

**AGREEMENT BETWEEN THE LASSEN MODOC FLOOD  
CONTROL AND WATER CONSERVATION DISTRICT AND THE  
MODOC COUNTY WATERMASTER DEPARTMENT**

**THIS AGREEMENT** is made between the LASSEN MODOC FLOOD CONTROL AND WATER CONSERVATION DISTRICT, (hereinafter "DISTRICT"), and THE MODOC COUNTY WATERMASTER DEPARTMENT, with a principal place of business at 114 East North Street, Alturas, CA, 96101, (hereinafter "CONTRACTOR").

This agreement is made with reference to the following facts and circumstances:

**WHEREAS** DISTRICT has need for ground water measuring and meter replacement services; and

**WHEREAS** CONTRACTOR desires to provide those services.

In consideration of the services to be rendered, the sums to be paid, and each and every covenant and condition contained herein, the parties hereto agree as follows:

**1. SERVICES**

The CONTRACTOR shall provide those services described in Attachment "A". CONTRACTOR shall provide said services at the time, place and in the manner specified in Attachment "A".

**2. TERM**

The term of the agreement shall be for the period of April 27, 2021 through June 30, 2021.

**3. PAYMENT**

DISTRICT shall pay CONTRACTOR for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to CONTRACTOR for services rendered pursuant to this Agreement. CONTRACTOR shall submit all billing for said services to DISTRICT in the manner specified in Attachment "B".

**4. FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF DISTRICT**

DISTRICT shall provide CONTRACTOR with tools and equipment to perform the groundwater measuring services. DISTRICT shall also provide, at DISTRICT's expense, the replacement metering devices, and all materials necessary to be used in the replacement of those metering devices.

CONTRACTOR shall use CONTRACTOR vehicle, subject to reimbursement pursuant to Attachment "B" herein, for travel to and from CONTRACTOR'S office to groundwater measuring and meter replacement sites.

Any data that CONTRACTOR records pursuant to the terms of this agreement shall be the property of DISTRICT.

**5. ADDITIONAL PROVISIONS**

Those additional provisions unique to this Agreement are set forth in Attachment "C".

**6. GENERAL PROVISIONS**

The general provisions set forth in Attachment "D" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other terms or conditions insofar as the latter are inconsistent with the general provisions.

**7. DESIGNATED REPRESENTATIVE**

Amanda Uhrhammer, District Counsel, is the designated representative of the DISTRICT and will administer this Agreement for the DISTRICT. The Modoc County Watermaster staff are the authorized representatives for CONTRACTOR. Changes in the designated representatives shall occur only by advance written notice to the other party.

**8. ATTACHMENTS**

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

- Attachment A-Services
- Attachment B-Payment
- Attachment C-Additional Provisions
- Attachment D-General Provisions
- Attachment E-No Third-Party Beneficiaries

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates shown opposite their respective signatures.

///

CONTRACTOR  
MODOC COUNTY WATERMASTER

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

By: \_\_\_\_\_

Ned Coe  
Chair of the Board

DISTRICT  
Lassen Modoc Flood Control and Water  
Conservation District

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

By: \_\_\_\_\_

Chair of the Board

APPROVED AS TO FORM

By: \_\_\_\_\_

Amanda Uhrhammer  
District Counsel

## ATTACHMENT A

### AGREEMENT BETWEEN LASSEN MODOC FLOOD CONTROL AND WATER CONSERVATION DISTRICT AND MODOC COUNTY WATERMASTER

#### SCOPE OF SERVICES

##### A.1 SCOPE OF SERVICES AND DUTIES

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties include the following:

1. CONTRACTOR shall visit each well on the inventory list to identify and assess the condition of the equipment. CONTRACTOR shall take a photo of the equipment, identify the asset ID number, and obtain a GPS location of each well. CONTRACTOR shall work with the landowner to update contact information.
2. CONTRACTOR shall measure and record groundwater heights from selected water wells twice annually, once during spring and again in the fall; and
3. CONTRACTOR shall identify and work with the district to replace, as necessary, such water measuring devices (meters) for the selected water wells.
4. CONTRACTOR is allowed the use of common sense and sound discretion in selecting which meter replacements to perform, and which wells to measure, whose accessibility may be limited due to weather conditions, poor road conditions, ect.

## ATTACHMENT B

### AGREEMENT BETWEEN LASSEN MODOC FLOOD CONTROL AND WATER CONSERVATION DISTRICT AND MODOC COUNTY WATERMASTER

#### PAYMENT

DISTRICT shall pay CONTRACTOR as follows:

\$30.00 PER HOUR commencing at the time CONTRACTOR leaves the Modoc County Watermaster Department to measure groundwater, replace meters, or conduct inventory activities. Payment will continue until such time as CONTRACTOR has completed work and returns to the Modoc County Watermaster Office.

CONTRACTOR shall utilize their own vehicle and be paid mileage at the IRS approved rate then in existence at the time of travel.

CONTRACTOR shall keep a log, identifying which wells and addresses were measured, when they were measured, how much time was dedicated to each task, which meters were replaced, the address that corresponds to each replacement, how long it took to perform said replacement, and all mileage traveled to and from jobs, including odometer beginning and ending.

CONTRACTOR shall submit to DISTRICT this accounting, in the form of an invoice, on a monthly basis, during the term of this agreement, as long as there is work being performed during the month for which an invoice is being submitted.

DISTRICT shall review the invoice, and when appropriate, approve its payment through the DISTRICT Auditor (Lassen County Auditor) and shall mail payment to CONTRACTOR within 30 days of approval of CONTRACTOR's invoice.

At no time will the amount paid under this agreement exceed \$10,000.00.

**END OF ATTACHMENT "B"**

**ATTACHMENT C**

**AGREEMENT BETWEEN LASSEN MODOC FLOOD CONTROL AND WATER CONSERVATION  
DISTRICT AND MODOC COUNTY WATERMASTER**

None.

**END OF ATTACHMENT "C"**

DRAFT

## ATTACHMENT D

### AGREEMENT BETWEEN LASSEN MODOC FLOOD CONTROL AND WATER CONSERVATION DISTRICT AND MODOC COUNTY WATERMASTER

**D.1 INDEPENDENT CONTRACTOR.** For all purposes arising out of this Agreement, CONTRACTOR shall be: an independent contractor and CONTRACTOR and each and every employee, agent, servant, partner, and shareholder of CONTRACTOR (collectively referred to as "The Contractor") shall not be, for any purpose of this Agreement, an employee of DISTRICT. Furthermore, this Agreement shall not under any circumstance be construed or considered to be a joint powers agreement as described in California Government Code sections 6000, et seq., or otherwise. As an independent contractor, the following shall apply:

**D.1.1 CONTRACTOR** shall determine the method, details and means of performing the services to be provided by CONTRACTOR as described in this Agreement.

**D.1.2 CONTRACTOR** shall be responsible to DISTRICT only for the requirements and results specified by this Agreement and, except as specifically provided in this Agreement, shall not be subject to DISTRICT's control with respect to the physical actions or activities of CONTRACTOR in fulfillment of the requirements of this Agreement.

**D.1.3 CONTRACTOR** shall be responsible for its own operating costs and expenses, property, workers compensation insurance and any other costs and expenses in connection with performance of services under this Agreement.

**D.1.4 CONTRACTOR** is not, and shall not be, entitled to receive from or through the DISTRICT, and DISTRICT shall not provide or be obligated to provide the CONTRACTOR with worker's compensation coverage, unemployment insurance coverage or any other type of employee or worker insurance or benefit coverage required or provided by any federal, state, or local law or regulation for, or normally afforded to, any employee of DISTRICT.

**D.1.5 The CONTRACTOR** shall not be entitled to have DISTRICT withhold or pay, and DISTRICT shall not withhold or pay, on behalf of the CONTRACTOR any tax or money relating to the Social Security Old Age Pension Program, Social Security Disability Program or any other type of pension, annuity or disability program required or provided by any federal, state or local law or regulation for, or normally afforded to, an employee of DISTRICT.

**D.1.6 The CONTRACTOR** shall not be entitled to participate in, or receive any benefit from or make any claim against any DISTRICT fringe benefit program including, but not limited to, DISTRICT's pension plan, medical and health care plan, dental plan, life insurance plan, or other type of benefit program, plan or coverage designated for, provided to, or offered to DISTRICT's employees.

**D.1.7 DISTRICT** shall not withhold or pay on behalf of CONTRACTOR any federal, state or local tax.

**D.1.8 The CONTRACTOR** is, and at all times during the term of this Agreement shall represent and conduct itself as, an independent contractor and not as an employee of DISTRICT.

**D.1.9 CONTRACTOR** shall not have the authority, express or implied, to act on behalf of, bind or obligate the DISTRICT any way without written consent of the DISTRICT.

**D.2 LICENSES, PERMITS, ECT. CONTRACTOR** represents and warrants to DISTRICT that it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to DISTRICT that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed.

**D.3 CHANGE IN STATUTES OR REGULATIONS.** If there is a change of statutes or regulations applicable to the subject matter of this Agreement, both parties agree to be governed by the new provisions, unless either party gives notice to terminate pursuant to the terms of this Agreement.

**D.4 TIME. CONTRACTOR** shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of CONTRACTOR's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

## **D.5 INSURANCE.**

D.5.1 Prior to rendering services provided by the terms and conditions of this Agreement, CONTRACTOR shall acquire and maintain during the term of this Agreement insurance coverage (hereinafter referred to as "the insurance") through and with an insurer acceptable to DISTRICT. The insurance shall contain the following coverages:

D.5.1.1 Comprehensive general liability insurance including comprehensive public liability insurance with minimum coverage of One Million Dollars (\$1,000,000) per occurrence and with not less than One Million Dollars (\$1,000,000) aggregate; CONTRACTOR shall insure both DISTRICT and CONTRACTOR against any liability arising under or related to this Agreement.

D.5.1.2 Comprehensive automobile liability insurance with minimum coverage of Two Hundred Fifty Thousand Dollars (\$250,000) per occurrence and with not less than Two Hundred Fifty Thousand Dollars (\$250,000) on reserve in the aggregate, with combined single limit including owned, non-owned and hired vehicles.

D.5.1.3 Workers' Compensation Insurance coverage for all of CONTRACTOR's employees and other persons for whom CONTRACTOR is responsible to provide such insurance coverage, as provided by Division 4 and 4.5 of the California Labor Code.

D.5.2 The limits of insurance herein shall not limit the liability of the CONTRACTOR hereunder.

D.5.3 In respect to any insurance herein, if the aggregate limit available becomes less than that required above, other excess insurance shall be acquired and maintained immediately. For the purpose of any insurance term of this Agreement, "aggregate limit available" is defined as the total policy limits available for all claims made during the policy period.

D.5.4 Except for automobile liability insurance, the insurance shall name the DISTRICT and DISTRICT'S officers, employees, agents and independent contractors as additional insureds and shall include an endorsement that no cancellation or material change adversely affecting any coverage provided by the insurance may be made until twenty (20) days after written notice is delivered to DISTRICT

D.5.5 The insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to DISTRICT at its sole and absolute discretion. The amount of any deductible payable by the insured shall be subject to the prior approval of the DISTRICT and the DISTRICT, as a condition of its approval, may require such proof of the adequacy of CONTRACTOR's financial resources as it may see fit.

D.5.6 Prior to CONTRACTOR rendering services provided by this Agreement, and immediately upon acquiring additional insurance, CONTRACTOR shall deliver a certificate of insurance describing the insurance coverages and endorsements to: Amanda Uhrhammer, District Counsel

Upon DISTRICT'S request, CONTRACTOR shall deliver certified copies of any insurance policies to DISTRICT.

D.5.7 CONTRACTOR shall not render services under the terms and conditions of this Agreement unless each type of insurance coverage and endorsement is in effect and CONTRACTOR has delivered the certificate(s) of insurance to DISTRICT as previously described. If CONTRACTOR shall fail to procure and maintain said insurance, DISTRICT may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by CONTRACTOR to DISTRICT upon demand. The policies of insurance provided herein which are to be provided by CONTRACTOR shall be for a period of not less than one year, it being understood and agreed that twenty (20) days prior to the expiration of any policy of insurance, CONTRACTOR will deliver to DISTRICT a renewal or new policy to take the place of the policy expiring.

D.5.8 DISTRICT shall have the right to request such further coverages and/or endorsements on the insurance as DISTRICT deems necessary, at CONTRACTOR's expense. The amounts, insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to DISTRICT in its sole and absolute discretion.

D.5.9 Any subcontractor(s), independent contractor(s) or any type of agent(s) performing or hired to perform any term or condition of this Agreement on behalf of CONTRACTOR, as may be allowed by this Agreement (hereinafter referred to as the "SECONDARY PARTIES"), shall comply with each term and condition of this Section D.5 entitled "INSURANCE". Furthermore, CONTRACTOR shall be responsible for the SECONDARY PARTIES' acts and satisfactory performance of the terms and conditions of this Agreement.

## **D.6 INDEMNITY.**

DISTRICT shall not be liable for, and CONTRACTOR shall defend and indemnify DISTRICT and its officers, agents, employees, and volunteers (collectively "DISTRICT Parties"), against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics; liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorney's fees and court costs (hereinafter collectively referred to as "Claims"), which arise out of or are in any way connected to the work covered by this Agreement arising either directly or indirectly from any act, error, omission or negligence of CONTRACTOR or its officers, employees, agents, contractors, licensees or servants, including, without limitation, Claims caused by the concurrent negligent act, error or omission, whether active or passive of DISTRICT Parties. CONTRACTOR shall have no obligation, however, to defend or indemnify DISTRICT Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of DISTRICT Parties.

**D.7 CONTRACTOR NOT AGENT.** Except as DISTRICT may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of DISTRICT in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this Agreement to bind DISTRICT to any obligation whatsoever.

**D.8 ASSIGNMENT PROHIBITED.** CONTRACTOR may not assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

**D.9 PERSONNEL.** CONTRACTOR shall assign only competent personnel to perform services pursuant to this Agreement. In the event that DISTRICT, in its sole discretion at any time during the term of this Agreement, desires the removal of any person or persons assigned by CONTRACTOR to perform services pursuant to this Agreement, CONTRACTOR shall remove any such person immediately upon receiving written notice from DISTRICT of its desire for removal of such person or persons.

**D.10 STANDARD OF PERFORMANCE.** CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of whatsoever nature which CONTRACTOR delivers to DISTRICT pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession.

**D.11 POSSESSORY INTEREST.** The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the California Revenue and Taxation Code section 107. For all purposes of compliance by DISTRICT with Section 107.6 of the California Revenue and Taxation Code, this recital shall be deemed full compliance by the DISTRICT. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the DISTRICT Assessor and the contracting parties hereto. A taxable possessory interest may be created by this, if created, and the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

**D.12 TAXES.** CONTRACTOR hereby grants to the DISTRICT the authority to deduct from any payments to CONTRACTOR any DISTRICT imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to CONTRACTOR.

**D.13 TERMINATION.**

D.13.1.1 DISTRICT shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to CONTRACTOR. In the event DISTRICT gives notice of termination, CONTRACTOR shall immediately cease rendering service upon receipt of such written notice and the following shall apply:

D.13.1.2 CONTRACTOR shall deliver to DISTRICT copies of all writings prepared by it pursuant this agreement. The term "writings" shall be construed to mean and include handwriting, typewriting, printing, photocopying, photographing computer storage medium (tapes, disks, diskettes, etc.) and every other means of recording upon any tangible thing, and form of communication or representation, including letters, pictures, sounds, or symbols, or combinations thereof.

D.13.1.3 DISTRICT shall pay CONTRACTOR the reasonable value of services rendered by CONTRACTOR to the date of termination pursuant to this Agreement not to exceed the

Amount documented by CONTRACTOR and approved by DISTRICT as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed ten thousand dollars (\$10,000.00) Further provided, however, DISTRICT shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. In this regard, CONTRACTOR shall furnish to DISTRICT such financial information as in the judgment of the DISTRICT is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of the DISTRICT shall be final. The foregoing is cumulative and does not affect any right or remedy which DISTRICT may have in law or equity.

D.13.2 CONTRACTOR may terminate its services under this Agreement upon thirty (30) working days written notice to the DISTRICT, without liability for damages, if CONTRACTOR is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by DISTRICT, provided that CONTRACTOR has first provided DISTRICT with a written notice of any alleged breach, specifying the nature of the alleged breach and providing not less than ten (10) working days within which the DISTRICT may cure the alleged breach.

**D.14 OWNERSHIP OF INFORMATION.** All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become and/or remain the property of DISTRICT, and CONTRACTOR agrees to deliver reproducible copies of such documents to DISTRICT on completion of the services hereunder. The DISTRICT agrees to indemnify and hold CONTRACTOR harmless from any claim arising out of reuse of the information for other than this project.

**D.15 WAIVER.** A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

**D.16 COMPLETENESS OF INSTRUMENT.** This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made, express or implied.

**D.17 SUPERSEDES PRIOR AGREEMENTS.** It is the intention of the parties hereto that

this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

**D.18 ATTORNEY'S FEES.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

**D.19 MINOR AUDITOR REVISION.** In the event the Lassen DISTRICT Auditor's office finds a mathematical discrepancy between the terms of the Agreement and actual invoices or payments, provided that such discrepancy does not exceed one percent (1%) of the Agreement amount, the Auditor's office may make the adjustment in any payment or payments without requiring an amendment to the Agreement to provide for such adjustment. Should the DISTRICT or the CONTRACTOR disagree with such adjustment, they reserve the right to contest such adjustment and/or to request corrective amendment.

**D.20 CAPTIONS.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**D.21 DEFINITIONS.** Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

**D.21.1 Number and Gender.** In this Agreement, the neutral gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

**D.21.2 Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

**D.22 TERM INCLUDES EXTENSIONS.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

**D.23 SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**D.24 MODIFICATION.** No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

**D.25 COUNTERPARTS.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

**D.26 OTHER DOCUMENTS.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

**D.27 PARTIAL INVALIDITY.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**D.28 VENUE.** It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the DISTRICT of Lassen, State of California.

**D.29 CONTROLLING LAW.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

**D.30 CALIFORNIA TORT CLAIMS ACT.** Notwithstanding any term or condition of the Agreement, the provisions, and related provisions, of the California Tort Claims Act, Division 3.6 of the Government Code, are not waived by DISTRICT and shall apply to any claim against DISTRICT arising out of any acts or conduct under the terms and conditions of this Agreement.

**D.31 TIME IS OF THE ESSENCE.** Time is of the essence of this Agreement and each covenant and term herein.

**D.32 AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement are in full compliance. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

**D.33 CORPORATE AUTHORITY.** If CONTRACTOR is a corporation or public agency, each individual executing this Agreement on behalf of said corporation or public agency represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation or Board or Commission of said public agency, and that this Agreement is binding upon said corporation or public entity in accordance with its terms. If CONTRACTOR is a corporation, CONTRACTOR shall, within thirty (30) days after execution of this Agreement, deliver to DISTRICT a certified copy of a resolution of the

Board of Directors of said corporation authorizing or ratifying the execution of this Agreement.

**D.34 CONFLICT OF INTEREST.**

**D.34.1 Legal Compliance.** CONTRACTOR agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090 and Chapter 7 of Title 9 of said Code, commencing with Section 87100, including regulations promulgated by the California Fair Political Practices Commission.

**D.34.2 Advisement.** CONTRACTOR agrees that if any facts come to its attention which raise any questions as to the applicability of this law, it will immediately inform the DISTRICT designated representative and provide all information needed for resolution of the question.

**D.34.3 Admonition.** Without limitation of the covenants in subparagraphs D.34.1 and D.34.2, CONTRACTOR is admonished hereby as follows:

The statutes, regulations and laws referenced in this provision D.34 include, but are not limited to, a prohibition against any public officer, including CONTRACTOR for this purpose, from making any decision on behalf of DISTRICT in which such officer has a direct or indirect financial interest. A violation occurs if the public officer influences or participates in any DISTRICT decision which has the potential to confer any pecuniary benefit on CONTRACTOR or any business firm in which CONTRACTOR has an interest of any type, with certain narrow exceptions.

**D.35 NONDISCRIMINATION.** During the performance of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR or of the DISTRICT or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex. CONTRACTOR shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.). The applicable regulations of the Fair Employment Housing Commission implementing Government Code Section 12900, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CONTRACTOR shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulation issued pursuant to said Act. CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

**D.36 JOINT AND SEVERAL LIABILITY.** If any party consists of more than one person or entity, the liability of each person or entity signing this Agreement shall be joint and several.

**D.37 TAXPAYER I.D. NUMBER.** The DISTRICT shall not disburse any payments to CONTRACTOR pursuant to this Agreement until CONTRACTOR supplies the letter's Taxpayer Identification Number or Social Security Number by providing DISTRICT with a completed IRS Form W-9.

**D.38 NOTICES.** All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to "DISTRICT":

Amanda Uhrhammer  
District Counsel  
221 S. Roop St,  
Susanville, CA 96130

If to "CONTRACTOR":

Modoc County Watermaster  
114 East North Street  
Alturas, CA 96101

**END OF ATTACHMENT "D".**

## **ATTACHMENT E**

### **NO THIRD-PARTY BENEFICIARIES**

This Agreement is made solely and specifically among and for the benefit of the parties to it, the DISTRICT and the CONTRACTOR, and their respective successors and assigns, subject to the express provision of the agreement relating to successors and assigns, and no other person, has or will have any rights, interest, or claims under this Agreement as a third-party beneficiary or otherwise. This Agreement shall not establish any actionable duty of the DISTRICT or DISTRICT personnel inuring to any third party or to anyone claiming under or on behalf of such a third party.

**END OF ATTACHMENT "E"**