



**A G E N D A**  
**LAS VEGAS VALLEY WATER DISTRICT**  
**BOARD OF DIRECTORS**

**REGULAR MEETING**  
**9:00 A.M. – MAY 4, 2021**

**COMMISSION CHAMBERS**  
**CLARK COUNTY GOVERNMENT CENTER**  
**500 S. GRAND CENTRAL PARKWAY, LAS VEGAS, NEVADA**  
**(702) 258-3100**

**Board of Directors**  
Marilyn Kirkpatrick, President  
Jim Gibson, Vice President  
Justin Jones  
William McCurdy II  
Ross Miller  
Michael Naft  
Tick Segerblom

*John J. Entsminger,*  
*General Manager*

Date Posted: April 27, 2021

The Las Vegas Valley Water District makes reasonable efforts to assist and accommodate persons with physical disabilities who desire to attend the meeting. For assistance, call the Agenda Coordinator (702) 258-3277 at least 24 hours prior to the meeting.

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**THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED IN THE FOLLOWING LOCATIONS:**

**LAS VEGAS VALLEY WATER DISTRICT**  
**1001 SOUTH VALLEY VIEW BOULEVARD**  
**LAS VEGAS, NEVADA**

**CLARK COUNTY GOVERNMENT CENTER**  
**500 SOUTH GRAND CENTRAL PARKWAY**  
**LAS VEGAS, NEVADA**

**SOUTHERN NEVADA WATER AUTHORITY**  
**100 CITY PARKWAY, SUITE 700**  
**LAS VEGAS, NEVADA**

**REGIONAL JUSTICE CENTER**  
**200 LEWIS AVENUE**  
**LAS VEGAS, NEVADA**

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All items listed on this agenda are for action by the Board of Directors, unless otherwise indicated. Items may be taken out of order. The Board of Directors may combine two or more agenda items for consideration, and/or may remove an item from the agenda or delay discussions relating to an item on the agenda at any time.

Visit our website at <https://www.lvvwd.com/lvvwd-agendas> or main office at 1001 S. Valley View Boulevard, Las Vegas, Nevada for Las Vegas Valley Water District agenda postings, copies of supporting material and approved minutes. To receive meeting information, including supporting material, contact the LVVWD Agenda Coordinator at (702) 258-3277 or [agendas@lvvwd.com](mailto:agendas@lvvwd.com).

**CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

**NO ACTION MAY BE TAKEN:** At this time, the Board of Directors will hear general comments from the public on items listed on the agenda. If you wish to speak to the Board about items within its jurisdiction, but not appearing on this agenda, you must wait until the "Comments by the General Public" period listed at the end of this agenda. Please limit your comments to three minutes or less. Public comment can also be provided in advance of the meeting and submitted to [publiccomment@lvvwd.com](mailto:publiccomment@lvvwd.com).

**ITEM NO.**

1. *For Possible Action:* Approve agenda with the inclusion of tabled and/or reconsidered items, emergency items and/or deletion of items, and approve the minutes from the regular meeting of April 6, 2021.

**CONSENT AGENDA** **Items 2 - 5 are routine and can be taken in one motion unless a Director requests that an item be taken separately.**

2. *For Possible Action:* Approve and authorize the General Manager to sign an agreement between The Howard Hughes Company, LLC, and the District for construction of the 4125 Zone Pumping Station Discharge Pipeline.
3. *For Possible Action:* Approve and authorize the General Manager to sign an agreement between The Howard Hughes Company, LLC, and the District for construction of the 4125 Zone North Reservoir Inlet/Outlet Pipeline.
4. *For Possible Action:* Approve and authorize the General Manager to sign an agreement between The Howard Hughes Company, LLC, and the District for staff augmentation on 4125 Zone related projects that have Howard Hughes Company, LLC, developer construction agreements.
5. *For Possible Action:* Approve the filing of a legal action by the General Counsel for the Las Vegas Valley Water District v. Powerfuel CNG Systems, LLC.

**BUSINESS AGENDA**

6. *For Possible Action:* Award a contract for the replacement of permanent pavement and concrete appurtenances at locations within easements or rights-of-way defined by individual District work orders to Sunrise Paving, Inc., for the amount of \$2,157,225, authorize a change order contingency amount not to exceed \$200,000, authorize up to two additional renewal terms, and authorize the General Manager to sign the construction agreement.
7. *For Possible Action:* Award a contract for the replacement of permanent pavement and concrete appurtenances at locations within easements or rights-of-way defined by individual District work orders to Sunrise Paving, Inc., for the amount of \$2,198,275, authorize a change order contingency amount not to exceed \$200,000, authorize up to two additional renewal terms, and authorize the General Manager to sign the construction agreement.
8. *For Possible Action:* Approve and authorize the General Manager to sign an agreement between the Department of the Army and the District for the District to accept up to \$3,000,000 in federal funding, contribute \$975,750 for the first phase of the Blue Diamond Water System Rehabilitation Project, and authorize the General Manager or his designee to sign any ministerial documents necessary to effectuate the transaction.

**COMMENTS BY THE GENERAL PUBLIC**

**NO ACTION MAY BE TAKEN:** At this time, the Board of Directors will hear general comments from the public on matters under the jurisdiction of the Las Vegas Valley Water District. Please limit your comments to three minutes or less.

**LAS VEGAS VALLEY WATER DISTRICT  
BOARD OF DIRECTORS MEETING  
APRIL 6, 2021  
MINUTES**

CALL TO ORDER 9:07 a.m., Commission Chambers, Clark County Government Center,  
500 South Grand Central Parkway, Las Vegas, Nevada

DIRECTORS PRESENT: Marilyn Kirkpatrick, President  
Jim Gibson, Vice President  
Justin Jones  
William McCurdy II  
Michael Naft  
Tick Segerblom

DIRECTORS ABSENT: Ross Miller

STAFF PRESENT John Entsminger and Greg Walch

*Unless otherwise indicated, all members present voted in the affirmative.*

**COMMENTS BY THE GENERAL PUBLIC**

*For full public comment, visit [www.lvwwd.com/apps/agenda/lvwwd/index.cfm](http://www.lvwwd.com/apps/agenda/lvwwd/index.cfm)*

There were no speakers.

**ITEM NO.**

**1. Approval of Agenda & Minutes**

FINAL ACTION: A motion was made by Vice President Gibson to approve the agenda and the minutes from the regular meeting of March 2, 2021. The motion was approved.

**CONSENT AGENDA** Items 2 – 5 are routine and can be taken in one motion unless a Director requests that an item be taken separately.

- 2. Approve and authorize the General Manager, or his designee, to sign Change Order No. 2 to the Contract with Acme Underground, Inc., for pipeline replacements within two Nevada Department of Transportation Rights of Way for a Contract price increase of \$222,302 and a time extension of the final completion date by 277 calendar days.**
- 3. Approve and authorize the President to sign, in substantially the same form as attached hereto, an interlocal agreement between the City of Las Vegas and the District for construction of water facilities as part of the CLV Pinto Lane Streetscape Improvements Phase I Project for an amount not to exceed \$216,834.**
- 4. Approve and authorize the President to sign, in substantially the same form as attached hereto, an interlocal agreement between the City of Las Vegas and the District for construction of water facilities as part of the CLV Pinto Lane Streetscape Improvements Phase II Project for an amount not to exceed \$504,471.**
- 5. Approve and authorize the General Manager to sign, in substantially the same form as attached hereto, an amended and restated agreement between Kimley-Horn and Associates, Inc., and the District to revise the scope of professional design services for the Las Vegas Boulevard Improvements, Phase III Project for an increased amount of \$883,120, resulting in a total amount not to exceed \$5,000,582.**

FINAL ACTION: A motion was made by Vice President Gibson to approve staff's recommendations. The motion was approved.

**BUSINESS AGENDA**

**6. Retire the Board policy pertaining to the write-off of uncollectible water accounts.**

FINAL ACTION: A motion was made by Director Jones to approve staff's recommendations. The motion was approved.

**COMMENTS BY THE GENERAL PUBLIC**

Ed Uehling commented on the Southern Nevada Water Authority's proposed legislation to remove all non-functional turf in the Las Vegas valley. John Entsminger, General Manager, clarified that the proposal, as specifically put to the Nevada legislature, does not include turf within single family residences.

**Adjournment**

There being no further business to come before the board, the meeting adjourned at 9:13 a.m.

**Copies of all original agenda items and minutes, including all attachments, are on file in the General Manager's office at the Las Vegas Valley Water District, 1001 South Valley View Boulevard, Las Vegas, Nevada.**

**LAS VEGAS VALLEY WATER DISTRICT  
BOARD OF DIRECTORS  
AGENDA ITEM**

May 4, 2021

**Subject:**

Agreement

**Petitioner:**

Doa J. Ross, Deputy General Manager, Engineering

**Recommendations:**

That the Board of Directors approve and authorize the General Manager to sign an agreement between The Howard Hughes Company, LLC, and the District for construction of the 4125 Zone Pumping Station Discharge Pipeline.

**Fiscal Impact:**

None by approval of the above recommendation.

**Background:**

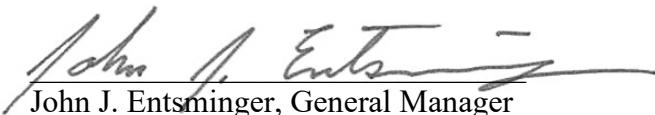
The Howard Hughes Company, LLC (Developer), is proposing to develop property within the District's 3895 and 4125 Pressure Zones. To ensure adequate water service to existing and proposed development and to provide service to future pressure zones in Summerlin, construction of the 4125 Zone Pumping Station Discharge Pipeline (Pipeline) is required.

On October 2, 2018, the District and the Developer entered into Agreement No. 135025-A for the design of the Pipeline at the Developer's sole cost and expense, which called for a construction agreement to be executed upon completion of the design.

If approved, the attached Construction Agreement (Agreement) provides the terms and conditions for the Developer to construct the Pipeline, as generally shown on Exhibit 1 of the Agreement. The Agreement requires the Developer, at the Developer's sole cost and expense, to complete the construction of the Pipeline for District approval. Upon completion by the Developer and acceptance by the District, the Pipeline shall be, and remain, the exclusive property of the District.

This agreement is being entered into pursuant to Section 1(13) of the Las Vegas Valley Water District Act, Chapter 167, Statutes of Nevada 1947. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:



John J. Entsminger, General Manager

JJE:DJR:PJJ:RCP:kd

Attachments

AGENDA  
ITEM #

**2**

## DISCLOSURE OF OWNERSHIP/PRINCIPALS

<b>Business Entity Type (Please select one)</b>						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Privately Held Corporation	<input checked="" type="checkbox"/> Publicly Held Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization
<b>Business Designation Group (Please select all that apply)</b>						
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> VET	<input type="checkbox"/> OVET	<input type="checkbox"/> ESB
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise	Veteran Owned Business	Disabled Veteran Owned Business	Emerging Small Business
<b>Number of Clark County Nevada Residents Employed:</b> 0						
<b>Corporate/Business Entity Name:</b> The Howard Hughes Company, LLC						
<b>(Include d.b.a., if applicable)</b>						
<b>Street Address:</b>		13355 Noel Road, 22nd Floor		<b>Website:</b> www.howardhughes.com		
<b>City, State and Zip Code:</b>		Dallas, Texas 75240		<b>POC Name:</b> Brian Walsh		
				<b>Email:</b> brian.walsh@howardhughes.com		
<b>Telephone No:</b>		214-741-7744		<b>Fax No:</b> 702-791-4385		
<b>Nevada Local Street Address:</b> <b>(If different from above)</b>		10845 Griffith Peak Dr., Suite 160		<b>Website:</b> www.howardhughes.com		
<b>City, State and Zip Code:</b>		Las Vegas, Nevada 89135		<b>Local Fax No:</b> 702-791-4385		
<b>Local Telephone No:</b>		702-791-4000		<b>Local POC Name:</b> Brian Walsh		
				<b>Email:</b> brian.walsh@howardhughes.com		

All entities, with the exception of publicly-traded corporations and non-profit organizations, must list the names of individuals, either directly or indirectly, holding more than five percent (5%) ownership or financial interest in the business entity appearing before the Board of Directors.

Publicly-traded corporations and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest.

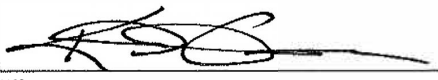
Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned (Not required for Publicly Traded Corporations/Non-profit organizations)
Publicly traded - see attached page		

*This section is not required for publicly-traded corporations.*

- Are any individual members, partners, owners or principals, involved in the business entity, an Entity full-time employee(s), or appointed/elected official(s)?  
☐ Yes      ☐ No      (If yes, please note that the employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)
- Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an Entity full-time employee(s), or appointed/elected official(s)?  
☐ Yes      ☐ No      (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the Board will not take action on any item without the completed disclosure form.

 Signature Vice President Title	Kevin T. Orrock Print Name 09-10-20 Date
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## DISCLOSURE OF RELATIONSHIP

List any disclosures below:  
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF ENTITY* EMPLOYEE/OFFICIAL AND JOB TITLE	RELATIONSHIP TO ENTITY* EMPLOYEE/ OFFICIAL	ENTITY* EMPLOYEE'S/ OFFICIAL'S DEPARTMENT
N/A			

\* Entity employee means an employee of Las Vegas Valley Water District, Southern Nevada Water Authority, or Silver State Energy Association .

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

**For Entity Use Only:**

If no Disclosure or Relationship is noted above or the section is marked N/A, please check this box.

☒ No Disclosure

If any Disclosure of Relationship is noted above, please complete the following:

☐ Yes ☐ No Is the Entity employee(s) noted above involved in the contracting/selection process for this particular agenda item?

☐ Yes ☐ No Is the Entity employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

**Nass Diallo**  
Digitally signed by Nass  
Diallo  
Date: 2020.09.15 07:42:11  
-07'00'

Signature

Nass Diallo, Acting Manager

Print Name

Authorized Department Representative

## **ATTACHMENT PAGE TO LVVWD DISCLOSURE OF OWNERSHIP/PRINCIPALS**

### **OFFICERS OF THE HOWARD HUGHES COMPANY, LLC**

<b>Name</b>	<b>Title</b>
Paul Layne	Chief Executive Officer
David O'Reilly	President & Chief Financial Officer
Peter F. Riley	Secretary
Kevin Orrock	Vice President
Carlos Olea	Vice President
David Striph	Vice President
Andrew Ciarrocchi	Vice President
Brian Walsh	Vice President
Chad Hastings	Vice President
Danielle Bisterfeldt	Vice President

### **MANAGERS OF THE HOWARD HUGHES COMPANY, LLC**

(A LIMITED LIABILITY COMPANY DOESN'T TYPICALLY HAVE DIRECTORS)

Paul Layne, Manager

David O'Reilly, Manager



**4125 ZONE NORTH PUMPING STATION DISCHARGE PIPELINE  
CONSTRUCTION AGREEMENT**

The 4125 ZONE PUMPING STATION DISCHARGE PIPELINE CONSTRUCTION AGREEMENT (“Agreement”), is entered into as of the Effective Date, by and between the LAS VEGAS VALLEY WATER DISTRICT, a political subdivision of the State of Nevada, hereinafter called “District”, and THE HOWARD HUGHES COMPANY, LLC, a Delaware Limited Liability Company , hereinafter called “Developer”. District and Developer are sometimes hereinafter referred to individually as “Party” and collectively as “Parties”.

**RECITALS**

WHEREAS, the District is engaged in the business of distributing potable water in the City of Las Vegas, Nevada, and portions of the County of Clark, State of Nevada;

WHEREAS, the Developer is desirous of receiving potable water from the District to serve real property located in the District's 4125 Pressure Zone and generally depicted on Exhibit 1 attached hereto (“Property”);

WHEREAS, the District is willing to supply water service to the Property, pursuant to its Service Rules, as adopted by its Board of Directors, that are in force and effect on the Effective Date;

WHEREAS, pursuant to the 4125 Zone Pumping Station North Discharge Pipeline Design Agreement (“Design Agreement”) entered into between the District and the Developer on October 2, 2018, the Developer designed the water pipeline and appurtenances named the “4125 Zone Pumping Station Discharge Pipeline” (“Project”), for the purpose of providing water service of adequate pressure and quantity to said real property, should the property receive a water commitment from the District;

WHEREAS, the Developer desires to construct the Project;

WHEREAS, the District is willing to accept the title to and the maintenance and operation of the Project pursuant to its Service Rules, as adopted by its Board of Directors (“Board”), and in effect as of the Effective Date; and

WHEREAS, the Developer has elected to privately bid the Project for construction, in accordance with NRS 338.0115.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

#### **AGREEMENT**

1. Recitals. The foregoing recitals are incorporated herein.
2. Developer's Real Property. Exhibit 1 generally depicts the true area and extent of the Property.
3. Developer-Required Pipeline Diameter.
  - a. The Developer shall install at Developer's sole cost approximately 1,160 linear feet 42-inch and approximately 10,500 36-inch diameter pipeline in Street Z, Lake Mead Boulevard and Street Y.
4. Phasing. The Project may be constructed in more than one part, at the sole discretion and approval of the District.
5. Construction Funding.
  - a. The District shall have no financial participation in the cost of the construction of the Project. If the District initiates a change order for the District's sole benefit and if that change order increases the cost of the construction, the change order will be taken to the District's Board of Directors for approval.
  - b. The Developer shall pay all necessary design and construction costs for dust mitigation measures associated with construction of the Project, as required by Clark County Department of Air Quality and its requirements. The Developer's dust mitigation measures shall be acceptable to the Clark County Department of Air Quality and reasonably acceptable to the District. If the Developer's dust mitigation measures are not acceptable to either the Clark County Department of Air Quality or are not reasonably acceptable to the District, the Developer shall revise its dust mitigation measures, at the Developer's sole cost, to meet the Clark County Department of Air Quality's requirements and the District's reasonable requirements.
6. BLM Material Excavation. Should excess excavated material be required to be removed from any District Bureau of Land Management ("BLM") right-of-way grant area, the Developer will prepare the necessary documents showing the District as the

purchaser and the Developer shall pay any processing fees and mineral materials fees required by the BLM. Said documents shall be delivered to the District with the 100% Design submittal. The cash payment in the amount of the mineral materials fees shall be delivered to the District no later than 15 days after the receipt of the offer of the Contract for the Sale of Mineral Materials from the BLM.

7. Shop Drawings:

- a. The Developer's contractor shall provide the District's Engineering Services shop drawings, substitute material requests and cut sheets, for its review and process.
- b. The Developer's engineer shall provide a shop drawing stamp on each sheet of every submittal showing technical criteria pertaining to each product. The shop drawing stamp shall be as approved by the District and shall include at a minimum, the contract number reference, the review action taken, the date of the shop drawing review action, and the initials of an engineer within the responsively assigned engineering discipline.
- c. The Developer's contractor shall provide the District with a twenty-one (21) calendar day review period. The Developer's engineer shall complete their review within fourteen (14) days of receipt from the District. The District reserves the right to take exception to the engineer's shop drawing stamp action.
- d. No shop drawings shall be accepted for review prior to the District's approval of the plans and specifications.

8. Construction.

- a. Developer shall construct the Project, including the installation of the fiber optic conduit:
  - i. At the Developer's sole cost and expense;
  - ii. During normal working hours and days for the District;
  - iii. Designed in accordance with this Agreement and all provisions of the District's Service Rules that are in force and effect on the Effective Date;
  - iv. Furnishing all necessary materials, labor, equipment, and services therefor;and

- v. Subject to observation by an authorized representative of the District at the sole cost and expense of the District, except as agreed in accordance with this Agreement.
- b. Developer shall provide to the District, thirty (30) days prior to the start of construction, the name, title, address, telephone number and fax number of a designated local Project Administrator who shall have responsible charge of the contract administration for construction of the Project. The District will address all correspondence regarding the Project to the Project Administrator at the designated address or fax number. The mailing or fax transmittal to the Project Administrator of any notice, letter or other communication shall be deemed sufficient service thereof. The date of said service shall be the date of such mailing or fax transmittal. The Project Administrator, or any of the related information may be changed at any time by providing written notification to the District's Construction Division.
- c. Construction, including shop drawings and submittal reviews, of the Project shall not commence prior to approval by the District of the design drawings for the Project.
- d. Developer shall conduct a pre-construction conference at a location, at an hour and on a day mutually acceptable to the Developer and the District.
- e. Developer shall reimburse the District for all direct and indirect costs that the District incurred in the inspection of the construction of the Project, when construction work is performed outside the District's normal working hours and days.
- f. Developer shall provide a fabrication and delivery schedule to the District for mortar lined and coated (MLCP) steel pipe to be installed as part of the Project. Developer shall notify the District at least five weeks prior to the start of pipe fabrication to allow the District, or its designated representative(s), to inspect the pipe fabrication, testing, storage, handling and delivery processes.
- g. Developer shall provide at the Developer's sole cost, third-party inspection(s) to ensure pipe is fabricated and handled in accordance with AWWA C200, C205 and District requirements. Developer shall provide written report of the third-party

- h. The Developer is fully responsible for ensuring no harm comes to any tortoises found on the work site. Tortoises will not be intentionally killed, harmed or taken for private use. In the event a desert tortoise is encountered on the Work Site and is in imminent danger, temporarily cease construction operations at location of tortoise, immediately notify the District of occurrence, and a qualified biologist will arrive to remove tortoise.
- i. Developer shall provide 'as-built' information to the District within seven calendar days of the final walk-through by the District.

- a. Developer shall provide the District with written permission of the owner of record of any and all public or private property upon which he stockpiles or stores materials and/or equipment.
- b. Material and equipment stored without said permission shall be immediately removed by the Developer at the Developer's sole expense.
- c. Said permission shall be furnished to the District prior to any use of public or private property.
- d. Upon completion of work on such properties, the Developer shall, as a condition of reimbursement, provide to the District a letter from the owner of each property stating that the property has been left in a condition acceptable to the owner. Acceptance by all property owners is a condition of acceptance of the Project by the District.

- a. The Developer shall require its engineer to provide:
  - i. System Access Security Checklist that demonstrates the engineer meets the cyber security requirements of the District. Exhibit 3 attached hereto contains the District's System Access Security Checklist.
  - ii. Competent staff to interface with the District's project management information system ("PMIS") for the construction of the Project.

- iii. A list of names and corresponding email address of the engineer's staff who will interface with the District's PMIS. Exhibit 3 attached hereto contains the District's System Access Security Checklist.
  - b. The Developer's engineer's staff that require access to the District's PMIS will be required to accept the District's conditions of use at time of initial login. Exhibit 2 attached hereto contains the PMIS Terms of Use.
  - c. The Developer shall require its contractor to provide:
    - i. System Access Security Checklist that demonstrates the contractor meets the cyber security requirements of the District.
    - ii. Competent staff to interface with the District's project management information system ("PMIS") for the construction of the Project.
    - iii. A list of names and corresponding email address of the contractor's staff who will interface with the District's PMIS.
  - d. The Developer's contractor staff that require access to the District's PMIS will be required to accept the District's conditions of use at time of initial login. Exhibit 2 attached hereto contains the PMIS Terms of Use.
11. Data Privacy and Security.
- a. During the course of this Agreement, Developer's engineer and contractor will create, receive or have access to the District's Facility Information. Facility Information means drawings, maps, plans or records that reveal the District's critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, other forms of energy, fiber optic cables, or vertical assets used for the transmission or receipt of data or communications used by the District. Facility Information is deemed to be Confidential Information of the District.
  - b. Developer shall require that its engineer and contractor:
    - i. Keep and maintain all Facility Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use, or disclosure;
    - ii. Ensure that all Facility Information is stored only in data center(s) that are subject to United States federal jurisdiction;

- iii. Not create, collect, receive, access, or use Facility Information in violation of law;
  - iv. Use and disclose Facility Information solely and exclusively for the purposes for which the Facility Information, or access to it, is provided pursuant to the terms and conditions of this Agreement;
  - v. Not use, sell, rent, transfer, distribute, or otherwise disclose or make available Facility Information for their own purposes or for the benefit of anyone other than the District without the District's prior written consent; and
  - vi. Not, directly or indirectly, disclose Facility Information to any person other than its Authorized Persons, without the District's prior written consent. Authorized Persons means the Developer's engineer's and contractor's respective employees, contractors, subcontractors, consultants, subconsultants, agents, or auditors who have a need to know or otherwise access Facility Information to enable Developer to perform its obligations under this Agreement, and who are bound in writing by confidentiality and other obligations sufficient to protect Facility Information in accordance with the terms and conditions of this Agreement.
- c. Security Breach means any act or omission that compromises either the security, confidentiality, or integrity of Facility Information or the physical, technical, administrative, or organizational safeguards put in place by the Developer's engineer and contractor or by the District to the extent that Developer's engineer and contractor have access to District's systems, that relate to the protection of the security, confidentiality, or integrity of Facility Information. Without limiting the foregoing, a compromise shall include any unauthorized access to or disclosure or acquisition of Facility Information.
- d. The Developer shall require that its contractor:
- i. Notify the District of any Security Breach as soon as practicable, but no later than twenty-four (24) hours after the Developer's engineer or contractor becomes aware of it, by telephone at the following number: 702-822-8390 and by email to james.curbeam@lvvwd.com and

brent.gunson@lvvwd.com, with a copy by email to the District's contacts listed in the Notices Section below;

- ii. At its own expense, coordinate and fully cooperate with the District in the District's handling of the matter;
  - iii. Use its best efforts to immediately contain and remedy any Security Breach and prevent any further Security Breach;
  - iv. Maintain and preserve all documents, records, and other data related to any Security Breach; and
  - v. Reimburse the District for all actual costs incurred by the District in responding to and mitigating damages caused by any Security Breach.
- e. Developer acknowledges that any breach of its covenants or obligations set forth in this Data Privacy and Security Section may cause District irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, District is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which District may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

12. Change Orders. To the extent that a change order(s) is initiated by the District for the District's sole benefit, the District shall pay to the Developer the cost of the change order(s). The cost of all other change orders, including but not limited to change orders due to errors or omissions by the Developer's engineer and change orders for the Developer's sole benefit, shall be borne by the Developer.

13. Easements.

- a. The Developer shall provide to the District, at no cost to the District:
  - i. For construction purposes, a temporary easement of sufficient width as approved by the District to ensure that the combined width of the permanent and temporary easements is sufficient to construct the PRV facility. A 30-



foot ingress/egress easement shall also be provided to the District for access to the PRV facility, if deemed necessary by the District.

- ii. A permanent easement 50 feet in width, or a width approved by District, for the Project in a form approved by the District. Said easement shall be in an alignment which is mutually acceptable to the Developer and the District and shall extend a minimum of 15 feet on each side of the centerline of the alignment of the Project.
  - iii. For construction purposes, temporary easement of sufficient width to ensure that the combined width of the permanent and temporary easements is a minimum of 100 feet, or a width approved by the District.
- b. Said easements shall be shown on the construction drawings and provided to the District prior to the approval of the drawings by the District.
  - c. If a right-of-way grant must be acquired from the BLM, the Developer will prepare all necessary documents showing the District as the applicant and will pay all application and tortoise mitigation fees; the District will submit the documents to the BLM. Temporary easements shall be acquired at the Developer's sole cost and expense from any party whomsoever, including the BLM. The Developer is required to abide by all the terms and conditions of the acquired permanent easements, temporary easements and BLM Grants.
  - d. All easement submittals shall be subject to the following requirements: There are two (2) types of permanent easement forms: 1) a "Non-Exclusive Easement" used specifically for single-family residences and pipelines; and 2) an "Exclusive Easement" used for multi-family residences, apartments, condos, and commercial properties for appurtenances (i.e., meters, backflows, AV/AR's, etc.). The easement documents can be located at [lvvwd.com](http://lvvwd.com) under the Engineering & Construction section. All easements must be submitted to the Districts Land Acquisition and Property Management Division for review and subsequent recording with the Clark County Recorder's Office.
    - i. Each easement shall consist of only one legal description.
    - ii. The easement is on a District form with all attachments on 8.5-inch x 11-inch paper. All attachments shall be on an 8.5-inch x 11-inch paper.

- iii. All font size is to be a minimum point 10.
- iv. Clark County Assessor Parcel Number (APN) appears in the upper left corner of each page including the exhibits.
- v. NOTHING is located in the 3-inch x 3-inch area of the upper right corner of the first page. This is for the Recorder's use only.
- vi. A 1-inch margin is required around all pages, with no writing, signatures, stamps, etc., within the 1-inch margin.
- vii. Every portion of the easement document must be an original.
- viii. No punch holes in document allowed. Stapling of document is acceptable.
- ix. The Grantor is the current property owner. A copy of the most current vesting document should accompany the easement document.
- x. The Grantor's name on the first page and the signature on the last page must match, unless it is for a corporation, a LLC, or a partnership, etc. If signing for the Grantor, signatory authorization must be included.
- xi. The name and title of the authorized officer signing the document must be typed or printed beneath the signature.
- xii. Legal descriptions must be stamped and signed by a Professional Land Surveyor (PLS) and must contain his or her mailing address within the document. The date of the signature of the PLS must be prior to or the same date as the date of the signature of the Grantor.
- xiii. Legal description and exhibit shall be numbered consecutive. (Example: Page 1 of 2; Page 2 of 2)
- xiv. If easement legal description references a previously-recorded document as part of the easement description, all information to locate the referenced document (recording information) must be included as part of the easement legal description. A legible copy of the referenced document must be provided with the easement package.
- xv. There is a notary seal on the original easement.
- xvi. The notary stamp is legible and not located over any words or lines.
- xvii. The date and name of individual signing the easement must be clearly printed or typed within the notary statement.

- xviii. All writing on document MUST be in BLACK INK ONLY (no color). The only exception is the signatures, Notary Public or PLS initials, and the notary block, which may be in blue ink.
  - xix. If all of the above conditions are not met, the easement may be rejected and/or the Grantor is subject to a \$25 non-compliance fee. This fee is a non-refundable fee charged to the District by the Recorder's office for non-compliant documents.
- 14. Bill of Sale. Developer shall convey all rights, title and interest in the Project to the District by furnishing a Bill of Sale to the District, on a form provided by the District, after completion of the construction of the work and the acceptance of the work by the District.
  - 15. Liens. Upon completion of the Project, Developer shall certify in writing to the District that the Project will be free of liens and other encumbrances within 30 days of receipt of the unexecuted Bill of Sale from the District.
  - 16. Warranty. Should any defective material or workmanship affecting the Project be discovered within one year of the date of completion and acceptance of the Project by the District, the Developer shall immediately cause the defect to be corrected, or shall reimburse the District for its cost to correct said defect. For the purpose of this Agreement, any leak or break in a pipeline or valve, or any pavement settlement or failure shall be considered conclusive evidence of defective materials and/or workmanship. Any correction actions shall themselves be warranted for a one year period from the date of correction. A one-year maintenance bond for ten percent of the construction cost of the Project shall be provided in accordance with District requirements. The effective date of the bond shall be the date of acceptance of the Project by the District.
  - 17. District Ownership. After the District's receipt of the Bill of Sale, the Project shall be and shall remain the exclusive property of the District, which the District will maintain and operate after receipt of the Bill of Sale, in accordance with the District's Service Rules in effect on the date of this Agreement, or as they may be amended from time to time. The District retains the right to alter or modify the function or design of the Project after completion.

18. No Water Commitment.

- a. With the exception of parent final maps that are crated to sell to developers for future subdivision, no real property shall receive a water commitment from the District by virtue of the design and construction of the Project. Nothing in this Agreement or any actions taken pursuant to this Agreement shall commit water service to any property.
- b. Nothing in this Agreement commits or reserves water capacity in the pipeline being constructed or in the District's water system.
- c. This Agreement does not grant the Developer any property right in water service to any of the Developer's property. Water service and water connections are governed by the District Service Rules in effect at the time the application is made for water service or a water connection and can only be granted if the application conforms to the then existing District Service Rules, and if the District has capacity in both the Project and in its water system such that water service or a water connection will not damage or reduce service to other customers of the District.

19. Project Sizing.

- a. The Project are sized to ultimately provide water service to development other than that described herein.
- b. Any other developments shall not receive a water commitment from the District by virtue of the construction of the Project.
- c. The District may reserve capacity in the Project for development other than described herein.

20. Water Conservation Requirements. Developer shall require that the Property shall:

- a. Require the use of smart irrigation controllers bearing the U.S. EPA WaterSense label for the irrigation of any turf or landscaping. A “smart irrigation controller” is an irrigation controller or timer that has built-in water efficiency features including a sensor to adjust to the optimal irrigation run time based on the local weather, historical weather, soil, and evaporation conditions. In large applications where WaterSense labeled products are not reasonably available, systems must create or modify irrigation schedules based on evapotranspiration (ET) principles by one or more of the following methods:

- i. Storing historical crop Evapotranspiration (ETc) data characteristics of the site and modifying these data with an onsite sensor;
  - ii. Using onsite weather sensors as a basis for calculating real time ETc;
  - iii. Using a central weather station as a basis for ETc calculations and transmitting the data to individual controllers from remote sites; or
  - iv. Using onsite weather sensors.
- b. Prohibit the installation of manmade lakes and manmade decorative water features.
  - i. “Manmade lakes” mean every manmade body of water including lakes, ponds, lagoons and reservoirs (excluding tank-type reservoirs which are fully enclosed and contained) that are filled, or refilled, with water or reclaimed wastewater from any source, for recreational, scenic or landscape purposes; except for swimming pools, manmade decorative water features or manmade recreational water theme parks.
  - ii. “Manmade decorative water features” means any manmade stream, fountain, waterfall, or other manmade water feature containing water that flows or is sprayed into the air, constructed for decorative, scenic or landscape purposes, excluding swimming pools, manmade lakes and manmade recreational water theme parks.
- c. Prohibit the installation of any non-functional turf.
  - i. Non-functional turf is generally defined as turf installed with limited recreational value including, but not limited to, front yards, median strips, and parkways.
  - ii. Specifically, the Developer shall prohibit the installation of turf:
    - 1. In areas less than 1,500 contiguous square feet;
    - 2. Less than 30 feet in any dimension;
    - 3. Closer than 10 feet to a street;
    - 4. In front of entryways to residential neighborhoods or subdivisions where other recreational amenities do not exist;
    - 5. On slopes that exceed 25 percent;
    - 6. Where sloped areas are not graded to prevent runoff, except in designated drainage areas; and

7. The installation of cool-season turf such as fescue in recreational areas. Any turf installed in recreation areas such as parks shall utilize water-efficient (otherwise referred to as warm-season) species such as Bermuda that will be dormant in the winter.

Developer shall require the water conservation requirements be binding upon all successors and assigns in perpetuity. Developer shall further require that these water conservation requirements be included in any deed or other written instrument affecting title to the Property, with that deed or other written instrument being recorded with the Clark County Recorder.

21. Insurance.

- a. Throughout the construction of the Project, the Developer shall require that its engineer:
  - i. Carry general liability insurance with limits of no less than \$2,000,000 per occurrence, and a \$3,000,000 aggregate covering personal injury and property damage claims;
  - ii. Carry Worker's Compensation coverage as required by Nevada Statute with Employer's Liability limits of no less than \$500,000;
  - iii. Carry Professional Liability Insurance with limits of no less than \$1,000,000 per claim;
  - iv. Carry Cyber and Technology liability insurance providing coverage for technology and professional services, privacy and cyber security, and privacy regulatory defense, awards and fines with limits of \$1,000,000 per occurrence and \$1,000,000 annual aggregate;
  - v. Name the District and Developer as an additional insured under all insurance policies;
  - vi. Waive its right of subrogation for any loss related to against the District and the Developer; and
  - vii. Furnish to the District and the Developer a Certificate of Insurance evidencing such insurance within 15 days after execution of this Agreement.

- b. Throughout the Developer's construction of the District Project, the Developer shall require that its contractor:
  - i. Carry general liability insurance with limits of no less than \$2,000,000 per occurrence, and a \$3,000,000 aggregate covering personal injury and property damage claims;
  - ii. Carry Worker's Compensation coverage as required by Nevada Statute with Employer's Liability limits of no less than \$500,000;
  - iii. Carry Cyber and Technology liability insurance providing coverage for technology and professional services, privacy and cyber security, and privacy regulatory defense, awards and fines with limits \$1,000,000 per occurrence and \$1,000,000 annual aggregate;
  - iv. Name the District and the Developer as additional insured under all insurance policies; and
  - v. Waive its right of subrogation for any loss related to the construction of the Project against the District and the Developer

All insurance required under this article shall be primary (pay first) with respect to any other insurance which may be available to the District, regardless of how the "other insurance" provisions may read.

- c. The Developer shall provide proof of all insurance requirements in this section within two weeks of the Effective Date. If the Developer has not contracted with its contractor at the time of the Effective Date, the Developer shall provide proof of all insurance requirements in this section within two weeks of contracting with its contractor.

22. Compliance with All Laws and Regulations.

- a. The Developer shall comply and require that its engineer and contractor comply with all provisions of the District's Service Rules that are in force and effect on the Effective Date, as they may pertain to the construction of the District Project.
- b. The Developer and its officers, employees, agents, contractors, licensees or invitees, at no cost to the District, shall at all times comply with all applicable laws, ordinances, statutes, rules, acts or regulations in effect or that become in effect during the time work is performed under this Agreement, including but not limited

to those laws outlined by the Endangered Species Act of 1973, and the Clark County Desert Conservation Plan, August 1, 1995.

23. Indemnification and Hold Harmless.

- a. The Developer shall indemnify, defend and hold the District, its directors, officers, employees and related entities (collectively the “District Parties”) harmless from any and all claims, demands, liens, actions, damages, costs, expenses, and attorneys’ fees based upon or arising out of alleged acts or omissions of the Developer or its officers, employees, agents, contractors, licensees or invitees in connection with the design, construction and installation of the Project. Regardless of the foregoing, the Developer shall not be required to indemnify the District Parties for negligent acts of the District Parties.
- b. The Developer shall indemnify, defend and hold the District Parties harmless from all damage or injury that may be caused on any property by trespass of the Developer’s officers, employees, agents, contractors, licensees, or invitees whether the said trespass was committed with or without the consent or knowledge of the Developer.
- c. As required in the Design Agreement, the Developer shall continue to include in its separate contract with its engineer the requirement that the Developer’s engineer indemnify, defend and hold the District Parties harmless from any and all claims, demands, liens, actions, damages, costs, expenses, and attorneys' fees based upon or arising out of alleged acts or omissions of the engineer or its officers, employees, agents, contractors, licensees or invitees during the design and construction of the Project. Regardless of the foregoing, the Developer’s engineer shall not be required to indemnify the District Parties for negligent acts of the District Parties.
- d. The Developer shall include in its separate contract with its contractor the requirement that the Developer’s contractor indemnify, defend and hold the District Parties harmless from any and all claims, demands, liens, actions, damages, costs, expenses, and attorneys' fees based upon or arising out of alleged acts or omissions of the contractor or its officers, employees, agents, contractors, licensees or invitees during the construction of the Project. Regardless of the foregoing, the Developer’s



contractor shall not be required to indemnify the District Parties for negligent acts of the District Parties.

- e. The Developer shall cause the District Parties to be immune for any breach of this Agreement caused by an incorrect date being produced, calculated, or generated by a computer or other information system that is owned or operated by the District Parties, regardless of the cause of the error (reference NRS 41.0321).

24. Not used.

25. Termination.

- a. This Agreement shall automatically terminate if:
  - i. The construction of the Project is not started within one year from the date of District approval of construction drawings; or
  - ii. If active construction work is discontinued for a period of one year.
- b. The District may terminate the Agreement, at its sole option, if the construction is commenced with said one-year period but is not diligently prosecuted to completion in a manner acceptable to the District. Termination for failure to diligently prosecute shall occur upon the District's written notice that the Developer has not followed the conditions of this Agreement.
- c. This Agreement shall automatically terminate if construction of the Project is not started within one year from the date of District approval of construction drawings; or if active construction work is discontinued for a period of one year; or if such construction is commenced within said one year period, but is not diligently prosecuted to completion in a manner acceptable to the District. Termination under this paragraph shall occur upon the District's written notice that the Developer has not followed the conditions of this Agreement.
- d. If this Agreement terminates in accordance with this Agreement, and the Project is providing water service to any District customers, then right, title and interest of all or any portion of the Project, as determined solely and exclusively by the District, shall become the exclusive property of the District for the District to use, modify, or to dispose of as the District deems appropriate.
- e. If this Agreement terminates in accordance with provisions of this Agreement, and the Project is providing water service to any District customers, then Developer

shall, within five business days, transfer all right, title and interest of all or any portion of the Project, as determined solely and exclusively by the District, to the District for the District to use, modify, or to dispose of as the District deems appropriate.

26. Effective Date. The effective date of this Agreement is the date that the Agreement is executed by the District's General Manager or its designee.

27. Confidentiality and Release of Information.

- a. Through the term of this Agreement, a Party may furnish the other Party with information that the disclosing Party has independently determined to be confidential under Nevada law and that disclosing Party will label "Confidential Information". "Confidential Information" means confidential and proprietary information of the disclosing Party that is disclosed to the receiving Party which, in the case of written information, is marked "confidential" and which, in the case of information disclosed orally, is identified at the time of the disclosure as confidential and will be summarized and confirmed in writing as such by disclosing Party to the receiving Party within 30 calendar days of the disclosure.
- b. Confidential Information shall not include information that: (1) is now or subsequently becomes generally available to the public through no fault or breach of the receiving Party; (2) the receiving Party can demonstrate to have had rightfully in its possession prior to disclosure by the disclosing Party; (3) is independently developed by the receiving Party without the use of any Confidential Information; or (4) the receiving Party rightfully obtains from a third party who has the right to transfer or disclose it.
- c. The Parties recognize the District's duties under the Nevada Public Records Act and do not, by this Agreement, intend to alter the District's duties thereunder or to require the District to do, or refrain from doing, anything contrary to the Nevada Public Records Act. The District's Office of General Counsel shall be permitted to make an independent determination as to whether any document or record marked "confidential" by the Developer is confidential or is a public record, pursuant to the Nevada Public Records Act. If the District's Office of General Counsel determines that any document or record supplied by the Developer and marked "confidential"

is determined to be a public record, the District may disclose that document or record to the extent required by the Nevada Public Records Act with prior notice to the Developer. Upon receipt of any request for the Developer's Confidential Information, this Agreement, or any part thereof, the District will promptly forward the request to the Developer and work with the Developer in good faith to minimize the extent of the disclosure to the extent requested by the Developer and permitted by the Nevada Public Records Act. The District shall not be required to expend funds in conjunction with working with the Developer regarding the disclosure.

- d. The Developer shall make public information releases relating to the Project only as provided for and in accordance with this Agreement. Any and all other public releases of information gathered, obtained, or produced during the performance of this Agreement must be specifically approved in writing by the District prior to release. Such information shall include, but is not limited to, all products, intellectual property, work product, ideas, data, reports, background materials, and any and all other materials belonging to the District. Such public releases of information shall include, but are not limited to, publication in any book, newspaper, magazine, professional or academic journal, the Internet, radio, television, and presentations to professional, academic, and/or other groups or conferences.

28. Use of Materials.

- a. The District shall make available to the Developer such materials from its files as may be required by the Developer in connection with the design and construction of the Project. Such materials shall remain the property of the District while in the Developer's possession.
- b. Upon completion or termination of this Agreement, the Developer shall turn over and ensure that its contractor returns to the District any property of the District in the possession or the Developer or its designer or its contractor as applicable.

29. Records. The Developer shall retain financial and other records related to this Agreement for six (6) years after the completion or termination of this Agreement and shall make available to the District for inspection, all books, records, documents, and

other evidence directly pertinent to performance under this Agreement upon reasonable notice.

30. Assignment. The Developer shall not assign or transfer its interest in this Agreement without the prior written consent of the District. If the Developer assigns or transfers without prior written consent, the assignment or transfer shall be void, and not merely voidable.
31. Severability. If any term of this Agreement is to any extent illegal, invalid, or unenforceable, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms of this Agreement shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term. If application of this Paragraph should materially and adversely affect the economic substance of the transactions contemplated in this Agreement, the Party adversely impacted shall be entitled to compensation for such adverse impact.
32. Non-Discriminatory Employee Practices and Equal Employment Opportunity. In connection to the subject matter of this Agreement:
  - a. The Developer, its engineer, its contractor, and any subcontractor(s), who is responsible for the selection, referral, hiring, or assignment of workers in constructing the District Project, are required to comply with all applicable provisions of Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act, the Civil Rights Act of 1991, the Equal Pay Act, Title I of the Americans with Disabilities Act and all associated rules and regulations, including the Equal Employment Opportunity Commission regulations that prohibit discrimination based upon race, color, religion, sex, sexual orientation, age, or national origin.
  - b. The Developer recognizes that if it, its contractor, or any subcontractor(s) working on the construction of the Project is found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other protected status, the District may declare the

Developer in breach of the Agreement, terminate the Agreement, and designate the Developer as non-responsible.

- c. The Developer shall make and ensure that its contractor makes all necessary documentation as required to comply with the Acts referred to above and shall make such documentation immediately available to the District upon the District's request. The Developer is solely liable for failure to comply with this provision.
33. No Joint Venture. Nothing herein shall be construed to imply a joint venture, an employer and employee relationship, or principal and agent relationship.
34. Applicable Law. Nevada law shall govern the interpretation of this Agreement, without reference to its choice of law provisions.
35. Interpretation. The Parties agree that neither Party shall be deemed the drafter of this Agreement and, in the event this Agreement is ever construed by a court of law or equity, such court shall not construe this Agreement or any provision hereof against either Party as drafter of this Agreement.
36. Venue. The Parties agree that venue for any dispute arising from the terms of this Agreement shall be Clark County, Nevada.
37. Attorney's Fees. In the event that any Party commences an action to enforce or interpret this Agreement, or for any other remedy based on or arising from this Agreement, the prevailing party therein shall be entitled to recover its reasonable attorneys' fees and costs incurred.
38. No Third-Party Rights. This Agreement is not intended by the Parties to create any right in or benefit to parties other than the District and the Developer. This Agreement does not create any third-party beneficiary rights or causes of action.
39. Waiver. The failure of either Party to enforce at any time, or for any period of time, the provisions hereof shall not be construed as a waiver of such provisions or of the rights of such Party to enforce each and every such provision.
40. Authority to Execute. Each Party hereto warrants to the other that it, and its signatory hereunder, is duly authorized and empowered to execute this Agreement and to bind said Party to the terms of this Agreement.
41. Captions. The captions contained in this Agreement are for reference only and in no way to be construed as part of this Agreement.

42. Counterparts. This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which, when so executed, shall be deemed an original, and all counterparts together shall constitute one and the same instrument.
43. Integration. This Agreement contains the entire understanding between the Parties relating to the transactions contemplated by this Agreement, notwithstanding any previous negotiations or agreements, oral or written, between the Parties with respect to all or any part of the subject matter hereof. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, regarding the subject matter of this Agreement are merged in this Agreement and shall be of no further force or effect.
44. Notices. Any and all notices, demands or requests required or appropriate under this Agreement (including invoices) shall be given in writing and signed by a person with authorization to bind the Developer or the District, either by personal delivery, via a scanned document sent via email, or by registered or certified mail, return receipt requested, addressed to the following addresses:

To Developer:           The Howard Hughes Company, LLC  
                                Attention: SCP, Summerlin MPC Residential  
                                10845 Griffith Peak Drive, Suite 160  
                                Las Vegas, NV 89135  
                                Brian.walsh@howardhughes.com

To District:             Las Vegas Valley Water District  
                                Attention: Peter Jauch  
                                PO Box 99956  
                                Las Vegas, NV 89193-9956  
                                Peter.Jauch@lvvwd.com

With copy to:           Las Vegas Valley Water District  
                                Attention: General Counsel  
                                1001 South Valley View Blvd., MS 480  
                                Las Vegas, NV 89153  
                                generalcounsel@lvvwd.com

When notice is given by email transmission, it shall be deemed served upon receipt of confirmation of transmission if transmitted during normal business hours or, if not transmitted during normal business hours, on the next business day following the email transmission.

The Parties may designate a new contact person under this provision for notices or invoices or change the addresses or email addresses identified above by notifying the other Party in writing.

45. Amendment. This Agreement and its Exhibits contain the entire agreement between the Parties and this Agreement may only be amended or modified in a writing stating specifically that it amends this Agreement and is signed by an authorized representative of each Party.
46. Electronic Signatures. Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties are intended to authenticate this writing and to have the same force and effect as manual signatures.

IN WITNESS WHEREOF, the Developer has executed this Agreement on \_\_\_\_\_.

THE HOWARD HUGHES COMPANY, LLC, a  
Delaware limited liability company

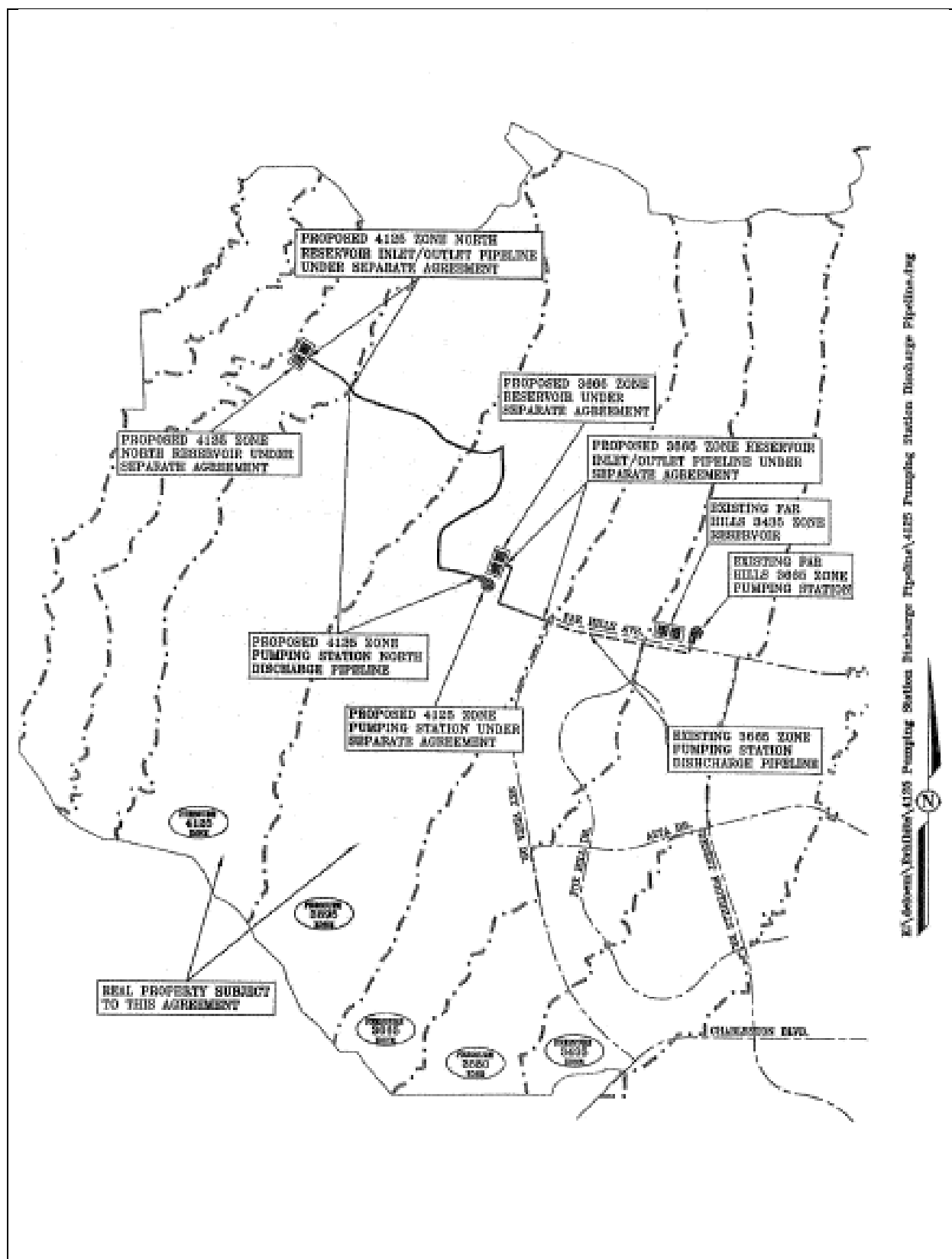
\_\_\_\_\_  
Kevin T. Orrock, Vice President

THIS AGREEMENT shall be in full force and effect as of \_\_\_\_\_  
when it was duly signed by the Las Vegas Valley Water District.

LAS VEGAS VALLEY WATER DISTRICT

\_\_\_\_\_  
John J. Entsminger, General Manager

## EXHIBIT 1





## **EXHIBIT 2**

### **Project Management Information System Terms of Use**

Due to the sensitive nature of information contained within the Project Management Information System (PMIS), the Las Vegas Valley Water District and Southern Nevada Water Authority (“Organization”) require that all users (whether contractor, design professional, Organization employee, or other user) agree to the PMIS terms of use. By checking the “Accept” box, User agrees to be bound by and to bind its employees to the following terms of use (“Terms of Use”).

1. Access to PMIS provided by the Organization is for authorized users and organizations only. To protect this software from unauthorized use and to ensure that the software functions properly, activities on PMIS and use of this application, related data, and/or related services (collectively “PMIS Services”) are monitored and recorded and subject to audit.
2. User and its employees will abide by the typical use of protected applications/software, including but not limited to:
  - a. Authorized users cannot give out their login information to another party.
  - b. Authorized users shall notify the Organization within 2 business days of any changes in their employment to allow for an appropriate adjustment in their access privileges.
  - c. Access to PMIS will be revoked upon completion of the Work, termination of the Agreement, or the individual user’s separation from performing duties associated with the Work, whichever comes first.
  - d. These PMIS Services are provided for the convenience of contractors and engineering firms. The Organization is not responsible for any issues created by a malfunction of these PMIS Services.
  - e. User agrees to use PMIS for Work related content. The use of PMIS as a document management system to store unrelated documents or files is expressly prohibited.
  - f. User agrees not to remove or modify any copyright or other intellectual property notices that appear in PMIS or associated PMIS Services.
3. User agrees not to use the PMIS Services in any way that is unlawful, or harms the Organization, its service providers, suppliers or any other user. User agrees not to use the PMIS Services in any way that breaches any other policy or notice on the PMIS Services. The Organization’s failure to act with respect to a breach by User or others does not waive its right to act with respect to subsequent or similar breaches.
4. NO WARRANTY. The Organization provides the PMIS Services “As Is,” “With All Faults” and “As Available,” and the entire risk as to satisfactory quality, performance, accuracy, and effort is with you, to the maximum extent permitted by applicable law. The Organization and its suppliers make no representations, warranties or conditions, express or implied. The Organization and its suppliers expressly disclaim any and all warranties or conditions, express, statutory and implied, including without limitation (A) warranties or conditions of merchantability, fitness for a particular purpose, workmanlike effort, accuracy, title, no encumbrances, no liens and non-infringement,

(B) warranties or conditions arising through course dealing or usage of trade, and (C) warranties or conditions of uninterrupted or error-free access or use.

5. **LIABILITY LIMITATION; EXCLUSIVE REMEDY.** In addition to applicable Nevada laws regarding sovereign immunity, in no event will the Organization or any supplier be liable for any damages, including without limitation any indirect, consequential, special, incidental, or punitive damages arising out of, based on, or resulting from these Terms of Use or User's use of the PMIS Services, even if such party has been advised of the possibility of such damages. The exclusion of damages under this paragraph is independent of the user's exclusive remedy and survives in the event such remedy fails of its essential purpose or is otherwise deemed unenforceable. These limitations and exclusions apply without regard to whether the damages arise from (A) breach of contract, (B) breach of warranty, (C) negligence, or (D) any other cause of action, to the extent such exclusion and limitations are not prohibited by applicable law. If User has any dispute or claim against the Organization or its suppliers with respect to these Terms of Use or the PMIS Services, then User's sole and exclusive remedy is to discontinue using these PMIS Services.
6. The Organization reserves the right to change the Terms of Use and will provide notice of any change to User. Continued use of the PMIS Services after the effective date of such changes will constitute acceptance of and agreement to any such changes. The Organization may change, suspend or discontinue the PMIS Services associated with PMIS at any time without notice to all or selected users. The Organization may assign these Terms of Use, in whole or in part, at any time with or without notice to User. User may not assign these Terms of Use, or assign, transfer or sublicense its rights, if any, in the PMIS Services.
7. These Terms of Use are governed by the laws of the State of Nevada, without giving effect to its conflict of laws provisions. User agrees to submit to exclusive jurisdiction and venue in the state and federal courts sitting in Clark County, Nevada for any and all disputes, claims and actions arising from or in connection with the PMIS Services and/or these Terms of Use.
8. If any part of these Terms of Use is determined to be invalid or unenforceable, then the invalid or unenforceable provision will be replaced with a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these Terms of Use will continue in effect.
9. Except as expressly stated herein, these Terms of Use constitute the entire agreement between the Organization and User with respect to the PMIS Services and supersede all prior or contemporaneous communications of any kind between the Organization and User with respect to the PMIS Services.
10. The PMIS Services are subject to the intellectual property rights of the Organization and to the Nevada Public Records Law.

### EXHIBIT 3

#### System Access Security Checklist

Contractor is required to complete the following checklist verifying the following minimum security standards are met for use of District provided applications.

INFORMATION SECURITY CONCERN	YES	NO
1) All computing devices used to connect with District's systems are:		
a) Kept current with operating system patches	<input type="checkbox"/>	<input type="checkbox"/>
b) Kept current with software patches	<input type="checkbox"/>	<input type="checkbox"/>
c) Kept current with antivirus updates	<input type="checkbox"/>	<input type="checkbox"/>
d) Enabled with a host-based firewall	<input type="checkbox"/>	<input type="checkbox"/>
e) Accessing District's systems only from within US boundaries	<input type="checkbox"/>	<input type="checkbox"/>
2) Contractor maintains policies within their organization that cover:		
a) Acceptable Use of Technology Resources	<input type="checkbox"/>	<input type="checkbox"/>
b) Incident Response	<input type="checkbox"/>	<input type="checkbox"/>
c) Breach Notification	<input type="checkbox"/>	<input type="checkbox"/>
d) Account & Password Management	<input type="checkbox"/>	<input type="checkbox"/>
e) Session Management	<input type="checkbox"/>	<input type="checkbox"/>
f) User Cybersecurity Awareness Training	<input type="checkbox"/>	<input type="checkbox"/>
3) Contractor will notify District, within 24 hours, confirmation of:		
a) Termination of any authorized user	<input type="checkbox"/>	<input type="checkbox"/>
b) Loss of any device used to access District's system(s)	<input type="checkbox"/>	<input type="checkbox"/>
c) Breach of any Contractor system(s)	<input type="checkbox"/>	<input type="checkbox"/>
d) Breach of any vendor 3rd-Party service(s)/system(s)	<input type="checkbox"/>	<input type="checkbox"/>
e) Compromise of any Contractor account(s)	<input type="checkbox"/>	<input type="checkbox"/>

Any questions regarding this checklist should be directed to Ryan Pearson at [ryan.pearson@lvvwd.com](mailto:ryan.pearson@lvvwd.com).

Please refer to the following page for additional information regarding these requirements.

#### **CONTRACTOR INFORMATION:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Legal Name of Company

\_\_\_\_\_  
Name and Title of Authorized Representative

**Please review this supplemental information for guidance on the questions from page 1.**

1.
  - a. The operating systems (e.g. Windows/macOS) must be updated within 90 days of the last version issued by the operating system manufacturer.
  - b. Installed software must be updated within 90 days of the last version issued by the software manufacturer.
  - c. Antivirus/Antimalware software must be installed and maintained with antivirus updates installed daily.
  - d. The PC or laptop must have a firewall installed, enabled and configured to block unauthorized network traffic.
  - e. Access to District's system(s) from outside of United States boundaries must be authorized in advance and in writing.
2.
  - a. A policy for Acceptable Use of Technology Resources would include, but not be limited to: proper use of communication channels, internet use, restrictions against fraud and/or malicious activity, restrictions against circumventing security, data loss prevention, and authorized remote access.
  - b. An Incident Response Plan outlines the process of how a compromised system in Contractor's environment is addressed. It should follow a nationally recognized standard such as NIST.
  - c. A Breach Notification Plan outlines how, and how soon, Contractor will notify District when any system in Contractor's environment (or control) is compromised (regardless of data loss).
  - d. A policy for Account & Password Management outlines how Contractor manages user accounts within District's organization, from creation to deletion, along with password complexity rules and password reuse guidelines.
  - e. A Session Management policy outlines how long a computer, desktop application, or web application can remain idle before logging out a user. It also outlines requirements for screen locking when a device is unattended.
  - f. User Cybersecurity Awareness Training is an education program for staff within Contractor's organization. The program would address safe internet activity, safe email practices, how to respond to malware and other cyber security matters that affect Contractor's organization.
3.
  - a. Contractor is required to notify District within one business day regarding termination of any authorized user of District's system(s).
  - b. Contractor is required to notify District within one business day regarding loss of any device used to access District's system(s).
  - c. Contractor is required to notify District within one business day regarding verified breach of any systems in Contractor's environment or under Contractor's control.
  - d. Contractor is required to notify District within one business day regarding verified breach of any 3rd-Party service(s)/system(s) of Contractor's environment or under Contractor's control.
  - e. Contractor is required to notify District within one business day regarding compromise of any authorized user of District's system(s).

**LAS VEGAS VALLEY WATER DISTRICT  
BOARD OF DIRECTORS  
AGENDA ITEM**

May 4, 2021

**Subject:**  
Agreement

**Petitioner:**  
Doa J. Ross, Deputy General Manager, Engineering

**Recommendations:**  
That the Board of Directors approve and authorize the General Manager to sign an agreement between The Howard Hughes Company, LLC, and the District for construction of the 4125 Zone North Reservoir Inlet/Outlet Pipeline.

**Fiscal Impact:**

None by approval of the above recommendation.

**Background:**

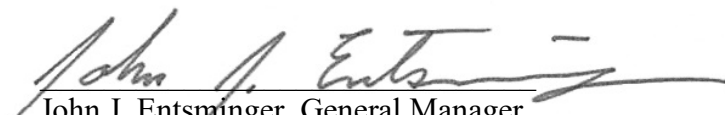
The Howard Hughes Company, LLC (Developer), is proposing to develop property within the District's 3895 and 4125 Pressure Zones. To ensure adequate water service to existing and proposed development and to provide service to future pressure zones in Summerlin, construction of the 4125 Zone North Reservoir Inlet/Outlet Pipeline (Pipeline) is required.

On October 2, 2018, the District and the Developer entered into Agreement No. 135025-A for the design of the Pipeline at the Developer's sole cost and expense, which called for a construction agreement to be executed upon completion of the design.

If approved, the attached Construction Agreement (Agreement) provides the terms and conditions for the Developer to construct the Pipeline, as generally shown on Exhibit 1 of the Agreement. The Agreement requires the Developer, at the Developer's sole cost and expense, to complete the construction of the Pipeline for District approval. Upon completion by the Developer and acceptance by the District, the Pipeline shall be, and remain, the exclusive property of the District.

This agreement is being entered into pursuant to Section 1(13) of the Las Vegas Valley Water District Act, Chapter 167, Statutes of Nevada 1947. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:

  
John J. Entsminger, General Manager  
JJE:DJR:PJJ:RCP:kd  
Attachments

AGENDA  
ITEM #

**3**

## DISCLOSURE OF OWNERSHIP/PRINCIPALS

<b>Business Entity Type (Please select one)</b>						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Privately Held Corporation	<input checked="" type="checkbox"/> Publicly Held Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization
<b>Business Designation Group (Please select all that apply)</b>						
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> VET	<input type="checkbox"/> OVET	<input type="checkbox"/> ESB
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise	Veteran Owned Business	Disabled Veteran Owned Business	Emerging Small Business
<b>Number of Clark County Nevada Residents Employed:</b> 0						
<b>Corporate/Business Entity Name:</b> The Howard Hughes Company, LLC						
<b>(Include d.b.a., if applicable)</b>						
<b>Street Address:</b>		13355 Noel Road, 22nd Floor		<b>Website:</b> www.howardhughes.com		
<b>City, State and Zip Code:</b>		Dallas, Texas 75240		<b>POC Name:</b> Brian Walsh		
				<b>Email:</b> brian.walsh@howardhughes.com		
<b>Telephone No:</b>		214-741-7744		<b>Fax No:</b> 702-791-4385		
<b>Nevada Local Street Address:</b> <b>(If different from above)</b>		10845 Griffith Peak Dr., Suite 160		<b>Website:</b> www.howardhughes.com		
<b>City, State and Zip Code:</b>		Las Vegas, Nevada 89135		<b>Local Fax No:</b> 702-791-4385		
<b>Local Telephone No:</b>		702-791-4000		<b>Local POC Name:</b> Brian Walsh		
				<b>Email:</b> brian.walsh@howardhughes.com		

All entities, with the exception of publicly-traded corporations and non-profit organizations, must list the names of individuals, either directly or indirectly, holding more than five percent (5%) ownership or financial interest in the business entity appearing before the Board of Directors.

Publicly-traded corporations and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest.

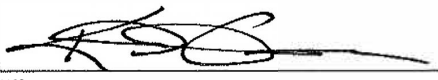
Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned (Not required for Publicly Traded Corporations/Non-profit organizations)
Publicly traded - see attached page		

*This section is not required for publicly-traded corporations.*

- Are any individual members, partners, owners or principals, involved in the business entity, an Entity full-time employee(s), or appointed/elected official(s)?  
☐ Yes      ☐ No      (If yes, please note that the employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)
- Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an Entity full-time employee(s), or appointed/elected official(s)?  
☐ Yes      ☐ No      (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the Board will not take action on any item without the completed disclosure form.

 Signature Vice President Title	Kevin T. Orrock Print Name 09-10-20 Date
---	---

## DISCLOSURE OF RELATIONSHIP

List any disclosures below:  
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF ENTITY* EMPLOYEE/OFFICIAL AND JOB TITLE	RELATIONSHIP TO ENTITY* EMPLOYEE/ OFFICIAL	ENTITY* EMPLOYEE'S/ OFFICIAL'S DEPARTMENT
N/A			

\* Entity employee means an employee of Las Vegas Valley Water District, Southern Nevada Water Authority, or Silver State Energy Association .

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

### For Entity Use Only:

If no Disclosure or Relationship is noted above or the section is marked N/A, please check this box.

☒ No Disclosure

If any Disclosure of Relationship is noted above, please complete the following:

☐ Yes ☐ No Is the Entity employee(s) noted above involved in the contracting/selection process for this particular agenda item?

☐ Yes ☐ No Is the Entity employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

**Nass Diallo**

Digitally signed by Nass  
Diallo  
Date: 2020.09.15 07:42:11  
-07'00'

Signature

Nass Diallo, Acting Manager

Print Name

Authorized Department Representative

## **ATTACHMENT PAGE TO LVVWD DISCLOSURE OF OWNERSHIP/PRINCIPALS**

### **OFFICERS OF THE HOWARD HUGHES COMPANY, LLC**

<b>Name</b>	<b>Title</b>
Paul Layne	Chief Executive Officer
David O'Reilly	President & Chief Financial Officer
Peter F. Riley	Secretary
Kevin Orrock	Vice President
Carlos Olea	Vice President
David Striph	Vice President
Andrew Ciarrocchi	Vice President
Brian Walsh	Vice President
Chad Hastings	Vice President
Danielle Bisterfeldt	Vice President

### **MANAGERS OF THE HOWARD HUGHES COMPANY, LLC**

(A LIMITED LIABILITY COMPANY DOESN'T TYPICALLY HAVE DIRECTORS)

Paul Layne, Manager

David O'Reilly, Manager



**4125 ZONE NORTH RESERVOIR INLET/OUTLET PIPELINE  
CONSTRUCTION AGREEMENT**

The 4125 ZONE NORTH RESERVOIR INLET/OUTLET PIPELINE CONSTRUCTION AGREEMENT (“Agreement”), is entered into as of the Effective Date, by and between the LAS VEGAS VALLEY WATER DISTRICT, a political subdivision of the State of Nevada, hereinafter called “District”, and THE HOWARD HUGHES COMPANY, LLC, a Delaware Limited Liability Company , hereinafter called “Developer”. District and Developer are sometimes hereinafter referred to individually as “Party” and collectively as “Parties”.

**RECITALS**

WHEREAS, the District is engaged in the business of distributing potable water in the City of Las Vegas, Nevada, and portions of the County of Clark, State of Nevada;

WHEREAS, the Developer is desirous of receiving potable water from the District to serve real property located in the District's 4125 Pressure Zone and generally depicted on Exhibit 1 attached hereto (“Property”);

WHEREAS, the District is willing to supply water service to the Property, pursuant to its Service Rules, as adopted by its Board of Directors, that are in force and effect on the Effective Date;

WHEREAS, pursuant to the 4125 Zone North Reservoir Inlet/Outlet Pipeline Design Agreement (“Design Agreement”) entered into between the District and the Developer on October 2, 2018, the Developer designed the water pipeline and appurtenances named the “4125 Zone North Reservoir Inlet/Outlet Pipeline” (“Project”), for the purpose of providing water service of adequate pressure and quantity to said real property, should the property receive a water commitment from the District;

WHEREAS, the Developer desires to construct the Project;

WHEREAS, the District is willing to accept the title to and the maintenance and operation of the Project pursuant to its Service Rules, as adopted by its Board of Directors (“Board”), and in effect as of the Effective Date; and

WHEREAS, the Developer has elected to privately bid the Project for construction, in accordance with NRS 338.0115.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

#### **AGREEMENT**

1. Recitals. The foregoing recitals are incorporated herein.
2. Developer's Real Property. Exhibit 1 generally depicts the true area and extent of the Property.
3. Developer-Required Pipeline Diameter.
  - a. The Developer shall install at Developer's sole cost a 36-inch diameter pipeline in Street Y.
4. Phasing. The Project may be constructed in more than one part, at the sole discretion and approval of the District.
5. Construction Funding.
  - a. The District shall have no financial participation in the cost of the construction of the Project. If the District initiates a change order for the District's sole benefit and if that change order increases the cost of the construction, the change order will be taken to the District's Board of Directors for approval.
  - b. The Developer shall pay all necessary design and construction costs for dust mitigation measures associated with construction of the Project, as required by Clark County Department of Air Quality and its requirements. The Developer's dust mitigation measures shall be acceptable to the Clark County Department of Air Quality and reasonably acceptable to the District. If the Developer's dust mitigation measures are not acceptable to either the Clark County Department of Air Quality or are not reasonably acceptable to the District, the Developer shall revise its dust mitigation measures, at the Developer's sole cost, to meet the Clark County Department of Air Quality's requirements and the District's reasonable requirements.
6. BLM Material Excavation. Should excess excavated material be required to be removed from any District Bureau of Land Management ("BLM") right-of-way grant area, the Developer will prepare the necessary documents showing the District as the purchaser and the Developer shall pay any processing fees and mineral materials fees

required by the BLM. Said documents shall be delivered to the District with the 100% Design submittal. The cash payment in the amount of the mineral materials fees shall be delivered to the District no later than 15 days after the receipt of the offer of the Contract for the Sale of Mineral Materials from the BLM.

7. Shop Drawings:

- a. The Developer's contractor shall provide the District shop drawings, substitute material requests and cut sheets, for its review and process.
- b. The Developer's engineer shall provide a shop drawing stamp on each sheet of every submittal showing technical criteria pertaining to each product. The shop drawing stamp shall be as approved by the District and shall include at a minimum, the contract number reference, the review action taken, the date of the shop drawing review action, and the initials of an engineer within the responsively assigned engineering discipline.
- c. The Developer's contractor shall provide the District with a twenty-one (21) calendar day review period. The Developer's engineer shall complete their review within fourteen (14) days of the receipt from the District. The District reserves the right to take exception to the engineer's shop drawing stamp action.
- d. No shop drawings shall be accepted for review prior to the District's approval of the plans and specifications.

8. Construction.

- a. Developer shall construct the Project, including the installation of the fiber optic conduit:
  - i. At the Developer's sole cost and expense;
  - ii. During normal working hours and days for the District;
  - iii. Designed in accordance with this Agreement and all provisions of the District's Service Rules that are in force and effect on the Effective Date;
  - iv. Furnishing all necessary materials, labor, equipment, and services therefor; and
  - v. Subject to observation by an authorized representative of the District at the sole cost and expense of the District, except as agreed in accordance with this Agreement.

- b. Developer shall provide to the District, thirty (30) days prior to the start of construction, the name, title, address, telephone number and fax number of a designated local Project Administrator who shall have responsible charge of the contract administration for construction of the Project. The District will address all correspondence regarding the Project to the Project Administrator at the designated address or fax number. The mailing or fax transmittal to the Project Administrator of any notice, letter or other communication shall be deemed sufficient service thereof. The date of said service shall be the date of such mailing or fax transmittal. The Project Administrator, or any of the related information may be changed at any time by providing written notification to the District's Construction Division.
- c. Construction, including shop drawings and submittal reviews, of the Project shall not commence prior to approval by the District of the design drawings for the Project.
- d. Developer shall conduct a pre-construction conference at a location, at an hour and on a day mutually acceptable to the Developer and the District.
- e. Developer shall reimburse the District for all direct and indirect costs that the District incurred in the inspection of the construction of the Project, when construction work is performed outside the District's normal working hours and days.
- f. Developer shall provide a fabrication and delivery schedule to the District for mortar lined and coated (MLCP) steel pipe to be installed as part of the Project. Developer shall notify the District at least five weeks prior to the start of pipe fabrication to allow the District, or its designated representative(s), to inspect the pipe fabrication, testing, storage, handling and delivery processes.
- g. Developer shall provide at the Developer's sole cost, third-party inspection(s) to ensure pipe is fabricated and handled in accordance with AWWA C200, C205 and District requirements. Developer shall provide written report of the third-party inspection, certified by a professional engineer registered in the State of Nevada, prior to installation of pipe.
- h. The Developer is fully responsible for ensuring no harm comes to any tortoises found on the work site. Tortoises will not be intentionally killed, harmed or taken

for private use. In the event a desert tortoise is encountered on the Work Site and is in imminent danger, temporarily cease construction operations at location of tortoise, immediately notify the District of occurrence, and a qualified biologist will arrive to remove tortoise.

- i. Developer shall provide ‘as-built’ information to the District within seven calendar days of the final walk-through by the District.

9. Staging Area.

- a. Developer shall provide the District with written permission of the owner of record of any and all public or private property upon which he stockpiles or stores materials and/or equipment.
- b. Material and equipment stored without said permission shall be immediately removed by the Developer at the Developer’s sole expense.
- c. Said permission shall be furnished to the District prior to any use of public or private property.
- d. Upon completion of work on such properties, the Developer shall, as a condition of reimbursement, provide to the District a letter from the owner of each property stating that the property has been left in a condition acceptable to the owner. Acceptance by all property owners is a condition of acceptance of the Project by the District.

10. Project Management Information System.

- a. The Developer shall require its engineer to provide:
  - i. System Access Security Checklist that demonstrates the engineer meets the cyber security requirements of the District. Exhibit 3 attached hereto contains the District’s System Access Security Checklist.
  - ii. Competent staff to interface with the District’s project management information system (“PMIS”) for the construction of the Project.
  - iii. A list of names and corresponding email address of the engineer’s staff who will interface with the District’s PMIS. Exhibit 3 attached hereto contains the District’s System Access Security Checklist.

- b. The Developer's engineer's staff that require access to the District's PMIS will be required to accept the District's conditions of use at time of initial login. Exhibit 2 attached hereto contains the PMIS Terms of Use.
  - c. The Developer shall require its contractor to provide:
    - i. System Access Security Checklist that demonstrates the contractor meets the cyber security requirements of the District.
    - ii. Competent staff to interface with the District's project management information system ("PMIS") for the construction of the Project.
    - iii. A list of names and corresponding email address of the contractor's staff who will interface with the District's PMIS.
  - d. The Developer's contractor staff that require access to the District's PMIS will be required to accept the District's conditions of use at time of initial login. Exhibit 2 attached hereto contains the PMIS Terms of Use.
11. Data Privacy and Security.
- a. During the course of this Agreement, Developer's engineer and contractor will create, receive or have access to the District's Facility Information. Facility Information means drawings, maps, plans or records that reveal the District's critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, other forms of energy, fiber optic cables, or vertical assets used for the transmission or receipt of data or communications used by the District. Facility Information is deemed to be Confidential Information of the District.
  - b. Developer shall require that its engineer and contractor:
    - i. Keep and maintain all Facility Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use, or disclosure;
    - ii. Ensure that all Facility Information is stored only in data center(s) that are subject to United States federal jurisdiction;
    - iii. Not create, collect, receive, access, or use Facility Information in violation of law;

- iv. Use and disclose Facility Information solely and exclusively for the purposes for which the Facility Information, or access to it, is provided pursuant to the terms and conditions of this Agreement;
  - v. Not use, sell, rent, transfer, distribute, or otherwise disclose or make available Facility Information for their own purposes or for the benefit of anyone other than the District without the District's prior written consent; and
  - vi. Not, directly or indirectly, disclose Facility Information to any person other than its Authorized Persons, without the District's prior written consent. Authorized Persons means the Developer's engineer's and contractor's respective employees, contractors, subcontractors, consultants, subconsultants, agents, or auditors who have a need to know or otherwise access Facility Information to enable Developer to perform its obligations under this Agreement, and who are bound in writing by confidentiality and other obligations sufficient to protect Facility Information in accordance with the terms and conditions of this Agreement.
- c. Security Breach means any act or omission that compromises either the security, confidentiality, or integrity of Facility Information or the physical, technical, administrative, or organizational safeguards put in place by the Developer's engineer and contractor or by the District to the extent that Developer's engineer and contractor have access to District's systems, that relate to the protection of the security, confidentiality, or integrity of Facility Information. Without limiting the foregoing, a compromise shall include any unauthorized access to or disclosure or acquisition of Facility Information.
- d. The Developer shall require that its engineer and contractor:
- i. Notify the District of any Security Breach as soon as practicable, but no later than twenty-four (24) hours after the Developer's engineer or contractor becomes aware of it, by telephone at the following number: 702-822-8390 and by email to [james.curbeam@lvvwd.com](mailto:james.curbeam@lvvwd.com) and [brent.gunson@lvvwd.com](mailto:brent.gunson@lvvwd.com), with a copy by email to the District's contacts listed in the Notices Section below;

- ii. At its own expense, coordinate and fully cooperate with the District in the District's handling of the matter;
    - iii. Use its best efforts to immediately contain and remedy any Security Breach and prevent any further Security Breach;
    - iv. Maintain and preserve all documents, records, and other data related to any Security Breach; and
    - v. Reimburse the District for all actual costs incurred by the District in responding to and mitigating damages caused by any Security Breach.
  - e. Developer acknowledges that any breach of its covenants or obligations set forth in this Data Privacy and Security Section may cause District irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, District is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which District may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.
12. Change Orders. To the extent that a change order(s) is initiated by the District for the District's sole benefit, the District shall pay to the Developer the cost of the change order(s). The cost of all other change orders, including but not limited to change orders due to errors or omissions by the Developer's engineer and change orders for the Developer's sole benefit, shall be borne by the Developer.
13. Easements.
- a. The Developer shall provide to the District, at no cost to the District:
    - i. For construction purposes, a temporary easement of sufficient width as approved by the District to ensure that the combined width of the permanent and temporary easements is sufficient to construct the PRV facility. A 30-foot ingress/egress easement shall also be provided to the District for access to the PRV facility, if deemed necessary by the District.



- ii. A permanent easement 50 feet in width, or a width approved by District, for the Project in a form approved by the District. Said easement shall be in an alignment which is mutually acceptable to the Developer and the District and shall extend a minimum of 15 feet on each side of the centerline of the alignment of the Project.
  - iii. For construction purposes, temporary easement of sufficient width to ensure that the combined width of the permanent and temporary easements is a minimum of 100 feet, or a width approved by the District.
- b. Said easements shall be shown on the construction drawings and provided to the District prior to the approval of the drawings by the District.
- c. If a right-of-way grant must be acquired from the BLM, the Developer will prepare all necessary documents showing the District as the applicant and will pay all application and tortoise mitigation fees; the District will submit the documents to the BLM. Temporary easements shall be acquired at the Developer's sole cost and expense from any party whomsoever, including the BLM. The Developer is required to abide by all the terms and conditions of the acquired permanent easements, temporary easements and BLM Grants.
- d. All easement submittals shall be subject to the following requirements: There are two (2) types of permanent easement forms: 1) a “Non-Exclusive Easement” used specifically for single-family residences and pipelines; and 2) an “Exclusive Easement” used for multi-family residences, apartments, condos, and commercial properties for appurtenances (i.e., meters, backflows, AV/AR’s, etc.). The easement documents can be located at [lvvwd.com](http://lvvwd.com) under the Engineering & Construction section. All easements must be submitted to the Districts Land Acquisition and Property Management Division for review and subsequent recording with the Clark County Recorder’s Office.
  - i. Each easement shall consist of only one legal description.
  - ii. The easement is on a District form with all attachments on 8.5-inch x 11-inch paper. All attachments shall be on an 8.5-inch x 11-inch paper.
  - iii. All font size is to be a minimum point 10.

- iv. Clark County Assessor Parcel Number (APN) appears in the upper left corner of each page including the exhibits.
- v. NOTHING is located in the 3-inch x 3-inch area of the upper right corner of the first page. This is for the Recorder's use only.
- vi. A 1-inch margin is required around all pages, with no writing, signatures, stamps, etc., within the 1-inch margin.
- vii. Every portion of the easement document must be an original.
- viii. No punch holes in document allowed. Stapling of document is acceptable.
- ix. The Grantor is the current property owner. A copy of the most current vesting document should accompany the easement document.
- x. The Grantor's name on the first page and the signature on the last page must match, unless it is for a corporation, a LLC, or a partnership, etc. If signing for the Grantor, signatory authorization must be included.
- xi. The name and title of the authorized officer signing the document must be typed or printed beneath the signature.
- xii. Legal descriptions must be stamped and signed by a Professional Land Surveyor (PLS) and must contain his or her mailing address within the document. The date of the signature of the PLS must be prior to or the same date as the date of the signature of the Grantor.
- xiii. Legal description and exhibit shall be numbered consecutive. (Example: Page 1 of 2; Page 2 of 2)
- xiv. If easement legal description references a previously-recorded document as part of the easement description, all information to locate the referenced document (recording information) must be included as part of the easement legal description. A legible copy of the referenced document must be provided with the easement package.
- xv. There is a notary seal on the original easement.
- xvi. The notary stamp is legible and not located over any words or lines.
- xvii. The date and name of individual signing the easement must be clearly printed or typed within the notary statement.

- xviii. All writing on document MUST be in BLACK INK ONLY (no color). The only exception is the signatures, Notary Public or PLS initials, and the notary block, which may be in blue ink.
- xix. If all of the above conditions are not met, the easement may be rejected and/or the Grantor is subject to a \$25 non-compliance fee. This fee is a non-refundable fee charged to the District by the Recorder's office for non-compliant documents.
14. Bill of Sale. Developer shall convey all rights, title and interest in the Project to the District by furnishing a Bill of Sale to the District, on a form provided by the District, after completion of the construction of the work and the acceptance of the work by the District.
15. Liens. Upon completion of the Project, Developer shall certify in writing to the District that the Project will be free of liens and other encumbrances within 30 days of receipt of the unexecuted Bill of Sale from the District.
16. Warranty. Should any defective material or workmanship affecting the Project be discovered within one year of the date of completion and acceptance of the Project by the District, the Developer shall immediately cause the defect to be corrected, or shall reimburse the District for its cost to correct said defect. For the purpose of this Agreement, any leak or break in a pipeline or valve, or any pavement settlement or failure shall be considered conclusive evidence of defective materials and/or workmanship. Any correction actions shall themselves be warranted for a one year period from the date of correction. A one-year maintenance bond for ten percent of the construction cost of the Project shall be provided in accordance with District requirements. The effective date of the bond shall be the date of acceptance of the Project by the District.
17. District Ownership. After the District's receipt of the Bill of Sale, the Project shall be and shall remain the exclusive property of the District, which the District will maintain and operate after receipt of the Bill of Sale, in accordance with the District's Service Rules in effect on the date of this Agreement, or as they may be amended from time to time. The District retains the right to alter or modify the function or design of the Project after completion.

18. No Water Commitment.

- a. With the exception of parent final maps that are crated to sell to developers for future subdivision, no real property shall receive a water commitment from the District by virtue of the design and construction of the Project. Nothing in this Agreement or any actions taken pursuant to this Agreement shall commit water service to any property.
- b. Nothing in this Agreement commits or reserves water capacity in the pipeline being constructed or in the District's water system.
- c. This Agreement does not grant the Developer any property right in water service to any of the Developer's property. Water service and water connections are governed by the District Service Rules in effect at the time the application is made for water service or a water connection and can only be granted if the application conforms to the then existing District Service Rules, and if the District has capacity in both the Project and in its water system such that water service or a water connection will not damage or reduce service to other customers of the District.

19. Project Sizing.

- a. The Project are sized to ultimately provide water service to development other than that described herein.
- b. Any other developments shall not receive a water commitment from the District by virtue of the construction of the Project.
- c. The District may reserve capacity in the Project for development other than described herein.

20. Water Conservation Requirements. Developer shall require that the Property shall:

- a. Require the use of smart irrigation controllers bearing the U.S. EPA WaterSense label for the irrigation of any turf or landscaping. A “smart irrigation controller” is an irrigation controller or timer that has built-in water efficiency features including a sensor to adjust to the optimal irrigation run time based on the local weather, historical weather, soil, and evaporation conditions. In large applications where WaterSense labeled products are not reasonably available, systems must create or modify irrigation schedules based on evapotranspiration (ET) principles by one or more of the following methods:

- i. Storing historical crop Evapotranspiration (ETc) data characteristics of the site and modifying these data with an onsite sensor;
  - ii. Using onsite weather sensors as a basis for calculating real time ETc;
  - iii. Using a central weather station as a basis for ETc calculations and transmitting the data to individual controllers from remote sites; or
  - iv. Using onsite weather sensors.
- b. Prohibit the installation of manmade lakes and manmade decorative water features.
  - i. “Manmade lakes” mean every manmade body of water including lakes, ponds, lagoons and reservoirs (excluding tank-type reservoirs which are fully enclosed and contained) that are filled, or refilled, with water or reclaimed wastewater from any source, for recreational, scenic or landscape purposes; except for swimming pools, manmade decorative water features or manmade recreational water theme parks.
  - ii. “Manmade decorative water features” means any manmade stream, fountain, waterfall, or other manmade water feature containing water that flows or is sprayed into the air, constructed for decorative, scenic or landscape purposes, excluding swimming pools, manmade lakes and manmade recreational water theme parks.
- c. Prohibit the installation of any non-functional turf.
  - i. Non-functional turf is generally defined as turf installed with limited recreational value including, but not limited to, front yards, median strips, and parkways.
  - ii. Specifically, the Developer shall prohibit the installation of turf:
    - 1. In areas less than 1,500 contiguous square feet;
    - 2. Less than 30 feet in any dimension;
    - 3. Closer than 10 feet to a street;
    - 4. In front of entryways to residential neighborhoods or subdivisions where other recreational amenities do not exist;
    - 5. On slopes that exceed 25 percent;
    - 6. Where sloped areas are not graded to prevent runoff, except in designated drainage areas; and

7. The installation of cool-season turf such as fescue in recreational areas. Any turf installed in recreation areas such as parks shall utilize water-efficient (otherwise referred to as warm-season) species such as Bermuda that will be dormant in the winter.

Developer shall require the water conservation requirements be binding upon all successors and assigns in perpetuity. Developer shall further require that these water conservation requirements be included in any deed or other written instrument affecting title to the Property, with that deed or other written instrument being recorded with the Clark County Recorder.

21. Insurance.

- a. Throughout the construction of the Project, the Developer shall require that its engineer:
  - i. Carry general liability insurance with limits of no less than \$2,000,000 per occurrence, and a \$3,000,000 aggregate covering personal injury and property damage claims;
  - ii. Carry Worker's Compensation coverage as required by Nevada Statute with Employer's Liability limits of no less than \$500,000;
  - iii. Carry Professional Liability Insurance with limits of no less than \$1,000,000 per claim;
  - iv. Carry Cyber and Technology liability insurance providing coverage for technology and professional services, privacy and cyber security, and privacy regulatory defense, awards and fines with limits of \$1,000,000 per occurrence and \$1,000,000 annual aggregate;
  - v. Name the District and Developer as an additional insured under all insurance policies;
  - vi. Waive its right of subrogation for any loss related to against the District and the Developer; and
  - vii. Furnish to the District and the Developer a Certificate of Insurance evidencing such insurance within 15 days after execution of this Agreement.

- b. Throughout the Developer's construction of the District Project, the Developer shall require that its contractor:
  - i. Carry general liability insurance with limits of no less than \$2,000,000 per occurrence, and a \$3,000,000 aggregate covering personal injury and property damage claims;
  - ii. Carry Worker's Compensation coverage as required by Nevada Statute with Employer's Liability limits of no less than \$500,000;
  - iii. Carry Cyber and Technology liability insurance providing coverage for technology and professional services, privacy and cyber security, and privacy regulatory defense, awards and fines with limits \$1,000,000 per occurrence and \$1,000,000 annual aggregate;
  - iv. Name the District and the Developer as additional insured under all insurance policies; and
  - v. Waive its right of subrogation for any loss related to the construction of the Project against the District and the Developer

All insurance required under this article shall be primary (pay first) with respect to any other insurance which may be available to the District, regardless of how the "other insurance" provisions may read.

- c. The Developer shall provide proof of all insurance requirements in this section within two weeks of the Effective Date. If the Developer has not contracted with its contractor at the time of the Effective Date, the Developer shall provide proof of all insurance requirements in this section within two weeks of contracting with its contractor.

22. Compliance with All Laws and Regulations.

- a. The Developer shall comply and require that its engineer and contractor comply with all provisions of the District's Service Rules that are in force and effect on the Effective Date, as they may pertain to the construction of the District Project.
- b. The Developer and its officers, employees, agents, contractors, licensees or invitees, at no cost to the District, shall at all times comply with all applicable laws, ordinances, statutes, rules, acts or regulations in effect or that become in effect during the time work is performed under this Agreement, including but not limited

to those laws outlined by the Endangered Species Act of 1973, and the Clark County Desert Conservation Plan, August 1, 1995.

23. Indemnification and Hold Harmless.

- a. The Developer shall indemnify, defend and hold the District, its directors, officers, employees and related entities (collectively the “District Parties”) harmless from any and all claims, demands, liens, actions, damages, costs, expenses, and attorneys’ fees based upon or arising out of alleged acts or omissions of the Developer or its officers, employees, agents, contractors, licensees or invitees in connection with the design, construction and installation of the Project. Regardless of the foregoing, the Developer shall not be required to indemnify the District Parties for negligent acts of the District Parties.
- b. The Developer shall indemnify, defend and hold the District Parties harmless from all damage or injury that may be caused on any property by trespass of the Developer’s officers, employees, agents, contractors, licensees, or invitees whether the said trespass was committed with or without the consent or knowledge of the Developer.
- c. As required in the Design Agreement, the Developer shall continue to include in its separate contract with its engineer the requirement that the Developer’s engineer indemnify, defend and hold the District Parties harmless from any and all claims, demands, liens, actions, damages, costs, expenses, and attorneys’ fees based upon or arising out of alleged acts or omissions of the engineer or its officers, employees, agents, contractors, licensees or invitees during the design and construction of the Project. Regardless of the foregoing, the Developer’s engineer shall not be required to indemnify the District Parties for negligent acts of the District Parties.
- d. The Developer shall include in its separate contract with its contractor the requirement that the Developer’s contractor indemnify, defend and hold the District Parties harmless from any and all claims, demands, liens, actions, damages, costs, expenses, and attorneys’ fees based upon or arising out of alleged acts or omissions of the contractor or its officers, employees, agents, contractors, licensees or invitees during the construction of the Project. Regardless of the foregoing, the Developer’s



contractor shall not be required to indemnify the District Parties for negligent acts of the District Parties.

- e. The Developer shall cause the District Parties to be immune for any breach of this Agreement caused by an incorrect date being produced, calculated, or generated by a computer or other information system that is owned or operated by the District Parties, regardless of the cause of the error (reference NRS 41.0321).

24. Not used.

25. Termination.

- a. This Agreement shall automatically terminate if:
  - i. The construction of the Project is not started within one year from the date of District approval of construction drawings; or
  - ii. If active construction work is discontinued for a period of one year.
- b. The District may terminate the Agreement, at its sole option, if the construction is commenced with said one-year period but is not diligently prosecuted to completion in a manner acceptable to the District. Termination for failure to diligently prosecute shall occur upon the District's written notice that the Developer has not followed the conditions of this Agreement.
- c. This Agreement shall automatically terminate if construction of the Project is not started within one year from the date of District approval of construction drawings; or if active construction work is discontinued for a period of one year; or if such construction is commenced within said one year period, but is not diligently prosecuted to completion in a manner acceptable to the District. Termination under this paragraph shall occur upon the District's written notice that the Developer has not followed the conditions of this Agreement.
- d. If this Agreement terminates in accordance with this Agreement, and the Project is providing water service to any District customers, then right, title and interest of all or any portion of the Project, as determined solely and exclusively by the District, shall become the exclusive property of the District for the District to use, modify, or to dispose of as the District deems appropriate.
- e. If this Agreement terminates in accordance with provisions of this Agreement, and the Project is providing water service to any District customers, then Developer

shall, within five business days, transfer all right, title and interest of all or any portion of the Project, as determined solely and exclusively by the District, to the District for the District to use, modify, or to dispose of as the District deems appropriate.

26. Effective Date. The effective date of this Agreement is the date that the Agreement is executed by the District's General Manager or its designee.

27. Confidentiality and Release of Information.

- a. Through the term of this Agreement, a Party may furnish the other Party with information that the disclosing Party has independently determined to be confidential under Nevada law and that disclosing Party will label "Confidential Information". "Confidential Information" means confidential and proprietary information of the disclosing Party that is disclosed to the receiving Party which, in the case of written information, is marked "confidential" and which, in the case of information disclosed orally, is identified at the time of the disclosure as confidential and will be summarized and confirmed in writing as such by disclosing Party to the receiving Party within 30 calendar days of the disclosure.
- b. Confidential Information shall not include information that: (1) is now or subsequently becomes generally available to the public through no fault or breach of the receiving Party; (2) the receiving Party can demonstrate to have had rightfully in its possession prior to disclosure by the disclosing Party; (3) is independently developed by the receiving Party without the use of any Confidential Information; or (4) the receiving Party rightfully obtains from a third party who has the right to transfer or disclose it.
- c. The Parties recognize the District's duties under the Nevada Public Records Act and do not, by this Agreement, intend to alter the District's duties thereunder or to require the District to do, or refrain from doing, anything contrary to the Nevada Public Records Act. The District's Office of General Counsel shall be permitted to make an independent determination as to whether any document or record marked "confidential" by the Developer is confidential or is a public record, pursuant to the Nevada Public Records Act. If the District's Office of General Counsel determines that any document or record supplied by the Developer and marked "confidential"

is determined to be a public record, the District may disclose that document or record to the extent required by the Nevada Public Records Act with prior notice to the Developer. Upon receipt of any request for the Developer's Confidential Information, this Agreement, or any part thereof, the District will promptly forward the request to the Developer and work with the Developer in good faith to minimize the extent of the disclosure to the extent requested by the Developer and permitted by the Nevada Public Records Act. The District shall not be required to expend funds in conjunction with working with the Developer regarding the disclosure.

- d. The Developer shall make public information releases relating to the Project only as provided for and in accordance with this Agreement. Any and all other public releases of information gathered, obtained, or produced during the performance of this Agreement must be specifically approved in writing by the District prior to release. Such information shall include, but is not limited to, all products, intellectual property, work product, ideas, data, reports, background materials, and any and all other materials belonging to the District. Such public releases of information shall include, but are not limited to, publication in any book, newspaper, magazine, professional or academic journal, the Internet, radio, television, and presentations to professional, academic, and/or other groups or conferences.

28. Use of Materials.

- a. The District shall make available to the Developer such materials from its files as may be required by the Developer in connection with the design and construction of the Project. Such materials shall remain the property of the District while in the Developer's possession.
- b. Upon completion or termination of this Agreement, the Developer shall turn over and ensure that its contractor returns to the District any property of the District in the possession or the Developer or its designer or its contractor as applicable.

29. Records. The Developer shall retain financial and other records related to this Agreement for six (6) years after the completion or termination of this Agreement and shall make available to the District for inspection, all books, records, documents, and

other evidence directly pertinent to performance under this Agreement upon reasonable notice.

30. Assignment. The Developer shall not assign or transfer its interest in this Agreement without the prior written consent of the District. If the Developer assigns or transfers without prior written consent, the assignment or transfer shall be void, and not merely voidable.
31. Severability. If any term of this Agreement is to any extent illegal, invalid, or unenforceable, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms of this Agreement shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term. If application of this Paragraph should materially and adversely affect the economic substance of the transactions contemplated in this Agreement, the Party adversely impacted shall be entitled to compensation for such adverse impact.
32. Non-Discriminatory Employee Practices and Equal Employment Opportunity. In connection to the subject matter of this Agreement:
  - a. The Developer, its engineer, its contractor, and any subcontractor(s), who is responsible for the selection, referral, hiring, or assignment of workers in constructing the District Project, are required to comply with all applicable provisions of Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act, the Civil Rights Act of 1991, the Equal Pay Act, Title I of the Americans with Disabilities Act and all associated rules and regulations, including the Equal Employment Opportunity Commission regulations that prohibit discrimination based upon race, color, religion, sex, sexual orientation, age, or national origin.
  - b. The Developer recognizes that if it, its contractor, or any subcontractor(s) working on the construction of the Project is found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other protected status, the District may declare the

Developer in breach of the Agreement, terminate the Agreement, and designate the Developer as non-responsible.

- c. The Developer shall make and ensure that its contractor makes all necessary documentation as required to comply with the Acts referred to above and shall make such documentation immediately available to the District upon the District's request. The Developer is solely liable for failure to comply with this provision.
33. No Joint Venture. Nothing herein shall be construed to imply a joint venture, an employer and employee relationship, or principal and agent relationship.
34. Applicable Law. Nevada law shall govern the interpretation of this Agreement, without reference to its choice of law provisions.
35. Interpretation. The Parties agree that neither Party shall be deemed the drafter of this Agreement and, in the event this Agreement is ever construed by a court of law or equity, such court shall not construe this Agreement or any provision hereof against either Party as drafter of this Agreement.
36. Venue. The Parties agree that venue for any dispute arising from the terms of this Agreement shall be Clark County, Nevada.
37. Attorney's Fees. In the event that any Party commences an action to enforce or interpret this Agreement, or for any other remedy based on or arising from this Agreement, the prevailing party therein shall be entitled to recover its reasonable attorneys' fees and costs incurred.
38. No Third-Party Rights. This Agreement is not intended by the Parties to create any right in or benefit to parties other than the District and the Developer. This Agreement does not create any third-party beneficiary rights or causes of action.
39. Waiver. The failure of either Party to enforce at any time, or for any period of time, the provisions hereof shall not be construed as a waiver of such provisions or of the rights of such Party to enforce each and every such provision.
40. Authority to Execute. Each Party hereto warrants to the other that it, and its signatory hereunder, is duly authorized and empowered to execute this Agreement and to bind said Party to the terms of this Agreement.
41. Captions. The captions contained in this Agreement are for reference only and in no way to be construed as part of this Agreement.

42. Counterparts. This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which, when so executed, shall be deemed an original, and all counterparts together shall constitute one and the same instrument.
43. Integration. This Agreement contains the entire understanding between the Parties relating to the transactions contemplated by this Agreement, notwithstanding any previous negotiations or agreements, oral or written, between the Parties with respect to all or any part of the subject matter hereof. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, regarding the subject matter of this Agreement are merged in this Agreement and shall be of no further force or effect.
44. Notices. Any and all notices, demands or requests required or appropriate under this Agreement (including invoices) shall be given in writing and signed by a person with authorization to bind the Developer or the District, either by personal delivery, via a scanned document sent via email, or by registered or certified mail, return receipt requested, addressed to the following addresses:

To Developer:           The Howard Hughes Company, LLC  
                                  Attention: SCP, Summerlin MPC Residential  
                                  10845 Griffith Peak Drive, Suite 160  
                                  Las Vegas, NV 89135  
                                  Brian.walsh@howardhughes.com

To District:             Las Vegas Valley Water District  
                                  Attention: Peter Jauch  
                                  PO Box 99956  
                                  Las Vegas, NV 89193-9956  
                                  Peter.Jauch@lvvwd.com

With copy to:           Las Vegas Valley Water District  
                                  Attention: General Counsel  
                                  1001 South Valley View Blvd., MS 480  
                                  Las Vegas, NV 89153  
                                  generalcounsel@lvvwd.com

When notice is given by email transmission, it shall be deemed served upon receipt of confirmation of transmission if transmitted during normal business hours or, if not transmitted during normal business hours, on the next business day following the email transmission.

The Parties may designate a new contact person under this provision for notices or invoices or change the addresses or email addresses identified above by notifying the other Party in writing.

45. Amendment. This Agreement and its Exhibits contain the entire agreement between the Parties and this Agreement may only be amended or modified in a writing stating specifically that it amends this Agreement and is signed by an authorized representative of each Party.
46. Electronic Signatures. Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties are intended to authenticate this writing and to have the same force and effect as manual signatures.

IN WITNESS WHEREOF, the Developer has executed this Agreement on \_\_\_\_\_.

THE HOWARD HUGHES COMPANY, LLC, a  
Delaware limited liability company

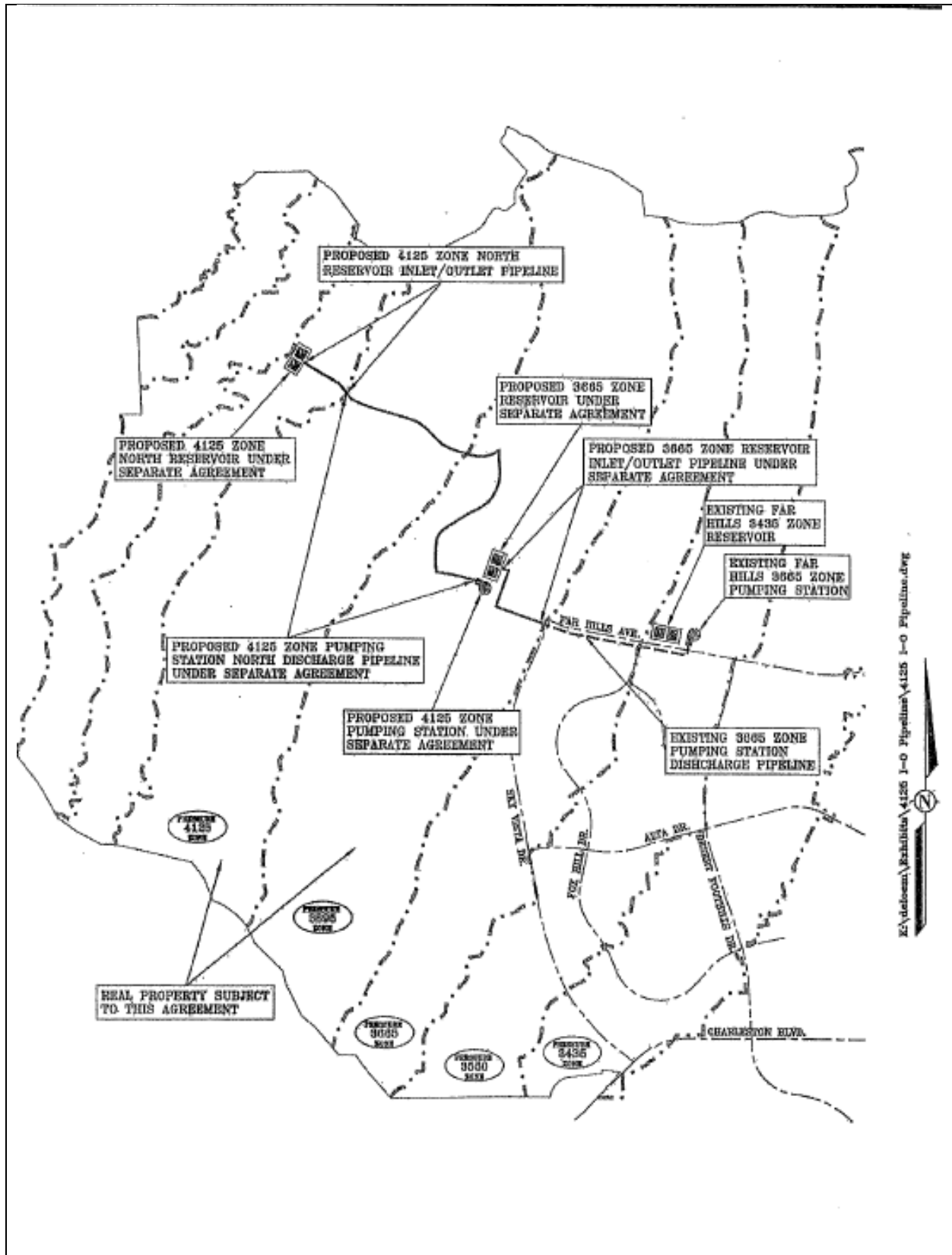
\_\_\_\_\_  
Kevin T. Orrock, Vice President

THIS AGREEMENT shall be in full force and effect as of the last signature below, when it was duly signed by the Las Vegas Valley Water District.

LAS VEGAS VALLEY WATER DISTRICT

\_\_\_\_\_  
John J. Entsminger, General Manager

# EXHIBIT 1





## **EXHIBIT 2**

### **Project Management Information System Terms of Use**

Due to the sensitive nature of information contained within the Project Management Information System (PMIS), the Las Vegas Valley Water District and Southern Nevada Water Authority (“Organization”) require that all users (whether contractor, design professional, Organization employee, or other user) agree to the PMIS terms of use. By checking the “Accept” box, User agrees to be bound by and to bind its employees to the following terms of use (“Terms of Use”).

1. Access to PMIS provided by the Organization is for authorized users and organizations only. To protect this software from unauthorized use and to ensure that the software functions properly, activities on PMIS and use of this application, related data, and/or related services (collectively “PMIS Services”) are monitored and recorded and subject to audit.
2. User and its employees will abide by the typical use of protected applications/software, including but not limited to:
  - a. Authorized users cannot give out their login information to another party.
  - b. Authorized users shall notify the Organization within 2 business days of any changes in their employment to allow for an appropriate adjustment in their access privileges.
  - c. Access to PMIS will be revoked upon completion of the Work, termination of the Agreement, or the individual user’s separation from performing duties associated with the Work, whichever comes first.
  - d. These PMIS Services are provided for the convenience of contractors and engineering firms. The Organization is not responsible for any issues created by a malfunction of these PMIS Services.
  - e. User agrees to use PMIS for Work related content. The use of PMIS as a document management system to store unrelated documents or files is expressly prohibited.
  - f. User agrees not to remove or modify any copyright or other intellectual property notices that appear in PMIS or associated PMIS Services.
3. User agrees not to use the PMIS Services in any way that is unlawful, or harms the Organization, its service providers, suppliers or any other user. User agrees not to use the PMIS Services in any way that breaches any other policy or notice on the PMIS Services. The Organization’s failure to act with respect to a breach by User or others does not waive its right to act with respect to subsequent or similar breaches.
4. NO WARRANTY. The Organization provides the PMIS Services “As Is,” “With All Faults” and “As Available,” and the entire risk as to satisfactory quality, performance, accuracy, and effort is with you, to the maximum extent permitted by applicable law. The Organization and its suppliers make no representations, warranties or conditions, express or implied. The Organization and its suppliers expressly disclaim any and all warranties or conditions, express, statutory and implied, including without limitation (A) warranties or conditions of merchantability, fitness for a particular purpose, workmanlike effort, accuracy, title, no encumbrances, no liens and non-infringement,

(B) warranties or conditions arising through course dealing or usage of trade, and (C) warranties or conditions of uninterrupted or error-free access or use.

5. **LIABILITY LIMITATION; EXCLUSIVE REMEDY.** In addition to applicable Nevada laws regarding sovereign immunity, in no event will the Organization or any supplier be liable for any damages, including without limitation any indirect, consequential, special, incidental, or punitive damages arising out of, based on, or resulting from these Terms of Use or User's use of the PMIS Services, even if such party has been advised of the possibility of such damages. The exclusion of damages under this paragraph is independent of the user's exclusive remedy and survives in the event such remedy fails of its essential purpose or is otherwise deemed unenforceable. These limitations and exclusions apply without regard to whether the damages arise from (A) breach of contract, (B) breach of warranty, (C) negligence, or (D) any other cause of action, to the extent such exclusion and limitations are not prohibited by applicable law. If User has any dispute or claim against the Organization or its suppliers with respect to these Terms of Use or the PMIS Services, then User's sole and exclusive remedy is to discontinue using these PMIS Services.
6. The Organization reserves the right to change the Terms of Use and will provide notice of any change to User. Continued use of the PMIS Services after the effective date of such changes will constitute acceptance of and agreement to any such changes. The Organization may change, suspend or discontinue the PMIS Services associated with PMIS at any time without notice to all or selected users. The Organization may assign these Terms of Use, in whole or in part, at any time with or without notice to User. User may not assign these Terms of Use, or assign, transfer or sublicense its rights, if any, in the PMIS Services.
7. These Terms of Use are governed by the laws of the State of Nevada, without giving effect to its conflict of laws provisions. User agrees to submit to exclusive jurisdiction and venue in the state and federal courts sitting in Clark County, Nevada for any and all disputes, claims and actions arising from or in connection with the PMIS Services and/or these Terms of Use.
8. If any part of these Terms of Use is determined to be invalid or unenforceable, then the invalid or unenforceable provision will be replaced with a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these Terms of Use will continue in effect.
9. Except as expressly stated herein, these Terms of Use constitute the entire agreement between the Organization and User with respect to the PMIS Services and supersede all prior or contemporaneous communications of any kind between the Organization and User with respect to the PMIS Services.
10. The PMIS Services are subject to the intellectual property rights of the Organization and to the Nevada Public Records Law.

### EXHIBIT 3

#### System Access Security Checklist

Contractor is required to complete the following checklist verifying the following minimum security standards are met for use of District provided applications.

INFORMATION SECURITY CONCERN	YES	NO
1) All computing devices used to connect with District's systems are:		
a) Kept current with operating system patches	<input type="checkbox"/>	<input type="checkbox"/>
b) Kept current with software patches	<input type="checkbox"/>	<input type="checkbox"/>
c) Kept current with antivirus updates	<input type="checkbox"/>	<input type="checkbox"/>
d) Enabled with a host-based firewall	<input type="checkbox"/>	<input type="checkbox"/>
e) Accessing District's systems only from within US boundaries	<input type="checkbox"/>	<input type="checkbox"/>
2) Contractor maintains policies within their organization that cover:		
a) Acceptable Use of Technology Resources	<input type="checkbox"/>	<input type="checkbox"/>
b) Incident Response	<input type="checkbox"/>	<input type="checkbox"/>
c) Breach Notification	<input type="checkbox"/>	<input type="checkbox"/>
d) Account & Password Management	<input type="checkbox"/>	<input type="checkbox"/>
e) Session Management	<input type="checkbox"/>	<input type="checkbox"/>
f) User Cybersecurity Awareness Training	<input type="checkbox"/>	<input type="checkbox"/>
3) Contractor will notify District, within 24 hours, confirmation of:		
a) Termination of any authorized user	<input type="checkbox"/>	<input type="checkbox"/>
b) Loss of any device used to access District's system(s)	<input type="checkbox"/>	<input type="checkbox"/>
c) Breach of any Contractor system(s)	<input type="checkbox"/>	<input type="checkbox"/>
d) Breach of any vendor 3rd-Party service(s)/system(s)	<input type="checkbox"/>	<input type="checkbox"/>
e) Compromise of any Contractor account(s)	<input type="checkbox"/>	<input type="checkbox"/>

Any questions regarding this checklist should be directed to Ryan Pearson at [ryan.pearson@lvvwd.com](mailto:ryan.pearson@lvvwd.com).

Please refer to the following page for additional information regarding these requirements.

#### **CONTRACTOR INFORMATION:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Legal Name of Company

\_\_\_\_\_  
Name and Title of Authorized Representative

**Please review this supplemental information for guidance on the questions from page 1.**

1.
  - a. The operating systems (e.g. Windows/MacOS) must be updated within 90 days of the last version issued by the operating system manufacturer.
  - b. Installed software must be updated within 90 days of the last version issued by the software manufacturer.
  - c. Antivirus/Antimalware software must be installed and maintained with antivirus updates installed daily.
  - d. The PC or laptop must have a firewall installed, enabled and configured to block unauthorized network traffic.
  - e. Access to District's system(s) from outside of United States boundaries must be authorized in advance and in writing.
2.
  - a. A policy for Acceptable Use of Technology Resources would include, but not be limited to: proper use of communication channels, internet use, restrictions against fraud and/or malicious activity, restrictions against circumventing security, data loss prevention, and authorized remote access.
  - b. An Incident Response Plan outlines the process of how a compromised system in Contractor's environment is addressed. It should follow a nationally recognized standard such as NIST.
  - c. A Breach Notification Plan outlines how, and how soon, Contractor will notify District when any system in Contractor's environment (or control) is compromised (regardless of data loss).
  - d. A policy for Account & Password Management outlines how Contractor manages user accounts within District's organization, from creation to deletion, along with password complexity rules and password reuse guidelines.
  - e. A Session Management policy outlines how long a computer, desktop application, or web application can remain idle before logging out a user. It also outlines requirements for screen locking when a device is unattended.
  - f. User Cybersecurity Awareness Training is an education program for staff within Contractor's organization. The program would address safe internet activity, safe email practices, how to respond to malware and other cyber security matters that affect Contractor's organization.
3.
  - a. Contractor is required to notify District within one business day regarding termination of any authorized user of District's system(s).
  - b. Contractor is required to notify District within one business day regarding loss of any device used to access District's system(s).
  - c. Contractor is required to notify District within one business day regarding verified breach of any systems in Contractor's environment or under Contractor's control.
  - d. Contractor is required to notify District within one business day regarding verified breach of any 3rd-Party service(s)/system(s) of Contractor's environment or under Contractor's control.
  - e. Contractor is required to notify District within one business day regarding compromise of any authorized user of District's system(s).

**LAS VEGAS VALLEY WATER DISTRICT  
BOARD OF DIRECTORS  
AGENDA ITEM**

May 4, 2021

**Subject:**

Agreement

**Petitioner:**

Doa J. Ross, Deputy General Manager, Engineering

**Recommendations:**

That the Board of Directors approve and authorize the General Manager to sign an agreement between The Howard Hughes Company, LLC, and the District for staff augmentation on 4125 Zone related projects that have Howard Hughes Company, LLC, developer construction agreements.

**Fiscal Impact:**

None by approval of the above recommendation.

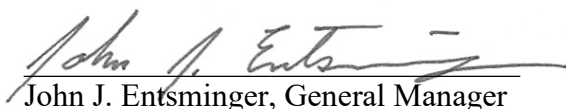
**Background:**

The Howard Hughes Company, LLC (Developer), has executed construction agreements with the District for the 4125 Zone North Reservoir and the 4125 Zone Pumping Station, and pending construction agreements for the 4125 Zone North Reservoir Inlet/Outlet Pipeline and the 4125 Zone Pumping Station Discharge Pipeline Phase I and Phase II (4125 Zone Related Projects), all of which are scheduled to begin construction in Spring 2021. The District has several significant construction projects scheduled that overlap with the Developer's 4125 Zone Related Projects that would overextend the District's construction management and inspection resources over the next 18 months.

If approved, the attached Construction Management Agreement (Agreement) provides the terms and conditions for the Developer to provide, at no cost or expense to the District, staff augmentation for construction management and inspection services support on the Developer's 4125 Zone Related Projects, as generally shown on Exhibit A of the Agreement, that have executed Developer construction agreements.

This Agreement is being entered into pursuant to Section 1(13) of the Las Vegas Valley Water District Act, Chapter 167, Statutes of Nevada 1947. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:

  
John J. Entsminger, General Manager

JJE:DJR:PJJ:an

Attachments

AGENDA  
ITEM #

**4**

## DISCLOSURE OF OWNERSHIP/PRINCIPALS

<b>Business Entity Type (Please select one)</b>						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Privately Held Corporation	<input checked="" type="checkbox"/> Publicly Held Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization
<b>Business Designation Group (Please select all that apply)</b>						
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> VET	<input type="checkbox"/> OVET	<input type="checkbox"/> ESB
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise	Veteran Owned Business	Disabled Veteran Owned Business	Emerging Small Business
<b>Number of Clark County Nevada Residents Employed:</b> 0						
<b>Corporate/Business Entity Name:</b> The Howard Hughes Company, LLC						
<b>(Include d.b.a., if applicable)</b>						
<b>Street Address:</b>		13355 Noel Road, 22nd Floor		<b>Website:</b> www.howardhughes.com		
<b>City, State and Zip Code:</b>		Dallas, Texas 75240		<b>POC Name:</b> Brian Walsh		
				<b>Email:</b> brian.walsh@howardhughes.com		
<b>Telephone No:</b>		214-741-7744		<b>Fax No:</b> 702-791-4385		
<b>Nevada Local Street Address:</b>		10845 Griffith Peak Dr., Suite 160		<b>Website:</b> www.howardhughes.com		
<b>(If different from above)</b>						
<b>City, State and Zip Code:</b>		Las Vegas, Nevada 89135		<b>Local Fax No:</b> 702-791-4385		
<b>Local Telephone No:</b>		702-791-4000		<b>Local POC Name:</b> Brian Walsh		
				<b>Email:</b> brian.walsh@howardhughes.com		

All entities, with the exception of publicly-traded corporations and non-profit organizations, must list the names of individuals, either directly or indirectly, holding more than five percent (5%) ownership or financial interest in the business entity appearing before the Board of Directors.

Publicly-traded corporations and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest.

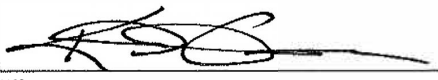
Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned (Not required for Publicly Traded Corporations/Non-profit organizations)
Publicly traded - see attached page		

*This section is not required for publicly-traded corporations.*

- Are any individual members, partners, owners or principals, involved in the business entity, an Entity full-time employee(s), or appointed/elected official(s)?  
☐ Yes      ☐ No      (If yes, please note that the employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)
- Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an Entity full-time employee(s), or appointed/elected official(s)?  
☐ Yes      ☐ No      (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the Board will not take action on any item without the completed disclosure form.

 Signature Vice President Title	Kevin T. Orrock Print Name 09-10-20 Date
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## DISCLOSURE OF RELATIONSHIP

List any disclosures below:  
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF ENTITY* EMPLOYEE/OFFICIAL AND JOB TITLE	RELATIONSHIP TO ENTITY* EMPLOYEE/ OFFICIAL	ENTITY* EMPLOYEE'S/ OFFICIAL'S DEPARTMENT
N/A			

\* Entity employee means an employee of Las Vegas Valley Water District, Southern Nevada Water Authority, or Silver State Energy Association .

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

### *For Entity Use Only:*

If no Disclosure or Relationship is noted above or the section is marked N/A, please check this box.

☒ No Disclosure

If any Disclosure of Relationship is noted above, please complete the following:

☐ Yes ☐ No Is the Entity employee(s) noted above involved in the contracting/selection process for this particular agenda item?

☐ Yes ☐ No Is the Entity employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

**Nass Diallo**  
Digitally signed by Nass  
Diallo  
Date: 2020.09.15 07:42:11  
-07'00'

Signature

Nass Diallo, Acting Manager

Print Name

Authorized Department Representative

## **ATTACHMENT PAGE TO LVVWD DISCLOSURE OF OWNERSHIP/PRINCIPALS**

### **OFFICERS OF THE HOWARD HUGHES COMPANY, LLC**

<b>Name</b>	<b>Title</b>
Paul Layne	Chief Executive Officer
David O'Reilly	President & Chief Financial Officer
Peter F. Riley	Secretary
Kevin Orrock	Vice President
Carlos Olea	Vice President
David Striph	Vice President
Andrew Ciarrocchi	Vice President
Brian Walsh	Vice President
Chad Hastings	Vice President
Danielle Bisterfeldt	Vice President

### **MANAGERS OF THE HOWARD HUGHES COMPANY, LLC**

(A LIMITED LIABILITY COMPANY DOESN'T TYPICALLY HAVE DIRECTORS)

Paul Layne, Manager

David O'Reilly, Manager



## **4125 NORTH ZONE FACILITIES**

### **CONSTRUCTION MANAGEMENT AGREEMENT**

The 4125 ZONE NORTH FACILITIES CONSTRUCTION MANAGEMENT AGREEMENT (“Agreement”), is entered into as of the Effective Date (as defined in Section 10 below), by and between the LAS VEGAS VALLEY WATER DISTRICT, a political subdivision of the State of Nevada, hereinafter called “District”, and THE HOWARD HUGHES COMPANY, LLC a Delaware limited liability company, hereinafter called “Developer”. District and Developer are sometimes hereinafter referred to individually as “Party” and collectively as “Parties”.

### **RECITALS**

WHEREAS, the District is engaged in the business of distributing potable water in the City of Las Vegas, Nevada, and portions of the County of Clark, State of Nevada;

WHEREAS, the Developer is desirous of receiving potable water from the District to serve real property located in the District's 4125 Pressure Zone and generally depicted on Exhibit A attached hereto (“Property”);

WHEREAS, the District is willing to supply water service to the Property, pursuant to its Service Rules, as adopted by its Board of Directors, that are in force and effect on the Effective Date;

WHEREAS, Developer and the District have previously executed agreements for the design and/or construction of the following facilities to serve Developer’s real property:

- 4125 Zone North Reservoir,
- 4125 Zone Pumping Station,
- 4125 Zone North Reservoir Inlet/Outlet Pipeline,
- 4125 Zone Pumping Station Discharge Pipeline, Phase I, and
- 4125 Zone Pumping Station Discharge Pipeline, Phase II,

with all facilities collectively referred to as 4125 Zone North Facilities;

WHEREAS, the 4125 Zone North Reservoir and the 4125 Zone Pumping Station, collectively referred to as Public Works Projects, will be constructed by the District as public works projects in accordance with NRS Chapters 332 and 338;

WHEREAS, the 4125 Zone North Reservoir Inlet/Outlet Pipeline, 4125 Zone Pumping Station Discharge Pipeline, Phase I, and 4125 Zone Pumping Station Discharge Pipeline, Phase II, collectively referred to as Privately Constructed Projects, will be constructed by the Developer in

accordance with the contract drawings and specifications as approved by the District, by a contractor properly licensed in the State of Nevada, and constructed in accordance with all local, state, and federal requirements;

WHEREAS, the Developer is desirous of providing, at its sole cost, staff augmentation to the District for construction management and inspection services support to maintain the construction schedule for the 4125 Zone North Facilities; and

WHEREAS, the District is willing to utilize the staff augmentation to support the construction activities of the 4125 Zone North Facilities.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### **AGREEMENT**

1. Recitals. The foregoing recitals are incorporated herein.
2. Construction Management and Inspection Services Augmentation Funding.
  - a. The District shall have no financial participation in the cost of staff augmentation for construction management services and inspection services for the 4125 Zone North Facilities .
3. Construction Management and Inspection Services for Public Works Projects.
  - a. The District will:
    - i. Construct the Public Works Projects as public works in accordance with NRS Chapters 332 and 338;
    - ii. Provide construction management and inspection oversight of the Public Works Projects and staff augmentation;
    - iii. Provide construction management staff to perform:
      1. Contract change and claim management;
      2. Wage claim investigation and determination;
      3. Contractor payment application processing;
      4. Facility start-up coordination;
      5. Hosting construction progress and coordination meetings;
      6. Contract Closeout;
      7. Facility Handoff; and

8. Contractor Schedule Management.
- iv. Review and approve or deny proposed augmented staff within 5 working days of submittal; and
  - v. Provide training for augmented staff on use of District construction management and inspection software applications, processes and procedures.
- b. Developer shall provide staff augmentation to the District for construction inspection services to perform:
- i. Full time inspection of construction activities;
  - ii. Prepare daily reports identifying:
    - 1. Day of the week, date, weather, and general site conditions;
    - 2. Summary of the work in process (segregated by the prime contractor and subcontractor(s));
    - 3. Details of work accomplished including quantities of work installed;
    - 4. Summary of equipment working and where working;
    - 5. Summary of manpower by work element, prime contractor, and subcontractor(s);
    - 6. Receipt of major equipment or materials;
    - 7. All required testing performed and, if available, documented results;
    - 8. Documentation of incidents which occurred that may affect progress of the work;
    - 9. List of issues, changed conditions, etc. that were encountered;
    - 10. Planned work for the next day; and
    - 11. Photos documenting specific accomplishments, work status, or specific deficiencies;
  - iii. Perform the following field tests for quality assurance as described in Contract documents, including but not limited to:
    - 1. Soil density;
    - 2. Concrete strength and shrinkage;

3. Reinforcing steel placement;
  4. Reservoir and pipeline pressure testing and disinfection;
  5. Pre start-up of mechanical, electrical, plumbing, HVAC, and control systems
  6. Coating holiday and mill thickness; and
  7. Electrical/mechanical/plumbing;
- iv. Provide daily redlines in Redeye (the District's application for housing and managing asset data & engineering drawings) in conjunctions with District's internal construction management staff markups and reviews on contract drawings and complete final as-built drawing mark-ups in same application; and
  - v. Prepare substantial completion punchlists and final completion punchlists.
- c. Developer shall provide staff augmentation to the District for construction management services to perform:
- i. Full time construction oversight of construction activities;
  - ii. Shop drawing coordination using PMIS application
  - iii. Contractor request for information review and distribution using PMIS application;
  - iv. Certified payroll review using LCP tracker (the software that the District utilizes for Labor Compliance and Certified Payroll Management);
  - v. Apprentice Utilization Review using LCP tracker;
  - vi. Contractor labor interviews;
  - vii. Wage claim investigation support;
  - viii. Change management documentation review and recommendation;
  - ix. Special inspection coordination;
  - x. Permit closeout coordination with contractor and District staff as part of contract closeout;
  - xi. Attend progress meetings;
  - xii. Coordination with District procured/supplied materials and equipment;
  - xiii. Construction schedule management and review and analyses;

- xiv. Contractor pay application review and submittal processing;
  - xv. Contract closeout documentation;
  - xvi. Operations and Maintenance Manuals assemblage and review for completeness; and
  - xvii. Warranty Binder assemblage and review for completeness.
- d. Thirty (30) days prior to the start of construction, Developer shall provide to the District, the business name and primary point of contact along with names, titles, address, telephone numbers, and resumes showing work history, certifications, licensing of proposed augmented staff personnel for District review and approval.
4. Construction Management and Inspection Services for Privately Constructed Projects.
- a. The District will:
    - i. Provide construction inspection oversight of the augmented staff provided by the Developer;
    - ii. Review and approve or deny proposed augmented staff within 5 working days of submittal; and
    - iii. Provide training for augmented staff on use of District inspection software applications, processes and procedures.
  - b. Developer shall provide staff augmentation to the District for construction inspection services to perform:
    - i. Full time inspection of construction activities;
    - ii. Prepare daily reports identifying:
      - 1. Day of the week, date, weather, and general site conditions;
      - 2. Summary of the work in process (segregated by the prime contractor and subcontractor(s));
      - 3. Details of work accomplished including quantities of work installed;
      - 4. Summary of equipment working and where working;
      - 5. Summary of manpower by work element, prime contractor, and subcontractor(s);

6. Receipt of major equipment or materials;
  7. All required testing performed and, if available, documented results;
  8. Documentation of incidents which occurred that may affect progress of the work;
  9. List of issues, changed conditions, etc. that were encountered;
  10. Planned work for the next day; and
  11. Photos documenting specific accomplishments, work status, or specific deficiencies;
- iii. Perform the following field tests for quality assurance as described in Contract documents, including but not limited to:
    1. Soil density;
    2. Concrete strength;
    3. Reinforcing steel placement;
    4. Pipeline pressure testing and disinfection;
    5. Coating holiday and mill thickness; and
  - iv. Prepare substantial completion punchlists and final completion punchlists;
  - v. Assist with permit closeout and provide documentation to District.
- c. Developer shall provide to the District, thirty (30) days prior to the start of construction, the business name and primary point of contact along with names, titles, address, telephone numbers, and resumes showing work history, certifications, licensing of proposed augmented staff personnel for District review and approval.
5. Project Management Information System.
    - a. The District utilizes eBuilder for its project management information system (“PMIS”).
    - b. The Developer shall require its construction manager to provide:

- i. System Access Security Checklist that demonstrates the construction manager meets the cyber security requirements of the District. Exhibit C attached hereto contains the District's System Access Security Checklist.
  - ii. Competent staff to interface with the PMIS for the construction of the Project.
  - iii. A list of names and corresponding email address of the engineer's staff who will interface with the PMIS.
- c. The Developer's construction management and inspection staff that require access to the PMIS will be required to accept the District's conditions of use at time of initial login. Exhibit B attached hereto contains the PMIS Terms of Use.

6. Data Privacy and Security.

- a. During the course of this Agreement, Developer's construction management and inspection staff will create, receive or have access to the District's Facility Information. Facility Information means drawings, maps, plans or records that reveal the District's critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, other forms of energy, fiber optic cables, or vertical assets used for the transmission or receipt of data or communications used by the District. Facility Information is deemed to be Confidential Information of the District.
- b. Developer shall require that its construction management and inspection staff:
  - i. Keep and maintain all Facility Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use, or disclosure;
  - ii. Ensure that all Facility Information is stored only in data center(s) that are subject to United States federal jurisdiction;
  - iii. Not create, collect, receive, access, or use Facility Information in violation of law;

- iv. Use and disclose Facility Information solely and exclusively for the purposes for which the Facility Information, or access to it, is provided pursuant to the terms and conditions of this Agreement;
  - v. Not use, sell, rent, transfer, distribute, or otherwise disclose or make available Facility Information for their own purposes or for the benefit of anyone other than the District without the District's prior written consent; and
  - vi. Not, directly or indirectly, disclose Facility Information to any person other than its Authorized Persons, without the District's prior written consent. Authorized Persons means the Developer's construction management and inspection staff's respective employees, contractors, subcontractors, consultants, subconsultants, agents, or auditors who have a need to know or otherwise access Facility Information to enable Developer to perform its obligations under this Agreement, and who are bound in writing by confidentiality and other obligations sufficient to protect Facility Information in accordance with the terms and conditions of this Agreement.
- c. Security Breach means any act or omission that compromises either the security, confidentiality, or integrity of Facility Information or the physical, technical, administrative, or organizational safeguards put in place by the Developer's construction management and inspection staff or by the District to the extent that Developer's construction management and inspection staff have access to District's systems, that relate to the protection of the security, confidentiality, or integrity of Facility Information. Without limiting the foregoing, a compromise shall include any unauthorized access to or disclosure or acquisition of Facility Information.
- d. The Developer shall require that its construction management and inspection staff:
- i. Notify the District of any Security Breach as soon as practicable, but no later than twenty-four (24) hours after the construction management and inspection staff becomes aware of it, by telephone at the following number: 702-822-8390 and by email to james.curbeam@lvvwd.com and brent.gunson@lvvwd.com, with a copy by email to the District's contacts listed in the Notices Section below;



- ii. At its own expense, coordinate and fully cooperate with the District in the District's handling of the matter;
    - iii. Use its best efforts to immediately contain and remedy any Security Breach and prevent any further Security Breach;
    - iv. Maintain and preserve all documents, records, and other data related to any Security Breach; and
    - v. Reimburse the District for all actual costs incurred by the District in responding to and mitigating damages caused by any Security Breach.
  - e. Developer acknowledges that any breach of its covenants or obligations set forth in this Data Privacy and Security Section may cause District irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, District is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which District may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.
  - f. Insurance comply with all provisions of the District's Service Rules that are in force and effect on the Effective Date, as they may pertain to the construction of the 4125 Zone North Facilities.
  - g. The Developer and its officers, employees, agents, contractors, licensees or invitees, at no cost to the District, shall at all times comply with all applicable laws, ordinances, statutes, rules, acts or regulations in effect or that become in effect during the time work is performed under this Agreement, including but not limited to those laws outlined by the Endangered Species Act of 1973, and the Clark County Desert Conservation Plan, August 1, 1995.
7. Indemnification and Hold Harmless.
- a. The Developer shall indemnify and hold the District, its directors, officers, employees and related entities (collectively the "District Parties") harmless from any and all liabilities, damages, costs, expenses, and reasonable attorneys'

fees to the extent caused by negligent acts or omissions of the Developer or its officers, employees, agents, contractors, licensees or invitees in connection with the design, construction and installation of the 4125 Zone North Facilities. Regardless of the foregoing, the Developer shall not be required to indemnify the District Parties for negligent acts of the District Parties.

- b. The Developer shall indemnify, defend and hold the District Parties harmless from all damage or injury that may be caused on any property by trespass of the Developer's officers, employees, agents, contractors, licensees, or invitees. Under this Agreement, Developer shall not be liable for consequential, punitive or speculative damages
- c. The Developer shall include in its separate contract with its CM Consultant the requirement that the Developer's CM Consultant indemnify and hold the District Parties harmless from any and all liabilities, damages, costs, expenses, and reasonable attorneys' fees to the extent caused by negligent acts or omissions of the CM Consultant or its officers, employees, agents, contractors, licensees or invitees during the design and construction of the 4125 Zone North Facilities. Regardless of the foregoing, the Developer's CM Consultant shall not be required to indemnify the District Parties for negligent acts of the District Parties. The Developer shall cause the District Parties to be immune for any breach of this Agreement caused by an incorrect date being produced, calculated, or generated by a computer or other information system that is owned or operated by the District Parties, regardless of the cause of the error (reference NRS 41.0321).

- 8. Arbitration. The Developer agrees to participate in, and shall include a provision in the agreement between the Developer and the Developer's CM Consultant whereby the Developer's CM Consultant agrees to participate in, any binding arbitration required by the District's construction contracts on the Public Works Projects to the extent that it is alleged that the Developer's CM Consultant's services do not meet the standard of care and caused the District or its contractor damages. The standard of care is defined as that degree of care and skill ordinarily

exercised, under similar circumstances, by reputable members of its profession in the same locality at the time the services are provided.

9. Termination.

a. The District's General Manager or his/her designee may terminate this Agreement on 30 days prior written notice. In the case of termination by the District, the District shall pay Developer for all work performed to the effective date of termination and the reasonable costs of transferring all documentation of all Work to District.

10. Effective Date. The effective date of this Agreement is the date that the Agreement is executed by the District's General Manager or its designee.

11. Confidentiality and Release of Information.

a. Through the term of this Agreement, a Party may furnish the other Party with information that the disclosing Party has independently determined to be confidential under Nevada law and that disclosing Party will label "Confidential Information". "Confidential Information" means confidential and proprietary information of the disclosing Party that is disclosed to the receiving Party which, in the case of written information, is marked "confidential" and which, in the case of information disclosed orally, is identified at the time of the disclosure as confidential and will be summarized and confirmed in writing as such by disclosing Party to the receiving Party within 30 calendar days of the disclosure.

b. Confidential Information shall not include information that: (1) is now or subsequently becomes generally available to the public through no fault or breach of the receiving Party; (2) the receiving Party can demonstrate to have had rightfully in its possession prior to disclosure by the disclosing Party; (3) is independently developed by the receiving Party without the use of any Confidential Information; or (4) the receiving Party rightfully obtains from a third party who has the right to transfer or disclose it.

c. The Parties recognize the District's duties under the Nevada Public Records Act and do not, by this Agreement, intend to alter the District's duties thereunder or to require the District to do, or refrain from doing, anything contrary to the

Nevada Public Records Act. The District's Office of General Counsel shall be permitted to make an independent determination as to whether any document or record marked "confidential" by the Developer is confidential or is a public record, pursuant to the Nevada Public Records Act. If the District's Office of General Counsel determines that any document or record supplied by the Developer and marked "confidential" is determined to be a public record, the District may disclose that document or record to the extent required by the Nevada Public Records Act with prior notice to the Developer. Upon receipt of any request for the Developer's Confidential Information, this Agreement, or any part thereof, the District will promptly forward the request to the Developer and work with the Developer in good faith to minimize the extent of the disclosure to the extent requested by the Developer and permitted by the Nevada Public Records Act. The District shall not be required to expend funds in conjunction with working with the Developer regarding the disclosure.

- d. The Developer shall make public information releases relating to the Project only as provided for and in accordance with this Agreement. Any and all other public releases of information gathered, obtained, or produced during the performance of this Agreement must be specifically approved in writing by the District prior to release. Such information shall include, but is not limited to, all products, intellectual property, work product, ideas, data, reports, background materials, and any and all other materials belonging to the District. Such public releases of information shall include, but are not limited to, publication in any book, newspaper, magazine, professional or academic journal, the Internet, radio, television, and presentations to professional, academic, and/or other groups or conferences.

12. Use of Materials.

- a. The District shall make available to the Developer such materials from its files as may be required by the Developer in connection with the construction of the 4125 Zone North Facilities. Such materials shall remain the property of the District while in the Developer's possession.

- b. Upon completion or termination of this Agreement, the Developer shall turn over and ensure that its CM Consultant returns to the District any property of the District in the possession or the Developer or its CM Consultants applicable.
13. Records. The Developer shall retain financial and other records related to this Agreement for six (6) years after the completion or termination of this Agreement and shall make available to the District for inspection, all books, records, documents, and other evidence directly pertinent to performance under this Agreement upon reasonable notice.
14. Assignment. The Developer shall not assign or transfer its interest in this Agreement without the prior written consent of the District. If the Developer assigns or transfers without prior written consent, the assignment or transfer shall be void, and not merely voidable.
15. Severability. If any term of this Agreement is to any extent illegal, invalid, or unenforceable, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms of this Agreement shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term. If application of this Paragraph should materially and adversely affect the economic substance of the transactions contemplated in this Agreement, the Party adversely impacted shall be entitled to compensation for such adverse impact.
16. Non-Discriminatory Employee Practices and Equal Employment Opportunity. In connection to the subject matter of this Agreement:
- a. The Developer, its engineer, its contractor, and any subcontractor(s), who is responsible for the selection, referral, hiring, or assignment of workers in constructing the District Project, are required to comply with all applicable provisions of Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act, the Civil Rights Act of 1991, the Equal Pay Act, Title I of the Americans with Disabilities Act and all associated rules and regulations, including the Equal Employment Opportunity Commission regulations that

prohibit discrimination based upon race, color, religion, sex, sexual orientation, age, or national origin.

- b. The Developer recognizes that if it, its contractor, or any subcontractor(s) working on the construction of the Project is found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other protected status, the District may declare the Developer in breach of the Agreement, terminate the Agreement, and designate the Developer as non-responsible.
  - c. The Developer shall make and ensure that its contractor makes all necessary documentation as required to comply with the Acts referred to above and shall make such documentation immediately available to the District upon the District's request. The Developer is solely liable for failure to comply with this provision.
- 17. No Joint Venture. Nothing herein shall be construed to imply a joint venture, an employer and employee relationship, or principal and agent relationship.
  - 18. Applicable Law. Nevada law shall govern the interpretation of this Agreement, without reference to its choice of law provisions.
  - 19. Interpretation. The Parties agree that neither Party shall be deemed the drafter of this Agreement and, in the event this Agreement is ever construed by a court of law or equity, such court shall not construe this Agreement or any provision hereof against either Party as drafter of this Agreement.
  - 20. Venue. The Parties agree that venue for any dispute arising from the terms of this Agreement shall be Clark County, Nevada.
  - 21. Attorneys' Fees. In the event that any Party commences an action to enforce or interpret this Agreement, or for any other remedy based on or arising from this Agreement, the prevailing party therein shall be entitled to recover its reasonable attorneys' fees and costs incurred.
  - 22. No Third-Party Rights. This Agreement is not intended by the Parties to create any right in or benefit to parties other than the District and the Developer. This Agreement does not create any third-party beneficiary rights or causes of action.

23. Waiver. The failure of either Party to enforce at any time, or for any period of time, the provisions hereof shall not be construed as a waiver of such provisions or of the rights of such Party to enforce each and every such provision.
24. Authority to Execute. Each Party hereto warrants to the other that it, and its signatory hereunder, is duly authorized and empowered to execute this Agreement and to bind said Party to the terms of this Agreement.
25. Captions. The captions contained in this Agreement are for reference only and in no way to be construed as part of this Agreement.
26. Counterparts. This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which, when so executed, shall be deemed an original, and all counterparts together shall constitute one and the same instrument.
27. Integration. This Agreement contains the entire understanding between the Parties relating to the transactions contemplated by this Agreement, notwithstanding any previous negotiations or agreements, oral or written, between the Parties with respect to all or any part of the subject matter hereof. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, regarding the subject matter of this Agreement are merged in this Agreement and shall be of no further force or effect.
28. Notices. Any and all notices, demands or requests required or appropriate under this Agreement (including invoices) shall be given in writing and signed by a person with authorization to bind the Developer or the District, either by personal delivery, via a scanned document sent via email, or by registered or certified mail, return receipt requested, addressed to the following addresses:

To Developer:           The Howard Hughes Company, LLC  
                                  Attention: SVP, Summerlin MPC Residential  
                                  10845 Griffith Peak Drive, Suite 160  
                                  Las Vegas, NV 89135  
                                  brian.walsh@howardhughes.com

To District:             Las Vegas Valley Water District  
                                  Attention: Doa Ross  
                                  1001 South Valley View Blvd., MS 610  
                                  Las Vegas, NV 89153  
                                  doa.ross@lvvwd.com

With copy to: Las Vegas Valley Water District  
Attention: General Counsel  
1001 South Valley View Blvd., MS 480  
Las Vegas, NV 89153  
generalcounsel@lvvwd.com

When notice is given by email transmission, it shall be deemed served upon receipt of confirmation of transmission if transmitted during normal business hours or, if not transmitted during normal business hours, on the next business day following the email transmission.

The Parties may designate a new contact person under this provision for notices or invoices or change the addresses or email addresses identified above by notifying the other Party in writing.

29. Amendment. This Agreement and its Exhibits contain the entire agreement between the Parties and this Agreement may only be amended or modified in a writing stating specifically that it amends this Agreement and is signed by an authorized representative of each Party.
30. Electronic Signatures. Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties are intended to authenticate this writing and to have the same force and effect as manual signatures.

IN WITNESS WHEREOF, the Developer has executed this Agreement on

\_\_\_\_\_.

THE HOWARD HUGHES COMPANY, LLC, a  
Delaware limited liability company

\_\_\_\_\_  
Kevin Orrock, Vice President

THIS AGREEMENT shall be in full force and effect as of the date when it was duly signed by the Las Vegas Valley Water District.

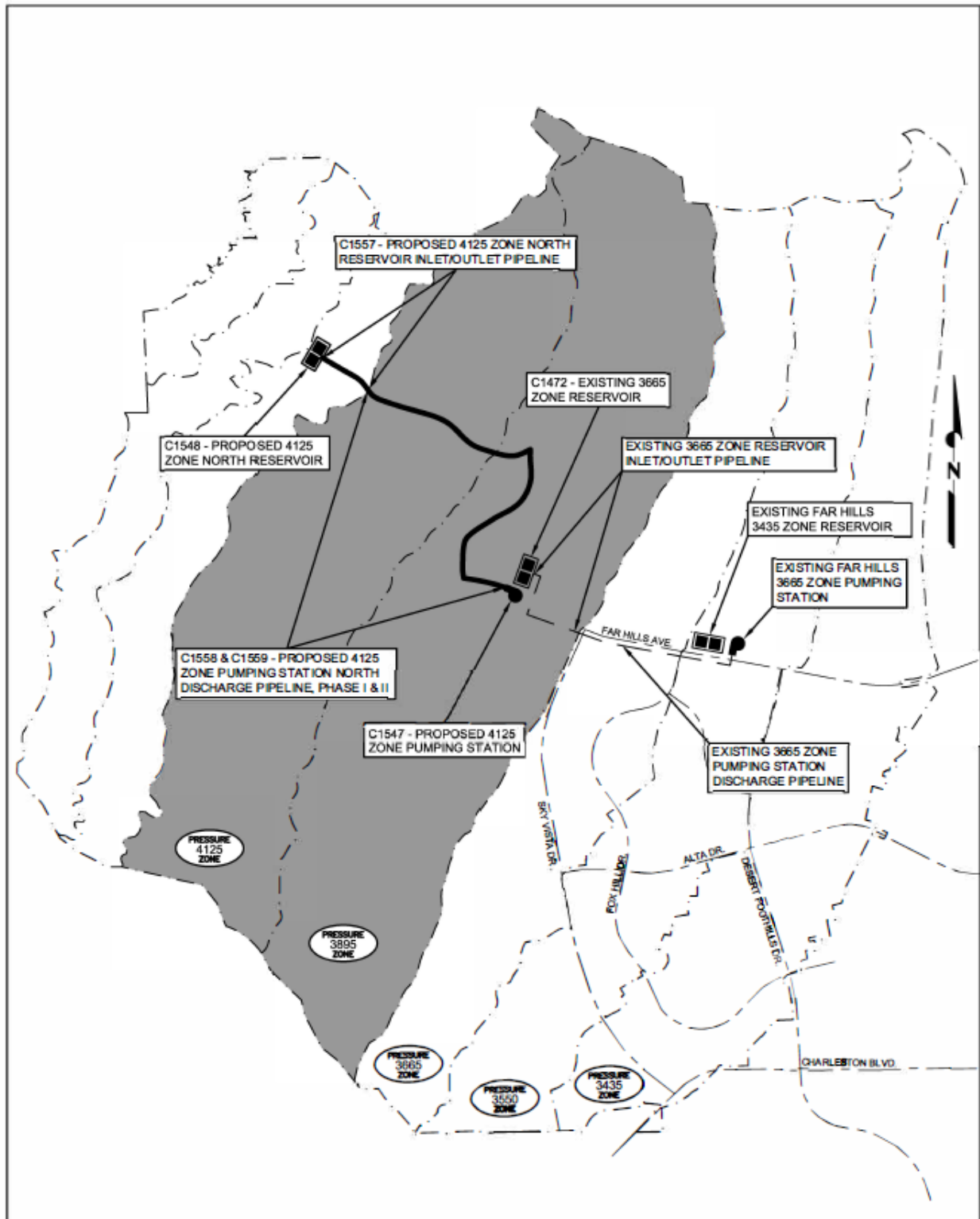
LAS VEGAS VALLEY WATER DISTRICT

\_\_\_\_\_  
John J. Entsminger, General Manager



## EXHIBIT A

### Proposed 4125 Zone Water Facilities By Summerlin



## **EXHIBIT B**

### **Project Management Information System Terms of Use**

Due to the sensitive nature of information contained within the Project Management Information System (PMIS), the Las Vegas Valley Water District and Southern Nevada Water Authority (“Organization”) require that all users (whether contractor, design professional, Organization employee, or other user) agree to the PMIS terms of use. By checking the “Accept” box, User agrees to be bound by and to bind its employees to the following terms of use (“Terms of Use”).

1. Access to PMIS provided by the Organization is for authorized users and organizations only. To protect this software from unauthorized use and to ensure that the software functions properly, activities on PMIS and use of this application, related data, and/or related services (collectively “PMIS Services”) are monitored and recorded and subject to audit.
2. User and its employees will abide by the typical use of protected applications/software, including but not limited to:
  - a. Authorized users cannot give out their login information to another party.
  - b. Authorized users shall notify the Organization within 2 business days of any changes in their employment to allow for an appropriate adjustment in their access privileges.
  - c. Access to PMIS will be revoked upon completion of the Work, termination of the Agreement, or the individual user’s separation from performing duties associated with the Work, whichever comes first.
  - d. These PMIS Services are provided for the convenience of contractors and engineering firms. The Organization is not responsible for any issues created by a malfunction of these PMIS Services.
  - e. User agrees to use PMIS for Work related content. The use of PMIS as a document management system to store unrelated documents or files is expressly prohibited.
  - f. User agrees not to remove or modify any copyright or other intellectual property notices that appear in PMIS or associated PMIS Services.
3. User agrees not to use the PMIS Services in any way that is unlawful, or harms the Organization, its service providers, suppliers or any other user. User agrees not to use the PMIS Services in any way that breaches any other policy or notice on the PMIS Services. The Organization’s failure to act with respect to a breach by User or others does not waive its right to act with respect to subsequent or similar breaches.
4. NO WARRANTY. The Organization provides the PMIS Services “As Is,” “With All Faults” and “As Available,” and the entire risk as to satisfactory quality, performance, accuracy, and effort is with you, to the maximum extent permitted by applicable law. The Organization and its suppliers make no representations, warranties or conditions, express or implied. The Organization and its suppliers expressly disclaim any and all warranties or conditions, express, statutory and implied, including without limitation (A) warranties or conditions of merchantability, fitness for a particular purpose, workmanlike effort, accuracy, title, no encumbrances, no liens and non-infringement,

(B) warranties or conditions arising through course dealing or usage of trade, and (C) warranties or conditions of uninterrupted or error-free access or use.

5. **LIABILITY LIMITATION; EXCLUSIVE REMEDY.** In addition to applicable Nevada laws regarding sovereign immunity, in no event will the Organization or any supplier be liable for any damages, including without limitation any indirect, consequential, special, incidental, or punitive damages arising out of, based on, or resulting from these Terms of Use or User's use of the PMIS Services, even if such party has been advised of the possibility of such damages. The exclusion of damages under this paragraph is independent of the user's exclusive remedy and survives in the event such remedy fails of its essential purpose or is otherwise deemed unenforceable. These limitations and exclusions apply without regard to whether the damages arise from (A) breach of contract, (B) breach of warranty, (C) negligence, or (D) any other cause of action, to the extent such exclusion and limitations are not prohibited by applicable law. If User has any dispute or claim against the Organization or its suppliers with respect to these Terms of Use or the PMIS Services, then User's sole and exclusive remedy is to discontinue using these PMIS Services.
6. The Organization reserves the right to change the Terms of Use and will provide notice of any change to User. Continued use of the PMIS Services after the effective date of such changes will constitute acceptance of and agreement to any such changes. The Organization may change, suspend or discontinue the PMIS Services associated with PMIS at any time without notice to all or selected users. The Organization may assign these Terms of Use, in whole or in part, at any time with or without notice to User. User may not assign these Terms of Use, or assign, transfer or sublicense its rights, if any, in the PMIS Services.
7. These Terms of Use are governed by the laws of the State of Nevada, without giving effect to its conflict of laws provisions. User agrees to submit to exclusive jurisdiction and venue in the state and federal courts sitting in Clark County, Nevada for any and all disputes, claims and actions arising from or in connection with the PMIS Services and/or these Terms of Use.
8. If any part of these Terms of Use is determined to be invalid or unenforceable, then the invalid or unenforceable provision will be replaced with a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these Terms of Use will continue in effect.
9. Except as expressly stated herein, these Terms of Use constitute the entire agreement between the Organization and User with respect to the PMIS Services and supersede all prior or contemporaneous communications of any kind between the Organization and User with respect to the PMIS Services.
10. The PMIS Services are subject to the intellectual property rights of the Organization and to the Nevada Public Records Law.

## EXHIBIT C

### System Access Security Checklist

Contractor is required to complete the following checklist verifying the following minimum security standards are met for use of District provided applications.

INFORMATION SECURITY CONCERN	YES	NO
1) All computing devices used to connect with District's systems are:		
a) Kept current with operating system patches	<input type="checkbox"/>	<input type="checkbox"/>
b) Kept current with software patches	<input type="checkbox"/>	<input type="checkbox"/>
c) Kept current with antivirus updates	<input type="checkbox"/>	<input type="checkbox"/>
d) Enabled with a host-based firewall	<input type="checkbox"/>	<input type="checkbox"/>
e) Accessing District's systems only from within US boundaries	<input type="checkbox"/>	<input type="checkbox"/>
2) Contractor maintains policies within their organization that cover:		
a) Acceptable Use of Technology Resources	<input type="checkbox"/>	<input type="checkbox"/>
b) Incident Response	<input type="checkbox"/>	<input type="checkbox"/>
c) Breach Notification	<input type="checkbox"/>	<input type="checkbox"/>
d) Account & Password Management	<input type="checkbox"/>	<input type="checkbox"/>
e) Session Management	<input type="checkbox"/>	<input type="checkbox"/>
f) User Cybersecurity Awareness Training	<input type="checkbox"/>	<input type="checkbox"/>
3) Contractor will notify District, within 24 hours, confirmation of:		
a) Termination of any authorized user	<input type="checkbox"/>	<input type="checkbox"/>
b) Loss of any device used to access District's system(s)	<input type="checkbox"/>	<input type="checkbox"/>
c) Breach of any Contractor system(s)	<input type="checkbox"/>	<input type="checkbox"/>
d) Breach of any vendor 3rd-Party service(s)/system(s)	<input type="checkbox"/>	<input type="checkbox"/>
e) Compromise of any Contractor account(s)	<input type="checkbox"/>	<input type="checkbox"/>

Any questions regarding this checklist should be directed to Ryan Pearson at [ryan.pearson@lvvwd.com](mailto:ryan.pearson@lvvwd.com).

Please refer to the following page for additional information regarding these requirements.

### **CONTRACTOR INFORMATION:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Legal Name of Company

\_\_\_\_\_  
Name and Title of Authorized Representative

**Please review this supplemental information for guidance on the questions from page 1.**

1.
  - a. The operating systems (e.g. Windows/macOS) must be updated within 90 days of the last version issued by the operating system manufacturer.
  - b. Installed software must be updated within 90 days of the last version issued by the software manufacturer.
  - c. Antivirus/Antimalware software must be installed and maintained with antivirus updates installed daily.
  - d. The PC or laptop must have a firewall installed, enabled and configured to block unauthorized network traffic.
  - e. Access to District's system(s) from outside of United States boundaries must be authorized in advance and in writing.
2.
  - a. A policy for Acceptable Use of Technology Resources would include, but not be limited to: proper use of communication channels, internet use, restrictions against fraud and/or malicious activity, restrictions against circumventing security, data loss prevention, and authorized remote access.
  - b. An Incident Response Plan outlines the process of how a compromised system in Contractor's environment is addressed. It should follow a nationally recognized standard such as NIST.
  - c. A Breach Notification Plan outlines how, and how soon, Contractor will notify District when any system in Contractor's environment (or control) is compromised (regardless of data loss).
  - d. A policy for Account & Password Management outlines how Contractor manages user accounts within District's organization, from creation to deletion, along with password complexity rules and password reuse guidelines.
  - e. A Session Management policy outlines how long a computer, desktop application, or web application can remain idle before logging out a user. It also outlines requirements for screen locking when a device is unattended.
  - f. User Cybersecurity Awareness Training is an education program for staff within Contractor's organization. The program would address safe internet activity, safe email practices, how to respond to malware and other cyber security matters that affect Contractor's organization.
3.
  - a. Contractor is required to notify District within one business day regarding termination of any authorized user of District's system(s).
  - b. Contractor is required to notify District within one business day regarding loss of any device used to access District's system(s).
  - c. Contractor is required to notify District within one business day regarding verified breach of any systems in Contractor's environment or under Contractor's control.
  - d. Contractor is required to notify District within one business day regarding verified breach of any 3rd-Party service(s)/system(s) of Contractor's environment or under Contractor's control.
  - e. Contractor is required to notify District within one business day regarding compromise of any authorized user of District's system(s).

**LAS VEGAS VALLEY WATER DISTRICT  
BOARD OF DIRECTORS  
AGENDA ITEM**

May 4, 2021

**Subject:**

Filing of a Legal Action

**Petitioner:**

Gregory J. Walch, General Counsel

**Recommendations:**

That the Board of Directors approve the filing of a legal action by the General Counsel for the Las Vegas Valley Water District v. Powerfuel CNG Systems, LLC.

**Fiscal Impact:**

None by approval of the above recommendation.

**Background:**

The District purchased from Powerfuel CNG Systems, LLC (“Powerfuel”) compressed natural gas systems designed to allow fleet trucks to use either compressed natural gas or gasoline. After the District installed the systems, the Nevada Department of Motor Vehicles flagged and failed the annual emission tests for those vehicles. The District demanded repair under the written warranty. When Powerfuel failed to honor the warranty, Fleet Services removed the systems. The District is seeking over \$64,000 in damages.

This action is authorized pursuant to Section 1(2) of the Las Vegas Valley Water District Act, Chapter 167, Statutes of Nevada 1947. The office of the General Counsel has reviewed and approved this item.

Respectfully submitted:



John J. Entsminger, General Manager

JJE:GJW:TDF:JES:sm

Attachment

AGENDA  
ITEM #

**5**

**COMP**

Gregory J. Walch, Esq.  
General Counsel  
Nevada Bar No. 4780  
Laura Ellen Browning, Esq.  
Nevada Bar No. 7624  
James Smyth, Esq.  
Nevada Bar No. 6506  
Las Vegas Valley Water District  
1001 South Valley View Blvd. MS #480  
Las Vegas, Nevada 89153  
(702) 258-3288 – telephone  
(702) 259-8218 – facsimile  
jim.smyth@lvvwd.com  
*Attorneys for Las Vegas Valley Water District*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

LAS VEGAS VALLEY WATER DISTRICT, a  
political subdivision of the State of Nevada

Plaintiff,

v.

POWERFUEL CNG SYSTEMS, LLC; a Florida  
limited liability company; DOES 1 through 40,  
inclusive, and ROE CORPORATIONS 41  
through 80, inclusive,

Defendants.

Case No.:

Dept. No.:

**COMPLAINT**

**Arbitration Exemption Claimed: Amount in  
Controversy Exceeds \$50,000**

PLAINTIFF, LAS VEGAS VALLEY WATER DISTRICT (“Plaintiff”), by and through  
its attorneys, Gregory J. Walch, Esq., Laura Ellen Browning, Esq., and James E. Smyth, Esq.

Files this Complaint against Defendant POWERFUEL CNG SYSTEMS, LLC, a Florida limited  
liability company; DOES 1 through 40, inclusive, and ROE CORPORATIONS 41 through 80,  
inclusive, and complains and alleges as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff is a political subdivision of the State of Nevada with its offices located at  
1001 South Valley View Boulevard, Las Vegas, NV 89107.

2. Upon information and belief, POWERFUEL CNG SYSTEMS, LLC (“Powerfuel”) is a Florida limited liability company, licensed and doing business, with its principal office located

1 at 650 NW 27<sup>th</sup> Avenue, Fort Lauderdale, Florida 33322, and is engaged in the business of  
2 manufacturing and selling compressed natural gas bi-fuel systems for vehicles.

3 3. The true names and capacities of the Defendants named herein as DOES 1 through  
4 40, inclusive, and ROE Corporations 41 through 80, inclusive, are individuals and/or entities, who  
5 are in existence and are directly, jointly and/or severally liable to Plaintiff for the matters set forth  
6 herein. Plaintiff believes these Defendants are individuals and/or entities that may be responsible  
7 for damages alleged herein because they directed and/or participated in the manufacture or sale to  
8 Plaintiff of the subject systems. The exact names and/or types of entities of the unknown  
9 Defendants are presently unknown to Plaintiff who, therefore, sues the unknown Defendants using  
10 fictitious names. At the time Plaintiff discovers the true names and/or identities of said unknown  
11 Defendants, Plaintiff will move to amend this Complaint to include their true names and/or  
12 identities.

13 4. All material allegations in this Complaint occurred in Clark County, Nevada.

14 5. This Court has both personal and subject matter jurisdiction of this dispute and  
15 venue is proper.

16 **PLAINTIFF PURCHASES FIVE COMPRESSED NATURAL GAS BI-FUEL SYSTEMS**  
17 **FROM POWERFUEL**

18 6. Plaintiff provides water service to the Las Vegas area. In order to provide water  
19 service, Plaintiff operates and maintains over 4,500 miles of transmission lines, 1,900 miles of  
20 service lines, and thousands of meters, valve lids and other types and pieces of equipment and  
21 machinery, including fleet vehicles.

22 7. In 2016, Powerfuel representatives came to Plaintiff's facilities in Las Vegas and  
23 trained Plaintiff's employees to install on Ford F-150 5.0 Liter V-8 trucks add-on compressed  
24 natural gas systems designed to power vehicles by compressed natural gas or gasoline. The  
25 Powerfuel systems altered the original Ford fuel systems to accept the compressed natural gas  
26 systems.

27 8. Soon after training, and with Powerfuel President Louis Herring and service  
28 representative Amadeo Antonucci present, Plaintiff's employees installed the Powerfuel



1 compressed natural gas systems on the following two (2) vehicles: V1324 – VIN  
2 1FTEX1CF0GKD25379 and V1325 – VIN 1FTEX1CF2GKD25383.

3 9. In 2017, Plaintiff purchased from Defendant Powerfuel five (5) additional  
4 compressed natural gas systems for Ford 5.0-Liter 2017 model-year fleet trucks, paying \$55,000 to  
5 Defendant Powerfuel, and then installing the systems on the following trucks:  
6 V1403 – VIN 1FTEX1CF4HKC48078; V1411 – VIN 1FTEX1CF5HKD34368;  
7 V1412 – VIN 1FTEX1CF7HKD34369; V1413 – VIN 1FTEX1CF3HKD34370; and  
8 V1414 – VIN 1FTEX1CF5HKD34371

9 **THE POWERFUEL COMPRESSED NATURAL GAS BI-FUEL SYSTEMS**  
10 **CAUSE THE FLEET VEHICLES TO FAIL REQUIRED DMV EMISSIONS**  
11 **TESTS**

12 10. In 2019, Plaintiff's staff completed the required annual department of motor vehicle  
13 ("DMV") emission tests on vehicles V1403, V1411, V1412, V1413 and V1414.

14 11. Shortly after testing, Supervising Emission Control Officer Joel Tynning, of the  
15 Nevada DMV Compliance Enforcement Division, contacted Plaintiff's staff and Officer Tynning  
16 stated that the five upfitted 2017 model-year fleet vehicles test results indicated the emissions  
17 systems were tampered or altered based on the following: "VIN numbers did not register in the  
18 OBD data of the test results and OBD data indicated monitors were complete on systems that the  
19 vehicles did not support."

20 12. After Officer Tynning's of the DMV contacted Plaintiff's staff, Plaintiff presented  
21 one of the fleet vehicles to the DMV for inspection and local emission testing and the fleet vehicle  
22 did not pass the emissions test.

23 13. Due to the unsuccessful test, the DMV recommended that Plaintiff take one of the  
24 following actions: Modify the fleet vehicles to a fully compressed natural gas condition, remove  
25 the CNG systems and restore the fleet vehicles to original condition, or require Powerfuel to  
26 reprogram the systems so they properly perform and the fleet vehicles would pass the required  
27 emissions testing.

28 **DEFENDANT POWERFUEL FAILS TO CORRECT THE DEFICIENCIES AS**  
**REQUIRED UNDER THE WRITTEN WARRANTY**

14. On December 18, 2019, Plaintiff's staff forwarded to Louis Herring, President of Defendant Powerfuel the DMV information regarding the failure of the systems.

15. Powerfuel provided to Plaintiff a written warranty that provides all components of the systems are free from defects in material and workmanship and that Powerfuel warrants that it will repair or replace, free of charge, any product which, under normal conditions of use and service, proves to be defective in material or workmanship and which is within the applicable warranty period.

16. All the systems were within the applicable warranty period and Plaintiff contacted Powerfuel as required by the warranty.

17. Plaintiff's staff followed up with Herring of Defendant Powerfuel on February 19, 2020. After Powerful failed to respond, Plaintiff's staff, Donnie Meng, called Herring of Powerfuel and Herring stated he was working on it and would get back to Plaintiff.

18. Fleet Services Manager Jim Morwood spoke to Herring on July 24, 2020 but Herring and Powerfuel failed to provide any proposed resolution as required by the warranty.

19. By letter dated September 1, 2020, Plaintiff demanding Powerfuel advise Plaintiff how and when Defendant Powerfuel would reprogram the compressed natural gas systems so that the vehicle would pass the DMV tests.

**PLAINTIFF IS FORCED TO REMOVE THE FAILED SYSTEMS TO RETURN  
THE VEHICLES TO ORIGINAL CONDITION**

20. Defendant Powerfuel failed to respond to comply with the express warranty. Consequently, in November of 2020, Plaintiff removed the compressed natural gas systems, returning the fleet vehicles to their original condition so they would pass the required DMV emissions tests.

21. Plaintiff has been damaged in excess of \$64,530.97 as a result of Defendant Powerfuel's failed systems and breach and the resulting efforts to return the fleet vehicles to their original condition.

**CLAIMS FOR RELIEF**

**BREACH OF EXPRESS AND IMPLIED WARRANTIES**

1           22.     Plaintiff repeats and realleges the allegations contained in the above paragraphs.

2           23.     Defendant Powerfuel is, upon information and belief, engaged in the business of  
3 manufacturing the CNG systems and is engaged in the business of selling the CNG systems and  
4 supplies.

5           24.     Defendant Powerfuel is a dealer in the kind of equipment purchased from it by  
6 Plaintiff.

7           25.     On the dates referenced above, Defendant Powerfuel, sold and delivered to Plaintiff  
8 the CNG systems manufactured and sold to Plaintiff by Defendant, Powerfuel. The operational  
9 problems with Defendant Powerfuel's CNG systems described above were latent and not apparent  
10 when Plaintiff installed the systems on the fleet vehicles.

11          26.     There are express warranties for the CNG systems running from Defendant  
12 Powerfuel to Plaintiff

13          27.     To the extent permitted by law, there are also implied warranties arose running from  
14 Defendant to Plaintiff.

15          28.     As explained above, in or about late 2019, Plaintiff received notice from the Nevada  
16 DMV of the failures in the CNG systems resulting in failed emissions tests. These problems  
17 continued.

18          29.     As detailed above, Plaintiff contacted Defendant Powerfuel by email, phone and  
19 letter, informing Defendant Powerfuel of the problems and requesting resolution under the  
20 warranty. Defendant Powerfuel representative Herring advised Plaintiff he was working on the  
21 solution and would get back to Plaintiff. Despite such assurances, Defendant Powerfuel did not get  
22 back to Plaintiff with any resolution and has not as of the date of the filing of this Complaint  
23 responded to Plaintiff's continued requests.

24          30.     As a consequence of the defects which resulted in the failed emissions tests from  
25 the CNG systems, the CNG systems were unfit for their ordinary purpose and would not pass  
26 without objection in the trade, and were thus unmerchantable at the time of sale by Defendant  
27 Powerfuel to Plaintiff.

28          31.     As a direct and proximate result of the loss of use of the CNG systems due to their

1 unmerchantable quality, Plaintiff was unable to use the CNG systems in the fleet vehicles for the  
2 alternative use of compressed natural gas. Plaintiff further incurred expenses for parts and labor in  
3 connection with its unsuccessful attempts to repair the CNG systems.

4 32. As a direct and proximate result of the breach of the express and implied warranties,  
5 Plaintiff has incurred costs for purchasing the CNG systems and for removal of the systems in an  
6 amount in excess of \$15,000.00.

7 33. It has become necessary for Plaintiff to retain the services of an attorney to  
8 commence this action and Plaintiff is therefore entitled to attorneys' fees and costs of suit.

9 SECOND CLAIM FOR RELIEF: BREACH OF CONTRACT AND CONTRACTUAL  
10 BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

11 34. Plaintiff repeats and realleges the allegations contained in the above paragraphs.

12 35. Plaintiff and Defendant Powerfuel entered one or more contracts for the purchase of  
13 the CNG systems.

14 36. Defendant Powerfuel expressly or impliedly promised in the contract or contracts  
15 that the CNG systems it sold to Plaintiff would work and not cause the fleet vehicles to fail  
16 required DMV emissions tests or that if the CNG systems caused such problems Defendant  
17 Powerfuel would correct the failures.

18 37. Implied in the contract or contracts was the contractual obligation of good faith and  
19 fair dealing.

20 38. Powerfuel breached its duty to act in good faith by performing in a manner that was  
21 unfaithful to the purpose of the contract, thereby denying Plaintiff's justified expectations.

22 39. Plaintiff paid for the CNG systems and performed all Plaintiff's obligations owed to  
23 Defendant Powerfuel under the contract or contracts.

24 40. Defendant Powerfuel breached the contract or contracts including, but not limited  
25 to, the implied covenant of good faith and fair dealing.

26 41. As a result of Defendant Powerfuel's breach of the contractual obligations,  
27 including the implied covenant of good faith and fair dealing, Plaintiff has suffered damages as  
28 set forth above.

43. It has become necessary for Plaintiff to retain the services of an attorney to commence this action and Plaintiff is therefore entitled to attorneys' fees and costs of suit.

WHEREFORE, Plaintiff requests that this Court enter judgment against Powerful as follows:

1. For compensatory damages in an amount in excess of \$15,000.00;
2. Damages measured by the difference between the actual value of the CNG systems and their actual value as warranted, in the amount of \$55,000.00.
3. Damages for expenses incurred in removing the CNG systems, in an amount in excess of \$9,000.00.
4. Damages in total as of the filing of this Complaint in an amount in excess of \$64,530.97.
5. Costs of suit and attorneys' fees;
6. For judgment for interest; and
7. For such other and further relief as this Court deems just and proper.

LAS VEGAS VALLEY WATER DISTRICT

/s/ James E. Smyth  
Gregory J. Walch, Esq.  
General Counsel  
Nevada Bar No. 4780  
Laura Ellen Browning, Esq.  
Nevada Bar No. 7624  
James Smyth, Esq.  
Nevada Bar No. 6506  
1001 South Valley View Blvd. MS #480  
Las Vegas, Nevada 89153  
*Attorneys for Las Vegas Valley Water District*

**LAS VEGAS VALLEY WATER DISTRICT  
BOARD OF DIRECTORS  
AGENDA ITEM**

May 4, 2021

**Subject:**

Construction Award

**Petitioner:**

Doa J. Ross, Deputy General Manager, Engineering

**Recommendations:**

That the Board of Directors award a contract for the replacement of permanent pavement and concrete appurtenances at locations within easements or rights-of-way defined by individual District work orders to Sunrise Paving, Inc., for the amount of \$2,157,225, authorize a change order contingency amount not to exceed \$200,000, authorize up to two additional renewal terms, and authorize the General Manager to sign the construction agreement.

**Fiscal Impact:**

Funds requested for current year expenditures are available in the District's Capital Budget. Funds for future year expenditures will be budgeted accordingly.

**Background:**

Contract No. L0200, Pavement Replacement Services, Large ROW Site Locations within City of Las Vegas and Nevada Department of Transportation Jurisdictions, 2021-2023, is for the replacement of permanent pavement and concrete appurtenances at locations within easements or rights-of-way defined by individual work orders. The work includes performing the required repairs as specified, providing photographs showing all elements of completed work, and coordinating all inspections and acceptance by agencies having jurisdiction to ensure close out of applicable encroachment permits.

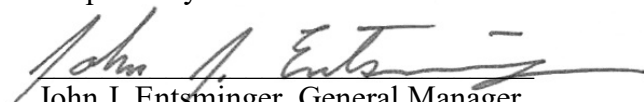
Sealed bids were received and publicly opened on March 11, 2021. A tabulation of the bids received is listed below:

Sunrise Paving, Inc.	\$2,157,225
J & J Enterprises Services, Inc.	\$2,171,659

The Sunrise Paving, Inc. (Sunrise), proposal is considered to be the best bid received as defined by NRS 338.1389. The attached agreement provides for Sunrise to accept and agree to all contract terms. Sunrise is a Nevada corporation located in Las Vegas, Nevada. If approved, this contract contains an option to renew for two additional terms, with the total cost for each renewal term not to exceed the award price of the original contract.

This agreement is being entered into pursuant to NRS 338.1389 and Section 1(13) of the Las Vegas Valley Water District Act, Chapter 167, Statutes of Nevada 1947. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:

  
John J. Entsminger, General Manager  
JJE:DJR:PJJ:SO:MTD:ML:evw  
Attachments

AGENDA  
ITEM #

6

## DISCLOSURE OF OWNERSHIP/PRINCIPALS

<b>Business Entity Type (Please select one)</b>						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input checked="" type="checkbox"/> Privately Held Corporation	<input type="checkbox"/> Publicly Held Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization <input type="checkbox"/> Other
<b>Business Designation Group (Please select all that apply)</b>						
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> VET	<input type="checkbox"/> DVET	<input type="checkbox"/> ESB
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise	Veteran Owned Business	Disabled Veteran Owned Business	Emerging Small Business
<b>Number of Clark County Nevada Residents Employed:</b> 55						
<b>Corporate/Business Entity Name:</b> Sunrise Paving, Inc.						
<b>(Include d.b.a., if applicable)</b>						
<b>Street Address:</b>		5580 S. Fort Apache Rd. #120		<b>Website:</b>		
<b>City, State and Zip Code:</b>		Las Vegas, NV 89148		<b>POC Name:</b> Robert Wadsworth		
				<b>Email:</b> robert_wads@yahoo.com		
<b>Telephone No:</b>		702-451-3309		<b>Fax No:</b> 702-451-2760		
<b>Nevada Local Street Address:</b> (If different from above)				<b>Website:</b>		
<b>City, State and Zip Code:</b>				<b>Local Fax No:</b>		
<b>Local Telephone No:</b>				<b>Local POC Name:</b>		
				<b>Email:</b>		

All entities, with the exception of publicly-traded corporations and non-profit organizations, must list the names of individuals, either directly or indirectly, holding more than five percent (5%) ownership or financial interest in the business entity appearing before the Board of Directors.

Publicly-traded corporations and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest.

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.

Full Name	Title	% Owned (Not required for Publicly Traded Corporations/Non-profit organizations)
Glenn Robert Warren	President	100%

*This section is not required for publicly-traded corporations.*

1. Are any individual members, partners, owners or principals, involved in the business entity, an Entity full-time employee(s), or appointed/elected official(s)?

☐ Yes

☒ No

(If yes, please note that the employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)

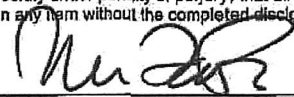
2. Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an Entity full-time employee(s), or appointed/elected official(s)?

☐ Yes

☒ No

(If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the Board will not take action on any item without the completed disclosure form.

  
Signature

Vera LaPorte

Print Name

Office Manager

03/17/2021

Title

Date

## DISCLOSURE OF RELATIONSHIP

List any disclosures below:  
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF ENTITY* EMPLOYEE/OFFICIAL AND JOB TITLE	RELATIONSHIP TO ENTITY* EMPLOYEE/OFFICIAL	ENTITY* EMPLOYEE'S/OFFICIAL'S DEPARTMENT
N/A			

\* Entity employee means an employee of Las Vegas Valley Water District, Southern Nevada Water Authority, or Silver State Energy Association .

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren -- Grandparents – In-laws (second degree)

**For Entity Use Only:**

If no Disclosure or Relationship is noted above or the section is marked N/A, please check this box.

☒ No Disclosure

If any Disclosure of Relationship is noted above, please complete the following:

☐ Yes ☐ No Is the Entity employee(s) noted above involved in the contracting/selection process for this particular agenda item?

☐ Yes ☐ No Is the Entity employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

SHAUNON ONO  
Signature

SHAUNON ONO  
Print Name  
Authorized Department Representative



DOCUMENT 00 52 00

AGREEMENT

THIS AGREEMENT, made and entered into, by and between Las Vegas Valley Water District, hereinafter referred to as Owner, and Sunrise Paving, Inc.

hereinafter referred to as Contractor, with both Owner and Contractor collectively referred to as the Parties,

WITNESSETH: That the Parties do mutually agree as follows:

1. Owner has awarded to Contractor the Contract for:

Contract Title: PAVEMENT REPLACEMENT SERVICES - LARGE ROW SITE  
LOCATIONS WITHIN CLV AND NDOT JURISDICTIONS, 2021-  
2023

Contract No: L0200

Public Works Project Identifying Number: CL-2021-184

2. For and in consideration of the payments and agreements hereinafter mentioned to be made and performed by said Owner, Contractor agrees to perform and complete in a good and workmanlike manner Work as defined in the Contract Documents and to furnish materials and tools and labor necessary to properly perform and complete the Work ready for use in strict accordance with the Contract Documents and under the penalty expressed in the attached bonds, which are hereby declared and accepted as essential parts of this Agreement and to accept as full compensation therefor the Contract Price as defined in the Contract Documents.
3. The Contractor hereby certifies that the Contractor has read and understands every provision contained in the Contract Documents. Contractor shall be bound and shall comply with each and every term, condition, and covenant set forth in the Contract Documents.
4. For performing all Work and furnishing materials and labor necessary thereto, Owner will pay, and Contractor shall receive in full compensation the Contract Price, in the manner and upon the conditions set forth in the Contract Documents.
5. Contract Documents which comprise the entire agreement between the Owner and Contractor for the performance of Work consist of the following:
  - a. Addenda
  - b. General Requirements
  - c. Supplementary Conditions
  - d. General Conditions
  - e. Agreement
  - f. Drawings
  - g. Technical Specifications
  - h. Permits

- i. Bidder Statement of Authority to Submit Bid Form and accompanying Documents, including without limitation, Affidavit Pertaining to Preference Eligibility
  - j. Bid Form
  - k. Bonds
  - l. Instructions to Bidders
  - m. Invitation to Bid and Legal Notice
  - n. Notice of Award
  - o. Final Notice to Proceed
6. Affirmative Agreement to Arbitrate. By the signing of this Agreement, Contractor expressly authorizes Article 16 of the General Conditions and affirmatively agrees to settle all disputes, claims, or questions by binding arbitration.

IN WITNESS WHEREOF: The Contractor has caused this agreement to be executed this  
17 day of March, 2021.

CONTRACTOR'S NAME

Sunrise Paving, Inc.

By:



Signatory Empowered to Bind Contractor

Robert Wadsworth

Type or Print Name

General Manager

Official Title

THIS AGREEMENT shall be in full force and effect as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, when it was duly signed by the proper officer of the Las Vegas Valley Water District.

LAS VEGAS VALLEY WATER DISTRICT

By:

John J. Entsminger  
General Manager

Approved as to Form:



Attorney for Las Vegas Valley Water District

END OF DOCUMENT

**LAS VEGAS VALLEY WATER DISTRICT  
BOARD OF DIRECTORS  
AGENDA ITEM**

May 4, 2021

**Subject:**

Construction Award

**Petitioner:**

Doa J. Ross, Deputy General Manager, Engineering

**Recommendations:**

That the Board of Directors award a contract for the replacement of permanent pavement and concrete appurtenances at locations within easements or rights-of-way defined by individual District work orders to Sunrise Paving, Inc., for the amount of \$2,198,275, authorize a change order contingency amount not to exceed \$200,000, authorize up to two additional renewal terms, and authorize the General Manager to sign the construction agreement.

**Fiscal Impact:**

Funds requested for current year expenditures are available in the District's Capital Budget. Funds for future year expenditures will be budgeted accordingly.

**Background:**

Contract No. L0174, Pavement Replacement Services 2020-2022 - Large ROW Site Locations within Clark County Public Works and Nevada Department of Transportation Jurisdictions, is for the replacement of permanent pavement and concrete appurtenances at locations within easements or rights-of-way defined by individual work orders. The work includes performing the required repairs as specified, providing photographs showing all elements of completed work, and coordinating all inspections and acceptance by agencies having jurisdiction to ensure close out of applicable encroachment permits.

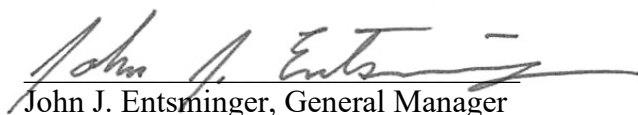
Sealed bids were received and publicly opened on March 11, 2021. A tabulation of the bids received is listed below:

Sunrise Paving, Inc.	\$2,198,275
J & J Enterprises Services, Inc.	\$2,245,532

The Sunrise Paving, Inc. (Sunrise), proposal is considered to be the best bid received as defined by NRS 338.1389. The attached agreement provides for Sunrise to accept and agree to all contract terms. Sunrise is a Nevada corporation located in Las Vegas, Nevada.

This agreement is being entered into pursuant to NRS 338.1389 and Section 1(13) of the Las Vegas Valley Water District Act, Chapter 167, Statutes of Nevada 1947. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:

  
John J. Entsminger, General Manager

JJE:DJR:PJJ:SO:MTD:ML:evw

Attachments

AGENDA  
ITEM #

**7**

## DISCLOSURE OF OWNERSHIP/PRINCIPALS

<b>Business Entity Type (Please select one)</b>						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input checked="" type="checkbox"/> Privately Held Corporation	<input type="checkbox"/> Publicly Held Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization <input type="checkbox"/> Other
<b>Business Designation Group (Please select all that apply)</b>						
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> VET	<input type="checkbox"/> DVET	<input type="checkbox"/> ESB
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise	Veteran Owned Business	Disabled Veteran Owned Business	Emerging Small Business
<b>Number of Clark County Nevada Residents Employed:</b> 55						
<b>Corporate/Business Entity Name:</b> Sunrise Paving, Inc.						
<b>(Include d.b.a., if applicable)</b>						
<b>Street Address:</b>		5580 S. Fort Apache Rd. #120		<b>Website:</b>		
<b>City, State and Zip Code:</b>		Las Vegas, NV 89148		<b>POC Name:</b> Robert Wadsworth		
				<b>Email:</b> robert_wads@yahoo.com		
<b>Telephone No:</b>		702-451-3309		<b>Fax No:</b> 702-451-2760		
<b>Nevada Local Street Address:</b> (If different from above)				<b>Website:</b>		
<b>City, State and Zip Code:</b>				<b>Local Fax No:</b>		
<b>Local Telephone No:</b>				<b>Local POC Name:</b>		
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Full Name	Title	% Owned (Not required for Publicly Traded Corporations/Non-profit organizations)
Glenn Robert Warren	President	100%

*This section is not required for publicly-traded corporations.*

1. Are any individual members, partners, owners or principals, involved in the business entity, an Entity full-time employee(s), or appointed/elected

official(s)?

☐ Yes

☒ No

(If yes, please note that the employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)

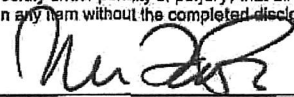
2. Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to an Entity full-time employee(s), or appointed/elected official(s)?

☐ Yes

☒ No

(If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the Board will not take action on any item without the completed disclosure form.

  
Signature

Vera LaPorte

Print Name

Office Manager

03/17/2021

Title

Date

## DISCLOSURE OF RELATIONSHIP

List any disclosures below:  
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF ENTITY* EMPLOYEE/OFFICIAL AND JOB TITLE	RELATIONSHIP TO ENTITY* EMPLOYEE/OFFICIAL	ENTITY* EMPLOYEE'S/OFFICIAL'S DEPARTMENT
N/A			

\* Entity employee means an employee of Las Vegas Valley Water District, Southern Nevada Water Authority, or Silver State Energy Association .

"Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

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- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren -- Grandparents – In-laws (second degree)

### For Entity Use Only:

If no Disclosure or Relationship is noted above or the section is marked N/A, please check this box.

☒ No Disclosure

If any Disclosure of Relationship is noted above, please complete the following:

☐ Yes ☐ No Is the Entity employee(s) noted above involved in the contracting/selection process for this particular agenda item?

☐ Yes ☐ No Is the Entity employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

SHAUNON ONO  
Signature

SHAUNON ONO  
Print Name  
Authorized Department Representative

DOCUMENT 00 52 00

AGREEMENT

THIS AGREEMENT, made and entered into, by and between Las Vegas Valley Water District, hereinafter referred to as Owner, and Sunrise Paving, Inc.

hereinafter referred to as Contractor, with both Owner and Contractor collectively referred to as the Parties,

WITNESSETH: That the Parties do mutually agree as follows:

1. Owner has awarded to Contractor the Contract for:

Contract Title: PAVEMENT REPLACEMENT SERVICES, 2020-2022 - LARGE ROW SITE LOCATIONS WITHIN CCPW AND NDOT JURISDICTIONS

Contract No: L0174

Public Works Project Identifying Number: CL-2021-183

2. For and in consideration of the payments and agreements hereinafter mentioned to be made and performed by said Owner, Contractor agrees to perform and complete in a good and workmanlike manner Work as defined in the Contract Documents and to furnish materials and tools and labor necessary to properly perform and complete the Work ready for use in strict accordance with the Contract Documents and under the penalty expressed in the attached bonds, which are hereby declared and accepted as essential parts of this Agreement and to accept as full compensation therefor the Contract Price as defined in the Contract Documents.
3. The Contractor hereby certifies that the Contractor has read and understands every provision contained in the Contract Documents. Contractor shall be bound and shall comply with each and every term, condition, and covenant set forth in the Contract Documents.
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  - b. General Requirements
  - c. Supplementary Conditions
  - d. General Conditions
  - e. Agreement
  - f. Drawings
  - g. Technical Specifications
  - h. Permits

- i. Bidder Statement of Authority to Submit Bid Form and accompanying Documents, including without limitation, Affidavit Pertaining to Preference Eligibility
  - j. Bid Form
  - k. Bonds
  - l. Instructions to Bidders
  - m. Invitation to Bid and Legal Notice
  - n. Notice of Award
  - o. Final Notice to Proceed
6. Affirmative Agreement to Arbitrate. By the signing of this Agreement, Contractor expressly authorizes Article 16 of the General Conditions and affirmatively agrees to settle all disputes, claims, or questions by binding arbitration.

IN WITNESS WHEREOF: The Contractor has caused this agreement to be executed this  
17 day of March, 2021.

CONTRACTOR'S NAME

Sunrise Paving, Inc.

By:



Signatory Empowered to Bind Contractor

Robert Wadsworth

Type or Print Name

General Manager

Official Title

THIS AGREEMENT shall be in full force and effect as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, when it was duly signed by the proper officer of the Las Vegas Valley Water District.

LAS VEGAS VALLEY WATER DISTRICT

By:

John J. Entsminger  
General Manager

Approved as to Form:



Attorney for Las Vegas Valley Water District

END OF DOCUMENT

**LAS VEGAS VALLEY WATER DISTRICT  
BOARD OF DIRECTORS  
AGENDA ITEM**

May 4, 2021

**Subject:**  
Agreement

**Petitioner:**  
Doa J. Ross, Deputy General Manager, Engineering

**Recommendations:**

That the Board of Directors approve and authorize the General Manager to sign an agreement between the Department of the Army and the District for the District to accept up to \$3,000,000 in federal funding, contribute \$975,750 for the first phase of the Blue Diamond Water System Rehabilitation Project, and authorize the General Manager or his designee to sign any ministerial documents necessary to effectuate the transaction.

**Fiscal Impact:**

If the above recommendation is approved, the District will receive funds for an amount not to exceed \$3,000,000 for the first phase of work completed. For the District's contribution, funds requested for current year expenditures are available in the District's Capital Budget. Funds for future year expenditures will be budgeted accordingly.

**Background:**

The Blue Diamond Water System supplies water to residential and commercial customers within the Town of Blue Diamond, Nevada (Blue Diamond). Water is supplied from two aging wells that were constructed in the 1950s. Other components of the water system are also nearing the end of their useful service lives, and storage is inadequate to meet modern fire flow regulations. Upon evaluation of the system, the District has determined that significant repair and rehabilitation is required to continue to provide safe and reliable drinking water to Blue Diamond in future years.

The Blue Diamond Water System Rehabilitation Project (Project), as generally shown on Exhibit I of the scope of work, includes three incremental phases: (1) replacement of the existing corroded and leaking pipelines to minimize system water loss and construction of a new pumping station for fire protection; (2) construction of replacement tanks, new power facilities, discharge/distribution pipelines, and pressure reducing valves to provide reliable water service and adequate water storage to meet all emergency, firefighting, and operational requirements; and (3) construction of one backup production well to maximize groundwater supply reliability.

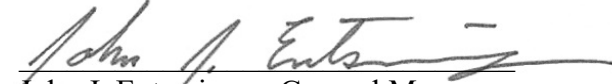
The first phase of the Project, design and construction of replacement pipelines and new pumping station, is estimated to cost \$3,903,000; however, the District's obligation is \$975,750. If approved, the attached agreement provides the terms and conditions necessary for the District to obtain 75 percent of first phase Project costs, up to \$3,000,000, in federal funding under the authority of Section 595 of the Water Resources Development Act of 1999. Future phases will require additional federal funds and Board of Director approval. The total Project cost for all three phases is estimated at an amount not to exceed \$10,558,000.



Agreement  
May 4, 2021  
Page Two

This agreement is being entered into pursuant to Sections 1(8), 1(13) and 1(17) of the Las Vegas Valley Water District Act, Chapter 167, Statutes of Nevada 1947, and Pub. L. No. 106-53. The office of the General Counsel has reviewed and approved the agreement.

Respectfully submitted:

A handwritten signature in dark ink, appearing to read "John J. Entsminger", with a long horizontal flourish extending to the right.

John J. Entsminger, General Manager  
JJE:DJR:MAD:AMB:KH:CCD:kf:jac  
Attachments

AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
THE LAS VEGAS VALLEY WATER DISTRICT  
FOR  
DESIGN AND CONSTRUCTION ASSISTANCE  
FOR THE  
BLUE DIAMOND WATER SYSTEM REHABILITATION PROJECT

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for Los Angeles District (hereinafter the "District Commander") and the Las Vegas Valley Water District (hereinafter the "Non-Federal Sponsor"), represented by its General Manager.

WITNESSETH, THAT:

WHEREAS, the Government is authorized to provide design and construction assistance for publicly owned, non-Federal water-related environmental infrastructure and resource protection and development projects in Idaho, Montana, rural Nevada, New Mexico, rural Utah, and Wyoming, including projects for wastewater treatment and related facilities, water supply and related facilities, environmental restoration, and surface water resource protection and development pursuant to Section 595 of the Water Resources Development Act of 1999, Public Law 106-53, as amended (hereinafter "Section 595");

WHEREAS, the District Commander has determined that the non-Federal project for Water Supply System Rehabilitation at Blue Diamond, Clark County, Nevada is eligible for design and construction assistance under Section 595;

WHEREAS, the design and construction assistance for the non-Federal project pursuant to this Agreement will be provided for increment(s) of work, as defined in Article I.A. of this Agreement, undertaken by the Non-Federal Sponsor;

WHEREAS, Section 595(e)(3) provides that the Federal share of costs under each agreement entered into under Section 595 shall be 75 percent, which may be in the form of reimbursements; and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement and acknowledge that this Agreement shall be enforceable in the appropriate district court of the United States.

NOW, THEREFORE, the parties agree as follows:

## ARTICLE I - DEFINITIONS

A. The term “increment of work” means design and construction of features, as generally described in a Scope of Work, and approved by the District Commander for Los Angeles District. The initial increment of work consists of design and construction of replacement distribution pipelines and a 3630 Zone Pumping Station, as generally described in the Scope of Work dated March 10, 2021 and approved by the District Commander for Los Angeles District on March 25, 2021. Each additional increment of work, if any, will be described in a separate Scope of Work, which will specify the amount of Federal funds available for such work. In the event of a conflict between this Agreement and a Scope of Work, this Agreement will control.

B. The term “construction costs” means all costs incurred by the Government and Non-Federal Sponsor in accordance with the terms of this Agreement that are directly related to design and construction of an increment of work and cost shared. The term includes, but is not necessarily limited to: the Non-Federal Sponsor’s eligible pre-Scope of Work design work costs, if any; the Government’s costs for conducting environmental compliance activities, providing management oversight and technical assistance, as needed, preparing monthly financial reports, preparing Scopes of Work, reviewing design work, appraisals, and invoices provided by the Non-Federal Sponsor, conducting periodic inspections during construction, and any other costs incurred by the Government pursuant to the provisions of this Agreement; the Non-Federal Sponsor’s eligible costs of engineering, design, construction, and supervision and administration; the Non-Federal Sponsor’s eligible costs for providing real property interests and relocations, and performing permit work; and the costs of historic preservation activities except for data recovery for historic properties, if any. The term does not include any costs for operation and maintenance; dispute resolution; audits; betterments; or the Non-Federal Sponsor’s cost of negotiating this Agreement.

C. The term “real property interests” means lands, easements, and rights-of-way, including those required for relocations and borrow and dredged material placement areas. Acquisition of real property interests may require the performance of relocations.

D. The term “relocation” means the provision of a functionally equivalent facility to the owner of a utility, cemetery, highway, railroad, or public facility when such action is required in accordance with applicable legal principles of just compensation. Providing a functionally equivalent facility may include the alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

E. The term “pre-Scope of Work design work” means the design work performed by the Non-Federal Sponsor prior to approval of the Scope of Work for that increment of work that the Government determines was accomplished in a satisfactory manner and is integral to the increment of work.

F. The term “betterment” means a difference in the design or construction of an element of an increment of work that results from the application of standards that the Government

determines exceed those that the Government would otherwise apply to design or construction of that element.

## ARTICLE II - OBLIGATIONS OF THE PARTIES

A. The amount of Federal funds available for each increment of work is limited to the amount identified in the Scope of Work for that increment of work. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall be responsible for all costs in excess of this amount, and such excess costs shall not be eligible for credit or reimbursement or included in the construction costs for cost-sharing purposes. For the initial increment of work, the Federal funds available are limited to \$3,000,000.

B. The Non-Federal Sponsor shall design and construct each increment of work in accordance with all requirements of applicable Federal laws and implementing regulations and the following paragraphs. If after completion of the design portion of an increment of work, the parties mutually agree in writing not to proceed with construction of that increment of work, the parties shall conclude their activities relating to that increment of work and proceed to a final accounting in accordance with Article VI.C.

1. In accordance with Article III, the Non-Federal Sponsor shall provide the real property interests and relocations required for construction and operation and maintenance of each increment of work. The Non-Federal Sponsor hereby gives the Government a right to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor now or hereafter owns or controls for the purpose of performing inspections pursuant to Article II.D.

2. The Non-Federal Sponsor shall afford the Government the opportunity to review and comment on all design work for an increment of work, including relevant plans and specifications, at intervals determined by the Government in coordination with the Non-Federal Sponsor, and related contract solicitations, prior to the Non-Federal Sponsor's issuance of such solicitations. In addition, until the Government has provided written confirmation that environmental compliance has been completed for an increment of work, the Non-Federal Sponsor shall not issue the solicitation for the first construction contract for that increment of work or commence construction of that increment of work using its own forces.

3. The Non-Federal Sponsor shall obtain all permits and licenses necessary for design, construction, and operation and maintenance of each increment of work.

4. The Non-Federal Sponsor shall establish and maintain such legal and institutional structures as necessary to ensure the effective long-term operation of each increment of work at no cost to the Government.

5. Upon completion of design for each increment of work, the Non-Federal Sponsor shall furnish the Government with copies of the completed design.

6. The Non-Federal Sponsor shall operate and maintain each increment of work at no cost to the Government. The Non-Federal Sponsor shall furnish the Government with a copy of the as-built drawings for the completed work.

7. No more frequently than every 30 calendar days, the Non-Federal Sponsor shall provide the Government an invoice with the documentation required by Article V for the Government to determine whether costs incurred by the Non-Federal Sponsor for an increment of work are eligible for inclusion in construction costs. If the Non-Federal Sponsor incurred costs for pre-Scope of Work design work for an increment of work, documentation of such costs shall be included in the Non-Federal Sponsor's initial invoice. Following completion of an increment of work, the Non-Federal Sponsor shall notify the Government, which shall conduct a final inspection of that increment of work. No later than 60 calendar days after the Government conducts the final inspection, the Non-Federal Sponsor shall provide its final invoice for that increment of work, unless an extension is requested by Non-Federal Sponsor in writing and approved by the Government.

C. Using information developed and provided by the Non-Federal Sponsor, the Government shall ensure environmental compliance activities necessary to achieve compliance with all applicable environmental laws and regulations for design and construction of an increment of work are completed prior to initiation of construction on that increment of work. For each increment of work, the Government will notify the Non-Federal Sponsor in writing when such compliance has been completed.

D. The Government may perform periodic inspections to verify the progress of construction and that work is being performed in a satisfactory manner. In addition, the Government may provide technical assistance to the Non-Federal Sponsor on an as-needed basis during design and construction of an increment of work. Further, the Government shall perform a final inspection to verify satisfactory completion of an increment of work.

E. For each increment of work, the Government shall be responsible for 75 percent of construction costs, with reimbursement for costs incurred by the Non-Federal Sponsor determined in accordance with this paragraph. The Government shall review each invoice provided by the Non-Federal Sponsor and, based on the procedures, requirements, and conditions provided in Article V, shall determine the costs, or portion thereof, that are eligible for inclusion in construction costs. To the maximum extent practicable, within 30 days of receipt of each invoice, the Government, subject to the availability of Federal funds, shall reimburse the Non-Federal Sponsor for costs for each invoice by taking 75 percent of the Non-Federal Sponsor's eligible costs, less 25 percent of the costs incurred by the Government during that same invoice period. The Government shall provide a written explanation to the Non-Federal Sponsor for costs it determines are not eligible for inclusion in construction costs.

F. The Government shall ensure compliance with the National Historic Preservation Act (NHPA) of 1966, as amended, prior to initiation of construction. All costs incurred by the Government and the Non-Federal Sponsor for actions associated with historic preservation, including, but not limited to, the identification and treatment of historic properties as those properties are defined in the NHPA and the mitigation of adverse effects other than data

recovery, as the Government determines necessary and subject to audit in accordance with Article X.B. to determine reasonableness, allocability, and allowability of such costs, shall be included in construction costs and shared in accordance with the provisions of this Agreement. If historic properties are discovered during construction and the effect(s) of construction are determined to be adverse, strategies shall be developed to avoid, minimize, or mitigate these adverse effects. In accordance with 54 U.S.C. 312507, up to 1 percent of the total amount available for each increment of work may be applied toward data recovery of historic properties and such costs shall be borne entirely by the Government. In the event that costs associated with data recovery of historic properties exceed 1 percent of the total amount authorized to be appropriated for each increment of work, in accordance with 54 U.S.C. 312508, the Government will seek a waiver from the 1 percent limitation under 54 U.S.C. 312507 and upon receiving the waiver, will proceed with data recovery at full federal expense. Nothing in this Agreement shall limit or otherwise prevent the Non-Federal Sponsor from voluntarily contributing costs associated with data recovery that exceed 1 percent.

G. The Non-Federal Sponsor shall not use Federal program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the increment of work. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share for such work.

H. The Non-Federal Sponsor and the Government, in consultation with appropriate Federal and State officials, shall develop a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

I. In the event that the Non-Federal Sponsor elects to include betterments in the design or construction of an increment of work, the Non-Federal Sponsor shall notify the Government in writing and describe the betterments it intends to design and construct. The Non-Federal Sponsor shall be solely responsible for all costs due to betterments, including costs associated with obtaining permits for such work, without reimbursement by the Government.

### ARTICLE III - REAL PROPERTY INTERESTS, RELOCATIONS, AND COMPLIANCE WITH PUBLIC LAW 91-646, AS AMENDED

A. The Government and Non-Federal Sponsor shall jointly determine the real property interests required for construction, operation, and maintenance of each increment of work and the Non-Federal Sponsor shall provide the Government with general written descriptions, including maps as appropriate, of such real property interests. Upon written confirmation by the Government, the Non-Federal Sponsor shall acquire such real property interests and notify the Government in writing when such interests have been acquired. The Non-Federal Sponsor shall ensure that real property interests provided for such work are retained in public ownership.

B. The Government and Non-Federal Sponsor shall jointly determine the relocations necessary for construction, operation, and maintenance of each increment of work and the Non-Federal Sponsor shall provide the Government with general written descriptions, including maps

and plans and specifications, as appropriate, for such relocations. Upon written confirmation by the Government, the Non-Federal Sponsor shall perform or ensure performance of such relocations and notify the Government in writing when such relocations have been accomplished.

C. As required by Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4630 and 4655), and Section 24.4 of the Uniform Regulations contained in 49 C.F.R. Part 24, the Non-Federal Sponsor assures that (1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under Sections 4622, 4623 and 4624 of Title 42 of the U.S. Code; (2) relocation assistance programs offering the services described in Section 4625 of Title 42 of the U.S. Code shall be provided to such displaced persons; (3) within a reasonable period of time prior to displacement, comparable replacement dwellings will be available to displaced persons in accordance with Section 4625(c)(3) of Title 42 of the U.S. Code; (4) in acquiring real property, the Non-Federal Sponsor will be guided, to the greatest extent practicable under State law, by the land acquisition policies in Section 4651 and the provision of Section 4652 of Title 42 of the U.S. Code; and (5) property owners will be paid or reimbursed for necessary expenses as specified in Sections 4653 and 4654 of Title 42 of the U.S. Code.

#### ARTICLE IV - HAZARDOUS SUBSTANCES

A. The Non-Federal Sponsor shall be responsible for undertaking any investigations to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA") (42 U.S.C. 9601-9675), that may exist in, on, or under real property interests required for construction, operation, and maintenance of each increment of work.

B. In the event the Non-Federal Sponsor discovers that hazardous substances regulated under CERCLA exist in, on, or under any of the required real property interests, within 15 calendar days of such discovery, the Non-Federal Sponsor, in addition to providing any other notice required by applicable law, shall provide written notice to the Government, and the Non-Federal Sponsor shall not proceed with the acquisition of such real property interests until the parties agree that the Non-Federal Sponsor should proceed.

C. If hazardous substances regulated under CERCLA are found to exist in, on, or under any required real property interests, the Non-Federal Sponsor shall consider any liability that might arise under CERCLA and determine whether to initiate construction, or if already initiated, whether to continue construction, suspend construction, or terminate construction. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the owner and operator of each increment of work for purposes of CERCLA liability.

1. If the Non-Federal Sponsor initiates or continues construction, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response, including the costs of any studies and investigations

necessary to determine an appropriate response to the contamination. Such costs shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

2. In the event the Non-Federal Sponsor fails to ensure any necessary cleanup and response actions are accomplished prior to initiation of construction, the Government may suspend or terminate future performance under this Agreement, including reimbursements pursuant to Article II.E.

D. Any decision made pursuant to this Article shall not relieve any third party from any liability that may arise under CERCLA.

## ARTICLE V - VALUE OF REAL PROPERTY INTERESTS, RELOCATIONS, DESIGN AND CONSTRUCTION WORK, AND PERMIT WORK

A. The Government and the Non-Federal Sponsor agree that the amount of costs eligible for inclusion in the construction costs for an increment of work shall be determined in accordance with the following procedures, requirements, and conditions and shall be subject to audit in accordance with Article X.B. to determine reasonableness, allocability, and allowability of costs.

### 1. Real Property Interests.

a. General Procedure. Only the value of real property interests acquired from private owners after the date of approval of the Scope of Work for an increment of work are eligible for inclusion in the construction costs except that the value of real property interests donated to the Non-Federal Sponsor are not eligible for inclusion in construction costs. The Non-Federal Sponsor shall obtain for each real property interest acquired from private owners, an appraisal of the fair market value of such interest that is prepared by a qualified appraiser who is acceptable to the parties. Subject to valid jurisdictional exceptions, the appraisal shall conform to the Uniform Standards of Professional Appraisal Practice. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government.

(1) Date of Valuation. The fair market value of real property interests acquired from private owners by the Non-Federal Sponsor after the date of approval of the Scope of Work for an increment of work shall be the fair market value of such real property interests at the time the interests are acquired.

(2) Except for real property interests acquired through eminent domain proceedings after the date of approval of the Scope of Work for an increment of work, the Non-Federal Sponsor shall submit an appraisal for each real property interest to the Government for review and approval no later than, to the maximum extent practicable, 60 calendar days after the Non-Federal Sponsor concludes the acquisition of the interest. If, after coordination and consultation with the Government, the Non-Federal Sponsor is unable to provide an appraisal that is acceptable to the Government, the Government shall obtain an appraisal to determine the fair market value of the real property interest for valuation purposes.



(3) The Government shall include in the construction costs the appraised amount approved by the Government. Where the amount paid or proposed to be paid by the Non-Federal Sponsor exceeds the approved appraised amount, the Government, at the request of the Non-Federal Sponsor, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the appraised amount.

b. Eminent Domain Procedure. For real property interests acquired by eminent domain proceedings after the date of approval of the Scope of Work for an increment of work, the Non-Federal Sponsor shall notify the Government in writing of its intent to institute such proceedings and submit the appraisals of the specific real property interests to be acquired for review and approval by the Government. If the Government provides written approval of the appraisals, the Non-Federal Sponsor shall use the amount set forth in such appraisals as the estimate of just compensation for the purpose of instituting the eminent domain proceeding. If the Government provides written disapproval of the appraisals, the Government and the Non-Federal Sponsor shall consult to promptly resolve the issues that are identified in the Government's written disapproval. In the event the issues cannot be resolved, the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for purpose of instituting the eminent domain proceeding. The fair market value for valuation purposes shall be either the amount of the court award for the real property interests taken or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

c. Waiver of Appraisal. Except as required by paragraph A.1.b. of this Article, the Government may waive the requirement for an appraisal pursuant to this paragraph if, in accordance with 49 C.F.R. Section 24.102(c)(2):

(1) the owner is donating the real property interest to the Non-Federal Sponsor and releases the Non-Federal Sponsor in writing from its obligation to appraise the real property interest, and the Non-Federal Sponsor submits to the Government a copy of the owner's written release; or

(2) the Non-Federal Sponsor determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the real property interest proposed for acquisition is estimated at \$25,000 or less, based on a review of available data. When the Non-Federal Sponsor determines that an appraisal is unnecessary, the Non-Federal Sponsor shall prepare the written waiver valuation required by 49 C.F.R. Section 24.102(c)(2) and submit a copy thereof to the Government for approval. When the anticipated value of the real property interest exceeds \$10,000, the Non-Federal Sponsor must offer the owner the option of having the Non-Federal Sponsor appraise the real property interest.

d. Incidental Costs. The Government shall include in construction costs the incidental costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurs in acquiring any real property interests from private owners required pursuant to Article III for an increment of work after the date of approval of the Scope of Work for such work. Such incidental costs shall include closing and title costs, appraisal costs, survey costs,

attorney's fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits provided in accordance with Article III.C., and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest pursuant to Article III.

e. Any publicly owned real property interests or real property interests owned by the Non-Federal Sponsor on the date of approval of the Scope of Work and required for an increment of work will be provided by the Non-Federal Sponsor at no cost to the Government.

2. Relocations. The Government shall include in construction costs the value of any relocations performed by the Non-Federal Sponsor that are directly related to construction, operation, and maintenance of an increment of work. Only relocations performed after approval of the Scope of Work for an increment of work are eligible for inclusion in the construction costs.

a. For a relocation other than a highway, the value shall be only that portion of relocation costs that the Government determines is necessary to provide a functionally equivalent facility, reduced by depreciation, as applicable, and by the salvage value of any removed items.

b. For a relocation of a highway, which is any highway, roadway, or street, including any bridge thereof, that is owned by a public entity, the value shall be only that portion of relocation costs that would be necessary to accomplish the relocation in accordance with the design standard that the State of Nevada would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

c. Relocation costs include actual costs of performing the relocation; planning, engineering, and design costs; supervision and administration costs; and documented incidental costs associated with performance of the relocation, as determined by the Government. Relocation costs do not include any additional cost of using new material when suitable used material is available.

3. Design and Construction Work. The Government shall include in construction costs for an increment of work the value of the design and construction work performed by the Non-Federal Sponsor after the date of approval of the Scope of Work for such work, and the value of pre-Scope of Work design work, if any, pursuant to the provisions of this paragraph.

a. The value shall be equivalent to the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred to provide the design and construction work. Such costs shall include, but not necessarily be limited to, actual costs for performing engineering and design, construction, and supervision and administration; and documented incidental costs associated with such work. Appropriate documentation includes invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees. Where the Non-Federal Sponsor's cost for completed pre-Scope of Work

design work is expressed as fixed costs plus a percentage of costs of the increment of work, the Non-Federal Sponsor shall renegotiate such costs with its contractor based on actual costs.

b. The following costs are not eligible for inclusion in construction costs for an increment of work: costs for interest charges, or any adjustment to reflect changes in price levels between the time the design or construction work is completed; for any pre-Scope of Work design work costs previously reimbursed under another agreement; for the costs of design or construction work obtained at no cost to the Non-Federal Sponsor; for costs that exceed the Government's estimate of the cost for such design and construction work; or for the costs of any construction work initiated on an increment of work prior to completion of environmental compliance for such work.

4. Permit Work. The Government shall include in construction costs for an increment of work the value of permit work performed by the Non-Federal Sponsor after the date of approval of the Scope of Work for such work. The value shall be equivalent to the direct costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurs in obtaining all permits and licenses necessary for design, construction, operation and maintenance of the increment of work, including the permits necessary for placement of the increment of work on publicly owned or controlled real property interests. Appropriate documentation includes invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees involved in obtaining such permits.

5. Compliance with Federal Labor Laws. The eligible costs to be included in construction costs for an increment of work for non-Federal construction and relocations is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (labor standards originally enacted as the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland Anti-Kickback Act), and inclusion of such costs in construction costs may be denied, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

B. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall not be entitled to credit or reimbursement for any costs it incurs for real property interests, relocations, and permit work that exceed 25 percent of construction costs for an increment of work, and any such costs in excess of this amount cannot be applied towards the non-Federal cost share for another increment of work; and for any costs incurred by the Non-Federal Sponsor prior to the effective date of this Agreement, excluding costs for pre-Scope of Work design work.

## ARTICLE VI - ACCOUNTING

A. As of the effective date of this Agreement, construction costs for the initial increment of work are projected to be \$3,903,000, with the amount of Federal funds available for such work limited to \$3,000,000. The Non-Federal Sponsor's share of construction costs for the initial increment of work are projected to be \$975,750. Costs to be incurred by the Government

for the initial increment of work are projected to be \$200,000. Costs to be incurred by the Non-Federal Sponsor for the initial increment of work are projected to be \$3,703,000, which includes eligible design and construction work projected to be \$3,703,000, consisting of eligible design and construction work after the effective date of this Agreement projected to be \$3,653,000 and eligible pre-Scope of Work design work projected to be \$50,000, eligible real property interests and relocations projected to be \$0, and eligible permit work projected to be \$0. Reimbursements pursuant to Article II.E. for eligible costs incurred by the Non-Federal Sponsor for the initial increment of work are projected to be \$2,927,250. The Scope of Work for each additional increment of work will include information on the Federal funds available for the increment of work and the Non-Federal Sponsor's share of construction costs for such work. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Non-Federal Sponsor.

B. For each increment of work, the Government shall provide the Non-Federal Sponsor with monthly financial reports setting forth the estimated construction costs and the Government's and Non-Federal Sponsor's estimated shares of such costs; costs incurred by the Government to date; costs incurred by the Non-Federal Sponsor to date; the total amount of reimbursements made to the Non-Federal Sponsor to date; and the balance of the Federal funds available.

C. After the Non-Federal Sponsor has provided its final invoice to the Government for an increment of work, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. As a part of the final accounting, the Government will determine the total reimbursable amount by taking 75 percent of the eligible costs incurred by the Non-Federal Sponsor, less 25 percent of the costs incurred by the Government for that increment of work. Should the final accounting determine that funds in excess of the total reimbursable amount have been reimbursed to the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of receipt of written notice from the Government, shall provide the Government with the full amount of such excess reimbursement by delivering a check payable to "FAO, USAED, Los Angeles District (L1)" to the District Commander, or by providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. Should the final accounting determine that the reimbursements provided to the Non-Federal Sponsor are less than the total reimbursable amount, the Government, subject to the availability of funds, shall reimburse the Non-Federal Sponsor for the amount equal to such difference.

## ARTICLE VII - TERMINATION OR SUSPENSION

If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Government may suspend or terminate design and construction assistance. If the Government determines that the Federal funds available for an increment of work will be exhausted prior to completion of such work, the Government shall notify the Non-Federal Sponsor and the Non-Federal Sponsor may continue with design and construction of such work, at no cost to the Government and without credit or reimbursement.

## ARTICLE VIII - HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from any and all damages arising from design, construction, or operation and maintenance of any work under this Agreement, except for damages due to the fault or negligence of the Government or its contractors.

## ARTICLE IX - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

## ARTICLE X - MAINTENANCE OF RECORDS AND AUDITS

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits shall not be included in construction costs.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

## ARTICLE XI - RELATIONSHIP OF PARTIES

In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without

the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

## ARTICLE XII - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by registered or certified mail, with return receipt, as follows:

If to the Non-Federal Sponsor:

General Manager  
Las Vegas Valley Water District  
Attention: Mike Dishari  
101 South Valley View Blvd.  
Las Vegas, NV 89153

If to the Government:

District Commander  
U.S. Army Corps of Engineers, Los Angeles District  
915 Wilshire Blvd.  
Los Angeles, CA 90017

B. A party may change the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

## ARTICLE XIII - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

## ARTICLE XIV - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Commander.

DEPARTMENT OF THE ARMY

LAS VEGAS VALLEY WATER DISTRICT

BY: \_\_\_\_\_  
JULIE A. BALTEN  
Colonel, U.S. Army  
District Commander

BY: \_\_\_\_\_  
JOHN J. ENTSMINGER  
General Manager

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**Blue Diamond Water System Rehabilitation Project**  
**Section 595, Scope of Work**  
March 10, 2021

**1. Purpose**

This Scope of Work identifies and describes the design and construction increments of work for the proposed Blue Diamond Water System Rehabilitation Project (the “Project”) located in Clark County, Nevada. The Project is being considered for implementation under the authority of Section 595 of the Water Resources Development Act of 1999.

**2. Background and History**

- a. The Las Vegas Valley Water District (LVVWD) has owned, operated and maintained the Blue Diamond Water System since 1992. The primary water source for the town of Blue Diamond (approximately 560 residents) is two groundwater wells originally constructed in the 1950s and 1960s, which are owned by CertainTeed Gypsum Manufacturing, Inc. (CertainTeed), formerly known as the James Hardie Gypsum Mine Company. Through a 1994 agreement with CertainTeed, the LVVWD has permitted water rights for 150 acre-feet per year for use in Blue Diamond Village, which are pumped through CertainTeed’s two groundwater wells.
- b. Since 2005, both groundwater production wells have steadily declined in groundwater levels. Although LVVWD reached an agreement with CertainTeed and repaired the damaged well casings and lowered the existing well pumps to the bottoms of the well casings, declining groundwater levels continue presenting a significant water supply risk for the community. Additionally, the wells have deteriorated and reduced water production efficiency due to encrustation and are vulnerable to failure. Should the wells fail due to persistent drought conditions or deterioration of facilities, the existing water system has no reliable means to meet the community’s water needs. Thus, a new deeper well close to the existing wells must be developed and equipped.
- c. The Blue Diamond Water System requires an urgent upgrade to meet fire protection and emergency storage requirements in accordance with current industrial standards. Should any fire events occur, residents in the 3630 Pressure Zone are at significant risk due to extremely limited fire flow available at all existing fire hydrants. Many existing fire hydrants in the 3530 Pressure Zone also fail to provide the minimum fire flow required by the Fire Department. A new pumping station is required to provide adequate fire flows from the existing 3530 Zone Tanks to the 3630 Pressure Zone. Many pipeline upgrades are also required to convey necessary fire flow to every existing fire hydrant location. Additional storage needs to be accommodated for the community to meet all emergency requirements.
- d. Because of the existing aging infrastructure, the Blue Diamond Water System suffers from water leaks. Many pipelines and service laterals are extensively corroded, leading to significant water loss. Moreover, a leak or main break event may subject the community to water quality



## **Blue Diamond Water System Rehabilitation Project**

### **Section 595, Scope of Work**

concerns, such as possible contaminant intrusion. The existing pipelines installed within private properties need to be relocated to public rights-of-way.

### **3. Proposed Project**

- a. Credit for Completed Design: Section 595 provides credit for reasonable costs of design work completed by non-federal interests before entering into a cost-sharing agreement. No design work is anticipated prior to the execution of the Environmental Infrastructure Design and Construction Agreement.
- b. Credit for Acquired Land, Easements, Rights-of-Way, Relocations, and Disposal (LERRD): Section 595 authorization allows credit for LERRD. For all elements of proposed construction, LERRD credit is not requested, because construction will be on public rights-of-way, LVVWD's properties or obtained private easements. There are no additional costs associated with restricting the use of public rights-of-way for constructing pipelines under the Project.
- c. Proposed Construction for the Project:  
In order to provide safe and reliable drinking water services to the town of Blue Diamond, the following increments of work are required. Exhibit I depicts the proposed Project geographically.
  - i. Design and Construction of Replacement Pipelines and a New 3630 Zone Pumping Station: Approximately 4,710 LF of 6- and 8-inch diameter pipelines will be constructed at various places shown on Exhibit I, replacing existing corroded and leaking pipelines and service laterals. This will ensure all public water mains are in publicly accessible rights-of-way and a minimum fire flow of 1,500 gpm at fire hydrants throughout the distribution system can be achieved. The existing standpipes will be replaced with standard fire hydrants, and new fire hydrants will be added to the system with the pipeline replacement in accordance to the County's Fire Code.  
  
A new 3630 Zone Pumping Station will be constructed including a new station building, a fire pump, power generator, pump control, yard piping and appurtenances. It will provide barrels and connection stubs for the future relocation of existing domestic pumps from the existing building. The minimum fire flow available to the 3630 Pressure Zone will be increased from the current 825 gallons of water per minute (gpm) to a future minimum of 1,500 gpm.
  - ii. Future project increments not included in the Environmental Infrastructure Design and Construction Agreement: Assistance under an agreement is limited initially to an increment of work that can be completed within available funding. The model agreements allow for undertaking additional increments of work if additional funding is

## **Blue Diamond Water System Rehabilitation Project**

### **Section 595, Scope of Work**

provided in a subsequent fiscal year to complete such additional increments of work for the same non-federal project under Section 595 involving the same non-federal sponsor. Additional increments of this project will be described in subsequent scope of works provided that additional funding is available.

- d. Federal Review and Coordination: Project costs will include all federal efforts to assist the community in completing this project and verify compliance with all applicable federal laws and regulations. In this case, federal participation is expected to be minimal and estimated to be \$200,000. The project costs for federal review and coordination are subject to the Section 595 authorized cost share of 75% federal and 25% non-federal.

#### **4. Project Costs and Cost Sharing**

- a. Project Costs: Section 595 authorization defined cost sharing as 75% federal and 25% non-federal. The following comprises of costs of proposed project increments for purposes of the Environmental Infrastructure Design and Construction Agreement. It is understood that the lower priority projects may have to be scaled back or eliminated depending on the actual bid prices for the higher priority projects.

#### **Project increments of work and estimated costs are:**

##### **Increment 1**

- i. Design and Construction of Replacement Pipelines  
*Cost \$2,266,000                      Incurred by the Government \$1,699,500*
- ii. Design and Construction of 3630 Zone Pumping Station  
*Cost \$1,437,000                      Incurred by the Government \$1,077,750*
- iii. Environmental Document and Program Administration  
*Cost \$200,000                      Incurred by the Government \$150,000*

<b>Increment 1 Project Cost</b>	<b>\$3,903,000</b>
<b>Increment 1 Project Cost Incurred by the Government</b>	<b>\$2,927,250</b>
<b>Increment 1 Project Cost – Local Share</b>	<b>\$975,750</b>

## **Blue Diamond Water System Rehabilitation Project**

### **Section 595, Scope of Work**

- b. Cost Allocation: Section 595 authorization allows federal participation to directly assist in design or construction, credit, reimbursement and grants. For this Project, the non-federal interest has and will complete the design and construction of the increments of work for the Project. Based on available federal funds, the total Project cost included in the Environmental Infrastructure Design and Construction Agreement is \$3,903,000.

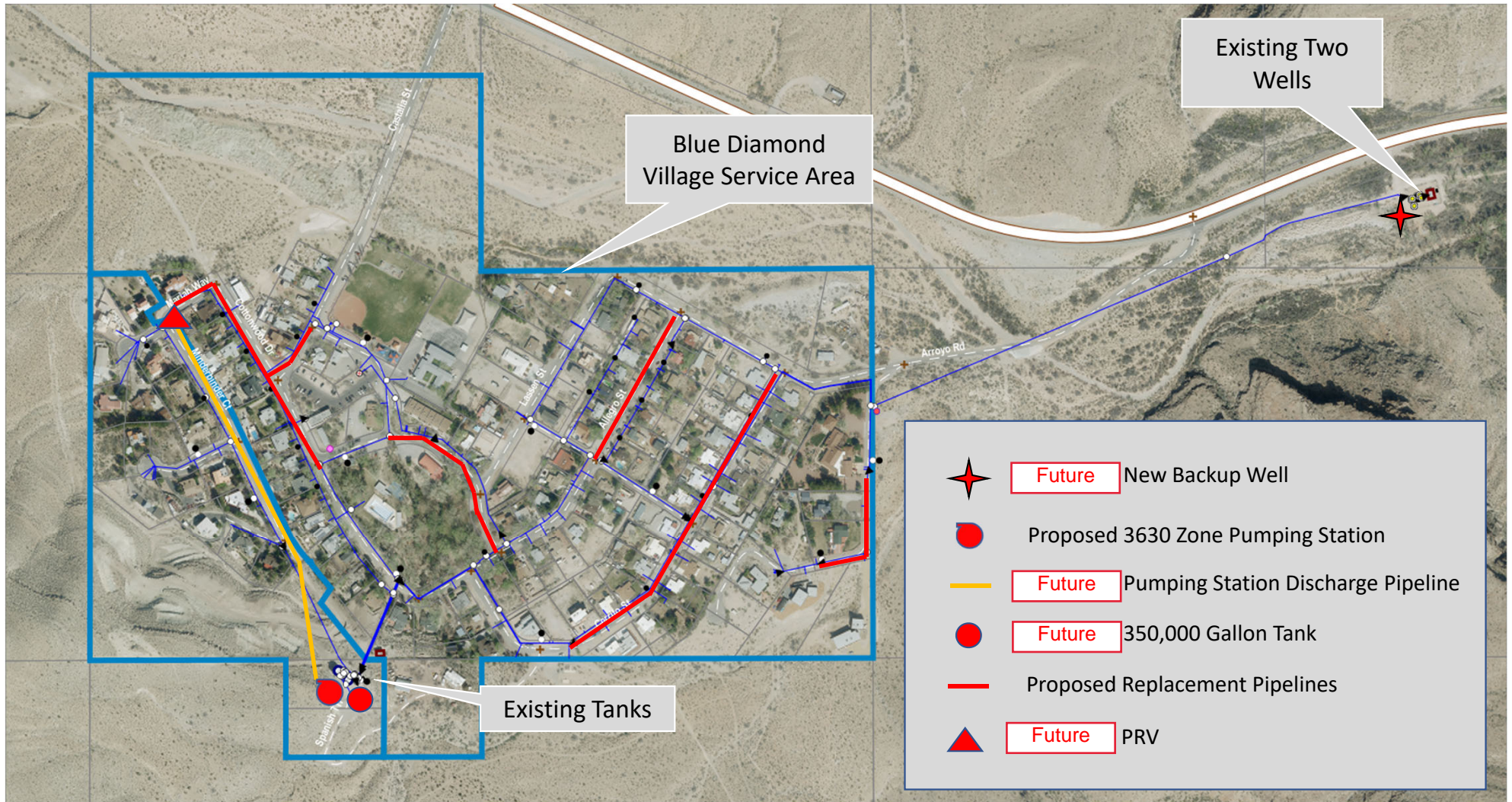
#### **5. Project Schedule**

Signature of the Environmental Infrastructure Design and Construction Agreement is required prior to any construction effort on the Project. Completion of the Project schedule is estimated to be in five (5) years after the Design and Construction Agreement becomes effective.

#### **6. Attachments**

Exhibit I.      Project Schematic – Blue Diamond Water System Rehabilitation

## Exhibit I. Project Schematic – Blue Diamond Water System Rehabilitation



## CERTIFICATE OF AUTHORITY

I, Gregory J. Walch, do hereby certify that I am the principal legal officer for the Las Vegas Valley Water District, that the Las Vegas Valley Water District is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the Las Vegas Valley Water District in connection with the Blue Diamond Water System Rehabilitation Project, and to pay contract damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, and that the person who executed this Agreement on behalf of the Las Vegas Valley Water District acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

---

Gregory J. Walch  
General Counsel  
Las Vegas Valley Water District

## CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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John J. Entsminger  
General Manager  
Las Vegas Valley Water District

DATE: \_\_\_\_\_