



Contract Number

24-321

SAP Number

Department of Public Works – Special Districts

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| Department Contract Representative | <u>Don Day</u> |
| Telephone Number | <u>(909) 387-5224</u> |
| Contractee | <u>West Valley Water District</u> |
| Contractee Representative | <u>Linda Jadeski</u> |
| Telephone Number | <u>(909) 820-3713</u> |
| Contract Term | <u>Until Completion of Project</u> |
| Original Contract Amount | <u>N/A</u> |
| Amendment Amount | <u>N/A</u> |
| Total Contract Amount | <u>N/A</u> |
| Cost Center | <u></u> |

IT IS HEREBY AGREED AS FOLLOWS:

AGREEMENT BETWEEN WEST VALLY WATER DISTRICT AND SAN BERNARDINO COUNTY

This Agreement (the "Agreement") is entered into by and between the West Valley Water District, a public agency of the State of California ("WVWD") and San Bernardino County ("COUNTY"). WVWD and COUNTY are hereafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

- A. COUNTY is a public agency providing water service to certain real property owned by San Bernardino County and depicted on Exhibit "A" attached hereto and by this reference incorporated herein ("Glen Helen").
- B. WVWD is a public agency of the State of California formed and operating under the County Water District Law pursuant to California Water Code Section 30000 et seq. authorized to provide water service within its boundaries.

- C. COUNTY has requested construction of a permanent emergency interconnection between the Glen Helen Water System and WVWD to provide domestic water to the Glen Helen Water System (hereinafter referred to as the "PROJECT" and/or "Emergency Interconnection Facilities").
- D. The PROJECT site is located within the unincorporated area of Glen Helen.
- E. The total PROJECT cost is estimated to be \$1,750,000.
- F. COUNTY and WVWD desire to set forth each Party's responsibilities and obligations regarding the design, construction, and funding of the PROJECT.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1.0 COUNTY AGREES TO:

- 1.1 Establish the scope of the PROJECT, subject to WVWD approval.
- 1.2 Provide the PROJECT design and detailed construction plans and specifications (Plans) for WVWD's review and approval prior to construction of the PROJECT. Design shall be by a professional engineer registered in the State of California, done in accordance with the WVWD most recent Rules and Regulations and the WVWD's Standards for Domestic Water Facilities and Standard Drawings.
- 1.3 Act as the lead agency for any California Environmental Quality Act (CEQA) review and compliance.
- 1.4 Construct or cause the construction of the PROJECT in accordance with the approved Plans and at no cost to WVWD.
- 1.5 Pay one hundred percent (100%) of design and construction services and related costs.
- 1.6 Designate a representative who shall have the authority to discuss and attempt to resolve issues concerning the PROJECT with WVWD.
- 1.7 Own and maintain the Emergency Interconnection Facilities, including but not limited to the water meter. COUNTY, at its sole cost, shall annually test and calibrate said meter to within industry standards and provide such records to WVWD. COUNTY, at its sole cost, shall replace the meter as necessary.
- 1.8 Water delivered shall be measured and recorded at the interconnection by a water meter with the capacity of accurately measuring flow and totalizing volume.
- 1.9 Arrange for relocation of all utilities which interfere with construction of the PROJECT, subject to paragraph 3.10 below.
- 1.10 Advertise, award, and administer the construction of the PROJECT, in accordance with the provisions of the California Public Contract Code applicable to COUNTY and Labor Code Sections 1720 et seq. and 1770 et seq. regarding prevailing wages.
- 1.11 Utilize a contractor or subcontractor who is licensed under the laws of the State of California in the specialty Class of "C-34" Pipeline or Class "A" General Engineering.
- 1.12 Require its contractors to maintain and to comply throughout the term of any contract awarded by COUNTY with the insurance requirements described in COUNTY requirements.
- 1.13 Provide adequate inspection of all items of work performed under the construction contract(s) with COUNTY's contractors or subcontractors for the PROJECT and maintain adequate records of inspection and materials testing for review by WVWD. COUNTY shall provide copies of any records of inspection and materials testing to WVWD within ten (10) days of COUNTY's receipt of written demand from WVWD for such records. This shall be included as a PROJECT cost. COUNTY shall maintain these records for a period of three (3) years following completion of the PROJECT.
- 1.14 File a notice of completion with the San Bernardino County Recorder.
- 1.15 Provide all required easements for the Emergency Interconnection Facilities if any.

2.0 WVWD AGREES TO:

- 2.1 Review and approve in writing, within a reasonable time after submittal to WVWD, all design and detailed construction documents, specifications, and plans prepared by or on behalf of COUNTY prior to the beginning of the PROJECT. WVWD's review and approval of the plans and other documents shall not be deemed to be a representation or warranty as to compliance, or noncompliance, of any work with applicable laws, rules and regulations.
- 2.2 Approve or disapprove the Plans within a reasonable time after submittal to WVWD. In the event WVWD disapproves the Plans, COUNTY shall modify the Plans in accordance with the reasons given for disapproval and shall resubmit the revised Plans to WVWD for further review and approval. The foregoing review and approval procedure shall be continued until the Plans are approved by WVWD.
- 2.3 Own, operate and maintain the WVWD water infrastructure on WVWD's side of the Emergency Interconnection Facilities.
- 2.4 Open the valve at the Emergency Interconnection Facilities and provide water upon receipt of such request. WVWD shall have exclusive control over the opening and closing of the valves at the Emergency Interconnection.

3.0 IT IS MUTUALLY AGREED:

- 3.1 Parties shall require all contractors to comply with any and all applicable State wage and hour laws for the PROJECT.
- 3.2 The Parties hereby acknowledge that neither the Parties nor any employees of the Parties shall have any control over the method or means by which the contractor and its agents and employees perform the services contemplated in the PROJECT.
- 3.3 Notwithstanding any other provision of this Agreement, COUNTY may delegate or assign any or all of its obligations under Sections 1.1 through 1.15 to a third party selected by COUNTY in its sole discretion, provided that COUNTY shall remain responsible for compliance with such obligations as between WVWD and COUNTY.
- 3.4 Parties agree that there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry in the performance of this Agreement. The Parties shall ensure their employees and the contractor's employees and agents are treated during employment without regard to their race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.
- 3.5 COUNTY agrees to indemnify, defend (with counsel approved by WVWD), and hold harmless WVWD and its officers, employees, agents, and volunteers from any and all claims, actions or losses, damages, and/or liability resulting from COUNTY's negligent acts or omissions which arise from COUNTY's performance of its obligations under this Agreement.
- 3.6 WVWD agrees to indemnify, defend (with counsel approved by COUNTY), and hold harmless COUNTY and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability resulting from WVWD's negligent acts or omissions which arise from WVWD's performance of its obligations under this Agreement.
- 3.7 In the event the COUNTY and/or WVWD is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, the COUNTY and/or WVWD shall indemnify the other to the extent of its comparative fault.
- 3.8 In the event of litigation arising from this Agreement, each Party to the Agreement shall bear its own costs, including attorney(s) fees. This paragraph shall not apply to the costs or attorney(s) fees relative to paragraphs 3.5, 3.6, and 3.7.
- 3.9 COUNTY and WVWD are authorized self-insured public entities for purposes of Professional Liability, Automobile Liability, General Liability and Worker's Compensation, and warrant that through their respective programs of self-insurance

- they have adequate coverage or resources to protect against liabilities arising out of COUNTY and WVWD's performance of the terms, conditions or obligations of this Agreement.
- 3.10 In the case wherein one of the Parties owns a utility that needs to be relocated for the PROJECT and that Party does not have prior rights for that utility, it will be the sole responsibility of COUNTY to relocate the utility at the COUNTY's cost. This shall be included as a PROJECT cost.
- 3.11 This Agreement may be cancelled/terminated without cause upon thirty (30) days advance written notice of either Party, provided however, that neither Party may cancel/terminate this Agreement without cause after COUNTY awards a contract to construct the PROJECT. In the event of cancellation/termination as provided herein, all PROJECT expenses incurred prior to the effective date of cancellation/termination shall be paid by the COUNTY. The Parties recognize and agree that the provisions governing utility relocation and construction are dependent upon the Parties first satisfying CEQA. As provided in this paragraph, the Agreement may be cancelled with or without cause, before, during and after CEQA review/approval.
- 3.12 If either WVWD or COUNTY breaches any provision of this Agreement, the non-breaching party may give written notice to the breaching party by registered or certified mail detailing the breaching party's violations. If such violation is not corrected within 30 days from the date of the notice of violation or a reasonable period of time as may be required to cure the violation, whichever occurs last, the non-breaching party may, without further notice, declare the breaching party to be in breach of this Agreement. Upon such declaration, the non-breaching party may pursue any remedy available under local, state or federal law. This provision does not waive any applicable Government Code requirements concerning the presentation and consideration of claims.
- 3.13 Except for the Parties' indemnification obligations contained herein which shall survive termination, this Agreement shall terminate upon completion, and acceptance by WVWD, of the WVWD water infrastructure on WVWD's side of the Emergency Interconnection Facilities.
- 3.14 This Agreement contains the entire agreement of the Parties with respect to subject matter hereof, and supersedes all prior negotiations, understandings or agreements. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.
- 3.15 This Agreement shall be governed by the laws of the State of California. Any action or proceeding between WVWD and COUNTY concerning the interpretation or enforcement of this Agreement, or which arises out of or is in any way connected with this Agreement or the PROJECT, shall be instituted and tried in the appropriate state court, located in the County of San Bernardino, California.
- 3.16 Time is of the essence for each and every provision of this Agreement.
- 3.17 Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.
- 3.18 No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 3.19 If a court of competent jurisdiction declares any portion of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions shall continue in full force and effect, unless the purpose of this Agreement is frustrated.
- 3.20 No amendment to or modification of this Agreement shall be valid unless made in writing and approved by all Parties. The Parties agree that this requirement for

- 3.21 written modifications cannot be waived and that any attempted waiver shall be void. With the exception of the specific provisions set forth in this Agreement, there are no intended third-party beneficiaries under this Agreement and no such other third parties shall have any rights or obligations hereunder.
- 3.22 All privileges and immunities of the Parties provided by state or federal law shall remain in full force and effect.
- 3.23 This Agreement will be effective on the date signed and approved by both Parties.
- 3.24 The Recitals are incorporated into the body of this Agreement.
- 3.25 This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both Parties.
- 3.26 This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

IN WITNESS WHEREOF, the San Bernardino County and West Valley Water District have each caused this Agreement to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY

▶ *Dawn Rowe*
 Dawn Rowe, Chair, Board of Supervisors

Dated: APR 09 2024

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynda Menell
 Clerk of the Board of Supervisors
 San Bernardino County
 Deputy



WEST VALLEY WATER DISTRICT

(Print or type name of corporation, company, contractor, etc.)
 B
 y ▶ *[Signature]*
 (Authorized signature - sign in blue ink)

Name John Thiel
 (Print or type name of person signing contract)

Title General Manager
 (Print or Type)

Dated: 12/7/23

Address 855 W Base Line
Rialto, CA 92376

FOR COUNTY USE ONLY

Approved as to Legal Form
 ▶ *Aaron Gest*
 Aaron Gest, Deputy County Counsel
 Date 03/29/24

Reviewed for Contract Compliance
 ▶ _____
 Date _____

Reviewed/Approved by Department
 ▶ *David R. Doublet*
 David Doublet, Assistant Director
 Date 04/01/2024