

**AMENDMENT #2 TO LIMITED PARTIAL BASIN EQUITY
ASSESSMENT EXEMPTION AGREEMENT BETWEEN ORANGE
COUNTY WATER DISTRICT AND CITY OF HUNTINGTON BEACH
(Huntington Beach Well No. 9)**

This AMENDMENT #2 TO THE LIMITED TERM PARTIAL BASIN EQUITY ASSESSMENT EXEMPTION AGREEMENT (the "Amendment #2") is entered as of December 21, 2022 by and between the ORANGE COUNTY WATER DISTRICT, a special governmental district organized and existing pursuant to the Orange County Water District Act, Chapter 924, Statutes of 1992, as amended ("OCWD"), and the CITY OF HUNTINGTON BEACH, a municipal corporation organized and existing under the laws of the State of California ("City").

RECITALS

- A. WHEREAS, OCWD and City entered into the LIMITED TERM PARTIAL BASIN EQUITY ASSESSMENT EXEMPTION AGREEMENT ("Agreement") as of October 4, 2017.
- B. WHEREAS, Paragraph 1.4 of the Agreement notes that the Agreement will be implemented in the first fiscal year after the Project is complete, beginning July 1st of that year, and last for up to four fiscal years through June 30th of the last year ("Project Term").
- C. WHEREAS the Project was completed in October 2018, and the Project Term, without this Amendment #2, would otherwise expire on June 30, 2023.
- D. WHEREAS, OCWD and City amended the Agreement on November 5, 2018 to add Section 2.7 to address the City's participation in the "Coastal Pumping Transfer Program" ("CPTP") administered by OCWD (Amendment # 1).
- E. WHEREAS, Pursuant to Paragraph 3.3. of the Agreement, OCWD and City desire to extend the Project Term in accordance with the terms and conditions of this Amendment #2.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, OCWD and City hereby acknowledge and agree to the following:

1. **Recitals:** The above Recitals are true and correct and incorporated herein by reference.
2. **Extension of Terms:** It is hereby agreed that the Project Term of the Agreement, as that term is defined in Section 1.4 of the Agreement, shall be extended until June 30, 2027.
3. **Existing Terms:** Except as set forth herein, each and all of the terms, covenants and conditions in the Agreement and Amendment #1 shall remain in full force and effect.

IN WITNESS WHEREOF the parties have executed this Amendment #2 as of the date first written above.

<p>APPROVED AS TO FORM:</p> <p>RUTAN & TUCKER, LLP</p> <p>By: _____ Jeremy N. Jungreis General Counsel, OCWD</p>	<p>ORANGE COUNTY WATER DISTRICT</p> <p>By: _____ Stephen R. Sheldon, President</p> <p>By: _____ Michael Markus, General Manager</p>
<p>APPROVED AS TO FORM:</p> <p>By: _____ City Attorney, Michael E. Gates, City of Huntington Beach <i>MW</i></p>	<p>CITY OF HUNTINGTON BEACH</p> <p>By: _____ Mayor, Tony Strickland</p> <p>Attest:</p> <p>By: _____ City Clerk, Robin Estanislau</p>

RECEIVED BY:

L. Wine

(Name)

4/24/19

(Date)

CITY CLERK RECEIPT COPY

Return DUPLICATE to
City Clerk's Office
after signing/dating



**CITY OF HUNTINGTON BEACH
INTERDEPARTMENTAL COMMUNICATION**

TO: City Treasurer

FROM: City Clerk

DATE:

4/25/19

SUBJECT: Bond Acceptance

I have received the bonds for Environmental Construction, Inc.
(Company Name)

CAPITAL PROJECTS (Includes CC's and MSC's)

Performance Bond No. _____

Payment Bond (Labor and Materials) Bond No. _____

Warranty or Maintenance Bond No. _____

8245-15-81

TRACT AND DEVELOPMENT

Faithful Performance Bond No. _____

Labor and Material Bond No. _____

Guarantee and Warranty Bond No. _____

Monument Bond No. _____

Franchise Bond No. _____

Letter of Credit Bond No. _____

Other _____

Re: Tract No. _____

Approved

04/02/18

(Council Approval Date)

CC No. _____

Agenda Item No. _____

8

MSC No. _____

City Clerk Vault No. _____

600.25

Other No. _____

SIRE System ID No. _____

30767

RECEIVED BY:

CITY CLERK RECEIPT COPY
Return DUPLICATE to
City Clerk's Office
after signing/dating

(Name)

(Date)



**CITY OF HUNTINGTON BEACH
INTERDEPARTMENTAL COMMUNICATION**

TO: City Treasurer
FROM: City Clerk
DATE: 4/25/19
SUBJECT: Bond Acceptance

I have received the bonds for Environmental Construction, Inc.
(Company Name)

CAPITAL PROJECTS (Includes CC's and MSC's)

Performance Bond No. _____
Payment Bond (Labor and Materials) Bond No. _____
Warranty or Maintenance Bond No. 8245-15-81

TRACT AND DEVELOPMENT

Faithful Performance Bond No. _____
Labor and Material Bond No. _____
Guarantee and Warranty Bond No. _____
Monument Bond No. _____

Franchise Bond No. _____
Letter of Credit Bond No. _____
Other _____

Re: Tract No. _____
CC No. _____
MSC No. _____
Other No. _____

Approved 04/02/18
(Council Approval Date)
Agenda Item No. 8
City Clerk Vault No. 600.25
SIRE System ID No. 30767



CITY OF HUNTINGTON BEACH

INTERDEPARTMENTAL COMMUNICATION

DATE: 4/4/2019

TO: THOSE LISTED HEREON

FROM: Joseph Dale, PW Construction Manager 

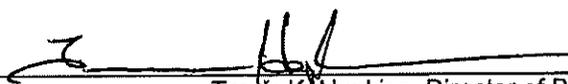
SUBJECT: Retention Release Payment - PO #23224 OJ Supplier #36900 Co. #507
Well 9 Hydrogen Sulfide Odor Reduction / Removal, Project # CC 1392

Contractor's Name: Environmental Construction Inc.
Address: 21550 Oxnard Street, Suite 1060
City, State and Zip Code: Woodland Hills, CA, 91367
Phone Number: (818) 449-8920
City Business License Number: A273617
Notice of Completion (Date by City Clerk): 1/23/2019

The conformed copy of the Notice of Completion for the above contract has been filed. The thirty-five (35) day waiting period has elapsed or will elapse before payment is made. Processing of the retention payment is recommended so long as no stop notices or outstanding invoices are on file with the City.

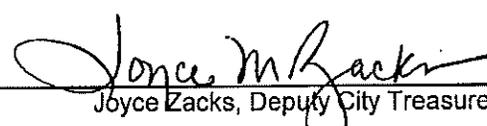
I certify that no stop notices are on file.

4/8/2019
Date


Travis K. Hopkins, Director of Public Works

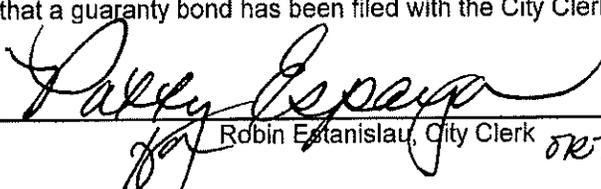
I certify that there are no outstanding invoices on file.

4/9/19
Date


Joyce Zacks, Deputy City Treasurer

I certify that no stop notices are on file, and that a guaranty bond has been filed with the City Clerk's Office.

4/25/19
Date


Robin Estanislau, City Clerk *OK to sign 4/25/19*

Attachments

1. Certificate of Compliance with Prevailing Wage Laws
2. Contractor's Certificate
3. Certificate of Compliance with Title VII of the Civil Rights Act and Equal Employment Opportunity Act of 1972
4. Consent for Release letter from the Surety Company
5. Maintenance Bond
6. Notice of Completion



City of Huntington Beach

2000 Main Street ♦ PO Box 190 ♦ CA 92648

Travis K. Hopkins, PE
Director

Department of Public Works
(714) 536-5431

April 4, 2019

Maria L. Sanchez, Escrow Agent
Grandpoint Bank
11661 San Vicente Blvd.
Los Angeles, CA 90049

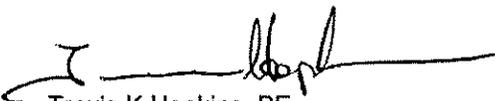
**Subject: Retention Release from Escrow Account No. 122244566, for Environmental Construction Inc.,
Project No. CC 1392, Well 9 Hydrogen Sulfide Odor Reduction / Removal**

Dear Maria L. Sanchez:

The City of Huntington Beach hereby certifies that the contract is final and complete and the Contractor has complied with all of the requirements and procedures applicable to the contract. The Escrow Agent shall release to the Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Agent. The escrow shall be closed immediately upon disbursement of all monies, securities on deposit, and payment of fees and charges.

Our record indicate that principal deposits to Escrow Account No. 122244566, for Environmental Construction Inc. total \$120,629.45 to date.

Sincerely,


Travis K Hopkins, PE
Director of Public Works
Text

cc: Joseph Dale, Construction Manager
Farid Soroudi, Environmental Construction Inc.

Certification of Compliance with Prevailing Wage Laws

To: City of Huntington Beach
Department of Public Works
2000 Main Street/P.O. Box 190
Huntington Beach, CA 92648

Re: Certification of Compliance with Prevailing Wage Laws

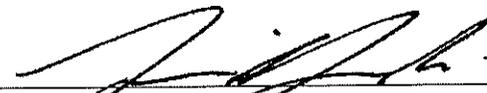
Contract: CC-1392

Project: The Well 9 GAC Filtration System Hydrogen Sulfide Reduction Project

The undersigned contractor on the above-referenced project ("Project") hereby certifies that all laborers, mechanics, apprentices, trainees, watchmen and guards employed by him or by any subcontractor performing work under the contract for the Project have been paid pursuant to the minimum wage and bona fide fringe benefit requirements specified for each particular classification of work, as set forth in the wage-rate determinations of the State of California, Department of Industrial Relations, and/or the United States Department of Labor.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

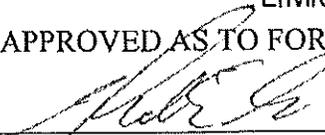
Executed this 2nd day of April, 2019, at Woodland Hills, California.



(Contractor Name) Farid Soroudi / President
Environmental Construction, Inc.

APPROVED AS TO FORM

By:



Michael E. Gates
City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

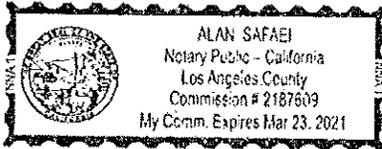
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)
On 4-2-2019 before me, ALAN SAFAEI (Notary Public)
Date Here Insert Name and Title of the Officer
personally appeared FARID SOROURI
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Alan Safaei
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

CONTRACTOR'S CERTIFICATE

I, Farid Soroudi, state and certify that:
(Name of Declarant)

1. Environmental Construction, Inc. is the general contractor to the City of Huntington Beach ("City") on Contract No. CC-1392 (the "Contract") for the construction of the public work of improvement entitled: The Well 9 GAC Filtration System Hydrogen Sulfide Reduction Project (the "Project").
2. All work to be performed pursuant to the Contract has been completed in accordance with the Contract Documents (as such term is defined in the Contract).
3. Except for the claims listed below and the disputed claims listed in paragraph five (5), all persons supplying labor, services, materials and equipment to the Project, including all claims against the contractor arising from the performance of the Contract, have been paid and satisfied (list unpaid debts and claims; if none, write "NONE");
NONE
4. Attached hereto are the lien waivers required by the Contract Documents, which lien waivers have been executed by all persons who performed work on or supplied labor, services, materials, and/or equipment for use at the Project.
5. Set forth below is a list of disputed claims or claims that are the subject of a Notice to Withhold filed pursuant to the Civil Code of the State of California (list all disputed claims; if none, write "NONE").
NONE

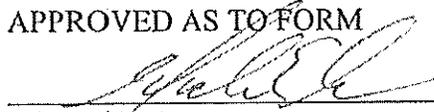
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Woodland Hills, California on this 2nd day of April, 2019.



(Signature of Declarant)

APPROVED AS TO FORM



Michael E. Gates
City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

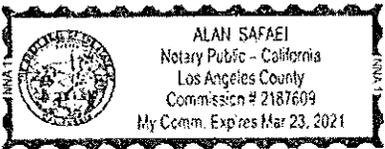
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)
On 4-2-2019 before me, ALAN SAFAEI (Notary Public)
Date Here Insert Name and Title of the Officer
personally appeared FARID SOROUDI
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Alan Safaei
Signature of Notary Public

Place Notary Seal Above

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 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Certification of Compliance with Title VII of the Civil Rights Act
and Equal Employment Opportunity Act of 1972

To: City of Huntington Beach
Department of Public Works
2000 Main Street/P.O. Box 190
Huntington Beach, CA 92648

Re: Certification of Compliance with Title VII of the Civil Rights Act
and Equal Employment Opportunity Act of 1972

Contract: CC-1392

Project: The Well 9 GAC Filtration System Hydrogen Sulfide Reduction Project

The undersigned contractor on the above-referenced project ("Project") hereby certifies that it has complied with title VII of the Civil Rights Act, the Equal Opportunity Act of 1972 and Executive Order 11246, and has not discriminated against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The undersigned contractor also certifies that it has not maintained any segregated facilities at its establishments on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability (with the exception of access for the disabled).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 2nd day of April, 2019, at Woodland Hills, California.



(Contractor Name) Farid Soroudi / President
Environmental Construction, Inc.

APPROVED AS TO FORM

By: 

Michael E. Gates
City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

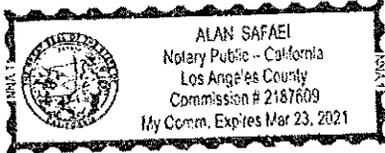
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State of California)
County of Los Angeles)
On 4-2-2019 before me, ALAN SAFAEI (Notary public)
Date Here Insert Name and Title of the Officer
personally appeared FARID SOROUDI
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Alan Safaei
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

**CONSENT OF SURETY
TO FINAL PAYMENT**

AIA Document G707
(Instructions on reverse side)

Bond No.8245-15-81

OWNER	<input type="checkbox"/>
ARCHITECT	<input type="checkbox"/>
CONTRACTOR	<input type="checkbox"/>
SURETY	<input checked="" type="checkbox"/>
OTHER	<input type="checkbox"/>

TO OWNER:
(Name and address)
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

ARCHITECT'S PROJECT NO.: N/A

CONTRACT FOR: Project No. CC1392

PROJECT:
(Name and address)
Well 9 Hydrogen Sulfide Odor Reduction/Removal

CONTRACT DATED: 08/07/2017

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the
(Insert name and address of Surety)

Vigilant Insurance Company
15 Mountain View Road
Warren, NJ 07059

, SURETY,

on bond of
(Insert name and address of Contractor)

Environmental Construction, Inc.
21550 Oxnard Street, #1060
Woodland Hills, CA 91367

, CONTRACTOR,

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety
of any of its obligations to
(Insert name and address of Owner)

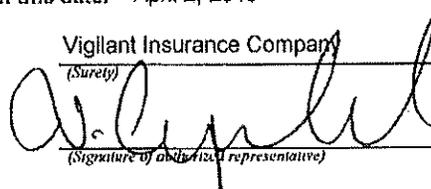
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

, OWNER,

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: April 2, 2019
(Insert in writing the month followed by the numeric date and year)

Vigilant Insurance Company
(Surety)



(Signature of authorized representative)

Vanessa Copeland, Attorney-in-Fact
(Printed name and title)

Attest:
(Seal) Natassia Smith, Bond Manager Asst.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Orange)

On 4/2/19 before me, Natassia Kirk-Smith, Notary Public,

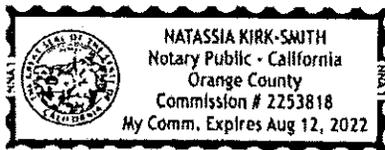
personally appeared Vanessa Copeland
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: [Handwritten Signature]
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could present fraudulent and reattachment of this form to another document.

Description of Attached Document

Type or Title of Document:

Document Date: Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Vanessa Copeland

- Individual
Corporate Officer - Title(s):
Partner: Limited General
Attorney in Fact (checked)
Trustee
Guardian or Conservator
Other:

Signer Is Representing:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

- Individual
Corporate Officer - Title(s):
Partner: Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:

Signer Is Representing:

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Shawn Blume, Kevin Cathcart, Vanessa Copeland, Eric Lowey and Mark Richardson of Costa Mesa, California-----

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

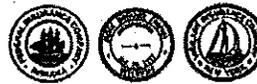
In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this 22nd day of November, 2017.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President



STATE OF NEW JERSEY

County of Hunterdon

ss.

On this 22nd day of November, 2017 before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with Stephen M. Haney, and knows him to be Vice President of said Companies; and that the signature of Stephen M. Haney, subscribed to said Power of Attorney is in the genuine handwriting of Stephen M. Haney, and was thereto subscribed by authority of said Companies and in deponent's presence.

Notarial Seal



KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2318866
Commission Expires July 10, 2019

[Signature]
Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016:

*RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.
(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested.

I, Dawn M. Chloros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
(ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in the U.S. Virgin Islands, and Federal is licensed in Guam, Puerto Rico, and each of the Provinces of Canada except Prince Edward Island; and
(iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this April 2, 2019



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT: Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

MAINTENANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

That Environmental Construction, Inc. (contractor's name)
21500 Oxnard Street, #1060, Woodland Hills, CA 91367
(contractor's street address, city and state and zip code)

as Principal (hereinafter called Contractor), and:

Vigilant Insurance Company (surety's name)
15 Mountain View Road, Warren, NJ 07059
(surety's street address, city and state and zip code)

a corporation organized and existing under the laws of the State of New York with its principal office
in the City of Warren, NJ as Surety (hereinafter called Surety), are held firmly bound unto CITY OF
HUNTINGTON BEACH as Obligee (hereinafter called Owner), in the amount of
Two Million Four Hundred Sixteen* Dollars (\$2,416,839.00), equivalent to the entire
contract amount including all orders, for the payment whereof Contractor and Surety bind themselves, their heirs,
executors, administrators, successors, and assigns, jointly and severally, firmly by these presents,

* thousand Eight hundred Thirty Nine & 00/100

WHEREAS, Surety is a duly admitted surety insurer under the laws of the State of California; and

Surety is certified and listed in the U.S. Department of the Treasury Circular 570, and able to provide proof of bonding
limitation shown in said circular is sufficient to provide bonds in the amount required by said Contract; and

Surety has provided financial strength ratings from reputable companies, such as from A.M. Best, Moody's, Standard
& Poor's, to validate that Surety has positive ratings of being secure or stable; and

Surety is registered and listed with the California Department of Insurance; and

Contractor has by written agreement dated Aug. 7th, 2017, entered into a contract with Owner for the
The Well 9 GAC Filtration System Hydrogen Sulfide Reduction Project, CC-1392

in accordance
with drawings and specifications prepared by the City of Huntington Beach which contract is by
reference made a part hereof (hereinafter referred to as the Contract); and

The Contract provides that the principal will guarantee, for a period of one year, the work performed as part of the
Contract from and against all defects in materials and workmanship; and

The Contract also provides that the Contractor shall secure Contractor's obligations during the one-year period with a
bond executed by a surety duly admitted in the state of California; and

The Contract has been completed, and the Owner, Contractor and Surety agree that the commencement date for this
Guarantee and Bond shall be January 23, 2019,

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if Contractor shall, for a period of one
year from and after the date of completion and acceptance of the Contract by Owner, repair and/or replace any and
all defects arising in the Work, whether resulting from defective materials or defective workmanship, then this
obligation shall be null and void; otherwise it will remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Surety shall, within
thirty (30) days following Owner's written notice of default, either: (a) remedy the default, or (b) shall promptly
complete the Contract in accordance with its terms and conditions.

Surety shall save the Owner harmless from any claims, judgments, liens or losses arising from the Surety's failure to
either remedy the default or to complete the Contract in accordance with its terms and conditions in a timely manner.

Whenever the Principal shall be, and declared by the Owner to be in default under the Contract, which shall include without limitation, any breach or default of the Contract, then, after written notice from the Owner to the Surety, as provided for below, the Surety shall either: (a) remedy the default or breach by the Principal; or (b) shall promptly and faithfully take charge of the Work and complete the Work in accordance with the requirements of the Contract with a contractor other than the Principal, at its own expense, and make available as work progresses sufficient funds to pay the cost of completion less the unpaid balance of the Contract including other costs and damages for which the surety may be liable hereunder, provided, however, that the procedure by which the Surety undertakes to discharge its obligations under this Bond shall be subject to the advance written approval of the Owner.

Within thirty (30) days after Surety's receipt of a written notice from Owner of the failure of performance of the Contract by the Principal, it shall be the duty of the Surety to give to the Owner a notice, in writing, of the Surety's election to (a) remedy the default(s) of the Principal promptly, or (b) arrange for performance of the Contract promptly by a contractor other than the Principal, time being of essence to this Bond. In said Notice of Election, the Surety shall state the date of commencement of its cure or remedy of the Principal's default(s) or its performance of the Contract. The Surety's obligations for cure or remedy, include but are not limited to: correction of defective work and completion of the Contract, additional legal, design professional and delay costs arising from Surety's actions or failure to act; and liquidated damages (or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance by the Principal). The Surety shall give prompt written notice to the Owner upon completion of the cure or remedy of the Principal's default(s) or its performance of the Contract.

If the Surety does issue its Notice of Election and does not proceed to cure or remedy the Principal's default(s) of its performance of the Work within thirty (30) days after receipt of a written notice from Owner, Surety shall be deemed to be in default on this bond, and the Owner shall be entitled to enforce any remedy available to Owner.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the owner named herein or the successors of Owner.

Signed and sealed this 2nd day of April, 2019.

Principal Raised Corporate Seal
[MUST BE AFFIXED]

Environmental Construction, Inc.
(Contractor Name)

By: [Signature] (Seal)

Principal Raised Corporate Seal
[MUST BE AFFIXED]

Farid Seroudi
president
(Title)

Vigilant Insurance Company
(Surety Name)

By: [Signature] (Seal)
Vanessa Copeland, Attorney-in-Fact

APPROVED AS TO FORM:

By: [Signature]
Michael E. Gafes, City Attorney

NOTES:

1. Acknowledgments must be completed and returned as part of the bond.
2. Raised Corporate Seals are mandatory.
3. Please attach Power of Attorney.

pl
2/20/2015

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

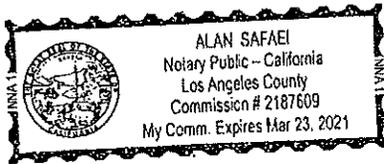
On 4-2-2019 before me, ALAN SAFAEI (NOTARY PUBLIC)
Date Here Insert Name and Title of the Officer

personally appeared FARID SOROUDI
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Alan Safaei
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On 4/2/19 before me, Natassia Kirk-Smith, Notary Public,

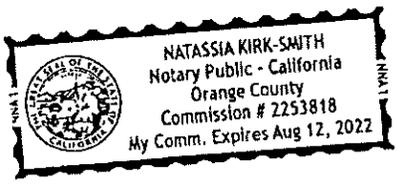
personally appeared Vanessa Copeland
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Natassia Kirk-Smith
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could present fraudulent and reattachment of this form to another document.

Description of Attached Document

Type or Title of Document:

Document Date: Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Vanessa Copeland

- Individual
Corporate Officer - Title(s):
Partner: Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:

Signer Is Representing:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

- Individual
Corporate Officer - Title(s):
Partner: Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:

Signer Is Representing:

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Shawn Blume, Kevin Cathcart, Vanessa Copeland, Eric Lowey and Mark Richardson of Costa Mesa, California

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this 22nd day of November, 2017.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President



STATE OF NEW JERSEY

County of Hunterdon

ss.

On this 22nd day of November, 2017 before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with Stephen M. Haney, and knows him to be Vice President of said Companies; and that the signature of Stephen M. Haney, subscribed to said Power of Attorney is in the genuine handwriting of Stephen M. Haney, and was thereto subscribed by authority of said Companies and in deponent's presence.

Notarial Seal



KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316005
Commission Expires July 16, 2019

Signature of Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016:

*RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.
(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested.

I, Dawn M. Chloros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
(ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in the U.S. Virgin Islands, and Federal is licensed in Guam, Puerto Rico, and each of the Provinces of Canada except Prince Edward Island; and
(iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, Nj, this April 2, 2019



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT: Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder

NO FEE

2019000022279 2:06 pm 01/23/19

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0.00 0.00 0.00 0.00 0.00 0.00 0.000.000.00 0.00

PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

CITY OF HUNTINGTON BEACH
PUBLIC WORKS DEPARTMENT
Attn: Environmental Construction Inc.
P.O. Box 190 - 2000 Main Street
Huntington Beach, CA 92648

THIS SPACE FOR RECORDER'S USE ONLY

TYPE OF DOCUMENT

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN by the City of Huntington Beach, owner in fee, 2000 Main Street, Huntington Beach, CA 92648, that the contract heretofore awarded to Environmental Construction Inc., who was the company thereon for doing the following work to-wit:

Well # 9 Hydrogen Sulfide Odor Reduction / Removal, Project # CC 1392

The said work was completed 01/14/2019 by said company according to plans and specifications and to the satisfaction of the City Engineer of the City of Huntington Beach and that said work was accepted by the Director of Public Works on 01/14/2019, per City Council Resolution No. 2003-70 adopted October 6, 2003.

That upon said contract (Bond Company Name Here), was surety for the bond given by the said company as required by law.

This document is solely for the official business of the City of Huntington Beach, as contemplated under Government Code Section 27333 and should be recorded free of charge.



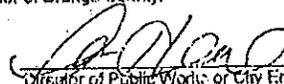
Director of Public Works or City Engineer Date 1/22/19
City of Huntington Beach, California.

STATE OF CALIFORNIA)
County of Orange) ss:
City of Huntington Beach)

I, the undersigned, say: I am an Agent of the City of Huntington Beach, owner in fee, in the foregoing NOTICE OF COMPLETION. I have read said NOTICE OF COMPLETION and know the contents thereof, the same is true of my knowledge.

I declare under penalty of perjury that the foregoing is true and correct, and that said NOTICE OF COMPLETION was duly and regularly ordered to be recorded in the Office of the County Recorder of Orange County.

This document is solely the official business of the City of Huntington Beach, as contemplated under Government code section 27333 and should be recorded free of charge.



Director of Public Works or City Engineer Date 1/22/19
City of Huntington Beach, California

THIS PAGE IS ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)



City of Huntington Beach

LUI HERNADEZ
APPROVED 7-0

File #: 18-445

MEETING DATE: 11/5/2018

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Fred A. Wilson, City Manager

PREPARED BY: Travis K. Hopkins, PE, Director of Public Works

Subject:

Approve and authorize execution of Amendment No. 1 to the Limited Term Partial Basin Equity Assessment Exemption Agreement between Orange County Water District (OCWD) and City of Huntington Beach (Financial Aid for the Well No. 9 Treatment Project CC-1392)

Statement of Issue:

On October 4, 2017, the OCWD Board approved an agreement to allow the City to obtain full cost recovery for the City's Well No. 9 Treatment Project. This Amendment #1 is an administrative update by OCWD to add an additional \$720,000 to the original agreement to account for the increased project costs and add a payment method for financial aid during the City's participation in the OCWD's "Coastal Pumping Transfer Program" (CPTP).

Financial Impact:

The City will realize either savings to the Water Fund 506 for purchase of water at a reduced rate or will receive a check at the end of each FY. These savings are dependent on the amount of water extracted from Well No. 9 after treatment facilities are in operation, estimated to be \$1,000,000 annually. The financial aid program will discontinue once the full amount of financial aid is achieved.

Recommended Action:

Approve and authorize the Mayor and City Clerk to execute "Amendment No. 1 to Limited Term Partial Basin Equity Assessment Exemption Agreement Between Orange County Water District and City of Huntington Beach (Huntington Beach Well No. 9)."

Alternative Action(s):

Do not approve the Agreement and instruct staff on how to proceed.

Analysis:

Historically, the City significantly reduced the water production of Well No. 9 due to high hydrogen sulfide concentrations in the well water. Staff successfully piloted a Biological Activated Carbon (BAC) treatment system that reduced the hydrogen sulfide concentrations in the water to a level that it could be used. Since this project treats water from the groundwater basin that OCWD manages, a

request was made to OCWD to fund 100 percent of the project. On October 4, 2017, OCWD approved the financial aid agreement to help the City recover 100 percent of actual project costs.

Well No. 9 has a relatively deep screened interval (556-996 feet below ground surface) and draws all of its water from the main aquifer (lowermost principal aquifer). In this part of the groundwater basin the main aquifer has reduced chemical conditions (low oxygen) that are conducive to the formation of hydrogen sulfide.

The following benefits of the Well No. 9 Treatment Project are OCWD justifications for financial aid:

1. The City can continue operating an existing asset at its maximum output.
2. Pumping Well No. 9 reduces the potential for groundwater containing hydrogen sulfide to impact nearby Huntington Beach Well No. 5, which gets a blend of groundwater from the main aquifer and shallower aquifers.
3. Groundwater containing hydrogen sulfide is being removed.
4. Well No. 9 is deep enough that pumping does not affect the seawater intrusion.
5. There are no impacts to the Basin Pumping Percentage (BPP), OCWD's finances or groundwater accumulated overdraft in this region.

Increase to Project Costs

This Amendment #1 to the original OCWD financial aid agreement adds \$720,000 for additional costs which include;

- The construction bid was approximately \$400,000 higher than previously estimated in 2016
- The City was not able to use internal staff to provide inspection services during construction which increased costs by \$150,000
- Other additional miscellaneous costs related to the complexity of the project added about \$170,000

This increases the total project capital cost/reimbursement from \$2.80M to \$3.52M.

This agenda item does not require Public Works Commission Action.

Environmental Status:

Not applicable.

Strategic Plan Goal:

Enhance and maintain infrastructure

Attachment(s):

1. Two (2) original sets of OCWD amendment, "Amendment #1 to Limited Term Partial Basin

Equity Assessment Exemption Agreement Between Orange County Water District and City of Huntington Beach (Huntington Beach Well No. 9)"

**AMENDMENT #1 TO LIMITED TERM PARTIAL BASIN EQUITY ASSESSMENT
EXEMPTION AGREEMENT BETWEEN ORANGE COUNTY WATER DISTRICT
AND CITY OF HUNTINGTON BEACH
(Huntington Beach Well No. 9)**

This AMENDMENT #1 TO THE LIMITED TERM PARTIAL BASIN EQUITY ASSESSMENT EXEMPTION AGREEMENT (the "Amendment #1") is entered as of ~~December~~ ^{November} 5, 2018 by and between the ORANGE COUNTY WATER DISTRICT, a special governmental district organized and existing pursuant to the Orange County Water District Act, Chapter 924, Statutes of 1933, as amended ("OCWD"), and the CITY OF HUNTINGTON BEACH, a municipal corporation organized and existing under the laws of the State of California ("City").

RECITALS

A. OCWD and City entered into the LIMITED TERM PARTIAL BASIN EQUITY ASSESSMENT EXEMPTION AGREEMENT ("Agreement") as of October 4, 2017.

B. OCWD and City desire to amend the Agreement to address the City's participation in the "Coastal Pumping Transfer Program" ("CPTP") administered by OCWD.

EXECUTORY AGREEMENTS

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

Section 1: Section 2.7 is added to the Agreement to read as follows:

2.7 During fiscal years when OCWD has implemented the CPTP, OCWD will not be able to reduce the Basin Equity Assessment pursuant to Section 38.1 of the District Act as contemplated in Section 1.4 of Agreement without adversely affecting performance under and the goals of the CPTP. During such years, OCWD shall directly pay to the City an equivalent amount of money as calculated and called for in the Agreement per Exhibit A. OCWD shall make such payments to the City by October 30th following the end of each applicable fiscal year.

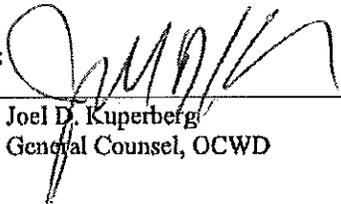
Section 2: Notwithstanding Exhibit A to the Agreement, the estimated capital cost for the Project is hereby increased from \$2.8 million to \$3.52 million.

Section 3: Except as set forth herein, each and all of the terms, covenants and conditions in the Agreement shall remain in full force and effect.

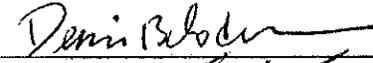
IN WITNESS WHEREOF the parties have executed this Amendment #1 as of the date first written above.

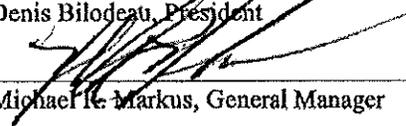
APPROVED AS TO FORM:

RUTAN & TUCKER, LLP

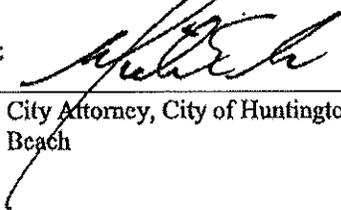
By: 
Joel D. Kuperberg
General Counsel, OCWD

ORANGE COUNTY WATER DISTRICT

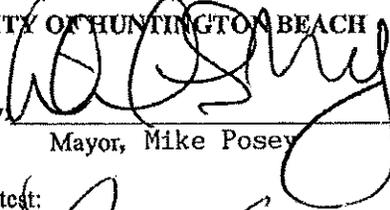
By: 
Denis Bilodeau, President

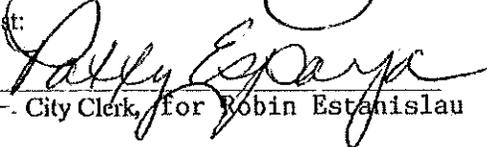
By: 
Michael R. Markus, General Manager

APPROVED AS TO FORM:

By: 
City Attorney, City of Huntington
Beach

CITY OF HUNTINGTON BEACH

By: 
Mayor, Mike Posey

Attest: 
By: Pally Espinoza
ASST - City Clerk, for Robin Estanislau

DIRECTORS

DENIS R. BILODEAU, P.E.
SHAWN DEWANE
CATHY GREEN
DINA NGUYEN
VICENTE SARMIENTO
STEPHEN R. SHELDON
TRI TA
JAMES VANDERBILT
BRUCE WHITAKER
ROGER C. YOH, P.E.



SINCE 1933

ORANGE COUNTY WATER DISTRICT

ORANGE COUNTY'S GROUNDWATER AUTHORITY

OFFICERS

President
DENIS R. BILODEAU, P.E.

First Vice President
VACANT

Second Vice President
SHAWN DEWANE

General Manager
MICHAEL R. MARKUS, P.E., D.WRE

December 4, 2018

Ms. Robin Estanislau
City Clerk
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

Amendment No. 1 to Limited Term Partial Basin Equity Assessment
Exemption Agreement

Enclosed is a fully executed original of the referenced document.

Sincerely,


Janice Durant
District Secretary

Enclosure/stated

**LIMITED TERM PARTIAL BASIN EQUITY ASSESSMENT EXEMPTION
AGREEMENT BETWEEN ORANGE COUNTY WATER DISTRICT AND CITY
OF HUNTINGTON BEACH
(Huntington Beach Well No. 9)**

This LIMITED TERM PARTIAL BASIN EQUITY ASSESSMENT EXEMPTION AGREEMENT (the "Agreement") is entered as of October 4, 2017 by and between the ORANGE COUNTY WATER DISTRICT, a special governmental district organized and existing pursuant to the Orange County Water District Act, Chapter 924, Statutes of 1933, as amended ("OCWD"), and the CITY OF HUNTINGTON BEACH, a municipal corporation organized and existing under the laws of the State of California ("City").

RECITALS

A. Approximately two-thirds of all drinking water currently used within northern and central Orange County is provided from groundwater by OCWD. Inasmuch as Orange County is located in a semi-arid area, it is essential that all reasonable efforts be put forth to protect the quality of groundwater supplies and to provide for maximum utilization of that resource.

B. The City operates a public water system for the purpose of delivering potable water to its customers, and obtains most of its water by pumping groundwater from wells for delivery to its customers. The City, as well as other groundwater producers within the boundaries of OCWD, has lost pumping capacity in some of its groundwater wells due to the presence of hydrogen sulfide. Huntington Beach Well No. 9 ("Well 9"), located at near the intersection of Warner Avenue and Magnolia Street in Huntington Beach, has the capacity to produce up to 4,800 acre feet per year of groundwater; however, the City limited production of groundwater from Well 9 in 2011 due to its high levels of hydrogen sulfide. There are no federal or state drinking water quality standards set for hydrogen sulfide in drinking water, however hydrogen sulfide can produce odors and can be corrosive to certain metals and can be unsuitable for domestic purposes.

C. The City recently completed a full scale pilot study using Granular Activated Carbon (GAC) treatment process to reduce hydrogen sulfide in the water produced by Well 9. The pilot study demonstrated complete removal of the hydrogen sulfide in the well water. The City proposes to design and construct a GAC treatment system to treat the all the flows from Well 9 (such treated Well 9 groundwater is hereinafter referred to as "Product Water").

D. The City's preliminary cost estimate for this GAC treatment system Project is \$2,800,000 (the "Project Cost"). The City also estimates a one-time replacement of the GAC media and filter tanks at a cost of \$800,000 over the life of the Project. OCWD has determined that the City's conduct of the Project will reduce the potential for groundwater containing hydrogen sulfide to impact nearby Huntington Beach Well No. 5.

E. The Legislature of the State of California has vested in OCWD the statutory responsibility to manage, regulate, replenish and to protect the quality of the groundwater supplies within the boundaries of OCWD.

F. In April of each year, the Board of Directors of OCWD acts in accordance with Section 31.5 of the Orange County Water District Act ("OCWD Act") to find, determine and establish the basin production percentage (the "BPP"), and sets basin equity assessments (each, a "BEA") for each producer within OCWD for the period from July 1st through June 30th of the next succeeding year.

G. Section 2.6.(l.) of the OCWD Act authorizes OCWD to enter into an agreement with the owner operating a groundwater production facility within OCWD's boundaries to increase the production of groundwater in lieu of water from an alternative non-tributary source for the purpose of removing contaminants or pollutants from the groundwater basin, and paying from OCWD funds that portion of the cost of groundwater production that will encourage the production for beneficial use of the polluted or contaminated groundwater that is impairing the quality of the water supplies within OCWD.

H. OCWD and the City mutually desire to enter into this Agreement pursuant to Section 2.6.(l.) of the OCWD Act to set forth the specific terms and conditions under which the City will conduct the Project and remove hydrogen sulfide-impaired groundwater from the Orange County groundwater basin by treating groundwater from Well 9 for ultimate distribution to City customers for potable beneficial uses, with the City recovering the Project Cost by means of a partial exemption of that water from the payment of the BEA. OCWD and the City understand and agree that this Agreement does not and cannot become effective unless and until the City files a petition for a partial exemption from the BEA of the water produced from Well 9, and the Board of Directors of OCWD approves such a partial BEA exemption, in accordance with Section 38.1 of the OCWD Act.

EXECUTORY AGREEMENTS

NOW, THEREFORE, in consideration of the facts recited above and the covenants, conditions and promises contained herein, and subject to this Agreement taking effect in accordance with Section 5 below, OCWD and the City hereby agree as follows:

SECTION 1. LIMITED TERM HYDROGEN SULFIDE REMOVAL PROJECT

1.1. The City shall design and construct the Project within the Project Cost. In the event that the cost of the design and construction of the Project exceeds the Project Cost, the City shall submit such revisions to the Project Cost for review and approval by OCWD. In the event that OCWD determines, in its reasonable discretion, to approve the revisions to the Project Cost, those additional costs will be eligible to be credited against BEA payments otherwise owed by the City for production of groundwater from Well 9 above the BPP, in accordance with Paragraph 2.5 below. In the event that either the City does not submit any revisions to the Project Cost for approval by OCWD, or OCWD determines in its reasonable discretion not to approve those revisions to the Project Cost, such revisions to the Project Cost shall not serve as credits against BEA payments otherwise owed by the City for the production of groundwater from Well 9.

1.2. The City shall serve as the lead agency for, and be responsible for all CEQA processing for, the Project.

1.3. The City shall be responsible for all design, engineering, construction, and CEQA costs for the Project.

1.4. Once the Project has been constructed, the Project Costs (and any revisions to the Project Cost approved by OCWD pursuant to Paragraph 1.1 above) have been reviewed to ensure they are consistent with this Agreement, and if the OCWD Board of Directors has approved a petition for partial, limited term BEA exemption pursuant to Section 38.1 of the OCWD Act (as outlined in Section 5), this Agreement will be implemented in the first fiscal year after the Project is complete, beginning July 1st of that year, and last for up to four fiscal years through June 30th of the last year (the "Project Term"). During the Project Term, the City may produce groundwater in an amount equal to the BPP for that given year, plus additional groundwater production from Well 9, provided that all of the groundwater production above the BPP during the Project Term shall be produced solely from Well 9 in order to receive partial exemption set forth in Paragraph 2.5 below.

1.5. In order to obtain the partial exemption set forth in Paragraph 2.5 below, the City shall produce groundwater from Well 9 that, after treatment, meets the adopted primary drinking water standards, and the City shall deliver the groundwater to its customers or to City facilities for potable beneficial uses. Further, the Product Water shall meet the State Water Resources Control Board ("SWRCB") and the Division of Drinking Water ("DDW") Secondary Drinking Water Standards with a Secondary Maximum Contaminant Level for odor set at 3 Threshold Odor Number (TON) in drinking water. The Product Water from Well 9 shall also meet any other requirements from the SWRCB for treatment of this Product Water.

1.6. The City shall be responsible for all costs incurred in the operation and maintenance of Well 9, other than the replacement of the GAC media as defined in Section D of the Recitals, for distribution of the Product Water to City customers or facilities for potable beneficial use, including but not limited to labor, materials and power.

1.7. The City shall take out and maintain in effect at all times during the term of this Agreement comprehensive general liability insurance in an amount not less than \$2 million per occurrence, for bodily injury, death and property damage, naming OCWD as an additional insured under such policy. An endorsement evidencing this insurance coverage shall be furnished to OCWD prior to the City filing with OCWD a petition pursuant to Section 38.1 of the OCWD Act (as outlined in Section 5). If the City is, or becomes, partially or fully self-insured for its public liabilities, a letter executed by the City's Mayor or City Manager stating the City's self-insured status and acknowledging its responsibility to respond to the indemnification of OCWD as provided in Paragraph 5.5 below, may be furnished in lieu of the insurance endorsement. The City shall provide written notice to OCWD of any change in the City's insured or self-insured status during the Project Term within 30 days of the effective date of such change.

SECTION 2. PROJECT TERM BASIN EQUITY ASSESSMENT AND REPLENISHMENT ASSESSMENT PAYMENTS

2.1. The City shall file water production statements and a basin equity assessment statement in strict compliance with Sections 29(a) and 31.5(j) of the OCWD Act, respectively,

for all groundwater produced by the City during the Project Term, including all groundwater produced from Well 9 and distributed as Product Water.

2.2. On or before the 15th day of each month, during the Project Term, the City shall file with OCWD a monthly report reflecting the quantity of groundwater produced by Well 9 through the end of the preceding calendar month during the Project Term (a "Monthly Project Production Report").

2.3. Concurrently with the filing of the City's basin equity assessment report pursuant to Section 31.5(j) of the OCWD Act, the City shall file with OCWD a statement, verified by a written declaration under penalty of perjury, setting forth the total amount of groundwater produced from Well 9 during the Project Term and distributed as Product Water (the "Project Production Statement").

2.4. The City shall pay the replenishment assessment and additional replenishment assessment levied and imposed pursuant to Sections 27 and 27.1 of the OCWD Act on all groundwater produced by the City during the Project Term, including all groundwater produced from Well 9, in accordance with Section 29(a) of the OCWD Act.

2.5. To the extent that the City's production of groundwater during the Project Term does not exceed an amount equal to the BPP plus additional groundwater produced from Well 9, and all of the groundwater produced during the Project Term in excess of the BPP was produced from Well 9, the City shall be exempt during the Project Term from paying a portion of the basin equity assessment or any surcharge on such groundwater production above the BPP from Well 9 during the Project Term to allow the City to recoup the Project Cost (and any revisions to the Project Cost approved by OCWD pursuant to Paragraph 1.1 above), as described in the Attached Exhibit A attached hereto and by this reference incorporated herein. Notwithstanding the foregoing, the City shall pay the applicable basin equity assessment and any surcharge for the following:

2.5.1. The City shall pay the applicable basin equity assessment and surcharge on all groundwater produced by the City during the Project Term that exceeds an amount equal to the BPP plus additional groundwater produced from Well 9; and

2.5.2. The City shall pay the applicable basin equity assessment and surcharge on all groundwater produced by the City during the Project Term in excess of the BPP, if such groundwater in excess of the BPP is produced from any water production facility other than Well 9.

2.6. The City acknowledges that the groundwater produced from Well 9, and the Product Water distributed and sold by the City, shall be classified as "groundwater," and shall not be classified as "supplemental sources" as such term is defined in Section 31.5 of the OCWD Act, for the purpose of calculating the amount of groundwater produced by the City relative to the BPP.

SECTION 3. CITY GROUNDWATER PRODUCTION DURING THE PROJECT REMAINDER TERM

3.1. Following completion of the Project Term, and for ten consecutive years thereafter, (such ten-year period is hereinafter referred to as the "Project Remainder Term"), the City shall make its best efforts to continue to operate Well 9 throughout the Project Remainder Term.

3.2. Beginning the first fiscal year of the Project Remainder Term, and each fiscal year thereafter during the Project Remainder Term, the City shall pay the then-applicable replenishment assessment, additional replenishment assessment and, if applicable, the basin equity assessment and surcharge, on all groundwater produced by the City during that fiscal year, including all groundwater produced from Well 9, in strict compliance with Sections 29 and 31.5 of the OCWD Act.

3.3. Notwithstanding Paragraphs 3.1 and 3.2 above, in the event that the City was unable to produce sufficient groundwater from Well 9 during the Project Term to allow the City to achieve a total groundwater production equal to the BPP plus the additional groundwater produced from Well 9 so as to recover the Project Cost (and any revisions to the Project Cost approved by OCWD pursuant to Paragraph 1.1 above), the City and OCWD shall meet and confer to implement the program described in Exhibit A to allow the City to increase production from Well 9 for an additional time period that will not be subject to payment of the BEA, to allow the City to achieve the total amount of Well 9 groundwater production that had been intended for the Project Term and thereby recover the entirety of the Project Cost and any revisions approved by OCWD pursuant to Paragraph 1.1 above (the "Make-Up Production"). In the event that the City undertakes Make-Up Production:

3.3.1. The City shall receive a partial basin equity assessment exemption on the Make-Up Production in accordance with Exhibit A.

3.3.2. The City shall file Monthly Project Production Reports (as described in Paragraph 2.2) for the Make-Up Production during each calendar month during the Make-Up Production time.

3.3.3. In addition to all groundwater production reports and statements required under the OCWD Act, the City shall file a Project Production Statement (as described in Paragraph 2.3) for the Make-Up Production concurrently with the filing of the City's basin equity assessment report pursuant to Section 31.5(j) of the OCWD Act.

SECTION 4. MISCELLANEOUS

4.1. Effective Date: Term. This Agreement shall become effective upon the Board of Directors of OCWD approving a partial exemption of the BEA for the water produced from Well 9, and shall continue for a term of twenty years, until June 30, 2037.

4.2. Notices. Any notice, instrument, payment or document required to be given or delivered under this Agreement shall be given or delivered by personal delivery or by depositing the same in a United States Mail depository, first class postage prepaid, and addressed as follows:

If to OCWD: Orange County Water District
PO Box 8300
18700 Ward Street
Fountain Valley, CA 92708
Attn: General Manager

If to City: City of Huntington Beach
PO Box 190
2000 Main Street
Huntington Beach, CA 92648
Attn: City Manager

or such other address as either party may direct in writing to the other. Service of any instrument or document given by mail shall be deemed complete upon receipt if delivered personally, or 48 hours after deposit of such instrument or document in a United States mail depository, first class postage prepaid, and addressed as set forth above.

4.3. Compliance with Laws. The City shall keep itself informed of all existing and future state and federal laws and all county, municipal ordinances and regulations, which in any manner effect its performance of this Agreement. The City shall at all times observe and comply with all such laws, ordinances and regulations.

4.4. Records and Review. The City shall keep and maintain all records, accounts and reports relating to this Agreement and its performance hereunder for a period of three years following the expiration of this Agreement. OCWD shall have access to such records at any time during normal business hours upon 48 hours notice to the City. At its cost, OCWD shall have the right to audit the books, records and accounts of the City relating to its performance of this Agreement no more than once annually, and the City shall provide reasonable cooperation to OCWD in this regard.

4.5. Indemnification.

The City shall defend, indemnify and hold OCWD, its officers, directors, employees and representatives, harmless from and against any and all actions, suits, claims, demands, judgments, attorney's fees, costs, damages to person or property, losses, penalties, obligations, expenses or liabilities (collectively, "Costs") that may be asserted or claimed by any person or entity arising out of the performance or implementation of this Agreement by City or its officers, directors, employees or representatives, or the distribution or use of any water produced from Well 9. The City shall also defend, indemnify and hold OCWD, its officers, directors, employees and representatives harmless from and against any and all Costs that may be asserted or claimed by any person in any administrative or judicial challenge to the legality or validity of this Agreement or any exemption under Section 38.1 from payment of the BEA on any portion of the water produced from Well 9, or to any act or determination (including any finding under Section 38.1 of the OCWD Act or any finding, action or inaction under or required by the California Environmental Quality Act) leading up to or in connection with such a BEA

exemption or this Agreement .

4.6. Successors and Assigns. All of the terms, conditions and provisions of this Agreement shall inure to the benefit of, and be binding upon, OCWD, the City, and their respective successors and assigns.

4.7. No Implied Waivers. In the event that any term, condition or provision of this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the specific breach so waived, and shall not be deemed either to be a continual waiver or to waive any other breach under this Agreement.

4.8. No Representation or Warranty. OCWD and the City each acknowledges that neither party, nor any of its respective officers, employees, agents or representatives, has made any written or oral representation, promise or warranty, express or implied, regarding any matter that is the subject of this Agreement, other than as expressly set forth herein.

4.9. No Obligation to Third Parties. The approval, execution and performance of this Agreement shall not be deemed to confer any rights upon any person or entity other than OCWD and the City. There are no third party beneficiaries to this Agreement.

4.10. Nature of Relationship. This Agreement shall not create, and shall not be construed or deemed to create, any agency, partnership, joint venture, landlord-tenant or other relationship between OCWD and the City.

4.11. Integration, Construction and Amendment. This Agreement represents the entire understanding of OCWD and the City as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered by this Agreement. This Agreement shall be construed as if drafted by both OCWD and the City. This Agreement may not be modified, altered or amended except in writing signed by authorized representatives of both OCWD and the City.

SECTION 5. AGREEMENT NOT EFFECTIVE UNTIL PARTIAL BEA EXEMPTION GRANTED ON WELL 9 WATER PRODUCTION

5.1. This Agreement shall not take effect unless and until all of the following actions occur in accordance with Section 38.1 of the OCWD Act:

5.1.1. City shall have filed with OCWD a petition pursuant to Section 38.1 of the OCWD Act, for a partial exemption of the basin equity assessment levied under Section 31.5 of the OCWD Act, for all groundwater above the BPP produced from Well 9 during the period from July 1, 2017 through June 30, 2021 (the "Project BEA Exemption"); and

5.1.2. The OCWD Board of Directors shall have received an investigation report on the petitioned Project BEA Exemption from OCWD's district geologist; and

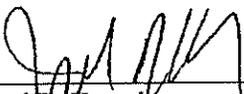
5.1.3. The OCWD Board shall have conducted a public hearing on the petition for the Project BEA Exemption, made findings and determinations in accordance with Section 38.1(d)(2) of the OCWD Act, and granted the City's petition for the Project BEA Exemption.

5.2. City understands and acknowledges that the OCWD Board of Directors retains full discretion within the parameters set forth in the OCWD Act to approve or not to approve the Project BEA Exemption. Nothing in this Agreement shall in any way commit the OCWD Board of Directors to approve the Project BEA Exemption, to take any other action with respect to the City's petition for the Project BEA Exemption, or to in any way limit or restrict the discretion of the Board of Directors of OCWD with respect to an exemption from the payment of the BEA on water produced from Well 9.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first written above.

APPROVED AS TO FORM:

RUTAN & TUCKER, LLP

By: 
Joel D. Kuperberg
General Counsel, OCWD

ORANGE COUNTY WATER DISTRICT

By: 
Denis Bilodeau, President
By: 
Michael K. Markus, General Manager

APPROVED AS TO FORM:

By: 
Michael E. Gates
City Attorney, City of Huntington
Beach

CITY OF HUNTINGTON BEACH

By: 
Mike Posey
Mayor

Attest:
By: 
Robin Estanislau
City Clerk

Exhibit A

Sample Huntington Beach Well 9 Partial BEA Exemption Calculations

Estimated Capital Cost \$2,800,000 Well Capacity 1,850 gpm
 O&M Cost \$800,000 100%
 Estimated Total cost \$3,600,000 Annual Yield 3,000 afy

Actual Pumping Achieved Above the BPP by Well 9 (afy)

Estimated BEA Unit Cost (\$/af)
 Projected Cost of MWD untreated full service water (\$/af)
 OCWD buys this water to offset additional Huntington Beach pumping
 Projected Replenishment Assessment (\$/af)
 BEA Amount that Huntington Beach must pay (\$/af)
 Total RA and BEA paid to OCWD (\$/af)

This amount must match the cost of MWD water
 Remaining BEA Exempted to Huntington Beach (\$/af)
 Annual Savings to Huntington Beach
 Cumulative Savings to Huntington Beach

FY	2017/18	2018/19	2019/20	2020/21
Year	1	2	3	4*
	3,000	3,000	3,000	850
	\$550	\$575	\$600	\$625
	\$666	\$695	\$681	\$723
	\$445	\$467	\$489	\$511
	\$221	\$228	\$192	\$212
	\$666	\$695	\$681	\$723
	\$329	\$347	\$408	\$413
	\$987,000	\$1,041,000	\$1,224,000	\$351,050
	\$987,000	\$2,028,000	\$3,252,000	\$3,603,050

*Within Year 4, City of Huntington Beach will recover the Project Cost of \$2,800,000 plus \$800,000 of O&M costs when they reach ~850 AF of additional groundwater pumped from Well 9.



City of Huntington Beach

2000 Main Street ♦ Huntington Beach, CA 92648

(714) 536-5227 ♦ www.huntingtonbeachca.gov

Office of the City Clerk

Robin Estanislau, City Clerk

November 15, 2018

Orange County Water District
ATTN: Janice Durant
P.O. Box 8300
Fountain Valley, CA 92708-8300

Dear Ms. Durant:

Enclosed are two originals of the "Amendment #1 to Limited Term Partial Basin Equity Assessment Exemption Agreement between Orange County Water District and City of Huntington Beach (Huntington Beach Well No. 9)

Upon complete execution, please mail one original to us. Please mail the document to:

Robin Estanislau
City Clerk
2000 Main Street, 2nd Floor
Huntington Beach CA 92648

Your attention to this matter is greatly appreciated.

Sincerely,

Robin Estanislau, CMC
City Clerk

RE:ds

USPS tracking number:
9114 9014 9045 1397 9323 02

APPROVED 7-0



CITY OF HUNTINGTON BEACH REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: 4/2/2018
SUBMITTED TO: Honorable Mayor and City Council Members
SUBMITTED BY: Fred A. Wilson, City Manager
PREPARED BY: Travis K. Hopkins, PE, Director of Public Works
SUBJECT: Approve and authorize execution of the Limited Term Partial Basin Equity Assessment Exemption Agreement Between Orange County Water District (OCWD) and City of Huntington Beach (Financial Aid for the Well No. 9 Treatment Project, CC-1392)

Statement of Issue:

On October 4, 2017, the OCWD Board approved an agreement to allow the City to obtain full cost recovery for the City's Well No. 9 Treatment Project, including an additional \$800,000 of estimated future treatment tanks replacement cost. The total amount of OCWD financial aid to the City is estimated to be \$4,300,000.

Financial Impact:

The City will realize savings to the Water Fund (506) for purchase of water at a reduced rate. These savings are dependent on the amount of water extracted from Well No. 9 after treatment facilities are in operation, up to \$960,000 annually. The amount of savings earned annually in the Water Fund (506) will be transferred to the Water Master Plan Fund (507), to reimburse the Water Master Plan Fund for those capital improvements at Well No. 9, per the City's adopted 2016 Water Master Plan. The financial aid program will discontinue once the full amount of financial aid is achieved.

Recommended Action:

Approve and authorize the Mayor and City Clerk to execute two original sets of the OCWD agreement dated October 4, 2017, "Limited Term Partial Basin Equity Assessment Exemption Agreement Between Orange County Water District and City of Huntington Beach (Huntington Beach Well No. 9)" and return one signed set to OCWD.

Alternative Action(s):

Do not approve the Agreement and instruct staff on how to proceed.

Analysis:

Historically, the City significantly reduced the water production of Well No. 9 due to high hydrogen sulfide concentrations in the well water. Staff successfully piloted a Biological Activated Carbon (BAC) treatment system that reduced the hydrogen sulfide concentrations in the water to a level that it could be used. Since this project treats water from the groundwater basin that OCWD manages, a request was made to OCWD to fund 100 percent of the project, estimated at \$3.6 million in capital costs for design, construction, and future tank replacement. On August 7, 2017, City Council awarded the construction contract. The total updated project cost with future tank replacement is estimated to be \$4.3 million, and is currently under construction. On October 4,

2017, OCWD approved the financial aid agreement to help the City to recover 100 percent of actual project costs at \$4.3 million.

Key elements of the OCWD financial aid program are provided below:

- City would initially construct the necessary well improvements. This work began in fiscal year 2016-17;
- Beginning in fiscal year 2018-19 the City would pump this well above the Basin Pumping Percentage (BPP), currently set at 75% groundwater, and receive a partial BEA exemption;
- The additional pumping is expected to be around 3,000 acre-feet per year;
- The partial BEA exemption would last for several years to accumulate up to the \$4.3 million in exemptions, thereby allowing the City to recover its investment; and,
- After the City recovers its investment, the partial BEA exemption terminates, and Well No. 9 would be returned to be used by the City to meet its annual BPP pumping amount.

Well No. 9 has a relatively deep screened interval (556-996 feet below ground surface) and draws all of its water from the main aquifer (lower most principal aquifer). In this part of the groundwater basin the main aquifer has reduced chemical conditions (low oxygen) that are conducive to the formation of hydrogen sulfide.

The following benefits of the Well No. 9 Treatment Project are OCWD justifications for financial aid:

1. City can continue operating an existing asset at its maximum output;
2. Pumping Well No. 9 reduces the potential for groundwater containing hydrogen sulfide to impact nearby Huntington Beach Well No. 5 which gets a blend of groundwater from the main aquifer and shallower aquifers;
3. Groundwater containing hydrogen sulfide is being removed;
4. Well No. 9 is deep enough that pumping does not affect the seawater intrusion; and,
5. There are no impacts to the BPP, OCWD's finances, or groundwater accumulated overdraft in this region.

OCWD will annually provide the City with the Partial Basin Equity Assessment Exemption water rate, which will be approximately \$700/acre-feet for FY 2018-19. This reduced OCWD rate is approximately \$320/acre-feet less than the average per acre-foot cost to purchase imported water from the Metropolitan Water District of Southern California (MWD) through the Municipal Water District of Orange County (MWDOC). Therefore, during the period of financial aid, City would need to purchase less import water, equal to the amount of water pumped at Well No. 9. If Well No. 9 pumps 3,000 acre-feet in FY 2018-19, the City would then save approximately \$960,000 in the purchase of imported water (3,000 acre-feet x \$320/acre-feet). The amount of financial aid earned annually from savings in the Water Fund (506) will be transferred to the Water Master Plan Fund (507), which funded the capital improvements at Well No. 9, per the City's adopted 2016 Water Master Plan.

Public Works Commission Action: Not applicable.

Environmental Status: Not applicable.

Strategic Plan Goal: Enhance and Maintain Infrastructure

Attachment(s):

1. Two (2) original sets of OCWD agreement dated October 4, 2017, "Limited Term Partial Basin Equity Assessment Exemption Agreement between Orange County Water District and City of Huntington Beach (Huntington Beach Well No. 9)"

**LIMITED TERM PARTIAL BASIN EQUITY ASSESSMENT EXEMPTION
AGREEMENT BETWEEN ORANGE COUNTY WATER DISTRICT AND CITY
OF HUNTINGTON BEACH
(Huntington Beach Well No. 9)**

This LIMITED TERM PARTIAL BASIN EQUITY ASSESSMENT EXEMPTION AGREEMENT (the "Agreement") is entered as of October 4, 2017 by and between the ORANGE COUNTY WATER DISTRICT, a special governmental district organized and existing pursuant to the Orange County Water District Act, Chapter 924, Statutes of 1933, as amended ("OCWD"), and the CITY OF HUNTINGTON BEACH, a municipal corporation organized and existing under the laws of the State of California ("City").

RECITALS

A. Approximately two-thirds of all drinking water currently used within northern and central Orange County is provided from groundwater by OCWD. Inasmuch as Orange County is located in a semi-arid area, it is essential that all reasonable efforts be put forth to protect the quality of groundwater supplies and to provide for maximum utilization of that resource.

B. The City operates a public water system for the purpose of delivering potable water to its customers, and obtains most of its water by pumping groundwater from wells for delivery to its customers. The City, as well as other groundwater producers within the boundaries of OCWD, has lost pumping capacity in some of its groundwater wells due to the presence of hydrogen sulfide. Huntington Beach Well No. 9 ("Well 9"), located at near the intersection of Warner Avenue and Magnolia Street in Huntington Beach, has the capacity to produce up to 4,800 acre feet per year of groundwater; however, the City limited production of groundwater from Well 9 in 2011 due to its high levels of hydrogen sulfide. There are no federal or state drinking water quality standards set for hydrogen sulfide in drinking water, however hydrogen sulfide can produce odors and can be corrosive to certain metals and can be unsuitable for domestic purposes.

C. The City recently completed a full scale pilot study using Granular Activated Carbon (GAC) treatment process to reduce hydrogen sulfide in the water produced by Well 9. The pilot study demonstrated complete removal of the hydrogen sulfide in the well water. The City proposes to design and construct a GAC treatment system to treat the all the flows from Well 9 (such treated Well 9 groundwater is hereinafter referred to as "Product Water").

D. The City's preliminary cost estimate for this GAC treatment system Project is \$2,800,000 (the "Project Cost"). The City also estimates a one-time replacement of the GAC media and filter tanks at a cost of \$800,000 over the life of the Project. OCWD has determined that the City's conduct of the Project will reduce the potential for groundwater containing hydrogen sulfide to impact nearby Huntington Beach Well No. 5.

E. The Legislature of the State of California has vested in OCWD the statutory responsibility to manage, regulate, replenish and to protect the quality of the groundwater supplies within the boundaries of OCWD.

F. In April of each year, the Board of Directors of OCWD acts in accordance with Section 31.5 of the Orange County Water District Act ("OCWD Act") to find, determine and establish the basin production percentage (the "BPP"), and sets basin equity assessments (each, a "BEA") for each producer within OCWD for the period from July 1st through June 30th of the next succeeding year.

G. Section 2.6.(1.) of the OCWD Act authorizes OCWD to enter into an agreement with the owner operating a groundwater production facility within OCWD's boundaries to increase the production of groundwater in lieu of water from an alternative non-tributary source for the purpose of removing contaminants or pollutants from the groundwater basin, and paying from OCWD funds that portion of the cost of groundwater production that will encourage the production for beneficial use of the polluted or contaminated groundwater that is impairing the quality of the water supplies within OCWD.

H. OCWD and the City mutually desire to enter into this Agreement pursuant to Section 2.6.(1.) of the OCWD Act to set forth the specific terms and conditions under which the City will conduct the Project and remove hydrogen sulfide-impaired groundwater from the Orange County groundwater basin by treating groundwater from Well 9 for ultimate distribution to City customers for potable beneficial uses, with the City recovering the Project Cost by means of a partial exemption of that water from the payment of the BEA. OCWD and the City understand and agree that this Agreement does not and cannot become effective unless and until the City files a petition for a partial exemption from the BEA of the water produced from Well 9, and the Board of Directors of OCWD approves such a partial BEA exemption, in accordance with Section 38.1 of the OCWD Act.

EXECUTORY AGREEMENTS

NOW, THEREFORE, in consideration of the facts recited above and the covenants, conditions and promises contained herein, and subject to this Agreement taking effect in accordance with Section 5 below, OCWD and the City hereby agree as follows:

SECTION 1. LIMITED TERM HYDROGEN SULFIDE REMOVAL PROJECT

1.1. The City shall design and construct the Project within the Project Cost. In the event that the cost of the design and construction of the Project exceeds the Project Cost, the City shall submit such revisions to the Project Cost for review and approval by OCWD. In the event that OCWD determines, in its reasonable discretion, to approve the revisions to the Project Cost, those additional costs will be eligible to be credited against BEA payments otherwise owed by the City for production of groundwater from Well 9 above the BPP, in accordance with Paragraph 2.5 below. In the event that either the City does not submit any revisions to the Project Cost for approval by OCWD, or OCWD determines in its reasonable discretion not to approve those revisions to the Project Cost, such revisions to the Project Cost shall not serve as credits against BEA payments otherwise owed by the City for the production of groundwater from Well 9. .

1.2. The City shall serve as the lead agency for, and be responsible for all CEQA processing for, the Project.

1.3. The City shall be responsible for all design, engineering, construction, and CEQA costs for the Project.

1.4. Once the Project has been constructed, the Project Costs (and any revisions to the Project Cost approved by OCWD pursuant to Paragraph 1.1 above) have been reviewed to ensure they are consistent with this Agreement, and if the OCWD Board of Directors has approved a petition for partial, limited term BEA exemption pursuant to Section 38.1 of the OCWD Act (as outlined in Section 5), this Agreement will be implemented in the first fiscal year after the Project is complete, beginning July 1st of that year, and last for up to four fiscal years through June 30th of the last year (the "Project Term"). During the Project Term, the City may produce groundwater in an amount equal to the BPP for that given year, plus additional groundwater production from Well 9, provided that all of the groundwater production above the BPP during the Project Term shall be produced solely from Well 9 in order to receive partial exemption set forth in Paragraph 2.5 below.

1.5. In order to obtain the partial exemption set forth in Paragraph 2.5 below, the City shall produce groundwater from Well 9 that, after treatment, meets the adopted primary drinking water standards, and the City shall deliver the groundwater to its customers or to City facilities for potable beneficial uses. Further, the Product Water shall meet the State Water Resources Control Board ("SWRCB") and the Division of Drinking Water ("DDW") Secondary Drinking Water Standards with a Secondary Maximum Contaminant Level for odor set at 3 Threshold Odor Number (TON) in drinking water. The Product Water from Well 9 shall also meet any other requirements from the SWRCB for treatment of this Product Water.

1.6. The City shall be responsible for all costs incurred in the operation and maintenance of Well 9, other than the replacement of the GAC media as defined in Section D of the Recitals, for distribution of the Product Water to City customers or facilities for potable beneficial use, including but not limited to labor, materials and power.

1.7. The City shall take out and maintain in effect at all times during the term of this Agreement comprehensive general liability insurance in an amount not less than \$2 million per occurrence, for bodily injury, death and property damage, naming OCWD as an additional insured under such policy. An endorsement evidencing this insurance coverage shall be furnished to OCWD prior to the City filing with OCWD a petition pursuant to Section 38.1 of the OCWD Act (as outlined in Section 5). If the City is, or becomes, partially or fully self-insured for its public liabilities, a letter executed by the City's Mayor or City Manager stating the City's self-insured status and acknowledging its responsibility to respond to the indemnification of OCWD as provided in Paragraph 5.5 below, may be furnished in lieu of the insurance endorsement. The City shall provide written notice to OCWD of any change in the City's insured or self-insured status during the Project Term within 30 days of the effective date of such change.

SECTION 2. PROJECT TERM BASIN EQUITY ASSESSMENT AND REPLENISHMENT ASSESSMENT PAYMENTS

2.1. The City shall file water production statements and a basin equity assessment statement in strict compliance with Sections 29(a) and 31.5(j) of the OCWD Act, respectively,

for all groundwater produced by the City during the Project Term, including all groundwater produced from Well 9 and distributed as Product Water.

2.2. On or before the 15th day of each month, during the Project Term, the City shall file with OCWD a monthly report reflecting the quantity of groundwater produced by Well 9 through the end of the preceding calendar month during the Project Term (a "Monthly Project Production Report").

2.3. Concurrently with the filing of the City's basin equity assessment report pursuant to Section 31.5(j) of the OCWD Act, the City shall file with OCWD a statement, verified by a written declaration under penalty of perjury, setting forth the total amount of groundwater produced from Well 9 during the Project Term and distributed as Product Water (the "Project Production Statement").

2.4. The City shall pay the replenishment assessment and additional replenishment assessment levied and imposed pursuant to Sections 27 and 27.1 of the OCWD Act on all groundwater produced by the City during the Project Term, including all groundwater produced from Well 9, in accordance with Section 29(a) of the OCWD Act.

2.5. To the extent that the City's production of groundwater during the Project Term does not exceed an amount equal to the BPP plus additional groundwater produced from Well 9, and all of the groundwater produced during the Project Term in excess of the BPP was produced from Well 9, the City shall be exempt during the Project Term from paying a portion of the basin equity assessment or any surcharge on such groundwater production above the BPP from Well 9 during the Project Term to allow the City to recoup the Project Cost (and any revisions to the Project Cost approved by OCWD pursuant to Paragraph 1.1 above), as described in the Attached Exhibit A attached hereto and by this reference incorporated herein. Notwithstanding the foregoing, the City shall pay the applicable basin equity assessment and any surcharge for the following:

2.5.1. The City shall pay the applicable basin equity assessment and surcharge on all groundwater produced by the City during the Project Term that exceeds an amount equal to the BPP plus additional groundwater produced from Well 9; and

2.5.2. The City shall pay the applicable basin equity assessment and surcharge on all groundwater produced by the City during the Project Term in excess of the BPP, if such groundwater in excess of the BPP is produced from any water production facility other than Well 9.

2.6. The City acknowledges that the groundwater produced from Well 9, and the Product Water distributed and sold by the City, shall be classified as "groundwater," and shall not be classified as "supplemental sources" as such term is defined in Section 31.5 of the OCWD Act, for the purpose of calculating the amount of groundwater produced by the City relative to the BPP.

SECTION 3. CITY GROUNDWATER PRODUCTION DURING THE PROJECT REMAINDER TERM

3.1. Following completion of the Project Term, and for ten consecutive years thereafter, (such ten-year period is hereinafter referred to as the "Project Remainder Term"), the City shall make its best efforts to continue to operate Well 9 throughout the Project Remainder Term.

3.2. Beginning the first fiscal year of the Project Remainder Term, and each fiscal year thereafter during the Project Remainder Term, the City shall pay the then-applicable replenishment assessment, additional replenishment assessment and, if applicable, the basin equity assessment and surcharge, on all groundwater produced by the City during that fiscal year, including all groundwater produced from Well 9, in strict compliance with Sections 29 and 31.5 of the OCWD Act.

3.3. Notwithstanding Paragraphs 3.1 and 3.2 above, in the event that the City was unable to produce sufficient groundwater from Well 9 during the Project Term to allow the City to achieve a total groundwater production equal to the BPP plus the additional groundwater produced from Well 9 so as to recover the Project Cost (and any revisions to the Project Cost approved by OCWD pursuant to Paragraph 1.1 above), the City and OCWD shall meet and confer to implement the program described in Exhibit A to allow the City to increase production from Well 9 for an additional time period that will not be subject to payment of the BEA, to allow the City to achieve the total amount of Well 9 groundwater production that had been intended for the Project Term and thereby recover the entirety of the Project Cost and any revisions approved by OCWD pursuant to Paragraph 1.1 above (the "Make-Up Production"). In the event that the City undertakes Make-Up Production:

3.3.1. The City shall receive a partial basin equity assessment exemption on the Make-Up Production in accordance with Exhibit A.

3.3.2. The City shall file Monthly Project Production Reports (as described in Paragraph 2.2) for the Make-Up Production during each calendar month during the Make-Up Production time.

3.3.3. In addition to all groundwater production reports and statements required under the OCWD Act, the City shall file a Project Production Statement (as described in Paragraph 2.3) for the Make-Up Production concurrently with the filing of the City's basin equity assessment report pursuant to Section 31.5(j) of the OCWD Act.

SECTION 4. MISCELLANEOUS

4.1. Effective Date; Term. This Agreement shall become effective upon the Board of Directors of OCWD approving a partial exemption of the BEA for the water produced from Well 9, and shall continue for a term of twenty years, until June 30, 2037.

4.2. Notices. Any notice, instrument, payment or document required to be given or delivered under this Agreement shall be given or delivered by personal delivery or by depositing the same in a United States Mail depository, first class postage prepaid, and addressed as follows:

If to OCWD: Orange County Water District
PO Box 8300
18700 Ward Street
Fountain Valley, CA 92708
Attn: General Manager

If to City: City of Huntington Beach
PO Box 190
2000 Main Street
Huntington Beach, CA 92648
Attn: City Manager

or such other address as either party may direct in writing to the other. Service of any instrument or document given by mail shall be deemed complete upon receipt if delivered personally, or 48 hours after deposit of such instrument or document in a United States mail depository, first class postage prepaid, and addressed as set forth above.

4.3. Compliance with Laws. The City shall keep itself informed of all existing and future state and federal laws and all county, municipal ordinances and regulations, which in any manner effect its performance of this Agreement. The City shall at all times observe and comply with all such laws, ordinances and regulations.

4.4. Records and Review. The City shall keep and maintain all records, accounts and reports relating to this Agreement and its performance hereunder for a period of three years following the expiration of this Agreement. OCWD shall have access to such records at any time during normal business hours upon 48 hours notice to the City. At its cost, OCWD shall have the right to audit the books, records and accounts of the City relating to its performance of this Agreement no more than once annually, and the City shall provide reasonable cooperation to OCWD in this regard.

4.5. Indemnification.

The City shall defend, indemnify and hold OCWD, its officers, directors, employees and representatives, harmless from and against any and all actions, suits, claims, demands, judgments, attorney's fees, costs, damages to person or property, losses, penalties, obligations, expenses or liabilities (collectively, "Costs") that may be asserted or claimed by any person or entity arising out of the performance or implementation of this Agreement by City or its officers, directors, employees or representatives, or the distribution or use of any water produced from Well 9. The City shall also defend, indemnify and hold OCWD, its officers, directors, employees and representatives harmless from and against any and all Costs that may be asserted or claimed by any person in any administrative or judicial challenge to the legality or validity of this Agreement or any exemption under Section 38.1 from payment of the BEA on any portion of the water produced from Well 9, or to any act or determination (including any finding under Section 38.1 of the OCWD Act or any finding, action or inaction under or required by the California Environmental Quality Act) leading up to or in connection with such a BEA

exemption or this Agreement .

4.6. Successors and Assigns. All of the terms, conditions and provisions of this Agreement shall inure to the benefit of, and be binding upon, OCWD, the City, and their respective successors and assigns.

4.7. No Implied Waivers. In the event that any term, condition or provision of this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the specific breach so waived, and shall not be deemed either to be a continual waiver or to waive any other breach under this Agreement.

4.8. No Representation or Warranty. OCWD and the City each acknowledges that neither party, nor any of its respective officers, employees, agents or representatives, has made any written or oral representation, promise or warranty, express or implied, regarding any matter that is the subject of this Agreement, other than as expressly set forth herein.

4.9. No Obligation to Third Parties. The approval, execution and performance of this Agreement shall not be deemed to confer any rights upon any person or entity other than OCWD and the City. There are no third party beneficiaries to this Agreement.

4.10. Nature of Relationship. This Agreement shall not create, and shall not be construed or deemed to create, any agency, partnership, joint venture, landlord-tenant or other relationship between OCWD and the City.

4.11. Integration, Construction and Amendment. This Agreement represents the entire understanding of OCWD and the City as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered by this Agreement. This Agreement shall be construed as if drafted by both OCWD and the City. This Agreement may not be modified, altered or amended except in writing signed by authorized representatives of both OCWD and the City.

SECTION 5. AGREEMENT NOT EFFECTIVE UNTIL PARTIAL BEA EXEMPTION GRANTED ON WELL 9 WATER PRODUCTION

5.1. This Agreement shall not take effect unless and until all of the following actions occur in accordance with Section 38.1 of the OCWD Act:

5.1.1. City shall have filed with OCWD a petition pursuant to Section 38.1 of the OCWD Act, for a partial exemption of the basin equity assessment levied under Section 31.5 of the OCWD Act, for all groundwater above the BPP produced from Well 9 during the period from July 1, 2017 through June 30, 2021 (the "Project BEA Exemption"); and

5.1.2. The OCWD Board of Directors shall have received an investigation report on the petitioned Project BEA Exemption from OCWD's district geologist; and

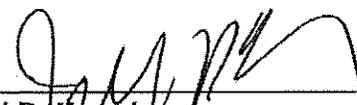
5.1.3. The OCWD Board shall have conducted a public hearing on the petition for the Project BEA Exemption, made findings and determinations in accordance with Section 38.1(d)(2) of the OCWD Act, and granted the City's petition for the Project BEA Exemption.

5.2. City understands and acknowledges that the OCWD Board of Directors retains full discretion within the parameters set forth in the OCWD Act to approve or not to approve the Project BEA Exemption. Nothing in this Agreement shall in any way commit the OCWD Board of Directors to approve the Project BEA Exemption, to take any other action with respect to the City's petition for the Project BEA Exemption, or to in any way limit or restrict the discretion of the Board of Directors of OCWD with respect to an exemption from the payment of the BEA on water produced from Well 9.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first written above.

APPROVED AS TO FORM:

RUTAN & TUCKER, LLP

By: 
Joel D. Kuperberg
General Counsel, OCWD

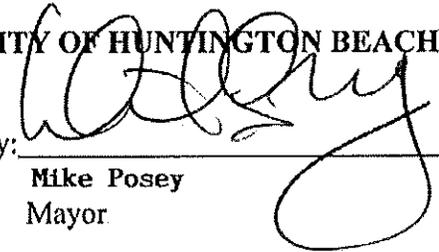
ORANGE COUNTY WATER DISTRICT

By: 
Denis Bilodeau, President
By: 
Michael R. Markus, General Manager

APPROVED AS TO FORM:

By: 
Michael E. Gates
City Attorney, City of Huntington
Beach

CITY OF HUNTINGTON BEACH

By: 
Mike Posey
Mayor

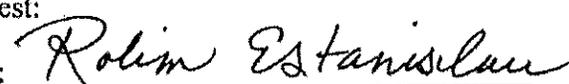
Attest:
By: 
Robin Estanislau
City Clerk

Exhibit A

DIRECTORS

PHILIP L. ANTHONY
DENIS R. BILODEAU, P.E.
SHAWN DEWANE
CATHY GREEN
DINA NGUYEN
VICENTE SARMIENTO
STEPHEN R. SHELDON
JAMES VANDERBILT
BRUCE WHITAKER
ROGER C. YOH, P.E.



SINCE 1933

ORANGE COUNTY WATER DISTRICT

ORANGE COUNTY'S GROUNDWATER AUTHORITY

OFFICERS

President
DENIS R. BILODEAU, P.E.

First Vice President
PHILIP L. ANTHONY

Second Vice President
SHAWN DEWANE

General Manager
MICHAEL R. MARKUS, P.E., D.WRE

February 16, 2018

Mr. Duncan Lee
Principal Civil Engineer
City of Huntington Beach
Department of Public Works
2000 Main Street
Huntington Beach, CA 92648

Limited Term Partial Basin Equity Assessment Exemption Agreement

Enclosed is the referenced Agreement approved by the OCWD Board at its October 4, 2017 Board meeting. Upon execution by the City of Huntington Beach, please return a copy to my attention.

Sincerely,

A handwritten signature in cursive script that reads "Janice Durant".

Janice Durant
District Secretary

Enclosure/stated



City of Huntington Beach

2000 Main Street ♦ Huntington Beach, CA 92648

(714) 536-5227 ♦ www.huntingtonbeachca.gov

Office of the City Clerk
Robin Estanislau, City Clerk

April 5, 2018

Janice Durant
Orange County Water District
PO Box 8300
Fountain Valley, CA 92708-8300

Dear Ms. Durant:

Enclosed is a fully executed original of the "Limited Term Partial Basin Equity Assessment Exemption Agreement Between Orange County Water District and City of Huntington Beach (Huntington Beach Well No. 9)."

Sincerely,

Robin Estanislau, CMC
City Clerk

RE:ds

Enclosure

Sister Cities: Anjo, Japan ♦ Waitakere, New Zealand
