



REGULAR BOARD OF DIRECTORS MEETING

501 Taft Highway
Bakersfield, California

TUESDAY, December 6, 2022

AGENDA

CALL TO ORDER AND ANNOUNCEMENT OF QUORUM

12:00PM

CLOSED SESSION:

- A. Conference with Legal Counsel – Existing Litigation – Closed Session Pursuant to Gov. Code § 54956.9(d)(1):
 - 1. SWRCB Kern River.
 - 2. Kern Delta Water District et al. v. Rosedale Rio Bravo Water Storage District et al. (Onyx Ranch CEQA).
- B. Conference with Legal Counsel – Potential Litigation – Closed Session Pursuant to Gov. Code § 54956.9(d)(2),(e)(1):
 - 1. One Matter.

REGULAR SESSION:

INTRODUCTION OF GUESTS AND PUBLIC

- I. **PUBLIC COMMENT** (Members of the public may address the Board of Directors on any matter not on the agenda, but absent extraordinary circumstances, the Board may not act on such matters. Members of the public may address items of interest that are listed on the agenda prior to the Board's decision on such items.)
- II. **MANAGER'S REPORT** (The General Manager will discuss, and the Board will consider various items and issues relating to the ongoing and future operations of the District which are of interest to the Board)
 - A. Approve Minutes of the Regular Board Meeting of November 15, 2022.
 - B. Verbal:
 - i. ACWA Recap.
 - ii. SWP 2023 Initial Allocation – 5%.
 - C. Old River Groundwater Banking Project:
 - i. Award Contract to Lonnie A. Cross Land Leveling, Inc. in an amount not to exceed \$1,128,063.48 for the Construction of the Old River Groundwater Banking Project.
 - ii. Approve Construction Management Scope of Work with Zeiders Consulting in an amount not to exceed \$146,750.
 - iii. Authorization for staff to transfer \$637,406.74 of District Fund Balance to the Kern Delta Water Banking Project to pay for 50% of the Above Project Costs.
- III. **BOARD MEMBER COMMENTS** (This item provides Board Members with an opportunity to make announcements or provide general comments.)

IV. ADJOURN

Requests for disability related modifications or accommodations, including auxiliary aids or services may be made by telephoning or contacting Madelyne Rodriguez at the District Office (661-834-4656). Please attempt to make such requests known at least 24 hours before the scheduled meeting. Pursuant to Government Code section 54957.5, any materials relating to an open session item on this agenda, distributed to the Board of Directors after the distribution of the agenda packet, will be made available for public inspection at the time of distribution at the District, 501 Taft Highway, Bakersfield, CA.



MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS

November 15, 2022

TUESDAY, November 15, 2022, 12:07PM– 2:42PM

DIRECTORS PRESENT: Palla, Tillema, Antongiovanni, Garone, Mendonca, Spitzer, Fanucchi, Kaiser, and Borba.

DIRECTORS ABSENT:

STAFF PRESENT: General Manager Teglia, Water Resources Manager Mulkay, Assistant General Manager Bellue, General Counsel Iger, Controller Duncan, Hydrographer Hyatt, Groundwater Manager Marquez, and Staff Engineer Deleon.

OTHERS PRESENT: None.

CLOSED SESSION DECLARED AT 12:07PM

President Palla called to order the Closed Session of the Kern Delta Board of Directors at 12:07PM regarding the following agenda items:

A. Conference with Legal Counsel – Existing Litigation – Closed Session Pursuant to Gov. Code § 54956.9(d)(1):

1. SWRCB Kern River.
2. Kern Delt Water District et al. v. Rosedale Rio Bravo Water Storage District et al. (Onyx Ranch CEQA).

B. Conference with Legal Counsel – Potential Litigation – Closed Session Pursuant to Gov. Code § 54956.9(d)(2),(e)(1):

1. One Matter.

Closed Session concluded at 1:00PM.

REGULAR SESSION DECLARED AT 1:02PM

President Palla called to order the Regular Session of the Kern Delta Board of Directors at 1:02PM.

Closed Session Report: District General Counsel Iger reported the following:

Item A: No reportable action.

Item B: No reportable action.

INTRODUCTION OF GUESTS AND PUBLIC

None.

I. PUBLIC COMMENT

None.

II. CONSENT CALENDAR

M/S/C (Tillema/Spitzer) (yes-9, no-0): By unanimous vote the Board approved and authorized items II A through II D of the Consent Calendar.

- A. Approval of Minutes from the Regular Board Meeting of November 1, 2022.
- B. Approval of the October/November District Construction and Water Banking Project(s) Disbursements.
- C. Approval of the October/November District Disbursements.
- D. Approval of District 2023 Meeting Calendar.

III. BUSINESS AND FINANCE

A. - A(i). Public Hearing: Consideration of Resolution 2022-04 Levying Special Assessments Within Zones of Benefit. President Palla announced that this was the time and place for the Public Hearing regarding the adoption of the District's assessments for 2023. President Palla opened the Public Hearing; no comments were received. President Palla then closed the Public Hearing and returned the item to the Board for action.

M/S/C (Antongiovanni/Kaiser) (yes-9, no-0): By unanimous vote the Board approved Resolution 2021-07 Levying Special Assessments Within the Zones of Benefit as presented.

B. Business & Finance Committee Report – November 10, 2022: District Controller Duncan provided a report from the November Business & Finance Committee Meeting.

B(i). Approval of October 2022 Financial Reports: Mr. Duncan presented the October 2022 District and Water Banking Project(s) Financial Statements, Treasurer's Reports, and District Delinquency Report.

M/S/C (Antongiovanni/Garone) (yes-9, no-0): By unanimous vote the Board approved the October 2022 District and Water Banking Project(s) Financial Statements, Treasurer's Reports, and Delinquency Report as presented.

C. Update Regarding District Investments: Staff provided a brief overview of the District's current investments. This was an informational item only.

IV. OPERATIONS AND PROJECTS

A. - A(i-v). Operations and Projects Committee – November 1, 2022: Assistant General Manager Bellue briefly reported on several items. Mr. Bellue's update included District maintenance activities, recent encroachment permit requests, pending development projects impacting District facilities, and a status update related to the Old River and Sunset Groundwater Banking projects. In addition, Mr. Bellue provided brief comments regarding the District Engineering Report for 2019 – 2021, which was recently completed and included in the Board packet. Mr. Bellue specifically acknowledged Staff Engineer Daniel Deleon as the primary author of the report and thanked him for his work on this project.

B. Authorization to Utilize Alspaw Tree Service for the Removal of Trees Along the Kern Island Canal Between California Avenue and 10th Street, in an Amount not to Exceed \$40,000: Mr. Bellue provided a brief overview of the tree removal project, providing supplemental comments to a memorandum included in the Board packet. The tree removal is necessary to improve operations of the Kern Island Canal in the area and to prevent the trees from causing service disruptions.

M/S/C (Spitzer/Mendonca) (yes-9, no-0): By unanimous vote the Board authorized staff to utilize Alspaw Tree Service for the Removal of Trees Along the Kern Island Canal Between California Avenue and 10th Street, in an Amount not to Exceed \$40,000.

V. WATER RESOURCES REPORT

A. - A(i-ii). District Watermaster Report: Staff reviewed and discussed the water supplies of the District for the month of October and early November. Approximately 946 acre-feet of water was diverted in District during October. Staff also provided information related to current precipitation totals and future forecasts.

B. - B(i). Kern River Watermaster Report: The November Kern River Watermaster Report and Isabella construction update, provided by the Army Corps of Engineers, was included in the Board packet.

C. District Groundwater Manager Report: Groundwater Manager Marquez provided graphical information regarding depth to groundwater at various monitoring locations throughout the District.

VI. MANAGER'S REPORT

A. Mr. Teglia provided a brief verbal report regarding the upcoming Board schedule for December and January and challenges the District is facing regarding homeless encampments during canal shutdown periods. Mr. Teglia stated that staff is looking at several combined efforts to respond to this ongoing issue and will report back to the Board at a future meeting.

B. External Agency Report: Mr. Teglia provided verbal comments supplementing a memorandum included in the Board package which provided information on the meetings and activities of various external agencies. These agencies include, but are not limited to, the Kern County Water Agency (including the status of the Delta Conveyance Project and Contract Extension), Kern Fan Authority, Kern River Watershed Coalition Authority, Kern Groundwater Authority, Kern River Groundwater Sustainability Agency, the South Valley Water Resources Authority, the Water Association of Kern County, and the Integrated Regional Water Management Plan.

C. Water Banking Projects Report: Mr. Teglia provided verbal comments supplementing a memorandum included in the Board package which provided information on water banking project activity on the Kern Fan. Mr. Teglia also conveyed that based on recent discussions, the District anticipates recovering previously banked MET water and returning regulated water back to MET in 2023. Mr. Teglia also provided a brief update regarding the recently completed CVC hydraulic analysis, which studied the capacity of the CVC prior to its expansion.

VII. ATTORNEY'S REPORT

None.

VIII. BOARD MEMBER COMMENTS

None.

IX. ADJOURNMENT:

There being no further business, President Palla adjourned the meeting at approximately 2:42PM.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steven Teglia", written in a cursive style.

Steven Teglia, General Manager

Approved by Board,

A handwritten signature in black ink, appearing to read "Richard Tillema", written in a cursive style.

Richard Tillema, Board Secretary

**SAN JOAQUIN VALLEY AGRICULTURAL WATER COMMITTEE
MEMBERSHIP MEETING**

THURSDAY, December 1, 2022 6:45 - 8:30 AM

**Hyatt Regency, Indian Wells
Grand Salon FGH**

1. Call to Order and Introductions
2. Central Valley Project Update, Ernest Conant, Regional Director US Bureau of Reclamation
3. State Water Project Update, Ted Craddock DWR Deputy Director of the State Water Project.
4. Secretary's Report
 - a. Minutes of May 5, 2022
 - b. Financial Report, Period Ending October 2022
5. Washington DC Politics - Roger Gwinn, The Ferguson Group
6. Valley Ag Water Coalition – Bob Reeb, Reeb Government Relations, LLC
7. Pending Legal Issues - Steve Torigiani, Young Wooldridge LLP
8. California Farm Water Coalition - Mike Wade, Executive Director
9. CV-SALTS – Daniel Cozad, Executive Director Central Valley Salinity Coalition
10. Adjournment: next meeting Thursday, May 11, Fall Conference, Monterey.

Thank you Provost & Pritchard Consulting Group for your sponsorship.



ANNUAL MEETING AGENDA

Tuesday, November 29, 2022 at 5:00 p.m.
Monte Carlo Room / Renaissance Indian Wells Resort

1. Call to Order
2. Introductions
3. Approval of October 6, 2022 Meeting Minutes
4. Approve November, December 2022 Payments to Reeb Government Relations, LLC
5. Review Financial Report
6. Report of Executive Director
7. Evaluation of the effectiveness of the Coalition
8. Approval of the 2023 budget
9. Approval Reeb Government Relations Contract for 2023
10. Confirmation of Steering Committee Representatives
11. Other Business
12. Next Steering Committee Meeting Date January 5, 2022
13. Adjournment



MEMORANDUM

November 21, 2022

TO: Members, Valley Ag Water Coalition

FROM: Bob Reeb and Raquel Ayala Vargas, Esq.
Reeb Government Relations, LLC

RE: 2022 Annual Report

This is the 16th year that Reeb Government Relations has had the honor and privilege to work with Valley Ag Water Coalition (VAWC or Coalition) to advance the interests of San Joaquin Valley farm water suppliers in state-level legislative and regulatory issues in Sacramento.

The State Capital showed signs of returning to pre-pandemic normalcy with COVID-19 case numbers declining as winter turned to spring and spring turned to summer. Virtual meetings remain a popular option for legislators and legislative staff. As the session progressed, legislators and their staff were more accessible for in-person meetings. Legislative committee hearings also began to allow in-person attendees while being simulcast online, providing multiple avenues for our firm to provide comments to policy and fiscal committees.

The new Swing Space building opened and houses offices for the legislature, governor, lieutenant governor, and some committee offices. The Legislative Office Building, located next door, still provides office spaces for caucus staffs and committee staffs. Moving between the State Capitol, where many committees continue to hold hearings, and hearing rooms in the Swing Space presents a challenge for legislators, legislative staff, and members of the Third House. The Senate and Assembly Chambers, located in the historic capitol building, remain in use. The State Capitol Annex is being prepared for demolition and a new annex will be constructed in its place. The construction project is slated to be completed in five years.

State Budget

On January 10, 2022, Governor Gavin Newsom announced his proposed 2022-2023 State Budget, which he titled *“the California Blueprint.”* The \$286.4 billion proposal, which included a \$45.7 billion surplus, centered on several key priorities which were christened as the state’s “greatest existential threats” including continued COVID-19 public health response, wildlife resilience, clean energy, homelessness, the high cost of living, crime prevention, broadband infrastructure expansion, education, and the ongoing drought. The Governor’s proposed budget included a one-time \$750 million General Fund investment in the drought resilience and response expenditures, building on the 2021 State Budget’s \$5.2 billion investment in the state’s water infrastructure.

Drought conditions persisted throughout the state through winter and into spring 2022. The May Revision of the 2022-2023 State Budget reflected worsening conditions with the inclusion of a \$1.6 billion drought relief package, a significant increase from the \$750 million in the Governor’s January proposal. This drought package also included \$250 million set aside as a contingency for drought response. While the January proposal offered funding for immediate drought relief, the May Revision sought to provide additional funding to improve drinking water and water supply reliability. Specifically, the proposed drought package included \$530 million for drinking water and water supply reliability, including investments in groundwater cleanup, water recycling, and water infrastructure needs; \$553 million to provide immediate drought support; \$280 million to support habitat and nature-based drought solutions; and \$187 million to support agricultural water conservation practices.

The Legislature passed a budget bill on June 14 to meet the constitutional deadline of June 15, but the passage was a pro forma exercise as negotiations between the Governor and the Legislature would continue for another two weeks. A final 2022 State Budget cleared the Legislature June 28, 2022, and was signed by the governor on June 30, 2022, along with over two dozen budget-implementing trailer bills. The 2022 State Budget includes total spending of \$308 billion, \$234.4 billion of which is from the General Fund. The state budget includes \$37.2 billion in total reserves. The budget also includes a \$39 billion climate spending, over a 6-year period, dedicated to responding and preparing for current and future climate change impacts, such as extreme drought and wildfires bringing the state’s multi-year climate investment to \$53.9 billion.

The State Water Project will benefit from the second year of a \$200 million 2-year commitment of funding for conveyance subsidence damage repairs in the San Joaquin Valley. Other state budget items include \$15 million to DWR for continued work on the aqueduct solar panel pilot study; \$100 million for Oroville Pump Storage (another \$140 million scheduled for FY 2023-24); and \$700 million for investments in statewide strategic electricity reliability assets.

Hotter and drier weather conditions spurred by climate change could reduce California’s water supply by up to 10% by the year 2040. To replace and replenish what we will lose

to thirstier soils, vegetation, and the atmosphere, Governor Gavin Newsom on Thursday, August 11, announced California's latest actions to increase water supply and adapt to more extreme weather patterns caused by climate change. The actions, outlined in a strategy document published by the Administration called "California's Water Supply Strategy, Adapting to a Hotter, Drier Future" calls for investing in new sources of water supply, accelerating projects, and modernizing how the state manages water through new technology.

To help make up for the water supplies California could lose over the next two decades, the strategy prioritizes actions to capture, recycle, de-salt and conserve more water. These actions include:

- Creating storage space for up to 4 million acre-feet of water, which will allow us to capitalize on big storms when they do occur and store water for dry periods.
- Recycling and reusing at least 800,000 acre-feet of water per year by 2030, enabling better and safer use of wastewater currently discharged to the ocean.
- Freeing up 500,000 acre-feet of water through more efficient water use and conservation, helping make up for water lost due to climate change.
- Making new water available for use by capturing stormwater and desalinating ocean water and salty water in groundwater basins, diversifying supplies, and making the most of high flows during storm events.

These actions are identified broadly in the Newsom Administration's Water Resilience Portfolio – the state's master plan for water released in 2020 – but they will be expedited given the urgency of climate-driven changes. To advance the infrastructure and policies needed to adapt, the strategy enlists the help of the Legislature to streamline processes so projects can be planned, permitted, and built more quickly, while protecting the environment. The challenge, as always, will be to secure sufficient state funds to assist local agencies to implement the actions identified in the Newsom strategy.

According to the latest finance bulletin from the California Department of Finance, preliminary General Fund cash receipts for September were \$2.785 billion (14.7%) lower than the 2022 Budget Act forecast of \$18.906. Cash receipts for the first three months of the 2022-23 fiscal year, which began on July 1, were \$4.781 billion (11.1%) below the forecast of \$42.946 billion. Combined with a \$2.186-billion shortfall relative to what was forecast for the 2021-22 fiscal year, the cumulative General Fund deficit reached \$7 billion through September. Shortfalls in September continued to be driven by lower proceeds from personal income tax, according to the bulletin. The budget forecast called for \$13.317 billion in personal income tax receipts for September. The final number fell a little over \$3 billion short, a shortfall of about 23 percent.

September is a significant month for personal income tax cash receipts, as many taxpayers pay their third quarter estimated payments. Yet estimated payments fell significantly below projections, coming in \$2.246 billion (42.3%) below the Budget Act

forecast. September was also the fourth consecutive month that withholding receipts fell below projections, with a \$892 million (11.3%) shortfall; following a combined shortfall of \$1.869 billion (8.3%) from June to August.

California real gross domestic product (GDP) contracted at a 0.5-percent seasonally adjusted annualized rate in the second quarter of 2022, following a contraction of 9.5 percent (revised) in the first quarter, as wages and salaries (including bonuses and options) declined from an unusually high level in the fourth quarter of 2021 to a steadier level in the first quarter of 2022. Two consecutive quarters of contraction traditionally signals a recession; however, California's real GDP grew 3.4 percent from the fourth quarter of 2019 (just before the COVID -19 Pandemic) through the second quarter of 2022. Financial data for the second half of 2022 will reveal whether the state economy will contract or stabilize heading into 2023 and the next budget writing cycle.

According to the Assembly Budget Committee, the 2022 state budget package reflects proposals of the Legislature and the Governor that result in the state remaining well under the State Appropriations (Gann) Limit both for the two-year period ending on June 30, 2022, and for the 2022-23 fiscal year. The budget package includes statutory changes to exclude added local subventions from the State Appropriations Limit, thereby counting some additional expenditures within local government appropriations limits when capacity exists at that level of government. The budget package also reflects legislative additions to the budget's infrastructure and emergency spending, which are excluded from the Gann Limit in certain circumstances.

According to initial estimates, the state is \$11 billion under the Gann Limit for the two-year period ending on June 30, 2022, and \$11 billion under the Gann Limit for the 2022-23 fiscal year. The leaders of the Senate and Assembly, as well as the Governor, have expressed an interest in developing a ballot measure for the 2024 state ballot to modernize the Gann Limit, including changes that make it easier to deposit surplus state funds to reserves and to pay down more Unemployment Insurance Trust Fund debt. The Assembly Budget Committee notes that failing to amend provisions of the Gann Limit will result in the need to make significant reductions to education and non-education programs funded in the state budget.

Finally, according to Bloomberg, California is poised to overtake Germany as the world's 4th largest economy, continuing to outperform the nation and other countries in GDP growth, companies' market value, renewable energy and more.

"While critics often say California's best days are behind us, reality proves otherwise – our economic growth and job gains continue to fuel the nation's economy," said Governor Newsom. "California's values and entrepreneurial spirit have powered this ascent to becoming the 4th biggest economy in the world, and we'll continue doubling down on industries of the future, like renewables and clean energy. I feel tremendous pride in California's resilience, leadership, and our formula for success."

Western Drought Persists and Intensifies

Governor Newsom declared a drought emergency in 2021 after two consecutive dry water-years, significantly below-average snowpack, minimal precipitation, and exceedingly warm temperatures resulted in unprecedented losses of runoff to rivers, streams, and reservoirs. Though the initial emergency declaration applied only to two counties, the governor expanded the declaration as the drought worsened. By October 2021, the governor extended the drought emergency statewide, and urged Californians to reduce their water use by 15 percent compared to 2020 levels.

California, along with the entire Western United States, is now in its third consecutive year of drought, further straining dwindling water supplies and burdening existing water infrastructure. Despite record-breaking storms early in the winter, the state experienced the driest January, February, and March on record in over 100 years. In response to worsening drought conditions, the State Water Board began issuing curtailment warnings to water rights holders throughout the state, similar to 2021. Alongside warnings of curtailment orders, the State Water Board urged water rights holders to plan for potential shortages by reducing water use and enacting water conservation measures, such as reducing irrigated acreage, using innovative irrigation techniques, managing herd size, and diversifying water portfolios.

By April 2022, DWR reported snowpack conditions to be far below average and predicted well-below average water storage conditions and below normal or historically low runoffs. Dry conditions persisted throughout the spring and summer months of 2022. By July 2022, the California Drought Update reported that snowpack had already melted for the year, and runoff into the state's streams and reservoirs had peaked. The U.S. Drought Monitor also reported that most of California remained in either severe or moderate drought, with several reservoir storage levels at either below average or critically low levels. The effects of climate change could lead to droughts becoming more frequent, intense, and longer. This potential elevates the importance of the State of California to commit to investing a greater proportion of revenues in water infrastructure.

Coalition Activity on the Legislative Front

The Coalition began the year actively monitoring and engaging in direct lobbying on over 30 bills. Below, we highlight a handful of bills on which the Coalition was active on this year.

Groundwater Sustainability Agency: Groundwater Extraction Permit

Assembly Bill 2201, by Assemblymember Steve Bennet (D-Ventura), would require local agencies that permit groundwater wells to obtain written verification stating that a proposed well will not undermine sustainable groundwater management or cause well interference prior to approving a permit application for a groundwater well. Specifically,

the bill would prohibit a county, city, or any other water well permitting agency from approving a permit for a new groundwater well or for an alteration to an existing well in a basin subject to the act and classified as medium- or high-priority unless specified conditions are met, including that it obtains a written verification from the groundwater sustainability agency that manages the basin or area of the basin where the well is proposed to be located, determining that, among other things, the extraction by the proposed well is consistent with any sustainable groundwater management program established in any applicable groundwater sustainability plan adopted by that groundwater sustainability agency or an alternate plan approved or under review by the Department of Water Resources.

VAWC opposed AB 2201 for several reasons. First and foremost, the foundational element of the Sustainable Groundwater Management Act (SGMA) is local control; to provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater, and to manage groundwater basins through the actions of local governmental agencies to the greatest extent feasible, while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner. In most areas of California, overlying landowners may extract percolating ground water and put it to beneficial use without approval from the State Water Board or a court. The Coalition argued that as such, AB 2201 would impose a state mandate that is not only unnecessary, but will increase litigation risk and create uncertainty as to the exercise of a property right.

Second, the AB 2201 state mandate is the opposite of the permissive approach taken under SGMA that (1) authorizes a groundwater sustainability agency (GSA) to require registration of a groundwater extraction facility within the management area of the GSA; and (2) authorizes a GSA to require through its groundwater sustainability plan that the use of every groundwater extraction facility within the management area of the GSA be measured by a water-measuring device satisfactory to the GSA. Should a GSA choose to exercise these authorities, it would be unnecessary to impose a mandate regarding issuance of a groundwater extraction permit.

Third, AB 2201 will significantly increase litigation risk at a time when GSAs are in the early stages of implementing their plans. Unlike the first-in-time, first-in-use doctrine for surface water, groundwater is a correlative right amongst overlying property owners. Well interference and land subsidence have been challenges for decades in the San Joaquin Valley, which was a key factor in the discussion and debate that led to enactment of SGMA. The Coalition urged the Legislature to allow SGMA to be implemented at the local level and resist imposing new mandates—particularly in a period of sustained drought in which SGMA acknowledges may delay progress in achieving the sustainability goal.

The bill was modeled after Governor Newsom's drought emergency executive order, which posed significant legal and institutional challenges for counties, GSAs, and landowners throughout the San Joaquin Valley. Lacking uniform guidance or clarity from

the Governor's Office, counties were not consistent in their interpretation of Executive Order N-7-22. As a result, GSAs throughout the Central Valley have been faced with myriad conflicting so-called "Consistency Verification" forms – a different one for every county. For the GSAs spanning multiple counties, as many GSAs do, having to complete inconsistent consistency verifications is an administrative and financial burden to already over-extended GSAs and confusing to every party involved – including the well applicants.

Our firm also noted that some GSAs whose GSPs were only adopted in January 2022, do not have a full complement of data to make these verifications regarding impacts to existing groundwater management programs and impacts on sustainability goals for individual wells. Furthermore, many GSAs do not yet have the technical data that is needed to make determinations regarding impacts to nearby wells and land subsidence.

Amendments to AB 2201 were sought by an opposition coalition led by Valley Ag Water Coalition. VAWC and production agriculture lobbyists spent countless hours talking with Assembly members and their staffs about AB 2201. The bill narrowly passed the Senate on a 22 to 16 vote. The legislation died in the Assembly, however, after failing to meet the August 31 deadline for the Legislature to pass bills. The bill was last located on concurrence pending Assembly approval of amendments taken in the Senate. Reeb believes Assembly Member Bennett was short of the 41 votes he needed to gain Assembly concurrence in Senate amendments. Reeb and other lobbyists were engaged in the effort to defeat the bill up until midnight on the final night of the legislative session.

Dams and Reservoirs: Exclusions

Current law requires the Department of Water Resources (DWR or department) to supervise the maintenance and operation of dams and reservoirs as necessary to safeguard life and property. Under current law, the department is required to adopt, by regulation, a schedule of fees to cover the department's costs in conducting the supervision of dam safety. Certain obstructions are excluded under current law from being considered a dam, including a barrier that is not across a stream channel, watercourse, or natural drainage area and that has the principal purpose of impounding water for agricultural use. DWR has interpreted the above exemption to only apply to a private entity.

Assembly Bill 1164, by Assembly Member Heath Flora (R-Ripon), would amend existing law to clarify that an impoundment built, operated, and maintained by a public agency shall be treated in the same manner as a privately-owned and maintained impoundment facility. The bill places a 15 feet limitation on the height of any such structure and also requires the regulating basin to: (1) have a storage capacity of no more than 1,500 acre-feet; (2) Not have a downstream hazard classification of "high" or "extremely high," based upon DWR's criteria for those determinations, at the time of construction; (3) Be designed, and its construction overseen, by a licensed civil engineer; and (4) Be compliant with the general plan of the county in which it is located.

The bill also requires the owner or operator of the regulating basin, to qualify for the exclusion, to do all the following: (1) Before the construction of the regulating basin, submit to DWR an inundation map, stamped by a licensed civil engineer, identifying the flow and depth of water from the regulating basin in the event of a failure of a barrier constructed to form the regulating basin; (2) Undertake an inspection, conducted by a licensed civil engineer, of all barriers and all appurtenant structures of the regulating basin every two years following the regulating basin's construction and make the report available on the operating agency's internet website; and (3) Immediately upon the identification of a failure or the risk of failure of a barrier or works critical to the safe operation of the regulating basin, notify the county sheriff and local emergency managers of all properties likely to be impacted by a failure.

Farm water districts often rely on diversion structures across a watercourse to deliver water supplies for agricultural purposes. VAWC supported AB 1164, sponsored by Modesto Irrigation District, as the bill will assist public entities to construct and maintain regulating reservoirs to store and convey irrigation water in the same manner as private agricultural entities. Additionally, because AB 1164 clarifies existing law as to when the exclusion applies, the bill would relieve DWR of supervising duties over reservoirs constructed for agricultural purposes and relieve public entities from paying fees to DWR for the purpose of covering the cost of supervising dam safety.

AB 1164 enjoyed mostly bipartisan support, passing the Assembly on a 76 to 1 vote with three members abstaining, and the Senate on a 32 to 7 vote with one senator abstaining. The bill was uniformly supported by VAWC legislators. Governor Newsom signed the bill into law on September 30, 2022. (Chapter 943, Statutes of 2022) Credit for the success of AB 1164 goes to the unwavering support of Modesto ID and the work of The Gualco Group.

Accessible Water Bottle Refill Stations

Assembly Bill 1953, by Assembly Member Brian Maienschein (D-San Diego), would require, by January 1, 2025, the owner or operator of a transit hub, local park, public building, publicly owned building, shopping mall, or golf course to install and maintain at least one, or maintain at least one existing, accessible water bottle refill station at the transit hub, local park, public building, publicly owned building, shopping mall, or golf course. The bill defines "public building" as a publicly or privately owned building to which the public access, excluding residential buildings, restaurants, and retail stores.

AB 1953 sought to simultaneously reduce the demand for buying plastic bottles while also increasing access to safe drinking water in public spaces. The Department of general Services (DGS) estimates the cost to purchase and install accessible water bottle refill stations at state office buildings and publicly owned buildings that have water infrastructure sources to range between \$85 million and \$324 million. The bill could also

incur potentially significant costs (up to hundreds of millions of dollars) for the state to reimburse local governments for installing water bottle refill stations at municipal golf courses, local parks, and transit hubs owned and operated by local agencies.

VAWC took a “watch” position on AB 1953. Coalition members were concerned that the bill did not define what would be considered a “water bottle refill station.” While AB 1953 implied that it was intended to address personal water bottle refill stations that could be part of a standard indoor drinking water fountain, the legislation could be interpreted to apply to an outdoor 5-gallon water bottle filling station. These by-the-gallon water bottle filling stations are far more expensive and are subject to greater regulation by environmental health officers in comparison to a personal water bottle refill station.

Our firm collaborated with Assembly Member Maienschein’s staff to add a definition of “water bottle refill station” to AB 1953 to narrow the scope of the bill and clarify its application. The California Uniform Plumbing Code has a definition for bottle filling station, which our firm offered as an amendment to the bill:

On page 3, line 5, after “downward” insert:

that is designed and intended for filling personal use drinking water bottles.

The bill, however, died in the Assembly before this amendment request could be fulfilled after failing to pass the May 20 legislative deadline for fiscal committees to hear and report bills to the floor. AB 1953 was last located in the Assembly Appropriations Suspense File where it was held under submission.

Atmospheric Rivers and Forecast-Informed Reservoir Operations

Assembly Bill 2078, by Assemblymember Heath Flora (R-Ripon), would establish within the California Department of Water Resources (DWR) the Atmospheric River Research and Forecast Improvement Program: Enabling Climate Adaptation Through Forecast-Informed Reservoir Operations and Hazard Resiliency (AR/FIRO). The AR/FIRO program would serve as an update and rename the standing DWR-administered program designed to research climate forecasting as well as the causes and impacts of climate change on atmospheric rivers. This bill would require DWR, upon appropriation of \$10 million from the General Fund to research and improve predictions of atmospheric rivers and their impacts on water supply, flooding, post-wildfire debris flows, and environmental conditions.

According to the San Diego/Scripps Institution of Oceanography, atmospheric rivers (ARs) are the key to California’s water supply and flooding since they carry most of the state’s annual precipitation. ARs, however, are unpredictable, which can potentially lead devastating outcomes throughout the state, including extreme floods, post-wildfire debris flow, mudslides, and loss of water supply. With the effects of climate change likely to critically impact our water supply, developing better, more reliable methods for

the forecasting of ARs are crucial to helping communities prepare for floods and droughts in the future.

VAWC supported AB 2078 as the bill would ensure that the existing program is updated to incorporate new operations, predication models, and forecasting methods like FIRO in its ongoing research of ARs. FIRO is a reservoir operations strategy that utilizes enhanced monitoring and improved weather and water forecasts to inform decision making to selectively retain or release water from reservoirs to optimize water supply reliability and reduce flood risk. Additionally, developing a better understanding of ARs and their patterns will not only assist in improving the predictability of our water supply, but also lead to a better understanding of climate change, and the environmental implications of our water supply on the state. Further, the \$10 million appropriation from the General Fund will provide increased support DWR for the continuation of research in this field of study.

The Legislature has made three previous appropriations to support DWR's AR research: \$3 million in the 2016-17 budget, \$9.25 million in the 2019-20 budget, and \$10 million in the 2021-22 budget. This investment has allowed DWR to leverage funding and participation from federal and local agencies to deepen its understanding of ARs and implement FIRO pilot projects. Governor Newsom's proposed budget, and the May Revision included \$10 million to DWR for its continued work in researching ARs and FIRO; however, the final 2022-23 State Budget passed in June did not include this appropriation.

AB 2078 died in the Assembly's Appropriations Committee on May 19, 2022, where it was held on the Suspense File.

Environmental Justice: Disadvantaged and Tribal Communities

Current law specifies that the State Board shall consist of five members with specified experience and qualifications, each appointed by the Governor. As introduced, AB 2108 would require that one of the persons appointed by the Governor be qualified in the field of water supply and water quality relating to environmental justice or tribal communities. The bill would also require that at least one person appointed to each regional water board have specialized experience representing disadvantaged or tribal communities; and further, that the person shall have a proven history of advocacy. The bill would additionally require the water boards to incorporate environmental justice analysis and community outreach into their permitting process.

VAWC opposed the appointment of one person to the State Board and at least one person to each regional board who has specialized experience to represent disadvantaged or tribal communities. The Coalition was particularly concerned with the provision that would require such person to have a proven history of advocating for the

environmental justice or tribal rights of the communities, since this advocacy role is inconsistent with state law and policy relating to water rights and water quality. Since its creation in 1967, the State Water Board has followed its original mandate to balance, to the extent possible, all uses of California's water resources, and to ensure the reasonable protection of beneficial uses and the prevention of nuisance. In other words, the State Board has a duty to represent the best interests of all Californians [Antidegradation Policy, 1968].

The Coalition questioned the need to require the appointment of a person who has specialized experience to represent disadvantaged or tribal communities given recent legislative enactments and State Board initiatives. AB 2108 includes the following finding and declaration:

For example, the state's Human Right to Water policy provides that "every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes." The State Water Board is required to consider this policy when revising, adopting, or establishing policies, regulations, and grant criteria when those policies, regulations, and criteria are pertinent to the human right to water. The State Water Boards also created the Safe and Affordable Funding for Equity and Resilience (SAFER) Program to comprehensively implement the state's Human Right to Water commitment by ensuring the estimated 1 million Californians being served contaminated water have solutions for safe, affordable drinking water.

More recently, the State Water Board adopted Resolution No. 2021-0550 "CONDEMNING RACISM, XENOPHOBIA, BIGOTRY, AND RACIAL INJUSTICE AND STRENGTHENING COMMITMENT TO RACIAL EQUITY, DIVERSITY, INCLUSION, ACCESS, AND ANTI-RACISM," which outlines several actions the Water Boards have taken to address environmental injustices, such as developing climate change response programs that address the disproportionate impacts on vulnerable or disadvantaged communities.

Finally, since 2018, the Water Boards' staff have been actively engaged in CalEPA's racial equity team, which is implementing CalEPA's "Plan to Achieve Racial Equity" to: (1) improve access to data and information on racial equity; (2) improve communication with communities and partners; (3) improve language access; (4) advance racial equity trainings for the CalEPA workforce; and (5) improve workforce hiring, retention, and promotion practices to advance racial equity within the environmental protection role that each board, department, and office shares with CalEPA.

Given the State Water Board's existing, and proven, commitment to pursuing environmental justice through all the drinking water and water quality programs under their purview, VAWC requested that the bill be amended to delete the provision that would specify a member of the state board be qualified in the field of water supply and water quality relating to disadvantaged or tribal communities; or, at a minimum, to delete provisions that require the member to have a proven history of advocacy.

AB 2108 was amended on May 19, 2022, to remove the provision that required the member with specialized experience in the field of water supply and water quality relating to disadvantaged or tribal communities to also possess a proven history of advocacy. VAWC removed its opposition to the bill based on this amendment.

On August 25, 2022, the bill was further amended in the Senate to delete the requirement that at least one of the persons appointed to the State Water Board be qualified in the field of water supply and water quality relating to disadvantaged or tribal communities; and that at least one person appointed to each regional board have specialized experience to represent environmental justice or tribal communities. AB 2108 was signed into law on September 16. (Chapter 347, Statutes of 2022)

As enacted, the bill will now require the State Board and Regional Boards to make programmatic findings on potential environmental justice, tribal impact, and racial equity considerations when issuing regional or reissuing statewide waste discharge requirements or waivers of waste discharge requirement; as well as require the boards to engage communities impacted by proposed discharges of waste throughout the waste discharge planning, policy, and permitting process

Water Theft: Irrigation Districts

Current law authorizes the legislative body of a city or county to make water theft subject to an administrative fine or penalty, and limits the maximum fine or penalty amounts for infractions to \$100 for the first violation, \$200 for a second violation of the same ordinance within one year of the first violation, and \$500 for each additional violation of the same ordinance within one year of the first violation. SB 427, enacted in 2021, authorized the legislative body of a “local agency” that provides water service to make any violation of an ordinance enacted by the local agency regarding water theft subject to an administrative fine or penalty. The bill limits the maximum fine or penalty amounts for infraction as \$1,000 for a first violation, \$2,000 for a second violation of the same ordinance within one year, and \$3,000 for each additional violation of the same ordinance within one year. SB 427 requires the local agency to adopt an ordinance that sets forth the administrative procedure that shall govern the imposition, enforcement, collection, and administrative review by the local agency of the administrative fines or penalties of water theft.

Assembly Bill 2505, by Assembly Member Adam Gray (D-Merced) and sponsored by Merced Irrigation District, would clarify that the above-specified provisions do not cap or limit the fines that an irrigation district may impose in accordance with Irrigation District Law.

According to the Author’s office, “despite [the] legislative intent to deter water theft by enhancing existing penalties, the broad application of SB 427 may have unintentionally

restricted and reduced the fines for water theft already imposed by irrigation districts.” Current law authorized irrigation districts to determine appropriate fines within their area. Unlike municipal sources of water, irrigation districts store, convey and deliver significantly larger quantities of water and thieves target similarly large quantities. Thus, irrigation districts tend to deter theft not only through a base fine, but also by factoring in the *value* of the quantity of water that was stolen. According to the sponsor, water theft within MID currently results in a fine that is three times the amount of water taken plus \$1,000 per occurrence; under SB 427’s provisions, such a fine would be significantly reduced, and the quantity of water stolen would no longer factor into the amount of the fine.

VAWC took a “support” position on AB 2505 arguing that as drought conditions worsen, water scarcity will increase the price of water and incentivize additional water theft. AB 2505 would ensure that irrigation districts maintain the authority to determine fines and penalties within their area, avoiding circumstances where paying fines and penalties for water theft is more economical than its legal purchase.

The bill passed both the Assembly and the Senate with bipartisan support and no “NO” votes. Governor Newsom signed AB 2505 into law on June 20, 2022 (Chapter 23, Statutes of 2022).

21st Century Water Laws

Senate Bill 1219, by Senator Melissa Hurtado (D-Sanger), would require the Secretary of the Natural Resources Agency and the Secretary for Environmental Protection to convene a committee to develop and submit, on or before December 31, 2024, to the Governor and to the Legislature a strategic vision, proposed statutes, and recommendations for a modern 21st century set of water laws and regulations and state and local water agencies for the state. The committee would consist of 5 specified heads of state agencies, 2 members appointed by the Senate Committee on Rules, and 2 members appointed by the Speaker of the Assembly. The bill would require the Governor or the committee to appoint a “blue ribbon” citizen commission or taskforce, a stakeholder advisory committee, and any other group that the Governor or the committee deems necessary or desirable to assist in conducting these provisions.

SB 1219 seeks to ensure California has a modern 21st century set of water laws, regulations, and state and local water agencies by providing the means for the state take a top-to-bottom review of how water resources in the state are managed and identify necessary reforms. According to the author, the bill would prioritize the preservation and sustainability of the state’s water infrastructure.

VAWC opposed the measure and asked Senator Hurtado to hold the bill and not bring it to a hearing in the Assembly Water, Parks & Wildlife Committee. The Coalition fundamentally disagreed with a finding in the legislation that “*governmental institutions*,

statutes, and regulations overseeing the development and management of California's water resources no longer serve California well, if they ever did."

The Coalition argued that California is experiencing a period of severe drought and the effects of climate change, the latter of which is yet to be fully understood. California's governmental institutions have the authority and the means to address the concerns set forth in the legislation. What is lacking is the leadership and the commitment of funding year in and year out from the executive and legislative branches of state government to provide solutions, such as the expansion of surface water storage assets, repair of backbone conveyance facilities, investment in new conveyance facilities to better integrate disparate areas of the state into existing water management systems, and more. Even the suggestion of undermining the current system of water rights threatens the economic stability of all Californians; especially those who work and reside in rural communities in areas of origin and in our significant agricultural regions that rely on established water rights permits and licenses.

VAWC wrote:

"We live in an increasingly unstable world and protecting a safe, affordable, domestic food supply is critical. California is not doing that. Western farms produce 80% of country's fruits, nuts, and vegetables. You find them not just in the produce aisle, but also in the packaged foods we eat every single day. That cannot happen without water. The food grown in California cannot simply be grown in other states. Finally, a safe, affordable, domestic food supply is a national security issue, just like energy. California state government must make it a priority. California spends about \$37 billion annually on water infrastructure, operations, and maintenance, with the lion's share (84%) coming from local water bills and taxes. The balance comes from state (13%) and federal (3%) contributions. We need a stronger commitment from the state and federal governments."

VAWC also argued that the membership of the committee that would be convened under SB 1219 did not include the state commissions, boards, and departments that would be necessary to conduct the work required—the Secretary for Business, Consumer Services and Housing, Department of Water Resources, Central Valley Flood Protection Board, and others should be named in the legislation. Further, since this would be an executive branch undertaking with a report due to the Legislature, it is inappropriate for the Senate and Assembly to appoint members to the committee.

Finally, the Coalition argued that the deadline for the committee to submit a report to the Legislature is unrealistic based on the breadth of the undertaking proposed under SB 1219. While the "blue ribbon" commission and stakeholder advisory committee are welcome and necessary adjuncts to the work of the state committee, they are not a substitute for a lengthy, determined, and robust public information, public review, and public comment process. Given the potential overwhelming changes to all aspects of

California life that may result from the SB 1219 exercise, an open and transparent public process is essential.

SB 1219 passed the Senate on a 21 to 6 vote, with 13 senators abstaining. Senators Andreas Borgeas (D-Fresno), Anna Caballero (D-Merced), Shannon Grove (D-Bakersfield), along with Senator Hurtado, voted in support of the measure; with Senator Susan Talamantes Eggman (D-Stockton) aligning herself with VAWC in opposing the bill.

SB 1219 was double referred to the Assembly Water, Parks, and Wildlife Committee and the Assembly Environmental Safety and Toxic Materials Committee; however, the author canceled the bill's first hearing. The bill subsequently died in the Assembly after failing to meet the July 1 legislative deadline for policy committees to meet and report bills. (Rule 61(b)(13))

VAWC an Effective Advocate on behalf of Members and Taxpayers

VAWC continued its aggressive advocacy on behalf of farm water suppliers this year, sounding the alarm on AB 2201 and building an opposition coalition that spent countless hours advocating against the legislation. In addition to our efforts to directly influence the passage or defeat of legislation, we joined California Farm Water Coalition to produce and disseminate "Farm Water Update," and electronic newsletter focusing on nexus between food production and water policy. The newsletter seeks to strengthen communications between VAWC, the California Farm Water Coalition, and members of the Legislature and key personnel with the Newsom Administration.

All constitutional offices, the entire Assembly, and half of the Senate were on the state ballot for the California general election that took place on November 8, 2022. Democrats held onto all constitutional offices, winning by wide margins.

This was the first state election following the decennial census and new district lines for the Senate and Assembly will be reflected in the election. Under the new maps, much of the San Joaquin Valley will fall within Senate Districts 4, 5, 12, 14, and 16; and Assembly Districts 8, 9, 13, 22, 27, 31, 32, 33, and 35.

This year in general and this election in particular resulted in unprecedented level of turnover in both chambers of the California State Legislature since the 2012 elections. Due to a change in term limits that year, over 35 seats of the 120 legislative seats in Sacramento did not have an incumbent running in 2022 either due to retirements, expiring terms, or redistricting. Political pundits determined that California's decennial redistricting favored Democrats slightly in the Assembly, but Republicans in the Senate. Redistricting also created over 20 intraparty races statewide in the Senate and Assembly, with 19 of them being Democrat-on-Democrat races, mostly between moderates and progressives.

It is expected that the ballot count will go on for several more weeks. County election officials are required, by law, to report final election results to the Secretary of State by Dec. 9. The Secretary of State then has until Dec. 16 to certify election results.

State Senators serve staggered, four-year terms, and the 20 even numbered districts were on the ballot this year. As such, Senate Districts 5 is not up for election until 2024 when incumbent Susan Talamantes Eggman (D-Stockton) is set to be termed-out of office. Senator Andreas Borgeas (R-Fresno), whose district was largely absorbed by redrawn Senate District 4, decided to not run for reelection. The sprawling newly drawn SD 4 takes in much of the Sierra, running from Owen's Lake to Lake Tahoe before jutting west across the Central Valley to include Modesto and the rest of Stanislaus County. The District is considered a safe Democratic seat, with two Democrats running to represent it—public school administrator Marie Alvarado-Gil and Labor Federation Executive Tim Robertson. Alvarado-Gil, considered the more moderate of the two, had a 4,000-vote lead after the Election Day count that has grown to nearly 13,000 votes as of November 21.

Incumbent Senator Shannon Grove (R-Bakersfield) of the current Senate District 16 sought re-election in the redrawn Senate District 12 against Democrat Susanne Gundy, a retired program manager. Senator Grove has a significant Election Day lead and is expected to win reelection in what is considered a safe Republican seat. Incumbent Senator Anna Caballero (D-Salinas) is running for re-election in the redrawn Senate District 14 against Republican Amnon Shor, a rabbi and businessperson. Senator Caballero is expected to win the race in the safe Democratic district. Incumbent Senator Melissa Hurtado (D-Sanger) originally intended to run in Senate District 14, but later opted to run for re-election in the new Senate District 16 to avoid a face-off against Senator Caballero. Senator Hurtado trailed after Election Day by about 3,400 votes against Republican David Shepard, a Porterville farmer from a four-generation farming family with roots in the southern Tulare County. The seat was considered one of a handful of competitive races in this election. As of November 21, Senator Hurtado had drawn to within 500 votes. At this writing, Democrats look to have 31 seats secured and Republicans 8 seats secured. The Hurtado-Shepard race remains too close to call.

The California Assembly will be seeing a large turnover after the 2022 general election, as 25 members of the Assembly sought work elsewhere midway or announced their retirement at the end of the current session. Incumbent Assembly Member Jim Patterson (R-Fresno) ran for reelection in the new Assembly District 8 against Thomas Nichols, a Libertarian who was a write-in candidate in the primaries. Incumbent Assembly Member Heath Flora (R-Ripon) currently represents Assembly District 12; after redistricting, and ran for re-election in the new Assembly District 9 against Mushtaq Tahirkheli, a Democrat who was a write-in candidate in the primaries. Both Republican incumbents were far ahead of their opponents after Election Day.

Incumbent Assembly Member Carlos Villapudua (D-Stockton) was able to stay home and run for reelection in the new Assembly District 13, and faced off against fellow

Democrat Veronica Vargas, the Mayor Pro Tem of the City of Tracy. Newly drawn Assembly District 22, expanding from the Diablo Range to the Sierra foothills and anchored around Modesto, is considered one of the state's true swing Assembly Districts. Running this term was Republican Stanislaus Sheriff Sergeant Juan Alanis and Democrat Attorney Jessica Self with Alanis holding a significant Election Day lead over his opponent. Incumbent Assembly Member Adam Gray (D-Merced) opted to run for Congress instead of running for reelection in Assembly District 27, where most voters are split between Merced, Madera, northwest Fresno. Running to represent Assembly District 27 were Democrat Esmeralda Soria, a Fresno City Council member, and Republican Mark Pazin, a former Merced County sheriff who also served in the Office of Emergency Services under Governors Jerry Brown and Gavin Newsom. District 27 was predicted to lean Democratic, but as of Election Day, Pazin held a narrow 300-vote lead. The November 21 update placed Soria ahead of Pazin by about 2,000 votes. Incumbent Assembly Member Joaquin Arambula (D-Fresno) was able to again seek election in Assembly District 31 after redistricting, and ran against Republican Dolce Misol Calandra, a real estate agent. Arambula cruised to a victory on Election Day.

Incumbent Assembly Member Vince Fong (R-Bakersfield) currently represents District 34, but after redistricting, ran for reelection in the new Assembly District 32 unopposed. Incumbent Assembly Member Devon J. Mathis (R-Porterville) sought reelection in the new Assembly District 33 against Democrat Jose Sigala, a Tulare City Councilmember. Assembly Member Mathis is predicted to win the seat in what is considered a safe Republican district. Finally, Democrat Family Doctor Jasmeet Bains is running against fellow Democrat County Supervisor Leticia Perez to represent newly drawn Assembly District 35. The district covers the majority of Kern County, from Lost Hills in the north to Arvin in the south, and includes parts of the city of Bakersfield. The area is home to a considerable Latino population. The district, with its agriculture-based economy, includes many farmworker communities. Bains cruised to an Election Day win.

Democrats expect to retain their supermajority status in the Assembly; the current count has them with 60 seats compared to 16 seats for Republicans. Four seats remain too close to call.

Assembly Member Steve Bennett (D-Ventura) easily won reelection to the 38th Assembly District. The author of AB 2201 this past year indicated after the 2022 legislative session that he would reintroduce his legislation targeting added requirements for well permit applications.

NOTICE TO STATE WATER PROJECT CONTRACTORS**Date: December 1, 2022****Number: 22-04****Subject: State Water Project Initial 2023 Allocation – 5 Percent with SWP
Human Health and Safety Needs**

From: Tony Meyers Acting for
Ted Craddock
Deputy Director, State Water Project
Department of Water Resources

With the close of Water Year 2022 as critically dry, California has experienced its third consecutive dry year. Entering 2023 with the possibility of another dry year occurring, the Department of Water Resources (DWR) is initially allocating 5 percent of most¹ State Water Project (SWP) contractors requested Table A amounts. DWR is also provisionally allocating additional SWP water to ensure that the SWP contractors can meet their minimum water demands for domestic supply, fire protection, and sanitation (referred to herein as “human health and safety (HH&S) needs”) during the year².

The SWP HH&S allocation is made pursuant to Article 18(a) of the long-term water supply contract between DWR and each of the SWP contractors, and pursuant to the “Guidelines for State Water Project Allocation for Human Health and Safety Needs Pursuant to Article 18a of Water Supply Contracts,” August 31, 2022 (Attachment B). As described in Attachment B, SWP HH&S needs are determined to be no more than 55 gallons per capita per day, consistent with the State Water Resources Control Board emergency curtailment regulations adopted on August 12, 2022.³

In determining available SWP supplies, DWR has considered several factors including SWP contractors’ projected 2023 demands, existing storage in SWP conservation

¹ Attachment A presents these initial allocations.

² DWR’s provisional allocation for HH&S is subject to the contractors providing substantiating documentation of their unmet HH&S needs and subject to DWR’s confirmation according to the 2023 SWP HH&S Guidelines (Attachment B).

³ Cal. Code Regs., tit. 23, §§ 877.1(h), 878.1; see also

<https://www.waterboards.ca.gov/drought/delta/docs/2022/20220812-reg-oal-approved.pdf>

facilities, estimates of future runoff under very dry conditions, SWP operational and regulatory requirements from the federal Endangered Species Act and California Endangered Species Act, and water rights obligations under the SWRCB's authority. DWR may revise the SWP allocation if warranted by the year's developing hydrologic conditions and available SWP water supplies.

To develop the 5 percent water delivery schedule, DWR will utilize the 5 percent schedules submitted by the Contractors in October 2022 (as part of initial requests), including any subsequent updates that may have been provided to DWR. DWR will utilize the SWP HH&S needs schedules received from the contractors in November 2022 for the SWP HH&S delivery schedule. If a contractor foresees any changes to their water delivery schedule, please communicate such changes with DWR in a timely manner. Advanced Table A supplies will remain available for those Contractors with that contractual right if the Contractor is not requesting an SWP HH&S Allocation.

If you have any questions or need additional information, please contact John Leahigh, Assistant Division Manager, Water Management, State Water Project Division of Operations and Maintenance, at (916) 902-9876.

Attachment A: 2023 SWP Allocation Table

Attachment B: Guidelines for State Water Project Allocation for Human Health and Safety Needs Pursuant to Article 18a of Water Supply Contracts; August 31, 2022

Attachment A
2023 STATE WATER PROJECT ALLOCATION

12/1/2022

| SWP CONTRACTORS | TABLE A (Acre-Feet) | | | | HH&S (Acre-Feet) |
|-----------------------------------|------------------------|--------------------------------|---------------------------------------|--|---|
| | TABLE A (Acre-Feet) | INITIAL REQUEST (Acre-Feet) | APPROVED ALLOCATION (Acre-Feet) | PERCENT INITIAL REQUEST APPROVED | INITIAL HH&S REQUEST* (Acre-Feet) |
| | (1) | (2) | (3) | (4) = (3)/(2) | (5) |
| <u>FEATHER RIVER</u> | | | | | |
| County of Butte | 27,500 | 27,500 | 3,000 | 11% | 0 |
| Plumas County FC&WCD | 2,700 | 2,700 | 135 | 5% | 0 |
| City of Yuba City | 9,600 | 9,600 | 1,440 | 15% | 0 |
| Subtotal | 39,800 | 39,800 | 4,575 | | 0 |
| <u>NORTH BAY</u> | | | | | |
| Napa County FC&WCD | 29,025 | 29,025 | 4,354 | 15% | 0 |
| Solano County WA | 47,756 | 47,756 | 7,164 | 15% | 0 |
| Subtotal | 76,781 | 76,781 | 11,518 | | 0 |
| <u>SOUTH BAY</u> | | | | | |
| Alameda County FC&WCD, Zone 7 | 80,619 | 80,619 | 4,031 | 5% | 0 |
| Alameda County WD | 42,000 | 42,000 | 2,100 | 5% | 0 |
| Santa Clara Valley WD | 100,000 | 100,000 | 5,000 | 5% | 48,806 |
| Subtotal | 222,619 | 222,619 | 11,131 | | 48,806 |
| <u>SAN JOAQUIN VALLEY</u> | | | | | |
| Oak Flat WD | 5,700 | 5,700 | 285 | 5% | 0 |
| County of Kings | 9,305 | 9,305 | 466 | 5% | 51 |
| Dudley Ridge WD | 41,350 | 41,350 | 2,068 | 5% | 0 |
| Empire West Side ID | 3,000 | 3,000 | 150 | 5% | 0 |
| Kern County WA | 982,730 | 982,730 | 49,137 | 5% | 0 |
| Tulare Lake Basin WSD | 87,471 | 87,471 | 4,374 | 5% | 0 |
| Subtotal | 1,129,556 | 1,129,556 | 56,480 | | 51 |
| <u>CENTRAL COASTAL</u> | | | | | |
| San Luis Obispo County FC&WCD | 25,000 | 25,000 | 1,250 | 5% | 0 |
| Santa Barbara County FC&WCD | 45,486 | 45,486 | 2,275 | 5% | 0 |
| Subtotal | 70,486 | 70,486 | 3,525 | | 0 |
| <u>SOUTHERN CALIFORNIA</u> | | | | | |
| Antelope Valley-East Kern WA | 144,844 | 144,844 | 7,243 | 5% | 7,053 |
| Santa Clarita Valley WA | 95,200 | 95,200 | 4,760 | 5% | 0 |
| Coachella Valley WD | 138,350 | 138,350 | 6,918 | 5% | 0 |
| Crestline-Lake Arrowhead WA | 5,800 | 5,800 | 290 | 5% | 0 |
| Desert WA | 55,750 | 55,750 | 2,788 | 5% | 0 |
| Little Rock Creek ID | 2,300 | 2,300 | 115 | 5% | 0 |
| Metropolitan WDSC | 1,911,500 | 1,911,500 | 95,575 | 5% | 195,449 |
| Mojave WA | 89,800 | 89,800 | 4,490 | 5% | 0 |
| Palmdale WD | 21,300 | 21,300 | 1,065 | 5% | 0 |
| San Bernardino Valley MWD | 102,600 | 102,600 | 5,130 | 5% | 0 |
| San Gabriel Valley MWD | 28,800 | 28,800 | 1,440 | 5% | 0 |
| San Geronio Pass WA | 17,300 | 17,300 | 865 | 5% | 0 |
| Ventura County WPD | 20,000 | 20,000 | 1,000 | 5% | 0 |
| Subtotal | 2,633,544 | 2,633,544 | 131,679 | | 202,502 |
| TOTAL | 4,172,786 | 4,172,786 | 218,908 | 5% | 251,359 |

* DWR's provisional allocation for HH&S is subject to the contractors providing substantiating documentation of their unmet HH&S needs and subject to DWR's confirmation according to the 2023 SWP HH&S Guidelines (Attachment B).

ZEIDERS CONSULTING

November 17, 2022

MEMORANDUM

To: Steve Teglia – General Manager
Chris Bellue - Assistant Manager-Engineer
Kern Delta Water District

From: William (Bill) Zeiders, Zeiders Consulting

Subject: Old River Basins Grading Project – KDWD 22-02 – Bid Analysis and Recommendations

Gentlemen,

We have reviewed the 6 bids for the Old River Basins Grading Project submitted and opened on November 14th, 2022, for consistency and correctness in their unit pricing versus total pricing and for the required items that were to be provided including Base Bid Pricing, bonds, qualifications, subcontractors, Non-collusion affidavit, qualifications, schedule, etc.

We found Lonnie A. Cross Land Leveling, Inc. (the lowest bidder for the Base Contract at \$1,128,063.48) to be responsible and find Lonnie A. Cross Land Leveling, Inc and their listed subcontractors to be qualified.

Given that we have determined that that Lonnie A. Cross Land Leveling, Inc is responsible and qualified, and they have provided the lowest responsive bid, I recommend approving Lonnie A. Cross Land Leveling, Inc as the successful bidder and awarding the contract to them.

William Zeiders – RCE
Zeiders Consulting

KERN DELTA WATER DISTRICT
OLD RIVER BASINS GRADING PROJECT - SPECIFICATIONS NO. KDWD 22-02
BID PACKAGE CHECKLIST

| Bidder | Total Bid Price | Valid and Included in Bid (Y/N) | | | | | | | |
|----------------|-----------------|---------------------------------|----------|------|------------|-----------------|---------------|---------|-----------------|
| | | Bid Schedule | Proposal | Bond | Info Req'd | Const. Schedule | Non-Collusion | Addenda | Contractor Reg. |
| Cross | \$1,128,063.48 | Y | Y | Y | Y | Y | Y | N/A | Y - 547565 |
| Griffith | \$1,179,640.50 | Y | Y | Y | Y | Y | Y | N/A | Y - 88 |
| Raminha | \$1,296,523.00 | Y | Y | Y | Y | Y | Y | N/A | Y - 469531 |
| Wood Bros. | \$1,308,033.64 | Y | Y | Y | Y | N | Y | N/A | N |
| Pay Dirt | \$1,529,738.00 | Y | Y | Y | Y | Y | Y | N/A | Y - 896968 |
| Gilliam & Sons | \$1,659,509.90 | Y | Y | Y | Y | Y | Y | N/A | ? |

| Bidder | Comments |
|----------------|---|
| Cross | Apparent Low Bidder. All checklist items included |
| Griffith | All checklist items included |
| Raminha | All checklist items included |
| Wood Bros. | Math error in summing the line items (line items sum to \$1,339,981.84, difference of \$31,948.20). No schedule or proof of registration. |
| Pay Dirt | All checklist items included |
| Gilliam & Sons | Application for public works contractor registration included instead of proof of registration. |

ZEIDERS CONSULTING

November 30, 2022

Steve Teglia & Chris Bellue
Kern Delta Water District
501 Taft Highway
Bakersfield, CA 93307

RE: Request for Proposal: Construction oversight and inspection services Old River Recharge Grading & Structures Project

Dear Steve and Chris,

In accordance with your request for proposal for Construction oversight and inspection services for the Old River Recharge Grading Project, I have prepared a cost estimate for those services which is included in this proposal. Task 1 is for services provided by Zeiders Consulting for pre-construction services - contract preparation, project scheduling, submittals and RFI's, water supply, etc. Task 2 is for construction oversight, observation and inspection, construction management, coordination of subcontractors, invoice review, status updates & project status, documentation, etc. Task 3 is for project completion, as-built plans, etc. The fourth, fifth and sixth tasks are services to be provided by the soils engineers (Krazan & Associates) and the surveyors (Pedroza Surveying) and Labor Compliance by C.S & Associates – respectively. Per your direction, I have assumed that the Soils engineer, the Surveyor and the Labor Compliance will be overseen by us and subcontracted by Zeiders Consulting and I have therefore included a markup for their services within this proposal. Included with the cost estimate, I have also included the current Zeiders Consulting rate sheet and a cost estimate by Krazan & Associates. I have assumed that C.S. & Associates rate sheet will match their current one.

Per our discussions, I have prepared the cost estimate based upon the scope of our involvement needed for similar (previous) recharge pond grading projects and the contractor's schedule provided with their bid of 75 construction days for the project along with the normal expected pre-construction and end of project activities and tasks.

BUDGET

Billing for all Services completed under this Proposal will be on a Rate Sheet Basis in accordance with the fee schedule attached and per the actual costs for sub-contract services plus 15% markup.

Consultant's estimate for the cost of work for the Six Tasks Described above = \$146,750.

William Zeiders

Zeiders Consulting

Zeiders Consulting

1655 Greeley Rd. Bakersfield, CA. 93314
Office (661) 589-8366 Cell (661) 332-5535 Fax (661) 589-8902
wzeiders@zeidersconsulting.com

Hourly Rate Schedule

Effective May 1, 2022

ENGINEERING

| | <u>Standard Rate</u> |
|--|----------------------|
| Principal Civil Engineer | \$155.00 per hour |
| Structural Engineer | \$200.00 per hour |
| Electrical Engineer | \$235.00 per hour |
| Civil Engineer | \$125.00 per hour |
| Project Engineer | \$115.00 per hour |
| EIT | \$105.00 per hour |
| Field Technician (Non-Prevailing Wage) | \$105.00 per hour |
| Technician II/Designer-Drafter | \$105.00 per hour |
| Technician I | \$100.00 per hour |
| Clerical | \$70.00 per hour |

| | |
|--------------------|------------------|
| Mileage | \$0.75 per mile |
| Color Plot | \$15.00 per each |
| Black & White Plot | \$12.00 per each |

SURVEYING & PREVAILING WAGE RATES

Quoted upon request

SUBSISTENCE (For overnight stays) Varies per area motel and meal costs

The above rates include normal office and field materials. Fees, permits, printing services, monuments, title work, and special rented equipment will be charged at cost plus 15%. Outside services charged out at cost plus 15%. Prevailing Wage Rates quoted upon request.

Out of town rates or daily rates can be negotiated
on a per project basis.

KDWD Construction management - Old River Recharge Project
Grading and Structure installation
Cost Estimate for Professional Services

Task 1 - Pre Construction: meetings, coordination, survey control, contract prep, contract admin., RFI review and reply, submittal evaluations/comments and approval, water supply, SWPPP & APCD, etc.

| <u>Classification</u> | <u>Hours</u> | <u>Rate</u> | <u>Total</u> |
|-----------------------|--------------|-----------------|---------------------|
| Principal Engineer | 50 | \$ 155.00 | \$ 7,750.00 |
| Electrical Engineer | 0 | \$ 235.00 | \$ - |
| Project Engineer | 40 | \$ 115.00 | \$ 4,600.00 |
| EIT | 0 | \$ 105.00 | \$ - |
| Tech 2 | 0 | \$ 105.00 | \$ - |
| Tech 1 | 0 | \$ 100.00 | \$ - |
| Mileage | 240 | \$ 0.75 | \$ 180.00 |
| | | <u>Subtotal</u> | <u>\$ 12,530.00</u> |

Task 2 - Construction: Project management, site observation and inspection, coordinate soils engineer (compaction) & concrete cylinder testing, review pay requests (based upon 75 construction days per the contractor provided schedule).

| <u>Classification</u> | <u>Hours</u> | <u>Rate</u> | <u>Total</u> |
|-----------------------|--------------|-----------------|---------------------|
| Principal Engineer | 100 | \$ 155.00 | \$ 15,500.00 |
| Electrical Engineer | 0 | \$ 235.00 | \$ - |
| Project Engineer | 450 | \$ 115.00 | \$ 51,750.00 |
| EIT | 0 | \$ 105.00 | \$ - |
| Tech 2 | 0 | \$ 105.00 | \$ - |
| Tech 1 | 0 | \$ 100.00 | \$ - |
| Mileage | 3240 | \$ 0.75 | \$ 2,430.00 |
| | | <u>Subtotal</u> | <u>\$ 69,680.00</u> |

Task 3 - Finalization of project: review of As-built topo, verification of completion, demobilization, final contract administration, As-built plans & documentation

| <u>Classification</u> | <u>Hours</u> | <u>Rate</u> | <u>Total</u> |
|-----------------------|--------------|-----------------|---------------------|
| Principal Engineer | 40 | \$ 155.00 | \$ 6,200.00 |
| Electrical Engineer | 0 | \$ 235.00 | \$ - |
| Project Engineer | 40 | \$ 115.00 | \$ 4,600.00 |
| EIT | 0 | \$ 105.00 | \$ - |
| Tech 2 | 36 | \$ 105.00 | \$ 3,780.00 |
| Tech 1 | 0 | \$ 100.00 | \$ - |
| Mileage | 240 | \$ 0.75 | \$ 180.00 |
| | | <u>Subtotal</u> | <u>\$ 14,760.00</u> |

Task 4 - Soils Engineer (Krazan & Associates): Compaction testing, concrete testing, rebar verification, etc.

| <u>Classification</u> | <u>Hours</u> | <u>Rate</u> | <u>Total</u> |
|---------------------------------------|--------------|-------------|--------------|
| See Estimate from Krazan & Associates | | | \$ 24,663.00 |
| Subcontractor Markup (15%) | | | \$ 3,699.45 |
| | | Subtotal | \$ 28,362.45 |

Task 5 - Surveyor: Set control for Old River Ponds, Stine Canal, Canal Crossing and Structures, grade checks/verification, as built

| <u>Classification</u> | <u>Hours</u> | <u>Rate</u> | <u>Total</u> |
|---------------------------------------|--------------|-------------|--------------|
| 1 Man Crew | 8 | \$ 230.00 | \$ 1,840.00 |
| 2 Man Crew | 16 | \$ 350.00 | \$ 5,600.00 |
| 3 Man Crew | 0 | \$ 475.00 | \$ - |
| Office Clerical/Drafting | 4 | \$ 65.00 | \$ 260.00 |
| Office Land Surveyor | 8 | \$ 75.00 | \$ 600.00 |
| Mileage | 0 | \$ 0.75 | \$ - |
| Pinnacle Surveying Estimated Services | | Subtotal | \$ 8,300.00 |
| Subcontractor Markup (15%) | | | \$ 1,245.00 |
| | | Subtotal | \$ 9,545.00 |

Task 6 - Labor Compliance

| <u>Classification</u> | | | |
|---|--|----------|--------------|
| CS & Associates - (Assumes 6 months at \$1,295/mo + \$425/mo for site visits) | | Subtotal | \$ 10,320.00 |
| Subcontractor Markup (15%) | | | \$ 1,548.00 |
| | | Subtotal | \$ 11,868.00 |

Zeiders Consulting Construction Services Total:

| <u>Classification</u> | <u>Hours</u> | <u>Rate</u> | <u>Total</u> |
|---|--------------|---|----------------------|
| Principal Engineer | 190 | \$ 155.00 | \$ 29,450.00 |
| Electrical Engineer | 0 | \$ 235.00 | \$ - |
| Project Engineer | 530 | \$ 115.00 | \$ 60,950.00 |
| EIT | 0 | \$ 105.00 | \$ - |
| Tech 2 | 36 | \$ 105.00 | \$ 3,780.00 |
| Tech 1 | 0 | \$ 100.00 | \$ - |
| Mileage | 3720 | \$ 0.75 | \$ 2,790.00 |
| ZC Construction Services (Tasks 1-3) Estimated Total = | | | \$ 96,970.00 |
| Subcontractor Construction Services (Tasks 4-6) Total = | | | \$ 49,775.45 |
| | | Construction Services Subtotal = | \$ 146,745.45 |

Construction oversight Estimated Total = \$ 146,745.45

SHORT FORM AGREEMENT FOR TESTING & INSPECTION SERVICES**Project Information for Inclusion on Reports:****Proposal Number:** T22-806-CAB**Project Name:** Kern Delta Water District Old River Recharge Basin Project**Project Address and APN:** Immediately Northeast of Taft Highway & Old River Road, Bakersfield, CA APN: 543-020-01

This Agreement between Attention To: Bill Zeiders, Zeiders Consulting

1655 Greeley Road, Bakersfield, CA 93312

(Client name and address)

hereinafter referred to as "CLIENT", and **Krazan & Associates, Inc.**, hereinafter referred to as "Consultant", for Testing & Inspection Services, to be provided by Consultant, is executed in the County where the services are performed and is effective as of the 1 day of December, 2022. The parties agree as follows:

1. Services

Consultant will perform Services under this Agreement as an independent contractor. CLIENT shall retain the responsibility for determining and scheduling the required tests and/or inspections. No claims for loss, damages or injury shall be brought against Consultant by CLIENT or any third party for Testing & Inspection not performed due to the lack of scheduling of Consultant. Consultant's work shall not include determining, supervising or implementing the means, methods, techniques or procedures of construction. Consultant shall not be responsible for job site safety or the evaluating & reporting of job conditions concerning health, safety or welfare.

2. Cost of Services

| COST ESTIMATE | | | |
|---|----------------|--------------|--------------------|
| Scope: Testing and Inspection Services | Unit(s) | Rate* | Total |
| Compaction Testing-Levee & Trench Backfill | 164.00 | \$112.00 | \$18,368.0 |
| Maximum Density Curve 698 | 8.00 | \$200.00 | \$1,600.00 |
| M.D. Checkpoint 698 | 15.00 | \$110.00 | \$1,650.00 |
| Project Engineer/ Manager Site Inspection | 12.00 | \$135.00 | \$1,620.00 |
| Sample Pick Up | 4.00 | \$100.00 | \$400.00 |
| Report Preparation/Clerical | 10.00 | \$55.00 | \$550.00 |
| Engineering Review/Project Management | 5.00 | \$95.00 | \$475.00 |
| Estimated Cost of Services: | | | \$24,663.00 |

* Labor per hour; laboratory testing, equipment fees, mileage, expenses per each

The term "Cost Estimate" does not imply a maximum contract amount, but only the extension value of our unit prices at the time of the initial request for services. Costs estimates associated with proposals for construction testing and inspection services are provided in good faith based on the scope of services initially requested and do not include additional services, added time, retests or reinspections. A 4.0-hour minimum, portal to portal charge per call, applies to all Consultants inspections. Services rendered on Saturdays or in excess of 8 hours per day Monday through Friday (excluding holidays) will be billed at time and a-half the hourly rate. Services on holidays and Sundays or in excess of 8 hours on a Saturday or in excess of 12 hours on weekdays, will be charged at double the hourly rate.

3. Payment

Where the total Cost of Services is \$1,000 or less, or where an account has not been established, Payment is due and payable at the time the services are rendered.

☐ Payment is due and payable at the time the services are rendered.

or

☒ Payment shall be in accordance with the rates listed above, or when rates are not listed, in accordance with the Fee Schedule in effect when the Services are performed. All invoices are due and payable upon receipt. Upon Consultant's approval of Client for 30-day payment terms Client shall pay undisputed portions of each progress invoice within thirty (30) days of the date of the invoice. If payment is not maintained on a thirty (30) day current basis, Consultant may suspend further performance until payments are current. CLIENT shall notify Consultant of any disputed amount within fourteen (14) calendar days from date of the invoice, give reasons for the objection, and promptly pay the undisputed amount. CLIENT shall pay an additional charge of one and one-half percent (1½%) per month or the maximum percentage allowed by law, whichever is the lesser, for any past due amount. In the event of a legal action for invoice amounts not paid, reasonable attorneys' fees, court costs, and other related expenses shall be paid to the prevailing party. Consultant shall have the right to require payment in full prior to the release of any final report.

2205 Coy Avenue, Bakersfield, CA 93307 • Office 661-837-9200/FAX 661-837-9201

4. Professional Standard of Care

Consultant shall perform its services in a manner consistent with the standard of care and skill ordinarily exercised by members of the profession practicing under similar conditions in the geographic vicinity and at the time the services are performed. The CLIENT recognizes the inherent risks connected with site development and understands when signing that construction creates risks that are not entirely eliminated through the services of Consultant. This Agreement neither makes nor intends a warranty or guaranty, express or implied, nor does it create a fiduciary responsibility to CLIENT by Consultant. Statements made in Consultant's reports are opinions based upon engineering judgment and are not to be construed as representations of fact.

5. Limitations

CLIENT and Consultant agree that, to the fullest extent permitted by law, Consultant's and its employees', agents' and subcontractors' (referred to collectively in this Article as "Consultant") total aggregate liability to CLIENT and its employees, agents and contractors (referred to collectively in this Article as "CLIENT") is limited to Five-Thousand Dollars (\$5,000) or the total cost of Services, whichever is greater, for any and all of CLIENT's injuries, damages, claims, losses, expenses, or claim expenses including, without limitation, CLIENT's claims of contribution and indemnification, express or implied, with respect to third party claims relating to services rendered, or obligations imposed under this Agreement or arising out of Consultant's performance of his professional work and or negligent acts. This limit applies to all services on this Project, whether provided under this or subsequent agreements, unless modified in writing, agreed to and signed by authorized representatives of the parties. CLIENT agrees to indemnify Consultant for all liabilities in excess of the monetary limits listed. The parties also agree that the CLIENT will not seek damages in excess of the limitations indirectly through suits with other parties who may join Consultant as a third-party defendant.

6. Dispute Resolution

The parties agree that if any disputes arise concerning the enforcement or interpretation of this agreement, with the exception of non-payment issues including Consultant's perfection of a mechanic's lien, the parties shall first attempt to resolve their disputes through good faith negotiation. If the parties are unable to resolve the disputes, with the exception of non-payment issues including Consultant's perfection of a mechanic's lien, they shall consider in good faith the desirability of formal non-binding mediation. If no mediator can be mutually agreed on, then a mediator will be appointed by the American Arbitration Association. If the matter is later referred to arbitration, the arbitration shall be conducted in the County and State where the project is located. The arbitrator shall be authorized to provide all recognizable remedies available in law or equity for any cause of action that is the basis of the arbitration (to the extent such remedy is not otherwise precluded under this Agreement), provided that (i) the arbitrator shall not have the authority to award punitive damages, and (ii) each party shall bear their own costs and attorney's fees related to the arbitration.

7. Claims by CLIENT

In the event the CLIENT makes a claim or brings any action against Consultant for any act arising out the performance of these services, and the CLIENT fails to prove such claim or action, then the CLIENT shall pay all legal and other related costs and expenses incurred by Consultant in defense of such claim or action.

8. Choice of Law; Venue

This Agreement will be construed in accordance with and governed by the laws of the state in which the Services are performed. Except for actions, such as for enforcement of mechanic's liens, which are required by statute to be brought in a specific venue, or unless the parties agree otherwise, any mediation or other legal proceeding will occur in the County where the Krazan office is located. Client waives the right to have the suit brought, or tried in, or removed to, any other county or judicial jurisdiction. The prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, reasonable attorney's fees, and other claim related direct expenses.

9. Consequential Damages

Neither Party shall be liable to the other for consequential damages, including, without limitation, loss of use or loss of profits, incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

10. Survival

If any of the provisions contained in this AGREEMENT are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability and indemnities will survive termination of this AGREEMENT for any cause.

11. Indemnity

To the fullest extent permitted by law, CLIENT agrees to indemnify, hold harmless, and defend Consultant and their respective officers, directors, shareholders, employees, and sub-consultants (collectively "Indemnities") from and against any and all claims, demands, causes of action, damages, liabilities, including attorney's fees and costs of defense (collectively "Claims") that arise from or are alleged to arise from any negligent acts, errors, omissions, misuse of electronic files, or breaches of this Agreement by CLIENT, its agents, officers, employees, or sub-contractors. CLIENT also agrees to indemnify, hold harmless, and defend Indemnities from and against any and all claims for payment, liens, or other encumbrances recorded against real property, asserted or filed by CLIENT or by any person or entity hired by CLIENT. CLIENT's obligations to indemnify, hold harmless, and defend apply separately to each Indemnity. The indemnity obligations established under this Agreement will survive the expiration or termination of this Agreement.

12. Authority to Sign

The person signing this contract warrants that he/she has authority to sign on the behalf of the CLIENT for whose benefit Consultant's services are rendered. If such person does not have such authority, he/she agrees that he/she is personally liable for obligations under this Agreement and all breaches of this contract and that in any action against him/her for breach of such warranty, reasonable attorney's fees shall be included in any judgment rendered. Further, if CLIENT fails to perform and is in breach of this Agreement the person signing this Agreement agrees that he/she is personally liable for obligations under this Agreement and all breaches of this contract and that in any action against him/her for breach of such warranty, reasonable attorney's fees shall be included in any judgment rendered.

13. Entire Agreement

This Agreement between the parties consists of these terms and any exhibits or attachments noted in this Agreement. Together, these elements will constitute the entire Agreement superseding any and all prior negotiations, correspondence, or agreements either written or oral. Any modifications to this Agreement shall be in writing and signed by authorized representatives of the parties. This agreement was developed to be fair and reasonable to both parties. One or more waivers of any term, condition or covenant by either party shall not be construed as a waiver of any other term, condition or covenant. The terms of this agreement will prevail over any different or additional terms in CLIENT's purchase order or other forms unless agreed in writing by Consultant. The parties acknowledge that there has been an opportunity to negotiate the terms and conditions of this Agreement and agree to be bound accordingly.

CLIENT: Zeiders Consulting

KRAZAN & ASSOCIATES, INC.

Signature Date

Signature Date

Print Name Title

Print Name Title