

**SPECIAL MEETING OF THE FINANCE COMMITTEE
OF THE BOARD OF DIRECTORS
WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA
4040 PARAMOUNT BOULEVARD, LAKEWOOD, CALIFORNIA 90712
2:00 P.M., MONDAY, JUNE 9, 2008**

AGENDA

EACH ITEM ON THE AGENDA, NO MATTER HOW DESCRIBED, SHALL BE DEEMED TO INCLUDE ANY APPROPRIATE MOTION, WHETHER TO ADOPT A MINUTE MOTION, RESOLUTION, PAYMENT OF ANY BILL, APPROVAL OF ANY MATTER OR ACTION, OR ANY OTHER ACTION. ITEMS LISTED AS "FOR INFORMATION" MAY ALSO BE THE SUBJECT OF AN "ACTION" TAKEN BY THE BOARD OR A COMMITTEE AT THE SAME MEETING.

- 1. DETERMINATION OF A QUORUM**
- 2. PUBLIC COMMENT**
- 3. INDEPENDENT FINANCIAL AUDITOR CONTRACT**
Staff Recommendation: Approve a three-year contract with Charles Z. Fedak & Company, subject to approval of form by District Counsel, for a total of \$88,500.
- 4. CONTRACT EXTENSION FOR GORDON THOMAS HONEYWELL**
Staff Recommendation: For discussion.
- 5. INTERIOR PLAN DESIGN CONTRACT**
Staff Recommendation: Approve a two-year contract with Interior Plant Design, subject to approval of form by District Counsel, for a total of \$28,000.
- 6. DEBT FINANCING UPDATE**
Staff Recommendation: For discussion.
- 7. DEPARTMENT REPORT**
Staff Recommendation: For information.
- 8. DIRECTORS EXPENSES**
Staff Recommendation: Approve Directors' Expenses for submittal to the Board of Directors.
- 9. DIRECTORS REPORTS, INQUIRIES, AND DIRECTIONS TO STAFF**
- 10. ADJOURNMENT**

Posted by Abigail C. Andom, Deputy Secretary, June 5, 2008.



MEMORANDUM

ITEM NO. 3

*Prepared by: Scott M. Ota
Reviewed by: Scott M. Ota
Approved by: Robb Whitaker*

DATE: JUNE 9, 2008
TO: FINANCE COMMITTEE
FROM: ROBB WHITAKER, GENERAL MANAGER
SUBJECT: INDEPENDENT FINANCIAL AUDITOR CONTRACT

SUMMARY

Staff mailed request for proposals for independent audit services to ten (10) certified public accounting firms, four (4) firms responded with written proposals. The RFP requested proposals for a three year term. We conducted interviews with the firms on May 22, 2008 with a panel that included Scott M. Ota, Jenna Shaunessy and Margaret Moggia, Chief Financial Officer, West Basin MWD. The panel scored the firms as follows:

<u>Firm Name</u>	<u>Score</u>
1. Charles Z. Fedak & Company	96
2. Meyer Hoffman McCann	81
3. Vasquez & Company	71
4. Windes and McClaughry	38

Charles Z. Fedak and Company had the lowest fees for the three-year contract at \$88,500, the lowest of the firms who submitted proposals.

BACKGROUND

As required by Water Code §60292, at the end of each fiscal year an independent certified public accounting firm audits the District's financial statements and renders an opinion on the accuracy of the financial statements. For the past four years, the District has used Charles Z. Fedak & Company to perform the independent financial audit. This contract ended on December 31, 2007 after Fedak & Company completed the audit for fiscal year end June 30, 2007.

Staff mailed requests for proposals (RFP) for independent financial audit services to ten certified public accounting firms. This list of firms were obtained through professional reputation, staff's knowledge of the industry, as well as input from the Chief Financial Officer of West Basin MWD and the Director of Finance from the Long Beach Water Department.

1. Leaf and Cole, LLP
2. Windes and McClaughry
3. Rogers, Anderson, Malody & Scott
4. Teaman, Ramirez and Smith
5. Edwards, Eichel & Baranek
6. Ell & Associates
7. Haskell & White, LLP
8. Charles Z. Fedak & Company
9. Vasquez & Company
10. Mayer Hoffman McCann P.C.

The following four firms respond with written proposals.

1. Windes and McClaughry
2. Charles Z. Fedak & Company
3. Vasquez & Company
4. Mayer Hoffman McCann P.C.

Staff performed interviews with these four firms on May 22, 2008. The interviews were performed by an interview panel consisting of Scott M. Ota, Jenna Shaunessy and Margaret Moggia, Chief Financial Officer, West Basin MWD.

The District's Administrative Code §10.5 states that the District will award contracts for professional services on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. We asked each of the four proposing firms a series of ten questions and scored them on the completeness of their proposal, the experience of the staff assigned to the engagement, the firm's experience with other water agencies and special districts, the cost for services and the firm's flexibility of working with the District's finance staff and the timeline for deliverable reports.

The panel scored the firms in the following order.

EVALUATION SCORES

		<u>Fedak</u>	<u>Mayer</u>	<u>Vasquez</u>	<u>Windes</u>
Completeness of Proposal	(10 Pts)	10	10	10	8
Evaluation of Staff & Firm Experience	(30 pts)	28	26	20	15
Firm's Experience with Water Agencies	(30 pts)	28	25	19	0
Cost of Services	(20 pts)	20	10	15	5
Flexibility of Firm and Deliverables	(10 pts)	<u>10</u>	<u>10</u>	<u>7</u>	<u>10</u>
Total		<u>96</u>	<u>81</u>	<u>71</u>	<u>38</u>

In the RFP, we asked the firms to propose costs for a three-year contract, the cost for the services were as follows:

1. Charles Z. Fedak	\$ 88,500
2. Vasquez & Company	\$ 98,358
3. Mayer Hoffman McCann, P.C.	\$114,425
4. Windes and McClaughry	\$132,000

FISCAL IMPACT

The fiscal impact for the three year contract with Charles Z. Fedak & Company will be as follows:

Year 1 – Fiscal year ended June 30, 2008	\$ 28,250
Year 2 – Fiscal year ended June 30, 2009	29,500
Year 3 – Fiscal year ended June 30, 2010	<u>30,750</u>
Total Three Year Contract Cost	<u>\$ 88,500</u>

The amount for the first year’s audit fees has been budgeted in the Finance and Accounting budget for fiscal year 2008-09. The cost for years two and three will be added to the subsequent year’s budget in 2009-10 and 2010-11.

STAFF RECOMMENDATION

Approve a three-year contract with Charles Z. Fedak & Company, subject to approval of form by District Counsel, for a total of \$88,500.



MEMORANDUM

ITEM NO. 4

Prepared by: Scott M. Ota

Reviewed by: Scott M. Ota

Approved by: Robb Whitaker

DATE: JUNE 9, 2008
TO: FINANCE COMMITTEE
FROM: ROBB WHITAKER, GENERAL MANAGER
SUBJECT: CONTRACT EXTENSION FOR GORDON THOMAS HONEYWELL

SUMMARY

The facilitated process for groundwater storage efforts have been progressing well. The facilitated process has been divided into three phases: 1) initial assessment, 2) refinement of information learned, and 3) working towards potential solutions. The process is well into the third phase and reached critical milestones in May of this year with votes by the Central and West Basin Water Associations and the WRD Board to move from the conceptual level of the Proposed Framework to drafting judgment amendments and related documents.

The current contract for Gordon Thomas Honeywell expires on June 30, 2008. WRD staff has requested and the facilitators have provided a letter that documents the efforts that are recommended beyond the June 30, 2008 contract expiration date and the associated additional costs. The letter includes a timeline, scope of work and cost estimate.

FISCAL IMPACT

Will be presented to the Finance Committee on the day of the meeting.

STAFF RECOMMENDATION

For discussion.

LAW OFFICES

GORDON, THOMAS, HONEYWELL, MALANCA, PETERSON & DAHEIM LLP

TACOMA OFFICE
1201 PACIFIC AVENUE, SUITE 2100
POST OFFICE BOX 1157
TACOMA, WASHINGTON 98401-1157
(253) 620-6500
FACSIMILE (253) 620-6565
REPLY TO TACOMA OFFICE

SEATTLE OFFICE
ONE UNION SQUARE
600 UNIVERSITY, SUITE 2100
SEATTLE, WASHINGTON 98101-4185
(206) 676-7500
FACSIMILE (206) 676-7575

James C. Waldo
Direct: (253) 620-6517
E-mail: jwaldo@gth-law.com

June 5, 2008

Robb Whitaker
Water Replenishment District of Southern California
4040 Paramount Boulevard
Lakewood, California 90712

Re: Facilitation Services Agreement

Dear Mr. Whitaker:

Thank you for your continued engagement in the effort to resolve the groundwater storage issues in the Central and West Coast Basins. We very much appreciate everyone's hard work and effort that has resulted in such significant progress over the last several months. The positive votes of the Central Basin Water Association, the West Basin Water Association, and the Water Replenishment District boards— to move forward from the conceptual stage of the Proposed Framework to crafting the actual judgment amendments and accompanying documentation— are very critical steps in this process.

In our last budget extension, we requested sufficient funding to support refining the Proposed Framework, working on educating people as needed, and building support for the Proposed Framework. We successfully met these goals with the positive votes of the Central and West Coast Water Associations, and the vote by the Water Replenishment District Board of Directors. The existing contract runs through June 30, 2008. We have sufficient funding in this contract to cover our time and expenses through this period.

As part of moving forward, this letter is to confirm our request for an extension of our facilitation services to December 31, 2008 with the goal of completing this project. We anticipate several activities for this next period of time, including the following:

1. Participate as needed in the preparation of documents;
2. Continue to communicate with the many local governments and water rights holders as they review the Framework and implementing documents as they are developed;

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3. Assist as needed with the newly formed manager's working group that is addressing implementation and transition issues;
4. Continue to work and communicate with a number of parties who are still undecided about whether or not to be an active supporter or participant in this program;
5. Provide periodic progress reports to all the interested participants and parties in the Central and West Coast Basins;
6. Help facilitate one or more comment opportunities on the implementation documents as they become available; and
7. Deal with issues as they arise.

At the same time, we anticipate that the drafting of actual judgment amendments and supporting documents will be done by experienced attorneys representing the associations and WRD.

In order to continue to provide support for this effort as anticipated between now and the end of the year, we request an additional amount not to exceed \$167,000. Over the last six months, we have incurred approximately \$225,200 in time and expense, or a rate of approximately \$37,500/ month during a very intense, hands-on process. We anticipate that we could decrease this by about \$10,000/month as we move forward. A detailed breakdown of this request is attached.

We understand that we will continue to act as independent facilitators in this matter, and appreciate the willingness of the Water Replenishment District to fund this effort. The District may terminate this Agreement only if the District or any other major party elects to withdraw from the facilitative process described in this Agreement, and we have had the opportunity to talk with the parties and agree that efforts to re-start the facilitation will not be successful.

As we discussed, Lara Fowler and I will continue to be your principal contacts working on this matter. Our policy regarding work assignments is described further on the enclosed "Billing and Fee Arrangements" attachment.

Our fees will be based on the time spent on this facilitation effort, plus reimbursement of out-of-pocket expenses. My current hourly billing rate for this project is \$325, Lara's is \$175 per hour.¹ Other staff assistance may be utilized as appropriate. We will bill you on a monthly basis. All hourly billing rates are reviewed and subject to adjustment at year end, with your concurrence. The District shall reimburse us for all out-of-pocket costs charged to us by third parties, although such reimbursement shall be at cost without any markup by us. Further detail on our fee and cost arrangements is set out in the enclosed Billing and Fee Arrangements memorandum.

¹ Please note that our standard rates are \$350/hour for Jim Waldo and \$225 for Lara Fowler.

GORDON, THOMAS, HONEYWELL,
MALANCA, PETERSON & DAHEIM LLP

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We are working as an independent contractor and not an employee of the District under this Agreement. We also are aware of the requirements of the Political Reform Act of 1974, as amended, and shall comply with them, including, but not limited to, all conflicts of interest and financial disclosure requirements required thereunder. We will perform the scope of services of this Agreement in compliance with all applicable provisions of Federal, State and local laws, statutes, codes, rules, regulations, ordinances and professional standards ("Applicable Laws"). By entering into this Agreement, we represent and warrant that we possess all licenses and registrations required by such Applicable Laws to enter into this Agreement and to perform the scope of services hereunder. This Agreement may be modified only by a writing signed by the Parties hereto.

We will send all notices provided by this Agreement in writing and will send them by first-class mail and facsimile transmission as follows:

Attention: General Manager
Water Replenishment District of Southern California
4040 Paramount Boulevard
Lakewood, California 90712
Phone: (562) 921-5521
Fax: (562) 921-6101

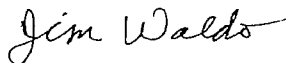
In return, we request that you send any applicable notices to the following:

Attention: Jim Waldo
Gordon Thomas Honeywell
1201 Pacific Avenue, Suite 2100
Post Office Box 1157
Tacoma, Washington 98401-1157
Phone: (253) 620-6541
Fax: (253) 620-6565

Please let me know if you have any questions regarding any aspects of this arrangement. This is a continuation of the existing contract and would be effective immediately. If you concur with the above, please sign below and return a copy for our file.

Thank you for the opportunity to work with you to date. We look forward to continuing to work with you.

Sincerely,



James C. Waldo

GORDON, THOMAS, HONEYWELL,
MALANCA, PETERSON & DAHEIM LLP

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JCW:mjs
Attachment

Approved and Accepted:

Robb Whitaker
Water Replenishment District

By: _____

Date: _____

**GORDON, THOMAS, HONEYWELL, MALANCA,
PETERSON & DAHEIM LLP**

Billing and Fee Arrangements

Understanding. We are pleased to have the opportunity to serve you. Our aim is to provide the highest quality and most efficient services possible. Experience has shown that our relationship will be stronger if we start it with a mutual understanding about fees and their payment. Unless our engagement letter alters these arrangements, we will assume that these terms are acceptable to you.

Fees. Our fees will be based on the amount of time spent, subject to certain adjustments. Each person in our firm has an hourly billing rate, and the rate times the number of hours spent on a project is the basis for determining our fees.

Current hourly billing rates range from \$110 to \$350 per hour. Assistant rates are \$50 to \$125. Our general schedule of rates is usually revised annually.

Work Assignments. The person you deal with primarily may assign parts of your work to other personnel in the office under his or her supervision, and may use other assistance where specialized help is needed. The supervisor will continue to be responsible to you for the entire assignment, however, and will be available to discuss the use of other personnel with you. It is our practice to assign tasks in such a way as to produce the highest quality of work at reasonable expense to you.

Disbursements On Your Account. Statements will normally be rendered monthly for work done in the previous month, covering and identifying time spent and services rendered, as well as disbursements and other charges.

These disbursements and charges include items incurred and paid for by us on your behalf such as long distance telephone charges, special postage, delivery charges, telex or telecopy charges, travel, photocopying, and use of other service providers such as printers or experts, if needed. We also make separate charges for the use of computerized research systems that in our experience significantly reduce research time. Except for specialized word processing services, we normally do not make a separate charge for stenographic or word processing work unless there is an unusual situation arising out of your needs that requires overtime staff work. We may request that large disbursement items (in excess of \$500) be billed directly to you for payment.

Payment. Payment will be due 30 days after the date of our statement. If we do not receive comment about the statement within 30 days of the statement date, we will assume you have seen the bill and find it acceptable. Statements unpaid within 30 days will be subject to a late charge of 1% per month (12% per year). Payment should be made in U.S. dollars, in checks or drafts payable to Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim LLP.

Questions. If you have questions about any aspect of our arrangement or our statements from time to time, feel entirely free to raise those questions. It is important that we proceed on a mutually clear and satisfactory basis in our work for you. We are open to discussion of all of these matters, including the amount of our statements, and we encourage you to be frank about them.

Lf:LF

Proposed Budget Worksheet for July 1- December 31, 2008

Central & West Coast Basins Groundwater Mediation-- Gordon, Thomas, Honeywell				
Estimated budget for July- December 2008 based on work schedule refined in May 2008 with the parties.				
Work Phase	Dates	Jim Waldo	Lara Fowler	Sub-total
Finalize development, circulate and refine judgment amendments	July-August	9 weeks x 8 hours/week = 72 hours x \$325 = \$23,400	9 weeks x 20 hours/week x \$175 = \$31,500	\$54,900.00
Work to ensure adoption of Proposed Amendments by pertinent councils, etc.	September	4 weeks x 12 hours x \$325 = \$15,600	4 weeks x 30 hours/wk x \$175 = 21,000	\$36,600.00
Facilitate submission of Proposed Judgment Amendments to court	October-December	13.5 weeks x 5 hours/week x \$325 = \$21,937.50	13.5 weeks x 10 hours x \$175/hour = 23,625	\$45,562.50
Sub-Total				~\$137,000.00
Expenses				\$15,000.00
Reserve				\$15,000.00
Total Budget Estimate				\$167,000.00

Rates: Jim Waldo, \$325/hour; Lara Fowler, \$175/hour.

Note: Standard rates are \$350 for Jim Waldo and \$225 for Lara Fowler.



MEMORANDUM

ITEM NO. 5

Prepared by: J H Shaunessy

Reviewed by: S M Ota

Approved by: Robb Whitaker

DATE: JUNE 9, 2008
TO: FINANCE COMMITTEE
FROM: ROBB WHITAKER, GENERAL MANAGER
SUBJECT: INTERIOR PLANT DESIGN CONTRACT

SUMMARY

Interior Plant Design provides landscape and plant maintenance services for the District's office as well as the Leo J. Vander Lans Facility (LVL). Interior Plant Design also provides weed control and maintenance at the Sepulveda Well sites in Torrance.

FISCAL IMPACT

The fiscal impact for the two-year contract with Interior Plant Design will be \$14,000 per year, \$28,000 total for the two-year contract.

The amount for the first year's fees has been budgeted in Project 01, Project 02 and Administration for fiscal year 2008-09. The cost for year two will be added to the subsequent year's budget in 2009-10.

STAFF RECOMMENDATION

Approve a two-year contract with Interior Plant Design, subject to approval of form by District Counsel, for a total of \$28,000.



PROFESSIONAL SERVICES AGREEMENT INTERIOR PLANT DESIGN

This Professional Services Agreement (the "Agreement") is made and entered into this **1st day of July, 2008**, by and between the Water Replenishment District of Southern California ("District") and **Interior Plant Design**, ("Consultant") (collectively the "Parties" or individually as "Party") for the furnishing of certain professional services upon the following terms and conditions.

1. Scope of Services. Consultant shall perform the scope of services described in Exhibit A hereto ("Services"). Tasks other than those specifically described in Exhibit A shall not be performed without a prior written amendment to this Agreement.
 - 1.1 Standard of Care. In performing the scope of services under this Agreement, Consultant shall exercise the standard of care and expertise prevailing in California for the performance of such services.

2. Term. The term of this Agreement shall commence on **July 1, 2008** and shall end on **June 30, 2010** (the "Expiration Date"). At least sixty (60) days prior to the Expiration Date, District staff shall evaluate the quality of the Services that have been provided by the Consultant, the cost of such Services relative to the benefits, and the need for any continuation of the services. The results of such evaluation shall be provided to the appropriate District Committee, which committee shall provide a report to the District's Board of Directors ("Board"). If the Board determines that there is a demonstrated need for the continuation of such Services, the Board may renew the Agreement on terms and conditions that do not provide for a significantly longer term, increased scope of services or increased fee schedule than is provided for in Paragraphs 1 or this Paragraph 2. If the Board desires to modify the Agreement to provide for such a significantly longer term, increased scope of services or increased fee schedule, the District shall comply with the provisions of its then current Administrative Code concerning the solicitation and approval of proposals for professional services.
 - 2.1 Termination by District
 - 2.1.1 Termination for Convenience. The District may terminate this Agreement for its convenience at any time upon five (5) days written notice to Consultant. Consultant's compensation in the event of such a termination shall be exclusively limited to payment for all authorized services performed and for all authorized expenses incurred up to the effective date of such termination. Consultant understands and agrees that it shall not be

entitled to any additional compensation or reimbursement whatsoever in the event of such termination.

2.1.2 Consultant's Obligations Upon Termination. Following any termination of this Agreement by the District or Consultant, the Consultant shall promptly return all District property, and shall likewise provide to District all finished and unfinished data, studies, maps, reports, and other deliverables and work-product prepared by Consultant pursuant to this Agreement.

3. Consultant's Compensation. District will compensate Consultant for services performed and for expenses incurred pursuant to this Agreement as follows:

3.1 Fee. Consultant shall be paid in accordance with the Consultant Rate Schedule attached to this Agreement as Exhibit B which may not be changed except with District's written approval.

3.2 Reimbursable Expenses. Consultant shall be reimbursed for the following expenses. Provided, Consultant shall obtain the District's prior written approval before incurring an expense for which Consultant intends to seek reimbursement in excess of \$500.00.

3.2.1 Transportation, Meals and Lodging. Consultant shall be reimbursed for transportation, meals and lodging expenses in accordance with the provisions of the District's Administrative Code applicable to reimbursement of such expenses when incurred by District employees. A copy of said provisions are attached to this Agreement as Exhibit C.

3.2.2 Miscellaneous Expenses. Unless otherwise provided at Exhibit B, and subject to the provisions of Paragraph 3.2, the District shall reimburse Consultant for all out of pocket costs charged to Consultant by third parties although such reimbursement shall be at cost without any markup by Consultant.

3.3 Invoices. Consultant shall submit monthly invoices to District for services performed and expenses incurred during the preceding month. Consultant's invoices shall separately identify all personnel for whose services payment is sought, the services performed, and all expenses for which reimbursement is requested. As a condition precedent to payment, District may require Consultant to furnish supporting information and documentation for all charges for which payment is sought. District shall have the right to withhold from payments to Consultant reasonably disputed amounts including, without limitation, amounts for services not performed in accordance with this Agreement and costs, expenses or damages incurred by District as a result of Consultant's breach of this Agreement or Consultant's negligence.

4. Consultant's Obligation to Provide Notice of Changes. Consultant shall provide written notice to the District no later than twenty (20) days after the occurrence of any event (including any direction by the District) which Consultant believes requires a change in its compensation or the time for performance of its obligations under this Agreement. Said notice shall describe the event and the basis for any change in compensation or time for performance requested by Consultant. The Parties shall thereafter meet and confer to determine whether such a change is appropriate. However, no such change to this Agreement may be made except by written amendment to this Agreement executed by the Parties. Consultant's failure to provide the notice required under this Paragraph shall constitute a waiver of its right to seek a change in its compensation or the time for performance of its obligations under this Agreement.
5. Ownership and Use of Documents. All proprietary information developed by Consultant in connection with, or resulting from, this Agreement, including but not limited to inventions, discoveries, improvements, copyrights, patents, maps, reports, textual material or software programs, shall be the sole and exclusive property of the District. Consultant agrees that the compensation to be paid pursuant to this Agreement includes adequate and sufficient compensation for any proprietary information developed in connection with or resulting from this Agreement. Consultant further understands and agrees that full disclosure of all proprietary information developed in connection with, or resulting from, this Agreement shall be made to the District, and that Consultant shall do all things necessary and proper to perfect and maintain District's ownership of such proprietary information. All documents, reports, surveys, renderings, photographs, data and other materials furnished by the District to Consultant shall remain the property of the District.
6. Publication of Project Information. Consultant shall notify and obtain written approval from the District before presenting verbal or written information to outside individuals or entities about the services or project for which Consultant was retained.
7. Patents and Copyrights. The Consultant shall assume all costs arising from the use of patented or copyrighted materials, including but not limited to, equipment, devices, processes, and software programs used or incorporated in the work performed under this Agreement. Consultant shall defend, indemnify hold the District, its officers, directors agents, employees, representatives and assigns harmless from any and all claims, demands, suits at law, and actions of every nature for or on account of the use of any patented or copyrighted materials.
8. Consultant's Status. Consultant is an independent contractor and neither Consultant nor any employee of Consultant is or will be treated as an employee of the District under this Agreement. District controls the result to be accomplished under this Agreement, but not the means by which Consultant achieves such results.

- 8.1 Payments made to Consultant pursuant to this Agreement shall be the sole and complete compensation to which Consultant is entitled. Consultant is solely responsible for any taxes levied by local, state or federal authorities on such sums. Consultant shall defend and indemnify the District for any taxes, fines, penalties and attorneys' fees assessed or threatened to be assessed against District for failure to properly withhold taxes as a result of any determination that Consultant, or any of Consultant's employees, is an employee rather than an independent contractor of District.
- 8.2 District will not make any contribution to any retirement plan or Social Security on behalf of Consultant or any of Consultant's employees. Consultant shall defend and indemnify the District for any contribution, fines, penalties and attorneys' fees assessed or threatened to be assessed against District for failure to contribute to any retirement plan or Social Security as a result of any determination that Consultant, or any of Consultant's employees, is an employee rather than an independent contractor of District.
- 8.3 District will not make any payments to Consultant, or Consultant's employees, which rely upon employee status, including, but not limited to, FLSA and other overtime and minimum wage requirements, prevailing wage laws, worker's compensation benefits, FMLA, CFRA, Paid Leave, and unemployment benefits. Consultant shall defend and indemnify the District for any payment, fines, penalties and attorneys' fees assessed or threatened to be assessed against District for failure to make any such payment or otherwise provide the benefits of such laws as a result of any determination that Consultant, or any of Consultant's employees, is an employee rather than an independent contractor of District.
- 8.4 Consultant shall comply with the Political Reform Act of 1974, as amended including, but not limited to, disclosure of all conflicts of interest and other financial disclosure requirements required thereunder.
9. Instructions to Consultant. In the performance of the services set forth in this Agreement, Consultant shall report to and receive instructions from the following person on behalf of the District: **Robb Whitaker, General Manager.**
10. Subconsultant Services. Any subconsultants to be used by Consultant in the performance of the scope of services shall be identified in Exhibit A hereto. Consultant shall obtain the District's prior written approval before retaining a subconsultant to perform any portion of the scope of services of this Agreement. Notwithstanding Consultant's use of any subconsultants, Consultant shall be responsible to the District for the performance of its subconsultants as it would be if Consultant had performed those services itself. Nothing in this Agreement shall be deemed or construed to create a contractual relationship between the District and any subconsultant employed by Consultant. Consultant shall be solely responsible for payments to any subconsultants. Consultant shall defend and indemnify the District for any payment, fines or penalties assessed or threatened to be assessed against District as a result of any claim brought by

any subconsultant of Consultant for any matter arising from, or related to, the services performed by subconsultant under this Agreement.

11. Compliance With Laws and Regulations; Licensing. Consultant shall perform its services under this Agreement in compliance with all applicable provisions of Federal, State and local laws, statutes, codes, rules, regulations, ordinances and professional standards (“Applicable Laws”). By entering into this Agreement, Consultant represents and warrants that it possesses and will keep current all license and registrations required by Applicable Laws to enter into this Agreement and to perform the scope of services hereunder.
12. Insurance. Consultant, at its sole cost and expense, shall obtain, keep in force, and maintain the following policies of insurance at all times while this Agreement is in effect, and shall not commence any work under this Agreement until proof of such insurance has been provided to the District. The coverages provided by such insurance shall not be construed as limitations of liability.

12.1 Required Policies.

12.1.1 Commercial General Liability Insurance (contractual, products, and completed operations coverages included) with a combined single limit of no less than **\$1,000,000** and a general aggregate limit of no less than **\$1,000,000**.

12.1.2 Business or Comprehensive Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles, with a combined single limit of no less than **\$1,000,000** per accident.

12.2 Required Terms.

12.2.1 All policies except workers’ compensation shall name as additional insureds the Water Replenishment District of Southern California, its directors, officers, employees, agents and representatives.

12.2.2 All policies shall be written on an occurrence basis. If a policy may only be obtained on a claims made basis, the policy shall be maintained continuously for a period of no less than three (3) years after the date of final completion of the scope of services under this Agreement.

12.2.3 All policies shall provide that coverage cannot be cancelled without twenty (20) days prior written notice to the District.

12.2.4 All insurance required under this Agreement shall be considered primary to any insurance maintained by the District. All policies except Professional Liability shall include waivers of subrogation in favor of the District and its insurers.

12.2.5 All policies required under this Agreement shall be issued by companies authorized to transact insurance business in the State of California acceptable to the District and having a Best rating of A- or better.

13. Indemnification. Consultant shall indemnify, defend and hold harmless the District and its directors, officers, employees, agents and representatives (collectively “District”), from and against any and all claims, liabilities, costs, damages, suits, proceedings, injuries (including injuries to real and personal property, and injuries to persons, including death) incurred by District (“Losses”), as a result of Consultant’s breach of any provision of this Agreement, Consultant’s failure to comply with applicable laws, Consultant’s negligent acts or omissions, or Consultant’s willful misconduct. However, Consultant’s obligation to defend shall arise regardless of any claim or assertion that the District caused or contributed to the Losses. Nothing in this paragraph shall constitute a waiver or limitation of any legal rights which the District may have including, without limitation, the right to implied indemnity.
14. Arbitration and Attorneys’ Fees. Any dispute arising from or relating to this Agreement shall be submitted to final and binding arbitration before an arbitrator who is a member of the National Academy of Arbitrators. The parties will obtain a list of five names of potential arbitrators from the National Academy of Arbitrators, or the American Arbitration Association, and will take turns striking the names of arbitrators until one arbitrator remains, who shall preside over the arbitration. The arbitrator will have no power to rewrite any of the terms of this Agreement. The parties shall split the cost of the arbitrator’s fee and any court reporter required by the arbitrator or if both parties agree to having the proceedings taken down by a court reporter. The prevailing Party in any action arising from or relating to this Agreement shall be entitled to recover its reasonable attorneys fees, expert witness fees and arbitration fees and costs in addition to any other relief and recovery ordered by the arbitrator or other tribunal hearing any matter related to this Agreement. .
15. Conflict of Interest. No official of the District who is authorized in such capacity and on behalf of the District to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving this Agreement, or any contract or subcontract relating to work to be performed pursuant to this Agreement, shall become directly or indirectly personally interested in this Agreement or in any part thereof. Consultant shall not accept employment or contract during the term of this Agreement with any firm or individual for the provision of services if such employment or contract would conflict directly with the Services provided to the District under this Agreement.
16. Equal Opportunity. During the performance of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, marital status or national origin.
17. Successors and Assigns. This Agreement shall inure to the benefit of, and be binding upon, the District, Consultant, and their respective successors and assigns provided,

however, that no assignment of the duties or benefits under this Agreement shall be made without the written consent of the Consultant and the District.

18. Choice of Law and Venue. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California. The Parties agree that the exclusive venue for any action or proceeding arising from or relating to this Agreement shall be in the County of Los Angeles, State of California.
19. Notices. All notices provided by this agreement shall be in writing and shall be sent by first-class mail and facsimile transmission as follows:

If to the District:

Water Replenishment District of
Southern California
4040 Paramount Blvd.
Lakewood, CA 90712
Phone: (562) 921-5521
Fax: (562) 921-6101

If to Consultant:

Daniel Rush
Interior Plant Design
P.O. Box 1921
Corona, CA 92878
Phone: 909-754-5257

20. Amendments. This Agreement may be modified only by a writing signed by the Parties hereto.
21. Integration; Construction. This Agreement sets forth the final, complete and exclusive expression of the Parties' agreement with respect to the subject matter hereof, and supersedes any and all other agreements, representations, and promises, whether made orally or in writing. The Parties represent and warrant that they are not entering into this Agreement based upon any representation or understanding that is not expressly set forth in this Agreement. This Agreement shall be construed as the product of a joint effort between the Parties and shall not be construed against either Party as its drafter.
22. Effective Date. This Agreement is effective as of the date first set forth above.
23. Authority. Each person signing this Agreement represents that he or she has the authority to do so on behalf of the Party for whom he or she is signing.

IN WITNESS WHEREOF, the Parties have caused this AGREEMENT to be executed the day and year first above written.

WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA

Signature
Rob Katherman

Print Name
President, Board of Directors

Title

Signature
Willard H. Murray, Jr.

Print Name
Secretary, Board of Directors

Title

Interior Plant Design, ("CONSULTANT")

Signature

Print Name

Title

**Approved As To Form
MEYERS, NAVE, RIBACK,
SILVER & WILSON**

James M. Casso
Attorneys for the Water Replenishment
District of Southern California

EXHIBIT A
SCOPE OF WORK

- A. Care and upkeep of interior and exterior vegetation at the District office.
- B. Care and upkeep of designated vegetation at the Leo J. Vander Lans facility.
- C. Care and upkeep of designated vegetation on an “as needed” basis as instructed by District staff at the following wellhead treatment locations:

4555 Sepulveda Blvd.
4635 Sepulveda Blvd.

- D. Provide additional vegetation on an as needed basis as instructed by District staff.

EXHIBIT B
CONSULTANT RATE SCHEDULE

- 1.0 Consultant shall be compensated for actual services performed in accordance with this Agreement.
- 2.0 A budgetary amount not to exceed **\$14,000 per year, \$28,000 for total contract period** (which amount applies to Consultant's fee and reimbursable expenses) is established for this Agreement. Notwithstanding any other provision of this Agreement, the District shall not be obligated to pay Consultant any amount in excess of said budgetary amount absent prior written approval from the District. Likewise, Consultant shall not be obligated to perform services or incur expenses in excess of the budgetary amount absent prior written approval from the District.

- A. Care and upkeep of both the interior and exterior vegetation at the District office to be provided at a rate of \$425.00 per month not to exceed \$5,100 per year, \$10,200 for the Term of the Agreement.
- B. Care and upkeep of designated vegetation at the Leo J. Vander Lans facility to be provided at a rate of \$500.00 per month not to exceed \$6,000 per year, \$12,000 for the Term of the Agreement.
- C. Care and upkeep of designated vegetation to be provided on an "as needed" basis as instructed by District Staff at the following locations:

4555 Sepulveda Blvd.
4635 Sepulveda Blvd.

The rate for the care and upkeep of designated vegetation is not to exceed \$1,200 per year, \$2,400 for the Term of the Agreement.

- D. Provide additional vegetation on an as needed basis as instructed by District staff. The cost of plant material and labor to be subject to the prior written approval by District staff before any work is performed. At no time shall the cost of this additional service exceed the cumulative amount of \$3,400 for the Term of the Agreement.

All amounts apply to Consultant's fee and reimbursable expenses established for this Agreement. Notwithstanding any other provision of this Agreement, the District shall not be obligated to pay Consultant any amount in excess of said budgetary amount absent prior written approval from the District. Likewise, Consultant shall not be obligated to perform services or incur expenses in excess of the budgetary amount absent prior written approval from the District.

EXHIBIT C
REIMBURSEMENT FOR TRAVEL, MEALS AND LODGING

1. EXPENSES

13.1 Allowable And Unallowable Expenses

In the conduct of District business, employees and Directors shall incur expenses, subject to budgeted funds being available, adequate supporting documentation, and required approvals, according to the following:

13.1.1 General Guideline

1. Expenses outlined in this Administrative Code and Procurement Policies and Procedures;
2. Expenses that further the District's mission concerning replenishment and quality of water in the Central and West Coast Groundwater Basins, including but not limited to, expenses directly incurred in connection with a program or capital project of the District, activities that facilitate relations or working arrangements with other government or private sector personnel that are important to the District's mission, activities that enhance awareness and education of the District's functions, and activities that promote the attraction and retention of high quality employees of the District.

13.1.2 Specifically Unallowable Expenses

1. Gifts,
2. Entertainment,
3. Alcoholic beverages,
4. Goods and services for personal use,
5. Fines and penalties incurred by an employee,
6. Memberships in social organizations, dining clubs, or country clubs,
7. Advance payments for goods or services, except as generally required,
8. Moving expenses, unless pre-approved as part of a written employment contract with a new employee,
9. Travel related expenses incurred by or on behalf of a spouse or companion,
10. Certain travel costs (e.g., first-class airfare, hotel suites, luxury vehicle rental),

11. Repetitive seminars or educational courses on the same topic or issue and repetitive courses that provide training on a specific subject to a particular class of persons (e.g., training for persons new to the areas of water or special districts).

Employees and Board Members shall not obligate the District and shall not receive reimbursement for any of the unallowable expenses listed above.

13.2 REIMBURSABLE EXPENSES

13.2.1 Application of Policy

This Policy applies to all Board Members, management, staff, legal counsel, and any other authorized parties who may submit claims for reimbursement of amounts expensed on the District's behalf.

13.2.2 General Principles

The following general principles apply to the District's reimbursement of amounts expended on the District's behalf:

1. All expenses shall be reasonable and necessary.
2. The most economical mode and class of transportation consistent with scheduling requirements shall be utilized. In the event a more expensive mode or class of transportation is utilized, the reimbursable amount shall be limited to the cost of the most economical mode or class of transportation available, not to exceed the cost of coach airfare.
3. Expenditure for food and lodging shall be moderate and reasonable.
4. All reimbursements must be approved pursuant to the provisions of this Code.
5. Approval Process for Reimbursable Expenses
6. Claims shall be submitted on forms supplied by the District. Such forms shall include a description of the expense, names (if appropriate), date incurred, and a description of the business purpose of the expense.

13.2.3 Directors' Expenses: Finance Committee Approval

At its regularly scheduled monthly meeting, the District's Finance Committee shall approve or reject all requests and claims for reimbursement by members of the Board of Directors. The Finance Committee shall meet once per month to consider such claims and requests as are submitted. Receipts must support claims and requests as submitted to the Finance Committee or other documentation the Finance Committee deems acceptable. For each expense less than

\$25, submission of documentation the Finance Committee deems acceptable shall be sufficient for purposes of this section. At the discretion of a Director, supporting receipts for each expense less than \$25 may be submitted with the documentation. If a claim or request is submitted to the Finance Committee with documentation the Committee deems inadequate, or without documentation, that claim or request shall be rejected. A claim or request initially rejected can later be submitted for approval if it is supported by adequate documentation at such later time.

Requests for reimbursement must be submitted within 90 days of the date the expense was incurred. Specifically excluded from this time limit are expenses incurred for medical, dental, eye care, or other expenses that require processing by an insurance or benefit provider, or an expense where backup documentation was delayed beyond the control of the Director. Any reimbursement for a non-excluded expense submitted after 90 days must be approved by the Board of Directors.

13.2.4 Staff Expenses: General Manager Approval

The General Manager or the Chief Financial Officer, acting as an agent of the General Manager, shall approve or reject all requests and claims for reimbursement by staff and shall report such approval/rejection to the Finance Committee at its monthly meeting. Receipts must support claims and requests as submitted to the General Manager or Chief Financial Officer or other documentation the General Manager or Chief Financial Officer deems acceptable. For each travel related expense less than \$25, submission of documentation the General Manager or Chief Financial Officer deems acceptable shall be sufficient for purposes of this section. At the discretion of staff, supporting receipts for each travel related expense less than \$25 may be submitted with the documentation. If a claim or request is submitted to the General Manager or Chief Financial Officer with documentation he deems inadequate, or without documentation, that claim or request shall be rejected. A claim or request initially rejected can later be submitted for approval if it is supported by adequate documentation at such later time.

Requests for reimbursement must be submitted within 90 days of the date the expense was incurred. Specifically excluded from this time limit are expenses incurred for medical, dental, eye care, or other expenses that require processing by an insurance or benefit provider, or an expense where backup documentation was delayed beyond the control of the employee. Any reimbursement for a non-excluded expense submitted after 90 days must be approved by the Board of Directors.

13.2.5 Travel Expenses

The Board of Directors should pre-approve requests for out of state travel. The Board may retroactively approve out of state travel based on difficult or unexpected circumstances.

The District's policy concerning reimbursement for travel expenses varies depending whether the destination is within or outside the "local area" and whether an individual receives or elects to receive a vehicle allowance. For purposes of this Policy, "local area" includes all of Los Angeles and Orange Counties, and those portions of Riverside and San Bernardino Counties located south of the San Gabriel Mountains and/or west of the San Bernardino Mountains.

Directors who do not elect to receive a monthly vehicle allowance pursuant to Section 7.1 of this Code and all employees who do not receive a monthly vehicle allowance may be reimbursed for travel within the "local area". Reimbursement shall be for actual mileage at the current maximum allowance per mile rate established by the Internal Revenue Service for authorized use of privately-owned vehicles in the conduct of District Business.

Directors who do not elect to receive a monthly vehicle allowance pursuant to Section 7.1 of this Code and all employees who do not receive a monthly vehicle allowance may be reimbursed for travel outside the "local area," including travel by personal automobile instead of by air travel. Reimbursement shall be limited to expenses not exceeding 14-day advanced purchase round trip standard coach airfare, plus ground transportation.

Actual expenses for ground transportation to and from airports and while attending to District business shall also be reimbursed. Ground transportation shall include taxi, bus fare or standard automobile rental. No reimbursement shall be provided for charges incurred due to the inclusion of personal loss insurance coverage i.e., loss damage waiver, supplemental liability, personal effects, uninsured or underinsured motorist) in a car rental agreement.

13.2.6 Lodging

For the purpose of lodging, "local area" means a 40-mile radius from either one's residence or the District office, whichever is further.

Within the discretion of the Board President, a Director may stay overnight at a site less than a 40-mile radius from the residence or the District office. If the Director desiring to stay overnight at such a site is the Board President, that Director shall obtain approval from the Board Treasurer. Otherwise, no requests for lodging or reimbursement

claims for expenses incurred within the "local area" shall be approved by the Finance Committee.

Expenses will be allowed for adequate and reasonably priced lodging when necessary for the conduct of District business. When lodging is required in conjunction with a conference or similar function, whenever possible, lodging shall be at the conference location at the reduced rate provided by the conference, if applicable. In all cases, reasonable attempts shall be made to obtain reduced rates for lodging (i.e., government rates for domestic lodging as published by the U.S. General Services Administration.)

Unless otherwise authorized by the Finance Committee, no reimbursement will be approved for lodging for greater than one night before or for any nights after an event outside of the "local area."

13.2.7 Meal Reimbursements

"Local area" in this section has the same definition as in the Overnight Accommodations policy above.

1. When a Board member or other District employee is outside of the local area on District business for an entire day, the Board Member or employee may receive one hundred dollars (\$100.00) per day for meals, including gratuities, as follows:
 - Breakfast: \$20.00
 - Lunch: \$35.00
 - Dinner: \$45.00
2. When a Board member or other District employee is outside of the local area on District business for portions of a day, the Board member or employee shall receive compensation for those meals that occur during the portion of the day that the individual is outside the local area.
3. Authorized personnel and Directors may, in lieu of per diem reimbursement, receive reimbursement for actual meal costs, including tips, if such costs are less than the per diem amount.
4. The meal compensation discussed in Subsection (1) above, shall only be received for meals on the day immediately before the beginning of the event which the Board member or employee is attending, the days when the event is occurring and the day immediately following the conclusion of that event. Further, where meal costs are included in airfare or in the event registration fees, the compensation received shall be reduced by the amounts indicated above.

5. The per diem amounts discussed above are provided for the Board Member or other employee's meals while out of the local area on business. Whether or not expenditure occurs within the local area, the Board member or other employee is entitled to reimbursement for meals purchased for other persons, if such meals are in furtherance of District business and the Finance Committee subsequently approves the request for reimbursement. Any such expenditures for additional meals shall be reasonable and necessary and must further the business interest of the District.
6. In calculating the amount to be reimbursed to the Board member or employee, the Finance Committee shall reduce each meal's total by that meal's per diem rate.

13.3 Special Provisions

Where a Board Member or other person is entitled to receive reimbursement for expenses from another employer or entity, the sum of total reimbursement from both the District and the other employer or entity shall not exceed actual expenses incurred.

All exempt District personnel attending a conference or other event outside of the District's service area shall receive no additional salary for travel during a non-scheduled workday.