

Agenda
Rio Linda / Elverta Community Water District
Planning Committee

Sacramento Metro Fire Dept.
6609 Rio Linda Blvd.
Rio Linda, CA 95673

Friday, August 3, 2018
2:00 pm

Public documents relating to any open session items listed on this agenda that are distributed to the Committee members less than 72 hours before the meeting are available for public inspection on the counter of the District Office.

The public may address the Committee concerning any item of interest. Persons who wish to comment on either agenda or non-agenda items should fill out the Comment Card and give it to the General Manager. The Committee Chair will call for comments at the appropriate time. Comments will be subject to reasonable time limits (3 minutes).

In compliance with the Americans with Disabilities Act, if you have a disability, and you need a disability-related modification or accommodation to participate in this meeting, please contact the District office at (916) 991-1000. Requests must be made as early as possible and at least one full business day before the start of the meeting.

Call to Order

Public Comment

This is an opportunity for the public to comment on non-agenda items with the subject matter jurisdiction of the Committee. Comments are limited to 2 minutes.

Items for Discussion and Action

- 1.) Discuss the current challenges for moving forward with development in the Elverta Specific Plan area.
- 2.) Review the draft RFQ for engineering services and discuss timing and methods for the RFQ process.
- 3.) Update on the letter Legal Counsel submitted to Elverta Associates LLC regarding the Well #16 property donation.

Items Requested for Next Month's Committee Agenda

Adjournment

Next Scheduled Planning Committee Meeting: Friday, September 7, 2018



Planning Committee

Agenda Item: 1

Date: August 3, 2018
Subject: Update on Elverta Specific Plan Owner Group (ESPOG)
Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

Receive an update on the status of discussions with Elverta Specific Plan Owner Group (ESPOG) on development entitlements. Then, provide direction to staff as appropriate.

Current Background and Justification:

The Board received an update on the status of discussions at the July 16th meeting. The GM and Robin Baral (of Churchwell White) have been engaged in drafting comments and edits to a Water Service Agreement and a Fee Credit and Reimbursement Agreement.

Robin Baral and I have cooperated on drafting a Water Services Agreement and on the related, referenced agreement, Fee Credit and Reimbursement agreement. Robin has corresponded with ESPOG to convey these documents require feedback from the Board Members and will be discussed at the August Planning Committee.

In summary, virtually ignoring surface water for now (albeit unilaterally motivated by ESPOG) simplifies the elements needed in a Water Service Agreement. Essentially, the Board has not accepted this simplified approach suggested by ESPOG, and the ESPOG response is contrary to the District's

June 18th letter to ESPOG requesting ESPOG submit a plan for addressing the surface water needs in ESP (included in your Committee packets). Nevertheless, the absence of proposed surface water planning elements subsequent to discontinued discussions on means and timing for the surface water facilities for ESP Plan development enables a focus (although not mutually consented) on the ground water facilities only. Though simplified relative to surface and groundwater planning, the timing, specifications and responsibility for constructing groundwater facilities also need to be established. Therefore, a Water Service Agreement and associated Fee Credit and Reimbursement Agreement becomes more prominent in a scope virtually devoid of surface water facilities. ESPOG has acknowledged that ESPOG developers will pay the surface water component of the District's capacity fee (previously they requested deferral for 20-years). The District's obligation then becomes deciding if / when the District will undertake the first step on creating surface water facilities with the funding the District has accumulated at any given point in the future.

Ultimately, the Board needs to provide clear direction to staff and to ESPOG. Is the District willing to defer discussions and agreements of the surface water component for Elverta Specific Plan, thereby enabling the suggested focus on groundwater facilities to build out the estimated 3,500 residential homes in the Elverta Specific Plan? If so, informing Sacramento County Planning and Sacramento Groundwater Authority seems appropriate.

Staff recommendation:

I recommend the Planning Committee direct an action item on the August 20th agenda to consider responding to the ESPOG position on groundwater only focus. If the Board accepts such a strategy, I further recommend the Planning Committee recommend District engagement with a municipal finance consultant, funded by ESPOG, to advise the District on various strategies and methods for slowly building a funding source for future surface water facilities.



RIO LINDA/ELVERTA COMMUNITY WATER DISTRICT

P. O. BOX 400 730 L STREET
RIO LINDA, CALIFORNIA 95673 Phone: 916-991-1000

June 18, 2018

Jeff Pemstein
Elverta Specific Plan Owners Group
11060 White Rock Road, Suite 150A
Rancho Cordova, CA 95670

**Re. Rio Linda Elverta Community Water District's Response to Elverta
Specific Plan Owners Group's Notice Declining to Fund Development Costs**

Dear Mr. Pemstein:

This letter serves as the response from the Rio Linda Elverta Community Water District ("RLECWD" or "District") Board of Directors to the Elverta Specific Plan Owners Group ("ESPOG") letter ("ESPOG letter") dated May 18, 2018 (attached hereto). The ESPOG letter states that ESPOG has declined to prefund the specific development costs associated with the RiverArc surface water supply project.

Due to the gravity of such notification by ESPOG and the associated ramification to conditions for development entitlements, the RLECWD reiterates the District's requirements for development of the Elverta Specific Plan. Unambiguous conditions to the Elverta Specific Plan development entitlement include the requirement of providing treated surface water and it is agreed that entering into a Water Services Agreement is a means to assure this condition is satisfied. RLECWD cannot execute a Water Services Agreement until the requirements to provide treated surface water are addressed to the District's satisfaction.

Planning documents associated with the Elverta Specific Plan including the Elverta Specific Plan, Tentative Map Conditions, and other Sacramento County Planning documents, establish that approval of the Elverta Specific Plan development is conditioned upon the inclusion of treated surface water. It is incumbent upon RLECWD to assure those conditions are met.

RLECWD has been participating in the regional RiverArc project at its own cost as it provides the highest potential for success in overcoming the significant challenges reasonably anticipated to develop a treated surface water supply. This undertaking is not required to continue to serve the District's existing customers.

Prefunding the District's participation in the RiverArc project has been discussed with the ESPOG representatives at a number of meetings several times over the last few years. Contrary to the ESPOG letter assertion that RLECWD provided "...short notice without full evaluation of all surface water supply options and discussion with all members of ESPOG", RLECWD provided written notice to ESPOG representatives in February 2018. The District's submittal of comments to the draft terms for the Water Services Agreement in March clearly conveys the District's position on the RiverArc project and need for advanced funding of the RiverArc development costs.

RLECWD now requests that ESPOG propose a reasonable and feasible solution relevant to providing treated surface water for the Elverta Specific Plan development. The ESPOG submittal to RLECWD should address the following minimum elements:

- A comparison of surface water options and the estimated cost per million gallons for each option evaluated. This includes detailed technical analysis from objective, recognized subject matter experts to contrast and compare surface water development via the regional approach versus a standalone District water supply project. Developer funding may need to be provided to allow independent review of the ESPOG submittal.
- An evaluation of the municipal financing and funding for the surface water development required for the Elverta Specific Plan focusing on the RLECWD interests. This includes ESPOG funding engagement of a municipal financing consultant for RLECWD.
- A comprehensive plan of the public works infrastructure milestones and financial elements. The comprehensive plan should define all the aspects needed to get from where we are today to opening a plant effluent valve at a new surface water facility. The comprehensive plan should include a residential development correlation with the proposed timeline.

The District has been a cooperative and engaged public entity willing to work with ESPOG over the last several years. The District looks forward to continuing its efforts to the mutual benefit of both ESPOG and RLECWD.

Sincerely,

Mary Harris
President
RLECWD Board of Directors

Attachment

Cc: Don Lockhart, LAFCo (via email, w/attachment)
Sue Frost, District 4, Sacramento County Board of Supervisors (via email, w/attachment)
George Dellwo, Sacramento County Office of Planning and Research (via email, w/attachment)

Mary Harris Mary Henrici Board of Directors Brent Dills Paul Green John Ridilla



Planning Committee Agenda Item: 2

Date: August 3, 2018
Subject: DRAFT RFQ for Contract District Engineer
Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

Review the Draft Request for Qualifications (RFQ) and consider forwarding onto the August 20th Board agenda.

Current Background and Justification:

The previous Contract District Engineer noticed the District to terminate the agreement between the District and Affinity Engineering. At the July 16th Board meeting the Board directed staff to initiate the RFQ process for selecting a new District Engineer.

In the meantime, the District's critical engineering needs are being addressed via a temporary engagement with Chad Coleman Engineering. The due date for responses in the draft RFQ is October 1, 2018.

Staff recommendation:

I recommend the Planning Committee forward the draft RFQ onto the August 20th agenda for consideration of approval by the Board.



RIO LINDA/ELVERTA COMMUNITY WATER DISTRICT

730 L Street
Rio Linda, California 95673
Phone: (916) 991-1000 • Fax: (916) 991-6616
www.rlecwd.com

REQUEST FOR QUALIFICATIONS (RFQ)

For Professional Engineering Services, Contract District Engineer for the Rio Linda
Elverta Community Water District
in
Rio Linda, California

August 20, 2018

Responses Due
October 01, 2018
2:00 P.M.

CONTACT:
Timothy R. Shaw
(916) 991-8891
GM@RLECWD.COM

August 20, 2018

Subject: Request for Qualifications – Rio Linda/Elverta Community Water District for Contract District Engineer

1. Introduction

The Rio Linda/Elverta Community Water District (District) is soliciting statements of qualifications (SOQ) from qualified consulting firms for civil engineering to various District projects including groundwater resource studies, management, and development (well, groundwater pumping station design and construction management). The District will negotiate and execute professional services agreement with the selected firm. The selected firm will provide varied levels of engineering consulting services for the District on an as-needed basis. Payment will be on a time and materials not to exceed basis with a fixed monthly amount for miscellaneous administrative services, e.g. attending board meetings, responding to e-mails, etc.

2. Background/Overview

The District is an independent special water district which serves the communities of Rio Linda and Elverta in Sacramento County and serves approximately 4,700 customers. The District is located north of the City of Sacramento in northwestern Sacramento County. The area within the District's boundary comprises about 12,415 acres (19.4 square miles).

The District supplies its water system from 11 active groundwater wells, one elevated reservoir, one inline booster station, and a ground level reservoir and pump station.

One of the water supply goals of the District is to develop new wells while avoiding the need for water treatment, particularly for arsenic, iron, manganese, and hexavalent chromium (Cr6). Over half of the District's water supply is over the new Cr6 maximum contaminant level (MCL) which was established in 2014 and subsequently remanded by court order for additional financial impact analysis. As part of the mitigation plan for Cr6, the District plans to replace wells affected with Cr6 with new wells that avoid the need for water treatment and treat an existing well via ion exchange.

The District relies on services and support from consulting firm services when planning, designing, and constructing groundwater facilities. A primary responsibility of the District Engineer will be to review the plans, designs and reports of other engineering consultants to assure conformance with the District's needs.

3. Scope of Services

The work to be performed by the selected consultant includes but is not limited to the following:

1. Provide groundwater investigation and evaluation services on an as-needed basis for the District. The Consultant shall submit all information generated to the District in a report that adequately describes the scope of the study, the work or tasks that were performed, all findings, observations, conclusions, and recommendations. The reports shall also include exhibits, drawings, illustrations, and other supplementary documentation to support the information presented in the report.
2. Provide technical support, if needed, for staff presentations or reports to the District's Board of Directors. Be available to address the Board.
3. Provide design review services on submittals from other engineering consultants engaged by the District and make minor design changes on existing designs to meet changes in regulatory changes or situational necessity. These services include providing design recommendations and calculations, developing detailed drawings, and refining District well construction specifications. All drawings will be produced using AutoCAD and saved as version 2013 (or older), and specifications will follow CSI format standards.
4. Provide technical support to District staff during bidding and construction of well projects. This includes but is not limited to responding to bidder questions, providing addenda and written clarifications when necessary, responding to contractor Requests for Information (RFIs), reviewing contractor submittals to assure conformance with the construction specifications and drawings, attending project related meetings, and addressing well construction problems and deficiencies. Provide construction inspection and observations services during critical phases of construction. Help identify and address issues pertaining to fluid or water disposal, noise mitigation, and other environmental controls. Assist with regulatory compliance issues as necessary. Compile and present bound reports containing construction records and as built documentation for each well project.
5. Provide general consulting services such as responding to design questions, interpreting code requirements, identifying and selecting design alternatives, assisting with cost estimates, providing peer reviews, and assisting with the development and improvement of the District's design standards, specifications, and drawings.

4. Required Submittals for Statement of Qualifications

Hard copies of SOQs are to be submitted no later than 2:00 pm on Monday, October, 01, 2018 to:

Rio Linda/Elverta Community Water District
Attention: Timothy R. Shaw, General Manager
730 L Street
Rio Linda, CA 95673

The District reserves the right to reject any or all of the SOQs submitted. During the evaluation process, the District reserves the right, where it may serve the District's best interest, to request additional information or clarification from any of the firms providing an SOQ.

The consultant is requested to submit 4 copies of an SOQ that contains the items listed in the following section.

5. Statement of Qualifications Requirements

The SOQ shall display clearly and accurately the capability, knowledge, experience, and capacity of the consulting firm to meet the requirements of this RFQ. The entire content of the SOQ is limited to 10 sheets (20 pages), excluding cover and any appendices. The SOQ submitted in response to this RFQ shall be in the following order and shall include:

Cover Letter

A principal of the consulting firm authorized to commit the firm to the requirements of the RFQ must sign the letter. A statement shall be included in the cover letter committing personnel identified in the SOQ to support the District when requested by the District. The letter shall state that the consultant will meet the insurance requirements stated in the attached Sample Agreement (Appendix A).

Company Background

A brief statement of the firm's background and organization.

Project Team

An organizational chart and a brief summary of the qualifications and experience of the key members of the firm's project team who would be expected to provide the desired services. Any change in the project team by the selected consulting firm would need to be approved in writing by the District. Describe the primary responsibilities of each staff member.

Qualifications

A statement of the firm's qualifications and ability to commit adequate resources to perform the scope of services and successfully complete the projects as needed in a timely manner.

Experience

A summary of the firm's experience with at least one (1) local Sacramento Valley groundwater facility designs and at least four (4) municipal well design and construction projects successfully completed in the last three years. Include a brief project description, an explanation of the work that was performed by the firm, dates, client information, contact name(s) and phone numbers.

Describe each team member's involvement with the projects listed in the summary of firm's experience. Provide similar level of information for key members of any proposed sub-consultant firm.

Project Approach/Work Plan

Provide a general description of the consultant's approach towards the successful and timely completion of typical groundwater pumping station projects. Identify any critical issues or potential problems and discuss how your firm will address them. Include a description of all work that will be subcontracted to others. Also, include your expectations of work to be performed by District staff.

Rate Schedule (submitted in a separate, sealed envelope)

In a separate sealed envelope, which will only be opened for the highest rated responder: Provide the hourly rate for each project team member proposed to work on the District’s projects. It is expected that the rates will remain in effect for the duration of the Contract. The rate schedule shall also include any other rates such as subconsultant markups, reimbursable expenses, equipment, or other direct costs that may be incurred. Also include the monthly fixed charge for administrative services Lastly, include any other rates to be potentially incurred by the District. If the District is unable to negotiate a Professional Services Agreement with the most qualified respondent, and/or finds the rate schedule unreasonable for the needs of the District, the District will terminate discussions with the most qualified respondent and begin discussions with the second most qualified respondent and so on until a professional services agreement is executed with reasonable rates/charges meeting the District’s needs.

Terms and Conditions Statement

Statement of acceptance or objections to terms and conditions of the District’s Standard Professional Services Agreement (Appendix A). If there are any objections to the terms and conditions, alternative language shall be included for consideration by the District.

Statement of No Conflict of Interest

Statement of no conflict of interest if awarded this contract or how any potential conflicts will be addressed.

Appendices

Include resumes of project team members. Each resume shall not exceed three (3) pages.

6. Pertinent Information

Addenda and Supplements

If it becomes necessary to revise any part of this RFQ, an addendum to the RFQ will be provided to all firms on the RFQ distribution list.

SOQ Costs

All costs associated with the development of the SOQ shall be the responsibility of the consultant and shall not be chargeable in any manner to the District.

Use of SOQ Ideas

The District reserves the right to use any or all of the firms’ ideas presented in the SOQs. Selection or rejection of the SOQ does not affect this right.

Any information submitted in an SOQ which the consultant considers proprietary must be identified as such, and the consultant shall include the legal basis for a claim of confidentiality. The District will not assert the confidentiality of such information unless the consultant executes and submits a written agreement prepared by the District, to defend and indemnify the District for any liability, costs, and expenses incurred in asserting such confidentiality as part of the

SOQ. The final determination as to whether or not the District will assert the claim of confidentiality on behalf of the bidder is in the sole discretion of the District.

7. SOQ Evaluations

The SOQs will be reviewed and evaluated by District staff. The District may choose to interview respondents to further evaluate qualifications relevant to the District's need. Final selection is expected on or before October 15, 2018.

8. Award of Contract

The District reserves the right to reject any and all SOQs, to contract work with whomever and in whatever manner the District decides, to abandon the work entirely and to waive an informality or non-substantive irregularity as the interest of the District may require and to be the sole judge of the selection process. The District also reserves the right to negotiate separately in any manner to serve the best interest of the District.

We appreciate your interest in providing professional engineering services and look forward to a successful relationship with the selected firm. If you have any questions, please contact Timothy R. Shaw at (916) 991-8891 or gm@rlecwd.com.

Sincerely,

Timothy R. Shaw, General Manager

Appendix A

RIO LINDA/ELVERTA COMMUNITY WATER DISTRICT

PROJECT: Contract District Engineer

PROJECT NO. _____ - _____

AGREEMENT FOR CONSULTING SERVICES

THIS ENGINEERING SERVICES AGREEMENT (“Agreement”) is made and entered into this ___ day of _____, 20___, by and between the Rio Linda Elverta Community Water District, a county water district of the State of California (“District”) and Consultant Name, (“Consultant”) (each individually a “Party” and collectively the “Parties”). There are no other parties to this Agreement.

RECITALS

A. Consultant represents to District that it is a duly qualified and licensed firm experienced in providing professional engineering consulting services in support of various District water supply projects.

B. In the judgment of the Board of Directors of District, it is necessary and desirable to employ the services of Consultant to perform consulting services on the above referenced water supply project (the “Project”).

C. Consultant has been selected as the most qualified to provide hydrogeologic services resulting from their submitted Statement of Qualifications dated Month, Day, 2018 in response to the District’s Request for Qualifications dated Month, Day, 2018, a description of such services is attached hereto as **Exhibit A** (“Services”).

D. In addition to monthly administrative support for a fixed charge, specific time and materials engineering services shall be provided by Task Order(s) and approved by the District prior to any services provided.

NOW, THEREFORE, in consideration of the promises and covenants set forth below, the Parties agree as follows:

AGREEMENT

Section 1. Recitals. The recitals set forth above (“Recitals”) are true and correct and are hereby incorporated into and made part of this Agreement by this reference. In the event of any inconsistency between the Recitals and Sections 1 through 18 of this Agreement, Sections 1 through 18 shall prevail.

Section 2. Term. This Agreement shall commence on the Effective Date and continue for three (3) years (“Term”), provided that either Party may terminate the Agreement by providing written notice to the other Party.

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Section 3. Effective Date. This Agreement shall only become effective once all of the Parties have executed the Agreement (the “Effective Date”). Consultant, however, shall not commence the performance of the Services until it has been given notice by District (“Notice to Proceed”).

Section 4. Work.

(a) *Services.* Subject to the terms and conditions set forth in this Agreement, Consultant shall perform the Services as described in their approved Task Order(s). Consultant shall not receive additional compensation for the performance of any services unless they are approved by the District in writing.

(b) *Modification of Services.* Only the District’s General Manager may authorize extra or changed work. Failure of Consultant to secure such a written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further waives any and all right or remedy by way of restitution or quantum meruit for any and all extra work performed without such express and prior written authorization of the General Manager.

Section 5. Time of Performance. Consultant warrants that it will commence performance of the Services within thirty (30) calendar days of the Notice to Proceed, and shall conform to the Completion Schedule. The time of performance is a material term of this Agreement relied on by District in entering into this Agreement.

Section 6. Payment. In addition to the monthly administrative services charge, the District shall pay Consultant for all Services described in the approved Task Order(s), which are performed and invoiced by Consultant.

Consultant shall submit monthly invoices to District for Services performed and expenses incurred during the preceding month. District shall pay Consultant within 30 days of receipt of each invoice. Each invoice shall identify all services performed and any expenses for which reimbursement is requested. Prior to payment, District may require Consultant to furnish supporting information and documentation for all charges for which payment is sought.

Section 7. Representations of Consultant. District relies upon the following representations by Consultant in entering into this Agreement:

(a) *Standard of Care.* District has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby warrants that it is qualified to perform the Services as provided in the Task Orders and that all of its services will be performed in accordance with the generally accepted hydrogeologic consultant practices and standards, in compliance with all applicable federal, state and local laws.

(b) *Independent Consultant.* In performing the services hereinafter specified, Consultant shall act as an independent Consultant and shall have control of the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of

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District, and is not entitled to participate in any pension plan, insurance, bonus, or similar benefits District provides its employees. In the event District exercises its right to terminate this Agreement, Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees. Nothing contained herein shall be construed as creating an employment, agency or partnership relationship between District and Consultant.

(c) *Authority.* Consultant represents that it possesses the necessary licenses, permits and approvals required to perform the Services or will obtain such licenses, permits or approvals prior to the time such licenses, permits or approvals are required. Consultant shall also ensure that all sub-consultants are similarly licensed and qualified. Consultant represents and warrants to District that Consultant shall, at Consultant's sole cost and expense, keep in effect or obtain at all times during the Term of this Agreement, any licenses, permits, and approvals which are legally required for Consultant to practice Consultant's profession at the time the Services are rendered including registration for public works projects with the Department of Industrial Relations.

(d) *No Conflict of Interest.* Consultant represents that no conflict of interest will be created under state or federal law by entering into or in carrying out this Agreement. Consultant further promises that in the performance of this Agreement, no person having such interest will be knowingly employed. If requested to do so by District, Consultant shall complete and file, and shall cause any person doing work under this Agreement to complete and file, a "Statement of Economic Interest" with the Sacramento County Clerk disclosing their financial interests.

(e) *Prevailing Wage.* Consultant agrees to pay all craftsmen and laborers required as part of the consulting services at least the minimum prevailing wage required by the Department of Industrial Relations of the State of California. Consultant understands and agrees that it is Consultant's responsibility to determine the minimum prevailing wage and to report compliance as required under California law.

Section 8. Conformity with Law and Safety. Consultant shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of Services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, the California Building Code, the American with Disabilities Act, and all other applicable federal, state, municipal and local safety regulations, appropriate trade association safety standards, and appropriate equipment manufacturer instructions. Consultant's failure to comply with any laws, ordinances, codes or regulations applicable to the performance of the Services hereunder shall constitute a breach of contract. In cases where standards conflict, the standard providing the highest degree of protection shall prevail.

If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Agreement, Consultant shall immediately notify the District's risk manager by telephone. If any accident occurs in connection with this Agreement, Consultant shall promptly submit a written report to District, in such form as the District may require. This report shall include the following information: (a) name and address of the injured or deceased persons;

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(b) name and address of Consultant's sub-consultant, if any; (c) name and address of Consultant's liability insurance carrier; and (d) a detailed description of the accident, including whether any of District's equipment, tools or materials were involved.

If a release of a hazardous material, substance, or waste occurs in connection with the performance of this Agreement, Consultant shall immediately notify District. Consultant shall not store hazardous materials or hazardous waste within the District limits without a proper permit from District.

Section 9. Excusable Delays. Consultant shall not be in breach of this Agreement in the event that performance of Services is temporarily interrupted or discontinued due to a "Force Majeure" event which is defined as: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods, earthquakes, landslides, fires, strikes, lockouts and other labor disturbances or other catastrophic events, which are beyond the reasonable control of Consultant. Force Majeure does not include: (a) Consultant's financial inability to perform; (b) Consultant's failure to obtain any necessary permits or licenses from other governmental agencies; or (c) Consultant's failure to obtain the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Consultant.

Section 10. Assignment Prohibited. No Party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempt or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

Section 11. Ownership and Disclosure of Work Product. District shall be the owner of and shall be entitled to immediate possession of accurate reproducible copies of any design computations, plans, specifications, surveys, copies of correspondence, maps, or other pertinent data and information gathered or computed by Consultant ("Work Product") in the performance of and prior to termination of this Agreement by District or upon completion of the work pursuant to this Agreement. Consultant may retain copies of the above-described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of District, during the term of this Agreement and for a period of one hundred eighty (180) days following expiration of the term of the Agreement.

When this Agreement is terminated, Consultant agrees to return to District all documents, drawings, photographs and other written or graphic material, however produced, that it received from District, its Consultants or agents, in connection with the performance of its Services under this Agreement. All materials shall be returned in the same condition as received.

Section 12. Termination by Default. If a Party should fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violates any of the terms of this Agreement (the "Defaulting Party"), the other Party shall give notice to the Defaulting Party and allow such Party ten (10) days to correct such deficiency. If the Defaulting Party does not correct such deficiency, the other Party may immediately terminate this Agreement by giving written notice of such termination, stating the reason for such termination. In such event, Consultant shall be entitled to receive payment for all services satisfactorily rendered, provided,

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however, there shall be deducted from such amount the amount of damage, if any, sustained by virtue of any breach of this Agreement by Consultant. If payment under this Agreement is based upon a lump sum in total or by individual task, payment for services satisfactorily rendered shall be an amount which bears the same ratio to the total fees specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total fee, provided, however, that there shall be deducted from such amount the amount of damage, if any sustained by District by virtue of any breach of this Agreement by Consultant.

(a) Consultant shall deliver copies of all Work Product prepared by it pursuant to this Agreement.

(b) If District terminates this Agreement before District issues the Notice to Proceed to Consultant or before Consultant commences any Services hereunder, whichever last occurs, District shall not be obligated to make any payment to Consultant. If District terminates this Agreement after District has issued the Notice to Proceed to Consultant and after Consultant has commenced performance under this Agreement, District shall pay Consultant the reasonable value of the Services rendered by Consultant pursuant to this Agreement prior to termination of this Agreement. District shall not in any manner be liable for Consultant's actual or projected lost profits had Consultant completed the Services. Consultant shall furnish to District such financial information, as in the judgment of the District Manager, is necessary to determine the reasonable value of the Services rendered by Consultant prior to termination.

(c) Except as provided in this Agreement, in no event shall District be liable for costs incurred by or on behalf of Consultant after the date of the notice of termination.

Section 13. Liability for Breach. Neither Party waives the right to recover damages against the other for breach of this Agreement including any amount necessary to compensate District for all detriment proximately caused by Consultant's failure to perform its obligations hereunder or which in the ordinary course of things would be likely to result therefrom. District reserves the right to offset such damages against any payments owed to Consultant. District shall not in any manner be liable for Consultant's actual or projected lost profits had Consultant completed the Services required by this Agreement. In the event of Termination by either Party, copies of all finished or unfinished Work Product shall become the property of District. Notwithstanding the above, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.

Section 14. Insurance Coverage. During the Term, the Consultant shall maintain in full force and effect policies of insurance set forth herein, which shall be placed with insurers with a current A. M. Best's rating of no less than A VII, and will provide the District with written proof of said insurance. Consultant shall maintain coverage as follows:

(a) *Professional Liability:* professional liability insurance for damages incurred by reason of any actual or alleged negligent act, error or omission by sub-consultant in the amount of

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One Million Dollars (\$1,000,000.00) combined single limit each occurrence and annual aggregate. If the Consultants prime agreement requires the sub-consultant to carry additional Professional Liability insurance the sub-consultant shall increase their Professional Liability insurance to meet the prime agreement's requirements for the duration of the Project.

(b) *General Liability.* Consultant shall carry commercial general liability insurance in an amount no less than One Million Dollars (\$1,000,000.00) combined single limit for each occurrence, covering bodily injury and property damage. If commercial general liability insurance or another form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project or the general aggregate shall be no less than One Million Dollars (\$1,000,000.00).

(c) *Worker's Compensation Insurance and Employer's Liability.* Consultant shall carry workers' compensation insurance as required by the State of California under the Labor Code.

(d) *Automobile Liability Insurance.* Consultant shall carry Automobile liability insurance covering bodily injury and property damage in an amount no less than One Million Dollars (\$1,000,000) combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned vehicles.

(e) *Policy Obligations.* Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

(f) *Material Breach.* If Consultant, for any reason, fails to maintain insurance coverage that is required pursuant to this Agreement, such failure shall be deemed a material breach of this Agreement. District, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, District may purchase such required insurance coverage, and without further notice to Consultant, District may deduct from sums due to Consultant any premium costs advanced by District for such insurance. These remedies shall be in addition to any other remedies available to District.

Section 15. Indemnification. To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.8), Consultant shall defend, indemnify hold harmless and release District, and District's elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("District's Agents") from and against any and all actions, claims, loss, cost, damage, injury (including, without limitation, disability, injury or death of an employee of Consultant or its sub-consultants), expense and liability of every kind, nature and description that arise out of, pertain to or relate to acts or omissions of Consultant, or any direct or indirect sub-consultant, employee, Consultant, representative or agent of Consultant, or anyone that Consultant controls (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify District and District's Agents shall not apply to the extent that such Liabilities are caused in whole by the sole negligence, active negligence, or willful misconduct of District or District's Agents, but shall apply to all other Liabilities. With respect to third party claims against the Consultant, the Consultant waives any and all rights of any type of express or implied indemnity against District and District's Agents. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or

Appendix A

compensation payable to or for Consultant or its agents under Workers' Compensation acts, disability benefits acts or other employee benefit acts.

Section 16. Notices. Any notice or communication required hereunder between District and Consultant must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice or communication shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to District: Rio Linda/Elverta Community Water District
730 L Street
Rio Linda, California 95673
Attention: Timothy R. Shaw, General Manager
Tel: (916) 991-8891

With courtesy copy to: Churchwell White LLP
1414 K Street, Third Floor
Sacramento, California, 95814
Attention: Barbara A. Brenner, Esq.
Tel: (916) 468-0950

If to Consultant: Consultant Name
Address
Attention:
Tel:

Section 17. Exhibits. All "Exhibits" referred to below or attached to herein are by this reference incorporated into this Agreement:

<u>Exhibit Designation</u>	<u>Exhibit Title</u>
Exhibit A:	Services
Exhibit B:	Task Order(s)

Section 18. General Provisions.

Appendix A

(a) *Modification.* No alteration, amendment, modification, or termination of this Agreement shall be valid unless made in writing and executed by all of the Parties to this Agreement.

(b) *Waiver.* No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

(c) *Severability.* If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date of this Agreement, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

(d) *Counterparts.* This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

(e) *Audit.* District shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to District under this Agreement.

(f) *Entire Agreement.* This Agreement, together with its specific references, attachments and exhibits, constitutes the entire agreement of the Parties with respect to the subject matters hereof, and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

(g) *Attorney's Fees and Costs.* If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

(h) *Time is of the Essence.* Time is of the essence in this Agreement for each covenant and term of a condition herein.

Appendix A

IN WITNESS WHEREOF, this Agreement has been entered into by and between District and Consultant as of the Effective Date.

DISTRICT:

Rio Linda Elverta Community Water District,
a county water district of the State of
California

By: _____
Timothy R. Shaw, General Manager

Date: _____

Approved as to Form:

By: _____
Barbara A. Brenner, District Counsel

CONSULTANT:

Consultant Name

By: _____
Name, Title

Date: _____



Planning Committee

Agenda Item: 3

Date: August 3, 2018

Subject: Status of Discussions with Elverta Associates LLC on Well #16 Property Donation

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

Review the letter authorized by the Board and submitted to Elverta Associates LLC on July 20, 2018. Receive update from staff regarding responses or lack thereof from Elverta Associates LLC.

Current Background and Justification:

The letter to Elverta Associates LLC requested a response to the draft Property Donation Agreement by July 27, 2018. As of July 31st, no response has been received by the District or Legal Counsel.

Staff recommendation:

I recommend the Planning Committee forward an item onto the August 20th Board agenda to consider authorizing a follow up. It may be appropriate and/or necessary to discuss this item in closed session.

July 20, 2018

VIA EMAIL (tkihm@rtacq.com)

Tim Kihm
TK Consulting, Inc.

Dear Mr. Kihm:

I represent the Rio Linda / Elverta Community Water District (“District”). It is my understanding that you represent Elverta Associates, LLC (“Elverta”) relevant to the one-acre parcel located at Assessor’s Parcel Number 202-0170-024 (the “Parcel”).

The District and Elverta entered into a Right of Entry Agreement that allowed the District to perform groundwater testing to determine the viability of constructing a well on the Parcel. The District and Elverta also entered into a Term Sheet at the same time in April of 2017. The Term Sheet provides the parties will use good faith efforts to enter into a Property Dedication Agreement (“Dedication Agreement”).

We have exchanged a Dedication Agreement with you and Ken Giberson. We have incorporated the suggested changes by Mr. Giberson to the Dedication Agreement. You, on behalf of Elverta, have now indicated that Elverta is not willing to execute the Dedication Agreement until a water service agreement is entered into by the District and the Elverta Specific Plan property owners. The Elverta Specific Plan water service agreement is not related to the Dedication Agreement nor does the Term Sheet indicate that the two agreements are related.

The District has incurred significant expense associated with developing Well Site 16 on the Parcel, and it is imperative the Dedication Agreement be completed to fully develop Well Site 16. The District has entered into a loan agreement to complete Well Site 16 on the Parcel. Further delay of the Dedication Agreement will result in financial expense and other damages to the District.

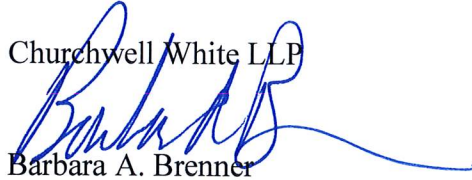
The current version of the Dedication Agreement is attached. Please provide any comments you have to the Dedication Agreement by next Friday, July 27, 2018, so we can finalize the Dedication Agreement and complete Well Site 16 in accordance with the Term Sheet.

Tim Kihm
July 20, 2018
Page 2 of 2

Any further delay of the Dedication Agreement will result in other steps by the District to gain ownership of the Parcel. Please feel free to contact Robin Baral or me at (916) 468-0950 with any questions. Thank you.

Best regards,

Churchwell White LLP



Barbara A. Brenner

BAB/dmg

Enclosure

Cc: Tim Shaw (via email, w/encl.)
Ken Giberson (via email, w/encl.)

PROPERTY DEDICATION AGREEMENT

This Property Dedication Agreement ("Agreement") is entered into on this ____ day of _____, 2018 ("Effective Date"), by and between Rio Linda/Elverta Community Water District, a California special district (the "District"), and Elverta Associates, LLC, a California limited liability company ("Owner"). District and Owner may individually be referred to herein as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

RECITALS

A. Owner is the owner of certain real property located in Sacramento County, California, commonly identified by the assessor parcel number ("APN") 202-0170-024 and as more fully described in the Irrevocable Offer of Dedication and Grant Deed ("Deed"), attached and incorporated hereto as **Exhibit A**.

B. A roughly one-acre portion of the Property, as described in the Deed is proposed to be ~~dedication~~ dedicated by Owner to the District and developed as a well site ("Well Site"), on terms and conditions set forth in this Agreement and as modeled in the Well 16 Production Well, Reservoir and Pump Station Modification Site Plan attached and incorporated hereto as **Exhibit B** ("Well Site Plan").

C. Owner desires to dedicate the Well Site to District on the terms and conditions of this Agreement.

D. District intends to acquire the Well Site to develop water infrastructure to serve planned development in the District and to implement the District's long-term operational objectives.

NOW, THEREFORE, in reliance on the above and in consideration of the mutual covenants and benefits that accrue to each, the Parties agree as follows:

AGREEMENT

Section 1. Land Dedication. Owner agrees to dedicate and convey ownership of the Well Site to District, and District agrees to accept ownership of the Well Site, on the terms and conditions set forth herein.

Section 2. Conditions Precedent and Contingencies. Subject to the terms and conditions of this Agreement, Owner and District agree to use good faith efforts to satisfy the conditions set forth in this Agreement and shall submit evidence satisfactory to the other, as appropriate, that the conditions have been satisfied, if such evidence is required.

Section 3. Well Site Improvements. District shall design, construct, ~~and install~~ and maintain improvements on the Well Site in substantial conformance with the proposed improvements depicted on the Well Site Plan, attached as **Exhibit B**. District shall construct and be responsible for the cost of the design, construction and maintenance of all well site improvements plus the above grade improvements, including: (1) a six (6) foot sidewalk along "U" Street with a six (6)

inch concrete curb; (2) an eight (8) foot wrought iron fence with pedestrian and vehicle gate; (3) a twenty (20) foot driveway and an eight (8) foot high; and (4) a one (1) inch thick sound wall along the back and east end of the site, as depicted in the Well Site Plan as well as the related below grade improvements associated therewith. Further, District shall construct and be responsible for the cost of the design, construction and maintenance of its U Street frontage improvements (including, but without limitation, pavement widening, drain lines, sewer service, curb and gutter, sidewalks, joint trench, landscaping and fencing).

3.1 Landscaping. District shall design, construct, and install and maintain landscaping on the Well Site frontage located along "U" Street in substantial conformance with the landscaping depicted on the Well 16 Production Well, Reservoir and Pump Station Proposed Site Plan 3D Rendition, incorporated and attached hereto as **Exhibit C**, ~~provided no additional such features are added without consent of Owner.~~

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3.2 Reservoir Restriction. District shall not construct, design, or install a reservoir on the Well Site. This restriction does not apply to a backwash tank or any other closed water storage infrastructure that may be required for water treatment.

3.3 Architecture & Equipment. ~~District agrees to coordinate with and gain Owner's approval of all architectural details of the Well Site (including colors, texture and materials of masonry walls, wrought iron fencing, landscaping, control building and roofs, wells, treatment equipment and tanks) prior to construction. Additionally, District shall obtain approval of Owner of the standby generator, including enclosure and muffler) prior to ordering and/or installing same. Said approvals by Owner shall not be unreasonably withheld.~~

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Section 4. Due Diligence. District shall perform all due diligence investigations related to the Well Site, which may include an appraisal, environmental review, environmental assessment ("ESA Phase 1 or Phase 2"), and a preliminary title report. Owner shall provide District with a copy of any environmental review, ESA Phase 1 or Phase 2, or other testing of the Well Site conducted in the past fifteen (15) years.

Section 5 Termination. In the event the District is not satisfied in District's sole discretion with (i) the physical condition and nature of the Well Site, including all environmental conditions thereof; (ii) all information concerning the Well Site made available by Owner to District; (iii) the status of title of the Well Site; and (iv) all other physical, environmental, legal, or other aspects of the Well Site (collectively, the "Conditions"), District shall have the option at any time before completion of construction of the Well Site to choose one of the following as its sole and exclusive remedy by sending written notice to the Owner: (i) the Well Site is not acceptable to the District and that District has disapproved the Well Site, and neither Party hereto shall have any further rights or obligations hereunder; or (ii) District waives any Conditions and intends to consummate this transaction. If District does not send any such written notice, then District shall be deemed to have elected subsection (ii) and waives any of the Conditions.

Notwithstanding any other provisions of this agreement, should District decide not to consummate this transaction and/or construct the well improvements on this Well Site, then District shall, at its own costs and expense, restore the property to the same condition in which it was prior to

~~District's entry on to the site, including the destruction. This requirement shall include destruction per County standards of any monitoring, test or production wells constructed by District, in compliance with the well destruction requirements established by Section 6.28.040 of the Sacramento County Code. Further, if District fails to complete the construct the contemplated well and site improvements within 24 months of the date of execution of this Agreement, then District shall reconvey title of said property to the Owner free and clear of any improvements and encumbrances created and/or constructed by District.~~

Section 6. Indemnification. District agrees to indemnify, defend, assume all liability for and hold harmless Owner from all actions, claims, suits, penalties, obligations, liabilities, damages to property, environmental claims or injuries to persons, which may be caused by the District's negligence or gross negligence arising out of or in connection with the improvements on the Well Site.

Section 7. Compliance with Laws/Permits. In all activities undertaken pursuant to this Agreement, District and its contractors, agents and employees, shall comply with all applicable federal, state and local laws, statutes, orders, ordinances, rules, regulations, plans, policies and decrees. District, at its sole cost and expense, shall obtain any and all permits which may be required by any law, regulation or ordinance for completing the improvements to the Well Site pursuant to this Agreement.

Section 8. Access. This Agreement shall in no way restrict Owner's access to the Property, provided that the Owner and any of its representatives or invitees to the Property shall not act in such a way as to interfere with the installation of the improvements at the Well Site.

~~**Section 9. Cooperation of District and Owner.** Owner shall cooperate with District in District's efforts to obtain any and all approvals of other agencies as required for improvements at the Well Site. Owner further agrees to cooperate with District in District's efforts to clear all liens, encumbrances, encroachments and special assessments levied or assessed against the Well Site prior to the dedication of the Well Site to the District, as contemplated in Section 1 of this Agreement.~~

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Section 10. General Provisions.

(a) *Integration.* This is an integrated Agreement and therefore contains all of the terms, considerations, understandings and promises between the Parties related to improvements at the Well Site and the dedication of the Well Site to the District. This Agreement may be modified, changed or rescinded only by written agreement, executed by the Parties.

(b) *Exhibits.* All exhibits referred to herein are incorporated into this Agreement. Failure to comply with the provisions or requirements of any exhibit shall constitute grounds for breach of this Agreement by either Party.

(c) *Waiver.* A waiver by any Party to this Agreement or a breach of any provision shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing

(d) *Necessary Acts.* The Parties shall at their own cost and expense execute and deliver further documentation and shall take other actions as may be reasonably required or appropriate to carry out the intent and purposes of this Agreement.

(e) *Successor and Assigns – Covenant Running with the Land.* This Agreement and all covenants and restrictions contained herein shall, to the fullest extent permitted by law and equity, be deemed a covenant running with the land of the Property and shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

(f) *Attorney's Fees and Costs.* In any action at law or in equity, including action for declaratory relief, brought by any Party to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorney's fees, costs of court and reasonable expense of litigation, in addition to any other relief which such party may be entitled.

(g) *Governing Law.* This Agreement shall be governed and construed in accordance with the laws of the State of California.

(h) *Venue.* Any action arising out of this Agreement shall be brought in Sacramento County, California, regardless of where venue may lie.

(i) *Binding Agreement.* This Agreement shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators, and assigns of the Parties.

(j) *Severability.* Should any provision of this Agreement be declared or be determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms, or provisions shall not be affected, and the illegal, unenforceable, or invalid part, term, or provision shall be deemed not to be part of this Agreement.

(k) *Notices.* Any notice or communication required hereunder between the Parties must be in writing and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS, or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices of communications shall be given to the Parties at their addresses set forth below:

If to District: Rio Linda/Elverta Community Water District
730 L Street

Rio Linda, CA 95673
Attn: General Manager

With copies to: Churchwell White LLP
1414 K Street, Third Floor
Sacramento, CA 95814
Attn: Barbara A. Brenner, Esq.

If to Owner: Elverta Associates, L.L.C. _____

2082 Michelson Drive, Suite 400
Irvine CA 92612
Attn: Tim Kihm _____

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With copies to: Nancy Dubonnet, Esq. _____
2082 Michelson Drive, Suite 450
Irvine CA 92612 _____

(l) *Authority.* All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any persons, states, firms or other legal entities represented or purported to be represented by such persons, states, firms or other legal entities.

(m) *Counterparts.* This Agreement may be executed in one or more counterparts and all so executed shall be binding upon the Parties, notwithstanding that the signatures of all Parties and Parties' designated representatives do not appear on the same page.

(n) *Recitals.* The recitals set forth above are incorporated herein by this reference and made a part of this Agreement. In the event of any inconsistencies between the recitals and Sections 1 through 9 of this Agreement, Sections 1 through 9 shall control.

(o) *Modification.* No alteration, amendment, modification, or termination of this Agreement shall be valid unless made in writing and executed by all of the Parties to this Agreement.

(p) *Fees and Other Expenses.* Except as otherwise provided herein, each of the Parties shall pay its own fees and expenses in connection with this Agreement.

(q) *Headings.* The headings used herein are for purposes of convenience only and shall not be used to construe, expand or limit the meaning of the language of this Agreement.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above.

Rio Linda/Elverta Community Water District, a California special district

Elverta Associates, LLC, a California limited liability company

By: _____
Timothy R. Shaw, General Manager

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

Barbara A. Brenner, General Counsel

EXHIBIT A
Irrevocable Offer of Dedication

EXHIBIT B

Well 16 Production Well, Reservoir and Pump Station Modification Site Plan

EXHIBIT C

Well 16 Production Well, Reservoir and Pump State Proposed Site Plan 3D Rendition