

**BOARD MEETING AGENDA
SPECIAL MEETING OF THE BOARD OF DIRECTORS OF
CITRUS HEIGHTS WATER DISTRICT**

**THURSDAY, JUNE 1, 2017 beginning at 8:45 am
CITY OF CITRUS HEIGHTS COMMUNITY CENTER
6300 FOUNTAIN SQUARE DRIVE, CITRUS HEIGHTS, CA 95621**

BOARD AND MANAGEMENT STRATEGIC PLANNING SESSION

In compliance with the Americans with Disabilities Act, if you have a disability and need a disability-related modification or accommodation to participate in this meeting, please contact the Management Services Supervisor/Chief Board Clerk at (916) 725-6873. Requests must be made as early as possible, and at least one full business day before the start of the meeting.

CALL TO ORDER:

Upon request, agenda items may be moved to accommodate those in attendance wishing to address that item. Please inform the General Manager.

VISITORS:

PUBLIC COMMENT:

The Public shall have the opportunity to directly address the Board on any item of interest to the public before or during the Board's consideration of that item pursuant to Government Code Section 54954.3. Public comment on items of interest within the jurisdiction of the Board is welcome. The Presiding Officer will limit comments to three (3) minutes per speaker.

BUSINESS:

B-1 Strategic Planning Session defining Goals and Objectives for the District (I/D)

B-2 Discussion and Possible Action to Approve Amended Realtor Services Agreement Template (A)
Consider approving amended template for use with the purchase and sale of Citrus Heights Water District property and/or when requiring real estate services.

ADJOURNMENT:

CERTIFICATION:

I do hereby declare and certify that this agenda for the special meeting of the Board of Directors of the Citrus Heights Water District was posted in a location accessible to the public at the outdoor bulletin board at the District Administrative Office Building, 6230 Sylvan Road, Citrus Heights, CA 95610 at least 24 hours prior to the special meeting in accordance with Government Code Section 54945.2.



Hilary M. Straus, General Manager

Dated: May 26, 2017



ITEM B1

BOARD & MANAGEMENT STRATEGIC PLANNING SESSION

Thursday, June 1, 2017

8:15 am – 3:00 pm

Citrus Heights Community Center, South Flex B-C, 6300 Fountain Square Drive

8:15 am **Breakfast available**

8:45 am **Call to Order and Flag Salute** (*Caryl Sheehan, Board Chair*)

Welcome & introductions (*Hilary Straus, General Manager*)

Agenda review (*Laura Mason-Smith, Consultant/Facilitator*)

Public comment (*Caryl Sheehan, Board Chair*)

Teambuilding and recognition of District accomplishments and strengths (*All*)

Recognize the District's Mission, Vision, Core Values, and Commitments as the foundation for our work (*Laura Mason-Smith*)

Build shared understanding by identifying significant issues, factors, and trends facing the District (*All*)

Define Goals and SMART Objectives (*Laura Mason-Smith*)

Confirm or adjust the top five District Three-Year Goals (*Board and Staff Team*)

- Project 2030 – Water Main Improvements
- Meter Replacement Program
- Well Development
- Capital Improvements Program
- Organizational-Wide Objectives

Lunch Break

Identify the top Measurable Objectives for the Goals in 2018
(*Board and Staff Team*)

Public Comment (*Caryl Sheehan, Board Chair*)

Clarify next steps (*Hilary Straus*)

Wrap-up (*Laura Mason-Smith*)



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3:00 pm **Close** (*Caryl Sheehan, Board Chair*)

MISSION, VISION AND VALUES

MISSION

It is the mission of the Citrus Heights Water District to furnish a dependable supply of safe, quality water delivered to its customers in an efficient, responsive, and affordable manner.

VISION

The Citrus Heights Water District will continue to evolve as a dynamic provider of municipal water service to assure that our customers receive the best value without giving it a second thought.

CORE VALUES

(Not in priority order)

Integrity

Teamwork

Dependability

Accountability

Professionalism



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Thursday, June 1, 2017

8:15 am – 3:00 pm

Citrus Heights Community Center, South Flex B-C, 6300 Fountain Square Drive

COMMITMENTS

We at Citrus Heights Water District will excel at fulfilling our mission and vision by adhering to our core values and dedicating ourselves to these commitments:

We commit to being good stewards of our water supply and the environment.

We commit to responsible management of the District's capital, fiscal and personnel assets.

We commit to provide reliable and dependable water service at an affordable cost.

We commit to provide a water supply that meets or exceeds State and federal water quality standards.

We commit to provide customer service that is extraordinary to both our rate-payers and to our work team.

We commit to be a valuable resource for our customers in consistently providing friendly, respectful service.

We commit to provide information that is accurate, complete and relevant.

We commit to excel beyond our commitments when moments of opportunity arise.

We commit to conduct our affairs with the highest ethical standards.

We commit to develop and implement reasonable policies and procedures that foster integrity and trust.



ITEM B1

BOARD & MANAGEMENT STRATEGIC PLANNING SESSION

Thursday, June 1, 2017

8:15 am – 3:00 pm

Citrus Heights Community Center, South Flex B-C, 6300 Fountain Square Drive

We commit to have a friendly, courteous and professional person readily available through all channels of communication to customers during business hours.

We commit to have a well-trained staff that supports one another in opportunities for personal and professional growth.

We commit to provide the equipment, technology and training necessary to assure that our customers received the best value in water service.

We commit to work together for each other and for our customers.

We commit to provide employee compensation and benefits that are competitive, affordable and retain and attract high quality professionals to provide services to our customers.

We commit to an empowered staff that is accountable, team-oriented and supportive of each member's performance.

We commit to create a positive and safe work environment that recognizes and rewards superior performance.

We commit to hire progressive employees that will fulfill the mission of the District.

We commit to support economic growth by ensuring water service ample to meet new customer demand.

We commit to collaborate with other agencies in support of regional endeavors of mutual interest and benefit.

We commit to efficiently and effectively accomplish the day's business while preparing for the future.

We commit to choosing a great attitude.

CITRUS HEIGHTS WATER DISTRICT

DISTRICT STAFF REPORT TO BOARD OF DIRECTORS JUNE 1, 2017 SPECIAL MEETING

SUBJECT : DISCUSSION AND POSSIBLE ACTION TO APPROVE AMENDED
REALTOR SERVICES AGREEMENT TEMPLATE

STATUS : Action Item

REPORT DATE : May 25, 2017

PREPARED BY : David Gordon, Operations Manager
Josh Nelson, Assistant General Counsel

OBJECTIVE:

Consider approving amended agreement template for use with the purchase and sale of Citrus Heights Water District (District) property and/or when requiring real estate services.

BACKGROUND AND ANALYSIS:

The District's Board of Directors (Board) approved a template agreement for "on-call" realtor services at its April 11, 2017 meeting. To ensure maximum flexibility, the template permits staff to execute a task order with the realtor for each project. Each task order would then identify how the realtor would be compensated for that transaction. There are two options under the template: (1) a traditional percentage of the purchase price or (2) an hourly basis. As part of its approval of the template, the Board authorized the General Manager to execute the template agreement with a selected realtor.

The General Manager has selected John Tony David of NextHome Sunrise Real Estate to assist staff with realtor services. The District and Mr. David have negotiated over potential terms and conditions. As part of this process, Mr. David requested that the District consider adding a third compensation option: fixed fee / lump sum. Under this model, the realtor would receive a flat lump sum compensation for all work provided on a project. This flat rate compensation could be structured in two ways: (1) a series of progress payments or (2) all compensation provided once the transaction closes. The benefit of the progress payment approach is that it provides some compensation to the realtor for initial due diligence and other work if the transaction is not ultimately completed (i.e., through a hold-out owner or unsuccessful test-hole drilling evaluation). The benefit of conditioning all compensation on the close of the transaction is that it incentivizes the realtor to complete the deal and is closely related to the traditional "percentage of the sale price" compensation model used in the real estate industry.

Staff considered Mr. David's request and agrees that this third option would be beneficial to the District and consultant. The flat fee model reduces administrative costs by eliminating consultant and staff time spent recording, tracking and managing hours and accompanying invoices. It also caps the District's costs and de-links them from the purchase price. Based on this, staff prepared an amended version of the template agreement for the Board's consideration. This version includes the fixed fee option at close of escrow and an option which permits the use of progress payments at tangible key milestones within the decision matrix property acquisition process. If utilized, progress payments would be paid on the completion of the following milestones: (1) 10% once a title report for the property is requested by District, (2) 5% once the District provides a formal offer to the owner for the property, (3) 10% once the property enters escrow and (4) the remaining 75% once the transaction closes. The specific additions to the agreement template are located in: (1) Exhibit "B"--Task Order, Compensation Form and (2) Exhibit "C" Compensation.

RECOMMENDATION:

Approve amended agreement template for on-call realtor services. Authorize the General Manager to execute the agreement with a selected realtor with a not-to-exceed amount on compensation as a portion of the purchase price of 6%. Hourly rate and lump sum compensation would be subject to the General Manager's authority under the purchasing policy.

ACTION:

Moved by Director _____, Seconded by Director _____, Carried _____

**CITRUS HEIGHTS WATER DISTRICT
PROFESSIONAL SERVICES AGREEMENT
FOR ON-CALL REALTOR SERVICES**

1. PARTIES AND DATE.

This Agreement is made and entered into this ____ day of _____ 2017, by and between the Citrus Heights Water District, a public agency organized and operating under the laws of the State of California with its principal place of business at 6230 Sylvan Road, Citrus Heights, CA 95610 (“District”) and [____INSERT NAME____], a [____[INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY]____] with its principal place of business at [____INSERT ADDRESS____] (“Consultant”). District and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

2. RECITALS.

2.1 District. District is a public agency organized under the laws of the State of California, with power to contract for services necessary to achieve its purpose.

2.2 Consultant. Consultant desires to perform and assume responsibility for the provision of certain professional services required by the District on the terms and conditions set forth in this Agreement and in the task order(s) to be issued pursuant to this Agreement and executed by the District and Consultant (“Task Order”). Consultant represents that it is experienced in providing on-call realtor services to public clients, is licensed in the State of California, and is familiar with the plans of District.

2.3 Project. District desires to engage Consultant to render such services on an on-call basis. Services shall be ordered by Task Order(s) to be issues pursuant to this Agreement for future projects as set forth herein (each such project shall be designated a “Project” under this Agreement).

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the District all labor, materials, tools, equipment, services, and incidental and customary work, on an on-call basis, as necessary to fully and adequately supply the professional realtor consulting services necessary for the Project (“Services”). The types of Services to be provided are generally described in Exhibit “A,” attached hereto and incorporated herein by reference. The Services shall be more particularly described in the individual Task Order issued by the District’s General Manager or designee. No Service shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit “B”. All Services shall be subject to, and performed in accordance with, this Agreement, the relevant Task Order, the

exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from [INSERT START DATE] and continuing, unless terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines set forth in the applicable Task Order. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement and such directions and amendments from District as herein provided. District retains Consultant on an independent contractor basis and not as an employee. No employee or agent of Consultant shall become an employee of District. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of District and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the specific schedule that shall be set forth in the Task Order ("Schedule of Services"). Consultant shall be required to commence work within five (5) days of receiving a fully executed Task Order. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule of Services, District shall respond to Consultant's submittals in a timely manner. Upon request of District, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of District.

3.2.4 Substitution of Key Personnel. Consultant has represented to District that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence subject to written approval of District. In the event that District and Consultant cannot agree as to the substitution of key personnel, District shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the District, or who are determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the

Project by the Consultant at the request of the District. The key personnel for performance of this Agreement are as follows: [__INSERT NAMES__].

3.2.5 District's Representative. The District hereby designates the General Manager, or his or her designee, to act as its representative for the performance of this Agreement ("District's Representative"). District's Representative shall have the power to act on behalf of the District for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the District's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates [__INSERT NAME OR TITLE__], or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with District staff in the performance of Services and shall be available to District's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City of Citrus Heights Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the District, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the District, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. If required, Consultant shall assist District, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local

regulatory agencies. Consultant shall be liable for all violations of local, state and federal laws, rules and regulations in connection with the Project and the Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the District, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold District, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence the Services under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the District that the subcontractor has secured all insurance required under this section.

3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance meeting the requirements set forth herein. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: One Million Dollars (\$1,000,000) combined single limit (each accident) for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as additional insured pursuant to this Agreement. Defense costs shall be payable in addition to the limits.

3.2.10.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the District to add the following provisions to the insurance policies:

(A) Commercial General Liability. The commercial general liability policy shall be endorsed to provide the following: (1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage; (2) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the District, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Consultant to waive its right of recovery prior to a loss. Consultant hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(B) Automobile Liability. The automobile liability policy shall be endorsed to provide the following: (1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; (2) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the District, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Consultant to waive its right of recovery prior to a loss. Consultant hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(C) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the District, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the District, its directors, officials, officers, employees, agents and volunteers.

3.2.10.4 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its directors, officials, officers, employees, agents and volunteers.

3.2.10.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the District. Consultant shall guarantee that, at the option of the District, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.10.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VII, admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law, and satisfactory to the District.

3.2.10.7 Verification of Coverage. Consultant shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the District if requested. All certificates and endorsements must be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.10.8 Subconsultants. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the District that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the District as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, District may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

3.2.10.9 Compliance With Coverage Requirements. If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, District has the right but not the duty to obtain the insurance it deems necessary and any premium paid by District will be promptly reimbursed by Consultant or District will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, District may terminate this Agreement for cause.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations,

and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (1) adequate life protection and life-saving equipment and procedures; (2) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (3) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation per Task Order shall be set forth in the relevant Task Order, and shall not exceed said amount without written approval of the District's General Manager. Extra Work may be authorized, as described below; and if authorized, said Extra Work will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. If Consultant will be paid hourly for the Services on a Project, Consultant shall submit to District a monthly itemized invoice which indicates work completed and hours of Services rendered by Consultant. The invoice shall reference the relevant Task Order and describe the amount of Services and supplies provided since the initial commencement date of Services under this Agreement, and since the start of the subsequent billing periods, through the date of the invoice. Consultant shall include a Project Task Tracking Sheet with each invoice submitted. District shall, within forty-five (45) days of receiving such invoice and Project Task Tracking Sheet, review the invoice and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized under Exhibit "C" or otherwise in writing by District.

3.3.4 Extra Work. At any time during the term of this Agreement, District may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by District to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from District's Representative. Where Extra Work is deemed merited by the District, an amendment to this Agreement shall be prepared by the District and executed by both Parties before performance of such Extra Work, or the District will not be required to pay for the changes in the scope of work. Such amendment shall include the change in fee and/or time schedule associated with the Extra Work. Amendments for Extra Work shall not render ineffective or invalidate unaffected portions of this Agreement

3.3.5 Prevailing Wages. Consultant 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. If the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is One Thousand Dollars (\$1,000) or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall obtain a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant’s principal place of business and at the project site. Consultant shall defend, indemnify and hold the District, its officials, officers, employees, volunteers and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

If the Services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of District during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. District may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those Services which have been adequately rendered to District, and Consultant shall be entitled to no further compensation. In the event that Consultant would have been compensated on a percentage basis for any on-going Projects, he will not be entitled to any payment for such Project. Consultant may terminate this Agreement with cause. Consultant may also terminate this Agreement without cause with seven (7) days’ written notice to District. Consultant shall not be entitled to payment for unperformed Services, and shall not be entitled to damages or compensation for termination of this Agreement by District except for

the amounts authorized herein.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, District may require Consultant to provide all finished or unfinished Documents and Data (defined below) and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

District

Citrus Heights Water District
6230 Sylvan Road
Citrus Heights, CA 95610
Attn: [INSERT NAME]

Consultant

[__INSERT NAME__]
[__INSERT ADDRESS__]
[__INSERT ADDRESS__]
Attn: [__INSERT NAME__]

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for District to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”). Consultant shall require all subcontractors to agree in writing that District is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the District. District shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at District’s sole risk.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written

information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of District, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use District's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of District.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.5 Attorney's Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.6 Indemnification.

3.5.6.1 Standard Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold the District, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or relating to any negligence, recklessness, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages, expert witness fees, and attorney's fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against District, its directors, officials, officers, employees, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against District or its directors, officials, officers, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse District and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided, including correction of errors and omissions. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its directors, officials officers, employees, agents or volunteers.

3.5.7 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Sacramento County.

3.5.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.10 District's Right to Employ Other Consultants. District reserves right to employ other consultants in connection with this Project.

3.5.11 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the District. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.12 Subcontracting. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of District. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.5.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subcontractors of Consultant, except as otherwise specified in this Agreement. All references to District include its officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.16 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, District shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.19 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.5.20 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5.21 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.22 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

[Signatures on Following Page]

**SIGNATURE PAGE
TO
CITRUS HEIGHTS WATER DISTRICT
PROFESSIONAL SERVICES AGREEMENT
FOR ON-CALL REALTOR SERVICES**

**CITRUS HEIGHTS WATER
DISTRICT**

[INSERT CONSULTANT'S NAME]

By: _____

By: _____
[INSERT NAME]
[INSERT TITLE]

Attest: ¹

Approved as to form:

By: _____
[INSERT NAME]
[INSERT TITLE]

Legal Counsel

By: _____
Department Head

¹ Attestation of Consultant's signature must be obtained when required by the by-laws, articles of incorporation or other laws, rules or regulations applicable to Consultant's business entity.

EXHIBIT "A"
SCOPE OF SERVICES

Represent District as realtor for real property sales or purchases. Provide all realtor services normally provided to commercial customers in such transactions, including preparing and transmitting offers and counteroffers, negotiating with parties, assisting the District in selecting potential sites, and advertising for the District as requested.

DRAFT

EXHIBIT A

EXHIBIT "B"
SAMPLE TASK ORDER FORM

TASK ORDER

Task Order No. _____

Contract: [INSERT NAME OF CONTRACT]

Consultant: [INSERT NAME OF CONSULTANT]

The Consultant is hereby authorized to perform the following work subject to the provisions of the Contract identified above:

List any attachments: (Please provide if any.)

Compensation Form: [INSERT FIXED FEE, HOURLY RATE OR PERCENTAGE]

Dollar Amount of Task Order: Not to exceed \$_____,_____.00 (If hourly)

Completion Date: _____, 20____

The undersigned consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Contract identified above and will accept as full payment therefore the amount shown above.

Citrus Heights Water District

Consultant

Dated: _____

Dated: _____

By: _____

By: _____

EXHIBIT "C"
COMPENSATION

Consultant may receive a fixed lump sum fee for a Project, a percentage of the purchase price or an hourly rate for Service provided on a Project. Such election shall be made by the District and reflected in the Task Order for such Project. In no event may the percentage or hourly rate exceed the following:

Percentage: 6% of the purchase price.

Hourly Rate: _____

If utilizing a fixed, lump sum fee, the amount of the fixed fee shall be set forth in the Task Order. Unless otherwise agreed to in the Task Order, the fixed fee shall be paid in either of the following two ways:

Installments: (1) 10% once a title report for the property is requested by District, (2) 5% once the District provides a formal offer to the owner for the property, (3) 10% once the property enters escrow and (4) the remaining 75% once the transaction closes with Consultant paid its portion out of escrow unless agreed to by District and Consultant.

Close of Escrow: 100% upon close of transaction with funds paid through the escrow process.

The compensation set forth above shall include all reasonable and necessary expenses incurred by Consultant, including copying and mileage. Consultant shall not request or receive reimbursement for any expenses.