

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

858



**FROM:** Executive Office

**SUBMITTAL DATE:**  
September 12, 2013

**SUBJECT:** 3rd Amendment to Extend the Original Five Year Term of the Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System (for one FY)

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Ratify and approve the attached Amendment to extend the expiration of the Agreement to June 20, 2014; and
2. Authorize the Chairman of the Board of Supervisors to execute the Amendment.

**BACKGROUND:**

**Summary**

The Lake Elsinore San Jacinto Watershed Project Authority (LESJWA) was formed to facilitate the development of joint projects that improve water quality at lake Elsinore and the San Jacinto Watershed. An agreement between the City of Lake Elsinore, Elsinore Valley Municipal Water District (EVMWD), and the County to construct, and for EVMWD to operate and maintain the Lake Elsinore Diffused Air Line-Aeration System was approved August 1, 2006.

  
Steven Horn  
Senior Management Analyst

FORM APPROVED COUNTY COUNSEL  
BY Karin L. Watts-Bazan DATE 9/12/13  
Departmental Concurrence

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 100,000	\$ 0	\$ 100,000	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 100,000	\$ 0	\$ 100,000	\$ 0	
<b>SOURCE OF FUNDS:</b> NPDES - 11050				<b>Budget Adjustment:</b> No	
				<b>For Fiscal Year:</b> 13/14	

**C.E.O. RECOMMENDATION:**

APPROVE

BY:   
Debra Cournoyer

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

- Positions Added
- Change Order
- A-30
- 4/5 Vote

2013 SEP 13 PM 5:19

CLERK OF THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, CALIFORNIA

**Prev. Agn. Ref.:** 3.4 of 10/2/2012 | **District:** 1,2,3,5 | **Agenda Number:**

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

3-7

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
**FORM 11: 3rd Amendment to Extend the Original Five Year Term of the Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System**

**DATE:** September 12, 2013

**PAGE:** Page 2 of 2

**BACKGROUND:**

**Summary (continued)**

This amendment request extends the term of the agreement to expire by June 30, 2014. All other terms and conditions of the agreement shall remain unchanged.

**Impact on Citizens and Businesses**

No additional fees or new taxes on citizens and businesses are proposed as part of this recommended action. In fact, the impact on citizens and businesses in the area would be positive as the extension of this agreement will allow for the continuation of previously approved funding from the County to EVMWD for the operation and maintenance of the aeration system until a new long-term agreement is negotiated. This ensures that the system is operated and maintained per installation and operational specifications so that lake water quality is maintained.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

The original five-year agreement between the three agencies identified ongoing operation and maintenance costs of \$300,000 per FY to be equally shared by all three agencies. The extension of this agreement will have no additional Net County Cost beyond what was proposed in the original agreement. The original agreement was approved on August 1, 2006 and thus required Net County Cost of \$100,000 per fiscal year for ongoing operation and maintenance expenses of the Aeration System.

## **Third Amendment to Extend the Term of the Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System**

This amendment is made by and among the COUNTY OF RIVERSIDE ("COUNTY"), the CITY OF LAKE ELSINORE ("CITY") and the ELSINORE VALLEY MUNICIPAL WATER DISTRICT ("DISTRICT"). The COUNTY, CITY and DISTRICT are hereinafter collectively referred to as the "PARTIES."

### **RECITALS**

- A. The COUNTY, CITY and DISTRICT are PARTIES to an existing Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System ("AGREEMENT") signed and made effective on August 1, 2006 (copy attached as Appendix A).
- B. The initial term (Section 6) of the existing AGREEMENT was for five years and was scheduled to terminate on June 30, 2011 unless otherwise extended by the PARTIES.
- C. On May 1, 2011 the PARTIES agreed to change the expiration date from June 30, 2011 to June 30, 2012 thereby extending the term of the original AGREEMENT by one year (a copy of the First Amendment is attached as Appendix B).
- D. In June 2012 the PARTIES agreed to change the expiration date from June 30, 2012 to June 30, 2013 thereby extending the term of the original AGREEMENT by one year (a copy of the Second Amendment is attached as Appendix C).
- E. The PARTIES concur that it would be mutually beneficial to enact a new O&M Agreement in order to ensure stable operation of the Phase II aeration system. Consequently, the PARTIES are actively engaged in developing a new long-term O&M Agreement.
- F. The PARTIES believe it is essential to continue operation of the Phase II aeration system during negotiations of the terms and conditions for a new long-term O&M Agreement as a show of good faith and the PARTIES sincere commitment to improving water quality in Lake Elsinore.

NOW, THEREFORE, in consideration of the facts recited above, and the covenant, conditions and promises contained in the existing AGREEMENT, the PARTIES mutually agree as follows:

**AMENDMENT**

1. Section 6 of the AGREEMENT shall be revised so that the initial term expires on June 30, 2014 rather than June 30, 2013.
2. All other terms and conditions in the existing AGREEMENT shall remain unchanged by this amendment to revise the aforementioned termination date.
3. Consistent with Section 10-J of the AGREEMENT, this Amendment may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.
4. This Amendment shall be in effect June 30, 2013 upon execution by all three PARTIES.

IN WITNESS WHEREOF, the PARTIES have caused this Amendment to become effective by their respective endorsements (below):

**For the CITY OF LAKE ELSINORE**

By \_\_\_\_\_

Dated: \_\_\_\_\_

Title: \_\_\_\_\_

**For ELSINORE VALLEY MUNICIPAL WATER DISTRICT**

By \_\_\_\_\_

Dated: \_\_\_\_\_

Title: \_\_\_\_\_

**For the COUNTY OF RIVERSIDE**

By \_\_\_\_\_

Dated: \_\_\_\_\_

Title: \_\_\_\_\_

FORM APPROVED COUNTY COUNSEL

BY:

*Karin L. Watts-Bazan* 9/12/13  
KARIN L. WATTS-BAZAN DATE

## APPENDIX - "A"

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Executive Office

**SUBMITTAL DATE:**  
July 18, 2006

**SUBJECT:** Agreement with the City of Lake Elsinore, Elsinore Valley Municipal Water District and the County to construct, operate and maintain the Lake Elsinore Diffused Air Line - Aeration Project

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the attached Operation and Maintenance of the Lake Elsinore Phase II Aeration Agreement;
2. Authorize the Chairman to execute the agreement on behalf of the County.
3. Make the following findings regarding the allocation of the \$225,000 in Lakeland Village/Wildomar Capital Improvement Funds:
  - A. That the Lake Elsinore Aeration Project is of benefit to the Lakeland Village/Wildomar Redevelopment Project Area because it will improve economic viability of the area by eliminating the current problems that decrease uses in and around the lake;
  - B. The proposed project will assist in the elimination of physical blight within the project area by improving overall water quality, creating better habitat for fish and recreational use, reducing phosphorus loading that leads to higher algae levels, and reducing the likelihood of fish kills through oxygen depletions;
  - C. That no other means of funding the current financing for this project is available because all other available sources have been fully committed; and,
  - D. That the improvements are consistent with the implementation plan for the Redevelopment Project Area 1-1986, which identifies public improvements as needed facilities.

*Alex Gann*

Alex Gann  
Senior Management Analyst

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 365,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 140,000	Budget Adjustment:	No
	Annual Net County Cost:	\$ 100,000	For Fiscal Year:	06/07
<b>SOURCE OF FUNDS:</b> RDA (\$225,000 for construction) and General Fund (\$100,000 for construction and \$40,000 in FY 06-07 for O&M)				Positions To Be Deleted Per A-30 <input type="checkbox"/>
				Requires 4/5 Vote <input type="checkbox"/>

**C.E.O. RECOMMENDATION: APPROVE**

County Executive Office Signature

*[Signature]*

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Buster, seconded by Supervisor Wilson and duly carried, IT WAS ORDERED that the matter is approved as recommended.

Ayes: Buster, Tavaglione, Wilson and Ashley  
 Nays: None  
 Absent: Stone  
 Date: August 1, 2006  
 xc: E.O., Co.Co., Auditor

Nancy Romero  
 Clerk of the Board  
*[Signature]*  
 Deputy

Prev. Agn. Ref.: | District: 1, 3, 5 | Agenda Number:

**ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD**

3 . 2

Dept' F nm:  Consent  Policy   
 Per Exec. Ofc.:  Consent  Policy

**BACKGROUND:** The Lake Elsinore San Jacinto Watershed Authority (LESJWA) was formed to facilitate the development of joint projects that improve water quality at Lake Elsinore and in the San Jacinto watershed. The diffused air line system is the final capital project to be constructed by LESJWA using grant funds from the Proposition 50 Water Bond. The diffused air lines will extend from the shores along the lake bottom and consist of two onshore compressor buildings located on the south and north shores of Lake Elsinore. Aeration of the lake water should reduce the risk of algae bloom and fish kills at Lake Elsinore.

The LESJWA Board voted to fund construction of the diffused air line system on April 20, 2006 in the amount of \$1,550,000, utilizing Bond Act Funds. The attached agreement includes a description of the aeration project, funding for its construction and operation and maintenance (O&M). The term of the agreement has been limited to five years, with the right for renewal with the agreement of all three parties, i.e., the City of Lake Elsinore, Elsinore Valley Municipal Water District and the County of Riverside. The agreement establishes a Technical Oversight Committee, consisting of representatives of the parties to the agreement. The Technical Oversight Committee has the ongoing responsibility to review appropriations and to develop procedures that maximize the effectiveness of the aeration system.

The construction bid exceeded the amount of the available bond monies by \$975,000, resulting in a \$325,000 cost for each party to the agreement. The annual O&M cost is \$300,000, or \$100,000 per jurisdiction. It is expected that the aeration system will be operational in the spring of 2007 and \$40,000 in O&M will be needed in FY 06-07.

Based on the net benefit to commercial areas with an improvement to the lake's water quality, the Wildomar-Lakeland Redevelopment Area committed \$225,000 for construction of the aeration system. (A companion F11 is scheduled for the Redevelopment agenda.) The FY 06-07 NPDES budget slated \$140,000 in general fund monies for this project to cover construction and O&M costs. No new general fund monies are being requested.

Implementation of the Aeration Project will assist the County with implementation of mitigation measures for the Total Maximum Daily Load (TMDL) which has been issued for Lake Elsinore by the State Water Quality Control Board (October 2005). An agreement for the TMDL Taskforce will come before the Board in August.

AGREEMENT FOR THE OPERATION AND MAINTENANCE  
OF THE LAKE ELSINORE PHASE II AERATION SYSTEM

THIS AGREEMENT is made and effective this 1<sup>st</sup> day of August, 2006 by and among the COUNTY OF RIVERSIDE ("COUNTY"), the CITY OF LAKE ELSINORE ("CITY") and the ELSINORE VALLEY MUNICIPAL WATER DISTRICT ("DISTRICT"). The COUNTY, CITY and DISTRICT are sometime collectively referred to as the "PARTIES".

RECITALS

A. The COUNTY, CITY and DISTRICT are Member Agencies of the Lake Elsinore and San Jacinto Watersheds Authority, a joint powers public agency formed for the purpose of implementing projects and programs to rehabilitate and improve the San Jacinto and Lake Elsinore Watersheds and the water quality of Lake Elsinore ("LESJWA"). LESJWA has been awarded \$15 million from the Safe Drinking Water, Clean Water, Watershed Protection and Flood Protection Bond Act of 2000 (the "Bond Act").

B. LESJWA is in the process of designing, constructing and installing a project commonly known as the "Lake Elsinore Phase II Aeration System", consisting of two compressor buildings, piping and two water quality buoys, all as depicted on Exhibit "1", attached hereto. The PARTIES entered into an agreement on February 11, 2003 for the Operation and Maintenance of a companion lake treatment system known as the Axial Flow Pump Destratification System which became operable in July 2004. The Destratification System and the Aeration System are intended to reduce fish kills and algal densities in Lake Elsinore by:

1. Preventing lengthy periods of thermal and chemical stratification; and
2. Increasing dissolved oxygen in Lake bottom waters.

On December 20, 2004, The California Regional Water Quality Control Board, Santa Ana Region adopted the Lake Elsinore and Canyon Lake TMDL (Board Resolution R8-2004-0037) which addresses the water quality impairments in Lake Elsinore. The TMDL assumes that the proposed Aeration System and Destratification System will reduce internal phosphorus loading from lake bottom sediments by about 35%. The implementation plan for the TMDL assigns responsibility jointly and severally to all dischargers named in the TMDL for implementation of in-lake treatment technologies to prevent the release of nutrients from lake sediments in Lake Elsinore. The TMDL implementation plan also contemplates the formulation of a nutrient pollutant trading plan amongst the named dischargers to provide flexibility in achieving TMDL compliance. In addition, Board Order R8-2004-0011 requires DISTRICT to offset excess phosphorus and nitrogen contributions associated with the discharge of supplemental water to Lake Elsinore.

C. On April 20, 2006, the Board of Directors of LESJWA, utilizing Bond Act Funds, authorized the grant of \$1,550,000.00 to the DISTRICT to construct the Aeration System.



contract with Metro Builders and Engineers Group, LTD ("Metro"). Metro bid \$2,171,711.00, which bid amount, plus design, engineering and other expenses, exceeds funds available to LESJWA by \$975,000, as shown in Exhibit 2. To close this financial gap in funding, the PARTIES propose to contribute the difference, \$975,000, in equal shares.

D. The Aeration System is expected to be operational by early 2007. Once operational, the Aeration System is expected to avoid the substantial adverse environmental and aesthetic impacts that result from harmful algae blooms and resultant fish kills which, in turn, hurt the economy of the region and severely impacts tourism. For those reasons, the PARTIES have agreed to share equally the cost of operating and maintaining the Aeration System.

E. By separate agreement the DISTRICT has accepted the conveyance of title to the Aeration System from LESJWA. A true and correct copy of said agreement is attached hereto as Exhibit 3.

F. By this Agreement, the PARTIES intend to form a technical committee to oversee the operation and maintenance of the Aeration System, and to set forth the terms and conditions by which the DISTRICT shall operate and maintain the System at the expense of the PARTIES.

NOW, THEREFORE, in consideration of the facts recited above, and the covenants, conditions and promises contained herein, the PARTIES mutually agree as follows:

#### AGREEMENT

1. **Formation of the Technical Oversight Committee.** As a means of ensuring the most optimal operation of the Aeration System in order to maximize its benefits, there is hereby established the "Technical Oversight Committee", consisting of one knowledgeable representative appointed by each PARTY. Each such representative shall serve as a member of the Committee at the appointing PARTY's pleasure and expense. The Committee shall meet at such times and places as its member may agree upon. The primary purpose of the Committee shall be to oversee the operations and maintenance activities of the DISTRICT, and to develop and refine parameters, processes and procedures needed to maximize the effectiveness of the Aeration System in a manner that will realize all of the benefits the System is anticipated to produce. Initially, the Committee shall operate the Aeration System in accordance with the operational parameters outlined on the "Lake Elsinore Aeration System Process Flow Diagram" attached hereto as Exhibit "4" and made a part hereof.

2. **Capital Construction Contribution.** The PARTIES shall, on a pro-rata basis and as described in Paragraphs 3(c), 4(a) and 5(a) below, jointly contribute in equal shares the total sum of \$975,000 for the purpose of assisting in the funding of the construction of the Aeration System ("Contribution"). The COUNTY's share is due on or before 120 days from the award of the construction of the Aeration System.

3. **DISTRICT's Obligations.** Subject to all of the provisions of this Agreement, the DISTRICT hereby agrees:

a. **Hold Title to Aeration System:** To hold title to the Aeration System for the term of this Agreement.

b. **Provision of Services:** To provide, or cause to be provided, all labor, tools, equipment, vehicles, materials, supplies and qualified personnel necessary to manage, operate, monitor, maintain and repair the Aeration System subject to the approved budget as set forth in Section 3.g., the PARTIES' payment of financial contributions as set forth herein, and the operation and maintenance parameters and procedures established from time-to-time by the Technical Oversight Committee.

c. **Financial Contribution:** To contribute its pro-rata share (as established annually by mutual agreement of the PARTIES) of the cost of constructing, managing, operating, monitoring, maintaining and repairing the Aeration System.

d. **Compliance:** To comply with the requirements of all federal and state statutes, rules and regulations governing the Aeration System and the directions of the Technical Oversight Committee.

e. **Monitoring and Remote Access to Data:** To develop and, with the approval of the Technical Oversight Committee, implement a field testing, sampling and monitoring program that will, among other things, measure dissolved oxygen and temperature in Lake Elsinore. To supply a remote access internet site for displaying monitoring information accessible by the PARTIES. This site shall include real-time data or recently past (i.e. 24 hours) information for viewing purposes only. The "real time" file will be replaced about every 15 minutes to provide a snap shot of the current data. All data collected will be placed on the DISTRICT FTP site accessible by the PARTIES.

f. **Reports:** To prepare and submit quarterly and annual reports summarizing operation, maintenance and monitoring activities and other matters of interest as agreed upon by the PARTIES. The DISTRICT shall also provide such other written or oral reports regarding the operation and maintenance of the Aeration System as may be reasonably requested by any PARTY;

g. **Budget:** To prepare, in cooperation with the Technical Oversight Committee, and submit an annual budget to the COUNTY and the CITY, for review and approval not later than ninety (90) days before the commencement of any fiscal year (July 1 to June 30), which budget shall estimate the expenditures necessary for the operation, maintenance, repair and replacement of the Aeration System, and to provide a financial statement showing the revenues and expenditures from the previous year's budget. A form of such a budget is attached hereto as Exhibit "5". In the event a budget acceptable to the PARTIES is not obtained prior to the start of a fiscal year, the DISTRICT shall continue to operate the Aeration System to the fullest extent possible, within the reasonable discretion of the DISTRICT, at the level of expenditure authorized by the last approved budget, and the PARTIES shall fund such budget until a new budget is approved.

h. **Books and Records:** Maintain, and retain for a period of not less than four (4) years following termination of this Agreement, full and accurate books and accounts in accordance with the practices established by or consistent with those utilized by the Controller of the State of California for public agencies. Such books and accounts shall be maintained on a fiscal year basis (July 1 to June 30). Such books and accounts shall be maintained by the DISTRICT as public records.

i. **Safety:** The DISTRICT shall be responsible for the safety of all persons and property relative to the Aeration System. This responsibility shall be continuous and not be limited to normal working hours. The DISTRICT's duty to ensure safety shall include, without limitation, the placement of buoys and lights and to take all other precautions necessary to protect boaters, skiers and swimmers in Lake Elsinore ("Safety Activities"). Because the CITY has rights and responsibilities related to recreation on Lake Elsinore not enjoyed by the DISTRICT, including but not limited to enforcement of CITY ordinances and the Lake Elsinore Lake Use Guidelines, Safety Activities conducted pursuant to this subparagraph shall not be completed without first obtaining the advice and approval of the CITY. The PARTIES acknowledge that some modifications to existing CITY ordinances and the Lake Use Guidelines may need to be undertaken in order to carry out the Safety Activities.

j. **Inspection:** To permit inspection of the Aeration System by representatives of the COUNTY, CITY and/or LESJWA and regulatory agencies.

k. **Liaison:** To designate the General Manager or his/her designee as the DISTRICT's representative on the Technical Oversight Committee; provided, however, the DISTRICT reserves the right to change, from time-to-time, this designation.

4. **COUNTY's Obligations.** The COUNTY agrees to:

a. **Financial Contribution:** To contribute its pro-rata share (as established annually by mutual agreement of the PARTIES) of the cost of constructing, managing, operating, monitoring, maintaining and repairing the Aeration System.

b. **Liaison:** To designate the County Executive Officer, or his/her designee, as the COUNTY's representative on the Technical Oversight Committee; provided, however, the COUNTY reserves the right to change, from time-to-time, this designation.

c. **Cooperation with the DISTRICT:** The COUNTY shall cooperatively assist the DISTRICT, as appropriate and necessary, in performing its duties hereunder.

5. **CITY's Obligations.** The CITY agrees to:

a. **Financial Contribution:** To contribute its pro-rata share (as established annually by mutual agreement of the PARTIES) of the cost of constructing, managing, operating, monitoring, maintaining and repairing the Aeration System.

b. **Liaison:** To designate the City Manager or his/her designee as the CITY's representative on the Technical Oversight Committee provided, however, the CITY reserves the right to change, from time-to-time, this designation.

c. **Cooperation with the DISTRICT:** The CITY shall cooperatively assist the DISTRICT, as appropriate and necessary, in performing its duties hereunder.

d. **Permission to use CITY Property:** The CITY hereby grants the DISTRICT permission to construct, install, operate and maintain the Aeration System on its property. The location of the Aeration System on CITY property is approximately depicted on Exhibit 1 and Exhibit 6.

e. **Temporary Permission to use CITY Property to Construct:** The CITY hereby grants the DISTRICT temporary permission to use the CITY property to construct the Aeration System described as APN 374-211-04, APN 374-212-04 and the Acacia Street Right-of-Way as approximately depicted on Exhibit 6.

6. **Term.** The DISTRICT shall begin rendering services hereunder immediately following the date of completion of construction of the Aeration System (as signified by the issuance of a notice of completion by DISTRICT'S governing board) and shall continue to operate and maintain the System for an initial term terminating on June 30, 2011 (the "Initial Term"). Commencing 180 days prior to the expiration of the Initial Term, the PARTIES shall meet and confer in good faith in order to determine whether DISTRICT shall continue to render services hereunder for an additional term under such terms and conditions as shall be negotiated (the "Extended Term").

In the event that DISTRICT determines, in its sole and absolute discretion, not to render the services hereunder following the expiration of the Initial Term or discontinues its operational responsibilities as provided below, the CITY may, at its options, agree to render the services hereunder. In the event that City determines not to render the services hereunder, the COUNTY may, at its options, agree to render the services hereunder.

The PARTY agreeing to operate the Aeration System, whether during the term of the Agreement or following termination of the Agreement, shall be granted, without charge or cost, full legal title to the Aeration System and any easement, licenses and permits for the CITY or COUNTY necessary to operate the Aeration System so long as and on the condition that PARTY does operate the Aeration System.

A PARTY charged with the operation of the Aeration System may, in its reasonable discretion, discontinue its operational responsibilities in the event that operation of the Aeration System is infeasible due to material increases in operational costs, legal restrictions imposed by other regulatory agencies, or the inability of the Aeration System to provide material environmental

benefits to the Lake.

This Section 6 shall survive the termination of the Agreement.

7. **Distribution of Surplus Funds.** If, upon termination of this Agreement there are any unexpended funds related to the purpose of this agreement, in the custody or control of the DISTRICT including, but not limited to, reserve funds, as depicted on Exhibit 5, or funds from the sale of the Aeration System equipment and material, such funds shall be distributed to the PARTIES in proportion to their respective financial contributions hereunder.

8. **Nutrient Pollutant Mitigation Credits.** The PARTIES are informed and believe that the California Regional Water Quality Control Board, Santa Ana Region, a water quality regulatory agency, may approve a pollutant trading program for the Lake Elsinore and Canyon Lake TMDL as provided in Task 12 of the TMDL. Moreover, it is the common understanding of the PARTIES that a pollutant trading program would necessarily involve pollutant credits based upon in-lake nutrient load reductions for phosphorus and nitrogen. In the event that the Aeration and/or Destratification Systems achieve internal nutrient load reductions of any level for nitrogen or in excess of the TMDL's 35% assumption for phosphorus then there may be an opportunity that the systems will create pollutant credits on behalf of the PARTIES based on their role as owners of the Aeration System. As a result, the PARTIES may have the right to trade pollutant credits for valuable consideration to other dischargers named in the TMDL. Therefore, the PARTIES agree that any such pollutant credits arising from the operation of the Aeration and/or Destratification Systems shall be allocated among the PARTIES in equal shares or in such other proportions as the PARTIES may mutually agree upon. The PARTIES further agree that the DISTRICT shall have the right of first refusal to acquire for valuable consideration any pollutant credits for phosphorous or nitrogen sought to be traded by the CITY or COUNTY to other dischargers named in the TMDL. DISTRICT'S right of first refusal shall only extend to those pollutant credits that DISTRICT seeks to use for the exclusive purpose of meeting its legal obligations under Board Order R8-2004-0011 in connection with the discharge of supplemental water to Lake Elsinore.

9. **Indemnification.**

a. DISTRICT agrees to fully indemnify the COUNTY, CITY, and LESJWA against, and hold each of them and their respective employees and agents completely free and harmless from any cost, expense, claim, demand, judgment, loss, injury and/or liability of any kind or nature, including personal injury, death or property damage, asserted, or otherwise, whether in contract or tort, that may arise from, directly or indirectly, or be occasioned by, or be in any way connected with the DISTRICT'S performance; and/or failure to perform, under this Agreement of the maintenance and operation of the Aeration System or any negligent act or omission of the DISTRICT, its employees, agents and/or subcontractors.

b. CITY agrees to fully indemnify the COUNTY, DISTRICT, and LESJWA against, and hold each of them and their respective employees and agents completely free and harmless from any cost, expense, claim, demand, judgment, loss, injury and/or

liability of any kind or nature, including personal injury, death or property damage, asserted, or otherwise, whether in contract or tort, that may arise from, directly or indirectly, or be occasioned by, or be in any way connected with the CITY's performance, and/or failure to perform, under this Agreement or any negligent act or omission of the CITY, its employees, agents and/or subcontractors.

c. The indemnification obligations set forth in subparagraph "a", above, shall cease and be of no further effect if, and at the time, the DISTRICT decides to no longer render the services described above pursuant to the provisions of Paragraph 6, if the DISTRICT no longer owns the Aeration System, or upon termination of this Agreement. The indemnification obligations set forth in subparagraph "b", above, shall cease upon termination of this Agreement.

#### 10. **Miscellaneous Provisions.**

a. **Independent Contractor:** The DISTRICT shall perform the services required hereunder in the DISTRICT's own way as an independent contractor, and not as an employee of the COUNTY or the CITY.

b. **Subcontractors:** The DISTRICT may, at its sole cost and expense, employ such competent and qualified professionals, consultants and subcontractors as the DISTRICT deems necessary.

c. **Disposition of System.** The DISTRICT shall not abandon, substantially discontinue the use of, lease, assign or otherwise dispose of the Aeration System or any significant part or portion thereof, during the useful life of the Project without the prior approval of the COUNTY, CITY and LESJWA.

d. **Amendment.** This Agreement may be amended in writing by mutual agreement of the PARTIES. This is the entire Agreement between the PARTIES and supersedes any prior written or oral agreement inconsistent herewith.

e. **No Third Party Beneficiary.** This Agreement between COUNTY, CITY and DISTRICT is intended for the mutual benefit of the three signing PARTIES only. No rights are created under this contract in favor of any third party or any party who is not a direct signatory to this contract.

f. **Venue and Attorneys' Fees.** Any action at law or in equity brought by any of the PARTIES hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the PARTIES hereby waive all provisions of law providing for a change of venue in such proceedings to any other county. In the event any of the PARTIES hereto shall bring suit to enforce any term of this Agreement to recover any damages for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs thereof including reasonable attorneys' fees to be set by the court in such action.

g. **Assignment.** It is mutually understood and agreed that this Agreement shall be binding upon each of the PARTIES and their successors. Neither this Agreement nor any part thereof may be assigned by any party without the prior written consent and approval of all PARTIES.

h. **Notices.** All notices, requests, consents, approvals or other communications between the parties in connection with this Agreement shall be deemed given if addressed to the recipient party at its last known address and, with postage prepaid, deposited in the United States mail. The current addresses of the PARTIES are as follows:

City	County
City of Lake Elsinore Attn: City Manager 130 S. Main Street Lake Elsinore, CA 92530	County of Riverside Attn: Executive Office 4080 Lemon Street Riverside, CA 92501

**District**

Elsinore Valley Municipal Water District  
Attn: General Manager  
31315 Chaney Street  
Lake Elsinore, CA 92531

Each party, upon notice to the others, may from time to time change its mailing address.

i. **Severability.** If any provision of this Agreement shall be determined by any court to be invalid, illegal or unenforceable to any extent, the remainder of this Agreement shall not be affected and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in this Agreement.

j. **Counterparts.** This Agreement may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

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k. **Effective Date.** This Agreement shall become effective when it has been executed by all of the PARTIES.

IN WITNESS WHEREOF, the PARTIES have caused this Agreement to be effective as of the day and year first above written.

CITY OF LAKE ELSINORE

Dated: \_\_\_\_\_

By   
Mayor

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

Dated: \_\_\_\_\_

By   
President, Board of Directors

COUNTY OF RIVERSIDE

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Chairman, Board of Supervisors

APPROVED AS TO FORM:

By \_\_\_\_\_  
Deputy County Counsel



111

k. **Effective Date.** This Agreement shall become effective when it has been executed by all of the PARTIES.

IN WITNESS WHEREOF, the PARTIES have caused this Agreement to be effective as of the day and year first above written.

CITY OF LAKE ELSINORE

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Mayor

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

Dated: \_\_\_\_\_

By \_\_\_\_\_  
President, Board of Directors

COUNTY OF RIVERSIDE

Dated: August 1, 2006

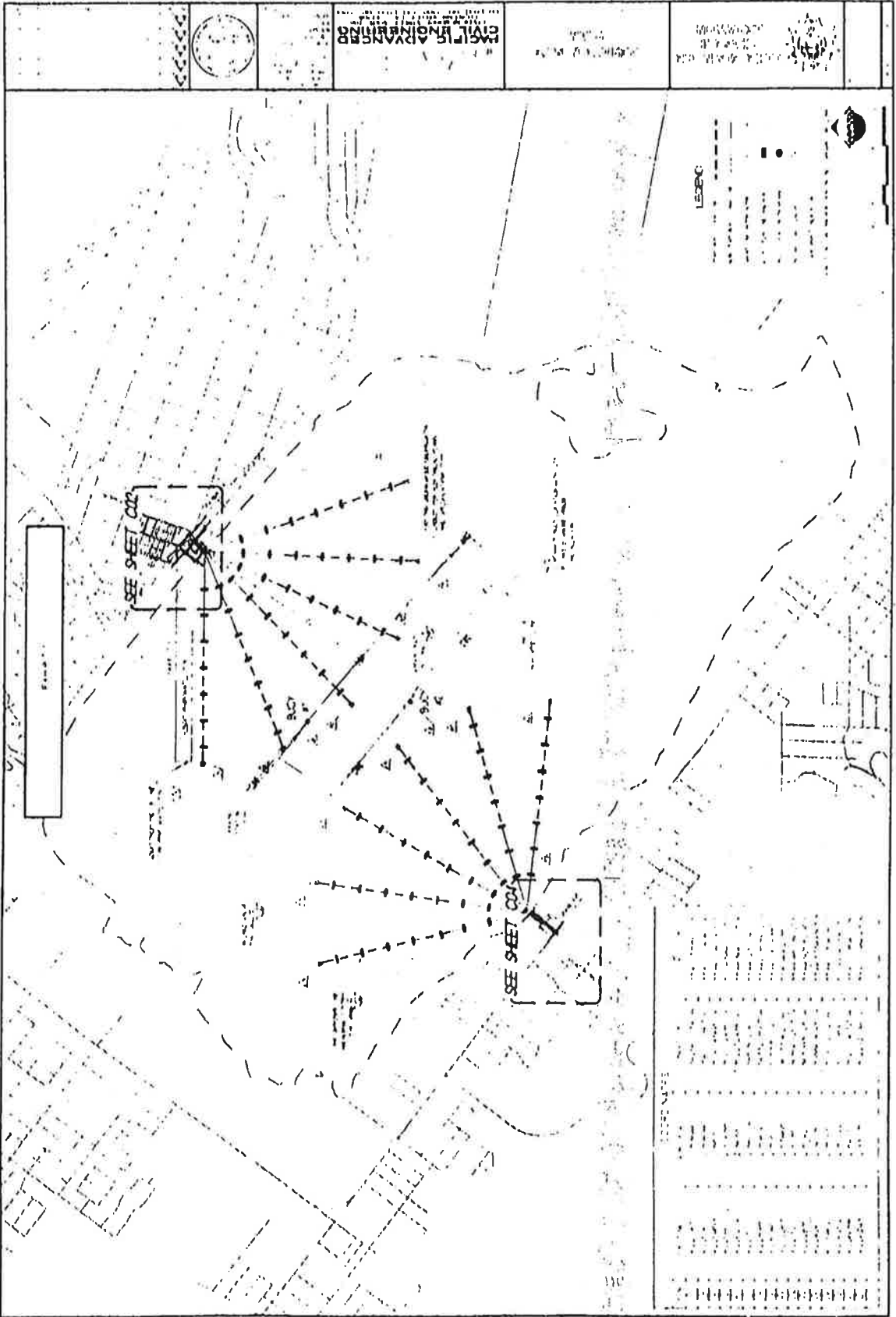
By Bob Buster  
Chairman, Board of Supervisors - Bob Buster

ATTEST: Nancy Romero, Clerk of the Board

By: David Schlemmer Deputy

APPROVED AS TO FORM:

By David M. K. Hunt  
Deputy County Counsel



## EXHIBIT 2

### Lake Elsinore Phase II Aeration System Capital Cost and Grant Funding Shortfall

Description	Amount
Metro Builders and Engineers Bid Amount	\$ 2,171,711
Change Orders (~3% of Bid Amount)	\$ 60,000
Inspection (~5% of Bid Amount)	\$ 100,000
PACE (Engineering during Construction)	\$ 83,880
Subtotal	\$ 2,415,591
District Engineering and Project Mngt	\$ 30,000
District Overhead	\$ 79,409
Grand Total	\$ 2,525,000
Less LESJWA Grant Amount	\$ (1,550,000)
Grant Funding Shortfall	\$ 975,000

### EXHIBIT 3

#### IMPLEMENTATION AGREEMENT for the

#### LAKE ELSINORE DIFFUSED AERATION SYSTEM

THIS AGREEMENT is made and effective this 20<sup>th</sup> day of April, 2006 by and between the LAKE ELSINORE & SAN JACINTO WATERSHEDS AUTHORITY ("LESJWA") and the ELSINORE VALLEY MUNICIPAL WATER DISTRICT ("DISTRICT"). LESJWA and DISTRICT are sometimes collectively referred to herein as the "PARTIES".

#### RECITALS

A. LESJWA is a joint powers public agency, formed for the purpose of implementing projects and programs to rehabilitate the San Jacinto and Lake Elsinore Watersheds and to improve water quality in Lake Elsinore. The DISTRICT is a Member Agency of LESJWA.

B. LESJWA has been awarded \$15 million from the Safe Drinking Water, Clean Water, Watershed Protection and Flood Protection Bond Act of 2000 (the "Bond Act"). Utilizing Bond Act funds, LESJWA conducted a study and found that the water quality in Lake Elsinore will be substantially improved by the enhanced circulation of Lake water by means of a diffused aeration system. Such a system would reduce fish kills and algal densities in Lake Elsinore by:

1. Reducing internal phosphorus loading from lake bottom sediments;
2. Preventing lengthy periods of thermal and chemical stratification; and
3. Increasing dissolved oxygen in lake bottom waters.

C. Consequently, LESJWA has determined to implement the Lake Elsinore Diffused Aeration System Project. ("PROJECT".)

D. LESJWA has further determined to delegate the responsibility of implementing the PROJECT to the DISTRICT, and it is the purpose of this Implementation Agreement to set forth the terms and conditions by which the DISTRICT shall implement the PROJECT.

NOW, THEREFORE, in consideration of the facts recited above, and the covenants, conditions and promises contained herein, the PARTIES mutually agree as follows:

#### AGREEMENT

1. **DISTRICT's Obligations.** Subject to all of the provisions of this Agreement, the DISTRICT hereby agrees to:

a. **Implementation of PROJECT:** Provide, or cause to be provided, all labor, tools, equipment, vehicles, materials, supplies and qualified personnel to implement the PROJECT.

b. **Accept Title:** Upon completion, the DISTRICT shall accept the conveyance, by LESJWA, of title to the PROJECT.

c. **Compliance:** Comply with the requirements of all federal and state statutes, rules and regulations.

d. **Reports:** Prepare and submit to LESJWA biweekly reports summarizing PROJECT implementation activities and other matters of interest as agreed upon by the PARTIES. The DISTRICT shall also provide such other written or oral reports regarding the PROJECT as may be reasonably requested by LESJWA.

e. **Indemnification:** Fully indemnify LESJWA against, and hold it and its members, officers, employees and agents completely free and harmless from any cost, expense, claim, demand, judgment, loss, injury and/or liability of any kind or nature, including personal injury, death or property damage, asserted or otherwise, whether in contract or tort, that may arise from, directly or indirectly, or be occasioned by, or be in any way connected with, the DISTRICT's performance and/or failure to perform under this Agreement or any negligent act or omission of the DISTRICT, its employees, agents and/or subcontractors.

f. **Project Cost:** All PROJECT costs in excess of the grant made hereunder shall be borne by the DISTRICT.

g. **Time for Completion:** The DISTRICT shall complete the implementation of the PROJECT and submit its final invoice for payment by March 31, 2007.

2. **LESJWA's Obligations.** Subject to all of the provisions of this Agreement, LESJWA hereby agrees to:

a. **Grant:** LESJWA shall grant to the DISTRICT the not-to-exceed sum of \$1,550,000 for the purpose of implementing the PROJECT as described herein, such grant to be delivered to the DISTRICT in increments based on the progress of the PROJECT, and the following additional conditions:

(i) Upon receipt and approval of DISTRICT invoices, LESJWA shall only compensate the DISTRICT for actual expenditures incurred; and

(ii) Because Bond Funds for the payment for each invoice are to be obtained incrementally from the SWRCB, the PARTIES acknowledge and agree that there may be periodic delays in payment; and

(iii) LESJWA shall retain from the DISTRICT's last incremental payment an amount equal to 10% thereof, to be finally paid upon satisfactory completion of the PROJECT and delivery to LESJWA of proof of payment for all labor and materials.

b. **Convey Title:** Upon completion of the PROJECT, LESJWA shall convey title to it to the DISTRICT.

3. **Independent Contractor.** The DISTRICT shall perform the services required hereunder in the DISTRICT's own way as an independent contractor, and not as an employee of LESJWA.

4. **Subcontractors.** The DISTRICT may, at its sole cost and expense, employ such competent and qualified professionals, consultants and subcontractors as the DISTRICT deems necessary.

5. **Assignment.** This Agreement shall not be assigned or otherwise transferred by the DISTRICT without the prior written consent of LESJWA.

6. **Amendment.** This Agreement may be amended in writing by mutual agreement of the PARTIES.

7. **Inspection.** The DISTRICT shall permit inspection of the progress of the work authorized hereunder by representatives of LESJWA upon reasonable notice.

8. **Arbitration.** Any dispute which may arise by and between the PARTIES to this Agreement shall be submitted to binding arbitration. Arbitration shall be conducted by the Judicial Arbitration and Mediation Services, Inc., or its successor, or any other neutral, impartial arbitration service that the PARTIES mutually agree upon in accordance with its rules in effect at the time of the commencement of the arbitration proceeding, and as set forth in this Paragraph. The arbitrator chosen must decide each and every dispute in accordance with the laws of the State of California, and all other applicable laws. The arbitrator's decision and award are subject to judicial review by a Superior Court of competent venue and jurisdiction, only for material errors of fact or law. Upon a showing of good cause, the arbitrator may permit limited discovery in the arbitration proceeding. Unless the PARTIES enter into a written stipulation to the contrary, prior to the appointment of the arbitrator, all disputes shall first be submitted to non-binding mediation, conducted by the Judicial Arbitration and Mediation Services, Inc., or its successor, or any other neutral, impartial mediation service that the PARTIES mutually agree upon in accordance with its rules for such mediation.

9. **Drug-Free Workplace Certification.** By signing this Contract, the DISTRICT hereby certifies under penalty of perjury under the laws of the State of California that the DISTRICT will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace.

10. **Non-Discrimination.** During the performance of this Agreement, DISTRICT shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. DISTRICT shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. DISTRICT shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12290 et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into

this Contract by reference and made a part hereof as if set forth in full. DISTRICT shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. DISTRICT shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

**11. State of California Disclosure Requirements.** DISTRICT shall include the following disclosure statement in any document, written report, or brochure prepared in whole or in part pursuant to this contract:

"Funding for this project has been provided in full or in part through a contract with the State Water Resources Control Board (SWRCB) pursuant to the Costa-Machado Water Act of 2000 (Proposition 13) and any amendments thereto for the implementation of California's Nonpoint Source Pollution Control Program. The contents of this document do not necessarily reflect the views and policies of SWRCB, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

**12. Enforced Delay; Extension of Times of Performance.** In addition to specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to: war, terrorism, moratorium, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary financing, labor, materials or tools; delays of any contractor, subcontractor or supplier; acts or omissions of the other party, acts or failures to act of any other public or governmental agency or entity (other than the acts or failures to act of the PARTIES), or any other cause(s) beyond the control or without the fault of the party claiming an extension of time to perform. Notwithstanding any to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, of notice by the PARTY claiming such extension is sent to the other PARTIES within thirty (30) days of the commencement of the cause.

IN WITNESS WHEREOF, the PARTIES have caused this Agreement to be effective as of the day and year first above written.

**LAKE ELSINORE & SAN JACINTO  
WATERSHEDS AUTHORITY**

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Phil Williams, President, Board of Directors

**ELSINORE VALLEY MUNICIPAL WATER  
DISTRICT**

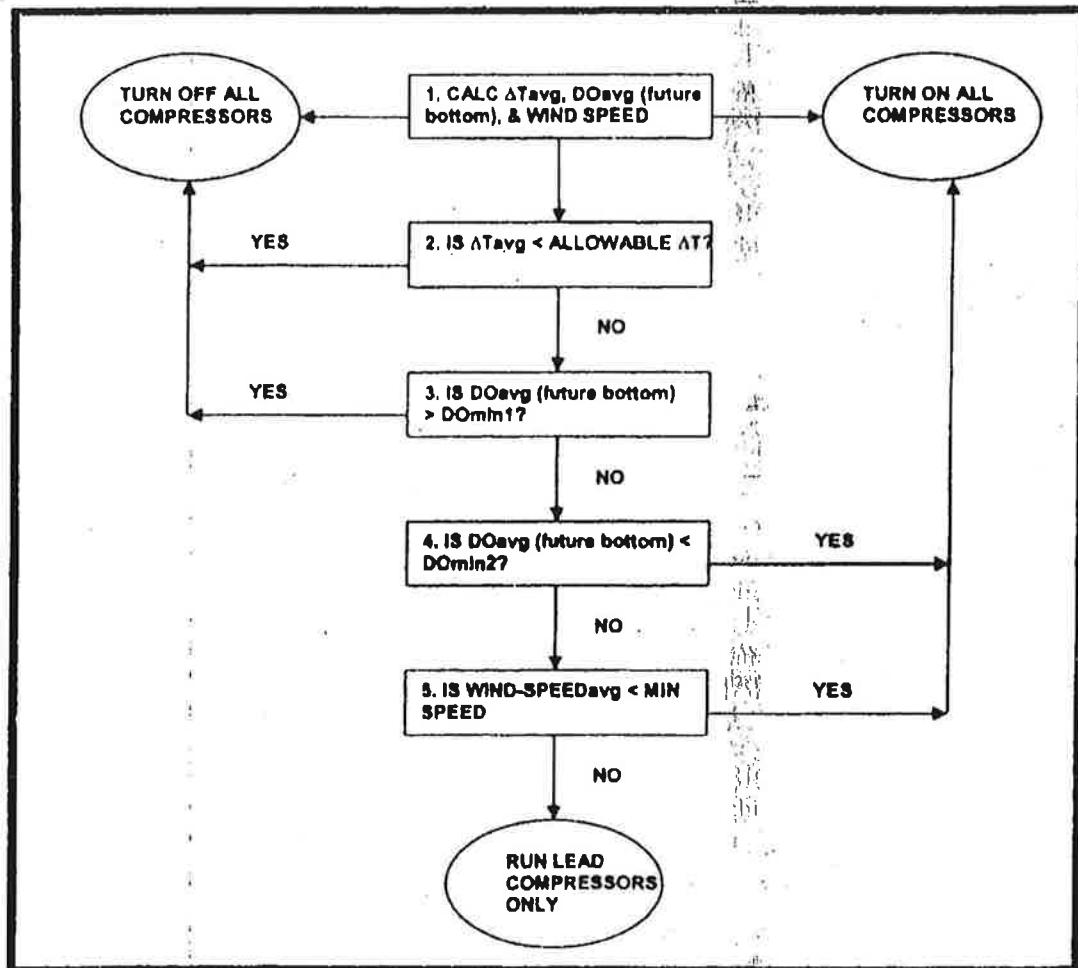
Dated: \_\_\_\_\_

By \_\_\_\_\_  
President, Board of Directors

EXHIBIT 4

The aeration system automatic sequence of operation shall be in accordance with the following:

Figure 1  
Lake Elsinore Aeration System Process Flow Diagram  
(Modified from Dr. Arlo Fast 11/28/04)





OPERATOR INPUTS USED IN CALCULATIONS (shown above)

Dissolved Oxygen:

"n" – number of previous data points used in regression (hours 0-24) = 6  
"t" – duration of time foreseen in future that DO is projected (hours 0-24) = 4

Thermal Stability:

none

Wind:

"p" – percentile of data set to use in determining wind speed (0-100%) = 80  
"d" – previous time period in which data is collected for the data set (0-24 hours) = 6

OPERATOR SETPOINTS

X – Maximum Allowable  $\Delta T$  (0-5 degrees C) = 0.5

Y1 – First Minimum Bottom Projected DO (0-10 mg/L) = 1.5

Y2 – Second Minimum Bottom Projected DO (0-10 mg/L) = 10

Z – Minimum Wind Speed (0-50 mph) = 20

Primary Timer Set Points:

ON Time Delay (0.0-48.0 hours) = 0

OFF Time Delay (0.0-48.0 hours) = 12.0

**EXHIBIT 5**

**LAKE ELSINORE PHASE II AERATION SYSTEM  
ANNUAL OPERATIONS, MAINTENANCE AND REPLACEMENT COST  
FY 2006 - 2007**

**OPERATIONS & MAINTENANCE**

Preventative Maintenance 1	\$ 20,000
Compressor Overhaul 2	\$ 5,000
Service Check 3	\$ 19,000
Aeration Lines and Pump Station Maintenance 4	\$ 3,000
PLC Programming and Consulting Services 5	\$ 5,000
Power 6	\$ 160,000
<b>SUBTOTAL</b>	<b>\$ 212,000</b>

**RESERVE FUND**

Minor Equipment Repairs/Replacement 7	\$ 17,000
Major Equipment/Facility Replacement Fund 8	\$ 45,000
Water Quality Maintenance Reserve Fund 9	\$ 26,000
<b>SUBTOTAL</b>	<b>\$ 88,000</b>

<b>TOTAL</b>	<b>\$ 300,000</b>
--------------	-------------------

1. Preventative maintenance includes all parts, labor and expenses to care for the unit per the manufacturer's maintenance schedule. Assumes 8,000 hours per year operation (24 hours a day/7 days per week operation). Maintenance occurs 2 times per year.

2. Overhauls include the compressor unit only. Drive Motors, and associated components (motor starters) are not included. Overhauls occur every 100,000 hours of operation. Assuming 8000 hours per year, overhauls occur once every 12 years. \$14,000 per unit every 12 years.

3. Service check occurs weekly. Need to check and verify that all compressors, valves, meters, controls, etc are operating normally. Two - person crew, Four Hrs. per Week, \$90/hr, 208 hours.

4. Aeration lines need to be lifted from the bottom of the lake to the surface and cleaned out properly. 4 person crew 8 hr/yr at \$180/hr. Perform necessary maintenance per the manufacture's maintenance manual for all meters, valves, blowers, pumps, etc.

5. Program adjustments to the PLC and anticipated annual consulting.

6. 2,400 Hours of operation, all compressors running.

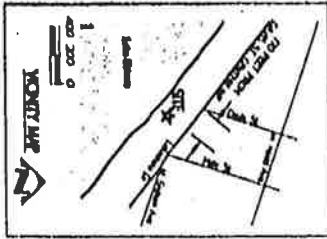
7. Replacement of the compressor screw element which occurs once every 50,000 hours of operation. At 8,000 hours of operation per year (maximum), replacement occurs every 6 years. Replacement of the sensor buoys and calibration solutions every 5 years at 8,000 hours of operation per year (maximum). General and preventive maintenance and service for all other equipments/materials as required for minor wear and tear damages (including pipes, valves, and blowers).

8. Structures, Mechanical Equipment, Piping, Compressors. \$1.2 M Capital Cost, 40 year life, 3% Escalation.

9. Water Quality Profiler, Weather Station, and Water Quality Maintenance. \$0.2 M Capital Cost, 20 year life, 3% Escalation.

EXHIBIT 6

North as the pin & profile  
 Deviate • 1:1 (Grade) • 0% (Profile) • 1:1 (Vertical) • 1/4" = 1' (Horizontal) • 1/4" = 1' (Profile)



**BASIS OF BEARINGS**

THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN STATIONS 7+00 AND 8+00 (STATIONING FOR NATIONAL GEODETIC SURVEY), MONTEBELLO 1983 AS SHOWN ON THE MAP FILED IN BOOK 102 PAGES 50 THROUGH 65 OF RECORDS OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA, BEING N 30 59'47" W.

ALSO THE RECORD BEARINGS OF NEPA/OTIS FROM FOR THE CENTERLINE OF LAKESHORE DRIVE ON LAKESHORE DRIVE ADDITION PER BOOK 5, PAGES 65-67 OF THIS IS NOTED THROUGHOUT TO BE CONSISTENT WITH THE CALIFORNIA COORDINATE SYSTEM BASIS OF BEARINGS SHOWN HEREON.

**BENCH MARK**

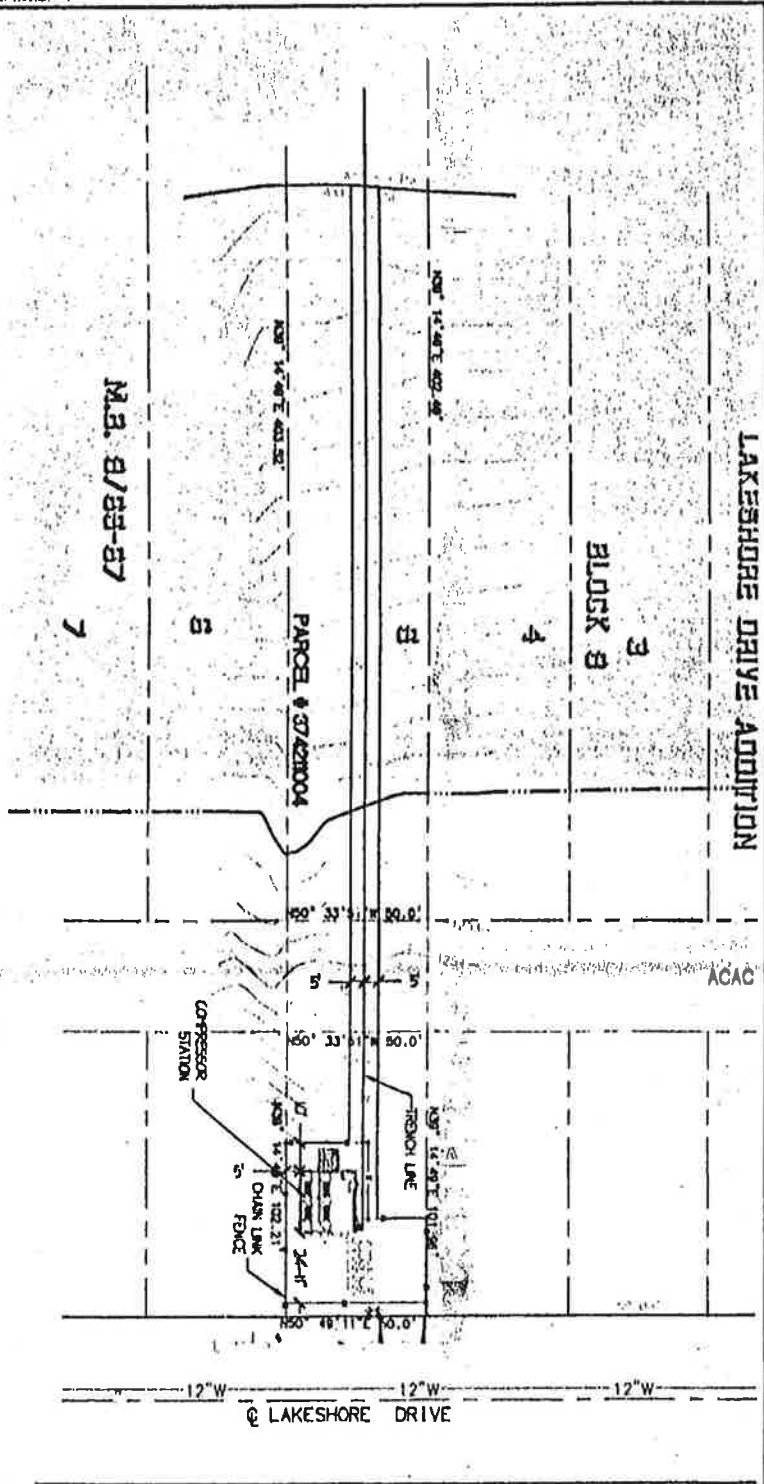
ELEVATION - 0844.09  
 1 UT DAVENPORT ALUMINUM DISK IN 6" CONC. COLUMN  
 SITUATED NW. COR. S.W. 1/4, 1065 E. 30-60'

**LEGAL DESCRIPTION**

LOT 5 IN BLOCK 9 AND LOT 5 IN BLOCK 10 OF LAKE SHORE DRIVE ADDITION AS SHOWN BY MAP ON FILE IN BOOK 5, PAGES 65 THROUGH 67 OF THIS, BELONGS TO RIVERSIDE COUNTY, CALIFORNIA.

APR 31-21-04 AND 31-21-04

**NOTE:**  
 THE COMPRESSOR STATION AND PERLINE AREA IS 5800 SQUARE FEET.  
 THE PARCEL AREA IS 20,000 SQUARE FEET.



<p><b>PACE</b>          PACIFIC ADVANCED          CIVIL ENGINEERING</p>	<p>SCALE 1"=40'</p>	<p><b>JOB</b></p> <p><b>LAKE ELSINORE          AERATION</b></p> <p>LAKE ELSINORE</p>	<p><b>TITLE</b></p> <p><b>NORTH SITE          LEGAL          DESCRIPTION</b></p>
	<p>PROJECT 208</p>		
	<p>DRAWN P.M.</p>		
	<p>CHECKED R.C.B.</p>		
	<p>DATE 04/21/08</p>		
<p>PROJECT NO. 7850-60</p>	<p>DATE 04/21/08</p>	<p>PROJECT NO. 7850-60</p>	<p>SCALE 1"=40'</p>

## APPENDIX - "B"

848  
**SUBMITTAL TO THE BOARD OF SUPERVISORS  
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Executive Office

**SUBMITTAL DATE:**  
 June 7, 2011

**SUBJECT:** Amendment to Extend the Term of the Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the attached amendment to extended the expiration of the agreement to June 30, 2012; and
2. Authorize the Chairman of the Board of Supervisors to sign the amendment.

*(Continued on Page 2)*

*Michael R. Shetler*

Michael R. Shetler, Senior Management Analyst

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/2012

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** **APPROVE**

BY: *Christopher M. Hans*

**County Executive Office Signature** Christopher M. Hans

FORM APPROVED COUNTY COUNSEL  
 BY DAVID H.K. HUFF  
 DATE 5/24/11  
 Departmental Concurrence

Policy  
 Policy  
 Consent  
 Consent

Dep't Recomm.:  
 Per Exec. Ofc.:

Prev. Agn. Ref.: 3.2 of 8/1/2006 | District: 1,2,3 & 5 | Agenda Number:

ATTACHMENTS FILED  
 WITH THE CLERK OF THE BOARD

3.7

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**Amendment to Extend the Term of the Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System**

**June 7, 2011**

**Page 2**

**BACKGROUND:** The Lake Elsinore San Jacinto Watershed Project Authority (LESJWA) was formed to facilitate the development of joint projects that improve the water quality at Lake Elsinore and the San Jacinto Watershed. An agreement between the City of Lake Elsinore, Elsinore Valley Municipal Water District and the County to construct, operate and maintain the Lake Elsinore Diffused Air Line-Aeration System was approved August 1, 2006, (Ref. Agenda Item 3.2-attached).

This amendment request is to extend the term of the agreement by twelve months to June 30, 2012. All other terms and conditions of the agreement shall remain unchanged.

**Amendment to Extend the Term of the Agreement for the  
Operation and Maintenance of the Lake Elsinore Phase II Aeration System**

This amendment is made and effective this first day of May, 2011 by and among the COUNTY OF RIVERSIDE ("COUNTY"), the CITY OF LAKE ELSINORE ("CITY") and the ELSINORE VALLEY MUNICIPAL WATER DISTRICT ("DISTRICT"). The COUNTY, CITY and DISTRICT are sometime collectively referred to as the "PARTIES."

**RECITALS**

- A. The COUNTY, CITY and DISTRICT are PARTIES to an existing Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System ("AGREEMENT") signed and made effective on August 1, 2006 (copy attached as Appendix A).
- B. The initial term (Section 6) of the existing AGREEMENT was for five years and is scheduled to terminate on June 30, 2011 unless otherwise extended by the PARTIES.
- C. By letter dated December 23, 2010 the PARTIES committed to submit a new Operations and Maintenance (O&M) Agreement for the Phase II Aeration System to the Santa Ana Regional Water Quality Control Board by April 30, 2011 (copy attached as Appendix B).
- D. The PARTIES concur that it is desirable to ensure the stable operation of the Phase II aeration system for the remainder of 2011 while a long-term O&M Agreement is being developed and additional project sponsorship is sought.

NOW, THEREFORE, in consideration of the facts recited above, and the covenant, conditions and promises contained in the existing AGREEMENT, the PARTIES mutually agree as follows:

**AMENDMENT**

- 1. Section 6 of the AGREEMENT shall be revised so that the initial term expires on June 30, 2012 rather than June 30, 2011.
- 2. All other terms and conditions in the existing AGREEMENT shall remain unchanged by this amendment to extend the initial term for a period of 12 months.

3. Consistent with Section 10-J of the AGREEMENT, this Amendment may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.
4. This Amendment shall become effective when it has been executed by all of the PARTIES.

IN WITNESS WHEREOF, the PARTIES have caused this Amendment to be effective as of the day and year first above written.

**For the CITY OF LAKE ELSINORE**

By \_\_\_\_\_ Dated: \_\_\_\_\_  
Title: \_\_\_\_\_

**For ELSINORE VALLEY MUNICIPAL WATER DISTRICT**

By \_\_\_\_\_ Dated: \_\_\_\_\_  
Title: \_\_\_\_\_

**For the COUNTY OF RIVERSIDE**

By \_\_\_\_\_ Dated: \_\_\_\_\_  
Title: \_\_\_\_\_

FORM APPROVED COUNTY COUNSEL  
BY: DAVID H.K. HUFF DATE 5/24/11



## APPENDIX - "C"

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

216



**FROM:** Executive Office

**SUBMITTAL DATE:**  
Oct 2, 2012

**SUBJECT:** Amendment to Extend the Term of the Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the attached amendment to extended the expiration of the agreement to June 30, 2013; and
2. Authorize the Chairman of the Board of Supervisors to sign the amendment.

*(Continued on Page 2)*

*Michael R. Shetler*

Michael R. Shetler, Principal Management Analyst

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/2013

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE

BY: *Debra Cournoyer*  
Debra Cournoyer

**County Executive Office Signature**

Policy  Policy

Consent  Consent

Dept's Recomm.:  
Per Exec. Ofc.:

Prev. Agn. Ref.: 3.2 of 8/1/2006 | District: 1,2,3 & 5 | Agenda Number:  
3.7 of 6/7/2011

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

3.4

Departmental Concurrence

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**Amendment to Extend the Term of the Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System**

**Oct 2, 2012**

**Page 2**

**BACKGROUND:** The Lake Elsinore San Jacinto Watershed Project Authority (LESJWA) was formed to facilitate the development of joint projects that improve the water quality at Lake Elsinore and the San Jacinto Watershed. An agreement between the City of Lake Elsinore, Elsinore Valley Municipal Water District and the County to construct, operate and maintain the Lake Elsinore Diffused Air Line-Aeration System was approved August 1, 2006,

This amendment request is to extend the term of the agreement by twelve months to June 30, 2013. All other terms and conditions of the agreement shall remain unchanged.

## **Second Amendment to Extend the Term of the Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System**

This amendment is made by and among the COUNTY OF RIVERSIDE ("COUNTY"), the CITY OF LAKE ELSINORE ("CITY") and the ELSINORE VALLEY MUNICIPAL WATER DISTRICT ("DISTRICT"). The COUNTY, CITY and DISTRICT are hereinafter collectively referred to as the "PARTIES."

### **RECITALS**

- A. The COUNTY, CITY and DISTRICT are PARTIES to an existing Agreement for the Operation and Maintenance of the Lake Elsinore Phase II Aeration System ("AGREEMENT") signed and made effective on August 1, 2006 (copy attached as Appendix A).
- B. The initial term (Section 6) of the existing AGREEMENT was for five years and was scheduled to terminate on June 30, 2011 unless otherwise extended by the PARTIES.
- C. On May 1, 2011 the PARTIES agreed to change the expiration date from June 30, 2011 to June 30, 2012 thereby extending the term of the original AGREEMENT by one year (copy attached as Appendix B).
- D. The PARTIES concur that it would be mutually beneficial to enact a long-term O&M Agreement in order to ensure stable operation of the Phase II aeration system and attract additional agencies to participate in the project. Consequently, the PARTIES are actively engaged in developing a draft of the long-term O&M Agreement.
- E. The PARTIES further concur that preparation of an appropriate long-term O&M Agreement first requires the Regional Board to approve the proposed Comprehensive Nutrient Reduction Plan (CNRP).
- F. As of June 30, 2011 the Regional Board had not yet taken final action to approve the CNRP; however, such approval is expected to occur prior to the end of 2012.
- G. The PARTIES believe it is essential to continue operation of the Phase II aeration system, pending the Regional Board's final decision, as a show of good faith and the PARTIES sincere commitment to improving water quality in Lake Elsinore.

NOW, THEREFORE, in consideration of the facts recited above, and the covenant, conditions and promises contained in the existing AGREEMENT, the PARTIES mutually agree as follows:

**AMENDMENT**

1. Section 6 of the AGREEMENT shall be revised so that the initial term expires on June 30, 2013 rather than June 30, 2012.
2. All other terms and conditions in the existing AGREEMENT shall remain unchanged by this amendment to revise the aforementioned termination date.
3. Consistent with Section 10-J of the AGREEMENT, this Amendment may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.
4. This Amendment shall become effective upon execution by all three PARTIES.

IN WITNESS WHEREOF, the PARTIES have caused this Amendment to become effective by their respective endorsements (below):

**For the CITY OF LAKE ELSINORE**

By \_\_\_\_\_ *Dated:* \_\_\_\_\_

Title: \_\_\_\_\_

**For ELSINORE VALLEY MUNICIPAL WATER DISTRICT**

By \_\_\_\_\_ *Dated:* \_\_\_\_\_

Title: \_\_\_\_\_

**For the COUNTY OF RIVERSIDE**

By \_\_\_\_\_ *Dated:* \_\_\_\_\_

Title: \_\_\_\_\_