

**INDIAN WELLS VALLEY GROUNDWATER AUTHORITY
AGREEMENT NO. 02-17**

**WATER RESOURCES MANAGER
SERVICES AGREEMENT**

As of August 17, 2017 (“Effective Date”), the **INDIAN WELLS VALLEY GROUNDWATER AUTHORITY**, (“Authority”), and **STETSON ENGINEERS, INC.**, (“Consultant”), agree as follows:

RECITALS

WHEREAS, the Authority is in need of a consultant with the appropriate technical background, expertise, and experience to act as the Authority’s Water Resources Manager and prepare, develop, and implement a Groundwater Sustainability Plan (“GSP”) for the Indian Wells Valley Groundwater Basin (“Basin”).

WHEREAS, the Consultant is a professional firm with roughly 65 professional employees comprising one of, if not, the most experienced groundwater management supporting staffs in Southern California.

WHEREAS, the Consultant’s senior staff member for this project has 40 years of continuous professional engineering experience, and the Consultant has continuously provided cost-efficient Groundwater Management Engineering and Technical services to a variety of clients since 1964.

WHEREAS, after a detailed process, the Authority has determined that the Consultant is exceptionally well qualified to deliver the services need by the Authority in a cost-efficient manner.

WHEREAS, the Authority now desires to engage the services of Consultant, and the Consultant agrees to provide such services pursuant to this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, Authority and Consultant agree as follows:

AGREEMENT

I. INCORPORATION OF RECITALS

The Recitals and section titles set forth herein are incorporated herein and are an operative part of this Agreement.

II. SERVICES TO BE PERFORMED

Consultant hereby contracts to be the Authority's Water Resources Manager and to perform necessary services in connection with the Authority's preparation, filing, and implementation of a GSP for the Indian Wells Valley Groundwater Basin. For the consideration hereinafter stipulated, Consultant hereby accepts such contract under the hereinafter set forth terms and conditions.

III. TERM PERIOD

The term of this Agreement shall cover a three-year time period commencing on the Effective Date and continuing unless terminated as provided for herein.

IV. COMPENSATION

Authority shall pay Consultant on a time, materials, and expense basis in accordance with the **Fee Schedule** attached hereto as Exhibit A. In the alternative, the Authority and Consultant may agree to a written Task Order arrangement for certain work proposals and items, in which case compensation shall be set forth in the written Task Order.

Consultant shall not be compensated for any services, nor reimbursed for any expenses in excess of those authorized by this Agreement, or any Task Order, without prior written approval by Authority. If contingencies arise during the performance of a project which requires services outside the scope of the project, Authority may authorize, in writing, the work to be performed. Payment for such approved contingencies will be made in accordance with the **Fee Schedule** or as agreed upon by the parties. **Additional work performed without written authorization will not be approved for payment.**

Consultant shall submit monthly invoices for services rendered under this Agreement to:

**Indian Wells Valley Groundwater Authority
Ridgecrest City Hall
100 W. California Avenue
Ridgecrest, California 93555**

Invoices **MUST** identify the Agreement Number, Account Number, and Project Name (Title) as shown herein. Any invoice received without proper identification will be returned to Consultant. Approved invoices will be paid within thirty (30) days after receipt.

V. DATA AND SERVICES FURNISHED BY AUTHORITY

Authority shall provide Consultant with reasonably available information pertinent to the tasks to be performed by Consultant, and Consultant shall be entitled to use and rely upon all such information. Consultant shall apply reasonable caution in the interpretation and uses of Authority furnished data and promptly advise Authority of any actual or perceived errors.

VI. PREVAILING WAGES

By its execution of this Contract, Consultant certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Consultant and/or Consultant's subcontractors shall pay prevailing wages to all employees legally entitled to such payment. At present, it is anticipated that Consultant will, at a minimum, have employees working in the field of inspection, surveying, and soils testing which are entitled to such payment. Given the breadth of services to be performed under this Agreement, it is possible that other employees may be entitled to prevailing wages, and Consultant agrees to inform the Authority of any activity that may fall within the purview of prevailing wage laws before the activity begins.

If this project is subject to Federal funding, Consultant shall comply with the Davis-Bacon Act, as identified in the applicable Davis-Bacon Prevailing Wage. Payment of State prevailing wage rates, when higher, is required whenever Federally funded or assisted projects are controlled or carried out by California awarding bodies. Consultant shall submit U.S. Department of Labor WH-347 Davis-Bacon Certified Payroll Form and be prepared to submit additional labor compliance forms and reports, upon request.

VII. STATUS OF CONSULTANT

Consultant shall perform the services provided for herein in Consultant's own way as an independent contractor and in pursuit of Consultant's independent calling, and not as an employee of Authority. Consultant shall be under the control of Authority only as to the result to be accomplished. Neither Consultant nor any of its employees or agents shall have any claim under this Agreement or otherwise against Authority for vacation pay, paid sick leave, retirement benefits, social security, workers' compensation, health, disability, unemployment insurance benefits, or other employee benefits of any kind. Consultant is liable for all applicable Social Security, Federal, and State taxes required on payments made by Authority. In the event the Internal Revenue Service or any other governmental agency should question or challenge the independent contractor status of Consultant or any of its respective employees or agents, the parties hereby agree that both Consultant and Authority shall have the right to participate in any discussion or

negotiation occurring with such agency or agencies, regardless of with who or by whom such discussions or negotiations are initiated.

VIII. INSURANCE

Consultant shall not commence work under this Agreement until it has obtained the policies of insurance required hereunder, nor shall it allow any subcontractor to commence work until the policies of insurance required of the subcontractor have been obtained. Consultant shall verify and confirm proper coverage to Authority standards of the subcontractors.

Consultant shall, during the life of this Agreement, notify Authority in writing of any incident, either under its jurisdiction, or any of its subcontractors, giving rise to any potential Bodily Injury or Property Damage claim and resultant settlements, whether in conjunction with this or other project which may affect the limits of the required coverage, as soon as is reasonable and practical.

The Consultant and each of its subcontractors shall take out and maintain the following policies of "occurrence form" (where applicable) type insurance, with coverage and carriers acceptable to the Authority, at its sole cost and expense at all times during the life of this Agreement, including the entire time of the Consultant's guarantee. The Authority may request certificates of insurance from subcontractors to verify proper coverage and additional named insured requirements. Such requests shall be responded to within a reasonable time frame (48 -72 Hrs.):

- A. **Workers' Compensation Insurance.** Consultant shall cover employees as required by Labor Code Section 3600, and Consultant shall require subcontractors similarly to provide such Workers' Compensation insurance for subcontractors' employees. Such policy shall contain an endorsement which waives rights of subrogation against the Authority as designated in the policy of Worker's Compensation Insurance. Self-insured programs or PEO programs are generally not acceptable to the Authority and must be approved by the Authority in advance.

- B. **Commercial Liability Insurance.** The Consultant shall procure and maintain Commercial General Liability Insurance in amounts not less than the following:

\$1,000,000 Each Occurrence
\$2,000,000 General Aggregate

The policy is to be endorsed for the aggregate limit to apply to this Agreement. Where Excess liability insurance is used in connection with primary liability insurance, the combination of such must allow total limits of liability to be in amounts not less than the above specified amounts.

- C. **Automobile Liability Insurance.** The Consultant shall procure and maintain Commercial Automobile Liability Insurance in amounts not less than the following:

\$1,000,000 Combined Single Limit (BI/PD)
\$1,000,000 Combined Single Limit Uninsured/Underinsured Liability

Where excess liability insurance is used in connection with primary liability insurance the combination of such must allow total limits of liability to be in amounts not less than the above specified amounts.

- D. **Professional Liability Insurance.** Consultant shall procure and maintain Professional Liability Insurance in amounts not less than the following:

\$1,000,000 per Claim and Annual Aggregate

- E. **General Insurance Requirements.** Each such policy of insurance shall:

1. Be produced by agent/brokers who are licensed to transact insurance business in the State of California;
2. Be issued by insurance carriers which are:
 - i. Licensed by the State of California to write business in this state; and
 - ii. Rated no less than "A-, Class VIII" or better by the A.M. Best Consultant.
3. Any insurance carrier which is strategically affiliated with a parent insurance consultant or insurance group must disclose the name of the parent consultant or group in any certificate of insurance documentation provided to the Authority.
4. Name and list the Authority as "Additional Insured," by an endorsement executed by the insurance carrier (this requirement does not apply to Professional Liability or Workers' Compensation Insurance); such endorsement shall be ISO form GC2010 (11/85ed) or its equivalent. Any equivalent shall include the CG 2037- completed operations in favor of the Authority.
5. Specify that it acts as primary insurance and that no insurance held or owned by the additional insured shall be called upon to cover a loss under said policy;

6. Not be canceled until thirty (30) days after receipt by the Authority of a written notice of such cancellation as evidenced by receipt of a mailed letter;
7. Show evidence of renewal of an expiring policy once the insurance has been approved by the Authority. Prior approval must be obtained if the coverage or limits of the policy or the carrier has changed.

IX. HOLD HARMLESS AND INDEMNIFICATION

Consultant shall hold, and defend with counsel of Authority's choice, the Authority, its agents, officers, employees, and volunteers free and harmless from any and all claims, liabilities, penalties, fines, or any damage to property, whether real or personal, including attorney fees and court costs, arising from any negligent act or omission to act by Consultant, its officers, agents, and employees caused by, or resulting from, or claimed to have been caused by Consultant.

Notwithstanding the foregoing, in the event the subject action alleges negligence on the part of the Authority, or any third party not under contract with Consultant, Consultant's obligations regarding Authority's defense under this paragraph include only the reimbursement of Authority's reasonable defense costs incurred to the extent of Consultant's negligence as expressly determined by a final judgment, arbitration, award, order, settlement, or other final resolution. Consultant shall not be responsible for warranties, guarantees, fitness for a particular purpose, breach of fiduciary duty, loss of anticipated profits or for economic, incidental, or consequential damages to Authority or any third party arising out of breach of contract, termination, or for any other reason whatsoever. Additionally, Consultant shall not be responsible for acts and decisions of third parties, including governmental agencies, other than Consultant's subconsultants, that impact project completion and/or success.

X. STANDARD OF CARE

Consultant's services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. Services shall be performed to Authority's reasonable satisfaction.

XI. ASSIGNMENT

Authority has entered into this Agreement to receive professional services from Consultant. Consultant shall not sell, assign, or transfer Consultant's rights or obligations under this Agreement without Authority's prior written consent, which consent may be withheld in the Authority's sole discretion. Consultant may make use of the part-time

assistance of other experts possessing unique skills, the utilization of which will, in the opinion of Consultant, enhance the quality of service to Authority.

XII. SAFETY

Consultant will ensure that employees, and the employees of subcontractors, are notified of and observe and abide by safety regulations and laws. Consultant shall immediately notify Authority of damage to property and/or injury to, or death of persons, which occurs in connection with, or is related to the project. Consultant shall furnish Authority a written report of such damage or injury within three (3) working days.

XIII. TERMINATION

Authority may terminate this Agreement, in whole or in part, with or without cause, upon seven (7) days written notice to Consultant. Upon receipt of the termination notice, Consultant shall promptly discontinue services unless the notice directs to the contrary. In the event Authority renders such written notice to Consultant, Consultant shall be entitled to compensation for services rendered prior to the effective date of the notice and further services set forth in the notice. Authority shall be entitled to reimbursement for compensation paid in excess of services rendered. Consultant waives claims for damages that might arise from Authority's termination of this Agreement. Consultant shall deliver to the Authority and transfer title (if necessary) to all completed work and work in progress, including drafts, documents, plans, forms, maps, products, graphics, computer programs, and reports.

XIV. CONSULTANT RESPONSIBILITIES

A. EMPLOYEES:

1. **Background/Security:** Consultant warrants that all personnel engaged in the performance of this work are legal employees of the Consultant and possess sufficient experience.
2. **Health:** All personnel shall be in good health and free of contagious diseases. Consultant shall not allow any persons(s) under the influence of alcohol or drugs on Authority's property. Neither shall the Consultant allow the use of presence of alcohol or drugs on Authority's property.
3. **Conduct:** Any employee or subcontractor or Consultant performing work on Authority property while under the influence of alcohol or drugs or whose conduct interferes with proper performance of the work or with Authority's operations shall be immediately removed from the work site and not permitted at the worksite thereafter.

4. Supervision: Consultant shall provide a supervisor or foreman who shall be present at all times during contract operations and who shall be responsible for both conduct and workmanship. The supervisor or foreman shall be able to communicate effectively in both written and oral English.
 5. Training: Consultant shall have an ongoing training program for its entire staff. Consultant shall provide only personnel that have been fully trained for performance of this work. Supervisors shall have been trained in supervision as well as technical training.
 6. Gifts and Gratuities: Consultant shall establish precautions to prevent its employees or agents from making, providing, or offering gifts, entertainment, payments, loans, or other considerations which could be deemed to appear to influence individuals to act contrary to the best interest of the Authority.
- B. Conflict of Interest: Consultant shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the Authority. Consultant shall make a reasonable effort to prevent employees, Consultant, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others such as those with whom they have family business or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and State law. In the event the Authority determines a conflict of interest situation exists, any increase in costs associated with the conflict of interest situation may be disallowed by the Authority, and such conflict may constitute grounds for termination of this Agreement. This provision shall not be construed to prohibit employment of persons with whom Consultant's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

XV. MISCELLEANOUS:

- A. To the extent the terms and conditions contained herein are inconsistent with the terms and conditions contained in Consultant's proposal, the terms and conditions in this Agreement shall govern.
- B. There are no understandings or agreements except as herein expressly stated.


- C. If a provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated.
- D. As applicable, Consultant shall not be suspended or debarred pursuant to the provisions of 31 U.S.C. 6101, note, E.O. 12549, E.O. 12689, 48 CFR 9.404, and each agency's codification of the Common Rule for Non-procurement suspension and debarment.
- E. Original papers, maps, models, designs, studies, surveys, reports, data, notes, computer files, documents, drawings, and other work product (collectively "Work Product") of Consultant produced by Consultant, except documents which are required to be filed with public agencies, shall be deemed solely the property of Authority. Consultant will take such steps as are necessary to perfect or protect the ownership interest of Authority in such Work Product. Upon completion, expiration, or termination of this Agreement, Consultant shall turn over to Authority all such original Work Product in Consultant's possession or control. Consultant may retain a file copy. Any reuse of completed documents or use of partially completed documents without written verification or concurrence by Consultant for the specific purpose intended will be at Authority's sole risk and without liability or legal exposure to Consultant.
- F. Consultant shall not release information or Work Product to persons or entities other than Authority without the prior written consent of Authority, except as otherwise required by law. Consultant shall promptly notify Authority should Consultant, or its representatives be served summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions, other discovery request, or court order from any third party regarding this Agreement and the services performed.
- G. This Agreement may not be amended except by a subsequent writing which is signed by the Parties.
- H. This Agreement shall be governed by the laws of the State of California. Venue for a dispute shall be State courts located in Kern County, California. Parties consent to the exercise of personal jurisdiction over them by any such courts for purposes of any such action or proceeding.
- I. All work, labor, and materials shall be done and provided in strict conformity with each of the following: (i) all laws, ordinances, codes, rules, regulations, and standard specifications of governmental authorities having jurisdiction over Consultant's work; and (ii) this Agreement. Consultant shall also comply, at Consultant's expense, with all requirements of inspectors of any

governmental authority having jurisdiction over Consultant's work. The Consultant will be responsible for securing any and all required governmental inspections and approvals for the work completed.

- J. If any disputes should arise between the Parties concerning the work to be done under this Agreement, the payments to be made, or the manner of accomplishment of the work, Consultant shall nevertheless proceed to perform the work as directed by Authority pending settlement of the dispute.
- K. The fact that Authority has made payment shall not be interpreted to imply Authority has inspected, approved, or accepted the work which has been performed by Consultant. No delay or omission in the exercise of any right or remedy by the non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision.
- L. No director, officer, or employee of the Authority shall have any financial interest, direct or indirect, in this Agreement nor shall any such director, officer, or employee participate in any decision relating to this Agreement which affects his/her financial interest or the financial interest of any corporation, partnership, entity, or association in which he/she is directly or indirectly interested, in violation of any State or Federal statute or regulation. The Consultant warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.
- M. Time shall be of the essence as to times of performance. Neither party shall be responsible for delays beyond their reasonable control.
- N. Each Party represents and warrants to the other Party that all necessary action has been taken by such Party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations hereunder.
- O. This Agreement is binding upon the successors and assigns of the Parties.
- P. The services to be performed by Consultant are intended solely for the benefit of Authority. No person or entity not a signatory to this Agreement shall be entitled to rely on Consultant's performance of its services hereunder, and no right to assert a claim against Consultant by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of Consultant's services hereunder.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

STETSON ENGINEERS INC.

By: 
Stephen B. Johnson, P.E.
President, Stetson Engineers Inc.

Date: 8/21/17

**INDIAN WELLS VALLEY GROUNDWATER
AUTHORITY**

By: 
Mick Gleason, Board Chairperson

Date: 9/5/17

Approved as to Form

By: 
Philip W. Hall, General Counsel

Date: 8/30/17

EXHIBIT A FEE SCHEDULE



2171 E. Francisco Blvd., Suite K • San Rafael, California 94901
Phone: (415) 457-0701 • FAX: (415) 457-1638 • Website: www.stetsonengineers.com

Northern California • Southern California • Arizona • Colorado

Standard Billing Rate Schedule Professional Fees

Principal	\$230.00	Per Hour
Special Project Director	\$230.00	Per Hour
Project Manager, Senior	\$200.00	Per Hour
Supervisor I	\$200.00	Per Hour
Supervising Soil Scientist	\$185.00	Per Hour
Supervisor II	\$185.00	Per Hour
Supervisor III	\$180.00	Per Hour
Senior I	\$160.00	Per Hour
Senior II	\$145.00	Per Hour
Senior III	\$130.00	Per Hour
Construction Manager	\$130.00	Per Hour
Construction Manager / Oversight	\$115.00	Per Hour
Senior Construction Inspector	\$115.00	Per Hour
Senior Field Geologist	\$130.00	Per Hour
Senior Associate	\$120.00	Per Hour
Associate I	\$115.00	Per Hour
Associate II	\$110.00	Per Hour
Associate III	\$105.00	Per Hour
Associate Soil Scientist	\$105.00	Per Hour
Senior Assistant	\$100.00	Per Hour
Assistant I	\$95.00	Per Hour
Assistant II	\$90.00	Per Hour
Assistant Soil Scientist	\$90.00	Per Hour
Assistant III	\$85.00	Per Hour
GIS Manager	\$115.00	Per Hour
GIS Specialist I	\$95.00	Per Hour
GIS Specialist II	\$85.00	Per Hour
Technical Illustrator	\$85.00	Per Hour
AutoCAD Technician	\$85.00	Per Hour
Soil Technician	\$75.00	Per Hour
Aide I	\$70.00	Per Hour
Aide II	\$60.00	Per Hour
Aide III	\$55.00	Per Hour
Project Coordinator I	\$130.00	Per Hour
Project Coordinator II	\$95.00	Per Hour
Project Coordinator III	\$85.00	Per Hour
Contract Management	\$100.00	Per Hour
Administrative I	\$70.00	Per Hour
Administrative II	\$65.00	Per Hour
Administrative III	\$60.00	Per Hour

Effective January 1, 2017

W A T E R R E S O U R C E P R O F E S S I O N A L S
S E R V I N G C L I E N T S S I N C E 1 9 5 7

Direct Expense Rates

Expense Description	Billing Rate
Fax	\$0.30 / Page
Mileage	\$* / Mile
Reproduction: Black & White (In-House)	\$0.15 / Page
Reproduction: Color - 8.5" x 11" (In-House)	\$0.89 / Page
Reproduction: Color - 11" x 17" (In-House)	\$1.89 / Page
Plotter Reproduction (In-House)	\$1.50 / Sq. Ft.
4x4 Truck with Drill Rig	\$150.00 / Day
Survey Equipment	\$120.00 / Day

*Mileage is billed at the current IRS approved mileage rate and may be subject to change.

All other project reimbursable expenses (i.e., telephone, commercial transportation, meals, lodging, postage, outside reproduction, etc.) will be billed at cost.

Note: Testimony fees are 150% of standard rates and apply to depositions, court time and time spent on stand-by at attorney's request. Travel time and preparation time is charged at standard rates. Stetson Engineers Inc. authorizes only staff at associate classification or higher to testify as expert witnesses.