant application. The AVRWMG selected two projects for submission including the Antelope Valley Resource Conservation District Lawn Reduction Rebate Program and the Palmdale Water District E. Ave. Q Recycled Water Extension. In order for this grant application to move forward, the Association must approve submission of the application as expressed in Resolution 2022-7.

Supporting Documents:

- Resolution 2022-7
- Professional Services Agreement with Woodard and Curran for Prop. 1 Round 2 Grant Administration Support

RESOLUTION NO. 2022-7

A RESOLUTION BY THE BOARD OF COMMISSIONERS OF THE ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION APPROVING SUBMITTAL OF PROPOSAL TO THE CALIFORNIA DEPARTMENT OF WATER RESOURCES TO OBTAIN A ROUND 2 INTEGRATED REGIONAL WATER MANAGEMENT IMPLEMENTATION GRANT ON BEHALF OF THE ANTELOPE VALLEY INTEGRATED REGIONAL WATER MANAGEMENT GROUP

WHEREAS, the State of California Department of Water Resources (DWR) is currently soliciting proposals for grant funding under its Proposition 1 Round 2 Integrated Regional Water Management (IRWM) Implementation Grant Program Pursuant to the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Water Code § 79700 et seq.); and

WHEREAS, the Antelope Valley IRWM Group has selected the following projects to receive funding: Antelope Valley Resource Conservation District Lawn Reduction Rebate Program and Palmdale Water District E. Ave Q Recycled Water Extension, and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Antelope Valley State Water Contractors Association as follows:

1. The Association's Board of Commissioners supports the submission of a grant application to the DWR for the projects;
2. The Association's General Manager is directed to submit the grant application and is authorized to enter into an agreement or any amendments thereto with DWR on behalf of the Association for grant funding under the Proposition 1 Round 2 IRWM Implementation Grant Program;
3. The Association is authorizing and directing the preparation of the necessary data and investigations to file the proposal.

PASSED AND ADOPTED on this 8th day of December, 2022 by the Board of Commissioners, the governing body of the Antelope Valley State Water Contractors Association.

ANTELOPE VALLEY STATE WATER
CONTRACTORS ASSOCIATION

Robert Parris,
Chair

ATTEST:

Don Wilson,
Secretary

ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION

PROFESSIONAL SERVICES AGREEMENT

1. PARTIES AND DATE.

This Agreement is made and entered into this 3rd day of March 2022, by and between the **Antelope Valley State Water Contractors Association**, (“**Association**”) and **Woodard & Curran, Inc.** an entity with a place of business at 888 South Figueroa, Suite 1700 Los Angeles, CA 90017 (“**Consultant**”). Association and Consultant are sometimes individually referred to as “**Party**” and collectively as “**Parties.**”

2. RECITALS.

2.1 Association. A joint power authority created in 1999, with power to contract for services necessary to achieve its purpose.

2.2 Consultant. Consultant desires to perform and assume responsibility for the provision of certain professional services required by the Association on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing **Engineering and Integrated Regional Water Management Planning** to public clients, is licensed in the State of California, and is familiar with the plans of the Association.

2.3 Project. Association desires to engage Consultant to render such services for the **Preparation of Proposition 1 Round 2 Implementation and Multi-Benefit Drought Relief Grant Program Disadvantaged Community Involvement Program Set Aside Grant Applications** (“**Project**”) as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the Association all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional engineering consulting services necessary for the Project (“**Services**”) in accordance with the standard of care for the industry. The Services are more particularly described in Attachment “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from **March 3, 2022** to **December 31, 2023**, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The Association retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of the Association and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "A" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, the Association shall respond to Consultant's submittals in a timely manner. Upon request of the Association, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of the Association.

3.2.4 Substitution of Key Personnel. Consultant has represented to the Association that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of the Association. In the event that the Association and Consultant cannot agree as to the substitution of key personnel, the Association shall be entitled to terminate this Agreement. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the Association, or who are determined by the Association to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the Association. The key personnel for performance of this Agreement are as follows: **Brian Dietrick**.

3.2.5 Association's Representative. Association hereby designates **Peter Thompson**, or his or her designee, to act as its representative for the performance of this Agreement ("Association's Representative"). Association Representative shall have the power to act on behalf of the Association for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the Association Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates **Brian Dietrick** or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with the Association's staff in the performance of Services and shall be available to the Association's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the Association, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the Association to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Association, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Association, Consultant shall be solely responsible for all costs arising

therefrom. Consultant shall defend, indemnify and hold the Association, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence the Services under this Agreement until it has provided evidence satisfactory to the Association that it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the Association that the subcontractor has secured all insurance required under this section.

3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: One Million Dollars (\$1,000,000) per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

3.2.10.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Services, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 per claim, and shall be endorsed to include contractual liability.

3.2.10.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the Association to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall be endorsed to state that: (1) The Association, its officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the Association, its officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Association, its officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) The Association, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Association, its officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Association, its officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the Association, its officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be voided or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Association; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the Association, its officials, officers, employees, agents and volunteers.

3.2.10.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions, except for Workers' Compensation and Professional Liability. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the Association, its officials, officers, employees, agents and volunteers.

3.2.10.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Association. Consultant

shall guarantee that, at the option of the Association, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Association, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.10.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Association.

3.2.10.8 Verification of Coverage. Consultant shall furnish the Association with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Association. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Association before work commences. The Association reserves the right to require complete, certified copies subject to necessary redactions of all required insurance policies, at any time during performance under this agreement.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life-saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Attachment "A" attached hereto and incorporated herein by reference. The total compensation shall not exceed [**Seventy-three thousand four hundred sixty-eight dollars**] (**\$73,468**) without written approval of the Association's General Manager. Extra Work may be authorized, as described below; and if authorized, said Extra Work will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to the Association a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing

periods, as appropriate, through the date of the statement. The Association shall, within forty-five (45) days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by the Association.

3.3.4 Extra Work. At any time during the term of this Agreement, the Association may order that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by the Association to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant be compensated for Extra Work.

3.3.5 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Sections 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. **Since** the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and **since** the total compensation is One Thousand Dollars (\$1,000) or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Association, its elected officials, officers, employees, volunteers and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

Effective April 1, 2015, if the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the project and require the same of any subconsultants. This project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of the Association during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. The Association may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to the Association, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein and the Association has compensated Consultant as required in 3.5.1.1, the Association may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, the Association may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**Antelope Valley State Water
Contractors Association**
2029 East Avenue Q
Palmdale, CA 93550
Attn: Peter Thompson

Consultant
Woodard & Curran
888 South Figueroa, Suite 1700 Los
Angeles, CA 90017
Attn: Brian Dietrick

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for the Association to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property

embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, including, without limitation, any Computer Aided Design and Drafting ("CADD") data, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all subcontractors to agree in writing that the Association is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Association. The Association shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at the Association's sole risk. Any CADD data delivered to the Association shall not include the professional stamp or signature of an engineer, architect, or any other licensed professional, but shall be followed with a hard copy with such stamp or signature.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant and marked in writing by the Association as "Confidential", or similar legend, in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of the Association, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use the Association's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of the Association.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.5 Attorney's Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.6 Indemnification. To the fullest extent permitted by law, Consultant shall indemnify and hold the Association, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner to the extent arising out of, pertaining to, or relating to any negligence, errors or omissions, recklessness, or willful misconduct of Consultant, its

officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Consultant's Services, including a reimbursement of reasonable attorneys fees and other related legal costs and expenses. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against the Association, its directors, officials, officers, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse the Association, its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Association, its directors, officials officers, employees, agents, or volunteers.

3.5.7 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Los Angeles County.

3.5.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.10 The Association's Right to Employ Other Consultants. The Association reserves right to employ other consultants in connection with this Project.

3.5.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

3.5.12 Assignment or Transfer. Neither party shall assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the other party. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subcontractors of Consultant, except as otherwise specified in this Agreement. All references to the Association include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.16 No Third-Party Beneficiaries. There are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

3.5.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor, has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Association shall have the right to rescind this Agreement without liability.

For the term of this Agreement, no member, officer or employee of the Association, during the term of his or her service with the Association, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.19 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.5.20 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code and agrees to comply with such provisions before commencing the performance of the Services.

3.5.21 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.22 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6 Subcontracting.

3.6.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of the Association. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.7 The total aggregate liability of the Consultant to Agency for any and all claims whatsoever arising out of the Agreement shall not exceed the total amount of grant money sought by Consultant on behalf of Agency pursuant to this Agreement, now estimated to be the amount of \$2.5 million, provided that the limitation shall not apply to claims exceeding that limit if covered by insurance, subject to the minimum limits of insurance required to be provided by Consultant to Agency hereunder.

ANTELOPE VALLEY STATE WATER
CONTRACTORS ASSOCIATION

WOODARD & CURRAN

By: 

PETER THOMPSON
GENERAL MANAGER

By: 

BRIAN DIETRICK
SENIOR PROJECT MANAGER

ANTELOPE VALLEY STATE WATER CONTRACTORS ASSOCIATION

COMMISSION MEMORANDUM

DATE: December 1, 2022 **December 8, 2022**
TO: AVSWCA Commissioners **Commission Meeting**
FROM: Mr. Peter Thompson II, General Manager
RE: *AGENDA ITEM NO. 11 - REPORT OF GENERAL MANAGER*

Report Items:

- **Antelope Valley Water Master Meetings**

- Watermaster admin. staff has been meeting with the Hallmark Group to prepare them for the transition of administrative duties beginning in January 2023.
- The Watermaster Board will consider approving the draft Administrative Budget at their next meeting scheduled for December 7th.
- Association Staff will be working on the development of the Replacement Water Assessment charge for 2023 utilizing the previously approved methodology. This will be presented to Watermaster Board by their meeting in February.

- **Antelope Valley and Fremont Basin IRWMP Stakeholder Meetings**

- Association staff continues to work with Woodard and Curran regarding both the DACI and Prop. 1 grant administration. To date, the Association has received four payments from DWR supporting the Prop. 1 Round 1 AVIRWM projects.
- Pending approval of Agenda Item No. 10, staff will begin working with Woodard and Curran on submitting the application for the AVIRWM Prop. 1 Round 2 projects.

- **Ethics AB 1234 Training**

- For several years the Association has sponsored Ethics AB 1234 training for required Board and staff members of the Association's member agencies. The last training was held on March 16, 2021, with training due every two years. If the Commissioners wish to continue sponsorship, staff will coordinate training to be held in March of 2023. There are also free online trainings offered directly through the Fair Political Practices Commission website and the California Special Districts Association website for members.

Future Agenda Items:

- **Potential Presentation from the State Water Contractors-Energy Policy Impacts and Plans.**
 - The passage of SB 1020 requires DWR to accelerate their adoption of renewable resources. The State Water Contractors have been working closely with DWR to develop plans and projects that will accomplish this goal and minimize the cost impacts of the switch to renewables. If the Commissioners are interested, a presentation could be scheduled on this topic.

COMMISSIONER INFORMATION



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ACWA JPIA

P. O. Box 619082
Roseville, CA 95661-9082

phone
916.786.5742
800.231.5742

www.acwajpia.com

President

E.G. "Jerry" Gladbach

Vice President

Melody A. McDonald

Chief Executive Officer

Walter "Andy" Sells

Executive Committee

Fred Bockmiller

David Drake

E.G. "Jerry" Gladbach

Cathy Green

Brent Hastey

Chris Kapheim

Melody A. McDonald

Randall Reed

J. Bruce Rupp

Antelope Valley State Water Contractors Association (A013)
2029 East Avenue Q
Palmdale, CA 93550-4050

General Manager:

Each year at Fall Conference, the JPIA recognizes members that have a Loss Ratio of 20% or less in either of the Liability, Property or Workers' Compensation programs (loss ratio = total losses / total premiums).

The members with this distinction receive the "**President's Special Recognition Award**" certificate for each Program that they qualify in.

The JPIA is extremely pleased to present Antelope Valley State Water Contractors Association (A013) with this special recognition and commends the District on the hard work in reducing claims.

Congratulations to you, your staff, Board, and District. Keep up the good work!

The JPIA wishes you the best in 2023.

Sincerely,

Melody McDonald
President

Enclosure: President's Special Recognition Award(s)

Core Values

- *People*
- *Service*
- *Integrity*
- *Innovation*

President's Special Recognition Award

*The President of the
ACWA JPIA
hereby gives Special Recognition to*

Antelope Valley State Water Contractors Association

*for achieving a low ratio of "Paid Claims and Case Reserves" to "Deposit Premiums"
in the Liability Program for the period 10/01/2018 - 09/30/2021
announced at the Board of Directors' Meeting in Indian Wells.*



Melody McDonald, President



November 28, 2022