

AGENDA SUBMITTAL

TO: GCSD Board of Directors

FROM: GCSD Staff

DATE: January 8, 2017

SUBJECT: Consider for Approval Resolution 1-18, A Resolution of the Groveland Community Services District Authorizing an Amendment to CalPERS Contract

SUMMARY

At the December 11, 2017 Board meeting, the Board approved Resolution 13-17, a resolution of intention to amend the existing contract between CalPERS and the District regarding the classic employee member contribution. The District has performed the employee election as required by CalPERS regarding their agreement to the cost share change and submitted the documents to CalPERS.

CalPERS has issued the District the final resolution in which the Board must adopt to officially make this cost share amendment to the contract.

Financial Impact:

Staff has been assured by CalPERS that this will not impact the District financially in the future should a staff member choose to withdraw their funds from CalPERS. The staff member will be able to withdraw their contribution, and the contribution made on behalf of the withdrawing staff member by the District will remain with CalPERS.

Attachments:

1. Resolution 1-18
2. Letter from CalPERS outlining process and requirements
3. Official Amendment to CalPERS Contract

RECOMMENDED ACTION

Approve Resolution 1-18, A Resolution of the Groveland Community Services District Authorizing an Amendment to CalPERS Contract

GROVELAND COMMUNITY SERVICES DISTRICT

**RESOLUTION
AUTHORIZING AN AMENDMENT TO THE CONTRACT**

No. 1-18

WHEREAS, the Board of Administration of the California Public Employees' Retirement System and the Board of Directors of the Groveland Community Services District entered into a contract effective on January 1, 1973 providing for the participation of said public agency in the California Public Employees' Retirement System; and

WHEREAS, it is now desirable to take advantage of certain benefits provided under said Retirement System and not included in said contract;

NOW, THEREFORE, BE IT RESOLVED, that said governing body authorized, and it does hereby authorize, an amendment to said contract, a copy of said amendment attached hereto and by such reference made a part hereof as though herein set out in full; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the presiding officer of said governing body is hereby authorized, empowered and directed to execute said amendment for and on behalf of said public agency.

Adopted this 8th day of January, 2018.

Presiding Officer

Attest:

Clerk/Secretary



P.O. Box 942709 Sacramento, CA 94229-2709
888 CalPERS (or 888-225-7377)
TTY: (877) 249-7442 | Fax: (916) 795-3005
www.calpers.ca.gov

California Public Employees' Retirement System

December 28, 2017

CalPERS ID #4899312259

Mr. Jonathan Sterling
General Manager
Groveland Community Services District
18966 Ferretti Road
Groveland, CA 95321

Dear Mr. Sterling:

Thank you for returning the Resolution of Intention to amend your CalPERS retirement contract to provide Section 20516 (Employees Sharing Additional Cost) of 2.5% for classic miscellaneous members.

Also provided are the following documents necessary to complete the proposed amendment:

1. Amendment to Contract.
2. Resolution, Form CON-13. This Resolution must be adopted by affirmative vote of a majority of the members of the governing body no earlier than twenty days after the adoption of the Resolution of Intention. Failure to comply may result in the delay of the anticipated effective date of the amendment.
3. Certification of Final Action of Governing Body, Form CON-5.

Your agency adopted the Resolution of Intention on December 11, 2017, therefore, the earliest date the final Resolution may be adopted is December 31, 2017, pursuant to Government Code Section 20471. There are no exceptions to this law.

The effective date of this amendment cannot be earlier than the first day of a payroll period following the adoption of the final Resolution. Please insert the effective date on the last page of the Amendment to Contract.

The following documents must be submitted through my|CalPERS and the original documents must be returned to this office by mail. ORIGINAL SIGNATURES ARE REQUIRED ON ALL CONTRACTS.

1. Amendment to Contract, two original executed sets.
2. Resolution, Form CON-13.
3. Certification of Final Action of Governing Body, Form CON-5.

Please notify your personnel/payroll staff and any others who submit payroll or membership documents to CalPERS on behalf of the agency, such as county courts and port districts, of the following information as of the effective date of the amendment to the contract:

The classic local miscellaneous member contribution rate will be 10.5% of reportable earnings.

Please do not retype the Amendment to Contract and/or agreement documents. Only documents provided by this office will be accepted. If you have any questions regarding any documents, please contact this office prior to presenting to your governing body for adoption. Another contract amendment cannot be started until this amendment is completed or cancelled.

A copy of the contract will be returned for your records after it has been executed by CalPERS.

We are here to assist you. If you have any questions or would like additional information, please visit our website www.calpers.ca.gov, or you may contact us toll free at **888 CalPERS** or (888-225-7377).

Sincerely,



Danielle Brooks
Employer Representative
Public Agency Contract Services

DB:jn

Enclosures



California
Public Employees' Retirement System



AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
Board of Directors
Groveland Community Services District



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective January 1, 1973, and witnessed December 12, 1972, and as amended effective February 1, 1974, February 1, 1982, December 1, 1986, October 12, 1994, January 11, 1995, March 21, 2001 and April 11, 2007 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective April 11, 2017, and hereby replaced by the following paragraphs numbered 1 through 17 inclusive:
 - 1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members, 62 for new local miscellaneous members, age 50 for classic local safety members and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after January 1, 1973 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **ELECTIVE OFFICIALS; AND**
 - b. **POLICE OFFICERS.**
6. Prior to January 1, 1975, those members who were hired by Public Agency on a temporary and/or seasonal basis not to exceed 6 months were excluded from PERS membership by contract. Government Code Section 20336 superseded this contract provision by providing that any such temporary and/or seasonal employees are excluded from PERS membership subsequent to January 1, 1975. Legislation repealed and replaced said Section with Government Code Section 20305 effective July 1, 1994.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after April 11, 2007 shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified and Full).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after April 11, 2007 shall be determined in accordance with Section 21354.5 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2.7% at age 55 Modified and Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Supplemental to Federal Social Security).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local safety member shall be determined in accordance with Section 21362 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 50 Modified).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2% at age 57 Supplemental to Federal Social Security).

12. Public Agency elected and elects to be subject to the following optional provisions:

- a. Section 20965 (Credit for Unused Sick Leave).
- b. Section 20042 (One-Year Final Compensation) for classic members only.
- c. Section 21024 (Military Service Credit as Public Service).
- d. Section 20516 (Employees Sharing Additional Cost):

From and after the effective date of this amendment to contract, 2.5 for classic local miscellaneous members.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

13. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on February 1, 1982. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.

14. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

15. Public Agency shall also contribute to said Retirement System as follows:

- a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
- b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

16. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
17. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the 17 day of January, 2018.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF DIRECTORS
GROVELAND COMMUNITY SERVICES
DISTRICT

BY _____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

STAFF REPORT

AGENDA ITEM: Adopt three Resolutions required by the State Water Resources Control Board as part of the DWSRF application

MEETING DATE: January 8th, 2018

PREPARED BY: Alfonso Manrique, District Engineer

RECOMMENDATION:

Board of Directors to adopt three resolutions required by the State Water Resources Control Board (SWRCB) as part of the Drinking Water State Revolving Fund (DWSRF) Application.

BACKGROUND:

The District is applying to the SWRCB DWSRF to fund water distribution system improvements within downtown Groveland, Big Oak Flat and the White Gulch area. The SWRCB requires that the applicant's Governing Board adopt three resolutions. The resolutions are as follows:

- ❖ A Resolution authorizing the General Manager to sign and file a financial assistance application to the DWSRF for the design and construction of water distribution system improvements within downtown Groveland, Big Oak Flat and the White Gulch area.
- ❖ A resolution authorizing the General Manager to sign the financing agreement, amendments, and certifications for funding, to approve claims for reimbursement, to execute budget and expenditure summary, to sign final release form and to sign certification of the project completion, and pledging and dedicating net water revenues to pay DWSRF financing.
- ❖ A Resolution stating the Board's intention to be reimbursed for expenditures incurred ahead of the approval of the disbursement of DWSRF construction funds.

DISCUSSION:

The adoption of these three resolutions is a requirement to complete the DWSRF Construction application. Once the application is submitted the SWRCB will determine the project's eligibility for funding.

Once approved, the SWRCB will begin drafting a financing agreement which may take up to a year to complete. SWRCB staff have not indicated how much of the project will be grant funded. However, the current intended use plan for the DWSRF indicates that the District should be eligible for up to \$6 million in grant. If there is a loan component, the District will reimburse the SWRCB using net revenues from the water fund.

FISCAL IMPACT:

The adoption of these Resolutions has no Fiscal Impact.

ATTACHMENTS:

1. Resolution No. 2-18 titled: *"RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT AUTHORIZING THE GENERAL MANAGER TO SIGN AND FILE A FINANCIAL ASSISTANCE APPLICATION TO THE STATE WATER RESOURCES CONTROL BOARD FOR THE CONSTRUCTION OF THE WATER DISTRIBUTION SYSTEM IMPROVEMENTS PROJECT."*
2. Resolution No. 3-18 titled: *"A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT AUTHORIZING THE GENERAL MANAGER TO SIGN FINANCING AGREEMENT, AMENDMENT, AND CERTIFICATIONS FOR FUNDING UNDER THE DRINKING WATER STATE REVOLVING FUND (DWSRF); AUTHORIZING GENERAL MANAGER TO APPROVE CLAIMS FOR REIMBURSEMENT; AUTHORIZING GENERAL MANAGER TO EXECUTE BUDGET AND EXPENDITURE SUMMARY; AUTHORIZING GENERAL MANAGER TO SIGN THE FINAL RELEASE FORM AND THE GENERAL MANAGER TO SIGN THE CERTIFICATION OF PROJECT COMPLETION; AND PLEDGING AND DEDICATING NET WATER REVENUES TOWARDS PAYMENT OF DWSRF FINANCING."*
3. Resolution No. 4-18 titled: *"RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT STATING ITS INTENTION TO BE REIMBURSED FOR EXPENDITURES INCURRED AHEAD OF THE APPROVAL OF THE DISBURSEMENT OF DRINKING WATER STATE REVOLVING FUND (DWSRF) CONSTRUCTION FUNDS FORM THE STATE WATER RESOURCES CONTROL BOARD."*

RESOLUTION NO. 2-18

RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT AUTHORIZING THE GENERAL MANAGER TO SIGN AND FILE A FINANCIAL ASSISTANCE APPLICATION TO THE STATE WATER RESOURCES CONTROL BOARD FOR THE CONSTRUCTION OF THE WATER DISTRIBUTION SYSTEM IMPROVEMENTS PROJECT

WHEREAS, the Groveland Community Services District (GCSD) has the authority to construct, operate, and maintain its water system; and

WHEREAS, the GCSD desires to construct water distribution system improvements to reduce the cost of water maintenance provided to the customers of the GCSD; and

WHEREAS, the Drinking Water State Revolving Fund (DWSRF) provides funding for projects that directly benefit Disadvantaged Communities and Severely Disadvantaged Communities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Groveland Community Services District hereby resolves as follows:

1. The General Manager (the "Authorized Representative") or designee is hereby authorized and directed to sign and file, for and on behalf of the Entity, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the design and construction of Water Distribution System Improvements Project (the "Project").
2. This Authorized Representative, or his/her designee, is designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto.
3. The Authorized Representative, or his/her designee, is designated to represent the Entity in carrying out the Entity's responsibilities under the financing agreement, including certifying disbursement requests on behalf of the Entity and compliance with applicable state and federal laws.

Passed and adopted this 8th day of January, 2018, by the following vote:

AYES:

NOES:

ABSENT:

Robert Swan, Board President of the GCSD

ATTEST:

I, hereby certify that the foregoing resolution was regularly introduced, passed and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District this 8th day of January, 2018.

Jennifer L. Flores, Board Secretary of the GCSD

RESOLUTION NO. 3-18

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT AUTHORIZING THE GENERAL MANAGER TO SIGN FINANCING AGREEMENT, AMENDMENT, AND CERTIFICATIONS FOR FUNDING UNDER THE DRINKING WATER STATE REVOLVING FUND (DWSRF); AUTHORIZING GENERAL MANAGER TO APPROVE CLAIMS FOR REIMBURSEMENT; AUTHORIZING GENERAL MANAGER TO EXECUTE BUDGET AND EXPENDITURE SUMMARY; AUTHORIZING GENERAL MANAGER TO SIGN THE FINAL RELEASE FORM AND THE GENERAL MANAGER TO SIGN THE CERTIFICATION OF PROJECT COMPLETION; AND PLEDGING AND DEDICATING NET WATER REVENUES TOWARDS PAYMENT OF DWSRF FINANCING.

WHEREAS, the Groveland Community Services District (GCSD) owns and operates a water distribution system that provides drinking water to both the year-round and temporary GCSD residents; and

WHEREAS, the GCSD would like to provide improved water service and lower the cost of providing water maintenance; and

WHEREAS, the GCSD seeks financing from the State Water Resources Control Board for the Water Distribution System Improvements Project (the "Project").

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the GCSD hereby resolves as follows:

1. The GCSD (the "Entity") hereby dedicates and pledges of the water revenue fund to payment of any and all Drinking Water Stater Revolving Fund and/or Water Recycling Funding Program financing for the Project.
2. The Entity commits to collecting such revenues and maintaining such fund(s) throughout the term of such financing and until the Entity has satisfied its repayment obligation thereunder unless modification or change is approved in writing by the State Water Resources Control Board.
3. So long as the financing agreement(s) are outstanding, the Entity's pledge hereunder shall constitute a lien in favor of the State Water Resources Control Board on the foregoing fund(s) and revenue(s) without any further action necessary. So long as the financing agreement(s) are outstanding, the Entity commits to maintaining the fund(s) and revenue(s) at levels sufficient to meet its obligations under the financing agreement(s).

Passed and adopted this 8th day of January, 2018, by the following vote:

AYES:

NOES:

ABSENT:

Robert Swan, Board President of the GCSD

ATTEST:

I, hereby certify that the foregoing resolution was regularly introduced, passed and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District this 8th day of January, 2018.

Jennifer L. Flores, Board Secretary of the GCSD

RESOLUTION NO. 4-18

RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT STATING ITS INTENTION TO BE REIMBURSED FOR EXPENDITURES INCURRED AHEAD OF THE APPROVAL OF THE DISBURSEMENT OF DRINKING WATER STATE REVOLVING FUND (DWSRF) CONSTRUCTION FUNDS FROM THE STATE WATER RESOURCES CONTROL BOARD

WHEREAS, the Groveland Community Services District (the "Agency") desires to finance the costs of constructing and/or reconstructing certain public facilities and improvements relating to its water system, including certain pipelines and other infrastructure (the "Project"); and

WHEREAS, the Agency intends to finance the construction and/or reconstruction of the Project or portions of the Project with moneys ("Project Funds") provided by the State of California, acting by and through the State Water Resources Control Board (State Water Board); and

WHEREAS, the State Water Board may fund the Project Funds with proceeds from the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"), and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Board of the Project Funds the Agency desires to incur certain capital expenditures (the "Expenditures") with respect to the Project from available moneys of the Agency; and

WHEREAS, the Agency has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Agency for the Expenditures from the proceeds of the Obligations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Groveland Community Services District hereby resolves as follows:

SECTION 1. The Agency hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State Water Board of the Project Funds.

SECTION 2. The reasonably expected maximum principal amount of the Project Funds is \$6,000,000.

SECTION 3. This resolution is being adopted no later than 60 days after the date on which the Agency will expend moneys for the construction portion of the Project costs to be reimbursed with Project Funds.

SECTION 4. Each Agency expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

SECTION 5. To the best of our knowledge, this Agency is not aware of the previous adoption of official intents by the Agency that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 6. This resolution is adopted as official intent of the Agency in order to comply with Treasury Regulation §1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

SECTION 7. All the recitals in this Resolution are true and correct and this Agency so finds, determines and represents

Passed and adopted this 8th day of January, 2018, by the following vote:

AYES:

NOES:

ABSENT:

Robert Swan, Board President of the GCSD

ATTEST:

I, hereby certify that the foregoing resolution was regularly introduced, passed and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District this 8th day of January, 2018.

Jennifer L. Flores, Board Secretary of the GCSD

AGENDA SUBMITTAL

To: GCSD Board of Directors

From: GCSD Staff

Date: January 8, 2018

Subject: Consider for Approval Professional Services Contract Agreement between Groveland Community Services District and RTC Construction Management, Inc., for Force Main Improvements

Summary

The District would like RTC Construction Management Inc. to rehab Lift Station 13 Force Main Inspection Tees. The project would include the rehab of five (5) existing inspection tees and the installation of approximately four (4) new inspection tees. Out of the District's 16 Force Mains, Lift Station 13 is the top priority due to the fact that it runs under the lake in front of the spill way.

The State granted the District permission to use the remaining portion of the Planning Grant for the Big Oak Flat and Groveland Sewer line rehabilitation project, for work inside PML. The planning grant has approximately \$200,000 remaining, and this work is not to exceed that total. RTC will work for time and material and would like to start January 2018 and has a proposed completion date of March 2018. RTC rehabbed all of a Lift Station 16 Force Main Inspection tees/gate valves and has a good understanding of what the District is looking for. Staff has been very pleased with the quality of work RTC has performed for the District.

Recommended Action

Approval Professional Services Contract Agreement between Groveland Community Services District and RTC Construction Management, Inc., for Force Main Improvements

**PROFESSIONAL SERVICES
CONTRACT AGREEMENT**

Job No. 17064

Contract No. 17064

This Professional Services Contract Agreement (the "Contract") is made and entered into at Merced, California as of the date last written below by and between RTC Construction Management, Inc., a California corporation ("RTC") and Owner Groveland Community Services District ("GCSD" or "Owner") for the labor, services and materials as described herein, in accordance with the plans, specifications and drawings therefore (collectively, the "Plans and Specifications").

DEFINITIONS:

As used herein, the following terms shall have meanings set forth below:

A. CONTRACTOR:

RTC CONSTRUCTION MANAGEMENT,
INC., a California corporation
731 E. Yosemite Ave, Suite B127, Merced,
California 95340
Contractor's License No. 984766

B. OWNER:

GROVELAND COMMUNITY SERVICES
DISTRICT
18966 Ferretti Rd.
Groveland, CA 95321

C. PROJECT NAME & LOCATION:

Groveland Force Main Improvements
Various Locations
Groveland, CA

D. CONTRACT PRICE:

TBD- Time & Material rates as provided
in Appendix AA

**E. ANTICIPATED STARTING
DATE:**

January 2018

**F. ANTICIPATED COMPLETION
DATE:**

March 2018

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. *Scope of Work.* Subject to the terms and conditions of this Contract, RTC agrees to furnish all labor, materials, equipment, supplies, and other things necessary or desirable to complete that portion of the work (the Work) at the Project in accordance with the Plans and Specifications, which have been provided by Owner. All Work shall be performed by RTC in a skillful and workmanlike manner.

RTC may employ and retain such subcontractors, laborers, material men, and suppliers as it deems necessary or appropriate for the construction of the Work and the completion of RTC's obligations hereunder. RTC shall not be liable for any deficiencies, omissions, or inherent conditions in (i) the Plans and Specifications, (ii) the Project, or (iii) other prime contracts entered into between Owner and Contractor other than RTC which may impact the construction and/or repair of the Project.

In the event of any discrepancy between the Plans and Specifications and either (i) the Prime Contract or (ii) the actual field conditions at the Project, RTC shall complete the Work in conformance with the Prime Contract or the actual field conditions, as the case may be, subject to a fair and reasonable increase in the Contract Price.

2. *Commencement and Progress.* Owner shall keep RTC thoroughly informed as to the construction of the Project. When the Project is ready for the commencement of the Work, RTC shall commence and prosecute the Work to completion as rapidly as conditions at the Project will permit, and shall endeavor to complete the Work not later than the Anticipated Completion Date.

If the Starting Date for the Work is delayed for any reason, or if RTC is obstructed or delayed in the commencement or prosecution of the Work due to (i) the acts or omissions of Owner, (ii) the conditions at the Project, or (iii) any alterations, deviations, additions, or omissions from the Plans and Specifications, then the Completion Date shall be extended for a period necessary to equalize the time lost due to such obstruction or delay.

3. *Contract Price; Time for Payment.* In consideration for the Work to be performed by RTC, Owner shall pay the Contract Price to RTC. RTC expressly reserves the right to pay each of its subcontractors, laborers, and material men directly, without deduction, withholding, or offset of the Contract Price by Owner.

The Contract Price shall be paid in monthly progress billings. Each monthly invoice shall be based on the value of the Work completed by RTC since the last billing.

Each invoice from RTC to Owner shall be due and payable upon receipt. If any amounts due RTC are not paid within 30 days, a monthly late charge equal to one and one-half percent (1-1/2%) of such overdue amounts shall be immediately due and payable from Developer to RTC. Said late charge shall continue to accrue from month to month until all overdue amounts have been paid in full.

Pending completion of the Work, Developer may retain 5% of each payment due RTC. The entire retained percentage shall be paid to RTC within 30 days after the completion of the Work.

4. *Additional Work; Overtime.* If the Work or the Plans and Specifications are altered, amended, revised, or changed for any reason, Developer and/or Owner shall pay RTC a fair and reasonable amount for all additional materials, labor, and supplies needed in connection therewith, whether or not such additional materials, labor, and supplies are specifically described in this Contract. RTC shall not be required or obligated to provide any such additional materials, labor, or supplies unless Owner has agreed, in writing, to the amount of extra consideration to be paid therefore.

Owner acknowledges that RTC based the Contract Price upon the express assumptions that (a) RTC can begin the Work on the Starting Date, and (b) that RTC can complete the Work by the Completion Date, all without paying any overtime compensation to its laborers or workers: RTC will make every effort to reasonably avoid overtime costs. If RTC is required to pay any overtime compensation to its workers or laborers as a result of (i) the acts or omissions of Owner (or others not affiliated with RTC), (ii) unspecified or omitted conditions of the Project not provided to RTC at the time of bid, (iii) a change in the Starting Date, or (iv) any alterations, deviations, additions, or omissions from the Plans and Specifications, Owner shall compensate RTC in full for all costs and expenses incurred by RTC in connection with such overtime compensation (including payroll taxes), together with a 25% overhead and profit mark-up.

5. *Insurance by RTC.* RTC shall maintain and keep in force (i) adequate Worker's Compensation insurance as required under the laws of the state in which the Work is to be performed, and (ii) automobile insurance for all vehicles used by RTC in connection with the Work, with liability coverage of not less than \$1,000,000 per accident or occurrence. If requested, RTC may list Owner as additional insured under RTC's General Liability and Commercial Auto Insurance Policies for the duration of the project.

RTC shall not be required to procure or maintain any other insurance with respect to the Work or this Contract. RTC may, but shall never be required to, maintain its own policy or policies of fire, property, or casualty insurance. Furthermore, neither

Owner shall have any right or claim, whether express or implied, to any proceeds paid to RTC under any policy or policies of insurance maintained by RTC, nor shall the payment to RTC of any such proceeds relieve Owner of any of its duties and obligations under this Contract.

6. *Insurance by Owner and/or Developer.* Owner and/or Developer shall, at its sole cost and expense, procure and maintain in full force and effect throughout the term of this Contract an all risk policy of insurance insuring RTC and Owner against all risks and liability incident to, or arising from, the Work and the performance thereof by RTC, including, but not limited to, liability for damage or injury to person or property caused by, or resulting from accident, negligence, vandalism, fire, storm, or other peril, with the minimum amount of such coverage to be not less than \$1,000,000 for bodily injury and property damage.

Certificates evidencing such all risk insurance shall be provided to RTC prior to the commencement of the Work, and upon any subsequent request from RTC. Such all risk insurance shall name RTC as an additional insured, and shall provide that the same may not be canceled except upon thirty (30) days prior written notice to RTC.

Owner, for itself and for any insurer, hereby waives all rights of subrogation against RTC under each policy of insurance maintained by Owner with respect to the Work, and shall defend and hold RTC harmless from and against all costs, expenses, or claims incurred or suffered by RTC as result of any action or demand made or brought by Owner's insurer against RTC based on a theory of subrogation. If Owner fails to maintain or provide evidence of any insurance required under this Contract, RTC may, at RTC's election, immediately terminate this Contract.

7. *Destruction of the Work.* If the Project, the Work, or any materials and supplies used or furnished in connection with the Work are damaged or destroyed prior to Owner's acceptance thereof from any cause or event other than RTC's fraud, willful injury to the person or property of another, or violation of law, whether willful or negligent, Owner shall nevertheless pay RTC in full for all such Work and materials and supplies.

8. *Release of Liability.* To the maximum extent permitted by law, and subject to the warranty set forth in the succeeding section 9, Owner, both for itself and for its directors, officers, employees, agents, contractors, subcontractors, assignees, bailors, and representatives, hereby releases RTC and RTC's officers, directors, employees, subcontractors and agents of and from any and all claims, damages, costs, liabilities, attorney fees, rights, liens, contracts, covenants, suits, causes of action, expenses, judgments, orders or awards of any kind or nature for injury or damage to any equipment, supplies, or other personal property at the Project, howsoever caused, which claims or

damages result or arise from the acts or omissions of RTC or any of its officers, directors, employees, subcontractors and agents.

This release made hereby is expressly intended to include, but not be limited to, any claims or damages, but does not include injury or harm caused by RTC's fraud, willful injury to the person or property of another, or violation of law, whether willful or negligent

OWNER RECOGNIZES THAT THE FOREGOING RELEASE AFFECTS IMPORTANT LEGAL RIGHTS, AND HAS READ AND UNDERSTOOD IT BEFORE SIGNING THIS CONTRACT.

9. *Limited Warranty.* For a period of one (1) year from and after the completion of the Work, and provided that Owner has paid RTC all sums due under this Contract, RTC warrants that the Work and all materials and products supplied in connection therewith (but excluding any materials and products covered by a manufacturer's warranty) will perform in accordance with the Plans and Specifications.

Owner must notify RTC at the address set forth on the first page of this Contract if Owner discovers any breach of this warranty. Said notice must be given to RTC in writing within thirty (30) days after Owner discovers such breach of warranty, and Owner must thereafter give RTC a reasonable opportunity to cure such breach.

RTC's liability hereunder is strictly limited to the repair or replacement of any defective or non-conforming materials, products, or workmanship. RTC will never be liable to any person or entity for any commercial loss or other consequential or incidental damages of any kind or nature suffered or incurred by such person or entity as a result of any breach of warranty or any other breach of contract by RTC, including but not limited to, damage or loss to any computer hardware or other electrical equipment.

All provisions of this warranty shall be binding upon Owner and all other persons and entities making any claims or asserting any rights (i) under this Contract or (ii) by or through Owner. Except as set forth in this Section, RTC makes no warranties or representations, whether express, implied, or otherwise with respect to the Work or any materials and products furnished in connection therewith. This warranty is in lieu of all other warranties, and there are no warranties which extend beyond those described herein.

This warranty is the sole and exclusive warranty made by RTC in connection with the Work and each and every part thereof. At the election of RTC, this warranty may be voided if Owner, or its officers, directors, employees, subcontractors,

representatives, or agents (i) performs any service, maintenance, repairs, or alterations on any part of the Work without the prior written approval of RTC, or (ii) adds, removes, changes, replaces, or modifies any part of the Work without the prior written approval of RTC.

In addition to the foregoing, this warranty does not apply to any damage or injury to the Work caused by, or resulting from, alterations, modifications, abuse, misuse, or lack of maintenance by Owner, or its officers, directors, employees, subcontractors, representatives, or agents. Moreover, if any materials or products used in the Work are warranted by the manufacturer, then RTC will furnish Owner with the manufacturer's warranty, and Owner must make all claims for a defect in these products or materials to the manufacturer.

OWNER RECOGNIZES THAT THE FOREGOING WARRANTY AFFECTS IMPORTANT LEGAL RIGHTS, AND HAS READ AND UNDERSTOOD IT BEFORE SIGNING THIS CONTRACT.

10. *Owner's Failure to Pay RTC.* In addition to all other remedies provided to RTC at law or in equity, if Owner fails to pay any sums due RTC under this Contract within ten (30) days after the due date thereof, RTC may stop the Work and terminate this Contract. In such event, Owner shall pay RTC (i) for all Work performed to the date of such termination, plus (ii) liquidated damages in an amount equal to twenty-five percent (25%) of the value of any Work not yet performed as of the date of such termination, said liquidated damages being the parties reasonable estimate of RTC's damages in the event of Owner's wrongful termination of this Contract.

11. *RTC's Equipment.* Owner shall not use or operate any of RTC's equipment, supplies, scaffolding, or materials without the express written consent of RTC.

12. *Cleanup; Utilities.* RTC shall clean up and remove all debris, rubbish, and surplus materials from the Project as the Work progresses. All reasonable quantities of utilities needed for the Work will be furnished to RTC at no cost to RTC.

13. *Arbitration.* Any controversy or dispute that the parties cannot informally resolve regarding the performance or interpretation of any of the terms and conditions of this Contract shall be submitted to binding arbitration. Such arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and the venue for such arbitration shall be in Merced County, California.

The arbitrator's fee and other costs of arbitration (but not attorney's fees as

set forth in the succeeding section 14) shall be split equally between the parties to the dispute. The arbitration hearing shall be conducted in accordance with all rules of evidence under California law.

The decision of the arbitrator regarding any such dispute shall be set forth in a written award containing findings of fact and conclusions of law, and shall be final and binding upon the parties and their heirs and assigns. Any party may apply to any court of competent jurisdiction for the enforcement of any decision of the arbitrator, and such court shall be empowered to grant such equitable and/or legal relief and orders as may be necessary or required to enforce and implement such decision.

14. *Attorneys' Fees.* If any party to this Contract shall commence arbitration based on this Contract or take other legal action for the enforcement or interpretation of any of the provisions of this Contract, including such suit or action as may be necessary or germane to resolve or address any issues peculiar to federal bankruptcy law, the non-prevailing party or parties in such action shall, in addition to whatever judgment is rendered or award is granted in that action, pay all expenses and costs incurred by the prevailing party in connection with such action, including a reasonable amount for attorneys fees, expert witness fees, and costs.

15. *Further Assurances.* The parties shall perform such further acts and shall execute and deliver such other and further documents as may be required to effectuate the terms and conditions of this Contract.

16. *Notices.* Any notices to be given under this Contract shall be in writing, and unless in fact otherwise received, shall be considered effectively given by mailing of the same by United States first-class mail, postage prepaid or by personal delivery thereof, transmitted to the addresses set forth on the first page of this Contract. Notices given by mail shall be effective two (2) days after the date of deposit in the mails. Notices given by personal delivery shall be effective upon delivery.

17. *Force Majeure.* RTC shall not be liable or responsible for any damage or harm caused by, or resulting from, any condition or occurrence affecting or concerning the Work, the Prime Contract, the Plans and Specifications or the Project which is beyond the reasonable control of RTC, including, but not limited to, (i) acts of God, (ii) strike, (iii) work slow down, (iv) worker unavailability, (v) earthquakes, (vi) fire, (vii) loss or damage resulting from inherent qualities of the Work, the Prime Contract, the Plans and Specifications, or the Project, (viii) flood, (ix) truck, car, rail, equipment or material shortage or unavailability, (x) freight embargo, (xi) governmental action, or any other cause or causes or conditions beyond the reasonable control of RTC.

18. *Entire Contract; Modifications.* This Contract sets forth the entire agreement of the parties with respect to the Work and all other matters contained herein. Any and all prior agreements concerning the same, whether oral or written, are superseded by this Contract. This Contract may only be modified or amended by a later agreement signed by both parties.

19. *Recitals Part of Contract; Authorization by Developer.* The recitals set forth in the beginning of this Contract are expressly incorporated herein and deemed a part of this Contract by this reference. To the best of the knowledge of the parties, each such recital is true, correct, and accurate. Developer has taken all corporate and other actions necessary for the due execution and delivery of this Contract. This Contract has been duly and validly authorized, executed and delivered by Developer, and is binding and enforceable against it.

20. *Governing Law.* This Contract shall be construed and governed in accordance with the laws of the State of California.

21. *Time and Benefit.* Time is of the essence of this Contract and each and every provision hereof. Subject to all other provisions of this Contract, this Contract shall be binding upon and inure to the benefit for the successors and assigns of the parties hereto.

22. *Independent Contractor.* RTC is an independent contractor. RTC shall pay all federal and state taxes relating to its work, including sales, use, employment, and other taxes, insurance and contributions for social security and unemployment, etc.

23. *Compliance with License Law.* In compliance with section 7030 of the Business and Professional Code of the State of California, the following statement is hereby set forth:

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation.

Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board:

CONTRACTORS STATE LICENSE BOARD
Post Office Box 26000

Sacramento, California 95826

IN WITNESS WHEREOF, the parties have executed this Contract on the dates written below.

Contractor:

Owner:

**RTC Construction Management, Inc.,
a California corporation**

**Groveland Community Services
District**

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit AA

**CONTRACTORS PROPOSAL, PLANS, AND SPECIFICATIONS FOR THE
WORK**



~ Service Proposal ~

TO: Groveland Community Services District	DATE: 12/21/2017
ATTN: Jon Sterling/Luis Melchor	
REF: Sewer Force Main Improvements	

RTC CONSTRUCTION MANAGEMENT, INC. IS PLEASED TO OFFER OUR SERVICES AS DESCRIBED BELOW AS A PART OF THIS PROPOSAL.

Proposal Name: Sewer Force Main Improvements- Various Locations
 Proposal #: 122117-1
 Proposal Amount: To Be Determined

Drawings Ref: ✓ Various
 Specifications Ref: ✓ None
 Addenda Acknowledged: ✓ None

SCOPE OF WORK

- Work is to be performed on a Time & Materials basis at the direction of the Groveland Community Services District. RTC CM, Inc. to provide Labor, Equipment, & Materials to upgrade, alter, improve, change, or install improvements at various sites. Scope of work is defined as follows:
 - Provide new fittings, valves, piping, and incidentals needed to complete various work to upgrade existing or provide new inspection and testing points on existing Sanitary Sewer Force Main piping at various locations of the District owned pipelines.
 - Quantity and locations of improvements is to be determined and directed by the District.
 - Work is to be performed by RTC CM, Inc. with support services provided by the District
 - Costs for the work performed are to be billed by RTC CM, Inc. for actual work performed and completed and based on a "Time and Materials" billing format.

➤ Rates:

- **Labor Wages**- Hours for labor will be billed for each man hour spent and dedicated to the completion of each District directed task. Hourly wage amount will be based on the current California Prevailing Wage Rate for the applicable area and task. Current rates can be viewed and downloaded at: <http://www.dir.ca.gov/OPRL/2017-2/PWD/Northern.html>
 - Payroll Tax Burden: +18% applied to the wage of each hour billed
 - Worker's Compensation Insurance: +12% applied to the wage of each hour billed
- **Equipment Rates**- Equipment will be billed for each hour a specific piece of equipment is used in connection with the completion of each District directed task. The hourly rate will be determined by the current Caltrans Equipment Rental Rates for the applicable equipment item. Caltrans equipment rates can be viewed and downloaded at: <http://www.dot.ca.gov/hq/construc/equipmnt.html>
- **Materials**- The cost of materials purchased by RTC CM, Inc. and used or intended to be used for each District directed task will be billed based on the actual cost of the material plus applicable sales tax. If requested, copies of vendor or supplier invoices can be provided to the District at the time of billing in order verify material costs.

➤ Markups for Overhead & Profit

- Overhead Markup: +20% applied to the costs for Labor, Equipment, & Materials
- Profit Markup: +5% applied to the costs for Labor, Equipment, & Materials

EXCLUSIONS & CONDITIONS

1. All permits and all costs associated with permits have been excluded.
2. RTC CM, Inc. will make all reasonable efforts to identify and avoid all existing utilities through reasonable site investigations and USA requests prior to all excavations. RTC CM, Inc. will not be held responsible for the costs or repairs of existing unknown or unidentified utilities impacted during excavations.
3. All work is to be performed during normal business hours 7:00 am to 5:00 pm, Monday – Friday.

PAYMENT TERMS

Payment terms are NET 30 from the date RTC CM, Inc. invoice is submitted to client. Late payments will be subject to a 1.5% per month service charge or the maximum amount allowed by State and Federal Law.

CANCELLATION POLICY

Please be aware that RTC Construction Management, Inc. maintains a strict policy regarding cancellations and payments in regards to proposals and services of this nature. Once executed, if the client choses to terminate or cancel the terms of this proposal at any time, all monies or payments received by RTC Construction Management, Inc. will be considered non-refundable and will not be returned. In addition, the client will remain directly responsible for the costs of all material orders and services provided, yet unbilled, prior to the time of cancelation.

PRIVACY STATEMENT

The contents of this proposal are intended strictly for the sole use of the client identified in the first page of this proposal. RTC Construction Management, Inc. considers the information provided by this proposal to be sensitive in nature. We respectfully request that no part of this document is shared or transferred with outside persons, companies, or organizations.

DISCLAIMER

While every attempt has been made on the part RTC Construction Management, Inc. to provide the client with a complete and accurate service based on the terms of this proposal, the level of accuracy and acceptance of the information provided by RTC Construction Management, Inc. must be determined solely by the client.

If you have any questions or concerns regarding the content of this proposal please feel free to contact us at any time. To accept the terms of this proposal please sign and return this document to our office at your earliest convenience.

Print Name

On behalf of: Owner or Company Name

Sign Name

Date

Thank you,

Robert Friend

Project Manager & Estimator
RTC CONSTRUCTION MANAGEMENT, INC.
Serving California's Bay Area & Central Valley
Mobile: 209.261.8814
Email: Robert@rtccons.com