



WEST VALLEY WATER DISTRICT
855 W. Base Line Road Rialto, CA

**NOTICE OF CALL OF
AND AGENDA FOR
SPECIAL MEETING**
(Government Code § 54956(a))

PLEASE TAKE NOTICE that the President of Directors of the West Valley Water District has called a Special Meeting of the Board of Directors for

9:30 AM on SATURDAY, JANUARY 25, 2020,

at District Headquarters located at 855 W. Base Line Road, Rialto, CA 92376. The only items of business to be considered at this Special Meeting are as set so forth in the following agenda:

**SPECIAL MEETING
AGENDA**

Saturday, January 25, 2020
Open Session – 9:30 AM • Closed Session 10:30 AM

"In order to comply with legal requirements for posting of agendas, only those items listed in this NOTICE OF CALL AND AGENDA FOR SPECIAL MEETING will be considered by the Board of Directors."

OPENING CEREMONIES

Pledge of Allegiance
Opening Prayer
Call to Order
Roll Call of Board Members

ADOPT AGENDA

PUBLIC PARTICIPATION

Any person wishing to speak to the Board of Directors on matters listed on the agenda, is asked to complete a Speaker Card and submit it to the District Clerk. Each speaker is limited to three (3) minutes. Under the State of California Brown Act, the Board of Directors is prohibited from discussing or taking action on any item not listed on the posted agenda. Comments related to noticed Public Hearing(s) and Business Matters will be heard during the occurrence of the item.

Public communication is the time for anyone to address the Board on any agenda item. No person will be allowed to make comments at any other time in the meeting except if there is a Public Hearing. Also, please remember that no disruptions from the crowd will be tolerated. If someone disrupts the meeting, they will be removed.

DISCUSSION

Consideration of:

1. Review of Professional Services Agreement with Geoscience Support Services, Inc. for Hydrogeological Services Related to the Bunker Hill Well Siting Evaluation.
2. Agreement for Professional Services with Tom Dodson and Associates for Environmental Consulting Services.
3. Review Agreement with Clinical Laboratory of San Bernardino, Inc. for Analytical Lab Services to Public Water Supply.
4. Review Agreement with Babcock Laboratories, Inc. for Unregulated Contaminant Monitoring.
5. Review of Professional Services Agreement with Tyler Technologies to Implement an Enterprise Resource Planning (ERP) System - Incode 10.

CLOSED SESSION

- CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: Number of Cases: Five (5)

ADJOURN

DECLARATION OF POSTING:

I declare under penalty of perjury, that I am employed by the West Valley Water District and posted the foregoing special Agenda at the District Offices on January 23, 2020.



Crystal L. Escalera
Crystal L. Escalera, Board Secretary

Please Note:

Material related to an item on this Agenda submitted to the Board after distribution of the agenda packet are available for public inspection in the District's office located at 855 W. Baseline, Rialto, during normal business hours. Also, such documents are available on the District's website at www.wvwd.org subject to staff's ability to post the documents before the meeting.

Pursuant to Government Code Section 54954.2(a), any request for a disability-related modification or accommodation, including auxiliary aids or services, in order to attend or participate in the above-agendized public meeting should be directed to Crystal Escalera, at least 72 hours in advance of the meeting to ensure availability of the requested service or accommodation. Ms. Escalera may be contacted by telephone at (909) 875-1804 ext. 704, or in writing at the West Valley Water District, P.O. Box 920, Rialto, CA 92377-0920.



**BOARD OF DIRECTORS
STAFF REPORT**

DATE: January 25, 2020
TO: Board of Directors
FROM: Clarence Mansell Jr., General Manager
SUBJECT: REVIEW OF PROFESSIONAL SERVICES AGREEMENT WITH
 GEOSCIENCE SUPPORT SERVICES, INC. FOR HYDROGEOLOGICAL
 SERVICES RELATED TO THE BUNKER HILL WELL SITING
 EVALUATION

DISCUSSION:

The District requested proposals for professional hydrogeological services from expert groundwater consultants (consultant) to provide professional hydrogeological services related to performing a comprehensive well siting evaluation. The District is interested in drilling and constructing new groundwater supply wells in the Bunker Hill Groundwater Basin in order to bolster groundwater production in the event that imported water supplies are reduced. As a preliminary phase to this work, a comprehensive well site evaluation needs to be performed to ensure any new groundwater production well maximizes production potential as well as meets water quality objectives. Key criteria for evaluating potential well sites include:

- Ability of aquifers to yield sufficient quantities of groundwater to meet the District's objectives.
- Production of groundwater quality that is acceptable to the District.
- Minimization of potential pumping interference with nearby existing wells.
- Avoidance of excessive groundwater level drawdown and potential adverse environmental impacts to nearby wells.
- Compliance with regulatory requirements for distance from sewer lines or other utilities.
- Availability of undeveloped property for construction.

On October 29, 2019, a Request for Proposal was posted on Planet Bids for Professional Hydrogeological Services Related to Bunker Hill Well Siting Evaluation. On November 18, 2019, two (2) bids were received and Geoscience Support Services, Inc. was determined to provide the best value for the District. On December 5, 2019, the District entered into a contract with Geoscience Support Services, Inc. for the scope of services listed above – Task Order No. 1 in the amount of \$22,974.

A table of the Task Orders is attached in Exhibit A and copies of the Agreements for Professional Services and Task Orders is attached in Exhibit B.

FISCAL IMPACT:

Professional services were budgeted for in the fiscal year 2019/20 budget.

STAFF RECOMMENDATION:

Per the Boards request, this staff report has been presented for review.

Respectfully Submitted,



Clarence Mansell Jr, General Manager

LJ:ce

ATTACHMENT(S):

1. Exhibit A
2. Exhibit B

EXHIBIT A

ENGINEERING DEPARTMENT- TASK ORDERS AND CONTRACTS				
TASK ORDER/CONTRACT NO.	AMOUNT	CONSULTANT/CONTRACTOR	SCOPE OF WORK	STATUS
1	\$22,974.00	Geoscience Support Services, Inc.	Bunker Hill Basin Well Siting Evaluation	Kick off Meeting next week

EXHIBIT B



West Valley Water District

AGREEMENT FOR PROFESSIONAL SERVICES

With

Geoscience Support Services, Inc.

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AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") effective as of this 5th day of December, 2019 ("Effective Date") is by and between West Valley Water District ("District") and Geoscience Support Services, Incorporated, a California corporation ("Consultant"). The District and Consultant may be collectively referred to as the "Parties" and individually as a "Party."

RECITALS

A. The Parties desire to enter into this Agreement for the purpose of setting forth the terms and conditions upon which Consultant shall provide certain services to District.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

Section 1. Term of Agreement.

(a) Subject to subsection (b) below, the term of this Agreement will be for a period of one (1) year commencing on the Effective Date and terminating one (1) year after the Effective Date.

(b) This Agreement shall renew automatically for continuous one (1) year periods for no more than two (2) additional years, unless either Party, prior to the end of the existing one (1) year period, delivers written notice to the other Party, that the Agreement shall not be extended.

Section 2. Scope and Performance of Services.

2.1 (a) District may, from time to time, by written instructions from the general manager or assistant general manager of the District ("Authorized Representative") issue task orders ("Task Orders") to the Consultant. The Task Order shall be in such form and content as shall be set forth on Exhibit "A" attached hereto and by this reference incorporated herein. The Task Order shall set forth: (i) the scope of services to be performed by Consultant; (ii) the compensation to be paid to Consultant; and (iii) the time to complete the Task Order. The provisions of this Agreement shall apply to all such Task Orders.

(b) For each Task Order, Consultant shall confer, as requested, with District representatives to review progress of work elements, adherence to work schedule, coordination of work, scheduling of review and resolution of problems which may develop.

- 2.2** Consultant will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as otherwise expressly specified in this Agreement, necessary or proper to perform and complete the services required of Consultant under this Agreement.
- 2.3** Consultant's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are listed in Exhibit "B" attached hereto and by this reference incorporated herein ("Key Personnel").
- 2.4** Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Notwithstanding Section 3 below, in the event Consultant utilizes the services of subcontractors or sub-consultants, Consultant assumes sole and complete responsibility for the performance of the subcontractor or sub-consultant to the specifications provided hereunder for Consultant's work, and no adjustment will be made to Consultant's requirements under this Agreement for timely completion of services, complete performance of services, or delivery of products or deliverables in a timely fashion, and no adjustment will be made to performance deadlines, or compensation due to Consultant, due to or arising from issues Consultant may have with any subcontractor or sub-consultant. Consultant will at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described in this Agreement. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

Consultant warrants it will perform its engineering and design under the Task Order, as more particularly described in Exhibit "A" ("Task Order") in accordance with the current standards of care and diligence normally practiced by recognized engineering and design firms in performing services of a similar nature. Further, Consultant warrants that the engineering and design performed has been performed in accordance with the then current standards of care and diligence normally practiced by recognized engineering and design firms in performing services of a similar nature. If within one (1) year after substantial completion of the engineering and design work it is shown that there is an error in that work as a result of the Consultant's failure to meet those standards and the District has notified the Consultant in writing of any such error within that period, Consultant shall re-perform such engineering and design work within the original scope of such services, as may be necessary to remedy such error. All costs incurred by Consultant in performing such corrective services shall be the

sole responsibility of the Consultant and such costs shall not be reimbursable in any way.

Section 3. Additional Services and Changes in Services

- 3.1** Consultant will not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in the Task Orders, unless such additional services are authorized in advance and in writing by District.
- 3.2** If Consultant believes that additional services are needed to complete a Task Order, Consultant will provide the Authorized Representative with written notification describing the proposed additional services, the reasons for such services, and a detailed proposal regarding cost.
- 3.3** District may order changes to a Task Order, consisting of additions, deletions, or other revisions, and the compensation to be paid Consultant will be adjusted accordingly. All such changes must be authorized in writing, and executed by Consultant and District before work is started. The cost or credit to District resulting from changes in a Task Order will be determined by the written agreement between the Parties.

Section 4. Familiarity with Services and Site.

- 4.1** By executing this Agreement, Consultant warrants that Consultant shall, prior to undertaking a Task Order:
- (a) investigate and consider the services to be performed;
 - (b) carefully consider how and within what time frame the services should be performed;
 - (c) understand the facilities, difficulties, and restrictions attending performance of the services under a Task Order; and
 - (d) possesses all licenses required under local, state or federal law to perform the services contemplated by a Task Order, and maintain all required licenses during the performance of such Task Order.
- 4.2** If services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and will be fully acquainted with the conditions there existing, before commencing its services under a Task Order. Should Consultant discover any latent or unknown conditions that may materially affect the performance of services, Consultant will immediately inform

District of such fact and will not proceed except at Consultant's own risk until written instructions are received from the District.

Section 5. Compensation and Payment.

- 5.1 Subject to any limitations set forth in this Agreement, District agrees to pay Consultant the amounts shown in a Task Order.
- 5.2 Each month during the existence of a Task Order, Consultant shall furnish District with an original invoice for all services performed and expenses incurred during the preceding month in accordance with the fee schedule set forth in the Task Order. The invoice must detail charges by the following categories: labor (by subcategory), reimbursable costs, subcontractor contracts and miscellaneous expenses. The invoice must list, as applicable, the hours worked and hourly rates for each personnel category, the tasks performed, the percentage of the task completed during the billing period, the cumulative percentage completed for each task, and the total cost of the services.
- 5.3 District will independently review each invoice submitted by Consultant to determine whether the work performed and expenses incurred are in compliance with this Agreement. In the event that no charges or expenses are disputed, the invoice will be approved and paid. In the event any charges or expenses are disputed by District, the original invoice will be returned by District to Consultant for correction and resubmission.
- 5.4 Except as to any charges for work performed or expenses incurred by Consultant that are disputed by District, District will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's invoice.
- 5.5 No payment or partial payment to Consultant shall constitute acceptance of any work completed by Consultant or waive any claims by the District for any reason whatsoever.

Section 6. Required Documentation Prior to Performance.

- 6.1 Consultant will not perform any services under this Agreement until:
 - (a) Consultant furnishes proof of insurance ("Insurance") as required under Exhibit "C" attached hereto and by this reference incorporated herein; and
 - (b) Consultant provides District with a Taxpayer Identification Number.

- 6.2 The District will have no obligation to pay for any services rendered by Consultant in advance of receiving written authorization to proceed for each Task Order, and Consultant acknowledges that any such services are at Consultant's own risk.

Section 7. Project Documents.

- 7.1 All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer programs, files and other documents (collectively, "Project Documents") prepared, developed or discovered by Consultant in the course of providing services under this Agreement will become the sole property of District and may be used, reused or otherwise disposed of by District without the permission of Consultant. Consultant will take such steps as are necessary to perfect or protect the ownership interest of District in such Project Documents. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to District all such original Project Documents in its possession; provided, however, that Consultant may retain copies of Project Documents.
- 7.2 Except as necessary for the performance of services under this Agreement, no Project Documents prepared under this Agreement, will be released by Consultant to any other person or entity without District's prior written approval. All press releases, including graphic display information to be published, must be approved and distributed solely by District, unless otherwise agreed to in writing by District.

Section 8. Consultant's Books and Records.

- 8.1 Consultant shall maintain any and all documents and records demonstrating or relating to Consultant's performance of services under this Agreement. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to District under this Agreement. Any and all such documents or records must be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant under this Agreement. Any and all such documents or records must be maintained for three (3) years following the final payment for each Task Order.
- 8.2 Any and all records or documents required to be maintained by this section must be made available for inspection, audit and copying, at any time during

regular business hours, upon written request by District or its designated representatives. Copies of such documents or records must be provided directly to District for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records must be made available at Consultant's address indicated for receipt of notices in this Agreement.

- 8.3** Where District has reason to believe that any of the documents or records required to be maintained by this section may be lost or discarded due to dissolution or termination of Consultant's business, District may, by written request, require that custody of such documents or records be given to a person or entity mutually agreed upon and that such documents and records thereafter be maintained by such person or entity at Consultant's expense. Access to such documents and records shall be granted to District, as well as to its successors-in-interest and authorized representatives.

Section 9. Status of Consultant.

- 9.1** Consultant is and will at all times remain a wholly independent contractor and not an officer or employee of District. Consultant has no authority to bind District in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against District, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by District.
- 9.2** The personnel performing the services under this Agreement on behalf of Consultant will at all times be under Consultant's exclusive direction and control. Neither District, nor any elected or appointed boards, officers, officials, employees or agents of District, will have control over the conduct of Consultant or any of Consultant's officers, subcontractors or sub-consultants, employees or agents, except as provided in this Agreement. Consultant warrants that it will not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of District.
- 9.3** Neither Consultant, nor any of Consultant's officers, employees or agents, will obtain any rights to retirement, health care or any other benefits which may otherwise accrue to District's employees. Consultant expressly waives any claim to any such rights or benefits.

Section 10. Compliance with Applicable Laws.

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement.

Section 11. Conflicts of Interest.

Consultant covenants that neither Consultant, nor any officer, principal nor employee of its firm, has or will acquire any interest, directly or indirectly, that would conflict in any manner with the interests of District or that would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that neither Consultant, nor any officer, principal or employee of its firm will make, participate in the making, or in any way attempt to use the position of Consultant to influence any decision of the District in which Consultant knows or has reason to know that Consultant, or any officer, principal or employee of Consultant has a financial interest as defined in Government Code section 87103.

Section 12. Confidential Information; Release of Information.

- 12.1 All information gained or work product produced by Consultant in performance of this Agreement will be considered confidential to the full extent permitted by law, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than District without prior written authorization from an Authorized Representative, except as may be required by law.
- 12.2 Consultant, its officers, employees, or agents, shall not, without prior written authorization from an Authorized Representative or unless requested by the District counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order will not be considered "voluntary" provided Consultant gives District notice of such court order or subpoena.
- 12.3 If Consultant, or any officer, employee, or agent of Consultant, provides any information or work product (including Project Documents) in violation of this Agreement, then District shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.
- 12.4 Consultant shall promptly notify District should Consultant, its officers, employees, or agents be served with any summons, complaint, subpoena,

notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the services performed under this Agreement. District retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with District and to provide District with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by District to control, direct, or rewrite such response.

Section 13. Indemnification.

Consultant covenants and agrees that, during the term of this Agreement, any injury suffered as a result of Consultant's services shall be the sole responsibility of Consultant and its successors and assigns and District shall not be liable to Consultant, or any other person or persons whatsoever for any such injury, loss or damage to persons or property unless caused by the negligence or intentional acts of District or its Representatives (as defined below). Consultant shall defend, indemnify and hold District, its officers, directors and Representatives ("District Indemnitees") harmless from and against any and all claims, costs, liabilities, debts, demands, suits, actions, causes of action, obligations, proceedings, damages, judgments, liens and expenses of whatever nature, including attorneys' fees and disbursements (collectively, "Claims") which may be made against the District Indemnitees arising out of or in connection with (a) the retention by District of Consultant's services; (b) the performance of or failure to perform, the work covered by this Agreement which is caused or occasioned by any act, action, neglect on the part of Consultant, or its Representatives, in the performance of this Agreement and the work to be done under this Agreement; (c) the death and/or injury to any person or damage to any property (real or personal) and/or economic loss which may be caused or is claimed to have been caused, by the negligence, act or omission of Consultant or its Representatives or its or their property; (d) any violation or alleged violation by Consultant of any law or regulation now or hereafter enacted; and (e) any breach by Consultant of its obligations under this Agreement. The foregoing indemnity shall not apply to the extent any such Claims are ultimately established by a court of competent jurisdiction to have been caused by the negligence or willful misconduct of the District Indemnitees or any of them. District shall make all decisions with respect to its representation in any legal proceeding concerning this section. If Consultant fails to do so, District shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental Claims of such defense, including attorneys' fees and costs, to Consultant and to recover the same from Consultant. The term "Representatives" shall mean employees, representatives, agents, contractors, subcontractors or any other persons directly or indirectly employed by any one of the foregoing or reasonably under the control of any of the foregoing or for whose acts any of the foregoing may be liable.

Section 14. Insurance.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the Insurance coverages listed in Exhibit "C." All Insurance policies shall be subject to approval by District as to form and content. These requirements are subject to amendment or waiver if so approved in writing by an Authorized Representative.

Section 15. Assignment.

15.1 The expertise and experience of Consultant are material considerations for this Agreement. District has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Consultant under this Agreement. Consultant may not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of District. The District can withhold its approval/consent in its sole and absolute discretion. Any attempted assignment will be null and void, and will constitute a material breach of this Agreement entitling District to any and all remedies at law or in equity, including summary termination of this Agreement.

15.2 Consultant must obtain District's prior written approval before utilizing any subcontractors to perform any services under this Agreement, which approval may be withheld in District's sole and absolute discretion. This written approval must include the identity of the subcontractor and the terms of compensation. Approval by District does not imply any agreement to or endorsement by the District as to the competency or capability of any proposed subcontractor or sub-consultant, and District reserves any and all rights against both Consultant and such subcontractor or sub-consultant, for any failure to perform or other breach of any of the provisions of this Agreement, or the standards of performance defined herein, and no waiver is intended or to be implied by District's approval of any subcontractor or sub-consultant.

Section 16. Termination of Agreement.

16.1 District may terminate this Agreement, with or without cause, at any time by written notice of termination to Consultant. In the event such notice is given, Consultant shall cease immediately all work in progress.

16.2 Upon termination of this Agreement, all property belonging exclusively to District which is in Consultant's possession must be returned to District. Consultant shall promptly deliver to District a final invoice for all outstanding

services performed and expenses incurred by Consultant as of the date of termination. Compensation for work in progress not based on an hourly rate will be prorated based on the percentage of work completed as of the date of termination.

- 16.3** Consultant acknowledges District's right to terminate this Agreement as provided in this section, and hereby waives any and all claims for damages that might otherwise arise from District's termination of this Agreement.

Section 17. Notices.

- 17.1** All written notices required or permitted to be given under this Agreement will be deemed made when received by the other Party at its respective address as follows:

To District: West Valley Water District
855 West Base Line Road
P. O. Box 920
Rialto, CA 92377
Attention: Clarence Mansell, General Manager
(Tel.) 909-875-1804

To Consultant: Geoscience Support Services, Inc.
620 W. Arrowhead Highway, Suite 2000
La Verne, CA 91750
Attention: Dennis E. Williams, President
(Tel.) 909-451-6650

- 17.2** Notice will be deemed effective on the date personally delivered or transmitted by facsimile. If the notice is mailed, notice will be deemed given three (3) days after deposit of the same in the custody of the United States Postal Service, postage prepaid, for first class delivery, or upon delivery if using a major courier service with tracking capabilities.
- 17.3** Any Party may change its notice information by giving notice to the other Party in compliance with this section.

Section 18. General Provisions.

- 18.1 Authority to Execute.** Each Party represents and warrants that all necessary action has been taken by such Party to authorize the undersigned to execute this Agreement and to bind it to the performance of

its obligations hereunder.

- 18.2 Binding Effect.** Subject to Section 15, this Agreement is binding upon the heirs, executors, administrators, successors and assigns of the Parties, including any subcontractors or sub-consultants of Consultant.
- 18.3 Entire Agreement.** This Agreement, including the attached Exhibits "A" through "C," is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed in this Agreement and supersedes all other agreements or understandings, whether oral or written, between Consultant and District prior to the execution of this Agreement.
- 18.4 Modification of Agreement.** No amendment to or modification of this Agreement will be valid unless made in writing and approved by Consultant and by the Board of Directors of the District, or General Manager, if such power has been delegated to General Manager. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver will be void.
- 18.5 Facsimile Signatures.** Amendments to this Agreement will be considered executed when the signature of a Party is delivered by facsimile transmission. Such facsimile signature will have the same effect as an original signature.
- 18.6 Waiver.** Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement will not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement will not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by District of any services by Consultant will not constitute a waiver of any of the provisions of this Agreement.
- 18.7 Interpretation.** This Agreement will be interpreted, construed and governed according to the laws of the State of California. Each Party has had the opportunity to review this Agreement with legal counsel. The Agreement will be construed simply, as a whole, and in accordance with its fair meaning, and without resort to rules regarding draftsmanship. It will not be interpreted strictly for or against either Party.
- 18.8 Severability.** If any provision of this Agreement shall be ruled invalid, illegal or unenforceable, the Parties shall: (a) promptly negotiate a substitute for the provisions which shall to the greatest extent legally permissible, effect the intent of the Parties in the invalid, illegal or unenforceable provision, and (b) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with subsection (a) above to give effect to the intent of the Parties without the invalid, illegal or unenforceable provision. To the extent

the Parties are unable to negotiate such changes, substitutions or additions as set forth in the preceding sentence, and the intent of the Parties with respect to the essential terms of the Agreement may be carried out without the invalid, illegal or unenforceable provisions, the balance of this Agreement shall not be affected, and this Agreement shall be construed and enforced as if the invalid, illegal or unenforceable provisions did not exist.

18.9 Venue. The Parties agree any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the federal court located in Riverside County, California or state court located in San Bernardino County, California and the Parties hereto consent to the exercise of personal jurisdiction over them by such courts for purposes of any such action or proceeding.

18.10 Disputes. If any disputes should arise between the Parties concerning the work to be done under this Agreement, the payments to be made, or the manner of accomplishment of the work, Consultant shall nevertheless proceed to perform the work as directed by District pending settlement of the dispute.

18.11 Cooperation. Consultant shall cooperate in the performance of work with District and all other agents.

18.12 Time of Essence. Time shall be of the essence as to all dates and times of performance contained in this Agreement.

18.13 Counterparts. This Agreement may be signed and delivered in any number of counter parts, each of which, when signed and delivered, shall be an original, but all of which shall together constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the day and year first above written.

DISTRICT:

**WEST VALLEY WATER DISTRICT,
a public agency of the State of California**

By Clarence C Mansell, Jr.
Clarence C. Mansell, Jr., General Manager

By Crystal L. Escalera
Crystal L. Escalera, Board Secretary

APPROVED AS TO FORM:

TAFOYA & GARCIA LLP
By Robert Tafoya

CONSULTANT:

**GEOSCIENCE SUPPORT SERVICES, INC.,
a California corporation**

By Mark Williams
Name MARK WILLIAMS
Its VICE PRESIDENT

EXHIBIT A
TASK ORDER

TASK ORDER NO. 1

This Task Order ("Task Order") is executed this 5th day of December, 2019 by and between West Valley Water District, a public agency of the State of California ("District") and Geoscience Support Services, Incorporated, a California corporation ("Consultant").

RECITALS

- A. On or about December 5th, 2019 District and Consultant executed that certain Agreement for Professional Services ("Agreement").
- B. The Agreement provides that the District will issue Task Orders from time to time, for the provision of certain services by Consultant.
- C. Pursuant to the Agreement, District and Consultant desire to enter into this Task Order for the purpose of setting forth the terms and conditions upon which Consultant shall render certain services to the District.

NOW, THEREFORE, THE PARTIES HERETO HEREBY AGREE AS FOLLOWS:

1. Consultant agrees to perform the services set forth on Exhibit "1" attached hereto and by this reference incorporated herein.
2. Subject to any limitations in the Agreement, District shall pay to Consultant the amounts specified in Exhibit "2" attached hereto and by this reference incorporated herein. The total compensation, including reimbursement for actual expenses, may not exceed the amount set forth in Exhibit "2," unless additional compensation is approved in writing by the District.
3. Consultant shall perform the services described in Exhibit "1" in accordance with the schedule set forth in Exhibit "3" attached hereto and by this reference incorporated herein. Consultant shall commence work immediately upon receipt of a notice to proceed from the District. District will have no obligation to pay for any services rendered by Consultant in advance of receipt of the notice to proceed, and Consultant acknowledges that any such services are at Consultant's own risk.
4. The provisions of the Agreement shall apply to this Task Order. As such, the terms and conditions of the Agreement are hereby incorporated herein by this reference.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Task Order to be executed effective as of the day and year first above written.

DISTRICT:

**WEST VALLEY WATER DISTRICT,
a public agency of the State of California**

Clarence C Mansell Jr.
Clarence C. Mansell, Jr., General Manager

CONSULTANT:

**GEOSCIENCE SUPPORT SERVICES, INC.,
a California corporation**

By [Signature]

Name MARK WILLIAMS

Its VICE PRESIDENT

EXHIBIT "1"**TO****TASK ORDER NO. 1****SCOPE OF SERVICES****Well Siting Evaluation**

At a minimum shall include the following:

Coordination

Gather necessary system information from the District in the project area and review of the latest geohydrologic and well operational information. This data includes, but is not necessarily limited to, the following:

- Construction details, lithologic and geophysical logs from existing wells and any other exploratory boreholes that have been drilled in the area;
- All relevant pumping and aquifer test data, including well performance characteristics;
- Updated historical ground water elevation data;
- Updated ground water production histories; and
- Updated ground water quality information (depth-specific, if available).

Bunker Hill Groundwater Basin Data Review

Consultant shall evaluate the geohydrology of the project area for the purpose of identifying areas or zones favorable for the new production well. Specific data to be used to assess these areas will include subsurface geology, aquifer thickness, aquifer permeability, groundwater levels and flow direction, point sources of groundwater contamination, non-point sources of contamination, and the location of available property for construction. All of this data will be shown in relation to existing land use, production wells, utilities, and transmission pipelines.

Deliverables

The final product of the evaluation will be a map showing the areas favorable for a new well and an evaluation matrix scoring the potential sites in order of most favorable. At least four (4) sites are to be identified on the map. Each recommended site will be ranked according to favorability utilizing a decision matrix. Several criteria will be assessed including, but not limited to:

- **Geohydrologic:** production potential, anticipated water quality, and water level interference.
- **Environmental:** proximity to point-source sites of ground water contamination and surface water bodies.
- **Logistical:** available access and area for drilling, appropriate setbacks from electrical and sanitary facilities, and disturbance to nearby businesses and/or residents.
- **Engineering:** proximity to existing water transmission system and adequacy of that system.
- **Cost:** project cost, including Well drilling and equipping, property acquisition, pipeline construction to connect to the Districts distribution system, etc.

Each of the criteria will be weighted and evaluated in a quantitative manner according to importance. The criteria and corresponding weighting values will be prepared based on the consultant's recommendations in consideration of WVWD's goals.

The results of the well site assessment will be presented to WVWD as a report. The 100% DRAFT report will be presented to WVWD in electronic format (i.e., PDF). Consultant will meet with WVWD and discuss comments to the report. Comments will be incorporated and the consultant will issue a 100% FINAL report in electronic and six (6) hard copies.

EXHIBIT "2"
TO
TASK ORDER NO. 1
COMPENSATION

Services will be provided by Consultant on a time and materials basis in accordance with the proposal dated November 18, 2019. The estimated budget for the Scope of Services is **\$22,974** Dollars (\$).

Task Number	Task Description	Budget
1.1	Project Management	\$ 3,788
1.2	Meetings and Findings	\$ 5,324
2.1	Data Collection	\$ 4,592
2.2	Site Evaluation and Ranking	\$ 9,270
	Reimbursable Expenses	\$ 50
	Total	\$ 22,974

EXHIBIT "3"
TO
TASK ORDER NO. 1
SCHEDULE

Schedule to be determined by the District staff.

EXHIBIT B
KEY PERSONNEL

The performance of work to be completed under this Task Order shall be as identified in the proposal dated November 18, 2019.

EXHIBIT C

INSURANCE

- A. **General Requirements.** Before commencing the performance of services under this Agreement, and at all other times this Agreement is effective, Consultant must procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial General Liability:	\$1,000,000
Business Automobile Liability	\$1,000,000
Professional Liability	\$1,000,000
Workers Compensation	Statutory Requirement.

- B. **Commercial General Liability Insurance.** The amount of insurance set forth above must be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. The insurance must be on an "occurrence" not a "claims made" basis.
- C. **Business Automobile Insurance.** Automobile coverage must be written on forms subject to the written approval of District.
- D. **Professional Liability Insurance.** This coverage must be on an "occurrence" basis, including coverage for contractual liability. The Professional Liability Insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement.
- E. **Workers Compensation.** Consultant must have a State of California approved policy form providing the statutory benefits required by law with employer's liability limits of no less than \$1,000,000 per accident for all covered losses, or Consultant must provide evidence of an approved self-insurance program.
- F. **Additional Insureds.** Each Commercial General Liability Insurance policy and Business Auto Insurance policy must provide that the District, its officials, officers, employees, agents and volunteers are "additional insureds" under the terms of the policy, and must provide that an act or omission of one the insureds will not reduce or avoid coverage to the other insureds.
- G. **Deductibles and Self-Insured Retention.** Any deductibles or self-insured retentions applicable to the insurance policies required under this Agreement must be declared to and approved by District. In no event may any required insurance policy have a deductible, self-insured retention or other similar policy provision in excess of \$50,000 without prior written approval by District in its sole discretion.

At the option of District, either the insurer will reduce or eliminate such deductibles or self-insured retentions with respect to the District's additional insureds or Consultant will procure a bond guaranteeing payment of any losses, damages, expenses, costs or settlements up to the amount of such deductibles or self-insured retentions.

- H. **Primary Insurance.** Each of the insurance policies maintained by Consultant under this Agreement must state that such insurance will be deemed "primary" so that any insurance that may be carried by District will be deemed excess to that of Consultant. This endorsement must be reflected on forms as determined by District.
- I. **Certificates of Insurance and Endorsements.** Prior to commencing any services under this Agreement, Consultant must file with the District certificates of insurance and endorsements evidencing the existence of all insurance required by this Agreement, along with such other evidence of insurance or copies of policies as may reasonably be required by District. These certificates of insurance and endorsements must be in a form approved by the Legal Counsel. Consultant must maintain current certificates and endorsements on file with District during the term of this Agreement reflecting the existence of all required insurance. Each of the certificates must expressly provide that no material change in the policy, or termination thereof, will be effective except upon 30 days prior written notice to District by certified mail, return receipt requested. The delivery to District of any certificates of insurance or endorsements that do not comply with the requirements of this Agreement will not waive the District's right to require compliance.
- J. **Insurance Rating.** All insurance required to be maintained by Consultant under this Agreement must be issued by companies licensed by or admitted to conduct insurance business in the State of California by the California Department of Insurance and must have a rating of A or better and Class VII or better by the latest edition of A.M. Best's Key Rating Guide.
- K. **Aggregate Limits.** The aggregate limits for each insurance policy required under this Agreement must apply separately and solely to the services performed under this Agreement. If the required policies do not have an endorsement providing that the aggregate limit applies separately to the services being performed, or if defense costs are included in the aggregate limit, then the required aggregate limits must be increased to an amount satisfactory to District.
- L. **Waiver of Subrogation Rights.** Consultant and each insurer providing any insurance required by this Agreement must waive all rights of subrogation against District, its officials, officers, employees, agents and volunteers, and each insurer must issue a certificate to the District evidencing this waiver of subrogation rights.
- M. **Failure to Maintain Required Insurance.** If Consultant, for any reason, fails to obtain and maintain the insurance required by this Agreement, District may obtain such coverage at Consultant's expense and deduct the cost of such insurance

from payments due to Consultant under this Agreement or may terminate the Agreement.

- N. **Effect of Coverage.** The existence of the required insurance coverage under this Agreement shall not be deemed to satisfy or limit Consultant's indemnity obligations under this Agreement. Consultant acknowledges that the insurance coverage and policy limits set forth in this Agreement constitute the minimum coverage and policy limits required. Any insurance proceeds available to District in excess of the limits and coverage required by this Agreement, and which is applicable to a given loss, must be made available to District to compensate it for such losses.



**BOARD OF DIRECTORS
STAFF REPORT**

DATE: January 25, 2020
TO: Board of Directors
FROM: Clarence Mansell Jr., General Manager
SUBJECT: AGREEMENT FOR PROFESSIONAL SERVICES WITH TOM DODSON
 AND ASSOCIATES FOR ENVIRONMENTAL CONSULTING SERVICES

DISCUSSION:

Cactus Basin 2

On October 15, 2018 West Valley Water District (District) received a draft Streambed Alteration Agreement (Agreement) from the California Department of Fish and Wildlife. The Agreement was provided in response to the District's proposed maintenance of Cactus Basin 2. Within the draft Agreement were compensatory mitigation measures that the District felt were undue and burdensome on the District. The District requested a proposal from Tom Dodson and Associates to assist with seeking revisions to regulatory permitting requirements for the District's discharges to Lower Cactus Basin No. 2. The discharges are periodic and temporary and reflect water treatment operations at the FBR/FXB treatment plant to remove perchlorate from groundwater.

A task order in the amount of \$8,000 for the above services was issued. Consulting services performed under the Agreement for Professional Services for Cactus Basin 2 have been completed.

Well 36

As part of the emergency well rehabilitation projects, the District requested a proposal from Tom Dodson and Associates to provide professional environmental consulting services for Well 36. An initial meeting was held in June 2019 to discuss the various options for bringing the well back into service and the required CEQA evaluation needed for each option. The options included lowering the well, packering off areas of the well to potentially reduce arsenic levels, installing well head treatment and drilling a new well on site. Options for proceeding with the rehabilitation of the well or drilling a new well are still being evaluated by the District.

A task order in the amount of \$15,500 for the above services was issued. Only \$450 has been expended to date. The services from Mr. Dodson have not been used since that initial meeting.

A table of the Task Orders is attached in **Exhibit A** and copies of the Agreements for Professional Services and Task Orders is attached in **Exhibit B**.

FISCAL IMPACT:

Professional services were budgeted for in the fiscal year 2019/20 budget.

STAFF RECOMMENDATION:

Per the Boards request, this staff report has been presented for review.

Respectfully Submitted,



Clarence Mansell Jr, General Manager

LJ:ce

ATTACHMENT(S):

1. Exhibit A
2. Exhibit B

EXHIBIT A

ENGINEERING DEPARTMENT- TASK ORDERS AND CONTRACTS					
TASK ORDER/CONTRACT NO.	AMOUNT	CONSULTANT/CONTRACTOR	SCOPE OF WORK	STATUS	
1	\$8,000.00	Tom Dodson and Associates	Renegotiate Regulatory Permits for Lower Cactus Basin No. 2	Complete	
1	\$15,500.00	Tom Dodson and Associates	Provide regulatory support to acquire CEQA Permits for Well 36	On Hold	

EXHIBIT B



West Valley Water District

AGREEMENT FOR PROFESSIONAL SERVICES

With

Tom Dodson & Associates

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AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT FOR PROFESSIONAL SERVICES (“Agreement”) effective as of this 7th day of November, 2018 (“Effective Date”) is by and between West Valley Water District (“District”) and Tom Dodson & Associates (“Consultant”). The District and Consultant may be collectively referred to as the “Parties” and individually as a “Party.”

RECITALS

A. The Parties desire to enter into this Agreement for the purpose of setting forth the terms and conditions upon which Consultant shall provide certain services to District.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

Section 1. Term of Agreement.

The term of this Agreement will be for a period of one (1) year commencing on the Effective Date and terminating one (1) year after the Effective Date.

Section 2. Scope and Performance of Services.

- 2.1 (a) District may, from time to time, by written instructions from the general manager or assistant general manager of the District (“Authorized Representative”) issue task orders (“Task Orders”) to the Consultant. The Task Order shall be in such form and content as shall be set forth on Exhibit “A” attached hereto and by this reference incorporated herein. The Task Order shall set forth: (i) the scope of services to be performed by Consultant; (ii) the compensation to be paid to Consultant; and (iii) the time to complete the Task Order. The provisions of this Agreement shall apply to all such Task Orders.
- (b) For each Task Order, Consultant shall confer, as requested, with District representatives to review progress of work elements, adherence to work schedule, coordination of work, scheduling of review and resolution of problems which may develop.
- 2.2 Consultant will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as otherwise expressly specified in this Agreement, necessary or proper to

perform and complete the services required of Consultant under this Agreement.

- 2.3** Consultant's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are listed in Exhibit "B" attached hereto and by this reference incorporated herein ("Key Personnel").
- 2.4** Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Notwithstanding Section 3 below, in the event Consultant utilizes the services of subcontractors or sub-consultants, Consultant assumes sole and complete responsibility for the performance of the subcontractor or sub-consultant to the specifications provided hereunder for Consultant's work, and no adjustment will be made to Consultant's requirements under this Agreement for timely completion of services, complete performance of services, or delivery of products or deliverables in a timely fashion, and no adjustment will be made to performance deadlines, or compensation due to Consultant, due to or arising from issues Consultant may have with any subcontractor or sub-consultant. Consultant will at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described in this Agreement. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

Consultant warrants it will perform its engineering and design under the Task Order, as more particularly described in Exhibit A ("Task Order") in accordance with the current standards of care and diligence normally practiced by recognized engineering and design firms in performing services of a similar nature. Further, Consultant warrants that the engineering and design performed has been performed in accordance with the then current standards of care and diligence normally practiced by recognized engineering and design firms in performing services of a similar nature. If within one (1) year after substantial completion of the engineering and design work it is shown that there is an error in that work as a result of the Consultant's failure to meet those standards and the District has notified the Consultant in writing of any such error within that period, Consultant shall re-perform such engineering and design work within the original scope of such services, as may be necessary to remedy such error. All costs incurred by Consultant in performing such corrective services shall be the sole responsibility of the Consultant and such costs shall not be reimbursable in any way.

Section 3. Additional Services and Changes in Services

- 3.1 Consultant will not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in the Task Orders, unless such additional services are authorized in advance and in writing by District.
- 3.2 If Consultant believes that additional services are needed to complete a Task Order, Consultant will provide the Authorized Representative with written notification describing the proposed additional services, the reasons for such services, and a detailed proposal regarding cost.
- 3.3 District may order changes to a Task Order, consisting of additions, deletions, or other revisions, and the compensation to be paid Consultant will be adjusted accordingly. All such changes must be authorized in writing, and executed by Consultant and District. The cost or credit to District resulting from changes in a Task Order will be determined by the written agreement between the Parties.

Section 4. Familiarity with Services and Site.

- 4.1 By executing this Agreement, Consultant warrants that Consultant shall, prior to undertaking a Task Order:
 - (a) investigate and consider the services to be performed;
 - (b) carefully consider how and within what time frame the services should be performed;
 - (c) understand the facilities, difficulties, and restrictions attending performance of the services under a Task Order; and
 - (d) possesses all licenses required under local, state or federal law to perform the services contemplated by a Task Order, and maintain all required licenses during the performance of such Task Order.
- 4.2 If services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and will be fully acquainted with the conditions there existing, before commencing its services under a Task Order. Should Consultant discover any latent or unknown conditions that may materially affect the performance of services, Consultant will immediately inform District of such fact and will not proceed except at Consultant's own risk until written instructions are received from the District.

Section 5. Compensation and Payment.

- 5.1 Subject to any limitations set forth in this Agreement, District agrees to pay Consultant the amounts shown in a Task Order.
- 5.2 Each month during the existence of a Task Order, Consultant shall furnish District with an original invoice for all services performed and expenses incurred during the preceding month in accordance with the fee schedule set forth in the Task Order. The invoice must detail charges by the following categories: labor (by subcategory), reimbursable costs, subcontractor contracts and miscellaneous expenses. The invoice must list, as applicable, the hours worked and hourly rates for each personnel category, the tasks performed, the percentage of the task completed during the billing period, the cumulative percentage completed for each task, and the total cost of the services.
- 5.3 District will independently review each invoice submitted by Consultant to determine whether the work performed and expenses incurred are in compliance with this Agreement. In the event that no charges or expenses are disputed, the invoice will be approved and paid. In the event any charges or expenses are disputed by District, the original invoice will be returned by District to Consultant for correction and resubmission.
- 5.4 Except as to any charges for work performed or expenses incurred by Consultant that are disputed by District, District will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's invoice.
- 5.5 No payment or partial payment to Consultant shall constitute acceptance of any work completed by Consultant or waive any claims by the District for any reason whatsoever.

Section 6. Required Documentation Prior to Performance.

- 6.1 Consultant will not perform any services under this Agreement until:
- (a) Consultant furnishes proof of insurance ("Insurance") as required under Exhibit "C" attached hereto and by this reference incorporated herein; and
 - (b) Consultant provides District with a Taxpayer Identification Number.

- 6.2 The District will have no obligation to pay for any services rendered by Consultant in advance of receiving written authorization to proceed for each Task Order, and Consultant acknowledges that any such services are at Consultant's own risk.

Section 7. Project Documents.

- 7.1 All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer programs, files and other documents (collectively, "Project Documents") prepared, developed or discovered by Consultant in the course of providing services under this Agreement will become the sole property of District and may be used, reused or otherwise disposed of by District without the permission of Consultant. Consultant will take such steps as are necessary to perfect or protect the ownership interest of District in such Project Documents. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to District all such original Project Documents in its possession; provided, however, that Consultant may retain copies of Project Documents.
- 7.2 Except as necessary for the performance of services under this Agreement, no Project Documents prepared under this Agreement, will be released by Consultant to any other person or entity without District's prior written approval. All press releases, including graphic display information to be published, must be approved and distributed solely by District, unless otherwise agreed to in writing by District.

Section 8. Consultant's Books and Records.

- 8.1 Consultant shall maintain any and all documents and records demonstrating or relating to Consultant's performance of services under this Agreement. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to District under this Agreement. Any and all such documents or records must be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant under this Agreement. Any and all such documents or records must be maintained for three (3) years following the final payment for each Task Order.
- 8.2 Any and all records or documents required to be maintained by this section must be made available for inspection, audit and copying, at any

time during regular business hours, upon written request by District or its designated representatives. Copies of such documents or records must be provided directly to District for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records must be made available at Consultant's address indicated for receipt of notices in this Agreement.

- 8.3** Where District has reason to believe that any of the documents or records required to be maintained by this section may be lost or discarded due to dissolution or termination of Consultant's business, District may, by written request, require that custody of such documents or records be given to a person or entity mutually agreed upon and that such documents and records thereafter be maintained by such person or entity at Consultant's expense. Access to such documents and records shall be granted to District, as well as to its successors-in-interest and authorized representatives.

Section 9. Status of Consultant.

- 9.1** Consultant is and will at all times remain a wholly independent contractor and not an officer or employee of District. Consultant has no authority to bind District in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against District, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by District.
- 9.2** The personnel performing the services under this Agreement on behalf of Consultant will at all times be under Consultant's exclusive direction and control. Neither District, nor any elected or appointed boards, officers, officials, employees or agents of District, will have control over the conduct of Consultant or any of Consultant's officers, subcontractors or sub-consultants, employees or agents, except as provided in this Agreement. Consultant warrants that it will not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of District.
- 9.3** Neither Consultant, nor any of Consultant's officers, employees or agents, will obtain any rights to retirement, health care or any other benefits which may otherwise accrue to District's employees. Consultant expressly waives any claim to any such rights or benefits.

Section 10. Compliance with Applicable Laws.

Consultant shall keep itself informed of and comply with all applicable federal,

state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement.

Section 11. Conflicts of Interest.

Consultant covenants that neither Consultant, nor any officer, principal nor employee of its firm, has or will acquire any interest, directly or indirectly, that would conflict in any manner with the interests of District or that would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that neither Consultant, nor any officer, principal or employee of its firm will make, participate in the making, or in any way attempt to use the position of Consultant to influence any decision of the District in which Consultant knows or has reason to know that Consultant, or any officer, principal or employee of Consultant has a financial interest as defined in Government Code section 87103.

Section 12. Confidential Information; Release of Information.

- 12.1** All information gained or work product produced by Consultant in performance of this Agreement will be considered confidential to the full extent permitted by law, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than District without prior written authorization from an Authorized Representative, except as may be required by law.
- 12.2** Consultant, its officers, employees, or agents, shall not, without prior written authorization from an Authorized Representative or unless requested by the District counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order will not be considered "voluntary" provided Consultant gives District notice of such court order or subpoena.
- 12.3** If Consultant, or any officer, employee, or agent of Consultant, provides any information or work product (including Project Documents) in violation of this Agreement, then District shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees related to any unauthorized disclosure by consultant or, caused by or incurred as a result of Consultant's conduct.
- 12.4** Consultant shall immediately notify District should Consultant, its officers, employees, or agents be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for

admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the services performed under this Agreement. District retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with District and to provide District with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by District to control, direct, or rewrite such response.

Section 13. Indemnification.

Consultant covenants and agrees that, during the term of this Agreement, any injury suffered as a result of Consultant's services shall be the sole responsibility of Consultant and its successors and assigns and District shall not be liable to Consultant, or any other person or persons whatsoever for any such injury, loss or damage to persons or property unless caused by the negligence or intentional acts of District or its Representatives (as defined below). Consultant shall defend, indemnify and hold District, its officers, directors and Representatives ("District Indemnitees") harmless from and against any and all claims, costs, liabilities, debts, demands, suits, actions, causes of action, obligations, proceedings, damages, judgments, liens and expenses of whatever nature, including attorneys' fees and disbursements (collectively, "Claims") which may be made against the District Indemnitees arising out of or in connection with (a) the retention by District of Consultant's services; (b) the performance of or failure to perform, the work covered by this Agreement which is caused or occasioned by any act, action, neglect on the part of Consultant, or its Representatives, in the performance of this Agreement and the work to be done under this Agreement; (c) the death and/or injury to any person or damage to any property (real or personal) and/or economic loss which may be caused or is claimed to have been caused, by the negligence, act or omission of Consultant or its Representatives or its or their property; (d) any violation or alleged violation by Consultant of any law or regulation now or hereafter enacted; and (e) any breach by Consultant of its obligations under this Agreement. The foregoing indemnity shall not apply to the extent any such Claims are ultimately established by a court of competent jurisdiction to have been caused by the negligence or willful misconduct of the District Indemnitees or any of them. District shall make all decisions with respect to its representation in any legal proceeding concerning this section. If Consultant fails to do so, District shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental Claims of such defense, including attorneys' fees and costs, to Consultant and to recover the same from Consultant. The term "Representatives" shall mean employees, representatives, agents, contractors, subcontractors or any other persons directly or indirectly employed by any one of the foregoing or reasonably under the

control of any of the foregoing or for whose acts any of the foregoing may be liable.

Section 14. Insurance.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the Insurance coverages listed in Exhibit "C." All Insurance policies shall be subject to approval by District as to form and content. These requirements are subject to amendment or waiver if so approved in writing by an Authorized Representative.

Section 15. Assignment.

15.1 The expertise and experience of Consultant are material considerations for this Agreement. District has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Consultant under this Agreement. Consultant may not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of District. The District can withhold its approval/consent in its sole and absolute discretion. Any attempted assignment will be null and void, and will constitute a material breach of this Agreement entitling District to any and all remedies at law or in equity, including summary termination of this Agreement.

15.2 Consultant must obtain District's prior written approval before utilizing any subcontractors to perform any services under this Agreement, which approval may be withheld in District's sole and absolute discretion. This written approval must include the identity of the subcontractor and the terms of compensation. Approval by District does not imply any agreement to or endorsement by the District as to the competency or capability of any proposed subcontractor or sub-consultant, and District reserves any and all rights against both Consultant and such subcontractor or sub-consultant, for any failure to perform or other breach of any of the provisions of this Agreement, or the standards of performance defined herein, and no waiver is intended or to be implied by District's approval of any subcontractor or sub-consultant.

Section 16. Termination of Agreement.

- 16.1** District may terminate this Agreement, with or without cause, at any time by written notice of termination to Consultant. In the event such notice is given, Consultant shall cease immediately all work in progress.
- 16.2** Upon termination of this Agreement, all property belonging exclusively to District which is in Consultant's possession must be returned to District. Consultant shall promptly deliver to District a final invoice for all outstanding services performed and expenses incurred by Consultant as of the date of termination. Compensation for work in progress not based on an hourly rate will be prorated based on the percentage of work completed as of the date of termination.
- 16.3** Consultant acknowledges District's right to terminate this Agreement as provided in this section, and hereby waives any and all claims for damages that might otherwise arise from District's termination of this Agreement.

Section 17. Notices.

- 17.1** All written notices required or permitted to be given under this Agreement will be deemed made when received by the other Party at its respective address as follows:

To District: West Valley Water District
855 West Base Line Road
P. O. Box 920
Rialto, CA 92377
Attention: Clarence C. Mansell, Jr.
Interim General Manager

(Tel.) 909-875-1804
(Fax) 909-875-1849

To Consultant: Tom Dodson & Associates
2150 N. Arrowhead Avenue
San Bernardino, CA 92405
Attention: Tom Dodson, President

(Tel.) (909) 882-3612
tda@tdaenv.com

- 17.2 Notice will be deemed effective on the date personally delivered or transmitted by facsimile. If the notice is mailed, notice will be deemed given three (3) days after deposit of the same in the custody of the United States Postal Service, postage prepaid, for first class delivery, or upon delivery if using a major courier service with tracking capabilities.
- 17.3 Any Party may change its notice information by giving notice to the other Party in compliance with this section.

Section 18. General Provisions.

- 18.1 **Authority to Execute.** Each Party represents and warrants that all necessary action has been taken by such Party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations hereunder.
- 18.2 **Binding Effect.** Subject to Section 15, this Agreement is binding upon the heirs, executors, administrators, successors and assigns of the Parties, including any subcontractors or sub-consultants of Consultant. .
- 18.3 **Entire Agreement.** This Agreement, including the attached Exhibits "A" through "C," is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed in this Agreement and supersedes all other agreements or understandings, whether oral or written, between Consultant and District prior to the execution of this Agreement.
- 18.4 **Modification of Agreement.** No amendment to or modification of this Agreement will be valid unless made in writing and approved by Consultant and by the Board of Directors of the District, or General Manager, if such power has been delegated to General Manager. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver will be void.
- 18.5 **Facsimile Signatures.** Amendments to this Agreement will be considered executed when the signature of a Party is delivered by facsimile transmission. Such facsimile signature will have the same effect as an original signature.
- 18.6 **Waiver.** Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement will not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement will not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by District of any services by

Consultant will not constitute a waiver of any of the provisions of this Agreement.

- 18.7 Interpretation.** This Agreement will be interpreted, construed and governed according to the laws of the State of California. Each Party has had the opportunity to review this Agreement with legal counsel. The Agreement will be construed simply, as a whole, and in accordance with its fair meaning, and without resort to rules regarding draftsmanship. It will not be interpreted strictly for or against either Party.
- 18.8 Severability.** If any provision of this Agreement shall be ruled invalid, illegal or unenforceable, the Parties shall: (a) promptly negotiate a substitute for the provisions which shall to the greatest extent legally permissible, effect the intent of the Parties in the invalid, illegal or unenforceable provision, and (b) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with subsection (a) above to give effect to the intent of the Parties without the invalid, illegal or unenforceable provision. To the extent the Parties are unable to negotiate such changes, substitutions or additions as set forth in the preceding sentence, and the intent of the Parties with respect to the essential terms of the Agreement may be carried out without the invalid, illegal or unenforceable provisions, the balance of this Agreement shall not be affected, and this Agreement shall be construed and enforced as if the invalid, illegal or unenforceable provisions did not exist.
- 18.9 Venue.** The Parties agree any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the federal court located in Riverside County, California or state court located in San Bernardino County, California and the Parties hereto consent to the exercise of personal jurisdiction over them by such courts for purposes of any such action or proceeding.
- 18.10 Disputes.** If any disputes should arise between the Parties concerning the work to be done under this Agreement, the payments to be made, or the manner of accomplishment of the work, Consultant shall nevertheless proceed to perform the work as directed by District pending settlement of the dispute.
- 18.11 Cooperation.** Consultant shall cooperate in the performance of work with District and all other agents.
- 18.12 Time of Essence.** Time shall be of the essence as to all dates and times of performance contained in this Agreement.
- 18.13 Counterparts.** This Agreement may be signed and delivered in any number of counter parts, each of which, when signed and delivered, shall

be an original, but all of which shall together constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the day and year first above written.

DISTRICT:

**WEST VALLEY WATER DISTRICT,
a public agency of the State of California**

By Clarence C. Mansell, Jr.
Clarence C. Mansell, Jr., Interim General Manager

By Crystal L. Escalera
Crystal L. Escalera, Board Secretary

APPROVED AS TO FORM:

TAFOYA & GARCIA LLP

By Robert Tafoya
Robert Tafoya

CONSULTANT:

Tom Dodson & Associates

By Tom Dodson

TASK ORDER NO. 1**Renegotiate Regulatory Permits for Lower Cactus Basin No. 2**

This Task Order ("Task Order") is executed this 7th day of November, 2018 by and between West Valley Water District, a public agency of the State of California ("District") and Tom Dodson & Associates ("Consultant").

RECITALS

- A. On or about November 7, 2018 District and Consultant executed that certain Agreement for Professional Services ("Agreement"). B. The Agreement provides that the District will issue Task Orders from time to time, for the provision of certain services by Consultant.
- C. Pursuant to the Agreement, District and Consultant desire to enter into this Task Order for the purpose of setting forth the terms and conditions upon which Consultant shall render certain services to the District.

NOW, THEREFORE, THE PARTIES HERETO HEREBY AGREE AS FOLLOWS:

1. Consultant agrees to perform the services set forth on Exhibit "1" attached hereto and by this reference incorporated herein.
2. Subject to any limitations in the Agreement, District shall pay to Consultant the amounts specified in Exhibit "2" attached hereto and by this reference incorporated herein. The total compensation, including reimbursement for actual expenses, may not exceed the amount set forth in Exhibit "2," unless additional compensation is approved in writing by the District.
3. Consultant shall perform the services described in Exhibit "1" in accordance with the schedule set forth in Exhibit "3" attached hereto and by this reference incorporated herein. Consultant shall commence work immediately upon receipt of a notice to proceed from the District. District will have no obligation to pay for any services rendered by Consultant in advance of receipt of the notice to proceed, and Consultant acknowledges that any such services are at Consultant's own risk.
4. The provisions of the Agreement shall apply to this Task Order. As such, the terms and conditions of the Agreement are hereby incorporated herein by this reference.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Task Order to be executed effective as of the day and year first above written.

DISTRICT:

**WEST VALLEY WATER DISTRICT,
a public agency of the State of California**

Clarence C. Mansell Jr.

Clarence C. Mansell Jr., Interim General
Manager

Crystal L. Escalera

Crystal L. Escalera, Board Secretary

CONSULTANT:

Tom Dodson & Assoc.

By *Tom Dodson*
Name *Tom Dodson*
Its *President*

By _____
Name _____
Its _____

EXHIBIT "1"
TO
TASK ORDER NO. 1
SCOPE OF SERVICES

Scope:

- 1. Consulting services to assist the District in renegotiating regulatory permits for discharges into Lower Cactus Basin No. 2 per the attached letter proposal dated November 6, 2018.**

TOM DODSON & ASSOCIATES
2150 N. ARROWHEAD AVENUE
SAN BERNARDINO, CA 92405
TEL (909) 882-3612 • FAX (909) 882-7015
E-MAIL tda@tdaenv.com



November 6, 2018

Ms. Linda Jadeski, Engineering Services Manager
West Valley Water District
855 W. Base Line
Rialto, CA 92377

Re: Proposal to provide consulting services to assist the District to renegotiate
Regulatory Permits for discharges into Lower Cactus Basin No. 2

Dear Ms. Jadeski:

As a follow-up to our meeting last week, I am submitting this proposal to assist West Valley Water District (WMWD or District) to assist with seeking revisions to regulatory permitting efforts for District discharges to Lower Cactus Basin No. 2. The discharges are periodic and temporary and reflect water treatment operations to remove perchlorate from groundwater produced by the District. It appears that these characteristics of the discharge to Lower Cactus Basin No. 2 were not communicated effectively to the California Department of Fish and Wildlife (CDFW) and they issued a Lake and Streambed Alteration Agreement (LSAA) with some extraordinary mitigation requirements. WMWD has asked Tom Dodson & Associates (TDA) to provide assistance in revising the LSAA application to address these concerns and resolve them to reduce overall mitigation costs.

Initially, TDA proposes to revise the application; resubmit to CDFW; and then meet with CDFW to present the District's position. It is my intent to stay focused on the LSAA, but also to confer with the District on the other regulatory permits, the Corps 404 and the Regional Board 401 Certification, and the need to re-process them. I request that the District authorize a total 50 hours and a not-to-exceed budget of \$8,000, which includes direct costs. We plan to use the various technical studies compiled by LSA as part of our revised LSAA application. It is assumed that the District will not have to pay additional fees to process a revised LSAA to CDFW.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Tom Dodson".

Tom Dodson
President

TD/cmc

Prop18/WWWD Cactus 2

EXHIBIT "2"
TO
TASK ORDER NO. 1

COMPENSATION

The total cost for consulting services for Lower Cactus Basin No. 2 is \$8,000.00.

Task	Description	Cost
TASK 1	Renegotiating regulatory permits for Cactus Basin No. 2	\$8,000
	TOTAL FEES	\$8,000

EXHIBIT "3"
TO
TASK ORDER NO. 1
SCHEDULE

Schedule to be determined by District staff.

EXHIBIT B
KEY PERSONNEL

KEY PERSONNEL

1. Consultant's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are:

Tom Dodson, President

EXHIBIT C
INSURANCE

INSURANCE

- A. **General Requirements.** Before commencing the performance of services under this Agreement, and at all other times this Agreement is effective, Consultant must procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial General Liability:	\$1,000,000
Business Automobile Liability	\$1,000,000
Professional Liability	\$1,000,000
Workers Compensation	Statutory Requirement.

- B. **Commercial General Liability Insurance.** The amount of insurance set forth above must be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. The insurance must be on an "occurrence" not a "claims made" basis.
- C. **Business Automobile Insurance.** Automobile coverage must be written on forms subject to the written approval of District.
- D. **Professional Liability Insurance.** This coverage must be on an "occurrence" basis, including coverage for contractual liability. The Professional Liability Insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement.
- E. **Workers Compensation.** Consultant must have a State of California approved policy form providing the statutory benefits required by law with employer's liability limits of no less than \$1,000,000 per accident for all covered losses, or Consultant must provide evidence of an approved self-insurance program.
- F. **Additional Insureds.** Each Commercial General Liability Insurance policy and Business Auto Insurance policy must provide that the District, its officials, officers, employees, agents and volunteers are "additional insureds" under the terms of the policy, and must provide that an act or omission of one the insureds will not reduce or avoid coverage to the other insureds.
- G. **Deductibles and Self-Insured Retention.** Any deductibles or self-insured retentions applicable to the insurance policies required under this Agreement must be declared to and approved by District. In no event may any required insurance policy have a deductible, self-insured retention or other similar policy provision in excess of \$50,000 without prior written approval by District in its sole discretion. At the option of District, either the insurer will reduce or eliminate such deductibles or self-insured retentions with respect to the District's additional

insureds or Consultant will procure a bond guaranteeing payment of any losses, damages, expenses, costs or settlements up to the amount of such deductibles or self-insured retentions.

- H. **Primary Insurance.** Each of the insurance policies maintained by Consultant under this Agreement must state that such insurance will be deemed “primary” so that any insurance that may be carried by District will be deemed excess to that of Consultant. This endorsement must be reflected on forms as determined by District.
- I. **Certificates of Insurance and Endorsements.** Prior to commencing any services under this Agreement, Consultant must file with the District certificates of insurance and endorsements evidencing the existence of all insurance required by this Agreement, along with such other evidence of insurance or copies of policies as may reasonably be required by District. These certificates of insurance and endorsements must be in a form approved by the Legal Counsel. Consultant must maintain current certificates and endorsements on file with District during the term of this Agreement reflecting the existence of all required insurance. Each of the certificates must expressly provide that no material change in the policy, or termination thereof, will be effective except upon 30 days prior written notice to District by certified mail, return receipt requested. The delivery to District of any certificates of insurance or endorsements that do not comply with the requirements of this Agreement will not waive the District’s right to require compliance.
- J. **Insurance Rating.** All insurance required to be maintained by Consultant under this Agreement must be issued by companies licensed by or admitted to conduct insurance business in the State of California by the California Department of Insurance and must have a rating of A or better and Class VII or better by the latest edition of A.M. Best’s Key Rating Guide.
- K. **Aggregate Limits.** The aggregate limits for each insurance policy required under this Agreement must apply separately and solely to the services performed under this Agreement. If the required policies do not have an endorsement providing that the aggregate limit applies separately to the services being performed, or if defense costs are included in the aggregate limit, then the required aggregate limits must be increased to an amount satisfactory to District.
- L. **Waiver of Subrogation Rights.** Consultant and each insurer providing any insurance required by this Agreement must waive all rights of subrogation against District, its officials, officers, employees, agents and volunteers, and each insurer must issue a certificate to the District evidencing this waiver of subrogation rights.
- M. **Failure to Maintain Required Insurance.** If Consultant, for any reason, fails to obtain and maintain the insurance required by this Agreement, District may obtain such coverage at Consultant’s expense and deduct the cost of such

insurance from payments due to Consultant under this Agreement or may terminate the Agreement.

- N. **Effect of Coverage.** The existence of the required insurance coverage under this Agreement shall not be deemed to satisfy or limit Consultant's indemnity obligations under this Agreement. Consultant acknowledges that the insurance coverage and policy limits set forth in this Agreement constitute the minimum coverage and policy limits required. Any insurance proceeds available to District in excess of the limits and coverage required by this Agreement, and which is applicable to a given loss, must be made available to District to compensate it for such losses.



West Valley Water District

AGREEMENT FOR PROFESSIONAL SERVICES

With

Tom Dodson & Associates

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AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") effective as of this 23rd day of May, 2019 ("Effective Date") is by and between West Valley Water District ("District") and Tom Dodson & Associates ("Consultant"). The District and Consultant may be collectively referred to as the "Parties" and individually as a "Party."

RECITALS

A. The Parties desire to enter into this Agreement for the purpose of setting forth the terms and conditions upon which Consultant shall provide certain services to District.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

Section 1. Term of Agreement.

The term of this Agreement will be for a period of one (1) year commencing on the Effective Date and terminating one (1) year after the Effective Date.

Section 2. Scope and Performance of Services.

2.1 (a) District may, from time to time, by written instructions from the general manager or assistant general manager of the District ("Authorized Representative") issue task orders ("Task Orders") to the Consultant. The Task Order shall be in such form and content as shall be set forth on Exhibit "A" attached hereto and by this reference incorporated herein. The Task Order shall set forth: (i) the scope of services to be performed by Consultant; (ii) the compensation to be paid to Consultant; and (iii) the time to complete the Task Order. The provisions of this Agreement shall apply to all such Task Orders.

(b) For each Task Order, Consultant shall confer, as requested, with District representatives to review progress of work elements, adherence to work schedule, coordination of work, scheduling of review and resolution of problems which may develop.

2.2 Consultant will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as otherwise expressly specified in this Agreement, necessary or proper to perform and complete the services required of Consultant under this Agreement.

- 2.3** Consultant's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are listed in Exhibit "B" attached hereto and by this reference incorporated herein ("Key Personnel").
- 2.4** Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Notwithstanding Section 3 below, in the event Consultant utilizes the services of subcontractors or sub-consultants, Consultant assumes sole and complete responsibility for the performance of the subcontractor or sub-consultant to the specifications provided hereunder for Consultant's work, and no adjustment will be made to Consultant's requirements under this Agreement for timely completion of services, complete performance of services, or delivery of products or deliverables in a timely fashion, and no adjustment will be made to performance deadlines, or compensation due to Consultant, due to or arising from issues Consultant may have with any subcontractor or sub-consultant. Consultant will at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described in this Agreement. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

Consultant warrants it will perform its engineering and design under the Task Order, as more particularly described in Exhibit A ("Task Order") in accordance with the current standards of care and diligence normally practiced by recognized engineering and design firms in performing services of a similar nature. Further, Consultant warrants that the engineering and design performed has been performed in accordance with the then current standards of care and diligence normally practiced by recognized engineering and design firms in performing services of a similar nature. If within one (1) year after substantial completion of the engineering and design work it is shown that there is an error in that work as a result of the Consultant's failure to meet those standards and the District has notified the Consultant in writing of any such error within that period, Consultant shall re-perform such engineering and design work within the original scope of such services, as may be necessary to remedy such error. All costs incurred by Consultant in performing such corrective services shall be the sole responsibility of the Consultant and such costs shall not be reimbursable in any way.

Section 3. Additional Services and Changes in Services

- 3.1 Consultant will not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in the Task Orders, unless such additional services are authorized in advance and in writing by District.
- 3.2 If Consultant believes that additional services are needed to complete a Task Order, Consultant will provide the Authorized Representative with written notification describing the proposed additional services, the reasons for such services, and a detailed proposal regarding cost.
- 3.3 District may order changes to a Task Order, consisting of additions, deletions, or other revisions, and the compensation to be paid Consultant will be adjusted accordingly. All such changes must be authorized in writing, and executed by Consultant and District. The cost or credit to District resulting from changes in a Task Order will be determined by the written agreement between the Parties.

Section 4. Familiarity with Services and Site.

- 4.1 By executing this Agreement, Consultant warrants that Consultant shall, prior to undertaking a Task Order:
- (a) investigate and consider the services to be performed;
 - (b) carefully consider how and within what time frame the services should be performed;
 - (c) understand the facilities, difficulties, and restrictions attending performance of the services under a Task Order; and
 - (d) possesses all licenses required under local, state or federal law to perform the services contemplated by a Task Order, and maintain all required licenses during the performance of such Task Order.
- 4.2 If services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and will be fully acquainted with the conditions there existing, before commencing its services under a Task Order. Should Consultant discover any latent or unknown conditions that may materially affect the performance of services, Consultant will immediately inform District of such fact and will not proceed except at Consultant's own risk until written instructions are received from the District.

Section 5. Compensation and Payment.

- 5.1** Subject to any limitations set forth in this Agreement, District agrees to pay Consultant the amounts shown in a Task Order.
- 5.2** Each month during the existence of a Task Order, Consultant shall furnish District with an original invoice for all services performed and expenses incurred during the preceding month in accordance with the fee schedule set forth in the Task Order. The invoice must detail charges by the following categories: labor (by subcategory), reimbursable costs, subcontractor contracts and miscellaneous expenses. The invoice must list, as applicable, the hours worked and hourly rates for each personnel category, the tasks performed, the percentage of the task completed during the billing period, the cumulative percentage completed for each task, and the total cost of the services.
- 5.3** District will independently review each invoice submitted by Consultant to determine whether the work performed and expenses incurred are in compliance with this Agreement. In the event that no charges or expenses are disputed, the invoice will be approved and paid. In the event any charges or expenses are disputed by District, the original invoice will be returned by District to Consultant for correction and resubmission.
- 5.4** Except as to any charges for work performed or expenses incurred by Consultant that are disputed by District, District will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's invoice.
- 5.5** No payment or partial payment to Consultant shall constitute acceptance of any work completed by Consultant or waive any claims by the District for any reason whatsoever.

Section 6. Required Documentation Prior to Performance.

- 6.1** Consultant will not perform any services under this Agreement until:
- (a) Consultant furnishes proof of insurance ("Insurance") as required under Exhibit "C" attached hereto and by this reference incorporated herein; and
 - (b) Consultant provides District with a Taxpayer Identification Number.
- 6.2** The District will have no obligation to pay for any services rendered by Consultant in advance of receiving written authorization to proceed for each Task Order, and Consultant acknowledges that any such services are at Consultant's own risk.

Section 7. Project Documents.

- 7.1 All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer programs, files and other documents (collectively, "Project Documents") prepared, developed or discovered by Consultant in the course of providing services under this Agreement will become the sole property of District and may be used, reused or otherwise disposed of by District without the permission of Consultant. Consultant will take such steps as are necessary to perfect or protect the ownership interest of District in such Project Documents. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to District all such original Project Documents in its possession; provided, however, that Consultant may retain copies of Project Documents.
- 7.2 Except as necessary for the performance of services under this Agreement, no Project Documents prepared under this Agreement, will be released by Consultant to any other person or entity without District's prior written approval. All press releases, including graphic display information to be published, must be approved and distributed solely by District, unless otherwise agreed to in writing by District.

Section 8. Consultant's Books and Records.

- 8.1 Consultant shall maintain any and all documents and records demonstrating or relating to Consultant's performance of services under this Agreement. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to District under this Agreement. Any and all such documents or records must be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant under this Agreement. Any and all such documents or records must be maintained for three (3) years following the final payment for each Task Order.
- 8.2 Any and all records or documents required to be maintained by this section must be made available for inspection, audit and copying, at any time during regular business hours, upon written request by District or its designated representatives. Copies of such documents or records must be provided directly to District for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records must be made available at Consultant's address indicated for receipt of notices in this Agreement.
- 8.3 Where District has reason to believe that any of the documents or records required to be maintained by this section may be lost or discarded due to

dissolution or termination of Consultant's business, District may, by written request, require that custody of such documents or records be given to a person or entity mutually agreed upon and that such documents and records thereafter be maintained by such person or entity at Consultant's expense. Access to such documents and records shall be granted to District, as well as to its successors-in-interest and authorized representatives.

Section 9. Status of Consultant.

- 9.1** Consultant is and will at all times remain a wholly independent contractor and not an officer or employee of District. Consultant has no authority to bind District in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against District, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by District.
- 9.2** The personnel performing the services under this Agreement on behalf of Consultant will at all times be under Consultant's exclusive direction and control. Neither District, nor any elected or appointed boards, officers, officials, employees or agents of District, will have control over the conduct of Consultant or any of Consultant's officers, subcontractors or sub-consultants, employees or agents, except as provided in this Agreement. Consultant warrants that it will not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of District.
- 9.3** Neither Consultant, nor any of Consultant's officers, employees or agents, will obtain any rights to retirement, health care or any other benefits which may otherwise accrue to District's employees. Consultant expressly waives any claim to any such rights or benefits.

Section 10. Compliance with Applicable Laws.

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement.

Section 11. Conflicts of Interest.

Consultant covenants that neither Consultant, nor any officer, principal nor employee of its firm, has or will acquire any interest, directly or indirectly, that would conflict in any manner with the interests of District or that would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that neither Consultant, nor any officer, principal or employee of its firm will make, participate in the making, or in any way attempt to use the position of Consultant to influence any decision of the District in which Consultant knows or has reason to know that Consultant, or any officer, principal or employee of Consultant has a financial interest as defined in Government Code section 87103.

Section 12. Confidential Information; Release of Information.

- 12.1** All information gained or work product produced by Consultant in performance of this Agreement will be considered confidential to the full extent permitted by law, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than District without prior written authorization from an Authorized Representative, except as may be required by law.
- 12.2** Consultant, its officers, employees, or agents, shall not, without prior written authorization from an Authorized Representative or unless requested by the District counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order will not be considered "voluntary" provided Consultant gives District notice of such court order or subpoena.
- 12.3** If Consultant, or any officer, employee, or agent of Consultant, provides any information or work product (including Project Documents) in violation of this Agreement, then District shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees related to any unauthorized disclosure by consultant or, caused by or incurred as a result of Consultant's conduct.
- 12.4** Consultant shall immediately notify District should Consultant, its officers, employees, or agents be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the services performed under this Agreement. District retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with District and to provide District with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by District to control, direct, or rewrite such response.

Section 13. Indemnification.

Consultant covenants and agrees that, during the term of this Agreement, any injury suffered as a result of Consultant's services shall be the sole responsibility of Consultant and its successors and assigns and District shall not be liable to Consultant, or any other person or persons whatsoever for any such injury, loss or damage to persons or property unless caused by the negligence or intentional acts of District or its Representatives (as defined below). Consultant shall defend, indemnify and hold District, its officers, directors and Representatives ("District Indemnitees") harmless from and against any and all claims, costs, liabilities, debts, demands, suits, actions, causes of action, obligations, proceedings, damages, judgments, liens and expenses of whatever nature, including attorneys' fees and disbursements (collectively, "Claims") which may be made against the District Indemnitees arising out of or in connection with (a) the retention by District of Consultant's services; (b) the performance of or failure to perform, the work covered by this Agreement which is caused or occasioned by any act, action, neglect on the part of Consultant, or its Representatives, in the performance of this Agreement and the work to be done under this Agreement; (c) the death and/or injury to any person or damage to any property (real or personal) and/or economic loss which may be caused or is claimed to have been caused, by the negligence, act or omission of Consultant or its Representatives or its or their property; (d) any violation or alleged violation by Consultant of any law or regulation now or hereafter enacted; and (e) any breach by Consultant of its obligations under this Agreement. The foregoing indemnity shall not apply to the extent any such Claims are ultimately established by a court of competent jurisdiction to have been caused by the negligence or willful misconduct of the District Indemnitees or any of them. District shall make all decisions with respect to its representation in any legal proceeding concerning this section. If Consultant fails to do so, District shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental Claims of such defense, including attorneys' fees and costs, to Consultant and to recover the same from Consultant. The term "Representatives" shall mean employees, representatives, agents, contractors, subcontractors or any other persons directly or indirectly employed by any one of the foregoing or reasonably under the control of any of the foregoing or for whose acts any of the foregoing may be liable.

Section 14. Insurance.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the Insurance coverages listed in Exhibit "C." All Insurance policies shall be subject to approval by District as to form and content. These requirements are subject to amendment or waiver if so approved in writing by an Authorized Representative.

Section 15. Assignment.

- 15.1** The expertise and experience of Consultant are material considerations for this Agreement. District has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Consultant under this Agreement. Consultant may not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of District. The District can withhold its approval/consent in its sole and absolute discretion. Any attempted assignment will be null and void, and will constitute a material breach of this Agreement entitling District to any and all remedies at law or in equity, including summary termination of this Agreement.
- 15.2** Consultant must obtain District's prior written approval before utilizing any subcontractors to perform any services under this Agreement, which approval may be withheld in District's sole and absolute discretion. This written approval must include the identity of the subcontractor and the terms of compensation. Approval by District does not imply any agreement to or endorsement by the District as to the competency or capability of any proposed subcontractor or sub-consultant, and District reserves any and all rights against both Consultant and such subcontractor or sub-consultant, for any failure to perform or other breach of any of the provisions of this Agreement, or the standards of performance defined herein, and no waiver is intended or to be implied by District's approval of any subcontractor or sub-consultant.

Section 16. Termination of Agreement.

- 16.1** District may terminate this Agreement, with or without cause, at any time by written notice of termination to Consultant. In the event such notice is given, Consultant shall cease immediately all work in progress.
- 16.2** Upon termination of this Agreement, all property belonging exclusively to District which is in Consultant's possession must be returned to District. Consultant shall promptly deliver to District a final invoice for all outstanding services performed and expenses incurred by Consultant as of the date of termination. Compensation for work in progress not based on an hourly rate

will be prorated based on the percentage of work completed as of the date of termination.

- 16.3** Consultant acknowledges District's right to terminate this Agreement as provided in this section, and hereby waives any and all claims for damages that might otherwise arise from District's termination of this Agreement.

Section 17. Notices.

- 17.1** All written notices required or permitted to be given under this Agreement will be deemed made when received by the other Party at its respective address as follows:

To District: West Valley Water District
855 West Base Line Road
P. O. Box 920
Rialto, CA 92377
Attention: Clarence C. Mansell, Jr.
General Manager

(Tel.) 909-875-1804
(Fax) 909-875-1849

To Consultant: **Tom Dodson & Associates**
2150 North Arrowhead Avenue
San Bernardino, CA 92405
Tel.: 909-882-3612
Fax: 909-882-7015
Email: tda@tdaenv.com

- 17.2** Notice will be deemed effective on the date personally delivered or transmitted by facsimile. If the notice is mailed, notice will be deemed given three (3) days after deposit of the same in the custody of the United States Postal Service, postage prepaid, for first class delivery, or upon delivery if using a major courier service with tracking capabilities.
- 17.3** Any Party may change its notice information by giving notice to the other Party in compliance with this section.

Section 18. General Provisions.

- 18.1 Authority to Execute.** Each Party represents and warrants that all necessary action has been taken by such Party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations hereunder.
- 18.2 Binding Effect.** Subject to Section 15, this Agreement is binding upon the heirs, executors, administrators, successors and assigns of the Parties, including any subcontractors or sub-consultants of Consultant.
- 18.3 Entire Agreement.** This Agreement, including the attached Exhibits "A" through "C," is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed in this Agreement and supersedes all other agreements or understandings, whether oral or written, between Consultant and District prior to the execution of this Agreement.
- 18.4 Modification of Agreement.** No amendment to or modification of this Agreement will be valid unless made in writing and approved by Consultant and by the Board of Directors of the District, or General Manager, if such power has been delegated to General Manager. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver will be void.
- 18.5 Facsimile Signatures.** Amendments to this Agreement will be considered executed when the signature of a Party is delivered by facsimile transmission. Such facsimile signature will have the same effect as an original signature.
- 18.6 Waiver.** Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement will not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement will not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by District of any services by Consultant will not constitute a waiver of any of the provisions of this Agreement.
- 18.7 Interpretation.** This Agreement will be interpreted, construed and governed according to the laws of the State of California. Each Party has had the opportunity to review this Agreement with legal counsel. The Agreement will be construed simply, as a whole, and in accordance with its fair meaning, and without resort to rules regarding draftsmanship. It will not be interpreted strictly for or against either Party.
- 18.8 Severability.** If any provision of this Agreement shall be ruled invalid, illegal or unenforceable, the Parties shall: (a) promptly negotiate a substitute for the provisions which shall to the greatest extent legally permissible, effect the intent of the Parties in the invalid, illegal or unenforceable provision, and (b)

negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with subsection (a) above to give effect to the intent of the Parties without the invalid, illegal or unenforceable provision. To the extent the Parties are unable to negotiate such changes, substitutions or additions as set forth in the preceding sentence, and the intent of the Parties with respect to the essential terms of the Agreement may be carried out without the invalid, illegal or unenforceable provisions, the balance of this Agreement shall not be affected, and this Agreement shall be construed and enforced as if the invalid, illegal or unenforceable provisions did not exist.

- 18.9 Venue.** The Parties agree any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the federal court located in Riverside County, California or state court located in San Bernardino County, California and the Parties hereto consent to the exercise of personal jurisdiction over them by such courts for purposes of any such action or proceeding.
- 18.10 Disputes.** If any disputes should arise between the Parties concerning the work to be done under this Agreement, the payments to be made, or the manner of accomplishment of the work, Consultant shall nevertheless proceed to perform the work as directed by District pending settlement of the dispute.
- 18.11 Cooperation.** Consultant shall cooperate in the performance of work with District and all other agents.
- 18.12 Time of Essence.** Time shall be of the essence as to all dates and times of performance contained in this Agreement.
- 18.13 Counterparts.** This Agreement may be signed and delivered in any number of counter parts, each of which, when signed and delivered, shall be an original, but all of which shall together constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the day and year first above written.

DISTRICT:

WEST VALLEY WATER DISTRICT,
a public agency of the State of California

By Clarence C. Mansell, Jr.
Clarence C. Mansell, Jr., General Manager

By Crystal L. Escalera
Crystal L. Escalera, Board Secretary

APPROVED AS TO FORM:

TAFOYA & GARCIA LLP
By Robert Tafoya
Robert Tafoya

CONSULTANT:

Tom Dodson & Associates

By Tom Dodson

Name Tom Dodson

Its President

EXHIBIT A
TASK ORDER

TASK ORDER NO. 1

This Task Order ("Task Order") is executed this 23rd day of May, 2019 by and between West Valley Water District, a public agency of the State of California ("District") and Tom Dodson & Associates ("Consultant").

RECITALS

- A. On or about May 23, 2019 District and Consultant executed that certain Agreement for Professional Services ("Agreement").
- B. The Agreement provides that the District will issue Task Orders from time to time, for the provision of certain services by Consultant.
- C. Pursuant to the Agreement, District and Consultant desire to enter into this Task Order for the purpose of setting forth the terms and conditions upon which Consultant shall render certain services to the District.

NOW, THEREFORE, THE PARTIES HERETO HEREBY AGREE AS FOLLOWS:

1. Consultant agrees to perform the services set forth on Exhibit "1" attached hereto and by this reference incorporated herein.
2. Subject to any limitations in the Agreement, District shall pay to Consultant the amounts specified in Exhibit "2" attached hereto and by this reference incorporated herein. The total compensation, including reimbursement for actual expenses, may not exceed the amount set forth in Exhibit "2," unless additional compensation is approved in writing by the District.
3. Consultant shall perform the services described in Exhibit "1" in accordance with the schedule set forth in Exhibit "3" attached hereto and by this reference incorporated herein. Consultant shall commence work immediately upon receipt of a notice to proceed from the District. District will have no obligation to pay for any services rendered by Consultant in advance of receipt of the notice to proceed, and Consultant acknowledges that any such services are at Consultant's own risk.
4. The provisions of the Agreement shall apply to this Task Order. As such, the terms and conditions of the Agreement are hereby incorporated herein by this reference.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Task Order to be executed effective as of the day and year first above written.

DISTRICT:

**WEST VALLEY WATER DISTRICT,
a public agency of the State of California**

Clarence C Mansell Jr.
Clarence C. Mansell Jr., General Manager

Crystal L Escalera
Crystal L. Escalera, Board Secretary

CONSULTANT:

Tom Dodson & Associates

By Tom Dodson

Name Tom Dodson

Its President

EXHIBIT "1"
TO
TASK ORDER NO. _____

SCOPE OF SERVICES

Provide regulatory support to acquire CEQA Permits for Well 36.

EXHIBIT "2"
TO
TASK ORDER NO. 1

COMPENSATION

Not to exceed \$15,500.00 without prior approval of the General Manager.

TOM DODSON & ASSOCIATES

2150 N. ARROWHEAD AVENUE
SAN BERNARDINO, CA 92405
TEL (909) 882-3612 • FAX (909) 882-7015
E-MAIL tda@tdaenv.com



May 20, 2019

Ms Linda Jadeski
West Valley Water District
855 West Base Line
Rialto, CA 92377

Dear Ms. Jadeski:

In April, Tom Dodson & Associates met with the District's John Martin at the proposed Well 36 site in west Rialto. Mr. Martin described his concept of how the proposed well site would have to be modified to allow the proposed replacement well to be installed. In the interim we have had one conversation about the actual implementation of the proposed new well to verify the approach required at this site. Also, over the intervening period my team and I have developed a cost estimate to complete an environmental document for compliance with California Environmental Quality Act (CEQA) and acquisition of regulatory permits. These costs have been estimated as follows: \$30,000 for CEQA compliance (including \$8,000 for biology resources) and then an estimate of \$15,500 to provide regulatory support to acquire the permits to fill in the channel area where the proposed well would be drilled.

Before we proceed, I would ask that you, John, Shay Lawrey (my biologist/regulatory specialist for this project), and I meet to discuss this project and possible alternatives that could reduce the amount of effort required for this well. Let me know how you wish to proceed and regardless of the path, Shay and I look forward to assisting the District with implementation of this important water supply project.

Sincerely,

A handwritten signature in black ink that reads "Tom Dodson". The signature is written in a cursive, flowing style.

Tom Dodson
President

TD/cmc

cc: Shay Lawrey

Prop19/WVWD Well 36

EXHIBIT "3"
TO
TASK ORDER NO. 1

SCHEDULE

To be determined by Staff.

EXHIBIT B**KEY PERSONNEL**

Consultant's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are:

Tom Dodson

EXHIBIT C
INSURANCE

INSURANCE

- A. **General Requirements.** Before commencing the performance of services under this Agreement, and at all other times this Agreement is effective, Consultant must procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial General Liability:	\$1,000,000
Business Automobile Liability	\$1,000,000
Professional Liability	\$1,000,000
Workers Compensation	Statutory Requirement.

- B. **Commercial General Liability Insurance.** The amount of insurance set forth above must be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. The insurance must be on an "occurrence" not a "claims made" basis.
- C. **Business Automobile Insurance.** Automobile coverage must be written on forms subject to the written approval of District.
- D. **Professional Liability Insurance.** This coverage must be on an "occurrence" basis, including coverage for contractual liability. The Professional Liability Insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement.
- E. **Workers Compensation.** Consultant must have a State of California approved policy form providing the statutory benefits required by law with employer's liability limits of no less than \$1,000,000 per accident for all covered losses, or Consultant must provide evidence of an approved self-insurance program.
- F. **Additional Insureds.** Each Commercial General Liability Insurance policy and Business Auto Insurance policy must provide that the District, its officials, officers, employees, agents and volunteers are "additional insureds" under the terms of the policy, and must provide that an act or omission of one the insureds will not reduce or avoid coverage to the other insureds.
- G. **Deductibles and Self-Insured Retention.** Any deductibles or self-insured retentions applicable to the insurance policies required under this Agreement must be declared to and approved by District. In no event may any required insurance policy have a deductible, self-insured retention or other similar policy provision in excess of \$50,000 without prior written approval by District in its sole discretion. At the option of District, either the insurer will reduce or eliminate such deductibles or self-insured retentions with respect to the District's additional insureds or Consultant will procure a bond guaranteeing payment of any losses, damages,

- expenses, costs or settlements up to the amount of such deductibles or self-insured retentions.
- H. **Primary Insurance.** Each of the insurance policies maintained by Consultant under this Agreement must state that such insurance will be deemed “primary” so that any insurance that may be carried by District will be deemed excess to that of Consultant. This endorsement must be reflected on forms as determined by District.
- I. **Certificates of Insurance and Endorsements.** Prior to commencing any services under this Agreement, Consultant must file with the District certificates of insurance and endorsements evidencing the existence of all insurance required by this Agreement, along with such other evidence of insurance or copies of policies as may reasonably be required by District. These certificates of insurance and endorsements must be in a form approved by the Legal Counsel. Consultant must maintain current certificates and endorsements on file with District during the term of this Agreement reflecting the existence of all required insurance. Each of the certificates must expressly provide that no material change in the policy, or termination thereof, will be effective except upon 30 days’ prior written notice to District by certified mail, return receipt requested. The delivery to District of any certificates of insurance or endorsements that do not comply with the requirements of this Agreement will not waive the District’s right to require compliance.
- J. **Insurance Rating.** All insurance required to be maintained by Consultant under this Agreement must be issued by companies licensed by or admitted to conduct insurance business in the State of California by the California Department of Insurance and must have a rating of A or better and Class VII or better by the latest edition of A.M. Best’s Key Rating Guide.
- K. **Aggregate Limits.** The aggregate limits for each insurance policy required under this Agreement must apply separately and solely to the services performed under this Agreement. If the required policies do not have an endorsement providing that the aggregate limit applies separately to the services being performed, or if defense costs are included in the aggregate limit, then the required aggregate limits must be increased to an amount satisfactory to District.
- L. **Waiver of Subrogation Rights.** Consultant and each insurer providing any insurance required by this Agreement must waive all rights of subrogation against District, its officials, officers, employees, agents and volunteers, and each insurer must issue a certificate to the District evidencing this waiver of subrogation rights.
- M. **Failure to Maintain Required Insurance.** If Consultant, for any reason, fails to obtain and maintain the insurance required by this Agreement, District may obtain such coverage at Consultant’s expense and deduct the cost of such insurance from payments due to Consultant under this Agreement or may terminate the Agreement.
- N. **Effect of Coverage.** The existence of the required insurance coverage under this

Agreement shall not be deemed to satisfy or limit Consultant's indemnity obligations under this Agreement. Consultant acknowledges that the insurance coverage and policy limits set forth in this Agreement constitute the minimum coverage and policy limits required. Any insurance proceeds available to District in excess of the limits and coverage required by this Agreement, and which is applicable to a given loss, must be made available to District to compensate it for such losses.



**BOARD OF DIRECTORS
STAFF REPORT**

DATE: January 25, 2020
TO: Board of Directors
FROM: Clarence Mansell Jr., General Manager
SUBJECT: REVIEW AGREEMENT WITH CLINICAL LABORATORY OF SAN BERNARDINO, INC. FOR ANALYTICAL LAB SERVICES TO PUBLIC WATER SUPPLY

BACKGROUND:

District staff prepared and issued a request for proposals (RFP) titled Furnish Analytical Services Related to Public Water Supply. The RFP outlined the specific services needed to comply with the California State Water Resources Control Board and United States Environmental Protection Agency regulations for ground water, surface water and drinking water including, but not limited to:

- Laboratory shall hold Environmental Laboratory Accreditation Program (ELAP) and Field of Testing Certificate.
- Laboratory shall utilize approved Standard Methods/EPA Methods for analyses.
- Laboratory shall submit Reports, Electronic Data Transfer (EDT) Confirmations, and WaterTrax Files in a timely manner.

DISCUSSION:

On December 14, 2015, staff received six (6) proposals to Furnish Analytical Services Related to Public Water Supply. The six firms that submitted proposals with their respective fees are as follows:

Eurofin Analytical	Clinical Laboratory of San Bernardino, Inc.	Weck Laboratory, Inc.	Babcock Laboratories	Test America, Inc.	BSK
\$94,756.00	\$119,478.00	\$121,579.00	\$121,625.00	\$124,053.00	\$136,752.68

Clinical Laboratory of San Bernardino, Inc. was selected as the most qualified laboratory for the following reasons:

- Clinical Laboratory holds a current CA ELAP and Fields of Testing Certificate and has performed very well on their last two rounds of Proficiency Testing and ELAP Audits.
- Clinical Laboratory utilized approved Standard and EPA methods.

- Clinical Laboratory can provide Reports, EDT Confirmations, and WaterTrax files in a timely manner.
- Clinical Laboratory provides Bacteriological and Chemical analyses at their Grand Terrace Location, which is only 9.5 miles away.
- Clinical Laboratory is open 365 days a year, including weekends and holidays.
- Clinical Laboratory's hours of operation and location can provide a backup to our water treatment plant(s) instrumentation. I.e. 4 hour rushes for perchlorate available in case the Dionex at the Fluidized Bed Reactor (FBR) Groundwater Treatment Plant was to go down, samples could be delivered and analyzed in an expedited manner.
- Cross Training/Contact Hours are provided free of charge.

On January 1, 2016, the Board of Directors awarded a contract to Clinical Laboratory of San Bernardino, Inc. Attached as **Exhibit A** is the Analytical Lab Services Agreement.

FISCAL IMPACT:

The routine cost for laboratory services is approximately \$140,000.00 annually.

STAFF RECOMMENDATION:

For information only.

Respectfully Submitted,



Clarence Mansell Jr, General Manager

CM:jc

ATTACHMENT(S):

1. Exhibit A - Analytical Lab Services Agreement

EXHIBIT A



West Valley Water District

AGREEMENT FOR PROFESSIONAL SERVICES

With

Clinical Laboratory of San Bernardino, Inc.

AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") effective as of this 21st day of January, 2016 ("Effective Date") is by and between West Valley Water District ("District") and Clinical Laboratory of San Bernardino, Inc. ("Laboratory"). The District and Laboratory may be collectively referred to as the "Parties" and individually as a "Party."

RECITALS

A. The Parties desire to enter into this Agreement for the purpose of setting forth the terms and conditions upon which Laboratory shall provide certain services to District.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

Section 1. Term of Agreement.

(a) Subject to subsection (b) below, the term of this Agreement will be for a period of three (3) years commencing on the Effective Date.

(b) This Agreement shall renew automatically for continuous one (1) year periods for no more than two (2) additional years, unless either Party, prior to the end of the existing one (3) year period, delivers written notice to the other Party, that the Agreement shall not be extended.

Section 2. Scope and Performance of Services.

2.1 (a) District may, from time to time, by written instructions from the general manager or assistant general manager of the District ("Authorized Representative") issue task orders ("Task Orders") to the Laboratory. The Task Order shall be in such form and content as shall be set forth on Exhibit "A" attached hereto and by this reference incorporated herein. The Task Order shall set forth: (i) the scope of services to be performed by Laboratory; (ii) the compensation to be paid to Laboratory; and (iii) the time to complete the Task Order. The provisions of this Agreement shall apply to all such Task Orders.

(b) For each Task Order, Laboratory shall confer, as requested, with District representatives to review progress of work elements, adherence to work schedule, coordination of work, scheduling of review and resolution of problems which may develop.

2.2 Laboratory will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as otherwise

expressly specified in this Agreement, necessary or proper to perform and complete the services required of Laboratory under this Agreement.

- 2.3** Laboratory's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are listed in Exhibit "B" attached hereto and by this reference incorporated herein ("Key Personnel").
- 2.4** Laboratory represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Notwithstanding Section 3 below, in the event Laboratory utilizes the services of subcontractors, Laboratory assumes sole and complete responsibility for the performance of the subcontractor to the specifications provided hereunder for Laboratory's work, and no adjustment will be made to Laboratory's requirements under this Agreement for timely completion of services, complete performance of services, or delivery of products or deliverables in a timely fashion, and no adjustment will be made to performance deadlines, or compensation due to Laboratory, due to or arising from issues Laboratory may have with any subcontractor. Laboratory will at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described in this Agreement. In meeting its obligations under this Agreement, Laboratory shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Laboratory under this Agreement.

Section 3. Additional Services and Changes in Services

- 3.1** Laboratory will not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in the Task Orders, unless such additional services are authorized in advance and in writing by District.
- 3.2** If Laboratory believes that additional services are needed to complete a Task Order, Laboratory will provide the Authorized Representative with written notification describing the proposed additional services, the reasons for such services, and a detailed proposal regarding cost.
- 3.3** District may order changes to a Task Order, consisting of additions, deletions, or other revisions, and the compensation to be paid Laboratory will be adjusted accordingly. All such changes must be authorized in writing, and executed by Laboratory and District. The cost or credit to District resulting from changes in a Task Order will be determined by the written agreement between the Parties.

Section 4. Familiarity with Services and Site.

- 4.1** By executing this Agreement, Laboratory warrants that Laboratory shall, prior to undertaking a Task Order:
- (a) investigate and consider the services to be performed;
 - (b) carefully consider how and within what time frame the services should be performed;
 - (c) understand the facilities, difficulties, and restrictions attending performance of the services under a Task Order; and
 - (d) possesses all licenses required under local, state or federal law to perform the services contemplated by a Task Order, and maintain all required licenses during the performance of such Task Order.
- 4.2** If services involve work upon any site, Laboratory warrants that Laboratory has or will investigate the site and will be fully acquainted with the conditions there existing, before commencing its services under a Task Order. Should Laboratory discover any latent or unknown conditions that may materially affect the performance of services, Laboratory will immediately inform District of such fact and will not proceed except at Laboratory's own risk until written instructions are received from the District.

Section 5. Compensation and Payment.

- 5.1** Subject to any limitations set forth in this Agreement, District agrees to pay Laboratory the amounts shown in a Task Order.
- 5.2** District will independently review each invoice submitted by Laboratory to determine whether the work performed and expenses incurred are in compliance with this Agreement. In the event that no charges or expenses are disputed, the invoice will be approved and paid. In the event any charges or expenses are disputed by District, the original invoice will be returned by District to Laboratory for correction and resubmission.
- 5.3** Except as to any charges for work performed or expenses incurred by Laboratory that are disputed by District, District will use its best efforts to cause Laboratory to be paid within thirty (30) days of receipt of Laboratory's invoice.
-
- 5.4** No payment or partial payment to Laboratory shall constitute acceptance of any work completed by Laboratory or waive any claims by the District for any reason whatsoever.

Section 6. Required Documentation Prior to Performance.

- 6.1 Laboratory will not perform any services under this Agreement until:
- (a) Laboratory furnishes proof of insurance ("Insurance") as required under Exhibit "C" attached hereto and by this reference incorporated herein; and
 - (b) Laboratory provides District with a Taxpayer Identification Number.
- 6.2 The District will have no obligation to pay for any services rendered by Laboratory in advance of receiving written authorization to proceed for each Task Order, and Laboratory acknowledges that any such services are at Laboratory's own risk.

Section 7. Project Documents.

- 7.1 All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer programs, files and other documents (collectively, "Project Documents") prepared, developed or discovered by Laboratory in the course of providing services under this Agreement will become the sole property of District and may be used, reused or otherwise disposed of by District without the permission of Laboratory. Laboratory will take such steps as are necessary to perfect or protect the ownership interest of District in such Project Documents. Upon completion, expiration or termination of this Agreement, Laboratory shall turn over to District all such original Project Documents in its possession; provided, however, that Laboratory may retain copies of Project Documents.
- 7.2 Except as necessary for the performance of services under this Agreement, no Project Documents prepared under this Agreement, will be released by Laboratory to any other person or entity without District's prior written approval. All press releases, including graphic display information to be published, must be approved and distributed solely by District, unless otherwise agreed to in writing by District.

Section 8. Laboratory's Books and Records.

- 8.1 Laboratory shall maintain any and all documents and records demonstrating or relating to Laboratory's performance of services under this Agreement. Laboratory shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to District under this Agreement. Any and all such documents or records must be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by

Laboratory under this Agreement. Any and all such documents or records must be maintained for three (3) years following the final payment for each Task Order.

- 8.2** Any and all records or documents required to be maintained by this section must be made available for inspection, audit and copying, at any time during regular business hours, upon written request by District or its designated representatives. Copies of such documents or records must be provided directly to District for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records must be made available at Laboratory's address indicated for receipt of notices in this Agreement.
- 8.3** Where District has reason to believe that any of the documents or records required to be maintained by this section may be lost or discarded due to dissolution or termination of Laboratory's business, District may, by written request, require that custody of such documents or records be given to a person or entity mutually agreed upon and that such documents and records thereafter be maintained by such person or entity at Laboratory's expense. Access to such documents and records shall be granted to District, as well as to its successors-in-interest and authorized representatives.

Section 9. Status of Laboratory.

- 9.1** Laboratory is and will at all times remain a wholly independent contractor and not an officer or employee of District. Laboratory has no authority to bind District in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against District, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by District.
- 9.2** The personnel performing the services under this Agreement on behalf of Laboratory will at all times be under Laboratory's exclusive direction and control. Neither District, nor any elected or appointed boards, officers, officials, employees or agents of District, will have control over the conduct of Laboratory or any of Laboratory's officers, subcontractor's employees or agents, except as provided in this Agreement. Laboratory warrants that it will not at any time or in any manner represent that Laboratory or any of Laboratory's officers, employees or agents are in any manner officials, officers, employees or agents of District.
- 9.3** Neither Laboratory, nor any of Laboratory's officers, employees or agents, will obtain any rights to retirement, health care or any other benefits which may otherwise accrue to District's employees. Laboratory expressly waives any claim to any such rights or benefits.

Section 10. Compliance with Applicable Laws.

Laboratory shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement.

Section 11. Conflicts of Interest.

Laboratory covenants that neither Laboratory, nor any officer, principal nor employee of its firm, has or will acquire any interest, directly or indirectly, that would conflict in any manner with the interests of District or that would in any way hinder Laboratory's performance of services under this Agreement. Laboratory further covenants that neither Laboratory, nor any officer, principal or employee of its firm will make, participate in the making, or in any way attempt to use the position of Laboratory to influence any decision of the District in which Laboratory knows or has reason to know that Laboratory, or any officer, principal or employee of Laboratory has a financial interest as defined in Government Code section 87103.

Section 12. Confidential Information; Release of Information.

- 12.1** All information gained or work product produced by Laboratory in performance of this Agreement will be considered confidential to the full extent permitted by law, unless such information is in the public domain or already known to Laboratory. Laboratory shall not release or disclose any such information or work product to persons or entities other than District without prior written authorization from an Authorized Representative, except as may be required by law.
- 12.2** Laboratory, its officers, employees, or agents, shall not, without prior written authorization from an Authorized Representative or unless requested by the District counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order will not be considered "voluntary" provided Laboratory gives District notice of such court order or subpoena.
- 12.3** If Laboratory, or any officer, employee, or agent of Laboratory, provides any information or work product (including Project Documents) in violation of this Agreement, then District shall have the right to reimbursement and indemnity from Laboratory for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Laboratory's conduct.
- 12.4** Laboratory shall promptly notify District should Laboratory, its officers, employees, or agents be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the services performed under this Agreement. District retains the right, but has no obligation, to represent

Laboratory or be present at any deposition, hearing or similar proceeding. Laboratory agrees to cooperate fully with District and to provide District with the opportunity to review any response to discovery requests provided by Laboratory. However, this right to review any such response does not imply or mean the right by District to control, direct, or rewrite such response.

Section 13. Indemnification.

Laboratory covenants and agrees that, during the term of this Agreement, any injury suffered as a result of Laboratory's services shall be the sole responsibility of Laboratory and its successors and assigns and District shall not be liable to Laboratory, or any other person or persons whatsoever for any such injury, loss or damage to persons or property unless caused by the gross negligence or intentional acts of District or its Representatives (as defined below). Laboratory shall defend, indemnify and hold District, its officers, directors and Representatives ("District Indemnitees") harmless from and against any and all claims, costs, liabilities, debts, demands, suits, actions, causes of action, obligations, proceedings, damages, judgments, liens and expenses of whatever nature, including attorneys' fees and disbursements (collectively, "Claims") which may be made against the District Indemnitees arising out of or in connection with (a) the retention by District of Laboratory's services; (b) the performance of or failure to perform, the work covered by this Agreement which is caused or occasioned by any act, action, neglect on the part of Laboratory, or its Representatives, in the performance of this Agreement and the work to be done under this Agreement; (c) the death and/or injury to any person or damage to any property (real or personal) and/or economic loss which may be caused or is claimed to have been caused, by the negligence, act or omission of Laboratory or its Representatives or its or their property; (d) any violation or alleged violation by Laboratory of any law or regulation now or hereafter enacted; and (e) any breach by Laboratory of its obligations under this Agreement. The foregoing indemnity shall not apply to the extent any such Claims are ultimately established by a court of competent jurisdiction to have been caused by the gross negligence or willful misconduct of the District Indemnitees or any of them. District shall make all decisions with respect to its representation in any legal proceeding concerning this section. If Laboratory fails to do so, District shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental Claims of such defense, including attorneys' fees and costs, to Laboratory and to recover the same from Laboratory. The term "Representatives" shall mean employees, representatives, agents, contractors, subcontractors or any other persons directly or indirectly employed by any one of the foregoing or reasonably under the control of any of the foregoing or for whose acts any of the foregoing may be liable.

Section 14. Insurance.

Laboratory agrees to obtain and maintain in full force and effect during the term of this Agreement the Insurance coverages listed in Exhibit "C." All Insurance policies shall be subject to approval by District as to form and content. These requirements are subject to amendment or waiver if so approved in writing by an Authorized Representative.

Section 15. Assignment.

15.1 The expertise and experience of Laboratory are material considerations for this Agreement. District has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Laboratory under this Agreement. Laboratory may not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Laboratory's duties or obligations under this Agreement without the prior written consent of District. The District can withhold its approval/consent in its sole and absolute discretion. Any attempted assignment will be null and void, and will constitute a material breach of this Agreement entitling District to any and all remedies at law or in equity, including summary termination of this Agreement.

15.2 Laboratory must obtain District's prior written approval before utilizing any subcontractors to perform any services under this Agreement, which approval may be withheld in District's sole and absolute discretion. This written approval must include the identity of the subcontractor and the terms of compensation. Approval by District does not imply any agreement to or endorsement by the District as to the competency or capability of any proposed subcontractor, and District reserves any and all rights against both Laboratory and such subcontractor, for any failure to perform or other breach of any of the provisions of this Agreement, or the standards of performance defined herein, and no waiver is intended or to be implied by District's approval of any subcontractor.

Section 16. Termination of Agreement.

16.1 District may terminate this Agreement, with or without cause, at any time by written notice of termination to Laboratory. In the event such notice is given, Laboratory shall cease immediately all work in progress.

16.2 Upon termination of this Agreement, all property belonging exclusively to District which is in Laboratory's possession must be returned to District. Laboratory shall promptly deliver to District a final invoice for all outstanding services performed and expenses incurred by Laboratory as of the date of termination. Compensation for work in progress not based on an hourly rate will be prorated based on the percentage of work completed as of the date of termination.

- 16.3** Laboratory acknowledges District's right to terminate this Agreement as provided in this section, and hereby waives any and all claims for damages that might otherwise arise from District's termination of this Agreement.

Section 17. Notices.

- 17.1** All written notices required or permitted to be given under this Agreement will be deemed made when received by the other Party at its respective address as follows:

To District: West Valley Water District
855 West Base Line Road
P. O. Box 920
Rialto, CA 92377
Attention: Thomas J. Crowley, P.E., General Manager

(Tel.) 909-875-1804
(Fax) 909-875-1849

To Laboratory: Clinical Laboratory of San Bernardino, Inc.
21881 Barton Road
Grand Terrace, CA 92337
Attention: Melinda Furnas, President

(Tel.) (909) 825-7693
mifurnas@earthlink.net

- 17.2** Notice will be deemed effective on the date personally delivered or transmitted by facsimile. If the notice is mailed, notice will be deemed given three (3) days after deposit of the same in the custody of the United States Postal Service, postage prepaid, for first class delivery, or upon delivery if using a major courier service with tracking capabilities.

- 17.3** Any Party may change its notice information by giving notice to the other Party in compliance with this section.

Section 18. General Provisions.

- 18.1 Authority to Execute.** Each Party represents and warrants that all necessary action has been taken by such Party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations hereunder.

- 18.2 Binding Effect.** Subject to Section 15, this Agreement is binding upon the heirs, executors, administrators, successors and assigns of the Parties, including any subcontractors of Laboratory. .

- 18.3 Entire Agreement.** This Agreement, including the attached Exhibits "A" through "C," is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed in this Agreement and supersedes all other agreements or understandings, whether oral or written, between Laboratory and District prior to the execution of this Agreement.
- 18.4 Modification of Agreement.** No amendment to or modification of this Agreement will be valid unless made in writing and approved by Laboratory and by the Board of Directors of the District, or General Manager, if such power has been delegated to General Manager. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver will be void.
- 18.5 Facsimile Signatures.** Amendments to this Agreement will be considered executed when the signature of a Party is delivered by facsimile transmission. Such facsimile signature will have the same effect as an original signature.
- 18.6 Waiver.** Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement will not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement will not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by District of any services by Laboratory will not constitute a waiver of any of the provisions of this Agreement.
- 18.7 Interpretation.** This Agreement will be interpreted, construed and governed according to the laws of the State of California. Each Party has had the opportunity to review this Agreement with legal counsel. The Agreement will be construed simply, as a whole, and in accordance with its fair meaning, and without resort to rules regarding draftsmanship. It will not be interpreted strictly for or against either Party.
- 18.8 Severability.** If any provision of this Agreement shall be ruled invalid, illegal or unenforceable, the Parties shall: (a) promptly negotiate a substitute for the provisions which shall to the greatest extent legally permissible, effect the intent of the Parties in the invalid, illegal or unenforceable provision, and (b) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with subsection (a) above to give effect to the intent of the Parties without the invalid, illegal or unenforceable provision. To the extent the Parties are unable to negotiate such changes, substitutions or additions as set forth in the preceding sentence, and the intent of the Parties with respect to the essential terms of the Agreement may be carried out without the invalid, illegal or unenforceable provisions, the balance of this Agreement shall not be affected, and this Agreement shall be construed and enforced as if the invalid, illegal or unenforceable provisions did not exist.

18.9 Venue. The Parties agree any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the federal court located in Riverside County, California or state court located in San Bernardino County, California and the Parties hereto consent to the exercise of personal jurisdiction over them by such courts for purposes of any such action or proceeding.

18.10 Disputes. If any disputes should arise between the Parties concerning the work to be done under this Agreement, the payments to be made, or the manner of accomplishment of the work, Laboratory shall nevertheless proceed to perform the work as directed by District pending settlement of the dispute.

18.11 Cooperation. Laboratory shall cooperate in the performance of work with District and all other agents.

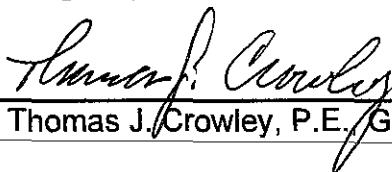
18.12 Time of Essence. Time shall be of the essence as to all dates and times of performance contained in this Agreement.

18.13 Counterparts. This Agreement may be signed and delivered in any number of counter parts, each of which, when signed and delivered, shall be an original, but all of which shall together constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the day and year first above written.

DISTRICT:

**WEST VALLEY WATER DISTRICT,
a public agency of the State of California**

By 
Thomas J. Crowley, P.E. General Manager

LABORATORY:

**Clinical Laboratory of San Bernardino, Inc.
a California Corporation**

By Melinda Furnas

Name Melinda Furnas

Its Pres

EXHIBIT A
TASK ORDER

TASK ORDER NO. 1

Laboratory Services

This Task Order ("Task Order") is executed this 21st day of January 2016 by and between West Valley Water District, a public agency of the State of California ("District") and Clinical Laboratory of San Bernardino, Inc., a California Corporation ("Laboratory").

RECITALS

- A. On or about January 21, 2016 District and Laboratory executed that certain Agreement for Professional Services ("Agreement").
- B. The Agreement provides that the District will issue Task Orders from time to time, for the provision of certain services by Laboratory.
- C. Pursuant to the Agreement, District and Laboratory desire to enter into this Task Order for the purpose of setting forth the terms and conditions upon which Laboratory shall render certain services to the District.

NOW, THEREFORE, THE PARTIES HERETO HEREBY AGREE AS FOLLOWS:

1. Laboratory agrees to perform the services set forth on Exhibit "1" attached hereto and by this reference incorporated herein.
2. Subject to any limitations in the Agreement, District shall pay to Laboratory the amounts specified in Exhibit "2" attached hereto and by this reference incorporated herein. The total compensation, including reimbursement for actual expenses, may not exceed the amount set forth in Exhibit "2," unless additional compensation is approved in writing by the District.
3. Laboratory shall perform the services described in Exhibit "1" in accordance with the schedule set forth in Exhibit "3" attached hereto and by this reference incorporated herein. Laboratory shall commence work immediately upon receipt of a notice to proceed from the District. District will have no obligation to pay for any services rendered by Laboratory in advance of receipt of the notice to proceed, and Laboratory acknowledges that any such services are at Laboratory's own risk.
4. The provisions of the Agreement shall apply to this Task Order. As such, the terms and conditions of the Agreement are hereby incorporated herein by this reference. IN WITNESS WHEREOF, the parties have caused this Task Order to be executed effective as of the day and year first above written.

DISTRICT:

**WEST VALLEY WATER DISTRICT,
a public agency of the State of California**

Thomas J. Crowley
Thomas J. Crowley, P.E., General Manager

LABORATORY:

**Clinical Laboratory of San Bernardino, Inc.
a California Corporation**

By *Melinda Furnas*
Name *Melinda Furnas*
Its *Pres.*

By *Bob Glubig*
Name *Bob Glubig*
Its *Laboratory Director*

EXHIBIT "1"**TO****TASK ORDER NO. 1****SCOPE OF SERVICES**

Laboratory shall perform work in accordance with California ELAP Certification, EPA and/or Standard Methods procedures, where applicable. Laboratory will maintain and implement a written quality assurance plan.

Laboratory shall provide Report, California EDT, and WaterTrax files to the District in a timely manner for all samples submitted. Laboratory shall adhere to routine turnaround times of 10 business days after receipt of samples. If turnaround times are to be exceeded the assigned project manager will notify the Water Quality Supervisor immediately. Rush Surcharges shall apply to expedited analyses when requested by the District.

Laboratory shall notify the District of positive microbiological samples within two (2) hours of completion of the analysis. Laboratory will notify the District of any MCL violation upon completion of the analysis. Per notification attachment. Laboratory shall also notify the District when any problem/questions arise with samples received.

Proper documentation shall be supplied to the District when an analysis is unable to be completed. Documentation shall list details such as time and date sample was received, reason why analysis was not completed, and when the Laboratory notified the District after Laboratory was made aware of the issue.

EXHIBIT "2"
TO
TASK ORDER NO. 1
COMPENSATION

Exhibit 2
West Valley Water District
RFQ for Laboratory Services
Fee Schedule

Analyte	Laboratory Method	Approximate Annual Quantity	Unit Price	Total
Field Free Chlorine Residual		3000		\$ -
Field Temperature F		800		\$ -
Coliform 15 Tube		52	\$ 15.00	\$ 780.00
Coliform P/A		2930	\$ 6.75	\$ 19,777.50
Coliform QuantiTray		5	\$ 8.00	\$ 40.00
HPC		52	\$ 5.00	\$ 260.00
Aluminum		52	\$ 5.00	\$ 260.00
Arsenic		156	\$ 5.00	\$ 780.00
Asbestos		1	\$ 150.00	\$ 150.00
Benzene		28	\$ 12.50	\$ 350.00
Chloride		12	\$ 6.00	\$ 72.00
Corrosivity		80	\$ 25.00	\$ 2,000.00
DBCP		4	\$ 40.00	\$ 160.00
Dioxin		1	\$ 275.00	\$ 275.00
Diquat		1	\$ 90.00	\$ 90.00
DOC		192	\$ 17.50	\$ 3,360.00
EPA 504		20	\$ 40.00	\$ 800.00
EPA 508		1	\$ 75.00	\$ 75.00
EPA 515		1	\$ 90.00	\$ 90.00
EPA 524		21	\$ 70.00	\$ 1,470.00
EPA 525		1	\$ 150.00	\$ 150.00
EPA 531		1	\$ 70.00	\$ 70.00
EPA 547		1	\$ 70.00	\$ 70.00
EPA 548		1	\$ 70.00	\$ 70.00
General Mineral		20	\$ 90.00	\$ 1,800.00
General Physical (COT)		756	\$ 9.00	\$ 6,804.00
Gross Alpha		7	\$ 35.00	\$ 245.00
HAA		44	\$ 60.00	\$ 2,640.00
Hexavalent Chromium		76	\$ 35.00	\$ 2,660.00
Inorganic Chemical		20	\$ 110.00	\$ 2,200.00
Iron		74	\$ 5.00	\$ 370.00
Lead & Copper		30	\$ 10.00	\$ 300.00
Manganese		74	\$ 5.00	\$ 370.00
MTBE		32	\$ 12.50	\$ 400.00
Nitrate		885	\$ 6.00	\$ 5,310.00
PCE		36	\$ 12.50	\$ 450.00
TCE		24	\$ 12.50	\$ 300.00
Perchlorate		1812	\$ 17.50	\$ 31,710.00
Phenols		208	\$ 70.00	\$ 14,560.00

Radium 226		1	\$ 115.00	\$ 115.00
Radium 228		1	\$ 160.00	\$ 160.00
Silica		12	\$ 5.00	\$ 60.00
Sulfate		94	\$ 6.00	\$ 564.00
THM		44	\$ 30.00	\$ 1,320.00
TOC		244	\$ 17.50	\$ 4,270.00
Total Alkalinity		192	\$ 5.00	\$ 960.00
Turbidity		52	\$ 4.00	\$ 208.00
Uranium		2	\$ 50.00	\$ 100.00
UV254		52	\$ 35.00	\$ 1,820.00

Total \$ 110,845.50

*Please note triennial analyses (due 2017 only) are included above.

LT2 Fees

Analyte	Laboratory Method	Approximate Annual Quantity	Unit Price	Total
Cryptosporidium		12	\$420.00	\$5,040.00
E. coli		12	\$8.00	\$96.00
Turbidity		12	\$3.00	\$36.00

LT2 Total **\$5,172.00**

Overall Total \$ 116,017.50

EXHIBIT "3"
TO
TASK ORDER NO. 1
SCHEDULE

Schedule to be determined by District Staff.

EXHIBIT B**KEY PERSONNEL**

1. Laboratory's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are:

Melinda Furnas, Principal
Bob Glaubig, Laboratory Director
Stu Styles, Client Services Manager

EXHIBIT C
INSURANCE

- A. **General Requirements.** Before commencing the performance of services under this Agreement, and at all other times this Agreement is effective, Laboratory must procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial General Liability:	\$1,000,000
Business Automobile Liability	\$1,000,000
Professional Liability	\$1,000,000
Workers Compensation	Statutory Requirement.

- B. **Commercial General Liability Insurance.** The amount of insurance set forth above must be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. The insurance must be on an "occurrence" not a "claims made" basis.
- C. **Business Automobile Insurance.** Automobile coverage must be written on forms subject to the written approval of District.
- D. **Professional Liability Insurance.** This coverage must be on an "occurrence" basis, including coverage for contractual liability. The Professional Liability Insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement.
- E. **Workers Compensation.** Laboratory must have a State of California approved policy form providing the statutory benefits required by law with employer's liability limits of no less than \$1,000,000 per accident for all covered losses, or Laboratory must provide evidence of an approved self-insurance program.
- F. **Additional Insureds.** Each Commercial General Liability Insurance policy and Business Auto Insurance policy must provide that the District, its officials, officers, employees, agents and volunteers are "additional insureds" under the terms of the policy, and must provide that an act or omission of one the insureds will not reduce or avoid coverage to the other insureds.
- G. **Deductibles and Self-Insured Retention.** Any deductibles or self-insured retentions applicable to the insurance policies required under this Agreement must be declared to and approved by District. In no event may any required insurance policy have a deductible, self-insured retention or other similar policy provision in excess of \$50,000 without prior written approval by District in its sole discretion. At the option of District, either the insurer will reduce or eliminate such deductibles

or self-insured retentions with respect to the District's additional insureds or Laboratory will procure a bond guaranteeing payment of any losses, damages, expenses, costs or settlements up to the amount of such deductibles or self-insured retentions.

- H. **Primary Insurance.** Each of the insurance policies maintained by Laboratory under this Agreement must state that such insurance will be deemed "primary" so that any insurance that may be carried by District will be deemed excess to that of Laboratory. This endorsement must be reflected on forms as determined by District.
- I. **Certificates of Insurance and Endorsements.** Prior to commencing any services under this Agreement, Laboratory must file with the District certificates of insurance and endorsements evidencing the existence of all insurance required by this Agreement, along with such other evidence of insurance or copies of policies as may reasonably be required by District. These certificates of insurance and endorsements must be in a form approved by the Legal Counsel. Laboratory must maintain current certificates and endorsements on file with District during the term of this Agreement reflecting the existence of all required insurance. Each of the certificates must expressly provide that no material change in the policy, or termination thereof, will be effective except upon 30 days prior written notice to District by certified mail, return receipt requested. The delivery to District of any certificates of insurance or endorsements that do not comply with the requirements of this Agreement will not waive the District's right to require compliance.
- J. **Insurance Rating.** All insurance required to be maintained by Laboratory under this Agreement must be issued by companies licensed by or admitted to conduct insurance business in the State of California by the California Department of Insurance and must have a rating of A or better and Class VII or better by the latest edition of A.M. Best's Key Rating Guide.
- K. **Aggregate Limits.** The aggregate limits for each insurance policy required under this Agreement must apply separately and solely to the services performed under this Agreement. If the required policies do not have an endorsement providing that the aggregate limit applies separately to the services being performed, or if defense costs are included in the aggregate limit, then the required aggregate limits must be increased to an amount satisfactory to District.
- L. **Waiver of Subrogation Rights.** Laboratory and each insurer providing any insurance required by this Agreement must waive all rights of subrogation against District, its officials, officers, employees, agents and volunteers, and each insurer must issue a certificate to the District evidencing this waiver of subrogation rights.
- M. **Failure to Maintain Required Insurance.** If Laboratory, for any reason, fails to obtain and maintain the insurance required by this Agreement, District may obtain such coverage at Laboratory's expense and deduct the cost of such insurance from payments due to Laboratory under this Agreement or may terminate the

Agreement.

- N. **Effect of Coverage.** The existence of the required insurance coverage under this Agreement shall not be deemed to satisfy or limit Laboratory's indemnity obligations under this Agreement. Laboratory acknowledges that the insurance coverage and policy limits set forth in this Agreement constitute the minimum coverage and policy limits required. Any insurance proceeds available to District in excess of the limits and coverage required by this Agreement, and which is applicable to a given loss, must be made available to District to compensate it for such losses.



**BOARD OF DIRECTORS
STAFF REPORT**

DATE: January 25, 2020
TO: Board of Directors
FROM: Clarence Mansell Jr., General Manager
SUBJECT: REVIEW AGREEMENT WITH BABCOCK LABORATORIES, INC. FOR UNREGULATED CONTAMINANT MONITORING

BACKGROUND:

The 1996 Safe Drinking Water Act amendment requires that once every five years EPA issue a new list of no more than 30 unregulated contaminants to be monitored by public water systems under the Unregulated Contaminant Monitoring Rule (“UCMR”). Prior UCMRs were issued in 1999, 2007 and 2012. Final regulations were published in the Federal Register on December 20, 2016 for the fourth round of monitoring – the UCMR4. This program will take place between 2018 and 2020 using analytical methods developed by EPA and consensus organizations. This monitoring provides a basis for future regulatory actions to protect public health. District staff will have the required UCMR4 monitoring completed in 2020.

DISCUSSION:

On October 13, 2017, a Request for Proposals (“RFP”) was issued and publicly advertised on PlanetBids. Four (4) firms – Babcock Laboratories, Inc. (“ESB”), BSK Associates (“BSK”), Eurofins Eaton Analytical, Inc. (“EEA”) and Weck Laboratories, Inc. (WLI) – submitted proposals.

The proposals were similar in qualifications and technical expertise. The costs are summarized below:

Babcock Laboratories, Inc.	BSK Associates	Eurofins Eaton Analytical	Weck Laboratories, Inc.
\$13,910.00	\$14,080.00	\$21,400.00	\$24,760.00

On November 8, 2017, the Board of Directors awarded a contract to Babcock Laboratories, Inc. for Unregulated Contaminant Monitoring. Attached as **Exhibit A** is the UCMR4 Testing Agreement.

FISCAL IMPACT:

This item was included in the Fiscal Year 2017/18 Operating Budget titled “Professional Services/Lab Tests” with a budget of \$35,600. This cost would be spread over Fiscal Year 2017/2018 through Fiscal Year 2019/2020.

STAFF RECOMMENDATION:

For information only.

Respectfully Submitted,



Clarence Mansell Jr, General Manager

CM:jc

ATTACHMENT(S):

1. Exhibit A - UCMR4 Testing Agreement

EXHIBIT A



West Valley Water District

AGREEMENT FOR PROFESSIONAL SERVICES

With

Babcock Laboratories, Inc

AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") effective as of this 9th day of November , 2017 ("Effective Date") is by and between West Valley Water District ("District") and Babcock Laboratories, Inc. ("Laboratory"). The District and Laboratory may be collectively referred to as the "Parties" and individually as a "Party."

RECITALS

A. The Parties desire to enter into this Agreement for the purpose of setting forth the terms and conditions upon which Laboratory shall provide certain services to District.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

Section 1. Term of Agreement.

(a) Subject to subsection (b) below, the term of this Agreement will be for the duration of the fourth Unregulated Contaminant Monitoring Rule (UCMR 4) requirement only.

Section 2. Scope and Performance of Services.

2.1 (a) District may, from time to time, by written instructions from the general manager or assistant general manager of the District ("Authorized Representative") issue task orders ("Task Orders") to the Laboratory. The Task Order shall be in such form and content as shall be set forth on Exhibit "A" attached hereto and by this reference incorporated herein. The Task Order shall set forth: (i) the scope of services to be performed by Laboratory; (ii) the compensation to be paid to Laboratory; and (iii) the time to complete the Task Order. The provisions of this Agreement shall apply to all such Task Orders.

(b) For each Task Order, Laboratory shall confer, as requested, with District representatives to review progress of work elements, adherence to work schedule, coordination of work, scheduling of review and resolution of problems which may develop.

2.2 Laboratory will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as otherwise expressly specified in this Agreement, necessary or proper to perform and complete the services required of Laboratory under this Agreement.

- 2.3 Laboratory's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are listed in Exhibit "B" attached hereto and by this reference incorporated herein ("Key Personnel").
- 2.4 Laboratory represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Notwithstanding Section 3 below, in the event Laboratory utilizes the services of subcontractors, Laboratory assumes sole and complete responsibility for the performance of the subcontractor to the specifications provided hereunder for Laboratory's work, and no adjustment will be made to Laboratory's requirements under this Agreement for timely completion of services, complete performance of services, or delivery of products or deliverables in a timely fashion, and no adjustment will be made to performance deadlines, or compensation due to Laboratory, due to or arising from issues Laboratory may have with any subcontractor. Laboratory will at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described in this Agreement. In meeting its obligations under this Agreement, Laboratory shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Laboratory under this Agreement.

Section 3. Additional Services and Changes in Services

- 3.1 Laboratory will not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in the Task Orders, unless such additional services are authorized in advance and in writing by District.
- 3.2 If Laboratory believes that additional services are needed to complete a Task Order, Laboratory will provide the Authorized Representative with written notification describing the proposed additional services, the reasons for such services, and a detailed proposal regarding cost.
- 3.3 District may order changes to a Task Order, consisting of additions, deletions, or other revisions, and the compensation to be paid Laboratory will be adjusted accordingly. All such changes must be authorized in writing, and executed by Laboratory and District. The cost or credit to District resulting from changes in a Task Order will be determined by the written agreement between the Parties.

Section 4. Familiarity with Services and Site.

- 4.1 By executing this Agreement, Laboratory warrants that Laboratory shall, prior to undertaking a Task Order:

- (a) investigate and consider the services to be performed;
- (b) carefully consider how and within what time frame the services should be performed;
- (c) understand the facilities, difficulties, and restrictions attending performance of the services under a Task Order; and
- (d) possesses all licenses required under local, state or federal law to perform the services contemplated by a Task Order, and maintain all required licenses during the performance of such Task Order.

4.2 If services involve work upon any site, Laboratory warrants that Laboratory has or will investigate the site and will be fully acquainted with the conditions there existing, before commencing its services under a Task Order. Should Laboratory discover any latent or unknown conditions that may materially affect the performance of services, Laboratory will immediately inform District of such fact and will not proceed except at Laboratory's own risk until written instructions are received from the District.

Section 5. Compensation and Payment.

- 5.1** Subject to any limitations set forth in this Agreement, District agrees to pay Laboratory the amounts shown in a Task Order.
- 5.2** Each month during the existence of a Task Order, Laboratory shall furnish District with an original invoice for all services performed and expenses incurred during the preceding month in accordance with the fee schedule set forth in the Task Order. The invoice must detail charges by the following categories: labor (by subcategory), reimbursable costs, subcontractor contracts and miscellaneous expenses. The invoice must list, as applicable, the hours worked and hourly rates for each personnel category, the tasks performed, the percentage of the task completed during the billing period, the cumulative percentage completed for each task, and the total cost of the services.
- 5.3** District will independently review each invoice submitted by Laboratory to determine whether the work performed and expenses incurred are in compliance with this Agreement. In the event that no charges or expenses are disputed, the invoice will be approved and paid. In the event any charges or expenses are disputed by District, the original invoice will be returned by District to Laboratory for correction and resubmission.
- 5.4** Except as to any charges for work performed or expenses incurred by Laboratory that are disputed by District, District will use its best efforts to cause Laboratory to be paid within thirty (30) days of receipt of Laboratory's invoice.

- 5.5 No payment or partial payment to Laboratory shall constitute acceptance of any work completed by Laboratory or waive any claims by the District for any reason whatsoever.

Section 6. Required Documentation Prior to Performance.

- 6.1 Laboratory will not perform any services under this Agreement until:
- (a) Laboratory furnishes proof of insurance ("Insurance") as required under Exhibit "C" attached hereto and by this reference incorporated herein; and
 - (b) Laboratory provides District with a Taxpayer Identification Number.
- 6.2 The District will have no obligation to pay for any services rendered by Laboratory in advance of receiving written authorization to proceed for each Task Order, and Laboratory acknowledges that any such services are at Laboratory's own risk.

Section 7. Project Documents.

- 7.1 All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer programs, files and other documents (collectively, "Project Documents") prepared, developed or discovered by Laboratory in the course of providing services under this Agreement will become the sole property of District and may be used, reused or otherwise disposed of by District without the permission of Laboratory. Laboratory will take such steps as are necessary to perfect or protect the ownership interest of District in such Project Documents. Upon completion, expiration or termination of this Agreement, Laboratory shall turn over to District all such original Project Documents in its possession; provided, however, that Laboratory may retain copies of Project Documents.
- 7.2 Except as necessary for the performance of services under this Agreement, no Project Documents prepared under this Agreement, will be released by Laboratory to any other person or entity without District's prior written approval. All press releases, including graphic display information to be published, must be approved and distributed solely by District, unless otherwise agreed to in writing by District.

Section 8. Laboratory's Books and Records.

- 8.1 Laboratory shall maintain any and all documents and records demonstrating or relating to Laboratory's performance of services under this Agreement. Laboratory shall maintain any and all ledgers, books of

account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to District under this Agreement. Any and all such documents or records must be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Laboratory under this Agreement. Any and all such documents or records must be maintained for three (3) years following the final payment for each Task Order.

- 8.2** Any and all records or documents required to be maintained by this section must be made available for inspection, audit and copying, at any time during regular business hours, upon written request by District or its designated representatives. Copies of such documents or records must be provided directly to District for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records must be made available at Laboratory's address indicated for receipt of notices in this Agreement.
- 8.3** Where District has reason to believe that any of the documents or records required to be maintained by this section may be lost or discarded due to dissolution or termination of Laboratory's business, District may, by written request, require that custody of such documents or records be given to a person or entity mutually agreed upon and that such documents and records thereafter be maintained by such person or entity at Laboratory's expense. Access to such documents and records shall be granted to District, as well as to its successors-in-interest and authorized representatives.

Section 9. Status of Laboratory.

- 9.1** Laboratory is and will at all times remain a wholly independent contractor and not an officer or employee of District. Laboratory has no authority to bind District in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against District, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by District.
- 9.2** The personnel performing the services under this Agreement on behalf of Laboratory will at all times be under Laboratory's exclusive direction and control. Neither District, nor any elected or appointed boards, officers, officials, employees or agents of District, will have control over the conduct of Laboratory or any of Laboratory's officers, subcontractors, employees or agents, except as provided in this Agreement. Laboratory warrants that it will not at any time or in any manner represent that Laboratory or any of Laboratory's officers, employees or agents are in any manner officials,

officers, employees or agents of District.

- 9.3 Neither Laboratory, nor any of Laboratory's officers, employees or agents, will obtain any rights to retirement, health care or any other benefits which may otherwise accrue to District's employees. Laboratory expressly waives any claim to any such rights or benefits.

Section 10. Compliance with Applicable Laws.

Laboratory shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement.

Section 11. Conflicts of Interest.

Laboratory covenants that neither Laboratory, nor any officer, principal nor employee of its firm, has or will acquire any interest, directly or indirectly, that would conflict in any manner with the interests of District or that would in any way hinder Laboratory's performance of services under this Agreement. Laboratory further covenants that neither Laboratory, nor any officer, principal or employee of its firm will make, participate in the making, or in any way attempt to use the position of Laboratory to influence any decision of the District in which Laboratory knows or has reason to know that Laboratory, or any officer, principal or employee of Laboratory has a financial interest as defined in Government Code section 87103.

Section 12. Confidential Information; Release of Information.

- 12.1 All information gained or work product produced by Laboratory in performance of this Agreement will be considered confidential to the full extent permitted by law, unless such information is in the public domain or already known to Laboratory. Laboratory shall not release or disclose any such information or work product to persons or entities other than District without prior written authorization from an Authorized Representative, except as may be required by law.
- 12.2 Laboratory, its officers, employees, or agents, shall not, without prior written authorization from an Authorized Representative or unless requested by the District counsel, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order will not be considered "voluntary" provided Laboratory gives District notice of such court order or subpoena.
- 12.3 If Laboratory, or any officer, employee, or agent of Laboratory, provides any information or work product (including Project Documents) in violation of this Agreement, then District shall have the right to reimbursement and indemnity from Laboratory for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Laboratory's conduct.

12.4 Laboratory shall promptly notify District should Laboratory, its officers, employees, or agents be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the services performed under this Agreement. District retains the right, but has no obligation, to represent Laboratory or be present at any deposition, hearing or similar proceeding. Laboratory agrees to cooperate fully with District and to provide District with the opportunity to review any response to discovery requests provided by Laboratory. However, this right to review any such response does not imply or mean the right by District to control, direct, or rewrite such response.

Section 13. Indemnification.

Laboratory covenants and agrees that, during the term of this Agreement, any injury suffered as a result of Laboratory's services shall be the sole responsibility of Laboratory and its successors and assigns and District shall not be liable to Laboratory, or any other person or persons whatsoever for any such injury, loss or damage to persons or property unless caused by the gross negligence or intentional acts of District or its Representatives (as defined below). Laboratory shall defend, indemnify and hold District, its officers, directors and Representatives ("District Indemnitees") harmless from and against any and all claims, costs, liabilities, debts, demands, suits, actions, causes of action, obligations, proceedings, damages, judgments, liens and expenses of whatever nature, including attorneys' fees and disbursements (collectively, "Claims") which may be made against the District Indemnitees arising out of or in connection with (a) the retention by District of Laboratory's services; (b) the performance of or failure to perform, the work covered by this Agreement which is caused or occasioned by any act, action, neglect on the part of Laboratory, or its Representatives, in the performance of this Agreement and the work to be done under this Agreement; (c) the death and/or injury to any person or damage to any property (real or personal) and/or economic loss which may be caused or is claimed to have been caused, by the negligence, act or omission of Laboratory or its Representatives or its or their property; (d) any violation or alleged violation by Laboratory of any law or regulation now or hereafter enacted; and (e) any breach by Laboratory of its obligations under this Agreement. The foregoing indemnity shall not apply to the extent any such Claims are ultimately established by a court of competent jurisdiction to have been caused by the gross negligence or willful misconduct of the District Indemnitees or any of them. District shall make all decisions with respect to its representation in any legal proceeding concerning this section. If Laboratory fails to do so, District shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental Claims of such defense, including attorneys' fees and costs, to Laboratory and to recover the same from Laboratory. The term "Representatives" shall mean employees, representatives, agents, contractors, subcontractors or any other persons directly or indirectly employed by any one of the foregoing or reasonably under the control of any of the foregoing or for whose acts any of the foregoing may be liable.

Section 14. Insurance.

Laboratory agrees to obtain and maintain in full force and effect during the term of this Agreement the Insurance coverages listed in Exhibit "C." All Insurance policies shall be subject to approval by District as to form and content. These requirements are subject to amendment or waiver if so approved in writing by an Authorized Representative.

Section 15. Assignment.

15.1 The expertise and experience of Laboratory are material considerations for this Agreement. District has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Laboratory under this Agreement. Laboratory may not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Laboratory's duties or obligations under this Agreement without the prior written consent of District. The District can withhold its approval/consent in its sole and absolute discretion. Any attempted assignment will be null and void, and will constitute a material breach of this Agreement entitling District to any and all remedies at law or in equity, including summary termination of this Agreement.

15.2 Laboratory must obtain District's prior written approval before utilizing any subcontractors to perform any services under this Agreement, which approval may be withheld in District's sole and absolute discretion. This written approval must include the identity of the subcontractor and the terms of compensation. Approval by District does not imply any agreement to or endorsement by the District as to the competency or capability of any proposed subcontractor, and District reserves any and all rights against both Laboratory and such subcontractor, for any failure to perform or other breach of any of the provisions of this Agreement, or the standards of performance defined herein, and no waiver is intended or to be implied by District's approval of any subcontractor.

Section 16. Termination of Agreement.

16.1 District may terminate this Agreement, with or without cause, at any time by written notice of termination to Laboratory. In the event such notice is given, Laboratory shall cease immediately all work in progress.

16.2 Upon termination of this Agreement, all property belonging exclusively to District which is in Laboratory's possession must be returned to District. Laboratory shall promptly deliver to District a final invoice for all outstanding services performed and expenses incurred by Laboratory as of the date of termination. Compensation for work in progress not based on an hourly

rate will be prorated based on the percentage of work completed as of the date of termination.

- 16.3** Laboratory acknowledges District's right to terminate this Agreement as provided in this section, and hereby waives any and all claims for damages that might otherwise arise from District's termination of this Agreement.

Section 17. Notices.

- 17.1** All written notices required or permitted to be given under this Agreement will be deemed made when received by the other Party at its respective address as follows:

To District: West Valley Water District
855 West Base Line Road
P. O. Box 920
Rialto, CA 92377
Attention: Matthew H. Litchfield, P.E., General Manager

(Tel.) 909-875-1804
(Fax) 909-875-1849

To Laboratory: Babcock Laboratories, Inc
6100 Quail Valley Ct
Riverside, CA 92507
Attn: Allison Mackenzie, Chief Executive Officer

(Tel.) 951-653-3351

- 17.2** Notice will be deemed effective on the date personally delivered or transmitted by facsimile. If the notice is mailed, notice will be deemed given three (3) days after deposit of the same in the custody of the United States Postal Service, postage prepaid, for first class delivery, or upon delivery if using a major courier service with tracking capabilities.
- 17.3** Any Party may change its notice information by giving notice to the other Party in compliance with this section.

Section 18. General Provisions.

- 18.1 Authority to Execute.** Each Party represents and warrants that all necessary action has been taken by such Party to authorize the undersigned to execute this Agreement and to bind it to the performance of

its obligations hereunder.

- 18.2 Binding Effect.** Subject to Section 15, this Agreement is binding upon the heirs, executors, administrators, successors and assigns of the Parties, including any subcontractors of Laboratory. .
- 18.3 Entire Agreement.** This Agreement, including the attached Exhibits "A" through "C," is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed in this Agreement and supersedes all other agreements or understandings, whether oral or written, between Laboratory and District prior to the execution of this Agreement.
- 18.4 Modification of Agreement.** No amendment to or modification of this Agreement will be valid unless made in writing and approved by Laboratory and by the Board of Directors of the District, or General Manager, if such power has been delegated to General Manager. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver will be void.
- 18.5 Facsimile Signatures.** Amendments to this Agreement will be considered executed when the signature of a Party is delivered by facsimile transmission. Such facsimile signature will have the same effect as an original signature.
- 18.6 Waiver.** Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement will not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement will not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by District of any services by Laboratory will not constitute a waiver of any of the provisions of this Agreement.
- 18.7 Interpretation.** This Agreement will be interpreted, construed and governed according to the laws of the State of California. Each Party has had the opportunity to review this Agreement with legal counsel. The Agreement will be construed simply, as a whole, and in accordance with its fair meaning, and without resort to rules regarding draftsmanship. It will not be interpreted strictly for or against either Party.
- 18.8 Severability.** If any provision of this Agreement shall be ruled invalid, illegal or unenforceable, the Parties shall: (a) promptly negotiate a substitute for the provisions which shall to the greatest extent legally permissible, effect the intent of the Parties in the invalid, illegal or unenforceable provision, and (b) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with subsection (a) above to give effect to the intent of the Parties without the invalid, illegal or unenforceable provision. To the extent

the Parties are unable to negotiate such changes, substitutions or additions as set forth in the preceding sentence, and the intent of the Parties with respect to the essential terms of the Agreement may be carried out without the invalid, illegal or unenforceable provisions, the balance of this Agreement shall not be affected, and this Agreement shall be construed and enforced as if the invalid, illegal or unenforceable provisions did not exist.

- 18.9 Venue.** The Parties agree any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the federal court located in Riverside County, California or state court located in San Bernardino County, California and the Parties hereto consent to the exercise of personal jurisdiction over them by such courts for purposes of any such action or proceeding.
- 18.10 Disputes.** If any disputes should arise between the Parties concerning the work to be done under this Agreement, the payments to be made, or the manner of accomplishment of the work, Laboratory shall nevertheless proceed to perform the work as directed by District pending settlement of the dispute.
- 18.11 Cooperation.** Laboratory shall cooperate in the performance of work with District and all other agents.
- 18.12 Time of Essence.** Time shall be of the essence as to all dates and times of performance contained in this Agreement.
- 18.13 Counterparts.** This Agreement may be signed and delivered in any number of counter parts, each of which, when signed and delivered, shall be an original, but all of which shall together constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the day and year first above written.

DISTRICT:

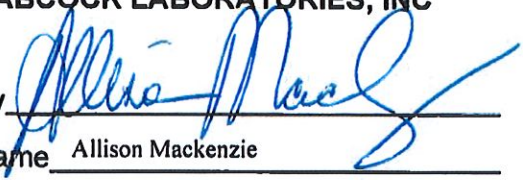
**WEST VALLEY WATER DISTRICT,
a public agency of the State of California**

By _____


Matthew H. Litchfield, P.E., General Manager

LABORATORY:

BABCOCK LABORATORIES, INC

By 

Name Allison Mackenzie

Its Chief Executive Officer

EXHIBIT A
TASK ORDER

TASK ORDER NO. 1**Laboratory Services**

This Task Order ("Task Order") is executed this 9th day of November, 2017 by and between West Valley Water District, a public agency of the State of California ("District") and Babcock Laboratories, Inc , a California Corporation ("Laboratory").

RECITALS

- A. On or about November 9th, 2017 District and Laboratory executed that certain Agreement for Professional Services ("Agreement").
- B. The Agreement provides that the District will issue Task Orders from time to time, for the provision of certain services by Laboratory.
- C. Pursuant to the Agreement, District and Laboratory desire to enter into this Task Order for the purpose of setting forth the terms and conditions upon which Laboratory shall render certain services to the District.

NOW, THEREFORE, THE PARTIES HERETO HEREBY AGREE AS FOLLOWS:

1. Laboratory agrees to perform the services set forth on Exhibit "1" attached hereto and by this reference incorporated herein.
2. Subject to any limitations in the Agreement, District shall pay to Laboratory the amounts specified in Exhibit "2" attached hereto and by this reference incorporated herein. The total compensation, including reimbursement for actual expenses, may not exceed the amount set forth in Exhibit "2," unless additional compensation is approved in writing by the District.
3. Laboratory shall perform the services described in Exhibit "1" in accordance with the schedule set forth in Exhibit "3" attached hereto and by this reference incorporated herein. Laboratory shall commence work immediately upon receipt of a notice to proceed from the District. District will have no obligation to pay for any services rendered by Laboratory in advance of receipt of the notice to proceed, and Laboratory acknowledges that any such services are at Laboratory's own risk.
4. The provisions of the Agreement shall apply to this Task Order. As such, the terms and conditions of the Agreement are hereby incorporated herein by this reference. IN WITNESS WHEREOF, the parties have caused this Task Order to be executed effective as of the day and year first above written.

DISTRICT:

**WEST VALLEY WATER DISTRICT,
a public agency of the State of California**



Matthew H. Litchfield , P.E., General Manager

LABORATORY:

BABCOCK LABORATORIES, INC

By  _____

Name Allison Mackenzie _____

Its Chief Executive Officer _____

By  _____

Name Brad Meadows _____

Its Vice President & Laboratory Director _____

EXHIBIT "1"
TO
TASK ORDER NO. 1
SCOPE OF SERVICES

Babcock Labs is qualified to perform the analysis, quality control, reporting, and electronic data deliverables (both to CDX and WaterTrax) for UCMR 4, and is well-equipped to provide responsive turn-around time and excellent customer service.

In addition to USEPA UCMR4 approval, Babcock Labs is accredited by CA ELAP under the State Water Resources Control Board and maintains NELAP accreditation through ORELAP.

Amendments to the SDWA require that every five years, following the issuance of a new list of unregulated contaminants, public water systems (PWSs) throughout the country conduct monitoring under the UCMR. Babcock Laboratories, Inc. assists PWSs with their efforts to monitor and report the 30 unregulated contaminants for each iteration of the UCMR. Babcock Laboratories, Inc. proposes to provide West Valley Water District with analytical services for the duration of the UCMR 4 monitoring period as the District provides data in support of the UCMR program.

The proposed UCMR 4 services to the District will conform to a series of processes and steps summarized below. The following outline is intended to provide a general overview. Many processes include a number of activities and steps not listed. Further detail may be found in the Babcock UCMR 4 Quality Assurance Plan.

Coordination and Communication between the Designated UCMR 4 District Project Manager (DPM) and the Babcock Labs UCMR 4 Project Manager (BPM)

The UCMR 4 BMP will oversee and have final responsibility for the following key steps:

- Project Kick-off Meeting (in-person or via conference call, depending on the DPM preference) with the BPM to confirm the District project requirements, expectations, and anticipated schedule.
- Preparation of all UCMR4 supplies required for sampling, including pre-printed sample labels and sampling instructions with detailed pre-preserved bottle guidance, under supervision of the Director of Customer Service.

- Coordination of UCMR4 delivery and pick-up at the District designated location under supervision of the Customer & Field Services Manager.
- Sample receipt verification and entry into the laboratory database (LIMS) per UCMR4 compliant requirements under supervision of the Customer & Field Services Manager
- Monitoring of sample progress during the analytical phase to ensure client turn-around times and regulatory holding times are observed.

Laboratory Director Oversight

The Laboratory Director will oversee, coordinate, and have final responsibility for the following key steps:

- Analysis of samples for the UCMR4 constituent lists via EPA approved methods conducted by qualified laboratory chemists and within regulatory holding times. Supervision will be provided by the Laboratory Department Managers.
- Review of laboratory data, including all quality control data, and entry into the LIMS. Supervision will be provided by the Laboratory Department Managers and the Quality Assurance Manager.

Communication and Coordination of UCMR 4 Reporting and Electronic Data Deliverables under Direct Oversight and Supervision of the BPM

- Final review and approval of data for District access via Babcock web portal. Standard UCMR 4 turn-around time will be 15 business days.
- Hardcopy report and invoice generation for submission to the District. Supervision provided by BPM.
- Data entry into the USEPA Central Data Exchange (CDX) and final approval by the DPM.

QUALITY ASSURANCE / QUALITY CONTROL

Babcock Laboratories' Quality Assurance Program (QAP) is modeled on the EPA requirements for UCMR, the EPA Lab Certification Manual for Drinking Water Laboratories and the lab standards of The NELAC Institute.

The program traces the path of samples throughout the lab and the workflow and responsibilities generated at each step from initial sample collection/pickup through final reporting, documentation, and record keeping. The policies and procedures established reflect our commitment to generate accurate, scientifically valid and legally defensible compliance data. Each employee in our organization is familiar with and responsible for implementation of the quality control policies of the laboratory. Management enforces

quality practices throughout all areas of the company and across all staff through training, Standard Operating Procedures, method and system audits, and root-cause analysis.

EXHIBIT "2"
TO
TASK ORDER NO. 1
COMPENSATION

Appendix B: "Attachment C"
West Valley Water District UCMR4 RFB
Fee Proposal

Analysis Fees

Schedule	Category	Analyte	Method	Analysis Price	Reextract/Resample Price *	Number of Samples	Total Cost
AM1	Metals	Germanium	EPA 200.8	\$ 25.00	No Charge	14	\$ 350.00
		Manganese	EPA 200.8	\$ 25.00	No Charge	14	\$ 350.00
	Pesticides and Pesticide Manufacturing Byproducts	Various	EPA 525.3	\$ 175.00	No Charge	14	\$ 2,450.00
	Alcohols	Various	EPA 541	\$ 170.00	No Charge	14	\$ 2,380.00
	Semivolatile Chemicals	Various	EPA 530	\$ 170.00	No Charge	14	\$ 2,380.00
AM2	Indicators for HAA Monitoring	HAA9	EPA 552.3	\$ 80.00	No Charge	24	\$ 1,920.00
		Bromide	EPA 300.1	\$ 30.00	No Charge	8	\$ 240.00
		TOC	SM 5310 C	\$ 30.00	No Charge	8	\$ 240.00
AM3	Cyanotoxins	Various	EPA 544	\$ 150.00	No Charge	8	\$ 1,200.00
		Various	EPA 545	\$ 200.00	No Charge	8	\$ 1,600.00
		Various	EPA 546	\$ 100.00	No Charge	8	\$ 800.00

Analysis Subtotal \$ 13,910.00

Other Fees as Applicable

	Quantity	Price	Total Cost
Sample Kits (cooler, pre-labeled bottles, chain of custody forms)	26	\$ -	\$ -
Sample Kit Delivery/Pick-Up Fee (Indicate which days and times pick ups would occur)	12	\$ -	\$ -
List any other applicable fees here as necessary for project completion			\$ -
			\$ -
			\$ -
			\$ -

Charge for Sample Kits is Included in price given above
Pre-scheduled pick-up or delivery is included in prices given/ Days and schedule=TBD

* Samples requiring reextraction or re-analysis may be subject to additional charges if the request is made by the District and the reason for the request is not because of failed quality control or other reason under the direct control of the laboratory. The limit for such a request would be 50% of the cost per test for reanalysis and the cost of analysis for a resample.

Other Fees Subtotal \$ -

Total Cost of UCMR4 \$ 13,910.00

EXHIBIT "3"
TO
TASK ORDER NO. 1
SCHEDULE

Monitoring Requirement: AM1

Facility ID: 91805 Facility Name: Roemer WTP Facility Type: TP Water Type: SW

Sample Point ID	Sample Point Name	Sample Point Type	SEA1	SEA2	SEA3	SEA4
3610004036	EP #36 - 5-3 Reservoir	EP	Jan 2018	Apr 2018	Jul 2018	Oct 2018

Facility ID: 91806 Facility Name: Well 4A Facility Type: TP Water Type: GW

Sample Point ID	Sample Point Name	Sample Point Type	SEA1	SEA2	SEA3	SEA4
3610004043	EP #43 - Lytle Basin Well 4A	EP	Jan 2018	Jul 2018		

Facility ID: 91809 Facility Name: Well 30 Facility Type: TP Water Type: GW

Sample Point ID	Sample Point Name	Sample Point Type	SEA1	SEA2	SEA3	SEA4
3610004024	EP #24 - 3A PS Bunker Hill Basin	EP	Jan 2018	Jul 2018		

Facility ID: 91812 Facility Name: Basline Feeder Facility Type: OT Water Type: GW

<i>Sample Point ID</i>	<i>Sample Point Name</i>	<i>Sample Point Type</i>	<i>SEA1</i>	<i>SEA2</i>	<i>SEA3</i>	<i>SEA4</i>
3610004812	9th Street Sample Station 48" Line	EP	Jan 2018	Jul 2018		

Facility ID: 91823 Facility Name: Well 17 Facility Type: TP Water Type: GW

<i>Sample Point ID</i>	<i>Sample Point Name</i>	<i>Sample Point Type</i>	<i>SEA1</i>	<i>SEA2</i>	<i>SEA3</i>	<i>SEA4</i>
3610004012	Effluent Tap on Perchlorate System	EP	Jan 2018	Jul 2018		

Facility ID: 91824 Facility Name: Well 42 Facility Type: TP Water Type: GW

<i>Sample Point ID</i>	<i>Sample Point Name</i>	<i>Sample Point Type</i>	<i>SEA1</i>	<i>SEA2</i>	<i>SEA3</i>	<i>SEA4</i>
3610004032	Effluent Sample Tap on Perchlorate System	EP	Jan 2018	Jul 2018		

Monitoring Requirement: AM2

Facility ID: 91813 Facility Name: 213 E. Walnut Facility Type: DS Water Type: GW

Sample Point ID	Sample Point Name	Sample Point Type	SEH1	SEH2	SEH3	SEH4
3610004601	213 E. Walnut	DS	Jan 2018	Jul 2018		

Facility ID: 91814 Facility Name: 3750 Lytle Creek Road Facility Type: DS Water Type: MX

Sample Point ID	Sample Point Name	Sample Point Type	SEH1	SEH2	SEH3	SEH4
3610004602	3750 Lytle Creek Road	DS	Jan 2018	Apr 2018	Jul 2018	Oct 2018

Facility ID: 91815 Facility Name: 15182 Crane Facility Type: DS Water Type: GW

Sample Point ID	Sample Point Name	Sample Point Type	SEH1	SEH2	SEH3	SEH4
3610004603	15182 Crane	DS	Jan 2018	Jul 2018		

Facility ID: 91816 Facility Name: White Ash Road Facility Type: DS Water Type: MX

Sample Point ID	Sample Point Name	Sample Point Type	SEH1	SEH2	SEH3	SEH4
3610004604	White Ash Road	DS	Jan 2018	Apr 2018	Jul 2018	Oct 2018

Facility ID: 91817 Facility Name: Reservoir 6-3 Discharge Line Facility Type: DS Water Type: MX

Sample Point ID	Sample Point Name	Sample Point Type	SEH1	SEH2	SEH3	SEH4
3610004605	Reservoir 6-3 Discharge Line	DS	Jan 2018	Apr 2018	Jul 2018	Oct 2018

Facility ID: 91818 Facility Name: 18433 Bohnert Facility Type: DS Water Type: MX

Sample Point ID	Sample Point Name	Sample Point Type	SEH1	SEH2	SEH3	SEH4
3610004606	18433 Bohnert	DS	Jan 2018	Apr 2018	Jul 2018	Oct 2018

Facility ID: 91819 Facility Name: Via Montana and Via Bonita Facility Type: DS Water Type: GW

Sample Point ID	Sample Point Name	Sample Point Type	SEH1	SEH2	SEH3	SEH4
3610004607	Via Montana and Via Bonita	DS	Jan 2018	Jul 2018		

Facility ID: 91820 Facility Name: Hall and Kinningham Facility Type: DS Water Type: GW

Sample Point ID	Sample Point Name	Sample Point Type	SEH1	SEH2	SEH3	SEH4
3610004608	Hall and Kinningham	DS	Jan 2018	Jul 2018		

Facility ID: 91821 Facility Name: Oliver P. Roemer Facility Type: IN Water Type: SW

Sample Point ID	Sample Point Name	Sample Point Type	SEH1	SEH2	SEH3	SEH4
3610004051	State Project Water	SR	Jan 2018	Apr 2018	Jul 2018	Oct 2018

Facility ID: 91822 Facility Name: Oliver P. Roemer Facility Type: IN Water Type: SW

Sample Point ID	Sample Point Name	Sample Point Type	SEH1	SEH2	SEH3	SEH4
3610004052	Lytle Creek	SR	Jan 2018	Apr 2018	Jul 2018	Oct 2018

Monitoring Requirement: AM3

Facility ID: 91805 Facility Name: Roemer WTP Facility Type: TP Water Type: SW

<i>Sample Point ID</i>	<i>Sample Point Name</i>	<i>Sample Point Type</i>	<i>SEC1</i>	<i>SEC2</i>	<i>SEC3</i>	<i>SEC4</i>	<i>SEC5</i>	<i>SEC6</i>	<i>SEC7</i>	<i>SEC8</i>
3610004036	EP #36 - 5-3 Reservoir	EP	Apr 2018, wk 1	Apr 2018, wk 3	May 2018, wk 1	May 2018, wk 3	Jun 2018, wk 1	Jun 2018, wk 3	Jul 2018, wk 1	Jul 2018, wk 3

EXHIBIT B**KEY PERSONNEL**

Laboratory's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are:

CEO: Allison Mackenzie

Laboratory Director: Brad Meadows

CFO: Tiffany Gomez

UCMR Project Director & UCMR 4 Project Manager: Susann Thomas

Director of Client Services: Cathleen Iijima

Quality Assurance Manager: Stacey Fry

Customer Service & Field Department Manager: Caroline Sangari

Laboratory Managers: Julie Sudds and Valerie Sierzchula

Field Operations Supervisor: Omar Sosa

Chemists: David Schiessel and Megan Langdon

EXHIBIT C
INSURANCE

- A. **General Requirements.** Before commencing the performance of services under this Agreement, and at all other times this Agreement is effective, Laboratory must procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial General Liability:	\$1,000,000
Business Automobile Liability	\$1,000,000
Professional Liability	\$1,000,000
Workers Compensation	Statutory Requirement.

- B. **Commercial General Liability Insurance.** The amount of insurance set forth above must be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. The insurance must be on an "occurrence" not a "claims made" basis.
- C. **Business Automobile Insurance.** Automobile coverage must be written on forms subject to the written approval of District.
- D. **Professional Liability Insurance.** The Professional Liability Insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement.
- E. **Workers Compensation.** Laboratory must have a State of California approved policy form providing the statutory benefits required by law with employer's liability limits of no less than \$1,000,000 per accident for all covered losses, or Laboratory must provide evidence of an approved self-insurance program.
- F. **Additional Insureds.** Each Commercial General Liability Insurance policy and Business Auto Insurance policy must provide that the District, its officials, officers, employees, agents and volunteers are "additional insureds" under the terms of the policy, and must provide that an act or omission of one the insureds will not reduce or avoid coverage to the other insureds.
- G. **Deductibles and Self-Insured Retention.** Any deductibles or self-insured retentions applicable to the insurance policies required under this Agreement must be declared to and approved by District. In no event may any required insurance policy have a deductible, self-insured retention or other similar policy provision in excess of \$100,000 without prior written approval by District in its sole discretion. At the option of District, either the insurer will reduce or eliminate such deductibles

or self-insured retentions with respect to the District's additional insureds or Laboratory will procure a bond guaranteeing payment of any losses, damages, expenses, costs or settlements up to the amount of such deductibles or self-insured retentions.

- H. **Primary Insurance.** Each of the insurance policies maintained by Laboratory under this Agreement must state that such insurance will be deemed "primary" so that any insurance that may be carried by District will be deemed excess to that of Laboratory. This endorsement must be reflected on forms as determined by District.
- I. **Certificates of Insurance and Endorsements.** Prior to commencing any services under this Agreement, Laboratory must file with the District certificates of insurance and endorsements evidencing the existence of all insurance required by this Agreement, along with such other evidence of insurance or copies of policies as may reasonably be required by District. These certificates of insurance and endorsements must be in a form approved by the Legal Counsel. Laboratory must maintain current certificates and endorsements on file with District during the term of this Agreement reflecting the existence of all required insurance. Each of the certificates must expressly provide that no material change in the policy, or termination thereof, will be effective except upon 30 days prior written notice to District by certified mail, return receipt requested. The delivery to District of any certificates of insurance or endorsements that do not comply with the requirements of this Agreement will not waive the District's right to require compliance.
- J. **Insurance Rating.** All insurance required to be maintained by Laboratory under this Agreement must be issued by companies licensed by or admitted to conduct insurance business in the State of California by the California Department of Insurance and must have a rating of A or better and Class VII or better by the latest edition of A.M. Best's Key Rating Guide.
- K. **Aggregate Limits.** The aggregate limits for each insurance policy required under this Agreement must apply separately and solely to the services performed under this Agreement. If the required policies do not have an endorsement providing that the aggregate limit applies separately to the services being performed, or if defense costs are included in the aggregate limit, then the required aggregate limits must be increased to an amount satisfactory to District.
- L. **Waiver of Subrogation Rights.** Laboratory and each insurer providing any insurance required by this Agreement must waive all rights of subrogation against District, its officials, officers, employees, agents and volunteers, and each insurer must issue a certificate to the District evidencing this waiver of subrogation rights.
- M. **Failure to Maintain Required Insurance.** If Laboratory, for any reason, fails to obtain and maintain the insurance required by this Agreement, District may obtain such coverage at Laboratory's expense and deduct the cost of such insurance from payments due to Laboratory under this Agreement or may terminate the

Agreement.

- N. **Effect of Coverage.** The existence of the required insurance coverage under this Agreement shall not be deemed to satisfy or limit Laboratory's indemnity obligations under this Agreement. Laboratory acknowledges that the insurance coverage and policy limits set forth in this Agreement constitute the minimum coverage and policy limits required. Any insurance proceeds available to District in excess of the limits and coverage required by this Agreement, and which is applicable to a given loss, must be made available to District to compensate it for such losses.



**BOARD OF DIRECTORS
STAFF REPORT**

DATE: January 25, 2020
TO: Board of Directors
FROM: Clarence Mansell Jr., General Manager
SUBJECT: REVIEW OF PROFESSIONAL SERVICES AGREEMENT WITH TYLER TECHNOLOGIES TO IMPLEMENT AN ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM - INCODE 10

BACKGROUND:

West Valley Water District (the “District”) uses Enterprise Resource Planning (ERP) software to integrate many of its core business processes and functions into one system. Key examples include the District’s accounting and financial reporting functions, payroll, purchasing, and utility billing. In 2005, the District implemented a system called Sungard Naviline (a.k.a. HTE). Although it was implemented only 15 years ago, it was originally developed about 30 years ago. The system is outdated and has limitations that no longer meet the District’s needs.

The District developed and issued a Request for Proposals (RFP) to implement a new ERP and received 3 proposals. Staff evaluated the proposals and the top 2 proposers were invited for onsite demonstrations. Accela was invited to demonstrate their Springbook system, and Tyler Technologies, (“Tyler”) was invited to demonstrate their Incode 10 (“Incode”) system. Staff from many different departments, and Director Dr. Taylor as the Chair of the Safety and Technology Committee, attended the software demonstrations and provided feedback.

Many aspects of each system were evaluated and a consensus was reached that Incode 10 would best meet the District’s needs. At its September 6, 2018 meeting, the Board of Directors approved an agreement with Tyler to implement Incode, (**Attachment A**). The Capital Budget included total funding of \$390,000 for the entire project to upgrade the District’s enterprise system. The original contract with Tyler was for \$310,948. The total amount is comprised of the following:

Licensing	138,856
Implementation	104,300
Data conversion	19,250
Annual maintenance	<u>48,542</u>
	<u>310,948</u>

The remaining funding of approximately \$81,000 was intended to cover other costs such as a new VMware host, (a new server), potential travel expenses for the Tyler consultants, and potential ancillary programming and implementation costs.

At its March 7, 2019 meeting, the Board of Directors approved a project to implement a Computerized Maintenance Management System, (“CMMS”), using Maximo software. Following the approval of Maximo, staff began the process of evaluating how Incode and Maximo might be integrated. The decision was eventually made to eliminate the Inventory Module and the Work Orders Module from Incode and to manage those processes in Maximo. In addition, the decision was made to integrate the Purchasing Module in Incode with Maximo. The removal of the two modules resulted in a decrease of \$45,610, (**Attachment B**). At its August 4, 2019 meeting, the Board of Directors approved an increase of \$46,119 for the cost of the custom programming necessary to integrate the Purchasing Module with Maximo, (**Attachment C**). The net increase was \$509. An updated overview of the contract amounts is provided below:

	Original	Inv & W/O Modules	API - Maximo	Net
Licensing	138,856	(22,991)		115,865
Implementation	104,300	(16,500)		87,800
Data conversion	19,250			19,250
Annual maintenance	48,542	(6,119)	6,119	48,542
Custom programming			40,000	40,000
	310,948	(45,610)	46,119	311,457

DISCUSSION:

The implementation can be divided into three primary components which directly involve the provision of professional services from Tyler staff:

1. The Financial Management Suite, which includes modules associated with general ledger and financial reporting, project accounting, fixed assets, payroll, and personnel management.
 - The implementation of the Financial Management Suite is complete. The official Go Live date for those modules was October 1, 2019.
2. The Customer Relationship Management Suite, which includes modules associated with utility billing, service orders, and cashiering.
 - The implementation of the Customer Relationship Management Suite is still in progress. Data conversion and system configuration activities are being performed by both Tyler staff, (remotely), and District staff. A Tyler consultant is scheduled to be onsite from February 10 – 13 to complete the second round of onsite training. Two Tyler consultants are scheduled to be onsite from March 16 -19, which is Go Live Week 1. For Go Live Week 2, March 23 – 26, a single consultant will be onsite.
3. The custom programming required to integrate the Purchasing Module with Maximo.
 - This is currently on hold, pending further direction from the Board.

The following table provides a summary of the contract amounts for Tyler:

	Original	Inv & W/O Modules	API - Maximo	Net	Paid to Date	Balance
Licensing	138,856	(22,991)		115,865	(114,565)	1,300
Implementation	104,300	(16,500)		87,800	(68,648)	19,152
Data conversion	19,250			19,250	(7,125)	12,125
Annual maintenance	48,542	(6,119)	6,119	48,542	(3,625)	44,917
Custom programming			40,000	40,000	0	40,000
	310,948	(45,610)	46,119	311,457	(193,963)	117,494

FISCAL IMPACT:

The Capital Budget includes a total of \$390,000 for the project to upgrade the District's enterprise system. Of that total, approximately \$312,000 is specific to the Professional Services Agreement with Tyler. At this time, staff does not anticipate requesting any budget modifications to the contract with Tyler.

STAFF RECOMMENDATION:

Staff recommends that the Board of Directors receive and file this report, and provide direction if desired.

Respectfully Submitted,



Clarence Mansell Jr, General Manager

CM:js

ATTACHMENT(S):

1. Attachment A - Board Approved Staff Report and Original Contract
2. Attachment B - Amendment to Remove Inventory and Work Orders Modules
3. Attachment C - Board Approved Staff Report and Amendment for Maximo Integration

Attachment A



**BOARD OF DIRECTORS
STAFF REPORT**

DATE: September 6, 2018
TO: Board of Directors
FROM: Clarence Mansell Jr., Interim General Manager
SUBJECT: APPROVAL OF AN AGREEMENT WITH TYLER TECHNOLOGIES FOR THE IMPLEMENTATION OF A NEW ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM

BACKGROUND:

West Valley Water District (the “District”) uses Enterprise Resource Planning (ERP) software to integrate many of its core business processes and functions into one system. Key examples include the District’s accounting and financial reporting functions as well as utility billing. Although the system was only implemented about 15 years ago, it was originally developed about 30 years ago. The system is outdated and has limitations that no longer meet the District’s needs.

The District issued a Request for Proposals (RFP) to implement a new ERP and received 3 proposals. The top 2 proposers were invited for onsite demonstrations. Accela was invited to demonstrate their Springbook system, and Tyler Technologies was invited to demonstrate their Incode 10 system.

DISCUSSION:

Staff from many different departments attended the software demonstrations and provided feedback. There was a general consensus that both systems would better meet the District’s needs compared to the current system. However, there was a clear preference for Tyler’s Incode 10. This end user preference is in alignment with the conclusion reached separately by the I.T. staff.

The I.T. staff evaluated each system’s potential for increasing efficiency by reducing or eliminating the paper based processes that are currently in place. While both systems have potential for achieving that objective, Accela’s Springbrook system has only the basic capability of attaching electronic files. It does not offer the indexing and searching capability of a Document Management System. Tyler’s Incode 10 does offer that capability.

The I.T. staff also considered the merits of implementing a hosted system, (cloud based), versus an on premise system. While there are pros and cons to each, staff determined that an on premise solution would best meet the District’s needs. Accela’s Springbrook is offered only as a hosted system. Tyler’s Incode 10 is available as a hosted system or as an on premise system. Tyler also offers Disaster Recovery Services, which would back up the on premise system and make it available as a hosted system in the event of a disaster at the District’s headquarters.

During the demonstration, staff identified needs that resulted in the addition of several modules and services that were not included in the original proposal. Tyler submitted an updated quote, as well as a License and Services Agreement for review. Both Staff and Legal Counsel reviewed the agreement and made revisions where appropriate. The final version is attached as **Exhibit A**.

FISCAL IMPACT:

The FY 2019 Capital Budget includes \$390,000 for this project, which should be sufficient.

STAFF RECOMMENDATION:

Approve the License and Services Agreement with Tyler Technologies for the implementation of a new ERP.

Respectfully Submitted,



Clarence Mansell Jr., Interim General Manager

CM:js

ATTACHMENT(S):

1. Exhibit A - Tyler Technologies Agreement

EXHIBIT A



LICENSE AND SERVICES AGREEMENT

This License and Services Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to license the software products and perform the services set forth in the Investment Summary and Tyler desires to perform such actions under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- **“Agreement”** means this License and Services Agreement.
- **“Business Travel Policy”** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **“Client”** means West Valley Water District.
- **“Defect”** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **“Developer”** means a third party who owns the intellectual property rights to Third Party Software.
- **“Documentation”** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **“Effective Date”** means the date on which your authorized representative signs the Agreement.
- **“Force Majeure”** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **“Investment Summary”** means the agreed upon cost proposal for the software, products, and services attached as Exhibit A.
- **“Invoicing and Payment Policy”** means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- **“Maintenance and Support Agreement”** means the terms and conditions governing the provision of maintenance and support services to all of our customers. A copy of our current Maintenance and Support Agreement is attached as Exhibit C.
- **“Statement of Work”** means the industry standard implementation plan describing how our professional services will be provided to implement the Tyler Software, and outlining your and our roles and responsibilities in connection with that implementation. The Statement of Work is attached as Exhibit F.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.



- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Software, as applicable.
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party Software”** means the third party software, if any, identified in the Investment Summary.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

SECTION B – SOFTWARE LICENSE

1. License Grant and Restrictions.

- 1.1 We grant to you a license to use the Tyler Software for your internal business purposes only, in the scope of the internal business purposes disclosed to us as of the Effective Date. You may make copies of the Tyler Software for backup and testing purposes, so long as such copies are not used in production and the testing is for internal use only. Your rights to use the Tyler Software are perpetual but may be revoked if you do not comply with the terms of this Agreement.
- 1.2 Without limiting the terms of Section 1.1, you understand and agree that the Tyler Notify modules set forth in the Investment Summary are licensed to you on a subscription basis. If you do not pay the required annual fee in accordance with the Invoicing and Payment Policy, your license to use the associated module will be suspended unless and until payment in full has been made.
- 1.3 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
- 1.4 You may not: (a) transfer or assign the Tyler Software to a third party; (b) reverse engineer, decompile, or disassemble the Tyler Software; (c) rent, lease, lend, or provide commercial hosting services with the Tyler Software; or (d) publish or otherwise disclose the Tyler Software or Documentation to third parties.
- 1.5 The license terms in this Agreement apply to updates and enhancements we may provide to you or make available to you through your Maintenance and Support Agreement.
- 1.6 The right to transfer the Tyler Software to a replacement hardware system is included in your license. You will give us advance written notice of any such transfer and will pay us for any required or requested technical assistance from us associated with such transfer.
- 1.7 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will

comply with applicable notice requirements.

1.8 We reserve all rights not expressly granted to you in this Agreement. The Tyler Software and Documentation are protected by copyright and other intellectual property laws and treaties. We own the title, copyright, and other intellectual property rights in the Tyler Software and the Documentation. **The Tyler Software is licensed, not sold.**

2. License Fees. You agree to pay us the license fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
3. Escrow. We maintain an escrow agreement with a third party under which we place the source code for each major release of the Tyler Software. You may be added as a beneficiary to the escrow agreement by completing a standard beneficiary enrollment form and paying the annual beneficiary fee set forth in the Investment Summary. You will be responsible for maintaining your ongoing status as a beneficiary, including payment of the then-current annual beneficiary fees. Release of source code for the Tyler Software is strictly governed by the terms of the escrow agreement.
4. Limited Warranty. We warrant that the Tyler Software will be without Defect(s) as long as you have a Maintenance and Support Agreement in effect. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect as set forth in the Maintenance and Support Agreement.

SECTION C – PROFESSIONAL SERVICES

1. Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in the Statement of Work.
2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.
3. Additional Services. The Investment Summary contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Cancellation. We make all reasonable efforts to schedule our personnel for travel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.

5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us. You further agree to provide a reasonably suitable environment, location, and space for the installation of the Tyler Software and any Third Party Products, including, without limitation, sufficient electrical circuits, cables, and other reasonably necessary items required for the installation and operation of the Tyler Software and any Third Party Products.
7. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).

SECTION D – MAINTENANCE AND SUPPORT

This Agreement includes the period of free maintenance and support services identified in the Invoicing and Payment Policy. If you have purchased ongoing maintenance and support services, and continue to make timely payments for them according to our Invoicing and Payment Policy, we will provide you with maintenance and support services for the Tyler Software under the terms of our standard Maintenance and Support Agreement.

If you have opted not to purchase ongoing maintenance and support services for the Tyler Software, the Maintenance and Support Agreement does not apply to you. Instead, you will only receive ongoing maintenance and support on the Tyler Software on a time and materials basis. In addition, you will:

- (i) receive the lowest priority under our Support Call Process;
- (ii) be required to purchase new releases of the Tyler Software, including fixes, enhancements and patches;
- (iii) be charged our then-current rates for support services, or such other rates that we may consider necessary to account for your lack of ongoing training on the Tyler Software;
- (iv) be charged for a minimum of two (2) hours of support services for every support call; and
- (v) not be granted access to the support website for the Tyler Software or the Tyler Community Forum.

SECTION E – THIRD PARTY PRODUCTS

To the extent there are any Third Party Products set forth in the Investment Summary, the following terms and conditions will apply:

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
2. Third Party Software. Upon payment in full of the Third Party Software license fees, you will receive a non-transferable license to use the Third Party Software and related documentation for your internal business purposes only. Your license rights to the Third Party Software will be governed by the Third Party Terms.
 - 2.1 We will install onsite the Third Party Software. The installation cost is included in the installation fee in the Investment Summary.
 - 2.2 If the Developer charges a fee for future updates, releases, or other enhancements to the Third Party Software, you will be required to pay such additional future fee.
 - 2.3 The right to transfer the Third Party Software to a replacement hardware system is governed by the Developer. You will give us advance written notice of any such transfer and will pay us for any required or requested technical assistance from us associated with such transfer.
3. Third Party Products Warranties.
 - 3.1 We are authorized by each Developer to grant or transfer the licenses to the Third Party Software.
 - 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.
 - 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
4. Maintenance. If you have a Maintenance and Support Agreement in effect, you may report defects and other issues related to the Third Party Software directly to us, and we will (a) directly address the defect or issue, to the extent it relates to our interface with the Third Party Software; and/or (b) facilitate resolution with the Developer, unless that Developer requires that you have a separate, direct maintenance agreement in effect with that Developer. In all events, if you do not have a Maintenance and Support Agreement in effect with us, you will be responsible for resolving defects and other issues related to the Third Party Software directly with the Developer.

SECTION F – INVOICING AND PAYMENT; INVOICE DISPUTES

1. Invoicing and Payment. We will invoice you for all fees set forth in the Investment Summary per our Invoicing and Payment Policy, subject to Section F(2).
2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete

the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

SECTION G – TERMINATION

1. For Cause. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section I(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section I(3). In the event of termination for cause, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination.
2. Lack of Appropriations. If you should not appropriate or otherwise receive funds sufficient to purchase, lease, operate, or maintain the software or services set forth in this Agreement, you may unilaterally terminate this Agreement effective on the final day of the fiscal year through which you have funding. You will make every effort to give us at least thirty (30) days written notice prior to a termination for lack of appropriations. In the event of termination due to a lack of appropriations, you will pay us for all undisputed fees and expenses related to the software and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Any disputed fees and expenses must have been submitted to the Invoice Dispute process set forth in Section F(2) at the time of termination in order to be withheld at termination. You will not be entitled to a refund or offset of previously paid license and other fees.
3. Force Majeure. Neither party will be liable, you or we may terminate this Agreement if a Force Majeure event suspends performance of scheduled tasks for a period of forty-five (45) days or more. In the event of termination due to Force Majeure, you will pay us for all undisputed fees and expenses related to the software and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Any disputed fees and expenses must have been submitted to the Invoice Dispute process set forth in Section F(2) at the time of termination in order to be withheld at termination. You will not be entitled to a refund or offset of previously paid license and other fees.

SECTION H – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.
 - 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
 - 1.2 Our obligations under this Section H(1) will not apply to the extent the claim or adverse final judgment is based on your: (a) use of a previous version of the Tyler Software and the claim would have been avoided had you installed and used the current version of the Tyler Software, and we provided notice of that requirement to you; (b) combining the Tyler Software with any product or device not provided,

contemplated, or approved by us; (c) altering or modifying the Tyler Software, including any modification by third parties at your direction or otherwise permitted by you; (d) use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties; or (e) willful infringement, including use of the Tyler Software after we notify you to discontinue use due to such a claim.

- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; (c) replace it with a functional equivalent; or (d) terminate your license and refund the license fees paid for the infringing Tyler Software, as depreciated on a straight-line basis measured over seven (7) years from the Effective Date. We will pursue those options in the order listed herein. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

2. General Indemnification.

- 2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.

3. **DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
4. **LIMITATION OF LIABILITY. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL**



DIRECT DAMAGES, NOT TO EXCEED (A) PRIOR TO FORMAL TRANSITION TO MAINTENANCE AND SUPPORT, THE TOTAL ONE-TIME FEES SET FORTH IN THE INVESTMENT SUMMARY; OR (B) AFTER FORMAL TRANSITION TO MAINTENANCE AND SUPPORT, THE THEN-CURRENT ANNUAL MAINTENANCE AND SUPPORT FEE. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS H(1) AND H(2).

5. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. Insurance. During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000; (b) Automobile Liability of at least \$1,000,000; (c) Professional Liability of at least \$1,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request.

SECTION I – GENERAL TERMS AND CONDITIONS

1. Additional Products and Services. You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date, and thereafter at our then-current list price, by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. Optional Items. Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
3. Dispute Resolution. You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.
4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes.

If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.

5. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.
6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.
9. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.
12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.

14. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
15. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
16. Client Lists. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
17. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (e.g., social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:
- (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
 - (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
 - (c) a party receives from a third party who has a right to disclose it to the receiving party; or
 - (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.
18. Business License. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.
19. Governing Law. This Agreement will be governed by and construed in accordance with the laws of your state of domicile, without regard to its rules on conflicts of law.
20. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.

21. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.

22. Contract Documents. This Agreement includes the following exhibits:

- Exhibit A Investment Summary
- Exhibit B Invoicing and Payment Policy
Schedule 1: Business Travel Policy
- Exhibit C Maintenance and Support Agreement
Schedule 1: Support Call Process
- Exhibit D Disaster Recovery Terms
- Exhibit E Web Services – Hosted Application Terms
- Exhibit F Statement of Work

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

West Valley Water District

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Chief Legal Officer

Address for Notices:

West Valley Water District
PO Box 920
Rialto, CA 92377
Attention: Jon Stephenson





Exhibit A

Investment Summary

The following Investment Summary details the software, products, and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

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Quoted By: Kip Winget
 Quote Expiration: 12/25/2018
 Quote Name: West Valley Water District-Fin,CIS,CRM
 Quote Number: 2018-52720
 Quote Description:

Sales Quotation For
 Jon Stephenson
 West Valley Water District
 PO Box 920
 Rialto , CA 92377-0920
 Phone: +1 (909) 875-1804
 Email: jsteph@wvwd.org

Tyler Software and Related Services

Description	License	Impl Hours	Impl Cost	Data Conversion	Module Total	Maintenance	
Financial Management Suite							
Core Financials	\$20,995	100	\$12,500	\$6,250	\$39,745	\$5,249	
Purchasing	\$5,280	28	\$3,500	\$0	\$8,780	\$1,320	
Fixed Assets	\$2,228	16	\$2,000	\$0	\$4,228	\$557	
Inventory Control	\$4,950	32	\$4,000	\$0	\$8,950	\$1,238	
Project Accounting	\$4,395	16	\$2,000	\$0	\$6,395	\$1,099	
Customer Relationship Management Suite							
Utility CIS System	\$40,995	196	\$24,500	\$9,000	\$74,495	\$10,249	
Mobile Service Orders	\$2,000	8	\$1,000	\$0	\$3,000	\$500	
Third Party Printing Interface	\$8,500	4	\$500	\$0	\$9,000	\$2,125	
Cashiering	\$12,000	56	\$7,000	\$0	\$19,000	\$3,000	
Work Orders	\$19,525	100	\$12,500	\$0	\$32,025	\$4,881	
Misc. Accounts Receivable	\$6,050	12	\$1,500	\$0	\$7,550	\$1,513	
Tyler Content Manager							
Tyler Content Manager Standard Edition (TCM SE)	\$7,153	32	\$4,000	\$0	\$11,153	\$1,788	
Personnel Management Suite							
Personnel Management (Includes Position Budgeting)	\$10,995	92	\$11,500	\$4,000	\$26,495	\$2,749	
NeoGov Applicant Tracking Interface	\$1,100	4	\$500	\$0	\$1,600	\$275	
	<i>Sub-Total:</i>		\$146,166	\$87,000	\$19,250	\$252,416	\$36,543
	<i>Less Discount:</i>		\$7,310				
	TOTAL:	696	\$87,000	\$19,250	\$245,106	\$36,543	

Tyler Software and Related Services - Annual

Description	One Time Fees			Annual Fee	
	Impl. Hours	Impl. Cost	Data Conversion		
Personnel Management Suite					
Employee Self Service (Employee Portal)	16	\$2,000	\$0	\$0	
ESS Time & Attendance (Number of FTE Employees) (100)	28	\$3,500	\$0	\$1,300	
Tyler Hosted Applications					
Utility Billing Online Component	0	\$0	\$0	\$4,128	
Notifications for Utility Billing	0	\$0	\$0	\$0	
IVR Solution for Utility Billing	0	\$0	\$0	\$0	
Tyler U	0	\$0	\$0	\$1,462	
Tyler Network Services					
Basic Network Services	0	\$0	\$0	\$998	
Disaster Recovery Services	0	\$0	\$0	\$4,111	
	<i>Sub-Total:</i>		\$5,500	\$0	\$11,999
	TOTAL:	44	\$5,500	\$0	\$11,999

Other Services

Description	Quantity	Unit Price	Extended Price	Maintenance
Project Management	1	\$5,000	\$5,000	\$0
Business Process Review -Financials	24	\$125	\$3,000	\$0
Business Process Review -Utility Billing	24	\$125	\$3,000	\$0
Online Application -Set up fee	1	\$800	\$800	\$0
	TOTAL:		\$11,800	\$0

Summary	One Time Fees	Recurring Fees
Total Tyler Software	\$138,856	\$36,543
Total Tyler Annual	\$0	\$11,999
Total Tyler Services	\$123,550	\$0
Total Third Party Hardware, Software and Services	\$0	\$0
Summary Total	\$262,406	\$48,542



Detailed Breakdown of Conversions (Included in contract total)

Description	Hours	Unit Price	Programming Fee	Extended Price
Financial Management Suite				
General Ledger - Conversion	8	\$125	\$1,500	\$2,500
General Ledger - Legacy.Historical Views	4	\$125	\$500	\$1,000
Accounts Payable Conversion				
Accounts Payable - Legacy.Historical Views Conversion	4	\$125	\$500	\$1,000
Customer Relationship Management Suite				
Utility Billing Legacy/Historical Views-Conversion	4	\$125	\$1,000	\$1,500
Utility Billing -Conversion	12	\$125	\$6,000	\$7,500
Personnel Management Suite				
Personnel Management -Payroll Conversion	4	\$125	\$2,000	\$2,500
Personnel Management -Payroll - Legacy.Historical Views Conversion	4	\$125	\$1,000	\$1,500
Total:				\$19,250

Notice- Travel Expenses are Not Included and are billed as incurred based on Federal IRS Per Diem Standards

- Core Financials includes general ledger, budget prep, bank recon, AP, Express, CellSense, a standard forms pkg, output director, positive pay, secure signatures (qty 2).
- Utility CIS System includes collections, tax lien process and import, utility payment import, a standard forms pkg., output director and one Utility handheld meter-reader interface.
- Cashiering supports credit/debit cards via ETS, includes PCI Compliant, a cash collection interface, a cashiering receipt import)
- Incode Utility Billing Online Component displays the current status (late, cut off etc), the action needed to avoid penalty, current balance, deposits on file (optional), last payment date, last payment amount, payment arrangements on file, last bill amount, last bill date, bill due date, contracts on file and status, transaction history (online payments). Payment packet is created to be imported to utility system. Address information includes legal description, precinct, school district, and services at address(subject to data availability). Includes consumption history by service (including graphs), request for service (optional), information change request (optional), security -SSL (secure socket layer). Note that the customer pays \$.85 fee per successfully completed payment transaction.
- General Ledger conversions include Chart of Accounts - additional fee for historical views is included above.
- Accounts Payable conversions include Vendor Master Only - additional fee for historical views is included above.
- Personnel Management/Payroll conversions include employee master, deductions/taxes, retirement, current leave totals, current direct deposit - additional fee for historical views is included above.
- Utility Billing conversions include contacts/properties/accounts, service meter info - meter inventory, transaction/consumption/read history (2 Years), metered services (1 metered service), non-metered service (up to 2 services). Additional fee for historical views is included above.
- Incode IVR Solution for Utility Billing-The payment packet is created in Cashiering, the IVR system gives the customer an account balance, the customer makes the payment by phone, and the account manager is updated with the payment record. NOTE: Customer pays \$1.25 per successfully completed payment transaction.



Exhibit B Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Invoicing: We will invoice you for the applicable license and services fees in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. Tyler Software.

1.1 *License Fees:* License fees are invoiced as follows: (a) 25% on the Effective Date; (b) 60% on the date when we make the applicable Tyler Software available to you for downloading (the "Available Download Date"); and (c) 15% on the earlier of use of the Tyler Software in live production or 180 days after the Available Download Date.

1.2 *Subscription Fees:* Your initial subscription fees for Tyler Notify are invoiced when we make the product available to you. Subsequent subscription fees are due annually in advance on the anniversary of that date at our then-current rates.

1.2 *Maintenance and Support Fees:* Year 1 maintenance and support fees are waived through the earlier of (a) availability of the Tyler Software for use in a live production environment; or (b) one (1) year from the Effective Date. Year 2 maintenance and support fees, at our then-current rates, are payable on that earlier-of date, and subsequent maintenance and support fees are invoiced annually in advance of each anniversary thereof. Your fees for each subsequent year will be set at our then-current rates.

2. Professional Services.

2.1 *Implementation and Other Professional Services (including training):* Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary.

2.2 *Consulting Services:* If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon delivery of the Best Practice Recommendations, by module, and 50% upon delivery of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.

2.3 *Conversions:* Fixed-fee conversions are invoiced 50% upon initial delivery of the converted data, by conversion option, and 50% upon Client acceptance to load the converted data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.



2.4 *Requested Modifications to the Tyler Software:* Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in the Maintenance and Support Agreement.

2.5 *Other Fixed Price Services:* Except as otherwise provided, other fixed price services are invoiced upon complete delivery of the service. For the avoidance of doubt, where “Project Planning Services” are provided, payment will be due upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be billed monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.

2.6 *Change Management Services:* If you have purchased any change management services, those services will be invoiced in the following amounts and upon the following milestones:

Acceptance of Change Management Discovery Analysis	15%
Delivery of Change Management Plan and Strategy Presentation	10%
Acceptance of Executive Playbook	15%
Acceptance of Resistance Management Plan	15%
Acceptance of Procedural Change Communications Plan	10%
Change Management Coach Training	20%
Change Management After-Action Review	15%

3. Other Services and Fees.

3.1 *Disaster Recovery Services:* Disaster Recovery Services are invoiced annually in advance upon our receipt of your data. Disaster Recovery services will renew automatically for additional one (1) year terms at our then-current Disaster Recovery fee, unless terminated in writing by either party at least thirty (30) days prior to the end of the then-current term.

4. Third Party Products.

4.1 *Third Party Software License Fees:* License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.

4.2 *Third Party Software Maintenance:* The first year maintenance fees for the Third Party Software, if any, is invoiced when we make that Third Party Software available to you for downloading.

4.3 *Third Party Hardware:* Third Party Hardware costs, if any, are invoiced upon delivery.

4.4 *Tyler Notify Minutes and Messages:* Tyler Notify Minutes and Messages are invoiced when we make Tyler Notify available to you. Subsequent fees for minutes and messages, at our then-current rates, will be due when you request additional minutes and messages and they are made available to you.

5. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses will be billed as incurred and only in accordance with our then-current Business Travel Policy, plus a 10% travel agency processing fee. Our current Business Travel Policy is attached to this Exhibit B at Schedule



1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.

Payment. Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is:

Bank: Wells Fargo Bank, N.A.
420 Montgomery
San Francisco, CA 94104
ABA: 121000248
Account: 4124302472
Beneficiary: Tyler Technologies, Inc. – Operating



Exhibit B
Schedule 1
Business Travel Policy

1. Air Travel

A. Reservations & Tickets

Tyler's Travel Management Company (TMC) will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.



2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee’s private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a “mid-size” or “intermediate” car. “Full” size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler’s TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

“No shows” or cancellation fees are not reimbursable if the employee does not comply with the hotel’s cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at www.gsa.gov/perdiem.

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of Defense and will be determined as required.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast	15%
Lunch	25%
Dinner	60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.



5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.



Exhibit C Maintenance and Support Agreement

We will provide you with the following maintenance and support services for the Tyler Software. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

1. Term. We provide maintenance and support services on an annual basis. The initial term commences on the Effective Date, and remains in effect for one (1) year. The term will renew automatically for additional one (1) year terms unless terminated in writing by either party at least thirty (30) days prior to the end of the then-current term. We will adjust the term to match your first use of the Tyler Software in live production if that event precedes the one (1) year anniversary of the Effective Date.
2. Maintenance and Support Fees. Your year 1 maintenance and support fees for the Tyler Software are listed in the Investment Summary, and your payment obligations are set forth in the Invoicing and Payment Policy. We reserve the right to suspend maintenance and support services if you fail to pay undisputed maintenance and support fees within thirty (30) days of our written notice. We will reinstate maintenance and support services only if you pay all past due maintenance and support fees, including all fees for the periods during which services were suspended.
3. Maintenance and Support Services. As long as you are not using the Help Desk as a substitute for our training services on the Tyler Software, and you timely pay your maintenance and support fees, we will, consistent with our then-current Support Call Process:
 - 3.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (limited to the then-current version and the immediately prior version); provided, however, that if you modify the Tyler Software without our consent, our obligation to provide maintenance and support services on and warrant the Tyler Software will be void;
 - 3.2 provide telephone support during our established support hours;
 - 3.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;
 - 3.4 provide you with a copy of all major and minor releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and
 - 3.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with our then-current release life cycle policy.
4. Client Responsibilities. We will use all reasonable efforts to perform any maintenance and support services



remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain a VPN for backup connectivity purposes.

5. Hardware and Other Systems. If you are a self-hosted customer and, in the process of diagnosing a software support issue, it is discovered that one of your peripheral systems or other software is the cause of the issue, we will notify you so that you may contact the support agency for that peripheral system. We cannot support or maintain Third Party Products except as expressly set forth in the Agreement.

In order for us to provide the highest level of software support, you bear the following responsibility related to hardware and software:

- (a) All infrastructure executing Tyler Software shall be managed by you;
 - (b) You will maintain support contracts for all non-Tyler software associated with Tyler Software (including operating systems and database management systems, but excluding Third-Party Software, if any); and
 - (c) You will perform daily database backups and verify that those backups are successful.
6. Other Excluded Services. Maintenance and support fees do not include fees for the following services: (a) initial installation or implementation of the Tyler Software; (b) onsite maintenance and support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (c) application design; (d) other consulting services; (e) maintenance and support of an operating system or hardware, unless you are a hosted customer; (f) support outside our normal business hours as listed in our then-current Support Call Process; or (g) installation, training services, or third party product costs related to a new release. Requested maintenance and support services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.
7. Current Support Call Process. Our current Support Call Process for the Tyler Software is attached to this Exhibit C at Schedule 1.



Exhibit C Schedule 1 Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support:

- (1) Tyler Community – an on-line resource, Tyler Community provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (2) On-line submission (portal) – for less urgent and functionality-based questions, users may create unlimited support incidents through the customer relationship management portal available at the Tyler Technologies website.
- (3) Email – for less urgent situations, users may submit unlimited emails directly to the software support group.
- (4) Telephone – for urgent or complex questions, users receive toll-free, unlimited telephone software support.

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools and other information including support contact information.
- (2) Tyler Community – available through login, Tyler Community provides a venue for clients to support one another and share best practices and resources.
- (3) Knowledgebase – A fully searchable depository of thousands of documents related to procedures, best practices, release information, and job aides.
- (4) Program Updates – where development activity is made available for client consumption

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Clients may receive coverage across these time zones. Tyler’s holiday schedule is outlined below. There will be no support coverage on these days.

New Year’s Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	



Issue Handling

Incident Tracking

Every support incident is logged into Tyler’s Customer Relationship Management System and given a unique incident number. This system tracks the history of each incident. The incident tracking number is used to track and reference open issues when clients contact support. Clients may track incidents, using the incident number, through the portal at Tyler’s website or by calling software support directly.

Incident Priority

Each incident is assigned a priority number, which corresponds to the client’s needs and deadlines. The client is responsible for reasonably setting the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain “characteristics” may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the client towards clearly understanding and communicating the importance of the issue and to describe generally expected responses and resolutions.

Priority Level	Characteristics of Support Incident	Resolution Targets
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client’s remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler’s responsibility for lost or corrupted data is limited to assisting the client in restoring its last available database.
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler’s responsibility for loss or corrupted data is limited to assisting the client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack. For non-hosted customers, Tyler’s responsibility for lost or corrupted data is limited to assisting the client in restoring its last available database.

Priority Level	Characteristics of Support Incident	Resolution Targets
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days. Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

Incident Escalation

Tyler Technology's software support consists of four levels of personnel:

- (1) Level 1: front-line representatives
- (2) Level 2: more senior in their support role, they assist front-line representatives and take on escalated issues
- (3) Level 3: assist in incident escalations and specialized client issues
- (4) Level 4: responsible for the management of support teams for either a single product or a product group

If a client feels they are not receiving the service needed, they may contact the appropriate Software Support Manager. After receiving the incident tracking number, the manager will follow up on the open issue and determine the necessary action to meet the client's needs.

On occasion, the priority or immediacy of a software support incident may change after initiation. Tyler encourages clients to communicate the level of urgency or priority of software support issues so that we can respond appropriately. A software support incident can be escalated by any of the following methods:

- (1) Telephone – for immediate response, call toll-free to either escalate an incident's priority or to escalate an issue through management channels as described above.
- (2) Email – clients can send an email to software support in order to escalate the priority of an issue
- (3) On-line Support Incident Portal – clients can also escalate the priority of an issue by logging into the client incident portal and referencing the appropriate incident tracking number.

Remote Support Tool

Some support calls require further analysis of the client's database, process or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Support is able to quickly connect to the client's desktop and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.



Exhibit D Disaster Recovery Terms

WHEREAS, Client desires to enroll in Tyler’s Disaster Recovery Service for the Tyler Software licensed by Client from Tyler, subject to these Disaster Recovery terms; and

THEREFORE, Tyler and Client agree as follows:

1. Definitions:

Disaster. An unplanned event that is not within the reasonable control of the Client which results in the failure of the Tyler Software Products licensed by Client to perform Critical Processes. A Disaster is *not* a hardware or network failure that would have been avoided with reasonable diligence and maintenance in accord with the industry standard, a failure otherwise covered by an in-force Agreement Client has with Tyler (e.g., Tyler Annual Maintenance Agreement (“Support Agreement”), Technical Services Agreement, or Tyler Systems Management (“TSM”) Agreement, or a failure that can be remedied in less than sixteen (16) business hours.

Disaster Recovery Plan. Defined at #2 of Exhibit 1 to this Disaster Recovery Agreement.

Critical Processes. Mutually defined in the Disaster Recovery Plan.

Critical Users. Mutually defined in the Disaster Recovery Plan.

Recovery Point Objective (“RPO”). Amount of time since last successful data transfer. With successful nightly transfer of data, RPO would be no more than twenty-four (24) hours.

Recovery Time Objective (“RTO”). Twenty-four (24) business hours after receipt Disaster declaration for Client data not exceeding one (1) terabyte in size, for Critical Users using Critical Processes. RTO for Client data one (1) terabyte in size or greater shall be mutually agreed, specified and incorporated into the Disaster Recovery Plan.

Holiday. New Year's Day (January 1), Memorial Day (observed), Independence Day (July 4), Labor Day (observed), Thanksgiving Day, Day after Thanksgiving Day, Christmas Day (December 25).

Business Days. Monday through Friday, excluding Holidays.

Business Hours. 8 AM – 6 PM (EST) on Business Days.

Force Majeure. An event beyond the reasonable control of a party, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, restraints affecting shipping or credit, delay of carriers, inadequate supply of suitable materials or any other cause which could not with reasonable diligence be foreseen, controlled or prevented by the party.

2. **Term.** The initial term shall commence on receipt by Tyler of Client’s data and shall terminate one (1) year thereafter (“Initial Term”). Disaster Recovery services shall renew automatically for additional one (1) year

terms unless terminated in writing by either party at least thirty (30) days prior to the end of the then-current term. In the event the Support Agreement is terminated, Disaster Recovery services shall coetaneously terminate.

3. **Disaster Recovery Services.** Tyler shall provide the Disaster Recovery services (“DR Services”) as described herein, including any Exhibits and associated appendices. All DR Services shall be provided remotely. In the event the Disaster results in damage to Client’s server(s) and a re-installation of the Tyler Software Products licensed by Client is required as a result of such damage, Tyler shall re-install the Tyler Software Products free of charge if Client is enrolled in Tyler’s TSM service (ERP, Munis, TCM) or Technical Services Support (Incode, Eden, TCM). Otherwise, such re-installation shall be obtained from Tyler at Tyler’s then-current installation services rates. Tyler Disaster Recovery staff will contact Client within twelve (12) business hours of any such reinstallation for reinstallation of Disaster Recovery Software.
4. **Client Requirements.** In order for Tyler to provide DR Services, Client shall:
 - a) Provide high speed internet access, including upload bandwidth sufficient for complete nightly data transfers to comply with applicable RPO
 - b) Comply with then-current minimum hardware and network requirements as specified on Tyler’s support website
 - c) Maintain security and access privileges for Tyler to receive data transfer and reasonably perform activities reasonably necessary for Tyler to provide DR Services
 - d) Permit installation of software required for provision of DR Services in accord with these terms as reasonably determined by Tyler
 - e) Reasonably notify Tyler in advance of any changes in Client’s network that impacts Tyler’s ability to deliver DR Services
5. **Disaster** by calling Tyler at (207) 781-2260 or (800) 772-2260 and clearly stating that CLIENT IS DECLARING A DISASTER.
6. **Disaster Recovery.** Client’s Critical Processes will be accessible by Critical Users in accord with the applicable RTO.
7. **Data.** Data Transfer shall be handled in accord with Exhibit 1 hereto.
8. **Release Life Cycle.** Tyler shall support prior releases of the Tyler Software Products in accordance with Tyler’s Release Life Cycle Policy.
9. **Payment & Price**
In consideration of the Services provided by Tyler herein, Client shall pay Tyler as indicated in Exhibit B of the Agreement. Thereafter, the annual fee will be invoiced and paid prior to the commencement of the renewal term.
10. **Exclusions.**
 - a) Tyler’s Disaster Recovery Service shall not be used to replace required on-site backups of Client data for Tyler Software Products licensed by Client.
 - b) The fee paid for Disaster Recovery service does not include, and Client is responsible for the costs associated with:

- i. Hardware and/or software necessary to remotely access Tyler's data center, and any and all on-site services. Client may request and purchase on-site services at Tyler's then-current rates.
- ii. In the event Client requests Tyler to hand-deliver or courier the critical processes output (such as payroll checks), the cost of such special delivery shall be borne by Client and payable thirty (30) days from receipt of invoice.

11. License Terms. Client's use of the Tyler Software included in the Disaster Recovery Service remains subject to limitations on Client's use in the License and Services Agreement by which Client licenses such Tyler Software from Tyler, including disclaimer of implied warranties.

Exhibit 1

In addition to those services described elsewhere in this exhibit, DR Services are described in the following sections.

1 Data Transfer

The electronic transfer solution provides nightly (between the hours of 8 PM and 6 AM) transfer and archiving of Client's Tyler data and is subject to the following conditions:

- Initial data transfer may require portable disk.
- Data transferred shall include only items essential to provision of service.
- Applications included in the Disaster Recovery service are listed in Appendix A to this Exhibit 1. Such description shall also indicate database and file detail required for provision of DR Services. Tyler Software Products not listed in Appendix A and any non-Tyler Software Product shall not be included in data transfer or the Disaster Recovery Service.
- Only production databases are backed up.
- Data from the last seven (7) successful data transfers are retained by Tyler.
- Total data storage is limited to 200 gigabytes ("GB"). Storage limit may be increased in 200 GB increments by mutual agreement and at additional cost.
- Data transferred to Tyler as part of Disaster Recovery Service is not available for Client's data retrieval or restoration not associated with the Disaster Recovery Service provided by Tyler. Tyler may provide data transferred by Client on an exception basis, upon request.
- Tyler is not responsible for the integrity of the data provided by Client to Tyler. Tyler will use the most current viable data to restore Client's critical processes.
- Tyler may use select information from the Client database for research and analysis purposes.
- To the extent the database contains confidential information, Tyler shall keep confidential such information in accordance with the confidentiality provisions of the Agreement(s) by which Client licenses the Tyler Software Products from Tyler.
- Tyler Disaster Recovery staff will monitor status of data transfers on Business Days.
- In the event of two (2) consecutive data transfer failures, Tyler will timely provide notice to Client in order to commence troubleshooting.
- Tyler shall have no liability for failure of data transfers not solely caused by Tyler.
- Tyler will provide transfer report related to Client data transfer upon request.
- Client shall provide to Tyler any required encryption key (or other comparable device), including the right to back-up such key (or device), required to access the transferred data.

2 Disaster Recovery Plan

The Disaster Recovery Plan is a mutually drafted document which details, in addition to the services described above in this exhibit, the DR Services Tyler shall provide to Client. The parties' responsibilities with respect to the Disaster Recovery Plan are further defined below.

Tyler's Responsibilities:

- Coordinate activities associated with transfer of data to Tyler's data center.
- Document Disaster Recovery strategy for critical processes.
- Review the Disaster Recovery Plan with Client.



- Provide reasonable guidance for Disaster Recovery policies and procedures.
- Identify modules, databases, applications, and files required for Disaster Recovery service.

Client's Responsibilities:

- Provide remote access to Client's Tyler database server for analysis and configuration of data transfer.
- Provide network support if required to enable transfer of data from Client's server to the Tyler data center.
- Provide PCs and high-speed modems for access from Client's alternate processing location, if required.
- Provide technical resources to configure remote access PCs, including Tyler supplied application software, if reasonably required to receive Disaster Recovery services pursuant to this exhibit.
- Provide a chain of command document for communication during a disaster.
- Maintain the Disaster Recovery Plan and integrate the Disaster Recovery Plan made with Tyler with Client's comprehensive disaster recovery plan.

Shared Responsibilities:

- Identify critical users for DR Services.
- Identify critical processes for DR services.
- Identify RTO.
- Draft initial Disaster Recovery Plan within ninety (90) days of commencement of Initial Term.
- Define recovery processes for post Disaster operations (mandatory for Odyssey CM clients, optional for all others).

3 DR Services during Disaster

- A. Upon declaration of a Disaster, Tyler shall provide DR Services from one of its hosting facilities for the duration of the Disaster, not to exceed thirty (30) consecutive Business Days. Use of Tyler's data center in excess of such period shall require the parties to execute a change order detailing the duration of the extension and the additional cost associated therewith.
- B. Hosting Services During a Disaster.
 - i. Hosting Services during a Disaster will be provided in accord with Tyler's then-current standard availability guarantees from its Service Level Agreement for SaaS clients. Any credits issued to Client will be based on the total Disaster Recover fee paid for the then-current term.
 - ii. Tyler will use best efforts to include interfaces for Tyler Software Products covered as part of these DR services.
 - iii. Hosting Services shall not include interfaces or interconnects with 3rd Party Products unless specifically agreed in the Disaster Recovery Plan.
- C. Processing Assistance During a Disaster includes, as necessary:
 - i. Print Output:
 - a. Payroll Checks
 - b. Retirement Checks
 - c. Accounts Payable Checks.
 - ii. In the event print output is required to be sent non-electronically, Client shall bear the cost of shipment.

- iii. Transfer of Automated Clearing House (“ACH”) Files to bank on Client’s behalf. Transfer may require pre-notification by Client to bank.

D. Clients receiving DR Services during a Disaster receive priority access to Tyler application support.

4 Annual Disaster Recovery Test

The parties may review and test the Disaster Recovery service.

- Scheduled by parties at least thirty (30) days in advance
- Client must provide a list of users who will partake in the test,
- Test shall not exceed 2 weeks,
- Retest within same year available if initial test not agreed by both parties to be successful

5 Estimated Schedule

The services provided pursuant to this exhibit will be performed consistent with the estimated schedule mutually agreed to by Tyler and Client. Tyler and Client agree to promptly perform their respective responsibilities according to such schedule.

6 Tyler’s Other Responsibilities

Project management services are provided as part of the Disaster Recovery service. Tyler will designate a Project Manager who will be Tyler’s contact for all communications with Client and will have the authority to act on Tyler’s behalf in matters regarding this Statement of Work. Tyler’s project manager will perform the following tasks:

- Review Statement of Work with Client’s project manager.
- Review current project status.
- Recommend changes or additions to the project as appropriate.
- Administer the change control procedure.
- Review and evaluate the progress of the project with Client’s project manager to resolve any necessary changes.

7 Client’s Other Responsibilities

Tyler’s performance is predicated upon the following responsibilities being fulfilled by Client:

Prior to the start of the Statement of Work, Client will designate, in writing, a person who will be Client’s Project Manager who will be Client’s contact for all communications with Tyler and who has the authority to act on behalf of Client in all aspects of the Statement of Work. The Project Manager will perform the following activities:

- Interface between Tyler’s Project Manager and Client’s organization.
- Administer project change control with Tyler’s project manager.
- Arrange reasonable access to Client’s data for project personnel, as reasonably required.
- Conduct any communication through Tyler’s Project Manager.
- Help resolve and escalate project issues within Client’s organization as required.

- Obtain and provide project requirements, data, decisions and approvals within five (5) business days of request. If such requirements, data, decisions or approvals are delayed beyond the time specified, Client agrees to relieve Tyler of its responsibility for the affected Service until Client performs that obligation.
- Accept responsibility for the data files, selection and implementation of controls for Client's location, and security of the stored data.

Client acknowledge that it is Client's responsibility to identify and make the interpretation of any applicable federal, state and local laws, regulations and statutes.

8 Project Change Control Procedure

When Tyler and Client agree to a change in the Disaster Recovery Plan, Tyler will prepare a written description of the agreed change which both Tyler and Client must sign. The Change Order will describe the change, the rationale for the change, and specify any change in the charges, estimated schedule, or other terms. When charges are necessary in order for Tyler to analyze a change, Tyler will give Client a written estimate and begin the analysis only after Client's written authorization.

Appendix A

Defined User Maximum. The maximum number of named Client users available to use DR Services is 30.

Covered Applications.

Financial Management Suite

Core Financials (General Ledger, Accounts Payable)

Purchasing

Fixed Assets

Inventory Control

Project Accounting

Customer Relationship Management Suite

Utility CIS System

Mobile Service Orders

Third Party Printing Interface

Meter Reading Interface

Cashiering

Work Orders

Misc. Accounts Receivable

Tyler Content Manager

Tyler Content Manager Standard Edition (TCM SE)

Personnel Management Suite

Personnel Management (Includes Position Budgeting)

NeoGov Applicant Tracking Interface

Employee Self Service (Employee Portal)

ESS Time & Attendance (Number of FTE Employees) (100)

Tyler Hosted Applications

Utility Billing Online Component

Notifications for Utility Billing

IVR Solution for Utility Billing

Tyler U

Product Specific Conditions.

None



Exhibit E

Web Services – Hosted Application Terms

Tyler Technologies, Inc. will provide you with the hosted applications indicated in the Investment Summary of your License and Services Agreement. The terms and conditions contained in this document only apply to our provision of those applications. Capitalized terms not otherwise defined will have the meaning assigned to such terms in your License and Services Agreement.

1. Hosted Applications. We will provide you with any of the following hosted applications as indicated in the Investment Summary.
 - 1.1. *Web Services*: Our Web Services are designed to enable you to easily establish a presence on the Internet. Our Web Hosting and Design is composed of our Web Hosting and Design Publishing Component and other miscellaneous components. These components may be used independently or in conjunction with each other.
 - 1.2. *Utility Billing On-Line*: Our Utility Billing On-Line Component allows you to make available certain information from your utility billing system to citizens with Internet access. This information is posted to your web site, which is hosted on our web server. With the proper security clearance, citizens with Internet access have access to the data which can include: Consumption information, service level information, requests for service, accounting information and the opportunity to pay their Utility Bill over the Internet using a credit card.
2. Term. We will grant you access to the hosted applications provided you timely pay all associated fees. The term of your subscription will commence on the Effective Date and will continue for three (3) years. Thereafter, the term will be automatically extended in separate one (1) year periods. Either party may cancel this subscription to the hosted applications upon sixty (60) days written notice to the other.
3. Nature of Website. We shall maintain a website for you, allowing a user to access relevant data provided by you. This data may include information from your Tyler Software system. This website will be capable of accepting payments via Secured Socket Layer (SSL) encryption and credit card or debit card charge.
4. Data Procurement. You must set up a merchant account with Electronic Transaction System Corporation or authorized.net to be solely used for our Web Service transactions. The merchant account must be set up to fund to your bank account. You are responsible for all fees and expenses of the merchant account. You must install and run Tyler Web Services to allow us to transfer the necessary data from your system to our servers on a real time basis. Certain information, such as payment information, must be conveyed to you. We will be responsible for transferring such information to you on a regular basis. Tyler Web Services requires a dedicated IP address; assignment of this address is your responsibility. While we assume responsibility for data transfer, we are not responsible for accuracy of data transferred.



5. Limited License. Your license to use the hosted applications will automatically terminate upon cancellation of this subscription, or upon your failure to timely pay fees or otherwise comply with these terms and conditions.
6. Ownership of Data. All data you provide to us for the purposes of generating the website shall remain your property. Should you terminate your subscription, we shall return to you any such data in our possession.
7. Fees. You agree to pay the initial fee and annual subscription fees as stated in the Investment Summary and in accordance with our Invoicing and Payment Policy. We may increase the per-transaction fee for online payment no more than once per year with sixty (60) days prior written notice. We agree not to increase per-transaction fees for online payment by more than 4% per year for the first four (4) years of this Agreement.



Exhibit F
Statement of Work



Statement of Work

Tyler Technologies

Prepared for:

West Valley Water District
Jon Stephenson
855 W Baseline Rd, Rialto, CA 92376

Prepared by:

Kip Winget
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1 Executive Summary

1.1 Project Overview

The Statement of Work (SOW) documents the Project Scope, methodology, roles and responsibilities, implementation Stages, and deliverables for the implementation of Tyler products.

The Project goals are to offer West Valley Water District the opportunity to make the West Valley Water District more accessible and responsive to external and internal customer needs and more efficient in its operations through:

- Streamlining, automating, and integrating business processes and practices
- Providing tools to produce and access information in a real-time environment
- Enabling and empowering users to become more efficient, productive and responsive
- Successfully overcoming current challenges and meeting future goals

1.2 Product Summary

Below, is a summary of the products included in this Project, as well as reference to the West Valley Water District’s functional area utilizing the Tyler product(s). Refer to the Implementation Stages section of this SOW for information containing detailed service components.

[PRODUCT]	[APPLICATION]
Incode	Financials
Incode	Personnel Management
Incode	Utility Billing
Incode	CRM
Tyler Content Manager	Document Management

1.3 Project Timeline

The Project Timeline establishes a start and end date for each Phase of the Project. Developed during the Initiate & Plan Stage and revised as mutually agreed to, if needed, the timeline accounts for resource availability, business goals, size and complexity of the Project, and task duration requirements.

1.4 Project Methodology Overview

Tyler bases its implementation methodology on the Project Management Institute’s (PMI) Process Groups (Initiating, Planning, Executing, Monitoring & Controlling, and Closing). Using this model, Tyler developed a 6-stage process specifically designed to focus on critical project success measurement factors.

Tailored specifically for Tyler’s public sector clients, the project methodology contains Stage acceptance Control Points throughout each Phase to ensure adherence to Scope, budget, timeline controls, effective communications, and quality standards. Clearly defined, the project methodology repeats consistently

across Phases, and is scaled to meet the West Valley Water District's complexity, and organizational needs.

2 Project Governance

The purpose of this section is to define the resources required to adequately establish the business needs, objectives, and priorities for the Project; communicate the goals to other project participants; and provide support and guidance to accomplish these goals. Project governance also defines the structure for issue escalation and resolution, Change Control review and authority, and organizational Change Management activities.

The preliminary governance structure establishes a clear escalation path when issues and risks require escalation above the project manager level. Further refinement of the governance structure, related processes, and specific roles and responsibilities occurs during the Initiate & Plan Stage.

The path below illustrates an overall team perspective where Tyler and the West Valley Water District collaborate to resolve project challenges according to defined escalation paths. In the event project managers do not possess authority to determine a solution, resolve an issue, or mitigate a risk, Tyler implementation management and the West Valley Water District steering committee become the escalation points to triage responses prior to escalation to the West Valley Water District and Tyler executive sponsors. As part of the escalation process, each project governance tier presents recommendations and supporting information to facilitate knowledge transfer and issue resolution. The West Valley Water District and Tyler executive sponsors serve as the final escalation point.

2.1 Client Governance

Depending on the West Valley Water District's organizational structure and size, the following governance roles may be filled by one or more people:

2.1.1 Client Project Manager

The West Valley Water District's project manager(s) coordinate project team members, subject matter experts, and the overall implementation schedule and serves as the primary point of contact with Tyler. The West Valley Water District project manager(s) will be responsible for reporting to the West Valley Water District steering committee and determining appropriate escalation points.

2.1.2 Steering Committee

The West Valley Water District steering committee understands and supports the cultural change necessary for the Project and fosters an appreciation of the Project's value throughout the organization. Oversees the West Valley Water District project manager(s) and the Project as a whole and through participation in regular internal meetings, the West Valley Water District steering committee remains updated on all project progress, project decisions, and achievement of project milestones. The West Valley Water District steering committee also provides support to the West Valley Water District project manager(s) by communicating the importance of the Project to all impacted departments. The West Valley Water District steering committee is responsible for ensuring the Project has appropriate resources, provides strategic direction to the project team, for making timely decisions on critical project issues or policy decisions. The West Valley Water District steering committee also serves as primary level of issue resolution for the Project.

2.1.3 Executive Sponsor(s)

The West Valley Water District's executive sponsor provides support to the Project by allocating resources, providing strategic direction, and communicating key issues about the Project and the Project's overall importance to the organization. When called upon, the executive sponsor also acts as the final authority on all escalated project issues. The executive sponsor engages in the Project, as needed, in order to provide necessary support, oversight, guidance, and escalation, but does not participate in day-to-day project activities. The executive sponsor empowers the West Valley Water District steering committee, project manager(s), and functional leads to make critical business decisions for the West Valley Water District.

2.2 Tyler Governance

2.2.1 Tyler Project Manager

The Tyler project manager(s) have direct involvement with the Project and coordinates Tyler project team members, subject matter experts, the overall implementation schedule, and serves as the primary point of contact with the West Valley Water District. As requested by the West Valley Water District, the Tyler project manager(s) provide regular updates to the West Valley Water District's steering committee and other Tyler governance members.

2.2.2 Tyler Implementation Management

Tyler implementation management has indirect involvement with the Project and is part of the Tyler escalation process. Tyler project manager(s) consult implementation management on issues and outstanding decisions critical to the Project. Implementation management works toward a solution with the Tyler project manager(s) or with the West Valley Water District management, as appropriate. Tyler executive management is the escalation point for any issues not resolved at this level. The name(s) and contact information for this resource will be provided and available to the project team.

2.2.3 Tyler Executive Management

Tyler executive management has indirect involvement with the Project and is part of the Tyler escalation process. This team member offers additional support to the project team and collaborates with other Tyler department managers, as needed, in order to escalate and facilitate implementation project tasks and decisions. The name(s) and contact information for this resource will be provided and available to the project team.

2.3 Acceptance and Acknowledgment Process

All Deliverables and Control Points must be accepted or acknowledged following the process below. Acceptance requires a formal sign-off while acknowledgement may be provided without formal sign-off at the time of delivery. The following process will be used for accepting or acknowledging Deliverables and Control Points:

- The West Valley Water District shall have five (5) business days from the date of delivery, or as otherwise mutually agreed upon by the parties in writing, to accept or acknowledge each

Deliverable or Control Point. If the West Valley Water District does not provide acceptance or acknowledgement within five (5) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.

- If the West Valley Water District does not agree the particular Deliverable or Control Point meets requirements, the West Valley Water District shall notify Tyler project manager(s), in writing, with reasoning within five (5) business days, or the otherwise agreed-upon timeframe, not to be unreasonably withheld, of receipt of the Deliverable.
- Tyler shall address any deficiencies and redeliver the Deliverable or Control Point. The West Valley Water District shall then have two (2) business days from receipt of the redelivered Deliverable or Control Point to accept or again submit written notification of reasons for rejecting the milestone. If the West Valley Water District does not provide acceptance or acknowledgement within two (2) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.

3 Overall Project Assumptions

3.1 Project, Resources and Scheduling

- Project activities will begin after the Agreement has been fully executed.
- The West Valley Water District has the ability allocate additional internal resources if needed. The West Valley Water District also ensures the alignment of their budget and Scope expectations.
- The West Valley Water District and Tyler ensure that the assigned resources are available, they buy-into the change process, and they possess the required business knowledge to complete their assigned tasks successfully. Should there be a change in resources, the replacement resource should have a comparable level of availability, buy-in, and knowledge.
- Tyler and West Valley Water District provide adequate resources to support the efforts to complete the Project as scheduled and within the constraints of the Project budget.
- Abbreviated timelines and overlapped Phases can result in Project delays if there are not sufficient resources assigned to complete all required work as scheduled.
- Changes to Project Plan, availability of resources or changes in Scope may result in schedule delays, which may result in additional charges to the Project.
- Tyler provides a written agenda and notice of any prerequisites to the West Valley Water District project manager(s) ten (10) business days prior to any scheduled on site or remote sessions.
- Tyler provides notice of any prerequisites to the West Valley Water District project manager(s) a minimum of ten (10) business days prior to any key deliverable due dates.
- West Valley Water District users complete prerequisites prior to applicable scheduled activities.
- Tyler provides guidance for configuration and processing options available within the Tyler software. The West Valley Water District is responsible for making decisions based on the options available.
- In the event the West Valley Water District may elect to add and/or modify current business policies during the course of this Project, such policy changes are solely the West Valley Water District's responsibility to define, document, and implement.
- The West Valley Water District makes timely Project related decisions in order to achieve scheduled due dates on tasks and prepare for subsequent training sessions. Decisions left unmade may affect the schedule, as each analysis and implementation session builds on the decisions made in prior sessions.
- Tyler considers additional services out of Scope and requires additional time and costs be requested via Change Request approved through the Change Control process.
- The West Valley Water District will respond to information requests in a comprehensive and timely manner, in accordance with the Project Plan.

3.2 Data Conversion

- The West Valley Water District is readily able to product the data files needed for conversion from the Legacy System in order to provide them to Tyler on the specified due date(s).
- Each Legacy System data file submitted for conversion includes all associated records in a single approved file layout.
- The West Valley Water District understands the Legacy System data extract(s) must be provided to Tyler in the same format each time unless changes are mutually agreed upon in advance. If

not, negative impacts to the schedule, budget, and resource availability may occur and/or data in the new system may be incorrect.

- During this process, the West Valley Water District may need to correct data scenarios in the Legacy System prior to the final data pull. This is a complex activity and requires due diligence by the West Valley Water District to ensure all data pulled includes all required data and the Tyler system contains properly mapped data.

3.3 Data Exchanges, Modifications, Forms and Reports

- The West Valley Water District ensures the 3rd party data received conforms to a Tyler standard format.
- The 3rd party possesses the knowledge of how to program their portion of the interaction and understands how to manipulate the data received.
- Client is on a supported, compatible version of the 3rd party software or Tyler standard Data Exchange tools may not be available.
- The West Valley Water District is willing to make reasonable business process changes rather than expecting the product to conform to every aspect of their current system/process.
- Any Modification requests not expressly stated in the contract are out of Scope. Modifications requested after contract signing have the potential to change cost, Scope, schedule, and production dates for project Phases. Modification requests not in Scope must follow the Project Change Control process.

3.4 Hardware and Software

- Tyler will initially Install the most current generally available version of the purchased Tyler software.
- The West Valley Water District will provide network access for Tyler modules, printers, and Internet access to all applicable West Valley Water District and Tyler project staff.
- The West Valley Water District has in place all hardware, software, and technical infrastructure necessary to support the Project.
- The West Valley Water District's system hardware and software meet Tyler standards to ensure sufficient speed and operability of Tyler software. Tyler will not support use of software if the West Valley Water District does not meet minimum standards of Tyler's published specifications.

3.5 Education

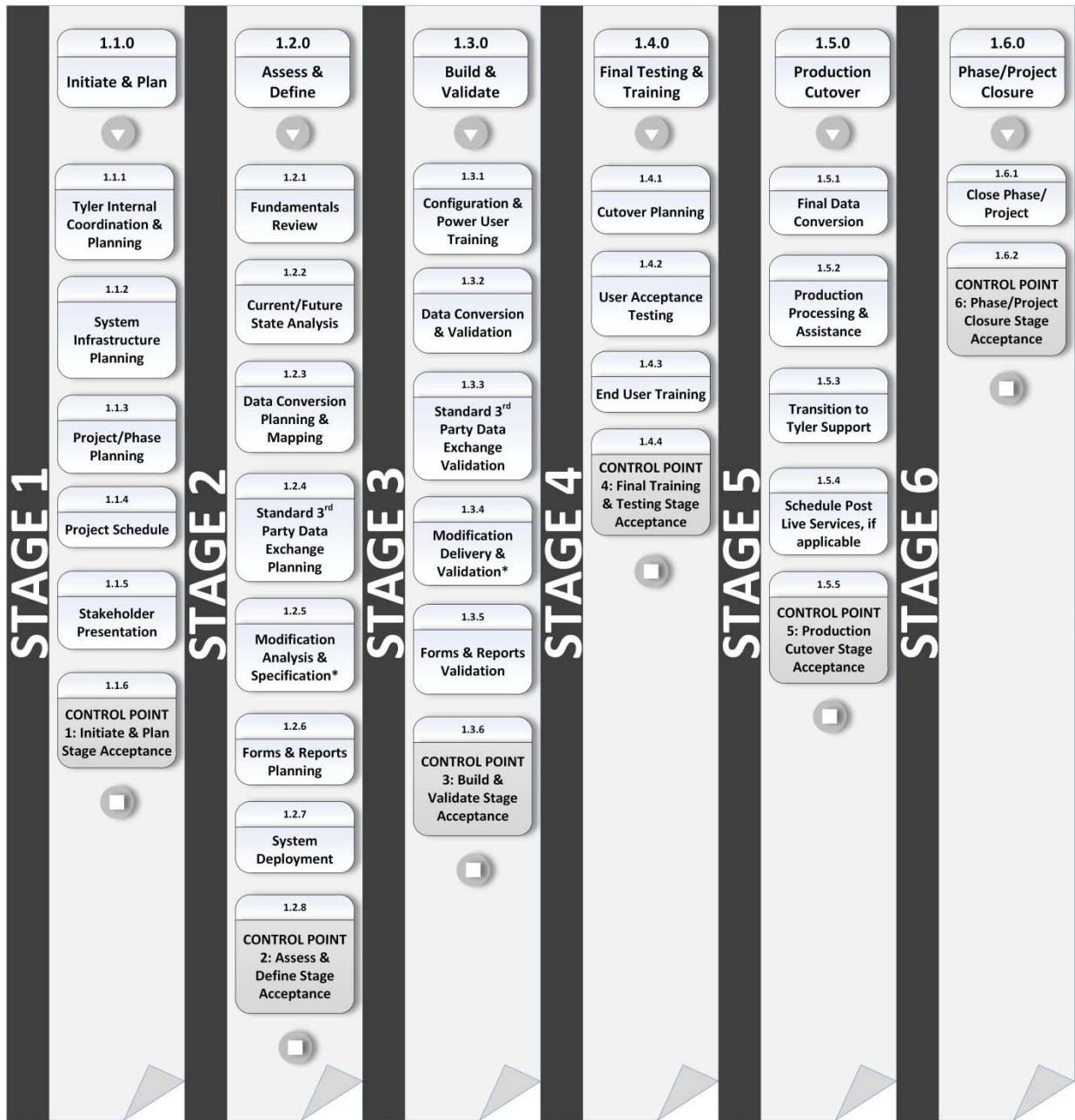
- Throughout the Project lifecycle, the West Valley Water District provides a training room for Tyler staff to transfer knowledge to the West Valley Water District's resources, for both onsite and remote sessions. The West Valley Water District will provide staff with a location to practice what they have learned without distraction. If Phases overlap, the West Valley Water District will provide multiple training facilities to allow for independent sessions scheduling without conflict.
- The training room is set up in a classroom setting. The West Valley Water District determines the number of workstations in the room. Tyler recommends every person attending a scheduled session with a Tyler Consultant or Trainer have their own workstation. However, Tyler requires there be no more than two (2) people at a given workstation.

- The West Valley Water District provides a workstation which connects to the Tyler system for the Tyler trainer conducting the session. The computer connects to a West Valley Water District provided projector, allowing all attendees the ability to actively engage in the training session.
- Users performing user acceptance testing (UAT) have attended all applicable training sessions prior to performing UAT.

4 Implementation Stages

4.1 Work Breakdown Structure (WBS)

The Work Breakdown Structure (WBS) is a hierarchical representation of a Project or Phase broken down into smaller, more manageable components. The top-level components are called “Stages” and the second level components are called “work packages.” The work packages, shown below each Stage, contain the high-level work to be done. The detailed Project Plan, developed during Initiate & Plan and finalized during Assess & Define, will list the tasks to be completed within each work package. Each Stage ends with a “Control Point”, confirming the work performed during that Stage of the Project.



* - If included in project scope

4.2 Initiate & Plan (Stage 1)

The Initiate & Plan Stage creates a foundation for the Project through identification of West Valley Water District and Tyler Project Management teams, development of implementation management plans, and the provision and discussion of system infrastructure requirements. West Valley Water District participation in gathering information is critical. Tyler Project Management teams present initial plans to stakeholder teams at Stage end.

4.2.1 Tyler Internal Coordination & Planning

Prior to Project commencement, Tyler management staff assigns project manager(s). Tyler provides the West Valley Water District with initial Project documents used in gathering basic information, which aids in preliminary planning and scheduling. West Valley Water District participation in gathering requested information by provided deadlines ensures the Project moves forward in a timely fashion. Internally, the Tyler project manager(s) coordinate with sales to ensure transfer of vital information from the sales process prior to scheduling a Project Planning Meeting with the West Valley Water District’s team. During this step, Tyler will work with the West Valley Water District to establish the date(s) for the Project/Phase Planning session.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 1	Tyler Internal Coordination & Planning																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Assign Tyler project manager	A	R	I						I			I								
Provide initial Project documents to Client	A	I	R						C			I								
Sales to Implementation knowledge transfer	A	I	R						C											
Internal planning and phase coordination		A	R					C												

4.2.2 System Infrastructure Planning

The West Valley Water District provides, purchases or acquires hardware according to hardware specifications provided by Tyler and ensures it is available at the West Valley Water District’s site. The West Valley Water District completes the system infrastructure audit, ensuring vital system infrastructure information is available to the Tyler implementation team, and verifies all hardware compatibility with Tyler solutions.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 1	System Infrastructure Planning																				
	TYLER								CLIENT												
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator	
Provide system hardware specifications			I					R	A			I							C		
Make hardware available for Installation			I					C				A							R		
Install system hardware, if applicable			I					C				A							R		
Complete system infrastructure audit			I					C				A							R		

4.2.3 Project/Phase Planning

Project and Phase planning provides an opportunity to review the contract, software, data conversions and services purchased, identify Applications to implement in each Phase (if applicable), and discuss implementation timeframes. The Tyler project manager(s) deliver an Implementation Management Plan, which is mutually agreeable by West Valley Water District and Tyler.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 1	Project/Phase Planning																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Perform Project/Phase Planning		A	R								I	C	C			I				
Deliver implementation management plan		A	R									C	C	I						

4.2.4 Project Schedule

Client and Tyler will mutually develop an initial Project Schedule. The initial schedule includes, at minimum, enough detail to begin Project activities while the detailed Project Plan/schedule is being developed and refined.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 1	Project Schedule																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Develop initial Project Schedule		A	R	I								C	I	I						
Deliver Project Plan and schedule for Project Phase		A	R	I						I	I	C	C	I	I	I				
Client reviews Project Plan & initial schedule			C							I	A	R	C	C		C				
Client approves Project Plan & initial schedule			I							I	A	R	C	C	I	I		I	I	I

4.2.5 Stakeholder Presentation

West Valley Water District stakeholders join Tyler project manager(s) to communicate successful Project criteria, Project goals, Deliverables, a high-level milestone schedule, and roles and responsibilities of Project participants.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 1	Stakeholder Presentation																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Present overview of Project Deliverables, Project Schedule and roles and responsibilities		A	R	I					I	I	I	C	I	I	I	I		I	I	I
Communicate successful Project criteria and goals			I							R	C	A	C	I	I	C	I	I		

4.2.6 Control Point 1: Initiate & Plan Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below. Advancement to the Assess & Define Stage is dependent upon Tyler's receipt of the Stage Acceptance.

4.2.6.1 Initiate & Plan Stage Deliverables

- Implementation Management Plan
 - Objective: Update and deliver baseline management plans to reflect the approach to the West Valley Water District's Project.
 - Scope: The Implementation Management addresses how communication, quality control, risks/issues, resources and schedules, and Software Upgrades (if applicable) will be managed throughout the lifecycle of the Project.
 - Acceptance criteria: West Valley Water District reviews and acknowledges receipt of Implementation Management Plan.
- Project Plan/Schedule
 - Objective: Provide a comprehensive list of tasks, timelines and assignments related to the Deliverables of the Project.
 - Scope: Task list, assignments and due dates
 - Acceptance criteria: West Valley Water District acceptance of schedule based on West Valley Water District resource availability and Project budget and goals.

4.2.6.2 Initiate & Plan Stage Acceptance Criteria

- Hardware Installed
- System infrastructure audit complete and verified
- Implementation Management Plan delivered
- Project Plan/Schedule delivered; dates confirmed
- Stakeholder Presentation complete

4.3 Assess & Define (Stage 2)

The primary objective of Assess & Define is to gather information about current West Valley Water District business processes and translate the material into future business processes using Tyler Applications. Tyler uses a variety of methods for obtaining the information, all requiring West Valley Water District collaboration. The West Valley Water District shall provide complete and accurate information to Tyler staff for analysis and understanding of current workflows and business processes.

4.3.1 Fundamentals Review

Fundamentals Review provides functional leads and Power Users an overall understanding of software capabilities prior to beginning current and future state analysis. The primary goal is to provide a basic understanding of system functionality, which provides a foundation for upcoming conversations regarding future state processing. Tyler utilizes a variety of methods for completing fundamentals training including the use of eLearning, videos, documentation, and walkthroughs.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 2	Assess & Define																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Schedule fundamentals review & provide fundamentals materials & prerequisites, if applicable		A	R	I								C	I		I				I	
Complete fundamentals materials review and prerequisites			I								A	R		I					C	
Ensure all scheduled attendees are present			I	I							A	R	C		I					
Facilitate fundamentals review			A	R								I	I		I					

4.3.2 Current/Future State Analysis

West Valley Water District and Tyler evaluate current state processes, options within the new software, pros and cons of each option based on current or desired state, and make decisions about future state configuration and processing.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 2	Current/Future State Analysis																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Provide Current/Future State analysis materials to the West Valley Water District, as applicable		A	R	I								C	I		I					
Conduct Current & Future State analysis			A	R								I	C	I	C					
Provide pros and cons of Tyler software options			A	R								I	C	I	C					
Make Future State Decisions according to due date in the Project Plan			I	I							C	A	R	I	C	I				
Record Future State decisions			A	R								I	C	I	C					

4.3.3 Data Conversion Planning & Mapping

This entails the activities performed to prepare to convert data from the West Valley Water District’s Legacy System Applications to the Tyler system. Tyler staff and the West Valley Water District work together to complete Data Mapping for each piece of data (as outlined in the Agreement) from the Legacy System to a location in the Tyler system.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 2	Data Conversion Planning & Mapping																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Review contracted data conversion(s) options			A	R	I							C	C		C			C		
Map data from Legacy System to Tyler system			I	C	I							A	C		C			R		
Pull conversion data extract			I		I							A	C		C			R		
Run balancing Reports for data pulled and provide to Tyler			I		I							A	C		R			I		
Review and approve initial data extract		A	I	C	R							I						I		
Correct issues with data extract, if needed			I	C	C							A	C		C			R		

4.3.4 Standard 3rd Party Data Exchange Planning

Standard Data Exchange tools are available to allow clients to get data in and out of the Tyler system with external systems. Data exchange tools can take the form of Imports and Exports, and Interfaces.

A Standard Interface is a real-time or automated exchange of data between two systems. This could be done programmatically or through an API. It is Tyler’s responsibility to ensure the Tyler programs operate correctly. It is the West Valley Water District’s responsibility to ensure the third party program operates or accesses the data correctly.

The West Valley Water District and Tyler project manager(s) will work together to define/confirm which Data Exchanges are needed (if not outlined in the Agreement). Tyler will provide a file layout for each Standard Data Exchange.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 2	Standard 3rd Party Data Exchange Planning																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Review Standard or contracted Data Exchanges			A	R								C	I		I			C		
Define or confirm needed Data Exchanges			I	C								A	C		C			R		

4.3.5 Modification Analysis & Specification, if contracted

Tyler staff conducts additional analysis and develops specifications based on information discovered during this Stage. The West Valley Water District reviews the specifications and confirms they meet West Valley Water District’s needs prior to acceptance. Out of Scope items or changes to specifications after acceptance may require a Change Request.

Tyler’s intention is to minimize Modifications by using Standard functionality within the Application, which may require a West Valley Water District business process change. It is the responsibility of the West Valley Water District to detail all of their needs during the Assess and Define Stage. Tyler will write up specifications (for West Valley Water District approval) for contracted program Modifications. Upon approval, Tyler will make the agreed upon Modifications to the respective program(s). Once the Modifications have been delivered, the West Valley Water District will test and approve those changes during the Build and Validate Stage.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 2	Modification Analysis & Specification, if contracted																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Analyze contracted modified program requirements			A	C			R					C	C	I	C			C		
Develop specification document(s)	A		I	C			R					I	I		I			I		
Review specification document(s); provide changes to Tyler, if applicable			I	C			C					A	R	I	C			C		
Sign-off on specification document(s) and authorize work			I				I				A	R	C	I	I			C		

4.3.6 Forms & Reports Planning

West Valley Water District and Tyler project manager(s) review Forms and Report needs. Items that may be included in the Agreement are either Standard Forms and Reports or known/included Modification(s). Items not included in the Agreement could be either West Valley Water District-developed Reports or a newly discovered Modification that will require a Change Request.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 2	Forms & Reports Planning																				
	TYLER								CLIENT												
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator	
Review required Forms output			A	R									C	I	C						
Review and complete Forms options and submit to Tyler			I			I						A	R		C						
Review in Scope Reports			A	R								I	C		C						
Identify additional Report needs			I	C								A	R		C						
Add applicable tasks to Project schedule	A	R	I			C						C	I		I				I		

4.3.7 System Deployment

The Tyler Technical Services team Installs Tyler Applications on the server (hosted or client-based) and ensures the platform operates as expected.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 2	System Deployment																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Install contracted software on server	A		I					R				I						C		
Ensure platform operates as expected	A		I					R				I						C		

4.3.8 Control Point 2: Assess & Define Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below. Advancement to the Build & Validate Stage is dependent upon Tyler's receipt of the Stage Acceptance.

4.3.8.1 Assess & Define Stage Deliverables

- Completed analysis Questionnaire
 - Objective: Gather and document information related to West Valley Water District business processes for current/future state analysis as it relates to Tyler approach/solution.
 - Scope: Provide comprehensive answers to all questions on Questionnaire(s).
 - Acceptance criteria: West Valley Water District acceptance of completed Questionnaire based on thoroughness of capturing all West Valley Water District business practices to be achieved through Tyler solution.
- Data conversion summary and specification documents
 - Objective: Define data conversion approach and strategy.
 - Scope: Data conversion approach defined, data extract strategy, conversion and reconciliation strategy.
 - Acceptance criteria: Data conversion document(s) delivered to the West Valley Water District, reflecting complete and accurate conversion decisions.
- Modification specification documents, if contracted
 - Objective: Provide comprehensive outline of identified gaps, and how the modified program meets the West Valley Water District's needs.
 - Scope: Design solution for Modification.
 - Acceptance criteria: West Valley Water District accepts Modified Specification Document(s) and agrees that the proposed solution meets their requirements.
- Completed Forms options and/or packages
 - Objective: Provide specifications for each West Valley Water District in Scope form, Report and output requirements.
 - Scope: Complete Forms package(s) included in agreement and identify Report needs.
 - Acceptance criteria: Identify Forms choices and receive supporting documentation.
- Installation checklist
 - Objective: Installation of purchased Tyler software.
 - Scope: Tyler will conduct an initial coordination call, perform an installation of the software included in the Agreement, conduct follow up to ensure all tasks are complete, and complete server system administration training, unless the West Valley Water District is hosted.
 - Acceptance criteria: Tyler software is successfully installed and available to authorized users, West Valley Water District team members are trained on applicable system administration tasks.

4.3.8.2 Assess & Define Stage Acceptance Criteria

- Tyler software is installed.
- Fundamentals review is complete.
- Required Form information complete and provided to Tyler.
- Current/Future state analysis completed; Questionnaires delivered and reviewed.
- Data conversion mapping and extractions completed and provided to Tyler.

4.4 Build & Validate (Stage 3)

The objective of the Build & Validate Stage is to prepare the software for use in accordance with the West Valley Water District’s needs identified during the Assess and Define Stage, preparing the West Valley Water District for Final Testing and Training.

4.4.1 Configuration & Power User Training

Tyler staff collaborates with the West Valley Water District to complete software configuration based on the outputs of the future state analysis performed during the Assess and Define Stage. Tyler staff will train the West Valley Water District Power Users to prepare them for the Validation of the software. The West Valley Water District collaborates with Tyler staff iteratively to Validate software configuration.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 3	Build & Validate																				
	TYLER								CLIENT												
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator	
Perform configuration			A	R								I	R		I						
Power User process and Validation training			A	R								I	C	I	C					I	
Validate configuration			I	C								A	C		R				C		

4.4.2 Data Conversion & Validation

Tyler completes an initial review of the converted data for errors. With assistance from the West Valley Water District, the Tyler Data Conversion Team addresses items within the conversion program to provide the most efficient data conversion possible. With guidance from Tyler, the West Valley Water District reviews specific data elements within the system and identifies and Reports discrepancies in writing. Iteratively, Tyler collaborates with the West Valley Water District to address conversion discrepancies prior to acceptance.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 3	Data Conversion & Validation																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Write and run data conversion program against Client data		A	I	C	R														C	
Complete initial review of data errors		A	I	C	R							I	I						C	
Review data conversion and submit needed corrections			I	C	I							A	C		R				C	
Revise conversion program(s) to correct error(s)		A	I	C	R							I	I		C				C	

4.4.3 Standard 3rd Party Data Exchange Validation

Tyler provides training on Data Exchange(s) and the West Valley Water District tests each Data Exchange.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 3	Standard 3 rd Party Data Exchange Validation																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Train Data Exchange(s) processing in Tyler software			A	R								C	I	I	I			C	I	
Coordinate 3 rd Party Data Exchange activities			I	I								A	C		C			R		
Test all Standard 3 rd party Data Exchange(s)			I	C								A	C	I	R			C		

4.4.4 Modification Delivery & Validation, if contracted

Tyler delivers in Scope Modification(s) to the West Valley Water District for preliminary testing. Final acceptance will occur during the Final Testing and Training Stage.

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed

STAGE 3	Modification Delivery & Validation, if contracted																				
	TYLER								CLIENT												
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator	
Develop and deliver contracted modified program(s)		A	I	C	I		R					I	C	I	C				I		C
Test contracted modified program(s) in isolated database				I	C			C				A	C		R				C		
Report discrepancies between specification and delivered contracted modified program(s)				I	I			I				A	R		C				C		
Make corrections to contracted modified program(s) as required		A	I	C	I		R					I	C		C				I		

4.4.5 Forms & Reports Validation

Tyler provides training on Standard Forms/Reports and the West Valley Water District tests each Standard Form/Report.

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed

STAGE 3	Forms & Reports Validation																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Standard Forms & Report training			A	R								I	C		C			I		
Test Standard Forms & Reports			I	C		C						A	C		R			C		

4.4.6 Control Point 3: Build & Validate Stage Acceptance

Acceptance criteria for this Stage includes all criteria listed below. Advancement to the Final Testing & Training Stage is dependent upon Tyler's receipt of the Stage Acceptance.

4.4.6.1 Build & Validate Stage Deliverables

- Initial data conversion
 - Objective: Convert Legacy System data into Tyler system.
 - Scope: Data conversion program complete; deliver converted data for review.
 - Acceptance criteria: Initial error log available for review.
- Data conversion verification document
 - Objective: Provide instructions to the West Valley Water District to verify converted data for accuracy.
 - Scope: Provide self-guided instructions to verify specific data components in Tyler system.
 - Acceptance criteria: West Valley Water District accepts data conversion delivery; West Valley Water District completes data issues log.
- Installation of Modifications on the West Valley Water District's server(s) *except for hosted Clients
 - Objective: Deliver Modification(s) in Tyler software.
 - Scope: Program for Modification is complete and available in Tyler software, Modification testing.
 - Acceptance criteria: Delivery of Modification(s) results in objectives described in the West Valley Water District-signed specification.
- Standard Forms & Reports Delivered
 - Objective: Provide Standard Forms & Reports for review.
 - Scope: Installation of all Standard Forms & Reports included in the Agreement.
 - Acceptance criteria: Standard Forms & Reports available in Tyler software for testing in Stage 4.

4.4.6.2 Build & Validate Stage Acceptance Criteria

- Application configuration completed.
- Standard Forms & Reports delivered and available for testing in Stage 4.
- Data conversions (except final pass) delivered.
- Standard 3rd party Data Exchange training provided.
- Modifications delivered and available for testing in Stage 4.
- The West Valley Water District and Tyler have done a review of primary configuration areas to Validate completeness and readiness for testing and acceptance in Stage 4.

4.5 Final Testing & Training (Stage 4)

During Final Testing and Training, Tyler and the West Valley Water District review the final Cutover plan. A critical Project success factor is the West Valley Water District understanding the importance of Final Testing and Training and dedicating the resources required for testing and training efforts in order to ensure a successful Production Cutover.

4.5.1 Cutover Planning

West Valley Water District and Tyler project manager(s) discuss final preparations and critical dates for Production Cutover. Tyler delivers a Production Cutover Checklist to outline Cutover tasks to help prepare the West Valley Water District for success.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 4	Cutover Planning																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Cutover Planning Session		A	R	C							I	C	C	C				C	C	
Develop Production Cutover Checklist		A	R	C							I	I	C	C	I	I			C	

4.5.2 User Acceptance Testing (UAT)

The West Valley Water District performs User Acceptance Testing to verify software readiness for day-to-day business processing. Tyler provides a Test Plan for users to follow to ensure proper Validation of the system.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 4	User Acceptance Testing (UAT)																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Deliver Test Plan for User Acceptance Testing		A	R	C								I	I							
Perform User Acceptance Testing			I	C							A	R	C	C	C	I	I	C	I	
Accept modified program(s), if applicable			I	I			I				A	R	C	I	C			C		
Validate Report performance			I	C		C						A	C		R			C		

4.5.3 End User Training

End Users attend training sessions to learn how to utilize Tyler software. Training focuses primarily on day-to-day West Valley Water District processes that will be delivered via group training, webinar, eLearnings and/or live training sessions.

Unless stated otherwise in the Agreement, Tyler provides one occurrence of each scheduled training or implementation topic with up to the maximum number of users as defined in the Agreement, or as otherwise mutually agreed. West Valley Water District users who attended the Tyler sessions may train any West Valley Water District users not able to attend the Tyler sessions or additional sessions may be contracted at the applicable rates for training.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 4	End User Training																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Conduct user training sessions			A	R								C	I		I	I		I	I	
Conduct additional End User training sessions			I								I	A	C	I	R	I	I	I	I	

4.5.4 Control Point 4: Final Testing & Training Stage Acceptance

Acceptance criteria for this Stage includes all criteria listed below. Advancement to the Production Cutover Stage is dependent upon Tyler's receipt of the Stage Acceptance.

4.5.4.1 Final Testing & Training Stage Deliverables

- Production Cutover checklist
 - Objective: Provide a detailed checklist outlining tasks necessary for production Cutover.
 - Scope: Dates for final conversion, date(s) to cease system processing in Legacy System, date(s) for first processing in Tyler system, contingency plan for processing.
 - Acceptance criteria: Definition of all pre-production tasks, assignment of owners and establishment of due dates.
- User Acceptance Test Plan
 - Objective: Provide testing steps to guide users through testing business processes in Tyler software.
 - Scope: Testing steps for Standard business processes.
 - Acceptance criteria: Testing steps have been provided for Standard business processes.

4.5.4.2 Final Testing & Training Stage Acceptance Criteria

- Production Cutover Checklist delivered and reviewed.
- Modification(s) tested and accepted, if applicable.
- Standard 3rd party Data Exchange programs tested and accepted.
- Standard Forms & Reports tested and accepted.
- User acceptance testing completed.
- End User training completed.

4.6 Production Cutover (Stage 5)

West Valley Water District and Tyler resources complete tasks as outlined in the Production Cutover Plan and the West Valley Water District begins processing day-to-day business transactions in the Tyler software. Following Production Cutover, the West Valley Water District transitions to the Tyler support team for ongoing support of the Application.

4.6.1 Final Data Conversion, if applicable

The West Valley Water District provides final data extract and Reports from the Legacy System for data conversion and Tyler executes final data conversion. The West Valley Water District may need to manually enter into the Tyler system any data added to the Legacy System after final data extract.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 5	Final Data Conversion, if applicable																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Provide final data extract			C		I						I	A	C	I	I	I	I	R		
Provide final extract balancing Reports			I		I							A	C		R			I		
Convert and deliver final pass of data		A	I	I	R							I	I		I			C		
Validate final pass of data			I	C	C						I	A	C		R			C		
Load final conversion pass to Production environment			I		I						I	A	C	I	C			R		

4.6.2 Production Processing & Assistance

Tyler staff collaborates with the West Valley Water District during Production Cutover activities. The West Valley Water District transitions to Tyler software for day-to day business processing.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 5	Production Processing & Assistance																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Production processing			C	C						I	I	A	R	R	R	R	R	R	I	I
Provide production assistance			A	R				C				I	C	C	C	C	C	C		

4.6.3 Transition to Tyler Support

Tyler project manager(s) introduce the West Valley Water District to the Tyler Support team, who provides the West Valley Water District with day-to-day assistance following Production Cutover.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 5	Transition to Tyler Support																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Develop internal support plan			I								A	R	C	C	C	C		C	C	C
Conduct transfer to Support meeting	A	I	C					R				C	C	C	C	I	I	C	I	I

4.6.4 Schedule Post-Production Services, if applicable

Tyler provides post-production services if included in the Agreement. Prior to scheduling services, the Tyler project manager(s) collaborate with West Valley Water District project manager(s) to identify needs.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 5	Schedule Post-Production Services, if applicable																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Identify topics for post-production services			C	C								A	R	I	C				I	
Schedule services for post-production topics		A	R	I								C	C	I	C				I	

4.6.5 Control Point 5: Production Cutover Stage Acceptance

Acceptance criteria for this Stage includes all criteria listed below. Advancement to the Phase/Project Closure Stage is dependent upon Tyler's receipt of this Stage Acceptance.

4.6.5.1 Production Cutover Stage Deliverables

- Final data conversion, if applicable
 - Objective: Ensure (in Scope) Legacy System data is available in Tyler software in preparation for production processing.
 - Scope: Final passes of all conversions completed in this Phase.
 - Acceptance criteria: Data is available in production environment.
- Support transition documents
 - Objective: Define strategy for on-going Tyler support.
 - Scope: Define support strategy for day-to-day processing, conference call with West Valley Water District Project Manager(s) and Tyler support team, define roles and responsibilities, define methods for contacting support.
 - Acceptance criteria: the West Valley Water District receives tools to contact support and understands proper support procedures.

4.6.5.2 Production Cutover Stage Acceptance Criteria

- Final data conversion(s) delivered.
- Processing is being done in Tyler production.
- Transition to Tyler support is completed.
- Post-live services have been scheduled, if applicable.

4.7 Phase/Project Closure (Stage 6)

Project or Phase closure signifies full implementation of all products purchased and encompassed in the Phase or Project. The West Valley Water District moves into the next cycle of their relationship with Tyler (next Phase of implementation or long-term relationship with Tyler Support).

4.7.1 Close Phase/Project

The West Valley Water District and Tyler project manager(s) review the list of outstanding Project activities and develop a plan to address them. The Tyler project manager(s) review the Project budget and status of each contract Deliverable with the West Valley Water District project manager(s) prior to closing the Phase or Project.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

STAGE 6	Close Phase/Project																			
	TYLER								CLIENT											
TASKS	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Tyler Sales	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Leads	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Upgrade Coordinator
Review outstanding Project activities and develop action plan		A	R	C								C	C	I	C	I		C		
Review Project budget and status of contract Deliverables		A	R							I	I	C								

4.7.2 Control Point 6: Phase/Project Closure Stage Acceptance

Acceptance criteria for this Stage includes all criteria listed below. This is the final acceptance for the Phase/Project.

4.7.2.1 Phase/Project Closure Stage Deliverables

- Phase/Project reconciliation report
 - Objective: Provide comparison of contract Scope and Project budget.
 - Scope: Contract Scope versus actual, analysis of services provided and remaining budget, identify any necessary Change Requests or Project activity.
 - Acceptance criteria: Acceptance of services and budget analysis and plan for changes, if needed.

4.7.2.2 Phase/Project Closure Stage Acceptance Criteria

- Outstanding Phase or Project activities have been documented and assigned.
- Phase/final Project budget has been reconciled.
- Tyler Deliverables for the Phase/Project are complete.

5 Roles and Responsibilities

5.1 Tyler Roles and Responsibilities

Tyler assigns project manager(s) prior to the start of each Phase of the Project. The project manager(s) assign additional Tyler resources as the schedule develops and as needs arise. One person may fill multiple project roles.

5.1.1 Tyler Executive Management

- Provides clear direction for Tyler staff on executing on the Project Deliverables to align with satisfying the West Valley Water District's overall organizational strategy.
- Authorizes required project resources.
- Resolves all decisions and/or issues not resolved at the implementation management level as part of the escalation process.
- Offers additional support to the project team and is able to work with other Tyler department managers in order to escalate and facilitate implementation project tasks and decisions.
- Acts as the counterpart to the West Valley Water District's executive sponsor.

5.1.2 Tyler Implementation Management

- Acts as the counterpart to the West Valley Water District steering committee.
- Assigns initial Tyler project personnel.
- Works to resolve all decisions and/or issues not resolved at the Project Management level as part of the escalation process.
- Attends West Valley Water District steering committee meetings as necessary.
- Provides support for the project team.
- Provides management support for the Project to ensure it is staffed appropriately and staff have necessary resources.
- Monitors project progress including progress towards agreed upon goals and objectives.

5.1.3 Tyler Project Manager

The Tyler project manager(s) provides oversight of the Project, coordination of resources between departments, management of the project budget and schedule, effective risk and issue management, and is the primary point of contact for all Project related items.

- Contract Management
 - Validates contract compliance throughout the Project.
 - Ensures Deliverables meet contract requirements.
 - Acts as primary point of contact for all contract and invoicing questions.
 - Prepares and presents contract milestone sign-offs for acceptance by West Valley Water District project manager(s).
 - Coordinates Change Requests, if needed, to ensure proper Scope and budgetary compliance.
- Planning

- Update and deliver Implementation Management Plan.
- Defines project tasks and resource requirements.
- Develops initial project schedule and full scale Project Plan .
- Collaborates with West Valley Water District project manager(s) to plan and schedule project timelines to achieve on-time implementation.
- Implementation Management
 - Tightly manages Scope and budget of Project; establishes process and approval matrix with the West Valley Water District to ensure Scope changes and budget planned versus actual are transparent and handled effectively and efficiently.
 - Establishes and manages a schedule and resource plan that properly supports the Project Plan that is also in balance with Scope/budget.
 - Establishes risk/issue tracking/reporting process between the West Valley Water District and Tyler and takes all necessary steps to proactively mitigate these items or communicates with transparency to the West Valley Water District any items that may impact the outcomes of the Project.
 - Collaborates with the West Valley Water District’s project manager(s) to establish key business drivers and success indicators that will help to govern project activities and key decisions to ensure a quality outcome of the project.
 - Sets a routine communication plan that will aide all project team members, of both the West Valley Water District and Tyler, in understanding the goals, objectives, current status and health of the project.
- Team Management
 - Acts as liaison between project team and Tyler manager(s).
 - Identifies and coordinates all Tyler resources across all applications, Phases, and activities including development, forms, installation, reports, implementation, and billing.
 - Provides direction and support to project team.
 - Builds partnerships among the various stakeholders, negotiating authority to move the Project forward.
 - Manages the appropriate assignment and timely completion of tasks as defined in the Project Plan, task list, and Production Cutover Checklist.
 - Assesses team performance and adjusts as necessary.
 - Interfaces closely with Tyler developers to coordinate program Modification activities.
 - Coordinates with in Scope 3rd party providers to align activities with ongoing project tasks.

5.1.4 Tyler Implementation Consultant

- Completes tasks as assigned by the Tyler project manager(s).
- Performs problem solving and troubleshooting.
- Follows up on issues identified during sessions.
- Documents activities for on site services performed by Tyler.
- Provides conversion Validation and error resolution assistance.
- Recommends guidance for testing Forms and Reports.
- Tests software functionality with the West Valley Water District following configuration.
- Assists during Production Cutover process and provides production support until the West Valley Water District transitions to Tyler Support.

- Provides product related education.
- Effectively facilitates training sessions and discussions with West Valley Water District and Tyler staff to ensure adequate discussion of the appropriate agenda topics during the allotted time.
- Conducts training (configuration, process, conversion Validation) for Power Users and the West Valley Water District's designated trainers for End Users.
- Clearly documents homework tasks with specific due dates and owners, supporting and reconciling with the final Project Plan.
- Keeps Tyler project manager(s) proactively apprised of any and all issues which may result in the need for additional training, change in schedule, change in process decisions, or which have the potential to adversely impact the success of the Project prior to taking action.

5.1.5 Tyler Sales

- Provide sales background information to Implementation during Project initiation.
- Support Sales transition to Implementation.
- Provide historical information, as needed, throughout implementation.

5.1.6 Tyler Software Support

- Manages incoming client issues via phone, email, and online customer incident portal.
- Documents and prioritizes issues in Tyler's Customer Relationship Management (CRM) system.
- Provides issue analysis and general product guidance.
- Tracks issues and tickets to timely and effective resolution.
- Identifies options for resolving reported issues.
- Reports and escalates defects to Tyler Development.
- Communicates with the West Valley Water District on the status and resolution of reported issues.

5.1.7 Tyler Basic Network Support

- Manages incoming West Valley Water District issues via phone, email, online customer incident portal, and from Software Support.
- Provides system support including remote support of West Valley Water District systems, operating systems, network and local printing, and SQL assistance for the systems and platform directly attributable to the Tyler Applications.
- Tracks issues and tickets to timely and effective resolution.
- Determine root cause and provide solutions or provide direction/escalation to Tyler Development.
- Consult on pre-sales in regards to system requirements.

5.1.8 Tyler Disaster Recovery Support

- Conduct and monitor nightly backups of West Valley Water District databases at hosting facility, transfer nightly backups to Tylers data center.
- Provides services to host Application in the event of a disaster.
- Provides 24 hour RPO – Recover Point Objective.
- Provides emergency response within 2 business hours

- Ensure Tyler Application availability within 8 business hours.
- Provide one annual disaster planning walkthrough.

5.2 West Valley Water District Roles and Responsibilities

West Valley Water District resources will be assigned prior to the start of each Phase of the project. One person may be assigned to multiple project roles.

5.2.1 West Valley Water District Executive Sponsor

- Provides clear direction for the Project and how the Project applies to the organization's overall strategy.
- Champions the Project at the executive level to secure buy-in.
- Authorizes required Project resources.
- Resolves all decisions and/or issues not resolved at the West Valley Water District steering committee level as part of the escalation process.
- Actively participates in organizational change communications.

5.2.2 West Valley Water District Steering Committee

- Works to resolve all decisions and/or issues not resolved at the project manager level as part of the escalation process.
- Attends all scheduled steering committee meetings.
- Provides support for the project team.
- Assists with communicating key project messages throughout the organization.
- Prioritizes the project within the organization.
- Provides management support for the project to ensure it is staffed appropriately and staff have necessary resources.
- Monitors project progress including progress towards agreed upon goals and objectives.
- Has the authority to approve or deny changes impacting the following areas:
 - Cost
 - Scope
 - Schedule
 - Project Goals
 - West Valley Water District Policies

5.2.3 West Valley Water District Project Manager

The West Valley Water District shall assign project manager(s) prior to the start of this Project with overall responsibility and authority to make decisions related to project Scope, scheduling, and task assignment, and communicates decisions and commitments to the Tyler project manager(s) in a timely and efficient manner. When the West Valley Water District project manager(s) do not have the knowledge or authority to make decisions, he or she engages the correct resources from West Valley Water District to participate in discussions and make decisions in a timely fashion to avoid Project delays.

- Contract Management

- Validates contract compliance throughout the Project.
- Ensures invoicing and Deliverables meet contract requirements.
- Acts as primary point of contact for all contract and invoicing questions.
- Signs off on contract milestone acknowledgment documents.
- Collaborates on and approves Change Requests, if needed, to ensure proper Scope and budgetary compliance.
- Planning
 - Review and acknowledge Implementation Management Plan.
 - Defines project tasks and resource requirements for West Valley Water District project team.
 - Collaborates in the development and approval of the initial Project Plan and Project Plan.
 - Collaborates with Tyler project manager(s) to plan and schedule Project timelines to achieve on-time implementation.
- Implementation Management
 - Tightly manages Project budget and Scope and collaborates with Tyler project manager(s) to establish a process and approval matrix to ensure Scope changes and budget planned versus actual are transparent and handled effectively and efficiently.
 - Collaborates with Tyler project manager to establish and manage a schedule and resource plan that properly supports the Project Plan, as a whole, that is also in balance with Scope/budget.
 - Collaborates with Tyler Project manager(s) to establishes risk/issue tracking/reporting process between the West Valley Water District and Tyler and takes all necessary steps to proactively mitigate these items or communicates with transparency to Tyler any items that may impact the outcomes of the Project.
 - Collaborates with Tyler Project manager(s) to establish key business drivers and success indicators that will help to govern Project activities and key decisions to ensure a quality outcome of the Project.
 - Routinely communicates with both West Valley Water District staff and Tyler, aiding in the understanding of goals, objectives, current status, and health of the Project by all team members.
- Team Management
 - Acts as liaison between project team and stakeholders.
 - Identifies and coordinates all West Valley Water District resources across all modules, Phases, and activities including data conversions, forms design, hardware and software installation, reports building, and satisfying invoices.
 - Provides direction and support to project team.
 - Builds partnerships among the various stakeholders, negotiating authority to move the Project forward.
 - Manages the appropriate assignment and timely completion of tasks as defined in the Project Plan, task list, and Production Cutover Checklist.
 - Assesses team performance and takes corrective action, if needed.
 - Provides guidance to West Valley Water District technical teams to ensure appropriate response and collaboration with Tyler Technical Support Teams to ensure timely response and appropriate resolution.
 - Coordinates in Scope 3rd party providers to align activities with ongoing Project tasks.

5.2.4 West Valley Water District Functional Leads

- Makes business process change decisions under time sensitive conditions.
- Communicates existing business processes and procedures to Tyler consultants.
- Assists in identifying business process changes that may require escalation.
- Attends and contributes business process expertise for current/future state analysis sessions.
- Identifies and includes additional subject matter experts to participate in Current/Future State Analysis sessions.
- Provides business process change support during Power User and End User training.
- Completes performance tracking review with client project team on End User competency on trained topics.
- Provides Power and End Users with dedicated time to complete required homework tasks.
- Act as an ambassador/champion of change for the new process.
- Identifies and communicates any additional training needs or scheduling conflicts to West Valley Water District project manager.
- Prepares and Validates Forms.
- Actively participates in all aspects of the implementation, including, but not limited to, the following key activities:
 - Task completion
 - Stakeholder Presentation
 - Implementation Management Plan development
 - Schedule development
 - Maintenance and monitoring of risk register
 - Escalation of issues
 - Communication with Tyler project team
 - Coordination of West Valley Water District resources
 - Attendance at scheduled sessions
 - Change Management activities
 - Modification specification, demonstrations, testing and approval assistance
 - Conversion Analysis and Verification Assistance
 - Decentralized End User Training
 - Process Testing
 - User Acceptance Testing

5.2.5 West Valley Water District Power Users

- Participate in Project activities as required by the project team and project manager(s).
- Provide subject matter expertise on West Valley Water District business processes and requirements.
- Act as subject matter experts and attend current/future state and validation sessions as needed.
- Attend all scheduled training sessions.
- Participate in all required post-training processes as needed throughout Project.
- Participate in Conversion Validation.
- Test all Application configuration to ensure it satisfies business process requirements.
- Become Application experts.
- Participate in User Acceptance Testing.

- Adopt and support changed procedures.
- Complete all Deliverables by the due dates defined in the Project Plan.
- Demonstrate competency with Tyler products processing prior to Production Cutover.
- Provide knowledge transfer to West Valley Water District staff during and after implementation.

5.2.6 West Valley Water District End Users

- Attend all scheduled training sessions.
- Become proficient in Application functions related to job duties.
- Adopt and utilize changed procedures.
- Complete all Deliverables by the due dates defined in the Project Plan.
- Utilize software to perform job functions at and beyond Production Cutover.

5.2.7 West Valley Water District Technical Support

- Coordinates updates and releases with Tyler as needed.
- Coordinates the copying of source databases to training/testing databases as needed for training days.
- Extracts and transmits conversion data and control reports from West Valley Water District's Legacy System per the conversion schedule set forth in the Project Plan.
- Coordinates and adds new users and printers and other Peripherals as needed.
- Validates all users understand log-on process and have necessary permission for all training sessions.
- Coordinates Interface development for West Valley Water District third party Data Exchanges.
- Develops or assists in creating Reports as needed.
- Ensures onsite system hardware meets specifications provided by Tyler.
- Assists with software Installation as needed.

5.2.8 West Valley Water District Upgrade Coordinator

- Becomes familiar with the Software Upgrade process and required steps.
- Becomes familiar with Tyler's releases and updates.
- Utilizes Tyler Community to stay abreast of the latest Tyler releases and updates, as well as the latest helpful tools to manage the West Valley Water District's Software Upgrade process.
- Assists with the Software Upgrade process during implementation.
- Manages Software Upgrade activities post-implementation.
- Manages Software Upgrade plan activities.
- Coordinates Software Upgrade plan activities with West Valley Water District and Tyler resources.
- Communicates changes affecting users and department stakeholders.
- Obtains department stakeholder sign-offs to upgrade production environment.

5.2.9 West Valley Water District Project Toolset Coordinator

- Ensures users have appropriate access to Tyler project toolsets such as Tyler University, Tyler Community, Tyler Product Knowledgebase, SharePoint, etc.
- Conducts training on proper use of toolsets.
- Validates completion of required assignments using toolsets.

5.2.10 West Valley Water District Change Management Lead

- Validates users receive timely and thorough communication regarding process changes.
- Provides coaching to supervisors to prepare them to support users through the project changes.
- Identifies the impact areas resulting from project activities and develops a plan to address them proactively.
- Identifies areas of resistance and develops a plan to reinforce the change.
- Monitors post-production performance and new process adherence.

6 Glossary

Word or Term	Definition
Accountable	The person who is ultimately accountable for decisions being made on a task.
Application	A computer program designed to perform a group of coordinated functions, tasks or activities for the benefit of the user.
Build Blueprint	A document recording future state decisions intended to allow Tyler to satisfy business needs/requirements during the Build & Validate Stage through configuration and setups to develop the final solution. A means for the West Valley Water District to Validate what was agreed to be in Scope has been Delivered.
Business Requirements Document	A specification document used to describe West Valley Water District requirements not available through Tyler software functionality, which will lead to a Modification with West Valley Water District acceptance.
Change Control	A systematic approach for managing change governing how Change Requests will be received, assessed and acted on.
Change Management	An approach for ensuring that changes are thoroughly and smoothly implemented and that the lasting benefits of change are achieved. The focus is on the global impact of change with an intense focus on people and how individuals and teams move from the current situation to the new one.
Change Request	A form used as part of the Change Control process whereby changes in the Scope of work, timeline, resources, and/or budget are revised and agreed upon by participating parties.
Consulted	Anyone who must be consulted with prior to a decision being made and/or the task being completed
Consumables	Items that are used on a recurring basis, usually by Peripherals. Examples: paper stock or scanner cleaning kits.
Control Point	Occurring at the end of each Stage, the Control Point serves as a formal client review point. Project progress cannot continue until the client acknowledges the agreed upon Deliverables of the Stage have been met, or agree on an action plan to make the Deliverable acceptable and move to next Stage while executing final steps of current Stage.
Data Exchange	A term used to reference Imports and Exports, and Interfaces which allow data to be exchanged between an external system and Tyler software.
Data Mapping	The process of mapping fields from the Legacy System to the appropriate location in the new system from one or more sources.
Deliverable	A tangible or intangible object/document produced as a result of the Project that is intended to be delivered to a client (either internal or external) or vendor at a specific time.
End User	The person for whom the software is designed to use on a day-to-day basis.

Forms	A document which is typically printed on a template background and only captures data for one record per page. Forms are provided to entity customers whether internal (employees) or external (citizens).
Imports and Exports	A process within the system that a user is expected to run to consume (Import) or produce (Export) a specifically defined file format/layout.
Informed	Anyone who will be updated when decisions are made or a task is completed.
Install	References the initial Installation of software files on client servers and preparing the software for use during configuration. The version currently available for general release will always be used during the initial Install.
Interface	A real-time or automated exchange of data between two systems.
Legacy System	The system from which a client is converting.
Modification	Modification of software program package to provide individual client requirements documented within the Scope of the Agreement.
Peripherals	An auxiliary device that connects to and works with the computer in some way. Examples: mouse, keyboard, scanner, external drive, microphone, speaker, webcam, and digital camera.
Phase	A portion of the Project in which specific set of related products are typically implemented. Phases each have an independent start, Production Cutover and closure dates but use the same Implementation Plans as other Phases within the Project. Phases may overlap or be sequential and may have the same Tyler project manager and Tyler project team or different individuals assigned.
Power User	An experienced client person or group who is (are) an expert(s) in the client business processes, as well as knowledgeable in the requirements and acceptance criteria.
Production Cutover	The West Valley Water District is using the Tyler software to conduct daily operations.
Project	The Project includes all implementation activity from Plan & Initiate to Closure for all products, Applications and functionality included in a single Agreement. The Project may be broken down into multiple Phases.
Project Plan	The Project Plan serves as the master roadmap for the Project. The Project Plan will be the detailed task list of the essential activities to be performed to complete the Project. Each activity will have owner(s), participant(s) if applicable, start date, and due dates. The Project Plan is a living document and will be updated quarterly with the detailed tasks for the next future quarter; only high-level tasks with rough timeframes will be plotted out beyond this.

Project Planning Meeting	Occurs during the Plan & Initiate Stage to coordinate with the Client project manager to discuss Scope, information needed for project scheduling and resources.
RACI	A chart describing level of participation by various roles in completing tasks or Deliverables for a Project or process. Also known as a responsibility assignment matrix (RAM) or linear responsibility chart (LRC).
Reports	Formatted to return information related to multiple records in a structured format. Information is typically presented in both detail and summary form for a user to consume.
Responsible	The person who will be completing the task.
Scope	Products and services that are included in the Agreement.
Software Upgrade	References the act of updating software files to a newer software release.
Stage	The top-level components of the WBS. Each Stage is repeated for individual Phases of the Project and requires acknowledgement before continuing to the next Stage. Some tasks in the next Stage may begin before the prior Stage is complete.
Stakeholder Presentation	Representatives of the Tyler implementation team will meet with key client representatives to present high level Project expectations and outline how Tyler and the Client can successfully partner to create an environment for a successful implementation.
Standard	Included in the base software (out of the box) package.
Statement of Work (SOW)	Document which will provide supporting detail to the Agreement defining Project -specific activities and Deliverables Tyler will provide to the client.
Validation (or to validate)	The process of testing and approving that a specific Deliverable, process, program or product is working as expected.
Work Breakdown Structure (WBS)	A hierarchical representation of a Project or Phase broken down into smaller, more manageable components.

7 Incode 10 Conversion Summary

7.1 General Ledger – Chart of Accounts

- Full chart of accounts listing, descriptions, and corresponding account types
- Element (segment) values and descriptions

7.2 General Ledger – Legacy/Historical Views

- Unlimited historical transactions provided by client can be converted by Tyler into historical views

7.3 Accounts Payable – Vendor Master

- Vendor master information, address, primary contact, and notes

7.4 Accounts Payable – Legacy/Historical Views

- Unlimited historical transactions provided by client can be converted by Tyler into historical views

7.5 Personnel Management/Payroll - Standard

- Basic employee information – employee master, address, primary contact, dates, phone numbers, dependents, notes
- Current direct deposit bank information
- Federal and state tax withholding information

7.6 Personnel Management/Payroll – Legacy/Historical Views

- Unlimited historical transactions provided by client can be converted by Tyler into historical views

7.7 Utility Billing - Standard

- Utility Contact Information
- Utility Mailing and Billing Addresses
- Utility Parcels
- Account Master - (Average monthly payment, deposits, bank drafts, comments/notes)
- Meters/Services
- Transaction History – Includes current year plus one prior year
- Read History

7.8 Utility Billing – Legacy/Historical Views

- Unlimited historical transactions provided by client can be converted by Tyler into historical views

Attachment B

Amendment to Contract ID# 2018-52720



AMENDMENT

This amendment ("Amendment") is made this 3 day of March, 2019 by and between Tyler Technologies, Inc. with offices at One Tyler Drive, Yarmouth, Maine 04096 ("Tyler") and the West Valley Water District whose address is PO Box 920, Rialto, CA 92377 ("Client").

WHEREAS, Tyler and the Client are parties to an agreement dated September 12, 2018 ("Agreement"); and

WHEREAS, Tyler and Client desire to amend the terms of the Agreement as provided herein.

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and the Client agree as follows:

1. The Inventory Control and Work Orders Software is hereby removed from the Agreement as of the execution date of this Amendment.

Component Description	License	Maintenance	Related Services
Inventory Control	\$ 4,702	\$ 1,238	\$ 4,000
Work Orders	\$ 18,289	\$ 4,881	\$ 12,500
Total	\$ 22,991	\$ 6,119	\$ 16,500

- a. Upon such date, Client's license for such software is terminated, as are Tyler's obligations to support, maintain, and update such software. Should Client wish to again license and/or use such software, Client shall first pay Tyler the then-current license fee(s) for the software, as well as fees for any required services, support or 3rd party products
2. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.
3. All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

Tyler Technologies, Inc.

By: Janet Joiner
DocuSigned by:
 035F0AC64B0746D

Name: Janet Joiner

Title: Vice President, Finance-LGD Division

Date: 3/7/2019

West Valley Water District

By: Clarence C. Mansell, Jr. 03-06-19

Name: Clarence C. Mansell, Jr.

Title: General Manager

Date: 03-06-19

Attachment C



**BOARD OF DIRECTORS
STAFF REPORT**

DATE: August 5, 2019
TO: Board of Directors
FROM: Clarence Mansell Jr., General Manager
SUBJECT: ASSET MANAGEMENT: TYLER INCODE INTEGRATION WITH MAXIMO

BACKGROUND:

WVWD has retained Tyler Technologies to implement an accounting program called InCode. To reduce staff time, potential transposition errors and improve workflow, District staff has requested that InCode be integrated with Maximo. Maximo will submit a purchase order requisition request and InCode will respond with an authorized purchase order. The purchase order is used to track inventory and expenses associated with the project.

DISCUSSION:

The two software programs, InCode and Maximo are not designed to work with each other, which is not unusual. Therefore, it is necessary to create a customized solution for this common task for both programs to allow them to communicate with each other. This will ensure that staff is not entering the same data twice and it will significantly speed up the internal process to ensure that staff receives a purchase order in a timely manner.

FISCAL IMPACT:

A change to the professional service contract with Tyler Technologies in the amount of \$40,000.00. Staff previously negotiated a reduction in the contract with Tyler by removing the Work Order and Inventory control modules which are being provided by Maximo. This reduced the contract with Tyler by \$39,941.00 and an additional \$6,119.00 for annual maintenance fees. Therefore, the net change to the contract is \$509.00, five hundred and nine dollars. This is an un-budgeted expense to FY 19-20 to GL code W18035. Staff will review the CIP at mid-year and determine an account to adjust to address the expense.

STAFF RECOMMENDATION:

Staff recommends the Board of Directors authorize the General Manager to increase the existing professional service contract with Tyler Technologies in the not to exceed amount of \$40,000.00, forty thousand dollars and the annual maintenance cost of \$6,119.00, six thousand one hundred and

nineteen dollars for a net change of \$509.00 five hundred and nine dollars, from the original Board approved contract.

Respectfully Submitted,



Clarence Mansell Jr, General Manager

LRO

ATTACHMENT(S):

1. WVWD - Tyler Maximo integration SOW 07.05.19

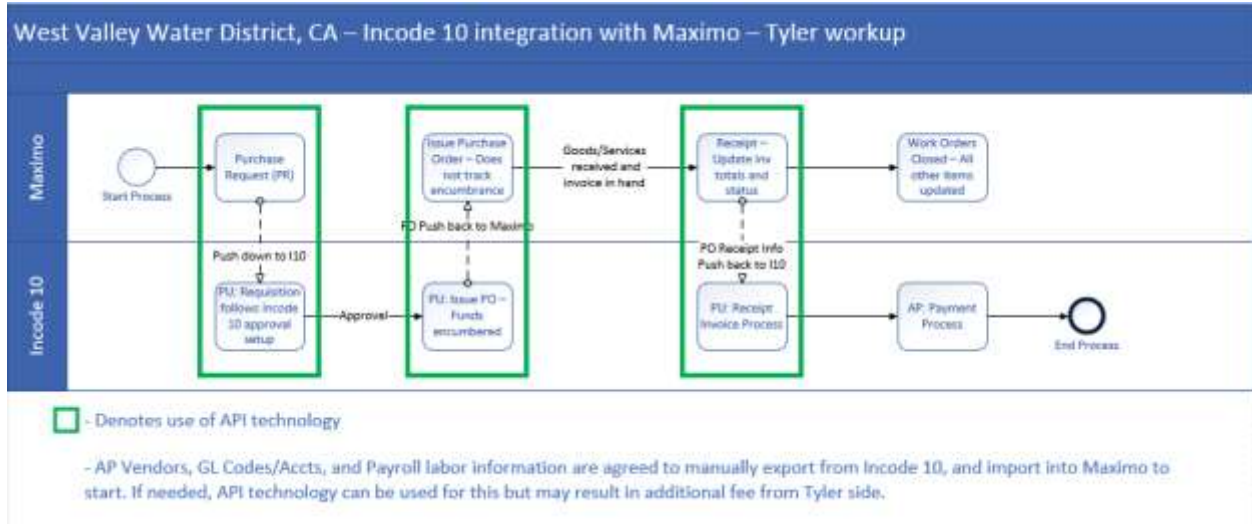
Scope of Work

Objective: To provide software integration between Tyler's Incode 10 product and the Maximo product, which West Valley Water District is implementing as their Inventory and Asset Management solution. Tyler has defined this work as shown in the section(s) below.

High Level Specifications: The integration will feature the use of Application Programming Interface (API) technology, as well as certain elements that utilize existing Incode 10 export functionality that do not require API technology.

- API will be utilized for the following:
 - Import & Create Requisitions from Maximo
 - Export Purchase Order information to Maximo
 - Import receipted Purchase Order information into Incode 10
 - NOTE: Data mapping and consultation process will occur between Tyler's development team and RainTek team to solidify specific programming elements needed for integration.
- Existing Export functionality will be utilized for the following:
 - *AP Vendors – One time export out of Tyler to establish vendor list in Maximo. As changes occur, client can re-export at any time on-demand.
 - *GL Codes/Accounts – One time export out of Tyler to establish GL codes and structure in Maximo. As changes occur, client can re-export at any time on-demand.
 - *Payroll Labor coding – Export of key employee information from Incode: employee name, employee number, employee position, employee primary position default hourly rate. This can be done on-demand.
 - *NOTE: Client has agreed to start with the export options here and evaluate the frequency and effectiveness off export/import option. If needed, API technology can be used for this, but may result in an additional fee from the Tyler side.

The visual directly below represents the common understanding of workflow between West Valley Water District, Tyler, and Maximo/RainTek staff as of 07.03.19:



The information directly below represents the breakdown of services provided from Tyler in relation to this integration.

***IF Additional time is needed beyond what is outlined here. It will be billed at T&M rate of \$250/hr**

Import & Create Requisition from Maximo

Basic functionality to create requisition	40
Complex use cases	16

Export PO to Maximo

Issue PO Process	24
PO Change, other use cases	8

Import PO receipt information

Receipt PO Process	40
Complex use cases	16

Integration Testing with Maximo

Integration Testing with Maximo	16
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Total Hours		160
Hourly Rate	\$	250.00
Custom Programming Cost	\$	40,000.00
Annual Maintenance	\$	6,119.00

Proposal and Scope of Work Accepted By:

West Valley Water District

By: _____

Name: _____

Title: _____

Date: _____