

## IWVGA ADMINISTRATIVE OFFICE

*STAFF REPORT*

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**TO:** IWVGA Board Members **DATE:** November 19, 2020

**FROM:** IWVGA Staff

**SUBJECT:** **Agenda Item No. 8 – Board Consideration and Approval of Funding Agreement Between Indian Wells Valley Groundwater Authority and Indian Wells Valley Water District for Brackish Water Study**

### DISCUSSION

The Brackish Study Group (“Group”) submitted its grant application to the California Department of Water Resources (“DWR”) to fund the Brackish Water Resource Feasibility Study (“Study”) through Round 4 of the Water Desalination Grant Program September 1, 2017. Citing the unique quality of an inland desalination project, a Funding Agreement between DWR and Indian Wells Valley Water District as the project lead for assistance with a Feasibility Study entitled “Indian Wells Valley (IWV) Brackish Feasibility Study” was executed July 23, 2019 providing \$700,000 in support of the Study. Consideration of a brackish water project is referenced in the Groundwater Sustainability Plan submitted to DWR January 31, 2020.

The Group has been using existing and new geophysical data and existing seismic data along with drillers’ logs to refine the understanding of the basin substructure and where the brackish water resources are located. It is recognized the Indian Wells Valley groundwater basin contains significant brackish water resources. If recoverable and treated to remove the salt minerals, this resource can provide a supplemental water supply while the Indian Wells Valley Groundwater Authority (“Authority”) pursues a source of imported water and funding to provide the infrastructure to transport the water. Working with the updated model developed by Desert Research Institute (“DRI”), the Group has modeled a number of pumping scenarios using various proposed well locations, depths and pumping rates to determine the drawdown effect and potential for subsidence, both locally and regionally.

The Study has progressed to the point where the Group is proposing to conduct an aquifer test once a viable location is selected. This test would conclude the Study and the final report would then be submitted to DWR. If viable, a pilot test would be the next step/phase after completion of the Study which will include recommendations related to approximate location, needs, approximate time of duration, permitting requirements, etc.

Should the pilot test prove treatment to be economically feasible, the project is unique in that there are two potential “customers” for the brine effluent resulting from the desalination process; Coso Operating Company and Searles Valley Minerals. In addition to providing an in-basin supplemental resource, a desalination project would also help meet the objective of removing salts from the basin, a requirement of the Indian Wells Valley Salt and Nutrient Management Plan

approved in April 2018 by the State Water Resource Control Board, Lahontan Region in compliance with Resolution No. 2009-011, Policy for Water Quality and Control for Recycled Water (Recycled Water Policy), adopted in February 2009.

At the August 21, 2020 Proposition 218 public hearing for adopting a Replenishment Fee to fund acquisition of an imported water supply, the Authority voted to implement a fee of \$2,130 per acre-foot of water produced applicable to all registered non de minimis pumpers. The Group has concern that this fee, applied to non-potable/brackish water, would add a significant cost to conducting an aquifer test. As such, the Group seeks a variance/exemption from the Replenishment Fee for pumping related to the aquifer test. Brackish water pumped during the aquifer test would be subject to the \$105 per acre-foot Groundwater Extraction Fee. The scope of the aquifer test is included in this staff report and will be presented for review of the Water Resources Manager. A variance/exemption from the Replenishment Fee would allow the Group to complete the aquifer test and provide results for consideration of inclusion in a subsequent update to the basin's Groundwater Sustainability Plan.

The costs incurred by the Water Resources Manager to interact with the Group as discussions and tasks related to the Study occur are to be borne by the Group. As such, an agreement to reimburse the Authority is necessary between the Authority and the Indian Wells Valley Water District as the lead agency for the Group.

Also, at the September 17<sup>th</sup> Board meeting, the Board approved extending the terms of the May 23, 2018 agreement allowing Desert Research Institute to run model scenarios requested by the Group by way of an amendment to that agreement through June 30, 2021. Staff has drafted the amendment for signatures and will proceed with executing the amendment upon approval of the Funding Agreement.

#### **RECOMMENDED BOARD ACTION(S)**

Staff recommends:

- Board approve the Funding Agreement between the Authority and the Indian Wells Valley Water District as the lead agency for the Brackish Study Group.
- Board grant a variance/exemption from the Replenishment Fee for pumping related to the aquifer test.

## REIMBURSEMENT AGREEMENT

This Reimbursement Agreement (the "Agreement") is entered into as of November 19, 2020 ("Effective Date"), between the Indian Wells Valley Groundwater Authority, a Joint Powers Authority created pursuant to the provisions of California Government Code sections 6500 et seq., ("Authority") and the Indian Wells Valley Water District, a County Water District ("District"). The Authority and Group are sometimes hereinafter individually or collectively called a "Party" or the "Parties".

### RECITALS

**WHEREAS**, the Authority was formed after enactment of the "Sustainable Groundwater Management Act" ("SGMA") for the purpose of becoming the exclusive Groundwater Sustainability Agency and achieving groundwater sustainability through the adoption and implementation of a Groundwater Sustainability Plan ("GSP") for the Indian Wells Valley basin.

**WHEREAS**, the Indian Wells Valley Water District is a member of the Brackish Water Group comprised of the District, Searles Valley Minerals Inc., CGP Holdings LLC, and Mojave Pistachios LLC, (collectively referred to herein as the "Group").

**WHEREAS**, the Group is working on a Brackish Water Resource Feasibility Study ("Study") to identify and quantify brackish water resources that may be used as an alternative water supply source within the Indian Wells Valley basin.

**WHEREAS**, the Study has progressed to the point where the Group is proposing a test to gather information on aquifer properties in the study area and assist with determining the feasibility and cost of treating brackish groundwater.

**WHEREAS**, the Group is requesting an exemption from the Authority Replenishment Fee for brackish water pumped for the aquifer test.

**WHEREAS**, in order to process the Group's request for an exemption, the Authority's Water Resources Manager ("WRM") must review the scope and details of the aquifer test.

**WHEREAS**, the Group is willing to reimburse the Authority for any costs incurred by the WRM for their review of the aquifer test.

**WHEREAS**, the Authority is agreeable to the WRM reviewing the scope and details of the aquifer test, subject to the terms and provisions of this Agreement.

**NOW THEREFORE**, in consideration of the foregoing Recitals, which are incorporated herein by this reference, and of the covenants and agreements herein contained, the Parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to ensure the Authority is reimbursed for any monies paid to the WRM for services undertaken on behalf of the Group with respect to the Group's request for an exemption.

2. Reimbursement. The Group agrees to reimburse the Authority up to Twelve Thousand Dollars (\$12,000) for the WRM to review the scope and details of the aquifer test so the Authority can make a decision on the Group's request for an exemption. The Authority shall submit a monthly invoice to the Group for any expenses incurred for the WRM's review of the scope and details of the aquifer test. The invoice shall include copies of all invoices/charges paid by the Authority to the WRM for the services described herein. The Group shall remit payment within thirty (30) days receipt of said invoice.

3. Priority. The Group understands and acknowledges that the WRM's work for the Authority is the highest priority, and if time adjustments need to be made, the WRM's work for the Authority shall take precedent over any activities undertaken on behalf of the Group as described herein and any timeline shall be adjusted accordingly.

4. Coordination. The Parties agree that the WRM has the sole authority to coordinate its tasks related to its work for the Authority and the Group. The WRM shall have the authority to determine if the WRM's work on behalf of the Group is impacting the WRM's work/progress for the Authority and to make any necessary time/schedule adjustments deemed necessary by the WRM. The WRM shall consult with the Group prior to making any recommendations with respect to any time/schedule adjustments.

5. Dispute Resolution. In the event there are disputes and/or controversies relating to the interpretation, construction, performance, termination or breach of this Agreement, the Parties shall in good faith meet and confer in an attempt to informally resolve such matter(s). If the Parties are unsuccessful in resolving such matter(s) through an informal meeting process, they may attempt to resolve such matter(s) through mediation, through arbitration under the rules and regulations of the American Arbitration Association or they may exercise whatever other legal rights and remedies they may have.

6. Termination. Either Party retains the right to terminate this Agreement, at its sole discretion, upon thirty (30) days written notice. In the event of termination of this Agreement, the payment of monies due to Authority for the WRM's work performed prior to the effective date of such termination shall be paid within thirty (30) days after receipt of an invoice as provided in this Agreement. Upon payment for such services, the Authority agrees to promptly provide to the Group all documents, reports and the like which are in the possession or control of the Authority and/or WRM and pertain to the Group or this Agreement, except that Authority may retain one complete copy to be maintained in Authority's files.

[SIGNATURES ON NEXT PAGE]

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

**INDIAN WELLS VALLEY  
WATER DISTRICT**

By:   
David SaintAmand, Acting President  
Board of Directors

**INDIAN WELLS VALLEY  
GROUNDWATER AUTHORITY**

By:   
Mick Gleason, Chairman  
Board of Directors