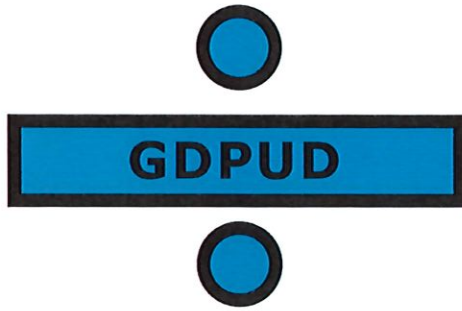


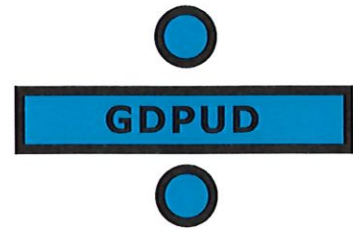
NEW BUSINESS



NEW BUSINESS

ITEM 7.A.

**REPORT TO THE BOARD OF DIRECTORS
BOARD MEETING OF MAY 12, 2020
AGENDA ITEM NO. 7.A.**



AGENDA SECTION: NEW BUSINESS

SUBJECT: MR. GERHARD APPEAL TO THE BOARD

PREPARED BY: Darrell Creeks, Operations Manager

APPROVED BY: Jeff Nelson, Interim General Manager

BACKGROUND

Mr. Gerhard was an irrigation customer in 2019. The Georgetown Divide Public Utility District (District) sent Mr. Gerhard his 2019 Application for Irrigation water with a letter notifying him of the need for him to install a backflow device on his treated water service account in January 2019. A second letter was sent in March 2019. District staff called Mr. Gerhard on June 27, 2019 and informed him his irrigation water would be locked-off until he installed a backflow device. Mr. Gerhard paid his May/June 2019 irrigation bill; but, has not paid for July, August or September 2019. The District Irrigation Ordinance 2005-01 states "*Irrigation service is provided for the entire irrigation season. Customers shall pay for irrigation service for the entire season regardless of their interest or ability to use water*".

DISCUSSION

The customer claims he was not notified of the need for he backflow device until June 27, 2019. At that time, he stated he could not afford to have the backflow device installed and tested. He stated that if he knew the cost of the backflow device sooner, he may have been able to budget for the cost of installing the backflow device, or cancel the irrigation service before season started.

FISCAL IMPACT

The customer currently owes \$256.66 (\$154.00 Water charge for July/August; a \$12.00 late fee for July/August bill; \$77.00 water charge for September; and \$13.66 late fee for September).

CEQA ASSESSMENT

1. Not a CEQA Project

RECOMMENDED ACTION

Staff recommends the Board of Directors of the GDPUD require the customer pay the bill in full

ALTERNATIVES

The Board can forgive the debt.

ATTACHMENTS

1. Ordinance 2005-01

AGENDA ITEM 7.A.

Attachment 1

Ordinance 2005-01

ORDINANCE 2005-01

AN ORDINANCE ESTABLISHING RULES AND REGULATIONS
FOR IRRIGATION SERVICE IN THE GEORGETOWN DIVIDE
PUBLIC UTILITY DISTRICT

BE IT ENACTED by the Board of Directors of the GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT, County of El Dorado, State of California, as follows:

The rules and regulations for irrigation service within the GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT ("District") are adopted by the Board of Directors of said District as hereinafter set forth.

SECTION 1. General Conditions:

(a) Control of System: District Works shall be under exclusive control and management of District personnel duly appointed by the Board of Directors.

(b) The District shall not be liable for interruption, shortage or insufficiency of irrigation water supply, or for any loss or damage occasioned thereby.

(c) The District shall not be liable for damage to person or property resulting directly or indirectly from privately owned conduits, meters or measuring devices.

(d) Irrigation water is used at the customer's own risk and the customer agrees to hold the District, its officers and employees free and harmless from liability and damages that may occur as the result of defective water quality, shortages, fluctuation in flow or pressure, interruptions in service or for failure to deliver water.

(e) Pumping of water by the customer is done at the customer's risk. The District assumes no liability for damage to pumping equipment or other damages as a result of turbulent water, shortages, excess of water or other causes.

(f) No purchaser of water from the District acquires a proprietary or vested right by reason of use. No purchaser acquires a right to resell water or to use for a purpose other than that for which it

was applied nor to use it on premises other than indicated on the application. The terms, conditions, priorities and allocation of irrigation service may be altered and amended by the Board of Directors. The District does not guarantee irrigation service customers the right to future service.

(g) The District expressly asserts the right to recapture, reuse and resell all waters originating from District Works.

(h) Ditchtenders and other agents of the District shall have access to all lands irrigated from its water system and to all conduits for the purpose of inspection, examination, measurements, surveys or other necessary purposes of the District with the right of installation, maintenance, control and regulation of all meters and other measuring devices, gates, turnouts and other structures necessary or proper for the measurement and distribution of water.

(i) No bridges, crossing, pipe or other structures shall be placed in or over a canal without written permission of the District. Maintenance of the canal crossings shall not be the District's responsibility but shall rest with the owner of the crossing. Where the owner fails to maintain the crossing, the District may perform the necessary repairs or removal at the expense of the owner. Notice of the District's intent will be given, if possible, to the owner prior to the work commencing.

(j) No rubbish, garbage, refuse, chemicals or animal matter from any source may be placed in or allowed to be emptied into any ditch, canal or reservoir of the District.

(k) District canals or reservoirs shall not be used for swimming or bathing.

(l) Livestock shall not be permitted to contaminate the water supply nor destroy or damage the canal system or use thereof. Property owners are liable for any damage due to livestock.

(m) No conveyance system shall cause a cross connection with the District's water system with any other source of water.

(n) No buildings, corrals or other structures, fences, trees, lines or bushes shall be permitted upon rights-of-way or use thereof be made in any way except by written authority of the District. Construction of

fences and/or gates is not permitted without written approval of the specifications by the General Manager.

(o) Violation of Rules and Regulations: Failure to comply with rules and regulations of the District shall be sufficient cause for terminating irrigation service as determined by the Board of Directors.

(p) Any person dissatisfied with any determination of the District management shall have the right to appeal to the Board of Directors.

(q) Amendments: The Board of Directors of the District may at their discretion alter, amend or add to these rules and regulations. The Board of Directors will follow applicable laws during this process.

SECTION 2. Application for an Irrigation Service Account:

(a) No irrigation service will be rendered until a complete application for an Irrigation Service Account has been approved and is on file at the office of the District. Applications will be accepted between January 1st and March 1st for the impending irrigation season. The application for service shall state that the customer agrees to abide by the terms and conditions for service as established in the Irrigation Ordinance.

(b) Applications will be approved where the District Works have sufficient capacity to meet service requested. Applications will be considered for approval utilizing the following priority system:

- Priority 1. Applications for Irrigation Service to parcels that received irrigation service during the immediate past irrigation season.
- Priority 2. Applications for Irrigation Service to parcels with the most recent active Irrigation Service Account during the previous ten (10) irrigation seasons
- Priority 3. New applications for irrigation service to parcels that have been made after the 2003 irrigation season with priority established by the earliest season applied for. Applications and priority are specific to the section of ditch the parcel is located near.

Competing applications within the same priority level, will be determined by public lottery.

(c) Applications for an increase to service will receive Priority 3 status for the requested increase.

(d) Applications must in all cases be signed by the holder of title to the property requesting irrigation service. If the property requesting irrigation service is leased, two months of charges must be paid in advance. The landowner of leased property shall be responsible for all charges or assessments.

(e) Applications for an Irrigation Service Account to benefit a parcel of land that is not adjacent to the District Works must be accompanied by a legally recorded easement that allows the conveyance of water to the parcel requesting irrigation service. The easement shall grant the District the right of ingress and egress for inspection, installation and maintenance purposes.

(f) New applications for Out-of-District Irrigation Service Accounts will not be approved by the Board of Directors. An existing Out-of-District Irrigation Service Account that is inactive for two or more years will be deleted from the District's accounts and the service will be permanently removed.

SECTION 3. Distribution of Water:

(a) The irrigation season shall generally be from May 1 through October 1 of each year. The Board of Directors shall consider changes to the irrigation season to respond to climactic conditions and may implement such changes by a majority vote.

(b) The District does not guarantee irrigation water under pressure from the District Works. Pressure requirements of the customer are the sole responsibility of the customer and the District shall not be liable for any damage to equipment used to provide pressure to the customer.

(c) Water is distributed under continuous flow. Water must be used continuously during all days and nights including holidays and Sundays and no allowances shall be made for failure to use water when it is made available. Failure to use water on schedule shall not entitle the customer to any rebate.

(d) Irrigation service is provided for the entire irrigation season. Customers shall pay for irrigation service for the entire irrigation season regardless of their interest or ability to use water.

(e) When interruptions to irrigation service due to failure of the District Works extend beyond five (5) days, proportionate adjustments for such water loss will be made.

(f) Irrigation customers shall pay a proportionate amount for irrigation service when the irrigation season is extended or shortened by the Board of Directors.

(g) Unauthorized connections or the taking of water in an amount greater than applied and paid for, by any means, is a misdemeanor under California Penal Code Section 498 and shall be subject to criminal prosecution under Section 498 and any other applicable laws. In addition, the District may bring a civil action for damages and may refuse future service to the parcel.

(h) Irrigation customers shall prevent any unnecessary or wasteful use of water. Should a customer permit wasteful use of water, the District may discontinue service if such condition is not corrected within five (5) days after giving the parcel owner written notice of intention to terminate service.

(i) No more than one parcel shall be served through each Irrigation Service Account except with the prior written approval of the Board of Directors. Any such approval shall be recorded against each parcel with the caveat that the agreement expires upon any change of ownership. Each Irrigation Service Account shall have independent service lines and sumps.

(j) The minimum irrigation service for each Irrigation Service Account shall be one miner's inch, from the open ditch system, and one-half miner's inch from the irrigation pipeline system. In the future, the District may consider reducing the minimum irrigation service to one-half miner's inch from the open ditch system and one-quarter miner's inch from the irrigation pipeline system.

(k) All pumped services shall utilize a sump provided by the customer and acceptable to the District.

(l) All Irrigation Service Accounts must have an appropriate measuring device which shall be installed by the District. The customer shall pay the cost thereof including costs of installation. The District shall approve the location of the measuring device.

(m) Customers receiving irrigation service who request a change in flow rate during the season shall be charged a fee set by the Board of Directors for the adjustment.

(n) Replacement of measuring devices shall be at the expense of the customer if the replacement is necessary due to abnormal wear or abuse.

(o) Alternate Boxes -The Board of Directors shall not approve any new applications for Alternate Boxes.

(p) Unusual costs incurred by the District to provide irrigation service shall be paid in full by the applicant or customer. An estimate of the expense shall be approved by the property owner prior to work commencing.

SECTION 4. Charges, Rates and Billings:

(a) The District will maintain a uniform rate schedule which may be changed from time to time upon action of the Board of Directors. The rate schedule, by reference, is attached hereto and made a part of these rules and regulations.

(b) Irrigation billings are made bi-monthly (every two months) in advance.

(c) All penalties shall be charged as outlined on the billings

(d) Disconnected irrigation service accounts shall pay a fee to re-establish service

(e) Irrigation service accounts requesting verification of flow will pay a fee if the delivered flow is within 10% of the contracted amount

SECTION 5. REPEAL

(a) Upon the effective date of this Ordinance 2005-__ all previously adopted Ordinances pertinent to the Rules and Regulations for

Irrigation Service will be superceded and repealed, including, but not limited to, Ordinance 79-2, 79-8, 87-1, and 04-01.

PASSED AND ADOPTED at a regularly held meeting of the Board of Directors of the GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT this tenth day of May, 2005.

AYES: Bob Diekon, Norman Krizl, Doug Pickell, JoAnn Shepherd and Hy Vitcov

NOES: None

ABSENT: None



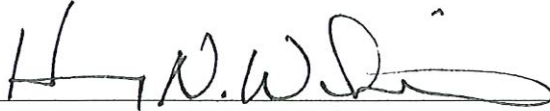
Bob Diekon, President
Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

ATTEST:

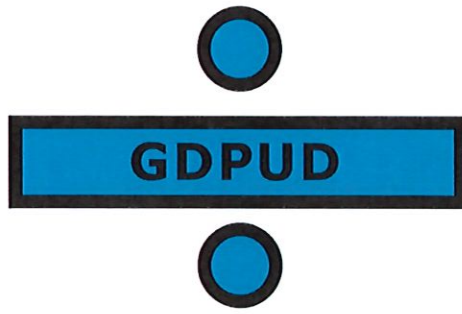


Henry M. White, Clerk and ex officio
Secretary, Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

I hereby certify that the foregoing is a full, true, and correct copy of Ordinance 2005-01 duly and regularly adopted by the Board of Directors of the Georgetown Divide Public Utility District, El Dorado County, California, at a meeting duly held on the tenth day of May, 2005.

A handwritten signature in black ink, appearing to read "H. N. White", written over a horizontal line.

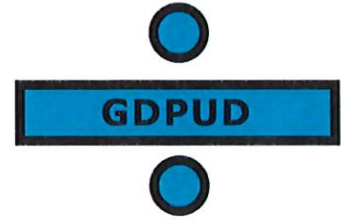
Henry N. White, Clerk and ex officio Secretary of the
Georgetown Divide Public Utility District



NEW BUSINESS

ITEM 7.B.

**REPORT TO THE BOARD OF DIRECTORS
BOARD MEETING OF MAY 12, 2020
AGENDA ITEM NO. 7.B.**



AGENDA SECTION: NEW BUSINESS

SUBJECT: TEMPORARY WATER TRANSFER AGREEMENT

PREPARED BY: Adam Brown, Water Resources Manger

APPROVED BY: Jeff Nelson, Interim General Manager

BACKGROUND

A temporary water transfer is a one-time movement of water from one water District/Agency to another for beneficial use and is generally based on a combination of hydrologic and environmental conditions. A temporary water transfer is not the sale or transfer of a water right, it is simply the one-time transfer of surplus water. In the case of the Georgetown Divide Public Utilities District (the District), hydrologic conditions are generally favorable to support a temporary water transfer about every 3 years.

Temporary water transfers are regulated by CWC §1726. The District's temporary water transfer would involve the following stakeholders:

- Georgetown Divide Public Utility District (the District);
- The purchaser (Westland Water District);
- Consulting Services (Western Hydrologics);
- State Water Board (Petition for Temporary Transfer of Water);
- United States Department of the Interior – Bureau of Reclamation (USBR) (Agreement with State and Federal Contractor)

DISCUSSION

On April 14, 2020, District Board of Directors (BOD) directed staff to evaluate the temporary water transfer process, evaluate the District's ability to make a transfer without impacting the District's ability to meet water supply obligations, and make a recommendation to the BOD on this matter at the May 12, 2020, regular BOD meeting.

District staff and legal counsel has developed a temporary water transfer agreement with Westland Water District (WWD). The temporary water transfer agreement is included in Attachment A.

The District will require consulting support from Western Hydrologics of Auburn, California, if the BOD approves the temporary water transfer. If approved by the BOD, tasks to be completed by Western Hydrologics will include:

- Development of an Operations Plan;
- Petition for temporary water transfer submitted to SWRCB;
- Preparation of a United State Bureau of Reclamation refill agreement;
- Preparation of a Department Water Resources conveyance agreement; and
- Preparation of an Environmental Assessment and Finding of No Significant Impact (EA/FONSI).

The proposed agreement with WWD includes both an “option” payment and a “call” payment.

Option Payment - WWD will make an option payment of \$40,000 within 30 days of the execution of the Water Purchase Agreement. The payment will be credited to amount due for the purchase. The option payment is non-refundable unless the District fails to perform.

Call payment – On or before the later of June 1, 2020 or 7 days after the satisfaction of all conditions set forth in Article 2(b) of the Water Sales Agreement, WWD will notify the District I writing of the amount of Transfer Water it desires to purchase and have delivered the “Call Notice”, together with a Call payment of \$40 for each acre-foot WWD desires to purchase.

The Option and Call payments will be used to cover costs associated with preparing necessary temporary water transfer documents and credited towards the total transfer price. The consulting agreement with Western Hydrologics is included in Attachment B.

The temporary transfer of water generally would occur in the following steps:

1. Execution of Water Purchase and Sale Agreement between the District and WWD and Western Hydrologics;
2. Submittal of petition for temporary water transfer to the SWRCB;
3. Environmental Assessment that will include:
 - a. Description of the Proposed Action and Alternatives document that will detail temporary water transfer release, conveyance and storage process; and
 - b. Environmental Assessment and Finding of No Significant Impact (EA/FONSI) per National Environmental Policy Act (NEPA) regulations that will be submitted to the USBR. USBR comments will incorporated into a public EA/FONSI comment period.
4. Negotiation of USBR Refill Agreement;
5. Execution of temporary water transfer of 2,000-acre feet estimated to begin after July 1, 2020 and lasting approximately two months; and
6. Transfer reporting and accounting.

The temporary water transfer process is detailed in the power point presentation included in Attachment C. Resolution is included in Attachment D.

FISCAL IMPACT

At market price of \$350 per acre foot gross revenue for the temporary water transfer of 2,000 acre feet would result in gross revenue of \$700,000. With a consulting cost of \$63,800 and associated legal counsel fees District net revenue is estimated at \$600,000.

Delivery payment will issued to the District monthly during the transfer process.

CEQA ASSESSMENT

The temporary water transfer from the District to WWD is exempt from CEQA under California Water Code sections 1725 and 1729, the general exemption provided under CEQA guidelines section 15061, 15301 (class 1), 15304 (class 4), and the statutory exemption set forth in section 15282(u), and is not barred by any exceptions to CEQA exemptions. The transfer involves the operation of existing facilities involving negligible or no expansion of use beyond that existing at the time of the proposed action, which is categorically exempt from CEQA.

RECOMMENDED ACTION

Staff recommends the Board approve the Water Purchase and Sales Agreement between WWD and the District (Attachment 1) authorizing the temporary transfer of 2,000 acre feet of water for the 2020 water year.

ATTACHMENTS

1. Water Purchase and Sale Agreement between the District and Westlands Water District
2. Western Hydrologics Consulting Contract
3. Temporary Water Transfer Presentation
4. Resolution

AGENDA ITEM 7.B.

Attachment 1

Water Purchase and Sale Agreement between the District and Westlands Water District

**WATER PURCHASE AND SALE AGREEMENT
BY AND BETWEEN WESTLANDS WATER DISTRICT
AND GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT
FOR 2020 TEMPORARY WATER PURCHASE**

THIS AGREEMENT is entered into this ____ day of _____, 2020, by and between Georgetown Divide Public Utility District, hereinafter referred to as “Seller” or “GDPUD,” and Westlands Water District, hereinafter referred to as “Buyer” or “WWD.” GDPUD and WWD may be referred to herein individual as “Party” or jointly as “Parties.”

RECITALS

A. WHEREAS, GDPUD is a public agency created and existing pursuant to the provisions of the California Public Utility Act (Government Code Sections 15501, *et seq.*), and is empowered to enter into contracts to sell water for use outside of El Dorado County; and

B. WHEREAS, WWD, a public agency formed and operating under the California Water District Act, Water Code §§ 34000 *et seq.*, and is empowered to purchase water from GDPUD as provided for in this Agreement; and

C. WHEREAS, GDPUD owns and operates Stumpy Meadows Reservoir and holds water rights for that project pursuant to permits issued on Application(s) A005644A by the State Water Resources Control Board; and

D. WHEREAS, GDPUD is willing to release 2,000 acre-feet of water stored in its Stumpy Meadows Reservoir and to make such water available for transfer to WWD in 2020, subject to the terms and conditions set forth herein; and

E. WHEREAS, WWD is willing to make the specified payments to GDPUD for the water that GDPUD releases and makes available under a schedule acceptable to WWD; and

F. WHEREAS, in order for the purchase and sale to occur, the Parties require the approval of the State Water Resources Control Board, and agreements with the United States Bureau of Reclamation.

AGREEMENT

In consideration of the foregoing recitals and the terms and conditions contained herein, the Parties agree to the following:

1. Definitions. When used in this Agreement, the following definitions will apply:

(a) “Agreement” means this Water Purchase and Sale Agreement.

- (b) “CADFW” means the Department of Fish and Wildlife of the State of California.
- (c) “Short-term” and/or “Temporary” means one (1) year or less.
- (d) “Transfer Water” means the water released by GDPUD for delivery to WWD pursuant to this Agreement.
- (e) “NMFS” means the National Marine Fishery Service
- (f) “SWRCB” means the California State Water Resources Control Board.
- (g) “USBR” means the U.S. Bureau of Reclamation of the Department of Interior.
- (h) “USFWS” means the U.S. Fish and Wildlife Service of the Department of Interior.
- (i) “Point of Delivery” means the point at which GDPUD is responsible for delivering Transfer Water, which is Folsom Reservoir, a USBR facility.

2. Term.

- (a) This Agreement will become effective upon its execution by both Parties.
- (b) The Parties will have no obligation to deliver or to pay for delivery of water under this Agreement until the last of the following has occurred, unless the occurrence has been waived in writing by both Parties:
 - (i) Execution of a Refill Agreement between USBR and GDPUD setting forth conditions for the operation of the Stumpy Meadows Reservoir related to the conveyance of Transfer Water to WWD via the Point of Delivery;
 - (ii) Execution of a Warren Act Contract between WWD and USBR covering the storage and conveyance of the Transfer Water from the Point of Delivery;
 - (iii) Execution of a Conveyance Agreement with the Department of Water Resources;
 - (iv) Approval by the SWRCB of a Petition for Temporary Change in Place of Use for GDPUD Water Right Permit authorizing Transfer Water to be put to beneficial use within the designated WWD service area, acceptable to both Parties.
- (c) Unless otherwise cancelled pursuant to Article 8, this Agreement will terminate on May 31, 2021 or one year following the occurrence of the last of the conditions described in Article 2(b) hereinabove, or when all obligations under this Agreement have been performed, whichever occurs last.

3. Approvals and Environmental Compliance.

Water Code section 1729 provides that a temporary change in the point of diversion, place of use, or purpose of use due to a transfer pursuant to Water Code

section 1725, *et seq.*, are exempt from the requirements of the California Environmental Quality Act (CEQA, Public Resources Code section 21000, *et seq.*). Water Code section 1727(a)(2) requires that before the SWRCB can approve temporary changes, it must find that the proposed changes would not unreasonably affect fish, wildlife or other instream beneficial uses.

4. Administrative and Litigation Expenses.

- b. Buyer shall be solely responsible for arranging for and shall pay all costs incurred for: the conveyance of Transfer Water (by either DWR/USBR) from the Point of Delivery to the Westlands Water District boundaries, including any rates, charges, or assessments; all costs associated with a Warren Act Contract with USBR, and supporting NEPA documentation, for the conveyance and/or storage of Transfer Water, if necessary.
- c. Litigation, Attorneys' Fees and Third-Party Challenges.
 - i. Subject to subsections 4.c.ii and 4.c.iii, in the event of litigation or an administrative challenge related to this Agreement, Seller and Buyer will promptly meet and confer to perform a risk assessment of the litigation/challenge, and cooperate in good faith to determine whether to terminate the Agreement due to the litigation/challenge. Either Party may elect to terminate the Agreement due to any such litigation/challenge. If Buyer so elects to terminate the Agreement due to any such litigation/challenge, Buyer shall still be obligated to pay for all of the water made available at the Delivery Point prior to such termination; for Seller's administrative expenses in accordance with Article 4.a; for any litigation expenses in having the proceeding dismissed or otherwise resolved. If Seller so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the water made available at the Delivery Point prior to such termination; for Seller's administrative expenses in accordance with Article 4.a; and for any litigation expenses in having the proceeding dismissed or otherwise resolved. Regardless of whether the agreement is terminated, and except as set forth in Article 4, subsections 4.c.ii. and 4.c.iii, below, if litigation is pending Buyer shall have primary responsibility for defending against such litigation on behalf of both Buyer and Seller, either as a defendant, respondent, real party in interest or intervenor; and Seller shall participate in defending against such litigation to the extent it deems necessary or appropriate, in Seller's sole discretion. Buyer shall bear its own costs of litigation and shall pay any monetary award, the costs of any remedial actions, and any award of challenger's attorneys' fees associated therewith, whether levied against Buyer or Seller. Buyer shall also reimburse 100% of Seller's actual out-of-pocket expenses Seller incurs for defending this Agreement and against any related litigation under this Article 4.c.i.

- ii. As to claims solely challenging Seller's conduct in Seller's jurisdiction, Seller shall have primary responsibility for defending such claims on behalf of both Seller and Buyer, and Buyer shall participate in defending against such claims to the extent it deems necessary or appropriate, in Buyer's sole discretion. Buyer shall bear its own fees and costs of defending against such claims. Except as provided in Article 4.a regarding general cost reimbursement, Seller shall bear its own fees and costs of defending against such claims. Seller shall pay all monetary awards associated with claims challenging Seller's conduct in Seller's service area.
- iii. To the extent litigation includes multiple claims, the Parties agree to meet and confer in good faith to determine whether or not the action includes claims described under Article 4.c.i and 4.c.ii. The Parties agree that any claim identified as subject to Article 4.c.ii shall be defended as provided in Article 4.c.ii and the balance of such claims shall be defended as provided in Article 4.c.i.

5. Schedule and Release of Water.

(a) Subject to satisfaction of the requirements of Article 2(b) and the other provisions of this Agreement, commencing on or after July 1, 2020 GDPUD will release from its Stumpy Meadows Reservoir, in addition to normal operating requirements, 2,000 acre-feet of additional water, for delivery to WWD in accordance with GDPUD's operations schedule.

(b) The amount of water transferred under this Agreement will be the difference between releases from Stumpy Meadows Reservoir with and without transfer, as reported to WWD by GDPUD's statement of releases pursuant to Article 6 (Reporting and Verification of Water Releases).

(c) GDPUD will assume losses, if any, between Stumpy Meadows Reservoir and the Point of Delivery, not to exceed 5%. WWD shall bear all other losses, including without limitation Folsom Reservoir storage loss, Delta carriage water loss and California Aqueduct/Delta-Mendota Canal conveyance losses imposed on Agreement-Water between Seller's Point of Delivery and WWD's delivery to WWD's members within WWD's service area.

(d) GDPUD will reduce or terminate release of Transfer Water for this Agreement as soon as possible after telephone notification by USBR that the transfer is having, or is about to have, an adverse effect on a listed threatened or endangered species. However, Transfer Water previously released from the Stumpy Meadows Reservoir that is beyond the control of GDPUD - will be considered transferred to WWD pursuant to this Agreement. GDPUD will resume release of Transfer Water as soon as possible after telephone notification by USBR that the transfer will no longer cause adverse effects on a listed threatened or endangered species. All telephone notifications shall be confirmed in writing, with copies to WWD. Nothing in this Article 5(c) will reduce the amount of water made available to WWD under this Agreement.

6. Reporting and Verification of Water Releases.

(a) Beginning on July 1, 2020 and continuing until GDPUD has released the amount of water requested by WWD, GDPUD will measure releases from Stumpy Meadows Reservoir which the parties agree will document the daily release of water to support the transfer of water to WWD and meet the needs of GDPUD's customers/contractors. GDPUD will provide WWD and USBR with a statement within 15 days of the last day of each month (July 31st, August 31st, September 30th) that includes daily operations records for the month showing storage in Stumpy Meadows Reservoir, flows at intermediate control points, deliveries to GDPUD and its customers/contractors at diversion points below Stumpy Meadows Reservoir, and deliveries being made for transfer to WWD pursuant to this Agreement. GDPUD's monthly statement will be mailed to WWD and USBR and will be attached to invoices for payment when applicable.

7. Payments.

(a) WWD agrees to pay for the Transfer Water on a per-acre-foot basis for water delivered as follows:

(i) Price for Delivered Water. The Purchase Price of the Transfer Water shall be \$350, for each acre-foot of water delivered by GDPUD to WWD. The purchase price will be payable as follows:

(1) *Option Payment:* Within thirty days of the execution of this Water Purchase Agreement by both parties, WWD will pay to GDPUD the sum of \$40,000 for the exclusive option of purchasing 2,000 acre feet of Transfer Water pursuant to the terms of this Agreement, which sum will be credited to amounts due for the purchase. This Option Payment will be non-refundable unless GDPUD fails to perform.

(2) *Call Payment:* On or before the later of June 1, 2020, or 7 days after the satisfaction of all conditions set forth in Article 2(b) above, WWD will notify GDPUD in writing of the amount of Transfer Water it desires to purchase and have delivered (the "Call Notice"), together with a "Call Payment" of \$40 for each acre-foot of water it desires to purchase. WWD shall not be obligated to purchase any Transfer Water in excess of the amount specified in the Call Notice. The Call Payment shall be credited towards the Purchase Price of the Transfer Water, and shall be refundable, pursuant to Article 4 hereof, for each acre-foot that GDPUD fails to deliver.

(3) *Delivery Payment:* Within thirty (30) days of receipt of each monthly invoice statement received from GDPUD, and upon confirmation from USBR that GDPUD has delivered the water to Folsom Reservoir pursuant to Article 6 (Reporting and Verification of Water Releases), WWD will pay to GDPUD the remainder of the Purchase Price per acre-foot for water released by GDPUD for transfer to WWD.

(4) If GDPUD fails to deliver all of the water WWD has requested in its Call Notice, **despite all the requirements of paragraph 2(b) hereinabove having**

been satisfied, GDPUD will promptly refund to WWD a prorated amount of the total sum due under this Agreement based on the portion of the 2,000 acre-feet (or such lower amount as requested by WWD in the Call Notice) that remains undelivered as of December 31, 2020, together with interest equal to that paid by the Local Agency Investment Fund in El Dorado County, for each acre-foot not delivered. It is expressly recognized by the parties that the need for water within GDPUD's service area shall supersede GDPUD's obligation to deliver the Transfer Water to WWD, *provided, however*, that in the event that GDPUD determines that it cannot provide all of the water specified in the Call Notice due to the needs of GDPUD customers it shall notify WWD in writing within three days of such determination, which shall serve as a Cancellation, and shall refund to WWD all sums it has paid for Transfer Water not delivered pursuant to this Article 6, excluding the Option Payment.

(b) Seller shall provide Buyer with detailed invoices supporting all expenses incurred pursuant to Article 4 and Buyer shall pay those invoices per Article 7.a.3.

(c) Two (2) copies of each invoice for Delivery Payments, together with supporting documentation, will be submitted to the Deputy General Manager –Resources for WWD at the following address:

Russ Freeman, Deputy General Manager-Resources
Westlands Water District
Post Office Box 6056
3130 N. Fresno Street
Fresno, CA 93703-6056

8. Cancellation.

This Agreement may be canceled by GDPUD or WWD within five business days of the last of the approvals in 2(b) if either Party reasonably determines that any term or condition of the approvals is unacceptable. The Parties will consult with each other and make a good faith effort to amend this Agreement, if necessary, to attempt to address any unacceptable terms that have been identified. Cancellation under this Article may be effected by delivering to the other Party written notice of cancellation within the five-day period. Upon *any cancellation*, all amounts theretofore paid by WWD, except the Option Payment, shall be promptly refunded by GDPUD. In the event WWD forfeits the Option payment by not purchasing any water under this agreement, the amount of the Option payment will be credited in any transfer agreement the parties enter into during the next two (2) calendar years. WWD understands and agrees that there is no guarantee that GDPUD will have water available in future years for transfer to WWD.

9. Water Rights Protection.

(a) WWD and GDPUD agree that neither Party will assert that any activities under this Agreement affect the validity of any existing water rights or contracts held by either Party to this Agreement. The execution of this Agreement is not intended to indicate any recognition by either Party of water rights claimed by the other Party. Releases of water pursuant to this Agreement will not confer any appropriative, public trust or other right to water on any person or entity.

9. Water Quality.

Seller makes no warranty or representations as to the quality or fitness for use of the transferred water. Buyer, at its own expense, shall be responsible for all necessary measures for the testing, treatment, and other steps required for the intended uses of the transferred water by Buyer.

10. Disputes.

In the event of a dispute between the Parties as to any right, alleged right, obligation or alleged obligation under this Agreement, the Parties shall make a good faith effort to resolve the dispute. In the event that a resolution of the dispute cannot be reached despite these efforts, either Party may declare an impasse and its intent to submit the matter to arbitration. Any such arbitration shall be held and conducted before one arbitrator who shall be selected by mutual agreement of the Parties. If agreement is not reached on the selection of an arbitrator within fifteen (15) days after a Party has notified the other Party of its election to submit to arbitration, then such arbitrator shall be appointed by the presiding judge of the Superior Court of El Dorado County upon application of either Party hereto. The award or decision of the arbitrator shall be final and judgment may be entered thereon. The provisions of Title 9 of Part 3 of the California Code of Civil Procedure, including §1283.05, and successor statutes, permitting expanded discovery proceedings shall be applicable to all disputes which are arbitrated pursuant to this paragraph.

11. Agreement Not a Precedent.

The Parties intend that the provisions of this Agreement will not bind the Parties as to the provisions of any future agreement between them. This Agreement was developed specifically for the 2020 water year and the specified Agreement term.

12. Notices.

Except as provided in Article 5 (Schedule and Release of Water) and Article 7 (Payments), any notice, demand, or request made in connection with this Agreement must be in writing and will be deemed properly served if delivered in person or sent by United States mail, postage prepaid, to the addresses specified below:

To WWD: Russ Freeman, Deputy General Manager-Resources
Westlands Water District

Post Office Box 6056
3130 N. Fresno Street
Fresno, CA 93703-6056

With Copy to: Jon Rubin, Esq.
Westlands Water District
400 Capitol Mall
Sacramento, CA 95814
Telephone: (916) 321-4225

To GDPUD: Jeff Nelson, General Manager
Georgetown Divide Public Utility District
P. O. Box 4240
Georgetown, CA 95634
Telephone: (530)333-4356

With Copy to: Barbara Brenner, Esq.
Churchwell White LLP
1414 K Street, 3rd Floor
Sacramento, CA 95814

13. Modification.

This Agreement may be modified only upon the mutual written consent of the Parties.

14. No Third-Party Beneficiaries.

No third-party beneficiaries are intended or created by this Agreement.

15. Severability.

If any term or provision of this Agreement is deemed invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it will not affect the validity of any other provision, which will remain in full force and effect.

16. Complete Agreement.

Other than as specified herein, no document or communication passing between the Parties to this Agreement will be deemed to be part of this Agreement.

17. Counterparts.

This Agreement may be executed in counterparts. GDPUD will deliver its executed counterpart to WWD, and WWD will deliver a fully-conformed counterpart to GDPUD. Facsimile and electronic signatures shall be binding.

18. Assignment.

This Agreement is not assignable either in whole or in part, except upon mutual written consent of the Parties.

19. Time of the Essence.

Time is of the essence in this Agreement.

20. Waiver.

The waiver at any time by either Party of its right with respect to default or other matter arising in connection with this Agreement will not be deemed a waiver by that Party with respect to any subsequent default or matter.

21. Governing Law.

This Agreement is governed by and will be interpreted in accordance with the laws of the State of California.

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

Approved as to legal form:

Westlands Water District

Jon Rubin, General Counsel

Jose Gutierrez, Chief Operating Officer

Georgetown Divide Public Utility District

Barbara Brenner, General Counsel

Jeff Nelson, General Manager

AGENDA ITEM 7.B.

Attachment 2

Western Hydrologics Consulting Contract

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into this 29 day of April 2020, (the “Effective Date”) by and between the Georgetown Divide Public Utilities District, a California Public Utilities District (“District”), and Western Hydrologics, a Water and Hydropower Consultant (“Consultant”). District and Consultant may herein be referred to individually as a “Party” and collectively as the “Parties”. There are no other parties to this Agreement.

RECITALS

A. District has determined that consultant services are required for the execution of a temporary water transfer (the “Project”).

B. Consultant has submitted a proposal to District that includes a scope of proposed consultant services, attached hereto and described more fully in **Exhibit A** (“Services”).

C. Consultant represents that it is qualified, willing and able to provide the Services to District, and that it will perform Services related to the Project according to the rate schedule included in the scope of proposed consultant services attached hereto as **Exhibit A** (the “Rates”).

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

AGREEMENT

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 20 of this Agreement, Section 1 through 20 shall prevail.

2. Consulting Services. Consultant agrees, during the term of this Agreement, to perform the Services for District in connection with the Project. Any request for services in addition to the Services described in **Exhibit A** will be considered a request for additional consulting services and not compensated unless the Parties otherwise agree in writing. No subcontract shall be awarded or an outside consultant engaged by Consultant unless prior written approval is obtained from District.

3. Compensation. District shall pay Consultant according to the tasks set forth in **Exhibit A**, for time and materials. Phase I, the District shall pay Consultant to initiate Operations Plans preparation specified in Task 1 set forth in **Exhibit A**, for time and material not to exceed **\$5,000**. Phase II the District shall pay Consultant according to tasks set forth in **Exhibit A**, for time and material not to exceed **\$58,800**, bringing the total agreement for time and materials not to exceed **\$63,800**. Consultant agrees to maintain a log of time spent in connection with performing the Services. On a monthly basis, Consultant shall provide District, in reasonable and

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understandable detail, a description of the services rendered pursuant to the Services and in accordance with the Rates. If the work is satisfactorily completed, District shall pay such invoice within thirty (30) days of its receipt. If District disputes any portion of any invoice, District shall pay the undisputed portion within the time stated above, and at the same time advise Consultant in writing of the disputed portion.

4. Reimbursement. District shall pay Consultant for reimbursable expenses related to travel, lodging, conference calls, reproduction and other costs incurred related to Consultant's performance of the Services.

5. Term. Phase I of this Agreement shall be effective beginning April 29, 2020 and continue until May 12, 2020 and Phase II of this Agreement shall be effective beginning May 13, 2020 and continue until May 31, 2021, provided herein has been completed, unless terminated earlier as provided in Section 6 or 7 below (the "Term"). Georgetown Divide Public Utility District Board of Directors Phase II approval of this agreement is required.

6. Termination. District may terminate this Agreement prior to the expiration of the Term ("Termination"), without cause or reason, by notifying Consultant in writing of District's desire to terminate this Agreement (the "Termination Notice"). Upon receipt of a Termination Notice, Consultant shall immediately cease performing the Services. Consultant will be entitled to compensation, as of the date Consultant receives the Termination Notice, only for Services actually performed.

7. Termination for Cause. Notwithstanding Section 6 above, this Agreement may be terminated by District for cause based on the loss or suspension of any licenses, permits or registrations required for the continued provision of the Services, or Consultant's malfeasance. Termination of the Agreement for cause as set forth in this Section shall relieve District from compensating Consultant.

8. Confidential Information. Consultant understands and agrees that, in the performance of Services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential information that may be owned or controlled by District and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to District ("Confidential Information").

Consultant shall not, either during or after the Term, disclose to any third party any Confidential Information without the prior written consent of District. If District gives Consultant written authorization to make any such disclosure, Consultant shall do so only within the limits and to the extent of that authorization. Such authorization does not guarantee that the District will grant any further disclosure of Confidential Information. Consultant may be directed or advised by the District's General Counsel on various matters relating to the performance of the Services on the Project or on other matters pertaining to the Project, and in such event, Consultant agrees that it will treat all communications between itself, its employees and its subcontractors as being communications which are within the attorney-client privilege.

9. **Performance by Key Employee.** Consultant has represented to District that **Jeffrey K. Meyer, P.E.** will be the person primarily responsible for the performance of the Services and all communications related to the Services. District has entered into this Agreement in reliance on that representation by Consultant.

10. **Property of District.** The following will be considered and will remain the property of District:

A. **Documents.** All reports, drawings, graphics, working papers and Confidential Information furnished by District in connection with the Services (“Documents”). Nothing herein shall be interpreted as prohibiting or limiting District’s right to assign all or some of District’s interests in the Documents.

B. **Data.** All data collected by Consultant and produced in connection with the Services including, but not limited to, drawings, plans, specifications, models, flow diagrams, visual aids, calculations, and other materials (“Data”). Nothing herein shall be interpreted as prohibiting or limiting District’s right to assign all or some of District’s interests in the Data.

C. **Delivery of Documents and Data.** Consultant agrees, at its expense and in a timely manner, to return to District all Documents and Data upon the conclusion of the Term or in the event of Termination.

11. **Duties of District.** In order to permit Consultant to render the services required hereunder, District shall, at its expense and in a timely manner:

A. Provide such information as Consultant may reasonably require to undertake or perform the Services;

B. Promptly review any and all documents and materials submitted to District by Consultant in order to avoid unreasonable delays in Consultant’s performance of the Services; and

C. Promptly notify Consultant of any fault or defect in the performance of Consultant’s services hereunder.

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

A. **Qualifications.** Consultant represents that it is qualified to perform the Services and that it possesses the necessary licenses, permits and registrations required to perform the Services or will obtain such licenses or permits prior to the time such licenses or permits are required. 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 registrations that are legally required for Consultant to practice Consultant’s profession at the time the Services are rendered.

B. Consultant Performance. Consultant represents and warrants that all Services under this Agreement shall be performed in a professional manner and shall conform to the customs and standards of practice observed on similar, successfully completed projects by specialists in the Services to be provided. Consultant shall adhere to accepted professional standards as set forth by relevant professional associations and shall perform all Services required under this Agreement in a manner consistent with generally accepted professional customs, procedures and standards for such Services. All work or products completed by Consultant shall be completed using the best practices available for the profession and shall be free from any defects. Consultant agrees that, if a Service is not so performed, in addition to all of its obligations under this Agreement and at law, Consultant shall re-perform or replace unsatisfactory Service at no additional expense to District.

13. Compliance with Laws and Standards. Consultant shall insure compliance with all applicable federal, state, and local laws, ordinances, regulations and permits, including but not limited to federal, state, and county safety and health regulations. Consultant shall perform all work according to generally accepted standards within the industry. Consultant shall comply with all ordinances, laws, orders, rules, and regulations, including the administrative policies and guidelines of District pertaining to the work.

14. Independent Contractor; Subcontracting. Consultant will employ, at its own expense, all personnel reasonably necessary to perform the Services. All acts of Consultant, its agents, officers, employees and all others acting on behalf of Consultant relating to this Agreement will be performed as independent contractors. Consultant, its agents and employees will represent and conduct themselves as independent contractors and not as employees of District. Consultant has no authority to bind or incur any obligation on behalf of District. Except as District may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of District in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind District to any obligation whatsoever. Consultant is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is expressly approved by District in writing.

15. Insurance. Consultant and all of Consultant's contractors and subcontractors shall obtain and maintain insurance of the types and in the amounts described in this paragraph and its subparagraphs with carriers reasonably satisfactory to District.

A. General Liability Insurance. Consultant shall maintain occurrence version commercial general liability insurance or an equivalent form with a limit of not less than Two Million Dollars (\$2,000,000) per claim and Two Million Dollars (\$2,000,000) for each occurrence.

B. Workers' Compensation Insurance. Consultant shall carry workers' compensation insurance as required by the State of California under the Labor Code. Consultant shall also carry employer's liability insurance in the amount of One Million Dollars (\$1,000,000.00) per accident, with a One Million Dollar (\$1,000,000.00) policy limit for bodily injury by disease, and a One Million Dollar (\$1,000,000.00) limit for each employee's bodily injury by disease.

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C. Errors and Omissions Liability. Consultant shall carry errors and omissions liability insurance in the amount of no less than One Million Dollars (\$1,000,000.00) per occurrence or greater if appropriate for the Consultant's profession. Architects and engineers coverage is to be endorsed to include contractual liability. Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the District, elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("District's Agents"); or the Consultant shall provide a financial guarantee satisfactory to the District guaranteeing payment of losses and related investigations, claims administration and defense expenses.

D. Other Insurance Requirements. Within five (5) days of the Effective Date, Consultant shall provide District with certificates of insurance for all of the policies required under this Agreement ("Certificates"), excluding the required worker's compensation insurance. Such Certificates shall be kept current for the Term of the Agreement and Consultant shall be responsible for providing updated copies and notifying District if a policy is cancelled, suspended, reduced, or voided. With the exception of the worker's compensation insurance, all of the insurance policies required in this Agreement shall: (a) provide that the policy will not be cancelled, allowed to expire, or materially reduced in coverage without at least thirty (30) days' prior written notice to District of such cancellation, expiration, or reduction and each policy shall be endorsed to state such; (b) name District, and District's Agents as additional insureds with respect to liability arising out of Services, work or operations performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied, or used by the Consultant, or automobiles owned, leased, or hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the District; (c) be primary with respect to any insurance or self-insurance programs covering District or District's Agents and any insurance or self-insurance maintained by District or District's Agents shall be in excess of Consultant's insurance and shall not contribute to it; (d) contain standard separation of insured provisions; and (e) state that any failure to comply with reporting or other provisions of the policy including breaches of warranties shall not affect the coverage provided to the District.

16. Indemnification. Consultant hereby agrees to indemnify and hold harmless District, its agents, officers, employees and volunteers, against all liability, obligations, claims, loss, and expense (a) caused or created by Consultant, its subcontractors, or the agents or employees of either, whether negligent or not, pertaining to or related to acts or omissions of Consultant in connection with the Services, or (b) arising out of injuries suffered or allegedly suffered by employees of Consultant or its subcontractors (i) in the course of their employment, (ii) in the performance of work hereunder, or (iii) upon premises owned or controlled by District. Consultant's obligation to defend, indemnify and hold District and its agents, officers, employees and volunteers harmless is not terminated by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

17. Consequential Damages. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for

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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.

18. Litigation. In the event that either Party brings an action under this Agreement for the breach or enforcement hereof, or must incur any collection expenses for any amounts due hereunder the prevailing Party in such action shall be entitled to its costs including reasonable attorney's fees, whether or not such action is prosecuted to judgment.

19. Notices. Any notice or communication required hereunder between District or 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 shall be deemed to have been given when delivered to the Party to whom it is addressed. Notices given by registered or certified mail 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, (b) on the date delivered as shown on a receipt issued by the courier, or (c) 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 the addresses in this paragraph set forth below:

If to District: Georgetown Divide Public Utility District
P.O. Box 4240
6425 Main Street
Georgetown, CA 95634
Attention: General Manager

With courtesy copies to: Churchwell White LLP
1414 K Street, 3rd Floor
Sacramento, California 95814
Attention: Barbara A. Brenner, Esq.

If to Consultant: Western Hydrologics
610 Auburn Ravine Road, Suite C
Auburn, California 95604
Attention: Jeffery K. Meyer, P.E.

20. General Provisions.

A. Modification. No alteration, modification, or termination of this Agreement shall be valid unless made in writing and executed by all Parties.

B. Waiver. The waiver by any Party of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

C. Assignment. No Party shall assign, transfer, or otherwise dispose of this Agreement in whole or in part to any individual, firm, or corporation without the prior written consent of the other Party. Subject to the forgoing provisions, this Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the Parties.

D. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of California.

E. Venue. Venue for all legal proceedings shall be in the Superior Court of California for the County of El Dorado.

F. Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

G. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall be deemed a single agreement.

H. Severability. If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall remain in effect.

I. 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.

J. Entire Agreement. This Agreement sets forth the entire understanding between the Parties as to the subject matter of this Agreement and merges all prior discussions, negotiations, proposal letters or other promises, whether oral or in writing.

K. Headings Not Controlling. Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

L. Time is of the Essence. Time is of the essence in this Agreement for each covenant and term of a condition herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last day and date below written.

DISTRICT:

GEORGETOWN DIVIDE PUBLIC
UTILITIES DISTRICT, a California Public
Utilities District

By: _____
Jeff Nelson, Interim General Manager

Date: _____

CONSULTANT:

_____, a

By: _____

Name: _____

Date: _____

Approved as to Form:

Barbara A. Brenner, General Counsel

EXHIBIT A

Services

Georgetown Divide Public Utility District
Adam Brown, Water Resources Program Manager
P.O. Box 4240
Georgetown, CA 95634

April 20, 2020

Subject: Proposal to provide Water Transfer Support

Dear Mr. Brown,

Western Hydrologics, L.L.P. (WHC) in conjunction with ECORP Consulting, is pleased to present this proposal to provide consulting services in support of the District's ongoing water transfer efforts. As requested, this proposal includes technical and environmental support for the proposed 2020 water transfer opportunity. This proposal provides a scope of work, budget limit and rate sheets, attached. All work must be approved by the District prior to initiation.

PROJECT UNDERSTANDING

GDPUD would like to transfer up to 2,200 AF in 2020 between July and September. WHC will provide technical support needed to execute the transfer including the development of a forecast of runoff and an operations plan. The plan will show how and when water will be released from Stumpy Meadows Reservoir and delivered to the federally owned Folsom Reservoir.

Because USBR is a federal agency, an environmental document in accordance with the National Environmental Policy Act (NEPA) must be prepared to examine the environmental impacts of approving a Warren Act Contract (WAC) for conveyance and possibly storage of up to 2,200 AF of surface water from Stumpy Meadows Reservoir. Temporary Water Transfers are statutorily exempt from CEQA. However, the petition must still be evaluated to confirm that the transfer will not result in an unreasonable effect on fish, wildlife or other instream beneficial uses.

The Warren Act (Act of February 21, 1911; Chapter 141, 36 Stat. 925) authorizes the United States Bureau of Reclamation (USBR) to enter into contracts to impound, store, or convey non-CVP water in federal facilities, when excess capacity is available. Warren Act Contracts are issued by USBR to allow movement of this non-federal water through federal facilities.

After an initial review of the project, we have determined that an Environmental Assessment (EA) is the appropriate environmental document. Provided below is a detailed scope and cost estimate to prepare an operations plan, construct and execute transfer and refill tracking tools, support negotiation of agreements and prepare the EA for the transfer.

Scope of Work

Task 1 - Water Transfer Technical Support

WHC will work with and support GDPUD staff and general counsel to develop the project understanding and timing. A transfer forecast and operations plan will be required by USBR, California Department of Water Resources (DWR) and the State Water Resources Control Board (SWRCB) to inform how and when the transfer will occur. The operations plan will depend on the feasibility and timing of the specific transfer agreement executed by the District and the Buyer. In addition, WHC will provide information as required by the USBR and DWR according to their water transfer checklist. That information includes general information about the District, and specific information about its water rights and historic operations. Along with the requested information the District is required to file a Temporary Change Petition for the transfer including the temporary change in point of diversion and place of use. This petition temporarily changes the District's water right to allow the buyer to divert and use the District's water. The following is a list of items that will be addressed under this task.

- SWRCB Petition for Change Involving Water Transfer
- Preparation of Transfer forecast operations to inform GDPUD, Placer County Water Agency (PCWA), USBR and DWR operators.
- Development of Transfer Tracking and Verification tools
- Negotiation of USBR Refill Agreement - The purpose of the Refill Agreement is to set forth refill criteria and refill impacts accounting procedures that pertain to the refill of the vacated storage in Stumpy Meadows Reservoir.
- USBR Warren Act Contract support – The Warren Act contract is required when non-CVP water is impounded, stored, or conveyed through a federal facility.
- DWR Conveyance Agreement Support – The conveyance agreement may be needed depending upon conveyance route to the Buyer. The purpose of the Conveyance Agreement is to set forth provisions governing the conveyance of Transfer Water through SWP facilities to Buyer's service areas and the conditions governing the refill of the Vacated Storage as a result of this transfer.
- Coordination with PCWA American River Pumping Station Operations – Releases from Stumpy Meadows reservoir will flow down Pilot Creek to the Middle Fork American River and then to the North Fork American River. PCWA has a pumping station located on the North Fork American River near Auburn where it pumps water up to the South Canal or Auburn Ravine to meet consumptive demands. Operational coordination with PCWA will be necessary to ensure water released from Stumpy Meadows reservoir for the transfer is not pumped by PCWA.
- Refill Accounting – District operations of Stumpy Meadows reservoir, Folsom Flood Control Operations, and Delta conditions will be monitored through the next wet season (Winter-Spring 2021) to determine whether the District has impacted Folsom storage by its Stumpy Meadows reservoir operations. WHC will provide guidance to District operators through this period and assist the District with confirmation of refill impacts, if any.

In addition to this list there will likely be several coordination meetings between the District and Placer County Water Agency, Department of Water Resources, and the U.S. Bureau of Reclamation.

Cost Estimate for Task 1: \$25,000

Task 1 Deliverables. Transfer Forecast, Operations Plan, Environmental Assessment Technical Support, Comments on Agreements, Transfer Tracking, Refill Verification, general technical support.

Task 2 - Water Transfer Environmental Support

Task 2.1. Preparation of the Description of the Proposed Action and Alternatives (DOPAA)

The DOPAA will be developed in sufficient detail to analyze impacts. The DOPAA will utilize information in the Operations Plan to be prepared by WHC. We have assumed that only one alternative will be analyzed in the EA, the No Action Alternative. The Purpose and Need for the project will also be included. The description of the Proposed Action will include information on the proposed water transfer, including details of release, conveyance, and storage of the 2,200 AF of surface water. This information will be supplied by WHC and the Bureau of Reclamation (USBR). ECORP will provide an electronic copy of the project description to WHC, GDPUD and USBR for review and comment. The revised version of the project description will be contained in the EA.

Cost Estimate for Task 2.1: \$7,130

Task 2.1 Deliverables. Description of Proposed Action and Alternatives, via e-mail.

Task 2.2. Environmental Assessment and Finding of No Significant Impact (EA/FONSI)

Preliminary Draft EA. An EA will be prepared per NEPA, Council on Environmental Quality regulations, and the U.S. Department of the Interior's NEPA Regulations (43 CFR Part 46). ECORP will also use existing documentation, as appropriate, to complete the EA. ECORP will prepare a description of the action including the location of the project area (including a project map) and the purpose and need for the action (as described above under Task 1); a brief description of the affected environment; a discussion of the No Action Alternative; an identification of environmental consequences; a consultation and coordination section; and a list of references and preparers. We have assumed that only the Proposed Action and the No Action Alternative will be analyzed in the EA.

We have assumed that the EA will evaluate impacts to a limited number of resources, because the water transfer is a one-time occurrence with minimal impacts. A Preliminary Draft EA will be prepared and submitted to WHC, GDPUD and USBR for review.

The Draft FONSI will be submitted with the Draft EA. The FONSI will state why the proposed action will not significantly affect the environment and that an EIS will not be required. The FONSI will include the deadline for receipt of comments, availability of the EA for review, and steps the public can take to obtain the EA.

Public Draft EA/FONSI. After review of the Preliminary Draft EA/FONSI by WHC, GDPUD and USBR, changes will be incorporated and a Public Draft EA/FONSI will be prepared and submitted to USBR.

Cost Estimate for Task 2.2: \$22,325

Task 2.2 Deliverables. Five hard copies of the Preliminary Draft EA/FONSI and 1 electronic version; five hard copies of the Public Draft EA/FONSI; ten electronic copies (Adobe Acrobat-PDF) on compact disc (CD).

Task 2.3. Prepare Federal Register Notice of Availability

The USBR is responsible for the Notice of Availability to be posted in the Federal Register. ECORP will draft the Notice of Availability and provide it to USBR for posting in the Federal Register.

ECORP will publish the Notice of Availability in the local newspaper as directed by USBR. It is assumed that GDPUD will pay all fees associated with the newspaper publishing. Postcard notifications will also be prepared and mailed by ECORP. It is assumed that 50 postcards will be produced and distributed. It is assumed that the distribution list will be provided by GDPUD.

Cost Estimate for Task 2.3: \$1,810

Task 2.3 Deliverables. Electronic copy of the Draft Notice of Availability, via e-mail; Electronic copy of the Final Notice of Availability, via e-mail; 50 postcards.

Task 2.4. Responses to Comments and Final FONSI

ECORP will be responsible for compiling and organizing the comments received during the 15-day public review period. Draft and Final Responses to Comments will be prepared and submitted to FPUD and USBR for inclusion as part of the Final FONSI. For costing purposes, it is assumed that ten comment letters will be received with three comments each.

Cost Estimate for Task 2.4: \$5,235

Task 2.4 Deliverables. Draft and Final Responses to Comments via e-mail; Final FONSI via e-mail.

Task 3 – Project Management

WHC will provide weekly updates to discuss the project progress, review the schedule, and review any alternatives or operational adjustments that may arise during the process. Mr. Meyer will use a combination of tools and resources to provide effective cost and schedule control. These tools will be

used to provide for a quick review of actual time charged versus forecasted time and allow for any adjustments based on the status of the project. These management tools will allow him to monitor quality control activities, identify potential conflicts and provide team members with project workload projections to keep the project on schedule. We plan to update the District with regard to past and upcoming work progress, schedule, and budget status.

Cost Estimate for Task 3: \$2,800

Task 3 Deliverables. Weekly progress reports, coordination meetings via teleconference.

SCHEDULE

The SWRCB petition for Change involving Water Transfer processing time generally lasts between 45 and 60 days. Negotiation of **Refill Agreement, Warren Act Contract and Conveyance Agreement** will occur during the 45 – 60 day processing period. We will begin work on the Petition immediately following approval of this proposal. Executing of the Transfer is conceptually planned for Mid-August through Mid-September. The Refill tracking will continue through the 2021 Winter and Spring runoff period.

The **DOPAA** will be completed within ten days of the Notice to Proceed (NTP). The **Preliminary Draft EA** will be completed within 20 days of the DOPAAA being finalized. The **Public Draft EA/FONSI** will be completed within five days of receiving comments on the Preliminary Draft EA. The **Draft Notice of Availability** will be completed at the same time as the Public Draft EA/FONSI. The **Draft Responses to Comments and Final FONSI** will be completed within 5 days of the end of the 15-day public review period. The **Final Responses to Comments and Final FONSI** will be completed within five days of receiving comments from the draft.

Task	Description	Cost
1	Water Transfer Technical Support	\$25,000
2.1	Preparation of the Description of the Proposed Action and Alternatives	\$7,130
2.2	EA/FONSI	\$22,325
2.3	Prepare Federal Register Notice of Availability	\$1,810
2.4	Responses to Comments and Final FONSI	\$5,235
3	Project Management	\$2,800
TOTAL		\$63,800

AMOUNT OF TASK ORDER COMPENSATION

Compensation will be based upon actual hours expended multiplied by our current standard billing rates. 2020 billing rates are identified in Exhibit "A", attached hereto and incorporated in by reference. WH suggests a budget of \$63,800 to support the District's upcoming needs for the anticipated summer water transfer and associated operational considerations for the period from May 1, 2020 through May 31, 2021.

Western Hydrologics appreciates the opportunity to provide this proposal. Tasks will be invoiced based on the Rate Schedule for Professional Services (Attachment A). If you have any questions, please contact me at (916) 390-5829.

Sincerely,



Jeffrey K. Meyer, P.E.
Principal
Attachment(s)

ATTACHMENT A

Rate Schedules for Professional Services

"Attachment A"

RATE SCHEDULE FOR PROFESSIONAL SERVICES¹

Project Principal	\$205.00
Senior Water Resources Engineer	\$180.00

Expense Reimbursement/Other:

1. Computer, facsimile, and telephone are included in the billing rates, and there is no additional charge.
2. Mileage is reimbursed at current IRS rate with a 14% administrative handling charge.
3. Per Diem, depending upon location, may be charged where overnight stays are required.
4. Expert Witness Testimony, including Depositions, is billed at time and a half.
5. When non-standard billing is requested, time spent by office administrative personnel in invoice preparation is a cost to the project and charged as technical labor.

¹ Rates effective January 2019 and are subject to change. Depending on the project requirements, titles may vary.



"Attachment A"

RATE SCHEDULE FOR PROFESSIONAL SERVICES¹

Project Principal.....	\$150.00-255.00
Project Managers.....	\$80.00-255.00
Cultural Resources	\$75.00-285.00
Engineer/Biologist/ Ecologist/Scientist.....	\$95.00-225.00
Environmental Specialist/Planner.....	\$70.00-210.00
Construction Monitoring.....	\$70.00-200.00
CAD / GIS / Software Specialist.....	\$70.00-160.00
QAQC/Technical Editor	\$90.00-155.00
Air Quality/GHG/Noise Analyst.....	\$90.00-155.00
Staff Engineer/Biologist/Ecologist/Scientist	\$90.00-145.00
Assistant/Associate/Staff Project Manager	\$70.00-155.00
Project Assistant/Project Administrator/Project Accountant/Controller.....	\$70.00-180.00
Lab Technician	\$70.00-95.00
Word Processing / Production Coordinator	\$70.00-110.00

Expense Reimbursement/Other:

1. Computer, facsimile, and telephone are included in the billing rates, and there is no additional charge.
2. Copies (color and black and white), equipment and other direct expenses are reimbursed with a 14% administrative handling charge (excluding per diem).
3. Subcontractor expenses are reimbursed with a 12% administrative handling charge.
4. Mileage is reimbursed at current IRS rate with a 14% administrative handling charge.
5. Per Diem, depending upon location, may be charged where overnight stays are required.
6. Expert Witness Testimony, including Depositions, is billed at time and a half.
7. When non-standard billing is requested, time spent by office administrative personnel in invoice preparation is a cost to the project and charged as technical labor.

¹Rates effective April 2020 and are subject to change. Depending on the project requirements, titles may vary from this general list.

AGENDA ITEM 7.B.

Attachment 3

Temporary Water Transfer Presentation



A Presentation for the
GDPUD Board of Directors
May 12, 2020

2020 Temporary Water Transfer

What is and Why a Temporary Water Transfer?

- A temporary water transfer is a one-time transfer of water from a district/agency with a water surplus to a district/agency in need
- A water transfer is not a transfer of a water right
- Generate approximately \$700k in revenue for the District
- Stakeholders
 - Seller - GDPUD
 - Purchaser - Westland Water District (WWD)
 - Support - Western Hydrologics, PCWA, Churchwell White, LLP
 - Regulatory Agencies - SWRCB, DWR, USBR
- Temporary water transfers are regulated by CWC §1726, SWRCB
- Temporary Water Transfers are common in the American River Watershed

Actions Required by GDPUD

- **Execute Water Purchase and Sale Agreement with WWD**
 - Receive deposit from WWD
- **Execute PSA with Western Hydrologics**
- **File petition to SWRCB for temporary transfer of water**
 - Operations Plan (Associated Water Right)
 - Refill Agreement/Accounting
 - Conveyance Agreement
 - USBR Warren Act Contract support
- **Complete Environmental Assessment and Finding of No Significant Impact (EA/FONSI)**
- **Delivery of water to Folsom Lake**
 - Coordinate operations with PCWA

Westland Water District Role

- Purchaser of Water
- Provide option payment of \$40,000
- Provide call payment of \$40 per acre foot
- Complete Warren Act Agreement with United States Bureau of Reclamation
- Responsible for conveying water out of Folsom Lake; including conveyance losses
- Monthly delivery payments - August - October

Anticipated 2020 Regional Transfers

- American River Watershed
 - Placer County Water Agency - 20 TAF
 - El Dorado Irrigation District - 8 TAF
 - Foresthill Public Utility District - 2 TAF

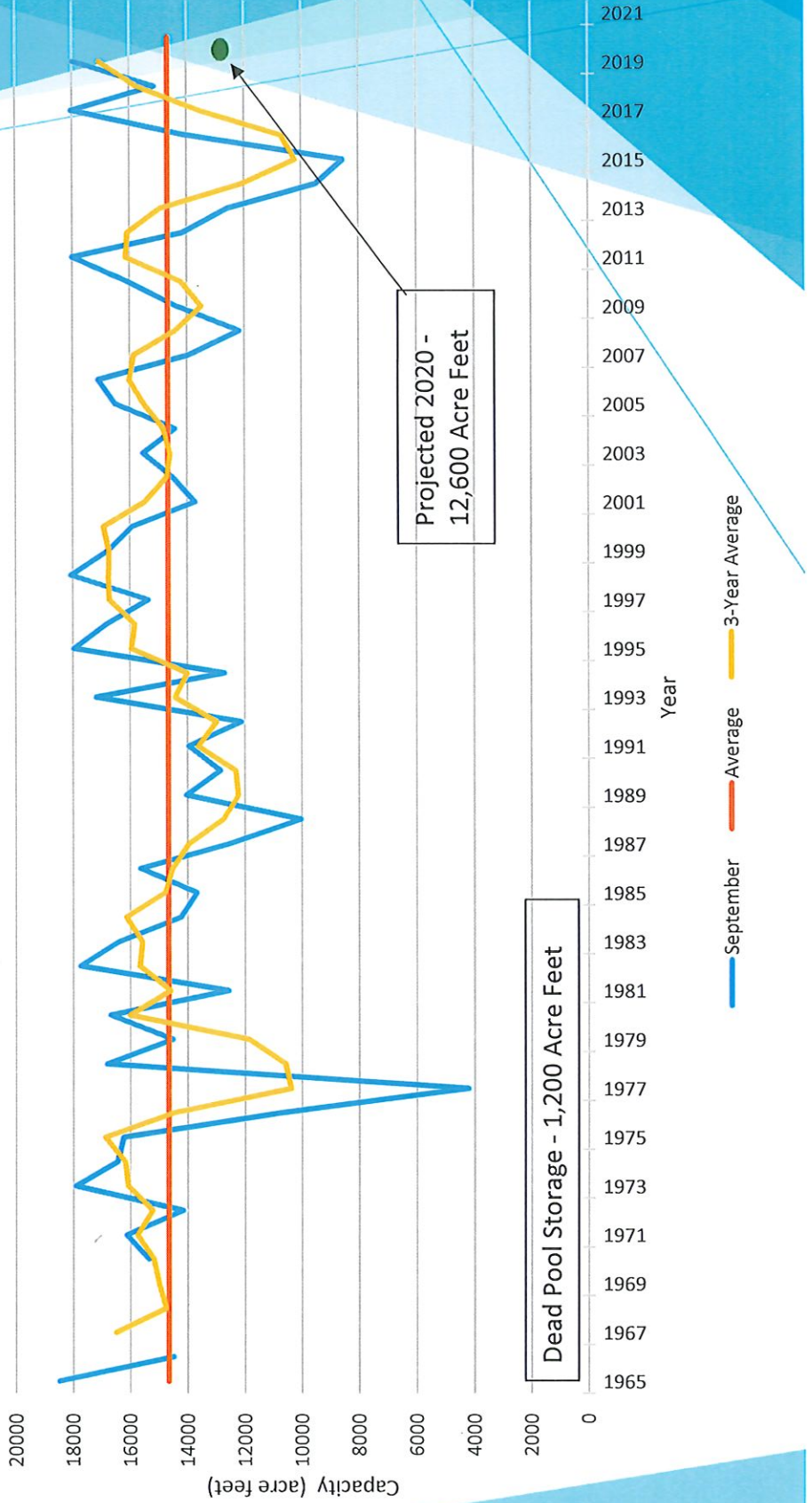
- Georgetown Divide Public Utility District - 2 TAF
 - 5-Year Average Demand - ~8 TAF
 - Includes treated and irrigation water, and Losses

- Upper American River Study Estimates GDPUD can safely transfer up to 3 TAF

Pros and Cons

- Increase Revenue
- Water Reliability Risk
 - Refill Agreement

Stumpy Meadows Reservoir Level - End of Water Year (September)



Temporary Water Transfer Timeline/Mechanics

- **May**
 - **Contract Execution**
 - **Call Payment**
 - **Submit Petition for Temporary Water Transfer**
 - **Regulatory Negotiations (Conveyance/Refill)**
- **June**
 - **Respond to Comments/Finalize Documents**
- **July**
 - **Beginning of water transfer season**
- **August/September**
 - **Delivering of water to Folsom Lake - approximately 2-months**
 - **Conduct transfer accounting/reporting**
 - **Monthly billing to WWD**

AGENDA ITEM 7.B.

Attachment 4

Resolution

RESOLUTION NO. 2020-XX

**OF THE BOARD OF DIRECTORS OF THE
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT
AUTHORIZING THE INTERIM GENERAL MANAGER TO EXECUTE AGREEMENTS
RELATED A TEMPORARY TRANSFER OF UP TO 2,000 ACRE-FEET OF WATER**

WHEREAS, the Georgetown Divide Public Utility District ("District"), has negotiated the terms of agreements that provide for a temporary water transfer with Westlands Water District ("WWD") to allow WWD to supplement its water supply; and

WHEREAS, beginning on July 1, 2020, the District will make available a total of up to 2,000 acre-feet of water to WWD on a schedule mutually agreeable to the District and WWD; and

WHEREAS, the District will operate Stumpy Meadows Reservoir to allow for releases of water that will be delivered to Folsom Reservoir; and

WHEREAS, the transferred water will be conveyed though the State Water Project by the Department of Water Resources under a Conveyance Agreement to WWD; and

WHEREAS, WWD, under the Water Purchase and Sale Agreement By and Between Westlands Water District and Georgetown Divide Public Utility District for 2020 Temporary Water Purchase will purchase water from the District at Three Hundred Fifty Dollars (\$350.00) per acre foot of water received and reimburse the District for its costs associated with the transfer; and

WHEREAS, the Board of Directors finds that the agreement is in the best interest of the District, and is therefore willing to sell and temporarily transfer WWD, District water as provided in the temporary water sale agreement.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT as follows:

1. The Interim General Manager is authorized to execute the agreements between: a) the Water Purchase and Sale Agreement by and between Westlands Water District and Georgetown Divide Public Utility District for 2020 Temporary Water Purchase; b.) a Refill Agreement between the United States Bureau of Reclamation and the District; c) a Conveyance Agreement with the Department of Water Resources; and d) a professional services agreement with Western Hydrologics Consulting.
2. The Interim General Manager or his or her designee is authorized to enter into minor amendments to the aforementioned agreements subject to approval as to form by the District General Counsel.
3. The Board of Directors hereby authorizes the Interim General Manager to

submit a petition to the State Water Resources Control Board for the temporary transfer of water, and the Interim General Manager is authorized to take such other administrative actions as may be necessary to effectuate the transfer and sale of the water. This includes any minor administrative actions necessary to provide fair administration of the District's reimbursable administrative expenses.

4. The Board of Directors find that the temporary water transfer from the District to WWD is exempt from CEQA under California Water Code sections 1725 and 1729, the general exemption provided under the CEQA Guidelines section 15061, 15301 (class 1), 15304 (class 4), and the statutory exemption set forth in section 15282(u), and is not barred by any exceptions to CEQA exemptions. The transfer involves the operation of existing facilities involving negligible or no expansion of use beyond that existing at the time of the proposed action, which is categorically exempt from CEQA. The Board of Directors authorizes the Interim General Manager to sign and file a Notice of Exemption if deemed appropriate or desirable, in his discretion.

PASSED AND ADOPTED by the Board of Directors of the Georgetown Divide Public Utility District at a meeting of said Board held on the ___ day of _____ 2020, by the following vote:

AYES:

NOES:

ABSENT/ABSTAIN:

President, Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

Attest:

Jeff Nelson, Clerk and Ex officio
Secretary, Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of Resolution 2020-XX duly and regularly adopted by the Board of Directors of the Georgetown Divide Public Utility District, County of El Dorado, State of California, on this _____ day of _____ 2020.

Jeff Nelson, Clerk and Ex officio
Secretary, Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT